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

[OAR Docket #05-583]

RULEMAKING ACTION:

Notice of proposed EMERGENCY and PERMANENT rulemaking

PROPOSED RULES:

Subchapter 7. Administration
310:675-7-9.1. [AMENDED]
Subchapter 9. Resident Care Services
310:675-9-1.1. [AMENDED]
310:675-9-5.1. [AMENDED]
Subchapter 13. Staff Requirements
310:675-13-5. [AMENDED]

SUMMARY:

The proposed amendments are intended to establish standards for assessing and documenting pain experienced by nursing facility residents. The amendments require facility policy and procedure manuals to address pain assessment and treatment. Requirements for nursing care are amended to establish a frequency for pain assessment, and to require record keeping. Provisions on resident assessments and care plans are amended to specify minimums for individualized pain assessment. Facility staff training requirements for pain recognition, pain screening and pain management are established. The amendments implement recommendations adopted on February 17, 2005 by the State Advisory Council on Pain Management, pursuant to Title 63 O.S. Sections 1-1918A and 1-1918B. The changes are needed to implement a July 1, 2005 requirement for nursing facilities to perform pain assessments.

AUTHORITY:

Oklahoma State Board of Health: Title 63 O.S. Section 1-104, Section 1-1901 et seq., and Section 1-1918B.

COMMENT PERIOD:

May 2, 2005 through June 9, 2005. Interested persons may informally discuss the proposed rules with Protective Health Services staff; or before June 9, 2005, may submit written comments to James Joslin, Assistant Chief, Long Term Care Service, Oklahoma State Department of Health, 1000 NE 10th Street, Oklahoma City, OK 73117-1299; or before June 9, 2005, may send electronic mail to James@health.state.ok.us; or may ask to present written or oral views at the hearing.

PUBLIC HEARING:

Part of the regular meeting of the State Board of Health, June 9, 2005, which begins at 1:00 p.m. in Room 307 of the Oklahoma State Department of Health Building, 1000 NE 10th Street, Oklahoma City, OK 73117-1299.

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 level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing before June 9, 2005 to James Joslin, Assistant Chief, Long Term Care Service, Oklahoma State Department of Health, 1000 NE 10th Street, Oklahoma City, OK 73117-1299; or before June 9, 2005 may send electronic mail to James@health.state.ok.us

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Long Term Care Service, Protective Health Services, Oklahoma State Department of Health, 1000 Northeast 10th Street, Oklahoma City, OK 73117-1299 or by electronic mail request to James@health.state.ok.us

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement will be prepared and will be available beginning May 2, 2005 at the same location listed above for reviewing and obtaining copies of the proposed rules.

CONTACT PERSON:

James Joslin, Assistant Chief, Long Term Care Service, Oklahoma State Department of Health, 1000 NE 10th Street, Oklahoma City, OK 73117-1299; telephone: 405-271-9444, x57209; facsimile: 405-271-3442; email: James@health.state.ok.us

[OAR Docket #05-583; filed 4-8-05]

TITLE 325. OKLAHOMA HORSE RACING COMMISSION CHAPTER 25. ENTRIES AND DECLARATIONS

[OAR Docket #05-609]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULE:

325:25-1-5. Entries [AMENDED]

SUMMARY:

The Board of Stewards at Remington Park has requested that the Commission consider amending this rule to reflect that a Jockey Agent could sign an entry. Currently, the language does not include this jockey representative.

AUTHORITY:

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

COMMENT PERIOD:

Persons wishing to present their views in writing may do so before 4:30 p.m., Monday, June 6, 2005, at the following address: Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107

PUBLIC HEARING:

Since no written or oral comments were received at the public hearing held Monday, April 4, and the Commission has been advised by industry representatives of interest in forwarding comments, a second public hearing will be held between the hours of 9:00 a.m. and 12:00 p.m. and 1:00 p.m. and 4:30 p.m. on Monday, June 6, 2005, at the following address: Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107. Anyone who wishes to present oral comment at the public hearing must sign a speaker's register.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Oklahoma Horse Racing Commission requests that business entities affected by this proposed rule provide the Commission, within the comment period, in dollar amounts, if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rule. Business entities may submit this information in writing to the Commission, at the above address, before the close of the comment period on June 6, 2005.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. §303(D), a rule impact statement will be prepared by May 1, 2005 and may be obtained from the Oklahoma Horse Racing Commission at the above address.

CONTACT PERSON:

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

[OAR Docket #05-609; filed 4-8-05]

TITLE 325. OKLAHOMA HORSE RACING COMMISSION
CHAPTER 30. CLAIMING RACES

[OAR Docket #05-610]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULE:

325:30-1-13. Delivery of claimed horse to the test barn [AMENDED]

SUMMARY:

The Thoroughbred Racing Association of Oklahoma and the Oklahoma Quarter Horse Racing Association requested that the Commission consider amending the rule by requiring that the original Trainer maintain the actual physical custody of the horse until the horse is released from the Test Barn "to avoid the potential for any wrongdoing with regard to administration of a foreign substance and therefore affecting the ability of a trainer to adequately ensure the condition of a horse for which he is unconditionally responsible."

AUTHORITY:

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

COMMENT PERIOD:

Persons wishing to present their views in writing may do so before 4:30 p.m., Monday, June 8, 2005, at the following address: Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107

PUBLIC HEARING:

Since no written or oral comments were received at the public hearing held Monday, April 4, and the Commission has been advised by industry representatives of interest in forwarding comments, a second public hearing will be held between the hours of 9:00 a.m. and 12:00 p.m. and 1:00 p.m. and 4:30 p.m. on Monday, June 8, 2005, at the following address: Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107. Anyone who wishes to present oral comment at the public hearing must sign a speaker's register.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Oklahoma Horse Racing Commission requests that business entities affected by this proposed rule provide the Commission, within the comment period, in dollar amounts, if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rule. Business entities may submit this information in writing to the Commission, at the above address, before the close of the comment period on June 8, 2005.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. §303(D), a rule impact statement will be prepared by May 1, 2005 and may be obtained from the Oklahoma Horse Racing Commission at the above address.

CONTACT PERSON:

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

[OAR Docket #05-610; filed 4-8-05]

TITLE 325. OKLAHOMA HORSE RACING COMMISSION
CHAPTER 30. CLAIMING RACES

[OAR Docket #05-611]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULE:

325:30-1-17. Entry of claimed horse [AMENDED]

SUMMARY:

Through the Board of Stewards at Remington Park, the Oklahoma Quarter Horse Racing Association and the Thoroughbred Racing Association of Oklahoma have requested that the Commission consider amending this rule to reflect that a horse claimed in another state would be subject to the eligibility requirements for the claimed horse in effect at the time of the claim in the jurisdiction in which the horse was claimed.

AUTHORITY:

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

COMMENT PERIOD:

Persons wishing to present their views in writing may do so before 4:30 p.m., Monday, June 8, 2005, at the following address: Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107

PUBLIC HEARING:

Since no written or oral comments were received at the public hearing held Monday, April 4, and the Commission has been advised by industry representatives of interest in forwarding comments, a second public hearing will be held between the hours of 9:00 a.m. and 12:00 p.m. and 1:00 p.m. and 4:30 p.m. on Monday, June 8, 2005, at the following address: Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107. Anyone who wishes to present oral comment at the public hearing must sign a speaker's register.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Oklahoma Horse Racing Commission requests that business entities affected by this proposed rule provide the Commission, within the comment period, in dollar amounts, if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rule. Business entities may submit this information in writing to the Commission, at the above address, before the close of the comment period on June 8, 2005.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. §303(D), a rule impact statement will be prepared by May 1, 2005 and may be obtained from the Oklahoma Horse Racing Commission at the above address.

CONTACT PERSON:

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

[OAR Docket #05-611; filed 4-8-05]

Submissions for Review

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

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

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

[OAR Docket #05-429]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 3. Requirements to Practice Public Accountancy
10:15-3-1. Who may practice public accountancy [AMENDED]
10:15-3-2. Certificate as a certified public accountant [AMENDED]
10:15-3-3. License as a public accountant [AMENDED]
10:15-3-4. Permits to practice [AMENDED]
Subchapter 5. Examination Procedures [REVOKED]
10:15-5-1. Eligibility to take examination [REVOKED]
10:15-5-2. Schedule of examinations [REVOKED]
10:15-5-4. Restrictions [REVOKED]
10:15-5-5. Prohibited acts regarding the examination process [REVOKED]
Subchapter 7. Application to Take an Examination [REVOKED]
10:15-7-1. Requirements for filing applications [REVOKED]
10:15-7-2. Educational requirements [REVOKED]
10:15-7-3. Candidate for reexamination [REVOKED]
10:15-7-4. Evaluation of application [REVOKED]
10:15-7-5. Denial of application [REVOKED]
10:15-7-6. Board review of denied applications [REVOKED]
10:15-7-7. Payment of fee [REVOKED]
Subchapter 9. Examination Content [REVOKED]
10:15-9-2. Content of examinations [REVOKED]
10:15-9-3. Examination documents [REVOKED]
10:15-9-4. Confidentiality agreement required [REVOKED]
Subchapter 11. Grading of Examinations [REVOKED]
10:15-11-1. Grading service [REVOKED]
10:15-11-2. Grade requirements [REVOKED]
10:15-11-4. Successful completion of examination [REVOKED]
10:15-11-6. Notification of grade [REVOKED]
10:15-11-7. Procedures to request review of the grading process [REVOKED]
10:15-11-8. Appeal [REVOKED]
10:15-11-9. Destruction of papers [REVOKED]
Subchapter 13. Conditional Credit on Examination [REVOKED]
10:15-13-1. Conditional credit for candidates for certificates [REVOKED]
10:15-13-2. Conditional credit for candidates for licenses [REVOKED]
10:15-13-4. Requests for extension of time [REVOKED]
Subchapter 15. Transfer of Examination Credits [REVOKED]
10:15-15-1. Application for transfer of credits [REVOKED]
10:15-15-2. Requirements to qualify for transfer of credits [REVOKED]
Subchapter 17. Procedures Upon Failure to Apply for or Take Examination [REVOKED]
10:15-17-1. Processing fee to retake examination [REVOKED]
10:15-17-2. Failure to apply to take succeeding examinations [REVOKED]
10:15-17-3. Reestablishment of eligibility [REVOKED]
Subchapter 18. ~~Transitioning from the Paper and Pencil Examination to the~~ Computer-Based Examination
10:15-18-1. Applications for examination [AMENDED]
10:15-18-2. Time and place of examination [AMENDED]
10:15-18-3. Retake and granting of credit requirements [AMENDED]
10:15-18-4. Educational requirements [NEW]
10:15-18-5. Evaluation of application [NEW]
10:15-18-6. Denial of application [NEW]
10:15-18-7. Board review of denied applications [NEW]
10:15-18-8. Content of examinations [NEW]
10:15-18-9. Notification of grade [NEW]
10:15-18-10. Procedures to request review of the grading process [NEW]
10:15-18-11. Requests for extension of time [NEW]
10:15-18-12. Application for transfer of credits [NEW]
10:15-18-13. Requirements to qualify for transfer of credits [NEW]
10:15-18-14. Failure to apply to take succeeding examinations [NEW]
Subchapter 19. Proctoring of Candidates Taking Examinations [REVOKED]
10:15-19-1. Request for Board proctoring service [REVOKED]
10:15-19-2. Payment of fee [REVOKED]
10:15-19-3. Limitations and restrictions on proctored examinations [REVOKED]
10:15-19-4. Oklahoma candidates taking examination in other states [REVOKED]
Subchapter 21. Reciprocity

10:15-21-1. Application for certificate or license [AMENDED]
10:15-21-7. International reciprocity [NEW]
Subchapter 22. Substantial Equivalency
10:15-22-1. Notification [AMENDED]
Subchapter 23. Registration
10:15-23-1. Registration of individuals [AMENDED]
10:15-23-2. Registration of firms [AMENDED]
Subchapter 25. Permits
10:15-25-2. Date of issue [AMENDED]
10:15-25-3. Individual permit [AMENDED]
10:15-25-4. Firm permits [AMENDED]
10:15-25-5. Transitional period for individuals entering and re-entering public practice [AMENDED]
Subchapter 27. Fees
10:15-27-1. Initial application to take CPA examination [REVOKED]
10:15-27-2. Initial application to take PA examination [REVOKED]
10:15-27-3. Reexamination [REVOKED]
10:15-27-3.1. ~~Computer based test~~ Qualification and examination ~~fee~~ fees [AMENDED]
10:15-27-4. Examination processing fee [REVOKED]
10:15-27-5. Transfer of ~~conditional~~ credits [AMENDED]
10:15-27-6. Out of state candidates [REVOKED]
10:15-27-7.2. Reciprocal application [NEW]
10:15-27-8. Registration [AMENDED]
10:15-27-9. Permit [AMENDED]
10:15-27-14. Peer review fee [NEW]
Subchapter 29. Continuing Professional Education
10:15-29-1.1. Burden of proof [AMENDED]
10:15-29-3. CPE compliance period for new CPAs and PAs [AMENDED]
10:15-29-4. Required CPE for issuance of a permit [AMENDED]
10:15-29-5. Reciprocity [AMENDED]
10:15-29-6. Reporting and documentation by registrants [AMENDED]
10:15-29-7. Qualifying subjects [AMENDED]
10:15-29-8. Verification [AMENDED]
10:15-29-9. Penalties for noncompliance with the CPE requirement [AMENDED]
10:15-29-10. Exceptions [AMENDED]
Subchapter 30. Continuing Professional Education [NEW]
10:15-30-1. Burden of proof [NEW]
10:15-30-2. Required CPE for issuance of an original permit [NEW]
10:15-30-3. Required CPE for issuance of a lapsed permit [NEW]
10:15-30-4. Required CPE for renewal of a permit [NEW]
10:15-30-5. Reporting and documentation by certificate and license holders [NEW]
10:15-30-6. Verification of CPE credit [NEW]
10:15-30-7. Penalties to certificate and license holders for noncompliance with the CPE requirement [NEW]
10:15-30-8. Exceptions to CPE reporting requirements [NEW]
Subchapter 32. Standards for Continuing Professional Education (CPE) Programs
10:15-32-1. Standards for ~~permit~~ certificate and license holders [AMENDED]
10:15-32-5. Standards for CPE program measurement [AMENDED]
Subchapter 33. ~~Quality/Peer~~ Peer Review
10:15-33-1. Establishment of ~~quality/~~peer review program [AMENDED]
10:15-33-2. Special definitions [AMENDED]
10:15-33-3. Standards for ~~quality/~~peer reviews and sponsoring organizations [AMENDED]
10:15-33-4. Enrollment and participation [AMENDED]
10:15-33-5. Effect of successive modified/adverse reports [AMENDED]
10:15-33-6. Reporting to the board [AMENDED]
10:15-33-7. ~~Quality/peer~~ Peer review committee [AMENDED]

SUBMITTED TO GOVERNOR:
March 28, 2005
SUBMITTED TO HOUSE:
March 28, 2005
SUBMITTED TO SENATE:
March 28, 2005

[OAR Docket #05-429; filed 3-28-05]

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

[OAR Docket #05-430]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 27. Fees
10:15-27-8. Registration [AMENDED]
10:15-27-9. Permit [AMENDED]
SUBMITTED TO GOVERNOR:
March 28, 2005
SUBMITTED TO HOUSE:
March 28, 2005
SUBMITTED TO SENATE:
March 28, 2005

[OAR Docket #05-430; filed 3-28-05]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 2. FEES

[OAR Docket #05-517]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 3. Fee Schedules
35:2-3-13. [AMENDED]
35:2-3-18. [AMENDED]
SUBMITTED TO GOVERNOR:
March 31, 2005
SUBMITTED TO HOUSE:
March 31, 2005
SUBMITTED TO SENATE:
March 31, 2005

[OAR Docket #05-517; filed 4-4-05]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 3. FINE MATRICES

[OAR Docket #05-518]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. Fine Schedules
Part 15. Plant and Consumer Services Violations [AMENDED]
35:3-1-24. [NEW]
SUBMITTED TO GOVERNOR:
March 31, 2005
SUBMITTED TO HOUSE:
March 31, 2005
SUBMITTED TO SENATE:
March 31, 2005

[OAR Docket #05-518; filed 4-4-05]

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

[OAR Docket #05-519]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 19. Poultry Regulations [AMENDED]
Subchapter 22. Swine Pseudorabies [AMENDED]
Subchapter 40. Bovine Tuberculosis [AMENDED]
SUBMITTED TO GOVERNOR:
March 31, 2005
SUBMITTED TO HOUSE:
March 31, 2005
SUBMITTED TO SENATE:
March 31, 2005

[OAR Docket #05-519; filed 4-4-05]

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

[OAR Docket #05-520]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 36. Scrapie [NEW]
SUBMITTED TO GOVERNOR:
March 31, 2005
SUBMITTED TO HOUSE:
March 31, 2005
SUBMITTED TO SENATE:
March 31, 2005

[OAR Docket #05-520; filed 4-4-05]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 17. WATER QUALITY

[OAR Docket #05-521]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 5. Registered Poultry Feeding Operations
35:17-5-11. [AMENDED]
Subchapter 7. Poultry Waste Applicators Certification
35:17-7-8. [AMENDED]
SUBMITTED TO GOVERNOR:
March 31, 2005
SUBMITTED TO HOUSE:
March 31, 2005
SUBMITTED TO SENATE:
March 31, 2005

[OAR Docket #05-521; filed 4-4-05]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 30. PLANT INDUSTRY

[OAR Docket #05-522]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 25. Seed
35:30-25-14. [NEW]
SUBMITTED TO GOVERNOR:
March 31, 2005
SUBMITTED TO HOUSE:
March 31, 2005
SUBMITTED TO SENATE:
March 31, 2005

[OAR Docket #05-522; filed 4-4-05]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 30. PLANT INDUSTRY

[OAR Docket #05-523]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 17. Combined Pesticide
Part 1. Commercial and Non-Commercial Categories of Pesticide Application
35:30-17-1. [AMENDED]
Part 3. Certification, Conduct of Examinations, and Recertification
35:30-17-4. [AMENDED]
SUBMITTED TO GOVERNOR:
March 31, 2005
SUBMITTED TO HOUSE:
March 31, 2005
SUBMITTED TO SENATE:
March 31, 2005

[OAR Docket #05-523; filed 4-4-05]

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

[OAR Docket #05-524]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 3. Meat Inspection [AMENDED]
Subchapter 5. Poultry Products Inspection [AMENDED]
Subchapter 7. Construction Standards for Meat Packing Plants [AMENDED]
Subchapter 9. Oklahoma Rabbit and Rabbit Products Inspection Regulations [AMENDED]
Subchapter 11. Exotic Livestock and Exotic Livestock Products [AMENDED]
SUBMITTED TO GOVERNOR:
March 31, 2005
SUBMITTED TO HOUSE:
March 31, 2005
SUBMITTED TO SENATE:
March 31, 2005

[OAR Docket #05-524; filed 4-4-05]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 45. WATER QUALITY STANDARDS IMPLEMENTATION PLAN

[OAR Docket #05-525]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. Water Quality Standards Implementation Plan [AMENDED]
SUBMITTED TO GOVERNOR:
March 31, 2005
SUBMITTED TO HOUSE:
March 31, 2005
SUBMITTED TO SENATE:
March 31, 2005

[OAR Docket #05-525; filed 4-4-05]

TITLE 87. OKLAHOMA STATE EMPLOYEES BENEFITS COUNCIL CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #05-477]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 3. Organization and Administration
87:1-3-1. [AMENDED]
SUBMITTED TO GOVERNOR:
March 30, 2005
SUBMITTED TO HOUSE:
March 30, 2005

SUBMITTED TO SENATE:
March 30, 2005

[OAR Docket #05-477; filed 3-30-05]

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

[OAR Docket #05-477A]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 17. Benefit Plan Election
87:10-17-3. [AMENDED]
87:10-17-4. [AMENDED]
SUBMITTED TO GOVERNOR:
March 30, 2005
SUBMITTED TO HOUSE:
March 30, 2005
SUBMITTED TO SENATE:
March 30, 2005

[OAR Docket #05-477A; filed 3-30-05]

TITLE 160. DEPARTMENT OF CONSUMER CREDIT CHAPTER 5. FEES

[OAR Docket #05-433]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
160:5-1-2. [AMENDED]
SUBMITTED TO GOVERNOR:
March 28, 2005
SUBMITTED TO HOUSE:
March 28, 2005
SUBMITTED TO SENATE:
March 28, 2005

[OAR Docket #05-433; filed 3-28-05]

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

[OAR Docket #05-435]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. General Provisions
160:45-1-2. [AMENDED]
Subchapter 9. Special Rules for Certain Home Mortgage Transactions
160:45-9-2. [AMENDED]
SUBMITTED TO GOVERNOR:
March 28, 2005
SUBMITTED TO HOUSE:
March 28, 2005
SUBMITTED TO SENATE:
March 28, 2005

[OAR Docket #05-435; filed 3-28-05]

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

[OAR Docket #05-436]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 3. Licensing
160:55-3-1.1. [AMENDED]
160:55-3-1.4. [AMENDED]
160:55-3-4. [AMENDED]
160:55-3-10.1. [AMENDED]
SUBMITTED TO GOVERNOR:
March 28, 2005
SUBMITTED TO HOUSE:
March 28, 2005
SUBMITTED TO SENATE:
March 28, 2005

[OAR Docket #05-436; filed 3-28-05]

TITLE 165. CORPORATION COMMISSION CHAPTER 5. RULES OF PRACTICE

[OAR Docket #05-563]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. General Provisions
Part 1. General
165:5-1-10. Exemption from the Registration of Out of State Attorneys Act [NEW]
SUBMITTED TO GOVERNOR:
April 1, 2005
SUBMITTED TO HOUSE:
April 1, 2005

SUBMITTED TO SENATE:
April 1, 2005

[OAR Docket #05-563; filed 4-7-05]

TITLE 165. CORPORATION COMMISSION CHAPTER 25. UNDERGROUND STORAGE TANKS

[OAR Docket #05-564]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Chapter 25. [AMENDED]
SUBMITTED TO GOVERNOR:
April 1, 2005
SUBMITTED TO HOUSE:
April 1, 2005
SUBMITTED TO SENATE:
April 1, 2005

[OAR Docket #05-564; filed 4-7-05]

TITLE 165. CORPORATION COMMISSION CHAPTER 26. ABOVEGROUND STORAGE TANKS

[OAR Docket #05-565]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Chapter 26. [AMENDED]
SUBMITTED TO GOVERNOR:
April 1, 2005
SUBMITTED TO HOUSE:
April 1, 2005
SUBMITTED TO SENATE:
April 1, 2005

[OAR Docket #05-565; filed 4-7-05]

TITLE 165. CORPORATION COMMISSION CHAPTER 27. INDEMNITY FUND

[OAR Docket #05-566]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. General Provisions
165:27-1-1. Purpose [AMENDED]
165:27-1-2. Definitions [AMENDED]
165:27-1-3. Scope [AMENDED]
165:27-1-5. Citation of rules [AMENDED]
165:27-1-6. Prescribed forms [AMENDED]
Subchapter 3. Eligibility Requirements
165:27-3-1. General requirements [AMENDED]
165:27-3-2. Eligible person [AMENDED]
165:27-3-3. Eligible release [REVOKED]
Subchapter 5. Qualifications for Reimbursement
165:27-5-1. Qualifications for reimbursement [AMENDED]
165:27-5-2. Application for reimbursement [AMENDED]
165:27-5-3. Application for supplemental reimbursement [AMENDED]
Subchapter 7. Reimbursement
165:27-7-1. Reimbursable expenses [AMENDED]
165:27-7-2. Reimbursement [AMENDED]
165:27-7-2.1. Limitations on Reimbursement [NEW]
165:27-7-5. Methods for reimbursement [REVOKED]
165:27-7-6. Conditions for reimbursement [AMENDED]
165:27-7-7. Exclusions from reimbursement [AMENDED]
165:27-7-8. Withholding reimbursement [AMENDED]
165:27-7-9. The Pre-Approval Program [AMENDED]
165:27-7-9.1. Pre-Approval for Emergency Responses - Exceptions [NEW]
165:27-7-10. Pay-For-Performance procedures [AMENDED]
165:27-7-11. Purchase order procedures [AMENDED]
Subchapter 9. Administrative Provisions
165:27-9-2. Changes to rules [AMENDED]
165:27-9-3. Notices [AMENDED]
SUBMITTED TO GOVERNOR:
April 1, 2005
SUBMITTED TO HOUSE:
April 1, 2005
SUBMITTED TO SENATE:
April 1, 2005

[OAR Docket #05-566; filed 4-7-05]

TITLE 165. CORPORATION COMMISSION CHAPTER 29. REMEDIATION OF PETROLEUM STORAGE TANK RELEASES

[OAR Docket #05-567]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. General Provisions
Part 3. Definitions
165:29-1-11. Definitions [AMENDED]
Subchapter 3. Release Prevention, Detection and Correction
Part 1. Release Prohibition, Reporting, and Investigation
165:29-3-1. Release prohibition [AMENDED]
165:29-3-2. Release reporting [AMENDED]

165:29-3-3. Release investigation; confirmed release; suspected release; emergency suspected release and release reporting [AMENDED]
Part 3. Removal and Closure of Petroleum Storage Tank Systems
165:29-3-65. Assessing the site at closure or change in service [AMENDED]
Part 5. Corrective Action Requirements
165:29-3-71. General applicability; exception [AMENDED]
165:29-3-72. Prescribed forms [AMENDED]
165:29-3-73. Initial response [AMENDED]
165:29-3-74. Initial abatement measures and site check [AMENDED]
165:29-3-75. Initial Site Characterization and Corrective Action Plan [AMENDED]
165:29-3-76. Tier 1A ORBCA [AMENDED]
165:29-3-78. Free product removal [AMENDED]
165:29-3-79. Tier 2 and Tier 3 ORBCA [AMENDED]
165:29-3-80. Remedial Action Plan [AMENDED]
165:29-3-81. Property owners affected by releases; notice [AMENDED]
165:29-3-82. Closure of a case [AMENDED]
165:29-3-83. Laboratory analysis [AMENDED]
Part 7. Licensing for Remediation Consultants
165:29-3-90. Licensing for Remediation Consultants involved with closures, investigations, removals and the remediation of releases from underground or aboveground storage tanks [AMENDED]
Subchapter 5. Administrative Provisions
165:29-5-3. Notices [AMENDED]

SUBMITTED TO GOVERNOR:
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[OAR Docket #05-567; filed 4-7-05]

TITLE 170. DEPARTMENT OF CORRECTIONS
CHAPTER 15. PRIVATE PRISON CONTRACTOR COMPLIANCE MONITORING

[OAR Docket #05-511]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. General Provisions
170:15-1-1. through 170:15-1-3. [AMENDED]
Subchapter 3. ~~Auditing~~Monitoring Process
170:15-3-1. through 170:15-3-3. [AMENDED]
170:15-3-5. [AMENDED]
170:15-3-6. through 170:15-3-7. [NEW]
Subchapter 5. Appeal of ~~Audit~~Audits
170:15-5-1. [AMENDED]
Subchapter 7. Costs
170:15-7-1. [AMENDED]
170:15-7-3. through 170:15-7-5. [NEW]
Subchapter 9. Private Prison Custody [NEW]
170:15-9-1. through 170:15-9-3. [NEW]
Subchapter 11. Private Prison Contract Application [NEW]
170:15-11-1. [NEW]
170:15-11-2. [NEW]
Subchapter 13. Private Prison Emergency Plans [NEW]
170:15-13-1. through 170:15-13-3. [NEW]
Subchapter 15. Indemnification and Insurance [NEW]
170:15-15-1. [NEW]

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[OAR Docket #05-511; filed 4-1-05]

TITLE 170. DEPARTMENT OF CORRECTIONS
CHAPTER 35. EMPLOYEE RECRUITMENT REFERRAL INCENTIVE PROGRAM

[OAR Docket #05-512]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
170:35-1-1. through 170:35-1-9. [NEW]

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[OAR Docket #05-512; filed 4-1-05]

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

[OAR Docket #05-532]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 3. Priority Academic Student Skills

Part 5. Language Arts
210:15-3-11.1. [AMENDED]
210:15-3-20. [AMENDED]
210:15-3-21. [AMENDED]
210:15-3-22. [AMENDED]
210:15-3-23. [AMENDED]
Part 7. Mathematics
210:15-3-41. [AMENDED]
210:15-3-42. [AMENDED]
210:15-3-43. [AMENDED]
210:15-3-44. [AMENDED]
Part 9. Science
210:15-3-76. [AMENDED]
210:15-3-77. [AMENDED]
210:15-3-78. [AMENDED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #05-532; filed 4-5-05]

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

[OAR Docket #05-533]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 11. Early Childhood Education Programs
210:15-11-2. [AMENDED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #05-533; filed 4-5-05]

TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 25. FINANCE

[OAR Docket #05-534]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 3. Funding Criteria
210:25-3-7. [AMENDED]
Subchapter 5. Budgeting and Business Management
Part 1. Implementation
210:25-5-4. [AMENDED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #05-534; filed 4-5-05]

TITLE 300. GRAND RIVER DAM AUTHORITY
CHAPTER 20. PURCHASING POLICY

[OAR Docket #05-507]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
300:20-1-1. [AMENDED]
300:20-1-2. [AMENDED]
300:20-1-4. [AMENDED]
300:20-1-5. [AMENDED]
300:20-1-7. [AMENDED]
300:20-1-10. [AMENDED]
300:20-1-11. [AMENDED]
300:20-1-12. [AMENDED]
300:20-1-13. [AMENDED]
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[OAR Docket #05-507; filed 4-1-05]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 4. CERTIFICATE OF NEED HEARINGS

[OAR Docket #05-449]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
310:4-1-5. [AMENDED]
310:4-1-7.1. [AMENDED]
310:4-1-13. [AMENDED]
310:4-1-15. [REVOKED]

SUBMITTED TO GOVERNOR:
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[OAR Docket #05-449; filed 3-28-05]

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

[OAR Docket #05-450]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 1. General Provisions
310:205-1-2. [AMENDED]
310:205-1-3. [AMENDED]
Subchapter 3. License Requirements
310:205-3-1. [AMENDED]
310:205-3-2. [AMENDED]
310:205-3-3. [AMENDED]
310:205-3-4. [AMENDED]
310:205-3-7. [AMENDED]
Subchapter 5. Special Provisions
310:205-5-1. [AMENDED]
310:205-5-2. [AMENDED]
Appendix A. Table of Alarm Industry Licensing Requirements [REVOKED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #05-450; filed 3-28-05]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 210. ~~BARBER REGULATIONS~~BARBERS

[OAR Docket #05-451]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 3. Examinations
310:210-3-3. [AMENDED]
Subchapter 5. Licensing
310:210-5-6. [AMENDED]
310:210-5-8. [AMENDED]
Subchapter 7. General Sanitation
310:210-7-13. [AMENDED]
Subchapter 9. Barber School and College Requirements
310:210-9-3. [AMENDED]
310:210-9-8. [AMENDED]
310:210-9-11. [AMENDED]
Subchapter 11. Barber School or College Management Requirements
310:210-11-6. [REVOKED]
Appendix B. Barber Instructor Curriculum and Hours [REVOKED]
Appendix B. Barber Instructor Curriculum and Hours [NEW]
Appendix C. Barber Apprentice Curriculum and Hours [REVOKED]
Appendix C. Barber Apprentice Curriculum and Hours [NEW]
SUBMITTED TO GOVERNOR:
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[OAR Docket #05-451; filed 3-28-05]

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

[OAR Docket #05-452]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 3. License Classifications and Associated Fees For ~~Environmental~~Consumer Health Services
310:250-3-6. [NEW]
SUBMITTED TO GOVERNOR:
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[OAR Docket #05-452; filed 3-28-05]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 256. FOOD SERVICE ESTABLISHMENTS

[OAR Docket #05-453]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 1. General Provisions
310:256-1-2. [AMENDED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #05-453; filed 3-28-05]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 276. HOME INSPECTION INDUSTRY

[OAR Docket #05-454]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 1. General Provisions
310:276-1-2. [AMENDED]
Subchapter 5. License Requirements, License Fees, License Period, Re-Examination, Display and Insurance
310:276-5-2. [AMENDED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #05-454; filed 3-28-05]

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

[OAR Docket #05-455]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 3. Operational Provisions
310:320-3-13. [NEW]
Subchapter 5. Forms and Tables
310:320-5-6. [AMENDED]
SUBMITTED TO GOVERNOR:
March 28, 2005
SUBMITTED TO HOUSE:
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SUBMITTED TO SENATE:
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[OAR Docket #05-455; filed 3-28-05]

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

[OAR Docket #05-456]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 13. Academic Requirements
310:403-13-1. [AMENDED]
310:403-13-2. [AMENDED]
310:403-13-3. [AMENDED]
Subchapter 15. Supervised Experience Requirement
310:403-15-5. [AMENDED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #05-456; filed 3-28-05]

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

[OAR Docket #05-457]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 9. Academic Requirements
310:405-9-1. [AMENDED]
310:405-9-2. [AMENDED]
Subchapter 11. Supervised Experience Requirement
310:405-11-4. [AMENDED]
Subchapter 17. Continuing Education Requirements

310:405-17-2. [AMENDED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #05-457; filed 3-28-05]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 566. COMPREHENSIVE BREAST AND CERVICAL CANCER DETECTION AND TREATMENT

[OAR Docket #05-458]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 1. General Provisions [NEW]
310:566-1-1. through 310:566-1-7. [NEW]
Subchapter 3. Service Provision [NEW]
310:566-3-1. through 310:566-3-3. [NEW]
SUBMITTED TO GOVERNOR:
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[OAR Docket #05-458; filed 3-28-05]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 620. CERTIFICATE OF NEED STANDARDS FOR HEALTH CARE FACILITY ACQUISITIONS

[OAR Docket #05-459]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 1. General
310:620-1-3. [REVOKED]
Subchapter 3. Standards
310:620-3-1. [AMENDED]
310:620-3-3. [AMENDED]
310:620-3-4.1. [AMENDED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #05-459; filed 3-28-05]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 630. CERTIFICATE OF NEED STANDARDS FOR LICENSED NURSING FACILITY BEDS

[OAR Docket #05-460]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
310:630-1-3. [AMENDED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #05-460; filed 3-28-05]

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

[OAR Docket #05-461]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Chapter 641. Emergency Medical Services [AMENDED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #05-461; filed 3-28-05]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 663. CONTINUUM OF CARE AND ASSISTED LIVING

[OAR Docket #05-462]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review

PROPOSED RULES:
Subchapter 21. Applying for a License
310:663-21-2. [AMENDED]
310:663-21-4. [AMENDED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #05-462; filed 3-28-05]

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

[OAR Docket #05-463]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 1. General Provisions
310:667-1-3. [AMENDED]
Subchapter 5. Compliance With Federal, State, and Local Laws
310:667-5-4. [AMENDED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #05-463; filed 3-28-05]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 669. TRAUMA CARE ASSISTANCE REVOLVING FUND

[OAR Docket #05-464]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 1. General Provisions
310:669-1-2. [AMENDED]
Subchapter 3. Data Accumulations
310:669-3-1. [AMENDED]
Subchapter 5. Reports and Financial Statements
310:669-5-1. [AMENDED]
310:669-5-2. [AMENDED]
310:669-5-4. [AMENDED]
Subchapter 7. Fund Distribution
310:669-7-1. [AMENDED]
310:669-7-2. [AMENDED]
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[OAR Docket #05-464; filed 3-28-05]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 670. JAIL STANDARDS

[OAR Docket #05-465]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 1. General Provisions
310:670-1-2. [AMENDED]
Subchapter 3. Standards for Lockup Facilities
310:670-3-1. [AMENDED]
Subchapter 5. Standards for Jail Facilities/Detention Center
310:670-5-1. [AMENDED]
310:670-5-2. [AMENDED]
310:670-5-3. [AMENDED]
310:670-5-6. [AMENDED]
310:670-5-7. [AMENDED]
310:670-5-8. [AMENDED]
310:670-5-10. [AMENDED]
Subchapter 7. Standards for Jails Holding Juveniles
310:670-7-1. [AMENDED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #05-465; filed 3-28-05]

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

[OAR Docket #05-466]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 3. Licenses
310:675-3-5.1. [AMENDED]

310:675-3-8. [AMENDED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #05-466; filed 3-28-05]

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

[OAR Docket #05-467]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 1. General Provisions
310:677-1-6. [NEW]
SUBMITTED TO GOVERNOR:
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[OAR Docket #05-467; filed 3-28-05]

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

[OAR Docket #05-437]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 5. Individual Providers and Specialties
Part 21. Outpatient Behavioral Health Services
317:30-5-240. through 317:30-5-241. [AMENDED]
317:30-5-243. [REVOKED]
317:30-5-247. [REVOKED]
317:30-5-248. [AMENDED]
(Reference APA WF # 04-06)
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[OAR Docket #05-437; filed 3-28-05]

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

[OAR Docket #05-438]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 5. Individual Providers and Specialties
Part 6. Inpatient Psychiatric Hospitals
317:30-5-95.3. [AMENDED]
(Reference APA WF # 04-15)
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[OAR Docket #05-438; filed 3-28-05]

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

[OAR Docket #05-439]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 5. Individual Providers and Specialties
Part 5. Pharmacists
317:30-5-86.1. [AMENDED]
(Reference APA WF # 04-08)
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[OAR Docket #05-439; filed 3-28-05]

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

[OAR Docket #05-440]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 3. General Provider Policies
Part 1. General Scope and Administration
317:30-3-2.1. [NEW]
(Reference APA WF # 04-11)
SUBMITTED TO GOVERNOR:
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[OAR Docket #05-440; filed 3-28-05]

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

[OAR Docket #05-441]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 3. General Provider Policies
Part 1. General Scope and Administration
317:30-3-20.1. [NEW]
(Reference APA WF # 04-21)
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[OAR Docket #05-441; filed 3-28-05]

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

[OAR Docket #05-442]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 5. Individual Providers and Specialties
Part 5. Pharmacists
317:30-5-72. [AMENDED]
(Reference APA WF # 04-22)
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[OAR Docket #05-442; filed 3-28-05]

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

[OAR Docket #05-443]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 5. Individual Providers and Specialties
Part 9. Long Term Care Facilities
317:30-5-129. [AMENDED]
Part 57. Hospice Care
317:30-5-525. through 317:30-5-527. [REVOKED]
(Reference APA WF # 04-26A)
SUBMITTED TO GOVERNOR:
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[OAR Docket #05-443; filed 3-28-05]

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

[OAR Docket #05-541]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 5. Individual Providers and Specialties
Part 2. Physician Assistants
317:30-5-30. through 317:30-5-31. [AMENDED]
317:30-5-34. [REVOKED]
(Reference APA WF # 04-04)

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[OAR Docket #05-541; filed 4-6-05]

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

[OAR Docket #05-542]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 5. Individual Providers and Specialties
Part 6. Inpatient Psychiatric Hospitals
317:30-5-96. [AMENDED]
(Reference APA WF # 04-12)
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[OAR Docket #05-542; filed 4-6-05]

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

[OAR Docket #05-543]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 5. Individual Providers and Specialties
Part 9. Long Term Care Facilities
317:30-5-123. [AMENDED]
(Reference APA WF # 04-03A)
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[OAR Docket #05-543; filed 4-6-05]

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

[OAR Docket #05-544]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 5. Individual Providers and Specialties
Part 9. Long Term Care Facilities
317:30-5-131.2. [AMENDED]
(Reference APA WF # 04-01)
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[OAR Docket #05-544; filed 4-6-05]

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

[OAR Docket #05-545]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 5. Individual Providers and Specialties
Part 9. Long Term Care Facilities
317:30-5-134. [AMENDED]
(Reference APA WF # 04-10)
SUBMITTED TO GOVERNOR:
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[OAR Docket #05-545; filed 4-6-05]

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

[OAR Docket #05-546]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review

RULES:
Subchapter 3. General Provider Policies
Part 3. General Medical Program Information
317:30-3-40. [AMENDED]
Subchapter 5. Individual Providers and Specialties
Part 51. Habilitation Services
317:30-5-482. [AMENDED]
(Reference APA WF # 04-16A)
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[OAR Docket #05-546; filed 4-6-05]

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

[OAR Docket #05-547]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 5. Individual Providers and Specialties
Part 79. Dentists
317:30-5-700. [AMENDED]
(Reference APA WF # 04-05)
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[OAR Docket #05-547; filed 4-6-05]

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

[OAR Docket #05-548]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 5. Individual Providers and Specialties
Part 90. Diagnostic Testing Entities [NEW]
317:30-5-907. through 30-5-907.3. [NEW]
(Reference APA WF # 04-09)
SUBMITTED TO GOVERNOR:
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[OAR Docket #05-548; filed 4-6-05]

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

[OAR Docket #05-444]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 7. Medical Services
Part 5. Determination of Eligibility for Medical Services
317:35-7-38. [AMENDED]
Subchapter 10. Medical Aid to Families with Dependent Children
Part 5. Income
317:35-10-38. [NEW]
(Reference APA WF # 04-25 and 04-26B)
SUBMITTED TO GOVERNOR:
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[OAR Docket #05-444; filed 3-28-05]

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

[OAR Docket #05-445]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. General Provisions
317:35-1-2. [AMENDED]
Subchapter 5. Eligibility and Countable Income
Part 1. Determination of Qualifying Categorical Relationships
317:35-5-4. [AMENDED]
317:35-5-4.1. [NEW]
Part 5. Countable Income and Resources
317:35-5-41. through 317:35-5-42. [AMENDED]

317:35-5-49. [NEW]
Subchapter 7. Medical Services
Part 5. Determination of Eligibility for Medical Services
317:35-7-36. [AMENDED]
Part 7. Certification, Redetermination and Notification
317:35-7-61. [AMENDED]
317:35-7-61.1. [NEW]
(Reference APA WF # 04-19 and 04-20)
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[OAR Docket #05-445; filed 3-28-05]

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

[OAR Docket #05-446]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 5. Eligibility and Countable Income
Part 1. Determination of Qualified Categorical Relationships
317:35-5-2. [AMENDED]
317:35-5-8. [NEW]
Subchapter 7. Medical Services
Part 5. Determination of Eligibility for Medical Services
317:35-7-37. [AMENDED]
317:35-7-48. [NEW]
Part 7. Certification, Redetermination and Notification
317:35-7-60. [AMENDED]
317:35-7-60.1. [NEW]
(Reference APA WF # 04-14)
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TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 35. MEDICAL ASSISTANCE FOR ADULTS AND CHILDREN-ELIGIBILITY

[OAR Docket #05-549]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 6. Soonercare Health Benefits for Categorically Needy Pregnant Women and Families with Children
Part 7. Certification, Redetermination and Notification
317:35-6-64.1. [NEW]
(Reference APA WF # 04-02)
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TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 35. MEDICAL ASSISTANCE FOR ADULTS AND CHILDREN-ELIGIBILITY

[OAR Docket #05-550]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 19. Nursing Facility Services
317:35-19-14. [AMENDED]
(Reference APA WF # 04-03B)
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TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 35. MEDICAL ASSISTANCE FOR ADULTS AND CHILDREN-ELIGIBILITY

[OAR Docket #05-551]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review

RULES:
Subchapter 21. Breast and Cervical Cancer Treatment Program [NEW]
317:35-21-1. through 35-21-13. [NEW]
(Reference APA WF # 04-13)
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[OAR Docket #05-551; filed 4-6-05]

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

[OAR Docket #05-447]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. General Provisions
317:40-1-1. [AMENDED]
Subchapter 5. Client Services
Part 1. ~~Agency Companion Services~~Companion/Adult Foster Care Services by Agency
317:40-5-1. [AMENDED]
317:40-5-3. through 317:40-5-6. [AMENDED]
317:40-5-7. [REVOKED]
317:40-5-8. through 317:40-5-11. [AMENDED]
317:40-5-12. [REVOKED]
317:40-5-13. [AMENDED]
317:40-5-14. through 317:40-5-15. [REVOKED]
Part 3. Guidelines to Staff
317:40-5-37. through 317:40-5-39. [REVOKED]
317:40-5-40. [NEW]
Subchapter 7. Waiver Employment Services
317:40-7-1. through 317:40-7-8. [AMENDED]
317:40-7-11. through 317:40-7-13. [AMENDED]
317:40-7-15. [AMENDED]
317:40-7-19. [REVOKED]
317:40-7-20. through 317:40-7-21. [AMENDED]
(Reference APA WF # 04-17)
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TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 40. DEVELOPMENTAL DISABILITIES SERVICES

[OAR Docket #05-448]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 5. Client Services
Part 5. Specialized Foster Care
317:40-5-50. through 317:40-5-52. [AMENDED]
317:40-5-53. [REVOKED]
317:40-5-54. through 317:40-5-64. [AMENDED]
317:40-5-65. [REVOKED]
317:40-5-66. through 317:40-5-67. [AMENDED]
Part 7. Standards and Guidelines for Specialized Foster Care
317:40-5-75. through 317:40-5-76. [REVOKED]
(Reference APA WF # 04-18)
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TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 40. DEVELOPMENTAL DISABILITIES SERVICES

[OAR Docket #05-552]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 5. Client Services
Part 9. Service Provisions
317:40-5-113. [NEW]
(Reference APA WF # 04-16B)
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[OAR Docket #05-552; filed 4-6-05]

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

[OAR Docket #05-495]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Chapter 36. Affordable Housing Tax Credit Program [AMENDED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #05-495; filed 3-31-05]

TITLE 330. OKLAHOMA HOUSING FINANCE AGENCY
CHAPTER 60. OKLAHOMA HOUSING TRUST FUND RULES

[OAR Docket #05-496]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Chapter 60. Oklahoma Housing Trust Fund Rules [AMENDED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #05-496; filed 3-31-05]

TITLE 330. OKLAHOMA HOUSING FINANCE AGENCY
CHAPTER 70. PERFORMANCE BASED CONTRACT ADMINISTRATION PROGRAM RULES

[OAR Docket #05-497]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Chapter 70. Performance Based Contract Administration Program Rules [AMENDED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #05-497; filed 3-31-05]

TITLE 365. INSURANCE DEPARTMENT
CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #05-423]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 9. Description of Forms and Instructions
365:1-9-15.1. License renewals and reinstatements [AMENDED]
SUBMITTED TO THE GOVERNOR:
March 25, 2005
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[OAR Docket #05-423; filed 3-28-05]

TITLE 365. INSURANCE DEPARTMENT
CHAPTER 10. LIFE, ACCIDENT AND HEALTH

[OAR Docket #05-424]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 5. Minimum Standards; Contract Guidelines
Part 1. Minimum Standards And Benefits For Accident And Health Insurance
365:10-5-4. Prohibited policy provisions [AMENDED]
Part 5. Long-Term Care Insurance
365:10-5-43. Policy practices and provisions [AMENDED]
Part 13. Medicare Supplement Insurance Minimum Standards [AMENDED]
365:10-5-123. Definitions [AMENDED]
365:10-5-124. Policy definitions and terms [AMENDED]
365:10-5-125. Policy provisions [AMENDED]
365:10-5-126. Minimum benefit standards for policies or certificates issued for delivery prior to July 1, 1992 [AMENDED]
365:10-5-127. Benefit standards for policies or certificates issued or delivered on or after July 1, 1992 [AMENDED]

365:10-5-128. Standard Medicare Supplement benefit plans [AMENDED]
365:10-5-128.1. Medicare Select Policies and Certificates [AMENDED]
365:10-5-129.1. Guaranteed issue for eligible persons [AMENDED]
365:10-5-131. Loss ratio standards and refund or credit of premium [AMENDED]
365:10-5-132. Filing and approval of policies and certificates and premium rates [AMENDED]
365:10-5-134. Required disclosure provisions [AMENDED]
365:10-5-135. Requirements for application forms and replacement coverage [AMENDED]
365:10-5-138. Appropriateness of recommended purchase and excessive insurance [AMENDED]
Appendix Q. Medicare Supplement [REVOKED]
Appendix Q. Medicare Supplement [NEW]
Appendix S. Outline of Coverage Tables [REVOKED]
Appendix S. Outline of Coverage Tables [NEW]
Appendix T. Notice To Applicant Regarding Replacement Of Medicare Supplement Insurance [REVOKED]
Appendix T. Notice To Applicant Regarding Replacement Of Medicare Supplement Insurance [NEW]
Appendix V. Disclosure Statements [REVOKED]
Appendix V. Disclosure Statements [NEW]
Appendix FF. Medicare Supplement Insurance Questions [NEW]

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[OAR Docket #05-424; filed 3-28-05]

TITLE 365. INSURANCE DEPARTMENT CHAPTER 15. PROPERTY AND CASUALTY

[OAR Docket #05-425]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. General Provisions
365:15-1-3. Property and casualty form filings [AMENDED]
Subchapter 7. Commercial Property And Casualty Competitive Loss Cost Rating Regulation
365:15-7-6. Excess consent rate filings [AMENDED]
365:15-7-16. Statistical plans [AMENDED]
365:15-7-17. Suspension or modification of filing requirements [AMENDED]
365:15-7-18. Technicians [AMENDED]
365:15-7-26. Weather related claims [NEW]
365:15-7-27. Credit related policies [NEW]
365:15-7-28. Use of lack of prior insurance in underwriting or rating [NEW]
Subchapter 9. Medical Professional Liability Rate Setting
365:15-9-3. Notice to Policyholders [AMENDED]
365:15-9-6.1. Umbrella medical professional liability coverage [NEW]
365:15-9-8. Miscellaneous [AMENDED]
365:15-9-9. Rate change application is a public record [NEW]

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[OAR Docket #05-425; filed 3-28-05]

TITLE 365. INSURANCE DEPARTMENT CHAPTER 25. LICENSURE OF AGENTS, ADJUSTERS, BAIL BONDSMEN, COMPANIES, PREPAID FUNERAL BENEFITS, AND VIATICAL AND LIFE SETTLEMENTS PROVIDERS AND BROKERS

[OAR Docket #05-426]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 3. Agents, Brokers, Adjusters and Limited Representatives
365:25-3-1. Insurance agents continuing education [AMENDED]
365:25-3-13. Surplus line insurance with non-admitted insurer; approval prior to issuance; collection and remittance of taxes; claims for tax adjustments; procedures; forms [AMENDED]
Subchapter 11. Viatical Settlements Regulation
365:25-11-3. License requirements for viatical settlement brokers [AMENDED]
Subchapter 13. Life Settlements Regulation
365:25-13-3. License requirements for life settlement brokers [AMENDED]
Subchapter 15. Captive Insurance Companies Regulation [NEW]
365:25-15-1. Purpose and authority [NEW]
365:25-15-2. Annual reporting requirements [NEW]
365:25-15-3. Annual Audit [NEW]
365:25-15-4. Independent certified public accountant [NEW]
365:25-15-5. Deposit requirement [NEW]
365:25-15-6. Organizational examination [NEW]

365:25-15-7. Reinsurance [NEW]
365:25-15-8. Insurance managers and intermediaries [NEW]
365:25-15-9. Executive officers and directors [NEW]
365:25-15-10. Conflict of interest [NEW]
365:25-15-11. Rescission of captive license [NEW]
365:25-15-12. Acquisition of control of or merger with domestic company [NEW]
365:25-15-13. Change of business [NEW]
365:25-15-14. Prior approval [NEW]
Appendix C. Application For Original Permit [REVOKED]
Appendix C. Application For Original Permit [NEW]

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[OAR Docket #05-426; filed 3-28-05]

TITLE 365. INSURANCE DEPARTMENT CHAPTER 35. PRIVACY

[OAR Docket #05-427]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 3. Standards For Safeguarding Customer Information Regulation [NEW]
365:35-3-1. Preamble [NEW]
365:35-3-2. Definitions [NEW]
365:35-3-3. Information security program [NEW]
365:35-3-4. Objectives of information security program [NEW]
365:35-3-5. Examples of methods of development and implementation [NEW]
365:35-3-6. Assess risk [NEW]
365:35-3-7. Manage and control risk [NEW]
365:35-3-8. Oversee service provider arrangements [NEW]
365:35-3-9. Adjust the program [NEW]
365:35-3-10. Violation [NEW]
365:35-3-11. Effective date [NEW]
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[OAR Docket #05-427; filed 3-28-05]

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

[OAR Docket #05-478]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. General Provisions
377:10-1-5. Testing for research purposes [AMENDED]
SUBMITTED TO THE GOVERNOR:
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[OAR Docket #05-478; filed 3-30-05]

TITLE 380. DEPARTMENT OF LABOR CHAPTER 41. WORKERS COMPENSATION PREMIUM REDUCTION PROGRAM

[OAR Docket #05-612]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 3. Program Certification Procedures
380:41-3-5. Workers' compensation insurance premium reduction [AMENDED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #05-612; filed 4-8-05]

TITLE 420. OKLAHOMA LIQUEFIED PETROLEUM GAS BOARD CHAPTER 1. ADMINISTRATIVE RULES OF PROCEDURE

[OAR Docket #05-498]

RULEMAKING ACTION:
"Submission for gubernatorial and legislative review."
RULES:
420:1-1-2. Organization [AMENDED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #05-498; filed 3-31-05]

TITLE 420. OKLAHOMA LIQUEFIED PETROLEUM GAS BOARD CHAPTER 10. LIQUEFIED PETROLEUM GAS ADMINISTRATION

[OAR Docket #05-499]

RULEMAKING ACTION:
"Submission for gubernatorial and legislative review."
RULES:
420:10-1-5. Permits [AMENDED]
420:10-1-14. Standards for the storage and handling of liquefied petroleum gas [AMENDED]
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[OAR Docket #05-499; filed 3-31-05]

TITLE 445. BOARD OF MEDICOLEGAL INVESTIGATIONS CHAPTER 10. MEDICAL EXAMINER CASES

[OAR Docket #05-526]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
445:10-1-11. Fees for Forensic Science and Laboratory Services [AMENDED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #05-526; filed 4-4-05]

TITLE 460. DEPARTMENT OF MINES CHAPTER 2. RULES OF PRACTICE AND PROCEDURES FOR THE COAL RECLAMATION ACT OF 1979

[OAR Docket #05-593]

RULEMAKING ACTION:
Submission of gubernatorial and legislative review
RULES:
Chapter 2. Rules of Practice and Procedures for the Coal Reclamation Act of 1979 [AMENDED]
SUBMITTED TO GOVERNOR:
March 28, 2005
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[OAR Docket #05-593; filed 4-8-05]

TITLE 460. DEPARTMENT OF MINES CHAPTER 10. NON- COAL RULES AND REGULATIONS

[OAR Docket #05-594]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Chapter 10. Non-coal Rules and Regulations [AMENDED]
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[OAR Docket #05-594; filed 4-8-05]

TITLE 535. OKLAHOMA STATE BOARD OF PHARMACY CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #05-527]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 7. Individual Proceedings
535:1-7-5. Subpoenas [AMENDED]
Subchapter 11. Fees
535:1-11-1. Annual licenses, permits and renewals [AMENDED]

535:1-11-4. Public access, open records [AMENDED]
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[OAR Docket #05-527; filed 4-5-05]

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

[OAR Docket #05-528]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 9. Pharmaceutical Care
535:10-9-3. Intern role in pharmaceutical care [AMENDED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #05-528; filed 4-5-05]

TITLE 535. OKLAHOMA STATE BOARD OF PHARMACY
CHAPTER 12. UNUSED PRESCRIPTION DRUG PROGRAM FOR OKLAHOMA'S MEDICALLY INDIGENT

[OAR Docket #05-529]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
535:12-1-1. [NEW]
535:12-1-2. [NEW]
535:12-1-3. [NEW]
535:12-1-4. [NEW]
535:12-1-5. [NEW]
535:12-1-6. [NEW]
535:12-1-7. [NEW]
535:12-1-8. [NEW]
535:12-1-9. [NEW]
535:12-1-10. [NEW]
535:12-1-11. [NEW]
535:12-1-12. [NEW]
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[OAR Docket #05-529; filed 4-5-05]

TITLE 535. OKLAHOMA STATE BOARD OF PHARMACY
CHAPTER 15. PHARMACIES

[OAR Docket #05-530]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 3. Pharmacies
535:15-3-6. [AMENDED]
535:15-3-7. [AMENDED]
535:15-3-13. [AMENDED]
535:15-3-15. [NEW]
535:15-3-16. [NEW]
Subchapter 5. Hospital Pharmacies
535:15-5-9. [AMENDED]
Subchapter 6. Hospital Drug Room Rules
535:15-6-6. [AMENDED]
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[OAR Docket #05-530; filed 4-5-05]

TITLE 570. STATE BOARD FOR PROPERTY AND CASUALTY RATES
CHAPTER 10. FILING PROCEDURES, INTERPRETATIONS AND ADDITIONAL BOARD RULES

[OAR Docket #05-428]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
570:10-1-4. Certification [AMENDED]
570:10-1-5. Bureau deviations [AMENDED]
570:10-1-13. Homeowners filings [REVOKED]
570:10-1-32. Weather related claims [REVOKED]
570:10-1-34. Credit related polices [REVOKED]
570:10-1-35. Property and casualty policies [REVOKED]

570:10-1-36. Use of lack of prior insurance in underwriting or rating [REVOKED]
570:10-1-37. Use of auto accidents in underwriting or rating [REVOKED]
570:10-1-41. Worker's compensation excess insurance [NEW]

SUBMITTED TO THE GOVERNOR:
March 25, 2005
SUBMITTED TO THE HOUSE:
March 28, 2005
SUBMITTED TO THE SENATE:
March 28, 2005

[OAR Docket #05-428; filed 3-28-05]

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

[OAR Docket #05-531]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. Use of Towers, Facilities, and Communications Services
610:15-1-1. Purpose [AMENDED]
610:15-1-2. Towers and facilities use [AMENDED]
610:15-1-3. Communications services use [AMENDED]

SUBMITTED TO GOVERNOR:
April 1, 2005
SUBMITTED TO HOUSE:
April 1, 2005
SUBMITTED TO SENATE:
April 1, 2005

[OAR Docket #05-531; filed 4-5-05]

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

[OAR Docket #05-531A]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 23. Oklahoma Higher Learning Access Program (OHLAP)
610:25-23-2. Eligibility of participants [AMENDED]
610:25-23-4. Program requirements [AMENDED]
610:25-23-5. Securing OHLAP benefits [AMENDED]
Subchapter 27. Teacher Shortage Employment Incentive Program
610:25-27-3. Application Procedure [AMENDED]
Subchapter 35. Oklahoma Money Matters AmeriCorps Education Award Program [NEW]
610:25-35-1. Purpose [NEW]
610:25-35-2. Definitions [NEW]
610:25-35-3. Program Information [NEW]
610:25-35-4. Field Site Selection [NEW]
610:25-35-5. Member Candidacy [NEW]
610:25-35-6. Grievance Procedures [NEW]
610:25-35-7. Program Capacity [NEW]

SUBMITTED TO GOVERNOR:
April 1, 2005
SUBMITTED TO HOUSE:
April 1, 2005
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April 1, 2005

[OAR Docket #05-531A; filed 4-5-05]

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

[OAR Docket #05-475]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. General Provisions
630:10-1-3. Definitions [AMENDED]
630:10-1-4. User Fees [AMENDED]
630:10-1-5. Commercial Licensing Procedures, Requirements, and Annual Use Fees [AMENDED]
Subchapter 2. Public Access Areas
630:10-2-1. Definitions [AMENDED]
630:10-2-2. Camping Fees [AMENDED]
630:10-2-4. Conditions of Public Access Area Use [AMENDED]

SUBMITTED TO GOVERNOR:
March 30, 2005
SUBMITTED TO HOUSE:
March 30, 2005
SUBMITTED TO SENATE:
March 30, 2005

[OAR Docket #05-475; filed 3-30-05]

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

[OAR Docket #05-476]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review

RULES:
630:15-1-2. Commission Responsibilities and Objectives [AMENDED]
630:15-1-5. Role of Scenic River Rangers [REVOKED]
630:15-1-6.1. Operation of Jet Skis, Airboats, Hovercrafts, and Similar Water Craft Prohibited [AMENDED]
630:15-1-10. Voting for Commissioners [AMENDED]
630:15-1-15. Tying Flotation Devices Prohibited [NEW]
SUBMITTED TO GOVERNOR:
March 30, 2005
SUBMITTED TO HOUSE:
March 30, 2005
SUBMITTED TO SENATE:
March 30, 2005

[OAR Docket #05-476; filed 3-30-05]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 10. AD VALOREM

[OAR Docket #05-503]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review.
RULES:
Subchapter 2. Business Personal Property Valuation Schedules [NEW]
710:10-2-1. General provisions [NEW]
710:10-2-2. Agricultural products and related equipment [NEW]
710:10-2-3. Business related equipment [NEW]
710:10-2-4. Industrial related equipment [NEW]
710:10-2-5. Petroleum related equipment [NEW]
710:10-2-6. Other equipment [NEW]
SUBMITTED TO GOVERNOR:
March 31, 2005
SUBMITTED TO HOUSE:
March 31, 2005
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March 31, 2005

[OAR Docket #05-503; filed 3-31-05]

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

[OAR Docket #05-468]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 2. Cigarette Stamp Tax
Part 1. General Provisions [NEW]
710:70-2-5. Filing requirements for persons making "delivery sales of cigarettes" [RENUMBERED to 710:70-2-50]
710:70-2-6. Requirements placed on vendors making delivery sales of cigarettes [RENUMBERED to 710:70-2-51]
710:70-2-7. Payment of taxes due on delivery sales of cigarettes [RENUMBERED to 710:70-2-52]
710:70-2-9. Cigarette stamp tax rates [NEW]
710:70-2-10. Discount on cigarette tax stamps purchased [NEW]
Part 3. Delivery Sales [NEW]
710:70-2-50. Filing requirements for persons making "delivery sales of cigarettes" [NEW]
710:70-2-51. Requirements placed on vendors making delivery sales of cigarettes [NEW]
710:70-2-52. Payment of taxes due on delivery sales of cigarettes [NEW]
Subchapter 5. Excise on Tobacco Products
710:70-5-12. Oklahoma tobacco products tax rates [NEW]
Subchapter 7. Cigarette and Tobacco Products Sales by Federally-Recognized Indian Tribes and Nations
710:70-7-2. Definitions [NEW]
710:70-7-8. Cigarette stamp tax rates for sales by federally-recognized Indian tribes and nations [NEW]
710:70-7-9. Tobacco products tax rates for sales by federally-recognized Indian tribes and nations [NEW]
Subchapter 9. Reporting Required by the Prevention of Youth Access to Tobacco Act and the Master Settlement Agreement Complementary Act [AMENDED]
710:70-9-1. Purpose [AMENDED]
710:70-9-4. Quarterly escrow installments required from certain nonparticipating manufacturers pursuant to the Master Settlement Agreement Complementary Act [NEW]
SUBMITTED TO GOVERNOR:
March 28, 2005
SUBMITTED TO HOUSE:
March 28, 2005
SUBMITTED TO SENATE:
March 28, 2005

[OAR Docket #05-468; filed 3-28-05]

TITLE 715. TEACHERS' RETIREMENT SYSTEM
CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #05-504]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review

RULES:
715:1-1-15. [AMENDED]
SUBMITTED TO GOVERNOR:
March 28, 2005
SUBMITTED TO HOUSE:
March 28, 2005
SUBMITTED TO SENATE:
March 28, 2005

[OAR Docket #05-504; filed 3-31-05]

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

[OAR Docket #05-505]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 17. Post Retirement Employment
715:10-17-14. [NEW]
SUBMITTED TO GOVERNOR:
March 28, 2005
SUBMITTED TO HOUSE:
March 28, 2005
SUBMITTED TO SENATE:
March 28, 2005

[OAR Docket #05-505; filed 3-31-05]

TITLE 735. STATE TREASURER
CHAPTER 80. UNCLAIMED PROPERTY ADMINISTRATION

[OAR Docket #05-431]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 3. Reporting Requirements
Part 1. General Application
735:80-3-1. [AMENDED]
735:80-3-7. [AMENDED]
Part 3. Financial Institutions
735:80-3-10. [AMENDED]
Subchapter 9. Office Audit
735:80-9-2. [AMENDED]
Subchapter 11. Field Audit
Part 9. Insurance Corporations
735:80-11-25. [AMENDED]
SUBMITTED TO GOVERNOR:
March 29, 2005
SUBMITTED TO HOUSE:
March 29, 2005
SUBMITTED TO SENATE:
March 29, 2005

[OAR Docket #05-431; filed 3-28-05]

Gubernatorial Approvals

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

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

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #05-471]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 12. Agricultural Development and Forestry Grants
35:1-12-12. [NEW]
GUBERNATORIAL APPROVAL:
March 23, 2005

[OAR Docket #05-471; filed 3-30-05]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 30. PLANT INDUSTRY

[OAR Docket #05-472]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 17. Combined Pesticide
Part 5. Prerequisites for Licensing
35:30-17-11. [AMENDED]
Part 7. Identification of Equipment Used by Commercial Applicators
35:30-17-16. [REVOKED]
Part 19. Minimum Fumigation Standards for Structures
35:30-17-76. [REVOKED]
Part 21. Standards for Disposal of Pesticide and Pesticide Containers
35:30-17-93. through 35:30-17-95. [AMENDED]
GUBERNATORIAL APPROVAL:
March 23, 2005

[OAR Docket #05-472; filed 3-30-05]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 30. PLANT INDUSTRY

[OAR Docket #05-473]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 14. Oklahoma Boll Weevil ~~Quarantine~~ [AMENDED]
35:30-14-7. [NEW]
GUBERNATORIAL APPROVAL:
March 23, 2005

[OAR Docket #05-473; filed 3-30-05]

TITLE 140. BOARD OF CHIROPRACTIC EXAMINERS CHAPTER 1. ADMINISTRATIVE ORGANIZATION AND OPERATIONS

[OAR Docket #05-579]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. General Provisions
140:1-1-2. [AMENDED]
140:1-1-5. [NEW]
Subchapter 3. Board Purpose and Organization
140:1-3-9. [AMENDED]
GUBERNATORIAL APPROVAL:
March 31, 2005

[OAR Docket #05-579; filed 4-7-05]

TITLE 140. BOARD OF CHIROPRACTIC EXAMINERS CHAPTER 3. DISCIPLINARY PROCEDURES

[OAR Docket #05-580]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. General Provisions
140:3-1-2. [AMENDED]
Subchapter 3. Filing and Disposition of Complaints

140:3-3-2. [AMENDED]
GUBERNATORIAL APPROVAL:
March 31, 2005

[OAR Docket #05-580; filed 4-7-05]

TITLE 140. BOARD OF CHIROPRACTIC EXAMINERS
CHAPTER 10. LICENSURE OF CHIROPRACTIC PHYSICIANS

[OAR Docket #05-581]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. General Provisions
140:10-1-2. [AMENDED]
Subchapter 3. Application, Examination and Licensing
140:10-3-1. [AMENDED]
140:10-3-2. [AMENDED]
140:10-3-4. [AMENDED]
140:10-3-5. [AMENDED]
140:10-3-6. [AMENDED]
Subchapter 5. Procedures for Renewal License
140:10-5-1. [AMENDED]
140:10-5-2. [AMENDED]
140:10-5-5. [AMENDED]
Subchapter 8. Administrative Fees [NEW]
140:10-8-1. [NEW]
GUBERNATORIAL APPROVAL:
March 31, 2005

[OAR Docket #05-581; filed 4-7-05]

TITLE 140. BOARD OF CHIROPRACTIC EXAMINERS
CHAPTER 15. SPECIAL CERTIFICATES AND MISCELLANEOUS PROVISIONS

[OAR Docket #05-582]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. General Provisions
140:15-1-1. [AMENDED]
140:15-1-2. [AMENDED]
Subchapter 3. Certificates for Chiropractic Claims Consultants
140:15-3-1. [REVOKED]
140:15-3-2. [REVOKED]
Subchapter 5. Certificates for Injectables
140:15-5-2. [AMENDED]
140:15-5-3. [NEW]
Subchapter 7. Safety and Public Welfare Provisions
140:15-7-5. [NEW]
GUBERNATORIAL APPROVAL:
March 31, 2005

[OAR Docket #05-582; filed 4-7-05]

TITLE 150. OKLAHOMA DEPARTMENT OF COMMERCE
CHAPTER 105. OKLAHOMA QUALITY INVESTMENT ACT

[OAR Docket #05-508]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
150:105-1-1. [NEW]
150:105-1-2. [NEW]
150:105-1-3. [NEW]
150:105-1-4. [NEW]
GUBERNATORIAL APPROVAL:
March 23, 2005

[OAR Docket #05-508; filed 4-1-05]

TITLE 165. CORPORATION COMMISSION
CHAPTER 59. OKLAHOMA UNIVERSAL SERVICE AND LIFELINE

[OAR Docket #05-562]

RULEMAKING ACTION:
Gubernatorial approval
RULES:
Subchapter 1. General Provisions
165:59-1-4. Definitions [AMENDED]
Subchapter 7. Special Universal Services
165:59-7-6. Telemedicine access for ~~not-for-profit hospitals~~ eligible healthcare entities [AMENDED]
165:59-7-13. ~~Resold~~ Reselling of Special Universal Services Prohibited [AMENDED]
GUBERNATORIAL APPROVAL:
March 23, 2005

[OAR Docket #05-562; filed 4-7-05]

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

[OAR Docket #05-584]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
PROPOSED RULES:
Subchapter 7. Construction and Operation
310:315-7-2. [AMENDED]
GUBERNATORIAL APPROVAL:
March 31, 2005

[OAR Docket #05-584; filed 4-8-05]

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

[OAR Docket #05-585]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
PROPOSED RULES:
Subchapter 1. Childhood Immunizations
310:535-1-2. [AMENDED]
310:535-1-3. [AMENDED]
GUBERNATORIAL APPROVAL:
March 31, 2005

[OAR Docket #05-585; filed 4-8-05]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 655. HEALTH MAINTENANCE ORGANIZATIONS AND PREPAID HEALTH PLANS [REVOKED]

[OAR Docket #05-586]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
PROPOSED RULES:
Chapter 655. Health Maintenance Organizations and Prepaid Health Plans [REVOKED]
GUBERNATORIAL APPROVAL:
March 31, 2005

[OAR Docket #05-586; filed 4-8-05]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 656. MANAGED CARE AND UTILIZATION REVIEW

[OAR Docket #05-587]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
PROPOSED RULES:
Chapter 656. Managed Care and Utilization Review [REVOKED]
GUBERNATORIAL APPROVAL:
March 31, 2005

[OAR Docket #05-587; filed 4-8-05]

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

[OAR Docket #05-479]

RULEMAKING ACTION:
Gubernatorial approval
RULES:
Subchapter 1. General Provisions
340:1-1-4. [AMENDED]
340:1-1-20. through 340:1-1-21. [NEW]
(Reference APA WF # 04-22)
GUBERNATORIAL APPROVAL:
March 9, 2005

[OAR Docket #05-479; filed 3-31-05]

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

[OAR Docket #05-480]

RULEMAKING ACTION:
Gubernatorial approval
RULES:
Subchapter 19. Correspondence [REVOKED]
340:2-19-1. through 340:2-19-3. [REVOKED]
(Reference APA WF # 04-25)
GUBERNATORIAL APPROVAL:
March 9, 2005

[OAR Docket #05-480; filed 3-31-05]

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

[OAR Docket #05-481]

RULEMAKING ACTION:
Gubernatorial approval
RULES:
Subchapter 2. Temporary Assistance for Needy Families (TANF) Work Program
340:10-2-8. [AMENDED]
Subchapter 3. Conditions of Eligibility - Need
Part 1. Resources
340:10-3-3. [AMENDED]
340:10-3-10. [AMENDED]
Part 3. Income
340:10-3-33. [AMENDED]
340:10-3-39. [AMENDED]
Part 5. Assistance Payments
340:10-3-57. [AMENDED]
Part 7. Transitional Benefits
340:10-3-81. [AMENDED]
Subchapter 9. Conditions of Eligibility - Relationship of Payee to Child
340:10-9-1. [AMENDED]
Subchapter 10. Conditions of Eligibility - Deprivation
340:10-10-5. [AMENDED]
340:10-10-7. [AMENDED]
Subchapter 15. Conditions of Eligibility - Citizenship and Alienage
340:10-15-1. [AMENDED]
340:10-15-3. [AMENDED]
Subchapter 17. Foster Care in Aid to Families with Dependent Children [REVOKED]
340:10-17-1. through 340:10-17-5. [REVOKED]
Subchapter 18. Conditions of Eligibility for Support Service Funds for Child Only Cases
340:10-18-1. [AMENDED]
Subchapter 19. Eligibility Requirements for Emergency Assistance to Needy Families with Children
340:10-19-5. [AMENDED]
Subchapter 20. Diversion Assistance
340:10-20-1. [AMENDED]
Subchapter 22. Temporary Assistance for Needy Families (TANF) Supported Permanency Program
340:10-22-1. [AMENDED]
Appendix S. Request for Services [REVOKED]
Appendix II. Application for Emergency Assistance [REVOKED]
(Reference APA WF # 04-20 and 04-29)
GUBERNATORIAL APPROVAL:
March 9, 2005

[OAR Docket #05-481; filed 3-31-05]

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

[OAR Docket #05-482]

RULEMAKING ACTION:
Gubernatorial approval
RULES:
Subchapter 7. Eligibility
340:40-7-1. [AMENDED]
340:40-7-6. [AMENDED]
340:40-7-8. through 340:40-7-9. [AMENDED]
340:40-7-11. through 340:40-7-12. [AMENDED]
(Reference APA WF 04-09, 04-14, and 04-27)
GUBERNATORIAL APPROVAL:
March 9, 2005

[OAR Docket #05-482; filed 3-31-05]

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

[OAR Docket #05-483]

RULEMAKING ACTION:
Gubernatorial approval
RULES:
Subchapter 3. ~~The~~ Application Process
340:50-3-2. [AMENDED]
Subchapter 5. Non-financial Eligibility Criteria
Part 1. Household Definition
340:50-5-8.1. [AMENDED]
Part 3. Special Households
340:50-5-26. through 340:50-5-27. [AMENDED]
Part 5. Students, Strikers, Resident Farm Laborers, Migrant Households, Sponsored Aliens, and School Employees
340:50-5-45. [AMENDED]
Part 7. Related Provisions
340:50-5-64. [AMENDED]
Part 9. Work Registration
340:50-5-87. through 340:50-5-88. [AMENDED]
340:50-5-97. [NEW]
Subchapter 7. Financial Eligibility Criteria
Part 1. Resources
340:50-7-2. [AMENDED]
Subchapter 9. Eligibility and Benefit Determination Procedures
340:50-9-1. [AMENDED]

340:50-9-5. through 340:50-9-6. [AMENDED]
Subchapter 11. Special Procedures
Part 9. Disaster Procedures and Reporting Requirements
340:50-11-85. [REVOKED]
Appendix D. Application and Affidavit for Emergency Disaster Food Stamp Assistance [REVOKED]
(Reference APA WF # 04-07, 04-08, and 04-28)
GUBERNATORIAL APPROVAL:
March 9, 2005

[OAR Docket #05-483; filed 3-31-05]

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

[OAR Docket #05-484]

RULEMAKING ACTION:
Gubernatorial approval
RULES:
Subchapter 3. Eligibility for Benefits
340:65-3-1. [AMENDED]
340:65-3-4. [AMENDED]
(Reference APA WF # 04-30)
GUBERNATORIAL APPROVAL:
March 9, 2005

[OAR Docket #05-484; filed 3-31-05]

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

[OAR Docket #05-485]

RULEMAKING ACTION:
Gubernatorial approval
RULES:
Subchapter 1. General Provisions [REVOKED]
340:70-1-1. through 340:70-1-7. [REVOKED]
Subchapter 3. Family Services [REVOKED]
340:70-3-1. through 340:70-3-5. [REVOKED]
Appendix J. Notice for DHS Regarding Contractual Services [REVOKED]
(Reference APA WF # 04-19)
GUBERNATORIAL APPROVAL:
March 9, 2005

[OAR Docket #05-485; filed 3-31-05]

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

[OAR Docket #05-486]

RULEMAKING ACTION:
Gubernatorial approval
RULES:
Subchapter 3. Administration
Part 1. General Administration
340:100-3-15. [NEW]
Part 3. Operations
340:100-3-38. [AMENDED]
Subchapter 5. Client Services
Part 3. Service Provisions
340:100-5-15. [AMENDED]
340:100-5-26. [AMENDED]
Subchapter 17. ~~Vocational~~ Employment Services
Part 1. General ~~Vocational~~ Employment Expectations
340:100-17-1. through 340:100-17-2. [AMENDED]
340:100-17-3. through 340:100-17-4. [REVOKED]
Part 3. State-Funded Employment (Sheltered Workshop) Services
340:100-17-10. [AMENDED]
340:100-17-11. [REVOKED]
340:100-17-12. through 340:100-17-17. [AMENDED]
Part 4. Community Integrated Employment Services [NEW]
340:100-17-25. [NEW]
(Reference APA WF # 04-23)
GUBERNATORIAL APPROVAL:
March 9, 2005

[OAR Docket #05-486; filed 3-31-05]

TITLE 360. OKLAHOMA STATE AND EDUCATION EMPLOYEES GROUP INSURANCE BOARD
CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #05-606]

RULEMAKING ACTION:
Gubernatorial approval
RULES:
Subchapter 3. The Board
360:1-3-11. [AMENDED]
360:1-3-12. [NEW]
GUBERNATORIAL APPROVAL:
March 9, 2005

[OAR Docket #05-606; filed 4-8-05]

TITLE 360. OKLAHOMA STATE AND EDUCATION EMPLOYEES GROUP INSURANCE BOARD
CHAPTER 10. STATE AND EDUCATION EMPLOYEES HEALTH, LIFE, AND DENTAL PLANS

[OAR Docket #05-607]

RULEMAKING ACTION:
Gubernatorial approval
RULES:
Subchapter 1. General Provisions
360:10-1-1. [AMENDED]
360:10-1-2. [AMENDED]
Subchapter 3. Administration of Plans
360:10-3-2.1. [AMENDED]
360:10-3-3.5. [AMENDED]
360:10-3-7. [AMENDED]
360:10-3-13. [AMENDED]
360:10-3-20. [AMENDED]
360:10-3-22. [AMENDED]
360:10-3-24. [AMENDED]
360:10-3-25. [AMENDED]
360:10-3-26. [AMENDED]
360:10-3-28. [NEW]
Subchapter 5. Coverage and Limitations
Part 5. Life Benefits
360:10-5-30. [AMENDED]
360:10-5-32. [AMENDED]
360:10-5-33. [AMENDED]
Part 11. Medicare Supplement
360:10-5-79. [AMENDED]
Part 13. Coordination of Health and Dental Benefits
360:10-5-86. [AMENDED]
Subchapter 7. Termination of Benefits
360:10-7-1. [AMENDED]
GUBERNATORIAL APPROVAL:
March 9, 2005

[OAR Docket #05-607; filed 4-8-05]

TITLE 360. OKLAHOMA STATE AND EDUCATION EMPLOYEES GROUP INSURANCE BOARD
CHAPTER 15. THE DISABILITY PROGRAM

[OAR Docket #05-608]

RULEMAKING ACTION:
Gubernatorial approval
RULES:
360:15-1-14. [AMENDED]
GUBERNATORIAL APPROVAL:
March 9, 2005

[OAR Docket #05-608; filed 4-8-05]

TITLE 385. DEPARTMENT OF THE COMMISSIONERS OF THE LAND OFFICE
CHAPTER 1. ADMINISTRATIVE ORGANIZATION AND OPERATIONS

[OAR Docket #05-500]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
385:1-1-2. Commissioners [AMENDED]
385:1-1-3. Office of the Secretary [AMENDED]
385:1-1-4. Authorization to adopt rules and regulations [AMENDED]
385:1-1-5. ~~Office~~Meeting location; quorom [AMENDED]
385:1-1-6. Land Office divisions [AMENDED]
385:1-1-7. Responsibilities of division directors [AMENDED]
385:1-1-8. Requests for information [AMENDED]
385:1-1-9. Hearings [AMENDED]
385:1-1-10. Minutes of Meetings [AMENDED]
385:1-1-11. Rules and regulations [AMENDED]
GUBERNATORIAL APPROVAL:
March 23, 2005

[OAR Docket #05-500; filed 3-31-05]

TITLE 385. DEPARTMENT OF THE COMMISSIONERS OF THE LAND OFFICE
CHAPTER 15. SALE AND OPERATION OF OIL AND GAS LEASES

[OAR Docket #05-501]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
385:15-1-18. Forms available on request [AMENDED]
GUBERNATORIAL APPROVAL:
March 23, 2005

[OAR Docket #05-501; filed 3-31-05]

TITLE 385. DEPARTMENT OF THE COMMISSIONERS OF THE LAND OFFICE CHAPTER 25. SURFACE LEASING FOR AGRICULTURAL AND COMMERCIAL PURPOSES

[OAR Docket #05-502]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
385:25-1-12. Reservations in surface lease; easements [AMENDED]
385:25-1-41. Procedure for Exchanging land [NEW]
385:25-1-42. Irrigation Permits [NEW]
385:25-1-43. Right of Entry Permits; Treasure Trove [NEW]
385:25-1-44. Real Estate Broker Commissions [NEW]
GUBERNATORIAL APPROVAL:
March 23, 2005

[OAR Docket #05-502; filed 3-31-05]

TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 5. DISCIPLINARY ACTIONS

[OAR Docket #05-469]

RULEMAKING ACTION:
Gubernatorial approval.
RULES:
435:5-1-4.1. Administrative fines [NEW]
GUBERNATORIAL APPROVAL:
March 23, 2005

[OAR Docket #05-469; filed 3-29-05]

TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 10. PHYSICIANS AND SURGEONS

[OAR Docket #05-469A]

RULEMAKING ACTION:
Gubernatorial approval.
RULES:
Subchapter 7. Regulation of Physician and Surgeon Practice
435:10-7-11. ~~Intractable pain~~ Use of controlled substances
GUBERNATORIAL APPROVAL:
March 23, 2005

[OAR Docket #05-469A; filed 3-29-05]

TITLE 605. OKLAHOMA REAL ESTATE COMMISSION CHAPTER 10. REQUIREMENTS, STANDARDS AND PROCEDURES

[OAR Docket #05-432]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 5. Instructor and Entity Requirements and Standards
605:10-5-1. Approval of prelicense course offerings [AMENDED]
605:10-5-1.1. Approval of postlicense course offerings [AMENDED]
605:10-5-2. Approval of continuing education offerings [AMENDED]
Subchapter 11. Associate's Licensing Procedures
605:10-11-3. Associate's corporation or association [AMENDED]
Subchapter 13. Trust Account Procedures
605:10-13-1. Duty to account; broker [AMENDED]
Subchapter 15. Disclosures
605:10-15-3. Guidelines for furnishing psychological factors [AMENDED]
Subchapter 17. Causes for Investigation; Hearing Process; Prohibited Acts; Discipline
605:10-17-5. Substantial misrepresentation [AMENDED]
605:10-17-6. Guidelines for suspended/revoked brokers and associates [AMENDED]
605:10-17-7. Cessation of licensed activities upon loss of license [AMENDED]
GUBERNATORIAL APROVAL:
March 23, 2005

[OAR Docket #05-432; filed 3-28-05]

TITLE 675. STATE BOARD OF LICENSED SOCIAL WORKERS CHAPTER 12. GUIDELINES FOR SUPERVISION

[OAR Docket #05-470]

RULEMAKING ACTION:
Gubernatorial approval
RULES:
675:12-1-6. Board Approved Supervisors [AMENDED]
GUBERNATORIAL APPROVAL:
March 23, 2005

[OAR Docket #05-470; filed 3-29-05]

Withdrawn Rules

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

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

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

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

[OAR Docket #05-474]

RULEMAKING ACTION:
Withdrawal of PERMANENT rulemaking
WITHDRAWN RULES:
Subchapter 40. Bovine Tuberculosis
Part 7. International Import Requirements
35:15-40-90. [NEW]
35:15-40-91. [AMENDED]
DATES:
Adoption:
December 16, 2004
Submitted to Governor:
December 16, 2004
Submitted to House:
December 16, 2004
Submitted to Senate:
December 16, 2004
Gubernatorial approval:
January 28, 2005
Withdrawn:
March 30, 2005

[OAR Docket #05-474; filed 3-30-05]

Permanent Final Adoptions

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

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

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

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

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 2. FEES

[OAR Docket #05-595]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Fee Schedules
35:2-3-2.1. [AMENDED]
35:2-3-2.7. [AMENDED]
35:2-3-2.8. [AMENDED]
AUTHORITY:
Oklahoma State Board of Agriculture; 2 O.S. 2001 §§ 2-4(20) and 14-83; Article 6, Section 31, Constitution of the State of Oklahoma
DATES:
Comment period:
September 1, 2004 through October 4, 2004
Public hearing:
October 4, 2004
Adoption:
October 22, 2004
Submitted to Governor:
October 25, 2004
Submitted to House:
October 25, 2004
Submitted to Senate:
October 25, 2004
Gubernatorial approval:
December 8, 2004
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on March 30, 2005
Final adoption:
March 30, 2005
Effective:
May 12, 2005
SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
The proposed rules amend certain fees contained in Subchapter 3 pertaining to animal health, seed, and Bureau of Standards. These rules allow the Oklahoma Department of Agriculture, Food, and Forestry's Laboratory Services Division to recoup some of the costs associated with conducting the specific tests addressed by the amendments.
CONTACT PERSON:
Mike Talkington, Director, Laboratory Services, Oklahoma Department of Agriculture, Food, and Forestry (405) 522-5432

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2005:

SUBCHAPTER 3. FEE SCHEDULES

35:2-3-2.1. Schedule of animal health testing fees

(a) Equine Infectious Anemia ~~- $5.00.~~ :
(1) AGID (agar gel immuno-diffusion) - $5.00.
(2) ELISA (enzyme linked immuno-sorbant assay):
(A) Routine - $7.50
(B) One day turn around - $20.00.
(b) Pseudorabies - $3.00.
(c) Brucellosis - no charge.

35:2-3-2.7. Schedule of seed testing fees

~~(a) Germination and purity, other than grasses and clovers - $12.00.~~
(~~b~~ a) Germination ~~only,~~ other than grasses and clovers - $8.00.
(~~c~~ b) Purity ~~only,~~ other than grasses and clovers - $9.00.
(~~d~~ c) Germinations, grasses and clovers - $8.00 per component.
(~~e~~ d) Purity~~,~~ for grasses, clovers, and unprocessed seed - ~~$12.00~~ $20.00 per hour.
(~~f~~ e) Tetrazolium (TZ) testing - $15.00.
(~~g~~ f) Stress/vigor test - $8.00.
(~~h~~ g) Accelerated aging - $12.00.
(~~i~~ h) Noxious weed check - $10.00 per hour.

35:2-3-2.8. Schedule of Oklahoma Bureau of Standards testing fees

(a) Mass Echelon III.
(1) Tolerance test weights not adjusted:
(A) Up to and including 10 lbs/5 kg - ~~$5.00~~ $7.00.
(B) Over 10 lbs/5 kg and up to 50 lbs/30 kg - ~~$8.00~~ $12.00.
(C) Over 50 lbs/30 kg and up to ~~500 lbs/300 kg - $10.00.~~
~~(D) Over 500 lbs/300 kg and up to~~ 1,000 lbs/500 kg - ~~$12.00~~ $18.00.
(~~E~~ D) Over 1,000 lbs/500 kg and up to 2,500 lbs/1,250 kg - ~~$20.00~~ $40.00.
(2) Tolerance test weights when adjusted:
(A) Up to and including 10 lbs/5 kg - ~~$15.00~~ $21.00.
(B) Over 10 lbs/5 kg and up to 50 lbs/30 kg - ~~$24.00~~ $36.00.
(C) Over 50 lbs/30 kg and up to ~~500 lbs/300 kg - $30.00.~~

~~(D) Over 500 lbs/300 kg and up to~~ 1,000 lbs/500 kg - ~~$36.00~~ $54.00.

(~~E~~D) Over 1,000 lbs/500 kg and up to 2,500 lbs/1,250 kg - ~~$60.00~~ $120.00.

(b) Mass Echelon II.

(1) Tolerance test weights not adjusted:

(A) Up to and including 2 lbs/1 kg - $15.00 $20.00.

(B) Over 2 lbs/1 kg and up to 20 lbs/10 kg - ~~$20.00~~ $40.00.

(C) Over 20 lbs/10 kg and up to 50 lbs/30 kg - ~~$30.00~~ $80.00.

(D) Over 50 lbs/30 kg and up to 2,500 lbs/1,250 kg - $50.00 $100.00.

(2) Tolerance test weights when adjusted:

(A) Up to and including 2 lbs/1 kg - ~~$45.00~~ $60.00.

(B) Over 2 lbs/1 kg and up to 20 lbs/10 kg - $60.00 $120.00.

(C) Over 20 lbs/10 kg and up to 50 lbs/30 kg - ~~$90.00~~ $240.00.

(D) Over 50 lbs/30 kg and up to 2,500 lbs/1,250 kg - ~~$150.00~~ $300.00.

(c) Mass Echelon I.

(1) Test weights not adjusted:

(A) Up to and including 1 kg - ~~$40.00~~ $60.00.

(B) Over 1 kg and up to 30 kg - $60.00 $100.00.

(2) Test weights when adjusted:

(A) Up to and including 1 kg - ~~$120.00~~ $180.00.

(B) Over 1 kg and up to 30 kg - ~~$180.00~~ $300.00.

(d) Volume transfer tests:

(1) Up to and including 5 gal/20 liters - ~~$25.00~~ $40.00.

(2) Over 5 gal/20 liters and up to 50 gal/200 liters - ~~$50.00~~ $100.00.

(3) Over 50 gal/200 liters and up to 100 gal/400 liters - $100.00 $200.00.

(4) Over 100 gal/400 liters and up to 150 gal/600 liters - ~~$150.00~~ $250.00.

(5) Over 150 gal/600 liters and up to 200 gal/800 liters - ~~$200.00~~ $300.00.

(6) Over 200 gal/800 liters and up to 375 gal/1,500 liters - ~~$300.00~~ $450.00.

(e) Volume gravimetric tests:

(1) Up to and including 1 qt/1 liter - ~~$50.00~~ $75.00.

(2) Over 1 qt/1 liter and up to 5 gal/20 liters - ~~$100.00~~ $200.00.

(3) Over 5 gal/20 liters and up to 50 gal/200 liters - ~~$250.00~~ $500.00.

(f) Volume LPG Provers up to and including 100 gal/400 liters - $250.00 $500.00.

(g) Length~~:~~

~~(1) Calibration~~ calibration per point - $7.00.

~~(2) Minimum per device - $50.00.~~

(h) Cleaning of standards, ~~and special~~ handling, and packing~~, when necessary~~ - $50.00 per hour.

(i) Minimum fee per calibration certificate - $40.00.

[OAR Docket #05-595; filed 4-8-05]

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

[OAR Docket #05-596]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Animal Health Reportable Diseases
35:15-3-2. [AMENDED]
35:15-3-3. [AMENDED]
AUTHORITY:
Oklahoma State Board of Agriculture; 2 O.S. 2001 §§ 2-4(2), 2-4(7), 2-4(17), 2-4(29), 6-2, and 6-124; 59 O.S. 2001 § 698.15
DATES:
Comment period:
October 1, 2004 through November 1, 2004
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Gubernatorial approval:
December 20, 2004
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on March 30, 2005
Final adoption:
March 30, 2005
Effective:
May 12, 2005
SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
The proposed rule change provides cleanup to the animal health reportable disease lists and includes changes that refer to certain animal health diseases by a more appropriate and correct name to alleviate any confusion that may exist by using incorrect names.
CONTACT PERSON:
Dr. Becky Brewer-Walker, Director, Animal Industry Services, Oklahoma Department of Agriculture, Food, and Forestry (405) 522-6134

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2005:

SUBCHAPTER 3. ANIMAL HEALTH REPORTABLE DISEASES

35:15-3-2. List A diseases

(a) General diseases

(1) Rinderpest

(2) Peste des ~~petitis ruminants~~ Petitis Ruminants

(3) Contagious ~~bovine pleuropneumonia~~ Bovine Pleuropneumonia

(4) Lumpy ~~skin disease~~ Skin Disease

(5) Rift Valley ~~fever~~ Fever

(b) Multiple species diseases

(1) Foot and ~~mouth disease~~ Mouth Disease (FMD)
(2) FMD - Virus O
(3) FMD - Virus A
(4) FMD - Virus C
(5) FMD - Virus SAT 1
(6) FMD - Virus SAT 2
(7) FMD - Virus SAT 3
(8) FMD - Virus not typed
(9) Vesicular ~~stomatitis~~ Stomatitis(VS)
(10) VS - Virus Indiana
(11) VS - Virus New Jersey
(12) VS - Virus not typed
(13) Anthrax
(14) Aujeszky's ~~disease~~ Disease(Pseudorabies)
(15) Heartwater
(16) Q Fever
(17) Screwworm (Cochliomyia hominivorax)
(18) Bovine ~~tuberculosis~~ Tuberculosis(M. bovis)

(c) Cattle diseases

(1) Babesiosis
(2) Bovine ~~brucellosis~~ Brucellosis(B. abortus)
(3) ~~Theileriasis~~ Theileriosis
(4) Trypanosomiasis
(5) ~~Bovine malignant catarrh~~ Malignant Catarrhal Fever
(6) Bovine ~~spongiform encephalopathy~~ Spongiform Encephalopathy(BSE)

(d) Sheep and goat diseases

(1) Sheep ~~pox~~ Pox and ~~goat pox~~ Goat Pox
(2) Brucellosis ~~ovis infection~~ Ovis (B. ovis)
(3) Caprine and ~~ovine brucellosis~~ Ovine Brucellosis (B. melitensis)
(4) Nairobi ~~sheep disease~~ Sheep Disease
(5) Scrapie
(6) Maedi-Visna

(e) Horse diseases

(1) African ~~horse sickness~~ Horse Sickness
(2) Contagious ~~equine metritis~~ Equine Metritis
(3) Dourine
(4) Equine ~~encephalomyelitis~~ Encephalomyelitis (EEE and WEE)
(5) Equine ~~infectious anemia~~ Infectious Anemia (EIA)
(6) Equine ~~piroplasmosis~~ Piroplasmosis (Babesiosis)
(7) Japanese ~~encephalitis~~ Encephalitis
(8) Surra (T. evans)
(9) Venezuelan ~~equine encephalomyelitis~~ Equine Encephalomyelitis

(f) Swine diseases

(1) Swine ~~vesicular disease~~ Vesicular Disease
(2) African ~~swine fever~~ Swine Fever
(3) ~~Hog cholera~~ Classical Swine Fever (Hog Cholera)
(4) Porcine ~~brucellosis~~ Brucellosis(B. suis)

(g) Poultry diseases

(1) ~~Fowl Plague~~ Avian Influenza (Fowl Plague)
(2) Newcastle disease
(3) Mycoplasmosis (M. gallisepticum)
(4) Pullorum ~~disease (S. pullorum)~~ Disease (Salmonella pullorum)

(h) Cervidae diseases - Chronic ~~wasting disease~~ Wasting Disease (CWD)

35:15-3-3. List B diseases

(a) Multiple species diseases

(1) Bluetongue
(2) Echinococcosis/Hydatitdosis
(3) Leptospirosis
(4) Rabies
(5) Paratuberculosis

(b) Cattle diseases

(1) Anaplasmosis
(2) Bovine ~~genital campylobacteriosis~~ Genital Campylobacteriosis
(3) Cysticercosis (C. bovis)
(4) Dermatophilosis
(5) Enzootic ~~bovine leucosis~~ Bovine Leucosis
(6) Hemorrhagic ~~septicemia~~ Septicemia
(7) Infectious ~~bovine rhinotracheitis~~ Bovine Rhinotracheitis (IBR/IPV)
(8) Trichomoniasis

(c) Sheep and goat diseases

(1) Caprine ~~arthritis/encephalitis~~ Arthritis/Encephalitis
(2) Contagious ~~agalactia~~ Agalactia
(3) Contagious ~~caprine pleuropneumonia~~ Caprine Pleuropneumonia
(4) Enzootic ~~abortion~~ Abortion of ~~ewes~~ Ewes
(5) Pulmonary ~~adenomatosis~~ Adenomatosis
(6) Salmonellosis (S. abortus ovis)

(d) Horse diseases

(1) Epizootic ~~lymphangitis~~ Lymphangitis
(2) Equine ~~influenza~~ Influenza (Virus type A)
(3) Equine ~~rhinopneumonitis~~ Rhinopneumonitis
(4) Glanders
(5) Horse ~~pox~~ Pox
(6) Infectious ~~arteritis~~ Arteritis of ~~horses~~ Horses
(7) Horse ~~mange~~ Mange
(8) Salmonellosis (S. abortus equi)
(9) West Nile ~~virus~~ Virus

(e) Swine diseases

(1) Atrophic ~~rhinitis~~ Rhinitis
(2) Cysticercosis (C. cellulosis)
(3) Transmissible ~~gastroenteritis~~ Gastroenteritis of ~~pigs~~ Pigs
(4) Trichinellosis
(5) Enterovirus ~~encephalomyelitis~~ Encephalomyelitis
(6) Porcine ~~reproductive~~ Reproductive and ~~respiratory syndrome~~ Respiratory Syndrome

(f) Poultry diseases

(1) Avian ~~infectious bronchitis~~ Infectious Bronchitis
(2) Avian ~~infectious laryngotrachitis~~ Infectious Laryngotrachitis (ILT)
(3) Avian ~~tuberculosis~~ Tuberculosis
(4) Duck ~~hepatitis~~ Virus Hepatitis
(5) Duck ~~virus enteritis~~ Virus Enteritis
(6) Fowl ~~cholera~~ Cholera (Avian Pasteurellosis)

(7) Fowl ~~pox~~ Pox
(8) Fowl ~~typhoid (S.~~ Typhoid (Salmonella gallinarum)
(9) Infectious ~~bursal disease~~ Bursal Disease (Gumboro disease)
(10) Marek's ~~disease~~ Disease
(11) ~~Psitticosis and Ornithosis~~ Avian Chlamydiosis (Psitticosis and Ornithosis)

(g) Lagomorph diseases
(1) Myxomatosis
(2) Tularaemia
(3) Viral ~~hemorrhagic disease~~ Hemorrhagic Disease of ~~rabbits~~ Rabbits

(h) Fish diseases
(1) Viral ~~hemorrhagic septicemia~~ Hemorrhagic Septicemia
(2) Spring ~~viraemia~~ Viraemia of ~~carp~~ Carp
(3) Infectious ~~hematopoietic necrosis~~ Hematopoietic Necrosis
(4) Herpesvirosis of ~~salmonids~~ Salmonids
(5) Renibacterosis
(6) Herpesvirosis of ~~ictalurids~~ Ictalurids
(7) Epizootic ~~haematopoietic necrosis~~ Haematopoietic Necrosis
(8) Edwarsiellosis (E. ictaluri)

(i) Mollusc diseases
(1) Bonamiosis
(2) Haplosporidiosis
(3) Perkinsosis
(4) Marteiliosis
(5) Iridovirosis

(j) Bee diseases
(1) Acariasis of ~~bees~~ Bees
(2) American ~~foul brood~~ Foul Brood
(3) European ~~foul brood~~ Foul Brood
(4) Nosemosis of ~~bees~~ Bees
(5) Varroasis

(k) Other animal species diseases - Leishmaniasis

[OAR Docket #05-596; filed 4-8-05]

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

[OAR Docket #05-597]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 11. Importation of Livestock, Poultry, and Pets
Part 1. General
35:15-11-1. [AMENDED]
Part 7. Livestock
35:15-11-16. [REVOKED]
Subchapter 40. Bovine Tuberculosis
Part 3. Rules Adopted from USDA Uniform Methods and Rules for Bovine Tuberculosis Eradication
35:15-40-49.1. [NEW]
Part 7. ~~International~~ Import Requirements [AMENDED]
35:15-40-90. [NEW]
35:15-40-91. [AMENDED]
AUTHORITY:
Oklahoma State Board of Agriculture and the Oklahoma Agriculture Code; 2 O.S. 2001 §§ 2-4(2), 2-4(7), 2-4(29), 6-145, 6-150, and 6-153; Article 6, Section 31, Constitution of the State of Oklahoma
DATES:
Comment period:
September 1, 2004 through October 4, 2004
Public hearing:
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December 16, 2004
Submitted to House:
December 16, 2004
Submitted to Senate:
December 16, 2004
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May 12, 2005
SUPERSEDED EMERGENCY ACTIONS:
Superseded rules:
Subchapter 11. Importation of Livestock, Poultry and Pets
Part 1. General
35:15-11-1. [AMENDED]
Part 7. Livestock
35:15-11-16. [REVOKED]
Subchapter 40. Bovine Tuberculosis
Part 3. Rules Adopted from USDA Uniform Methods and Rules for Bovine Tuberculosis Eradication
35:15-40-49.1. [NEW]
Part 7. ~~International~~ Import Requirements [AMENDED]
35:15-40-90. [NEW]
35:15-40-91. [AMENDED]
Gubernatorial approval:
May 11, 2004
Register publication:
21 Ok Reg 1959
Docket number:
04-974
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
At the request of the State Veterinarian and pursuant to the authority detailed in the Oklahoma Agricultural Code 2 O.S. 2001 § 6-141 et seq. regarding tuberculosis in all livestock and animals, the Department promulgated emergency rules that became effective on May 11, 2004. The emergency rules made important changes to meet proposed federal regulations regarding the importation of livestock from states dealing with chronic tuberculosis problems. This rulemaking is to make the emergency rules permanent. The rules do the following:

1. In rule OAC 35:15-11-1, the agency is cleaning up and clarifying the state's general import requirements.

2. The agency is revoking rule OAC 35:15-11-16 and replacing it with the new rule 35:15-40-90 found with all other tuberculosis rules; Rule 35:15-40-90 details the new importation requirements for cattle coming into Oklahoma and meets the new federal requirements;

3. The agency also added a new rule at 35:15-40-49.1 that requires a negative test for tuberculosis for older dairy cattle prior to any change in ownership; and

4. Lastly, the agency provides some clean up of rule 35:15-40-91 that reflect the correct agency name and that the rule applies to international importation.

CONTACT PERSON:
Dr. Becky Brewer-Walker, Director, Animal Industry Services, Oklahoma Department of Agriculture, Food, and Forestry (405) 522-6134

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2005:

SUBCHAPTER 11. IMPORTATION OF LIVESTOCK, POULTRY, AND PETS

PART 1. GENERAL

35:15-11-1. General import requirements

(a) All livestock, as defined in 2 O.S. Section 6-150, ~~must~~ shall have a certificate of veterinary inspection or an approved commuter herd agreement on file with the Department prior to entry into Oklahoma.

(b) The ~~President of the Board of Agriculture~~ Commissioner of Agriculture or the ~~Director of Animal Industry Services~~ State Veterinarian shall be authorized to impose pre-entry test requirements on any species if it becomes known that the threat of disease exists which could place the livestock industries of Oklahoma at risk or could become a public health hazard.

(c) Import requirements of this section may be in addition to import requirements for a species or disease found in this subchapter.

PART 7. LIVESTOCK

35:15-11-16. Cattle importation [REVOKED]

~~(a) Cattle from herds quarantined for Tuberculosis will not be allowed to enter Oklahoma. No TB Test will be required on cattle entering Oklahoma from non-quarantined areas.~~

~~(b) Cattle scabies requirements for cattle coming into Oklahoma from areas in Texas, Kansas, New Mexico, and Colorado is hereby rescinded 5/23/79.~~

SUBCHAPTER 40. BOVINE TUBERCULOSIS

PART 3. RULES ADOPTED FROM USDA UNIFORM METHODS AND RULES FOR BOVINE TUBERCULOSIS ERADICATION

35:15-40-49.1. Dairy cattle change of ownership

(a) Sexually intact dairy cattle six (6) months of age or older and weighing four hundred fifty (450) pounds or more shall:

(1) Test negative for tuberculosis no more than sixty (60) days prior to a change in ownership; or

(2) Originate from a herd with a biennial complete herd negative caudal fold tuberculin test of all cattle twenty (20) months of age or greater that exhibit no other evidence of bovine tuberculosis; or

(3) Originate from an accredited tuberculosis free herd.

(b) Any dairy cattle that do not meet these testing requirements shall be S-branded and sent either directly to slaughter or to a designated feedlot.

(c) For purposes of this section a biennial negative caudal fold tuberculin test shall occur at an interval of not less than twenty-two (22) nor more than twenty-six (26) months and be valid for a period of two years.

(d) For purposes of this section dairy cattle shall include typical dairy framed animals as determined by the inspecting veterinarian.

PART 7. ~~INTERNATIONAL~~ IMPORT REQUIREMENTS

35:15-40-90. Requirements for cattle entering Oklahoma

(a) Cattle that test positive for tuberculosis shall not enter Oklahoma.

(b) Cattle from herds quarantined for tuberculosis shall not enter Oklahoma.

(c) All dairy steers and spayed heifers shall be accompanied by a certificate of veterinary inspection.

(d) All sexually intact dairy cattle under six (6) months of age shall be individually identified by an official ear tag and accompanied by a certificate of veterinary inspection.

(e) All sexually intact dairy cattle six (6) months of age and older shall be accompanied by a certificate of veterinary inspection that individually identifies each animal and shall meet one of the following:

(1) Originate from a tuberculosis free state;

(2) Originate from a tuberculosis free herd; or

(3) Test negative no more than sixty (60) days prior to entry with the results recorded on the certificate of veterinary inspection.

(f) Beef cattle under the age of eighteen (18) months and all spayed heifers or steers shall be accompanied by a certificate of veterinary inspection.

(g) All other beef cattle eighteen (18) months or older shall be accompanied by a certificate of veterinary inspection that individually identifies each animal and shall meet one of the following:

(1) Originate from a tuberculosis free state;

(2) Originate from a tuberculosis free herd; or

(3) Test negative no more than sixty (60) days prior to entry with the results recorded on the certificate of veterinary inspection.

(h) Any cattle that do not meet these testing requirements shall be S-branded and sent either directly to slaughter or to a designated feedlot.

35:15-40-91. ~~Importation~~ International importation of sexually intact cattle or bison

(a) All sexually intact cattle and bison~~,~~ from any foreign country or part thereof with ~~no recognized tuberculosis status comparable~~ a status less than Modified Accredited Advanced as compared to the UM&R standards of the U.S. Bovine Tuberculosis Eradication program~~,~~ and imported for reasons other

than immediate slaughter or feeding for slaughter ~~must~~ shall meet the following criteria:

(1) Obtain a permit issued by the Oklahoma Department of Agriculture, Food, and Forestry prior to entry; and

(2) Be quarantined to the ~~Oklahoma~~ premise approved in the entry permit pending two (2) consecutive negative tuberculosis tests~~. The~~, with the first test ~~to be~~ conducted not less than ninety (90) days nor more than 120 days after arrival and the second test ~~to be~~ conducted not less than 210 days nor more than 240 days after arrival in ~~Oklahoma~~ the state.

(b) ~~Those~~ All sexually intact cattle and bison~~,~~ from any foreign country or part thereof with no recognized tuberculosis status comparable to the UM&R standards of the U.S. Bovine Tuberculosis Eradication program of Modified Accredited Advanced or above~~,~~ and imported for immediate slaughter or feeding for slaughter ~~must~~ shall meet the following criteria:

(1) Obtain a permit issued by the Oklahoma Department of Agriculture, Food, and Forestry prior to entry; and

(2) Be consigned direct to an approved slaughter establishment or ~~quarantined~~ designated feedlot with no diversion from the permitted destination. ~~Those animals consigned to a quarantined feedlot must be S-branded upon arrival at the feedlot.~~

(3) Animals consigned to a designated feedlot shall be S-branded prior to or upon arrival at the feedlot.

[OAR Docket #05-597; filed 4-8-05]

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

[OAR Docket #05-598]

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Subchapter 12. Pet Overpopulation Fund [NEW]
35:15-12-1. through 35:15-12-9. [NEW]
AUTHORITY:
Oklahoma State Board of Agriculture and the Oklahoma Agriculture Code; 2 O.S. 2001 §§ 2-4(2), 2-4(7), 2-4(29); 68 O.S. 2368.11; Article 6, Section 31, Constitution of the State of Oklahoma
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ANALYSIS:
Pursuant to House Bill 2557, the Oklahoma Legislature created an Animal Friendly License Plates program, with the revenue generated from this program to be deposited in the Oklahoma Pet Overpopulation Fund. The purpose of the fund is to implement and maintain pet sterilization efforts in the state. These rules are for the purpose of implementing that program in compliance with House Bill 2557.
CONTACT PERSON:
Dr. Becky Brewer-Walker, Director, Animal Industry Services, Oklahoma Department of Agriculture, Food, and Forestry (405) 522-6134

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2005:

SUBCHAPTER 12. PET OVERPOPULATION FUND

35:15-12-1. Purpose

The purpose of these rules is to set out the process that governs the disbursement of the Oklahoma Pet Overpopulation Fund for implementing and maintaining pet sterilization efforts in the State of Oklahoma. These rules establish minimum requirements for receiving funds and establish procedures for publishing, accepting, evaluating, selecting, and granting funds.

35:15-12-2. Definitions

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

"Administrator" means the administrator of the Oklahoma Pet Overpopulation Fund and is appointed by the State Veterinarian.

"Advisory committee" means a committee established by the Oklahoma Veterinary Medical Association to review policies, grant applications, and make recommendations to the Oklahoma Department of Agriculture, Food, and Forestry.

"Fund" means the Oklahoma Pet Overpopulation Fund.

"Owner" means the person to whom the pet belongs.

"Participating organization" means an animal organization or shelter owned and operated by a nonprofit animal welfare organization or a public animal shelter that files an annual letter of request for grant funds with the administrator and is approved for funding.

"Participating veterinarian" means a veterinarian that files an application with the administrator and is approved for participation.

"Payee" means a participating veterinarian, veterinary facility, or participating organization.

"Pet" means a dog or cat.

"State assistance program" means the Medicaid Program, the Food Stamp Program, the Women, Infants and Children's Program (WIC), Temporary Assistance to Needy Families (TANF), the Aged, Blind or Disabled Program, or the Child Care Program.

"Sterilization" means ovariohysterectomy (spay) or castration (neuter), including examination, maintenance, discharge, and removal of sutures.

"Vendor identification number" means the federal tax number or social security number of the veterinary facility or participating veterinarian.

"Veterinary facility" means a veterinary practice with multiple participating veterinarians.

35:15-12-3. Funding

(a) Taxpayer donations to the Fund shall be collected throughout the calendar year by the Oklahoma Tax Commission. Any funds not expended shall be carried forward and applied to the next calendar year.

(b) Applications by owners and participating veterinarians shall be reviewed by the administrator to verify an applicant's eligibility.

(c) The advisory committee may approve recommendations for allocation of monies and the Administrator shall provide detailed recommendations for disbursement of monies from the fund to the Department.

(d) The Department shall review recommendations of the administrator and any applications necessary to determine and approve the final distribution of monies from the Fund.

(e) Within thirty (30) calendar days after the end of the calendar year, the Department shall determine if sufficient funds are available to warrant applications for funding. The fund shall contain a minimum of $10,000 before applications will be accepted. If the fund falls below $5,000 the monies in the fund shall be carried forward and applied to the next calendar year.

(f) The Department is not required to allocate all of the funds available for disbursement.

35:15-12-4. Eligible owners

(a) Any owner who is a resident of this state may request the sterilization procedure if the owner is participating or eligible to participate in a state assistance program.

(b) The owner shall provide verification of the owner's participation or eligibility to participate in a state assistance program.

(c) Verification shall be provided as one of the following documents issued by the Oklahoma Department of Human Services:

(1) Medicaid Card verifying eligibility in the Medicaid program;

(2) Electronic Balance Transfer (EBT) Card verifying eligibility in the Food Stamp, WIC, TANF, or Day Care programs;

(3) Social Security award letter; or

(4) Any other written correspondence from the Department of Human Services to the owner indicating the owner's current eligibility for any of the state assistance programs.

35:15-12-5. Owner application and consent form requirements

(a) The owner requesting the sterilization procedure shall submit the following to the administrator:

(1) Name, address, and telephone number of the owner;

(2) Verification of eligibility for a state assistance program;

(3) The pet's name, species, breed, sex, age, and any vaccination history;

(4) Owner's signature and date signed;

(5) A statement that the information is verified under oath as true and correct to the best of the owner's knowledge; and

(6) An owner consent form indicating consent to:

(A) Sterilization of the listed pet;

(B) Rabies vaccination, if requested; and

(C) Any other listed vaccinations the owner may request.

(b) The administrator shall review the application and shall approve the application if all required information is complete and accurate.

(c) The administrator shall return the approved or disapproved form to the owner.

(d) Upon receipt of the approved form, the owner shall submit the form and a ten dollar ($10.00) copayment to the participating veterinarian that agrees to perform the sterilization procedure on the pet.

(e) The owner shall have the sterilization procedure performed within fifteen (15) days of the application approval date. Exceptions to this date shall only be granted if the participating veterinarian determines that a delay is necessary for medical reasons and provides appropriate written documentation to the administrator.

35:15-12-6. Veterinarian Participation

(a) Any veterinarian that is licensed by the Oklahoma State Board of Veterinary Medical Examiners and is a member of the Oklahoma Veterinary Medical Association may submit an annual application to participate in the program.

(b) The veterinarian application shall contain the following:

(1) Name and title of person making request;

(2) Name of veterinary facility and the vendor identification number;

(3) Address and telephone number of the veterinary facility;

(4) Name, Oklahoma Veterinarian Medical License Number, and signature of each veterinarian at the veterinary facility;

(5) Fee schedule for sterilization of pets in all categories requested on the application form;

(6) IRS W-9 Form; and

(7) Signature of authorized person and date signed.

(c) The veterinarian shall file the application annually with the administrator and the agreement shall be effective from

January 1 of each calendar year, or from the date of application approval, whichever is later, and shall expire on December 31 of each calendar year.

(d) Fee schedules shall remain in effect for the entire term of the agreement.

(1) Fees shall be for the entire surgical procedure, including but not limited to presurgical examination, any required presurgical blood work, hospital care, removal of sutures, and any other costs normally associated with the surgical procedure, and in no case shall any additional fee be charged to the owner for any veterinary required presurgical blood work or vaccinations.

(2) The veterinarian shall be reimbursed for no more than eighty percent (80%) of the fee schedule for sterilization.

(3) The veterinarian shall collect and retain a ten dollar ($10.00) copayment for surgery from the eligible owner.

(4) Fees associated with any surgical complications shall not be subject to reimbursement.

(5) Upon request of the owner, the veterinarian shall vaccinate each surgical pet for rabies and provide a rabies vaccination certificate at no more than five dollars ($5.00) per pet.

(e) If the fee schedules are determined to be at least twenty percent (20%) higher than the average surgical fee for sterilization procedures as determined from all fee schedules submitted by participating veterinarians, the veterinarian's fee schedule shall not be approved.

(f) If funds become depleted, the veterinarian shall be notified by the administrator and shall immediately stop performing surgeries that may have already been authorized by the administrator.

(g) The veterinarian shall not be reimbursed for surgeries performed for any owner who is not approved by the administrator.

(h) The participating veterinarian reserves the right to postpone or refuse surgery if in the medical opinion of the veterinarian, the pet is medically unfit to undergo the surgical procedure. A written statement explaining surgical refusal shall be provided to the owner and the administrator.

35:15-12-7. Invoices

(a) Upon completion of the surgery, the participating veterinarian shall submit an invoice on a form provided by the administrator and a copy of the owner application and consent form to the Administrator within ten (10) working days following the end of the month that the surgery was performed.

(b) Reimbursement for the invoice submitted shall be determined by:

(1) Separately listing the amount of surgeries performed on dogs by sex and weight;

(2) Separately listing the amount of surgeries performed on cats by sex;

(3) Separately listing the unit cost of each surgery performed;

(4) Multiplying the number of surgeries by their respective unit cost to calculate the subtotals;

(5) Adding the subtotals to calculate the surgical total;

(6) Calculating eighty percent (80%) of the surgical total.

35:15-12-8. Participating organization eligibility

(a) A participating organization may apply for a grant of funds to perform pet sterilization procedures.

(b) A participating organization shall submit a detailed written grant application that shall include but is not limited to:

(1) Name, address, and telephone number of the participating organization;

(2) Title and name of person representing the participating organization;

(3) Detailed description of the proposed use of the grant funds, including but not limited to:

(A) The participating organization's method for determining owner eligibility for sterilization procedures;

(B) The participating organization's proposed method for providing pet sterilization services to eligible owners; and

(C) The term of the grant request, but in no case shall the grant term exceed one year.

(4) Amount of grant funds requested; and

(5) Signature of authorized person.

(c) The advisory committee shall review each grant application submitted by a participating organization and make recommendations for approval or disapproval to the Department.

35:15-12-9. Administrator's duties

(a) The administrator shall maintain the following:

(1) A current list of participating organizations; and

(2) A current list of participating veterinarians.

(b) At least annually, the administrator shall calculate the average sterilization fees from the fee schedules provided by participating veterinarians.

(c) The administrator shall notify participating veterinarians and organizations if funds become depleted and reimbursement funds are no longer available.

(d) The administrator shall provide all recommendations for payment of funds to the Department for review and disbursement. In no case shall the Department be prohibited from independently reviewing any recommendation of the administrator or the advisory committee and revising or rejecting the recommendation.

[OAR Docket #05-598; filed 4-8-05]

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

[OAR Docket #05-599]

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Subchapter 15. Equine Infectious Anemia (EIA)

Part 3. Procedures
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Oklahoma State Board of Agriculture; 2 O.S. 2001 §§ 2-4(2) and (7) and 2 O.S. 2001 § 6-286

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ANALYSIS:
The proposed rule change allows the Oklahoma Department of Agriculture, Food, and Forestry to continue participation in an EIA-ELISA pilot testing program in association with the United States Department of Agriculture-Animal and Plant Health Inspection Service. The rule changes provide necessary changes to the Oklahoma testing program that will ensure quality assurance at laboratories performing EIA testing. Current rules are deficient in this area and retesting for EIA is frequently performed due to the lack of appropriate quality assurance in the original test. The retesting creates additional costs to both owners of horses and to the State of Oklahoma.

CONTACT PERSON:
Dr. Becky Brewer-Walker, Director, Animal Industry Services, Oklahoma Department of Agriculture, Food, and Forestry (405) 522-6134

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2005:

SUBCHAPTER 15. EQUINE INFECTIOUS ANEMIA (EIA)

PART 3. PROCEDURES

35:15-15-34. Requirements for approved EIA testing laboratories

(a) No person shall operate an EIA testing laboratory without first obtaining approval from the Board.

(b) Conditions of approval.

(1) Submit an application to the office of the State Veterinarian.

(2) Upon receipt of an application, the facility shall be inspected by an authorized agent of the Board.

(3) A report of the inspection shall be submitted to the State Veterinarian and identify the EIA testing laboratory's compliance with the minimum standards for facilities, equipment, and personnel.

(4) The applicant shall agree in writing to operate the laboratory in conformity with the Department rules and the requirements of the USDA and shall continually meet all requirements during operation of the laboratory.

(c) Operating requirements.

(1) All personnel conducting an official test at an approved laboratory shall receive training prescribed by the National Veterinary Services Laboratories (NVSL).

(2) Approved laboratories shall use USDA licensed antigen and follow standard test protocols prescribed by NVSL.

(3) Approved laboratories shall maintain a work log clearly identifying each individual sample and test results.

(4) Approved laboratories shall maintain a work log and a file of all submission forms for a period of not less than two (2) years.

(5) All approved laboratories shall report all positive results to an official test for EIA to the State Veterinarian's office within twenty four (24) hours.

(6) A copy of all test charts for positive Equidae shall be sent to the State Veterinarian's office within seventy two (72) hours.

(7) Negative results shall be reported to the office of the State Veterinarian on a monthly basis.

(d) Inspections and proficiency tests.

(1) The Board shall randomly and without prior notification collect samples and inspect the facilities and records of all EIA laboratories in Oklahoma.

(2) All records required to be maintained by approved laboratories shall be open to inspection by state or federal employees during normal business hours.

(3) All approved laboratories shall pass annual proficiency test requirements administered by the NVSL.

(4) All approved laboratories shall pass any additional proficiency test requirements administered by the Board.

(A) All approved laboratories that pass the additional proficiency test requirements administered by the Board shall be published on the Department maintained list of "Oklahoma Certified EIA Laboratories."

(B) The Board shall charge a fee to the approved laboratory for administering each additional proficiency test in the amount of Fifty Dollars ($50.00).

(C) The Board may waive any additional proficiency test requirements if an approved laboratory enters into a written agreement with the State Veterinarian and is designated as "ELISA Only" on the Department maintained list of "Oklahoma Certified EIA Laboratories."

(e) An EIA laboratory may have its approval cancelled if the Board finds that the laboratory has failed to meet the requirements or has falsified records or reports.

(f) Any action taken by the Board to cancel laboratory approval shall conform to the Administrative Procedures Act.

(g) The Department shall not approve any new EIA laboratories for a period of twelve (12) months or until the United States Department of Agriculture removes the national moratorium on the approval of new EIA laboratories, whichever is later.
(h) State approved laboratories shall only perform the EIA-ELISA test.
(i) The Department may at its discretion in limited and approved circumstances grant state approved laboratories the ability to perform the AGID test for equine being exported from Oklahoma to a foreign country or for horses not residing in Oklahoma. The limited exception shall be detailed in a written agreement between the Department and the state approved laboratory.

[OAR Docket #05-599; filed 4-8-05]

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

[OAR Docket #05-600]

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Subchapter 19. Poultry Regulations
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35:15-19-5. [AMENDED]
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Oklahoma State Board of Agriculture and the Oklahoma Agriculture Code; 2 O.S. 2001 §§ 2-4(2), 2-4(7), 2-4(18), 2-4(29), 2-5, 6-2, and 6-133; Article 6, Section 31, Constitution of the State of Oklahoma
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ANALYSIS:
The purpose of these rules is to establish importation restrictions on poultry originating in states with an outbreak of Avian Influenza as permanent rules. Emergency rules became effective on March 29, 2004. Avian Influenza is a highly contagious poultry disease that is easily spread from location to location. To minimize the risk of introduction of the virus into Oklahoma's poultry industry, emergency surveillance measures are necessary. Recent outbreaks of Avian Influenza have been devastating to the poultry industries in some countries. A high viral strain of Avian Influenza was diagnosed in a Texas flock. Texas' methods for dealing with the case are nontraditional, and the Department is concerned that the Oklahoma poultry industry is not adequately protected by Texas' methods. The proposed rules set clear and specific importation requirements for all poultry entering Oklahoma from any state with an Avian Influenza outbreak. The rules provide testing and documentation requirements. The ultimate purpose of these rules is to protect and promote the continued growth and economic development of the poultry industries in Oklahoma.
CONTACT PERSON:
Dr. Becky Brewer-Walker, Director, Animal Industry Services, Oklahoma Department of Agriculture, Food, and Forestry (405) 522-6134

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2005:

SUBCHAPTER 19. POULTRY REGULATIONS

35:15-19-1. Definitions

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

"Baby poultry" means newly hatched poultry that have not been fed or watered.

"Check testing" means the process of collecting blood samples from birds in a flock by state inspectors to verify compliance with rules and testing procedures used by permitted testers.

"Custom hatching" means a process in which a person incubates eggs, through mechanical means, for another person.

"Dealer" means a person other than a ~~flockowner~~ flock owner or hatchery who offers poultry products for sale or trade.

"Domesticated" means propagated and maintained under the control of a person.

"Exhibition poultry" means domestic fowl ~~which are~~ bred for purposes of meat or egg production ~~or combination of these,~~ and ~~for~~ competitive or noncompetitive showing.

"Flock" means:

(A) As applied to breeding, ~~All~~ all poultry of one kind of mating (breed and variety or combination of stocks) and one classification on one farm.

(B) As applied to disease control, ~~All~~ all of the poultry on one farm except that, at the discretion of the Official State Agency, any group of poultry segregated from another group and has been segregated for a period of at least 21 days may be considered ~~as~~ a separate flock.

"Fowl typhoid" or **"typhoid"** means a disease of poultry caused by Salmonella gallinarum.

"Hatchery" means hatchery equipment on one premise operated or controlled by any person used for the incubation of eggs~~,~~ with the intention of:

(A) ~~selling~~ Selling or dispensing of hatched chicks before they reach sixteen (16) weeks of age, or

(B) ~~custom~~ Custom hatching.

"Infected flock" means a flock in which one or more birds have been diagnosed by an approved test or isolation of a reportable salmonella group.

"Laboratory" means a laboratory approved by the Board for performing approved serological testing procedures and bacteriological culture techniques.

"Negative test result" means an approved testing procedure in which the blood or serum antigen mixture fails to agglutinate.

"Official ~~leg or wing~~ leg band" or **"wing band"** means an individual identification device for poultry approved by the State Veterinarian.

"Official State Agency" means the ~~Board~~ Department.

"Official test" means the official blood tests for pullorum-typhoid shall be the standard tube agglutination test, the microagglutination test, the rapid serum test, or the stained antigen, rapid whole-blood test for all classes of poultry.

"Permitted tester" means a person qualified and authorized by the State Veterinarian or the poultry disease control authority of the state of origin to collect and test blood samples for the pullorum-typhoid eradication program.

"Positive test result" means an approved testing procedure in which there is complete or nearly complete agglutination.

"Poultry" means domesticated fowl, including chickens, turkeys, waterfowl, game chickens, and game birds, except doves and pigeons.

"Poultry house" or "house" means any building used to house poultry.

"Products" means poultry breeding stock, ~~and~~ hatching eggs, baby poultry, and started poultry.

"Pullorum disease" or **"pullorum"** means a disease of poultry caused by Salmonella pullorum.

"Quarantine" means, ~~an~~ but is not limited to, any order, hold, affected area, quarantine, infected premise or area, movement restrictions of any kind, or notice issued by ~~the State Veterinarian~~ any state or federal entity specifying boundaries ~~of area and~~ or conditions of the ~~order~~ quarantine.

"Started poultry" means young poultry that have been fed and watered and are less than sixteen (16) weeks of age.

"State" means any state, the District of Columbia, the Virgin Islands, or Puerto Rico.

"State Inspector" means any person employed by the Official State Agency to supervise the selecting and testing of participating flocks and to perform the official inspections and tests necessary to verify compliance with the requirements of the National Poultry Improvement Plan.

35:15-19-5. Live bird imports from Avian ~~influenza quarantine~~ Influenza quarantined states

(a) ~~All birds, including~~ It shall be unlawful for any person to transport poultry ~~and~~ or hatching eggs~~,~~ into this state originating from any ~~state, which contains any~~ area ~~under~~ subject to a state or federal quarantine for Avian Influenza~~, shall be prohibited entry into Oklahoma~~.

(b) Any person may transport poultry or hatching eggs into this state originating from any state with a state or federal quarantine for Avian Influenza and the poultry or hatching eggs are not from the quarantine, or are from a released Avian Influenza infected flock, if one of the following entry requirements is met:

(1) The poultry or hatching eggs originate from a flock certified as Avian Influenza clean pursuant to the National Poultry Improvement Plan and are accompanied by a Certificate of Veterinary Inspection; or

(2) The poultry or hatching eggs are accompanied by a Certificate of Veterinary Inspection listing the general description of the birds, test date, test results, and name of the testing laboratory and originate from a flock with:

(A) A minimum of thirty (30) birds, four (4) weeks of age or older, or the complete flock, if fewer than thirty (30) birds, testing serologically negative to an ELISA, AGID, or other Board approved test for Avian Influenza no more than 72 hours prior to entry, and

(B) A minimum of ten (10) birds, or five (5) birds per house if more than one house, testing negative on trachea swabs to a Directigen (R) or other Board approved test no more than 72 hours prior to entry.

(c) Any person may transport for slaughter and processing poultry or hatching eggs into this state originating from any state with a state or federal quarantine for Avian Influenza if the Board grants specific written permission or a permit and the following entry requirements are met:

(1) A minimum of thirty (30) birds per flock are serologically negative to an ELISA, AGID, or other Board approved test for Avian Influenza no more than 72 hours prior to entry; and

(2) A minimum of ten (10) birds, or five (5) birds per house if more than one house, testing negative on tracheal swabs to a Directigen (R) or other Board approved test no more than 72 hours prior to entry.

(d) These import requirements shall remain in effect for any state until at least three (3) months following the release of a quarantine in that state. The State Veterinarian shall have the discretion to extend the time period for these import requirements up to twelve (12) months if circumstances warrant.

[OAR Docket #05-600; filed 4-8-05]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 30. PLANT INDUSTRY

[OAR Docket #05-603]

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INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
The proposed rule implements the requirements of House Bill 2402 that created a state program for registration of pesticide producing establishments.
CONTACT PERSON:
Bill Taylor, Plant Industry, Oklahoma Department of Agriculture, Food, and Forestry, (405) 522-6347

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2005:

SUBCHAPTER 17. COMBINED PESTICIDE

PART 6. PESTICIDAL PRODUCT PRODUCING ESTABLISHMENTS

35:30-17-13. Incorporation by reference of federal pesticide producing establishment regulations

(a) The Registration of Pesticide and Active Ingredient Producing Establishments, Submission of Pesticide Reports and Books and Records of Pesticide Production and Distribution Regulations found in Title 40 of the Code of Federal Regulations (CFR) 2004 Revision, Part 167 et seq. and Part 169 et seq. for the United States Environmental Protection Agency (EPA) as promulgated and amended in the Federal Register, are hereby adopted in their entirety with the exception of 40 CFR § 167.90.

(b) All words or terms defined or used in the Federal regulations incorporated by reference shall mean the state equivalent or counterpart to those words or terms.

35:30-17-13.1. Establishments requiring permitting

(a) Any establishment where a pesticidal product is produced shall have a duty to submit the permit application, renewal applications, and a copy of the EPA pesticidal product report to the Department in a timely manner.

(b) Permits for pesticide producing establishments expire on June 30 of each year. A renewal application shall be received no later than July 15 of each year. Any renewal application received after July 15 shall be subject to the renewal fee and a penalty of twice the amount of the renewal fee.

(c) The Department shall assign a permit number to the establishment.

(d) Failure to submit a pesticidal product report, application, renewal application, or permit fee may result in civil and criminal penalties and termination of the establishment's permit.

(e) It shall be the duty of the permitee to provide written notification to the Department of any changes or additions on the EPA pesticidal product report or any information on the permit application or renewal form within thirty (30) calendar days of the change or addition.

[OAR Docket #05-603; filed 4-8-05]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 30. PLANT INDUSTRY

[OAR Docket #05-604]

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RULES:
Subchapter 17. Combined Pesticide
Part 9. Minimum Standards for Contracts and Keeping of Records
35:30-17-21. [AMENDED]
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Oklahoma State Board of Agriculture; 2 O.S. 2001 §§ 2-4(2) and (29), 3-81 et seq.; Article 6, Section 31, Constitution of the State of Oklahoma
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ANALYSIS:
The proposed rule assists the Department in reviewing records for applications of pesticides. Currently, applicators are required to keep specified records and allow review of those records at their principle place of business. Many applicators list their home as the principle place of business. The Department has experienced significant difficulties in reviewing records at these home based businesses. Often the business hours for the home business are not during normal Department working hours or the home is located is a closed or gated community. This rule requires the applicator to provide a plan that allows Department staff to access the records in a reasonable manner.
CONTACT PERSON:
Kenny Naylor, (405) 522-5974

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2005:

SUBCHAPTER 17. COMBINED PESTICIDE

PART 9. MINIMUM STANDARDS FOR CONTRACTS AND KEEPING OF RECORDS

35:30-17-21. Records required for pesticide applications and restricted use pesticide sales

(a) Commercial and non-commercial applicators shall keep an accurate record pertaining to pesticide activities, which, at a minimum show:

(1) Time of application.
(2) Place of each application.
(3) Name and address of the applicator.
(4) Name and address of person for whom applied.
(5) Legal description of the land where applied. The description may be a street address when properly marked, but shall not be a Post Office Box address.
(6) Date of application.
(7) Pesticide tank mix concentration.
(8) Dilution rate for mixing.
(9) Total quantity of pesticide used, including the total amount of pesticide concentrate and tank mix used.
(10) Complete trade name of pesticide product used.
(11) EPA registration number of pesticide product used.
(12) Target pest for the application.
(13) Site where the pesticide was applied.
(14) Restricted Entry Interval as stated on the product label.
(15) A copy of the pesticide product label or labeling that is attached to the container or included in the shipping case.
(16) Copies of any contracts issued.
(17) Copies of any wood infestation reports issued.
(18) Other information as required by the Board.

(b) Restricted use pesticide dealers shall keep an accurate record of restricted use pesticide sales, which, at a minimum show:

(1) Complete brand name of the pesticide.
(2) EPA registration number of the pesticide.
(3) Date the pesticide was sold.
(4) Total amount of restricted use pesticide sold.
(5) Name of the person to whom sold.
(6) Name and license or certification number of the certified or private applicator.
(7) Other information as required by the Board.

(c) Failure to allow inspection of these records by the Board, to provide copies to the Board when requested in person, or to provide a summary of these records within seven (7) working days when requested by mail or in person shall be a violation of this section.

(d) The principle place of business where records are maintained shall be easily accessible to authorized agents of the Board during reasonable business hours. An applicator's principle place of business shall not be located in a closed gated community or at a residence unless the applicator submits a plan of access to the principle place of business and that plan is approved by the Board.

[OAR Docket #05-604; filed 4-8-05]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 30. PLANT INDUSTRY

[OAR Docket #05-601]

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PERMANENT final adoption
RULES:
Subchapter 17. Combined Pesticide
Part 13. Restricted Areas for the Application of Hormone Type Pesticides
35:30-17-31. through 35:30-17-53. [REVOKED]
AUTHORITY:
Oklahoma State Board of Agriculture; 2 O.S. 2001 §§ 2-4(2) and (29), 3-81 et seq.; Article 6, Section 31, Constitution of the State of Oklahoma; House Bill 2402 of 2004
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ANALYSIS:
The proposed rules revoke 35:30-17-31 through 35:30-17-53 of Subchapter 17. House Bill 2402 passed in 2004 revoked 2 O.S. 2001 § 3-84(A) pertaining to the establishment of restricted zones for hormone type sprays. The revocation removes the authority of the Department to establish restricted zones; therefore, the existing rules are unenforceable.
CONTACT PERSON:
Bill Taylor, Plant Industry, Oklahoma Department of Agriculture, Food, and Forestry, (405) 522-6347

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2005:

SUBCHAPTER 17. COMBINED PESTICIDE

PART 13. RESTRICTED AREAS FOR THE APPLICATION OF HORMONE TYPE PESTICIDES [REVOKED]

35:30-17-31. Hormone type pesticide defined [REVOKED]

~~The term "hormone type pesticide", as used in 2 O.S. Section 3-84, shall include the following pesticides or any mixture containing one or more of the pesticides.~~

~~(1) Common type: 2,4-D. Trade names: Various.~~
~~(2) Common type: 2,4-DB. Trade names: Various.~~
~~(3) Common type: MCPA. Trade names: Basagran-M, Chiptox, Rhonox, Weedar and Weedone.~~
~~(4) Common type: MCPP. Trade name: Mecoprop.~~
~~(5) Common type: MCPB. Trade names: Thistrol and Tropotox.~~
~~(6) Common type: Dicamba. Trade names: Banvel and Weedmaster.~~
~~(7) Common type: Picloram. Trade names: Tordon and Grazon PC.~~
~~(8) Common type: Clopyralid. Trade names: Lontrel and Reclaim.~~
~~(9) Common type: Triclopyr. Trade names: Garlon, Grazon ET, Crossbow, Redeem, and Remedy.~~

35:30-17-32. Cut-off dates [REVOKED]

~~The cut-off dates specified by this subchapter shall not apply to the application of hormone type pesticides to a site designated in Category 3a-c, when applied by a commercial applicator licensed in category 3.~~

35:30-17-33. Special permit restrictions [REVOKED]

~~(a) No hormone type pesticide may be applied in defined localities within a restricted area unless the commercial applicator holds a "Special Permit" for each application location issued by the Board.~~
~~(b) A request for a "Special Permit" must show the specific use, and include the type and formulation of hormone type pesticide to be used, anticipated date of spraying, signature of the commercial applicator, and the occupant of the land to be sprayed. In addition, the commercial applicator identified on the request shall provide to the Board documentation that demonstrates the applicator shall use satellite tracking showing flight patterns and time of applications and other information as the Board may request.~~
~~(c) A request for a "Special Permit" may be denied by the Board if the Board determines that the application of hormone type pesticides could result in harmful effects to health, property, or the environment. The Board may consider in its determination any significant or reoccurring violations by the commercial applicator identified on the request during the preceding thirty-six (36) month period.~~
~~(d) Applications for hormone type pesticide "Special Permit" must be received by the Department a minimum of forty-five (45) working days prior to the anticipated date of use. The Department has thirty (30) working days to investigate, evaluate, and review the application.~~
~~(e) The commercial applicator shall provide to the Board, within fourteen (14) business days after completion of the application, satellite tracking records that show flight records and time of applications for each application made under a special permit.~~

35:30-17-34. Cut-off times [REVOKED]

~~Cut-off times for dates specified in 35:30-17-35 through 35:30-17-51 shall be from 12:01 a.m. on the beginning date through 11:59 p.m. on the ending date.~~

35:30-17-35. Restricted areas of Harmon County [REVOKED]

~~Hormone type pesticides shall not be applied by commercial applicators in Harmon County between the dates listed for each of the following areas:~~

~~(1) Area A - April 25 - October 31. Area A begins at the southwest corner of Section 36, T4N, R27W in Harmon County (approximately 2 miles north and 2 miles west of Hollis in Harmon County at the Texas state line) and extends 11 miles east of the Oklahoma-Texas state line, thence 6 miles south, thence 3 miles east, thence 1 mile south, thence 2 miles east, thence 11 miles south to the Jackson County line, and includes that portion lying south and west of the Area A boundary line.~~
~~(2) Area B - May 2 - October 31. Area B begins at a point in Section 1, T4N, R27W where the Salt Fork of the Red River intersects the Texas state line and extends east along the river to a point in Section 4, T4N, R24W where the Salt Fork of the Red River intersects the Greer County border and includes all lands in Harmon County south of~~

~~the Salt Fork of the Red River and north and east of the Area A boundary line.~~

~~(3) Area C - May 25 - October 31. Area C begins at a point where the north line of Section 36, T6N, R27W intersects the Texas state line (approximately 3 1/2 miles west of Carl) and extends east approximately 5 miles to State Highway 30, thence south 3 miles along said highway, thence east 6 1/2 miles, thence north 2 miles to the Greer County line, and includes all lands in Harmon County south of this line and north of the Area B north boundary line (the Salt Fork of the Red River).~~

~~(4) Area D - No cut-off date specified. Area D includes all areas of Harmon County not previously described in Areas A, B, or C and lying north of the Area C boundary line.~~

35:30-17-36. Restricted areas of Coal County [REVOKED]

~~Hormone type pesticides shall not be applied by commercial applicators in the following areas of Coal County, Oklahoma between the dates of May 15 and November 1.~~

~~(1) All of T1S, R8E.~~

~~(2) All of T1S, R9E.~~

~~(3) Sections 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35, and 36 of T1N, R9E.~~

~~(4) Section 19, 20, 21, 28, 29, 30, 31, 32, and 33 of T1N, R9E.~~

35:30-17-38. Restricted areas of Love County [REVOKED]

~~Hormone type pesticides shall not be applied by commercial applicators in the following areas of Love County, Oklahoma between the dates of May 1 and September 15: starting on Highway 32 at the Jefferson County line, thence east to the east line of Section 19, T7S, R1W, thence south along the section line to the Red River, thence in a westerly direction along the north banks of the Red River to the Jefferson County line, thence north to Highway 32 and the point of origin.~~

35:30-17-39. Restricted areas of Alfalfa County [REVOKED]

~~Hormone type pesticides shall not be applied by a commercial applicator in the following described portion of Alfalfa County without a "Special Permit" from the Department.~~

~~(1) Sections 17, 18, 19, 20, 29, 31, and 32 of T29N, R9W.~~

~~(2) Sections 13, 24, 25, and 36 of T29N, R10W.~~

~~(3) Sections 1 and 12 of T28N, R10E.~~

~~(4) Sections 5, 6, 7, and 8 of T28N, R9W.~~

35:30-17-40. Restricted areas of Canadian County [REVOKED]

~~Hormone type pesticides shall not be applied by commercial aerial applicators between the dates of May 15 to October 1, within that portion of Canadian County bound by the following line, unless the applicator has obtained a "Special Permit" from the Board:~~

~~(1) Beginning at a point at the southeast corner of Section 5, T12N, R7W, thence north along Highway 81 approximately 9 miles to the northeast corner of Section 29, T14N, R7W, thence west along section line road approximately 12 miles to the southwest corner of Section 21, T14N, R9W, thence north approximately 2 miles to the northeast corner of Section 17, T14N, R9W, thence, approximately 4 miles west along section line road to the northwest corner of Section 14, T14N, R10W, thence, south following section line road approximately 11 miles to the southwest corner of Section 2, T12N, R10W, thence, east along the section line to point of origin.~~

~~(2) Commercial applicators between the dates of May 10 to October 1. Beginning at the southeast corner of Section 34, T11N, R8W, thence west along the county line to the southwest corner of Canadian County, thence north along the county line to Section 7, T12N, R10W, or the south side of river, thence along the south side of river to the point of origin.~~

35:30-17-41. Restricted areas of Rogers County [REVOKED]

~~Hormone type pesticides shall not be applied between the dates of March 10 and November 1 in the following described portion of Rogers County, Oklahoma except under restrictions as outlined in 35:30-17-33: that portion of Rogers County lying south and east of a line beginning at the NE corner of Section 25, T21N, R17E, thence approximately nine miles west along the section line to the NW corner of Section 27, T21N, R16E, thence approximately four miles south along the section line till it intersects the Verdigris River thence approximately four miles south along this river to the Rogers County line.~~

35:30-17-43. Restricted areas of Tillman County [REVOKED]

~~Hormone type pesticides shall not be applied by commercial pesticide applicators in any portion of Tillman County between the dates of May 15 and October 31 without a "Special Permit".~~

35:30-17-44. Restricted areas of Jackson County [REVOKED]

~~(a) Restricted areas. Hormone type pesticides shall not be applied by commercial pesticide applicators in any portion of Jackson County between the dates of May 1 and October 1, except by "Special Permit".~~

~~(b) Special permit area.~~

~~(1) Effective dates between May 1 and October 15.~~

~~(2) Special Permit area is that portion of Jackson County lying within the boundary of a line beginning at the northeast corner of Section 20, T3N, R21W, thence 8 miles west to the intersection of Highway 34 and the Jackson-Greer County Line, thence 2 miles south, thence 3 miles east, thence 6 miles south, thence 7 miles~~

~~west, thence 16 miles south to the Red River, thence generally in an easterly direction along the Red River, to the intersection of the Red River and the Salt Fork of the Red River, thence generally in a northerly direction along the Salt Fork of the Red River to the starting point.~~

35:30-17-45. Restricted areas of Kiowa County [REVOKED]

~~Hormone type pesticides shall not be applied by commercial applicators in the following areas of Kiowa County, Oklahoma between the dates of May 15 and November 1 except under "Special Permit": Section 13, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35, and 36 of T4N and R16W.~~

35:30-17-46. Restricted areas of Okmulgee County [REVOKED]

~~Hormone type pesticides shall not be applied by commercial applicators in the following described portion of Okmulgee County, Oklahoma except under "Special Permit": that portion of Okmulgee County lying within the boundary of a line beginning at the Okmulgee County line at the northeast corner of Section 21, T14N, R15E and thence west four miles to the northwest corner of Section 24, T14N, R14E, thence south six miles to the southwest corner of Section 13, T13N, R14E, thence four miles east to the county line at the southeast corner of Section 16 T13N, R15E, and then north along the county line to the point of origin.~~

35:30-17-47. Restricted areas of Custer County [REVOKED]

~~Hormone type pesticides shall not be applied by commercial applicators in the following areas of Custer County, Oklahoma between the dates of May 10 and November 1 except under "Special Permit":~~

~~(1) Sections 4, 5, 6, 7, 8, 9, 16, 17, 18, 19, 20, 21, 28, 29, and 30 of T12N, R17W.~~

~~(2) Sections 1, 2, 3, 10, 11, 12, 13, 24, and 25 of T12N, R18W.~~

~~(3) Sections 4, 5, 6, 7, 8, 9, 10, 15, 16, 17, 18, 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, 33, and 34 of T13N, R17W.~~

~~(4) Sections 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 35, and 36 of T13N, R18W.~~

35:30-17-48. Restricted areas of Pottawatomie County [REVOKED]

~~Hormone type pesticides shall not be applied by commercial applicators in the following described portion of Pottawatomie County, Oklahoma except under "Special Permit":~~

~~(1) Sections 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, and 16 of T8N, R3E.~~

~~(2) Sections 6, 7, and 18 of T8N, R4E.~~

~~(3) Sections 25, 26, 27, 28, 33, 34, 35, and 36 of T9N, R3E.~~

~~(4) Sections 30 and 31 of T9N, R4E.~~

35:30-17-49. Restricted areas of Osage County [REVOKED]

~~Hormone type pesticides shall not be applied by a commercial applicator in the following described areas of Osage County between the dates of April 10 and November 1 without a "Special Permit" issued by the Board for each application location.~~

~~(1) Sections 3, 4, and 5 of T26N, R6E.~~

~~(2) The south one half of Sections 7 and 8, and all of Sections 17, 18, 19, 20, 21, 22, 27, 28, 29, 30, 32, 33, and 34 of T27N, R6E.~~

~~(3) The south one half of Sections 11 and 12, and all of Sections 13, 14, 23, 24, 25, and 26 of T27N, R5E.~~

35:30-17-50. Restricted areas of Atoka County [REVOKED]

~~Hormone type pesticides shall not be applied by a commercial applicator in the following described areas of Atoka County between the dates of April 1 and November 1 without a "Special Permit" issued by the Board for each application location.~~

~~(1) Section 29, 30, 31, and 32 of T1N, R14E.~~

~~(2) Sections 25, 26, 35, and 36 of T1N, R13E.~~

~~(3) Sections 1, 2, 11, 12, 13, 14, 22, 23, 24, 25, 26, and 27 of T1S, R13E.~~

~~(4) Sections 5, 6, 7, 8, 17, 18, 19, 20, 29, and 30 of T1S, R14E.~~

~~(5) The South one half of Sections 20, 21, 22, and 23 and all of Sections 26, 27, 28, 29, 32, 33, 34, and 35 in T3S, R13E.~~

~~(6) Sections 2, 3, 4, 5, 8, 9, 10, and 11 of T4S, R13E.~~

35:30-17-51. Restricted areas of Jefferson County [REVOKED]

~~Hormone type pesticides shall not be applied by commercial applicators in the following areas of Jefferson County, Oklahoma between April 15 and November 1 without a "Special Permit".~~

~~(1) Starting in Oklahoma at the Red River T7S, R7W, all of Sections 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 31 and west to the river, 32, 33, 34, 35, and 36.~~

~~(2) T7S, R6W, all of Section 19, South 1/2 of Section 20, Southwest quarter of 21, West half of Section 28, all of Sections 29, 30, 31, 32, 33, Northwest quarter and South 1/2 of Section 34, and the Southwest quarter of Section 35.~~

~~(3) All of Sections 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, and 24 of T8S, R7W.~~

~~(4) All of Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 16, 17, 18, 19, and 20 of T8S, R6W.~~

35:30-17-53. Restricted areas of Pontotoc County [REVOKED]

~~Hormone type pesticides shall not be applied by commercial applicators in the following area of Pontotoc County, Oklahoma between May 1 and November 1 without a "Special Permit": starting at the northwest corner of Section 30 Township~~

~~3N, Range 4 East; then east 17 miles to the northeast corner of Section 26 Township 3 North, Range 6 East; thence south along Oklahoma Highway 99, 14 miles to the Johnston County line; thence west 11 1/4 miles along the Johnston County line to southwest Section 31, Township 1N, Range 5 east to the Murray County line; thence north 6 miles to southwest Section 31 Township 2 North, Range 5 east; thence west 6 miles to southwest Section 31, Township 2 North Range 4 East; thence north 8 miles along the Murray County Garver County lines to the starting point.~~

[OAR Docket #05-601; filed 4-8-05]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 30. PLANT INDUSTRY

[OAR Docket #05-602]

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Part 15. Minimum Standards for Termite Work for Existing Structures
35:30-17-54. [AMENDED]
Part 16. Minimum Standard for the Performance of Spot/Partial Treatments of Termite Work for Existing Structures (Spot Treatments)
35:30-17-70. [AMENDED]
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ANALYSIS:
This rule will eliminate Section 16 and merge 35:30-17-70 with Section 15. The rule will identify exceptions to the minimum standards for termite treatment for existing structures and the criteria for spot/partial termite treatments to existing structures.
CONTACT PERSON:
Bill Taylor, (405) 522-6347

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2005:

SUBCHAPTER 17. COMBINED PESTICIDE

PART 15. MINIMUM STANDARDS FOR TERMITE WORK FOR EXISTING STRUCTURES

35:30-17-54. Minimum standards for termite work

The minimum standards for termite work at existing structures ~~in no way represent the effort that may be required. The minimum standards~~ shall be followed, unless~~:~~ the exceptions contained in Section 35:30-17-70 apply.

~~(1) The property owner agrees with the written explanation in the contract as to why the standard is not performed. Sections 35:30-17-66 and 35:30-17-69 shall not be written out of a contract for a complete treatment.~~

~~(2) The termiticide label specifically allows for a variation, that shall be stated in the contract.~~

PART 16. MINIMUM STANDARD FOR THE PERFORMANCE OF SPOT/PARTIAL TREATMENTS OF TERMITE WORK FOR EXISTING STRUCTURES (SPOT TREATMENTS) [REVOKED]

35:30-17-70. ~~Spot/partial treatments~~ Exceptions to minimum standards

(a) ~~Spot/Partial treatments may be performed on existing structures only. Valid license holders and certified applicators or service technicians in the structural pest category or under the terms of "direct supervision" shall perform applications.~~ Exceptions to minimum standards for a complete treatment shall include the following:

(1) The property owner agrees with the written explanation in the contract as to why the standard was not performed. Sections 35:30-17-66 and 35:30-17-69 shall in no case be written out of the contract; or

(2) The termiticide label specifically allows for a variation and the variation is stated in the contract.

(b) ~~All pesticide applications shall follow the pesticide label instructions including application rates and methods.~~ Exceptions to minimum standards for a spot/partial treatment shall include the following:

(1) The property owner agrees with the written explanation in the contract as to why the standard is not performed, or the termiticide label specifically allows for a variation and the variation is stated in the contract. Sections 35:30-17-66 and 35:30-17-69 shall in no case be written out of the contract.

(2) The contract shall include the statement, "This is a SPOT/PARTIAL treatment" or otherwise clearly convey that the treatment is not a complete termite treatment.

(3) The contract shall specifically identify the exact location where the spot treatment is performed and the treatment shall meet all minimum standards for the specific location identified. The identified spot treatment location shall not be equal to the entire structure.

(4) The contract shall not contain any misrepresentations or false claims regarding the effectiveness of a spot/partial treatment.

~~(c) Provide a written contract.~~

~~(d) All requirements for recordkeeping shall apply to applications for spot/partial treatments.~~

~~(e) The contract shall include the statement, "This is a SPOT/PARTIAL treatment" or clearly convey that the treatment is not a complete termite treatment.~~

~~(f) There shall be no misrepresentations or false claims in the contract regarding the effectiveness of spot/partial treatments.~~

[OAR Docket #05-602; filed 4-8-05]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 30. PLANT INDUSTRY

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ANALYSIS:
The proposed rules establish guidelines for the registration of soil amendments. The rules establish registration requirements, fees for registration, identity of products and ingredients, standardizing label requirements, sampling requirements, unlawful acts, and appropriate exemptions.

CONTACT PERSON:
Kenny Naylor, (405) 522-5974

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2005:

SUBCHAPTER 30. SOIL AMENDMENT

35:30-30-1. Definitions

The following words or terms shall have the meaning set forth herein when used in these rules and regulations:

(1) **"Aged"** means exposed to weathering or natural decay.

(2) **"Biosolid"** means a primary organic solid material produced by wastewater treatment processes that can be beneficially recycled for its plant nutrient content and soil amending characteristics, as regulated pursuant to 40 CFR 503, as amended.

(3) **"Brand"** or **"product name"** means a specific designation applied to an individual soil amendment.

(4) **"Compost"** A biologically stable material derived from the composting process.

(5) **"Composting"** means the biological decomposition of organic matter accomplished by mixing and piling in such a way to promote aerobic or anaerobic decay and inhibits pathogens, viable weed seeds and odors.

(6) **"Custom media"** means a horticultural growing medium that is prepared to exact specifications of the person utilizing the medium.

(7) **"Forest products"** means untreated wood and its untreated byproducts generated from the harvest of timber and includes but is not limited to lumber, sawdust, bark, and similar materials, but in no case shall include reprocessed wood from fabricated consumer or industrial products.

(8) **"Horticultural growing media"** means any substance or mixture of substances promoted as or is intended to function as a growing medium for the managed growth of horticultural crops in containers and shall be considered a soil amendment for the purposes of this chapter.

(9) **"Inorganic based"** refers to all substances that do not fall under the definition of organic based or microbial based.

(10) **"Landscape materials"** means green waste derived from landscape operations and includes but is not limited to grass clippings, plants, shrubs, and tree trimmings not more than six inches (6") in diameter.

(11) **"Microbial based"** means a biological substance or mixture of substances distributed to be applied to the soil, plants, or seeds for corrective soil purposes; intended to improve germination, growth yield, product quality, reproduction, flavor, or other desirable characteristics of plants; or intended to produce any chemical, biochemical, biological, or physical change in the soil.

(12) **"Mulch"** means any organic or inorganic soil surface cover used to help retain moisture longer in the soil by retarding evaporation, to discourage weed growth, to help maintain a constant temperature by insulating the soil, to discourage runoff and soil erosion by shielding the soil surface from water abrasion or to promote water absorption and retention.

(13) **"Organic based"** means only naturally occurring substances generally recognized as the hydrogen compounds of carbon and their derivatives.

(14) **"Processed"** means deliberately treated or manipulated to modify or transform physical, chemical, or biological characteristics of the natural state of the substance.

(15) **"Raw"** means in the natural state, and not prepared, modified or manipulated for use.

(16) **"Registration document"** means the information required by the Board for registering a soil amendment for distribution into or within Oklahoma. The Registration Document may be made available by the registrant to the purchaser upon request, but shall not be part of the product label or labeling.

(17) **"Wood"** means a hard, fibrous material located beneath the bark, which constitutes the greatest part of the stems of trees and shrubs.

35:30-30-2. Registration and fees

(a) Each soil amendment product shall be registered with the Board prior to distribution on a registration document supplied by the Board.

(b) All registrations expire on December 31st of the year registered.

(c) No product name shall be registered that misrepresents the product's primary component or component formulation.

(d) Each product name shall refer to a specific formulation; different product names may refer to the same specific formulation. Products for which formulations change or are modified beyond the ranges reported in the registration document shall either be reregistered with a name that distinguishes them from the previous formulation, or production and distribution of the previous formulation shall cease.

(e) Reregistered products shall be accompanied by a new registration document for that formulation.

(f) Each product registration document shall be accompanied by a label or facsimile of a label for that product as named. If the same product is sold in more than one size, only one label sample shall submitted.

(g) The Board shall not issue and may revoke any soil amendment registration if the Board determines the registration is for the primary purpose of disposal of the product or substance.

(h) The registration fee shall be One Hundred Dollars ($100.00) for each product.

(i) If the Board finds that any soil amendment product is not registered, a penalty of One Hundred Dollars ($100.00) per product shall be assessed. The penalty shall be added to the registration fee and payment shall be made within thirty (30) days after receipt of notice.

35:30-30-3. Contents of the label

(a) Label information may be printed on the primary or secondary display panel on the bag containing the product, printed on a sticker placed on the bag, printed on a flyer or tag attached to the bag, or in the case of bulk bags or bulk, any of the above or printed on a fact sheet accompanying the shipment.

(b) The Board shall require each label to contain the following minimum information. Additional information of an instructional or explanatory nature may be provided at the discretion of the registrant.

(1) The product name as registered.

(2) The quantity of the product in quarts, cubic feet, yards, or metric equivalents or the weight of the product in ounces, pounds, tons or metric weights or the fluid measure in fluid oz, quarts or gallons or metric equivalents as determined by the dominant method of sale by the industry and as registered.

(3) The guaranteed analysis for inorganic based soil amendments shall include the name and the percentage of each active ingredient, and the percentage of inert ingredients.

(4) The guaranteed analysis for microbiological based soil amendments intended as an inoculum shall include the expiration date, state the number and kind of viable organisms per milliliter, or, if the product is other than liquid, state the number and kind of viable organisms per gram. If the product is not intended as an inoculum, then the product label shall state that the product is not a viable culture.

(5) In lieu of a guaranteed analysis for organic based soil amendments an ingredient list shall show all components whether organic or inorganic. Components shall be listed in order of decreasing volume, if they comprise at least three percent (3%) or more of the total volume of the product. Components shall be described as follows:

(A) Bark products shall be described as raw, aged, processed, or composted. Bark shall also be specified as pine or softwood (meaning Gymnosperm), or hardwood (not Gymnosperm), and may include no more than fifteen per cent (15%) wood by volume.

(B) Peat products shall be described in accordance with ASTM standards as to whether they are sphagnum, hypnum, reed-sedge, humus, or other peat.

(C) Wood products shall be described as raw, aged, processed, reprocessed or composted.

(D) Readily degradable organic substances shall be listed and described as raw, aged, processed or composted.

(E) The base material for any other composted product shall be described as listed.

(F) Mulches shall be described as listed in the components.

(G) Manures shall be described as listed in the components.

(6) Application rates and intended use statements such as general recommendations for product use. If cautionary warnings of uses not recommended are made, they should be stated in this section of the label.

(7) An address where further product information may be obtained, and a telephone number available during normal business hours for further product information.
(8) For products intended for use by commercial growers, the date of manufacture, or the month and year of manufacture, stated at any location on the bag. If the date or month and year of manufacture is coded, sufficient information must be provided to determine the date or month and year of manufacture from the code.
(9) The Board may require a registrant to include a warning or caution statement to ensure safety.

35:30-30-4. Sampling and Analyses

The Board may require the registrant to provide physical and chemical analyses of products if it has reason to believe the product does not conform with the label or labeling. The analyses shall include but not be limited to all information required by the label section of this Chapter, the Registration Document, and any other supporting documentation.

35:30-30-5. Unlawful Acts

It shall be an unlawful act to:
(1) Distribute an unregistered soil amendment, except one exempted from the requirements of this Chapter.
(2) Distribute a soil amendment if the label or labeling does not accurately reflect its composition.
(3) Distribute an adulterated product.
(4) Fail to supply the Board with analyses of a soil amendments when requested by the Board.
(5) Fail to cease distribution of any soil amendment for which the Board has issued a Stop Sale order.
(6) Obstruct the Board in the performance of its duties.
(7) To fail to supply any analyses of the soil amendment upon request of the Board.
(8) To fail to disclose on the label sources of potentially deleterious components.

35:30-30-6. Exemptions

(a) Distribution of horticultural growing media planted with live plant material is exempt from the labeling and registration requirements.
(b) Distribution of custom media is exempt from registration requirements imposed provided it is prepared for a single end user.
(c) Distribution of a soil amendment that is registered pursuant to the Oklahoma Fertilizer Act may be exempt from the registration requirement, but shall not be exempt from any requirements other than registration.

[OAR Docket #05-605; filed 4-8-05]

TITLE 165. CORPORATION COMMISSION
CHAPTER 35. ELECTRIC UTILITY RULES

[OAR Docket #05-568]

RULEMAKING ACTION:
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RULES:
Subchapter 33. Homeland Security and Critical Infrastructure [NEW]
165:35-33-1. Purpose and scope [NEW]
165:35-33-2. [RESERVED]
165:35-33-3. Definitions [NEW]
165:35-33-4. [RESERVED]
165:35-33-5. Utility Security Plan [NEW]
165:35-33-6. [RESERVED]
165:35-33-7. Reporting requirements [NEW]
165:35-33-8. [RESERVED]
165:35-33-9. Cost recovery [NEW]
165:35-33-10. Commission authorized participation [NEW]
165:35-33-11. Confidentiality [NEW]
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A Notice of Proposed Rulemaking was filed on August 27, 2004. The following rule changes reflect the discussion and study of the technical conferences held with industry as well as public comment.

A new Subchapter of rules have been created at OAC 165:35-33, the general purpose of which involve Homeland Security and Critical Infrastructure and are as follows: OAC 165:35-33-1 is added to encourage utilities to take all reasonable measures necessary to protect their critical infrastructures from extended interruption of service from all extraordinary events, natural and man-made, and requires that each electric utility seeking cost recovery for security measures from Oklahoma jurisdictional ratepayers shall develop, implement, and maintain a Critical Infrastructure and Security Plan in accordance with industry standards and is further outlined in these Homeland Security rules.

OAC 165:35-33-2 is reserved.

OAC 165:35-33-3 is added to define the words and terms as used in Subchapter 33, unless the context clearly indicates otherwise.

OAC 165:35-33-4 is reserved.

OAC 165:35-33-5 is added delineating the components of a proposed security plan.

OAC 165:35-33-6 is reserved.

OAC 165:35-33-7 is added establishing security plan reporting requirements necessary for cost recovery.

OAC 165:35-33-8 is reserved.

OAC 165:35-33-9 is added establishing rules for cost recovery.

OAC 165:35-33-10 is added establishing rules for Commission authorized participation in a security related cause.

OAC 165:35-33-11 is added establishing rules for protecting confidential information gathered pursuant to the requirements found in these Homeland Security rules.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2005:

SUBCHAPTER 33. HOMELAND SECURITY AND CRITICAL INFRASTRUCTURE

165:35-33-1. Purpose and scope

(a) The purpose of this Subchapter is to encourage utilities to take all reasonable measures necessary to protect their critical infrastructures from extended interruption of service from all extraordinary events, natural and man-made.

(b) The Corporation Commission encourages electric utilities to develop, implement, and maintain Homeland Security and Critical Infrastructure Plans according to the industry standards enumerated in sub-section (d) below.

(c) To the extent that a utility seeks to recover costs for security measures outside of a general rate review for the implementation of Homeland Security and/or Critical Infrastructure protections, the utility shall comply with all provisions of this Subchapter.

(d) Each electric utility serving Oklahoma jurisdictional ratepayers is encouraged to follow the most current North American Electric Reliability Council's (NERC's) Security Guidelines and Standards, as may be amended from time to time, for use as guidelines for protecting the utility's Critical Infrastructure from extended service interruption.

(e) Each electric utility seeking to recover costs for security measures from Oklahoma jurisdictional ratepayers outside of a general rate review shall develop, implement, and maintain a Critical Infrastructure and Security Plan as further set forth within this Subchapter.

(f) If the utility has implemented a Security Plan or process in accordance with the applicable industry guidelines but is not seeking or receiving cost recovery for security-related costs, the utility shall submit the Certification Letter required by OAC 165:35-33-7(f) and the Plan shall be subject to review pursuant to the Authorized Participation and Confidentiality provisions of OAC 165:35-33-10 and OAC 165:35-33-11. The utility is not otherwise required to comply with the provisions of this Subchapter.

(g) The Commission retains its jurisdictional and supervisory authority to address the reasonableness and/or prudence of any proposed security cost recovery.

(h) Nothing in this subchapter shall relieve any utility from any duty otherwise prescribed by the laws of the State of Oklahoma or this Commission's rules.

(i) Nothing in this Subchapter is intended to divest the utility of its right to object to any discovery requests from intervenors seeking access to "Highly Sensitive Confidential" materials.

(j) If any provision of this Subchapter is held invalid, such invalidity shall not affect other provisions or applications of this Subchapter which can be given effect without the invalid provision or application, and to this end, the provisions of this Subchapter are declared to be severable.

165:35-33-2. [RESERVED]

165:35-33-3. Definitions

The following words and terms, when used in this Subchapter 33, shall have the following meaning, unless the context clearly indicates otherwise:

"Annual Report" means the Annual Report submitted by Commission Staff to the Commission beginning December 30, 2005 and by July 1 of each year thereafter, summarizing the results of Staff's review of each utility's Security Plan (and any Plan Update Reports), along with any recommendations that Staff may have regarding such Plan(s).

"Authorized Participant" means those persons authorized by the utility or as may otherwise be authorized by law and/or ordered by the Commission, to view highly sensitive confidential information. Such authorization shall be granted on a case-by-case basis and may extend to the utility, state government officials, persons having been granted intervenor status by the Commission and Commission authorized designees of the parties.

"Certification Letter" means the written certification to the Director of the Public Utility Division made by August 1, 2005 and on March 1 of each subsequent year thereafter, indicating that as of the date of the Certification Letter, the utility has a Plan or that it has updated the Plan and/or previous Plan Update Reports, has a Plan but is not seeking cost recovery or has no Plan in place.

"Critical Infrastructure" means the property of a utility located in the State of Oklahoma, comprised of either physical assets or computer software which, if severely damaged or destroyed, would have a significant impact on the ability of the utility to serve large numbers of customers for an extended period of time, would have a detrimental impact on the reliability or operability of the energy grid, or would cause significant risk to public health and safety.

"Highly Sensitive Confidential" means that the information is of such a sensitive nature that its public disclosure could be harmful to the security of a utility's critical infrastructure and as such it may only be viewed by those persons authorized by the utility or as may otherwise be ordered by the Commission.

"NERC" means the North American Electric Reliability Council.

"Plan" means a Homeland Security and Critical Infrastructure Plan including any subsequent Plan Update Reports that have been prepared with reference to the NERC GUIDELINES.

"Plan Update Report" means the written redlined changes made by the utility updating the Plan and/or previous Plan Update Reports. At the utility's option, changes will either be redlined or a history of changes may be maintained.

"Security Cost Rider" means the per billing unit rate mechanism whereby a utility may, upon approval and Order of this Commission, recover the costs of providing security for its Critical Infrastructure as defined under this Subchapter 33.

165:35-33-4. [RESERVED]

165:35-33-5. Utility Security Plan

(a) Each electric utility is encouraged to prepare and make available for inspection, a "Homeland Security and Critical Infrastructure Plan" ("Plan") that has been prepared with reference to the NERC Security Guidelines and Standards.

(b) The Plan shall be marked as "Highly Sensitive Confidential" and designate those facilities that the utility considers to be Critical Infrastructure (physical assets and computer software as defined in OAC 165:35-33-3 above), and shall set forth the utility's measures to secure such facilities from extended service interruption. The Plan shall also include an estimate of the costs necessary to achieve such measures.

(c) The Plan shall remain on site at the utility's business office in accordance with OAC 165:35-33-7(g) below and shall have the most current version of the redlined Plan Update Report attached to the clean version of the utility's latest Plan. At the utility's option, changes will either be redlined or a history of changes may be maintained.

(d) The Plan shall list all locations deemed by the utility to be critical, as well as identification of any subsequently increased security measures. All locations and security measures shall be identified by code known only to the utility and designated state government officials and their designees.

(e) Any subsequent security measures identified in the Plan shall contain an estimate of the cost necessary to implement such measures, a description of the measures necessary to adequately secure each specific location and an estimated schedule for completion of each measure.

(f) All locations identified by the Plan that require additional security measures shall be prioritized by the utility.

(g) Beginning December 30, 2005 and on July 1 of each year thereafter, Commission Staff shall submit an Annual Report marked as "Highly Sensitive Confidential" to the Commission, summarizing the results of Staff's review of a utility's Plan (and any Plan Update Reports), along with any recommendations that Staff may have regarding such Plan(s).

(h) Beginning December 30, 2005, where the Attorney General elects to submit recommendations to the Commission regarding a utility's Plan, such recommendations shall be marked as "Highly Sensitive Confidential" and shall also be due by July 1 of each subsequent year thereafter.

165:35-33-6. [RESERVED]

165:35-33-7. Reporting requirements

(a) Subsequent to the preparation of the initial Plan prepared under OAC 165:35-33-5(a), each utility shall prepare a Plan Update Report by March 1 of each succeeding year, following the same format as the initial Plan with redlines of all new changes, marked "Highly Sensitive Confidential" and kept on site at the utility's business office.

(b) Each subsequent Plan Update Report shall update the previous year's report by indicating for each specific coded location, all costs and completion dates (actual and projected) for all current and prior additional security measures claimed under this Subchapter.

(c) For those security measures previously reported that have not yet been completed, revised estimated costs and estimated completion dates shall be provided.

(d) The Plan Update Report shall also include (by specific coded location) a description of each proposed security measure that has not been previously reported, the estimated costs for each, as well as the estimated completion date for each measure.

(e) Costs reflected in the initial Plan and in subsequent Plan Update Reports, whether estimated or actual, shall be identified as either capital or expense costs.

(f) Beginning August 1, 2005 and by March 1 of every year thereafter, each utility shall submit a Certification Letter to the Director of the Public Utility Division, marked as "Highly Sensitive Confidential" and certifying that as of the date of the Certification Letter:

(1) The utility does not have a Homeland Security and Critical Infrastructure Plan as contemplated and defined by this Subchapter;

(2) The utility does not have a Homeland Security and Critical Infrastructure Plan as contemplated or defined by this Subchapter but has otherwise taken steps to secure Critical Infrastructure and is not seeking cost recovery under this Subchapter;

(3) The utility does have a Plan but is not seeking cost recovery; or

(4) The utility has a Plan and/or has prepared its Plan Update Report updating the Plan and/or previous year's Plan Update Report;

(A) The redlines contained within the current Plan Update Report encompass in the entirety, all of the changes made to the utility's Plan since the Plan's inception or the previous year's certification; and

(B) The Plan is available for Commission and/or Attorney General review at the utility's local place of business.

(g) A utility shall not be required to file its initial Plan or any of its subsequent Plan Update Reports with the Commission. Each utility shall instead, secure and maintain on site, at the utility's local place of business, its initial Plan and all subsequent Plan Update Reports.

165:35-33-8. [RESERVED]

165:35-33-9. Cost recovery

(a) Each utility seeking cost recovery of expenditures outside of a general rate review related to securing its Critical Infrastructure shall prepare and make available for inspection, its Plan and any subsequent Plan Update Reports in accordance with this Subchapter.

(b) A utility shall file an application with the Commission for cost recovery as provided for within this Subchapter. Such cost recovery shall only occur to the extent the utility has incurred all or a portion of its actual security-related costs.

(c) Unless otherwise ordered by the Commission, the utility shall have the burden of proving compliance with all of the provisions of this Subchapter prior to obtaining any cost recovery for security related measures.

(d) Upon approval and Order of the Commission, a utility shall be allowed to recover a return based on its weighted cost of long-term debt and equity on all capital expenditures made for security measures. The utility shall also be allowed to recover related depreciation expense and ad valorem taxes. Such recoveries shall be based upon similar ratemaking treatment for corresponding cost elements from the utility's most recent general rate case.

(e) Upon approval and Order of the Commission, a utility shall be allowed to recover expenses typically classified as operations and maintenance expenses for ratemaking purposes. The utility may request inclusion of any such similar costs incurred as long as these costs are directly associated with the security measures taken.

(f) The total costs incurred under this Subchapter shall be combined for recovery purposes, for consideration by the Commission.

(g) All costs approved by the Commission for recovery, shall be recovered from the utility's customers through a "Security Cost Rider" based on the projected annual billing units for the utility and shall be subject to annual true-up.

(h) Unless otherwise ordered by the Commission, a utility shall immediately discontinue recovery of the "Security Cost Rider" when the earlier of the following occurs: natural expiration due to the full recovery provided for in a Rider granted under this Subchapter or forced expiration required pursuant to OAC 165:35-33-9(i) and/or OAC 165:35-33-9(j). Under no circumstances, shall the utility be permitted to double recover Homeland Security and Critical Infrastructure related costs.

(i) Unless otherwise ordered by the Commission, any utility with a "Security Cost Rider" currently in effect, that files for a general rate change, shall include in the rate case, all security-related costs and those costs shall be accorded standard ratemaking treatment. A utility shall discontinue its "Security Cost Rider" when the change in rates becomes effective upon Final Order in the rate case.

(j) Unless otherwise ordered by the Commission, all "Security Cost Riders" approved by the Commission, shall expire five years from the initial date of the "Security Cost Rider's" implementation.

(k) Upon the filing of a cost recovery request by a utility, Commission Staff, the state Attorney General's office (based upon that entity's statutory authority) and all other Authorized Participants shall review the cost recovery proposal submitted by the utility and file testimony in accordance with:

(1) Any applicable protective orders issued by the Commission in the security-related cost recovery cause;

(2) OAC 165:35-33-11 (below);

(3) The Commission's Rules of Practice (OAC 165:5); and

(4) Any other protective measures or requirements prescribed by law or the Commission.

(l) Testimony of Commission Staff, the state Attorney General and all other Authorized Participants, shall detail each of the parties' respective recommendations and any objections to the utility's Plan and the utility's request for cost recovery related to the Plan. Also in accordance with the Commission's Rules of Practice, Commission Staff, the state Attorney General and all other Authorized Participants shall provide copies of their respective individual testimonies to one another, with redacted versions of each individual testimony filed with the Court Clerk at the Commission.

(m) Upon notice and hearing, the Commission shall issue an Order regarding any requests for security-related cost recovery.

165:35-33-10. Commission authorized participation

(a) **Commission Staff.** Only those Commission Staff and Staff's designees authorized by the Commission shall participate in a cause before the Commission regarding a utility's Plan and then, shall do so only after meeting all applicable requirements for Commission authorization, which shall be determined on a case-by-case basis. All Commission Staff and Staff's designees authorized to participate in a security cause shall comply with the requirements for protecting information obtained under the "Highly Sensitive Confidential" designation.

(b) **Attorney General.** Only those Attorney General personnel who have formally entered an appearance pursuant to Oklahoma Statute and the Commission's Rules of Practice and that entity's Commission authorized designees shall be granted review of a utility's Plan and/or Plan Update Reports. All Attorney General personnel and their designees authorized to participate in a security cause shall meet all applicable requirements for Commission authorization, to be determined on a case-by-case basis, and shall comply with the protections afforded information obtained under the "Highly Sensitive Confidential" designation.

(c) **Intervenors.**

(1) For the purposes of this Subchapter, all intervenors, including but not limited to counsel and experts for intervenors, shall be deemed "Authorized Participants" in accordance with OAC 165:35-33-3 above. All Authorized Participants wishing to participate in a security-related cause before the Commission shall meet all applicable requirements for Commission authorization, which shall be determined on a case-by-case basis, and shall comply with the protections afforded information obtained under the "Highly Sensitive Confidential" designation.

(2) In addition to acquiring "Authorized Participant" status from the Commission, each intervenor and its designees desiring to participate in a cause before the Commission regarding a utility's Plan shall post a bond or other security acceptable to the Commission, in an amount to be determined by the Commission, to protect the utility from harm in the event the Authorized Participant breaches the confidentiality terms established under this Subchapter or as may otherwise be established by the Commission. A copy of such bond or other security shall be filed with the Commission's Court Clerk. This subsection shall not apply to the Attorney General of the State of Oklahoma or the Oklahoma Corporation Commission Commissioners and Staff.

(3) Any Authorized Participant found in violation of a Commission issued Protective Order and Proprietary Agreement, shall be liable for contempt penalties pursuant to the penalty provisions found in Article IX, § 19 of the Oklahoma Constitution, Title 17 of the Oklahoma Statutes and the Commission's Rules of Practice at OAC 165:5. This subsection shall not apply to the Attorney General of the State of Oklahoma or the Oklahoma Corporation Commission Commissioners and Staff.

(4) In addition to the above protections, all Authorized Participants may be required by the Commission to enter into a separate non-disclosure agreement as a pre-requisite to being granted intervention and "Authorized Participant" status.

165:35-33-11. Confidentiality

(a) Pursuant to the Commission's jurisdiction granted under Article IX, Section 18 of the Oklahoma Constitution, 51 O.S. (2001) § 24A.22 of the Oklahoma Statutes and OAC 165:5, the Commission's Rules of Practice; all un-redacted documents related to a utility's Homeland Security and Critical Infrastructure Plan shall be considered "Highly Sensitive and Confidential" and shall only be admitted into evidence in en camera proceedings.

(b) "Highly Sensitive Confidential" designation and protection shall extend but not be limited to the following: initial Plans (including underlying documents), Plan Update Reports, Certification Letters, Annual Reports made by Commission Staff, recommendations submitted by the Attorney General of the State of Oklahoma and un-redacted documents used in cost recovery proceedings. For all other documents, the "Highly Sensitive Confidential" designation may be granted upon hearing and Final Order of the Commission.

(c) Each utility's Plan and/or Plan Update Report prepared in accordance with this Subchapter, shall be marked "Highly Sensitive Confidential" and shall be kept and maintained on site at the utility's business office in accordance with OAC 165:35-33-7(g), above. Only those individuals on the Staff of the Corporation Commission and in the State Attorney General's office and their respective experts who have been authorized by the Commission, shall have access to the Plan and Plan Update Reports prepared by each utility and any related or supporting documentation thereto. All other parties granted authorized intervenor status to a security cause pursuant to OAC 165:35-33-10(c) may also have access to the Plan, Plan Update Reports and supporting documentation after notice and hearing.

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TITLE 165. CORPORATION COMMISSION
CHAPTER 45. GAS SERVICE UTILITIES

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165:45-21-4. [RESERVED]
165:45-21-5. Utility Security Plan [NEW]
165:45-21-6. [RESERVED]
165:45-21-7. Reporting requirements [NEW]
165:45-21-8. [RESERVED]
165:45-21-9. Cost recovery [NEW]
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A Notice of Proposed Rulemaking was filed on August 27, 2004. The following rule changes reflect the discussion and study of the technical conferences held with industry as well as public comment.

A new Subchapter of rules have been created at OAC 165:45-21, the general purpose of which involve Homeland Security and are as follows: OAC 165:45-21-1 is added to encourage utilities to take all reasonable measures necessary to protect their critical infrastructures from extended interruption of service from all extraordinary events, natural and man-made, and requires that each gas utility seeking cost recovery for security measures from Oklahoma jurisdictional ratepayers shall develop, implement, and maintain a Critical Infrastructure and Security Plan in accordance with industry standards and as further outlined in these Homeland Security rules.

OAC 165:45-21-2 is reserved.

OAC 165:45-21-3 is added to define the words and terms as used in Subchapter 21, unless the context clearly indicates otherwise.

OAC 165:45-21-4 is reserved.

OAC 165:45-21-5 is added delineating the components of a proposed security plan.

OAC 165:45-21-6 is reserved.

OAC 165:45-21-7 is added establishing security plan reporting requirements necessary for cost recovery.

OAC 165:45-21-8 is reserved.

OAC 165:45-21-9 is added establishing rules for cost recovery.

OAC 165:45-21-10 is reserved.

OAC 165:45-21-11 is added establishing rules for protecting confidential information gathered pursuant to the requirements found in these Homeland Security rules.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2005:

SUBCHAPTER 21. HOMELAND SECURITY AND CRITICAL INFRASTRUCTURE

165:45-21-1. Purpose and scope

(a) The purpose of this Subchapter is to encourage utilities to take all reasonable measures necessary to protect their critical infrastructures from extended interruption of service from all extraordinary events, natural and man-made.

(b) The Corporation Commission encourages gas utilities to develop, implement, and maintain Homeland Security and Critical Infrastructure Plans according to the industry standards enumerated in sub-section (d) below.

(c) To the extent that a utility seeks to recover costs for security measures outside the scope of a general rate review for the implementation of Homeland Security and/or Critical Infrastructure protections, the utility shall comply with all provisions of this Subchapter.

(d) Each gas utility serving Oklahoma jurisdictional ratepayers is encouraged to follow the most current United States Department of Transportation, Office of Pipeline Safety's "Pipeline Security Information Circular" and "Pipeline Security Contingency Plan Guidance" ("DOT/OPS Guidelines"), as may be amended from time to time, for use as guidelines for protecting the utility's Critical Infrastructure from extended service interruption.

(e) Each gas utility seeking to recover costs for security measures from Oklahoma jurisdictional ratepayers outside of a general rate review shall develop, implement, and maintain a Critical Infrastructure and Security Plan as further set forth within this Subchapter.

(f) If the utility has implemented a Security Plan or process in accordance with the applicable industry guidelines but is not seeking or receiving cost recovery for security-related costs, the utility shall submit the Certification Letter required by OAC 165:45-21-7(f) and the Plan shall be subject to review pursuant to the Authorized Participation and Confidentiality provisions of OAC 165:45-21-10 and OAC 165:45-21-11. The utility is not otherwise required to comply with the provisions of this Subchapter.

(g) The Commission retains its jurisdictional and supervisory authority to address the reasonableness and/or prudence of any proposed security cost recovery.

(h) Nothing in this subchapter shall relieve any utility from any duty otherwise prescribed by the laws of the State of Oklahoma or this Commission's rules.

(i) Nothing in this Subchapter is intended to divest the utility of its right to object to any discovery requests from intervenors seeking access to "Highly Sensitive Confidential" materials.

(j) If any provision of this Subchapter is held invalid, such invalidity shall not affect other provisions or applications of this Subchapter which can be given effect without the invalid provision or application, and to this end, the provisions of this Subchapter are declared to be severable.

165:45-21-2. [RESERVED]

165:45-21-3. Definitions

The following words and terms, when used in this Subchapter 21, shall have the following meaning, unless the context clearly indicates otherwise:

"Annual Report" means the Annual Report submitted by Commission Staff to the Commission beginning December 30, 2005 and by July 1 of each year thereafter, summarizing the results of Staff's review of each utility's Security Plan (and any Plan Update Reports), along with any recommendations that Staff may have regarding such Plan(s).

"Authorized Participant" means those persons authorized by the utility or as may otherwise be authorized by law and/or ordered by the Commission, to view highly sensitive confidential information. Such authorization shall be granted on a case-by-case basis and may extend to the utility, state government officials, persons having been granted intervenor status by the Commission and Commission authorized designees of the parties.

"Certification Letter" means the written certification to the Director of the Public Utility Division made by August 1, 2005 and by March 1 of each subsequent year thereafter, indicating that as of the date of the Certification Letter, the utility has a Plan or that it has updated the Plan and/or previous Plan Update Reports, has a Plan but is not seeking cost recovery or has no Plan in place.

"Critical Infrastructure" means the property of a utility located in the State of Oklahoma, comprised of either physical assets or computer software which, if severely damaged or destroyed, would have a significant impact on the ability of the utility to serve large numbers of customers for an extended period of time, would have a detrimental impact on the reliability or operability of the utility system, or would cause significant risk to public health and safety.

"DOT/OPS Guidelines" means the guidelines, as may be amended from time to time, that are distributed by the United States Department of Transportation, Office of Pipeline Safety: "Pipeline Security Information Circular" and "Pipeline Security Contingency Plan Guidance."

"Highly Sensitive Confidential" means that the information is of such a sensitive nature that its public disclosure could be harmful to the security of a utility's critical infrastructure and as such it may only be viewed by those persons authorized by the utility or as may otherwise be ordered by the Commission.

"Plan" means a Homeland Security and Critical Infrastructure Plan including any subsequent Plan Update Reports that have been prepared with reference to the DOT/OPS GUIDELINES.

"Plan Update Report" means the written redlined changes made by the utility updating the Plan and/or previous Plan Update Reports. At the utility's option, changes will either be redlined or a history of changes may be maintained.

"Security Cost Rider" means the per billing unit rate mechanism whereby a utility may, upon approval and Order of this Commission, recover the costs of providing security for its Critical Infrastructure as defined under this Subchapter 21.

165:45-21-4. [RESERVED]

165:45-21-5. Utility Security Plan

(a) Each gas utility is encouraged to prepare and make available for inspection, a "Homeland Security and Critical Infrastructure Plan" ("Plan") that has been prepared with reference to the DOT/OPS GUIDELINES.

(b) The Plan shall be marked as "Highly Sensitive Confidential" and designate those facilities that the utility considers to be Critical Infrastructure (physical assets and computer software as defined in OAC 165:45-21-3 above), and shall set forth the utility's measures to secure such facilities from extended service interruption. The Plan shall also include an estimate of the costs necessary to achieve such measures.

(c) The Plan shall remain on site at the utility's business office in accordance with OAC 165:45-21-7(g) below and shall have the most current version of the redlined Plan Update Report attached to the clean version of the utility's latest Plan. At the utility's option, changes will either be redlined or a history of changes may be maintained.

(d) The Plan shall list all locations deemed by the utility to be critical, as well as identification of any subsequently increased security measures. All locations and security measures shall be identified by code known only to the utility and designated state government officials and their designees.

(e) Any subsequent security measures identified in the Plan shall contain an estimate of the cost necessary to implement such measures, a description of the measures necessary to adequately secure each specific location and an estimated schedule for completion of each measure.

(f) All locations identified by the Plan that require additional security measures shall be prioritized by the utility.

(g) Beginning December 30, 2005 and on July 1 of each year thereafter, Commission Staff shall submit an Annual Report marked as "Highly Sensitive Confidential" to the Commission, summarizing the results of Staff's review of a utility's Plan (and any Plan Update Reports), along with any recommendations that Staff may have regarding such Plan(s).

(h) Beginning December 30, 2005, where the Attorney General elects to submit recommendations to the Commission regarding a utility's Plan, such recommendations shall be marked as "Highly Sensitive Confidential" and shall also be due by July 1 of each subsequent year thereafter.

165:45-21-6. [RESERVED]

165:45-21-7. Reporting requirements

(a) Subsequent to the preparation of the initial Plan prepared under OAC 165:45-21-5(a), each utility shall prepare a Plan Update Report by March 1 of each succeeding year, following the same format as the initial Plan with redlines of all new changes, marked "Highly Sensitive Confidential" and kept on site at the utility's business office.

(b) Each subsequent Plan Update Report shall update the previous year's report by indicating for each specific coded location, all costs and completion dates (actual and projected) for all current and prior additional security measures claimed under this Subchapter.

(c) For those security measures previously reported that have not yet been completed, revised estimated costs and estimated completion dates shall be provided.

(d) The Plan Update Report shall also include (by specific coded location) a description of each proposed security measure that has not been previously reported, the estimated costs for each, as well as the estimated completion date for each measure.

(e) Costs reflected in the initial Plan and in subsequent Plan Update Reports, whether estimated or actual, shall be identified as either capital or expense costs.

(f) Beginning August 1, 2005 and by March 1 of every year thereafter, each utility shall submit a Certification Letter to the Director of the Public Utility Division, marked as "Highly Sensitive Confidential," certifying that as of the date of the Certification Letter:

(1) The utility does not have a Homeland Security and Critical Infrastructure Plan as contemplated and defined by this Subchapter;

(2) The utility does not have a Homeland Security and Critical Infrastructure Plan as contemplated and defined by this Subchapter but has otherwise taken steps to secure its Critical Infrastructure and is not seeking cost recovery under this Subchapter;

(3) The utility does have a Plan but is not seeking cost recovery; or

(4) The utility has a Plan and/or has prepared its Plan Update Report updating the Plan and/or previous year's Plan Update Report;

(A) The redlines contained within the current Plan Update Report encompass in the entirety, all of the changes made to the utility's Plan since the Plan's inception or the previous year's certification; and

(B) The Plan and Plan Update Report are available for Commission and/or Attorney General review at the utility's local place of business.

(g) A utility shall not be required to file its initial Plan or any of its subsequent Plan Update Reports with the Commission. Each utility shall instead, secure and maintain on site, at the utility's local place of business, its initial Plan and all subsequent Plan Update Reports.

165:45-21-8. [RESERVED]

165:45-21-9. Cost recovery

(a) Each utility seeking cost recovery of expenditures outside of a general rate review related to securing its Critical Infrastructure shall prepare and make available for inspection, its Plan and any subsequent Plan Update Reports in accordance with this Subchapter.

(b) A utility shall file an application with the Commission for cost recovery as provided for within this Subchapter. Cost recovery shall be subject to established rate-making principles. Such cost recovery shall only occur to the extent the utility has incurred all or a portion of its actual security-related costs.

(c) Unless otherwise ordered by the Commission, the utility shall have the burden of proving compliance with all of the provisions of this Subchapter prior to obtaining any cost recovery for security related measures.

(d) Upon approval and Order of the Commission, a utility shall be allowed to recover a return based on its weighted cost of long-term debt and equity on all capital expenditures made for security measures. The utility shall also be allowed to recover related depreciation expense and ad valorem taxes. Such recoveries shall be based upon similar ratemaking treatment for corresponding cost elements from the utility's most recent general rate case.

(e) Upon approval and Order of the Commission, a utility shall be allowed to recover expenses typically classified as operations and maintenance expenses for ratemaking purposes. The utility may request inclusion of any such similar costs incurred as long as these costs are directly associated with the security measures taken.

(f) The total costs incurred under this Subchapter shall be combined for recovery purposes, for consideration by the Commission.

(g) All costs approved by the Commission for recovery, shall be recovered from the utility's customers through a "Security Cost Rider" based on the projected annual billing units for the utility and shall be subject to annual true-up.

(h) Unless otherwise ordered by the Commission, a utility shall immediately discontinue recovery of the "Security Cost Rider" when the earlier of the following occurs: natural expiration due to the full recovery provided for in a Rider granted under this Subchapter or forced expiration required pursuant to OAC 165:45-21-9(i) and/or OAC 165:45-21-9(j). Under no circumstances, shall the utility be permitted to double recover Homeland Security and Critical Infrastructure related costs.

(i) Unless otherwise ordered by the Commission, any utility with a "Security Cost Rider" currently in effect, that files for a general rate change, shall include in the rate case, all security-related costs and those costs shall be accorded standard ratemaking treatment. A utility shall discontinue its "Security Cost Rider" when the change in rates becomes effective upon Final Order in the rate case.

(j) Unless otherwise ordered by the Commission, all "Security Cost Riders" approved by the Commission, shall expire five years from the initial date of the "Security Cost Rider's" implementation.

(k) Upon the filing of a cost recovery request by a utility, Commission Staff, the state Attorney General's office (based upon that entity's statutory authority) and all other Authorized Participants shall review the cost recovery proposal submitted by the utility and file testimony in accordance with:

(1) Any applicable protective orders issued by the Commission in the security-related cost recovery cause;

(2) OAC 165:45-21-11 (below);

(3) The Commission's Rules of Practice (OAC 165:5); and

(4) Any other protective measures or requirements prescribed by law or the Commission.

(l) Testimony of Commission Staff, the state Attorney General and all other Authorized Participants, shall detail each of the parties' respective recommendations and any objections to the utility's Plan and the utility's request for cost recovery related to the Plan. Also in accordance with the Commission's Rules of Practice, Commission Staff, the state Attorney General and all other Authorized Participants shall provide copies of their respective individual testimonies to one another, with redacted versions of each individual testimony filed with the Court Clerk at the Commission.

(m) Upon notice and hearing, the Commission shall issue an Order regarding any requests for security-related cost recovery.

165:45-21-10. Commission authorized participation

(a) **Commission Staff.** Only those Commission Staff and Staff's designees authorized by the Commission shall participate in a cause before the Commission regarding a utility's Plan, and then shall do so only after meeting all applicable requirements for Commission authorization, which shall be determined on a case-by-case basis. All Commission Staff and Staff's designees authorized to participate in a security cause shall comply with the requirements for protecting information obtained under the "Highly Sensitive Confidential" designation.

(b) **Attorney General.** Only those Attorney General personnel who have formally entered an appearance pursuant to Oklahoma Statute and the Commission's Rules of Practice and that entity's Commission authorized designees shall be granted review of a utility's Plan and/or Plan Update Reports. All Attorney General personnel and their designees authorized to participate in a security cause shall meet all applicable requirements for Commission authorization, to be determined on a case-by-case basis, and shall comply with the protections afforded information obtained under the "Highly Sensitive Confidential" designation.

(c) **Intervenors.**

(1) For the purposes of this Subchapter, all intervenors, including but not limited to counsel and experts for intervenors, shall be deemed "Authorized Participants" in accordance with OAC 165:45-21-3 above. All Authorized

Participants wishing to participate in a security-related cause before the Commission shall meet all applicable requirements for Commission authorization, which shall be determined on a case-by-case basis, and shall comply with the protections afforded information obtained under the "Highly Sensitive Confidential" designation.

(2) In addition to acquiring "Authorized Participant" status from the Commission, each intervenor and its designees desiring to participate in a cause before the Commission regarding a utility's Plan shall post a bond or other security acceptable to the Commission, in an amount to be determined by the Commission, to protect the utility from harm in the event the Authorized Participant breaches the confidentiality terms established under this Subchapter or as may otherwise be established by the Commission. A copy of such bond or other security shall be filed with the Commission's Court Clerk. This subsection shall not apply to the Attorney General of the State of Oklahoma or the Oklahoma Corporation Commission Commissioners and Staff.

(3) Any Authorized Participant found in violation of a Commission issued Protective Order and Proprietary Agreement, shall be liable for contempt penalties pursuant to the penalty provisions found in Article IX, § 19 of the Oklahoma Constitution, Title 17 of the Oklahoma Statutes and the Commission's Rules of Practice at OAC 165:5. This subsection shall not apply to the Attorney General of the State of Oklahoma or the Oklahoma Corporation Commission Commissioners and Staff.

(4) In addition to the above protections, all Authorized Participants may be required by the Commission to enter into a separate non-disclosure agreement as a pre-requisite to being granted intervention and "Authorized Participant" status.

165:45-21-11. Confidentiality

(a) Pursuant to the Commission's jurisdiction granted under Article IX, Section 18 of the Oklahoma Constitution, 51 O.S. (2001) §24A.22 of the Oklahoma Statutes and OAC 165:5, the Commission's Rules of Practice; all un-redacted documents related to a utility's Homeland Security and Critical Infrastructure Plan shall be considered "Highly Sensitive and Confidential" and shall only be admitted into evidence in en camera proceedings.

(b) "Highly Sensitive Confidential" designation and protection shall extend but not be limited to the following: initial Plans (including underlying documents), Plan Update Reports, Certification Letters, Annual Reports made by Commission Staff, recommendations submitted by the Attorney General of the State of Oklahoma and un-redacted documents used in cost recovery proceedings. For all other documents, the "Highly Sensitive Confidential" designation may be granted upon hearing and Final Order of the Commission.

(c) Each utility's Plan and/or Plan Update Report prepared in accordance with this Subchapter, shall be marked "Highly Sensitive Confidential" and shall be kept and maintained on site at the utility's business office in accordance with OAC 165:45-21-7(g), above. Only those individuals on the Staff of the Corporation Commission and in the State Attorney General's office and their respective experts who have been authorized by the Commission, shall have access to the Plan and Plan Update Reports prepared by each utility and any related or supporting documentation thereto. All other parties granted authorized intervenor status to a security cause pursuant to OAC 165:45-21-10(c) may also be granted access to the Plan, Plan Update Reports and supporting documentation after notice and hearing.

[OAR Docket #05-569; filed 4-7-05]

TITLE 165. CORPORATION COMMISSION CHAPTER 55. TELECOMMUNICATIONS SERVICES

[OAR Docket #05-571]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
165:55-1-4. Definitions [AMENDED]
Subchapter 3. Certificates, Reports, and Records
Part 1. Certificates Of Convenience and Necessity
165:55-3-1. Certificate of Convenience and Necessity [AMENDED]
Part 5. Record Requirements
165:55-3-22. Records to be provided to the Commission [AMENDED]
Subchapter 5. Rates And Tariffs
Part 3. Approval And Notice Requirements
165:55-5-10. Tariff approval and revisions to tariffs [AMENDED]
165:55-5-10.2. Promotional offerings [AMENDED]
165:55-5-10.3. Customer-specific contracts under ICB pricing [AMENDED]
165:55-5-11. Type of notices [AMENDED]
Part 7. Miscellaneous Tariff Requirements
165:55-5-34. Data and information on proposed tariff revisions [AMENDED]
165:55-5-36. Returned Check Charge [NEW]
Part 11. Oklahoma Plan
165:55-5-70. Packaging [AMENDED]
Subchapter 22. Resolution Disputes
165:55-22-7. Formal expedited dispute resolution [AMENDED]
Subchapter 23. Wireless Eligible Telecommunications Carrier
Part 1. General Provisions
165:55-23-3. Records to be provided to the Commission [AMENDED]
165:55-23-7. Content of bills [AMENDED]
165:55-23-11. Minimum service standards [AMENDED]
AUTHORITY:
Oklahoma Corporation Commission
Article IX, Section 18, Oklahoma Constitution
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None
INCORPORATIONS BY REFERENCE:
None
ANALYSIS:

There were several groups that filed written comments. The first group includes Southwestern Bell Telephone, L.P., d/b/a SBC Oklahoma, Valor Telcom, Oklahoma Alltel, Inc., Alltel Oklahoma, Inc., Oklahoma Communications Systems, Inc., Mid-America Telephone, Inc., Wyandotte Telephone Company, CenturyTel of Northwest Arkansas, LLC, Chouteau Telephone Company, Totah Telephone Company, Inc., Pine Telephone Company, Inc. and Grand Telephone Company, Inc. will be collectively referred to as "ILECs" Coalition". The second group includes Atlas Telephone Company, Beggs Telephone Company, Bixby Telephone Company, Canadian Valley Telephone Company, Carnegie Telephone Company, Central Oklahoma Telephone Company, Cherokee Telephone Company, Chickasaw Telephone Company, Cimarron Telephone Company, Cross Telephone Company, Dobson Telephone Company, Hinton Telephone Company, KanOkla Telephone Association, McLoud Telephone Company, Medicine Park Telephone Company, Oklahoma Telephone & Telegraph, Inc., Oklahoma Western Telephone Company, Panhandle Telephone Cooperative, Inc., Pinnacle Communications, Pioneer Telephone Cooperative, Inc., Pottawatomie Telephone Company, Salina-Spavinaw Telephone Company, Inc., Santa Rosa Telephone Cooperative, Inc., Shidler Telephone Company, South Central Telephone Association, Inc., Southwestern Oklahoma Telephone Company, Terral Telephone Company, and Valiant Telephone Company and will be collectively referred to as the "RTCs". The third group includes AT&T Communications of the Southwest, Inc. and Cox Communications and will be collectively referred to as the "CLEC Coalition". The fourth group includes Western Communications, Inc. dba Logix Communications and nii Communications will be collectively referred to as the "Joint Commenters".

Other comments were filed by MCI, United States Cellular Corporation (US Cellular), and Dobson Cellular Systems, Inc. AARP Oklahoma filed a letter stating their general concern that any proposed rules concerning deregulation should be deferred until the conclusion of Cause No. PUD 200400605. The Attorney General filed comments and at the December 12, 2004, hearing the representative from the Attorney General's Office withdrew all objections to the proposes rules based on additional information presented to the Office of the Attorney General and due to the filing of Cause No. PUD 200400605. Further, Appendix "A" is a copy of the transcript of the December 12, 2004, hearing.

OAC 165:55-1-4 adds a definition for wireless telecommunications carriers. This definition was added to provide clarity to our rules that relate to wireless providers that have been granted eligible telecommunications carrier status. Staff had proposed other language but the rule was amended to use the language proposed by the RTCs. The Joint Commenters did not oppose the proposed language but did propose some clarifying language. Other parties did not oppose or have a position. The definition for local calling area was initially proposed but was later deleted when other related sections were deleted.

OAC 165:55-3-1 adds the Commission's website address for carriers to use when submitting a notice of application. The Joint ILECs supported the language but no commenters objected to this provision.

OAC 165:55-3-22(a) adds language to allow for proposed changes to the annual report to be posted to the Commission's website for review by the carriers ninety (90) days before the changes are effective. Within ninety (90) days of the posting of the proposed change, if a carrier files an objection, the applicability of the proposed format revisions will be suspended until an order is issued by the Commission. The CLEC Coalition opposed this language because they contend that it allows Staff to require the industry to provide information without a tangible need. In addressing this concern, it is Staff's position that some of the proposed changes would be controversial but others may be minimal, Staff needs this ability to get information by amending the annual report without a streamline process. The ILEC Coalition proposed language that if an objection is filed, no reports will be due less than 90 days after an Order is issued. Because of this concern, language was added to provide for delaying the effectiveness of a change.

OAC 165:55-5-10(b)(1)(6)(7) and (8), (d), (p) and (q) changes time periods for tariffs revisions of competitive services of interexchange telecommunications carriers (IXC) to be effective the next day. Revisions of tariffs of telecommunication service providers (TSP) are to be reduced to thirty (30) days instead of the previous 45 and 60 day time periods. Revisions of tariffs of TSPs not in Alternative Regulation will be effective the next day after filing. These filings are to be made electronically through the Commission web site. The change also requires TSPs to continue to offer a service that is individually tariffed as of December 31, 2004, on an individual basis even if that service is offered later in a package. The CLEC Coalition expressed concerns that the effective date for competitive filings should be the day after the filing. This change was made to the proposed rules. As to the provision in part (d) of the rule, which was initially part (q), the ILEC Coalition supported the change and the CLEC Coalition, RTCs and the Joint Commenters all suggested that the language not be changed and that the issue be addressed in Cause No. PUD 200400605. As to the provision in part (p) of the rule, the ILEC Coalition objected to the language that allowed for an objection to be filed by a party in another party's streamline filing. This objection language was subsequently deleted. The CLEC Coalition, RTCs and the Joint Commenters all suggested that the language not be changed as proposed and that the issue be addressed in Cause No. PUD 200400605. The provision to have such tariffs filed instead of being submitted to the Director of the Public Utility Division, and to become effective the next day was proposed at the January 12, 2005, hearing and no parties objected to this language or any of the other proposed language.

OAC 165:55-5-10.2(a)(b) and (c) adds language to explain usage of promotional offerings. The language also allows for such promotional offerings to be reintroduced for ninety (90) days. Further, promotional offerings will be allowed to be filed by completing a form located on the Commission web site instead of submitting a letter to the Director of the Public Utility Division. Other changes provided for competitive offerings to be effective no earlier than the date the notice is provided to the Director of the Public Utility Division. Non-competitive offerings shall become effective no earlier than ten (10) days after notice is provided to the Director of the Public Utility Division instead of fifteen (15) days as previously provided for in the rule. The ILEC Coalition supported the initial changes. The CLEC Coalition opposed the change and requested that no change be proposed for this section and that it would be better not to change the rule until the status of competition can be completed in Cause No. PUD 200400605. To address this concern, language was added so that a promotion could not be reintroduced for ninety (90) days. The Joint Commenters suggested that promotional offerings should be limited to 90 days instead of 365 days.

OAC 165:55-5-10.3 replaces language that explains when customer-specific contracts (ICB) will be used and also changes the requirement so that such ICBs will be provided in a list, on a quarterly basis, to the Director of the Public Utility Division for review for the purpose of preventing abuses. There is also new language to allow for the smaller companies to adopt a cost study, if necessary, already approved by the Commission. The language to require the tariffing of a rate element after it has been in an ICB five (5) times has been removed. The ILEC Coalition supported the rule change. The CLEC Coalition and the RTCs opposed the language change alleging that the change would result in the Commission having no regulatory oversight of the ICB rates. The CLEC Coalition and the RTCs suggested language, and the proposed rule were modified based on that language.

OAC 165:55-5-11(c)(1) and (2), (e) requires a copy of proposed tariffs to be sent to IXCs or TSPs that have made a written request to receive the proposed tariffs. Further, language was added to require a copy of the notices that are now sent to the end-users to also be sent to the Director of the Public Utility Division and the Attorney General. The CLEC Coalition stated that in light of today's competitive long distance market, they propose the rule be amended to strike the requirement to provide notice to competing IXCs and TSPs as unnecessary or unreasonable. No other party objected to the language.

OAC 165:55-5-34(a) and (a)(3) require that information that was required to be filed with the filing to now be filed within 20 days of the effective date of the filing and further to require providers to submit the methodology used to separate revenues for jurisdictional purposes when filing an offering for packages of bundled services. The ILEC Coalition had no objections to the new requirements that the provider of a service package must provide methodology to separate revenues for fee assessment purposes. However, they suggest adding language, "containing both regulated and non-regulated services." The Joint Commenters propose that the ILEC provide the methodology used to separate costs. The language suggested by the ILEC Coalition was added to the proposed rule.

OAC 165:55-5-34(c) changes the paragraph numbers to reflect the previous changes. No parties commented on this change.

OAC 165:55-5-36 inserts new language to allow for a return check charge of $25.00 unless a higher charge can be justified. The ILEC Coalition opposes,

in general, the tariffing of returned check charges and prefers to handle this by notification to customers only. MCI's position was that the Commission is engaged in ratemaking via rulemaking if the language is approved.

OAC 165:55-5-70 deletes and adds language to require local service to be offered on an individual basis, to allow for all of the packages or combinations of services of an incumbent local exchange company to be classified as Basket 4 services, and to require intrastate retail services tariffed as of December 31, 2004, to continue to be offered on an individual basis. SBC Oklahoma only suggests modifying paragraph (a) so that it does not "unintentionally" require all service packages to include basic local service. The CLEC Coalition objects to the proposed rule. The CLEC Coalition further states that the existing rule allows SBC Oklahoma to package local exchange services individually or as part of a package of regulated telecommunications services. The RTCs believe the issues addressed in this rule should be deferred until after the completion of the Commission study in Cause No. PUD 200400605. The Joint Commenters proposed new language. Portions of section (b) were not changed as proposed to address all concerns. No parties objected to the final proposed rule.

OAC 165:55-22-7(b) corrects omissions in the existing rules by adding language to provide for a response to be filed within five (5) business days of the complaint being filed pursuant to the expedited dispute resolution with a copy of the response being served to the Office of the Attorney General, the Office of General Counsel and to the Director of the Public Utility Division. The ILEC Coalition opposes the requirement to respond to a complaint within 5 days. The ILEC Coalition states that this is not enough time to complete a response to all the requirements proposed in the rule. The ILEC Coalition requests either to extend the response time or decrease the amount of information needed. No other party commented. In response to these concerns, the language was modified to delete the specific content of the response so that the response could be filed in the 5-day period.

OAC 165:55-23-3(a) adds language to clarify information from a Wireless ETC to be included in records currently being provided to the Commission. It is US Cellular's position that this rule conflicts with existing federal law and it differs from the Settlement Agreement, which US Cellular entered into as part of its wireless ETC designation proceeding. US Cellular proposes to add language prohibiting the Commission from making any use of information submitted in a wireless ETC's informational tariff. The ILEC Coalition, excluding SBC Oklahoma, supports the proposed changes. The language was approved as proposed.

OAC 165:55-23-3(f) adds clarifying language to address what information will be received from a Wireless ETC to be included in records currently being provided to the Commission. No party opposed this language.

OAC 165:55-23-3(g)(1) and (2) adds clarifying language to address what information will be received from a Wireless ETC to be included in records currently being provided to the Commission. Dobson Cellular Systems commented that the notarized statement and the annual report should cover only the wireless ETC's designated service territory in Oklahoma and that no update of the wireless ETC's supported services should be required on an annual basis or any other basis. No other party opposed this language. The proposed language was amended to only require information regarding the wireless ETC's designated service territory in Oklahoma.

OAC 165:55-23-3(i) adds clarifying language to address what information will be received from a Wireless ETC to be included in records currently being provided to the Commission. No party opposed this language.

OAC 165:55-23-3(l)(1) adds language clarifying to requirement of when the annual affirmation is due. No party opposed this language.

OAC 165:55-23-3(m) adds clarifying language to address what information will be received from a Wireless ETC to be included in records currently being provided to the Commission. US Cellular did not object to the proposed revision, but does not believe that an Application should be required, but rather the wireless ETC should be required to notify the Commission of any changes covered by the rule. Dobson Cellular System proposes that the Commission be notified of name and address changes rather than an Application be filed providing such notice, and that there be a requirement of an attestation that the tariffs are identical except for the name and/or address change be deleted. The attestation requirement was added to the language.

OAC 165:55-23-7 deletes and adds language to require a Wireless ETC's bill to comply with the federal billing requirements for each Supported Service. US Cellular Systems supported the change and no party opposed the change.

OAC 165:55-23-11(a)(1)(A) and (K), and (a)(2) adds language to require a minimum of 500 minutes of local usage for Supported Services at uniform rates for end-users of a given class within its designated service area without usage sensitive charges and provides for an application to request a waiver of OAC 165:55-23-11(a)(1)(G). US Cellular strongly objects to both the proposed revision and the current rule. US Cellular Systems asserts that the Commission is prohibited by federal law from adding additional requirements to the federal requirements for service. US Cellular also believes that this rule is an attempt to regulate the rates and services of a wireless ETC, which is federally prohibited. US Cellular believes that the minimum number of minutes required of a supported service by the proposed revision is federally prohibited. Dobson Cellular Systems states that the Commission is federally preempted from imposing a minimum local usage requirement on grounds that it is an attempt to regulate the rate plans of a wireless carrier. Dobson Cellular Systems further states that the proposed rule conflicts with the FCC's existing requirement that allows varying amounts of local usage by a wireless ETC and that it is inconsistent with federal universal service directives in violation of 47 U.S.C. § 254(f). Finally, Dobson Cellular Systems asserts that the proposed rule is bad for consumers, because it subverts market-based competition and is discriminatory toward wireless carriers. Dobson Cellular Systems believes that the Commission should decline to adopt a minimum usage rule until after the FCC has ruled in its NOPR on this issue. The 500 minutes limitation was deleted and section (K) was added to provide for unlimited local calling for Lifeline subscribers. At the January 12, 2005, hearing, US Cellular continued to object to all proposed changes. US Cellular objected to the proposed revision on grounds that 11(1)(G) is contrary to federal law because the Commission's adding to or revising the federally required minimum service requirements of a wireless ETC federally prohibited. US Cellular proposes that subsection (1)(G) be deleted, making subsection (a)(2) unnecessary. While the Commission disagrees that this or any proposed change being contrary to federal law, subsection (a)(2) was deleted because our rules already provide for the request for the waiver of any rules.

CONTACT PERSON:

Lenora Burdine (405) 522-1010

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2005:

SUBCHAPTER 1. GENERAL PROVISIONS

165:55-1-4. Definitions

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

"Access line" means the facility provided and maintained by a telecommunications service provider which permits access to and/or from the public switched network.

"Access service" means any tariffed wholesale service provided by one LEC to another LEC, CLEC, interexchange carrier certificated by the Commission or an end-user that allows for access to the local exchange telecommunications network, excluding local interconnection arrangements.

"Applicant for telecommunications service" means any person, partnership, cooperative corporation, corporation, or lawful entity requesting service(s) from a telecommunications service provider.

"Authorized carrier" means any telecommunications carrier that submits a change, on behalf of an end-user, in the end-user's selection of a provider of telecommunications service with the end-user's authorization verified in accordance with the procedures specified in this Chapter.

"Base rate area" means the developed area within each exchange service area designated in the tariffs of the telephone

company or if not so designated, an area within one-half (1/2) mile radius of the serving central office.

"Basic local service" means all residential and business telecommunications voice and/or relay service which meets the standards set forth in 165:55-13-10, including lines beyond the first line into a residence or business.

"Billing agent" means an entity which provides bills to an end-user for services received from a telecommunications service provider.

"Billing and collection service" means the wholesale service provided by a TSP or IXC for the processing and delivery of customer bills, on behalf of a third party.

"Bona Fide Request" means a written request delivered to a telecommunications service provider requesting services and interconnection provided for in this Chapter.

"CIC" means carrier identification code which identifies a provider of toll services by a three- or four-digit number.

"Campus" means multiple buildings located on a single tract or area of land or on adjacent and abutting tracts of land where all the buildings and land are subject to majority ownership by the same person. A campus may be intersected or traversed by public thoroughfares provided that the segments created would be continuous in the absence of the thoroughfare. A tract or tracts of land used for farming and/or ranching shall not be considered a "campus."

"Carrier of last resort" means a telecommunications service provider as designated by the Commission pursuant to OAC 165:55-17-29.

"Central office" means an operating unit of a telecommunications service provider by which connections are established between end-users' lines and between end-users' lines and trunks or toll lines.

"Circuit" or **"Channel"** means one communication path between two (2) or more points suitable for transmitting information.

"Class of service" or **"Customer class"** means a description of service furnished to an end-user in terms of type of rate, location, and use.

"CLEC" means a Competitive Local Exchange Carrier.

"Clear and conspicuous" means notice that would be apparent to the reasonable consumer.

"Commission" means the Oklahoma Corporation Commission.

"Competitive Local Exchange Carrier" ("competitive LEC") means, with respect to an area or exchange(s), a telecommunications service provider that is certificated by the Commission to provide local exchange services in such area or exchange(s) within the State of Oklahoma after July 1, 1995.

"Competitive Provider" means an entity providing the same or equivalent services through the use of its own or leased facilities including resellers. The service must satisfy the Commission's rules of minimum service standards regardless of whether the provider is regulated by the Commission.

"Competitive service" means a telecommunications service determined by the Commission to be subject to effective competition for a relative geographic and service(s) market, after notice and hearing.

"Competitive Test" means an evaluation by the Commission to determine after notice and hearing, for a particular service on an exchange by exchange basis, the existence of competition among an ILEC, a non-affiliated facilities based Competitive Provider, and one (1) other non-affiliated Competitive Provider. Such exchanges shall be the same as those on file with the Commission on the date of approval of the Transition Plan.

"Competitively neutral" means not advantaging or favoring one person over another.

"Cramming" means the placement of unauthorized, misleading, or deceptive charges on a customer's telephone bill for products or services that were never ordered by the customer.

"Customer" means any person, firm, partnership, cooperative corporation, corporation, or lawful entity that receives regulated telecommunications services supplied by any telecommunications service provider or IXC.

"Customer trouble report" means any oral or written report given to a telecommunications service provider's repair service by an end-user of telephone services relating to a physical defect or difficulty or dissatisfaction with the provision of the telecommunications service provider's regulated services. Each trouble report shall count as a separate report regardless of whether subsequent reports relate to the same physical defect, difficulty, or dissatisfaction with the provision of the telecommunications service provider's regulated services.

"Demarcation point" means the physical location at which responsibility for operating and maintaining facilities passes from one person to another.

"Deniable charge" means a charge for those regulated services for which nonpayment may result in a disconnection of basic local service.

"Dialing parity" means that a person that is not an affiliate of a telecommunications service provider is able to provide telecommunications services in such a manner that end-users have the ability to route automatically, without the use of any access code, their telecommunications to the telecommunications service provider of the end-user's designation from among two (2) or more telecommunications service providers.

"Directory" means the published listing of all telephone numbers, other than those requested by the end-user not to be published, for all end-users in a service area regardless of the local exchange telecommunications service provider selected by the end-user.

"Disconnection of service" means an arrangement made by the end-user or TSP for permanently discontinuing service by terminating the contract and/or removing the telephone service from the end-user's premises.

"Eligible telecommunications carrier" ("ETC") means a telecommunications service provider as designated by the Commission pursuant to OAC 165:55-17-29 and 47 U.S.C. §§ 254 and 214(e).

"End-user" means the customer to whom a telephone number is assigned.

"Enhanced service" means a service that is delivered over communications transmission facilities that: (1) change the content, format, code or protocol of transmitted information; (2) provide the customer new or restructured information;

or (3) involve end-user interaction with information stored in a computer.

"Exchange" means a geographic area established by an incumbent LEC as filed with and/or approved by the Commission for the administration of local telecommunications service in a specified area which usually embraces a city, town, or village and its environs. It may consist of one or more central offices together with associated plant used in furnishing telecommunications service in that area.

"Executing carrier" means any telecommunications carrier that effects a request that an end-user's telecommunications carrier be changed. A carrier may be treated as an executing carrier, however, if it is responsible for any unreasonable delays in the execution of carrier changes or for the execution of unauthorized carrier changes, including fraudulent authorizations.

"Facilities" means all the plant and equipment of a telecommunications service provider including all tangible and intangible real and personal property without limitation, and any and all means and instrumentalities in any manner owned, operated, leased, licensed, used, controlled, furnished, or supplied for, by, or in connection with the regulated business of any telecommunications service provider.

"Facilities-based provider" means an entity providing telecommunications services predominately through the use of its own facilities, including UNEs, and other technologies capable of meeting all local telecommunications service requirements while complying with the Commission's quality of service rules.

"FCC" means the Federal Communication Commission.

"Five Year Period" means the initial five (5) year period, commencing the date of an ILEC's notification of its election into the Oklahoma Plan.

"Incumbent Local Exchange Company" ("incumbent LEC") means, with respect to an area or exchange(s), any telecommunications service provider furnishing local exchange service in such area or exchange(s) within the State of Oklahoma on July 1, 1995, pursuant to a Certificate of Convenience and Necessity or grandfathered authority.

"ILEC" means an Incumbent Local Exchange Company.

"Individual Case Basis" ("ICB") means a condition, pursuant to the provisions of the tariff, in which the rates and charges for an offering are developed based on the circumstances of each customer.

"Initial Tariffs" means the first tariffs approved after, or in conjunction with, the granting of a Certificate of Convenience and Necessity.

"Interexchange telecommunications carrier" ("IXC") means any person, firm, partnership, corporation, or other entity, except incumbent LECs, resellers, or OSPs engaged in furnishing regulated interexchange telecommunications services under the jurisdiction of the Commission.

"Interexchange telecommunications service" means telecommunications service provided between locations within different certified telephone exchange service areas.

"InterLATA call" means any call which is originated in one LATA and terminated in another LATA.

"Interstate call" means any call which is originated in one state and terminated within the boundaries of another state.

"IntraLATA call" means any call which is originated and terminated within the boundaries of the same LATA, regardless of whether such call crosses LATA boundaries prior to reaching its termination point.

"Intrastate call" means any call which is originated and terminated within the boundaries of the State of Oklahoma, regardless of whether such call crosses state boundaries prior to reaching its termination point.

"LATA" means Local Access and Transport Area as defined in the Code of Federal Regulations, Title 47 Part 53.3.

"Less than Minimum Service Provider" means a CLEC which offers local exchange service that does not meet all minimum service standards, as set forth in OAC 165:55-13-10.

"Letter of Agency" ("LOA") means the written authorization that gives permission to change the customer's telecommunications services and/or the customer's provider or to share that customer's network information with representatives or associates of the telecommunication company.

"Local Exchange Service" means a switched and/or dedicated telecommunications service which originates and terminates within an exchange or an exchange service territory. Local exchange service may be terminated by a telecommunications service provider other than the telecommunications service provider on whose network the call originated. The local exchange service territory defined in the originating provider's tariff shall determine whether the call is local exchange service.

"Local interconnection arrangements" means a contract for interconnection, including resale, as governed by section 251 of the Communications Act of 1934 (47 U.S.C. § 251), as amended, the Federal Communication Commission rules and the rules of the Commission.

"Local operator services" means the automatic or live assistance provided to a customer, which enables the customer to arrange for billing or completion of a local call. Local operator services may include, but are not limited to, line status verification, busy line verification, emergency interrupt, and calls to emergency numbers (e.g., 911).

"Long run incremental cost" ("LRIC") means the long run forward-looking additional cost caused by providing all volume-sensitive and volume-insensitive inputs required to provide the total demand associated with a service or network element offered as a service, using economically efficient current technology efficiently deployed. LRIC also equals the cost avoided, in the long run, when a service or network element offered as a service is no longer produced. LRIC excludes costs directly and solely attributable to the production of other services or network elements offered as services, and unattributable costs which are incurred in common for all the services supplied by the firm. The long run means a period long enough so that the cost estimates are based on the assumption that all inputs are variable.

"Near reservation" means those areas or communities adjacent or contiguous to reservations which are designated by the Commissioner of Indian Affairs upon recommendation of the local Indian Bureau Superintendent, which recommendation shall be based upon consultation with the tribal governing

body of those reservations, as locales appropriate for the extension of financial assistance and/or social services, on the basis of such general criteria as: (1) number of Indian people native to the reservation residing in the area, (2) a written designation by the tribal governing body that members of their tribe and family members who are Indian residing in the area, are socially, culturally and economically affiliated with their tribe and reservation, (3) geographical proximity of the area to the reservation, and (4) administrative feasibility of providing an adequate level of services to the area. The Commissioner of Indian Affairs shall designate each area and publish the designations in the Federal Register.

"Network element" means a facility or equipment used in the provision of a telecommunications service. Such term also includes features, functions and capabilities that are provided by means of such facility or equipment, including end-user numbers, databases, signaling systems and information sufficient for billing and collection or used in the transmission, routing or other provision of a telecommunications service.

"Network interface" means the normal demarcation point separating the telecommunications service provider's regulated facilities and equipment from the unregulated facilities, equipment, or systems provided by the end-user. The provision of the network interface is the responsibility of the telecommunications service provider.

"New service provider" means a service provider that did not bill the end-user for service during the service provider's last billing cycle. This definition excludes service providers which bill the customer solely on a per transaction basis.

"New services" means any service(s), except access services or interconnection services, for which a rate element does not presently exist, which does not replace an existing tariff, and that enlarges the range of service options available to end-users.

"Nonbasic service" means any telecommunication service not included in basic local service, local interconnection arrangements and/or access service.

"Non-deniable charge" means a charge for those not-regulated services for which nonpayment shall not result in a disconnection of basic, local service.

"Not-regulated service" means the offering of service(s) where the rates and/or terms and conditions for such service(s) are not-regulated by the Commission. These would include any services offered from FCC tariffs such as interstate service offerings, and any taxes, fees and surcharges applicable to those services, as well as any intrastate services not contained in tariffs approved by the Commission.

"Number Portability" means the ability of end-users of telecommunications services to retain, within the same wire center, their existing telecommunications number without impairment of quality, reliability or convenience when switching from one telecommunications service provider to another.

"Oklahoma Plan" means an alternative regulation plan which conforms to Part 11 of Subchapter 5 of this Chapter.

"Packaging" means the sale of two or more services offered by or in conjunction with the services of a TSP to a customer of a TSP for a single price.

"Person" means any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character.

"Rates" means all tariffed charges assessed by a TSP or IXC.

"Regulated telecommunications service" means the offering of telecommunications service(s) directly to the public where the rates and/or terms and conditions for such service(s) are regulated by the Commission. These would include services offered from intrastate tariffs approved by the Commission including any taxes, fees and surcharges applicable to those services, and interstate services when the Commission is enforcing the FCC slamming rules.

"Reservation" means any federally recognized Indian tribe's reservation, Pueblo, or Colony, including former reservations in Oklahoma, Alaska Native regions established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), and Indian allotments.

"Rural telephone company" means a LEC to the extent that such entity:

(A) Provides telecommunications service to any local exchange study area that does not include either:

(i) Any incorporated place of 10,000 inhabitants or more, or any part thereof, based on the most recently available population statistics of the U.S. Bureau of Census; or,

(ii) Any territory, incorporated or unincorporated, included in an urbanized area, as defined by the U.S. Bureau of Census as of August 10, 1993.

(B) Provides local exchange service, including exchange access, to fewer than 50,000 access lines;

(C) Provides local exchange service to any local exchange carrier study area with fewer than 100,000 access lines; or,

(D) Has less than fifteen percent (15%) of its access lines in communities of more than 50,000 on the date of enactment of the Federal Telecommunications Act of 1996.

"RUS" means the Rural Utility Services.

"Service" means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used. Service shall not include the provision of nontelecommunications services, including but not limited to the printing, distribution, or sale of advertising in telephone directories, maintenance of inside wire, customer premises equipment and billing and collection, nor does it include the provision of mobile telephone service, enhanced services and other not-regulated services.

"Service interruption" means service outage, total failure, or complete loss of service due to a trouble condition in the facilities of a telecommunications service provider.

"Service provider" means any entity that offers a product or service to a customer, the charge for which appears on the bill of the billing agent. This definition shall include only providers that have continuing relationships with the end-user that will result in periodic charges on the end-user's bill, unless the service is subsequently canceled.

"Service territory" means a geographic area served by a telecommunications service provider.

"Slamming" means the unauthorized switching of an end-user's telecommunications service provider or presubscribed IXC.

"Submitting carrier" means any telecommunications carrier that requests on the behalf of an end-user that the end-user's telecommunications carrier be changed and seeks to provide retail services to the end-user. A carrier may be treated as a submitting carrier, however, if it is responsible for any unreasonable delays in the submission of carrier change requests or for the submission of unauthorized carrier change requests, including fraudulent authorizations.

"Supported Services" means services identified in 47 CFR part 54, OAC 165:55-13-10 or OAC 165:59, as amended from time to time, for which a wireless ETC receives support from the federal USF, OUSF or OLF, or as otherwise may be ordered by the Commission.

"Suspension of service" means an arrangement made at the initiative of the TSP for temporarily discontinuing service without terminating the contract or removing the telephone service from the customer's premises.

"SWBT" means Southwestern Bell Telephone Company, L.P. d/b/a SBC Oklahoma.

"Tariff" means all or any part of the body of rates, tolls, charges, classifications, and terms and conditions of service relating to regulated services offered, the conditions under which offered and the charges therefore, which have been filed with and approved by the Commission.

"Telecommunications" means the transmission, between or among points specified by the user of voice or data information of the user's choosing, without change in the form or content of the information as sent and received.

"Telecommunications carrier or Company" means a telecommunications service provider ("TSP") or an interexchange telecommunications carrier ("IXC").

"Telecommunications service provider" ("TSP") means all authorized providers of local exchange service, whether an incumbent LEC or a competitive LEC.

"Telephone bill" means a billing agent's invoice, issued in compliance with this Chapter, for products or services rendered by itself and by a service provider(s), if any.

"Telephone company" or **"Company"** means any person, firm, partnership, corporation, or other entity engaged in furnishing regulated local exchange telephone services under the jurisdiction of the Commission on July 1, 1995, pursuant to a Certificate of Convenience and Necessity or grandfathered authority.

"Transitional commitments" means the commitments made by an ILEC in the State of Oklahoma pursuant to Part 9 or Part 11 of Subchapter 5 of this Chapter.

"Unauthorized carrier" means any telecommunications carrier that submits a change, on behalf of an end-user, in the end-user's selection of a provider of telecommunications service but fails to obtain the end-user's authorization verified in accordance with the procedures specified in this Chapter.

"Unauthorized change" means a change in an end-user's selection of a provider of telecommunications service that was made without authorization verified in accordance with the verification procedures specified in this Chapter.

"Unbundled network element" ("UNE") means a component of the ILEC's telecommunications network utilized to provide telecommunications services.

"Unbundling" means to provide to any telecommunications service provider nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms and conditions that are just, reasonable and nondiscriminatory.

"Unfilled application" means a firm application by an end-user for new service or a different class of service which has not yet been accomplished.

"Wire Center" means a geographic area normally served by a central office.

"Wireless Telecommunications Carrier" means a Commercial Mobile Radio Service provider as defined by the FCC, including 47 CFR §20.3, as may be amended from time to time.

"Zone" means a service territory described as such by an incumbent LEC.

SUBCHAPTER 3. CERTIFICATES, REPORTS, AND RECORDS

PART 1. CERTIFICATES OF CONVENIENCE AND NECESSITY

165:55-3-1. Certificate of Convenience and Necessity

(a) **Requirement for Certificate of Convenience and Necessity.** No telecommunications service provider or IXC shall furnish telecommunications service to any end-user in the State of Oklahoma without first having secured a Certificate of Convenience and Necessity from the Commission.

(b) **Application for Certificate of Convenience and Necessity.** An application for a certificate to provide service in the State of Oklahoma shall be made pursuant to and in conformance with the requirements of Oklahoma law and any additional requirements set forth in this Chapter. An original and eight (8) copies of the application for Certificates of Convenience and Necessity shall be filed at the Commission's Office of the Court Clerk. A filing fee pursuant to the Commission's Rules of Practice, OAC 165:5, shall be required.

(c) **Application requirements for Certificate of Convenience and Necessity.** Every telecommunications service provider or IXC making application to the Commission for a Certificate of Convenience and Necessity to provide telecommunications services in the State of Oklahoma shall be required to demonstrate its financial, managerial and technical ability to provide the requested telecommunications services in the State of Oklahoma. An application for a Certificate of Convenience and Necessity shall include information and attachments which are certified as true and correct by an officer of any corporate applicant, or an authorized representative of an unincorporated applicant.

(1) The application shall contain the following information:

(A) The complete name, including any and all trade name(s) under which business will be conducted pursuant to 18 O.S. (1991) § 1140, corporate or other headquarters street address and names/addresses of principal or corporate officers of the entity proposing to sell telecommunications service to the public in the State of Oklahoma. The telephone number and, if applicable, the toll-free number will also be included.

(B) If different from those provided pursuant to subparagraph (1)(A) of this Section, the names and address(es) of all officers and corporate or primary offices of the applicant for a Certificate of Convenience and Necessity located in the State of Oklahoma and the name(s) and address(es) of senior management personnel responsible for Oklahoma operations.

(C) A written affirmation, signed before a Notary Public by someone with authority to bind the corporation or entity, containing the following statements:

(i) That the information contained in the application is true and correct;

(ii) That the applicant is familiar with and will comply with all federal and state laws, and the rules and orders of this Commission;

(iii) That for each area or exchange(s) an applicant proposes to serve, the applicant agrees to offer the provisioning of service to all end-users within that area or exchange(s) on a nondiscriminatory basis;

(iv) That the applicant understands the Commission's contempt authority;

(v) That the applicant will contribute to the Oklahoma Universal Service Fund pursuant to OAC 165:59;

(vi) That the applicant will comply with the provisions of 165:55-13-10.1 and will include a statement to this effect in its tariffs;

(vii) That the applicant either provides only data service, or that prior to commencing to provide local exchange service the applicant will comply with the requirements of 17 O.S. § 131 and will collect and disburse the 9-1-1 fee as required by 63 O.S. § 2814. Such affirmation should also include a statement that applicant will provide proof to the Commission of such compliance within 30 days following Applicant's initial provisioning of local service;

(viii) That the applicant understands that before it ceases, discontinues, or curtails operations and/or service, it must file with the Commission and provide each affected customer, in the manner required by the Commission, notice of the intended action, and must also provide notice to any 911 Database Management Service Provider, pursuant to OAC 165:55-15-5;

(ix) A statement that the applicant is not currently under investigation, either in this state or in another state or jurisdiction, for violation of any deceptive trade or consumer protection law or regulation, if that is the case;

(x) A statement that the applicant has not been fined, sanctioned or otherwise penalized either in this state or in another state or jurisdiction for violation or any consumer protection law or regulation, if that is the case; and

(xi) If either of the statements required in (ix) and (x) above is untrue, a detailed explanation of the circumstances of the investigation or fine, sanction, or penalization including a detailed description of the cause(s), the number of customers involved, and current status of the proceeding.

(2) The attachments to the application shall include the following:

(A) Copies of the applicable Articles of Incorporation, and/or partnership agreement, and/or Joint Venture agreement and, where they exist, by-laws of the applicant for a Certificate of Convenience and Necessity and any entity owning a whole or controlling interest in the applicant for a Certificate of Convenience and Necessity.

(B) A copy of the applicable certificate, issued by Oklahoma's Secretary of State, to transact business in the State of Oklahoma.

(C) A copy of the Corporate Trade Name Report, issued by Oklahoma's Secretary of State, shall be provided for each and every trade name utilized by the telecommunications service provider or IXC, i.e. a "d/b/a".

(D) Proof that the third-party surety bond, surety bond or letter of credit required in subsection (f) of this Section has been obtained, if applicable.

(E) Documentation indicating the applicant's organizational structure and ownership such as:

(i) For corporations, partnerships and/or joint ventures, the applicant's stockholders annual reports and SEC 10Ks for the last three (3) years, if applicable, or, if the company is not publicly traded, its financial statements for the last three (3) years, if available, or other documentation as may be requested by the Commission.

(ii) A sole proprietor shall provide financial statements for the last three (3) years, if available, or other documentation as may be requested by the Commission.

(F) A brief description of its history of providing the requested telecommunications service, or other telecommunications services, in order to demonstrate its managerial experience. The history shall include a list of the geographic areas in which it previously provided service and/or is currently providing service and such other documentation as may be requested by the Commission. Applicants for a Certificate of Convenience and Necessity without prior experience shall list the experience of each principal officer, partner,

or the sole proprietor in order to demonstrate its managerial ability, and/or provide other documentation as may be requested by the Commission.

(G) A description of the applicant's experience in providing telecommunications services in order to demonstrate its technical abilities. In the case of applicants for a Certificate of Convenience and Necessity without prior experience, the applicant shall provide documentation which supports its technical abilities or other documentation as may be requested by the Commission.

(H) The name, address and toll-free telephone number that an end-user may contact concerning repairs and maintenance, complaints, billing questions, refunds and any other customer service-related inquiries.

(I) The contact name, address and telephone number of the individual with overall responsibility for repairs and maintenance, complaints, billing questions, refunds, and any other customer service-related inquiries. This will be the principal contact for the Commission's Consumer Services Division regarding complaints involving the telecommunications service provider.

(J) The contact name, address and telephone number of the principal contact to be utilized by the Commission's Public Utility Division regarding any questions which are not related to customer service.

(K) A list of all other states, if any, where:

(i) The applicant is authorized to operate;

(ii) Authorization to operate is pending;

(iii) A request for authorization has been denied, including the reason stated for denial, with a certified copy of the denial document attached; and/or,

(iv) Authorization has been revoked, with a certified copy of the revocation document attached.

(L) A complete set of proposed initial tariffs which include the terms and conditions of service and all rates and charges for each service classification in a format consistent with Subchapter 5 of this Chapter or a statement that the applicant will file tariffs pursuant to OAC 165:55-3-3.

(M) A description of the applicant's proposed service territory.

(N) A description of the deposit, if the applicant intends to collect deposits, and disconnection rules to be applied to end-users by the applicant, all of which shall conform to Subchapters 9 and 11 of this Chapter.

(O) A statement setting forth the accounting system to be utilized by the applicant (the FCC-approved Uniform System of Accounts or another accounting system) and a Chart of Accounts.

(P) A listing of the complete name(s), including any trade name(s), corporate or primary headquarters street address(es) and names/addresses of principal officers of any affiliates and/or subsidiaries providing telecommunications and/or other services to the entity making the application proposing to sell the requested telecommunications service to the public in the State of Oklahoma, unless otherwise ordered by the Commission.

(Q) A copy of the applicant's proposed complaints report form which is consistent with OAC 165:55-3-23. The complaint report form and complaint codes suggested by the Director of the Consumer Services Division are included as Appendix A and Appendix B, respectively, to this Chapter.

(R) A copy of the applicant's proposed letter of authorization to be used by the telecommunications service provider to obtain written authorization from an end-user to switch telecommunications service providers or a copy of the text of the proposed script of the verification, which must be approved by the Director of the Public Utility Division, consistent with OAC 165:55-19-1.

(S) A statement regarding whether the applicant intends to utilize the services of a billing agent to issue bills to end-users.

(3) The Public Utility Division Staff may issue data requests for additional information during its initial review of an application.

(4) The final contract(s), if any, between telecommunications service providers shall be provided to the Public Utility Division as soon as such contract(s) become available. Protective relief may be sought pursuant to 51 O.S.§ 24A.22.

(d) **Requirements for expanding authority under an existing CCN.** An Applicant wishing to expand its service authority under an existing Certificate of Convenience and Necessity granted pursuant to Chapters 55, 56, 57 and/or 58, must make application to the OCC and provide all information and notice as required in Sections 165:55-3-1(c) and 165:55-3-2. However, information submitted in support of a previous Application for certification, if such Application was approved by the OCC, may be used in support of the current Application by providing a written affirmation, signed before a Notary Public, and by someone with authority to bind the Applicant, stating that the previously submitted information is still true and correct, and circumstances have not changed. If the previously submitted information is no longer true and correct, or if circumstances have changed, Applicant shall submit updated information along with a written affirmation fully explaining all changed circumstances. This section shall not apply to an Applicant wishing to expand its existing service territory granted under an existing CCN. Such an application shall be filed pursuant to OAC 165:55-17-3.

(e) **Notice requirements of CCN applications.** Applicants for a Certificate of Convenience and Necessity shall provide Notice of the Application to be given by mail or personal service to the Attorney General of the State of Oklahoma. In addition, at the time the Application is filed, the Applicant shall provide an electronic copy of Notice of the Application, to the Director of the Public Utility Division for posting on the OCC website. The Director of the Public Utility Division will then place the Notice on the OCC website within five (5)

business days. The address of the Commission's website is http://www.occ.state.ok.us.

(f) **Approval requirement.** The Commission shall approve or deny such application within one hundred twenty (120) days of the date the application is filed. No Certificate of Convenience and Necessity shall be granted except by order of the Commission, after notice and hearing.

(g) **Surety requirements for an applicant for Certificate of Convenience and Necessity.** To insure the protection of the applicant's end-users, the applicant, that intends to collect deposits from end-users, for a Certificate of Convenience and Necessity shall maintain a third-party surety bond, surety bond or irrevocable letter of credit, as may be determined by the Commission during the certification process, as set forth in this subsection.

(1) An applicant that does not have at least one million dollars ($1,000,000) net book value invested in telephone plant and/or telephone facilities located in Oklahoma shall be required to post and maintain a third-party surety bond, surety bond or irrevocable letter of credit in, at a minimum, an amount sufficient for the indemnification of one hundred ten percent (110%) of its projected customer deposits.

(2) The third-party surety bond, surety bond or irrevocable letter of credit shall be maintained as long as the telecommunications service provider is furnishing telecommunications services in the State of Oklahoma pursuant to this Chapter, unless modified or released pursuant to Commission order.

(3) The Commission may modify the requirements of this subsection for good cause shown, after such notice and hearing, if any, as the Commission may require.

(h) **Transferability of certificates.** Any certificate granted under this section shall not be transferable without prior approval of the Commission and shall continue in effect until further order of the Commission.

PART 5. RECORD REQUIREMENTS

165:55-3-22. Records to be provided to the Commission

(a) **Annual report of operations.** Each telecommunications service provider and IXC shall provide to the Director of the Public Utility Division an annual report, in a format developed by the Director of the Public Utility Division, ~~and approved by the Commission after notice and hearing,~~ no later than May 1 of the year following the reporting year. Proposed revisions to the Annual Report format will be posted to the OCC website at least 90 days prior to their effective date. All carriers will be notified of the posting via e-mail, based on addresses supplied by carriers. Any carrier that objects to the proposed revisions to the Annual Report format may file an Application with the Commission requesting relief from the applicability of the format changes. The filing of an Application will suspend the applicability of the proposed format revisions until an Order is issued by the Commission. Unless an Order revising the Annual Report format is entered at least 90 days prior to the May 1 filing deadline, carriers will not be required to file an Annual Report in the revised format until the following year. ~~In addition, each telecommunications service provider shall provide a copy of the annual report required to be filed with the FCC or RUS provided that, if the telecommunications service provider's annual report includes operations outside Oklahoma, the information as to Oklahoma Corporation Commission jurisdictional operations shall be separately reported. Where the FCC or RUS annual report form is not used, the report provided to the Public Utility Division shall be in the form approved by the Commission. Each IXC shall submit its annual Report to Stockholders to the Director of the Public Utility Division no later than May 1 of each year.~~

(b) **Proof of third-party surety bond, surety bond or irrevocable letter of credit.** Where applicable, not later than May 1 of each year, each telecommunications service provider and IXC which does not have at least one million dollars ($1,000,000) net book value invested in telecommunications plant and/or telecommunications facilities located in the State of Oklahoma, shall provide annually, to the Director of the Public Utility Division, proof of the continuing existence and sufficiency of the required third-party surety bond, surety bond or irrevocable letter of credit providing coverage at a level of at least 110% of customer deposits. Such proof shall be in a format developed by the Director of the Public Utility Division and approved by the Commission.

(c) **Exchange maps.** Each telecommunications service provider shall provide the Director of the Public Utility Division two (2) copies of updated exchange maps when the boundaries of an exchange(s) are changed. The maps and descriptions shall be in sufficient detail to permit the location of exchange boundaries on the ground, and be consistent with the format set forth in this subsection.

(1) Each exchange map provided after the effective date of this Chapter shall conform to the following:

(A) One exchange service area per sheet.

(B) Each map shall be on eight and one-half by eleven inches (8.5" x 11") (or larger sheet which folds down to eight and one-half by eleven inches (8.5" x 11"), twenty pounds (20 lbs.) or heavier, white paper.

(C) Each township and range will be specified along the side of the map and as a minimum each corner section will be numbered.

(D) The outline of the exchange service area will be a heavy black line with an "E" every one inch (1") or two inches (2") along the boundary.

(E) The name of adjacent incumbent LEC exchanges will be indicated on the exchange map to identify their relative location.

(2) When said boundary map changes involve more than one telephone exchange and more than one incumbent LEC, the changes involved shall be coordinated between the incumbent LECs concerned and a "Joint Application" submitted. After an order is issued by the Commission the incumbent LECs shall submit revised exchange maps containing the revised territory, the new certificate number, the cause number, the order number,

and the date of the order approving the change. A copy of each current exchange map shall be made available for review to any interested person upon reasonable notice containing:

(A) Application number.

(B) Maps showing the changes in contrasting colors.

(C) Metes and bounds of changes.

(D) Proposed orders (one for each exchange) with complete metes and bounds of the revised exchange(s).

(d) **Competitive LEC service territories maps.** Each competitive LEC shall maintain up-to-date maps showing its service territory. The maps and descriptions shall be in sufficient detail to establish the location of incumbent LEC exchange boundaries on the ground. Each map provided shall conform to the format set out in OAC 165:55-3-22(c)(1). Two (2) copies of each map shall be provided to the Director of the Public Utility Division.

(e) **Contracts and agreements.** A copy of each contract between telecommunications service providers, or between a telecommunications service provider and an IXC affecting regulated services or rates, (including, but not limited to, toll settlement agreements, agreements for extended area service, and similar contracts), shall be provided to the Director of the Public Utility Division prior to its effective date. Such a contract will be deemed approved unless the Commission, within ten (10) days after submission, shall by order suspend effectiveness of the agreement, pending notice and hearing. The requirements of this subsection shall be applicable to all contracts and agreements except those entered into pursuant to the requirements of Subchapter 17 of this Chapter.

(f) **Contact names.** Each telecommunications service provider and IXC shall notify, in writing, the Director of the Public Utility Division and the Director of the Consumer Services Division within thirty (30) days of a change in the company-designated contacts for Public Utility Division and Consumer Services Division issues.

(1) The update shall include the name(s), address(es) and/or telephone number(s) of the designated individual(s).

(2) The contact name(s) provided pursuant to this subsection shall be the individual(s) primarily responsible for:

(A) Providing customer service;

(B) Repair and maintenance;

(C) Answering complaints;

(D) Authorizing and/or furnishing refunds to customers; and,

(E) Tariff issues.

(g) **Other information.** Each telecommunications service provider and IXC shall promptly furnish such other information as the Commission Staff may request, unless otherwise ordered by the Commission.

(h) **Annual affirmation and proof of compliance with 911 Emergency Number Act.** Each telecommunications service provider shall provide to both the Director of the Public Utility Division and the Attorney General an annual written affirmation, signed before a Notary Public by an individual granted with the authority to bind the corporation or entity, affirming compliance with its obligations set forth in 63 O.S. § 2814. Upon request by either the Director of the Public Utility Division or the Attorney General of the State of Oklahoma, the telecommunications service provider shall provide supporting documentation of compliance. This subsection shall not apply to telecommunications service providers providing data service only.

SUBCHAPTER 5. RATES AND TARIFFS

PART 3. APPROVAL AND NOTICE REQUIREMENTS

165:55-5-10. Tariff approval and revisions to tariffs

(a) Unless provided otherwise in this Chapter or provided by the laws of the State of Oklahoma, no tariff, or amendment thereto, which would change rates and charges for any regulated non-competitive service, or establish new rates for regulated non-competitive service not previously offered, shall be effective, except by order of the Commission after such notice and hearing, if any, as directed by the Commission.

(b) Notwithstanding the provisions of subsection (a) of this Section:

(1) The interexchange services provided by IXCs are determined to be competitive. Revisions to the terms and conditions of interexchange service(s) tariffs of IXCs shall become effective, without Commission order, ~~ten (10) business days~~ the day following the day ~~after the IXC provider has delivered~~ that three (3) copies of the revised tariff sheets are delivered to the Director of the Public Utility Division. With the exception of local directory assistance and local operator services, revisions to interLATA and intraLATA directory assistance and operator services of IXCs and telecommunications service providers shall become effective, without Commission order, on the date specified on the revised tariff sheets, after the IXC or telecommunications service provider has delivered three (3) copies of the revised tariff sheets to the Director of the Public Utility Division. The effective date shall be no earlier than ~~ten (10) business~~ the day following the day such ~~days after the~~ revised tariff pages are delivered to the Public Utility Division.

(2) Revisions to the price components of competitive service(s), as such service(s) are determined competitive by the Commission shall become effective after three (3) copies of the revised tariff pages have been provided to the Director of the Public Utility Division. The effective date of the tariff revision shall be stated on the face of the revised tariff page(s), which may be dated no earlier than the date provided to the Director of the Public Utility Division.

(3) Revisions to tariffs for any competitive service, which contain a combination of price and nonprice components shall become effective pursuant to OAC 165:55-5-10.1(f).

(4) Decreases to the tariff rates of a telecommunication service provider, other than for basic local exchange service, switched access service or toll, shall become effective, without Commission order, thirty (30) days after the date of filing said revisions, unless the Commission orders suspension of said tariff revisions pursuant to OAC 165:55-5-13.

(5) Revisions to the toll service tariffs of telecommunications service providers shall become effective, without Commission order, thirty (30) days after the date of filing said revisions, unless the Commission orders suspension of said tariff revisions pursuant to OAC 165:55-5-13.

(6) The filing of new service offering(s) of telecommunications service providers shall become effective, without Commission order, thirty (30) ~~forty-five (45)~~ days after the date of filing said new service offering(s), unless the Commission orders suspension of said tariff(s), pursuant to OAC 165:55-5-13.

(7) Increases to the noncompetitive tariff rates of telecommunications service providers, other than for basic local exchange service, switched access service, or toll service, shall become effective, without Commission order, thirty (30) ~~sixty (60)~~ days after the date of filing said revisions, unless the Commission orders suspension of said tariff revision(s), pursuant to OAC 165:55-5-13.

(8) Any revision or addition to noncompetitive, non-price terms and conditions of a telecommunications service provider shall become effective, without Commission order thirty (30) ~~sixty (60)~~ days after the date of filing such new or revised terms and conditions, unless the Commission orders the suspension of said tariff revisions pursuant to OAC 165:55-5-13.

(9) Any tariffed service, utilizing ICB pricing, or amendment thereto, shall become effective without Commission order according to the terms of the agreement with the customer and/or the provider's tariffs.

(10) New service offerings, by companies whose services have been deemed competitive by the Commission shall become effective after three (3) copies of the tariff page(s) have been provided to the Director of the Public Utility Division. The effective date of the tariff revision shall be stated on the face of the revised tariff page(s) and may be dated no earlier than the date provided to the Director of the Public Utility Division.

(c) When tariff revisions within the same application of a telecommunications service provider or IXC would become effective within different time frames pursuant to multiple paragraphs of subsection (b) of this Section, such tariff revisions shall become effective without Commission order pursuant to the time frame set forth in the paragraph with the longer time frame, unless the Commission orders the suspension of said tariff revisions pursuant to OAC 165:55-5-13.

(d) ~~If a tariff revision of a telecommunications service provider would become effective without Commission order pursuant to subsection (b) of this Section, but the telecommunications service provider fails to cite the specific authority for the revision by subsection and paragraph, the tariff revision shall become effective without Commission order, sixty (60) days after the date of filing said tariff revisions, unless the Commission orders the suspension of said tariff revisions pursuant to OAC 165:55-5-13.~~ If a telecommunications service provider offers a package of services that includes an intrastate retail regulated telecommunications service that was individually tariffed as of December 31, 2004, the telecommunications service provider must continue to make that service available to customers on an individual basis.

(e) The Public Utility Division may issue data requests for additional relevant information during its review of the requested revision(s).

(f) No proposed or revised tariff of a telecommunications service provider relating to basic local exchange service or switched access service shall become effective without Commission order.

(g) If an amended application is filed, the tariff revisions set forth in the amended application shall become effective without Commission order, unless suspended pursuant to OAC 165:55-5-13, on the later of the following dates: 1) the date that the tariff revisions would have become effective if not amended, or 2) the seventeenth (17th) day after the date the amended application was filed.

(h) The burden of proof to show that a proposed or revised tariff is just and reasonable shall be upon the company proposing the new or revised tariff.

(i) In reviewing a proposed or revised tariff, the Commission will protect against anti-competitive behavior and the abuse of monopoly power by rejecting proposed rate changes or proposed terms and conditions that result in predatory, anti-competitive or discriminatory pricing and provisioning or which would result in the subsidization of competitive service(s) with revenues from noncompetitive services. In reviewing rate increases and/or decreases, the Commission will consider the following factors, at a minimum:

(1) The incremental cost of the service;

(2) The potential impact on competition;

(3) The potential impact on end-users generally; and,

(4) Such other factors as the Commission may determine, after notice and hearing.

(j) Unless otherwise ordered by the Commission, all proposed rates must cover the long run incremental cost of the service, including imputation where ordered by the Commission.

(k) For purposes of this Section, the Commission shall allow an ILEC or CLEC that serves less than seventy-five thousand (75,000) access lines as of July 1, 1997, at the option of the company, to adopt the cost studies approved by the Commission for an ILEC or CLEC that serves seventy-five thousand (75,000) or more access lines or to adopt the surrogate cost studies approved by the FCC.

(l) Nothing in these rules is intended to modify, affect or nullify the responsibilities of the Commission or providers of telecommunications services as required by state or federal antitrust laws or the Communications Act of 1934, as amended by the Telecommunications Act of 1996.

(m) Not later than fifteen (15) days after either an order approving the tariff revisions issued, or after the tariff(s) become effective without suspension, an original and two (2) copies of

the approved tariff, which conforms to OAC 165:55-5-20, shall be provided to the Public Utility Division.

(n) In order to facilitate timely review in tariff revisions causes, pursuant to OAC 165:55-5-10(b), each telecommunication service provider and IXC shall answer, within ten (10) business days from the date of receipt, all data requests issued, unless an objection is filed or the parties agree in writing to a different response time.

(o) Failure to comply with subsection (m) of this Section may result in the filing of a Motion to Cease and Desist regarding the offering(s) of the revised tariff.

(p) Unless operating under the requirements of an alternative regulatory plan established by a Commission order pursuant to OAC 165:55-5-50, any telecommunications service provider may increase, decrease, or otherwise modify any or all of its rates, charges, or terms and conditions of service for existing optional local exchange services and new optional local exchange services ~~by submitting its tariffs to the Director of the Public Utility Division~~. Tariffs for new optional local exchange services shall be effective the day following the day such tariffs are ~~submitted to the Director~~ filed. Changes to tariffs for existing optional local exchange services shall be deemed approved ten (10) business days following the day such tariffs are ~~submitted to the Director~~ filed, unless suspended by Commission order.

165:55-5-10.2. Promotional offerings

(a) Promotional offerings are intended to be limited-duration programs~~, not to exceed three hundred sixty-five (365) consecutive days,~~ that are beneficial to the targeted and/or qualified customers. Promotional offerings are not intended to replace the telecommunications service provider's or IXC's obligation to seek approval of permanent rates and charges. Promotions may be repeated, provided the initial promotion and extension do not exceed three hundred sixty-five (365) consecutive days and may not be reintroduced for ninety (90) days.

(b) Telecommunications service providers and IXCs may, during promotional periods, offer customers special rate incentives. The telecommunications service provider or IXC shall notify the Director of the Public Utility Division, by ~~letter, specifying the service(s) offered, terms of the promotion, location, dates of each promotion period, and class of customer targeted by promotion.~~ submitting a completed Promotion Form, which is located on the Public Utility Division portion of the Oklahoma Corporation Commission website at: http://www.occ.state.ok.us.

(c) Promotional offerings of services that have been determined to be competitive shall become effective on the date specified in the Notice to the Director of the Public Utility Division, which may be dated no earlier than the date the Notice on the Promotion Form, which shall be no earlier than the date that notification is provided to the Director of the Public Utility Division.

(d) ~~Notification of a promotional offering regarding a~~ Promotional offerings of non-competitive services shall ~~be provided fifteen (15) days prior to the initial offering of the campaign.~~ become effective on the date specified in the Notice to the Director of the Public Utility Division, which may be dated no earlier than ten (10) business days after the date that notification is provided to the Director of the Public Utility Division.

~~(e) Any promotional offering of a non-competitive service found not to be in the best interest of the targeted and/or qualified customer(s) will be rejected by the Director of the Public Utility Division and returned to the telecommunications service provider or IXC with a brief explanation of the reason for the rejection. Notice of the rejection will be sent to the applicant within fifteen (15) days after the Commission's receipt of the notification letter.~~

~~(f) Promotions may be repeated, provided the initial promotion and extension do not exceed three hundred sixty-five (365) consecutive days in length. If the promotion has been offered for three hundred sixty-five (365) consecutive days, then the same promotion cannot be offered for one hundred eighty (180) days from the date the promotion ended.~~

165:55-5-10.3. Customer-specific contracts under ICB pricing

(a) A telecommunications service provider shall have the authority to enter into customer-specific contracts ~~for tariffed services offered~~ for business services that are unique because of size or configuration for which the rates and charges for non-residential services are developed as an ICB. ~~Customer specific contracts may include, but are not limited to:~~

~~(1) Central office based services;~~

~~(2) High-speed private line services;~~

~~(3) Customized services that are unique because of size or configuration, provided that such customized services shall not include basic local telecommunications services; and~~

~~(4) Any other service for which the Commission has authorized the telecommunications service provider to enter into customer-specific contracts pursuant to this Section.~~

(b) ~~Any~~ A list of customer-specific ~~contract~~ contracts~~, for which the rates and charges are developed as an ICB for TSPs that have competitive providers certificated by the Commission and providing services within the TSP's territory,~~ shall be submitted ~~with the information in subsection (c)~~ to the Director of the Public Utility Division, in a quarterly report provided no later than thirty (30) days after the ~~agreement is signed by both the customer and the telecommunications service provider.~~ quarter has ended with the following information for each ICB:

~~(c) Concurrent with the submission of the customer-specific contract, each telecommunications service provider shall deliver to the Public Utility Division Staff:~~

(1) Tracking No. of the ICB;

(2) Customer Name;

(3) Description of the service;

(4) Aggregate monthly rate;

(5) Aggregate nonrecurring charge(s);

(6) Proposed installation date and service expiration date;

(7) Early termination liability, if applicable, and formula used to determine the liability;

(8) Any special terms and conditions particular to the ICB;

(9) ~~Detailed cost justification, including, but not limited to, cost studies and/or incremental costs and/or detailed documentation demonstrating that the rates included in the customer specific contract yield revenues that are equal to or greater than the customer specific long run incremental costs of the service; and~~ A verified statement that the price of any service offered under the ICB contract is above the pricing standard in OAC 165:55-5-10(j) of the service or services offered under the ICB contract.

(10) ~~Statement or showing that a competitive provider is actively providing services.~~

For purposes of this Section, the Commission shall allow an ILEC or CLEC that served less than seventy-five thousand (75,000) access lines as of July 1, 1997, at the option of the company, to adopt the cost studies approved by the Commission for an ILEC or CLEC that serves seventy-five thousand (75,000) or more access lines or to adopt the surrogate cost studies approved by the FCC.

(~~d~~c) ~~The Public Utility Division may issue requests for additional relevant information during its review of the contract. Each telecommunications service provider shall answer, within ten (10) business days from the date of receipt, all requests issued; unless an objection is filed or the parties agree in writing to a different response time.~~ At the direction of the Commission, the Director of the Public Utility Division shall periodically select a sample of ICBs for review. If a review of any ICB reveals that said ICB is not fair, just, reasonable, not priced at or above LRIC, or not in the public interest, the Commission may issue an order to revoke the TSP's ability to enter into ICBs until further order by the Commission.

~~(e) After a rate element has been provided within an ICB with identical rates, terms and conditions five (5) times, concurrent with the sixth request for the rate element, the telecommunications service provider shall file an application for a tariff revision. This subsection would not apply to ICBs filed in response to a competitive offer pursuant to subsection (b) of this section.~~

165:55-5-11. Type of notices

(a) **Notice.** Except with respect to tariffs filed pursuant to OAC 165:55-5-10(b) or where the Commission, by order, directs otherwise, any notice of hearing on an application for approval or amendment of rates or charges for service shall be published once a week for two consecutive weeks in a newspaper(s) of general circulation within the territory served by the telecommunications service provider.

(b) **Notice in special cases.** The Commission may approve, by order, a tariff for an experimental or new service offering upon such notice, or without notice, and with or without hearing as the Commission may direct. However, no notice of hearing shall be required for tariff revisions that become effective without suspension pursuant to OAC 165:55-5-10(b).

(c) **Notice of tariff revisions and new service offerings by IXCs and telecommunications service providers.** IXCs and telecommunications service providers shall serve proposed tariff revisions on the Office of the Attorney General and other providers as follows:

(1) IXCs, at the time of their filing with the Commission, shall ~~serve~~ provide a copy of their proposed tariffs and tariff revisions ~~on each IXC authorized to provide interexchange service in the State of Oklahoma and on~~ to each telecommunications service provider ~~which~~ that has previously requested in writing to receive such filings.

(2) Telecommunications service providers, at the time of their filing with the Commission, shall ~~serve~~ provide a copy of their proposed tariff revisions pursuant to OAC 165:55-5-10 ~~on~~ to each IXC ~~authorized to provide interexchange service in the State of Oklahoma~~ and telecommunications service provider ~~which~~ that has previously requested in writing to receive such filings.

(3) Any written request required by this Section shall be made directly to the IXC or telecommunications service provider.

(4) An applicant may require reimbursement of the postage and nonlabor-related cost of copying from the party(ies) requesting information pursuant to this subsection. However, under no circumstances shall reimbursement be required from the Attorney General.

(d) **End-user notice prior to rate increase for noncompetitive services.** At least twenty (20) days prior to implementing any increased rate of a noncompetitive service to an end-user, each IXC and telecommunications service provider must provide notice to affected end-users of the increase. Said notice shall be provided by any of the following:

(1) Prominent display on the end-user's bill;

(2) Direct mailing;

(3) Prominent display on an insert in the end-user's bill; or,

(4) Any other method of notice approved by the Director of the Public Utility Division.

(e) **End-user notice of rate increase for competitive services.** Prior to or concurrent with the effective date of any increased rate to an end-user, for a service determined to be competitive, each telecommunications service provider or IXC, shall provide notice to the Director of the Public Utility Division, the Office of the Attorney General and the affected end-users of the rate increase. The notice shall be provided by any of the following:

(1) Prominent display on the end-user's bill;

(2) Direct mailing;

(3) Prominent display on an insert in the end-user's bill; or

(4) Any other method approved by the Director of the Public Utility Division.

(f) **End-user notice of service offering restrictions/limitations.** Any restrictions/limitations imposed for "non-voice" minutes of user beyond a maximum identified in the provider's tariff and approved by the OCC, shall be noticed under the following conditions:

(1) Written notice of the restriction/limitation and clear and concise explanation of when the penalty is imposed will be given to the end-user(s) prior to or concurrent with

the initial bill for the service offering which contains the restriction/limitation. The notice will advise the end-users of the exact restriction/limitation and the penalty assessed.

(2) The notice shall be provided by any of the following:

(A) Prominent display on the end-user's bill;

(B) Direct mailing;

(C) Fulfillment and/or welcome packages;

(D) Prominent display on an insert in the end-user's bill; or

(E) Any other method approved by the Director of the Public Utility Division.

(g) Failure to provide the information required by this Section at the time of filing may result in the proposed tariff revision(s) and/or new service offering(s) being suspended pursuant to OAC 165:55-5-13 and, if suspended, the tariff revision(s) and/or new service offering(s) shall not be placed into effect under any circumstances, until further order of the Commission.

PART 7. MISCELLANEOUS TARIFF REQUIREMENTS

165:55-5-34. Data and information on proposed tariff revisions

(a) Except as otherwise provided for in OAC 165:55-5-35, ~~concurrent with the~~ when filing ~~of~~ proposed tariff revisions for noncompetitive and new services, as provided in OAC 165:55-5-10(b) and 165:55-5-10.1(d), with the exception of OAC 165:55-5-10(b)(9), at least twenty (20) days prior to the effective date of the filing, each IXC and telecommunications service provider shall deliver to the Public Utility Division Staff and Office of the Attorney General:

(1) A copy of the Notice required by OAC 165:55-5-11(d) that will be sent to the end-users affected by any increased rate or Notice required by OAC 165:55-5-11(f) that will be sent to the end-users affected by the restriction/limitation(s);

(2) A customer impact study which shows the number of Oklahoma customers affected, and the dollar and percentage impacts of the proposed change(s) on Oklahoma customers' rates;

(3) A telecommunications service provider offering packages of bundled services containing both regulated and non-regulated services, or both intrastate and interstate services shall, at the time of filing or submitting the bundled packages to the PUD, provide the methodology used to separate revenues in order to identify jurisdictional revenues to be assessed for funding state regulatory fees and assessments.

(~~3~~4) The total revenue impact in Oklahoma of the proposed change(s);

(~~4~~5) If the Oklahoma-specific information required by paragraphs (2) and (3) of this subsection is unavailable, a statement that so states; and

(~~5~~6) The rationale for the proposed tariffs.

(b) Consistent with OAC 165:55-5-20(a), a copy of the existing tariff page(s) with the requested change(s) denoted shall be filed with the application, and shall be included in the copy sent to the Attorney General, but need not be included with copies of the tariff revision sent to the service list.

(c) The information addressed in paragraphs (2), ~~(3)~~(4) and ~~(4)~~(5) in subsection (a) of this Section will be accepted, but not required to be provided, from IXCs.

(d) In addition to the foregoing information and concurrent with the filing of a proposed rate increase or proposed new service offering, unless provided on-line and available for public viewing, the telecommunications service provider shall deliver to the Public Utility Division Staff a comparison of the proposed tariff and the tariffs of the applicant in effect in Arkansas, Kansas, Missouri and Texas, to the extent the provider operates in such states. The telecommunications service provider shall provide the URL, section, and page number where the tariffs may be viewed, if available on the Internet website.

(e) The Public Utility Division may issue data requests for additional relevant information during its review of the requested revision(s). Each telecommunication service provider and IXC shall answer, within ten (10) business days from the date of receipt, all data requests issued, unless an objection is filed or the parties agree in writing to a different response time.

(f) Failure to provide the information required by this Section at the time of filing may result in the proposed tariff revision(s) and/or new service offering(s) being suspended pursuant to OAC 165:55-5-13 and, if suspended, the tariff revision(s) and/or new service offering(s) shall not be placed into effect under any circumstances, until further order of the Commission.

165:55-5-36. Returned Check Charge

Any provider of telecommunications services may impose a returned check charge of up to $25, provided that customers are notified in advance of the charge via their monthly bills or inserts. Requests for returned check charges in excess of $25 must be supported by cost justification.

PART 11. OKLAHOMA PLAN

165:55-5-70. Packaging

(a) In addition to other pricing flexibility identified in this Part, an ILEC which has implemented the Oklahoma Plan may offer basic local exchange service, ~~individually or,~~ as part of a package of services ~~if all services are regulated telecommunications services~~.

(b) An ILEC ~~which~~ that has implemented the Oklahoma Plan may continue to use packaging or combinations allowed pursuant to OAC 165:55-5-10.3.

~~(c) All new packages or combinations shall meet the following conditions:~~

~~(1) A package of regulated services that includes Basket 1 Services shall be priced as follows:~~

~~(A) Each Basket 1 service of the package shall be priced at either its tariffed rates or at a price that is~~

~~above the LRIC of the Basket 1 service(s) when combined, plus 20% of the LRIC, to assure recovery of appropriate joint and common costs and avoid cross subsidization between services within the package, or by applying imputation where appropriate;~~

~~(B) Each Basket 2 and 3 service of the package shall be priced above the LRIC of the service when combined, plus 20% of the LRIC, to assure recovery of appropriate joint and common costs and avoid cross subsidization between services within the package, or by applying imputation where appropriate;~~

~~(C) Each Basket 4 service of the package shall be priced above the LRIC of the services when combined, or by applying imputation where appropriate.~~

~~(2) A package of regulated services that does not include Basket 1 services shall be priced for each service in the package in accordance with the pricing requirements specified for such service(s)' Basket.~~

~~(3) A package of regulated services filed pursuant to this subsection shall become effective, without Commission order, thirty (30) days after the date of filing of the tariff, unless suspended by Commission order pursuant to OAC 165:55-5-13.~~

(~~d~~c) ~~Packaging of regulated and not regulated services~~ Packages filed by an ILEC shall become effective, without Commission order, ~~thirty (30) days~~ the day ~~after~~ following the ~~date~~ day such ~~of filing of the tariff, unless suspended by Commission order pursuant to OAC 165:55-5-13.~~ package is filed. Changes to packages shall be deemed approved ten (10) business days following the day such package is filed, unless suspended by Commission order pursuant to OAC 165:55-5-13.

(d) Each regulated service in a package shall be priced at no lower than the lower of the current tariffed rate or LRIC, unless otherwise approved by the Commission.

(e) If an ILEC offers a package of services that includes an intrastate retail regulated telecommunications service that was individually tariffed as of December 31, 2004, the ILEC must continue to make that service available to customers on an individual basis.

SUBCHAPTER 22. RESOLUTION DISPUTES

165:55-22-7. Formal expedited dispute resolution

(a) **Need for expedited resolution.** This procedure is a formal proceeding for dispute resolution with an expedited ruling when the dispute directly affects the ability of a party to provide uninterrupted service to its customers or precludes the provisioning of any service, functionality or network element. The arbitrator has the discretion to determine whether the resolution of the complaint may be expedited based on the complexity of the issues or other factors deemed relevant. The provisions and procedures relating to OAC 165:55-22-5 applies, except as otherwise specifically set forth in this Section.

(b) **Response to complaint.** The respondent shall file a response to the complaint within five (5) business days after the filing of the complaint and shall serve a copy of the response on the complainant, the Office of the Attorney General, the Office of General Counsel, and to the Director of the Public Utility Division. The response shall specifically affirm or deny each allegation in the complaint.

(~~b~~c) **Process.** Any request for expedited ruling shall be filed at the same time and in the same document as the complaint filed pursuant OAC 165:55-22-5. The complaint shall be entitled "Complaint and Request for Expedited Ruling." In addition to the requirements listed in section OAC 165:55-22-5, the complaint shall also state specific circumstances that make the dispute eligible for an expedited ruling.

(~~c~~d) **Notice and hearing.** After reviewing the complaint and the response, the arbitrator will determine whether the complaint warrants an expedited ruling. If so, the arbitrator shall schedule a prehearing conference with the parties to the arbitration. The arbitrator shall make arrangements for the hearing to address the complaint, which shall commence no later than seventeen (17) days after filing of the complaint. The arbitrator shall notify the parties of the date, time, and location of the hearing not less than three (3) days before the hearing. The hearing shall be transcribed by a court reporter designated by the arbitrator. If the arbitrator determines that the complaint is not eligible for an expedited ruling, the arbitrator shall so notify the parties within five (5) days of the filing of the response.

(~~d~~e) **Recommendation.** Timeliness and appeals to the arbitrator's recommendation shall be governed by the following guidelines:

(1) The oral recommendation of the arbitrator shall be filed with the Commission within three (3) days after the close of the hearing and shall be faxed to all parties of record in the dispute resolution proceeding. The recommendation of the arbitrator shall be based upon the record of the dispute resolution hearing, and shall include a specific ruling on each of the disputed issues presented for resolution by the parties.

(2) Within three (3) days from the date of issuance of the arbitrator's recommendation, any party may appeal the arbitrator's recommendation to the Commission *en banc* by the filing of a written appeal. The appellant shall serve, concurrent with filing, copies of the appeal and notice of hearing for the appeal to all parties of record and the arbitrator. The appeal shall be heard by the Commission *en banc* within five (5) days of the filing of such an appeal.

(3) With respect to the recommendation by the arbitrator, the Commission *en banc* may affirm, reverse, or modify the findings of fact or conclusions of law of the arbitrator based on the record, hold additional hearings, or may remand the cause to the arbitrator for further hearing. The Commission shall enter its order on the complaint no later than thirty (30) days after the filing of the complaint, unless otherwise agreed to by the parties.

SUBCHAPTER 23. WIRELESS ELIGIBLE TELECOMMUNICATIONS CARRIER

PART 1. GENERAL PROVISIONS

165:55-23-3. Records to be provided to the Commission

(a) **Tariffs or service offerings.** Prior to any wireless carrier, who has been designated an ETC, requesting funds from the Federal Universal Service Fund (FUSF), the Oklahoma Universal Service Fund (OUSF), or the Oklahoma Lifeline Fund (OLF), and within thirty (30) days of receiving ETC status and prior to commencing to provide the Supported Services, the wireless ETC shall make an informational filing with the Commission of a complete set of its tariffs or service offerings containing all of its Supported Services. Failure to comply with this Section may result in the filing of an application by the Director of the Public Utility Division to revoke the wireless carrier's ETC designation.

(b) **Location of records.** All records required by this Subchapter shall be kept at the general office of each wireless ETC and shall be made available to the Commission or its authorized representative upon reasonable request. Each wireless ETC governed by this Subchapter shall keep all of its books and records in accordance with good business practices and as required by this Subchapter, and at such place as they are normally kept in the usual course of business. The wireless ETC shall keep the Commission advised as to the location of these records and shall make them available to the Commission at reasonable times for examination and inspection at a location designated by the Commission.

(c) **Retention of records.** All records required by this Subchapter shall be preserved for two (2) years.

(d) **Contact names.** Each wireless ETC shall notify, in writing, the Director of the Public Utility Division and the Director of the Consumer Services Division within thirty (30) days of a change in the company-designated contacts for Public Utility Division and Consumer Services Division issues.

(1) The update shall include the name(s), address(es) and/or telephone number(s) of the designated individual(s).

(2) The contact name(s) provided pursuant to this subsection shall be the individual(s) primarily responsible for:

(A) Providing customer service;

(B) Repair and maintenance;

(C) Answering complaints;

(D) Authorizing and/or furnishing refunds to customers; and,

(E) Tariff issues.

(e) **Other information.** Each wireless ETC shall promptly furnish such other information as the Commission Staff may reasonably request, unless otherwise ordered by the Commission.

(f) **Annual affirmation and proof of compliance with the 911 Wireless Number Act.** Each wireless ETC shall provide to both the Director of the Public Utility Division and the Attorney General an annual written affirmation, signed before a Notary Public by an individual with the authority to bind the wireless ETC, affirming compliance with its obligations set forth in 63 O.S. § 2841 *et seq*. Upon request by either the Director of the Public Utility Division or the Attorney General of the State of Oklahoma, the wireless ETC shall provide supporting documentation of compliance.

(g) **Annual certification under 47 CR § 54. 314 and Reporting of Universal Service Offerings.** Each wireless ETC shall submit documentation, as necessary and requested by the Director of the Public Utility Division, for the Commission to file an annual certification with the Administrator of the federal USF and the FCC stating that all federal high-cost support provided to such carriers within that State will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. Such submissions shall be received by the Commission no later than September 1 of each year or upon such other date as is agreed upon between the Commission and the wireless ETC.

(1) The wireless ETC shall file a report, on a date agreed upon by the wireless ETC and the Commission, which includes:

(A) A notarized statement that the wireless ETC's Universal Service offering(s) in designated service areas of Oklahoma contain the services required under the Act and Federal Rules for the receipt of USF funds, and

(B) A description of all the wireless ETC's rate plans, setting forth the rates, minutes of use and terms and conditions of service of said plans, along with confirmation that each such plan provides the Supported Services.

(2) The wireless ETC shall include in the report information specific to designated service areas of Oklahoma including the amount of federal universal service funds received, a description of how such funds have been used and a certification that such funds have been used only for the provision, maintenance and upgrading of facilities and services for which the support is intended. If requested by the Commission, the wireless ETC shall make available to the Commission all documents and other information regarding such expenditures for verification purposes.

(h) **New Service.** If the wireless ETC provides a new service to customers in Oklahoma subsequent to the annual reporting date set forth in this Section, it will within thirty (30) days of first making such service available to customers, file an affidavit, signed by an individual authorized to bind the company, stating the information set forth above with respect to such service.

(i) **Annual report of operations.** No later than May 1 each year, unless otherwise determined by the Commission, each wireless ETC shall provide an annual report of operations for the preceding calendar year, to the Director of the Public Utility Division, in a format approved by the Director of the Public Utility Division ~~and the Commission~~. In addition, each wireless ETC shall provide a copy of any annual report required to be filed with any federal regulatory agency(ies) ~~provided that, if the wireless ETC's annual report includes operations outside Oklahoma, the information as to operations within the State of Oklahoma shall be separately reported~~. As a component part of the annual report of operations, each wireless ETC shall attach a copy of its Annual Report to Stockholders.

(j) **Complaints report.**

(1) Each wireless ETC shall maintain customer complaints that have been received by the company in a manner that includes, at a minimum:

(A) The end-user name;

(B) The account number;

(C) The applicable complaint code;

(D) The date the complaint was filed; and,

(E) The amount of refund, if any, given.

(2) If the account number only is utilized, a cross-reference with the end-user's name must also be readily available.

(3) The categories of complaints to be used shall be negotiated between the wireless ETC and the Director of the Consumer Services Division, subject to the approval of the Commission. Lists of the suggested customer complaint codes are attached as Appendices B and C to this Chapter.

(4) Each complaint shall count as a separate report regardless of whether subsequent reports relate to the same physical defect, difficulty, or dissatisfaction with the provision of the wireless carrier's services.

(5) The wireless ETC shall submit annually a customer complaint report containing a record of trouble/complaint calls from the wireless ETC's Oklahoma customers and/or such other information that indicates the nature of the customer's service complaint.

(6) The wireless ETC will provide such other information as may be requested, from time to time, by the Commission Staff.

(k) **Report attestation.** All reports required by this subchapter to be submitted to the Commission shall be attested to by an officer or authorized agent of the wireless ETC.

(l) **Due dates of reports.** All periodic reports required by this Commission must be received on or before the following due dates unless otherwise specified in this Chapter or unless otherwise agreed to by the Director of the Public Utility Division:

(1) Annual affirmation and proof of compliance with the Wireless 911 Emergency Number Act - One hundred twenty (120) days after the end of the reporting period of the Wireless ETC. The affirmation shall include a verification that the information contained in the E911 emergency database has been reconciled with the information maintained by the company.

(2) Special and additional reports - As may be prescribed by the Commission.

(m) **Name changes and/or trade name additions and/or address changes.** ~~Tariff revisions~~ Each wireless ETC shall file with the Commission an application to reflect a change to the name and/or change, deletion or addition of a trade name under which the wireless ETC will be doing business in the State of Oklahoma, and/or change of address that shall become effective, without Commission order, on the date of filing such ~~tariffs~~ an application, provided the filing contains an attestation required by paragraph (5) of this Subsection. The request for name change or request for change, addition, or deletion of a trade name shall be accompanied by the following, as applicable:

(1) An amended Certificate of Incorporation effecting a change of name pursuant to 18 O.S. § 1076, 1077 or 1031;

(2) A Trade Name Report filed with the Secretary of State as provided in 18 O.S. § 1140;

(3) A Withdrawal of Trade Name Report filed with the Secretary of State as provided in 18 O.S. § 1140.1;

(4) A Transfer of Trade Name Report filed with the Secretary of State as provided in 18 O.S. § 1140.2; and,

(5) An attestation that ~~the tariffs are identical~~ no revisions are being made, except for the name change or change, addition or deletion of a trade name~~, to the existing tariffs~~ of the Wireless ETC.

165:55-23-7. Content of bills

Wireless ETCs shall develop a bill design that can be easily interpreted by their customers and ~~clearly sets forth separate charges~~ complies with federal billing requirements for each Supported Service.

165:55-23-11. Minimum service standards

(a) The purpose of this Section is to create a uniform standard governing the minimum components of the Supported Services for all end-users of wireless ETCs. Supported Services shall be offered by each wireless ETC pursuant to OAC 165:55-23-15 and 165:55-23-17.

(1) Each wireless ETC shall make available to each end-user subscribing to its Supported Services within its ETC designated service area the following service features:

(A) Local usage for Supported Services at uniform rates for end-users of a given class within its designated service area ~~without usage sensitive charges~~;

(B) Dual tone multi-frequency signaling or its functional equivalent;

(C) Single-party service or its functional equivalent:

(D) Access to emergency services;

(E) Emergency telephone number services capable of automatic number identification, automatic location identification and call routing facilities to facilitate public safety response; e.g., Enhanced 911 Service, where the local government agency serving the end-user has in place a Public Safety Answering Point;

(F) Access to interexchange service;

(G) Access to telecommunications relay services by dialing 711;

(H) Access to Directory Assistance service;

(I) Access to operator services; ~~and~~

(J) Toll limitation and/or blocking for qualifying low-income consumers~~.~~; and

(K) Unlimited local calling for Lifeline subscribers.

[OAR Docket #05-571; filed 4-7-05]

TITLE 165. CORPORATION COMMISSION CHAPTER 55. TELECOMMUNICATIONS SERVICES

[OAR Docket #05-570]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 25. Homeland Security and Critical Infrastructure [NEW]
165:55-25-1. Purpose and scope [NEW]
165:55-25-2. [RESERVED]
165:55-25-3. Definitions [NEW]
165:55-25-4. [RESERVED]
165:55-25-5. FBP Security Plan [NEW]
165:55-25-6. [RESERVED]
165:55-25-7. Reporting requirements [NEW]
165:55-25-8. [RESERVED]
165:55-25-9. Cost recovery [NEW]
165:55-25-10. Commission authorized participation [NEW]
165:55-25-11. Confidentiality [NEW]
AUTHORITY:
Oklahoma Corporation Commission
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None
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A Notice of Proposed Rulemaking was filed on August 27, 2004. The following rule changes reflect the discussion and study of the technical conferences held with industry as well as public comment.

A new Subchapter of rules have been created at OAC 165:55-25, the general purpose of which involve Homeland Security and Critical Infrastructure and are as follows:

OAC 165:55-25-1 is added to encourage telecommunication service providers to take all reasonable measures necessary to protect their critical infrastructures from extended interruption of service from all extraordinary events, natural and man-made, and requires that each telecommunication service provider seeking cost recovery for security measures from Oklahoma jurisdictional ratepayers shall develop, implement, and maintain a Critical Infrastructure and Security Plan in accordance with industry standards and as further outlined in these Homeland Security rules.

OAC 165:55-25-2 is reserved.

OAC 165:55-25-3 is added to define the words and terms as used in Subchapter 25, unless the context clearly indicates otherwise.

OAC 165:55-25-4 is reserved.

OAC 165:55-25-5 is added delineating the components of a proposed security plan.

OAC 165:55-25-6 is reserved.

OAC 165:55-25-7 is added establishing security plan reporting requirements necessary for cost recovery.

OAC 165:55-25-8 is reserved.

OAC 165:55-25-9 is added establishing rules for cost recovery.

OAC 165:55-25-10 is added establishing rules for Commission authorized participation in a security related cause.

OAC 165:55-25-11 is added establishing rules for protecting confidential information gathered pursuant to the requirements found in these Homeland Security rules.
CONTACT PERSON:
Kelli Leaf (405) 521-6024

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2005:

SUBCHAPTER 25. HOMELAND SECURITY AND CRITICAL INFRASTRUCTURE

165:55-25-1. Purpose and scope

(a) The purpose of this Subchapter is to encourage facilities-based providers (FBPs) to take all reasonable measures necessary to protect their critical infrastructures from extended interruption of service from all extraordinary events, natural and man-made.

(b) The Corporation Commission encourages FBPs to develop, implement, and maintain Homeland Security and Critical Infrastructure Plans according to the industry standards enumerated in sub-section (d) below.

(c) To the extent that a FBP seeks cost recovery for the implementation of Homeland Security and/or Critical Infrastructure protections, the FBP shall comply with all provisions of this Subchapter.

(d) Each FBP serving Oklahoma jurisdictional customers is encouraged to follow the most current Network Reliability and Interoperability Council (NRIC) Best Practices (www.bell-labs.com/cgi-user/krauscher/bestp.pl) security guidelines and standards and the National Fire Protection Association's ("NFPA") NFPA 1600 - Standard on Disaster/Emergency Management and Business Continuity Programs (http://www.nfpa.org/PDF/nfpa1600.pdf?src=nfpa), as may be amended from time to time, for use as guidelines for protecting the FBP's Critical Infrastructure from extended service interruption.

(e) Each FBP seeking cost recovery for security measures from Oklahoma jurisdictional customers shall develop, implement, and maintain a Critical Infrastructure and Security Plan in accordance with this Subchapter.

(f) If the FBP has implemented a Security Plan or process in accordance with the applicable industry guidelines but is not seeking or receiving cost recovery for security-related costs, the FBP shall submit the Certification Letter required by OAC 165:55-25-7(f) and the Plan shall be subject to review pursuant to the Authorized Participation and Confidentiality provisions of OAC 165:55-25-10 and OAC 165:55-25-11. The FBP is not otherwise required to comply with the provisions of this Subchapter.

(g) The Commission retains its jurisdictional and supervisory authority to address the reasonableness and/or prudence of any proposed security cost recovery.
(h) Nothing in this Subchapter shall relieve any FBP from any duty otherwise prescribed by the laws of the State of Oklahoma or the Commission's rules.
(i) Nothing in this Subchapter is intended to divest the FBP of its right to object to any discovery requests from intervenors seeking access to "Highly Sensitive Confidential" materials.
(j) If any provision of this Subchapter is held invalid, such invalidity shall not affect other provisions or applications of this Subchapter which can be given effect without the invalid provision or application, and to this end, the provisions of this Subchapter are declared to be severable.

165:55-25-2. [RESERVED]

165:55-25-3. Definitions

The following words and terms, when used in this Subchapter 25, shall have the following meaning, unless the context clearly indicates otherwise:

"Annual Report" means the Annual Report submitted by Commission Staff to the Commission beginning December 30, 2005 and by July 1 of each year thereafter, summarizing the results of Staff's review of each FBP's Security Plan (and any Plan Update Reports), along with any recommendations that Staff may have regarding such Plan(s).

"Authorized Participant" means those persons authorized by the FBP or as may otherwise be authorized by law and/or ordered by the Commission, to view highly sensitive confidential information. Such authorization shall be granted on a case-by-case basis and may extend to the FBP, state government officials, persons having been granted intervenor status by the Commission and Commission authorized designees of the parties.

"Certification Letter" means the written certification to the Director of the Public Utility Division made August 1, 2005 and March 1 of each subsequent year thereafter, indicating that the FBP has updated the Plan and/or previous Plan Update Reports, has a Plan but is not seeking cost recovery or has no Plan in place.

"Critical Infrastructure" means the property of a FBP located in the State of Oklahoma, comprised of either physical assets or computer software which, if severely damaged or destroyed, would have a significant impact on the ability of the FBP to serve large numbers of customers for an extended period of time, would have a detrimental impact on the reliability or operability of the telecommunications grid, or would cause significant risk to public health and safety.

"FBP" or **"Facilities-Based Provider"** means all carriers regulated by the Commission, other than wireless Eligible Telecommunications Carriers, that own, operate or otherwise control facilities, network and /or other physical plant used to provide telecommunications to persons in Oklahoma.

"Highly Sensitive Confidential" means that the information is of such a sensitive nature that its public disclosure could be harmful to the security of a FBP's critical infrastructure and as such it may only be viewed by those persons authorized by the FBP or as may otherwise be ordered by the Commission.

"NFPA" means National Fire Protection Association.

"NRIC" means Network Reliability and Interoperability Council.

"Plan" means a Homeland Security and Critical Infrastructure Plan including any subsequent Plan Update Reports that have been prepared with reference to NRIC and/or NFPA guidelines.

"Plan Update Report" means the written redlined changes made by the FBP updating the Plan and/or previous Plan Update Reports. At the FBP's option, changes will either be redlined or a history of changes may be maintained.

"Security Cost Rider" means the per billing unit rate mechanism whereby a FBP may, upon approval and Order of the Commission, recover the costs of providing security for its Critical Infrastructure as defined under this Subchapter 25.

165:55-25-4. [RESERVED]

165:55-25-5. FBP Security Plan

(a) Each FBP is encouraged to prepare and make available for inspection, a "Homeland Security and Critical Infrastructure Plan" ("Plan") that has been prepared with reference to the NRIC safety guidelines and standards.
(b) The Plan shall be marked as "Highly Sensitive Confidential" and designate those facilities that the FBP considers to be Critical Infrastructure (physical assets and computer software as defined in OAC 165:55-25-3 above), and shall set forth the FBP's measures to secure such facilities from extended service interruption. The Plan shall also include an estimate of the costs necessary to achieve such measures.
(c) The Plan shall remain on site at the FBP's business office in accordance with OAC 165:55-25-7(g) below and shall have the most current version of the redlined Plan Update Report attached to the clean version of the FBP's latest Plan. At the FBP's option, changes will either be redlined or a history of changes may be maintained.
(d) The Plan shall list all locations deemed by the FBP to be critical as well as identification of any subsequently increased security measures. All locations and security measures shall be identified by code known only to the utility and designated state government officials and their designees.
(e) Any subsequent security measures identified in the Plan shall contain an estimate of the cost necessary to implement such measures, a description of the measures necessary to adequately secure each specific location and an estimated schedule for completion of each measure.
(f) All locations identified by the Plan that require additional security measures shall be prioritized by the FBP.
(g) Beginning December 30, 2005 and on July 1 of each year thereafter, Commission Staff shall submit an Annual Report marked as "Highly Sensitive Confidential" to the Commission summarizing the results of Staff's review of each FBP's Plan (and any Plan Update Reports), along with any recommendations that Staff may have regarding such Plan(s).

(h) Beginning December 30, 2005, where the Attorney General elects to submit recommendations to the Commission regarding a FBP's Plan, such recommendations shall be marked as "Highly Sensitive Confidential" and shall also be due by July 1 of each subsequent year thereafter.

165:55-25-6. [RESERVED]

165:55-25-7. Reporting requirements

(a) Subsequent to the preparation of the initial Plan prepared under OAC 165:55-25-5(a), each FBP shall prepare a Plan Update Report by March 1 of each succeeding year, following the same format as the initial Plan with redlines of all new changes, marked "Highly Sensitive Confidential" and kept on site at the FBP's business office.

(b) Each subsequent Plan Update Report shall update the previous year's report by indicating for each specific coded location, all costs and completion dates (actual and projected) for all current and prior additional security measures claimed under this Subchapter.

(c) For those security measures previously reported that have not yet been completed, revised estimated costs and estimated completion dates shall be provided.

(d) The Plan Update Report shall also include (by specific location) a description of each proposed security measure that has not been previously reported, the estimated costs for each, as well as the estimated completion date for each measure.

(e) Costs reflected in the initial Plan and in subsequent Plan Update Reports, whether estimated or actual, shall be identified as either capital or expense costs.

(f) Beginning August 1, 2005 and by March 1 of every year thereafter, each FBP shall submit a Certification Letter to the Director of the Public Utility Division, marked as "Highly Sensitive Confidential" and certifying that as of the date of the Certification Letter:

(1) The FBP does not have a Homeland Security and Critical Infrastructure Plan as contemplated and defined by this Subchapter;

(2) The FBP does not have a Homeland Security and Critical Infrastructure Plan as contemplated or defined by this Subchapter but has otherwise taken steps to secure its facilities and Critical Infrastructure and is not seeking cost recovery under this Subchapter;

(3) The FBP does have a Plan but is not seeking cost recovery; or

(4) The FBP has prepared its Plan Update Report updating the Plan and/or previous year's Plan Update Report and that the redlines contained within the current Plan Update Report encompass in the entirety, all of the changes made to the FBP's Plan since the Plan's inception or the previous year's certification and that the Plan is available for Commission and/or Attorney General review at the FBP's local place of business.

(g) A FBP shall not be required to file its initial Plan or any of its subsequent Plan Update Reports with the Commission. Each FBP shall instead, secure and maintain on site, at the FBP's local place of business, its initial Plan and all subsequent Plan Update Reports.

165:55-25-8. [RESERVED]

165:55-25-9. Cost recovery

(a) Each FBP seeking cost recovery of expenditures related to securing its Critical Infrastructure shall prepare and make available for inspection, its Plan and any subsequent Plan Update Reports in accordance with this Subchapter.

(b) Each FBP shall file an Application with the Commission for cost recovery as provided for within this Subchapter. Such cost recovery shall only occur to the extent the FBP has incurred all or a portion of its actual security-related costs.

(c) Unless otherwise ordered by the Commission, a FBP shall have the burden of proving compliance with all of the provisions of this Subchapter prior to obtaining cost recovery for security related measures.

(d) The total costs incurred under this Subchapter shall be combined for recovery purposes, for consideration by the Commission.

(e) All costs approved by the Commission for recovery, shall be recovered from the FBP's customers through a "Security Cost Rider" based upon the number of access lines for the FBP and shall be subject to annual true-up.

(f) Unless otherwise ordered by the Commission, A FBP shall immediately discontinue recovery of the "Security Cost Rider" when the earlier of the following occurs: natural expiration due to the full recovery provided for in a Rider granted under this Subchapter or forced expiration pursuant to OAC 165:55-25-9(g). Under no circumstances, shall the FBP be permitted to double recover Homeland Security and Critical Infrastructure related costs. Where a "Security Cost Rider" is utilized, Homeland Security and Critical Infrastructure related costs shall not be recoverable through a rate increase pursuant to 17 O.S. §137 et seq. or from the Oklahoma Universal Service Fund ("OUSF") pursuant to 17 O.S. §139.106.

(g) Unless otherwise ordered by the Commission, all "Security Cost Riders" approved by the Commission, shall expire five years from the initial date of the "Security Cost Rider's" implementation.

(h) Upon the filing of a cost recovery request by a FBP, Commission Staff, the state Attorney General's office (based upon that entity's statutory authority) and all other Authorized Participants shall review the cost recovery proposal submitted by the FBP and file testimony in accordance with:

(1) Any applicable protective orders issued by the Commission in the security-related cost recovery cause;

(2) OAC 165:55-25-11 (below);

(3) The Commission's Rules of Practice (OAC 165:5); and

(4) Any other protective measures or requirements prescribed by law or the Commission.

(i) Testimony of Commission Staff, the state Attorney General and all other Authorized Participants shall detail each of the parties' respective recommendations and any objections to

the FBP's Plan and the FBP's request for cost recovery related to the Plan. Also in accordance with the Commission's Rules of Practice, Commission Staff, the state Attorney General and all other Authorized Participants shall provide copies of their respective individual testimonies to one another, with redacted versions of each individual testimony filed with the Court Clerk at the Commission.

(j) Upon notice and hearing, the Commission shall issue an order regarding any requests for security-related cost recovery.

165:55-25-10. Commission authorized participation

(a) **Commission Staff.** Only those Commission Staff and Staff's designees authorized by the Commission shall participate in a cause before the Commission regarding a FBP's Plan, and then shall do so only after meeting all applicable requirements for Commission authorization, which shall be determined on a case-by-case basis. All Commission Staff and Staff's designees authorized to participate in a security cause shall comply with the requirements for protecting information obtained under the "Highly Sensitive Confidential" designation.

(b) **Attorney General.** Only those Attorney General personnel who have formally entered an appearance pursuant to Oklahoma Statute and the Commission's Rules of Practice and that entity's Commission authorized designees shall be granted review of a FBP's Plan and/or Plan Update Reports. All Attorney General designees authorized to participate in a security cause shall meet all applicable requirements for Commission authorization, to be determined on a case-by-case basis, and shall comply with the protections afforded information obtained under the "Highly Sensitive Confidential" designation.

(c) **Intervenors.**

(1) For the purposes of this Subchapter, all intervenors, including but not limited to counsel and experts for intervenors, shall be deemed "Authorized Participants" in accordance with OAC 165:55-25-3 above. All Authorized Participants wishing to participate in a security-related cause before the Commission shall meet all applicable requirements for Commission authorization, which shall be determined on a case-by-case basis, and shall comply with the protections afforded information obtained under the "Highly Sensitive Confidential" designation.

(2) In addition to acquiring "Authorized Participant" status from the Commission, each intervenor and its designees desiring to participate in a cause before the Commission regarding a FBP's Plan shall post a bond or other security acceptable to the Commission, in an amount to be determined by the Commission, to protect the utility from harm in the event the Authorized Participant breaches the confidentiality terms established under this Subchapter or as may otherwise be established by the Commission. A copy of such bond or other security shall be filed with the Commission's Court Clerk. This subsection shall not apply to the Attorney General of the State of Oklahoma or the Oklahoma Corporation Commission Commissioners and Staff.

(3) Any Authorized Participant found in violation of a Commission issued Protective Order and Proprietary Agreement, shall be liable for contempt penalties pursuant to the penalty provisions found in Article IX, § 19 of the Oklahoma Constitution, Title 17 of the Oklahoma Statutes and the Commission's Rules of Practice at OAC 165:5. This subsection shall not apply to the Attorney General of the State of Oklahoma or the Oklahoma Corporation Commission Commissioners and Staff.

(4) In addition to the above protections, all Authorized Participants may be required by the Commission to enter into a separate non-disclosure agreement as a pre-requisite to being granted intervention and "Authorized Participant" status.

165:55-25-11. Confidentiality

(a) Pursuant to the Commission's jurisdiction granted under Article IX, Section 18 of the Oklahoma Constitution, 51 O.S. (2001) §24A.22 of the Oklahoma Statutes and OAC 165:5, the Commission's Rules of Practice; all un-redacted documents related to a FBP's Homeland Security and Critical Infrastructure Plan shall be considered "Highly Sensitive and Confidential," and shall only be admitted into evidence in en camera proceedings.

(b) "Highly Sensitive Confidential" designation and protection shall extend but not be limited to the following: initial Plans (including underlying documents), Plan Update Reports, Certification Letters, Annual Reports made by Commission Staff, recommendations submitted by the Attorney General of the State of Oklahoma and un-redacted documents used in cost recovery proceedings. For all other documents, the "Highly Sensitive Confidential" designation may be granted upon hearing and Final Order of the Commission.

(c) Each FBP Plan and/or Plan Update Report prepared in accordance with this Subchapter, shall be marked "Highly Sensitive Confidential" and shall be kept and maintained on site at the FBP's business office in accordance with OAC 165:55-25-7(g), above. Only those individuals on the Staff of the Corporation Commission and in the State Attorney General's office and their respective experts who have been authorized by the Commission, shall have access to the Plan and Plan Update Reports prepared by each FBP and any related or supporting documentation thereto. All other parties granted authorized intervenor status to a security cause pursuant to OAC 165:55-25-10(c) may also be granted access to the Plan, Plan Update Reports and supporting documentation after notice and hearing.

[OAR Docket #05-570; filed 4-7-05]

TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION
CHAPTER 10. UNEMPLOYMENT INSURANCE PROGRAM

[OAR Docket #05-515]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 5. Contributions

Part 3. Rates
240:10-5-11. Subject employer acquiring the experience rating account of another ~~employers~~employer [AMENDED]
240:10-5-12. Nonsubject ~~employers~~entity acquiring the experience rating account of an ~~employers~~employer [AMENDED]

AUTHORITY:
40 O.S. §§ 3-111 and 4-302; and the Oklahoma Employment Security Commission.

DATES:
Comment Period:
November 15, 2005 through December 20, 2005
Public Hearing:
No public hearing was held or requested
Adoption:
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Submitted to Governor:
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Submitted to Senate:
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March 11, 2005
Legislative Approval:
Failure of the Legislature to disapprove the rules resulted in approval on March 31, 2005
Final Adoption:
March 31, 2005
Effective:
May 15, 2005
SUPERSEDED EMERGENCY ACTIONS:
None
INCORPORATIONS BY REFERENCE:
None
ANALYSIS:
The amendments to these rules will implement changes being made to the acquiring employer statute found at 40 O.S. §3-111. The statute is being amended to incorporate new requirements of federal law that are designed to prevent what is known as "SUTA dumping", or schemes in which employers try to "dump" high tax rates by moving payroll to an employer account with a lower tax rate.
CONTACT PERSON:
For information regarding processing of proposed rulemaking for this agency contact Melissa Copenhaver at P. O. Box 53039, Oklahoma City, OK 73152-3039, or 405/557-7146, FAX: 405/557-5320, E-Mail: Melissa.Copenhaver@oesc.state.ok.us

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. §308.1(A), WITH AN EFFECTIVE DATE OF MAY 1, 2005:

SUBCHAPTER 5. CONTRIBUTIONS

PART 3. RATES

240:10-5-11. Subject employer acquiring the experience rating account of another ~~employers~~ employer

~~(a)~~ **~~Employers with identical rates.~~** When any employing unit acquires the experience rating account of one or more employers under the provisions of 40 O.S. Sections 3-111 or 3-111A, and ~~such~~ the employing unit was an employer subject to the ~~OES~~ Employment Security Act of 1980 at the time of ~~such~~ the acquisition, ~~the employing unit acquires the contribution rate of such predecessor employer or employers only if all employers had identical rates.~~

~~(b)~~ **~~Employers without identical rates.~~** ~~In the event that the contribution rates of the two or more employers (the acquiring employing unit and the one or more employers whose experience rating account was acquired) were not identical,~~ the contribution rate for ~~such~~ the acquiring employing unit after the acquisition shall be determined as follows:

(1) The compensation experience of the successor employer and the predecessor, or predecessors, shall be consolidated for the three calendar years immediately preceding ~~such~~ the acquisition, and the Benefit Wage Ratio shall be computed on the total experience of all the employers.

(2) The Benefit Wage Ratio so computed shall be used to determine the successor's contribution rate for the remainder of the calendar year in which ~~such~~ the acquisition occurred. The contribution rate so established ~~is~~ shall be applicable to the successor employer beginning with the first day of the calendar quarter in which the acquisition occurred.

240:10-5-12. Nonsubject ~~employers~~ entity acquiring the experience rating account of an ~~employers~~ employer

(a) **~~Employers with identical rates.~~** **One employer acquired.** When any employing unit acquires the experience rating account of an employer under the provisions of 40 O.S. Section 3-111~~(A)~~ or 3-111A, and ~~such~~ the employing unit was not an employer subject to the ~~OES~~ Employment Security Act of 1980 prior to ~~such~~ the acquisition, the employing unit shall acquire the contribution rate of ~~such~~ the employer for the entire calendar year in which ~~such~~ the acquisition occurred ~~provided, however, that this Subsection shall apply only in case the employing unit acquires the experience rating account of only one employer, or employers having identical contribution rates~~.

(b) **~~Employers without identical rates~~** **Two or more employers acquired.**

~~(1)~~ When any employing unit acquires the experience rating account of two or more employers under the provisions of 40 O.S. Sections 3-111 or 3-111A ~~not having identical rates~~, and ~~such~~ the employing unit was not an employer subject to the ~~OES~~ Employment Security Act of 1980 prior to ~~such~~ the acquisition, the contribution rate for ~~such~~ the employing unit shall be determined ~~as follows:~~

~~(2)~~ ~~The~~ by consolidating the compensation experience of the two or more employers acquired ~~shall be consolidated~~ for the three calendar years immediately preceding ~~such~~ the acquisition, and the Benefit Wage Ratio computed on the total experience of all the employers so acquired. The Benefit Wage Ratio so computed shall be used to determine the successor's ~~experience rating~~ contribution rate for the calendar year in which ~~such~~ the acquisition occurred.

(c) An employing unit that was not an employer subject to the Employment Security Act of 1980 prior to acquiring the

predecessor employer shall not be allowed to acquire the experience history or contribution rate of the predecessor employer if the Commission finds that the employing unit acquired the business solely or primarily for the purpose of obtaining a lower contribution rate.

[OAR Docket #05-515; filed 4-4-05]

TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION
CHAPTER 21. WORKFORCE INVESTMENT ACT

[OAR Docket #05-516]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
240:21-1-1. Purpose [AMENDED]
240:21-1-2. Definitions [AMENDED]
Subchapter 3. Denial or Termination of Eligibility of a Training Provider
240:21-3-1. Reporting - termination [AMENDED]
Subchapter 7. Monitoring
240:21-7-1. Monitoring [AMENDED]
240:21-7-2. Monitoring report [AMENDED]
240:21-7-3. Monitoring Resolution [AMENDED]
240:21-7-4. Final monitoring determination [AMENDED]
240:21-7-5. Appeal [AMENDED]
240:21-7-6. Hearing [AMENDED]
Subchapter 9. Audits
240:21-9-1. Audit requirements [AMENDED]
240:21-9-4. Audit review and request for information [AMENDED]
240:21-9-8. Hearing [AMENDED]
Subchapter 11. Grievance Procedure
Part 7. Informal and Formal Resolutions of Grievances
240:21-11-30. Informal resolution [AMENDED]
AUTHORITY:
40 O.S. §4-302; 29 USC §§2801-2945; 20 CFR Part 660-671 and 652; 29 CFR Part 97; OMB Circulars A-87 and A-133; Workforce Investment Act of 1998; and the Oklahoma Employment Security Commission.
DATES:
Comment Period:
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Public Hearing:
No public hearing was held or requested
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Gubernatorial Approval:
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May 15, 2005
SUPERSEDED EMERGENCY ACTIONS:
None
INCORPORATIONS BY REFERENCE:
None

ANALYSIS:
The amendments to these rules will correct definitions, add the definition of "fiscal agent", clarify the resolution and appeal of audit and monitoring findings, clarify resolution of grievances and issuance of monitoring reports, establish burden of proof, and outline permissible uses of grant funds.
CONTACT PERSON:
For information regarding processing of proposed rulemaking for this agency contact Melissa Copenhaver at P. O. Box 53039, Oklahoma City, OK 73152-3039, or 405/557-7146, FAX: 405/557-5320, E-Mail: Melissa.Copenhaver@oesc.state.ok.us

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. §308.1(A), WITH AN EFFECTIVE DATE OF MAY 1, 2005:

SUBCHAPTER 1. GENERAL PROVISIONS

240:21-1-1. Purpose

The Governor of the State of Oklahoma appointed ~~a State Workforce Investment Board~~ the Governor's Council on Workforce and Economic Development (State ~~Board~~ Council) in compliance with the Section 111 of the Workforce Investment Act. The State ~~Board~~ Council ~~assisted~~ assists the Governor in developing the Strategic Five-Year State Workforce Investment Plan (State Plan) for Title I of the Workforce Investment Act of 1998 (WIA) and the Wagner-Peyser Act pursuant to Section 112 of WIA. In the State Plan, the Governor designated the Oklahoma Employment Security Commission (OESC) as the WIA Title I Grant Recipient and Administrative Agency. This designation authorized the OESC and its officials to represent the State in the capacities indicated for Title I of WIA and the Wagner-Peyser grant programs. The purpose of these rules is to facilitate the implementation of the WIA ~~statute~~ , ~~and~~ U.S. Department of Labor regulations , and State Plan.

240:21-1-2. Definitions

In addition to definitions found at WIA section 101 and 20 CFR 660.300, the following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Assessment Board" is a hearing Board for the OESC, which is designated to adjudicate certain appeals specified herein.

"Chief Local Elected Official" or "CLEO" means (a) the chief elected executive officer of a unit of general local government in a local area; and (b) in a case in which a local area includes more than one unit of general local government, the individuals designated under the agreement ~~designed~~ designated in WIA section 117(c)(1)(B).

"Department" or "DOL" means the U.S. Department of Labor, including its agencies and organizational units.

"Director" means the Director of Employment and Training for the Oklahoma Employment Security Commission.

"Division of Internal Audit" means the OESC division responsible for conducting audit resolutions.

"Fiscal Agent" means an entity chosen by the CLEO to serve as grant subrecipient of the WIA grant funds. Such designation does not relieve the CLEO or the Governor of the liability for any misuse of grant funds.

"Local Area" means a local workforce investment area designated pursuant to WIA section 116.

"Local Board" means a Local Workforce Investment Board established pursuant to WIA section 117, to set policy for the local area workforce investment system.

"Secretary" means the Secretary of the U.S. Department of Labor.

"State ~~Board~~ Council" means the ~~State Workforce Investment Board~~ Governor's Council on Workforce and Economic Development established pursuant to WIA section 111.

SUBCHAPTER 3. DENIAL OR TERMINATION OF ELIGIBILITY OF A TRAINING PROVIDER

240:21-3-1. Reporting - termination

Pursuant to WIA section 122 (I) the Governor designated the Oklahoma Employment Security Commission (OESC) to make the determinations required by WIA section 122 (e)(2) and (f) unless this requirement is waived by the U.S. Department of Labor.

(1) Each ~~local board~~ Local Board shall submit the list of trainer providers, including their performance information and program cost information as described in WIA section 122 (b) or (c) to the Director. If the Director determines within thirty (30) days after the date of submission that the provider does not meet the performance levels in WIA section 122 (c)(6), the Director may remove the training provider from the list for the program. This does not apply to an agency submitting an application under WIA section 122 (b)(1).

(2) If the Director, after consultation with the ~~local board~~ Local Board, determines that an eligible training provider, or an individual providing information on behalf of an individual training provider, violated WIA section 122 (f) (1) and (2), the Director shall terminate the eligibility of the training provider.

SUBCHAPTER 7. MONITORING

240:21-7-1. Monitoring

(a) OESC will annually monitor each local area fiscal agent, Local Board, and grant recipient pursuant to the requirements set forth in WIA section 184 (a)(4) and 20 CFR section 667.410.

(b) ~~Grant recipients~~ OESC's grant recipients and Local Boards must monitor their ~~subcontracts~~ subrecipients or service providers ~~with administrative entities providing program services~~. Monitoring shall be conducted as outlined in the "Governor's Oversight and Monitoring Plan".

240:21-7-2. Monitoring report

(a) A monitoring report will be issued to the CLEO, local area fiscal agent, Local Board, or grant recipient after each monitoring review. Copies of this report will be addressed to the Director ~~of Employment and Training~~, and copies sent to the Executive Director, ~~and~~ Deputy Director, and the Director of Internal Audit of the OESC. If evidence of possible violations is discovered, they will be detailed in the report. The report shall be based, in part, on the requirements of WIA, the regulations promulgated thereunder, administrative requirements, applicable cost principles, grant agreements, and state policies.

(b) Monitoring reports and resolutions generated by a grant recipient or Local Board ~~monitoring a subcontract with an administrative entity providing program services~~ must be submitted to the OESC on an annual basis and at least sixty (60) days prior to expiration of the ~~grant recipient's~~ service provider or subrecipient's contract with ~~the administrative entity~~ its subrecipient.

240:21-7-3. Monitoring resolution and initial monitoring determination

(a) The Director ~~of Employment and Training~~ is responsible for monitoring resolution.

(b) Resolution of a monitoring finding is required when there are disallowed/questioned costs, and administrative findings or deficiencies.

(c) The CLEO, local area fiscal agent, Local Board or grant recipient has thirty (30) days from the date of the monitoring report to submit its response to the designated portions of the monitoring report to the Director ~~is sent to respond to the monitoring report~~. The response must contain all additional information, documents, or arguments the CLEO, local area fiscal agent, Local Board or grant recipient wants the Director to consider in making his initial ~~final~~ monitoring determination ~~decision~~. An entity submitting a response to the monitoring report may request in writing an additional thirty (30) days to submit its response. This request must be received within the original thirty (30) day time period. The Director will determine if additional time will be allowed and advise the entity in writing of his or her decision. The Director may request additional information from the entity submitting a response, ~~local area~~ if clarification is needed.

(d) The Director ~~of the Employment and Training Division~~ will meet with an advisory committee to review ~~the grant recipient's response~~ any response submitted ~~and resolve the monitoring report~~. The advisory committee will include the Director ~~of Employment and Training~~, the Director of Internal Audit, or his or her designee, and the monitors who conducted the review. The Director shall issue an initial monitoring determination within sixty (60) days from the date the response is received. The CLEO, local area fiscal agent, Local Board or grant recipient has thirty (30) days from the date of the initial monitoring determination to submit its response to the initial monitoring determination to the Director.

(e) The Director may schedule or ~~a representative of the local area~~ an entity that submitted a response to the initial monitoring determination may request an informal resolution

conference in order to discuss the initial monitoring determination and the information subsequently submitted ~~by the local area~~. The ~~representative of the~~ CLEO, local area fiscal agent, Local Board or grant recipient should request the informal resolution conference in its response to the initial monitoring determination ~~report~~. The Director shall issue a final monitoring determination in compliance with 240:21-7-4.

(f) All monitoring findings must be resolved within six (6) months after the initial monitoring report is issued.

(g) The Director will maintain a monitoring resolution file documenting the disposition of reported questioned costs and corrective actions taken for all findings.

~~(h) Monitoring reports that contain material weaknesses shall require follow-up procedures within ninety (90) days of final report resolution. Members of the Employment and Training Division monitoring team and/or members of Internal Audit will conduct on-site testing in areas previously identified as having material weaknesses. Follow-up procedures will help ensure implementation of recommendations and compliance with federal and state laws and regulations.~~

(~~i~~h) After follow-up procedures are completed, if the grant recipient is found in noncompliance, the Director ~~of Employment and Training~~ will send a notice in the form of a certified letter of impending sanctions. The notice will indicate the violation, the corrective action to be taken, the impending sanction, and the process by which the grant recipient may appeal the sanction.

240:21-7-4. Final monitoring determination

(a) A final determination on the issues raised in the initial monitoring report will be issued within thirty (30) days from the date the ~~local area's~~ response to the initial monitoring ~~report~~ determination is received. This time may be extended an additional thirty (30) days if an informal resolution conference is requested.

(b) If all issues have not been resolved, a final determination shall be sent to the local area by certified mail. A final determination will:

(1) enumerate the efforts that were made to resolve the issues in the initial monitoring report;

(2) list the issues upon which the parties do not agree;

(3) list any changes to the factual findings and conclusions set forth in the monitoring report;

(4) establish a debt, if appropriate;

(5) require corrective action, when needed;

(6) determine liability, method of restitution of funds and sanctions; and

(7) advise recipient of appeal rights.

240:21-7-5. Appeal

(a) If the ~~local area~~ CLEO, local area fiscal agent, Local Board or grant recipient is not satisfied with the findings issued in the final determination, it has fifteen (15) days from the date of the final determination to file an appeal.

(b) The appeal must be filed with the Director.

(c) The Director will then forward a copy of the appeal to the Assessment Board within five (5) days from receipt.

240:21-7-6. Hearing

(a) The Assessment Board will conduct a hearing within thirty (30) days from the receipt of the appeal by the Assessment Board unless the parties and the Assessment Board agree to waive this requirement in order to allow additional time to resolve the matter. The hearing will be conducted pursuant to the Assessment Board's rules at 240:10-11-20 through 240:10-11-31.

(b) The Assessment Board will issue a decision within thirty (30) days from the date the hearing record is closed.

(c) The decision of the Assessment Board will be final and binding unless an appeal is filed to district court pursuant to Oklahoma's Administrative Procedures Act, 75 Okla. Stat. section 318.

(d) The Assessment Board will provide the administrative record to the district court in the time provided for in 40 Okla. Stat. section 3-403.

(e) At the hearing, the CLEO, local area fiscal agent, Local Board, and grant recipient bear the burden of proof to show that the WIA funds granted or paid to the Local Area or grant recipient were spent in compliance with the statutes, regulations, state policies, uniform administrative requirements, and OMB Circulars that govern these funds and their program. The entities must also prove the WIA costs the entities claim are allowable were determined in accordance with generally accepted accounting principles and adequately documented in compliance with the statutes, regulations, uniform administrative requirements and OMB Circulars that govern these funds and their program.

(f) Any fee charged to the CLEO, local area fiscal agent, Local Board, or grant recipient for assistance in resolving the monitoring report or to prepare and present an appeal to the Assessment Board or District Court cannot be charged to grant or contract funds received from OESC. This includes fees charged by an accountant, expert witness, attorney, or other representative.

SUBCHAPTER 9. AUDITS

240:21-9-1. Audit requirements

(a) A financial and compliance audit by an independent auditor is required annually for each subrecipient.

(1) Each subrecipient is subject to the audit requirements of 29 CFR Part 95, 29 CFR Part 97, or 29 CFR Part 99 (as appropriate) and shall comply with applicable OMB Circulars, including OMB Circular A-133.

(2) The audit shall be performed by a certified public accountant or firm, or by a public accountant or public accounting firm.

(A) Except as provided in subparagraph (B) of this paragraph, no single person or firm shall perform the annual audit for an Oklahoma WIA grant recipient for more than three (3) consecutive years.

(B) The restriction in subparagraph (a) of this paragraph is waived if WIA funds constitute less than fifty percent (50%) of a grant recipient's total budget.

(3) The audit shall be performed in accordance with standards required by the federal government, requirements issued by OESC, and guidelines established by the Generally Accepted Governmental Auditing Standards (GAGAS).

(b) If the subrecipient does not receive a sufficient amount of federal grant money to require a full audit, the OESC may require a limited scope audit in accordance with federal requirements. The OESC will be responsible for arranging and pay for all limited scope audits. The limited scope audit will address one or more of the following types of compliance requirements.

(1) Activities allowed or disallowed;
(2) Allowable cost and cost principles;
(3) Eligibility;
(4) Matching;
(5) Level of effort;
(6) Earmarking;
(7) Reporting.

(c) The OESC Internal Audit Division is charged with the responsibility of audit resolution.

(d) The subrecipient must notify the Internal Audit Division of the name and address of the person or firm that will be performing the annual audit no later than thirty (30) days after the end of the grant recipient's fiscal year. The audit report is to be filed with the Director of Internal Audit Division within thirty (30) days after the completion of the audit and no later than one (1) year from the end of the grant recipient's fiscal year. A copy of the audit report shall be delivered to the Director of Employment and Training within the same time period. If an managment letter is issued to a subrecipient, the subrecipient shall submit the management letter and the responses thereto to the OESC Internal Audit Division within thirty (30) days from the receipt of the management letter.

240:21-9-4. Audit review and request for information

(a) The Internal Audit Division shall review the audit including all financial statements, schedules, notes, disallowed/questioned costs, ~~and~~ administrative findings, and management letters and responses thereto. Financial statements shall be verified by the Internal Audit Division.

(b) If there are no disallowed/questioned costs or administrative findings to be resolved, the audit review is closed and the grant recipient shall be notified of the closure in writing.

(c) If the audit review contains findings, disallowed/questioned costs or discrepancies in the financial schedules, a letter requesting additional information and/or a response shall be sent to the subrecipient by certified mail.

(d) Audit resolution information is due within twenty (20) days from the date the written request is made to the subrecipient.

(e) The Internal Audit Division will review the information submitted by the subrecipient and may ask for additional information. An initial determination will be issued if the audit findings have not been resolved to the satisfaction of the Internal Audit Division.

(f) If the disallowed/questioned costs or administrative findings are resolved, the audit review is closed and the subrecipient shall be notified in writing.

240:21-9-8. Hearing

(a) The Assessment Board will conduct a hearing within thirty (30) days from the receipt of the appeal by the Assessment Board unless the parties and the Assessment Board agree to waive this requirement in order to allow additional time to resolve the matter. The hearing will be conducted pursuant to the Assessment Board's rules at 240:10-11-20 through 10-11-23 and 240:10-11-25 through 240:10-11-31.

(b) The Assessment Board will issue a decision within thirty (30) days from the date the hearing record is closed.

(c) The decision of the Assessment Board will be final and binding unless an appeal is filed to district court pursuant to Oklahoma's Administrative Procedures Act, 75 Okla. Stat. section 318.

(d) The Assessment Board will provide the administrative record to the district court in the time provided for in 40 Okla. Stat. section 3-403.

(e) At the hearing, the CLEO, local area fiscal agent, Local Board, and grant recipient bear the burden of proof to show that the WIA funds granted or paid to the Local Area or grant recipient were spent in compliance with the statutes, regulations, state policies, uniform administrative requirements, and OMB Circulars that govern these funds and their program. The entities must also prove the WIA costs the entities claim are allowable were determined in accordance with generally accepted accounting principles and adequately documented in compliance with the statutes, regulations, uniform administrative requirements and OMB Circulars that govern these funds and their program.

(f) Any fee charged to the CLEO, local area fiscal agent, Local Board, or grant recipient for assistance in resolving the monitoring report or to prepare and present an appeal to the Assessment Board or District Court cannot be charged to grant or contract funds received from OESC. This includes fees charged by an accountant, expert witness, attorney, or other representative.

SUBCHAPTER 11. GRIEVANCE PROCEDURES

PART 7. INFORMAL AND FORMAL RESOLUTIONS OF GRIEVANCES

240:21-11-30. Informal resolution

The Director or his or her designee will attempt to resolve any grievance or appeal informally by meeting with the parties in person or discussing the grievance with the parties by telephone. If the grievance is not resolved informally within fifteen (15) days from the receipt of the grievance or appeal,

the Director will forward the grievance or appeal to the Assessment Board.

[OAR Docket #05-516; filed 4-4-05]

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

[OAR Docket #05-588]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
310:250-1-2. [AMENDED]
Subchapter 3. License Classifications and Associated Fees For ~~Environmental~~Consumer Health Services [AMENDED]
310:250-3-1. [AMENDED]
310:250-3-2. [AMENDED]
310:250-3-3. [AMENDED]
310:250-3-4. [AMENDED]
AUTHORITY:
Oklahoma State Board of Health; 63 O.S., Section 1-106.1 and 1-1118.
DATES:
Comment Period:
August 16, 2004, through September 16, 2004
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Failure of the Legislature to disapprove the rules resulted in approval on March 30, 2005
Final adoption:
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May 12, 2005
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATION BY REFERENCE:
n/a
ANALYSIS:
The proposal amends Subchapter 3 of the present Fee Schedule For Environmental Health Services Regulations in order to complete and clarify the existing regulations. The changes involve additional clarification, with associated fees, of language and modification to regulations assuring that the various components of the proposed draft, which were previously not addressed.
CONTACT PERSON:
Ted Evans, Chief, Consumer Health Services, Protective Health Services, Oklahoma State Department of Health, (405) 271-9444, ext. 57944

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A) WITH AN EFFECTIVE DATE OF MAY 12, 2005:

SUBCHAPTER 1. GENERAL PROVISIONS

310:250-1-2. Processing

Applications for licenses, permits or renewals which are received on the effective date of ~~the~~ each of the rules in this Chapter or later shall not be processed until the fees of this Subchapter are paid, as applicable.

SUBCHAPTER 3. LICENSE CLASSIFICATIONS AND ASSOCIATED FEES FOR ~~ENVIRONMENTAL~~CONSUMER HEALTH SERVICES

310:250-3-1. Food service establishments' permits

(a) The following are license classifications and associated fees for food service establishments:

(1) Type 45 Class A- "Frozen Food Locker":
(A) Initial - $150.00
(B) Renewal - $100.00
(C) Late Renewal - $135.00

(~~1~~2) Type 45 Class B - "Bar":
(A) Initial - $150.00
(B) Renewal - $100.00
(C) Late Renewal - $135.00

(~~2~~3) Class C - "Combination Retail Food":
(A) Initial - $150.00
(B) Renewal - $100.00
(C) Late Renewal - $135.00

(~~3~~4) Class E - "Health Facilities, State Prisons, Schools, (operated by non-profit institutions or government agencies) Non-Profit Institutions":
(A) Initial - Exempt
(B) Renewal - Exempt
(C) Late Renewal - Exempt

(~~4~~5) Class F - "Food Service Establishment":
(A) Initial - $150.00
(B) Renewal - $100.00
(C) Late Renewal - $135.00

(~~5~~6) Class G - "Food Service with Bar":
(A) Initial - $150.00
(B) Renewal - $100.00
(C) Late Renewal - $135.00

(~~6~~7) Class M - "Mobile Food Service and Vendor":
(A) Initial - $150.00
(B) Renewal - $100.00
(C) Late Renewal - $135.00

(~~7~~8) Class R - "Retail Food Store":
(A) Initial - $150.00
(B) Renewal - $100.00
(C) Late Renewal - $135.00

(~~8~~9) Class S - "Seasonal Food Service":
(A) Non-Renewable - $100.00 for one hundred fifty (150) consecutive days only

(~~9~~10) Class T - "Temporary Food Service":
(A) $25.00 up to five (5) days + $5.00 each day in excess of five (5) days

(~~10~~11) Class P - "Food Processors":
(A) Initial - $150.00
(B) Renewal - $100.00
(C) Late Renewal - $135.00
(~~11~~12) Class W - "Food Wholesaler~~/Frozen Food Locker~~":
(A) Initial - $150.00
(B) Renewal - $100.00
(C) Late Renewal - $135.00
(~~12~~13) Class X - "Privately Owned Prisons"~~"~~:
(A) Initial - $150.00
(B) Renewal - $100.00
(C) Late Renewal - $135.00
(~~13~~14) Class Y - ~~"Food Salvagers"~~"Salvage Food":
(A) Initial - $150.00
(B) Renewal - $100.00
(C) Late Renewal - $135.00
(~~14~~15) Class Z - "Water Bottling Facilities":
(A) Initial - $150.00
(B) Renewal - $100.00
(C) Late Renewal - $135.00

(b) Any class of food service establishment may be fee exempt with documentation listing that the organization is tax exempt or non-profit in either the Federal or State systems.

(c) Late renewal fees apply to any renewal application postmarked and/or received thirty (30) days after the expiration date of the license.

(d) A license not renewed within ninety (90) days of the date shall be ineligible for the renewal. Thereafter, the establishment shall be required to pay an initial fee. ~~An~~The establishment that has not had a valid license for one (1) year is considered a new establishment.

310:250-3-2. Drug operational permits

The following are license classifications and associated fees for over-the-counter wholesalers, brokers, and drug manufacturers:

(1) Type 48 Class M - "Drug Manufacturers, over-the counter":
(A) Initial - $100.00
(B) Renewal - $50.00
(C) Late Renewal - $75.00
(2) Type 48 Class W - "Drug Warehouse":
(A) Initial - $100.00
(B) Renewal - $50.00
(C) Late Renewal - $75.00

310:250-3-3. Lodging establishment operational permits

Fees for lodging establishment operational permits are as follows:

(1) Type 51 Class A "Hotels and Motels"(Not more than 20 units):
(A) Initial - $100.00
(B) Renewal - $50.00
(C) Late Renewal - $75.00
(2) Type 51 Class B "Hotels and Motels"(Not more than 100 units):
(A) Initial - $100.00
(B) Renewal - $75.00
(C) Late Renewal - $112.00
(3) Type 51 Class C "Hotels and Motels"(More than 100 units):
(A) Initial - $100.00
(B) Renewal - $100.00
(C) Late Renewal - $150.00

310:250-3-4. Late renewal

When ~~an~~a ~~environmental~~Consumer ~~health~~Health ~~services~~Service's license renewal fee is required by statute or regulation to be paid by a date certain and such fee was paid more than thirty (30) days after the date certain, there shall be assessed a late fee to cover the cost of non-routine processing. The late renewal fee unless specifically set shall equal one-half of the renewal fee for any given type and class, unless the maximum authorized by law would be exceeded thereby.

[OAR Docket #05-588; filed 4-8-05]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 256. FOOD SERVICE ESTABLISHMENTS

[OAR Docket #05-589]

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Subchapter 5. Food
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ANALYSIS:
The proposal contains new language concerning a consumer advisory requiring clarification to the existing regulations. This draft language restructures some of the sentences adding effectiveness and completeness for the industry and the local sanitarians to utilize. The intent is to provide public protection from foodborne infection by establishing prescriptive rules for operators of food service establishments.
CONTACT PERSON:
Ted Evans, Chief, Consumer Protection Division, Consumer Health Services, Oklahoma State Department of Health, 1000 Northeast 10th Street, Oklahoma City, OK 73117-1299 telephone:(405) 271-9444, ext. 57944; facsimile: (405) 271-3458 electronic mail: tede@health.state.ok.us

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A) WITH AN EFFECTIVE DATE OF MAY 12, 2005:

SUBCHAPTER 5. FOOD

310:256-5-67. Consumption of raw or undercooked animal foods

(a) Except as specified in 310:256-5-45(c) and 310:256-5-45(d)(2) and 310:256-5-69(a)(4), if an animal food such as beef, eggs, fish, lamb, milk, pork, poultry, or shellfish that is raw, undercooked, or not otherwise processed to eliminate pathogens is offered in a ready-to-eat food, the permit holder shall inform consumers by brochures, deli case or menu advisories, label statements, table tents, placards, or other effective written means of the significantly increased risk associated with certain especially vulnerable consumers eating such foods in raw or undercooked form.
(b) The Consumer Advisory shall include a disclosure at the menu item by description of the food, such as hamburgers (can be cooked to order), or by marking the food items with an asterisk. The disclosure shall reference a reminder such as a footnote on the menu, placard, or table tent at the point that consumers make their order selection. The reminder shall include language such as "regarding the safety of these items, written information is available upon request" or "consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase the risk of foodborne illness if you have certain medical conditions." The text size of the Consumer Advisory disclosure and reminder shall be no smaller that the smallest print size of menu items.

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

[OAR Docket #05-590]

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Part 3. WIC Vendor Application and Authorization Process
310:410-3-10. [AMENDED]
310:410-3-14. [AMENDED]
Part 5. WIC Vendor Education
310:410-3-20. [AMENDED]
310:410-3-22. [AMENDED]
310:410-3-23. [AMENDED]
Part 7. WIC Vendor Authorization and Responsibilities
310:410-3-30. [AMENDED]
310:410-3-31. [AMENDED]
310:410-3-32. [AMENDED]
310:410-3-34. [AMENDED]
310:410-3-35. [AMENDED]
310:410-3-39. [AMENDED]
310:410-3-40. [AMENDED]
310:410-3-42. [AMENDED]
310:410-3-43. [AMENDED]
Part 9. WIC Vendor Compliance and Sanctions
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ANALYSIS:
The proposal continues to clarify and simplify the existing rules as they pertain to retail vendors in the WIC program. The Proposal also updates the existing rules pertaining to participant distribution and number of vendors, and State vendor violation/sanctions.
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A) WITH AN EFFECTIVE DATE OF MAY 12, 2005:

SUBCHAPTER 3. VENDOR MANAGEMENT

PART 1. GENERAL PROVISIONS

310:410-3-2. Definitions

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

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

"Applicant" means the individual, partnership, limited partnership, unincorporated association, or corporation applying to be a WIC retail vendor.

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

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

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

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

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

"Department" means the Oklahoma State Department of Health.

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

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

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

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

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

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

"OAPA" means the Oklahoma Administrative Procedure Act.

"Oklahoma WIC retail food delivery system" means the system in which participants obtain WIC approved foods by submitting a food instrument to a WIC retail vendor.

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

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

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

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

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

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

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

"USDA" means the United States Department of Agriculture.

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

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

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

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

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

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

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

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

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

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

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

PART 3. WIC VENDOR APPLICATION AND AUTHORIZATION PROCESS

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

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

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

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

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

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

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

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

(A) Urban Counties - Greater than ~~75:1, but less than 150~~200:1

(B) Rural Counties - Greater than ~~40:1, but less than 125~~150:1

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

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

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

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

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

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

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

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

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

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

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

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

PART 5. WIC VENDOR EDUCATION

310:410-3-20. Initial WIC retail training by the Department

(a) An initial WIC retail training course shall be provided to vendor applicants who have met the criteria in Part 3 of this Subchapter. All vendor sites shall send a representative listed on the application to such training course except as provided for by the department.

(b) The initial WIC retail training course shall include, but shall not be limited to the following:

(1) the purpose of the WIC Program,
(2) certification of WIC participants,
(3) responsibilities of the WIC retail vendor,
(4) minimum quantities,
(5) sizes and types of authorized WIC approved foods,
(6) food instrument processing and transactions,
(7) USDA WIC Regulations and the provisions of this part,
(8) monitoring and compliance visits,
(9) WIC fraud and abuse provisions,
(10) potential sanctions to vendors,
(11) collection of overcharges,
(12) the vendor's responsibility for maintenance of purchasing records,
(13) procedures for WIC participant,
(14) vendor or public complaints,
(15) the WIC vendor ~~contract~~agreement, and
(16) completion of the retail vendor price survey.

(c) All applicants or their representatives at the initial retail training course shall sign a roster indicating their attendance.

(d) At the end of the initial retail training course, each applicant or the applicant's representative shall sign a certification of understanding of the WIC Program.

310:410-3-22. Annual WIC retail training program

(a) Unless a vendor has attended an initial WIC retail vendor training meeting during the ~~contract~~agreement period, a representative from each vendor site shall be notified and shall participate in an annual department sponsored training program. This person shall not represent more than one (1) WIC retail vendor site at any annual training course.

(b) Each training program shall include, but not be limited to the following topics:

(1) any changes to the USDA WIC Regulations or the provisions of this part,
(2) and issues relating to the WIC vendor ~~contract~~agreement.

(c) A representative from each vendor site shall sign a certificate of participation in the training program.

310:410-3-23. Compliance training workshop

(a) Any WIC retail vendor who has been found to have committed a Class A or Class B violation shall be required to attend a compliance training workshop. Any vendor required to attend shall not represent more than one (1) WIC retail vendor site at any compliance workshop. Attendance at the compliance training workshop shall not be required if the vendor is terminated from authorization.

(b) The vendor shall be notified in writing of the workshop date by the department.

(c) Workshop topics shall include, but not be limited to the following:

(1) the WIC vendor ~~contract~~agreement,
(2) the USDA WIC Regulations and
(3) the provisions of this part.

(d) All vendors or representative of the vendor at a compliance workshop shall sign a roster indicating their attendance.

(e) At the end of the compliance workshop, each vendor or representative of the vendor shall sign a certification of understanding of the topics addressed during the compliance workshop.

PART 7. WIC VENDOR AUTHORIZATION AND RESPONSIBILITIES

310:410-3-30. Authorization

Upon successful completion of the process for application or re-authorization, each applicant or WIC vendor who meets the criteria set forth in this Subchapter shall be notified that they are approved for authorization pending completion of a WIC vendor ~~contract~~agreement.

310:410-3-31. WIC vendor ~~contract~~agreement requirement

All authorizations to act as WIC retail vendors require a properly executed, written WIC vendor ~~contract~~agreement between the department and the vendor. In the retail purchase system, a standard WIC vendor ~~contract~~agreement shall be used statewide and requires ratification annually. Exceptions to this requirement shall be made with the approval of the Commissioner of Health or designee, consistent with USDA WIC Regulations (7 CFR 246.12 (f) (1)).

310:410-3-32. Expiration of WIC vendor authorization and ~~contract~~agreement

The department is under no obligation to re-authorize a WIC vendor at the time of expiration of the WIC vendor ~~contract~~agreement.

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

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

(1) Submission of a food instrument before the "First Day to Use."
(2) Submission of a food instrument for payment more than sixty (60) calendar days past the "First Day to Use."
(3) Submission of a food instrument identified by the department or the department's fiscal processor as invalid vendor.
(4) Submission of a food instrument by an unauthorized vendor, or submission of a food instrument which

has an unauthorized, inaccurate, or missing vendor number.

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

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

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

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

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

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

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

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

310:410-3-35. WIC retail vendor responsibilities

(a) The vendor shall monitor the WIC approved foods approved by the USDA and shall furnish only the prescribed quantities, types and brands of food specified on the food instrument. Pharmacies or drug stores shall be exempt from the minimum stock requirement. However, these establishments must have the ability to supply special formula in the necessary quantities upon request within twenty-four (24) hours.

(b) The vendor shall accept food instruments only within the time limits indicated on the food instruments and shall not receive payment for food instruments submitted before the "First Day to Use" or after the "Last Day to Use."

(c) The vendor shall be responsible for payment and replacement of a lost, stolen or destroyed vendor number stamp.

(d) The vendor shall display the price of WIC approved foods charged to the general public in clear view of customers, identifying the price of the specific WIC food item.

(e) The vendor shall provide WIC approved foods to participants or proxies at the same price or less than the price charged to non-WIC customers.

(f) The vendor shall accept food instruments only from WIC participants, proxies or representatives of the department who present a WIC participant folder with the appropriate authorized signatures.

(g) The vendor shall not issue a WIC participant or proxy any document (e.g., rain check) purporting to give the WIC participant or proxy the right to buy a WIC food item or non-WIC food item after the food instrument is signed by the participant or proxy. The vendor shall not exchange any WIC food item unless authorized by a department representative.

(h) The vendor shall charge the department sale prices. The value of coupons and discounts shall be deducted from the price charged to the department. The participant shall not be given cash for the difference.

(i) The vendor shall participate in an annual WIC training program.

(j) The vendor shall be responsible for all food instruments accepted and processed for payment by current and former employees at the vendor site. The vendor shall also be responsible for the accuracy of any information submitted to the department by such employees. The vendor shall be responsible for reviewing food instruments which have been accepted to make certain that the total cost does not exceed the posted shelf prices or the prices charged to non-WIC customer.

(k) The vendor shall abide by the USDA WIC Regulations and this part.

(l) The vendor and his business entity shall be subject to audit by the department or USDA for the time period covering any present or previous authorization. The vendor shall maintain all records of purchases, gross sales receipts, and invoices of all WIC and non-WIC approved foods for a period not less than three (3) years. The original of such records shall be made available to the department or USDA upon reasonable request. The vendor shall also provide the department and USDA the opportunity to inspect all food instruments located at the vendor site or under the control of the vendor.

(m) The vendor shall respond truthfully and accurately to department initiated requests for retail vendor price surveys, verification of ownership of the business entity or vendor site, proof of WIC and non-WIC purchases and sales, and proof of the volume of alcoholic beverage sales. Such responses shall be in writing and be provided within fifteen (15) calendar days of receipt of the department's request.

(n) The vendor shall maintain all refrigerated areas at a temperature of forty degrees Fahrenheit (40°F) or below, and no WIC approved foods shall exceed the expiration date printed on the food item.

(o) The vendor shall not exchange food instruments for any form of currency, or other items of value, nor provide the

participant with any amount of currency or coin as change from a partial WIC food transaction.

(p) The vendor shall not seek restitution from WIC participants for food instruments not paid by the department or fines levied by the department, a financial institution or the department's fiscal processor. The vendor shall not seek or receive restitution from the department for monetary penalties for rejected food instruments.

(q) The vendor shall not charge sales taxes for WIC approved foods, as the department is exempt from such tax.

(r) The vendor shall reimburse the department for any food instruments redeemed in violation of the USDA WIC Regulations, this part, or the WIC vendor ~~contract~~agreement.

(s) Neither authorization as a WIC vendor nor the WIC vendor ~~contract~~agreement constitutes employment between the vendor and the department as a state employee or provides eligibility for any employee benefits provided by the state of Oklahoma.

(t) The vendor shall offer the same courtesies to WIC participants as offered to other customers.

(u) When material information included in the vendor's application changes, the vendor, by certified mail, shall notify the department in writing within thirty (30) calendar days.

(v) The vendor shall not deny a participant any WIC approved foods indicated on the food instrument which the vendor has in stock.

310:410-3-39. Amendments resulting from a change in statute or regulation

The department shall amend the WIC vendor ~~contract~~agreement, in writing, to include or incorporate additional provisions which shall be required as a result of a change in federal or state statute or regulation, or which shall be required by the department for the administration, operation, or evaluation of the WIC Program. The vendor shall receive thirty (30) calendar days notice of the effective date of such amendments.

310:410-3-40. Assignment or transfer

The vendor shall not sell, assign, or transfer in any manner the authorization, the WIC vendor ~~contract~~agreement, the WIC vendor stamp, or the WIC vendor number. Any actual or attempted sale, assignment or transfer of the above shall be considered a breach of the WIC vendor ~~contract~~agreement. The death of a vendor (if an individual) or the voluntary or involuntary dissolution of a vendor corporation, partnership, limited partnership, unincorporated association, or firm shall cause the vendor's authorization and the WIC vendor ~~contract~~agreement to expire. The vendor has an affirmative duty to notify the department, in writing, at the place listed in the WIC vendor ~~contract~~agreement, fifteen (15) calendar days in advance of any scheduled sale, lease, bankruptcy, or cessation of the vendor's business entity, or the sale of any majority interest of any corporation or partnership.

310:410-3-42. Voluntary withdrawal from the WIC vendor ~~contract~~agreement

A vendor may voluntarily withdraw from participation in the WIC retail vendor program with approval of the department. A request for such withdrawal shall be made in writing by the vendor and sent to the department at least fifteen (15) calendar days in advance of the desired date of withdrawal. If at the time of the requested withdrawal, the vendor owes a fine assessment or any other monies resulting from a violation of this part, such penalty and other monies due shall be paid in full prior to withdrawal from the WIC retail vendor program. The State agency shall not accept voluntary withdrawal of the vendor from the Program as an alternative to disqualification for the violations listed in 7 CFR §246.12 (k) (1) (i) through (k) (1) (iv), but shall enter the disqualification on the record.

310:410-3-43. Notices

The vendor shall send all notices to the department by certified mail at the address listed in the WIC vendor ~~contract~~agreement.

PART 9. WIC VENDOR COMPLIANCE AND SANCTIONS

310:410-3-51. Violations

(a) Violations shall be classified as either Class A violations, Class B violations, or Class C violations. Each class of violation is listed below.

(b) **Mandatory Vendor Sanctions**

(1) Class A violations:

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

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

(C) One incidence of buying or selling food instruments for cash (trafficking);

(D) One incidence of selling firearms, ammunition, explosives, or controlled substances in exchange for food instruments;

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

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

(G) A pattern of charging WIC participants, proxies, or department representatives more for WIC food than non-WIC customers, or charging more than the current shelf or ~~contract~~agreement price;

(H) A pattern of receiving, transacting and/or redeeming food instruments outside of authorized

channels, including the use of an unauthorized vendor and/or an unauthorized person;

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

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

(K) A pattern of providing unauthorized food items in exchange for food instruments, including charging for WIC food provided in excess of those listed on the food instrument;

(c) **State Vendor Violations**

(~~2~~1) Class B violations:

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

(~~B~~A) Failure to maintain the minimum stock requirements as specified in the WIC vendor ~~contract~~agreement, and/or having any expired WIC approved foods on the shelf;

(~~C~~B) Requiring a participant to select a different type or brand of WIC approved foods when not specified on the food instrument;

(~~D~~C) Failure to post current shelf prices for WIC approved foods;

(~~E~~D) Accepting any remuneration for the difference between the maximum value of the food instrument and the shelf price of the WIC approved foods;

(~~F~~E) Seeking restitution from WIC participants for food instruments not paid by the department or fines levied by the department, a financial institution, or the department's fiscal processor;

(~~G~~F) Failure to attend an annual retail vendor training program;

(~~H~~G) Refusing to allow participants, proxies or department representatives to take all food items listed on the food instrument;

(~~I~~H) Altering or submitting for payment altered food instruments;

(~~J~~I) Acceptance of a food instrument that was signed by the participant, proxy, or department representative before the total actual cost was filled in by the vendor.

(~~3~~2) Class C violations:

(A) Failure to submit retail vendor price surveys requested by the department;

(B) Failure to submit information requested by the department within the time period specified by the department.

(C) Failure to utilize OSDH supplied shelf talkers to identify WIC approved foods.

310:410-3-52. WIC vendor sanctions

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

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

(A) Permanent disqualification:

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

(B) Six-year disqualification:

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

(2) One incidence of selling firearms, ammunition, explosives, or controlled substances as defined in 21 U.S.C. 802, in exchange for food instruments.

(C) Three-year disqualification:

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

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

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

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

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

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

(D) ~~Disqualification period equal to Food Stamp Program disqualification~~One-year disqualification:

(1) ~~Permanent disqualification, disqualification or suspension from participation in the USDA Food Stamp Program, or imposition of a civil money penalty by the Food Stamp Program;~~A pattern of providing unauthorized food items in

exchange for food instruments, including charging for supplemental foods provided in excess of those listed on the food instrument.

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

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

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

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

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

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

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

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

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

(2) The civil money penalty shall not exceed $10,000 for each violation and shall not exceed $40,000 for a single investigation.

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

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

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

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

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

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

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

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

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

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

310:410-3-53. Criteria for termination of authorization and fine assessment

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

(1) the vendor has not met one (1) or more requirements of the USDA WIC Regulations or the provisions of this part;

(2) the vendor has submitted false, erroneous, or inaccurate information on the application, in the business or financial information provided to the department, on the retail vendor price survey, or during the course of inspections of the vendor site;

(3) the vendor has refused to allow the department access to inspect the vendor site during normal business hours;

(4) the vendor has been found by the department to have violated provisions of this Chapter;

(5) the vendor has submitted a Federal Employer's Identification Number (FEIN) for the business entity operating as a vendor which differs from the FEIN filed for the same business entity with the USDA Food Stamp Program, or with the Oklahoma Tax Commission;

(6) the vendor has not fulfilled the terms of the WIC vendor ~~contract~~agreement;

(7) the vendor has sold, leased, or discontinued the business entity or moved the business entity to a new location or new address; or

(8) the vendor corporation, partnership, or limited partnership has been voluntarily or involuntarily dissolved or that the vendor sole proprietor has died.

(b) In deciding upon the punishment to be imposed, the department or its designee shall take into consideration the nature of the offense alleged to have been committed, the evidence regarding deliberate, as opposed to inadvertent conduct, the number of previous violations committed by the vendor, and such other evidence as may be relevant to imposition of punishment.

310:410-3-55. Notice of violation

(a) Each notice of violation shall be in writing and shall contain the following information:

(1) a description of the nature of the violation;

(2) a citation of the specific provision of the USDA WIC Regulations, or this part, which the department believes has been violated;

(3) a statement of the level of violation as determined by the department;

(4) a statement that the department may take additional action under the Act or this part, including termination of WIC vendor authorization and the WIC vendor ~~contract~~agreement, and/or an assessment of penalties;

(5) a description of the vendor's right to appeal the notice within fifteen (15) calendar days of receipt of the notice and the right to request a hearing; and

(6) the effective date for any proposed adverse action against a vendor.

(b) Hearings under this section shall be conducted in accord with OAC 310:002 and the Administrative Procedures Act.

[OAR Docket #05-590; filed 4-8-05]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 550. NEWBORN SCREENING PROGRAM

[OAR Docket #05-591]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 5. Specimen Collection
310:550-5-1. [AMENDED]
Subchapter 7. Hospital Recording
310:550-7-1. [AMENDED]
Subchapter 21. Information
310:550-21-1. [AMENDED]
Subchapter 23. Standards, Procedures, and Follow-Up for Certified Laboratories
310:550-23-1. [AMENDED]
Appendix A. Instructions for Filter Paper Sample Collection [REVOKED]
Appendix A. Instructions for Filter Paper Sample Collection [NEW]
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Appendix A. Instructions for Filter Paper Sample Collection [NEW]
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ANALYSIS:
This proposal amends the existing rule. This action updates time of screening requirements and addresses transportation of specimens.
CONTACT PERSON:
Pamela King, MPA, RN, State Genetics Coordinator, Screening, Special Services and SoonerStart, (405) 271-6617

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A) WITH AN EFFECTIVE DATE OF MAY 12, 2005:

SUBCHAPTER 5. SPECIMEN COLLECTION

310:550-5-1. Specimen collection

(a) **Specimen collection for hospital births.** For all live hospital births, the physician, licensed or certified birth attendant shall order the collection of a newborn screening specimen on all newborns prior to transfusion, ~~at three to five days of age~~as early as possible after 24 hours of age or immediately prior to discharge, whichever comes first. Due to the need to identify infants at risk for the disorders quickly, the specimen should be collected as early as possible after 24 hours of age. Specimens shall be collected on a single Newborn Screening Form Kit using capillary or venous blood. Cord blood is unacceptable. The hospital is responsible for collecting specimens on all infants.

(1) If the initial specimen for any infant is collected prior to 24 hours of age, the hospital and the physician are responsible for notifying the infant's parents verbally and in writing, utilizing the parent educational form on the Newborn Screening Form Kit, that a repeat specimen is necessary at three to five days of age. The infant's physician is responsible for insuring that the repeat specimen is collected.

(2) The hospital is responsible for submitting a Satisfactory Specimen and for documenting all requested information on the form kit including the parent/guardian's name, address, phone or contact phone number and the planned health care provider who will be providing well care for the infant after discharge or if the infant is to be

hospitalized for an extended period of time the name of the infant's physician.

(3) The hospital is responsible for documenting specimen collection and results in the infant's hospital record.

(4) Infants who are transferred from one hospital to another during the newborn period shall have specimen collection documented in the infant's hospital record. It is the responsibility of the physician and the receiving hospital to insure the specimen is collected.

(5) It is the responsibility of the hospital and physician to insure that all ~~infant's~~infants are screened prior to discharge. If an infant is discharged prior to specimen collection, the Newborn Screening Program Coordinator shall be notified. The physician is responsible for insuring the specimen is collected ~~at three to five days of age~~as required.

(b) **Screening for premature/sick infants.** For all premature/sick infants, the physician shall order the collection of a newborn screening specimen prior to red blood cell transfusion, at three to seven days of age or immediately prior to discharge, whichever comes first. Due to the need to identify infants at risk for the disorders quickly, the specimen should be collected as early as possible after 24 hours of age. It is recommended that a repeat newborn ~~metabolic disorder~~ screening specimen be collected at 14 days of age. Specimens shall be collected on the Newborn Screening Form Kit using capillary or venous blood. The hospital and the physician are responsible for ensuring that specimens are collected on all premature/sick infants.

(1) Premature/sick infants screened prior to 24 hours of age must be re-screened between 7-14 days of age.

(2) Premature/sick infants who could not be screened prior to a red blood cell transfusion should be screened by the 7th day of life, with a repeat specimen collected when plasma and/or red cells will again reflect the infant's own metabolic processes and hemoglobin type (the accepted time period to determine hemoglobin type is 90 to 120 days after transfusion).

(3) The recommended follow-up study for an abnormal thyroid screen in a premature infant is a serum free T4 (measured by direct dialysis or an equivalent method) at 7-14 days of age.

(c) **Specimen collection for out-of-hospital births.**

(1) All infants who are not born in a hospital shall be tested at ~~three to five days of age~~as early as possible after 24 hours of age. The infant's physician, licensed or certified birth attendant is responsible for submitting a Satisfactory Newborn Screening Specimen. If there is not a physician, licensed or certified birth attendant involved in a non-hospital birth, the person attending the birth and the parents of the infant are responsible for submitting a Satisfactory Newborn Screening Specimen.

(2) If a physician examines a child in the first three months of life who was not born in a hospital, or born out of state, the physician will verify that the child has been screened. If the child has not been screened or if results of screening are not available, the physician should submit a Satisfactory Newborn ~~Metabolic Disorder~~ Screening Specimen.

SUBCHAPTER 7. HOSPITAL RECORDING

310:550-7-1. Hospital recording

(a) The hospital shall implement a procedure to assure that a newborn screening specimen has been collected on every newborn and ~~mailed~~transported to the Newborn Screening Laboratory within 24 - 48 hours of collection.

(b) The hospital shall immediately notify the infant's physician, parents or guardians, and Newborn Screening Program Coordinator if an infant is discharged without a sample having been collected. This notification shall be documented in the infant's hospital record.

(c) If no test results are received within fifteen (15) days after the date of collection, the hospital shall contact the Newborn Screening Laboratory to verify that a specimen had been received. If no specimen has been received, the hospital shall notify the physician.

(d) Any hospital or any other laboratory which collects, handles or forwards newborn screening samples shall keep a log containing name and date of birth of the infant, name of the attending physician, name of the planned health care provider who will be providing well care for the infant after discharge, medical record number, serial number of the Newborn Screening Form Kit used, date the specimen was drawn, date the specimen was forwarded, date the test results were received and the test results.

(e) Specimens should be transported in the manner designated by the Department.

SUBCHAPTER 21. INFORMATION

310:550-21-1. Information

(a) For information regarding laboratory procedures, or results of laboratory tests or to order form kits, contact Public Health Laboratory Service, Oklahoma State Department of Health, P.O. Box 24106, Oklahoma City, Oklahoma 73124-0106, (405) 271-5070, FAX (405) 271-4850.

(b) For general information or information regarding follow-up, contact Newborn Screening Short-term Follow-up Program, Family Health Services, Oklahoma State Department of Health, 1000 NE Tenth Street, Oklahoma City, Oklahoma 73117-1299, (405) 271-6617, FAX (405) 271-4892, 1-800-766-2223, ext. 6617. General information about the Newborn Screening Program is available on the OSDH Web site at www.health.state.ok.us.

SUBCHAPTER 23. STANDARDS, PROCEDURES, AND FOLLOW-UP FOR CERTIFIED LABORATORIES

310:550-23-1. Procedures

(a) The Commissioner of Health shall establish procedures for newborn screening laboratories which shall include laboratory methodology, proficiency testing, quality assurance, sample collection, reporting, follow-up, handling, use, retention, storage and disposition of form kits.

(b) The Commissioner of Health shall establish procedures for the Department's newborn screening short-term follow-up program which shall include quality assurance, notification of providers and parents, follow-up guidelines, and parent and provider education.

(c) Hospitals, physicians, and laboratories shall comply with procedures for the Newborn Screening Program established by the Commissioner of Health.

(d) Any laboratory performing newborn screening tests shall be certified by the Department as a Newborn Screening Laboratory. In order to be certified as a Newborn Screening Laboratory, a laboratory shall maintain technical proficiency and ensure that test reagents and equipment are properly standardized.

(e) A Certified Laboratory refers to the Oklahoma State Public Health Laboratory or a laboratory approved by the Oklahoma State Department of Health to conduct newborn screening tests. A laboratory desiring certification as a Newborn Screening Laboratory shall make written application to the Public Health Laboratory Service of the Department. A certified laboratory shall meet the following minimum standards:

(1) **Eligibility for approval.** A laboratory in Oklahoma that meets the requirements of Section 353 of the Public Health Service Act (42 U.S.C. 263a) as revised by the Clinical Laboratory Improvement Amendments of 1988 (CLIA '88), Public Law 100-578. The Laboratory must have a CLIA certificate for tests of High Complexity and meet the criteria for those ~~test~~tests as specified in CLIA '88 and amendments. The lab must have the capacity to provide testing for the mandated newborn screening panel on a single satisfactory filter paper specimen submitted by the birth hospital or provider.

(2) **Minimum tests.** A laboratory shall perform a sufficient number of tests each week, a minimum of 300 blood samples from different Oklahoma infants a week for each disorder, to maintain technical proficiency and ensure that test reagents and equipment are properly standardized.

(3) **Record keeping.**

(A) The laboratory shall log in each sample received with an identifier. All patient information and test results shall be linked to the identifier and maintained as a permanent record for a period of 21 years.

(B) The laboratory shall maintain quality control and proficiency test records and shall be available for inspection by the Department.

(4) **Standard laboratory screening assay methods.** All assay methods must be approved by the Commissioner of Health.

(5) **Follow-up for certified laboratories.**

(A) Within fifteen (15) days after specimen collection, the Certified Laboratory shall send a written report of the test results with repeat testing requirements, if indicated, to the submitter and physician listed on the filter paper requisition.

(B) The Certified Laboratory will reject any unsatisfactory samples for testing.

(C) The Certified Laboratory must maintain a database with the capacity to report abnormal results to the Department's Newborn Screening Program Coordinator or designee.

(D) The Certified Laboratory must report abnormal results that are possible disease conditions within eight to twenty-four hours to the Department's Newborn Screening Program Coordinator or designee.

(6) **Reporting.** Certified Laboratories shall compile quarterly and annual reports for the Newborn Screening Program of total screening tests, abnormal tests by disorder, unsatisfactory tests, and less than 24 hours of age at time of collection test.

(7) **Certification of laboratories.**

(A) Upon satisfying the requirements of these standards and demonstrating proficiency in the presence of an authorized representative from the Department the following is issued. A certificate of approval, which will specify:

(i) Name of laboratory

(ii) Test of certification must be approved for all mandated tests.

(iii) Date of issue and expiration: certificate issued for one (1) year and renewable annually.

(8) **Revocation of certification.**

(A) The laboratory shall be in compliance with all applicable Federal or State Laws, or regulations. The compliance with the requirements thereof shall be the responsibility of the laboratory, without reliance on or direction by the Oklahoma State Department of Health (OSDH). Following notice by OSDH of its intent to revoke the laboratory's certification and completion of an individual proceeding pursuant to Article II of the Oklahoma Administrative Procedures Act (APA), the certification of a laboratory may be revoked, based upon proof by a preponderance of the evidence for any of the following reasons:

(i) Failure to meet any requirements in these regulations.

(ii) Failure to use a standard laboratory assay approved by the Commissioner of Health.

(iii) Failure to participate in a recognized proficiency program and/or maintain proficiency.

(iv) Failure to keep adequate records of test results and quality control.

(v) Failure to give prompt notice of changes in personnel performing the tests.

(B) Upon notice of revocation the laboratory shall cease to perform newborn ~~metabolic disorder~~ screening and return their certificate of approval.

(C) Reinstatement of laboratory certification shall be contingent upon the following:

(i) A laboratory shall not apply for reinstatement until a minimum of three months has elapsed from date of revocation.

(ii) All factors which can be identified must be corrected.

(iii) A laboratory applying for reinstatement must meet the same requirements as for initial application.

(D) Revocation of certified laboratory status by OSDH may be appealed pursuant to Article II of the Oklahoma APA.

APPENDIX A. INSTRUCTIONS FOR FILTER PAPER SAMPLE COLLECTION [REVOKED]

APPENDIX A. INSTRUCTIONS FOR FILTER PAPER SAMPLE COLLECTION [NEW]

Adapted from NCCLS *Blood Collection on Filter Paper for Newborn Screening Programs;* Approved Standard-Fourth Edition, LA4-A4, Vol.23 No.21, July 2003.

Preliminary Steps
Ensure that the expiration date of the filter paper form kit has not passed. Complete the required information on the filter paper form kit. A ballpoint pen should be used; soft-tip pins will not copy through to the other sheets of paper. Address imprint devices (or adhesive labels) should never be used unless the handling process ensures that the patient information is not obscured and the blood collection area is not compromised. Do not use typewriters or printers that might compress the paper. Avoid touching the area within the circles on the filter paper section before, during and after collection (blood spots) of the specimen. Do not allow water, feeding formulas, antiseptic solutions, glove powder, hand lotion, or other materials to come into contact with the specimen card before or after use.

Precautions
Confirm the identity of the infant and ensure accuracy of the demographic data on the card. Wash hands vigorously before proceeding. All appropriate precautions, including wearing powder-free gloves (changing gloves between infants), should be taken for handling blood and disposing of used lancets in a biohazard container for sharp objects.

Site Preparation
Warm the newborn's heel, since warming the skin-puncture site can help increase blood flow. A warm, moist towel or diaper at a temperature no higher than 42° C may be used to cover the site for 3 minutes. This technique increases the blood flow sufficiently and will not burn the skin. In addition, positioning the infant's leg lower than the heart will increase venous pressure.

Cleaning the Site
The skin should be wiped with alcohol (isopropanol/water: 70/30 by volume, "70%"). Allow the skin to air dry.

Puncture
To obtain sufficient blood flow, puncture the infant's heel on the plantar surface of the heel with a sterile lancet or with a heel incision device. The incision device provides excellent blood flow by making a standardized incision 1.0 mm deep by 2.5 mm long. Any puncture device used should be selected so that the puncture does not exceed 2.0 mm in depth. For infant safety, scalpel blades or needles must not be used to puncture the skin for blood collection. Disposable skin puncture lancets of different designs are commercially available for performing the heel stick on infants. For worker safety, disposable skin puncture devices that protect the user from unintentional self-inflicted skin punctures should be used.

In small, premature infants, the heel bone (calcaneus) might be no more than 2.0 mm beneath the plantar heel skin surface and half this depth at the posterior curvature of the heel. Studies indicate that for some infants (including full-term infants) a puncturing depth of 2.0 mm might be excessive and might cause bone damage. In this situation other collection methods should be considered.

Direct Application
After the heel has been punctured, wipe away the first drop of blood with a sterile gauze pad or cotton ball and allow a larger drop of blood to form. (Intermittently apply gentle pressure to the heel with the thumb, and ease this pressure as drops of blood form). Touch the filter paper gently against the large blood drop and, in one step, allow a sufficient quantity of blood to soak through and completely fill a preprinted circle on the filter paper. Do not press the filter paper against the puncture site on the heel. Blood should be applied only to one side of the filter paper. Both sides of the filter paper should be examined to assure that the blood uniformly penetrated and saturated the paper. During collection avoid milking or layering:

Milking: Excessive milking or squeezing the puncture might cause hemolysis of the specimen or result in an admixture of tissue fluids with the specimen and might adversely affect the test result.

Layering: Do not apply layers of successive blood drops to the same printed circle. Applying successive drops of blood to already partially dried spots causes nonuniform analyte concentrations and invalidates the specimens.

After blood has been collected from the heel of the newborn, the foot should be elevated above the body, and a sterile gauze pad or cotton swab pressed against the puncture site until the bleeding stops. It is not advisable to apply adhesive bandages over skin puncture site on newborns.

Collection
The required blood spots should be collected so that there is one in each pre-printed circle of the filter paper. Failure to collect and fill each pre-printed circle might result in the specimen being rejected (unsatisfactory) for testing. If blood flow diminishes so that a circle is not completely filled, repeat the sampling technique using a new circle or, if necessary, a new blood collection card.

For alternative methods to specimen collection (e.g., capillary tube, dorsal hand vein, umbilical venous catheter or umbilical arterial catheter) refer to the NCCLS *Blood Collection on Filter Paper for Newborn Screening Programs;* Approved Standard-Fourth Edition (LA4-A4, Vol. 23 No. 21) or contact the Newborn Screening Program Coordinator.

Drying
Avoid touching or smearing the blood spots. Allow the blood specimen to air dry on a horizontally level, nonabsorbent, open surface for at least 3 hours at an ambient temperature of 15° C to 22° C. Keep the specimen away from direct sunlight (indirect room light is not usually detrimental unless accompanied by heat). Blood spots on the filter paper should not be heated, stacked, or allowed to touch other surfaces during the drying process.

The Filter Paper has a new fold-over protective cover. This protective cover is used to protect the blood spots from contamination and can be used in the drying process. To use the protective cover in the drying process simply elevate the blood spots to gently rest on the edge of the protective cover. After drying, the protective cover should be placed over the spots to prevent contamination.

Stacking
Since leaching (cross-contamination) between specimens might occur, specimen-to-specimen contact is not appropriate. Before placing the specimens in a

paper envelope for mailing, use the fold-over protective cover to cover each individual blood spot. When stacking of exposed blood spots cannot be avoided, the following procedure should be done:

Before placing the specimens in a paper envelope for mailing, the dried blood spots on the collection card should be rotated 180° from the blood spots on the cards in the stack immediately above and below.

If the physical barrier is used (fold-over protective cover), specimen rotation is not necessary.

Mailing
Specimens should be transported in the manner designated by the Department. The collection card should be transported or mailed to the Newborn Screening Program laboratory within 24 hours after collection. Mailing delays at collection sites should be avoided, and the postal or transport environment relative to possible delays should be considered. Never place the filter paper specimen in plastic bags. Use the form kit's protective overlay to cover the filter paper spots when mailing or transporting. If mailing the specimens use a U.S. Postal Service approved envelope.

Information
For information regarding specimen collection, Postal regulations, envelope and form kit purchasing, please contact the Newborn Screening Program Laboratory at (405) 271-5070.

450 Form Kit's Detachable Educational Slip
Front & Back

Baby's Last Name

Baby's First Name

Oklahoma State Department of Health

Newborn Metabolic Disorder Screening

OKLAHOMA NEWBORN METABOLIC DISORDER SCREENING PROGRAM

THE NEWBORN METABOLIC DISORDER SCREENING TEST

A special blood test has been done to protect your baby from hidden disease. The test screens for congenital hypothyroidism, galactosemia, phenylketonuria (PKU) and sickle cell disease. These disorders are harmful if treatment is not started within the first month of life (each disorder is explained on the back of this sheet).

TIME OF TESTING

☐ Under 24 hours of age ☐ Over 24 hours of age

ATTENTION PROVIDER

DETACH AND GIVE TO PARENT OR GUARDIAN

DETACH AND GIVE TO PARENT OR GUARDIAN
NEWBORN METABOLIC DISORDER SCREENING

WILL FURTHER TESTING BE REQUIRED?

If your baby is tested before 24 hours of age, the test must be repeated at 3 to 5 days of age. If the blood test is abnormal or inadequate to test, a repeat test will be needed. If the time of testing is not indicated on this form, please contact your baby's physician to determine if your baby needs a repeat test.

ASK YOUR BABY'S DOCTOR FOR THE TEST RESULTS

Please take this form with you to your baby's first doctor visit and ask for test results. If your baby's doctor does not have the test results and you have not been notified by mail, please call the Oklahoma State Department of Health when your baby is three weeks of age at **(405) 271-6617 or 1-800-766-2223.**

Ser. No. 785614

EARLY DETECTION AND TREATMENT IS IMPORTANT

CONGENITAL HYPOTHYROIDISM –

If not treated, this disorder results in mental retardation and poor growth. Congenital hypothyroidism is usually caused by abnormal development or absence of the thyroid gland. Treatment with daily thyroid medication is necessary for normal growth and development.

GALACTOSEMIA –

If not treated, this disorder can harm the baby's eyes, liver and result in mental retardation or even death. Galactosemia occurs when the baby cannot break down a special sugar in milk called galactose. A special diet without galactose is required to prevent mental retardation or death.

PHENYLKETONURIA (PKU) –

If not treated, this disorder can result in severe brain damage. PKU is caused by the body's inability to break down the protein in food called phenylalanine. Treatment with a special diet is necessary to prevent mental retardation.

SICKLE CELL DISEASE and other hemoglobin diseases –

If not treated, this disorder may result in severe illness or death. Sickle cell disease occurs when the hemoglobin in the red blood cells does not develop normally. Red blood cells have the important job of delivering oxygen to different parts of the body. Treatment with antibiotics helps prevent infections that could cause severe illness or death. Other hemoglobin diseases can be detected by screening and will require medical follow-up.

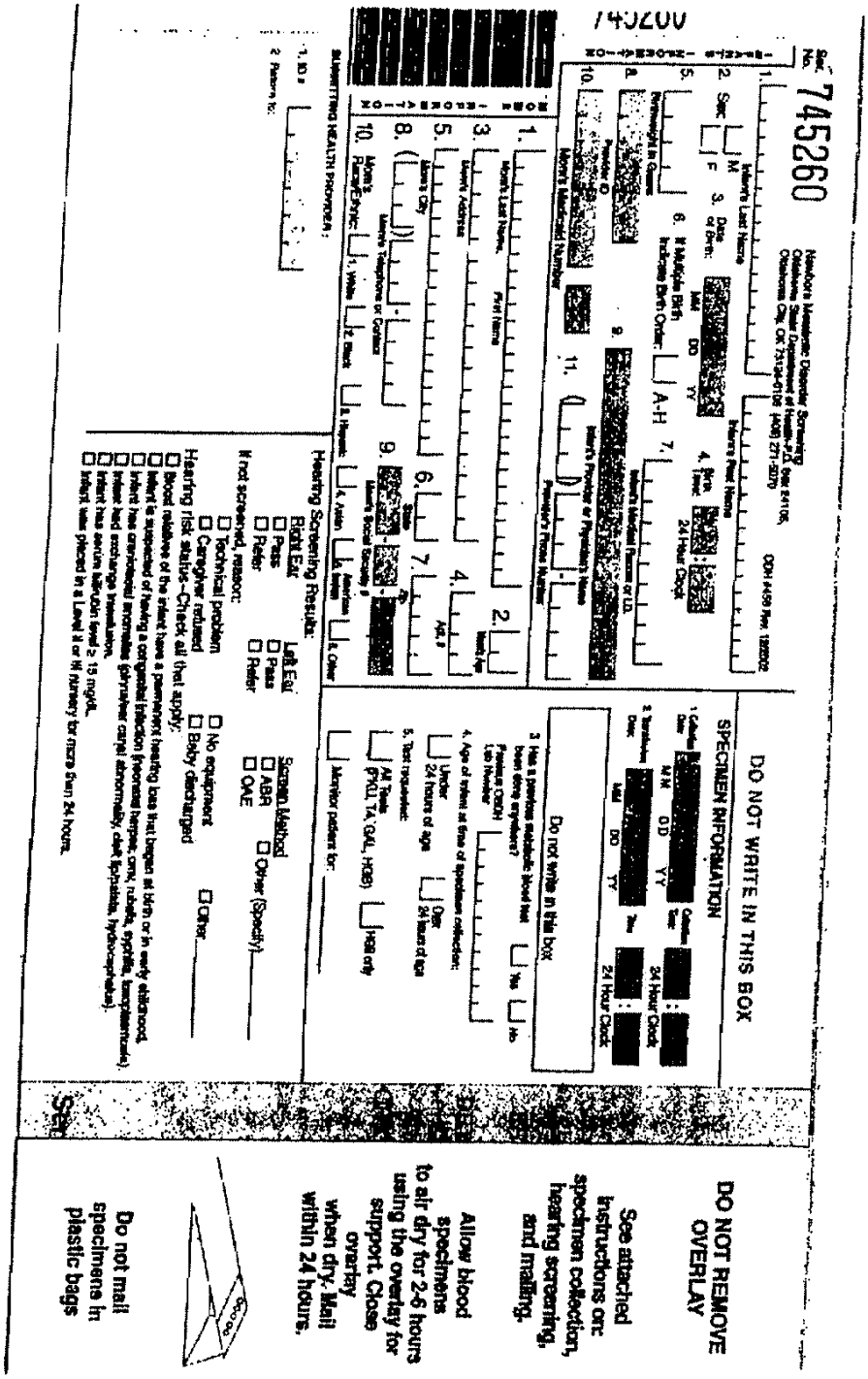
SICKLE CELL TRAIT and other trait conditions –

Trait conditions will not make your baby sick, but genetic counseling and family testing is recommended

QUESTIONS ABOUT METABOLIC SCREENING?

Please call the Newborn Screening Program for answers. The toll-free number is 800-766-2223. The Oklahoma City metropolitan area number is 271-6617. The phone is answered Monday through Friday from 8:00 AM until 5:00 PM.

OHD #450 Form Kit



OHD #450 Form Kit (cont)

Instruction on Specimen Collection and Mailing
(Complies with NCCLS Standard LA 4 – A3)

SUBMITTER RESPONSIBILITY

1. Completion of form.
2. Collection of an adequate specimen for testing.
3. Mailing specimens within 24 hours of collection.
4. The quality of the specimen received by the Public Health Laboratory Service.
5. Listing the planned health care provider who will be providing well care for the infant after discharge or infant's physician if the infant is to be hospitalized for extended period of time.

SCREENING REQUIREMENTS FOR ALL NEWBORNS

1. Prior to blood transfusion.
2. Within the first week of life or immediately prior to discharge, whichever comes first.
3. If infant is screened at less than 24 hours of age, repeat screen at 3-5 days of age (if premature or a sick infant, repeat screen at 7-14 days of age).
4. All premature and sick infants should have a repeat screen at 14 days of age.

COMPLETION OF FORM

1. Legibly print and complete all information requested.
2. List newborn's return address and submitter ID number. Submitter means the facility or provider who has collected the specimen.
3. List the provider or physician who will be following the baby for well care.
4. List the parents correct address and phone number for notification of abnormal results.

Note: All results are sent to the submitter and the provider listed on the form.

COLLECTION OF BLOOD SPECIMEN

1. To prevent specimen contamination do not touch any of the filter paper circles before or after collection.
2. Blood puncture site and cleanse with 70% isopropanol and allow heel to air dry. Usual puncture site is displayed below.

3. Use a sterile, disposable lancet to perform a skin clean puncture.
4. Wipe away the drop of blood with a sterile gauze or cotton ball.
5. Gently touch the filter paper against a large drop of blood and allow a sufficient quantity of blood to soak through to completely fill the prepublished circle on the filter paper. Blood must be applied to only one side of the filter paper and circle area should be fully saturated.
6. Fill all the circles with blood.
7. Protect freshly collected specimens from contamination.
8. Allow blood specimen to air dry at room temperature for 2-4 hours in a horizontal position. Do not stack specimen cards.
9. **ALL SPECIMENS MUST BE SENT IN A PLASTIC BAG.**

PAPER SPECIMENS IN A PLASTIC BAG WILL BE REJECTED. DO NOT PLACE FILTER PAPER IN "HEMOSTASIS" OR "TRIPLE" BAGS.

Specimen may be "hemostasis" or "triple" for the following reasons:

a. Circles not completely filled in or not thoroughly saturated.
b. Uneven saturation of circles or multiple sample application.
c. Specimen appears contaminated.
d. Clotted or clotted blood on filter paper, or damaged filter paper.
e. Anemic infection due to antibiotic or other complication.
f. Insufficient volume of blood from filter paper.
g. Laboratory incubation incomplete or improperly completed.
h. Possible hemodilution – possibly due to improper sample collection.
i. Specimen submitted on incorrect form.
j. No specimen received with form.
k. Specimen placed in plastic bag while wet.
l. Receipt of specimen was more than 14 days from date of collection.

MAILING SPECIMENS BY United State Postal Service

Mail specimens within 24 hours of collection. Do not hold specimens for bulk mailing.

NEWBORN SCREENING SECTION
Public Health Laboratory Service
P.O. Box 24106
Oklahoma City, OK 73124-0106

SPECIAL DELIVERY OF SPECIMENS

Send specimens within 24 hours of collection. Do not hold specimens for bulk mailing.

Use this address only for courier, overnight, next day delivery, example: UPS, FEDEX.

NEWBORN SCREENING SECTION
Public Health Laboratory Service
1000 NE 10th Street
Oklahoma City, OK 73117-1299

To order Newborn Metabolic Disorder Screening Bill, OOH #450, Call (405) 271-6070.

[OAR Docket #05-591; filed 4-8-05]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 610. ALCOHOLISM TREATMENT CENTERS REGULATIONS [REVOKED]

[OAR Docket #05-592]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions [REVOKED]
310:610-1-1. through 310:610-1-4. [REVOKED]
Subchapter 3. Construction [REVOKED]
310:610-3-1. through 310:610-3-5. [REVOKED]
Subchapter 5. Standards [REVOKED]
310:610-5-1. through 310:610-5-4. [REVOKED]
AUTHORITY:
Oklahoma State Board of Health; 63 O.S. Section 1-104 et seq.; and Title 43A O.S. Section 3-417.
DATES:
Comment Period:
August 16, 2004 through September 16, 2004
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Gubernatorial approval:
November 2, 2004
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on March 30, 2005
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Effective:
May 12, 2005
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATION BY REFERENCE:
n/a
ANALYSIS:
This action provides for revocation of Chapter 610, consistent with the repeal of 63 O.S. Section 3-419 which authorized the Department of Health to promulgate rules for facility construction, maintenance and operation of Alcoholism Treatment Centers. That section of law was repealed effective November 1, 2001 and the authority to establish physical facility standards, fire safety standards and such other health and safety standards for halfway houses and transitional living facilities as necessary was transferred to the Department of Mental Health and Substance Abuse Services effective November 1 2002. This proposal eliminates regulatory duplication.
CONTACT PERSON:
Tom Welin, Medical Facilities, Oklahoma State Department of Health, 1000 NE 10th Street, Oklahoma City, OK 73117-1299; telephone: 405-271-6576; electronic mail: TomW@health.state.ok.us

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2005:

SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

310:610-1-1. Purpose [REVOKED]

~~The rules in this Chapter furnish basic information and guides for facility construction, maintenance and operation in compliance with the provisions of the Oklahoma Public Health Code.~~

310:610-1-2. Definition [REVOKED]

~~The following word, when use in this Chapter shall have the following meaning:~~

~~**"Alcoholism Treatment Facilities"** is any hospital or hospital related institution which offers either inpatient or outpatient treatment to any person suffering from alcoholism.~~

310:610-1-3. Certification [REVOKED]

~~To be eligible for a license, a treatment facility must be certified by the State Alcohol Prevention, Training, Treatment, and Rehabilitation Authority.~~

310:610-1-4. Licensure [REVOKED]

~~Applicants shall file an application for a license annually, on forms approved by the Commissioner of Health, as either an inpatient treatment facility (with or without an outpatient service) or an outpatient treatment facility.~~

SUBCHAPTER 3. CONSTRUCTION [REVOKED]

310:610-3-1. Preconstruction plans [REVOKED]

~~(a) Prior to construction of a new hospital, of additions, major alterations, remodeling and/or other changes in existing licensed facilities, plans shall be submitted to the SDH for review and consultation to determine their completeness and compliance with the minimum standards for licensure.~~
~~(b) This requirement shall apply also to the conversion of an existing building to a hospital or related institution, whether or not the facility was previously, but not currently, licensed under the Hospital Act.~~
~~(c) The addition of permanent beds to existing hospitals shall be made only after a detailed study and report is accomplished indicating that existing facilities and services are adequate to support the request for additional beds.~~
~~(d) The review of construction plans by the State Department of Health shall not be construed to mean that there is complete compliance with all of the standards, rules and regulations. Responsibility for compliance rests with the builder, contractor, and owner.~~

310:610-3-2. Scope of plans [REVOKED]

~~The architectural plans shall set forth clearly the proposed scope of work covered in the project, including:~~
~~(1) Plot plan, showing:~~

~~(A) Existing structures, property topography, existing curbs, building lines, utility lines and services, and boundary lines.~~

~~(B) Location of new building and additions with approaches, utility services, entrances, exits, walks, driveways and parking spaces.~~

~~(2) Floor plans of each floor, including basement, showing; inside dimensions of all rooms and corridors, of doors and windows, and of other areas and spaces, with the intended purpose of each room and area shown clearly.~~

~~(3) Location and identification of fixed equipment of each typical room and/or area together with a descriptive list of all fixed equipment, essential for a properly designed hospital.~~

310:610-3-3. Standards for construction [REVOKED]

~~(a) Inpatient facilities shall be constructed and maintained in a safe and sanitary manner.~~

~~(1) Resident rooms shall have a maximum of four beds per room with a minimum of 60 square feet per bed in rooms with multiple beds and 80 square feet in private rooms.~~

~~(2) There shall be a resident lounge or recreation area provided with a minimum of ten square feet per resident bed.~~

~~(3) There shall be a resident dining area sufficient to provide for a minimum of fifty percent of the residents at one seating. (Lounge and dining area may be combined, but if so, a minimum of twelve square feet per resident bed shall be required for the combined area).~~

~~(4) Unless otherwise specifically stated, inpatient treatment facilities shall conform to the provisions of N.F.P.A. No. 101, Life Safety Code, 1973 edition as it relates to dormitory occupancies, Chapter 11, section 11-4.~~

~~(b) Outpatient treatment facilities, not a part of an inpatient facility, shall conform to the provisions of N.F.P.A. No. 101, Life Safety Code, 1973 edition as it relates to business occupancies, Chapter 13.~~

~~(c) There shall be appropriate rooms and spaces provided for examination, treatment, training, and rehabilitation as required by the program of "Certified Services for Alcohol-Dependent."~~

310:610-3-4. Site [REVOKED]

~~The site shall be:~~

~~(1) Readily accessible in the community.~~

~~(2) Served by all weather roads, passable at all times and suitable for passage of fire, ambulance, and other emergency vehicles.~~

~~(3) At a reasonable distance from:~~

~~(A) Insect and rodent harbors.~~

~~(B) Areas producing noise, odors, air pollution and other nuisances.~~

~~(C) Institutions and installations which might prove to be objectionable.~~

~~(4) In accord with local zoning ordinances which shall be ascertained in advance by the applicant.~~

~~(5) Adequate to provide convenient and ample parking space for staff, employees, visitors, deliveries and emergency vehicles.~~

310:610-3-5. Environmental sanitation systems [REVOKED]

~~(a) No system of water supply, of sewage, garbage or refuse disposal, for these institutions shall be installed, nor shall any such existing system be materially altered or extended until complete plans and specifications for the installation, alteration or extension, together with such information as the Oklahoma State Department of Health may require, have been submitted in duplicate and approved so far as related to their sanitary features.~~

~~(b) Sewage shall be discharged into a municipal sewerage system where such is available; otherwise, the sewage shall be collected, treated, and disposed of in an independent sewerage system which complies with the standards and requirements approved by the State Department of Health Engineering Department, Bulletin No. 0575, "Small Sewage Treatment System."~~

SUBCHAPTER 5. STANDARDS [REVOKED]

310:610-5-1. Communication [REVOKED]

~~(a) There shall be sufficient telephone lines and extensions within the institution to assure rapid communication to the outside and within the building in the event of fire, explosion, or other emergency needs.~~

~~(b) A suitable internal communication system throughout the institution, in addition to the telephone is recommended for safety and efficient operation, i.e., public address system.~~

310:610-5-2. Standards for hygiene and sanitation [REVOKED]

~~(a) Inpatient treatment facilities:~~

~~(1) Lavatories shall be provided in a minimum ratio of one per each eight resident beds.~~

~~(2) Toilet facilities shall be provided in a minimum ratio of one per eight resident beds. Each toilet room shall include a lavatory in the same room or immediately adjacent thereto.~~

~~(3) Bathing facilities shall be provided in a minimum ratio of one tub or shower per each eight resident beds.~~

~~(4) Sewage shall be discharged into a municipal sewerage system, or shall be collected, treated, and disposed of in an independent sewerage system which is approved by the State Department of Health, Environmental Health Service.~~

~~(5) The facility shall be kept free of insects and rodents through regular inspection and treatment by a licensed pest control operator.~~

~~(6) Solid waste shall be disposed of through public systems or in a manner approved by the local agency having jurisdiction and the State Department of Health, Environmental Health Service.~~

~~(7) Water shall be obtained from an approved public water supply, or it must be tested at least quarterly and treated as necessary, thereby maintaining a determination as an approved water supply by the authority having jurisdiction and the State Department of Health, Environmental Health Service.~~

~~(8) Linen shall be supplied in quantities adequate to provide at least two changes of bedding each week.~~

~~(9) Housekeeping services shall be provided so that a hygienic environment is maintained in the facility.~~

~~(b) Outpatient treatment facilities:~~

~~(1) Lavatories and toilet facilities shall be provided in a minimum ratio of one per twenty persons.~~

~~(2) Water and sewerage shall be provided in the same manner as prescribed for inpatient facilities.~~

~~(3) Housekeeping shall be maintained in the same manner as prescribed for inpatient facilities.~~

310:610-5-3. Standards for food service [REVOKED]

~~These standards shall be applicable to all inpatient facilities and to any outpatient facilities which provide an on-premises meal service.~~

~~(1) Storage, preparation, and serving of food shall be in compliance with the requirements of the State Department of Health, Environmental Health Service regulations governing public feeding establishments.~~

~~(2) Dishwashing may be accomplished by either mechanical dishwashers or by approved manual methods. If mechanical dishwashers are used, the final rinse shall be in clear water of 180° F. Manual procedures, if used, shall follow a written procedure which outlines the steps followed, temperature of cleaning and rinsing solutions, detergents and/or chemical used, etc., and shall be specifically approved by the local or State Department of Health.~~

~~(3) Equipment used in the preparation and handling of food shall bear the seal of the National Sanitation Foundation (NSF), or comply with the requirements of NSF.~~

~~(4) Milk used in alcoholism treatment facilities shall be from a source approved by the State Department of Health and shall be Grade A pasteurized.~~

~~(5) Ice used in contact with food or drink shall come from a source approved by the State Department of Health. Transportation, storage, handling, and dispensing shall be in a sanitary manner approved by the State Department of Health.~~

310:610-5-4. Standards for fire prevention and safety [REVOKED]

~~(a) General fire protection and safety measures shall be provided in writing to all residents and members of the facility staff. These shall conform to N.F.PA. No. 101 Life Safety Code, 1973 edition, as applicable. Chapter 2: Chapter 5; Chapter 11; Section 11-4, and Chapter 13 in whole or in part as the subject matter indicates are the primarily applicable portions of the code.~~

~~(b) Smoking regulations shall be adopted and enforced within the facility. There shall be as a minimum the prohibition of smoking by those deemed incapable of alert responsibility for their actions and in kitchens, storage areas, or in any area where there is stored or in use any flammable or combustible liquids or gases. "No Smoking" signs shall be appropriately posted.~~

~~(c) In buildings not equipped with automatic sprinkler systems, an automatic alarm system approved for such occupancies by the State Fire Marshal shall be installed.~~

~~(d) There shall be installed an intercommunication system connecting the central staff with all rooms occupied or used by residents.~~

[OAR Docket #05-592; filed 4-8-05]

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

[OAR Docket #05-487]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
340:1-1-4. [AMENDED]
340:1-1-20. through 340:1-1-21. [NEW]
(Reference APA WF # 04-22)
AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; Sections 7005-1.2 through 7005-1.4, 7107 of Title 10 of the Oklahoma Statutes; Sections 301 et seq. of Title 25 of the Oklahoma Statutes; Section 10-110 of Title 43A of the Oklahoma Statutes; Section 183 of Title 56 of the Oklahoma Statutes; Sections 250 et. seq. of Title 75 of the Oklahoma Statutes; and Part 1340 of Title 45 of the Code of Federal Regulations.
DATES:
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December 15, 2004 through January 14, 2005
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None requested
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January 25, 2005
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March 9, 2005
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Failure of the Legislature to disapprove the rule(s) resulted in approval on March 31, 2005.
Final adoption:
March 31, 2005
Effective:
May 12, 2005
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
Chapter 1, Function and Structure of the Department, new rules address client confidentiality and copyrighted software and documents. Rules are revised to reflect current names of divisions and offices within the Oklahoma Department of Human Services (OKDHS).

CONTACT PERSON:
Dena Thayer, Programs Manager, Policy Management Unit, DHS, 2400 N. Lincoln Blvd., Oklahoma City, OK 73105, 405-521-3611.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2005:

SUBCHAPTER 1. GENERAL PROVISIONS

340:1-1-4. ~~The~~ Director of Human Services

(a) The Director of Human Services (Director)~~,~~ serves, at the pleasure of the Commission for Human Services (Commission), as the chief ~~administrative and~~ executive and administrative officer of the Oklahoma Department of Human Services (OKDHS). Under the oversight of the Commission, the Director is charged with the responsibility for day-to-day direction of the activities necessary for ~~DHS~~ OKDHS to attain its mission.

(b) The Director's duties include:

(1) ensuring that ~~all of DHS~~ OKDHS is working toward ~~its~~ the mission and the goals established by the Commission and the Director through aggressive implementation of the planning and budgeting system;

(2) serving as staff to the Commission ~~for Human Services~~ by providing necessary input for decision making and ensuring that actions approved by the Commission are carried out;

(3) developing and maintaining cooperative relationships with federal and state lawmakers and other officials~~, both federal and state,~~ to ensure the fulfillment of ~~DHS's~~ the OKDHS mission;

(4) maximizing all available resources for the delivery of services to the clients ~~DHS~~ OKDHS is charged to serve;

(5) serving as the chief spokesperson for ~~DHS~~ OKDHS and ~~as an~~ advocate for ~~the~~ OKDHS clients it serves;

(6) ensuring the coordination of services with other state agencies;

(7) selecting staff capable of carrying out the ~~DHS~~ OKDHS mission for the areas immediately under the Director's supervision~~,~~ by:

(A) establishing job descriptions and specifications for each of those positions~~,~~;

(B) delegating authority to complete duties assigned; and

(C) overseeing the accomplishment of ~~those~~ assigned responsibilities; and

(8) directly supervising the:

(A) ~~Associate Director, Office of Programs~~ administrator, Office for Civil Rights;

(B) ~~Chief Financial Officer, Office of Finance~~ advocate general, Office of Client Advocacy;

(C) ~~General Counsel, Office of General Counsel~~ chief administrative officer, Administrative Services;

(D) ~~Associate Director, Office of Field Operations~~ chief coordinating officer, Vertically Integrated Services Divisions;

(E) ~~Civil Rights Administrator, Office for Civil Rights~~ chief financial officer, Finance Division;

(F) ~~Associate Director, Office of Communications~~ chief information officer, Data Services Division;

(G) ~~Associate Director, Office of Administration~~ chief operating officer, Human Services Centers;

(H) ~~Chief Projects Director and Coordinator, Office of Chief of Staff~~ general counsel, Legal Division; and

(I) ~~Associate Director, Office of Client Advocacy; and~~

~~(J) Division Administrator, Office of Inspector General~~ inspector general, Office of Inspector General.

340:1-1-20. Confidentiality

The Oklahoma Department of Human Services (OKDHS) complies with:

(1) all federal and state statutes, rules, and regulations regarding client confidentiality.

(A) Per Section 183 of Title 56 of the Oklahoma Statutes, information and records obtained by OKDHS concerning an applicant or recipient of OKDHS programs or services is confidential. This includes electronic data and records generated by OKDHS.

(i) OKDHS employees only examine applicant or recipient information in connection with the performance of their official duties.

(ii) OKDHS does not furnish or release information from client records for commercial or political purposes.

(B) All Child Welfare (CW) records and information are confidential pursuant to state and federal statutes and regulations. [10 O.S. § 7005-1.2 through 7005-1.4 and 7107; and 45 CFR Part 1340]

(C) All records, working papers, and reports related to an Adult Protective Services (APS) investigation are confidential under Section 10-110 of Title 43A of the Oklahoma Statutes.

(D) All files and records concerning the assistance or services provided under the Child Support Enforcement Program or concerning a putative father of a child born out of wedlock are confidential, except as otherwise authorized by law; [56 O.S. § 237]

(2) Sections 7213, 7213A, and 7431 of the Internal Revenue Code safeguarding federal tax information regarding an applicant or recipient;

(3) the Open Records Act to ensure and assist the public's right to access, review, and copy governmental records, except where specifically required by federal or state law, rule, and regulation to be kept confidential; [51 O.S. § 24A.1 through 24A.22] and

(4) Part 160 and Subparts A and E of Part 164 of Title 45 of the Code of Federal Regulations constituting

the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule, which provides protection for the privacy of health information.

340:1-1-21. Copyrighted software and documents

(a) Oklahoma Department of Human Services (OKDHS) employees:

(1) sign Form ADM-133, Employee Acknowledgment of Confidentiality of Computer Accessible Case Records and Computer and Internet Usage Restrictions;

(2) comply with the terms and conditions regarding the copyrights of all vendors with whom OKDHS enters into software license agreements or from whom OKDHS purchases software; and

(3) may not reproduce software or its related documentation unless authorized by the software developer.

(b) OKDHS employees adhere to copyright laws. Copyrighted documents are not reproduced without written permission from the copyright source.

[OAR Docket #05-487; filed 3-31-05]

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

[OAR Docket #05-488]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 19. Correspondence [REVOKED]
340:2-19-1. through 340:2-19-3. [REVOKED]
(Reference APA WF # 04-25)
AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; and Sections 250 et. seq. of Title 75 of the Oklahoma Statutes.
DATES:
Comment period:
December 15, 2004 through January 14, 2005
Public hearing:
None requested.
Adoption:
January 25, 2005
Submitted to Governor:
January 25, 2005
Submitted to House:
January 25, 2005
Submitted to Senate:
January 25, 2005
Gubernatorial approval:
March 9, 2005
Legislative approval:
Failure of the Legislature to disapprove the rule(s) resulted in approval on March 31, 2005.
Final adoption:
March 31, 2005
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May 12, 2005
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
Chapter permanent rule amendments revoke rules that are no longer relevant.
CONTACT PERSON:
Dena Thayer, Programs Manager, Policy Management Unit, DHS, 2400 N. Lincoln Blvd., Oklahoma City, OK 73105, 405-521-3611.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2005:

SUBCHAPTER 19. CORRESPONDENCE [REVOKED]

340:2-19-1. Purpose [REVOKED]

~~The purpose of this Subchapter is to describe the handling of correspondence to and from those outside the Department. The Department uses two forms of written communication: the memorandum; and the letter.~~

340:2-19-2. Letters going outside the Department [REVOKED]

~~(a) **Procedures applicable to all letters going outside the department.** Standard DHS letterhead stationery is used for all letters going outside the Department. (The Oklahoma Teaching Hospitals use standard letterhead stationery with hospital logos). When possible, letters should be limited to a single page. However, if more than one page is needed, subsequent pages are typed on plain bond paper. Each of these pages contain a heading which includes the name of the addressee (at the left margin), the page number (centered), and the date of the letter (at the right margin). Below is an example of such a heading:~~

~~Senator Howard Smythson 2 April 18, 1985~~

~~(1) These page headings appear at least one inch from the top of the page and at least four spaces above the continued body of the letter.~~

~~(2) For record keeping purposes and filing ease, only one subject or case should be dealt with in a letter. If the writer cannot avoid discussing more than one subject or case, enough copies must be made to insure that each subject or case has a copy of the letter in its file.~~

~~(b) **Procedures applicable to local office and institutional letters going outside the department.** In local offices (except institutions), out-going mail to individuals other than clients is signed by the person administratively responsible for the office. If the person administratively responsible for the office allows his or her name to be signed by a designated employee, that employee's initials appear below the signature. In local offices (except institutions), letters to clients, except for formal notifications, are signed with the worker's name. Formal notifications are signed by the person administratively responsible for the office. In institutions, all letters go out over the signature of the superintendent.~~

~~(c) **Procedures applicable to state office letters going outside the department.** State Office letters go out over the signature of the Director, an Assistance Director, a unit chief, or a designated attorney. The closing for all letters should be typed to the right of the center of the page, with five spaces left for the Director's signature.~~

~~Sincerely,~~

~~Robert Fulton~~

~~Director of Human Services~~

~~(1) The information and Referral Unit the External Relations Division is responsible for gathering information and compiling proposed responses. Many times, this done by referring the letter to the appropriate Assistant Director for preparation of a draft response. Due dates are assigned to each of these items of correspondence. The Assistant Director for External Relations is responsible for reviewing the work of the Information and Referral staff and assuring that DHS is responding fully, accurately, and consistently to such correspondence. The Information and Referral Unit prepares the actual correspondence for the signature of the Assistant Director having major interest in the subject matter dealt with in the incoming letter. For instance, if the communication concerns an assistance payments issue, the reply will be prepared for the signature of the Assistant Director for Payment and Services.~~

~~(2) Any letter which involve significant policy issues or sensitive topics (such as alleged wrongdoing by DHS administrator) will be prepared for the Director's signature.~~

~~(3) The Information and Referral Unit is to receive copies of all replies to letters or telephone calls from members of Congress and the Oklahoma Legislature, whether these replies are drafted in Information and Referral or elsewhere. All division and unit heads are responsible for assuring that such copies are forwarded to the Information and Referral Unit.~~

~~(4) When any division or unit prepares a letter for the Director's signature to any member of the Oklahoma Legislature, the Governor's Member of Congress, or any federal or state agency, an additional copy is prepared for filing in the Executive Office Legislative File for ready reference. If the letter is in reply to an inquiry, the correspondence to which a reply is being made should be attached to the letter being sent to the Director's office for signature.~~

~~(A) When any division or unit prepares a letter in reply to an inquiry from a state legislator or a member of the United States Congress, the letter is addressed as follows:~~

~~Honorable C. C. Eubanks Honorable S. T. Adams~~
~~United States Senator State Senator~~
~~Senate Office Building State Capitol~~
~~Washington, D.C. 20510 Oklahoma City, OK 73105~~
~~Dear Senator Eubanks: Dear Senator Adams:~~

~~(B) If the letter is to a United States Congressman or State Representative, the same format is used, followed by:~~

~~Dear Congressman_____: Dear Representative_____:~~

~~(5) When a letter from an official has attached to it an original letter which prompted the inquiry, the original and one copy of the Department's reply will be stapled to the letter that was addressed to the official and returned to him. In this way, the official can forward the copy of the department's reply to the person who contacted him or her. Photostatic copies will be made of the original letter of inquiry, and the official's letter will be attached to the copies of the Department's letter being retained in the State Office files and those being forwarded to the local or district offices.~~

340:2-19-3. Out-of-town-inquiries [REVOKED]

~~An out-of-town inquiry (OTI) is a request for a specific service in connection with a case for which the inquiring agency or institution has assumed some casework responsibility. A request is classed as an OTI only when the requesting agency is outside the area served by the unit providing the service. When the agency sending or receiving such an inquiry is serving the same area, such requests are classed as "other services" rather than as "OTI's". On the same day an OTI is received in the local office it is cleared with the master file and an entry is made to the appropriate control for incoming correspondence. If no record is found, but the information indicates the person may have been known to the Department, it is cleared with the State Office when it appears that information from the record is needed. If the local office discovers or is informed that a record exists elsewhere, the local office answers as much of the request as possible and refers the request to the office which has the case record. A copy of the referral is routed to the office originating the OTI. Out of town inquiries may be in writing or by long distance telephone confirmed by letter. The service requested or given is limited to such activity as either agency undertakes on its own cases when the source of information is directly available. The reply of an OTI should be made within two weeks from the date it is received.~~

[OAR Docket #05-488; filed 3-31-05]

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

[OAR Docket #05-489]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 2. Temporary Assistance for Needy Families (TANF) Work Program
340:10-2-8. [AMENDED]
Subchapter 3. Conditions of Eligibility - Need
Part 1. Resources
340:10-3-3. [AMENDED]
340:10-3-10. [AMENDED]

Part 3. Income
340:10-3-33. [AMENDED]
340:10-3-39. [AMENDED]
Part 5. Assistance Payments
340:10-3-57. [AMENDED]
Part 7. Transitional Benefits
340:10-3-81. [AMENDED]
Subchapter 9. Conditions of Eligibility - Relationship of Payee to Child
340:10-9-1. [AMENDED]
Subchapter 10. Conditions of Eligibility - Deprivation
340:10-10-5. [AMENDED]
340:10-10-7. [AMENDED]
Subchapter 15. Conditions of Eligibility - Citizenship and Alienage
340:10-15-1. [AMENDED]
340:10-15-3. [AMENDED]
Subchapter 17. Foster Care in Aid to Families with Dependent Children [REVOKED]
340:10-17-1. through 340:10-17-5. [REVOKED]
Subchapter 18. Conditions of Eligibility for Support Service Funds for Child Only Cases
340:10-18-1. [AMENDED]
Subchapter 19. Eligibility Requirements for Emergency Assistance to Needy Families with Children
340:10-19-5. [AMENDED]
Subchapter 20. Diversion Assistance
340:10-20-1. [AMENDED]
Subchapter 22. Temporary Assistance for Needy Families (TANF) Supported Permanency Program
340:10-22-1. [AMENDED]
Appendix S. Request for Services [REVOKED]
Appendix II. Application for Emergency Assistance [REVOKED]
(Reference APA WF # 04-20 and 04-29)

AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; Section 7204 of Title 10 of the Oklahoma Statutes (O.S.); Sections 230.50, 230.52, 230.55 through 56, 230.60, 230.62, through 230.66 of Title 56 of the O.S.; Section 41.4A of Title 62 of the O.S.; Personal Responsibility and Work Opportunity Reconciliation Act of 1996; Titles IV-B and IV-E of the Social Security Act, the Social Security Act Amendments of 1994 (Public Law (P.L.) 103-432); Section 1823(c) of Title 38 of the United States Code (U.S.C.), (P.L.) 104-204; P.L. 106-419; Section 403(a)(5)(C)(viii) of the Social Security Act (42 U.S.C. 603(a)(5)(viii)) as amended; and the Job Creation and Worker Assistance Act of 2002 (P.L. 107-47).

DATES:
Comment period:
December 15, 2004 through January 14, 2005
Public hearing:
None requested.
Adoption:
January 25, 2005
Submitted to Governor:
January 25, 2005
Submitted to House:
January 25, 2005
Submitted to Senate:
January 25, 2005
Gubernatorial approval:
March 9, 2005
Legislative approval:
Failure of the Legislature to disapprove the rule(s) resulted in approval on March 31, 2005.
Final adoption:
March 31, 2005
Effective:
May 12, 2005

SUPERSEDED EMERGENCY ACTIONS:
n/a

INCORPORATIONS BY REFERENCE:
n/a

ANALYSIS:
The rules are amended to: (1) revise TANF rules which are out of date or duplicated elsewhere in OAC 340:10; (2) change language to reflect current usage; (3) improve readability, eliminate unnecessary language, and clarify existing rules; (4) revoke rules that have been incorporated elsewhere or are no longer applicable to the foster care program; and (5) revoke appendices that are no longer needed.

CONTACT PERSON:
Dena Thayer, Programs Manager, Policy Management Unit, DHS, 2400 N. Lincoln Blvd., Oklahoma City, OK 73105, 405-521-3611.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2005:

SUBCHAPTER 2. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) WORK PROGRAM

340:10-2-8. Temporary Assistance for Needy Families (TANF) Work support services

(a) **Scope.** The worker provides or arranges payments and services for the participant to ensure successful completion of his or her employability plan to become self-supporting. Payments are authorized for items or services directly related to employment as an outcome. When support services are available and part of the employability plan, the participant's failure to cooperate in obtaining the support services constitutes a failure to participate in the TANF Work program. Items and services covered by the participant's medical card are not paid for by the support service funds. The only support services available to an applicant are the participant allowance and work activity payment.

(b) **Flexible funds.** The intent of flexible funds is to provide a participant with the necessary support services needed to accomplish his or her employment goals. Flexible funds are not available to an applicant. To be eligible for flexible funds, the participant must either be otherwise ready to participate in a required work activity for the minimum number of hours, have a guaranteed offer of employment, or be employed. Payments for the services through flexible funds are not an automatic entitlement to the participant. Flexible funds are not used for fines including traffic fines or any cost related to a criminal offense such as legal fees or court costs. The county staff has final authority to determine authorizations. One-time payments of specific services are allowed after the service is rendered. Ongoing maintenance payments are not allowed. ~~The provider is paid no later than five days from the date of receipt of the properly completed Authorization to Purchase in the Finance Division.~~

(c) **Other support services.**

(1) **Work activity payments.** To be eligible for the work activity payment, the individual must be ready to participate in or be in a required work activity and in need of a small amount of cash to purchase items such as a tank of gas, or health, beauty, or personal items. The maximum amount approved cannot exceed $30 per month.

(2) **Participant allowances.** Allowances, up to a maximum of $8 for each day, are made to participants

in assigned work activities which are scheduled, structured, and supervised. Lunch hours and travel time are not included as actual hours of attendance. For persons in Job Search, travel time between job interviews and job applications is included as actual hours of attendance. The participant makes appropriate daily entries on Form TW-13, Time and Progress Report, which documents actual hours in attendance. The daily allowance paid is: ~~determined based on (A) and (B) of this paragraph.~~

(A) ~~An allowance of~~ $5 each day ~~is paid~~ when the work activity equals four hours or less~~.~~; or

(B) ~~An allowance of~~ $8 each day ~~is paid~~ when the work activity equals more than four hours.

(3) **Oklahoma State Bureau of Investigations (OSBI) background checks.** OSBI background checks may be requested for a participant who is ~~being~~ placed in job skills training that requires an OSBI background check as a prerequisite for employment. The job skills training can include vocational training, hands-on work experience, or public or private sector work experience. The participant is advised of the requirement and Form ADM-60, Request for Release of Information, is completed.

(4) **Child care.** Child care arrangements are made for each child in the home who is under age 13, mentally or physically incapable of self care, or under court supervision. The plans for child care are included on Form TW-2, TANF Work/Personal Responsibility Agreement. When the individual begins active participation in TANF Work activities, child care services are documented.

(5) **Transportation contracts.** Transportation contracts are initiated to provide transportation for TANF recipients who have no means of transportation to access required TANF Work training activities. To initiate a transportation contract, contact the Family Support Services Division~~,~~ TANF Section.

(6) **Disability Advocacy Program (DAP).** DAP is available to assist a TANF ~~recipient, adult or~~ Work participant or a child receiving a TANF benefit, who has an application for disability pending with the Social Security Administration (SSA)~~. The program is also available for a TANF recipient, adult or child, who does not have an application pending with SSA but~~ or who the Oklahoma Department of Human Services (OKDHS) determines has a potentially meritorious claim for such benefits.

(A) A referral is made to the OKDHS contracted law firm to assist the recipient(s) with the application, reconsideration, Administrative Law Judge hearing, and review by the SSA Appeals Council.

(B) The evaluation of merit determines if the appropriate SSA test for disability would be met if evidence was available to prove all conditions claimed by the TANF recipient. If the evaluation of merit determines there is:

(i) sufficient evidence, the law firm represents the TANF recipient. Statewide this representation consists of assisting the recipient with the application through an unfavorable decision by the SSA Appeals Council. In counties in which representation by a lawyer or experienced non-lawyer advocate is not available without advanced payment, the contracted law firm assists with the pending application for disability through an unfavorable decision by the SSA Appeals Council~~.~~; or

(ii) ~~If the evaluation of merit determines there is~~ insufficient evidence to prove conditions claimed by the TANF recipient, no further services are provided by DAP. Representation by the law firm ceases at any time the law firm determines there is insufficient evidence to support the TANF recipient's claim for disability benefits.

SUBCHAPTER 3. CONDITIONS OF ELIGIBILITY - NEED

PART 1. RESOURCES

340:10-3-3. Home property

The home and surrounding property necessary for the operation of the home is exempt regardless of the value. For purposes of the home resource exclusion, a home is defined as any shelter in which the individual has an ownership interest and which is used by the individual as his or her principal place of residence. The home may be either real or personal property, fixed or mobile.

(1) The home as described in this Section may be retained without affecting eligibility during periods when it is necessary to be absent for illness or other ~~necessity~~ reason. The Oklahoma Department of Human Services (OKDHS) has not set a definite time limit to the individual's absence from the home.

(2) When it is determined the individual does not have a feasible plan for and is not expected to return to the home, the current market value of the property is considered in relation to the maximum resource standard. Once the property is determined ~~to be~~ a resource, the individual is responsible for converting it for use in meeting current needs. If the individual fails or is unwilling to take steps necessary to convert the resource, continuing eligibility cannot be established. The individual is advised as to the effective date of denial or closure and his or her right to receive cash assistance when the resources are within the maximum resource standard provided other conditions of eligibility continue to be met.

(3) When a recipient sells his or her home with the intention of purchasing another home or when an insurance payment for damage to the home is received, a reasonable period of time is given to use the money for the intended purpose. A reasonable period of time is 90 calendar days.

(4) At the point a recipient decides not to use the funds from the sale of his or her home to purchase another home, an evaluation is made in accordance with OKDHS Appendix C-1, ~~Schedule of~~ Maximum Income, Resource, and

Payment Standards, Schedule IX C. The amount considered available is the total payment received from the sale of the home. At the point a recipient decides not to use an insurance payment received to repair damage to the home, the lump sum rule applies.

(5) A home traded for another home of equal value does not affect the recipient's eligibility status. If the home is traded for a home of lesser value, the difference may be invested in improvement of the new home.

340:10-3-10. Maximum resources

Maximum resources is a term used to designate the largest amount an individual can hold in one or more capital resources and still be considered eligible for Temporary Assistance for Needy Families (TANF) from the standpoint of need. ~~Such resources~~ Resources may be held in any form or combination of forms of capital resources.

(1) **Maximum TANF resource standard.** The maximum resource standard is shown on OKDHS Appendix C-1, ~~Schedule of~~ Maximum Income, Resource, and Payment Standards, Schedule IX.C. The resources of all members whose needs are included in the TANF cash assistance benefit are considered in determining the maximum resources for the family. For resources of a needy caretaker see paragraph (2) of this Section.

(A) When both parents are in the home and one parent is included in a State Supplemental Payment (SSP) case and the spouse is included in a TANF case with the children, the resources of both parents are evaluated in relation to eligibility for Supplemental Security Income (SSI) and therefore not considered on the TANF case.

(B) If a natural or adoptive parent or dependent child is not included in the assistance unit because of alien status, his or her resources are considered with the resources of the eligible children in computing the maximum resources.

(2) **Consideration of resources of a relative-payee other than a natural or adoptive parent.** A relative-payee can only be included in the cash assistance benefit when the natural or adoptive parent is not in the home and the relative-payee also meets the definition of a needy caretaker. A stepparent may be included in the cash assistance benefit when the natural or adoptive parent is incapacitated or not in the home.

(A) If a relative-payee is not eligible to be included in the TANF assistance unit or is eligible but does not request to be included, consideration is not given to his or her resources or the resources of his or her spouse in determining eligibility of the children.

(B) A relative-payee is considered resource eligible as a needy caretaker if the resources for the case does not exceed the maximum resource standard.

(C) Only one needy caretaker may be included in the TANF assistance unit when the child's ~~parents are~~ parent(s) is not in the home. If the needy caretaker has a spouse who is not an SSI recipient, one-half of their combined resources are considered ~~to be~~ the needy caretaker's resources. If the spouse of the needy caretaker is an SSI recipient, consideration is not given to his or her resources.

PART 3. INCOME

340:10-3-33. Individual earned income exemptions

Exemptions from each individual's earned income include a monthly standard work related expense and one-half of the remaining earned income. Exemptions are also allowed for child and adult dependent care expenses the individual is responsible for paying if expenses are not paid through other state and federal funds and the dependent care is in a licensed facility or home. Exempt income is income which by law is not considered in determining need for financial assistance in the Temporary Assistance for Needy Families (TANF) category. Income exempt for one individual is not taken into consideration in determining the need of any other individual for assistance in the State Supplemental Payment (SSP) for the aged, blind, and disabled and TANF.

(1) **Work related expenses.** The standard deduction for work related expenses such as income tax payment, ~~social security~~ Social Security taxes, and transportation to and from work, is $120 monthly for each full-time or part-time employed member of the assistance unit, or an individual whose income is considered in determining the amount of the TANF cash assistance. The $120 deduction is not applied to earnings of participants in the Work Supplementation Program (WSP).

(2) **One-half remainder.** For all countable income earned by each member included in the assistance unit, as well as a stepparent who is not included in the assistance unit, one-half of the remaining earned income is exempted. [OAC 340:10-3-57(f)(1)] The one-half remainder exemption is not applied to earnings received by participants in the WSP. An applicant is only eligible for one-half of the remainder exemption if:

(A) an individual in the TANF assistance unit was included in a TANF benefit in any of the 50 states in addition to the Virgin Islands, Puerto Rico, and Guam, during one of the four months preceding the application; or

(B) the total income of all members minus work related expenses and dependent care expenses is less than the TANF Need Standard found on ~~DHS~~ Oklahoma Department of Human Services (OKDHS) Appendix C-1, ~~Schedule of~~ Maximum Income, Resource, and Payment Standards, for the appropriate number of persons.

(3) **Dependent care expenses.** Dependent care expense is applied after all other earned income exemptions.

(A) Dependent care expenses are not deducted from earnings of participants in the WSP. Dependent care expense may be deducted when:

(i) suitable care for a child or incapacitated adult included in the TANF assistance unit is not

available from responsible persons living in the home or through other alternate sources;

(ii) the employed TANF assistance unit member whose income is considered in computing the amount of the benefit must purchase care;

(iii) the gross earned income equals or exceeds the work related and dependent care expenses combined;

(iv) the child or incapacitated adult ~~is~~ receives care in a properly licensed facility or ~~receiving care~~ from an approved in-home provider as required by Oklahoma law; and

(v) the stepparent of the child(ren) for whom TANF is requested is living in the home and has dependents not included in the assistance unit who are also living in the home. [OAC 340:10-3-57(f)(1)]

(B) Dependent care expenses must be verified and the actual amount paid per month is deducted up to a maximum of $200 for a dependent under the age of two or $175 for a dependent age two or older or for an incapacitated adult. In considering the dependent care expense, only actual work hours and travel time between work and the care facility is allowed. Payment for dependent care is the individual's responsibility. The individual must immediately report any changes in the plan of care.

(C) Dependent care provided by another person in the household who is not a member of the assistance unit may be considered as long as the caregiver meets applicable ~~State~~ state, local or ~~Tribal~~ tribal law.

340:10-3-39. Income other than earned income

(a) **Capital investments.** Proceeds from interest or dividends from capital investments, which include savings accounts, bonds, other than United States (U.S.) Savings Bonds, notes, and mortgages received subsequent to certification constitute income.

(b) **Real property held as a resource.** If the individual has income from property held as a resource, only the income after deducting the actual business expense is considered.

(c) **Life estate and homestead rights.** For income from life estate and homestead rights, see OAC 340:10-3-4(d).

(d) **Minerals.** If the individual owns minerals, but not the surface rights, only actual income from minerals, delayed rentals, and production is considered. Evidence is obtained from documents which the individual has in hand. When the individual has no documentary evidence of the amount of income, the evidence is secured from the firm or person who is making the payment.

(e) **Home produce.** Any home produce from garden, livestock, and poultry utilized by the individual and his or her household for their consumption represents resourcefulness on the part of the individual in improving his or her situation, and is not considered in determining the amount of benefit.

(f) **Contributions.** Appreciable contributions recurrently received in cash are considered income except when the contribution is not made directly to the recipient.

(g) **Retirement, disability, and unemployment benefits.** Income received monthly from ~~these sources is~~ annuities, pensions, retirement, veterans' or disability benefits, workers' or unemployment compensation, survivors' or Social Security benefits are considered unearned income. Information as to present receipt and amount of current benefits is obtained from the individual's award letter or benefit verification statement, by viewing the warrant, or by use of the data exchange files. Retirement benefits received as a lump sum payment at termination of employment are considered a resource. Supplemental Security Income (SSI) does not fall under these types of benefits.

(h) **Military benefits.** Life insurance, pensions, compensation, servicemen dependents' allowances, and similar benefits, are sources of income which the individual and dependents may be eligible to receive. In each case, information is obtained concerning the military service of the individual's son, daughter, spouse, or parent ~~has been in any military service~~. Clearance is made with the proper veterans' agencies, both state and federal, to determine whether the benefits are available.

(i) **Income from any agency or organization.** Financial aid provided to individuals by agencies or organizations which base their payment on financial need is not considered in determining the amount of the benefit provided duplication does not exist between such other assistance and that provided by the Oklahoma Department of Human Services (OKDHS). Financial aid given by other agencies or organizations does not constitute duplication if the financial aid is given:

(1) for a different purpose than that provided by OKDHS;

(2) for goods and services that are not included in the Temporary Assistance for Needy Families (TANF) need standard; or

(3) in an amount sufficient to make it possible for the individual to have the amount of money as determined by the TANF need standard. In this instance, the non-duplicated amount is the difference between the monthly payment standard and the monthly need standard. Any amount of financial aid that exceeds that difference is considered as unearned income.

(j) **Income from Vocational Rehabilitation Program through Department of Rehabilitation Services.** Assistance or services received by a TANF ~~individual~~ recipient from the ~~Vocational Rehabilitation Program through the~~ Department of Rehabilitation Services which are allocated to items not covered in the TANF standards, ~~such as car fare to a rehabilitation center, extra clothing, lunches, grooming needed for a training program, and any other such complementary payments,~~ are disregarded in determining the amount of the assistance payments. Examples of assistance or services are car fare to a rehabilitation center, extra clothing, lunches, grooming needed for a training program, and any other such complementary payments.

(k) **Casual and inconsequential gifts.** Monetary gifts which do not realistically represent income to meet living expenses, for example, Christmas, graduation, and birthday gifts, not to exceed $30 per calendar quarter for each individual, are disregarded as income.

(1) The amount of the gifts is 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.

(2) If the amount of a single gift exceeds $30, it is not inconsequential and the total amount is counted as income.

(3) If the recipient claims that the gift is intended for more than one person in the assistance unit, it can be divided among these persons. Gifts between members of the assistance unit are not counted.

(l) **Grants.** Grants which are not based on financial need are considered income to the extent the grant is available for current maintenance.

(1) Any portion of the grant that is expended, designated, or intended for items not included in current maintenance is excluded.

(2) Any remaining portion of a grant excluded as not for current maintenance must have detailed case documentation to justify the exclusion.

(3) The countable amount of a grant received for a period covering more than one month is prorated over the period it is intended to cover.

(m) **Funds held in trust by Bureau of Indian Affairs (BIA).** ~~The~~ BIA frequently puts an individual's trust funds in an Individual Indian Money (IIM) account. To determine the availability of funds held in trust in an IIM account, the worker must contact ~~the~~ BIA in writing and ascertain if the funds, in total or any portion, are available to the individual. If any portion of the funds is disbursed to the individual client, guardian, or conservator, such funds are considered as available income. If ~~the~~ BIA determines the funds are not available, they are not considered in determining eligibility. Funds held in trust by ~~the~~ BIA and not disbursed are considered unavailable.

(1) When BIA determines the account is unavailable and releases a certain amount of funds each month to the individual, the monthly disbursement is considered as unearned income.

(2) When ~~the~~ BIA has stated the account is unavailable and the account does not have a monthly disbursement plan, but a review reveals a recent history of disbursements to the individual, guardian, or conservator, these disbursements must be resolved with ~~the~~ BIA. These disbursements indicate all or a portion of the account may be available to the individual, guardian, or conservator. When the worker is unable to resolve the situation with ~~the~~ BIA, the worker submits a referral to the Family Support Services Division (FSSD). When a referral is sent to FSSD, the funds are considered as unavailable with a legal impediment until the worker is notified otherwise.

(3) When disbursements have been made, a determination is made whether such disbursements were made to the individual or to a third party vendor in payment for goods or services. Payments made directly from ~~the~~ BIA to vendors are not considered as income to the individual. Services rendered and payment made by BIA is documented.

(4) Amounts disbursed directly to the individual are counted as non-recurring lump sum payments in the month received. Some trusts generate income on a regular basis and the income is sent to the beneficiary. In those instances, the income is treated as unearned income in the month received.

PART 5. ASSISTANCE PAYMENTS

340:10-3-57. Special considerations

(a) **Concurrent receipt of State Supplemental Payment (SSP) for the aged, blind, or disabled.** An individual who is not a recipient of Supplemental Security Income (SSI) has an option to be included in a Temporary Assistance for Needy Families (TANF) assistance unit or may be a recipient of SSP if all eligibility requirements are met. The individual may also be included in the TANF assistance unit pending determination of eligibility for SSP or SSI if all eligibility requirements are met.

(b) **Concurrent receipt of SSI.** If it appears an individual included in a TANF application or an active TANF benefit might meet the eligibility conditions for TANF and SSI, the individual has a choice to have eligibility determined for TANF or SSI benefits.

(1) When the only dependent child is receiving SSI, the natural or adoptive parent(s) or needy caretaker relative may receive TANF if all other factors of eligibility are met. The assistance unit will consist of the adult(s) only.

(2) When a TANF applicant is also an applicant for SSI, eligibility for TANF must be determined and, if eligible, is included in the benefit until notified of SSI eligibility.

(3) When a TANF recipient is an applicant for SSI, the Social Security Administration (SSA) advises ~~DHS~~ the Oklahoma Department of Human Services (OKDHS) of SSI eligibility, requesting the month of TANF termination and the amount of TANF benefits paid for each month of SSI eligibility. SSA considers a recipient removed from a TANF ~~grant~~ benefit effective with, and based on, the TANF termination date provided orally by the ~~local social services specialist~~ worker. If the actual date of termination is later than the date given orally to SSA, TANF payments to SSI recipients are TANF overpayments and must be recouped.

(4) When a TANF recipient is determined ineligible for SSI the individual may continue to be included in the TANF assistance unit if all other conditions of eligibility are met.

(5) When a TANF recipient is determined ineligible for SSI for reasons other than a disability determination the individual may be included in an SSP, if all other conditions of eligibility are met.

(c) **Concurrent receipt of TANF and SSI.** An individual cannot be included in a TANF benefit for the same month he or she was included in a SSI payment. The individual has a choice of which program, TANF or SSI, best meets his or her needs and, if otherwise eligible, may receive under that program. Individuals are informed of their responsibility to report to the ~~Department~~ OKDHS if any member of the assistance unit makes application for SSI or becomes eligible for SSI. Also,

they must report to the SSA if any assistance unit member applies for TANF or is receiving TANF when the member makes an application for SSI.

(d) **Concurrent receipt of state and ~~Tribal~~ tribal TANF.** An individual who is included in a ~~Tribal~~ tribal TANF payment cannot be included in another TANF benefit in the same month. If the individual meets the criteria of a ~~Tribal~~ tribal TANF service area and population, the entire household must be served by ~~Tribal~~ tribal TANF. If the household moves out of the tribe's service area, the ~~social services specialist~~ worker coordinates certification of state TANF benefits.

(e) **Concurrent receipt of more than one form of public assistance.** An individual who is included in a TANF benefit cannot be included in another TANF or SSP benefit for the same period. When a TANF applicant is eligible for TANF but has received a weekly or bi-monthly TANF benefit from another state for the same month the applicant is eligible in Oklahoma, the benefit from the other state is counted as unearned income. An individual who is the payee for a TANF benefit, but not included in that benefit, is not prevented from being a recipient of SSP if the SSP eligibility requirements are met. When transferring a TANF recipient to SSP, the removal and approval date must agree.

(f) **Stepparent or person acting in the role of a spouse and parent(s) of a minor parent.** The natural or adoptive parent's income cannot be diverted to meet the needs of the stepparent or other dependents in the home, but is considered available to the TANF assistance unit. No income is considered if the stepparent, person acting in the role of a spouse, or parent(s) of a minor parent is an SSI recipient.

(1) **Stepparent income.** If a stepparent of the child(ren) for whom TANF is requested is living in the home with the child(ren), the verified earned and unearned income of the stepparent, after all applicable TANF income disregards and work related expenses, is computed to determine the amount considered available to the assistance unit. The stepparent's income is computed by:

(A) subtracting the work related expense, one-half of the remaining earned income, and dependent care expense from the stepparent's earned income for full-time or part-time employment; [OAC 340:10-3-33]

(B) adding the net earned income to the stepparent's unearned income;

(C) subtracting the need standard for the appropriate number of individuals, including the stepparent and dependents who are not included in the assistance unit but are living in the home and can be claimed on the stepparent's personal income taxes;

(D) subtracting the actual amounts the stepparent paid to individuals not living in the household but claimed as tax dependents. It is the stepparent's responsibility to identify and verify tax dependents;

(E) subtracting the actual payments of alimony and child support to individuals outside the household; and

(F) adding the stepparent's remaining net income to all other gross income of individuals included in the TANF assistance unit. If the income does not exceed the monthly maximum gross income, the remaining income of the stepparent is considered as a contribution to the assistance unit.

(2) **Stepparent resources.** Resources owned exclusively by the stepparent are not considered in determining the assistance unit's resource eligibility. Consideration is only given to the assistance unit's share of resources that are owned jointly with the stepparent.

(3) **Person acting in the role of a spouse.** Income must be considered available to the TANF assistance unit of any non-relative adult(s) of the opposite sex not receiving TANF who lives in the home with the natural or adoptive parent. The income of this individual(s) is computed the same as stepparent income; however, the exemption of one-half of the remainder and dependent care expense is not applicable in determining this individual's countable earned income. [OAC 340:10-3-57(f)(1)] If the parent or the person acting in the role of a spouse fails to provide information necessary to determine income eligibility, the application is denied or the cash assistance terminated.

(4) **Parent(s) of a minor parent.** When a minor parent is living in the home with his or her natural or adoptive parent(s) and the needs of the parent(s) are not included in the assistance unit, the parent's income is considered available to the assistance unit and computed the same as stepparent income. [OAC 340:10-3-57(f)(1)] The income of a minor parent's stepparent is not considered. The parent of the minor parent may be designated as the substitute payee for the case.

(g) **Allocating or diverting income.** When family members are not included in the assistance unit, special consideration is required in determining the income available to the assistance unit.

(1) Income received by an individual included in the assistance unit is not allocated or diverted to individuals who are not in the assistance unit. All countable unearned and earned income of the individual is considered available to the assistance unit.

(2) The net income of an alien parent excluded from the benefit because the citizenship or alienage requirement is not met is considered the same as stepparent income. ~~However, the~~ The needs and income of disqualified alien siblings are not considered when determining eligibility of an otherwise eligible child.

(h) **Benefit reduction as a result of program violation.** The TANF benefit is reduced by 25% of the payment standard when a determination of program violation has been made. The 25% penalty is removed the next effective date when compliance is documented or the time frame for the penalty has ended. When multiple types of program violations have occurred, a 25% penalty of the payment standard is imposed for each type of violation. If the benefit reduction causes existing income to be in excess of the benefit amount, the case is closed using the reason for the benefit reduction. The amount of the payment standard reduction applies as Food Stamp Penalty

Income in the Food Stamp Program. [OAC 340:50-7-29(b)(1)] Reasons for benefit reduction are:

(1) refusal to cooperate in an effort to obtain child support; [OAC ~~340:10-10-5(b)~~ 340:10-10-5(c)]

(2) failure to apply for or provide a ~~social security~~ Social Security number;

(3) failure of a child kindergarten age to 18 years of age to attend school; [OAC 340:10-13]

(4) failure to provide verification of child(ren) immunizations; and [OAC 340:10-14]

(5) intentional program violations determined as fraud by court action or an administrative disqualification hearing or administrative hearing waiver. [OAC 340:65-5-38(B)(C) and (D)]

(i) **Parent living in the home receiving SSP.** When there is a parent living in the home but not included in the TANF benefit because of receipt of SSP and not SSI, consideration is not given to that parent's individual income for the TANF benefit. When a parent in the SSP benefit becomes ineligible to continue to receive the SSP, the parent is included in the TANF benefit and all the income and resources of the parent are considered in determining eligibility for TANF. If consideration of the parent's income and resources causes the TANF benefit to be closed, and the closure of the SSP benefit was a direct result of an overall ~~social security~~ Social Security increase, the SSP benefit is placed in Special Medical Status. If the parent is living in the home but not included in the TANF benefit because of receipt of SSP and SSI, no consideration is given to the parent's income and the parent is not included in the TANF assistance unit as long as the parent remains eligible for SSI.

(j) **TANF eligibility when the child(ren) is placed in out-of-home care.** When the child(ren) is removed by a child protection action and it is reasonably anticipated the child(ren) will return to the home within four months, the natural or adoptive parent or needy caretaker relative continues eligible for TANF, if other conditions of eligibility are met. A team consisting of the ~~social services specialist~~ worker, the ~~child welfare~~ child welfare (CW) worker, the natural or adoptive parent or needy caretaker relative, and any other appropriate partner(s) must meet to develop a mutually agreed upon plan of action. This plan addresses employability and strategies to correct the conditions which caused the child(ren) to be removed from the home. At the end of the four month period if the child(ren) has not been returned to the home, the adult(s)' needs are removed and the TANF benefits are discontinued.

(k) **Strikers.** The assistance unit is not eligible for TANF for any month the natural or adoptive parent, whether or not included in the benefit, is participating in a strike on the last day of that month. An individual other than the natural or adoptive parent is not included in the benefit for any month if that individual is participating in a strike on the last day of the month.

PART 7. TRANSITIONAL BENEFITS

340:10-3-81. Adjustment period

(a) **Scope.** In an effort to promote marriage and provide a more secure and stable family situation, an adjustment period up to three months of the existing Temporary Assistance for Needy Families (TANF) benefit can be approved by the worker. The intent of the adjustment period is to assist the family in the payment of outstanding bills and to allow for the gradual assumption of financial responsibilities. When a TANF recipient marries and the income of the spouse will close the case, an adjustment period can be made available to the family. If deprivation ends for the child(ren) when the spouse returns home and he or she is not incapacitated or does not meet the unemployed parent policy, an adjustment period can be made available to the family. At the time the recipient reports his or her marriage or the return of the spouse, it is the responsibility of the worker to discuss the adjustment period with the family to determine possible eligibility. The marriage of the recipient or return of the spouse must be reported timely. If the TANF recipient fails to report the marriage or return of the absent spouse, the number of months of benefits approved is adjusted accordingly. The TANF recipient must be made aware the receipt of an adjustment period counts towards the 60-month lifetime limit of receipt of TANF.

~~(b) **Requirements.** The requirements for receipt of an adjustment period are:~~

~~(1) the marriage of the recipient or return of the spouse must be reported timely. If the TANF recipient fails to report the marriage or return of the absent spouse timely, the number of months of benefits authorized is adjusted accordingly; and~~

~~(2) the stepparent or returning spouse must be screened for literacy and substance abuse prior to receipt of an adjustment period. If the stepparent or returning spouse refuses to complete the screenings, an adjustment period is not approved. When the screening(s) indicates a need, a referral is made to an appropriate provider. If the stepparent or returning spouse fails to follow through with the referral, this does not affect receipt of the adjustment period.~~

(~~c~~b) **Benefits.** The maximum adjustment period approved is three months. The benefit issued is the same as the existing TANF benefit issued prior to the recipient's marriage or the return of the spouse.

(1) When the TANF recipient receives purchased child care for the child(ren), no change is made regarding child care eligibility or the family share co-payment during the time of the adjustment period.

(2) If the family ~~receives~~ continues to be eligible for food stamps, it is necessary to add the stepparent or returning spouse to the food stamp benefit on the Household tab of Family Assistance/Client Services (FACS) and show ~~the~~ his or her income ~~of the stepparent or the returning spouse~~ on the ~~computer document~~ Income tab of FACS so food stamp benefits are correctly computed.

(3) Medical benefits ~~will~~ remain open until medical eligibility is determined by the worker.

SUBCHAPTER 9. CONDITIONS OF ELIGIBILITY - RELATIONSHIP OF PAYEE TO CHILD

340:10-9-1. Relationship of payee to child

(a) **Specified degree of relationship.** To be eligible to receive Temporary Assistance for Needy Families (TANF), in addition to other qualifications, a child must be living with a person having a specified degree of relationship in a place of residence maintained by one or more of such relatives as his or her own home. An otherwise eligible person ~~may not be~~ is not denied assistance solely because the home is not a fixed address or does not have a mailing address. An individual is recognized as meeting the specified degree of relationship if the individual is related within the fifth degree of kinship. It is only when the child is living with a person of one of these degrees of relationship that there is an eligible payee for the TANF benefit.

(1) **Related by blood.** Blood lines remain intact and are not changed by decisions of legal responsibility. Blood relatives, including half blood, are:

(A) parent(s) including a natural parent even if the child is legally adopted and deprivation is based on the absence of the adoptive parent(s);

(B) siblings;

(C) grandparent(s) including those denoted by prefixes of great, great-great, and great-great-great;

(D) aunt(s) and uncle(s) including those denoted by the prefixes of great and great-great;

(E) niece(s) and nephew(s) including those denoted by prefixes of grand and great-grand; and

(F) first cousin(s) and first cousin(s) once removed.

(2) **Related by marriage.** Use kinship as denoted under (1) of this Section, whether the marriage is common-law or ceremonial. Included are step-relations. Kinship by marriage is included even after the marriage is terminated by death or divorce.

(3) **Related by adoption.** Use kinship as denoted under (1) and (2) of this subsection.

(b) **Verification of relationship.** If the individual making the application for TANF is the child's own parent, no further verification is required unless the information is inconsistent with known facts or observations. If the individual making the application is someone other than the parent, the relationship to the child's parent must also be established as outlined in (a) of this Section. The individual's statement as to the relationship to the child's parent is accepted unless the information is inconsistent with known facts or observations. If the individual making the application claims to be the natural father, no further verification is required unless information provided is inconsistent with known facts or observations. When questions exist, the natural father is requested to sign a statement acknowledging paternity or provide medical evidence that substantiates the relationship. If the individual who claims to be the natural father refuses, relationship cannot be determined.

SUBCHAPTER 10. CONDITIONS OF ELIGIBILITY - DEPRIVATION

340:10-10-5. Requirement for assignment of support rights and cooperation

(a) As a condition of eligibility, when the reason for deprivation is absence, each applicant or recipient of Temporary Assistance for Needy Families (TANF) must assign to the Oklahoma Department of Human Services (OKDHS) any support rights accrued, pending, and continuing of any other family member included in the assistance unit. Failure to assign support rights makes the assistance unit ineligible for TANF. This also includes Title IV-E benefits. Support rights may also be assigned for Medical Assistance (MA) and State Supplemental Payment (SSP) for the blind and disabled when the recipient is a minor with a parent absent from the home, as well as MA custody cases when ~~the state~~ OKDHS has temporary custody. ~~As a condition of eligibility for TANF, each applicant or recipient must cooperate with OKDHS in respect to a child of the individual.~~

(b) As a condition of eligibility for TANF, each applicant or recipient must cooperate with OKDHS in obtaining support for each child of the individual. Failure of the applicant or recipient to cooperate without good cause may be indicated either during the intake interview or at any time further action by the recipient is necessary. ~~Actions indicating a failure to cooperate are refusals to:~~

~~(1) identify and assist in locating a known parent;~~

~~(2) establish paternity; and~~

~~(3) establish, modify, or enforce a support order.~~

(c) If the applicant or recipient refuses to cooperate with OKDHS without good cause ~~in any of the three areas listed in (b) of this Section~~, the cash assistance must be reduced by 25% of the TANF payment standard the next effective date.

(d) The Child Support Enforcement Division (CSED) district office makes the determination that an individual is not cooperating in establishing paternity or ~~obtaining child support~~ in establishing, modifying, or enforcing a support order as required by Section 454(29) of the Social Security Act. ~~This may be~~ Non-cooperation is indicated by:

(1) failure to ~~provide any requested information or keep scheduled appointments as necessary for the development of child support~~ appear at a CSED district office to provide information or evidence relevant to the case;

(2) refusal to complete and sign documents necessary to take legal action against the absent parent(s) when requested to do so by the CSED district office;

(3) failure to comply with an order for genetic testing for the individual and the appropriate child to determine paternity;

(4) failure to appear as a witness at an administrative or district court hearing or other proceeding when cooperation is essential for the next step in providing child support services;

(5) failure to provide information, or attest to lack of information, under penalty of perjury;

(~~3~~6) failure to forward to CSED all child support payments received from the absent parent(s) after ~~an assignment of child support rights to OKDHS has been made~~ receiving the initial TANF benefit;

(~~4~~7) refusal to make a repayment agreement or to comply with a repayment plan when ~~direct~~ child support ~~is~~ payments are retained; and

(~~5~~8) failure to notify CSED of the pursuit of private legal action affecting the status or amount of a support obligation~~; and~~.

~~(6) discovery of any questionable action or inaction regarding a support obligation.~~

(e) When ~~an individual is determined to be cooperating with~~ CSED~~,~~ determines the individual is cooperating, the worker is notified and the 25% penalty is removed the next effective ~~the~~ date ~~cooperation resumes~~. ~~[OAC 340:10-10-7(b)(3)(C)]~~

340:10-10-7. Oklahoma Department of Human Services (OKDHS) responsibilities in relation to support payments

(a) **Referral to the Child Support Enforcement Division (CSED).** Federal regulations require referral to CSED no later than two working days after the Temporary Assistance for Needy Families (TANF) benefit is issued based on deprivation due to absence. The appropriate completed CSED forms supplement the computer-generated referral and are submitted, with the exception of good cause, to CSED. Information which may have an effect on support enforcement may become known after the CSED district office referral has been made.

(b) **Receipt of child support or spousal support.** For purposes of this Subchapter, child support is defined as voluntary monetary contributions or court-ordered obligations. When a child support order also contains an order for spousal support which may be referred to as alimony or support alimony in Oklahoma, the obligation for spousal support must also be assigned to OKDHS. At the application interview, the applicant is informed of the responsibility to forward to the Oklahoma Centralized Support Registry (OCSR) any support payments received from the absent parent(s) after TANF certification.

(1) **Payments received during application period.** All child support payments reported by an applicant during the time prior to certification are considered as income. For purposes of rules in this Chapter, certification is considered the date of the supervisor's signature authorizing payment. Support anticipated to be received after certification is not considered as the client has agreed by signing Form FSS-1, Comprehensive Application and Review ~~Form, and Form CSED 5, Statement of Understanding, Cooperation and Assignment – TANF~~, to submit any future payments to OCSR.

(2) **Payments received after certification.** Any support payments brought to the county office by the client after certification must be forwarded to OCSR. Payments are not sent in the form of cash.

(3) **Retained support payments.** If the worker becomes aware that the client has retained assigned support payments, the CSED district office is contacted with this information.

(A) The client is considered as not cooperating if:

(i) assigned support paid directly to the client is retained;

(ii) he or she refuses to repay a retained support overpayment in full or sign a repayment plan;

(iii) he or she fails to make payments according to the repayment agreement; or

(iv) he or she retains assigned direct support payment even if any overpayment has been repaid in full or a repayment plan is being followed.

(B) The CSED district office determines whether non-cooperation has occurred and notifies the county ~~office~~ worker. When non-cooperation is determined, the TANF cash assistance is reduced by 25% of the TANF payment standard and the support is considered as income the next effective date.

(C) When notified by CSED that the client has resumed cooperation, the worker removes the 25% penalty and no longer considers the support as income. The cash assistance is increased the next effective ~~the~~ date ~~cooperation resumes~~.

(4) **Child support and other income exceeds cash assistance.** When a support payment is received that is greater than or equal to that month's TANF cash assistance, the TANF cash assistance must be closed the next effective date. If the TANF cash assistance is not closed timely, any child support payment received during that month or subsequent months is retained by CSED for reimbursement of TANF payments made for those months or any preceding months. When child support, spousal support, or both, causes ineligibility, the family is entitled to continued medical benefits. Following reimbursement of all TANF cash assistance, any excess payment remaining is forwarded to the client.

(5) **Federal and/or state tax intercept payments.** Tax intercept payments collected by CSED prior to the client's current receipt of TANF and held for six months may be distributed to the client and is considered as a resource the month following the month of receipt.

(c) **Arrearage in child support payments.** CSED determines the amount of child support owed by the absent parent, which includes any arrearages. Arrearages are amounts that are past due for previous months. When a child support payment received by OKDHS during any given month includes arrearages, paragraphs (1) through (2) of this subsection apply.

(1) Any portion of the arrearages for months during which the family was receiving TANF is considered as reimbursement to OKDHS for the TANF received by the family.

(2) The only payment from such arrearages made to the family is that portion, if any, which exceeds the total TANF payments.

(d) **Child support services after TANF closure.** At the time the TANF benefit is closed, the client is advised that he or she can receive non-TANF Child Support Services with no further application, no fee required, nor charge for collection deducted. This service occurs automatically unless the client specifically requests in writing that CSED not provide the

service or the client becomes ineligible for non-TANF Child Support Services for some other reason.

SUBCHAPTER 15. CONDITIONS OF ELIGIBILITY - CITIZENSHIP AND ALIENAGE

340:10-15-1. Citizenship and alien status

(a) An individual eligible to be included in a Temporary Assistance for Needy Families (TANF) benefit, must be either:

(1) a citizen or a national of the United States (U.S.), including the 50 states, District of Columbia, commonwealth of Puerto Rico, Virgin Islands, Guam, American Samoa and Northern Mariana Islands. An individual may be a citizen of the U.S. by being born in the U.S. or by being born in some other country but moving to the U.S. and being granted U.S. citizenship through the ~~Bureau of Citizenship and Immigration Services (BCIS)~~ U.S. Citizenship and Immigration Services (USCIS) a ~~branch~~ bureau of the U.S. Department of ~~Justice~~ Homeland Security; or

(2) a qualified alien described as:

(A) an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act;

(B) an alien who is paroled into the U.S. under Section 212(d)(5) of such Act for a period of at least one year;

(C) an alien who is granted conditional entry pursuant to Section 203(a)(7) of such Act as in effect prior to April 1, 1980;

(D) an alien who is granted asylum under Section 208 of such Act;

(E) a refugee who is admitted to the U.S. under Section 207 of such Act;

(F) an alien whose deportation is ~~being~~ withheld under Section 243(h) or Section 241(b)(3) of such Act;

(G) an alien who is a Cuban or Haitian entrant as defined in Section 501(e) of the Refugee Education Assistance Act of 1980;

(H) battered aliens and their children or parents as defined in Section 431(c) of the Personal Responsibility and Work Opportunity Reconciliation Act as amended; or [8 U.S.C. 1641(c)]

(I) an alien and his or her eligible relatives who ~~is a victim~~ are victims of a severe form of trafficking pursuant to Section 107(b) of the Trafficking Victims Protection Act of 2000 which was reauthorized and amended by the Trafficking Victims Protection Reauthorization Act of 2003.

(b) A qualified alien who enters the U.S. on or after August 22, 1996, is not eligible for TANF benefits for a five year period beginning on the date of the alien's entry into the U.S. with a qualified alien status unless the alien is:

(1) admitted to the U.S. as a refugee;

(2) granted asylum;

(3) one whose deportation is being withheld;

(4) a Cuban or Haitian entrant;

(5) admitted to the U.S. as an Amerasian immigrant;

(6) lawfully residing in the state and is a veteran of the U.S. armed forces, on active duty, or is that person's spouse or unmarried dependent child; or

(7) is a victim of a severe form of trafficking.

(c) A declaration of citizenship and alien status is required for all adults and children in the ~~case~~ TANF benefit. This requirement is met when an adult member in the assistance unit signs Form FSS-1, Comprehensive Application and Review, attesting to the citizenship and alien status for all members of the assistance unit.

(d) Declaration on behalf of a newborn child may be delayed provided the delay does not exceed the date of the assistance unit's next eligibility redetermination.

(e) Persons determined as having satisfactory alien status must have the status verified through Systematic Alien Verification for Entitlements (SAVE). In situations which require a written inquiry to the ~~BCIS~~ USCIS, the worker must not delay, deny, terminate, or reduce benefits to an alien pending ~~BCIS~~ USCIS verification of submitted documentation.

(f) All persons born in the U.S. are, with rare exceptions, U.S. citizens. Documents of citizenship or national status of individuals from certain U.S. territories or possessions listed in (a)(1) of this Section may not be in their possession nor available. ~~However, their~~ Their status can usually be determined by birth certificate, passport, or other official document.

340:10-15-3. Sponsored aliens

Certain aliens, unless specifically exempted or covered by one of two exceptions as identified at Section 1631(e)(f) of Chapter 14 of United States Code (USC) 8, whose entry into the U.S. required sponsorship, must have the income and resources of the sponsor considered in determining eligibility and benefit amount for Temporary Assistance for Needy Families (TANF). Aliens who are exempted from this requirement are parolees, political asylees, Cuban or Haitian entrants, and refugees admitted under Section 207(a)(7) and Section 207(c) of the Immigration and Nationality Act. The deeming rules do not apply to a sponsored immigrant and his or her child(ren) who are victims of domestic violence or extreme cruelty. If a sponsored immigrant is unable to obtain food and shelter without government assistance, then only the amount of income and resources actually provided by the sponsor or the sponsor's spouse is deemed to the immigrant. A sponsor is defined as an individual(s) or an organization who executed an affidavit of support or similar agreement on behalf of the alien, who is not an individual sponsor's child. Such affidavit or agreement must be verified before application of this rule.

(1) **Organizational sponsor.** Aliens who have a support affidavit from an organizational sponsor are ineligible for a period of three years from the date of entry into the U.S. unless the sponsoring agency has ceased to exist or is unable to meet the alien's financial need. The case record must contain documentation of the reason the organization is not meeting the need.

(2) **Individual sponsor.** To determine eligibility and benefit amount, an alien who was sponsored must provide

any information and documentation necessary to determine the income and resources of the sponsor and obtain the necessary sponsor's cooperation. The income and resources of a sponsor and his or her spouse, if living with the sponsor, are considered as the unearned income and resources of an alien unless the sponsor is receiving TANF or Supplemental Security Income (SSI).

(A) The amount of the sponsor's income considered is determined:

(i) as total monthly gross earned income minus 20%, not to exceed $175, plus total monthly unearned income;

(ii) by subtracting the need standard for the sponsor and his or her dependents living in the home shown on Oklahoma Department of Human Services (OKDHS) Appendix C-1, ~~Schedule of~~ Maximum Income, Resource, and Payment Standards, Schedule IX.A;

(iii) by subtracting amounts actually paid by the sponsor to dependents outside of the home who are claimed by the sponsor as dependents, to determine his or her federal personal income tax liability; and

(iv) by subtracting actual payments of alimony or child support to individuals not living in the household.

(B) Resources considered available to the alien from the sponsor are the total amount of the resources of the sponsor determined as if he or she were applying for TANF, less $1,500.

(C) When the person is the sponsor of two or more aliens in the same home, the income and resources of the sponsor and his or her spouse, if living with the sponsor, are divided equally among the aliens.

(D) Income and resources considered available to a sponsored alien are not considered in determining the need of unsponsored members of the alien's family unless actually available.

(E) The sponsor and the alien are held jointly liable for any overpayment of benefits due to failure to provide correct information.

(F) The income and resources of the sponsors of aliens who have ~~Bureau of Citizenship and Immigration Services (BCIS)~~ United States Citizenship and Immigration Services (USCIS) Form I-864, Affidavit of Support, continue to be deemed to the alien until:

(i) the alien achieves U.S. citizenship through naturalization pursuant to Chapter 2 of Title III of the Immigration and Nationality Act;

(ii) the alien has worked 40 qualifying quarters of coverage as defined under Title II of the Social Security Act or can be credited with 40 qualifying quarters as provided under Section 435 of this Title; and in the case of any qualifying quarter credited for any period beginning after December 31, 1996, the alien did not receive any federal means-tested public benefit, as provided under Section 403, during such period; or

(iii) the sponsor dies.

(G) The income and resources of the sponsors of aliens who have affidavits of support other than ~~BCIS~~ USCIS Form I-864 continues to be deemed to the alien for a period of three years from the date of entry of the alien into the U.S.

Subchapter 17. Foster Care in Aid to Families with Dependent Children [REVOKED]

340:10-17-1. Legal base [REVOKED]

~~Public Law 96-272, enacted by the 96th Congress provides for federal matching funds for the extension of the Aid to Families with Dependent Children Program (AFDC). The extension includes provisions for vendor payments for each eligible child who is receiving care in a foster family home, group home, or private institution and for placement of an Indian child under Tribal Foster Care Agreement.~~

340:10-17-2. Referral to family support services (FSS) [REVOKED]

~~An order removing an alleged deprived child from the custody of the parents or guardian shall not be entered by the court unless the court finds that reasonable efforts were made to prevent the need for removal or that remaining in the home would be contrary to the welfare of the child, or that an emergency existed in which the safety of the child precluded provision of services to prevent removal of the child. Whenever the court commits a deprived child to the care of the Department and the placement plan is for care in a foster family home, group home, private institution or for Indian children place under Tribal Foster Care Agreement a referral is made immediately to the FSS worker for determination of eligibility for AFDC Foster Care. The case record must contain all pertinent information in determining eligibility such as age, relationship, deprivation, financial eligibility, etc. All conditions of eligibility must be documented to establish the child's eligibility for AFDC foster care.~~

340:10-17-3. Initial eligibility [REVOKED]

~~(a) **Conditions of initial eligibility for AFDC foster care.** To be certified as eligible for a vendor payment for AFDC Foster Care, the following three conditions must be met.~~

~~(1) **Court order.** The child must have been removed from his own home or the home of a relative, after April 30, 1961, as the result of a judicial determination to the effect that continuation in the home would be contrary for any reason to the child's welfare. There must be a written order from the Court giving responsibility to the Department for placement and care of the child.~~

~~(2) **Eligibility for AFDC.** For such vendor payment to be made in a child's behalf, it must be established that he:~~

~~(A) was receiving AFDC in and for the month in which court proceedings relating to judicial determination were initiated, or~~

~~(B) would have received AFDC in or for such month if application for such assistance had been made, or~~

~~(C) would have received AFDC in and for such month if application for such assistance had been made, however, the child:~~

~~(i) was not living with a relative of the specified degree of relationship in the month of initiated court proceedings, but~~

~~(ii) had lived with a relative of such relationship at any time during the six months prior to the month the court proceedings were initiated.~~

~~(3) **Place of care.** The foster family home, group home or private institution in which the child is placed must be approved or licensed by the Department.~~

~~(b) **Interpretation of eligibility for AFDC for purposes of initial certification for AFDC foster care.** To be eligible for AFDC Foster Care, the child must meet all conditions of eligibility for AFDC.~~

~~(1) **Age.** The same age provisions apply to AFDC Foster Care as apply to an AFDC money payment. Form K-13 must be submitted to the CWS worker advising when the C-FH payment can no longer be made for this child. A child 18 years of age must have verification of full-time school attendance and that completion is expected prior to attaining age 19.~~

~~(2) **Living with relative.** There does not have to be a relative payee in existence at the time the court order is initiated nor at the time of certification if the child lived with a relative of the proper degree of relationship at any time during the six months prior to initiation of the court proceedings.~~

~~(3) **Deprivation of parental support or care.** One of the reasons for deprivation of parental support or care described in subchapter 11 of this Chapter must exist at some time during the month the court proceedings were initiated. If deprivation is based on incapacity of a parent, it is necessary to have information in the case record indicating that the individual would probably have been determined incapacitated had the information been submitted to the LTC/ME.~~

~~(4) **Financial eligibility.** If the child is not included in an AFDC payment, regular AFDC policies relating to income and resources are followed in determining whether the child would have been eligible for inclusion in an AFDC payment. After determination of eligibility for AFDC, the eligibility for AFDC Foster Care is based solely on consideration of each child's income and resources. Ongoing eligibility for AFDC Foster Care is then determined on Form K-13 information. A child who is receiving a Supplemental Security Income payment through the Social Security Administration is not eligible to have an AFDC Foster Care payment made in his/her behalf.~~

~~(A) **Capital resources.** After initial eligibility for AFDC Foster Care is determined, a child remains eligible for Foster Care so long as his/her resources do not exceed the $1000 limit.~~

~~(B) **Income.** A child's income consists of any money paid to him/her in his own right (as a dependent under Social Security or Veterans Benefits, etc.) plus any money made available to the child from other sources (child support, contributions, etc) plus earned income. The same income exemptions that apply to AFDC money payments are applicable to AFDC Foster Care.~~

~~(i) The AFDC Foster Care income maximums for children of specified ages are listed below. The computer input document should show the source and amount of any countable income belonging to the child (after exemptions) and then shown as diverted to offset the cost of the child's care.~~

~~(ii) A child is ineligible for AFDC Foster Care vendor payments if his/her monthly net income exceeds the maximum for a child of his/her age.~~

~~Age of Net Age of Net~~
~~Child Income Child Income~~
~~1 $320 10 $398~~
~~2 320 11 398~~
~~3 328 12 398~~
~~4 328 13 470~~
~~5 328 14 470~~
~~6 398 15 470~~
~~7 398 16 470~~
~~8 398 17 or older 470~~
~~9 398~~

~~(iii) When the Department has temporary custody of the child and deprivation is based on absence, the AFDC relative payee of the case has signed the application, an assignment of support rights by the payee must be made by checking the appropriate blocks on the application form.~~

~~(iv) If parental rights have been terminated and the Department has been given permanent custody of the child, assignment is not necessary as the Department is responsible for support.~~

~~(c) **Determination of initial eligibility.** Upon receipt of the referral, the FSS worker is responsible for determining eligibility of the child for AFDC Foster Care. The date of application for Foster Care is the custody date. For a child who has been in DHS legal custody and remained in his/her own home but is later placed outside the home, the date on the application is the date the child is placed outside the own home; and when the child's date of placement in DHS care precedes the date of legal custody to DHS, the earlier date is the date of application.~~

~~(1) No application form is required for a child who is currently included in an AFDC money payment. Forms PS-1, PS-3, Appendix L of this Chapter and appropriate Appendix P or Q of this Chapter are required for any child not currently receiving AFDC. However, signature is not required on Form C-1 as the Judge's signature on the Court Order is the request for application.~~

~~(2) If a child is included in an AFDC payment at the time he becomes eligible for AFDC Foster Care, the effective date of the foster care payment is the date he enters foster care. His needs are removed from the AFDC payment at the next effective date.~~

340:10-17-4. Redetermination of eligibility [REVOKED]

~~A redetermination of the child's continued eligibility for AFDC Foster Care is made each six months, but Form C-87, Periodic Determination of Eligibility for AFDC, is not required. The FSS worker forwards Form K-13 to the CWS/CRCS worker for information necessary for redetermination of eligibility based on age, deprivation, school attendance, E&T registration, earned and unearned income of the child and the capital resources of the child. The existence or a home (parents or relatives) to which the child can return is not a condition of eligibility nor is there any limit on the length of time a child may be eligible for AFDC Foster Care. Upon completion of the redetermination factors, the CWS/CRCS worker submits Form K-13 to the FSS worker with the information requested. In establishing continued eligibility for AFDC Foster Care, the following variations from conditions of eligibility for AFDC money payment are taken into consideration:~~

~~(1) **Deprivation.** If the Department has temporary custody at the time of a redetermination, the deprivation must be established at each redetermination (whether the reason for deprivation has remained the same or has changed). The fact that the child has been temporarily removed from his home by court order does not, of itself, establish "absence" as a reason for deprivation of parental support or care.~~

~~(A) The appropriate Appendix P or Q of this Chapter is forwarded to CSED unless a Good Cause basis exists as authorized, or unless specific plans by the Child Welfare worker preclude cooperation by the parent(s). These plans or conditions may include but not necessarily be limited to: order or request of the court, physical or emotional condition of the parent(s), child or caretaker relative, other reasons determined by professional judgment of the CW/CRCS staff.~~

~~(B) If the court has awarded permanent custody of the child to the Department (either by the original court order or a later court order) thus terminating all rights and obligations of the parents, the eligibility condition of deprivation does not have to be reestablished as a part of a redetermination of eligibility. This is true whether there are or are not any prospects for adoption or whether adoption proceedings have been initiated prior to the redetermination.~~

~~(2) **Financial eligibility.** Only the income and resources of the child are considered. If the child's income and/or resources are in excess of standards, the FSS worker notifies the CWS/CRCS worker who is working with the child. The gross maximum income test is applied only at initial eligibility determination and is not applicable at redetermination.~~

~~(3) **Requests for information to redetermine eligibility.** The FSS worker requests from the CWS worker the following information needed to complete the redetermination and update the computer input form:~~

~~(A) available income (earned and unearned) and capital resources of the child;~~

~~(B) sufficient information regarding the medical ID card for updating the computer file; and~~

~~(C) if the Department has temporary custody of the child, any available information on the current situation of the child's parents.~~

340:10-17-5. Case changes [REVOKED]

~~If the child who has been AFDC Foster Care is returned to his own or a relative's home and is eligible to be included in an active AFDC money payment, his addition to the AFDC payment is handled in the same manner as the addition of any other child to an AFDC case. If a "C-FH only" case is being changed to a money payment all conditions of eligibility must be established in the same manner as for and AFDC application.~~

SUBCHAPTER 18. CONDITIONS OF ELIGIBILITY FOR SUPPORT SERVICE FUNDS FOR CHILD ONLY CASES

340:10-18-1. Conditions of eligibility for support service funds for child only cases

(a) **Scope.** In an effort to promote family stability and assist in the prevention of ~~child welfare~~ Child Welfare (CW) involvement, support service funds are provided to child only cases when there is no natural or adoptive parent(s) in the home and a caretaker relative has assumed responsibility for rearing the child(ren). The ~~social services specialist~~ worker provides or arranges payment(s) of the approved support service fund(s) determined appropriate to maintain the child(ren) in the home. Items and services covered by Medicaid are not paid by support service funds.

(b) **Support service funds.** Payments for the services through support service funds are not an automatic entitlement to the child(ren). Support service funds are not used for fines including traffic fines or any cost related to a criminal offense such as legal fees or court costs. Before any consideration is given to authorizing payment for support service funds, the ~~social services specialist~~ worker must determine if the service is available through any other resource. Resources include other ~~DHS~~ Oklahoma Department of Human Services (OKDHS) programs, local churches, and civic groups. This determination is made on a case-by-case basis. The ~~social services specialist~~ worker pre-determines and authorizes payments and services. The ~~social services specialist~~ worker negotiates for goods and services for the child(ren) for the least possible cost. The negotiated amounts must not include state or local sales taxes. Payments of specific services are allowed only after the service is rendered. Ongoing maintenance payments are not allowed. The county director or designee is responsible for periodically monitoring expenditures from this account. The ~~social services specialist~~ worker signs the Authorization to Purchase form and gives it to the caretaker relative to take to the provider. Approval for payment to the provider occurs

after service is rendered and the caretaker relative signs the Authorization to Purchase form. ~~The provider is paid no later than five days from the date of receipt of the properly completed invoice in the Finance Division.~~

SUBCHAPTER 19. ELIGIBILITY REQUIREMENTS FOR EMERGENCY ASSISTANCE TO NEEDY FAMILIES WITH CHILDREN

340:10-19-5. Application and disposition of Temporary Assistance for Needy Families-Emergency Assistance (TANF-EA)

When a natural disaster occurs, the ~~local~~ county office telephones Office Support Services (OSSD) Risk Management Unit with pertinent information as to the type and location of the disaster and the approximate number of families who may require TANF-EA. Applications are taken but not processed until Family Support Services Division (FSSD) is notified that the emergency funds have been approved. The FSSD notifies the local office when applications are to be processed. ~~Appendix II of this Chapter, Application for Emergency Assistance~~ Form FSS-1, Comprehensive Application and Review, is completed for every request for TANF-EA. Processing of the application must be completed as soon as possible, but cannot exceed 15 working days. The applicant is notified of certification or denial by computer-generated notices.

SUBCHAPTER 20. DIVERSION ASSISTANCE

340:10-20-1. Diversion Assistance (DA)

(a) **Scope.** DA for families with a minor child(ren) provides for financial assistance in lieu of Temporary Assistance for Needy Families (TANF) when there is an immediate need to retain or obtain employment. DA is not used to pay fines, including traffic fines, or any cost related to a criminal offense, such as legal fees or court costs. DA is limited to once in the lifetime of the applicant(s); therefore, it is vital that financial planning be initiated to determine if the provision of DA will allow the family to be self-sufficient for the next 12 months. Families approved for this benefit are not included in the count of persons reported for federal participation rates and these payments do not count against the individual(s) 60-month lifetime limit of receipt of TANF. For this reason, an adult must be included in the DA benefit.

(b) **Need.** The criteria for the eligibility for DA are described in (1) through (4).

(1) The individual(s) is employed or has a bona fide offer of employment.

(2) There is a financial need which, if not met, can cause the loss of employment or the offer of employment for the individual(s).

(3) The family monthly gross income cannot exceed the gross income maximum as shown on the Oklahoma Department of Human Services (OKDHS) Appendix C-1, ~~Schedule of~~ Maximum Income, Resource, and Payments Standards, Schedule XVI, for the appropriate family size.

(4) Family resources cannot exceed limits as shown on OKDHS Appendix C-1, Schedule XVI.

(c) **Requirements.** The applicant(s) completes Form FSS-1, Comprehensive Application and Review, which states the applicant(s) agrees to not apply for TANF for one year from the date of application for DA. In two-parent families both parents must sign the application form.

(1) Refer to OAC 340:65-3-4 for Social Security number (SSN) requirement. The application is not delayed waiting for a SSN.

(2) Refer to OAC 340:10-15 for requirements for citizenship and alienage.

(3) The application is processed within seven working days.

(d) **Benefits.** Benefits can equal up to three months of the payment standard as shown on OKDHS Appendix C-1, Schedule XVI for the appropriate family size. Benefits can be approved in more than one authorization as long as the request for additional funds is made before the end of the 90 day period which begins with the initial date of application, and does not exceed three times the monthly payment standard for the family size. Payment is issued through an authorization to purchase. ~~The provider is paid no later that five working days from the date of receipt of the properly completed invoice in the OKDHS Finance Division.~~

SUBCHAPTER 22. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) SUPPORTED PERMANENCY PROGRAM

340:10-22-1. Temporary Assistance for Needy Families (TANF) ~~supported permanency program~~ Supported Permanency Program

(a) **Scope.** In an effort to promote permanency for a child(ren) who is in the custody of the Oklahoma Department of Human Services (OKDHS) and placed with a relative(s) residing in Oklahoma who is a paid kinship relative foster home, the Supported Permanency Program has been developed. Supported permanency is considered appropriate when:

(1) the child is age 12 or older or has a sibling age 12 or older who resides in the same relative foster home;

(~~1~~2) the relative(s) meets the specified degree of relationship as defined in OAC 340:10-9-1;

(~~2~~3) the court has made a finding that reasonable efforts to reunite the child(ren) with his or her parent(s) are not required or have been made and failed, and the permanency plan of reunification has been ruled out;

(~~3~~4) the child(ren) currently resides with the relative(s) in Oklahoma and has resided with the relative(s) four of the last six months;

(~~4~~5) the relative(s) has completed all requirements to be an approved OKDHS foster care home;

(~~5~~6) the relative(s) is willing to assume legal responsibility; and

(~~6~~7) the court and, if appropriate, the child(ren), are in agreement with the plan for the relative(s) to obtain legal responsibility.

(b) **Eligibility.** the Supported Permanency Program is determined appropriate by the Child Welfare (CW) worker and the transfer of legal responsibility has been approved by the court, the CW worker makes a referral for TANF to the Field Operations Division~~,~~ Family Support Services. When the child(ren) is approved for TANF supported permanency, he or she is eligible for managed health care and child care services, if appropriate. Income of this child(ren) is considered the same as for any other TANF eligible child. Food stamp eligibility is dependent on the eligibility of the household. Benefit reduction as a result of program violation is applicable for school attendance and immunization. If the child(ren) leaves the home to reside elsewhere, the Supported Permanency Program benefit is terminated for the child(ren). If the child(ren) returns to this home, he or she may be eligible for cash assistance but not the Supported Permanency Program benefit.

APPENDIX S. REQUEST FOR SERVICES [REVOKED]

STATE OF OKLAHOMA
DEPARTMENT OF HUMAN SERVICES
REQUEST FOR SERVICES

Person(s) Requesting Service _____ County Name and Number _____ Date _____

Mailing Address _____ Telephone Number _____

Finding Address _____

SHADED AREAS ARE FOR OFFICE USE ONLY

PERSONS IN HOUSEHOLD

NAME FIRST	M.I.	LAST	Relationship	Indian Tribe	Birthday Mo. Da. Yr.	Sex	Race	Social Security Number	Place of Birth	Enter Check if Citizen Alien C/A	Disabled	Marital Status

TERMINAL CHECK: ********** List maiden names, former names aliases used by anyone always.

Case No.	Co. Log.	Case Status	DLP

CASE NUMBER

1. 2. 3. 4. 5. 6. 7. 8. 9. 10.

TOTAL Reference Number

For Office Use Only

Verify school attendance for persons 16 and over. (For Food Stamps, verify school attendance for persons over 18 with earned income).

Is there an 18 year old who will not complete high school by his 19th birthday? (Not applicable for Food Stamps) [ ] Yes [ ] No

Other Individuals in the Home

Name	Birthdate	Birth Place	Soc. Sec.#	Relationship	Citizen/ Alien	Occupation/Active Case Number

Relatives or Interested Individuals not in the Home

Name	Address	Telephone #	Relationship	Occupation/Case Number

Marriages

Name	Name of Spouse	Date of Marriage	Place of Marriage

Termination of Marriages

Name	Name of Spouse	Date	Method	Place	Divorce #

Office Use Only - Worker comments/documentation, etc.

V. INCOME (unearned) — Office Use Only

Does any household member have any income? Show the amount and show how often they receive it, such as weekly, monthly, yearly. Show the total amount before any deductions. (Answer yes or no for each item.) Attach proof of income, such as award letters, checks, receipts, etc.

Yes	No		If YES, names of household members who receive this amount	Amount of each check or payment	How often Received	Claim Numbers SSA, VA, RR
[ ]	[ ]	Social Security	1	$		
			2	$		
			3	$		
			4	$		
[ ]	[ ]	Supplemental Income	1	$		
			2	$		
[ ]	[ ]	Railroad Retirement	1	$		
			2	$		
[ ]	[ ]	Veterans Benefits	1	$		
			2	$		
[ ]	[ ]	Unemployment Benefits	1	$		
			2	$		
[ ]	[ ]	Civil Service	1	$		
			2	$		
[ ]	[ ]	Contributions from Others	1	$		
			2	$		
[ ]	[ ]	Child Support Alimony	1	$		
			2	$		
[ ]	[ ]	Interest on Savings/Checking	1	$		
			2	$		
[ ]	[ ]	Oil Income (Lease/Prod.)	1	$		
			2	$		
[ ]	[ ]	Workers' Compensation	1	$		
			2	$		
[ ]	[ ]	Assistance AFDC/A/B/D/	1	$		
			2	$		
[ ]	[ ]	From Roomer and Boarder	1	$		
			2	$		
[ ]	[ ]	From Room Rent Only	1	$		
			2	$		
[ ]	[ ]	Rental of House/Apt	1	$		
			2	$		
[ ]	[ ]	Rental from Land	1	$		
			2	$		
[ ]	[ ]	Sale of Livestock	1	$		
			2	$		
[ ]	[ ]	Other Farm Income	1	$		
			2	$		
[ ]	[ ]	Other (i.e. (Educ. Loans/Grants, Work Study, JTPA)	1	$		
			2	$		
			3	$		

****

Office Use Only If anyone in the household appears to be eligible for any benefits for which application has not been made, has a referral been made [ ] Yes [ ] No Explain .

V. INCOME (earned) — Office Use Only

Does any family member work for himself? Yes [ ] No [ ]
Do you have any business expenses? Yes [ ] No [ ]
Will you provide verification of business expense? Yes [ ] No [ ]
Has any family member worked in the past 6 months? Yes [ ] No [ ]

Complete below for all family members who are working or have worked in the last six months. Attach proof of income such as check stubs, employer's statement, etc. Furnish last year's federal tax forms for self-employed household members or if no tax forms were filed last year provide proof of self-employment costs and income. Also, include any goods or services paid for you by your employer in lieu of wages.

Name of Person	Name of Employer or Source of Income Address/Telephone	Earnings before Deductions	How Often Received	Date Employment Began	Date Employment Ended

Detailed documentation of current and past employment is required.

Has anyone in the houshold applied for unemployment benefits? [ ] Yes [ ] No
If yes, fill in the blanks.

Name of Applicant	Date Application Filed

****

Office Use Only

Does Voluntary Quit provision apply? [ ] Yes [ ] No If Yes, document.

Office Use Only

VI. CAPITAL RESOURCES

A. Does any member of the family own or are payments being made on any real estate other than the home? [ ] Yes [ ] No If "yes", fill in all blanks. Number of lots and/or acres_____. Total Market Value $_____. Balance on Mortgage $_____. Amount of mortgage payment $_____. How often paid _____ Property Insurance amount $_____. If "yes", what interest do they own?_____. Is any of the property restricted Indian Property? [ ] Yes [ ] No Number of lots restricted_____ Number of acres restricted _____.

Does any family member own mineral rights which are not on the home property? [ ] Yes [ ] No If "yes", description and value.

B. Have you, your spouse or children given away, sold or deeded away during the last five (5) years any items of value such as land, minerals, buildings, money, bonds, bank account, etc.? [ ] Yes [ ] No If yes, describe _____

_____

Value of item $_____ Date of Transfer _____

What was received in return?_____

C. What bank(s), savings and loan, credit union, etc. does the family use for paying bills or for savings?_____

Complete for each member with current information.

Yes	No		Name of Household Member	Amount or Value
[ ]	[ ]	Savings Accounts	_____	$_____
[ ]	[ ]	Checking Accounts	_____	$_____
[ ]	[ ]	Certificate of Deposit	_____	$_____
[ ]	[ ]	Safety Deposit Box	_____	$_____
[ ]	[ ]	Savings Bonds	_____	$_____
[ ]	[ ]	Stocks/Bonds	_____	$_____
[ ]	[ ]	IRA, KEOGH/other	_____	$_____
[ ]	[ ]	Cash not in bank	_____	$_____
[ ]	[ ]	Other	_____	$_____

D. Does any individual have monies held in trust? [ ] Yes [ ] No If yes, give name(s) on trust fund, where it is held and the amount

_____

_____

_____

E. Does your name or any family member's name appear on any other person's property deed, checking or savings account, car title or any other record involving resources? [ ] Yes [ ] No If yes, explain _____

_____

F. Do you, your spouse or children own livestock? [ ] Yes [ ] No Farming Equipment [ ] Yes [ ] No If yes, complete: What is owned_____Value $_____ Person(s) who owns _____. Is there a mortgage? [ ] Yes [ ] No. To whom is the mortgage owed?_____ and the amount $_____.

VI CAPITAL RESOURCES (cont'd)

Office Use Only

G. Does any family member own a car, pickup truck and/or other vehicles?
[ ] Yes [ ] No If yes, complete: Make, Model and Year _____
_____Amount of mortgage_____
Amount of equity_____ Names listed on title:
_____
Make, Model and Year _____
Amount of mortgage_____Amount of equity_____
Names listed on title:_____
If you own additional vehicles, list above information on a separate sheet and attach.

H. Are any family members covered by life insurance policies? (Not applicable for Food Stamps) [ ] Yes [ ] No If Yes, complete the following:

	Policy 1	Policy 2	Policy 3
Insurance Company			
Policy Number			
Owner of Policy			
Face Value			
Cash Value			

I. Has any family member already made arrangements for prepaid burial contracts or set aside money designated for burial costs? [ ] Yes [ ] No If yes, which family member(s)?_____
With whom were arrangements made?_____
For how much? _____
Has an agreement been signed for any burial policies which keep you from withdrawing the prepaid funds? [ ] Yes [ ] No
Date policy purchased _____ Amount_____
Date agreement signed_____
Does your household own more than one burial lot per household member? [ ] Yes [ ] No If yes, what is the equity value of the excess lots? $_____.

Office Use Only

Purpose of Form

This form is used to gather generic information when a client applies for services through this Department.

If a client requests a money payment or medical services, this form must be used with the program's specific application. For example, a complete AFDC application is comprised of Forms PS-1, PS-3, K-1, C-1 and PS-4, if appropriate. A complete application for medical services consists of Forms PS-1, PS-3, MS-MA-CC-VR-MR-1 and PS-4, if appropriate. A complete application for S category (whether with or without an ABCD companion case) food stamps consists of Forms PS-1, PS-3, PS-4 and FSP-1-s.

NOTE: See instructions for Forms C-1, MS-MA-CC-VR-MR-1 and FSP-1-s to determine appropriate inclusion of Form PS-4 as a part of the application.

For Non-PA Service applications and for applications for programs other than AFDC, Medical Services and Food Stamps, only Form PS-1A is completed for case number assignment.

This form is completed by the applicant when the application is made by mail or is completed outside of the county office. If an application is for more than one type of service, a copy is made for the case record of each additional category.

The computer input data recorded in the shaded areas of page 1 posts information on ALFX, PS-2, CI system and SIS system. This form is also used to secure appropriate new case numbers.

Instructions for Preparation of Form

The form is prepared in the original only and xeroxed copies are made if the application is for more than one type of service. A copy is also made available to the client if requested.

Unshaded areas on page 1 are completed by the applicant or the worker. Shaded areas of page 1, Form PS-1, are for office use only and reflect the input data for the computer screen for Form PS-1 which posts information to ALFX, Forms 105-A and B on the CI system, Section A and other appropriate sections of PS-2 and Form K-3 A/B on the SIS system. Page 2 is used by the worker to record verification of variable eligibility factors.

All spaces not indicated as "Office Use Only" space on pages 3-6 of the PS-1 are designated for applicant's responses. "Office Use Only" space is used by the worker to verify and document eligibility factors. Each factor of eligibility must be thoroughly documented and legibly written. Additional sheets are to be used for documentation, if needed.

Any changes made after initial completion of this form must be fully documented.

Page 1:

I. **Applicant and County Information.** Enter as indicated. For Child Welfare Services (CWS), enter the name of the primary adult head of household or the child's name in a child only case.

II. **Services Requested.** Enter the specific type(s) of service offered to and accepted by the applicant. For CWS, enter investigation, protection or reunification, as appropriate.

Programs Requested and Numbers Assigned. (To be completed by terminal user.)

Numbers to be Used. Enter the appropriate existing case number(s) to be used. When a new number is needed, enter the category and indicate that the type action needed is "New". The teleprocessing operator posts the numeric portion of the case number to the appropriate category.

Application Date/Referral Date. Enter the date of application which corresponds to the case number on the same line. The "Re" date is the date the family was referred for or requested Child Welfare Services.

Supv. No/Dist. No. Enter the supervisory group numbers and the district numbers or letters to which this application is assigned for disposition. For CSU district number, enter "CW".

Benefit/Service Indicator.

Enter the appropriate Benefit/Service Indicator for application involved:

M - Money payment only
S - Social Services
B - Money payment and Social Services
K - Child Welfare Services
F - Food Stamps only
G - Money Payment and Food Stamps
H - Money Payment, Food Stamps and Social Services

III. **Persons in Household.** If this information is completed by the client, it will be necessary for the worker to convert the information to the appropriate codes before the assignment of case numbers to ensure that appropriate and correct information is entered on the computer. For each person in the household enter the requested information. If more than 10 persons, attach additional page to enter requested information.

Name. Enter the first name, middle initial and last name of each household member. Enter the name as shown on the Social Security cards.

Member Status. A member status may be entered for up to three applications per member. For each household member listed, enter the appropriate number status under each corresponding case listed in "Numbers to be Used".

For Payments and Services, enter one of the following codes for each household member:

P. Applicant needs included in application.
S. Spouse of Applicant included in application.
G. Applicant, who has a guardian, needs included in application.
C. Child only application.
N. Applicant not included in assistance application; head of household in Non-PA Service application.
M. Spouse of applicant not included in assistance application; Spouse of head of household in Non-PA Service application.
X. Household member included in this application.
D. Duplicate check only, member not to be included under this number.

Leave blank for other person in household not included in this application.

On payments/services applications, leave blank for any member of the household whose needs are not to be included in the application. For each category entered, the case name will be that of the household member who is the payee; payee only, not included in grant; guardian or conservator.

For Child Welfare Services, use one of the following codes for each family member:

N - Head of Household
M - Spouse of head of household
X - Other adult member
Y - Child member
C - Child only

Member Number. For existing cases, enter the member number from the computer turnaround document. If a new application, leave blank.

Sex. Enter M = male; F = female.

Race. Enter the following appropriate code designating the client's race:

W - White
B - Black
S - Spanish surnamed, Hispanic or Chicano
I - American Indian or Alaskan Native, or
A - Asian or Pacific Islander

Indian Tribe. If race is Indian, enter the appropriate code from Appendix D-4a to denote applicant's primary Indian tribe affiliation.

If name of tribe was entered by applicant, it must be converted to the appropriate code.

Birthday. Enter the eight digit birthdate for each member (MM/DD/YYYY).

Grade. Enter the appropriate code to indicate the client's current educational status.

	After prefix, enter 2 digit education level.
N - No education received	00 - No education received
D - Education has been discontinued	01 - thru 12 - Enter appropriate number of last grade level
C - Education is being continued	13 - thru 16 - Enter appropriate number of last college level completed
	17 - Education above bachelor's degree
	18 - Special education
	19 - Vocational training
	20 - Unknown
	21 - Other

Social Security Number. Enter each member's social security account number.

Place of Birth. Enter city/state and/or country, if appropriate. The information in this block will indicate either citizenship or alien status and will be used as a clue for further verification, if appropriate.

Citizen/Alien. For payments/services, enter "C" for each person who is a citizen of the United States and "A" for each person who is not a citizen of the United States.

Disability. Enter check mark for persons claiming disability. If disability is indicated, further documentation or verification is required.

When all information above has been completed, a terminal check is done on all persons listed. This includes persons on any additional page.

IV. **Terminal Check.** (To be completed by county office.) If maiden names, former names or aliases are indicated, a terminal check is required. Complete name, county number and location, case number, case status and date of last form on companion, cross reference and possible duplicate case numbers.

Space is provided for the client-numbering process which will be implemented as soon as completed.

Page 2:

This page is for Office Use Only and is used for documentation or verification of factors other than the non-variable factors to be documented on Form PS-3. This page is also used to record names and addresses of relatives and friends or any other pertinent information not included elsewhere on the form.

Pages 3 and 4:

V. **Income (unearned).** Each income source from other than earned income requires a "yes" or "no" response from the client. If "yes", complete name, amount and how often received for each. Directions are stated for including verification when client returns form.

Earned income information is requested on past and current employment and requires detailed documentation. Directions are stated for including verification when client returns form. Application for unemployment benefits must be answered "yes" or "no" with appropriate documentation and follow-up.

Pages 5 and 6:

VI. **Capital Resources.** All questions must be answered and blanks completed as specified.

Following terminal entry, sufficient xerox copies of the Forms PS-1, PS-3 and PS-4 are made so that one copy of the forms is filed in each case in which an application has been registered.

APPENDIX II. APPLICATION FOR EMERGENCY ASSISTANCE [REVOKED]

Case Number(s) _____

_____

Date _____ County _____

Applicant _____ Guardian _____

Mailing Address _____ Emergency Phone Number _____

I. I am requesting Emergency Assistance because: _____

_____

_____

If necessary the following person(s) may be contacted to substantiate my emergency situation:

Name _____ Telephone _____

II. **Financial Assistance is being requested for the following person(s).**

NAME (First Name, Middle, Last Name)	BIRTH-DATE	SEX	RACE	IND. TRIBAL AFFILIATION		U.S CITZ.	RELATION-SHIP TO PAYEE	SOCIAL SECURITY ACCOUNT NUMBER
				Pri.	Sec.			
_____								
2. _____								
3. _____								
4. _____								
5. _____								
6. _____								
7. _____								
8. _____								

I am [ ] am not [ ] a resident of the State of Oklahoma and plan [ ] do not plan [ ] to remain. Are any of the persons requesting Emergency Assistance receiving financial assistance from any other State? If yes, what State? _____

Type of assistance _____ Monthly Amount $_____

Is anyone in your household disabled? If so, who? _____

Is anyone in your household a migrant? If so, who? _____

Is anyone in your household a lawful temporary or permanent resident under Section 245A or 210A of Federal Law? If so, who? _____

III. **Shelter/Utilities Information:**

Type of Shelter: Home or Mobile Home _____ Apartment _____ Room _____

Is Shelter: Rented _____ Owned or Being purchased _____ Supplied _____

you receive any type of government housing assistance? Yes [ ] No [ ] If yes, from what Agency?_____

Amount $_____

Are utility costs included in shelter costs? Yes [ ] No [ ]

Do you receive any financial assistance to pay your utility bills? Yes [ ] No [ ] If yes, from what source? __

Amount $ _____

What is your primary source of fuel? Heating _____ Cooling _____

IV. **Resources: Liquid** (available as an immediate source of cash):
Do you or any member of your household have any cash on hand, money on deposit, stocks, bonds, certificates of deposit in any bank, savings and loan company, credit union, etc? Yes [ ] No [ ]

Type	Amount	Name and Location	Account Number

V. **Income:**

Earned Income: (List income from employment, including self-employment, **before deductions,** for all housenold members).

Current Monthly Gross Income	How Often Received	Employer Name and Address

Other Income: (AFDC, SSI, Social Security, Veterans Benefits, Worker's Compensation, Unemployment Benefits, Child Support, Indian, Contributions, and Cash Gifts, etc.).

Source	How Often Received	Amount	Source	How Often Received	Amount

VI. **Client's Statement of Rights and Responsibilities:**

I do hereby certify and declare that I am without income or resources with which to provide the necessities of life, i.e., food, shelter, utilities, medical and surgical necessities for myself and my dependents. If I receive funds under this application, such funds will be used only for these purposes.

understand that I have the right to a fair hearing with access to relevant records in regard to any action or unreasonable delay by the Department. Request for fair hearings may be made in person or by telephone to the county office of the Department of Human Services.

I understand that if I live in governmentally subsidized housing and do not benefit in any manner from a direct or indirect utility subsidy, I may provide such verification to the Department in order to determine my eligibility for a higher benefit in the Energy Programs.

I have been informed that any person who knowingly, willfully and fraudulently provides false information for the purpose of obtaining benefits which he is ineligible to receive may be subject to prosecution to the fullest extent of the appropriate state or federal statute.

I certify that I have read this application, or the application has been read to me; that I fully understand the application and all information that I have given is true and correct in all particulars. I hereby authorize any necessary investigation to verify the answers I have given and I understand the necessity for investigation of my financial situation and other factors relating to my eligibility for the assistance hereby applied for, and other benefits resulting therefrom. I understand that this authorization does not relieve me from full responsibility for the information included in this application and to which I certify.

NOTICE: The Oklahoma Department of Human Services has assured compliance with DHHS Regulations, Title 45, Code of Federal Regulations, Part 80 (which implements Public Law 88-352, Civil Rights Act of 1964, Section 601) and Part 84 (which implements Public Law 93-112, Rehabilitation Act of 1973, Section 504). These laws and regulations prohibit excluding from participation in, denying the benefits of, or subjecting to discrimination under any program or activity receiving Federal Financial Assistance any person on the grounds of race, color, or national origin or any qualified person on the basis of handicap. Under these requirements, payment cannot be made to vendors providing care and/or services under Federally-assisted programs conducted by the Department unless such care and/or service is provided without discrimination on the grounds of race, color, national origin or handicap. Written complaints of noncompliance with either law should be made to the Director of Human Services, Box 25352, Oklahoma City, Oklahoma 73123, or the Secretary of Health and Human Services, Washington D.C., or both.

Signature: _____ Date _____
Signature of Applicant or Guardian

Gdn. for or Witness of _____ Date _____

FOR OFFICE USE ONLY

_____

_____

VII. Eligibility Determination/Documentation/Disposition:

Emergency programs requested: Z [ ] LIHEAP [ ] Energy Crisis [ ]

What Precipitated Need: _____

_____

_____

Length of Time Emergency Need Expected to Last: _____

_____

Policy Explained: _____

_____

Referrals: _____

_____

_____

DOCUMENTATION AND VERIFICATION (round to Highest Dollar)
UTILITIES:

Type	Current Amount	Past Due Amount	Reconnect Amount	Total Amount	Source of Verification	Account Number
1. Gas						
Propane/Butane						
Wood						
Electricity						
Water						

FUEL SUPPLIER: _____ ADDRESS: _____

2. **SHELTER:**

3. **MEDICAL:**

4. **FOOD:**

5. **RESOURCES:**

6. **INCOME:**

7. **EXPENSES** (Spend Down):

8. **ADDITIONAL SERVICES REQUESTED:**

IX. **ACTION TAKEN:**

DISPOSITION	CASE NUMBER	AMOUNT APPROVED	EFFECTIVE DATE	REASON

Worker Signature _____ Date _____

PURPOSE OF APPENDIX

This appendix is used for applications for Emergency Assistance to Needy Families with Children, Low Income Home Energy Assistance Program and Energy Crisis Assistance Program.

INSTRUCTIONS FOR PREPARATION OF APPENDIX

The worker and/or client is responsible for completing Sections I through VI. Each item on the appendix should be completed. If any item is not applicable to the request, a dash is entered in the appropriate place to show that it was not overlooked.

I. **Request:** Information should reflect the emergency need as explained by the applicant. Enter the full name and telephone number of person authorized to verify applicant's emergency situation.

II. **Assistance is being requested:** Questions following person(s) names are to be completed as indicated.

Name: Enter first name, middle initial, and last name of the applicant on line 1 and the name of all other individuals applying for emergency assistance.

Birthdate: Enter the month, day and the complete year of birth (MMDDYYYY).

Sex: Enter the sex of each individual.

Race: Enter the race of each individual.

Indian Tribal Affiliation: Enter primary and secondary tribal affiliation, if applicable.

U.S. Citizen: Enter yes or no.

Social Security Account Number: Enter Social Security account number of each individual.

III. **Shelter/Utilities Information:** Indicate type of shelter currently being used, and whether or not the household is vulnerable to energy cost.

IV. **Resources:** (Liquid) Identify each type of resource and record pertinent information concerning each type.

V. **Income:** Enter information concerning earned income and unearned income.

VI. **Rights and Responsibilities:** This section should be read to or by the applicant prior to signing the application.

The applicant must sign his/her name as it is shown on his/her Social Security card. If a guardian signs for the applicant, the guardian signs his/her name as guardian for, and then enters the applicant's name. If the applicant signs by mark, one witness is required to sign and date the application on the line directly below the applicant's mark.

OFFICE USE ONLY...The worker is responsible for completing Sections VII through IX.

VII. **Eligibility Determination:** Enter information which explains why the emergency exists and how long it is expected to last, the policies explained, and any referrals.

VIII. **Documentation:** This section is to be used to record verification of client's emergency needs.

IX. **Action Taken:** Complete to show disposition of each application processed from this appendix. Worker is to sign and date the appendix on completion.

ROUTING OF APPENDIX

The original appendix is filed in the county case record and a copy is given to the client. If the client applied for more than one emergency program all case numbers must be posted in the upper right hand side of the appendix. A copy of the application is to be maintained in each emergency program case folder.

[OAR Docket #05-489; filed 3-31-05]

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

[OAR Docket #05-490]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 7. Eligibility
340:40-7-1. [AMENDED]
340:40-7-6. [AMENDED]
340:40-7-8. through 340:40-7-9. [AMENDED]
340:40-7-11. through 340:40-7-12. [AMENDED]
(Reference APA WF 04-09, 04-14, and 04-27)
AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law (P.L.) 104-193; the Balanced Budget Act of 1997, P.L. 105-33; and 45 Code of Federal Regulations (CFR) Parts 98 and 99.
DATES:
Comment period:
December 15, 2004 through January 14, 2005
Public hearing:
None requested.
Adoption:
January 25, 2005
Submitted to Governor:
January 25, 2005
Submitted to House:
January 25, 2005
Submitted to Senate:
January 25, 2005
Gubernatorial approval:
March 9, 2005
Legislative approval:
Failure of the Legislature to disapprove the rule(s) resulted in approval on March 31, 2005.
Final adoption:
March 31, 2005
Effective:
May 12, 2005
SUPERSEDED EMERGENCY ACTIONS:
Superseded rules:
Subchapter 7. Eligibility
340:40-7-9. [AMENDED]
(Reference APA WF 04-09)
Gubernatorial approval:
July 22, 2004
Register publication:
21 Ok Reg 3159
Docket number:
04-1212
Superseded rules:
Subchapter 7. Eligibility
340:40-7-1. [AMENDED]
340:40-7-6. [AMENDED]
340:40-7-11. through 340:40-7-12. [AMENDED]
(Reference APA WF 04-14)
Gubernatorial approval:
August 9, 2004
Register publication:
22 Ok Reg 61
Docket number:
04-1285
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
Family Support Services Division rules for Child Care Services are revised to: (1) require a mandatory referral to Child Support Enforcement Division (CSED) for child care clients; (2) change language about how child care support is considered; (3) change the process of determining whether a good cause exception should be given; (4) add new language regarding payment of child care support to the client or child care provider; (5) add a rule regarding how to consider irregular income; (6) remove rule citations; (7) restore the category of predetermined eligibility for child care assistance to a zero co-payment for persons receiving public assistance or Supplemental Security Income (SSI); (8) restore categories of eligibility that include predetermined eligible, income eligible, transitional child care and Temporary Assistance for Needy Families (TANF) families in the Work Supplementation Program; (9) clarify information about who is predetermined eligible for child care with a zero co-payment; (10) remove the requirement that all members of a TANF household included in a TANF benefit be included in the child care household income computation; (11) remove language regarding the earnings of an 18 year old child receiving TANF benefits; (12) clarify how to consider need for child care for employment; (13) remove the need factor for Food Stamp Employment and Training recipients as this rule is being moved to Food Stamp rules; and (14) describe how to consider money received by another household for a household member.
CONTACT PERSON:
Dena Thayer, Programs Manager, Policy Management Unit, DHS, 2400 N. Lincoln Blvd., Oklahoma City, OK 73105, 405-521-3611.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2005:

SUBCHAPTER 7. ELIGIBILITY

340:40-7-1. ~~Priority for child care services~~ Categories of eligibility

~~(a) **Priority for child care services.** In the event that the Oklahoma Department of Human Services (OKDHS) does not have sufficient funding to subsidize all families applying for and meeting eligibility guidelines outlined in this Subchapter for child care services, priority for services is given to families with very low family income and children with special needs. Families specified in Part 98 of Title 45 of the Code of Federal Regulations, federal guidelines for the Child Care and Development Fund, who must be given priority in approval for child care services are included in paragraph (1) through (4) of this subsection.~~ A person may be predetermined eligible for a child care benefit, determined income eligible based on the gross income of the household, or have dual eligibility with his or her tribe.

(1) ~~**Families receiving Temporary Assistance for Needy Families (TANF).** The United States Department of Health and Human Services (HHS), Administration for Children and Families (ACF) requires that OKDHS give priority for child care services to families receiving TANF benefits who have dependent children under 13 years of age when that care is needed to help a TANF eligible family member accept employment, remain employed, or participate in an approved education or training activity. TANF eligible families must complete Form FSS-1, Comprehensive Application and Review, or Form K-2, Application for Child Care Services, and follow the same application procedures shown at OAC 340:40-3-1 as all other families who request OKDHS assistance with child care.~~ **Predetermined eligible.** A person is predetermined eligible for a child care benefit with a zero co-payment

when he or she is a recipient of public assistance or Supplemental Security Income (SSI) and the parent or guardian requesting the child care benefit for the child is also the payee on the public assistance payment for the child. Public assistance is defined as a State Supplemental Payment, Temporary Assistance for Needy Families (TANF), or Refugee Cash Assistance. This definition also includes non-cash vouchers a child receives from the TANF program per OAC 340:10-3-56(3)(k).

~~(A) Children who receive non-cash vouchers from the TANF program are considered TANF recipients for child care.~~

~~(B) TANF families must meet the income guidelines shown on OKDHS Appendix C-4, Child Care Eligibility Rates Schedule, for their household size to receive help with child care costs and may be assessed a family share co-payment.~~

~~(C) All TANF recipients with countable earned income have the option to receive child care services from OKDHS or choose to pay their own child care expenses and receive the dependent care exemption as described at OAC 340:10-3-33(3) while continuing to receive cash benefits.~~ All TANF recipients who go to work and are eligible for a child care benefit can choose to receive a child care benefit through the Oklahoma Department of Human Services (OKDHS) while they work or choose to pay for the child care themselves. If they choose to pay for the child care cost themselves, it can be considered as an earned income exemption for the TANF benefit.

(2) ~~**Families transitioning off of TANF.** Families whose TANF benefits have stopped within the last 24 months because of employment receive priority for child care services using the income guidelines shown on OKDHS Appendix C-4, per federal guidelines, and per Section 230.61 of Title 56 of the Oklahoma Statutes unless:~~ **Income eligible.** Households who are not predetermined eligible for a child care benefit must meet income eligibility guidelines shown on OKDHS Appendix C-4, Child Care Eligibility/Rates Schedule, for their household size, to receive assistance with child care costs.

~~(A) the employer provides child care benefits; or~~

~~(B) the monthly salary received from the employer exceeds the monthly TANF program benefit plus the cost of child care and medical insurance to which the recipient would be entitled.~~

(3) ~~**Families at risk of becoming dependent on TANF benefits.** Families at risk of becoming dependent on TANF benefits receive priority for child care services. These are families who fall within income guidelines on OKDHS Appendix C-4, meet all other eligibility conditions discussed in this Subchapter, are not receiving TANF, need child care in order to work, and would otherwise be at risk of becoming dependent on TANF. Examples include:~~ **Transitional child care.** Per Section 230.61 of Title 56 of the Oklahoma Statutes, a TANF recipient who becomes employed is eligible for transitional child care benefits for 24 months following the date of employment as long as he or she meets income eligibility guidelines on OKDHS Appendix C-4 for his or her household size unless:

(A) ~~families who are eligible for TANF benefits but choose not to apply;~~ the employer provides child care benefits; or

(B) ~~teenage parent(s);~~ the monthly salary received from the employer exceeds the monthly allowance of assistance pursuant to the TANF program plus the cost of child care and medical insurance to which the recipient would be entitled.

~~(C) families who have previously received TANF benefits and the last payment occurred over 24 months ago;~~

~~(D) children not included in a TANF benefit at the point TANF benefits stopped; or~~

~~(E) families whose TANF benefit stops for a reason other than employment.~~

(4) ~~**Children with special needs.** OKDHS uses the term "children with disabilities" to describe children with special needs. OKDHS defines children with disabilities at OAC 340:40-7-8(h). These children receive priority for child care services as long as the family meets all other eligibility conditions included in this Subchapter and household income is within income guidelines shown on OKDHS Appendix C-4.~~ **TANF families in the Work Supplementation Program.** TANF families in the Work Supplementation Program are considered income eligible families and must meet income eligibility guidelines shown on OKDHS Appendix C-4 for their household size, to receive assistance with child care costs.

(5) **Dual eligibility.** An individual may have dual eligibility for both the child care subsidy program through OKDHS and through his or her tribe. The child care provider ~~cannot~~ may not receive payment from both programs simultaneously. ~~However, the~~ The client ~~can~~ may be approved for the child care subsidy program and the tribe may pay the client's family share co-payment.

~~(b) **Income eligible families.** Households who meet the eligibility conditions shown in this Subchapter but who do not meet a priority reason to receive subsidized child care are approved for child care services as funds are available. These families must meet income eligibility guidelines shown on OKDHS Appendix C-4 for their household size to receive help with child care costs.~~

340:40-7-6. Household composition and income consideration

(a) **Household composition and income consideration.** To establish a child's eligibility for subsidized child care, it is necessary to define who must be considered part of household composition for income consideration. Individuals who must be included are:

(1) the natural, adoptive, or stepparent of the child(ren) who lives in the home and for whom child care is needed;

(2) the caretaker(s) of the minor child(ren) who needs child care if that caretaker is legally and financially responsible for the child(ren) ~~or the caretaker(s) is included~~

~~in the same Temporary Assistance for Needy Families (TANF) benefit as the child(ren) who needs child care. If the caretaker is acting in loco parentis and is not included in the child(ren)'s TANF benefit, his or her income is not considered available to the child. In loco parentis is defined in subsection (c)(7) of this Section~~;

(3) all minor children and their siblings who live in the home for whom child care is requested;

(4) any non-relative adult of the opposite sex who is living in the home with the natural or 4adoptive parent; and

(5) any child(ren) of the non-relative adult of the opposite sex who is living in the home with the natural or adoptive parent~~; and~~.

~~(6) all members of a TANF household included in the TANF benefit when child care is requested for one or more of the household members.~~

(b) **Periods of absence.** When a household member is out of the home due to a temporary absence, he or she is still considered a household member as long as he or she plans to return to the home. Examples of temporary absence include:

(1) a hospitalization for physical or mental health reasons;

(2) incarceration;

(3) attending school;

(4) military service;

(5) vacation time for a child; and

(6) working or looking for a job away from home.

(c) **Definition of household composition terms.** The worker determines household composition for income considerations using the definition of terms listed in (1) through (~~6~~7) of this subsection.

(1) An adult is an emancipated minor or person 18 years of age or older. A child who is also a parent is considered an adult.

(2) A child is any unmarried, unemancipated, non-parental person under 18 years of age.

(3) A child who has married or voluntarily left the parental home for any reason and established independent living arrangements, other than being away from home for school or health reasons, is considered emancipated and treated as an adult. Once a child is emancipated, the emancipation is permanent.

(4) Spouses are persons married by ceremony or common-law and who are living together, or living separately on a temporary basis with no intentions of severing the marital relationship, or who are involuntarily separated.

(5) A non-relative adult is defined as any person over 18 years of age or an emancipated minor who is not related to the parent or caretaker by blood, adoption, or marriage.

(6) The term legally and financially responsible adult is defined as a parent or stepparent of the child(ren) for whom child care is needed. The term also includes other caretaker adults who are court-ordered to be legally and financially responsible for the child.

(7) The term in loco parentis is defined as a person acting in place of a parent without going through legal proceedings. He or she is expected to pursue child support from the natural or adoptive parent(s) of the child(ren) if it is not currently being received. See OAC 340:40-7-9 for more information regarding pursuit of child support.

(d) **Joint or shared custody.** When parents separate or divorce and share custody of their child(ren), either voluntarily or through a court order, the worker considers each parent's eligibility separately as well as his or her income. If only one parent qualifies for subsidized child care, only the days and hours of care needed while that parent has physical custody of the child(ren) is approved.

340:40-7-8. Defining the need factor for a child care ~~services~~ benefit

(a) **Employment.** Employment means the ~~adult~~ parent or the caretaker earns wages for work performed ~~if the adult is part of the household for income purposes~~.

(1) The client must provide proof of his or her work hours. If the client has the flexibility to set his or her own work hours, the client and worker jointly determine if they can reduce the number of hours the child(ren) needs care by rearranging the client's work schedule. This is especially important in two-parent or two-caretaker families.

(2) The worker limits approval of child care to the number of days and hours the client is working plus reasonable travel time. In two-parent or two-caretaker working families, the worker limits approval to the days and hours they are both working at the same time plus reasonable travel time. If the child attends school or Head Start during part of the work hours, the worker reduces the number of hours he or she approves child care accordingly.

(3) If the ~~adult~~ parent or caretaker is not making at least minimum wage for the number of hours he or she is working, the worker may limit the number of days and hours of care initially approved. The worker counsels with the individual regarding increasing his or her income. If counseling is unsuccessful, the worker decides whether to further reduce or terminate the child care ~~benefits can be reduced or terminated~~ benefit.

(4) A person employed and working from his or her own home may be approved for a child care ~~services~~ benefit in an out-of-home child care home or center.

(~~2~~5) Job search meets the definition of employment and child care may be approved only when a recipient who has received a child care ~~services~~ benefit for at least 30 days loses employment or successfully completes a formal education or training program and requests child care assistance to look for a job. Child care may be approved for a maximum of 30 calendar days from the date the client loses employment or successfully completes a formal education or training program as long as the child continues to attend the same child care facility. Job search may be approved no more than twice per calendar year.

(b) **Training.** Job skills training includes vocational training and hands-on work experience to develop technical skills, knowledge, and abilities in specific occupational areas. All training programs must include qualitative measures to evaluate the participant's progress. Examples include competency gains, proficiency levels, and certificates of completion.

(c) **Formal education program.** A formal education program is defined as a course of study which leads to the attainment of an associate's or bachelor's degree.

(d) **Temporary Assistance for Needy Families (TANF) Work activity.** When a client receives a TANF ~~assistance~~ benefit, child care may be provided for any activity outlined in the client's Form TW-2, TANF Work/Personal Responsibility Agreement. Need is also met when the individual is waiting to enter an approved TANF Work activity. Approval is limited to a time period not to exceed:

(1) two weeks; or

(2) one month on an exception basis where child care arrangements or other services would otherwise be lost and the subsequent activity is scheduled to begin within that period.

(e) **TANF applicant job search.** TANF applicants referred for immediate employment are eligible for child care ~~for~~ to job search. TANF applicants are advised:

(1) child care ~~for~~ to job search is limited to 20 days which must be used within 30 calendar days from the date of request;

(2) in-home child care arrangements are not available for TANF applicants;

(3) child care may only be used during the times the applicant is actually looking for a job; and

(4) he or she must notify the county office immediately upon securing employment.

~~(f) **Food Stamp Employment and Training (E&T) recipients.** Income eligible food stamp recipients who live in a Food Stamp E&T county may receive voucher-authorized child care for E&T activities if child care services are necessary for the parent or caretaker to participate in the E&T activities. Participants are eligible for a maximum of $160 per month per child.~~

~~(1) Child care services are available whether the parent or caretaker is a required or voluntary participant.~~

~~(2) In two-parent or two-caretaker families, both parents may participate in E&T activities simultaneously and receive voucher-authorized child care unless one parent or caretaker has been exempted to care for a child(ren) under six years of age.~~

~~(3) Child care services are only purchased from licensed and contracted out-of-home child care facilities.~~

~~(4) Food Stamp E&T participants are predetermined eligible for voucher-authorized child care and are approved with a zero family share co-payment.~~

~~(5) At the end of each calendar month, the client submits to the worker a completed Form FSP-22, Job Search Plan.~~

~~(6) An overpayment is submitted to the Family Support Services Division (FSSD) Overpayment Section for any voucher-authorized child care used by the client for which he or she was not eligible.~~

~~(7) The FSSD Food Stamp Section monitors a random selection of cases quarterly to ensure the integrity of the program.~~

(~~g~~f) **Protective or preventive child care.** ~~Protective~~ A protective or preventive child care ~~services are~~ benefit can be used as an early intervention strategy in certain critical situations to help in preventing neglect, abuse, or exploitation of a child. The worker may approve child care in these situations to help stabilize the family situation or to enhance family functioning. The client must provide proof of the need for ~~this~~ child care before the worker authorizes care.

(1) The worker may approve protective or preventive child care for a maximum of 30 calendar days at the county level. If protective or preventive child care is needed beyond this initial 30 day period, the worker obtains approval for this extension from the FSSD Child Care Section.

(2) The family may or may not be expected to help in paying the cost of this child care depending on the unique circumstances of the family.

(3) If the family is financially ineligible for a child care ~~services~~ benefit but there is evidence the family is so burdened by debt that the additional financial pressure of paying for child care may result in further deterioration of family stability and functioning, the worker may approve protective or preventive child care. A plan to reduce such debt must be established.

(4) If determining financial eligibility will take time, the worker may approve child care while the parent or caretaker is gathering necessary information as long as the client has provided proof of the need for child care.

(5) Protective or preventive child care is temporary and planning to reduce or eliminate the need for such child care begins at the initial contact.

(~~h~~g) **Child with disabilities.** A child with disabilities is defined as a child who receives Supplemental Security Income (SSI), SoonerStart early intervention services, or special education services provided in accordance with an Individualized Education Program (IEP) by the local school district. This definition also includes a child whose SSI payment stops because of financial reasons but who still meets the medical definition of disability as determined by the Social Security Administration. Child care may be approved for a child with disabilities through the day before the child's 19th birthday when a statement from a licensed health care professional is provided stating the child is physically or mentally incapable of self-care as age appropriate.

(1) **Approval for the higher special needs rate.** Form ADM-123, Certification for Special Needs Child Care Rate, is completed and signed by the parent or guardian, the child care provider, Division of Child Care (DCC) licensing staff, and the child's Family Support Services worker or Child Welfare worker. The parent or caretaker must submit the child's IEP or Individualized Family Service Plan (IFSP) that documents the care needs of the child. If a child who receives SSI is not receiving special education ~~services~~ or SoonerStart services, the parent or caretaker must submit a statement from a health professional describing the care needs of the child ~~is submitted~~. A change to the higher special needs rate is effective the first of the month following the month eligibility for the rate is determined by DCC licensing staff. When care is not provided until the special needs rate is approved, it is effective the first day care is provided. Once Form ADM-123 has been completed and the worker determines

the child is eligible for one of the special need rates, a new Form ADM-123 is only completed when:

(A) the needs of the child change;

(B) the child moves to a different child care facility; or

(C) the child stops attending the facility that was approved for the special needs rate for more than six months.

(2) **Enrichment child care ~~services~~ benefit for children with disabilities.** The purpose of an enrichment child care ~~services~~ benefit is to assist the child in developing socialization skills. Children with disabilities receiving SSI who are normally not eligible for child care may be approved for an enrichment child care ~~services~~ benefit based solely on the needs of the child's condition of delay or disability rather than on the activities of the parent or caretaker. Child care for enrichment is limited to a maximum of two days per week not to exceed ten full-time or part-time days per month ~~for enrichment child care~~. The parent or caretaker must provide a statement from a professional involved in the child's life recommending child care be provided and the reason child care would be beneficial to the child. When such enrichment child care is approved, it is provided outside of the child's home, preferably in a setting where at least one other child is present.

340:40-7-9. Exploration and development of potential income

(a) **Exploration and development of potential income.** The worker explores all potential sources of income such as court-ordered child support from a noncustodial parent(s), Social Security benefits, Supplemental Security Income (SSI), unemployment benefits, and ~~veterans'~~ veterans benefits at the time of application and at each review. ~~Initial and continued eligibility for Oklahoma Department of Human Services (OKDHS) subsidized child care requires the client to pursue all potential sources of income within 90 days of the application or review approval. SSI does not need to be pursued unless the client wishes to apply.~~ The client is encouraged but not required to apply for SSI when the client indicates that a household member has a disability. The client must agree to pursue child support through the Child Support Enforcement Division (CSED) at the time of application when one or both of the child(ren)'s parents are absent from the home as indicated at (b) of this Section. For all other types of potential income identified at application or review, the client must pursue such income within 90 calendar days of the income being identified.

(1) If the client refuses to pursue available income at the time of request and good cause as described in (~~b~~c) of this Section does not exist, the worker denies the child care request.

(2) If the client agrees to pursue all ~~available~~ potential income ~~within 90 days~~ and then fails to do so, the worker closes the child care ~~benefits~~ benefit for the next negative action deadline.

(3) At each review the worker determines whether the client continues to pursue potential income.

(A) If the client begins receiving such income, the worker considers the income for the next negative action deadline after it is reported.

(B) If the client was determined not eligible for the income, the worker records this in the case record and stops exploring this potential income with the client.

(C) If the client stops pursuing the income and good cause as described in (c) of this Section does not exist, the worker closes the client's child care benefit for failure to cooperate for the next negative action deadline.

(~~3~~4) If the client reapplies after ~~child care services were closed~~ closure because of non-cooperation regarding pursuit of potential income, the client must verify receipt or pursuit of such income or that such income is no longer potentially available ~~prior to child care being~~ before child care can be approved.

(b) **Mandatory referral to CSED.** When one or both of the child(ren)'s parents are absent from the home, the worker makes a mandatory referral to CSED to pursue child support at the time child care is certified. The worker makes this referral whether or not the client is currently receiving court-ordered child support. After the worker approves the client for child care, all future child support payments must be made to the Centralized Support Registry (CSR).

(1) The client must provide the name(s) of the person(s) alleged as responsible for the support of a child(ren) and provide identifying information such as name, address, and the employer(s) of the person(s), if known.

(2) The termination of parental rights does not eliminate the obligation of either parent to provide financial support for his or her minor child(ren). Per Section 7006-1.3 of Title 10 of the Oklahoma Statutes, termination of parental rights affects the parent's rights, not his or her responsibility to support the child(ren) except in the case of adoption. An adoptive parent's legal obligation continues even if a child(ren) is returned to the care of the natural parent.

(3) The worker makes the referral to CSED by completing with the client Form FSS-AP-1-A, Absent Parent (AP) Information Sheet, for each absent parent. The worker gives Form C-16, Child Support Services and Responsibilities, to the client. The form explains CSED services and client expectations. Supplemental information sent to the appropriate CSED district office by the worker includes:

(A) a signed and completed Form CSED-1-A, Affidavit of Child Support Payments Received;

(B) a signed and completed Form CSED-1-B, Mother's Affidavit of Paternity. This form is only completed if the mother is applying for child care benefits and paternity has not been established; and

(C) copies of any legal documents concerning custody or child support.

(4) If paternity has not yet been established, the worker discusses the voluntary acknowledgment of paternity

process with the alleged father when he is located. If the alleged father admits paternity, the worker secures the alleged father's and the mother's signature on Form CSED-209, Affidavit Acknowledging Paternity, per instructions under the Notice of Rights and Responsibilities on the form.

(~~b~~c) **Good cause.** ~~When there is the possibility of physical or emotional harm to the child or the custodial parent or caretaker, pursuit of child support services may not be in the best interest of the family and is not pursued.~~ Although the client's cooperation in the pursuit of child support through CSED is required as a condition of eligibility for child care, good cause for refusal to cooperate may be granted when such cooperation is not in the best interest of the child. The Oklahoma Department of Human Services (OKDHS) may determine that child support activities can be safely conducted without the cooperation of the client.

(1) The client must sign Form C-9, Cooperation Agreement and Request for Good Cause, at the time of the initial application, at the time of an additional child request, or when circumstances result in an applicant's or recipient's request for good cause. The worker does not deny, delay, or discontinue child care benefits pending a determination of good cause for refusal to cooperate if the applicant or recipient has complied with the requirements to furnish evidence or information.

(2) OKDHS determines that the client has good cause for refusing to cooperate only if:

(A) there is possible physical or emotional harm to the child;

(B) there is possible physical or emotional harm to the parent or caretaker;

(C) the child was conceived as a result of incest or forcible rape;

(D) legal proceedings for adoption of the child are pending before a court; or

(E) the client is currently being assisted by a public or licensed private social agency to resolve the issue of whether to keep the child or relinquish the child for adoption.

(3) It is the responsibility of the applicant or recipient who makes a claim for good cause to supply documentary evidence to establish the claim, or to furnish sufficient information to permit OKDHS to investigate the circumstances of good cause for refusing to cooperate. Uncorroborated statements of the applicant or recipient are not acceptable documentation. The evidence must be of probative value and supported by written statements to the extent possible. Examples of acceptable written statements include:

(A) birth certificate or medical or law enforcement records which indicate that the child was conceived as a result of incest or forcible rape;

(B) court documents or other records which indicate that legal proceedings for adoption are pending before a court of competent jurisdiction;

(C) criminal, medical, child protective services, social services, psychological, or law enforcement records indicating that the putative or absent parent might inflict physical or emotional harm on the child or caretaker;

(D) medical records indicating the emotional health history and present emotional health status of the caretaker or child, or a written statement from a mental health professional indicating a diagnosis or prognosis concerning the emotional health of the caretaker or child;

(E) a written statement from a public or licensed private social agency that the applicant or recipient is being assisted by OKDHS to resolve the issue of whether to keep the child or relinquish the child for adoption; and

(F) sworn statements from individuals other than the client with knowledge of the circumstances which provide the basis for the good cause claim.

(4) Upon request, the worker assists the client in obtaining evidence that is not reasonably obtainable. This requirement is limited to the specific documentary evidence in (3)(A) through (F) of this subsection. The client must specify the type of document or record needed, as well as provide sufficient identifying information to make it possible to be obtained.

(5) Under limited conditions the parent(s) of a child removed from the home by a custody order may be exempt from the required referral to the CSED district office as a condition of the child's eligibility. The Children and Family Services Division (CFSD) or Office of Juvenile Affairs (OJA) worker must send a referral that includes reasons for the request of an exemption to the requirement to cooperate in the development of child support.

(d) **Failure to cooperate in the pursuit of child support.** Failure to cooperate in pursuit of child support without good cause may be indicated at the time of application or at any time further action by the client is necessary.

(1) Actions indicating failure to cooperate include refusals to:

(A) identify and assist in locating a known parent;

(B) establish paternity; or

(C) establish, modify, or enforce a support order.

(2) When the worker is informed by CSED that the client is not cooperating, the worker closes the child care benefit for the next negative action effective date.

340:40-7-11. Sources of income considered

(a) **Sources of income considered.** Income may be received periodically or at irregular intervals. All income unless specifically excluded in OAC 340:40-7-12 is considered in determining monthly gross income. Income is classified as earned or unearned income. Gross income is treated the same for both types of income.

(b) **Earned income.** ~~The term earned~~ Earned income ~~refers to~~ means total money 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.

(1) **Wages.** Wages include total money received for work performed as an employee including armed forces pay, commissions, tips, piece-rate payments, longevity payments, and cash bonuses before any deductions are made such as taxes, bonds, pensions, union dues, credit union payments, and cafeteria plans.

(A) Only the portion of the cafeteria plan the client controls is counted as income.

(B) Reimbursements for expenses such as a uniform allowance or transportation costs, other than daily commuting, are subtracted from gross income.

(C) Payments made for annual leave, sick leave, or severance pay are considered as earned income during the month such income is received whether paid during employment or at termination of employment.

(D) Wages that are garnisheed or diverted and paid to a third party are also counted as income.

(2) **Self-employment.** Earnings derived from a business enterprise owned by the individual are considered as self-employment income. Gross income is determined by calculating total gross receipts or sales and subtracting the costs of producing the income listed in this Section.

(A) **Costs of producing self-employment income.** Allowable costs of producing self-employment income include, but are not limited to, the identifiable cost of labor, stock, raw material, seed and fertilizer, and payments on the principal of the purchase price of income producing real estate and capital resources, equipment, machinery, and other durable goods, interest paid to purchase income producing property, insurance premiums, and taxes paid on income producing property. Items not considered as a cost of producing self-employment income are:

(i) net losses from previous periods;

(ii) federal, state, and local income taxes, money set aside for retirement purposes, and other work related personal expenses, such as meals and necessary transportation;

(iii) depreciation;

(iv) penalties and fines; and

(v) charitable contributions.

(B) **Monthly self-employment income.** Self-employment income received on a monthly basis is normally averaged over a 12-month period. If the averaged amount does not accurately reflect the household's actual monthly circumstances because the household has experienced a substantial increase or decrease in business, the worker calculates the self-employment income based on anticipated earnings.

(C) **Seasonal self-employment.** Self-employment income intended to meet the household's needs for only part of the year is averaged over the period of time it is intended to cover.

(D) **Annualized self-employment income.** Self-employment income ~~which~~ that represents a household's annual support is averaged over a 12-month period, even if the income is received in a short period of time. If the averaged amount does not accurately reflect the individual's actual monthly circumstances because the individual has experienced a substantial increase or decrease in business, self-employment income is based on anticipated earnings.

(E) **Income from rental property.** Income from rental property is considered income from self-employment.

(F) **Income from room and board.** Payments from roomers or boarders are considered self-employment if the roomer or boarder is paying a reasonable amount. If the roomer or boarder is a non-relative adult of the opposite sex, OAC 340:40-7-6(a)(5) applies.

(G) **Self-employed farm income.** Self-employed farm income is determined like other self-employment income except when the business expenses exceed the self-employment income. When the cost of producing self-employment income exceeds the income derived from self-employment as a farmer, such losses are offset against any other countable income in the household. When the annual net loss has been established, the worker prorates the loss ~~is prorated~~ by dividing by 12 for the monthly amount to be subtracted from the total countable income. For purposes of this exception, to be considered a self-employed farmer, the farmer must receive or anticipate receiving annual gross proceeds of $1000 or more from the farming enterprise. Farming is defined as cultivating or operating a farm for profit either as owner or tenant. A farm includes stock, dairy, poultry, fish, fruit, and truck farms, and also plantations, ranches, ranges, and orchards. A fish farm is an area where fish are grown or raised and where they are artificially fed and protected and does not include an area where they are merely caught or harvested. A plant nursery is a farm for purposes of this definition.

(3) **On-the-job training.** Earned income from regular employment for on-the-job training is considered as any other earned income.

(4) **Workforce Investment Act (WIA).** Income earned in on-the-job training positions is considered earned income. This is on-the-job training provided under Section 134 of WIA for individuals 19 years of age or older. On-the-job training provided must be full-time positions, and there must be a contract between WIA and the employer for each individual position. This does not include classroom training and institutional training or intern assignments sponsored by WIA, even when an hourly amount is paid for such training.

(5) **Title I payments of Domestic Volunteer Services Act.** Payments under Title I of the Domestic Volunteer Services Act of 1973 as amended [P.L. 93-113] are considered income unless they are excluded under OAC 340:40-7-12. This includes income to Volunteers in Service to America, University Year for Action, and similar volunteer payments.

(6) **Earnings of children.** Earned income of a minor parent is treated as adult earned income. Earnings of other children 17 years of age and younger who are under the parental control of an adult household member are excluded as long as the child is attending school regularly. This exclusion continues to apply during temporary interruptions in school attendance due to semester or vacation breaks, provided the child's enrollment resumes following the break. ~~See OAC 340:40-7-6(a)(6) and 340:40-7-11(c)(1) for information about 18 year olds receiving Temporary Assistance for Needy Families (TANF) as children.~~

(c) **Unearned income.** ~~The term unearned~~ Unearned income ~~refers to~~ means income an individual receives for which he or she does not put forth any daily, physical labor. Types of income listed in paragraphs (1) through (~~10~~11) of this subsection are considered unearned income.

(1) **Assistance payments.** Assistance payments include state means tested programs such as TANF and State Supplemental Payment (SSP) to the aged, blind, or disabled, and Refugee Cash Assistance.

(2) **Pensions, disability, and Social Security benefits.** Annuities, pensions, retirement benefits, disability benefits from either government or private sources, or Social Security survivor benefits are considered unearned income.

(3) **Supplemental Security Income (SSI).** SSI is considered unearned income.

(4) **Unemployment and workers' compensation.** Income from unemployment insurance benefits or workers' compensation is counted as unearned income.

(5) **Child support, court-ordered child care, and alimony.** Child support, child care payments, and alimony payments, whether court-ordered or voluntary, which are made directly to the household from non-household members are counted as unearned income. If a child care payment is paid directly to the child care provider, it is not considered income for the client. When the absent parent reports he or she is paying a portion of the client's family share co-payment to the child care provider, the only action taken by the worker is to record this in the case record. ~~It~~ If the absent parent or another third party is making a payment to the provider in addition to the client's co-payment, it is considered as an additional co-payment which must be met before OKDHS makes a subsidy payment to the provider. Any other payment made to a third party for a household expense must be considered as income when a court order directs that the payment be made to the household. Payments for medical support are excluded.

(6) **Veterans compensation, pensions, or military allotments.** Annuities, pensions, disability compensation, military allotments, servicemen dependent allowances, and similar payments are considered unearned income.

(7) **Contributions.** Appreciable contributions recurrently received in cash are considered unearned income except in instances where the contribution is not made directly to the recipient. To be appreciable, a contribution must exceed $30 per calendar quarter per individual.

(8) **Dividends, interest, minerals, and royalties.** Dividends, interest income, income from minerals, royalties, and similar sources are considered unearned income. When income from these sources is received irregularly or in varied amounts, it is averaged over 12 months. Income from royalties is treated as unearned, self-employment income.

(9) **Lump sum payments.** Non-recurring lump sum payments which are from a countable income source are considered as income the month they are received. Money not expended within the month of receipt is considered as a resource. Recurring lump sum payments, including income from earnings, are averaged over the period they are intended to cover.

(10) **Title IV-E or State Adoption Subsidy.** Federally or state funded adoption subsidy payments are made to adoptive parents of children with special needs are considered as unearned income.

(11) **Irregular income.** Income received irregularly but in excess of $30 per quarter is considered as income unless it is from an excluded income source specifically mentioned at OAC 340:40-7-12. Countable irregular income is averaged over 12 months.

340:40-7-12. Sources of excluded income

Only the income listed in this Section is excluded in determining a household's eligibility for a child care ~~services~~ benefit. No other income is excluded.

(1) **Lump sum payments.** Both one-time and recurring lump sum payments are excluded as income unless they are specifically mentioned in OAC 340:40-7-11.

(2) **In-kind income.** In-kind income is defined as any gain or benefit which is not in the form of money payable directly to the household, including non-monetary or in-kind benefits such as meals, clothing, public housing, or produce from a garden, and is excluded.

(3) **Money received from the sale of property.** Money received from the sale of property such as stocks, bonds, a house, or a car is excluded. This exclusion does not apply if the person is engaged in the business of selling such property.

(4) **Bank or trust account withdrawals.** Money withdrawn from a bank or trust account is excluded as income even if used to meet current living expenses.

(5) **Capital gains.** The proceeds from the sale of capital goods or equipment is excluded.

(6) **Earnings of children.** Earnings of an individual 17 years of age and younger who is considered a child in the case is excluded as long as the child is attending school regularly. This exclusion continues to apply during temporary interruptions in school attendance due to semester or vacation breaks, provided the child's enrollment resumes following the break. ~~Earnings of an 18 year old considered a child in a Temporary Assistance for Needy Families (TANF) benefit are also excluded if he or she is attending school regularly. See OAC 340:40-7-6(a)(6)~~

~~and 340:40-7-11(c)(1).~~ Earned income of a child who is head of his or her own household, such as is the case for a minor parent, is treated as adult income.

(7) **Irregular income.** Any income received too infrequently or irregularly to be reasonably anticipated is not counted unless it is in excess of $30 per calendar quarter.

(8) **Reimbursements.** Reimbursements for past or future expenses to the extent they do not exceed actual expenses are excluded.

(9) **Tax refunds.** Federal or state income tax refunds, including the state and federal Earned Income Tax Credit (EITC), and advance payments of federal EITC are excluded.

(10) **Money received for third parties.** Money received and used for the care and maintenance of a third party who is not a household member is excluded.

(11) **Loans.** All loans, including loans from private as well as commercial institutions, are excluded. Verification that the income is a loan is required.

(12) **Grants.** Grants obtained and used under conditions that preclude their use for current living costs is excluded.

(13) **Educational assistance.** All education grants, work-study, scholarships, and student loans are exempt if receipt is contingent upon the student regularly attending school.

(14) **Stipends.** Stipends paid to students participating in the Indian Vocational Education Program through the Carl D. Perkins Vocational and Applied Technology Education Act is excluded.

(15) **Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE).** Payment for supportive services or reimbursement of out-of-pocket expenses made to volunteers serving as foster grandparents, senior health aides, or senior companions, and to persons serving in SCORE and ACE is excluded.

(16) **Government rent or housing subsidies.** Government rent or housing subsidies by government agencies which is received in-kind or in cash for rent, mortgage payments, or utilities is excluded.

(17) **Foster care payments.** Foster care payments received for a foster child in state or tribal custody are excluded as income.

(18) **Victims of Crime Act of 1984.** Payments made from the crime victims compensation program as amended in Section 1402 of the Victims of Crime Act of 1984 are excluded. [42 USC 10602]

(19) **Family Support Assistance Payment Program.** Family Support Assistance Payment Program payments paid to individuals by the Developmental Disabilities Services Division of the Oklahoma Department of Human Services (OKDHS) are excluded as income.

(20) **Vendor payments.** Vendor payments are payments in money on behalf of a household when a person or organization outside the household uses its own funds to make a direct payment to either a household's creditors or a person or organization providing a service to the household are excluded. Payments specified by a court order or other legally binding agreement to be paid directly to the client but that are instead diverted to pay a third party for a household expense are counted as income.

(21) **Money received by another household for a household member.** When a child spends part of the month in two separate households and receives countable income, the worker determines which household actually receives the income. Only the portion of the income that is actually received by the household applying for or receiving a child care benefit is considered as income for that household.

(~~21~~22) **Income excluded by federal law.** Income excluded by federal law is defined as:

(A) payments received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(B) payments received:

(i) under the Alaska Native Claims Settlement Act [Public Law (P. L.) 92-203, § 21(a)];

(ii) under the Sac and Fox Indian Claims Agreement [P.L. 94-189];

(iii) from the disposition of funds to the Grand River Band of Ottawa Indians [P.L. 94-540];

(iv) by members of the Confederated Tribes of the Mescalero Reservation [P.L. 95-433]; or

(v) under the Maine Indian Claims Settlement Act of 1980 to members of the Passamaquoddy and the Penobscot Nation [P.L. 96-420];

(C) any payment to volunteers under Title II, Retired and Senior Volunteer Program, Foster Grandparents and others, of the Domestic Volunteer Services Act of 1973 [P.L. 93-113] as amended. Payments under Title I of that Act, Volunteers in Service To America, University Year for Action, and Urban Crime Prevention Program, to volunteers are excluded only if the monthly amount, when converted to an hourly rate, is less than the Oklahoma minimum wage;

(D) income derived from submarginal land of the United States which is held in trust for certain Indian tribes [P.L. 94-114, Sec. 6];

(E) Indian payments, which include judgment funds or funds held in trust, distributed per capita by the Secretary of the Interior of the Bureau of Indian Affairs or distributed by the tribe subject to approval by the Secretary of the Interior. Also, any interest or investment income accrued on such funds while held in trust or any purchases made with judgment funds, trust funds, interest, or investment income accrued on such funds. Any income from mineral leases, from tribal businesses investments, and the like, as long as the payments are paid per capita. For purposes of this paragraph, per capita is defined as each tribal member receiving an equal amount. However, any interest or income derived from the principal or produced by purchases made with the funds after distribution is considered as any other income;

(F) income up to $2,000 per year received by individual Indians, which is derived from leases or other

uses of individually-owned trust or restricted lands is not counted as income. The income exclusion applies to calendar years beginning January 1, 1994. Any remaining disbursements from the trust or restricted lands are considered as income;

(G) allowances, earnings, and payments received by a child(ren) in the household from a program funded by participation in the Workforce Investment Act (WIA), including Job Corps income are not counted as income;

(H) payments, allowances, or earnings to individuals participating in programs under Title I of the National and Community Service Trust Act of 1993. Title I includes three Acts: Serve-America, The Community Service, Schools and Service-Learning Act of 1990, the American Conservation and Youth Service Corps Act of 1990, and the National and Community Service Act. Most of the payments are made as a weekly stipend or for educational assistance. The Higher Education Service-Learning Program and the AmeriCorps Umbrella Program come under this Title. This includes AmeriCorps income;

(I) payments or allowances made under any federal law for the purpose of energy assistance, Low Income Home Energy Assistance Program (LIHEAP), and also utility payments and reimbursements made by the Department of Housing and Urban Development (HUD) and the Farmers Home Administration (FmHA);

(J) the amount of the mandatory salary reduction of military service personnel used to fund the G.I. Bill;

(K) all funds paid to individuals under the Community Service Employment Program under Title V. [P.L. 100-175] This program is authorized by the Older Americans Act. Each State and various organizations receive some Title V funds. These organizations include:

(i) Green Thumb;
(ii) National Council on Aging;
(iii) National Council of Senior Citizens;
(iv) American Association of Retired Persons;
(v) U.S. Forest Service;
(vi) National Association for Spanish Speaking;
(vii) National Urban League;
(viii) National Council on Black Aging; and
(ix) National Council on Indian Aging;

(L) payments made from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement In Re Agent Orange Product Liability Litigation, M.D.L. No. 381 (E.D.N.Y.);

(M) payments received under the Civil Liberties Act of 1988. These payments are made to individuals of Japanese ancestry who were detained in interment camps during World War II;

(N) payments made from the Radiation Exposure Compensation Trust Fund as compensation for injuries or deaths resulting from exposure to radiation from nuclear testing and uranium mining;

(O) payments for the fulfillment of a Plan for Achieving Self-Support under Title XVI of the Social Security Act;

(P) payments made to individuals because of their status as victims of Nazi persecution;

(Q) payments made for the Experimental Housing Allowance Program under Annual Contributions Contracts entered into prior to January 1, 1975, under Section 23 of the U.S. Housing Act of 1937 as amended;

(R) monetary allowances provided to certain children of Vietnam War veterans as described in Chapter 18 of Title 38 of the United States Code (USC);

(S) federal major disaster and emergency assistance provided under the Disaster Relief Act of 1974, and comparable disaster assistance provided by states, local governments, and disaster assistance organizations. For payments to be excluded, the disaster or emergency must be declared by the President of the United States;

(T) the value of the food stamp allotment under the Food Stamp Act of 1977; and

(U) the value of supplemental food assistance under the Child Nutrition Act of 1966 and the special food services program for children under the National School Lunch Act of 1970, both as amended by the Omnibus Budget Reconciliation Act of 1981.

[OAR Docket #05-490; filed 3-31-05]

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

[OAR Docket #05-491]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 3. ~~The~~ Application Process
340:50-3-2. [AMENDED]
Subchapter 5. Non-financial Eligibility Criteria
Part 1. Household Definition
340:50-5-8.1. [AMENDED]
Part 3. Special Households
340:50-5-26. through 340:50-5-27. [AMENDED]
Part 5. Students, Strikers, Resident Farm Laborers, Migrant Households, Sponsored Aliens, and School Employees
340:50-5-45. [AMENDED]
Part 7. Related Provisions
340:50-5-64. [AMENDED]
Part 9. Work Registration
340:50-5-87. through 340:50-5-88. [AMENDED]
340:50-5-97. [NEW]
Subchapter 7. Financial Eligibility Criteria
Part 1. Resources
340:50-7-2. [AMENDED]
Subchapter 9. Eligibility and Benefit Determination Procedures

340:50-9-1. [AMENDED]
340:50-9-5. through 340:50-9-6. [AMENDED]
Subchapter 11. Special Procedures
Part 9. Disaster Procedures and Reporting Requirements
340:50-11-85. [REVOKED]
Appendix D. Application and Affidavit for Emergency Disaster Food Stamp Assistance [REVOKED]
(Reference APA WF # 04-07, 04-08, and 04-28)

AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; Section 6(o) of the Food Stamp Act, as amended by Section 824 of the Personal Responsibility and Work Opportunity Reconciliation Act (PROWOA) of 1996, Public Law 104-193; Section 273.24(f)(3)(iii) of Title 7 of the Code of Federal Regulations; 2002 Farm Bill; Section 183(c) of Title 38 of the United States Code; and Section 273 of Title 7 of the Code of Federal Regulations.

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May 12, 2005

SUPERSEDED EMERGENCY ACTIONS:
Superseded rules:
Subchapter 5. Non-financial Eligibility Criteria
Part 7. Related Provisions
340:50-5-64. [AMENDED]
(Reference APA WF 04-07)
Gubernatorial approval:
May 5, 2004
Register publication:
21 Ok Reg 1977
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04-951
Superseded rules:
Subchapter 9. Eligibility and Benefit Determination Procedures
340:50-9-5. [AMENDED]
(Reference APA WF 04-08)
Gubernatorial approval:
July 22, 2004
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Docket number:
04-1213

INCORPORATIONS BY REFERENCE:
n/a

ANALYSIS:
Family Support Services Division rules for the Food Stamp Program are revised to: (1) correct the processing standard for expedited benefits from five to seven days; (2) clarify the process for procedures related to ineligible and illegal aliens; (3) define what constitutes a resident of a drug or alcohol treatment facility and how to determine if persons in the facility can participate in the Food Stamp Program; (4) replace outdated information with current information; (5) update information on agencies that approve group homes as a retailer; (6) clarify language regarding students; (7) exempt clients in 19 counties from having to meet the work requirement; (8) state that an individual older than 49 years of age is exempt from the Food Stamp Program work requirement; (9) correct the disqualification period for head of household who is non-compliant with the Employment and Training (E&T) program; (10) added rules regarding the procedure to approve childcare for E&T participants; (11) include an additional resource that is exempt; (12) expand benefit reporting to include households with unearned income or zero income unless the household contains a countable able-bodied adult without dependents (ABAWD) who is not meeting the work requirement or all adult household members are elderly or disabled; and (13) revoke rules and an appendix that is no longer used.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2005:

SUBCHAPTER 3. ~~THE~~ APPLICATION PROCESS

340:50-3-2. Interview process

(a) **Face-to-face interview.** All ~~initial applicant~~ households initially applying for food stamp benefits ~~(~~except those waived in (b) of this Section and certain reapplications and recertifications as described in Subchapter 11 of this Chapter~~)~~, including those submitting applications by mail, must have a face-to-face interview with a worker in the county office. The ~~individual~~ person interviewed may be the head of the household, spouse, any other responsible member of the household, or an authorized representative who knows the household's circumstances. The household may bring any person of their choice to the face-to-face interview. ~~In~~ During the face-to-face interview, the worker:

(1) ~~does not simply review~~ reviews the information ~~that appears~~ the household listed on the application form ~~but~~ and explores and resolves with the household unclear and incomplete information~~.~~; ~~In order to conduct an in-depth interview the worker must review previous applications and other information contained in the food stamp case record and all related case records prior to the interview.~~

(2) ~~The worker also~~ inquires ~~if~~ whether changes have occurred in the household's income, resources, deductions, or other circumstances since the application was filed~~.~~;

(~~1~~3) ~~The worker fully~~ advises the household of its rights and responsibilities, including reporting requirements~~.~~;

(~~2~~4) ~~The interview is conducted~~ conducts the face-to-face interview as an official and confidential discussion of household circumstances ~~and is~~ limited ~~strictly~~ to facts related to ~~Food Stamp~~ food stamp eligibility ~~criteria~~ factors~~.~~; and

(5) ~~The applicant's~~ ensures the household's right to privacy ~~must be~~ is protected ~~during the interview~~.

~~(3) The applicant may bring any person he/she chooses to the face-to-face interview.~~

(b) **Waiver of the county office face-to-face interview.** The county office face-to-face interview may be waived upon request by any household ~~which~~ that is unable to appoint an

authorized representative and does not have a household member able to come into the county office because of hardship conditions. ~~When the office interview is waived, the county must conduct the interview as soon as possible either by phone or at a location convenient to the household. Normal time limits for providing benefits apply.~~

(1) Hardship conditions include, but are not limited to: ~~any one or more of the following situations.~~

(A) ~~Education~~ education, training, or work hours which make it difficult to come into the office during regular county office business hours~~.~~;

(B) ~~Illness of the applicant~~ illness or the need to care for a family or household member~~.~~;

(C) ~~Bad~~ bad weather conditions~~.~~;

(D) ~~Transportation~~ transportation problems of any kind~~.~~;

(E) ~~Residence~~ residence in a rural area~~.~~; or

(F) ~~The applicant is either elderly or disabled~~ advanced age or disability.

(2) When the county office face-to-face interview is waived, ~~and an alternate interview method is made, information must be included in the case record to document the reason the individual was unable to come to the county office for the face-to-face interview~~ the worker conducts the interview as soon as possible either by phone or at a location convenient to the household such as a home visit.

(A) The seven day expedited service or 30 day processing standards apply.

(B) The home visit ~~must be~~ is scheduled in advance with the household.

(C) The household must provide the required verification. If the household is unable to furnish the required verification, the worker provides assistance. ~~The five day expedited service or 30 day processing standards apply even when a home visit is required.~~

(c) **Scheduling interviews.** The county office ~~schedules the~~ face-to-face interview or alternate interview method is scheduled as promptly as possible after the filing of the application to ensure the ~~applicant~~ household, if eligible, may participate within 30 calendar days following the date of application. If the ~~applicant~~ person to be interviewed is employed, an appointment ~~should be~~ is scheduled ~~that will~~ to minimize the ~~applicant's~~ person's absence from work even if it must be scheduled outside the normal business hours. If the ~~household~~ person is unable to attend a scheduled face-to-face interview for any of the reasons stated in (b) of this Section, the ~~county will offer~~ worker offers to waive ~~such an~~ the county office face-to-face interview and schedule a home visit.

(1) **Timely reapplications.** A household making a timely reapplication ~~shall have their~~ has the interview scheduled as early as possible, but not later than the last day of the month.

(A) If the household fails to appear for the first interview, further interviews are not scheduled unless the household requests another appointment by the 30th calendar day after the application date.

(B) Upon request, the ~~county office will reschedule~~ worker reschedules the interview at the earliest possible date.

(2) **Untimely reapplications and initial applications.** A household making an untimely reapplication or an initial application ~~shall have their appointment for an interview~~ is scheduled for an interview as early as possible, but not later than 20 calendar days from the application date.

(A) If the household fails to appear for the scheduled interview, further interviews are not scheduled unless the household requests another appointment by the 30th calendar day after the application date.

(B) Upon request, the ~~county office will reschedule~~ worker reschedules the interview at the earliest possible date.

(d) **Household cooperation.** To determine eligibility, the application form must be completed and signed, the household or ~~it's~~ its authorized representative must be interviewed, and ~~certain~~ information on the application form required to determine eligibility must be verified.

(1) If the household refuses to cooperate with the ~~county office~~ worker in completing this process, the application is denied at the time of the refusal.

(A) For a determination of refusal to be made, the household must be able to cooperate, but clearly demonstrate that it will not take the necessary actions required to complete the application process.

(B) The household is also ineligible if it refuses to cooperate in any subsequent review of ~~its~~ eligibility, including reviews generated by reporting changes, recertifications, or ~~as part of a~~ an Office of Inspector General Quality Control (QC) review.

(2) If an application is denied or food stamp benefits are terminated for refusal to cooperate, the household may reapply, but may not be determined eligible until it ~~does cooperate~~ cooperates.

(3) If ~~a household has~~ food stamp benefits have been terminated for refusing to cooperate with the ~~Quality Control (QC)~~ reviewer and reapplication is made after 95 calendar days from the end of the QC review period, ~~(~~October 1 – through September 30~~)~~, the household must provide verification of eligibility factors only for the reapplication. For example, if a household had a QC review during the October ~~1984~~ 2003 – through September ~~1985~~ 2004 annual QC review period and ~~was~~ food stamp benefits were terminated for refusal to cooperate with the QC review, the household is required to provide verification for the reapplication only if it is filed after January 2, ~~1986~~ 2005.

SUBCHAPTER 5. NON-FINANCIAL ELIGIBILITY CRITERIA

PART 1. HOUSEHOLD DEFINITION

340:50-5-8.1. Ineligible and illegal aliens

Aliens not identified as qualified aliens in OAC 340:50-5-67(3) are not eligible for food ~~stamps~~ stamp benefits. Income and resources of ineligible aliens are considered available to the household. All aliens who are in the United States unlawfully, must be reported to the ~~Bureau of Citizenship and Immigration Service (BCIS)~~ United States Citizenship and Immigration Services (USCIS).

PART 3. SPECIAL HOUSEHOLDS

340:50-5-26. Drug ~~addict~~ addiction or alcoholic treatment centers

Residents of drug ~~addict~~ addiction or alcoholic treatment centers are certified for program participation through the use of an authorized representative who is an employee of, and designated by the publicly-operated, community mental health center or the private, non-profit organization or institution administering the treatment and rehabilitation program. The organization or institution receives and spends the food stamp benefit allotment for food prepared by or served to ~~the addict or alcoholic~~ a person who is drug or alcohol addicted.

(1) **~~Drug addicts or alcoholics~~ Persons addicted to drugs or alcohol in treatment programs.** ~~Drug addicts or alcoholics~~ Persons addicted to drugs or alcohol who regularly participate in publicly operated or private non-profit drug or alcoholic treatment and rehabilitative programs on a resident basis may voluntarily apply for the Food Stamp Program. The child(ren) of a resident who ~~live~~ lives with his or her parents in the treatment center may also qualify to participate. Residents have eligibility determined as a one person household or, when applicable, as a family unit. They may use all or part of the food stamp benefits issued to them in the treatment center to purchase food prepared for them during the treatment program.

(A) Residents of treatment centers are certified using the same provisions that apply to all other applicant households except certification is completed through use of authorized representatives.

(B) Participants in a drug addict or alcoholic treatment and rehabilitative program are exempt from the work registration requirement. Participation must be verified through the organization or institution operating the program before granting the exemption if the information is inconsistent with other information on the application, previous application, or other documented information.

(2) **Approved centers.** The drug or alcohol treatment and rehabilitative center must be approved by the ~~State~~ Oklahoma Department of Mental Health ~~Department~~ and Substance Abuse Services (ODMHSAS), or by Food and Nutrition Services (FNS) as a retailer.

(3) **Center responsibility.** All treatment and rehabilitative centers must provide the county office with a list of currently participating residents on a monthly basis. ~~Included on this~~ This list must ~~be~~ include a statement signed by a responsible center official attesting to the validity of the list.

(4) **When participant leaves the center.** ~~The~~ When a participant leaves a treatment center, the center:

(A) ~~must notify~~ notifies the departing resident household they may have food stamp benefits left in their Electronic Benefit Transfer (EBT) account.

(i) The departing household receives its full ~~allotment~~ food stamp benefit if no food stamp benefits have been spent on behalf of that individual household. These procedures are applicable any time during the month.

(ii) The center accesses only half of the food stamp benefits in the resident's EBT account prior to the 15th of the month.

(iii) If the resident remains in the facility after the 15th day of the month, the remaining food stamp benefits may be accessed on behalf of the resident.

(iv) If the household leaves after the 16th day of the month and the food stamp benefits have already been issued and used, the household does not receive any food stamp benefits~~.~~;

(B) ~~Once the resident leaves the treatment center, the treatment center~~ is no longer allowed to act as that person's authorized representative~~.~~;

(C) ~~The treatment center must, if possible, provide~~ provides, if possible, the person with a form ~~FSP-38~~ FSP-38, Changes in Household Circumstances, and ~~advise~~ advises them to return the form to the local ~~DHS~~ Oklahoma Department of Human Services (OKDHS) county office within ten calendar days~~.~~;

(D) ~~The treatment center must tell~~ informs the departing household they must go to the local ~~DHS~~ OKDHS county office to secure their own Access Oklahoma card~~.~~;

(E) ~~The treatment center immediately~~ deactivates immediately the Access Oklahoma card by calling the phone number shown on the back of the card ~~when the household leaves the center.~~; and

(F) notifies the county office the participant left the treatment center.

(5) **Reporting changes.** The treatment center must notify the county office ~~when the participant leaves the treatment center and~~ of changes in the household income or other household circumstances required to be reported as outlined in OAC 340:50-9-5.

(6) **~~Center~~ Treatment center liability.** The organization or institution is responsible for any misrepresentation or fraud it knowingly commits in the certification of treatment center residents.

(A) As an authorized representative, the organization or institution must be knowledgeable about the households' circumstances and carefully review these circumstances with residents prior to applying on their behalf.

(B) The organization or institution is strictly liable for all losses or misuse of food stamp benefits

held on behalf of resident households and for all over issuances which occur while the households are residents of the treatment center.

340:50-5-27. Disabled or blind ~~group home~~ residents of group homes

Residents of group homes may be certified for food stamp benefits through the use of an authorized representative who is designated by and is an employee of the group home. The group home may either receive and spend the food stamp benefits for food prepared by or served to the eligible resident or allow the eligible resident to use all or any portion of the food stamp benefit allotment on his or her own behalf.

(1) **Residents in group homes.**

(A) Residents of group homes who are disabled or blind as defined in OAC 340:50-5-4 may voluntarily apply for ~~the Food Stamp Program~~ food stamp benefits. The resident may apply and be certified:

(i) through an authorized representative employed and designated by the group home;

(ii) on his or her own behalf; or

(iii) through an authorized representative of his or her own choice.

(B) The group home determines what method the resident uses to make application based on the resident's mental and physical ability to handle his or her own affairs. The group home consults with other agencies providing services to the resident in making this determination.

(C) If the resident applies through the use of the group home's authorized representative, eligibility is determined for a single person household. The household must meet all conditions of eligibility.

(D) If the resident applies on his or her own behalf or through an authorized representative of his or her own choice, household size is determined in accordance with the definition in OAC 340:50-5-1.

(i) The food stamp benefits may either be turned over to the facility to be used to purchase food for meals served communally or individually to eligible residents, used by the eligible resident to purchase and prepare his or her own food, or to purchase meals prepared and served by the group.

(ii) The resident is responsible for reporting changes in circumstances.

(2) **Approved group homes.** The group home must be approved by the ~~State Health Department~~ Developmental Disabilities Services Division (DDSD) or by Food and Nutrition Services (FNS) as a retailer.

(3) **Group home's responsibility.** Each group home must provide the county office with a list of currently participating residents on a monthly basis. Included on this list ~~must be~~ is a statement signed by a responsible official of the group home attesting to the validity of the list.

(A) When the group home is acting in the capacity of authorized representative, it is responsible for notifying the county office ~~when the individual leaves the group home and any~~ of changes in income or other household circumstances required to be reported. [OAC 340:50-9-5]

(B) The group home has no responsibility to report changes for residents certified on their own behalf or through an authorized representative of their own choice.

(4) **When ~~resident~~ participant leaves the group home.**

(A) ~~The~~ When a participant leaves the group home, the group home acting as an authorized representative or retaining use of the resident's food stamp benefits must:

(i) notify the departing ~~resident there~~ resident there may be benefits remaining in his or her Electronic Benefit Transfer (EBT) account.

(I) The departing household receives its full ~~allotment~~ food stamp benefit if no food stamp benefits have been spent on behalf of that individual household. These procedures are applicable any time during the month.

(II) The group home accesses only half of the food stamp benefits in the resident's EBT account prior to the 15th of the month.

(III) If the resident remains in the facility after the 15th day of the month, the remaining food stamp benefits may be accessed on behalf of the resident.

(IV) ~~If~~ When the household leaves after the 16th of the month and the food stamp benefits have already been issued and used, the household does not receive any food stamp benefits~~.~~;

(ii) ~~Once the resident leaves, the group home~~ no longer ~~acts~~ act as authorized representative for that individual~~.~~;

(iii) ~~The group home tells~~ inform the departing household ~~to~~ they must go to the local ~~DHS~~ Oklahoma Department of Human Services (OKDHS) county office to secure their own Access Oklahoma card~~.~~;

(iv) ~~The group home immediately deactivates~~ deactivate immediately the Access Oklahoma card by calling the phone number shown on the back of the card when the resident leaves the group home; and

(v) notify the county office the individual left the group home.

(B) Residents who applied on their own behalf and retained use of their own food stamp benefits are entitled to keep the food stamp benefits when they leave.

(C) The group home, if possible, provides the household leaving the facility with a Form ~~FSP-38~~ FSP-38, Changes in Household Circumstances, and advises them to return the form to the local ~~DHS~~ OKDHS county office within ten calendar days.

(5) **Group home liability.** When the group home is acting as an authorized representative, the organization is responsible for any misrepresentation or fraud it knowingly commits in the certification of residents.

(A) As an authorized representative, the organization must be knowledgeable about the household's circumstances and carefully review these circumstances with residents prior to applying on their behalf.

(B) The organization is strictly liable for all losses or misuse of food stamp benefits held on behalf of resident households and for all over issuances which occur while the households are residents of the group home.

(C) The group home is not liable for over issuances for residents certified on their own behalf or through an authorized representative of their own choice.

PART 5. STUDENTS, STRIKERS, RESIDENT FARM LABORERS, MIGRANT HOUSEHOLDS, SPONSORED ALIENS, AND SCHOOL EMPLOYEES

340:50-5-45. Students

(a) **Student classification.** Persons enrolled at least half-time in an institution of higher education are considered students through vacation and breaks as well as normal periods of class attendance. Persons who graduate, are expelled or suspended, dropout, or do not intend to register for the next normal school term, excluding summer school, are no longer considered students. Student enrollment status begins on the first day of the school term of the institution of higher education.

(1) A college or university which offers degree programs is considered an institution of higher education even when a high school diploma or equivalency certificate is not required to enroll. ~~Therefore, students~~ Students enrolled at least half time in the **regular curriculum** are considered enrolled in higher education. A college includes a junior, community, two-year, or four-year college, or university. Individuals enrolled at a college or university in special programs, such as courses for English as a second language, or other courses which are not part of the regular degree programs are not considered enrolled in higher education.

(2) Business, technical, trade, or vocational schools which normally require a high school diploma or equivalency certificate for enrollment in the curriculum are also considered higher education.

(3) Courses in business, technical, trade, or vocational schools which do not require a high school diploma or equivalency certificate for enrollment are not considered higher education.

(b) **Students not subject to eligibility restrictions.** The students described in this subsection may participate in the Food Stamp Program if all other eligibility criteria are met. Eligibility restrictions discussed in subsection (c) of this Section do not apply if the students are:

(1) under age 18 or age 50 or older;

(2) physically or mentally unfit.

(A) If mental or physical unfitness is claimed and the unfitness is not evident to the worker, verification may be required.

(B) Appropriate verification may consist of receipt of temporary or permanent disability benefits issued by governmental or private sources, participation in a state ~~Vocational Rehabilitation~~ vocational rehabilitation (VR) ~~Program~~ program, or of a statement from a physician or licensed or certified psychologist;

(3) attending high school;

(4) participating in an on-the-job training program. Students are considered participating in on-the-job training programs only during the period of time the students are being trained by the employer;

(5) attending an institution of higher education less than half-time; or

(6) enrolled half-time or more in schools and training programs which are not institutions of higher education.

(c) **Eligibility restrictions for students.** ~~Eligibility restrictions for students are given in this subsection.~~

(1) Persons between the ages of 18 and 50 who are physically and mentally fit and are enrolled at least half-time in an institution of higher education may participate in the Food Stamp Program only if:

(A) employed for a minimum of 20 hours per week and paid for that employment. Earning wages equal to the federal minimum wage times 20 is not a substitute for this restriction;

(B) self-employed for a minimum of 20 hours per week and receives weekly earnings at least equal to the federal minimum wage times 20;

(C) participating in a state or federally financed work study program during the regular school year.

(i) To qualify under this provision, the students must be approved for work study at the time of application for food stamps.

(I) The work study must be approved for the school term and the students must anticipate actually working during the school term.

(II) The exemption begins with the month in which the school term begins or the month work study is approved, whichever is later.

(III) Once begun the exemption continues until the end of the month in which the school term ends, or it becomes known the students have refused an assignment.

(ii) The exemption does not continue between terms when there is a break of a full month or longer unless the student is participating in a work study program during the break;

(D) responsible for the care of a dependent household member under the age of six;

(E) responsible for the care of a dependent household member six through 11 years of age ~~where~~ when the worker determines that adequate child care is not available to enable the students to attend class and work 20 hours per week or participate in a state or federally financed work study program. The reasons

for lack of adequate child care include but are not limited to location of the nearest child care facility or availability of funds to pay child care expenses. Determination of availability of adequate child care is made on a case-by-case basis;

(F) single parents enrolled in an institution of higher education on a full-time basis as determined by the institution and responsible for the care of a dependent child under age 12, regardless of the availability of ~~day~~ child care.

(i) This provision applies in those situations where only one natural, adoptive, or stepparent regardless of marital status is in the same food stamp household as the child.

(ii) If no natural, adoptive, or stepparent is in the same food stamp household as the child, another full-time student in the same food stamp household as the child may qualify for eligible student status under this provision if he or she has parental control over the child and is not living with his or her spouse;

(G) Temporary Assistance for Needy Families (TANF) recipients; or

(H) assigned to or placed in an institution of higher education through:

(i) the Workforce Investment Act (WIA);

(ii) a food stamp employment and training program;

(iii) the Job Opportunities and Basic Skills (JOBS) program under Title IV of the Social Security Act;

(iv) a program under Section 236 of the Trade Act of 1974 currently known as The Trade Assistance Program and administered by the Oklahoma Employment Security Commission; or

(v) a state or local employment or training program, as determined appropriate by the United States Department of Agriculture, Food and Nutrition Service (FNS).

(2) Only one person may be considered as responsible for a dependent child. The caretaker need not be the person providing for the child's support.

PART 7. RELATED PROVISIONS

340:50-5-64. Work requirements

(a) **Able-bodied adults without dependents (~~ABAWD's~~ ABAWDs).** ~~Able-bodied adults without dependents (ABAWD's)~~ ABAWDs who are members of eligible ~~food stamp~~ households receiving food stamp benefits must be exempt from or comply with work requirements to be eligible to participate as a member of any food stamp household for longer than three months, consecutive or otherwise, during any 36-month period. It is the ~~social~~ worker's responsibility to explain to the applicant the household member's work requirements and responsibility. At each application the ~~social~~ worker must establish that each household member; ~~is in compliance with the work requirements or meets a work requirement exemption.~~

(1) is working continuously 20 hours or more per week averaged monthly;

(2) participates in and complies with:

(A) Workforce Investment Act (WIA) Program assignment;

(B) Trade Adjustment Assistance Act Program assignment; or

(C) Employment and Training, not including Job Search; or

(3) is exempt from the work requirements listed in (b) of this Section.

(b) **Exemptions from the work requirements.** An individual is exempt from the work requirement provision of the Food Stamp Program if the individual is:

(1) ~~under the age of~~ younger than 18 ~~years~~ or ~~over 50~~ older than 49 years of age~~.~~;

(2) medically certified as physically or mentally unfit for employment.

(A) Persons who are physically or mentally incapable of gainful employment either on a permanent or temporary basis or participating in federal or state programs based on disability are considered exempt.

(B) Persons claiming exemption as unfit for employment must, in the absence of physical evidence, obtain documented evidence from medically qualified sources to substantiate the medical exemption.

(C) Persons claiming temporary exemption are required to comply when they are released by their medically qualified source to return to work~~.~~;

(3) a parent or other member of a household with responsibility for care of a dependent child ~~under the age of~~ younger than 18 years or an incapacitated person of any age~~.~~;

(4) pregnant~~.~~;

(5) receiving or has applied for unemployment insurance benefits~~.~~;

(6) a regular participant receiving treatment for drug or alcohol addiction in a rehabilitative program on a resident or non-resident basis~~.~~;

(7) an eligible student enrolled at least half-time in any recognized school, training program, or institution of higher education~~.~~;

(8) a household member registered for or participating in the ~~ET&E Program under~~ Temporary Assistance for Needy Families (TANF) Work~~.~~;

(9) employed a minimum of 30 hours per week or receiving weekly earnings which equal the minimum hourly rate under the Fair Labor Standards Act of 1938, as amended, multiplied by 30 hours~~.~~; or

(10) a resident living in a county approved for exemption of the work requirements by the United States Department of Agriculture (USDA).

(c) **Participation without time limits.** Food ~~Stamp~~ stamp benefit participation without time limits applies to an individual who:

(1) is exempt~~.~~;

(2) works continuously 20 hours or more per week, averaged monthly~~.~~; or

(3) participates in and complies with:

(A) ~~Job Training Partnership Act (JTPA)~~ WIA Program assignment~~,~~;

(B) Trade Adjustment Assistance Act Program assignment~~,~~; or

(C) Employment and Training, not including Job Search.

(d) **Participation with time limits.** Individuals who are not exempt or fail to comply with work participation requirements are eligible for only three months, consecutive or otherwise, during any 36-month period. Once the three-month eligibility limit has been reached, eligibility can be regained for at least an additional three consecutive months if the individual:

(1) works 80 hours or more in any 30-day period~~.~~; or

(2) participates for 80 hours or more in and complies with:

(A) ~~Job Training Partnership Act (JTPA)~~ WIA Program assignment~~,~~;

(B) Trade Adjustment Assistance Act Program assignment~~,~~; or

(C) Employment and Training, not including Job Search.

(e) **Individuals who regain eligibility.** An individual can regain eligibility only one time for an additional three consecutive months during the 36-month period by meeting the requirements of (1) or (2) of subsection (d). An individual who regains eligibility ~~will maintain~~ maintains eligibility by complying with the requirements of subsection (c). If eligibility is subsequently lost, the individual may receive food stamp benefits only if one of the exemptions listed in subsection (b) is met or the 36-month period has expired.

PART 9. WORK REGISTRATION

340:50-5-87. Work registration procedures

If any registered ~~household~~ member of a household receiving food stamp benefits fails to comply with work registration requirements the entire household could be disqualified for ~~two~~ one to six months in accordance with OAC 340:50-5-88(6). Household members in the Job Search Project county required to register for work complete Form FSP-15, Employment and Training Assessment. Registration is completed at the face-to-face interview for all household members who are required to register. After registration, the job search process is initiated unless a household member is obviously exempt from the Job Search Project.

(1) **Loss of exemption status.** When changes in circumstances required to be reported are reported, household members who have lost their exempt status because of the reported change must register for work. If it is not possible to complete Form ~~FSP-15~~ FSP-15 at the time of the reported change, it must be completed within ten calendar days of the reported change.

(2) **Failure to comply.** The same definitions of head of household and individuals who fail to comply as described in ~~OAC 340:50-5-88(a)(6)(I)~~ OAC 340:50-5-88(6) apply for the Job Search Project. The disqualification can be ended before the ~~two months expire~~ disqualification period expires only if the household member registers for work, becomes exempt from work registration, or leaves the household.

340:50-5-88. Requirements after registration

Requirements after registration in the Job Search Project are applicable only to registrants in the Job Search Project county.

(1) **Employment and training (~~E & T~~ E&T).** The intent of the Food Stamp ~~E & T~~ E&T Program is to ensure all ~~able bodied~~ able-bodied food stamp benefit recipients are involved in meaningful work related activities which will lead to paid employment and a decreased dependency on assistance programs. The Oklahoma Department of Human Services (OKDHS) is responsible ~~to assist~~ for assisting and ~~direct~~ directing individuals in ~~E & T~~ E&T activities which enable them to achieve or maintain economic self support. These activities include registration for ~~E & T~~ E&T, employment related evaluations and assessment, employability planning, counseling, job developing, and job placement.

(A) All work registrants not exempted from work registration who live in the Food Stamp ~~E & T~~ E&T county or have not been exempted from ~~E & T~~ E&T activity must participate in the Food Stamp ~~E & T~~ E&T Program. Food stamp benefit recipients exempted from work registration or from ~~E & T~~ E&T may participate in the Food Stamp ~~E & T~~ E&T Program as a volunteer.

(B) The ~~E & T~~ E&T requirement applies each time a registrant loses a work registration exemption, re-enters the Food Stamp Program after a period of absence, or each 12 months, whichever occurs first.

(C) If a work registrant becomes exempt from work registration at any point during the ~~E & T~~ E&T process, ~~E & T~~ E&T requirements no longer apply.

(D) When a work registrant moves from a ~~non-E & T~~ non-E&T county into the Job Search Project county, the ~~E & T~~ E&T is initiated for work registrants immediately following receipt and review of the case file. When a work registrant moves from the Job Search Project county into a ~~non-E & T~~ non-E&T county, ~~E & T~~ E&T requirements no longer apply.

(2) **Food stamp ~~E & T~~ E&T exemptions.** Mandatory work registrants not exempted from work registration may be exempted from the Food Stamp ~~E & T~~ E&T Program if the registrant:

(A) resides an unreasonable distance from the county office or potential employer. A distance is considered unreasonable if the round trip exceeds two hours by public or private transportation;

(B) is a migrant or seasonal farm worker away from his or her home base and following the work stream;

(C) lacks adequate ~~day~~ child care;

(D) has physical or mental problems;

(E) is 55 years old or older and working under Title V of the Older American Act; or

(F) is homeless as defined in OAC 340:50-5-29.

(3) ~~E & T~~ **E&T classification.** Participants are classified into four groups.

(A) **Job ready.** The registrant does not have substantial barriers to employment.

(B) **Not job ready.** This classification is assigned when the food stamp work registrant has barriers that require services not available through the Food Stamp ~~E & T~~ E&T Program. If this classification is assigned, the food stamp worker or food stamp ~~E & T~~ E&T worker finds services to eliminate these barriers to employment.

(C) **Job attached.** The registrant is temporarily laid off or expects to return to work within 60 calendar days. This classification is assigned for only 60 calendar days. At the end of the 60 calendar day period, the registrant, if still unemployed, is reassessed and reclassified to a different category.

(D) **Exempt.** This classification is assigned if the registrant meets any of the conditions listed in paragraph (2) of this subsection.

(4) **Food stamp ~~E & T~~ E&T component assignments.** Participants classified as job ready are assigned to an ~~E & T component. The~~ E&T components are described in (A) through (C) of this paragraph.

(A) **Job Search.** Participants assigned to this component are required to contact a minimum of 24 employers within an eight-week period or two four-week periods. One eight-week period is eight consecutive weeks of job search with a follow-up meeting after the first four weeks. A two four-week job search period has a period of time between the two job search periods. One follow-up interview is required each four weeks.

(i) A job contact is defined as a registrant presenting himself or herself as available and applying for work.

(ii) Appointments are scheduled on Form FSP-20, Food Stamp Employment and Training Letter.

(iii) The job search assignment is given to the registrant in writing on Form FSP-22, Job Search Plan. This form is also used to schedule follow-up interviews and used by the registrants to report job contacts. Job contacts are reported in writing and the registrant must attest that the signed statement is true. Employers contacted by the registrant are not required to provide written confirmation of the contact but the registrant is required to sign the statement attesting he or she made the contacts.

(iv) If an ~~E & T~~ E&T participant is referred to a job contact by the food stamp ~~E & T~~ E&T worker and does not make this contact, the ~~E & T~~ E&T worker initiates conciliation. [OAC 340:50-5-88(6)(A)]

(v) If an ~~E & T~~ E&T participant does not accept a job offered to him or her without good cause, the food stamp ~~E & T~~ E&T worker initiates conciliation. [OAC 340:50-5-88(6)(A)]

(B) **Workforce Investment Act (WIA) component.** Participants assigned to this component are eligible for all the services available at WIA. Participants assigned to this component have completed the job search component without finding a job or are identified by the ~~E & T~~ E&T worker as individuals who can benefit from the services available through WIA. When the component is assigned, the participant is provided Form TW-3, Interagency Referral and Information, to take to WIA. The ~~E & T~~ E&T participant is responsible for returning to the ~~E & T~~ E&T worker Form TW-3 signed by a representative of WIA.

(C) **Oklahoma Employment Security Commission (OESC) component.** Participants assigned to this component are eligible for all the services available at OESC. Participants assigned to this component are ~~E & T~~ E&T participants the ~~E & T~~ E&T worker has determined would benefit from these services. When this component is assigned, the E&T worker gives the participant ~~is provided with~~ Form TW-3 to take to OESC. The ~~E & T~~ E&T participant is responsible for returning to the ~~E & T~~ E&T worker Form TW-3 signed by a representative of OESC.

(5) ~~E & T~~ **E&T related expenses.** Participants in the Food Stamp ~~E & T~~ E&T Program may receive up to $25 per month for ~~E & T~~ E&T activity if another agency is not reimbursing the participant for the same type of activity. Reimbursement is $3 for a half day, four hours or less, and $6 for a full day, more than four hours.

(A) The food stamp ~~E & T~~ E&T worker gives Form TW-13, Time and Progress Report, to the ~~E & T~~ E&T participant to complete Part 1 and return to the county office during the first week of each month.

(B) Work registrants with a child(ren) under 12 years of age required to participate or who volunteer in the Food Stamp ~~E & T~~ E&T Program are eligible for a maximum child care payment of $200 per month per child vendor purchased child care.

(6) **Failure to comply.**

(A) A registrant who fails to keep a scheduled ~~E & T~~ E&T interview or fails to comply with ~~E & T~~ E&T requirements and does not meet the good cause provision in OAC 340:50-5-88(7), is given the opportunity to comply through a conciliation period. The purpose of conciliation is to resolve disputes in an informal fashion and avoid invoking penalties. The conciliation period starts the day after noncompliance with ~~E & T~~ E&T requirements is determined and lasts for no more than ten calendar days.

(B) If the registrant has not responded to the conciliation process by the tenth calendar day, the ten-day advance notice is sent. The adverse action is taken for noncompliance of ~~E & T~~ E&T requirements. This

notice is sent no later than the last day of the conciliation period.

(C) To comply with conciliation or show a good faith effort to comply, the participant during the conciliation period must:

(i) be assessed or assigned, if he or she failed to be assessed or assigned;

(ii) complete the balance of job contacts or at least three verified contacts, if he or she failed to complete job search component; or

(iii) provide Form TW-3, if he or she failed to return Form TW-3 from the WIA or OESC component.

(D) If conciliation has failed, mandatory disqualification periods are imposed. The disqualification period for households whose non-compliant E&T registrant is the head of household does not exceed the lesser of the duration of ineligibility listed in (i) through (iii) this paragraph or 180 calendar days. ~~Disqualification~~ For all other non-compliant E&T registrants, disqualification periods remain in effect until the later of the date the household member complies with the work rules or is disqualified for:

(i) the first violation, one month;

(ii) the second violation, three months; or

(iii) the third or subsequent violation, six months.

(E) The disqualification cannot be ended unless the required household member meets the criteria in (6)(D) of this subsection, leaves the household, or becomes exempt from work registration. If any household member who failed to comply with ~~E & T~~ E&T joins another household as the head of household, the entire new household is ineligible for the remainder of the disqualification period. If the member who failed to comply with ~~E & T~~ E&T joins another household where he or she is not the head of the household, the individual is considered an ineligible household member.

(F) Households and individuals disqualified for failure to comply with ~~E & T~~ E&T requirements may request a fair hearing and continue participation.

(G) If the participant fails to comply with ~~E & T~~ E&T requirements and meets the definition of head of household, the case is closed.

(H) If the participant fails to comply with ~~E & T~~ E&T requirements and does not meet the definition of head of household, that individual is removed from the case. His or her income and resources continue to be counted.

(I) For purposes of failure to comply with work requirements, the head of household is defined in OAC 340:50-5-90.

(J) The principal wage earner is the household member, including excluded members, who has the greatest earned income in the two months prior to the violation.

(7) **Good cause.** Good cause includes circumstances beyond the registrant's control, such as, but not limited to:

(A) illness;

(B) illness of another household member requiring the presence of the registrant;

(C) a household emergency;

(D) unavailability of transportation; or

(E) lack of adequate child care for children ages 6 through 11.

(8) **Suitable work.** Any employment offered is considered suitable:

(A) if the wage offered is at least the highest of the applicable federal minimum wage, the applicable state minimum wage, or 80% of the federal minimum wage, if neither the state nor federal minimum wage applies;

(B) if the employment offered is on a piece-rate basis and the average hourly wage the employee can reasonably expect is at least equal to the applicable hourly wages specified;

(C) if the registrant, in order to be hired or to continue working, is not required to join, resign from, or refrain from joining any legitimate labor organization;

(D) if the work offered is not at a site subject to a strike or lockout at the time of the offer unless the strike has been enjoined under the Labor Management Relations Act (Taft-Hartley) or an injunction has been issued under Section 10 of the Railway Labor Act; or

(E) unless the registrant demonstrates or the worker determines the:

(i) ~~the~~ risk to health and safety is unreasonable;

(ii) ~~the~~ household member is physically or mentally unfit to perform the employment as documented by medical evidence or other reliable information;

(iii) ~~the~~ employment offered within the first 30 calendar days of registration is not in the registrant's major field of experience;

(iv) ~~the~~ distance from the registrant's home to the place of employment is unreasonable based on the expected wage and the time and cost of daily commuting. Commuting time cannot exceed two hours daily; or

(v) ~~the~~ working hours or nature of the employment interferes with the registrant's religious observations, convictions, or beliefs.

(9) **Monitoring ~~E & T~~ E&T.** The Family Support Services Division staff monitor the Food Stamp ~~E & T~~ E&T Program.

340:50-5-97. Voucher-authorized child care for Employment and Training (E&T) activities

Eligible food stamp benefit recipients who live in a Food Stamp E&T county may receive voucher-authorized child care for E&T activities if child care services are necessary for the

parent or caretaker to participate in the E&T activities. Participants are eligible for a maximum of 12 full-time days or 24 part-time days in an eight-week period per child.

(1) Child care services are available whether the parent or caretaker is a required or voluntary participant.

(2) In two-parent or two-caretaker families, both parents may participate in E&T activities simultaneously and receive voucher-authorized child care unless one parent or caretaker has been exempted to care for a child(ren) under six years of age.

(3) Child care services are only purchased from licensed and contracted out-of-home child care facilities.

(4) Food stamp E&T participants are predetermined eligible for voucher-authorized child care and are approved with a zero family share co-payment.

(5) At the end of each calendar month, the client submits to the E&T worker a completed Form FSP-22, Job Search Plan.

(6) An overpayment is written for any voucher-authorized child care used by the client for which he or she was not eligible.

(7) The Family Support Services Division (FSSD) Food Stamp Section monitors a random selection of cases quarterly to ensure the integrity of the program.

SUBCHAPTER 7. FINANCIAL ELIGIBILITY CRITERIA

PART 1. RESOURCES

340:50-7-2. Excluded resources

~~Only~~ In households applying for or receiving food stamp benefits, resources listed in this Section are excluded for household members, for disqualified members whose resources are counted, or for ineligible aliens who would otherwise be a household member. When an exclusion applies because of use by or for a household member, the exclusion also applies when the resource is used by or for a disqualified person whose resources are counted or for an ineligible alien who would otherwise be a household member.

(1) **Home and surrounding property.** The home and surrounding property which is not separated from the home by intervening property owned by others is exempt. Public right-of-way, such as roads which run through the surrounding property and separate it from the home, does not affect exemption of the property.

(A) The home and surrounding property remain exempt when temporarily unoccupied by reasons of employment, training for future employment, illness, vacation, or uninhabitability caused by casualty or natural disaster so long as the household intends to return.

(B) Households that currently do not own a home, but own or are purchasing a lot on which they intend to build or are building a permanent home receive an exclusion for the value of the lot and, if it is partially completed, for the home.

(2) **Household personal goods, life insurance, and pension plans.** Household goods, personal belongings, including one burial lot per household member, the cash value of life insurance policies, and prepaid burial plans are exempt. The cash value of pension plans or funds is excluded, except for Individual Retirement Accounts (IRA) and Keogh Plans. A Keogh Plan may be excluded if it involves a contractual arrangement with individuals outside the household.

(3) **Vehicles.**

(A) Exclude one licensed vehicle per adult household member, including an ineligible alien or disqualified household member whose resources are considered available to the household, regardless of the use of the vehicle. Exclude any other licensed vehicle a household member under age 18, including an ineligible alien or disqualified household member under age 18 whose resources are considered available to the household, drives to and from employment, or to and from training or education which is preparatory to employment, or to seek employment. This exclusion applies during temporary periods of unemployment to a vehicle which a household member under age 18 customarily drives to and from employment. Also exclude any licensed vehicle if:

(i) used for income-producing purposes such as, but not limited to, a taxi, truck, or fishing boat, or a vehicle used for deliveries, to call on clients or customers, or required by the terms of employment. Licensed vehicles that have previously been used by a self-employed household member engaged in farming but are no longer used in farming because the household member has terminated his or her self-employment from farming must continue to be excluded as a resource for one year from the date the household member terminated his or her self-employment farming;

(ii) annually producing income consistent with its fair market value, even if used only on a seasonal basis;

(iii) necessary for long distance travel, other than daily commuting, that is essential to the employment of a household member, ineligible alien, or disqualified person whose resources are considered available to the household, such as the vehicle of a traveling sales person or of a migrant farm worker following the work stream;

(iv) used as the household's home;

(v) necessary to transport a physically disabled household member, physically disabled ineligible alien, or physically disabled disqualified person whose resources are considered available to the household, regardless of the purpose of such transportation. The vehicle need not have special equipment or be used primarily by or for the transportation of the physically disabled household member. Only one vehicle per physically disabled household member may be excluded;

(vi) necessary to carry fuel for heating or water for home use when the transported fuel or water is anticipated to be the primary source of fuel or water for the household during the certification period. Households must receive this resource exclusion without having to meet any additional tests concerning the nature, capabilities, or other uses of the vehicle. Households must not be required to furnish documentation unless the exclusion of the vehicle is questionable;

(vii) the value of the vehicle is inaccessible because its sale would produce an estimated return of not more than $1,500;

(viii) jointly owned by a food stamp household member and someone who does not live with the food stamp household. To be excluded, the vehicle must not be used by, nor in the possession, of anyone who lives in or with the household. The member must also be unable to sell the vehicle because the signature of the co-owner is needed and that person will not sign; or

(ix) legally prohibited from being sold by the food stamp household. The determination of whether a food stamp household can legally sell a vehicle is governed by the law of Oklahoma.

(B) The exclusions in (i) through (iii) of this subsection continue to apply when the vehicle(s) is not in use because of temporary unemployment such as when a taxi driver is ill and cannot work or the vehicle is broken down and cannot be used.

(4) **Real or personal property directly related to the maintenance of excluded vehicles.** Property, real or personal, to the extent it is directly related to the maintenance or use of a vehicle described in paragraph (3) of this subsection is excluded. Only that portion of real property determined necessary for maintenance or use is excluded. For example, a household which owns a produce truck to earn its livelihood may be prohibited from parking the truck in a residential area. The household may own a 100-acre field and use a quarter-acre of the field to park or service the truck. Only the value of the quarter-acre is excluded under this provision, not the entire 100-acre field.

(5) **Income producing property.** Income producing property which annually produces income consistent with the fair market value is excluded even if used on a seasonal basis. Examples of such property are rental homes and mineral rights. When it is necessary to determine if property is producing income consistent with its fair market value, the worker contacts a local realtor, tax assessor, the Small Business Administration, Farmer's Home Administration, or other knowledgeable sources to determine the prevailing rate of return from similar property in the area.

(6) **Property essential to employment.** Property, such as farm land or work related equipment including tools of a tradesman or the machinery of a farmer, which is essential to the employment or self-employment of a household member is excluded. Property of a household member engaged in farming continues to be excluded for one year from the date the household member terminates his or her self-employment from farming.

(7) **Installment contracts.** Installment contracts for the sale of land or buildings are excluded if the contract or agreement is producing income consistent with its fair market value. The exclusion applies to the value of the property sold under the installment contract or held as security in exchange for a purchase price consistent with the fair market value of that property.

(8) **Inaccessible resources.** Resources whose cash value is not accessible to the household are exempt, such as but not limited to, irrevocable trust funds, security deposits on rental property or utilities, property in probate, and real property which the household is making a good faith effort to sell at a reasonable price and which has not been sold. If questionable, the worker establishes that the property is for sale and that the household will accept a reasonable offer. A resource is considered inaccessible if its sale or other disposition is unlikely to produce funds amounting to one half or more of the applicable resource limit for the household. The value of the inaccessible resource is the amount of the expected return to the household after subtracting estimated cost of sale or disposition, and consideration of the ownership interest to the household. A single resource may not be subdivided solely to obtain an exclusion as inaccessible. This inaccessible provision does not apply to vehicles or financial instruments such as stocks, bonds, or negotiable financial instruments. Any funds in a trust or transferred to a trust and the income produced by that trust to the extent it is not available to the household is considered inaccessible to the household if:

(A) the trust arrangement is not likely to cease during the certification period and no household member has the power to revoke the trust arrangement or change the name of the beneficiary during the certification period;

(B) the trustee administering the funds is either a court, or an institution, corporation, or organization which is not under the direction or ownership of any household member, or an individual appointed by the court who has court imposed limitations placed on his or her use of the trust funds;

(C) trust investments made on behalf of the trust do not directly involve or assist any business or corporation under the control, direction, or influence of a household member; and

(D) the funds held in irrevocable trust are either established from the household's own funds, if the trustee uses the funds solely to make investments on behalf of the trust or to pay the educational or medical expenses of any person named by the household creating the trust, or established from non-household funds by a non-household member.

(9) **Education assistance.** All education grants, work study, scholarships, and student loans are exempt if receipt is contingent upon the student regularly attending school.

(10) **Resources excluded by law.** Resources currently excluded by law are:

(A) payments received:

(i) under the Alaska Native Claims Settlement Act [Public Law (P.L.) 92-203, § 21(a)];

(ii) under the Sac and Fox Indian Claims Agreement [P.L. 94-189];

(iii) from the disposition of funds to the Grand River Band of Ottawa Indians [P.L. 94-540];

(iv) by members of the Confederated Tribes of the Mescalero Reservation [P.L. 95-433]; or

(v) under the Maine Indian Claims Settlement Act of 1980 to members of the Passamaquoddy and the Penobscot Nation [P.L. 96-420];

(B) payments received by certain Indian tribal members under P.L. 94-114, Section 6 regarding submarginal land held in trust by the United States;

(C) Indian per capita payments distributed from judgment awards and trust funds made pursuant to P.L. 98-64. ~~Also excluded is~~ Exclude any interest or investment income accrued on such funds while held in trust or any purchases made with judgment funds, trust funds, interest or investment income accrued on such funds. Exclude any per capita payments, ~~such as~~ headrights of Osage tribe, income from mineral leases, or other tribal business ventures, as long as the payments meet the distribution requirements as stated in this subparagraph.

(i) Any interest or income derived from the funds after distribution is considered as any other income.

(ii) The per capita exclusion applies per person rather than per family.

(iii) When these excluded funds are deposited in a bank or other financial institution, the deposits are excluded as long as the funds are kept in a separate account and not commingled in an account with non-excluded funds.

(iv) When the excluded funds are commingled in an account with non-excluded funds, the excluded funds retain their exemption for six months from the date of commingling. After six months from the date of commingling, all funds are counted as a resource.

(v) Purchases made with excluded funds are considered a resource;

(D) interests of individual Indians in trust or restricted lands;

(E) benefits received from Special Supplemental Nutrition Program For Women, Infants, and Children (WIC) [P.L. 92-443, § 6];

(F) reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 [P.L. 91-646, § 216];

(G) Earned Income Tax Credit (EITC) payments received by a participating food stamp household member as part of a federal tax refund or as advance payments received as part of a paycheck, excluded for 12 months during continuous participation. This does not mean that households lose the exclusion if they temporarily leave the program for administrative reasons;

(H) refunds of the state EITC as a result of filing a state income tax return in the month received and the following month;

(I) payments received from the Youth Incentive Entitlement Pilot Projects, the Youth Community Conservation and Improvement Projects, and the Youth Employment and Training Programs under Title IV of the Comprehensive Employment and Training Act of 1978 [P.L. 95-524];

(J) financial assistance provided by a program funded in whole or in part under Title IV of the Higher Education Act in accordance with P.L. 99-498;

(K) payments made from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In Re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.);

(L) payments received under the Civil Liberties Act of 1988. These payments are made to individuals of Japanese ancestry who were detained in internment camps during World War II;

(M) payments made from the Radiation Exposure Compensation Trust Fund as compensation for injuries or deaths resulting from the exposure to radiation from nuclear testing and uranium mining;

(N) amounts held in an account for the fulfillment of a Plan for Achieving Self-Support (PASS) under Title XVI of the Social Security Act;

(O) the resources of any non-household member unless the individual is disqualified from the program by an administrative or court fraud hearing, by failing to obtain or refusing to provide a Social Security number, or is an ineligible alien who would otherwise be a household member;

(P) payments or allowances made under any federal law for the purpose of energy assistance such as the Low Income Home Energy Assistance Program (LIHEAP);

(Q) earmarked resources, such as those governmental payments made by the Individual and Family Grant Program or the Small Business Administration which are designated for the restoration of homes damaged in a disaster and which are subject to a legal sanction if the funds are not used as intended. Resources such as those of self-employed persons, which have been prorated and counted as income, and Indian lands held jointly with the tribe or land that can be sold only with the approval of the Bureau of Indian Affairs are also exempt;

(R) the identified resources of all Temporary Assistance for Needy Families (TANF) and Supplemental Security Income (SSI) recipients when the household's total resources are calculated for food stamp eligibility purposes;

(S) excluded monies kept in a separate account, which are not commingled in an account with the non-excluded funds retain excluded status for an unlimited period of time.

(i) Monies of self-employed households that are excluded as a resource because they have been prorated over the period they are intended to cover and are commingled in an account with non-excluded funds retain their exclusion for the period of time over which they have been prorated as income.

(ii) All other excluded monies which are commingled in an account with other funds retain their exempt status for six months from the date they are commingled. ~~If~~ When the household's total resources, including all funds in the commingled account, exceed the allowable limit after that time, all funds in the commingled account are considered as a resource;

(T) payments made to individuals because of their status as victims of Nazi persecution;

(U) any funds deposited in an Individual Development Account (IDA) operated under the Assets for Independence Act; and

(V) monetary allowances as described in Section 1823(c) of Title 38 of the United States Code (USC) provided to certain individuals who are children of Vietnam War veterans.

(11) **Department of Housing and Urban Development (HUD) Family Self-sufficiency (FSS) Program escrow accounts.** Families participating in the HUD FSS program may withdraw money from their escrow accounts prior to completion of the program. This money is excluded both as income and as a resource.

SUBCHAPTER 9. ELIGIBILITY AND BENEFIT DETERMINATION PROCEDURES

340:50-9-1. Determining the food stamp benefit allotment and teleprocessing certifications

(a) **Cases with unverified deductible expenses.**

(1) **~~Benefits~~ Food stamp benefits without deductions.** If a deductible expense cannot be verified before the 30-day processing standard for applications expires, the worker determines the household's benefit level without giving a deduction for the claimed but unverified expense. If the household:

(A) is eligible without allowing the expense, an allotment which does not reflect deduction of the expense is provided within 30 calendar days after the application is filed~~.~~; or

(B) ~~If the household wishes~~ chooses to claim expenses for an unoccupied home, the worker verifies the household's utility expenses for the unoccupied home and uses the appropriate utility standard.

(2) **Benefits delayed.** If a deductible expense cannot be verified before the 30-day processing standard for applications expires and the household is ineligible unless the expense is allowed, the household application is held pending or denied.

(b) **Determining household eligibility.** In calculating net monthly income, cents are used in determining each source of each individual's monthly income and the household's monthly dependent care, shelter, or medical expense. When the monthly amount of each individual's source of income or each of the household's expenses is established, and at all other steps of the net income computation, cents are rounded to the nearest dollar, 1 cent through 49 cents is rounded down and 50 cents through 99 cents is rounded up. For example an individual's weekly earnings of $99.90 are multiplied by the number of checks that will be received in a month's time and the cents rounded to the nearest dollar, $99.90 x 4.3 = $429.57 rounded to $430. Due to changes in composition or circumstances, households certified under gross income standards may become subject to net income standards during the certification period or vice versa. The worker is required to change the one income standard to the other when any change is made in the case to adjust the household's eligibility, benefit level, or certification period, or at recertification, whichever is earlier.

(1) **Households without elderly or disabled members.** If the household does not have an elderly or disabled member, the household's total gross monthly income and household size are the first basis for determining eligibility. The household is not eligible if the total gross income exceeds the Maximum Gross Income Standard for the appropriate household size as shown on Oklahoma Department of Human Services (OKDHS) Appendix C-3, Maximum ~~Coupon~~ Food Stamp Allotments and Standards for Deductions, Maximum Income, and Utilities (Food Stamps). After gross income, resource, and non-financial conditions of eligibility are established, the net food stamp monthly income is computed and compared to the Maximum Net Income Standard for the appropriate household size as shown on OKDHS Appendix C-3. If the net food stamp income does not exceed this standard, the household is determined eligible. The steps in (A) through (H) of this paragraph are used to determine the household's net food stamp monthly income if the household does not ~~contain~~ include an elderly or disabled member.

(A) Add gross monthly income earned by all household members including any net self-employment income minus the earned income exclusions to determine the household's total gross earned income.

(B) Multiply the total gross earned income by the appropriate earned income deduction according to OKDHS Appendix C-3 and subtract that amount to determine the net monthly income. The earned income deduction is not allowed on any portion of income earned under a work supplementation or support program that is attributable to public assistance.

(C) Add the net monthly earned income and the total monthly unearned income of all household members, minus income exclusions.

(D) Subtract the standard deduction as shown in OKDHS Appendix C-3.

(E) Subtract monthly dependent care expenses, if any, up to the maximum amount allowed as shown in OKDHS Appendix C-3. A dependent care deduction cannot be allowed for dependent care expenses which are reimbursed or paid for under an Employment and Training Program or other source.

(F) Subtract verified legally-binding child support payments made to someone outside the food stamp household.

(G) Add the allowable shelter expenses to determine the total shelter costs. Subtract from the total shelter costs 50% of the adjusted income, the household's monthly income after all of the deductions given in subparagraphs (A) through (F) of this paragraph have been subtracted. The remaining amount, if any, is the excess shelter costs. If there are no excess shelter costs, the net monthly income has been determined. If there are excess shelter costs, go to the next step.

(H) To apply the excess shelter costs, subtract excess shelter costs from the adjusted income if the total of excess shelter costs does not exceed the maximum shown in OKDHS Appendix C-3. If the total of the shelter costs exceeds the standard shown in OKDHS Appendix C-3, only the amount not exceeding the standard is deducted.

(2) **Households with elderly or disabled members.**

(A) The steps listed in (i) through (ix) of this subparagraph are used to determine the household's net food stamp income if the household ~~does contain~~ includes an elderly or disabled member.

(i) Add gross monthly income earned by all household members, including any net self-employment income minus the earned income exclusions, to determine the household's total gross earned income.

(ii) Multiply the total gross earned income by the appropriate earned income deduction from OKDHS Appendix C-3 and subtract that amount to determine the net monthly income. The earned income deduction is not allowed on any portion of income earned under a work supplementation or support program that is attributable to public assistance.

(iii) Add the net monthly earned income and the total monthly unearned income of all household members, minus income exclusions.

(iv) Subtract the standard deduction as shown in OKDHS Appendix C-3.

(v) Subtract medical expenses which exceed $35 for the elderly or disabled household members only. Thirty-five dollars is subtracted only once for the household rather than for each household member.

(vi) Subtract monthly dependent care expenses, if any, up to the maximum amount allowed as shown in OKDHS Appendix C-3. A dependent care deduction cannot be allowed for dependent care expenses which are reimbursed or paid for under an Employment and Training Program or other source.

(vii) Subtract verified legally-binding child support payments made to someone outside the food stamp household.

(viii) Add the allowable shelter expenses to determine the total shelter costs. Subtract from the total shelter costs 50% of the adjusted income, the household's monthly income after all of the deductions in (i) through (vi) of this subparagraph have been subtracted. The remaining amount, if any, is the excess shelter costs. If there are no excess shelter costs, the net monthly income has been determined. If there are excess shelter costs, go to the next step.

(ix) To apply the excess shelter costs, subtract excess shelter costs from the adjusted income.

(B) When a household that ~~contains~~ includes an elderly or disabled member meets the other resource and non-financial conditions of eligibility, the household's net food stamp monthly income and household size are the basis for determining eligibility. The net food stamp monthly income is compared to the Maximum Net Income Standards for the appropriate household size as shown on OKDHS Appendix C-3. If the net food stamp income does not exceed this standard, the household is determined eligible.

(c) **Food stamp benefit allotment.**

(1) **Initial month proration.**

(A) Initial month means the first month the household is certified for food ~~stamps~~ stamp benefits following any period during which the household was not certified. Food stamp benefit allotments for an initial month are based upon the date of the application and prorated from the date of application. Proration of benefits from the application date applies to the new case if one food stamp household separates into two or more food stamp households. Migrant and seasonal farm workers are not prorated when the household has ~~participated in~~ received food ~~stamps~~ stamp benefits in the prior month. While a household's eligibility for the initial month is determined by considering the household's circumstances for the entire month of application, the ~~allotment~~ benefit is based on the day of the month the household applies for benefits. The monthly ~~allotment~~ benefit that the recipient would be eligible to receive if proration did not apply must be determined prior to computation by using the prorated ~~allotment~~ benefit on OKDHS Appendix B, Proration Table for TANF and Food Stamp Benefits, or by using the formula: (31 minus the application date) x monthly ~~allotment~~ benefit divided by 30 = the prorated ~~allotment~~ benefit.

(B) The prorated ~~allotment~~ benefit is rounded down to the lower dollar. If the answer is less than

$10, the household is denied for the month of application but certified for the next month. If the household applies on the 31st day of the month, use the 30th for the application date for purposes of this provision. Households that apply after the 15th of the month are issued the prorated benefits for the month of application and the benefits for the first full future month on the same day.

(C) When a household is certified for the month following the month of initial application because the household failed to furnish necessary information, benefits are prorated from the date the household furnished the information. The application date becomes the date information was furnished to OKDHS.

(2) **Monthly ~~allotment~~ benefit.** The monthly ~~allotment~~ benefit for all months except the initial month is the amount listed on OKDHS Appendix C-3 for the appropriate household size and net income.

(d) **Certification periods.** Definite periods of time are established for each eligible household to receive benefits. At the expiration of each certification period, entitlement to food stamp benefits is established only upon a recertification based upon a newly completed application, an interview, and ~~verification~~ required verification provided. [OAC 340:50-3-2] Under no circumstances are benefits continued beyond the end of a certification period without a redetermination of eligibility. The month of application is the first month in the certification period for initial applicants if eligibility is determined within the 30-day period. Because of anticipated changes, a household may be eligible for the month of application but ineligible for the subsequent month. In this situation, the household is certified for the month of application only. If a household is found to be ineligible and is denied benefits for the month of application but is eligible for subsequent months, a new application form is not needed and the case is certified effective the month following the month of application. During the application process a household who did not appear for their first scheduled interview may request a new interview date be scheduled through the 30th day following their application date. See delayed applications in paragraph (1) of this subsection to determine the proration date of the food stamp benefit allotment. When an application is denied because the household did not provide the requested information and the applicant furnishes the ~~needed~~ required information and an eligibility determination can be made within the second 30-day period, no new application is ~~needed~~ required. The case is then certified using the date the information or verification is furnished as the application, certification, or proration date.

(1) **Delayed applications.** Applications ~~which have been neither~~ that are not approved ~~nor~~ or denied by the 30th calendar day are considered delayed applications. On the 30th calendar day following the application date, every delayed application is assessed to determine who caused the delay. The purpose of this assessment is to determine if the benefits are denied and what date is used to prorate benefits if the household is determined eligible at a later date.

(A) **Delay caused by the ~~county~~ Oklahoma Department of Human Services (OKDHS).** When the processing delay is caused by ~~the county~~ OKDHS, the application remains in pending status. At the end of the first 30 calendar days the household is notified of the reason the application is still pending using Form ABCDMS-37-A, Notice to Client of Action Taken. If the household is later determined eligible, the case is certified back to the date of application. ~~County~~ OKDHS caused delays include, but are not limited to, the circumstances given in (i) through (vi) of this subparagraph.

(i) The household's first interview was scheduled on or before the 20th day following the date of application. The household appeared for the interview but subsequently failed to provide the ~~needed~~ required verification. During the interview the worker did not explain to the household or provide the information in writing regarding:

(I) what factors must be verified;

(II) what is considered acceptable verification; or

(III) by what date the information must be supplied.

(ii) An interview was never scheduled for the household.

(iii) The worker did not offer or provide assistance to the household in obtaining the verification as required or did offer assistance but failed to follow through on collateral contacts or release of information.

(iv) The worker discovered that additional information was ~~needed~~ required after the interview but the client did not have ten calendar days between the request for the verification and the 30th calendar day of the application process.

(v) The household missed their first interview on or before the 30th calendar day and requested that the interview be rescheduled. The county was unable to schedule the second interview date until after the 30th calendar day.

(vi) The eligible household provided all the ~~needed~~ required verification on or before the 30th day, and the application was not approved or denied.

(B) **Delay caused by the household.** When the processing delay is caused by the household, the application is denied on the 30th calendar day. The household is notified ~~that the application is denied~~ by computer-generated notice that the application is denied. When the household provides the ~~needed~~ required verification in the second 30 calendar days, no new application is ~~needed~~ required. If the household is determined eligible, the food stamp benefit allotment is prorated from the date the household provided the verification. Household caused delays include, but are not limited to, the circumstances given in (i) through (iii) of this subparagraph.

(i) The household's first interview was scheduled on or before the 20th calendar day following the date of application. The household appeared at the interview but subsequently failed to provide the ~~needed~~ required verification. The worker provided the household with a statement of required verification, offered to assist the household in obtaining the verification, and also allowed the household sufficient time to provide the verification.

(ii) The household missed their first interview and requested on or before the 30th calendar day that the interview be rescheduled. The interview was rescheduled to be held on the 30th calendar day; however, the household did not provide all the ~~needed~~ required verification at the rescheduled interview.

(iii) The household missed their first interview and requested on or before the 30th calendar day that the interview be rescheduled. The household stated they could not come in until after the 30th calendar day.

(2) **Length of certification periods.** Households are assigned the longest certification period possible based on the predictability of the household's circumstances. In (C) and (D) of this paragraph, the length of the incapacity must be expected to exceed the length of the certification period.

(A) **One month.** A one-month certification is assigned ~~only~~ to:

(i) households eligible only for the month of application; and

(ii) migrant farm worker households, in the work stream, who apply before the 16th of the month.

(B) **Two months.** A two-month certification is assigned ~~only~~ to:

(i) households eligible only for the month of certification and subsequent month; and

(ii) migrant farm worker households, in the work stream, who apply after the 15th of the month.

(C) **Three to six months.** A three to six-month certification is assigned to all households with circumstances not addressed in subparagraphs (A), (B), or (D) of this paragraph. Information ~~to be~~ used as guidelines for the length of certification periods for groups listed in this subparagraph is given in (i)(I) through (III) of this subparagraph.

(i) The worker reviews the case carefully to see if there have been overissuances or underissuances due to the household's failure to report:

(I) changes in income;

(II) changes in household composition; or

(III) moving from residence to residence, thereby changing the shelter expense.

(ii) The factors in (i)(I) through (III) of this subparagraph are some of the factors to be checked, but are not meant to be all inclusive. At the discretion of the worker, a shorter certification period may be assigned. The length of the certification period assigned groups in this subparagraph is based on review of the history of the household and the judgment of the worker.

(D) **Twelve months.** A 12-month certification period is assigned to non-public assistance (non-PA) households who have countable earned income at certification unless the household ~~contains~~ includes an able-bodied adult without dependents member who is not meeting the work requirement or is not otherwise exempt. These households are required to complete ~~a benefit review form~~ Form FSS-BR-1, Benefit Review Report, at six-month intervals. They are known as semi-annual reporters.

(E) **Twenty-four months.** A 24-month certification period is assigned to non-PA households when all adult members are elderly or disabled without earned income. These households are required to complete ~~a benefit review form~~ Form FSS-BR-1 at 12-month intervals. They are known as annual reporters.

340:50-9-5. Changes after application and during the certification period

(a) **Applicant households.** Applicant households must report all changes related to their food stamp benefit eligibility and ~~benefits~~ benefit amount. Households must report changes, ~~which~~ that occur after the interview but before the date of the notice of eligibility, within ten calendar days of the date of the notice.

(b) **Certified households.** Those households assigned a certification period other than 12 months are required to report within ten calendar days:

(1) changes in sources of income;

(2) changes in unearned income of $50 per month or more;

(3) changes in earned income of more than $100 per month;

(4) all changes in household composition, such as an addition or loss of a household member;

(5) changes in residence and resulting changes in shelter costs;

(6) the acquisition of licensed vehicles not fully excluded;

(7) cash on hand, stocks, bonds, and money in bank checking or savings accounts or savings institutions, when the balance reaches or exceeds a total of ~~$2000~~ $2,000; and

(8) changes in the legal obligation to pay child support.

(c) **Change affecting food stamp benefit.** If a reported change affects the household's eligibility or food stamp benefit amount, the household is notified of the adjustment to be made and the effective date. The worker has ten calendar days from the date the change is reported to take the necessary action.

(d) **Follow-up.** The household is notified of the receipt of the change report by a computer-generated notice.

(1) If the household fails to report a change within the ten-day period and, as a result, receives benefits to which

it is not entitled, an overissuance is referred to the Family Support Services Division, Overpayment Section.

(2) If the worker fails to take action on a reported change within the prescribed time limits and benefits are lost, they are restored to the household.

(e) **Changes ~~which~~ that increase benefits.** Changes resulting in a benefit increase must be verified. The household is allowed ten calendar days to verify the information.

(1) The change is made effective no later than the first issuance to be delivered ten calendar days after the date the change was reported or verified, whichever is later.

(2) The worker issues a supplement when a change that increases benefits is reported too late to verify and make the change by regular roll deadlines.

(3) The household is allowed ten calendar days to verify the information.

(4) If verification is provided timely, the supplement is issued by the tenth calendar day following the date the change was reported, or the date the regular roll benefit is to be received, whichever is later.

(5) If the required verification is not provided within ten calendar days but is provided at a later date, the supplement is issued within ten calendar days of the date verification was provided, rather than from the date the change was reported.

(f) **Changes which decrease or terminate benefits.** ~~A case is~~ Food stamp benefits are closed, **never** suspended, if a change in household circumstances causes a household to be ineligible for food stamp benefits. When a household's benefit level decreases or is terminated, an advance notice is required unless exempt from such a notice for a reason listed in (1) and (2) of this subsection. When an advance notice is required, the decrease or termination of the benefit is effective no later than the month following the month in which the advance notice period expired. When the change is reported less than ten calendar days before the advance notice deadline, the action must be taken before advance notice deadline the following month. Advance notice is not required when:

(1) the Oklahoma Department of Human Services (OKDHS) receives a clear written statement signed by a responsible household member stating he or she no longer wishes food ~~stamps~~ stamp benefits or giving information which requires termination or reduction of food stamp benefits and stating that he or she understands the food stamp benefit will be reduced or terminated. The household retains its right to a fair hearing and to continue benefits if a fair hearing is requested within ten calendar days of the change notice; and

(2) the reduction or termination of food stamp benefits is based on situations listed in (j) of this Section.

(g) **Annual reporting households.** Non-public assistance (non-PA) households with all adult members elderly or disabled with no earned income are known as annual reporters. A 24-month certification period is automatically assigned. These households are required to report within ten calendar days those changes listed in (b) of this Section.

(h) **Benefit review form for annual reporters.** Annual reporting households are sent ~~a~~ computer-generated ~~review form~~ Form FSS-BR-1, Benefit Review Report, in the 11th month of certification. The intent of this form is to allow the household's circumstances to be reviewed without requiring face-to-face contact.

(1) The worker must act on any changes reported on ~~the benefit review form~~ Form FSS-BR-1.

(2) If the reported changes result in a reduction or termination of benefits, an ~~adequate~~ advance notice must be sent to the household.

(3) If the household fails to provide sufficient information regarding a deductible expense, the benefits ~~must~~ are not ~~be~~ terminated, but processed without regard to the deduction.

(4) ~~The annual review form~~ Form FSS-BR-1 must be completed and returned to the county office, along with all required verification, by the last day of the 12th month of certification.

(i) **Semi-annual reporting households.**

(1) A 12-month certification period is assigned to non-PA households ~~who have countable earned income~~ at certification unless the household contains:

(A) a member who is an able-bodied adult without dependents (ABAWDs) ~~and~~ who is not meeting the work requirement; ~~or~~

(B) an ABAWDs who is not otherwise exempt; or

(C) all adult household members who are elderly or disabled.

(2) These households are only required to report changes ~~which~~ that result in their gross monthly income exceeding 130 percent of the monthly poverty income guidelines for their household size. The worker must act on any changes reported by these households ~~which would~~ that increase their benefits. Changes reported by the household ~~which would~~ that result in a decrease in benefits are also acted upon by the worker. The system determines if the change results in a decrease in benefits. A decrease in ~~the~~ benefits ~~will~~ does not occur unless the:

(~~1~~ A) household has requested closure of the case ~~be closed~~; or

(~~2~~ B) worker has information about the household's circumstances considered verified upon receipt.

(j) **Benefit review form for semi-annual reporters.** Semi-annual reporting households are sent a computer-generated ~~review form~~ Form FSS-BR-1, Benefit Review Report, in the fifth month of certification.

(1) The worker must act on any changes reported on ~~the benefit review form~~ Form FSS-BR-1.

(2) If the reported changes result in a reduction or termination of benefits, an ~~adequate~~ advance notice must be sent to the household.

(3) If the household fails to provide sufficient information regarding a deductible expense, the benefits must not be terminated, but processed without regard to the deduction.

(4) ~~The semi-annual review form~~ Form FSS-BR-1 must be completed and returned to the county office, along with all required verification, by the last day of the sixth month of certification.

(k) **Notice of adverse action not required.** ~~The situations listed in (1) - (8) of this subsection do not require a notice of adverse action.~~

(1) **Mass changes.** The individual notification requirement is waived when changes affecting the entire caseload or significant portions of the caseload are initiated because of changes or requirements in federal or state law. In these situations, the Family Support Services Division (FSSD) mails notices to the households informing them of the changes ~~which~~ that are about to be made.

(2) **Notice of death.** If the worker determines, based on reliable information, that all members of the household are deceased, notice of adverse action is not required.

(3) **Moved out of county.** Notice of adverse action is not required when the worker determines, based on reliable information, that the household has moved out of the county and that a transfer request has not been received.

(4) **Completion of restoration of lost benefits.** Notice of adverse action is not required if the household is previously notified in writing when restoration of lost benefits is completed and the household's food stamp benefit is reduced due to completion of restoration of lost benefits.

(5) **Variable food stamp benefit.** The household benefit amount varies from month to month within the certification period to take into account changes ~~which~~ that were anticipated at the time of certification and the household was so notified at the time of certification.

(6) **Willful misrepresentation.** Notice of adverse action is not required if a person in the household is disqualified for willful misrepresentation. If there is more than one person in the household, the benefits of the remaining household members are reduced or terminated to reflect the disqualification of that household member.

(7) **Food stamp recoupment.** A notice of adverse action is not required if the household fails to make agreed upon cash or food stamp repayment of an overpayment.

(8) **Drug or alcohol treatment center or group home loses approved status.** If a household's eligibility is being terminated because the drug or alcohol treatment center or group home facility is no longer approved, an individual notice of adverse action is not required.

(l) **Action on changes when fair hearings are requested.** When a household requests a fair hearing within ten calendar days of the date shown on the adverse action notice, the household may continue to receive food ~~stamps~~ stamp benefits.

340:50-9-6. Procedures relating to food stamp benefit recertification

(a) **Worker action.** The worker completes the application process, approves or denies applications for recertification, and provides eligible households with an opportunity to participate in a timely manner. The worker cannot continue benefits to the household beyond the certification period unless the household ~~has been~~ is recertified.

(b) **Notice of expiration.**

(1) ~~Approximately three working days prior to the beginning of the last month of eligibility~~ After deadline the month prior to the last month of the certification period, the ~~State Office~~ Family Support Services Division prepares and mails Form FSP-36, Notice of Expiration of Eligibility, to all Non-PA households receiving food stamps ~~in S-numbered cases~~ who have been certified for three months or more. The form shows when ~~Food Stamp~~ food stamp benefits will expire and informs the household when to make reapplication to avoid lapse of benefits. Households must reapply by the ~~15th~~ 1st day of the last month of eligibility to avoid a lapse of benefits. Form FSP-36 has a section the household can complete and return to the local Oklahoma Department of Human Services (OKDHS) county office to reapply. ~~An application is enclosed, the~~ The right to apply is ~~explained~~ included on Form FSP-36 and informs the household ~~is informed~~ that further entitlement to food stamp benefits cannot be established without reapplication by the household, ~~a face-to-face~~ an interview, and recertification of the household's eligibility.

(2) Households certified for two months or less are notified by ~~computer-generated~~ computer-generated notice of the effective date and expiration date of the certification. The notice is generated and mailed at the time the household is certified eligible.

(c) **Timely recertification.**

(1) Reapplications are processed within the ~~following~~ time frames described in (A) through (B) of this subsection~~:~~.

(A) **Prior certification of fewer than three months.** A ~~Household~~ household with a prior certification period of fewer than three months and who apply by the ~~15th~~ 1st day of the last month of the certification period ~~shall be~~ are provided with the opportunity to participate, if eligible, no later than 30 calendar days after the date the household last had an opportunity to obtain its ~~allotment~~ food stamp benefits.

(B) **Prior certification of three months or more.** Reapplications filed on or before the ~~15th~~ 1st day of the last month of the certification period are considered ~~to be a~~ timely ~~reapplication~~ reapplications. If the household meets all of the requirements and completes all the processing steps, the ~~county~~ worker ~~shall certify~~ certifies or ~~deny~~ denies the application prior to the end of the certification period. In addition, any eligible household who reapplies timely ~~shall be~~ is provided an opportunity to participate by its normal issuance date in the month following the end of the current certification period. In order to retain this right to uninterrupted benefits, the household must have attended any interview and/or provided all ~~information~~ required verification due on or after the deadline for filing timely reapplications. Although a household loses its right to uninterrupted benefits, it retains its right to complete the process and receive benefits, if eligible, within 30 calendar days of the application date.

(2) Households who have timely reapplied but, due to worker error, are not timely determined eligible ~~must~~

~~be~~ are recertified and given an opportunity to participate immediately upon being determined eligible. If the delay in recertification extends into the following month, the certification ~~will be~~ is made retroactive to the first day of the month following expiration of the certification period.

(3) A household applying for recertification in the last month of its certification period ~~would be~~ is not entitled to expedited ~~service if the household qualified under OAC 340:50-11-1~~ services. When the recertification is teleprocessed on or before the last day of the month of the old certification period, the subsequent month's benefit ~~will be~~ is issued on the ~~first~~ second working day of the month.

(d) **Untimely reapplication.** A household who fails to submit a timely application for recertification, without good cause, loses its right to uninterrupted benefits, and the worker has 30 calendar days to certify or deny the application and provide an opportunity to participate if the household is eligible. If an application for recertification is not received until after the certification period expired, then that application is considered an initial application and benefits for that month are prorated. Even though a household fails to make a timely reapplication they ~~may be~~ are entitled to expedited service if the household qualifies under OAC 340:50-11-1.

(e) **Good cause for failure to timely reapply.** If the worker determines that the household's failure to make timely application or to otherwise complete the certification process in a timely manner was for good cause, the household ~~shall be~~ is entitled to restoration of lost benefits if, as a result of its failure, the household was unable to participate in the month following the expiration of its certification period. Determination of good cause ~~must be~~ is made on a ~~case-by-case~~ case-by-case basis, and includes, but is not limited to, failure to receive timely notice of expiration, or personal illness~~, etc~~.

SUBCHAPTER 11. SPECIAL PROCEDURES

PART 9. DISASTER PROCEDURES AND REPORTING REQUIREMENTS

340:50-11-85. Disaster procedures [REVOKED]

~~Disaster situations may or may not be declared a disaster by Food and Nutrition Service (FNS).~~

~~(1) Households must meet all eligibility criteria with income and resources verified in the usual manner. The resource maximum cannot be in excess of Agency standards unless the resources are not available due to the disaster.~~

~~(2) Expenses for housing and related necessities may be calculated on an anticipated basis using the client's statement.~~

~~(3) In disaster situations, there may be instances of households temporarily sharing common living quarters. The determination of household composition is left to the social service specialist's judgment. if it is determined that the living arrangement is temporary and the households do not normally purchase and prepare food together, they may be considered as separate households.~~

APPENDIX D. APPLICATION AND AFFIDAVIT FOR EMERGENCY DISASTER FOOD STAMP ASSISTANCE [REVOKED]

STATE OF OKLAHOMA
DEPARTMENT OF INSTITUTIONS, SOCIAL AND
REHABILITATIVE SERVICES

APPLICATION AND AFFIDAVIT FOR
EMERGENCY DISASTER FOOD STAMP ASSISTANCE

Case No._____
County_____

Name_____ Family Size_____
(Please Print)

Permanent Address_____ Temporary Address_____

List below all persons who live in or who eats with your household.

First and Last Name	Date of Birth	Sex	Race	Relationship to Head of Household (Son, Daughter, Cousin, Mother-in-law, Boarder, Roomer, etc.)	Social Security Number

I declare under penalty of fine or imprisonment, or both that:

1. My household has not previously applied this month for emergency food stamp assistance during this disaster;
2. My household resides at the above address(es), which is in the disaster area;
3. My household is in need of emergency food stamp assistance because of a reduction in or inaccessibility of income or cash resources as a result of the disaster; and
4. My household intends to purchase and prepare food for home consumption.

I understand that any unauthorized use, transfer, acquisition, possession, or presentation of food coupons may subject me to legal prosecution. I give permission for you to verify my household situation and my financial circumstances.

Date_____ _____
(Signature of Disaster Applicant)

☐ Eligible

☐ Ineligible - Reason_____

_____Signature of Worker

APPLICATION AND AFFIDAVIT FOR EMERGENCY DISASTER FOOD STAMP ASSISTANCE FSP-1-D

Purpose of Form

This form is used only to record the applicant's request for emergency disaster food stamps during a declared disaster for both public assistance and non-public assistance households. The head of the household completes the application, or, if unable to complete the application, furnishes the information to a person who completes the form for him. The applicant records information relating to the eligibility of the household and states that it is true, correct and complete to the best of his knowledge. In addition, he authorizes the Department to make any necessary investigation of his financial situation and other factors relating to his eligibility for food stamps.

Instructions for Preparation of Form

The form is prepared in the original only by the applicant. The applicant signs and dates the form. The assistance payments worker certifies, denies or cancels the application by checking the appropriate block and signing the form below the applicant's signature.

Routing of Form

The original application when completed is filed in the case folder.

Okla. DISRS Issued 7-15-74 1

[OAR Docket #05-491; filed 3-31-05]

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

[OAR Docket #05-492]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Eligibility for Benefits
340:65-3-1. [AMENDED]
340:65-3-4. [AMENDED]
(Reference APA WF # 04-30)
AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; IV-A, IV-B, and IV-C, XVI, XIX, and XX of the Social Security Act, as amended; and the Refugee Act of 1980.
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ANALYSIS:
Chapter 65 proposed rule revisions: (1) explain what application forms are used; (2) clarify worker responsibilities; (3) describe what information is verified upon receipt; and (4) replace out-of-date language.
CONTACT PERSON:
Dena Thayer, Programs Manager, Policy Management Unit, DHS, 2400 N. Lincoln Blvd., Oklahoma City, OK 73105, 405-521-3611.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2005:

SUBCHAPTER 3. ELIGIBILITY FOR BENEFITS

340:65-3-1. Determination of eligibility

(a) **Eligibility determination.** The determination of eligibility is a continuous process ~~which encompasses all activities beginning~~ that begins with an application ~~to~~. It includes the final disposition of the application and all subsequent activities related to determining continuing eligibility. ~~The application is the beginning of the eligibility determination. The application is denied if sufficient facts are available to substantiate ineligibility.~~ The client has the right and the responsibility to participate in the eligibility determination and is relied on as the first source of information.

~~(1) The applicant has the right and the responsibility to participate in the eligibility determination and is relied on as the first source of information. Although the applicant is the first source of information, the applicant is not the only source, and all information relating to eligibility must be verified by documents furnished by the applicant or from information supplied by collateral sources. When requesting information or verification from the client, the worker uses Form ADM-92, County Client Contact and Information Request, and gives the client at least ten days to respond to the request. [OAC 340:65-3-2.1]~~

~~(2) If the applicant is unable to participate in the eligibility determination because of physical or mental disability, inability to speak English, or other difficulties, the worker is responsible for contacting other persons who may be able to help in establishing eligibility.~~

~~(3) The applicant is informed of the information needed to establish each condition of eligibility and of the assistance the Oklahoma Department of Human Services (OKDHS) can give in establishing eligibility. The applicant is also informed that by signing the application he or she is giving OKDHS permission to obtain information from sources other than the applicant.~~

(b) ~~**Explanation of OKDHS responsibilities**~~ **Application forms.** ~~The worker explains to the applicant OKDHS' responsibility for reaching a decision and notifying the applicant of eligibility or ineligibility within the appropriate time limits. The applicant is advised of the right to a fair hearing if there is a delay beyond the established time limits. When a decision is made on the application, the applicant is advised by a computer-generated notice of the action, the reason for the action, and his or her appeal rights. The applicant is also advised of the right to legal counsel at the hearing which may be provided by his or her private attorney or by free legal help. The notice includes information concerning free legal help, where and how to file an appeal, and gives the time frame in which an appeal must be filed.~~ A signed application is required to determine initial and continuing eligibility for benefits. The client completes:

(1) Form FSS-1, Comprehensive Application and Review, to apply for:

(A) food stamp benefits;

(B) State Supplemental Payment (SSP);

(C) Supplemental Security Income-Disabled Children's Program (SSI-DCP);

(D) Temporary Assistance for Needy Families (TANF); or

(E) Medicaid benefits.

(2) Form FSS-1 or K-2, Application for Child Care Services, to apply for child care benefits.

(c) **Signatures.** The client, guardian, or someone acting on the client's behalf such as an authorized representative or someone with power-of-attorney must sign Form FSS-1 or K-2. For

TANF applications, if a client and spouse are living together, both must sign the application form. The client may voluntarily withdraw the request for assistance or services either before or after signing the application form. A client who is:

(1) eligible for Medicare signs the application using the name on his or her Medicare Health Insurance Benefits (HIB) card; or

(2) not eligible for Medicare signs the application using the name shown on his or her Social Security card.

(~~c~~d) **~~Explanation of applicant's~~ Worker responsibilities.** ~~During the application process the applicant is advised of the legal responsibility for reporting all facts pertinent to eligibility. The responsibility to report all changes within ten calendar days and the penalty for failure to report changes is explained.~~ The worker is responsible for:

(1) advising the client during the application process:

(A) of the Oklahoma Department of Human Services (OKDHS) responsibility for reaching a decision and notifying the client of eligibility or ineligibility within the appropriate time limits;

(B) of his or her right to request a fair hearing, either orally or in writing, and be represented at the hearing by any person the client chooses if there is a:

(i) delay beyond the established time limits for determining eligibility; or

(ii) disagreement with any action taken on the case;

(C) of his or her legal responsibility for reporting all facts pertinent to eligibility;

(D) of the types of changes the client must report within ten calendar days;

(E) of the penalty for failure to report changes;

(F) of information needed to establish eligibility. When requesting information or verification from the client, the worker uses Form ADM-92, County Client Contact and Information Request, and gives the client at least ten calendar days to respond to the request; [OAC 340:65-3-2.1]

(G) of the assistance OKDHS can give in establishing eligibility;

(H) that by signing the application he or she is giving OKDHS permission to obtain information from sources other than the client; and

(I) that he or she must cooperate with state and federal officials if his or her case is selected for a Quality Control review;

(2) collecting information necessary for determining the client's initial and continuing eligibility. Information considered verified upon receipt if that information is not questionable or inconsistent with known facts, and the provider of the information is the primary source of the information, is the:

(A) client's statement concerning:

(i) residency;

(ii) relationship;

(iii) age;

(iv) living in the home of a relative payee;

(v) minor parent living in the home of a relative;

(vi) Social Security number (SSN);

(vii) citizenship;

(viii) non-liquid resources;

(ix) household members;

(x) school attendance; and

(xi) third party insurance;

(B) unearned income information obtained through:

(i) Beneficiary and Earnings Data Exchange System (BENDEX), from the Social Security Administration (SSA);

(ii) Supplemental Security Income (SSI)/State Data Exchange System (SDX), from SSA;

(iii) Unemployment Insurance Benefits (UIB), from the Oklahoma Employment Security Commission (OESC);

(iv) workers' compensation documents from Workers' Compensation Court; and

(v) alien status information obtained through Systematic Alien Verification for Entitlements (SAVE), from the United States Citizenship and Immigration Services (USCIS);

(3) contacting other persons who may be able to help in establishing eligibility if the client is unable to participate in the eligibility determination because of physical or mental disability, inability to speak English, or other difficulties;

(4) recognizing expressed or implied needs;

(5) determining whether there is a need for crisis intervention;

(6) making appropriate referrals;

(7) ensuring all of the client's social services needs are addressed and met; and

(8) denying the application if sufficient facts are available to substantiate ineligibility.

~~(d) **Signatures.** The application form is completed and signed by the applicant using the name as it appears on his or her Social Security card. When an applicant and spouse are living together, both must sign the application form. The applicant may voluntarily withdraw the request for assistance or services either before or after signing the application form.~~

(e) **Requirement for ~~Social Security number (SSN)~~.** ~~Federal regulations require a~~ A SSN or application for a SSN is required for every ~~individual~~ person whose needs are included for food stamp, SSP, SSI-DCP, or TANF benefits. The requirement for a SSN also applies to all persons whose needs are included for Medicaid benefits, except newborn children deemed eligible and illegal aliens.

(1) The worker accepts the ~~applicant's~~ client's statement to document the SSN unless the information is inconsistent or there are other facts or observations which cause the worker to question the statement.

(A) Persons for whom a SSN is required but not available must be referred to the appropriate ~~Social Security Administration (~~SSA~~)~~ office for SSN enumeration. Form ADM-101, SSN Enumeration

Referral, is used to refer persons to the SSA office for a SSN application. The return of Form ADM-101 to the county OKDHS office validates the application(s) or indicates which persons have not provided to SSA appropriate original evidence of age, identity, and citizenship ~~to SSA~~.

(B) Parents of newborns who participate in Enumeration at Birth (EAB) receive from hospital personnel Form SSA-2853-OP3, Message From Social Security~~, from hospital personnel~~. This receipt form is verification the newborn was enumerated at birth.

(2) An application for assistance is denied or the ~~individual's~~ person's needs are not included for benefits if the ~~individual~~ person fails or refuses to furnish or to apply for a SSN.

(~~1~~A) For ~~Temporary Assistance for Needy Families (~~TANF~~)~~ purposes, the ~~individual's~~ person's needs are included; however, a 25% payment standard reduction penalty is imposed until an application for or a SSN is provided.

(~~2~~B) For food stamp and Medicaid purposes, only the needs of the ~~individual~~ person for whom a SSN is not provided or applied for are not included.

~~(3) For child care purposes, only the needs of a child for whom a SSN is not provided or applied for are not included.~~

340:65-3-4. Investigation of eligibility conditions and services planning

Worker responsibility. The worker is responsible for collecting information necessary for determining the client's eligibility for benefits and ensuring all of the client's social services needs are addressed and met. When verification of information from a source other than the client's statement is necessary, the sources described in this Section are used.

(1) **Home visits.** Home visits are necessary for Field Operations Division (FOD), Family Support Services staff to provide services and benefits and to promote safety and stability for families. All home visits must be planned and coordinated to prevent duplication of efforts.

(A) FOD, Adult Protective Services staff may make home visits and client contacts outside normal working hours within policy as outlined in OAC 340:5.

(B) Workers may make home visits or other client contacts outside normal working hours when it is in the best interest of the client and approved by appropriate supervisory personnel. If it is necessary for a worker to have contact with a client outside of normal working hours because of an emergency and the worker's immediate supervisor is not available, authorization must be obtained from the county director or designee prior to the contact. If the immediate supervisor and county director or designee are not available, the worker takes care of the client's emergency need and notifies appropriate supervisory personnel of the situation immediately after returning to duty.

(C) Home visits are made when:

(i) there is a need to confirm the accuracy of statements and documentation cannot be obtained from other sources;

(ii) an office visit would create a hardship on the household;

(iii) a Temporary Assistance for Needy Families (TANF) case is closed due to failure to cooperate according to OAC 340:10-2-2;

(iv) it is the best method to complete or review the employability plan;

(v) protective services are needed; or

(vi) the worker deems it necessary.

(2) **Collateral sources.** The client's signature on the application for assistance is the necessary authorization for securing required information or verification from collateral sources. If the collateral source requires written authorization before supplying information to the Oklahoma Department of Human Services (OKDHS), Form ADM-60, Request for Release of Information, is completed. This authorization includes the permission of the client's spouse for information regarding his or her circumstances to be given in connection with the same application, and of the client's parents when ~~he or she~~ the client is a dependent child who is blind or disabled ~~child~~. The worker is responsible for discussing with the client any inconsistent information obtained from collateral sources related to the client's eligibility ~~obtained from collateral sources~~.

(A) Persons who are contacted for information related to the client's eligibility are advised of how the information is used and the reason it is needed. If the person is unwilling for the client to know his or her identity, the person's name is not recorded in the case record and is not revealed to the client.

(B) The names of persons who contact OKDHS with information related to the client's eligibility are not recorded in the case record nor revealed to the client ~~if~~ when anonymity is requested.

(3) **Public records.** Sources of information in the form of public records ~~can~~ that provide ~~valuable and~~ essential information ~~and are available to anyone~~ may be obtained without ~~obtaining~~ consent from any individual whose transactions are involved.

(4) **Data exchange.** Automated data exchange with other agencies provides benefit, wage, and tax information that is matched with OKDHS records. The worker is responsible for:

(A) reviewing data exchange information at the time of application and redetermination of eligibility. Data exchange information screens available are:

(i) Beneficiary and Earnings Data Exchange System (BENDEX);

(ii) Buy-In Data Exchange (BIL);

(iii) SSI/State Data Exchange System (SDX);

(iv) SSA Beneficiary Earnings Exchange Record (BEER/BWG);

(v) New Hire Employee list (NHL);

(vi) Social Security Number (SSN) Verification - SSN Enumeration;
(vii) Wage Data Exchange;
(viii) Unemployment compensation; and
(ix) Unearned income report (IEVS-IRS);
(B) initiating appropriate queries; and
(C) resolving data exchange discrepancy messages within 30 days of the date the message is posted on the data exchange inquiry screen.

(5) **Systematic Alien Verification for Entitlement (SAVE).** All applicants and recipients of TANF, Medicaid, Food Stamp Program, and Child Care Services benefits are required to declare their citizenship status. Persons who declare themselves or their minor child(ren) non-citizens must present documentation of their legal alien status from the United States ~~Bureau of~~ Citizenship and Immigration Services (~~BCIS~~USCIS) or other acceptable resource. The status, as determined from the documentation, must be verified through the Alien Status Verification Index (ASVI) maintained by ~~BCIS~~ USCIS.

(6) **Workers' compensation.** Family Support Services Division (FSSD) reviews copies of all Workers' Compensation Court documents by matching SSNs with OKDHS records. Any court action that appears to potentially impact eligibility is forwarded to the servicing county office for clearance. A copy of the document is retained in the case record.

(7) **Vital records verification.** Verification of birth records, when not otherwise available, for persons born in Oklahoma may be secured by sending a completed Form ADM-64, ~~Form Letter to Bureau~~ Division of Vital ~~Statistics~~ Records, in duplicate to FSSD Overpayments Section. Form ADM-64 must be retained in OKDHS case files only and not copied for any individual or agency.~~. Such action violates~~ in accordance with the agreement between OKDHS and the Oklahoma State Department of Health.

(8) **Food stamp disqualification (FSD).** The FSD transaction is used to determine if a client has been disqualified from the Food Stamp Program due to fraud. If a client has been disqualified, the FSD screen shows the date the disqualification began and the length of the disqualification period. ~~If a client's name appears on the FSD screen without a beginning date, the worker starts the disqualification as soon as possible.~~

[OAR Docket #05-492; filed 3-31-05]

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

[OAR Docket #05-493]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 1. General Provisions [REVOKED]
340:70-1-1. through 340:70-1-7. [REVOKED]
Subchapter 3. Family Services [REVOKED]
340:70-3-1. through 340:70-3-5. [REVOKED]
Appendix J. Notice for DHS Regarding Contractual Services [REVOKED]
(Reference APA WF # 04-19)

AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; IV-A, IV-B, and IV-C, XVI, XIX, and XX of the Social Security Act, as amended; and the Refugee Act of 1980.

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n/a

ANALYSIS:
Subchapters 1 and 3 in Chapter 70 are revoked as the rules have been incorporated elsewhere or are no longer applicable to administering social services. Appendix J is revoked as it is obsolete.

CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2005:

SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

340:70-1-1. Purpose [REVOKED]

~~The purpose of this Chapter is to describe the Department's social services programs. The purpose of social services is to provide a comprehensive system of services and to develop resources which will enable individuals, families, and communities to deal successfully with common social problems. The ultimate goal of all social services delivery is to enable each individual to function at the most independent level of which he/she is capable.~~

340:70-1-2. Responsibilities [REVOKED]

~~The Payments and Services Division is responsible for developing rule procedures and training resources and for assuring appropriate support to field offices for a statewide program of preventive, remedial, and developmental social services. These services are to be available to all eligible adults, children, and families beginning at the time of initial contact with DHS. In addition to the preventive and remedial services mandated by State and Federal law, DHS offer a comprehensive program of social services. Social services are delivered by staff of the Field Operations Division located in county offices. Social services programs are monitored, and evaluated by Payments and Services staff located in the State Office and the regional offices.~~

340:70-1-3. Legal base and authority [REVOKED]

~~The Department of Human Services is authorized to develop and administer a social services program by state statutes and the Oklahoma Human Services Commission and is subject to Federal laws and regulations under Titles IV-A, IV-B, and IV-C, XVI, XIX and XX of the Social Security Act, as amended; the Refugee Act of 1980; and other applicable legislation.~~

340:70-1-4. Definition, philosophy and scope [REVOKED]

~~(a) **Definition.** Social services are defined as any interaction between the social worker and the client~~

~~(1) which leads to:~~

~~(A) assessing the client's situation, including strengths, problems, unmet needs, and/or barriers to independent functioning;~~

~~(B) setting goals which, when achieved, will meet needs of the client and, when feasible, enable the client to function more independently in the community;~~

~~(C) planning activities, based on the assessment, which are necessary to achieve the goals, and~~

~~(D) carrying out and/or managing planned activities.~~

~~(2) The term "client" refers to any individual or family, including all its members.~~

~~(b) **Philosophy.** The philosophy underlying all social services delivery is that benefits and entitlements are provided as a temporary means of subsistence. Financial services should be supplemented by planned activities which will develop and enhance each client's capacity to function independently in his community.~~

~~(c) **Scope.** Social services include activities shared cooperatively with a client or arranged in his/her behalf. These activities include helping the client to assess his/her current situation, establish goals to resolve problem areas, and plan an action strategy to achieve the goals. They also include assisting the client to secure needed medical or health related services, to make adequate child care arrangements, to receive employment counseling and the opportunity to participate in other activities that lead to employment, and to acquire appropriate benefits and entitlements. Social services may also include providing help in resolving problems related to housing, education, parenting, budgeting, home management, and relationships with other individuals, groups, institutions or the community at large.~~

340:70-1-5. General procedures [REVOKED]

~~(a) **Process.** The general procedures described herein form the framework of a systematic problem solving approach to social services delivery. After taking an application for financial assistance, receiving a referral, or exploring a request for services, the social worker will have an awareness of probable problem areas for the client. The first step, then is to explain to the client how the worker can help and to define both the worker's and the client's role in the helping process.~~

~~(b) **Assessment.** Assessment is the process of exploring potential problem areas, deciding which problem will be addressed and in what order, and gaining an understanding of the causes of the problems and how they affect the client's life. Assessment begins at the first contact with the client and continues until the case is closed. In addition to identifying the target problems, the worker assesses the client's strengths and available resources, determine what the client is motivated to do to resolve the problem, and identifies barriers to problem resolution. An important part of the assessment process is securing the client's agreement on the problems to be addressed. A systematic assessment process shared with the client is often, by itself, a powerful social service. In the event that the worker or the client decides that the ongoing services provided by DHS are not appropriate to the client's situation, the worker documents the decision by writing a brief summary. The summary contains identifying information, a brief description of the client's request and the worker's response to the request, including any referrals to other resources. The summary may be written in available space on any intake or application form or on a separate sheet of paper. At the end of each month, the County Administrator or his designee reports the number of information and referrals completed that month to the State Office, Payments and Services Division.~~

~~(1) **Approach.** A systematic approach to assessment means that the worker focuses upon the way the client interacts with and adapts to specific elements of his environment. Therefore, the worker helps the client to assess his relationship to each component of his environment, including his family, friends, housing, school(s), church, employment, health care, recreation, DHS, other service providers, and the community as a whole. Some of these relationships may be positive and therein lie the client's strengths. Relationships which do not contribute to the client's independent functioning become the focus of problem exploration and are the source of problems which social services address. The distinction between assessment and service delivery is made for discussion purposes only. In practice, one cannot exist without the other. Assessment is an integral part of ongoing service delivery. At the conclusion of each step in the service plan, the worker helps the client to re-assess his situation.~~

~~(2) **Tools.** The most important and valuable assessment tool is the worker's knowledge and problem solving ability. By applying his knowledge of human needs and behavior and of available resources to the client's situation, the worker accomplishes most of the assessment process. Effective interviewing is, likewise, an indispensable tool. Skill in interviewing is basic to all aspects of social services delivery but it is critical to accurate assessment. Another valuable assessment tool is direct observation of the client as he interacts with his environment. Observation serves to clarify and validate verbal responses and provides additional information about the client, his environment, and the nature of his interactions with various components. Application of knowledge, effective interviewing and direct observation are the basic assessment tools.~~

~~(c) **Goal setting.** After identifying and agreeing upon the target problems, the social worker helps the client translate the target problems into the desired or needed goals for problem resolution. By clearly defining the goal in regard to each target problem, both the client and the worker will understand what they are working toward and will be able to recognize when the target problem has been resolved.~~

~~(d) **Service plan.** Once the goals are clearly stated, the worker and the client must decide and record what needs to be done to enable the client to achieve the goals.~~

~~(1) **Exploring alternatives.** The first step in designing a strategy is to identify possible courses of action which would accomplish the goal. Each alternative is then evaluated in terms of: what the client wants to do; whether it is within the client's ability to do; how long it will take; what resources are available; and what negative consequences are possible. Remembering that a single course of action may be appropriate to many goals, the worker and client can thereby choose a constructive alternative toward which the client is motivated and which is feasible, timely, cost-efficient, and desirable.~~

~~(2) **Using resources.** The worker encourages the client to use as many of his own resources as possible. By helping the client to identify and use his own resources the worker is demonstrating an important problem solving skill. In many instances, however, the client will not have sufficient resources. Then, the worker considers what resources are available through the client's community and DHS. The worker includes his own knowledge and skills when identifying potential resources.~~

~~(3) **Defining tasks.** After the client and the worker have agreed upon the target problems, stated the goals, determined a general course of action, and identified available resources, they must decide, specifically, who will do what and when it will be done. Each planned activity is divided into a series of steps or tasks. Each task is assigned to either the client or the worker and a time frame is established for completing the task. The identified tasks and their sequencing are the basis of the agreement or helping contract between the worker and the client. This agreement shall be in writing; it can be as simple as a list of identified tasks to be done by the client and/or the worker. The client should be given a copy of the agreement and one copy shall be placed in the client's file.~~

~~(e) **Follow-up.** It is the worker's responsibility to track the completions of each step of the service plan. The worker should plan to contact the client as frequently as the service plan requires for thorough tracking. At each such contact, the worker and the client report to teach other about the completion of respective tasks. These follow-up contacts also provide and opportunity to discuss barriers to task completion and to re-assess the action plan if necessary.~~

~~(1) **Managing planned activities.** As each step of the plan is implemented, the worker will gain more information about the client and his ability to accomplish assigned tasks. If the client seems to be readily following through on his assigned tasks, the worker offers support and suggests increasing the client's level of responsibility for completing tasks or shortening the time frames. On the other hand, failure to complete planned tasks may indicate a need to adjust the service plan by reassigning a task or extending a time frame. Or it may indicate a need for a different course of action altogether. Whatever, two-way feed back about the completion (or non-completion) of planned tasks is critical to the success of the helping process.~~

~~(2) **Documentation.** Another aspect of follow-up is documentation, which is the process of creating and maintaining a physical record of the worker's contacts with and activities on behalf of the client. In general, documentation of social services delivery consists of coded entries to the service recording system and specific entries written in the narrative. At a minimum, the case record clearly indicates the initial assessment and the service plan, including the target problems, goals, and major steps. It is updated to reflect the completion of each step in the plan and any changes that are made to the plan as it is implemented.~~

340:70-1-6. Specific worker responsibilities [REVOKED]

~~(a) **Confidentiality.** All information about the client and his involvement with DHS is confidential. It is not to be released to any individual or organization without the client's knowledge and permission. Confidential information may be shared with representatives of other agencies which observe confidentiality when it will contribute to accomplishing the goals.~~

~~(b) **Community involvement.** In most communities there is an array of agencies and organizations which offer services that are not available through DHS. The worker should become familiar with these community resources and encourage clients to use them when appropriate. At a minimum, the worker should know what services the resource offers, who is eligible for the services, where the resource is located, whether there is a fee, and what application procedures are followed. It will also be helpful to know the name of a contact person. In many counties, directories of community resources are available. These directories are useful but do not substitute for personal knowledge. Worker's are encouraged to visit community resources~~

~~and exchange information about them with co-workers and supervisors. DHS employees are encouraged to participate in organizations and activities which promote the well-being of the community in general. In doing so, they represent the Agency and its mission and purpose. Employees may serve on boards, represent DHS on planning committees, and give presentations about the Agency and its services to interested groups.~~

~~(c) **Knowledge and skill building.** The practice of social work is supported by service philosophies, theory and tradition. It is the worker's professional responsibility to learn as much as possible about these philosophies and theories and to develop the skills which will increase his competence. Knowledge of DHS policy, purpose and resources is accessible through Agency training, publications and documents. It is a prerequisite to competent social services delivery. Other knowledge bases which will enhance professional competence include: human behavior, human growth and development; psychology; sociology; communications theory; management; and social work principles. Skill is the ability to apply knowledge or theory to specific situations. DHS procedures help the worker to apply Agency policy appropriately. By developing skills in the areas of interviewing, counseling, problem solving, decision making, and planning, the worker will be better able to apply his knowledge on a daily basis. Supervisors and experienced workers are a good source of information about social work knowledge and skill, as well as Agency rule and procedure. Discussion of cases in a group setting provides an excellent forum for the worker to learn and develop skills. There are also many organizations with which the worker may affiliate in order to develop professional competence. Many of these organizations publish journals, sponsor seminars, and hold meetings which offer learning opportunities.~~

340:70-1-7. Compliance with Civil Rights Act [REVOKED]

~~All service programs administered by DHS comply with Department of Health and Human Services (DHHS) Regulations, Title 45, Code of Federal Regulations, Parts 89 and 84, which implements the Civil Rights Act of 1964 and the Rehabilitation Act of 1973. The regulations state: These laws and regulations prohibit excluding from participation in, denying the benefits of, or subjecting to discrimination under any programs or activity receiving Federal Financial Assistance any person on the grounds of race, color, national origin or handicap. Under these requirements vendor payments cannot be made to individuals, business, etc., providing care and/or services unless they comply with the above stated regulations.~~

SUBCHAPTER 3. FAMILY SERVICES [REVOKED]

340:70-3-1. Purpose [REVOKED]

~~Family Services is the planning and delivery of Social Services as defined in (a) of Section 2 of this Subchapter in which the family is the focus of the services delivery system. Critical to Family Services is gathering information, developing a casework relationship, evaluation of strengths and needs, and linking the family with agency and community resources based on the unique characteristics of a particular family and its members.~~

340:70-3-2. Family concepts [REVOKED]

~~(a) **Terms.** Whenever the terms listed below are used in this subchapter the definitions are as follows:~~

~~(1) **Family.** For eligibility determination purposes, refer to subchapter 11. For social services purposes, a family is defined as a group of individuals who perform familial functions, such as rearing children, meeting affectional needs of adults and children, and transmitting the values of the larger society. This definition includes blood relatives and significant others; it also includes residents in a group home for the developmentally disabled. A single adult may also be considered a family.~~

~~(2) **Family services.** Family services include those services which are aimed at preventing problems and crises, strengthening family coping skills, and developing accessible resource networks which may better prepare families for becoming self sufficient. Workers may provide or arrange for the provision of a variety of social services, such as employment/training/educational assistance, home maintenance, day care, counseling, health related, home and community based waiver services (HCBWS), unwed parent, housing, volunteer, activities for the developmentally disabled, and securing entitlement services.~~

~~(3) **Family goals.** Family goals include goals of its individual members as they impact and interrelate to the overall family goal.~~

~~(b) **The Family as DHS service recipient.** The worker assigned to an AFDC caseload is required by state and federal regulations to offer certain services to individuals in order for the State to receive federal funds or for the individual to be eligible for assistance. These mandatory offers of services are to be incorporated into the family assessment and the service plan, and they should relate to the impact on the total family functioning. When one member of a family receives services that result in a change in that member, all other members of the family are affected. For instance, when a parent becomes employed, children may have to go to day care, assume more responsibility for household chores, or modify their participation in out-of-home activities.~~

~~(c) **The worker's role in providing family services.** The DHS social worker supports, encourages, and assists families in managing their lives independently, or who, when a family cannot manage independently, assists the family to access resources that will help them remain as self sufficient as possible. The worker will be more effective when he develops a relationship with the family; understands how members of the family interrelate; and understands the environment in which the family lives. Visiting in the family's home is the best means of accomplishing all of the aforementioned. There should be a purpose for each home visits, e.g., assessing the family's situation, reviewing the eligibility requirements and the progress~~

~~of the service plan, insuring that the needs of recently placed residents in a group home for the developmentally disabled are being met, etc. The worker should prepare for the home visit in order to ensure that the purpose is accomplished and to accomplish more than one purpose whenever possible. A review of data in existing case records on family composition, service plan, education level, income, resources and medical information should be made so that the worker can recognize changes, can ask appropriate questions, can reduce the number of redundant questions asked, and can determine what other purposes can be accomplished during the planned visit.~~

340:70-3-3. Family assessment [REVOKED]

~~(a) **Process and documentation.** An assessment must be made and documented in the narrative on each family. The assessment is a joint process involving the family and the worker. The worker's assessment evolves from learning how the family perceives its situation and what they think can be done about identified problems. Each family member is assessed using the process outlined in Section 5 of Subchapter 1 of this Chapter. The assessment of each family should include the extent to which the family is able to meet its nurturant, economic, environmental, and social needs.~~

~~(b) **Nurturant functioning.** Nurturant functioning is the personal care giving among family members. In assessing a family's nurturant functioning, the worker explores child rearing practices, development of children, and family members' ability to care for a dependent member, such as a disabled child or adult, a physically ill adult, or a frail elderly member. When there is any deficiency in the nurturant functioning within the family, the worker develops with the family a plan for preventing neglect and abuse of its members. The worker considers preventive day care, guidance center, home maintenance, volunteer, Supplemental Security Income - Disabled Children's Program (SSI-DCP), Home and Community Based Waivered Services (HCBWS), food and nutrition, EPSDT, family planning, child welfare, adult protective, medical and unwed mothers services as available resources to meet the nurturant needs of family members.~~

~~(c) **Economic functioning.** Economic functioning is a family's ability to manage its household, finances, and work. In assessing a family's economic functioning, the worker explores whether a family is able to meet the basic needs of its members; the employment potential of adults and teenagers; if there are repeated requests for emergency or other intermediary help; and whether there are regular disconnections or threatened disconnection of utility services. If needs are identified in this area, the worker develops with the family a plan for meeting these needs. The plan may include getting the family assistance in budgeting, helping members find employment, or helping the family apply for benefits or services. Sometimes it will be necessary to develop a plan to meet the immediate need before planning to meet the need on a permanent basis. Food stamps, AFDC, state supplement, emergency assistance, Supplemental Security Income (SSI), subsidized housing, Low Income Energy Assistance Program (LIHEAP), Education, Training and Employment (ET&E),, rehabilitation, consumer credit counseling, and home maintenance services are some of the services that are available to meet the family's economic needs.~~

~~(d) **Environmental/ecological functioning.** Environmental functioning is the family's management of the surroundings which affect the day-to-day activities of its members. When assessing the environmental functioning of the family, the worker discusses the housing conditions of the family, the location (whether isolated or not), available transportation, etc. The worker also assesses whether environmental functioning deficiencies in other areas are causing problems in this area. Housing, volunteer, and in-home day care if the family is isolated are some services that are available to meet the family's housing needs.~~

~~(e) **Social functioning.** Social functioning is the family members' involvement within the community outside of the family. In assessing the social functioning of family members, the worker discusses educational functioning and school attendance, activities in which the members participate, how a family member functions within a day care setting, etc. Agency and community resources that may be available to meet the social needs are day care, guidance centers, mental health facilities, schools, churches, recreational resources and volunteer services.~~

340:70-3-4. Service plan [REVOKED]

~~(a) **Initial assignment.** Once the initial assessment is made, the worker and the family are to identify and agree upon problems to be targeted, and set family goals to resolve each targeted problem. A service plan as developed in accordance with Section 5 of Subchapter 1 of this Chapter. The service plan is based on the problems targeted, and the plan must be documented in the case narrative.~~

~~(b) **Developing the plan.** A service plan is developed by using the procedures outlined in Section 5 of Subchapter 1. The plan is developed jointly by the worker and the family. Families often have, within their own means, the resources and abilities to resolve their own problems. Developing a service plan with the family is a way to help the family become aware of and identify these resources.~~

~~(1) **Worker's responsibility.** The worker has the responsibility to discuss with the family the purpose of the plan, the necessity of the family's involvement, and the family's responsibility in developing the plan. The worker is also responsible for assisting the family to identify problems or family needs by discussing the worker's assessment with the family. The worker helps the family decide which problems to work on and helps to develop alternatives to resolve or minimize these problems. Once the problems have been narrowed to manageable ones, the worker helps the family identify family, agency and community resources that may help resolve the problems, and decides with the family what the worker and family will do. The worker also explains to the family the consequences, if any, for not participating in developing the plan. Consequences could be sanctions in the E & T program for failure to follow through on a planned activity, or~~

~~denial of day care services for failure to provide information which the client agreed to provide, etc.~~

~~(2) **Family's responsibility.** The family has the responsibility to participate in identifying problems; deciding on which problem(s) to work; in selecting alternatives to resolve the problems; and in participating in decisions on what responsibilities the family will have in carrying out the plan. The family also has the responsibility of providing the worker with information necessary to identify barriers to problem resolution.~~

~~(c) **Implementing the plan.** Once a service plan has been developed, the worker and the family have responsibilities for implementing the plan.~~

~~(1) **Worker's responsibility.** The worker discusses with the family the worker's and agency's expectations of the family and the family's responsibility to carry out the plan, and what the family can expect of the worker in carrying out the plan. The worker also discusses the consequences of the family's non-cooperation. For instance, failure to cooperate in an employability plan could result in sanctioning; failure to cooperate in a day care plan could result in the client having to repay an overpayment; failure to follow through on a disabled child plan could result in medical or physical neglect or deprivation of a service for which a child is eligible. The worker follows through on accepted assignments as agreed upon in the development of the plan and follows up on planned activities. The worker assists the family in evaluating the progress and the plan at least every six months. The plan evaluation and progress is documented in the narrative. Every six months the worker assists the family in evaluating the plan and in determining what progress has been made toward achieving agreed upon goals. The evaluation of the plan and any progress in reaching goals is documented in the case narrative.~~

~~(A) The evaluation of the plan will include statements addressing:~~

~~(i) whether the plan continues to be feasible;~~

~~(ii) whether there are changes to be made in the plan;~~

~~(iii) reasons for any changes in the plan;~~

~~(iv) the involvement of both the client and the worker in carrying out the plan.~~

~~(B) Examples of progress toward goals should be used in the narrative documentation. For instance, if the goal is economic self sufficiency and the client has enrolled in a vocational training course and is doing well in it, this should be recorded in the narrative.~~

~~(2) **Family's responsibility.** The family is responsible for following through with the plan and for providing the worker with information that impacts the plan. The family also has the responsibility to participate in the evaluation of the plan.~~

~~(d) **Completing the plan and developing a new plan.** When the decided on problem is resolved or under control and if no other nurturant, economic, environmental, or social need has been identified,a narrative entry should be made in the case file. The service case should be closed. If other needs are later identified, a new service plan, for resolving the needs must be developed.~~

340:70-3-5. Refugee social services [REVOKED]

~~(a) **Scope.** Refugees may be provided the same services under the Title XX social service program as other clients if they meet the applicable service program eligibility requirements. (There are some variations in the service delivery method for refugees participating in the Education, Training and Employment Program, as well as some slight differences in participation requirements.~~

~~(b) **Mutual Assistance Association incentive grants.** For the past few years, the Federal Office of Refugee Resettlement (ORR) has made available to the states small grants to be used as incentive funding for refugee mutual assistance associations in providing social services to refugees.~~

~~(1) **Definition of Mutual Assistance Association (MAA).** An MAA is defined by federal regulation as: a) an organization which is legally incorporated as a nonprofit organization, and b) not less than 51% of the composition of the Board of Directors or governing board of the MAA will be comprised of refugees or former refugees. MAA's applying for incentive grant funds will be required to submit a certificate of incorporation as a not for profit organization, and a list of the names of the members of the Board of Directors, with documentation that at least 51% of these members are refugees or former refugees.~~

~~(2) **Service provider selection process.** Contingent upon the continuation of annual federal MAA incentive grants, DHS will announce in the Oklahoma Register before the beginning of the federal fiscal year (October 1) the availability of a contract(s) for local project funds, and request that MAA's submit service proposals to DHS for consideration for an award of a contract to be funded with the MAA grant money. This announcement will be published in the Oklahoma Register at least one month prior to the deadline for applications for contracts. After receiving all applications submitted by the contract deadline, the DHS Refugee Unit will evaluate the proposals as to the comprehensiveness of the demonstrated need for the service being proposed, and how well the proposed services will meet the demonstrated need. The evaluation will be based upon analysis of all proposals submitted.~~

~~(A) Factors to be considered in the analysis will include, but not necessarily be limited to, the following:~~

~~(i) Seriousness of the service need identified in the proposal, i.e., is it potentially life threatening if unmet, does it cause family disruption, difficulty for refugees to secure employment, etc.~~

~~(ii) Extent to which the proposed service addresses the identified need (completely, moderately, etc.)~~

~~(iii) Consequences to the refugee community if the proposed service is not provided.~~

~~(iv) Benefit to the refugee community of the provision of the proposed service. (v) Size of the~~

~~refugee population affected by the identified service need (approximate number).~~

~~(vi) Percent of the population from E above which will potentially be assisted by the proposed service (all, most, etc.).~~

~~(vii) Adequate development of a budget (does it address all financial needs indicated in the service proposal)?~~

~~(viii) Adequacy of grant money to meet budget needs. If grant money is not adequate, are there other sources of funding available which will, when combined with MAA grant money, adequately finance the proposed project?~~

~~(ix) Adequacy of the number of qualified personnel available to provide the proposed service (will personnel be reasonably available to meet needs of clientele as these needs arise?)~~

~~(x) Experience applicant has had in providing services to the refugee community.~~

~~(B) The MAA whose service proposal receives the highest evaluation will be recommended to the Office of Public Affairs, Central Purchasing Division, for award of contract to provide the proposed service(s). This contract period will normally be for the upcoming federal fiscal year. Changes in the service proposal which might enhance service delivery to clients may be negotiated between DHS and the service provider before the contract is finalized. Once a contract is awarded to a particular MAA, it can be renewed annually, under the same terms and conditions, for up to three years by the Office of Public Affairs, without being announced in the Register. Contract renewal is contingent upon satisfactory performance by the MAA as evaluated by the DHS Refugee Unit.~~

APPENDIX J. NOTICE FOR DHS REGARDING CONTRACTUAL SERVICES [REVOKED]

STATE OF OKLAHOMA
DEPARTMENT OF HUMAN SERVICES
NOTICE FOR DHS REGARDING CONTRACTURAL SERVICES

TO: _____
_____
_____
Title XX Contract # _____
Fed. I.D./SS# _____

RE: Case Name _____
Case Number _____
Address _____
_____
Telephone _____

FROM: Department of Human Services
_____
_____

REPLY ATTN: _____
_____
Telephone _____ Ext. _____

☐ CRCS ☐ CWS ☐ PSD ☐ Other

REASON FOR NOTICE:
☐ DHS Referral to Contractor
☐ DHS Decision on your Referral
☐ Change of Authorization/Information

TYPE ACTION:
☐ Authorization ☐ Termination
☐ Denial ☐ Information

1. ☐ Eligible individuals Authorized by DHS for Contractual Services

Per. No.	Name	Birthdate	Race/ Sex	Type Service	Purchase Code	Eff. Date Services Authorized	Max No. Units	Type Units	Max. Chg. Per Unit
			/		P—				$
			/		P—				$
			/		P—				$
			/		P—				$
			/		P—				$
			/		P—				$

2. ☐ Day Care Only: Client Co-payment per individual in care $_____ Eff. Date _____

3. ☐ Ineligible individuals NOT Authorized by DHS; or

4. ☐ TERMINATION OF AUTHORIZATION

Per. No.	Name	Birthdate	Type of Service	Eff. Date of Termination

5. ☐ Other Changes, Comments and/or Corrections for Your Records

_____ County Adm./Dist. Supv. CWS/CRCS

_____ Date

Purpose of Form

This form is used by the Department to (1) refer eligible individuals to service providers holding current Title XX contracts with the Department for purchase of services; (2) authorize the contracting service provider to bill the Department for contractual services provided to eligible individuals; (3) notify the contract service provider when Department purchase of authorized contractual services will be terminated; (4) deny a referral for purchased services; and (5) provide the contractor with changes of authorization or information.

Instructions for Preparation of Form

This form is prepared in duplicate by the local worker. An additional copy is made if provider claims are audited in the local office. A separate Form TXX-37-A is completed for services which are provided under different provider contract numbers, even though the services are provided by the same contractor. Also, a separate Form TXX-37-A must be completed for family members who are being authorized for services under different DHS case numbers.

To. Enter the name and mailing address of the contractor.

Title XX Contract #. Enter the number of the current Title XX Contract for the service(s) concerned.

Fed. I.D./SS#. Enter the contractor's Federal Identification number or Social Security account number under which claims are filed.

RE: Case Name. Enter the case name of the family member(s) affected.

Case Number. Enter the appropriate case number.

Address. Enter the family's current mailing address or in-care-of name (street address, or rural route and box number, city, state and zip code).

Telephone. Enter the family's current phone number.

Reply Attn. Enter the name of the staff member to whom the contracting service provider's reply is to be directed.

( ) CRCS ( ) CWS ( ) FSSD ( ) Other. Place an "X" in only one square to identify the worker's program affiliation.

Reason for Notice. Check the appropriate block to indicate why the form is being sent to the provider.

Type Action. Check the appropriate block to show the specific decision of action.

1. **Eligible Individuals Authorized by DHS for Contractual Services.** Enter appropriate family member information for persons determined eligible and who need the contract service. A separate line entry is needed for each service authorized per individual.

Per No. Enter the person number for each individual who is being referred/approved for services.

Name. Enter the full name of each individual.

Birthdate. Enter the date of the individual's birth.

Race/Sex. Enter initials to indicate the client's race and sex, for example, enter "W/M" for a white male; "B/F" for a black female, etc.

Type Service. Enter the specific service being authorized.

Purchase Code. Using service codes in Appendices P, P-1 and P-2, enter the appropriate code to designate the type of purchased service.

Effective Date of Authorization. Enter the specific six-digit date which is the earliest date for which payment may be claimed for this service.

Type of Units. Enter the number which shows the maximum number of authorized units of service. For child and adult day care if approving a five (5) day weekly rate enter five (5); if approving a six (6) day weekly rate enter six (6); or if approving a seven (7) day weekly rate enter seven (7).

Maximum Charge Per Type of Unit. Enter the maximum amount of charge per unit (e.g., Hourly, Daily, Weekly).

2. **Day Care Only: Client Co-payment.** Using Appendix C-4, Day Care Schedule for Adults and Children, enter the amount that parent, guardian or client is to contribute to the cost of day care per month per individual in care.

3. **INELIGIBLE Individuals NOT authorized by DHS; or.** Check this block and enter appropriate information to show denial of purchased services to individuals determined ineligible by DHS.

4. **TERMINATION OF AUTHORIZATION.** Check this block and enter appropriate information to indicate previously authorized services are being terminated by DHS. Enter the effective date of termination.

5. **Other Changes, Comments and/or Corrections for Your Records.** Enter any pertinent comments or explanation regarding any actions on the form or enter other information needed for the provider's record.

Routing of Form

Original - Mailed to the contractor
1 copy - Service case record
1 copy (if applicable) - claims clerk

[OAR Docket #05-493; filed 3-31-05]

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

[OAR Docket #05-535]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
Part 1. Scope and Applicability
340:75-1-18. through 340:75-1-18.1. [AMENDED]
340:75-1-20. [AMENDED]
340:75-1-22. [AMENDED]
Subchapter 6. Permanency Planning
Part 1. General Provisions
340:75-6-4. [AMENDED]
Part 5. Permanency Planning Services
340:75-6-31. [AMENDED]
340:75-6-31.3. [AMENDED]
Subchapter 13. Other Child Welfare Services and Medical Services for Children in ~~Substitute~~Out-of-Home Care
Part 5. Clothing Purchases ~~and Special Services~~
340:75-13-45. [AMENDED]
Subchapter 15. Adoptions
Part 14. Post Adoption Services
340:75-15-128.1. [AMENDED]
(Reference APA WF 04-16, 04-17, and 04-18)
AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; Sections 7003-5.5, 7004-3.2, 7206, and the Oklahoma Adoption Assistance Act, 10 O.S. § 7510-1.1 et seq.; the Bryar Wheeler Act, House Bill (HB) 1734; HB 2048; HB 2528; and Senate Bill (SB) 1340.
DATES:
Comment period:
December 15, 2004 through January 14, 2005
Public hearing:
None requested.
Adoption:
January 25, 2005
Submitted to Governor:
January 25, 2005
Submitted to House:
January 25, 2005
Submitted to Senate:
January 25, 2005
Gubernatorial approval:
March 9, 2005
Legislative approval:
Failure of the Legislature to disapprove the rule(s) resulted in approval on March 31, 2005.
Final adoption:
March 31, 2005
Effective:
May 12, 2005
SUPERSEDED EMERGENCY ACTIONS:
Superseded rules:
Subchapter 13. Other Child Welfare Services and Medical Services for Children in ~~Substitute~~Out-of-Home Care
Part 5. Clothing Purchases ~~and Special Services~~
340:75-13-45. [AMENDED]
(Reference APA WF 04-16)
Gubernatorial approval:
November 4, 2004
Register publication:
22 Ok Reg 239
Docket number:
04-1418
Superseded rules:
Subchapter 1. General Provisions
Part 1. Scope and Applicability
340:75-1-18. [AMENDED]
Subchapter 15. Adoptions
Part 14. Post Adoption Services
340:75-15-128.1. [AMENDED]
(Reference APA WF 04-17)
Gubernatorial approval:
November 4, 2004
Register publication:
22 Ok Reg 233
Docket number:
04-1417
Superseded rules:
Subchapter 1. General Provisions
Part 1. Scope and Applicability
340:75-1-18.1. [AMENDED]
340:75-1-20. [AMENDED]
340:75-1-22. [AMENDED]
Subchapter 6. Permanency Planning
Part 1. General Provisions
340:75-6-4. [AMENDED]
Part 5. Permanency Planning Services
340:75-6-31. [AMENDED]
340:75-6-31.3. [AMENDED]
(Reference APA WF 04-18)
Gubernatorial approval:
December 7, 2004
Register publication:
22 Ok Reg 339
Docket number:
04-1542
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The revisions to Subchapters 1, 6, 13, and 15 of Chapter 75 reflect: (1) an increase of $0.50 per day in foster care payment rates; (2) modifications to placement considerations and adoption assistance benefits for children as a result HB 1734, creating the Bryar Wheeler Act, that became effective July 1, 2004; (3) modifications to the definition of residual parental rights and responsibilities pursuant to HB 2528 that became effective July 1, 2004; and (4) modifications to supervision and permanency hearing considerations for children, as a result of SB 1340 that became effective November 1, 2004.

340:75-1-18 is amended to reflect that the court must consider the order of custody preference and the person's background, per Sections 21.1 and 7003-8.1 of Title 10 of the Oklahoma Statutes (10 O.S. § 21.1 and 7003-8.1), and that custody or visitation with a child is not granted to any person if the custody or visitation established will likely expose the child to a foreseeable risk of material harm.

340:75-1-18.1 is amended to reflect the elimination of: (1) required permanency hearings at different intervals contingent upon the child's age, thus setting time frames based on the child's date of placement in out-of-home care and when reasonable efforts are not required; and (2) the permanency meeting prior to a permanency hearing, without compromising contact with interested persons when preparing the court report.

340:75-1-20 is amended to specify that a review hearing may be held concurrently with a permanency hearing.

340:75-1-22 and 340:75-6-31 are amended to eliminate a repealed section of law referenced for permanency hearings.

340:75-6-4 is amended based on statutory changes made pursuant to HB 2528 that refines the definition of residual parental rights to specify that these rights do not include the right to consent to the marriage of a minor, per 43 O.S. § 3, as well as eliminate definitions that are currently referenced elsewhere in Oklahoma Department of Human Services (OKDHS) rules.

340:75-6-31.3 is amended based on statutory changes pursuant to SB 1340 that requires every child returned to a person named in a deprived petition be supervised for six months prior to case dismissal; however, the court may increase or decrease the duration of supervision.

340:75-13-45 is amended to: (1) move specified clothing allowances for children in paid kinship and foster family care to OKDHS Appendix C-20, Children and Family Services Division Rates Schedule, which sets forth rate payments in correspondence to the child's age; and (2) clarify one time startup and emergency authorizations for children in out-of-home care.

340:75-15-128.1 is amended to reflect requirements for the continuation of adoption assistance payments for a child upon reaching 18 years of age. The child must have a severe physical or mental disability that warrants the continuation of assistance until the child reaches age 19. The child may be considered for continued assistance after reaching age 19 and until age 21

when the child has applied for Supplemental Security Income (SSI) and the initial application for SSI is pending or has been denied and the child's needs, behaviors, or conditions meet the criteria for difficulty of care (DOC) Rate IV or V as determined by OKDHS. Adoption assistance payments terminate when SSI payments are approved and in no event continue after the child reaches age 21.

CONTACT PERSON:

Dena Thayer, Programs Manager, Policy Management Unit, DHS, 2400 N. Lincoln Blvd., Oklahoma City, OK 73105, 405-521-4326.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2005:

SUBCHAPTER 1. GENERAL PROVISIONS

PART 1. SCOPE AND APPLICABILITY

340:75-1-18. Dispositional hearing

(a) **Dispositional hearing.** After ~~making an order of adjudication for~~ a ~~deprived~~ child is adjudicated deprived, the court holds a dispositional hearing~~.~~, ~~[10 O.S. §~~ per Section 7003-5.5~~]~~ of Title 10 of the Oklahoma Statutes. The court ~~may~~ must enter a dispositional order on the same day~~, but if not, then~~ or within 40 days of adjudication, unless the court finds on the record that the child's best interests ~~of the child~~ are served by granting a delay. If the court grants a delay, the court ~~should~~ must state why the delay is necessary and the minimum amount of time needed to resolve the reasons for ~~the~~ delay. If a child is removed from the custody of the child's parent, the court or the Oklahoma Department of Human Services (OKDHS), as applicable, immediately considers concurrent permanency planning, in order that permanency occur at the earliest opportunity.

(b) **Dispositional hearing purpose.** The purpose of the dispositional hearing is to determine the service needs of the child and family and custody of the child during the deprived case. The court considers all evidence that is helpful in determining the disposition that is in the child's best interests ~~of the child~~.

(1) At the ~~dispositional~~ hearing, the recommended treatment and service plan is presented to the court. The judge makes the final decision ~~as to~~ regarding whether the proposed treatment and service plan is ~~acceptable~~ accepted and whether a court order is issued regarding compliance with any or all recommendations. The family is ultimately responsible for only those recommendations that are court-ordered, ~~by the court~~ per OAC 340:75-6-40.4.

(2) Each dispositional order includes a statement informing the child's parent(s) that the consequences of noncompliance with the court's requirements may include, as applicable, loss of custody of the child or termination of the parent's rights to the child. If reasonable efforts are required for the return of the child to the child's home, the parent of the child must be given at least three months to correct conditions that led to the adjudication of the child, prior to requesting termination of parental rights.

(3) Every disposition order is reviewed by the court at least once every six months until:

(A) ~~such time as the~~ conditions ~~which~~ that caused the child's adjudication are corrected; ~~or~~

(B) the ~~parental~~ parent(s)' rights ~~of the parent(s)~~ to the child are terminated and a final adoption is decreed~~, or~~;

(C) permanent care and custody of the child is awarded to another person or a kinship guardian~~,~~ is granted; or

(D) the court terminates jurisdiction.

(c) **Special rules regarding custody orders.** Before placing custody of a child with the parent, legal guardian, legal custodian, or other suitable person, the court must consider the order of custody preference and the person's background, per Sections 21.1 and 7003-8.1 of Title 10 of the Oklahoma Statutes.

(1) **Order of custody preference.** When a child is removed from the custodial parent and the court, in the child's best interests, is unable to release the child to the custodial parent, or, as the next priority preference, give placement to the noncustodial parent, custody is awarded, per Section 21.1 of Title 10 of the Oklahoma Statutes, to a:

(A) grandparent;

(B) person indicated by wishes of a deceased parent;

(C) relative of either parent;

(D) person in whose home the child has been living in a wholesome and stable environment; or

(E) any other person deemed by the court to be suitable. If the court determines custody of the child cannot be made according to the order of preference, the court must document the reasons in the court record.

(2) **Background considerations.** The court is prohibited from placing custody of a child with a person who is subject to the Oklahoma Sex Offenders Registration Act or with a person who is married to or living with a person who is subject to the Oklahoma Sex Offenders Registration Act.

(A) "Person" does not include a parent, legal guardian, or legal custodian of a child.

(B) Before awarding custody, the court must inquire whether the person has been previously convicted of any felony, relevant misdemeanor, or has such charges pending. A person requesting custody must respond to the court's inquiry by affidavit or sworn testimony and provide the court with an Oklahoma criminal history record.

(3) **Presumptions against placement.** Custody or visitation with a child is not granted to any person if the custody or visitation established will likely expose the child to a foreseeable risk of material harm. There is a rebuttable presumption that it is not in the child's best interests to have custody or visitation granted to a person who:

(A) is or has been subject to, or resides with anyone who is subject to the Oklahoma Sex Offenders Registration Act;

(B) was convicted of or resides with a person who was convicted of a crime of child abuse, neglect, or of a sexual nature;

(C) was convicted of or resides with a person who was convicted of domestic abuse within the past five years; or

(D) is found alcohol or drug dependent by clear and convincing evidence and expected in the near future to inflict or attempt to inflict serious bodily harm to self or others as a result of dependency.

(d) **Dispositional options.** Subject to the conditions and restrictions per OAC 340:75-1-18(c), the

~~(1)~~ ~~The~~ court makes ~~findings in~~ one or more dispositional orders, including:

(~~A~~1) ~~placement of~~ placing the child under supervision by ~~DHS~~ OKDHS in ~~his or her~~ the child's own home~~, or in the custody of a suitable person~~ with the child's custodial parent, legal guardian, or legal custodian from whom the child was removed, or placement with the noncustodial parent. ~~If a child has been removed from the custodial parent and, in the best interests of the child, the court is unable to release the child to the custodial parent, the court shall give priority for placement of the child with the noncustodial parent of the child unless such placement would not be in the child's best interests. If the court cannot place the child with the noncustodial parent, custody shall be awarded in accord with Section 21.1 of Title 10 of the Oklahoma Statutes. The court may require the parent or other person to comply with certain conditions and to give security by bond. Such an order remains in effect for a period to be specified by the court but not for more than one year. Such orders can be extended or renewed by the court.~~ The court may specify conduct to be followed by the parent and any other adult in the home. Supervision by OKDHS may not exceed one year unless extended by the court;

(~~B~~2) ~~placement of~~ placing the child with ~~his or her parent, legal guardian, or custodian~~ a suitable person, including a grandparent, relative, or other person specified in OAC 340:75-1-18(c)(1);

(~~C~~3) placement of the child in the custody of a private institution or agency;

(~~D~~4) ordering the child to receive counseling or other community-based services;

(~~E~~5) committing the child to the custody of ~~the Department~~ OKDHS;

(~~F~~6) ordering the parent, legal guardian, legal custodian, stepparent, or other adult living in the home, or other person or agency receiving custody of the child, to follow any treatment and service plan prescribed by ~~DHS~~ OKDHS~~, other person or agency receiving custody of the child~~;

~~(G) dismissing the petition and terminating its jurisdiction at any time for good cause when in the best interests of the child;~~

(~~H~~7) ordering a child's permanent care and custody transferred to another person upon the written consent of the parent(s) of the child~~; or~~, ~~[~~per OAC 340:75-1-18.2~~]~~;

(~~I~~8) ordering a child's permanent care and custody transferred to a kinship guardian~~.~~, ~~[~~per OAC 340:75-1-18.3~~]~~; and

(9) dismissing the petition and terminating its jurisdiction at any time for good cause when in the child's best interests.

~~(2) Any dispositional order entered includes a statement informing the child's parent(s) that the consequences of non-compliance with the requirements of the court may include, as applicable, loss of custody of the child or termination of the parent's rights with respect to the child.~~

(~~3~~e) **Additional court determinations.** The court makes a determination whether:

(1) reasonable efforts:

(A) ~~are being~~ have been made to reunite the child with his or her family;

(B) ~~are being made to reunite or have been made and failed and~~ are no longer feasible~~;~~ and

~~(C)~~ are being made to secure an alternate permanent placement for the child;

(~~D~~C) ~~are being made to place the child in a timely manner in accordance with the permanency plan or whether the necessary steps~~ have been taken to finalize the permanent placement of the child ~~if the continuation of reasonable efforts to return the child home are inconsistent with the permanency plan for a child~~; or

(~~E~~D) to reunite the child with the family are not required~~.~~, ~~[~~per OAC 340:75-1-18.4~~]~~.;

(~~4~~2) ~~The court makes a determination whether~~ an out-of-~~state~~ home placement continues to be appropriate and in the child's best interests ~~of the child.~~; and

(~~5~~3) ~~The court makes a determination for~~ services provided to assist any ~~child~~ youth, 16 years of age ~~and~~ or older, ~~of the services needed to assist the child to make~~ in the transition from out-of-home care to independent living are appropriate.

340:75-1-18.1. Permanency hearings

(a) **Permanency hearing.** ~~Oklahoma statutes comply with federal regulations~~ State and federal law set out certain requirements for permanency hearings. ~~The responsibility for conducting~~ As with most other hearings, the judge conducts the ~~permanency~~ hearing ~~resides with the court~~ and makes certain determinations, per Section 7003-5.6d of Title 10 of the Oklahoma Statutes. ~~The~~ Oklahoma Department of Human Services (OKDHS) Child Welfare (CW) workers are responsible for providing the court with the necessary information to conduct the hearing. Permanency hearings are held for every case regarding a child alleged or adjudicated deprived no later than:

(1) six months from the date of the child's placement in out-of-home care ~~for a child who, on the date of initial removal from the physical custody of the parent(s), was~~

~~younger than three years,~~ and ~~at least~~ every ~~12~~ six months thereafter; and

~~(2) 12 months from the date of the child's placement in out-of-home care for a child who, on the date of initial removal from the physical custody of the parent(s), was three years or older, and at least every 12 months thereafter; or~~

(~~3~~2) 30 days after a determination that reasonable efforts are not required and ~~at least~~ every ~~12~~ six months thereafter.

(b) **Permanency ~~meeting~~ report.**

(1) ~~At least three weeks prior~~ Prior to a permanency hearing, the CW worker ~~arranges for a meeting to prepare~~ prepares a report regarding the child for the court's review~~. This does not apply to 30-day permanency hearings scheduled when the court makes a finding that reasonable efforts are not required.~~ by contacting:

(A) the child's current foster parent;

(B) the parent(s) or parent(s)' attorney;

(C) a post adjudication review board (PARB) member;

(D) the child's guardian ad litem, if applicable; and

(E) the child's attorney.

(2) Information gathered from these persons is used by the CW worker to assist in the preparation of Form CWS-KIDS-11, Court Report, or CWS-KIDS-25, Individualized Service Plan (ISP) Progress Report, as applicable. The applicable court report includes, at a minimum, the:

(A) efforts and progress demonstrated by the child's parent(s) to complete an individual treatment and service plan;

(B) extent to which the parent(s) or legal guardian cooperated and used the services provided;

(C) status of the child, including the child's mental, physical, and emotional health; and

(D) permanency plan for the child.

(c) **Notification of hearing and opportunity to be heard.** Prior written notice of the hearing, Form DCFS-83, Hearing Notification, is provided by OKDHS to the ~~present~~ current foster parent of the child, any pre-adoptive parent or relative ~~caring~~ providing care for the child, and the child's guardian ad litem. An opportunity to be heard is provided by the court. Such notice and opportunity to be heard is not construed as requiring any foster parent, pre-adoptive parent, or relative ~~to~~ be made a party to such action.

340:75-1-20. Six-month judicial review

(a) **Review requirements.** ~~There must be a review of every case regarding an alleged or adjudicated deprived child.~~ Section 7003-5.6 of Title 10 of the Oklahoma Statutes requires that ~~a~~ the court review ~~hearing be held~~ every case regarding a child alleged or adjudicated deprived no later than six months after the date of the child's out-of-home placement and at least once every six months thereafter until ~~such time as~~ the child is returned to the custody of the parent(s), legal ~~guardian(s)~~ guardian, or ~~custodian(s)~~ legal custodian and the conditions ~~which~~ that caused the child to be adjudicated deprived have been corrected, permanent care and custody has been awarded to a suitable ~~custodian(s)~~ custodian or kinship ~~guardian(s)~~ guardian, or the parent(s)' rights have been terminated and final adoption decreed.

(1) A child is considered to have entered out-of-home placement the earlier of:

(A) the date of adjudication; or

(B) 60 days after the child's removal from the home.

(2) ~~This~~ The six-month judicial review requirement applies to a child who was removed from and returned to the home of the ~~lawful~~ parent(s), legal ~~guardian(s)~~ guardian, or ~~custodian(s) of the child after the child has been returned to that home~~ legal custodian until ~~such time as~~ the court orders the case ~~closed~~ dismissed.

(3) A review hearing may be held concurrently with a permanency hearing.

(~~1~~b) **Judicial review report.** The ~~report is prepared by the~~ legal ~~custodian(s)~~ custodian of the child prepares the report for the court. ~~When the~~ Oklahoma Department of Human Services ~~(DHS) has~~ (OKDHS) prepares the report when OKDHS has court-ordered supervision of the child~~, DHS is responsible for preparing the report~~.

(1) The report includes:

(A) a summary of the parent(s)' current situation~~,~~;

(B) the child's physical, mental, and emotional condition ~~of the child,~~;

(C) the conditions existing in the child's home or ~~institution where the child has been placed,~~ out-of-home placement and the child's adjustment~~,~~;

(D) ~~a report on~~ the child's progress in school~~, and~~;

(E) visitation exercised by the child's parent(s) or other persons authorized by the court~~.~~;

(F) ~~For youth 16 years or older the~~ if applicable, independent living services ~~that have been~~ provided to a youth, 16 years of age or older, since the last court hearing ~~or court review must be addressed.~~; and

(G) ~~When DHS~~ when OKDHS is the legal custodian of the child, ~~the report includes~~ any efforts ~~on the part of~~ by the parent(s) to correct the conditions ~~which~~ that caused the child to be adjudicated deprived.

(2) The court's determination, in part, is based upon the report~~; therefore, it~~ that must specifically address, recommend, and provide reasons, whether:

(A) the child should be returned to the child's parent(s) or placed with willing and suitable kinship relations~~;~~. Before a return to the child's parent(s) is ordered, the court must find the parties have:

(i) complied with, performed, and completed the terms and conditions of the court-ordered individual treatment and service plan that are essential and fundamental to the child's health, safety, or welfare as determined by the court;

(ii) corrected conditions that caused the child to be adjudicated and that the court determines essential and fundamental to the child's health, safety, or welfare;

(iii) made marked progress towards reunification with the child; and

(iv) maintained a close and positive relationship with the child;

(B) the child should continue in out-of-home placement for a specified period. The court projects a likely date by which the child may be returned to and safely maintained in the home, placed with a suitable ~~guardian(s)~~ guardian or ~~custodian(s)~~ custodian, ~~or~~ placed for adoption, or other permanent arrangement;

(C) the rights of the child's parent(s) ~~of the child~~ should be terminated and the child placed for adoption, placed with a ~~guardian(s)~~ guardian or ~~custodian(s)~~ custodian, or provided with another permanent arrangement;

(D) the child, because of exceptional circumstances, should remain in long-term out-of-home placement as a permanent plan or with a goal of independent living;

(E) reasonable efforts have been made to provide for the child's safe return ~~of the child~~ to the ~~child's~~ home;

(F) reasonable efforts are being made to place the child in a timely manner in accordance with the permanency plan and ~~to~~ complete the steps necessary to finalize permanent placement for the child, ~~if~~ when the court determines ~~or has previously determined~~ that reasonable efforts are not required or that ~~the~~ continuation of reasonable efforts to reunite the child with the child's family is inconsistent with the permanency plan;

(G) ~~where appropriate,~~ when applicable, the ~~child is~~ youth, 16 years of age or older, receives appropriate services ~~are being provided~~ that ~~will~~ assist ~~the child~~ in making the transition from out-of-home care to independent living;

(H) the nature and extent of the services ~~being~~ provided to the child and parent(s) ensure the safety of the child and protection from further physical, mental, or emotional harm, and, if necessary, order additional services ~~be provided~~ to correct the conditions that led to the child's adjudication; and

(I) to modify the existing individual treatment and service plan as the court determines it is in the child's best interests ~~of the child~~ and necessary for the correction of the conditions that led to the child's adjudication ~~of the child~~.

(~~2~~c) **Review hearing.** At the review hearing the Child Welfare (CW) worker provides information similar to that offered at the ~~initial~~ dispositional hearing, with special emphasis on the progress ~~or lack of progress~~ on the court-ordered treatment and service plan. The court ~~receives~~ reviews all evidence ~~helpful in determining the issues before the court,~~ that assists in decision-making including, but not limited to, oral and written reports~~, which may be admitted and relied upon to the extent of their probative value, even though not competent for purposes of an adjudicatory hearing~~ presented by CW and others involved in the case.

(~~3~~d) **Notice of hearing.** ~~Written~~ OKDHS provides written notice of review hearings via Form DCFS-83, Hearing Notification, to the ~~pre-adoptive~~ preadoptive parent(s), ~~relative(s)~~ relative, and current foster ~~parent(s) is the responsibility of DHS~~ parent. The court provides the opportunity to be heard ~~is provided by the court~~ to ~~each party, including~~ the current foster ~~parent(s)~~ parent of the child, any ~~pre-adoptive~~ preadoptive ~~parent(s)~~ parent or ~~relative(s)~~ relative providing ~~for the~~ care ~~of~~ for the child, and the child's guardian ad litem. Such notice and opportunity to be heard is not ~~to be~~ construed as requiring any foster parent, pre-adoptive parent, or relative ~~to~~ be made a party to such deprived proceedings~~, if not currently a party to the action~~.

340:75-1-22. Administrative review and procedures

(a) **Administrative review.** Title IV of the Social Security Act requires that a case review, either judicial or administrative, occur at least each six months following the date of placement for each child in out-of-home care. An administrative review may not substitute for the statutorily required hearings. An administrative review is held when a case involving a child placed in out-of-home care, or a youth age 18 to 21 in voluntary placement with ~~the~~ Oklahoma Department of Human Services (OKDHS) is not reviewed after a six-month interval by the court of jurisdiction or the post adjudication review board (PARB). Child Welfare staff is responsible for providing an administrative review in these situations. The parent(s) and child, if of appropriate age or ability, are given the opportunity to participate in the review.

(b) **Case review system.** Section 475(6) of the Social Security Act defines the administrative review as ... *a review open to the participation of the parents of the child, conducted by a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review.* The case review system ensures:

(1) each child adjudicated deprived in OKDHS custody living in out-of-home placement has a case plan designed to achieve placement in a safe setting that is least restrictive, in close proximity to the parent(s)' home, and is consistent with the child's best interests and special needs ~~of the child~~;

(2) the child's status is reviewed at least each six months by either a court or administrative review to determine:

(A) the safety of the child;

(B) the continuing need for and appropriateness of the placement;

(C) the extent of progress made on the case plan toward alleviating the conditions that caused the child's placement ~~of the child~~ in out-of-home care; and

(D) a likely date that the child can be returned home or will obtain permanency through adoption, guardianship, or other placement, as applicable; and

(3) procedural safeguards, such as a permanency hearing, are made available to the child and family, as required by ~~Sections~~ Section 7003-5.6d ~~and 7003-5.6g~~ of Title 10 of the Oklahoma Statutes, per OAC 340:75-1-18.1.

SUBCHAPTER 6. PERMANENCY PLANNING

PART 1. GENERAL PROVISIONS

340:75-6-4. Definitions

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

"Alternate permanent plan" means a permanent ~~home~~ living arrangement for a ~~custody~~ child in Oklahoma Department of Human Services (OKDHS) custody, other than reunification with the ~~parents~~ parent(s), and requires an assessment of the child's needs and a treatment and service plan that addresses the child's permanent plan~~.~~, ~~[~~per OAC 340:75-6-31~~]~~.

"Case plan" means the overall plan for the placement of the child and ~~the~~ treatment ~~for~~ needs of the child and the child's family~~.~~, ~~[~~per OAC 340:75-6-40~~]~~.

"Child Advocacy Center" means an entity that is an associate or full member in good standing of the National Children's Alliance.

~~**"Client resolution process"** means a procedure which allows parents to be heard regarding provision of specified services. [OAC 340:75-1-12.1]~~

"Close proximity" means placement of a ~~custody~~ child in OKDHS custody in the nearest geographical location to the child's own home ~~which~~ that will meet the child's needs.

"Concurrent planning" means the provision of reunification services while simultaneously developing an alternative plan, in case reunification efforts fail or are no longer feasible.

~~**"Foster family home"** means the private residence of a family which provides foster care services to a child. This term includes non-kinship family homes, specialized foster homes, therapeutic foster homes, the home of a relative or other kinship care homes.~~

"Independent Living ~~Program~~ program" means a program specifically designed to assist a ~~DHS custody~~ child in the custody of OKDHS or an Indian tribe in developing and enhancing the skills and abilities necessary for successful adult living~~.~~, ~~Refer to Independent Living rules in~~ per Part 13 of OAC 340:75-6~~, Part 13~~.

~~**"Indian child"** means an unmarried person who is under 18 years of age and either a member of or eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe. Information regarding the status of a child believed to be an Indian child is obtained from the child's tribe.~~

"Kinship care" means full-time care of a child by a kinship relation.

"Kinship guardian" means a judicially created relationship between a child and a kinship relation of the child.

"Kinship relation" ~~or "kinship relationship"~~ means relatives, stepparents, or other adults who have a bond or tie with the child and to whom have been ascribed a family relationship role with the child's ~~parents~~ parent(s) and the child.

"Least restrictive" means the placement of a ~~custody~~ child in OKDHS custody in the most home-like situation that meets the child's needs~~.~~, ~~[~~ per OAC 340:75-6-85~~(j)]~~.

"Movement" means ~~the~~ changing ~~of~~ a ~~custody~~ child in OKDHS custody from one living arrangement to another.

"Multidisciplinary team" means any team of three or more persons involved in the provision of services, ~~or~~ treatment, or both, to a child and the child's family and who meet to assess the progress on the treatment ~~planning~~ and service plan.

"Out-of-home placement" means a living arrangement for a child ~~that is~~ other than the home of the child's ~~parent~~ parent(s), legal guardian, or legal custodian from whose custody the court has removed the child.

~~**"Parental substitute authority"** means the ability of a foster parent to integrate the foster child into the family setting and to care for the foster child as the foster parent would the foster parent's own child.~~

"Putative father" means the father of a ~~minor~~ child born out of wedlock or a ~~minor~~ child whose mother was married to another person at the time of the child's birth ~~of the minor~~, or within the ten months prior to the birth of the ~~minor~~ child and includes, but is not limited to~~.~~:

(A) a man who has acknowledged or claims paternity of a ~~minor,~~ child;

(B) a man named by the child's mother ~~of the minor to be~~ as the father of the ~~minor,~~ child; or

(C) any man who is alleged to have engaged in sexual intercourse with a woman during a possible time of conception. ~~[OAC 340:75-15-7]~~

"Reasonable efforts" means the reasonable exercise of diligence and care, with regard to a child who is in out-of-home placement or who is at imminent risk of ~~being harmed~~ harm, to:

(A) refer to, arrange for, or develop reasonable supportive and rehabilitative services for the child's family ~~of such child~~ that are required both to prevent unnecessary placement of the child outside of the ~~child's~~ home and to foster, whenever appropriate, the safe reunification of the child with the child's own family; or

(B) place a child who cannot ~~be returned~~ return home into a permanent placement.

"Residual parental rights" means those rights and responsibilities that remain with a parent after a transfer of legal custody of the child to another, other than in connection with an action for termination of parental rights, a relinquishment of parental rights, a consent to termination of parental rights, or an adoption~~.~~. ~~or when a guardianship or kinship guardianship is established, for example:~~ Residual parental rights:

(A) include, but are not limited to, the:

(i) right of visitation with the child;

(ii) ~~the~~ right to determine the child's religious faith ~~of the child~~;

(iii) right to consent to the child's adoption;

(iv) ~~the~~ duty to support the child and pay for the child's medical care;

(v) right to consent to termination of parental rights; and

(vi) ~~the~~ right to permanently relinquish parental rights~~.~~; and

(B) do not include the right to consent to the marriage of any child who is in OKDHS custody.

"Reunification" means a permanent plan for the child that involves the return of the child to ~~his or her own home~~ any person who retains parental or legal rights to the child after removal for ~~reasons of~~ child abuse, ~~and~~ neglect~~.~~, or both, regardless of the custody arrangement prior to the child entering out-of-home care, ~~[~~per OAC 340:75-6-31~~]~~.

"Risk" means the conditions in the child's home that put the child in danger of abuse, ~~or~~ neglect, or both.

PART 5. PERMANENCY PLANNING SERVICES

340:75-6-31. Permanency planning for custody children

(a) **Permanency planning.** Permanency planning begins immediately after a child is placed in ~~the~~ Oklahoma Department of Human Services (OKDHS) custody and continues until the child is living in a permanent home and the Child Welfare (CW) case is closed. Once a child is removed from the custody of the child's parent(s), OKDHS immediately begins concurrent permanency planning so that permanency occurs at the earliest opportunity. ~~Consideration~~ Careful planning and consideration of the initial placement is given so that if reunification fails or is delayed, the placement made is the best available placement to provide permanency for the child. The first permanency hearing is held as required by ~~Sections~~ Section 7003-5.6d ~~and 7003-5.6g~~ of Title 10 of the Oklahoma Statutes, and in accordance with OAC 340:75-1-18.1.

(1) The permanency plan ~~goal~~ preferences are to:

(A) reunite the child with ~~his or her~~ the child's family;

(B) terminate parental rights and place the child for adoption;

(C) establish guardianship; or

(D) provide a planned alternative permanent placement.

(2) The purpose of permanency planning is to ensure that every child who enters the CW system has a plan that addresses the child's immediate and long-term needs for safety, well-being, and permanence.

(3) CW staff are required to be diligent in the development and implementation of a permanency plan. The CW worker informs the parent(s) of all of the alternatives from the outset to assist in choosing what is best for the child and parent(s).

(b) **Sources for determining the child's permanent plan.** Sources that assist the CW worker and supervisor in determining the best permanency plan for the child are:

(1) Form CWS-KIDS-10, Treatment Plan, or Form CWS-KIDS-~~24~~25, Individualized Service Plan (ISP) Progress Report, containing current documentation of the parent(s)' progress, correspondence, consultations, or conferences with service and placement providers and professionals who interact with the child and ~~the~~ parent(s);

(2) ~~the~~ KIDS Contacts and Visits screens, containing pertinent information gained from visits and CW worker contacts with the child, parent(s), placement provider, and service providers;

(3) statements by the parent(s) that indicate the parent(s)' perceptions of:

(A) the child~~,~~;

(B) parenting the child~~,~~; and

(C) ~~the~~ abuse and neglect issues that required corrections;

(4) statements by the child, obtained from the CW worker's monthly visitation with the child, placement provider, and service providers, regarding the parent(s)' and ~~the~~ child's desire to reunite~~, that are obtained from the CW worker's monthly visitation with the child, placement provider, and service providers~~;

(5) staffing with the CW supervisor;

(6) recommendations by the post adjudication review board (PARB);

(7) conclusions or recommendations by a multidisciplinary staffing;

(8) consultation with ~~the~~ Children and Family Services Division (CFSD)~~,~~ Adoption Section;

(9) the permanency planning review process, per OAC 340:75-6-31.1; and

(10) coordination with tribal officials, for a child who falls under the Indian Child Welfare Act, to explore the tribe's interest and ability in providing for the child's permanent placement.

(c) **Reunification.** In most situations, the initial permanency plan ~~case goal~~ is to reunite the child with the family. These services are implemented until:

(1) the child is returned home, the family home has stabilized, and the court case is dismissed; or

(2) it is determined that the conditions that necessitated intervention have not been corrected even though sufficient time and services have been provided.

(d) **Exceptions to reunification as the initial ~~case~~ permanency plan ~~goal~~.** Situations that require an alternative permanent plan to reunification as the initial ~~case~~ permanency plan ~~goal~~ include:

(1) voluntary relinquishment of parental rights by all parents, natural, legal, putative, and alleged;

(2) a Petition for Termination of parental rights is filed ~~on the parent(s), legal guardian, or custodian~~; or

(3) the court finds that reasonable efforts to reunite are not required, per OAC 340:75-1-18.4.

(e) **Reunification services.** Prior to reunification with a parent(s) who has contributed to the abuse, ~~or~~ neglect, or both, of the child, a court order granting approval is required. In preparation for reunification and to provide to the court for consideration, the CW worker ensures the activities in (1) through (7) occur.

(1) Visitation is increased in frequency and duration with reduced supervision as described in OAC 340:75-6-30.

(2) The age appropriate child is made aware that the parent(s) has progressed in treatment to the point that reunification may occur, with the court's approval.

(3) Any issues involving the child's apprehensions, indecisiveness, or reluctance to return home are managed through family consultation, counseling, or both.

(4) Support services are utilized, including, but not limited to~~,~~:

(A) temporary child care~~,~~;

(B) ~~assistance in contacting~~ community service providers~~,~~;

(C) in-home services~~,~~; ~~or~~ and

(D) continued Temporary Assistance for Needy Families (TANF) eligibility, if applicable, per OAC 340:75-6-31.2.

(5) The placement provider is informed of the possibility of reunification and is included in and provided with information regarding the child for permanency planning.

(6) ~~Service providers present supporting~~ Supporting information about the degree of safety in the family is provided to the CW worker by service providers.

(7) The case is staffed with the CW supervisor and the requirements for the permanency planning review process are met, per OAC 340:75-6-31.1.

(f) **Criteria for reunification.** Indications for reunification are listed in (1) through (6).

(1) The risk that necessitated the intervention is minimized and a plan is in place to address the child's safety.

(2) The parent(s) has complied with the treatment and service plan in such a manner that those ~~adjudication~~ conditions the court determines essential and fundamental to the child's health, safety, and welfare are met.

(3) Visitation is successful and has increased in length and frequency.

(4) The child has dealt with the feelings about the separation through counseling or some other effective means.

(5) The child is prepared for the reunion and received support in handling his or her feelings about returning home and separating from the current placement.

(6) The court gives prior approval of the return of the child to the parent(s)' home in accordance with OAC 340:75-6-31(e).

(g) **Reunification with the custodial parent.** When the child's parents do not live together, the priority for reunification relates primarily to the custodial parent; however, the noncustodial parent is assessed for the possibility of placement or custody, if appropriate, per OAC 340:75-1-13. Prior to ~~closure~~ dismissal of the court case, modification of ~~the~~ a divorce decree or ~~any~~ other custody order may be necessary if the noncustodial parent ~~who had custody prior to CW involvement~~ is ~~no longer the custodial~~ granted placement or custody of the child during the deprived case and the plan is for custody with the noncustodial parent after dismissal.

(h) **Indicators to proceed with concurrent permanency plan.** The conditions in (1) through (8) may be indicators of the need to expedite the concurrent permanency plan for the child.

(1) Completion of the treatment and service plan is irregular or sporadic, and has not eliminated the risk to the child's safety in the home, which may indicate a lack of interest in or commitment to reunification.

(2) Family visitation indicates the parent(s):

(A) lacks a close and positive relationship with the child;

(B) visits irregularly;

(C) frequently misses scheduled visits; or

(D) arrives late and leaves early.

(3) Indications of maltreatment are reported during unsupervised visitations. Examples of maltreatment include, but are not limited to, referrals regarding the reoccurrence of abuse or failure of the parent(s) to comply with any recommended treatment for the child.

(4) The child was returned to the home and removed again for safety reasons.

(5) The parent(s) receives negative reports from service providers or other entities, such as permanency planning review members, PARB members, and ~~the~~ court-appointed special advocate (CASA).

(6) The length of time reunification has been the case plan goal, per OAC 340:75-6-47(c)(18).

(7) The finding of the permanency hearing.

(8) A judicial finding that reasonable efforts to reunite are not required.

(i) **Adoption.** When a child cannot return safely to his or her own home, adoption is the preferred permanency plan in ~~essentially every case~~ most cases. Adoption is usually possible regardless of the child's age or special needs. Adoption provides a child with a lifelong, committed family, a permanent home, connection, belonging, and identity, and the same legal status ~~he or she would have~~ as with a biological family. Consultation about adoptive placement for the child is initiated with the ~~county's~~ adoption specialist to discuss permanency planning options when reunification appears no longer feasible. This consultation is held regardless whether termination of parental rights was recommended to the court.

(j) **Legal guardianship or permanent custodian.** A guardianship or permanent care and custody transferred to another person or kinship guardian may be the permanency plan for a child, per OAC 340:75-1-18.2 and 340:75-1-18.3, when a child is placed with a person who is reluctant to adopt due to extenuating circumstances. Guardianship or a permanent custodian is not preferred over adoption because this option does not provide the same level of family permanency. Subject to the availability of funds, financial assistance is available to the legal guardian or legal custodian, provided the eligibility requirements are met, per OAC 340:75-6-31.4.

(k) **Planned alternative permanent placement.** A plan for planned alternative permanent placement may be appropriate for a child when OKDHS documents a compelling reason for the court to determine that to return home, be placed for adoption, or guardianship is not in the child's best interests ~~of the child~~. Long-term out-of-home care does not always provide a child with the emotional and physical support or life-long family attachments and is only an option when:

(1) all other permanency plans have been explored and are not feasible or in the child's best interests; or

(2) the child chooses not to be adopted after adoption has been thoroughly explored, explained, and the opportunities demonstrated.

(l) **Emancipation.** The federal definition of emancipation is the age at which the child reaches ~~the age of~~ majority. In Oklahoma this age is 18.

340:75-6-31.3. Court supervision of cases after reunification - Aftercare

To further protect children, Section 7003-5.5~~(a)~~ of Title 10 of the Oklahoma Statutes provides ~~that once any~~ *... every child* ~~of a family~~ *who has been returned to a person named in a* ~~*deprived*~~ *petition*~~, supervision~~ *shall be supervised for a period of six months prior to dismissal of the case, provided, the court* ~~continues for a minimum of 12 months, subject to the availability of funds~~ *may increase or decrease the duration of such supervision as the best interests of the child may require*. Oklahoma Department of Human Services (OKDHS) supervises for six months, and, if conditions in the home appear stable, the CW worker recommends OKDHS be relieved of legal custody, supervision, or both.

SUBCHAPTER 13. OTHER CHILD WELFARE SERVICES AND MEDICAL SERVICES FOR CHILDREN IN ~~SUBSTITUTE~~ OUT-OF-HOME CARE

PART 5. CLOTHING PURCHASES ~~AND SPECIAL SERVICES~~

340:75-13-45. Clothing purchases for children ~~in DHS voluntary or legal custody~~

(a) **Clothing accompanies child.** ~~It is the obligation of each~~ The Child Welfare (CW) ~~staff member to join with the out-of-home care provider to ensure that children for whom they are responsible are adequately clothed to meet their individual needs. Upon initial removal of a child from home, it is the CW staff's obligation to obtain~~ worker obtains the child's clothing, and any other items that have personal meaning to the child, from the ~~parents~~ parent(s) at the time of initial placement in out-of-home care. Clothing purchased for ~~a child,~~ or accompanying ~~a~~ the child~~,~~ belongs to that child. ~~and it is the worker's and foster parent's responsibility to~~ The CW worker and placement provider ensure ~~that~~ the clothing ~~accompany that~~ accompanies the child if ~~he or she~~ the child moves from one placement to another ~~if the item is still of use to that child. Clothing needs for a custody child placed in his or her own home are met by the parent~~.

(b) **Clothing purchase authorization amounts.** The amounts designated as clothing authorizations are set out in Oklahoma Department of Human Services (OKDHS) Appendix C-20, Children and Family Services Division Rates Schedule, as amended from time to time, as approved by the Oklahoma Commission for Human Services.

(1) **One time ~~special clothing authorizations or start up funds~~ startup authorization.** ~~One time special clothing authorizations or start up funds may be made when a child newly committed to DHS custody is initially placed into an eligible placement for the first time during a custody episode. Eligible placements are DHS regular and contract~~

(A) A one time startup authorization is issued for a child at initial placement into:

(i) foster family care~~,~~;

(ii) paid and non-paid ~~kin-placement,~~ kinship care;

(iii) therapeutic foster care (TFC); and

(iv) emergency foster care (EFC)~~. Children in emergency foster care may receive start up funds~~ after ~~they have~~ the child has been in care ~~for~~ 30 days.

(B) Another one time startup authorization may be issued when OKDHS subsequently obtains custody of the child and the child reenters any of the placements listed in OAC 340:75-13-45(1)(A). ~~Children in out-of-state foster care through Interstate Compact on the Placement of Children (ICPC) are handled in a different manner. The authorizations are provided by designated staff in each county through the automated authorization system. The authorization is provided to the foster parent who purchases the clothing through a vendor of his or her choice who is willing to accept DHS authorizations. The vendor accepting the clothing authorization processes it back to DHS for payment. The foster parent makes appropriate purchases in keeping with the needs of the child considering age, lifestyle, and personal preferences. An emergency clothing authorization may not be issued within 90 days of the issuance of a one time special clothing authorization. The amounts designated as the one time special clothing purchase authorizations are:~~

~~(A) age 0 - 5, authorized purchase amount of $100;~~

~~(B) age 6 - 12, authorized purchase amount of $150; and~~

~~(C) age 13 and over, authorized purchase amount of $200.~~

~~(2)~~ ~~**Clothing for children in DHS regular foster care, specialized community homes, paid and non-paid kinship care, therapeutic community homes and contract foster family care placements.**~~ ~~After the initial special clothing purchase authorization, the cost of clothing for children in a DHS regular, contracted foster family home, paid and non paid kinship care, therapeutic community homes and specialized community home care is met as per (A) - (B) of this paragraph.~~

~~(A) DHS regular foster care, paid kinship, specialized community homes, therapeutic community homes and contract foster parents are obligated to dedicate a portion of their monthly reimbursement check for clothing in the amounts of:~~

~~(i) age 0 - 5, $17 per month for clothing;~~

~~(ii) age 6 - 12, $31 per month for clothing; and~~

~~(iii) age 13 and over, $47 per month for clothing.~~

~~(B) In addition to dedicating a portion of their monthly reimbursement check for clothing, DHS foster parents, contract foster homes, specialized community home parents, paid and non-paid kinship providers and therapeutic community homes, not therapeutic foster homes, receive an automated clothing authorization voucher to help purchase clothing~~

~~for the specific child identified on the authorization. The authorization is issued on a quarterly basis in February, May, August and November to be used to purchase clothing during that quarter. The authorization is automatically issued by the finance system based on the placement of the specific child on the last day of the previous quarter. If an authorization is sent to a foster home that no longer serves as the placement for the child, it is the foster parent's responsibility to return the authorization to the child's CW worker who requests a new voucher be issued to the new caretaker. The authorization is issued in the foster parent's name and the child's name and cannot be used by anyone else. The vendor accepting the authorization processes it back to DHS for payment. The vouchers are issued in the amounts of:~~

~~(i) age 0 - 5, $ 60 per quarter for clothing;~~

~~(ii) age 6 - 12, $ 75 per quarter for clothing; and~~

~~(iii) age 13 and over, $ 100 per quarter for clothing.~~

~~(3) **Children in ICPC placement.** Clothing is provided for children out of state in ICPC placement as per Instructions to Staff 3.~~

~~(4) **Clothing for children in emergency foster care, Developmental Disabilities Services Division (DDSD) foster care homes, therapeutic foster care, residential child care facilities and non-DHS group homes.** The daily reimbursement rates in emergency foster care, therapeutic foster care, residential child care facilities, and non-DHS group homes include the cost for providing clothing for the DHS custody child while he or she resides in that contract facility. Clothing for deprived custody children who are dually certified and placed in DDSD foster homes is obtained by the foster parent utilizing the child's SSI benefits. If a child is placed directly from inpatient psychiatric care into a DDSD home prior to the availability of SSI benefits, an emergency clothing order may be issued. As per (1) and (4) of this Section, children in some of these settings may be eligible for one time special start-up and emergency clothing authorizations. Clothing for children in all other out-of-home placements or situations is provided through emergency clothing authorizations as outlined in (5) of this Section.~~

(~~5~~2) **Emergency clothing authorizations.** ~~Emergency clothing authorizations in the amount of $75 may be provided by authorized~~ Authorized staff in each county may provide emergency clothing authorizations not more than four times in any twelve-month period ~~for any one DHS custody child under certain circumstances as described in (A) - (N) of this paragraph~~. An emergency clothing authorization may not be issued within 90 days of the issuance of a one time ~~special clothing~~ startup authorization or a previous emergency clothing authorization. ~~An emergency purchase order may not be issued within 90 days of the issuance of a previous emergency clothing authorization. Expenditures of emergency clothing authorizations are closely monitored in each area.~~

(A) The child's CW worker requests an emergency clothing authorization four times a year for a child placed in a:

(i) non-paid kinship home;

(ii) non-funded group home;

(iii) Developmental Disabilities Services Division (DDSD) and CW grand-staffed placement, such as therapeutic community home, home with daily living supports, and agency companion home; or

(iv) psychiatric facility, such as acute or residential treatment center (RTC), in-state or out-of-state.

(B) ~~The circumstances under which emergency~~ Emergency authorizations may be provided ~~to children in out-of-home settings are~~ for a child:

(~~A~~i) ~~upon initial placement of a child~~ initially placed into voluntary foster care, excluding voluntary care after the age of 18~~. Thereafter clothing needs are met as described in (2) of this Section. If the voluntarily placed child is subsequently placed into DHS legal custody and regular foster home placement is made or continued following initial shelter or emergency foster care placement, the one time special purchase authorization is provided to meet clothing needs~~;

(~~B~~ii) ~~for a child~~ residing in youth services shelters without adequate clothing;

(~~C~~iii) ~~for a child~~ residing in ~~DHS~~ OKDHS operated shelters in need of special sizes or articles of clothing not available in bulk purchase stock;

~~(D) for a child in residential psychiatric care without adequate clothing;~~

~~(E) for a child newly committed to DHS custody without sufficient clothing whose initial placement is in a private setting as described in (4) of this Section;~~

(~~F~~iv) ~~to replace~~ who lost clothing ~~lost due to unauthorized leave, Absent Without Leave~~ as a result of being absent without leave (AWOL)~~,~~ or ~~disasters~~ a disaster, such as fire, flood, and similar natural disasters~~, while in out-of-home care~~;

(~~G~~v) ~~upon placement of a child~~ placed into a new foster home who has been in continuous custody without sufficient clothing provided by the previous ~~caretaker~~ placement provider;

(~~H~~vi) ~~for a child~~ leaving out-of-home care for independent living status;

~~(I) for a child in out-of-home care who is beginning employment and requires uniforms, footwear, and equipment such as safety goggles, steel toed boots, safety helmets and similar items;~~

(~~J~~vii) ~~for a child returned~~ returning from placement through Interstate Compact on the Placement of Children (ICPC), ~~into out-of-home care~~ without sufficient clothing, into out-of-home placement;

(~~K~~viii) ~~for a child being~~ placed for adoption without sufficient clothing. This does not include

a child who is in a foster home where the foster parent is adopting the child;

~~(L) for babies in contract maternity home care;~~

(~~M~~ix) ~~for a child~~ who, due to special size or hard-to-fit clothing needs, requires additional clothing purchases; ~~and~~

(~~N~~x) ~~for custody children and their children~~ residing in ~~DHS~~ an OKDHS operated group ~~homes~~ home, and, if applicable, her child; and

(xi) placed directly from inpatient psychiatric care into a DDSD home prior to the availability of Supplemental Security Income (SSI) benefits.

(3) **Clothing authorization process.** The designated staff at the local OKDHS office processes clothing authorizations through the AS400 Finance Division system. The authorization is provided to the placement provider who purchases the clothing through a vendor who accepts OKDHS authorizations. The vendor submits the authorization to OKDHS for payment.

(4) **Clothing.**

(A) The foster parent is responsible for providing adequate clothing for the child based on the child's needs, such as a minimum of a week's worth of clothing that is appropriate for the season and well-fitting. The foster parent maintains an inventory of clothing utilizing Form DCFS-118, Clothing Inventory. After the one time startup authorization, the clothing allowance is included in the monthly foster care reimbursement for a child who is in OKDHS custody and placed in a:

(i) foster family home;

(ii) paid kinship home; or

(iii) specialized community home.

(B) Clothing is made available to a child while placed in EFC per the OKDHS contract and the clothing remains with the EFC agency.

(C) The clothing allowance is included in the daily reimbursement rates per the OKDHS contract for:

(i) TFC; and

(ii) funded OKDHS group homes and maternity homes.

(D) Clothing is purchased with SSI or Social Security Administration (SSA) benefits for a child who is in OKDHS custody and placed in a DDSD foster home or non-paid kinship home.

(5) **ICPC placements.** The clothing allowances for a child in OKDHS custody placed in foster care out-of-state through ICPC are:

(A) included in the receiving state's monthly reimbursement; or

(B) reimbursed by OKDHS when not included in the receiving state's monthly reimbursement. The foster parent may spend the equivalent of the monthly allowance, per OKDHS Appendix C-20. The foster parent obtains store receipts with the store's name and address that clearly identifies the items purchased. The foster parent sends the receipts to Children and Family Services Division Administrative Services Unit, P.O. Box 25352, Oklahoma City, OK 73125. Finance Division issues a warrant to the foster parent.

(6) **~~Items that may be purchased with a~~ Allowable clothing ~~authorization or voucher~~ purchases.** ~~The appropriate items to purchase with clothing authorizations or vouchers are:~~ Allowable purchases must meet the child's needs and include:

(A) clothing;

(B) shoes; and

(C) disposable diapers~~; and~~

~~(D) work equipment and uniforms~~.

(7) **~~Items that may not be purchased with a~~ Disallowable clothing ~~authorization or voucher~~ purchases.** The items not appropriate to purchase with clothing authorizations ~~or vouchers~~ are any non-clothing item, such as:

(A) hair accessories;

~~(B) any non-clothing item;~~

(~~C~~B) jewelry;

(~~D~~C) cosmetics or personal grooming supplies;

(~~E~~D) athletic equipment;

(~~F~~E) any food item;

(~~G~~F) haircuts;

(~~H~~G) toys;

(~~I~~H) school supplies; and

(~~J~~I) non-prescription medication or supplies~~; and~~.

~~(K) caps and gowns.~~

SUBCHAPTER 15. ADOPTIONS

PART 14. POST ADOPTION SERVICES

340:75-15-128.1. Adoption assistance benefits

(a) Adoption assistance benefits may include Medicaid coverage, a monthly assistance payment, special services, reimbursement of non-recurring adoption expenses, or any combination of these. Children eligible for Title IV-E assistance are also eligible for available Title XX services.

(1) **Medicaid.** The child is eligible for the Oklahoma Medicaid program or the Medicaid program in the state of residence, if Title IV-E eligible. All necessary medical and dental care under the scope of that program is compensable at usual and customary charges~~.~~, ~~[~~per OAC 340:75-15-129~~]~~.

(2) **Monthly assistance payments.** A child may be eligible for a monthly assistance ~~payments~~ payment to provide financial support to families who adopt children considered difficult to place. Payments are made to eligible families as long as ~~the~~ Oklahoma Department of Human Services (OKDHS) has sufficient funds available and is authorized to make payments under Form DCFS-68, Adoption Assistance Agreement, as allowable within the OKDHS budget.

(A) **Rates.** The standard rates for monthly adoption assistance payments ~~are described in (i) through (iii) of this subparagraph~~ correspond to the child's age set out in OKDHS Appendix C-20, Children

and Family Services Division Rates Schedule, as amended from time to time, as approved by the Oklahoma Commission for Human Services (Commission).

~~(i) Ages 0 - 5: Ranges from $0 to a maximum of $270 plus Difficulty of Care (DOC) Rate I, II, III, IV, or V if eligible.~~

~~(ii) Ages 6 - 12: Ranges from $0 to a maximum of $324 plus DOC Rate I, II, III, IV, or V if eligible.~~

~~(iii) Ages 13 - 18: Ranges from $0 to a maximum of $378 plus DOC Rate I, II, III, IV, or V if eligible.~~

(B) **DOC rate descriptions.** The difficulty of care (DOC) descriptions ~~in this subparagraph~~ are guidelines from which the most appropriate DOC rate ~~can be~~ is determined for the eligible child. Not every situation will clearly fit into one DOC rate category. Consideration of the child's age is part of determining the appropriate rate category. Documentation that the child's needs, conditions, or behaviors fit the rate category is required from professional sources outside the adoptive family as well as from the adoptive family itself. Updated documentation may be required by ~~the~~ OKDHS from time to time to establish a child's ongoing eligibility for a particular DOC rate. DOC descriptions are set out in OKDHS Appendix C-20 as amended from time to time, as approved by the Commission.

~~(i) **DOC Rate I.** The rate is $50 per month more than the standard rate. A child approved for DOC Rate I has one or more of the needs, conditions, or behaviors described in (I) through (IV) of this subparagraph. The child:~~

~~(I) requires ongoing scheduled medical or psychological appointments that routinely occur more than twice weekly;~~

~~(II) displays emotional difficulties that result in destruction of property;~~

~~(III) requires medical or educational supplies on a routine basis that are not compensable through Medicaid; or~~

~~(IV) requires daily physical therapy performed by the adoptive parent(s).~~

~~(ii) **DOC Rate II.** The rate is $100 per month more than the standard rate. A child approved for DOC Rate II has one or more of the needs, conditions, or behaviors listed in DOC Rate I, and, in addition:~~

~~(I) requires 24 hour intensive supervision due to severe medical or emotional needs;~~

~~(II) requires special food preparation and feeding due to a condition that restricts normal eating;~~

~~(III) requires special equipment for transportation that results in restricted mobility for the child and the adoptive parent(s);~~

~~(IV) displays incontinence of the bladder and bowel that is not age appropriate;~~

~~(V) displays multiple disabilities, birth defects, or brain damage that prevents normal intellectual or physical functioning;~~

~~(VI) requires strict monitoring of medication;~~

~~(VII) requires assistance in movement which is very difficult due to the child's size;~~

~~(VIII) requires post hospitalization care such as frequent changing of bandages, tubes, and special hygiene techniques; or~~

~~(IX) displays emotional disturbances, developmental delay, or mental retardation that results in behavior such as constant difficulties in school, aggressive and delinquent activities, destructiveness, resistance to authority, and sexual disturbances.~~

~~(iii) **DOC Rate III.** The rate is $150 per month more than the standard rate. A child approved for DOC Rate III has one or more of the needs, conditions, or behaviors in each of DOC Rates I and II, and, in addition:~~

~~(I) requires medical supplies, special equipment, or educational supplies on a routine basis which are not compensable through Medicaid; or~~

~~(II) requires specialized substitute care.~~

~~(iv) **DOC Rate IV.** The rate is $225 per month more than the standard rate. A child approved for DOC Rate IV has one or more of the needs, conditions, or behaviors described in each of DOC Rates I, II, and III and requires such specialized care that normally the child would be in institutional or inpatient psychiatric care. The child:~~

~~(I) requires special equipment, such as apnea monitor, suction machine, gastrostomy tube, oxygen, tracheotomy tube, and shunt;~~

~~(II) requires special feeding or nursing care around the clock;~~

~~(III) requires frequent nighttime supervision and care that is not age appropriate;~~

~~(IV) displays such frequent seizures or other abnormal physical reactions that 24 hour monitoring is required;~~

~~(V) displays bizarre, socially unacceptable behavior, violent tendencies, potentially harmful behavior to self or others, or sexually predatory behavior to others or animals;~~

~~(VI) required previous inpatient mental health treatment or has recently been discharged from an inpatient facility;~~

~~(VII) requires such intensive care that the adoptive parent(s) is severely restricted in normal daily activities and is frequently homebound;~~

~~(VIII) requires frequent 24 hour awake supervision; or~~

~~(IX) requires post-hospitalization care for severe burns.~~

~~(v) **DOC Rate V.** The rate is $400 per month more than the standard rate. A child approved for DOC Rate V has one or more of the needs, conditions, or behaviors described in each of DOC Rates I, II, III, and IV and has a significant number of high-severity needs. The child's level of need is not moderate, is likely to become more severe over time, and is likely at some time to require personal attendant care or specialized care outside of the home, when prescribed by a professional. A current medical or psychological report within the last six months is required from a qualified physician. This report must include a diagnosis, prognosis, and recommended treatment. Medical or psychological conditions considered in determination of DOC Rate V include a child who has:~~

~~(I) been diagnosed by a qualified physician as having severe mental illness, such as child schizophrenia, severe developmental disabilities, brain damage, or autism;~~

~~(II) severe physical disabilities or medical conditions that are not expected to improve over time and adversely impact life expectancy when compared with others who have similar physical disabilities or medical conditions;~~

~~(III) severely inhibiting diagnosed mental health conditions, defined by the Diagnostic and Statistical Manual of Mental Disorders (DSM), diagnosed within the past year, that severely limit normal social and emotional development and require ongoing outpatient behavioral health services;~~

~~(IV) severe mental retardation as determined by the Social Security Administration and defined by the DSM;~~

~~(V) been waiting for organ transplant or is up to one year post transplant; or~~

~~(VI) a physical condition uncontrolled by medication or treatment such as Tourette's syndrome or epilepsy.~~

(3) **Special services.** Special services are used to meet the child's needs ~~which~~ that cannot be met by the adoptive parent(s) and ~~which~~ that are not covered under any other program for which the child would qualify.

(A) These services include corrective appliances, ~~which~~ that may include costs of leg braces, prostheses, walkers, and similar appliances ~~as long as such appliances cannot be secured through any other program for which the child would qualify~~.

(B) Tutoring and private school tuition are not covered as special services, as the public school systems are mandated to provide all children with special needs with an appropriate public education.

(C) The ~~special services~~ child's needs are reviewed at least annually and special services may be approved for a limited time.

(D) The amount paid does not exceed the reasonable fee for the service rendered.

(E) The special service is negotiated with the adoptive parent(s), approved by ~~the State Office,~~ Children and Family Services Division (CFSD)~~,~~ Adoption Assistance Section, and included in Form DCFS-68, Adoption Assistance Agreement.

(4) **Reimbursement of non-recurring adoption expenses.** Certain non-recurring expenses incurred by or on behalf of the adoptive parent(s) in connection with the adoption of a child with special needs may be reimbursed.

(A) **Reimbursable expenses.** ~~The term "non-recurring~~ Non-recurring adoption expenses~~" means~~ are the reasonable and necessary adoption fees, court costs, attorney fees, and other expenses that are directly related to the legal adoption of a child with special needs, are not incurred in violation of state or federal law, and have not been reimbursed from other sources or funds. Financial reimbursement is available to the adoptive parent(s) of an eligible child for:

(i) adoption fees;

(ii) court costs;

(iii) attorney fees;

(iv) adoptive home study fee;

(v) costs incurred to obtain health and psychological reports on family members;

(vi) supervision of the adoptive placement by another agency;

(vii) transportation, food, and lodging for the adoptive parent(s) and child during the placement process; and

(viii) cost of fingerprinting paid by the adoptive parent(s).

(B) **Eligibility.** The child must meet all ~~of the~~ eligibility criteria for a child with special needs, ~~as set forth in~~ per OAC 340:75-15-128.4, and have been placed for adoption in accordance with applicable state and local laws. The child does not have to be in the custody of OKDHS or a federally recognized tribe at the time of finalization of the adoption. The child does not have to meet the Title IV-E categorical eligibility requirements for adoption assistance, ~~as set forth in~~ per OAC 340:75-15-128.2.

(C) **Amount of reimbursement.** Reimbursement of non-recurring adoption expenses, as defined in OAC 340:75-15-128.1(a)(4)(A), may be approved on behalf of the eligible child as described in (i) and (ii) ~~of this subparagraph~~.

(i) **Finalized adoption.** Assistance is limited to documented actual expenses incurred up to a maximum of $1,200 per child if the adoption is finalized. ~~In the event~~ If an Order Terminating Parental Rights or ~~an~~ Order Determining the Child Eligible for Adoption Without the Consent of a Biological Parent had to be obtained in the adoption case, a request for reimbursement up to a maximum of $2,000 per child ~~will be~~ is considered by

OKDHS on a case-by-case basis. In cases where siblings are ~~adopted as a unit~~ placed together with the same adoptive family, each child is treated as an individual with separate reimbursement for non-recurring expenses.

(ii) **Non-finalized adoption.** A potential adoptive parent(s) whose trial adoption disrupts prior to finalization ~~on or after January 1, 1999~~ may be eligible for up to a maximum reimbursement of $500 per child.

(D) **Approval and payment.** The request for reimbursement of non-recurring adoption expenses must be approved and Form DCFS-68, Adoption Assistance Agreement, signed by the adoptive parent(s) and OKDHS designee prior to finalization of the adoption. Payment is made directly to the adoptive parent(s) for approved amounts shown on the itemized statement as paid in full. Payment is made directly to a ~~vendor(s)~~ vendor, such as ~~attorney(s)~~ an attorney and private adoption agency, for the ~~fee(s) which~~ fee that the itemized statement indicates has not yet been paid in full by the adoptive parent(s).

(E) **Interstate placement.** The provisions of OAC 340:75-15-128.5(b) apply to reimbursement of non-recurring adoption expenses in interstate adoptions.

(b) **Overpayments.** ~~State Office, Children and Family Services Division,~~ CFSD Adoption Assistance Section staff immediately notifies the adoptive parent(s) when it is discovered that an overpayment has occurred. The adoptive parent(s) is responsible for repayment, even if he or she is not responsible for causing the overpayment. ~~In the event~~ If the adoptive parent(s) was previously the adopted child's foster parent(s) and foster care payments continued after adoption assistance payments began, a repayment plan is required. The adoptive parent(s) is notified in writing of the overpayment and given 30 days in which to repay. Failure to repay results in an automatic reduction of no less than 10% of each future month's payment until the overpayment is satisfied. Any other types of overpayments are handled in the same manner.

(c) **Modification.** Form DCFS-68, Adoption Assistance Agreement, may be modified and the adoption assistance payment amount may be readjusted periodically when warranted by a change in circumstances and with the concurrence of the adoptive parent(s). A change in the child's eligibility for the DOC rate paid constitutes a change in circumstance.

(1) The adoption assistance payment amount may not be automatically adjusted without agreement of the adoptive parent(s) except for an across-the-board reduction or increase in OKDHS foster care ~~maintenance~~ reimbursement rates or DOC rates.

(2) Modification of Form DCFS-68, Adoption Assistance Agreement, is prospective only and may not be retroactive.

(3) If the parties cannot come to an agreement, OKDHS establishes the payment amount.

(4) The adoptive parent(s) has a duty to ~~keep~~ inform OKDHS ~~informed~~ of circumstances that would make the child ineligible for adoption assistance payments or eligible for payments of a different amount. OKDHS may require:

(A) the adoptive parent(s) to provide updated documentation of a child's ongoing eligibility for the payment amount received~~.~~; and

(B) ~~OKDHS may require~~ evaluation of a child by a suitably licensed or certified examiner selected by OKDHS if the child's eligibility is in question.

(d) **Termination.** Once an ~~agreement~~ Adoption Assistance Agreement is signed and in effect, it is only terminated if one of the conditions described in (1) through (3) ~~of this subsection~~ is met.

(1) The child has attained the age of 18 years, ~~or the age of 21 if it has been determined~~ except where OKDHS determines that the child has a ~~mental or~~ physical or mental disability ~~which would warrant~~ that warrants the continuation of ~~adoption~~ assistance until the child reaches the age of 19 years. ~~To continue adoption assistance after the age of 18, the adoptive parent(s) must submit documentation of a continuing mental or physical disability prior to the child's 18th birthday and yearly thereafter.~~

(A) The child may be considered for continued assistance after reaching the age of 19 years and until 21 years when the child has applied for Supplemental Security Income (SSI) and the initial application for SSI is pending or has been denied and the child's needs, conditions, or behaviors meet the criteria for DOC Rate IV or V as determined by OKDHS.

(B) Prior to the child reaching 19 years, in order for adoption assistance to continue after the child's 19th birthday, the adoptive parent(s) must provide OKDHS documentation that:

(i) shows application for SSI benefits has been received by Social Security Administration (SSA) and is pending or has been denied; and

(ii) demonstrates the child's needs, conditions, or behaviors meet the criteria for DOC Rate IV or V. When the SSI application is pending, the adoptive parent(s) must provide documentation monthly to OKDHS that demonstrates due diligence in securing for SSA the necessary information to timely process the child's SSI application.

(C) Adoption assistance payments terminate when SSI payments are approved and in no event continue after the child reaches the age of 21 years.

(D) Failure to comply with OAC 340:75-15-128.1(d) results in termination of adoption assistance payments on the child's 19th birthday or on the month following failure to provide documentation on a pending SSI application, whichever occurs first.

(2) A determination is made by OKDHS that the adoptive parent(s) is no longer legally responsible for support of the child.

(3) OKDHS determines that the adoptive parent(s) is no longer providing financial support to the child. If a child is placed in out-of-home care, including psychiatric, residential, therapeutic, or foster family care, and the

adoptive parent(s) continues to provide financial support to the child, adoption assistance may continue. The rate of payment may be renegotiated, as appropriate.

(e) **Death of adoptive parents or dissolution of the adoption.** Any child who was receiving Title IV-E adoption assistance at the time of the death of all of the child's adoptive parents or at the time the adoption dissolves may be eligible for adoption assistance if he or she is adopted again after October 1, 1997. A child receiving state funded adoption assistance is eligible if adopted after May 29, 1998. To be eligible, the child must continue to meet the special needs criteria and all of the requirements in (1) through (4) ~~of this paragraph~~.

(1) The prospective adoptive parent(s) must make application on Form DCFS-54, Adoption Assistance Application.

(2) The prospective adoptive parent(s) must provide from a district or tribal court a copy of a file-stamped Petition for Adoption if requesting prefinalization adoption assistance or a Final Decree of Adoption if requesting adoption assistance to begin after adoption.

(3) OKDHS must be able to document the child was receiving Title IV-E or state funded assistance at the time of the death of the adoptive parent(s) or at the time the adoption dissolved.

(4) OKDHS must be provided documentation that the new adoptive parent(s) is not the biological parent(s).

(f) **Relocation by adoptive family to another state.** An Adoption Assistance Agreement signed on or after October 1, 1983 remains in effect regardless of the state in which the adoptive parent(s) is a resident at any given time.

[OAR Docket #05-535; filed 4-6-05]

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

[OAR Docket #05-537]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Child Protective Services
340:75-3-6. through 340:75-3-6.1. [AMENDED]
340:75-3-8. [AMENDED]
340:75-3-8.6. [AMENDED]
340:75-3-10.1. [AMENDED]
340:75-3-13. [AMENDED]
340:75-3-14. [AMENDED]
Subchapter 4. Family-Centered and Community Services
Part 9. SoonerStart Early Intervention Program [REVOKED]
340:75-4-120. through 340:75-4-128. [REVOKED]
Subchapter 6. Permanency Planning
Part 5. Permanency Planning Services
340:75-6-30. [AMENDED]
340:75-6-31.4. [AMENDED]
340:75-6-31.5. [NEW]
Part 7. Case Plans
340:75-6-40.4. [AMENDED]
340:75-6-44. [AMENDED]
Part 8. Role of the Child Welfare Worker
340:75-6-48. [AMENDED]
Part 11. Permanency Planning and Placement Services
340:75-6-92. [AMENDED]
Subchapter 13. Other Child Welfare Services and Medical Services for Children in ~~Substitute~~Out-of-Home Care
Part 7. Medical Services
340:75-13-60. [REVOKED]
340:75-13-61. through 340:75-13-64. [AMENDED]
340:75-13-75. [AMENDED]
340:75-13-80. [AMENDED]
Subchapter 19. Working with Indian Children
340:75-19-9. [AMENDED]
(Reference APA WF 04-24)
AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; and Sections 7003-5.3, 7004-1.1, and 7101 et seq. of Title 10 of the Oklahoma Statutes.
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n/a
ANALYSIS:
The revisions to Subchapters 3, 4, 6, 13, and 19 of Chapter 75 clarify: (1) Child Protective Services (CPS) intake processes; (2) routing of reports to the district attorney for child custody actions; (3) procedures for CPS reports on children who are married; (4) general protocols for investigations and assessments; (5) procedures for removal of and medical treatment for children not in Oklahoma Department of Human Services (OKDHS) custody; (6) notification procedures to the person responsible for the child (PRFC) of investigative findings and assessment conclusions; (7) time frames for completion of investigations and assessments; (8) Child Welfare (CW) contact requirements for children in out-of-home care; (9) requirements for the Supported Permanency program; (10) usage of Individualized Service Plan reports in case planning; (11) case planning for heinous and shocking cases or when reasonable efforts are not required; (12) OKDHS involvement when a youth in OKDHS custody wishes to terminate her pregnancy; (13) CW worker's role in the establishment of paternity; (14) medical services, eligibility requirements, and sources of funding for and authorization procedures related to children involved with CW Services; (15) entities involved with the Memorandum of Understanding (MOU) for Reporting and Investigating Child Abuse Criminal Offenses in Indian Country; and (16) by revoking sections of policy that are duplicative.

340:75-3-6 is amended to clarify CPS intake processes, including protective service alerts.

340:75-3-6.1 is amended to include notification and report procedures for divorce or child custody actions, as well as clarification of CPS reports on children who are married.

340:75-3-8 is amended to better detail investigation protocol, including the CW worker's role in making initial contact with the family and interviewing collaterals.

340:75-3-8.6 is amended to clarify protocols associated with investigations and assessments.

340:75-3-10.1 is amended to specify procedures for removal of and procedures for securing emergency medical treatment for children not in OKDHS custody.

340:75-3-13 is amended to clarify notification to the PRFC of investigation findings and assessment conclusions and the time frames for completion of investigations and assessments.

340:75-3-14 is amended to delete a reference to a revoked rule cite.

340:75-4-120 through 340:75-4-128 is revoked contingent upon approval of OAC 340:100-3-15, where similar information regarding the SoonerStart program is referenced.

340:75-6-30 is amended to reference Form CWS-KIDS-25-A, Individualized Service Plan (ISP) Dispositional Report, and specify CW worker responsibilities for contact between siblings separated in out-of-home placement.

340:75-6-31.4 is amended to reflect the Supported Permanency program eligibility requirement that the child must be age 12 or older or have a sibling 12 or older who resides in the same relative foster home and to clarify that the monthly cash benefit is no longer based on standard foster care rates.

340:75-6-31.5 is issued to provide guidance to CW staff regarding procedures for the establishment of paternity.

340:75-6-40.4 is amended to reference Form CWS-KIDS-25-A.

340:75-6-44 is amended to clarify CW worker responsibilities for case planning and contact with parents when the case is heinous and shocking or reasonable efforts are not required.

340:75-6-48 is amended to include CW worker responsibilities for contact with children in emergency foster care and clarify worker responsibilities for contact with a parent who is incarcerated or out-of-state.

340:75-6-92 is amended to clarify whom the CW worker contacts when a youth in OKDHS custody wishes to relinquish her child for adoption and that OKDHS does not consent or sign any form related to the termination of a pregnancy for any child in OKDHS custody.

340:75-13-60 is revoked as this information is reflected in other Sections of Subchapter 13.

340:75-13-61 is amended to clarify medical services to children in out-of-home care and reference OAC 340:75-6-88 for Early Periodic, Screening, Diagnosis and Treatment (EPSDT) screenings.

340:75-13-62 and 340:75-13-75 are amended to specify that the parents are responsible for their child's medical expenses when the child resides with the parents.

340:75-13-63 is amended to reflect current procedures for prior authorization and claims procedures for medical services.

340:75-13-64 is amended to clarify procedures related to payment of child abuse examinations.

340:75-13-80 is amended to reflect information regarding medical coverage for youth, up to age 21, who may be eligible to receive medical benefits.

340:75-19-9 is amended to denote the change from two MOUs to one MOU for the Western, Northern, and Eastern Districts of Oklahoma.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2005:

SUBCHAPTER 3. CHILD PROTECTIVE SERVICES

340:75-3-6. Intake process for reports of child abuse or neglect

(a) **Child Protective Services (CPS) intake.** The CPS intake ~~is the~~ process ~~which~~ provides a mechanism for receiving, assessing, and ~~investigating~~ assigning reports of child abuse, ~~or~~ neglect, or both, for investigation or assessment. CPS intake ~~refers to~~ includes all ~~of the~~ activities and functions ~~which~~ that lead to a decision about whether the ~~referral~~ report is appropriate for intervention by Child Welfare (CW). ~~An assessment~~ Assessment of ~~the~~ risk begins at intake and continues until case closure.

~~(1) Four purposes of CPS intake are to:~~

~~(A) assist and guide the reporter in providing information as to the alleged child abuse or neglect;~~

~~(B) interpret to the reporter what child abuse is;~~

~~(C) identify possible child abuse or neglect; and~~

~~(D) gather sufficient information to make necessary decisions.~~

~~(2) At CPS intake, decisions are made in response to the questions in (A) and (B) of this paragraph.~~

~~(A) Does the report meet agency guidelines for child abuse, neglect, or risk?~~

~~(B) How urgent is the referral?~~

(b) **Methods of reporting.** Section 7103 of Title 10 of the Oklahoma Statutes ~~mandate~~ (10 O.S. § 7103) mandates that reports of suspected abuse or neglect are made to ~~the~~ Oklahoma Department of Human Services (OKDHS). ~~Child Welfare~~ CW is responsible for investigating or assessing reports of abuse and neglect by the person responsible for the child (PRFC).

(1) Reports are made by ~~telephone~~ phone, in writing, or in person.

(2) An investigation or assessment may ~~also~~ be initiated on the basis of media reporting, personal observations, or other situations ~~where there is reason to believe~~ when a person believes a child is at risk.

(3) Reports are made to CW in the local county office during regular business hours or any time to the statewide~~,~~ toll-free ~~Child Abuse Hot Line Statewide Hotline~~ child abuse hotline, 1-800-522-3511~~, at any time~~.

(c) **Interviewing the reporter.** The process of interviewing the person reporting suspected abuse or neglect is critical to the protection of children. ~~The CW worker assists the reporter by:~~

~~(1) responding to the fears and concerns of the reporter;~~

~~(2) discussing confidentiality. It is contrary to state and federal statutes and DHS policy for the identity of the reporter or other information contained in the child abuse case record to be revealed to any unauthorized person and for any unauthorized purpose. Depending on practices of local court systems, however, court reports and other documents may be included in the court's case record. If so, parties to the case have access to that record and the information it contains. The CW worker explains the court process and that in some cases individuals who have pertinent information are needed in court to corroborate the child's need for protection. When a report of abuse or neglect by someone other than the person responsible for the child (PRFC) is made, the reporter is advised that this reported information is shared with law enforcement and if law enforcement requests information on the identity of the reporter, it is provided;~~

~~(3) explaining the importance of reporting; and~~

~~(4) explaining the role of CPS.~~

(d) **Documenting the report.** The report is immediately documented on ~~the~~ Form CWS-KIDS-1, Referral Information

Report. ~~The focus of the interview with the reporter is to obtain as much information as possible that relates to harm or risk of harm. Information obtained focuses on the alleged abuse or neglect, each child in the home, the PRFC, and family functioning. In many cases, the decision regarding accepting the report for investigation or assessment and the urgency of the response required is made solely on information obtained during the interview with the reporter. The appropriate CPS response is based on the information provided. Only with sufficient information is risk accurately assessed.~~

(e) **Background information ~~for the report.~~** ~~Investigative and assessment activities commence~~ Gathering background information begins immediately upon receipt of a report of abuse or neglect.

(f) **Assignment of reports.**

(1) The CW supervisor or designee immediately assigns each report accepted for investigation or assessment.

(2) ~~Priority I~~ All accepted reports are assigned the same day the report is received unless there is a:

(A) Priority I report with insufficient information to locate the child or family. Attempts to obtain the location are made the same day; and

(B) ~~When the information does become available, the report is immediately assigned for investigation or assessment. For~~ potential Priority II ~~and~~ or Priority III ~~reports refer to OAC 340:75-3-7(e)~~ report where clarifying information is needed to determine acceptance. Attempts to obtain the information are made the same day, but no later than three calendar days. When the location or clarifying information is obtained, the report is immediately assigned for investigation or assessment.

(3) All investigative and assessment time frames begin from the date and time the report is received.

~~(g) **Documenting the receipt of the report.** The child abuse or neglect KIDS referral log is for workload management and for tracking child abuse or neglect reports. It is used by CW supervisors to track all reports of child abuse or neglect received in the supervisor's county. It also includes reports which are referred to another county, screened out or determined as information and referral only.~~

(~~h~~g) **Protective service alerts.** ~~A protective service alert is information from other states or counties~~ When a report is received indicating that a child was at risk of harm and may continue to be at risk and the child is not located by another county or state, a protective service alert may be issued. ~~An investigation or assessment is needed if the family or child can be located.~~ The protective service alert is a signal that an investigation or assessment is necessary upon locating the family or child.

(~~i~~h) ~~**Local office responsibilities**~~ **Emergency response.** ~~Although CW staff works during normal working hours,~~ CW staff are ~~also~~ available ~~as assigned~~ to respond to emergency child abuse or neglect reports ~~of an emergency nature~~ 24 hours a day, seven days a week. An emergency exists when there is reason to believe that the ~~child(ren)~~ child is at imminent risk of serious harm.

340:75-3-6.1. Exceptional reports of child abuse and neglect

(a) **Reports resulting from divorce or child custody actions.** If a report of abuse, neglect, or both, is made by a referring court resulting from a divorce, ~~or~~ child custody, or juvenile action, an investigation or assessment is initiated, per OAC 340:75-3-7.1 and 340:75-3-8.

(1) Findings of the investigation or the conclusions of the assessment resulting from child custody actions are submitted to the referring court, utilizing Form CWS-KIDS-3, Report to District Attorney, within 30 days of receipt of the referral.

(2) Form CWS-KIDS-3 is submitted to the district attorney, per OAC 340:75-3-11.

(3) The Child Welfare (CW) worker notifies the parties to the proceeding when Form CWS-KIDS-3 is submitted to the court.

(b) **Anonymous reports.** Anonymous reports that meet the definition of abuse or neglect are ~~investigated~~ assigned for investigation or assessment. When a person reporting suspected child abuse, neglect, or both, is reluctant to identify himself or herself, the Child Welfare (CW) worker:

(1) uses good interview skills to obtain the reporter's identity~~.~~; ~~It is not always possible to obtain the name of the reporter;~~ and

(2) attempts to determine the reporter's relationship to the child and family in question and any other relevant information.

(c) **Child Protective Services (CPS) reports on an OKDHS employee.** Specific procedures are followed when a report of neglect, abuse, or both, is received that involves an Oklahoma Department of Human Services (OKDHS) employee or a member of the employee's immediate or extended family, with the exception of alleged abuse in an institution.

(d) **CPS reports to other counties.** A referral is made to CW in the family's county of residence when a referral is received regarding a child and family who are in another county.

(e) **Reports of abuse or neglect in an active permanency planning or voluntary FCS case.** Information regarding the injury is documented on Form CWS-KIDS-1, Referral Information Report, if a child, who is part of an ongoing permanency planning or voluntary Family-Centered Services (FCS) case, is reported or observed by the CW worker to have any injury to the face, head, neck, stomach, or genitals, even an allegedly accidental injury, or to have evidence of any abuse, neglect, or both, per OAC 340:75-3-6~~(d)~~, ~~and~~ 340:75-4-13~~(10)~~, and 340:75-6-85.1.

(f) **Newborns in an active permanency planning or voluntary FCS case.** When a baby is born to a person responsible for the child (PRFC) with an open permanency planning or voluntary FCS case, the information is documented on Form CWS-KIDS-1, per OAC 340:75-3-6~~(d)~~.

(g) **Address Confidentiality program (ACP).** Reports regarding child abuse and neglect that fall within the scope of CPS are accepted for investigation or assessment even though the actual finding address of the child is confidential, per ~~Section~~ 22 O.S. § 60.14 ~~of Title 22 of the Oklahoma Statutes~~.

(h) **CPS reports on Indian children.** In order to ensure compliance with the Indian Child Welfare Act (ICWA), procedures per OAC 340:75-19-9 and 340:75-19-10 are followed for all children reported or determined Indian.

(i) **CPS reports on children who are married.** Marriage does not emancipate a minor to adult status. As a result, reports regarding abuse and neglect of minors who are married fall within the scope of CPS, particularly when there is no PRFC or other available means to protect the minor from harm. Consultation with the Child Welfare field liaison (CWFL) and Children and Family Services Division (CFSD) CPS Section is available.

340:75-3-8. Investigation protocol

(a) **Purpose of investigation.** The purpose of Child Protective Services (CPS) is to protect children and provide treatment to the family, not criminal prosecution. The ~~investigation begins the process of direct involvement with the family. It~~ CPS investigation sets the stage for direct involvement with the family, problem identification, service provision, and the development of a helping relationship. ~~The investigation takes into account the dynamic nature of the family situation and looks beyond the allegation to identify risk of harm to the children. The CW worker's investigation is directed toward identifying and understanding the elements that create risk.~~ The CPS investigation ~~must be as thorough as possible as it relates to risk and must consider the alleged abuse or neglect, each child, the PRFC, and family functioning.~~ process includes gathering information:

(1) about the reported allegations and any family dynamics that jeopardize the child's safety; and

(2) to assess the protective capacity of the family.

(b) ~~**Interviewing**~~ **Gathering information.** ~~Interviewing~~ The interview is ~~generally~~ a face-to-face contact between the Child Welfare (CW) worker and ~~individuals~~ a person who has ~~have~~ or ~~might~~ may have information pertinent to assessing risk. ~~The focus and content of the interview process varies depending on the nature of the case and the agencies and individuals involved.~~

~~(c) **Observation.** Observation is critical. It is important to substantiate observations with objective data and evidence. There are two types of observable data: physical and emotional.~~

~~(d) **Documentary evidence.** Critical information is also obtained by gathering documentary evidence.~~

(~~e~~c) **Investigation protocol.**

(1) The investigation protocol is followed for all investigations, unless a modification for good cause is approved and documented by the CW supervisor.

(2) Investigations regarding physical abuse, serious neglect, and sexual abuse are conducted utilizing a multidisciplinary approach when possible, per OAC 340:75-3-8.4.

(3) The investigation protocol is followed closely and sequentially.

(A) Persons interviewed, in order, are the:

(i) alleged victim(s);

(ii) sibling(s);

(iii) person(s) responsible for the child (PRFC(s)), including the custodial and non-custodial parent(s);

(iv) collateral(s); and

(v) if appropriate, professional consultant(s).

(B) Every attempt is made to first conduct interviews privately and separately.

(C) Family members are observed interacting together.

(D) When additional information is needed, key people, such as victims, siblings, and PRFCs, may be re-interviewed.

(~~f~~d) **Interviewing the alleged victim.** An attempt is made to interview every verbal child victim, and all child victims are observed. The interview with and examination of the alleged child victim may be conducted at any reasonable time and at any place including, but not limited to, the child's school~~.~~, ~~[10 O.S. §~~ per Section 7106~~]~~ of Title 10 of the Oklahoma Statutes (10 O.S. § 7106). ~~When the alleged victim is a child old enough to be interviewed, it is generally best to conduct the first in-depth interview with the child even if a brief interview is first conducted with the PRFC or other caretaker.~~

(~~g~~e) **Interviewing the siblings.** If one child in the family is at risk, the other children may also be at risk. ~~However, even if the alleged victim's siblings are~~ When not at risk of physical harm, ~~it is probable that they would be~~ the sibling remains adversely affected by family conditions. ~~and frequently have~~ The sibling often has important information regarding the reported allegations and the dynamics of the family. The ~~same~~ protocol and principles ~~as in~~ per OAC 340:75-3-8 ~~Instructions to Staff 5 and 6 of this Section~~ are utilized.

(~~h~~f) **Home visit or initial contact with the family.** A home visit must be made as part of the investigation, unless there is reason to believe ~~that~~ there is an extreme safety risk to the child or CW worker or the report ~~can be clearly~~ is determined ~~to be~~ a report that was made in bad faith~~.~~, ~~[~~per 10 O.S. § 7106~~]~~.

(1) The initial contact with the family is an unannounced visit to the home. The CW worker does not enter the home unless an adult member of the household is present.

(2) If the child victim or siblings are interviewed by the CW worker in a setting other than the home, a home visit with the PRFC(s) is initiated the same day the child is interviewed.

(3) If the child is found home alone, the CW worker leaves to immediately contact law enforcement, per OAC 340:75-3-8.6.

(4) When the CW worker is admitted to the home, the specific reported allegations are explained to the PRFC(s).

(5) The PRFC(s) is given Oklahoma Department of Human Services (OKDHS) Publication No. 87-02, Questions and Answers for Parents about Child Protective Services.

(6) If the family is not home, the CW worker may leave Form DCFS-80, Contact Letter, in a sealed envelope at the home. Federal law prohibits the use of a mailbox for letters that have not been mailed. When the child victim:

(A) or siblings have been interviewed, Form DCFS-80 must be left to notify the PRFC(s) that the CW worker attempted contact with the family; and

(B) has not been interviewed, Form DCFS-80 may be omitted when there is reason to believe such notice to the family may place the child in danger or prevent the CW worker from obtaining unrehearsed information.

(~~i~~g) **Interviewing the PRFC(s).** The nature of the report and the concern for the ~~child(ren)~~ child are discussed with ~~the PRFC~~ all PRFCs. ~~The CW worker's interview is directed toward obtaining relevant information regarding the child(ren), parent, family, and alleged abuse or neglect. When there is a non-perpetrator PRFC, that person may be the key to protecting the children and successful intervention. It is important to evaluate the relationship between the non-perpetrator PRFC and the perpetrator.~~ The noncustodial parent is entitled to the same information as the custodial parent and reasonable efforts are made to locate the noncustodial parent during the initial stages of the investigation.

(~~j~~h) **Interviewing the perpetrator who is responsible for the child.** The alleged perpetrator is interviewed last~~.~~, ~~This~~ as this allows the CW worker to ~~confront~~ question the perpetrator with the facts and information that have been obtained. ~~This is particularly important if there is a denial of responsibility and abuse or neglect appears evident. A copy of "Questions and Answers for Parents" is provided and questions about the information in the pamphlet answered.~~

(~~k~~i) **Interviewing ~~collateral contacts~~ collaterals.** Collaterals are interviewed to ensure thorough investigation and assessment of risk to the child.

(1) A collateral ~~contact~~:

(A) is ~~an individual~~ a person who has or is likely to have pertinent information about the ~~child(ren)~~ child and the family~~.~~; and ~~Interviews with collaterals are necessary in conducting a thorough investigation and in assessing risk.~~

(B) ~~Collaterals~~ may include relatives, neighbors, law enforcement, teachers, physicians, nurses, or other informed ~~individuals~~ persons.

(2) ~~Minor collaterals~~ Collaterals who are minors are not interviewed without first obtaining permission from their parent(s).

(3) Confidential information regarding the family's situation may be released only to other public officials involved in an official capacity in the investigation or appropriate professionals providing medical or treatment services to the family, per OAC 340:75-1-44.

(~~l~~j) **Professional consultation.** ~~It may be helpful in some instances to seek consultation~~ The CW worker consults, as needed, with those who have additional expertise in areas related to child abuse or neglect~~, particularly members of a multidisciplinary team. For example, the CW worker may want to verify whether a particular sexual behavior is typically normal or not, or whether a particular drug has certain side affects. Individuals available within Child Welfare who hold specialization in certain areas include Certified Sexual Abuse Specialists, Adoption Specialists, and AIDS counselors. Other divisions within DHS may also be consulted as to eligibility or availability of services for a child or family. Outside consultants may include a physician, psychologist, pharmacist, and similar professionals~~.

340:75-3-8.6. General ~~protocol~~ protocols for investigations and assessments ~~and investigations~~

(a) **Purpose for protocols.** ~~While the assessment and investigation processes differ in the method used to gather information, there~~ There are ~~certain~~ protocol requirements common to ~~both~~ the investigation and assessment processes~~. To~~ that ensure continuity in addressing safety and risk factors and issues related to the Child Welfare (CW) worker's contact with families~~,~~. ~~general~~ General protocols are detailed in ~~the Instructions to Staff of~~ this Section~~. These protocol requirements are to be applied~~ that apply to both ~~assessments and~~ investigations and assessments

(b) **Time frame for initiation.** Investigations and assessments are prioritized using the priority guidelines in OAC 340:75-3-7.1. The priority guidelines are utilized to determine the response time required to ensure safety for the alleged child victim. Generally, the reported allegations that necessitate an investigation require a higher priority than an assessment.

(c) **Contact requirements.** Prior to interviewing each person involved in an investigation or assessment, the CW worker:

(1) presents his or her Oklahoma Department of Human Services (OKDHS) employee identification badge as notification that OKDHS is the agency represented;

(2) describes the lawful purpose of the investigation or assessment;

(3) discusses the reported child abuse and neglect allegations;

(4) answers questions; and

(5) explains that, in accordance with state and federal law, the identity of the reporter is not revealed unless ordered by the court.

(d) **Worker safety.** The CW worker must take steps or avoid certain situations in order to ensure his or her own safety per OAC 340:75-1-26.1.

(e) **Contact with the family in the home.** An unannounced home visit is made to initiate contact with the family, per Section 7106 of Title 10 of the Oklahoma Statutes (10 O.S. § 7106).

(f) **Contact with children.** Protocols described in (1) through (6) are followed when there are physical injuries or there is a need for a medical, psychological, or psychiatric examination for a child of any age.

(1) The CW worker inspects the child victim younger than 12 months of age regardless of the allegation.

(2) When the report alleges physical injury due to abuse or neglect or injuries are found during the investigation or assessment, an inspection is required by the CW worker, examination by a medical professional, or both, of the:

(A) child victim; and

(B) sibling, if applicable.

(3) Information gathered, the CW worker's observation of the child, or both, may indicate a need for medical, psychological, or psychiatric examination or treatment of any child in the home of the PRFC. It may also include an inquiry into the possibility that the child or PRFC has a history of mental illness, per 10 O.S. § 7106.

(4) As necessary in conducting an investigation or assessment, the CW worker requests and obtains, without a court order, copies of prior medical records of the child including, but not limited to, hospital, medical, and dental records, per 10 O.S. § 7107.

(5) Medical examination or consultation with a physician is required for:

(A) all burns or fractures in a child younger than three years of age;

(B) all bruises or marks on a child younger than two years of age;

(C) unexplained or implausibly explained bruises, burns, or fractures in a child of any age;

(D) all bruises, burns, or fractures in a non-ambulatory child;

(E) all referrals of sexual abuse in non-verbal children whose behavior mimics adult sexual behavior, for example, simulated intercourse or oral stimulation of another's genitals;

(F) all sexual abuse cases in which oral or genital skin-to-skin contact is alleged or suspected;

(G) all cases of:

(i) sexually transmitted disease in a prepubescent child;

(ii) reported malnutrition and failure to thrive; or

(iii) serious medical neglect. If the family claims to provide medical care, consultation with their doctor is sufficient;

(H) reports in which the child has an observable injury, the caregiver admits responsibility for the injury, and medical documentation is necessary to determine whether there are internal or old injuries; or

(I) a child who exhibits a need for immediate psychological or psychiatric evaluation.

(6) If the PRFC refuses to cooperate in arranging for an examination, the CW worker may request the intervention of law enforcement or request the district attorney to make application for a court order.

(g) **Unable to locate protocol.** When the CW worker is unable to locate the child and family, every effort is made to seek additional sources of information regarding their whereabouts.

(h) **False reports made knowingly and willfully.** When, in the course of the investigation or assessment, the CW worker determines that a false report concerning child abuse or neglect was made knowingly and willfully, the CW worker discusses this information with the CW supervisor. With supervisory approval, information regarding the false report may be forwarded to local law enforcement for a criminal investigation, utilizing Form DCFS-6, Notification to Law Enforcement Agency of Child Abuse/Neglect Report, per 10 O.S. § 7103.

(i) **Failure to report child abuse or neglect.** If, in the course of the investigation or assessment, the CW worker determines that there is a person who clearly knowingly and willfully failed to make a report of child abuse or neglect, the CW worker discusses this information with the CW supervisor. This information may be forwarded to local law enforcement for the purpose of providing information for a criminal investigation, utilizing Form DCFS-6, per 10 O.S. § 7103.

(j) **Modification of protocols.** If, upon contact with the child victim and PRFC, it appears that full application of the protocol for an investigation or an assessment is not necessary, the CW supervisor may determine that a modification to the protocol is appropriate.

340:75-3-10.1. Safety determination and responses

(a) **Evaluation of the child's safety.** Evaluating the safety of a child is a ~~discrete~~ primary Child Protective Services (CPS) function. ~~A child may be unsafe because of existing family conditions. These conditions must be evaluated to identify a service response which will control risk and ensure the child's safety.~~

(1) Safety refers to the present security and well-being of a child who is assessed at risk of abuse or neglect~~. Safety~~ and is determined by:

(A) how controllable the child and family situation is~~,~~;

(B) whether the child's safety is an immediate concern~~,~~; and

(C) what the abuse or neglect is or its results ~~might~~ may be.

(2) An evaluation must be conducted to identify a service response that will control risk and ensure the child's safety.

(b) **Determining the need for ~~a~~ protective or emergency custody ~~recommendation~~.** There are situations in which the Child Welfare (CW) worker must evaluate whether a recommendation for protective or emergency custody is appropriate. These situations include serious abuse and neglect in which the child is at risk of serious physical harm.

(c) **Safety planning decisions in cases of serious abuse or neglect.** When an alternative to protective or emergency custody is considered in situations in which serious physical harm is documented, the CW worker consults the CW supervisor ~~is consulted. The alternatives to protective custody are discussed~~ and discusses each alternative ~~is evaluated~~ to determine ~~if~~ whether the child's safety is ensured. ~~For example, if a parent aide or visiting nurse can be arranged for the family but cannot be arranged for several weeks, this is not an acceptable safety plan.~~ The safety plan must be discussed and agreed to by the person(s) responsible for the child (PRFC(s)).

(d) **Safety planning risk factors.** When a safety plan is considered, ~~other than protective custody, for cases in which a child has been seriously harmed or is at risk of serious harm,~~ it is critical to evaluate any risk associated with the safety plan.

(1) In cases of sexual abuse and serious physical abuse or neglect, it is imperative that the ~~perpetrator(s)~~ perpetrator is not allowed to have unmonitored contact with

the child ~~victim(s)~~ victim until the treatment process ~~has begun~~ begins and there is progress in reducing risk.

(2) In the early stages of working with a family, denial may be a ~~big~~ significant deterrent to ensuring protection from the ~~perpetrator(s)~~ perpetrator. When ~~it cannot be ensured by~~ the family members ~~that~~ cannot ensure there will be no unmonitored contact with the perpetrator, a recommendation for short-term protective or emergency custody is considered a safer option for the child.

(e) **Safety planning and court involvement.** The implementation of a safety plan~~, instead of protective custody recommendation, when there has been serious abuse or neglect as outlined in OAC 340:75-3-10.1(b),~~ does not ~~mean that~~ preclude the CW worker from requesting court involvement ~~cannot or should not be requested~~. A safety plan is voluntary without court intervention. It is important in serious cases of abuse or neglect for the CW worker to ensure ~~that~~ the family is involved in a court-ordered treatment and service plan and ~~that~~ the safety of the child is monitored. ~~These cases generally require very specific goal directed treatment that may require many months to complete. In most cases, a voluntary agreement does not provide sufficient structure for the family to ensure protection for the child. In order to ensure that a family follows through with all that is required so that the child can be safe in the home, court intervention may be necessary.~~

(f) **Removal of a child from the home.** ~~Whenever~~ When possible, a decision to recommend removal of a child from the home is made in collaboration with the CW supervisor. When prior supervisory collaboration is not feasible, the case is reviewed with the CW supervisor as soon as possible. A recommendation to remove a child from the home is made when, upon evaluating relevant conditions, the CW worker determines:

(1) no in-home safety responses are available or acceptable;

(2) the parent(s) appears unable or unwilling to protect the child;

(3) appropriate, timely resources or services to reduce risk of abuse or neglect are unavailable; or

(4) continued placement in the home is contrary to the child's welfare.

(g) **Procedures for removal of a child not in ~~the custody of the~~ Oklahoma Department of Human Services ~~(DHS)~~ (OKDHS) custody.** ~~According to Oklahoma statutes and federal law~~ Per Section 7003-2.4 of Title 10 of the Oklahoma Statutes (10 O.S. § 7003-2.4) and Section 671 of Title 42 of the United States Code (42 U.S.C. § 671), a child is removed from the home only when continued placement in the home is contrary to the child's welfare ~~of the child~~. ~~In addition, reasonable~~ Reasonable efforts are made to prevent removal ~~or~~ unless a documented emergency exists ~~which~~ that requires removal. ~~[10 O.S. § 7003-2.4 and 42 U.S.C. § Section 671]~~

(1) A child~~, whose~~ who is endangered by his or her surroundings ~~endanger the child's welfare, can~~ may be removed from the home by law enforcement without a court order in the situations described in (A) through (E).

(A) In an emergency situation, the CW worker contacts appropriate law enforcement officials and recommends that the child be placed in protective custody.

(B) If law enforcement officials decline to remove the child, the CW worker may prepare an affidavit to present to the district attorney (DA) to request that the DA consider filing an application with the court to obtain an emergency custody order, per 10 O.S. § 7003-2.1.

(i) The CW worker advises the DA that the court order for removal of a child from the home must include a written finding that continuation of the child in the home is contrary to the child's welfare or language to that effect, such as, "Removal is in the child's best interests." The order must also include a finding regarding whether reasonable efforts were made to prevent removal.

(ii) If the court does not make and document the finding of "Contrary to the welfare" at the time of removal, the state can never come into compliance with the federal law, per 42 U.S.C. § Section 671.

(iii) Whether the child is placed in protective custody by law enforcement or emergency custody through a court order, Oklahoma statutes require that each court order removing a child from the home include findings of "Contrary to the welfare" and "Reasonable efforts."

(C) When a child who is in protective custody is in need of medical treatment, diligence is used in obtaining consent of the parent(s) or legal guardian to authorize medical treatment.

(D) Law enforcement may authorize medical examination and treatment in the absence of the parent(s) or legal guardian when a:

(i) competent medical or mental health authority determines the treatment is an emergency; or

(ii) routine diagnosis is necessary to ascertain the condition of a child for his or her protection or the protection of others with whom the child may come in contact, per 10 O.S. § 7003-2.3.

(E) If law enforcement or the parent(s) or guardian is unwilling to consent, the DA is contacted for purposes of obtaining an order of the court for such treatment.

(2) ~~Under very limited circumstances~~ A child may be removed from an educational or child care facility by a CW worker~~. The~~ when the criteria in (A) through (F) are met prior to removal ~~of a child by a CW worker~~.

(A) It is established by the CW worker and supervisor that the removal is necessary to protect the child from risk of endangerment. Risk of endangerment is a serious abuse or neglect situation.

(B) Law enforcement is contacted and declines to remove the child.

(C) The CW worker prepares an affidavit to the ~~district attorney~~ DA who obtains a written emergency custody court order that includes a statement that the child may be removed from the educational or child care facility by a CW worker in order to protect the child from risk of endangerment.

(D) A determination is made by the CW ~~worker's~~ supervisor and county director that ~~the~~ removal of the child from the facility can occur without disruption to the facility, humiliation to the child, ~~and any~~ or hostility or risk of reprisal from any party.

(E) A copy of the written emergency custody court order is provided by the CW worker to the educational or child care facility at the time of the removal.

(F) The CW worker notifies the PRFC(s) of the removal the same day and provides the PRFC(s) with a copy of the written emergency custody order as soon as possible. If the notification will place the worker in danger, the assistance of law enforcement is requested.

(h) **Procedures for removal of a child ~~currently~~ in ~~the~~ OKDHS custody ~~of DHS.~~** ~~A~~ The CW worker may remove a child directly from ~~his or her own~~ the child's home ~~if~~ when continued placement in the home is contrary to the welfare of the child and the child is ~~already~~ in the ~~current~~ legal custody of ~~DHS~~ OKDHS, unless ordered placed in the home by the court. ~~However, to~~ To ensure the safety of the child and ~~the~~ CW worker, assistance from law enforcement is requested in these situations.

(i) **Procedures for securing emergency medical treatment of a child not in OKDHS custody.** When a child is in need of immediate protection due to the need for medical treatment and the PRFC(s) is unwilling or unavailable to consent to such medical treatment or other action, the child may be taken into custody pursuant to a court order.

(1) The DA may make either verbal or written application for an emergency ex parte order when there is reason to believe the child is in need of immediate medical or mental health treatment.

(2) The court may or may not issue the order, but a full hearing must be held within 24 hours of filing the application. When an order is made it must specifically include authorization for medical treatment per 10 O.S. § 7003-2.2.

(3) If the situation is not an emergency, but it is clear that the child requires medical treatment to protect the child's health or welfare, the DA may file an application and the court may hold a hearing within five days of the filing per 10 O.S. § 7003-2.3.

(~~i~~j) **Preparation for the child and family when removal occurs.**

~~(1) Removal of a child from his or her home is, by its very nature, an extremely traumatic experience for the child, the family, and the worker.~~ When the decision is made to remove a child from ~~his or her~~ the child's home, ~~it is incumbent upon~~ the CW worker ~~to make~~ makes every effort to reduce the ~~inevitable~~ trauma and stress for the child and family~~.~~ by

~~(2) Providing proper preparation to the child and family can reduce the stress for~~ properly preparing all persons involved.

(~~j~~k) **Placement considerations when the child is removed from the home.**

(1) **Placement planning.** Once a child has been removed from his or her home, ~~it is critical to make any~~ placement decisions are made with the long-term best interests of the child in mind~~. Placements are made~~ in accordance with OAC 340:75-6-85.

(2) **Placement with relatives or kin.** ~~While placement~~ Placement with relatives or kin is considered ~~whenever~~ when possible~~,~~. ~~it~~ It is important to assess relative or kinship placements~~, not only~~ in terms of the child's safety, ~~as~~ per OAC 340:75-3-10.1(e), ~~but in terms of the~~ and long-term needs ~~of the child~~. Relatives or kin are only considered when:

(A) the child will be safe with the ~~relative(s)~~ relative or kin, ~~as~~ per OAC 340:75-3-10.1(e). The history of the family is explored extensively, with the child's PRFC(s) ~~as well as~~ and the ~~relative(s)~~ relative or kin considered for placement;

(B) a ~~relative(s)~~ relative or kin can provide a home that does not pose an obstacle to reunification plans as demonstrated by the ~~relative(s)'~~ relative's or kin's willingness to work with ~~DHS~~ OKDHS and the family toward reunification;

(C) a ~~relative(s)~~ relative or kin is willing to accept placement of a ~~sibling(s)~~ sibling so that the siblings are not separated or the ~~relative(s)~~ relative or kin is willing to facilitate contact between the siblings; and

(D) a ~~relative(s)~~ relative or kin could potentially provide long-term care for the child. ~~It is particularly important to consider~~ The CW worker considers the age of the ~~relative(s)~~ relative or kin in relationship to the child and the commitment of the ~~relative(s)~~ relative or kin to the child should the placement become long-term.

(3) **Placement in foster family care.** If it is determined that foster family care is the best placement option for the child, considerations are:

(A) the foster ~~parent(s)~~ parent is an age appropriate ~~provider(s)~~ provider for the child in case the placement becomes long-term;

(B) the other child(ren) placed in the foster family home does not pose a safety threat to the child considered for placement;

(C) the foster family is able to accept placement for a sibling(s) or facilitate contact between the siblings; and

(D) ~~if~~ when a foster family placement is made as an emergency, ~~then~~ the emergency placement is evaluated quickly and arrangements are made to make a more appropriate placement as soon as possible.

(4) **Placement of an infant who is at-risk.**

(A) Factors that determine whether an infant ~~who is~~ in ~~the~~ OKDHS custody ~~of DHS~~ is at-risk include:

(i) prematurity;

(ii) history of respiratory distress;

(iii) oxygen dependency;

(iv) a diagnosis requiring special care beyond routine infant care;

(v) ~~under~~ age younger than six weeks ~~of age~~; and

(vi) medical conditions or illnesses that may result in increased episodes of illness, prolonged hospitalization, and increased cost for care.

(B) An appropriate placement for an infant who is at-risk includes an approved foster or kinship family ~~care resource~~ home, health care facility, or children's shelter ~~which~~ that meets the criteria in (i) through (~~vi~~iii). The placement

(i) ~~The placement provider(s)~~ provider for the infant has undergone all necessary training required to meet the medical needs of the infant~~.~~;

(ii) ~~The placement~~ setting has all of the necessary equipment required to meet the medical needs of the infant, the placement ~~provider(s)~~ provider knows how to use the equipment, and the equipment is in operating condition~~.~~; and

(iii) ~~The placement provider(s)~~ provider is willing and able to:

(I) follow all medical requirements and orders as given by the infant's ~~physician(s)~~ physician~~.~~;

(~~iv~~II) ~~The placement provider(s) is willing and able to~~ transport the infant to all medical appointments~~.~~; and

(~~v~~ III) ~~The placement provider(s) is willing and able to~~ keep the infant's CW worker fully apprised of the infant's condition.

(~~vi~~C) The CW worker provides~~, at the time of placement,~~ to the placement ~~provider(s)~~ provider, at the time of placement, all medical and other related information about the condition of the infant and updates the placement ~~provider(s)~~ provider concerning any new information as it occurs.

(D) The responsibilities of the CW worker for removal and out-of-home placement of a child at-risk are described in OAC 340:75-6-85.1 through 340:75-6-85.4.

(~~k~~l) **Release of a child from protective custody.** Unless there is a standing order of the court that allows for disposition of children taken into protective custody, a child is not released from protective custody without authorization and as specified by the court. Specific procedures are followed when a child is released from protective custody by the court. If the child is released from protective custody, the child is only released to the court-ordered ~~custodian(s) as described in~~ custodian. [OAC 340:75-1-16~~.~~]

340:75-3-13. Completion of the ~~assessment or~~ investigation or assessment process

(a) **Closure with the person responsible for the child (PRFC) or family.**

(1) Following completion of the investigation, the Child Welfare (CW) worker notifies ~~the PRFC(s), by letter,~~ each PRFC of ~~the~~ any findings~~, utilizing~~ pertaining to the PRFC. The CW worker:

(A) mails Form CWS-KIDS-97, Notification Concerning ~~Findings~~ Finding(s) of Child Abuse/Neglect, to each PRFC. ~~Refer to OAC 340:75-1-12.2 when~~ When the finding is confirmed - services recommended or confirmed - court intervention requested, ~~for procedures on providing the PRFC(s) with notice of the right to appeal the confirmed finding.~~ OAC 340:75-1-12.2 applies;

(B) verbally notifies the PRFC when there are findings; and

(C) for in-home investigations, mails to each PRFC Form CWS-KIDS-97 pertaining to the other PRFC(s). Refer to OAC 340:75-3-8.1 and 340:75-3-8.2 for out-of-home investigative findings and notification to other PRFCs.

(2) Following completion of the assessment, the CW worker notifies ~~the PRFC(s)~~ each PRFC of the conclusion~~, by letter, utilizing Form CWS-KIDS-103 or CWS-KIDS-103-A, Notification Regarding Assessment~~. The CW worker:

(A) mails to each PRFC Form CWS-KIDS-103 or CWS-KIDS-103-A, Notification Regarding Assessment; and

(B) verbally notifies each PRFC of the conclusion.

(3) The CW worker assists with any needed ~~reports~~ referrals for continued services from ~~DHS~~ Oklahoma Department of Human Services (OKDHS) or another agency.

(4) Closure with the ~~PRFC~~ PRFC(s) or family may be circumvented when there is reason to believe that it may place the ~~child(ren)~~ child or ~~the~~ CW worker in danger or when the ~~PRFC~~ PRFC(s) cannot be located.

(b) **Disclosure of the investigative findings or assessment conclusion to a reporting party.** ~~As per~~ Per Section 7109 of Title 10 of the Oklahoma Statutes, certain information ~~can~~ may be provided to reporting parties~~, depending on the category of the reporter,~~ within the guidelines described in (1) - through (3) of this subsection.

(1) Hospital medical staff or physicians, including medical doctors, dentists, osteopathic physicians, residents, and interns, who ~~have reported~~ report physical or sexual abuse may be provided information regarding the findings and any other information that may be necessary for the child's medical treatment.

(2) When school personnel ~~have made a~~ report ~~of~~ serious physical abuse or sexual abuse ~~which~~ that is later confirmed, a summary of the circumstances of the incident may be sent to the school principal utilizing Form DCFS-7, Notification to School Concerning Child Abuse Report. ~~The summary~~ Form DCFS-7 includes a brief description of the circumstances of the sexual abuse or serious physical abuse, the name of the ~~parent~~ parent(s) or ~~PRFC~~ PRFC(s) and the name of the ~~DHS~~ OKDHS

employee who serves as contact person for the case. ~~Under certain circumstances, school~~ School personnel ~~may~~ have the right to review other applicable CW case record information~~.~~, ~~[~~per OAC 340:75-1-44~~(a)(23)]~~.

(3) All other reporters who inquire may be told the finding of the investigation or that the assessment has been concluded ~~if the reporter inquires~~. ~~Care must be used so as not to reveal case specifics.~~ The ~~reporting party may be~~ reporter is told that:

(A) ~~while~~ specifics ~~cannot be~~ are not disclosed~~,~~;

(B) the investigation or assessment has been completed; ~~and~~

(C) a report of any investigative findings has been forwarded to the district attorney's office in accordance with Oklahoma ~~Statutes.~~ statutes; and

(D) ~~The reporting party may be advised that~~ a completed investigation or assessment does not preclude future investigations or assessments if new allegations of child abuse or neglect are reported.

(c) **Time frames for completion of investigations or assessments.**

(1) All investigative or assessment interviews with the child victim and PRFC(s) in Priority I and II referrals are completed and documented within 30 calendar days of the date the report is received.

(2) All paperwork in Priority I, II, and III referrals is completed and documented within 60 calendar days of the date the report is received.

340:75-3-14. Statewide ~~Hotline~~ hotline and ~~After Hours Response~~ after hours response

In order to facilitate ~~twenty four~~ 24-hour response to reports of abuse and neglect and to address other emergency situations that ~~may~~ occur after working hours, the Child Welfare (CW) program utilizes a statewide toll-free ~~twenty-four response~~ 24-hour child abuse hotline ~~called the Statewide Hotline~~ (SWHL), 1-800-522-3511.

(1) ~~The~~ SWHL is utilized for receipt of reports concerning child abuse and neglect~~, and adult protective services,~~ when the:

(A) county office is closed~~,~~; or

(B) ~~when the~~ reporting party is not clear about the appropriate county office to contact or does not want to report to the county office.

(2) Procedures for documenting referrals for Child Protective Services are delineated in OAC 340:75-3-5. ~~For procedures relating to adult protective services, see OAC 340:105-3-21.~~

SUBCHAPTER 4. FAMILY-CENTERED AND COMMUNITY SERVICES

PART 9. SOONERSTART EARLY INTERVENTION PROGRAM [REVOKED]

340:75-4-120. Purpose [REVOKED]

~~This Subchapter describes the SoonerStart Early Intervention Program. SoonerStart is a statewide, interagency, multidisciplinary system of services to families with young children (0-36 months) who have developmental delays. Focusing on the family, early intervention seeks to:~~

~~(1) enhance the development of children served and minimize their potential for developmental delay;~~

~~(2) enhance and strengthen the abilities of families to meet the needs of children with developmental delays;~~

~~(3) reduce the need for special education and related services as these children reach school age; and~~

~~(4) maximize their potential for leading productive lives in the community as adults.~~

340:75-4-121. Eligibility [REVOKED]

~~(a) A child who is eligible for early intervention services must meet the following criteria.~~

~~(1) The child must be age birth through three years (0-36 months).~~

~~(2) The child must either:~~

~~(A) exhibit a delay in their developmental age compared to their chronological age of 50 percent in one, or 25 percent in two or more of the following areas:~~

~~(i) cognitive development;~~

~~(ii) physical development;~~

~~(iii) communication development;~~

~~(iv) social or emotional development;~~

~~(v) adaptive development; or~~

~~(B) have a diagnosed physical or mental condition that has a high probability of resulting in delay. This includes, but is not limited to:~~

~~(i) chromosomal disorders;~~

~~(ii) neurological abnormalities;~~

~~(iii) inborn errors of metabolism;~~

~~(iv) genetic disorders;~~

~~(v) congenital malformation of the brain;~~

~~(vi) congenital infections;~~

~~(vii) sensory abnormalities and impairments; or~~

~~(viii) other identified syndromes.~~

~~(b) This program is available to all eligible children regardless of income, custody status or their eligibility for other DHS programs.~~

340:75-4-122. Background and authority [REVOKED]

~~(a) SoonerStart Early Intervention Program is authorized by 20 U.S.C. 1471 and O.S. 70, Section 13-123. Legislation calls for joint participation in funding and provision of services from four state agencies:~~

~~(1) State Department of Education (SDE);~~

~~(2) Department of Human Services (DHS);~~

~~(3) Oklahoma Department of Health (ODH); and~~

~~(4) Department of Mental Health and Substance Abuse Services (DMHSAS).~~

~~(b) The SDE was designated lead agency for general administration, supervision and monitoring of programs and activities. The ODH was named to provide or arrange designated~~

~~early intervention services. The Oklahoma Commission on Children and Youth was named to administer the Interagency Coordinating Council for Early Childhood Intervention (ICC) which advises and assists the SDE as lead agency. The ICC is composed of 15 to 25 governor-appointed members, including parents of children with disabilities and public and private agency representatives.~~

340:75-4-123. Structure [REVOKED]

~~The early intervention program is multidisciplinary and capitalizes on the resources and functions of the participating agencies.~~

~~(1) **Interagency coordinators.** The State Department of Education (SDE), Oklahoma Department of Health (ODH), DHS, and Oklahoma Commission on Children and Youth have designated staff to serve as Early Intervention Coordinators for their agencies. The Early Intervention Coordinator position with DHS is located in the Division of Children and Family Services~~

~~(2) **Regional early intervention units.** Oklahoma is divided into 11 service delivery regions. Larger regions have several early intervention sites which may cover several counties. Each region consists of a regional coordinator and resource coordinators employed by the SDE and service providers employed by the SDH. The resource coordinators provide case management services to children and families. The regional coordinator supervises the resource coordinators and is responsible for direct linkage between the community, other agencies, local schools and service providers in SoonerStart. The SDH service providers are responsible for the direct services to children and families.~~

340:75-4-124. Services [REVOKED]

~~(a) **Direct services.** SoonerStart uses a family centered approach to arrange services for the child while helping parents to understand and enhance their child's development. Services may include:~~

~~(1) diagnostic and evaluation services;~~
~~(2) case management;~~
~~(3) family training, counseling and home visits;~~
~~(4) certain health and medical services;~~
~~(5) nursing services;~~
~~(6) nutrition services;~~
~~(7) occupational, physical and speech language therapy;~~
~~(8) audiological services;~~
~~(9) special instruction;~~
~~(10) social work services; and~~
~~(11) psychological services.~~

~~(b) **Service provision.** A multidisciplinary team evaluates the child for eligibility purposes and assesses for the child's individual needs. Parents participate in all aspects of the evaluation process. A written Individualized Family Service Plan (IFSP) is then developed by the family and service providers based on the child's evaluation. The IFSP is the plan of action for services to the child and family taking into consideration the child's and family's strengths, priorities and resources. Services are provided in the child's natural environment such as the home, day care center, or other community setting that best meets the child's needs.~~

340:75-4-125. Funding [REVOKED]

~~There is no direct cost to families for services. Funding sources include Individuals with Disabilities Education Act, Part H, 20 USC Sections 631-640, Medicaid (Title XIX), Maternal and Child Health (Title V), and state appropriated dollars.~~

340:75-4-126. Referrals [REVOKED]

~~Referrals are encouraged and accepted from all sources. A parent or other referral source may contact the early intervention unit by telephone, written or personal contact. Whenever possible, the parent should be informed that a referral is being made on behalf of their child to SoonerStart. The early intervention unit needs the child's name and birth date, parent's name and address, reason for referral, and other available information such as a telephone number. If the parent is unsure about the referral or in need of more information, the early intervention unit may be contacted directly for information on SoonerStart. This information can be mailed to the referral source to be shared with the parent or mailed directly to the parent.~~

340:75-4-127. Children in Foster Care [REVOKED]

~~Children in foster care are eligible for SoonerStart services. Under the Oklahoma Early Intervention Act and special education federal regulations, the foster parent serves as the child's parent in giving consent for services and in releasing information from SoonerStart to other agencies, including DHS. The SoonerStart resource coordinator must have the foster parent sign the appropriate SDE release forms before SoonerStart can share the child's evaluations and IFSP with Child Welfare, DHS.~~

340:75-4-128. Transition [REVOKED]

~~Eligibility for SoonerStart services ends after the child turns three years of age. The child may then be eligible for special education services through the local school district. Children who do not meet the criteria for special education services will be referred to appropriate community programs.~~

SUBCHAPTER 6. PERMANENCY PLANNING

PART 5. PERMANENCY PLANNING SERVICES

340:75-6-30. Child's visitation with parents and siblings

(a) **Parent-child visitation.** The frequency of a child's visits with his or her parent(s) is directly linked to the length of time the child stays in out-of-home placement. Visitation is the single most predictive factor in whether a child is successfully reunified. Parent-child visitation is a high priority of the Child Welfare (CW) worker and serves the functions of:

(1) reassuring the child that the parent(s) has not abandoned him or her and that the parent(s) still cares for him or her;

(2) reassuring the parent(s) that CW is serious about maintaining family relationships and helping the parent(s);

(3) strengthening familial relationships;

(4) demonstrating new parenting skills by the parent(s);

(5) evaluating parenting skills;

(6) evaluating parent-child interaction;

(7) assessing the parent(s)' level of interest and ability to parent;

(8) preparing families for reunification; and

(9) identifying continued risks to the child's safety that make reunification unfeasible.

(b) **Visitation is a right.** The child and parent(s) have a right to regular visitation.

(1) The parent(s) is notified of this right on ~~either~~ Form CWS-KIDS-10, Treatment Plan, ~~or~~ Form CWS-KIDS-24, Individualized Service Plan (ISP), or Form CWS-KIDS-25-A, Individualized Service Plan (ISP) Dispositional Report, as applicable.

(2) Denial of family visitation, sibling contact, or the exchange of letters and phone calls is not used to reward or punish the child or family.

(~~2~~3) Visitation is available to the children and families involved with CW, provided there is no:

(A) documentation that the child is endangered;

(B) documentation that visitation is damaging to the child; or

(C) court finding that efforts to reunite are not required or have been made and failed and visitation cease. When the court has made a finding that reasonable efforts are not required, visitation may continue in some situations until the permanency hearing.

(~~3~~4) Regular visitation does not occur when:

(A) ~~Only election of~~ the parents ~~to~~ decline to participate~~,~~;

(B) ~~a~~ the permanency plan ~~goal other than~~ is not reunification~~,~~; or

(C) the special circumstances described in OAC 340:75-6-30(c) ~~rule out regular visitation~~ apply.

(~~4~~5) Prior to discontinuing visitation with the parent(s), the CW worker ~~discusses this~~ consults with the district attorney, child's attorney, and child's therapist if appropriate, and advises the court of the recommendation. Written notice of this decision with a detailed explanation is provided to the:

(A) court;

(B) child's attorney; ~~and~~

(C) parent(s)~~.~~; and

(D) if applicable, court-appointed special advocate (CASA).

(c) **Frequency of parent-child visitation.** Family visitation begins no later than two weeks after the child's removal ~~of the child~~ and is arranged a minimum of every four weeks thereafter until the child is returned or the permanency plan is no longer reunification. Exceptions are made when the:

(1) parent(s) fails to cooperate with visitation arrangements;

(2) court orders no visitation;

(3) whereabouts of the parent(s) are unknown; or

(4) visitation, even supervised, endangers or submits the child to highly damaging psychological stress.

(d) **Visitation schedule.**

(1) A schedule of visitation is designed jointly with the family, placement provider, and CW worker. Visitation increases in length and frequency and decreases in the level of supervision as the parents correct the conditions of intervention.

(2) A visitation schedule provides security for parent-child interaction and allows parents a reliable routine for practicing new parenting and relationship techniques. The schedule promotes time management skills for the parents and allows the CW worker an opportunity to observe the parent-child interaction.

(3) The CW worker determines the frequency, location, and arrangements for visitations. When safety is ensured, the placement provider may participate in visitation. The visitation schedule is written and signed by the family, placement provider, and CW worker, with copies for all, including the child as appropriate, and attached to Form CWS-KIDS-10, ~~or~~ Form CWS-KIDS-24, or Form CWS-KIDS-25-A.

(A) **Frequency.** Contact with the child occurs according to the safety situation for the child. Initially, frequency is increased by adding a schedule for letters and phone calls, followed by an increase in visits. Phone calls and visits are arranged with the parent(s), placement provider, and child, age permitting.

(B) **Length.** Initial visits are of short duration, one to two hours. Length of visits gradually increases as the parents become more proficient in parenting skills. Successful unsupervised ~~day-long~~ all day, overnight, and weekend visits are completed prior to planning for the child's return home.

(C) **Location.** In the beginning stages of a case, visits may require supervision by the CW worker, and when necessary, held in a ~~sterile~~ controlled environment such as the Oklahoma Department of Human Services (OKDHS) office. As soon as safety permits, visits are held in locations conducive to parent-child interaction, such as parks, restaurants, and shopping malls. As the parents progress in eliminating the risk factors, the frequency and length of visits increase and the location moves to the placement provider's

or parent(s)' home, as appropriate. The length, frequency, and location of visits are based on the needs of the child and the abilities of the parent(s).

(D) **Activities.** Visits are planned and structured to include age appropriate activities with the child. This allows the parent(s) the opportunity to learn about the child's development and to strengthen the parent-child relationship. As parental involvement progresses, school conferences and doctor appointments may be combined with the family visits.

(E) **Mail and phone contact.** Contact with the child's parent(s), extended family, and friends through phone calls and letters is encouraged. Mail, including ~~email~~ e-mail, and phone calls are not monitored or restricted unless it is essential for the child's protection. The court is advised when restrictions are warranted and of OKDHS efforts to improve the quality of family contacts. Restrictions may be considered when:

(i) threats are made to the child;

(ii) the contact causes harm to the child's emotional well-being;

(iii) there is an attempt to influence the child's testimony; or

(iv) an attempt is made to undermine a present or future placement.

(e) **Contact with siblings.** All efforts are made to place sibling groups together in both temporary and permanent placements, per OAC 340:75-6-85.3. When this is not possible, face-to-face, phone, letter, or e-mail contact between all siblings ~~have frequent~~ is arranged a minimum of once every four weeks until the siblings are reunited in out-of-home placement or the permanency plan is achieved. The CW worker verifies this contact with the placement provider at each monthly contact. ~~A child who is in out-of-home care is normally in compelling need of closeness with siblings.~~ Sibling contacts approved by the CW worker may be arranged by placement providers.

(f) **Child's visits or contacts with relatives.** When a child is in emergency or temporary OKDHS custody, the CW worker evaluates requests for visitation or contact from relatives or extended family members based on information from the child's parent(s) and the significance of the relationship to the child's well-being ~~of the child~~. The decision is discussed with the child's attorney when there is disagreement with the child's parent(s) regarding the contact or visitation with relatives.

(g) **Child's visits or contacts from outside entities.** The CW worker determines who is appropriate to have visitation or contact with a child in ~~care~~ out-of-home placement. When the child is in emergency or temporary OKDHS custody, the parent(s) has input into this decision. For the child in permanent OKDHS custody, the CW worker may approve contact, based upon the child's wishes and the ~~case~~ permanency plan ~~goal~~.

340:75-6-31.4. Supported Permanency

When a child in the custody of ~~the~~ Oklahoma Department of Human Services (OKDHS) is placed in a paid kinship foster home with a relative who resides in Oklahoma and meets the specified degree of relationship as defined by the Temporary Assistance for Needy Families (TANF) program, per OAC 340:10-9-1(a), Supported Permanency may be explored, subject to the availability of funds.

(1) Supported Permanency is appropriate when the:

(A) child is age 12 or older or has a sibling age 12 or older who resides in the same relative foster home;

(~~A~~B) court makes a finding that reasonable efforts to reunite are not required or have been made and failed, and the permanency plans of reunification and adoption have been ruled out;

(~~B~~C) relative has completed all requirements to be an approved OKDHS foster home;

(~~C~~D) child is currently residing with the relative in Oklahoma and has been for four of the previous six months;

(~~D~~E) relative is willing to assume legal responsibility; and

(~~E~~F) court and, if appropriate, the child are in agreement with the plan for the relative to obtain legal responsibility.

(2) Supported Permanency provides the relative with:

(A) monetary reimbursement to an attorney for the legal costs incurred in the transfer of legal responsibility of the child;

(B) a monthly cash benefit for the child, ~~based on the standard foster care rates~~ per OKDHS Appendix C-1, Maximum Income, Resource, and Payment Standards, Schedule XVII;

(C) a medical card for the child; and

(D) an assigned Family Support Services worker to provide referrals for services, if needed.

340:75-6-31.5. Establishment of paternity

(a) In cases where paternity has not been legally established for a child in the custody of Oklahoma Department of Human Services (OKDHS), Child Welfare (CW):

(1) requests the court to establish paternity in the juvenile court action; or

(2) cooperates with OKDHS Child Support Enforcement Division (CSED) to establish paternity per OAC 340:25-5-176.

(b) CW does not pursue a paternity action or request genetic testing when:

(1) paternity is voluntarily acknowledged in Oklahoma or another state and not rescinded within the allowable time, per Section 70 of Title 10 of the Oklahoma Statutes (10 O.S. § 70);

(2) the child is born during the course of the marriage and is reared by the husband and wife as a member of their family without disputing the child's legitimacy for a period of at least two years, per 10 O.S. § 3; or

(3) paternity is established by a district or administrative court order, per 10 O.S. § 70.

(c) If no other conclusive presumption of paternity or court determination of paternity exists for a child, the parent(s) may complete and sign Form CSED-209, Affidavit Acknowledging Paternity. The CW worker refers the parent(s) to CSED.

(1) CSED provides Form CSED-209 for voluntary acknowledgment of paternity, per 10 O.S. § 70 and 63 O.S. § 1-311.
(2) Signed and witnessed forms must be filed with Oklahoma State Department of Health Vital Records Division.

PART 7. CASE PLANS

340:75-6-40.4. Treatment Plan and Individualized Service Plan

(a) **Family plan.** The Child Welfare (CW) worker and family develop the initial treatment and service plan, ~~either Form CWS-KIDS-10, Treatment Plan, or~~ Form CWS-KIDS-24, Individualized Service Plan (ISP), after the strengths and needs assessment is completed and prior to the dispositional hearing. Participation or input from the parent(s), legal guardian, placement provider, child, if appropriate, child's attorney, and guardian ad litem, if applicable, are also utilized in the development of the plan. An age appropriate child, regardless of legal status, participates, if feasible. The plan:

(1) is initiated prior to the dispositional hearing or no later than 60 days from the child's removal or the filing of the petition in order that services to correct conditions that created the risk to the child may begin. Regardless of the status of the case in court, the plan is completed within this time frame and filed with the court prior to the dispositional hearing or no later than 30 days after adjudication if the dispositional hearing has not been held;

(2) addresses the conditions the parent(s), legal guardian, legal custodian, stepparent, or other adult person living in the home must change in order to alleviate the risks to the child and the conditions of deprivation set out in the petition;

(3) is individualized and specific to each child and parent with specified time frames;

(4) contains all of the risk related needs and safety issues in order to prevent the return of the child to an unsafe home. The allegations in the deprived petition are the risk factors that must be addressed.

(A) Risk factors that relate to those identified in the petition may also be included in the plan, for example, neglect is alleged in the petition but the basis for the neglect is substance abuse.

(B) The parent's improvement on identified non-risk related needs is not used as a basis for recommending reunification unless the parent has made significant progress on the risk related needs;

(5) is recommended to the court by the CW worker at the first ~~disposition~~ dispositional hearing on Form CWS-KIDS-25-A, Individualized Service Plan (ISP) Dispositional Report. Prior to the dispositional hearing, the plan is initiated with the ~~parents~~ parent(s) on a voluntary basis;

(6) is revised after the first ~~disposition~~ dispositional hearing to conform to the court's order;

(7) is updated ~~regarding~~ by utilizing Form CWS-KIDS-10, Treatment Plan, or Form CWS-KIDS-25, Individualized Service Plan (ISP) Progress Report, when Form CWS-KIDS-24 is used to develop the initial plan, to document the ~~parent's~~ parent(s)' progress toward completion every six months or prior to every review and ~~disposition~~ dispositional hearing, whichever is earlier, and submitted to the court three days prior to the hearing;

(8) ~~including each plan~~ when Form CWS-KIDS-10 is used and submitted for review hearings, is signed by the ~~parents~~ parent(s), age appropriate child, CW worker, and CW supervisor and a copy is provided to the designated persons;

(9) in accordance with Section 7003-5.3 of Title 10 of the Oklahoma Statutes (10 O.S. § 7003-5.3), includes this statement: *TO THE PARENT: THIS IS A VERY IMPORTANT DOCUMENT. ITS PURPOSE IS TO HELP YOU PROVIDE YOUR CHILD WITH A SAFE HOME WITHIN THE REASONABLE PERIOD SPECIFIED IN THE PLAN. IF YOU ARE UNWILLING OR UNABLE TO PROVIDE YOUR CHILD WITH A SAFE HOME, YOUR PARENTAL AND CUSTODIAL DUTIES AND RIGHTS MAY BE RESTRICTED OR TERMINATED OR YOUR CHILD MAY NOT BE RETURNED TO YOU*;

(10) is written by the CW worker in simple and clear language that is understood by the ~~parents~~ parent(s) or the persons for whom the plan is intended. If the person does not read or understand English, ~~an effort is made to translate~~ the plan must be translated to the person's principal language, per 10 O.S. § 7003-5.3;

(11) is provided to the child's attorney, guardian ad litem, placement provider, and parent(s) after it is approved by the court;

(12) includes the permanency goal for the child and an explanation for this goal;

(13) specifically provides for the safety of the child, in accordance with state and federal law, and clearly defines what actions or precautions are necessary to provide for the safety and protection of the child;

(14) includes a description of any visitation rights and addresses the parent(s)' obligation to assist in the financial support of the child.

(A) The amount of financial support is based on the child support guidelines, per ~~Sections~~ 43 O.S. § 118 and 119, ~~of Title 43 of the Oklahoma Statutes, which~~ that the court must follow when entering a child support order in a deprived court action.

(B) The child support order ~~must be~~ is filed as a separate document from the plan and ~~have~~ a child support computation form is attached, ~~as required~~ per ~~Section 120 of Title 43 of the Oklahoma Statutes~~ 10 O.S. § 7003-8.8; and

(15) includes documentation, when applicable, that ~~parents are~~ the parent(s) is unwilling to participate in the development or implementation of the plan.

(b) **Child only plan.**

(1) When the court determines that reasonable efforts have been made and failed or are not required, a Petition

for Termination is filed or rights of the parent(s) are terminated, the CW worker develops a plan that addresses the permanency goal for the child. Participation or input from the placement provider, child, if age appropriate, child's attorney, and guardian ad litem, if applicable, are utilized in the development of this plan. If the child, age 12 years or younger, is unable to sign, the placement provider signs for the child.

(2) When the permanency plan for the child is adoption or other permanent placement, information is provided in the plan regarding child-specific recruitment efforts such as the use of state, regional, and national adoption exchanges, including electronic exchange systems. The plan documents the steps the Oklahoma Department of Human Services (OKDHS) takes to:

(A) find an adoptive family or other permanent living arrangement for the child;

(B) place the child with an adoptive family, a fit and willing kinship relation, legal guardian, kinship guardian, or in another planned permanent living arrangement; and

(C) finalize the adoption, guardianship, kinship guardianship, or other permanent placement.

(c) **Independent living plan.** Federal law requires the initiation of an individualized independent living (IL) plan with every child in the custody of OKDHS and ~~in~~ out-of-home placement upon reaching the age of 16 years, per Part 13 of OAC 340:75-6~~, Part 13~~.

(d) **Revisions to the plan.** A court-ordered plan or portion of a plan ~~cannot~~ may not be changed except by further ~~action by~~ order of the court. All changes to the plan are developed with the family and child, as appropriate, and recommended to the court at the next hearing. The placement provider is informed of any change that impacts the child's care. Changes are made when one of the circumstances in (1) through (4) exists.

(1) **Abuse or neglect allegations.** When new allegations of abuse or neglect are confirmed and result in an amended or new petition, a request is made to the district attorney for an accelerated hearing to consider the revisions.

(2) **Underlying causes.** ~~The discovery~~ Discovery is made of additional underlying causes, such as substance abuse, that require treatment.

(3) **New adult in the household.** An additional adult, such as the mother's new husband, becomes a part of the family home.

(4) **Court-ordered standards.** When the court orders ~~that the parent(s) change or correct some conditions that were not previously identified in~~ modification of the plan, the plan is ~~either~~ revised to include the ~~court-ordered~~ new standards ~~or the standards are attached to the plan~~ ordered by the court. The parent(s) is informed of the additions and ~~that the orders are binding~~ provided a copy of the new plan. ~~A copy of the court-ordered standards is given to the parent(s).~~

(e) **More than one plan for the child and family.** There are some circumstances in which more than one plan is necessary. For example, if the child's parents are living separately with separate families and both are involved with the child in OKDHS custody either as the custodial parent with whom reunification is the ~~case~~ permanency plan ~~goal~~, or the noncustodial parent who has visitation through the divorce court, a plan for each family is appropriate.

(f) **~~Custody child~~ Child in custody who is a parent.** A plan is developed with a child in OKDHS custody who is the parent of a child in OKDHS care, regardless whether the younger child is in OKDHS custody. Services are identified and provided to assist the child in OKDHS custody in parenting his or her child, per OAC 340:75-6-85.6.

(g) **Substance abuse treatment.** ~~Section~~ 10 O.S. § 7003-5.3 ~~of Title 10 of the Oklahoma Statutes~~ specifies that when a child who at birth tested positive for alcohol or a controlled dangerous substance and ~~who~~ was determined at risk for future exposure to these substances, was removed from the home, the plan, subject to court approval, may require:

(1) the mother of such child to complete a treatment program approved by the Alcohol and Drug Abuse Prevention, Training, Treatment and Rehabilitation Authority prior to the child's return home;

(2) the father, legal guardian, legal custodian, stepparent of the child, or other adult person living in the home, who is an alcohol or drug-dependent person, as defined by ~~Section~~ 43A O.S. § 3-403 ~~of Title 43A of the Oklahoma Statues~~, and whose conduct contributed to the child's or mother's dependency on alcohol or drugs or to the conditions that caused the deprived adjudication of the child, complete a treatment program approved by the Alcohol and Drug Abuse Prevention, Training, Treatment and Rehabilitation Authority prior to the child's return to the safe home; or

(3) monthly testing for substance abuse of the mother, father, legal guardian, legal custodian, stepparent, or other adult person living in the home, for a 12-month period after completing the substance abuse program and the child's return home. A positive test must be presented to OKDHS and the district attorney. Testing ordered by the court is admissible only for the purpose of juvenile and custody proceedings.

340:75-6-44. Case planning for heinous and shocking cases or reasonable efforts not required

(a) **Case planning.** If the ~~District Attorney~~ district attorney files a petition to terminate parental rights based on heinous and shocking abuse or neglect or ~~if~~ the court ~~has made~~ makes a finding that reasonable efforts are not required, efforts begin immediately to secure an alternative permanent home for the child. ~~The Medical and Social History Report for Adoption, Form ODH #347, is completed in order to obtain the medical, health and social history of the child and the child's family for the permanent record.~~

(1) The Child Welfare (CW) worker continues contact with the parent(s) per OAC 340:75-6-48. The purpose of the contacts differs from contacts where the permanency

plan is reunification and primarily focuses on advising the parent(s) of his or her rights, roles, and responsibilities and status of the case.

(2) Visitation between the child and parent(s) is considered on a case-by-case basis. Decisions to suspend or terminate visitation prior to adjudication on the motion to terminate or the permanency hearing are not made without a court order.

(b) **Family/Child Strengths and Needs Assessment and Individualized Service Plan.** An assessment is conducted to determine the child's individual needs. ~~and the~~ The treatment and service plan needs are written as conditions to be met in order to successfully complete the child's ~~permanent~~ permanency plan.

(1) ~~An~~ The assessment is ~~not~~ conducted ~~nor a~~ with the family in order to gather information to assist in appropriate permanency planning.

(2) A family treatment and service plan ~~written for the family~~ is not developed when the child's ~~permanent~~ permanency plan goal is other than reunification.

(3) Form ODH 347, Medical and Social History Report for Adoption, is completed in order to obtain the medical, health, and social history of the child and the child's family for the permanent record.

(c) **Relative placement.** Relative placements are used with caution in cases of severe maltreatment. The risk of parental contact ~~could jeopardize~~ jeopardizing the child's safety throughout childhood and the possibility of a history of abuse within the family structure are carefully examined.

(1) The CW worker carefully weighs the child's need for connection with his or her biological family and for a committed, safe and healthy home.

(2) The child's age is ~~also~~ a factor in making ~~these~~ placement decisions. For example, an older child who has a close bond with a relative may benefit, while a younger child, particularly an infant, may be better served in a non-relative adoptive home.

PART 8. ROLE OF THE CHILD WELFARE WORKER

340:75-6-48. CW worker contacts with child, placement providers, and parents

(a) **Child and placement provider.** The purposes of a Child Welfare (CW) worker's contacts include, but are not limited to, maintaining the child's connections to his or her family, allowing the worker to evaluate the interactions, conditions, and services the child is receiving, particularly those in the home or in placement, and serving to establish and maintain a teamwork relationship. CW worker contacts with a child in the custody of ~~the~~ Oklahoma Department of Human Services (OKDHS) and the placement ~~provider(s)~~ provider are provided in (1) through (7).

(1) **Foster family care and therapeutic foster care.**

(A) The CW worker in the county of placement has face-to-face contact with the child in the foster home within the first two weeks of each placement and a minimum of once every ~~four weeks~~ calendar month thereafter, with no more than 31 days between contacts. This applies to a child placed in:

(i) paid or non-paid kinship placement~~,~~;

(ii) regular foster care~~,~~;

(iii) contract foster care~~,~~; and

(iv) therapeutic foster care.

(B) Contacts increase in times of change and stress.

(C) If there is good cause to believe that a child needs to be interviewed privately during a contact in the foster home, for reasons other than abuse and neglect allegations, the foster ~~parent(s)~~ parent provides a place in the home where the child can be interviewed outside the foster ~~parent(s)'~~ parent's presence.

(2) **Shelter.** The CW worker has face-to-face contact with the child at the shelter within 24 hours of his or her entry into the shelter and a minimum of once weekly while the child remains in the shelter. During the shelter stay, when the child's CW worker offices:

(A) within 60 miles of the shelter, the CW worker visits and provides any identified services to the child; or

(B) more than 60 miles from the shelter, the assigned shelter liaison visits and provides any identified services to the child. The child's CW worker contacts, either by phone or in person, the shelter social worker weekly while the child remains in shelter care, ~~as described in~~ per OAC 340:75-10-10~~(7)(A)~~.

(3) **Emergency foster care.** When a child is placed in emergency foster care, the CW worker:

(A) has face-to-face contact with the child in the emergency foster home a minimum of once weekly; and

(B) attends weekly staffings with the emergency foster care contract agency.

(~~3~~4) **Community-based residential care - non-OKDHS operated.** For the child placed in a group home or specialized community home, the CW worker has face-to-face, private contact with the child and placement provider in the placement once every:

(A) ~~30~~ calendar month, with no more than 31 days between contacts, when the child's placement is 30 miles or less; and

(B) ~~every~~ 90 days when the child's placement is over 30 miles from the county of jurisdiction. The facility liaison contacts the child and placement ~~provider(s)~~ provider during the months the CW worker does not have a face-to-face contact with the child.

(~~4~~5) **Community-based residential care - OKDHS operated.** For the child placed in an OKDHS operated group home, the CW worker has phone or personal contact with the child and group home worker once every ~~30~~ calendar month, with no more than 31 days between contacts. The group home worker visits with the child and coordinates or completes any applicable permanency planning duties pertaining to the child.

(~~5~~6) **Inpatient treatment - acute.** When a child is in acute inpatient treatment, face-to-face contact with the child at the placement location is provided by the facility liaison every ~~30~~ calendar month, with no more than 31 days between contacts.

(A) Daily phone contact is maintained between the mental health facility and the child's worker during the first five working days of treatment.

(B) If the child remains in acute inpatient treatment in excess of five working days, the CW worker contacts the child's therapist or other mental health professional and facility liaison by phone a minimum of once a week and inquires about the child's progress in order to facilitate the discharge plan~~.~~, ~~[~~per OAC 340:75-16~~]~~.

(~~6~~7) **Inpatient treatment - residential.** When a child is in inpatient residential treatment, face-to-face contact with the child at the placement location is provided by the facility liaison every ~~30~~ calendar month, with no more than 31 days between contacts. Close contact is maintained between the liaison and the child's worker. In addition, the CW worker:

(A) has on-site interaction with the child every:

(i) ~~30~~ calendar month, with no more than 31 days between contacts if the child's placement is 30 miles or less~~,~~; and

(ii) ~~every~~ 90 days if the child's placement is over 30 miles from the county of jurisdiction~~.~~; and

(B) ~~The CW worker~~ contacts the child's therapist or other mental health professional by phone every two weeks and inquires about the child's progress toward the discharge plan~~.~~, ~~[~~per OAC 340:75-16~~]~~.

(~~7~~8) **Own home.**

(A) The CW worker has face-to-face private contact with the child a minimum of once every ~~four weeks~~ calendar month, with no more than 31 days between contacts. ~~After~~ When the ~~child's return~~ child:

(i) initially returns to the parent(s), the first three contacts are in the child's home. Contact location then may alternate between the home and any other location~~.~~; and

(ii) ~~If the child~~ has been returned to the parent(s) for at least six months and OKDHS has been ordered to continue legal custody, supervision, or both, the CW worker has one face-to-face private contact with the child within two weeks prior to each scheduled court hearing unless more frequent visits are ordered by the court in order to obtain updated information to provide to the court.

(B) Contacts are increased during times of change and stress.

(b) **Child - special case circumstances.** There are several special case circumstances when minimum required contacts with the child and placement ~~provider(s)~~ provider may be allowed. The decision to allow the use of the minimum required contact rule requires CW supervisory approval. Reduced contact with the child and family is not considered when concerns are identified that require more intensive contact. ~~¢~~ 4 The circumstances and the minimum amount of required contact are detailed in (1) through (6).

(1) **Own home with Comprehensive Home-Based Services (CHBS).** When there is an open CHBS case for the purpose of reunification of a child in the custody or supervision of OKDHS, the assigned CHBS worker has face-to-face, private contact with the child in the home per contract specifications and the CW worker has face-to-face private contact with the child in the home a minimum of once every 90 days. The CW worker contacts the CHBS worker monthly, either by phone or in person, and inquires about case circumstances and identified needs.

(2) **Developmental Disabilities Services Division (DDSD) placement.** When a child in the custody of OKDHS is in a DDSD placement, DDSD case management staff provides services to the child, ~~in accordance with~~ per OAC 317:40-5-14. The CW worker in the county of placement:

(A) has face-to-face, private contact with the child in the home a minimum of once every 90 days; and

(B) contacts, either by phone or in person, the DDSD case manager monthly and inquires about case circumstances and identified needs.

(3) **Youth, 18 years or older, in voluntary placement.** The CW worker's contact with a youth, 18 years or older, in placement voluntarily, is determined jointly by the CW supervisor, CW worker, youth, and ~~the~~ placement ~~provider(s)~~ provider.

(A) A minimum of one face-to-face contact with the youth is required in the placement location every six months until case closure ~~of the case~~.

(B) During the months when the CW worker's contact with the youth is not in the ~~provider(s)'~~ provider's home, the worker contacts the youth and the provider by phone.

(4) **Custody with relative or another person with OKDHS supervision.** The CW worker has face-to-face contact with the child placed in the custody of a ~~relative(s)~~ relative or another ~~person(s)~~ person with OKDHS supervision a minimum of once every ~~four weeks~~ calendar month, with no more than 31 days between contacts. The location of the worker's contact may alternate between contact in the home and any other location.

(5) **Interstate Compact on the Placement of Children (ICPC) placement in residential treatment centers or group homes.** The CW worker has face-to-face contact at least every 90 days in the facility~~.~~, ~~[~~per OAC 340:75-1-86~~]~~.

(6) **Casey Family Programs placement.** When a child in out-of-home placement is placed with Casey Family Programs, the assigned Casey Family Programs worker has face-to-face, private contact with the child in the home per contract specifications. This worker's contact meets the minimum monthly requirement for contact with the child. The CW worker maintains responsibility for coordination and completion of Form CWS-KIDS-11, Court

Report, and attendance at any court hearing involving the child.

(c) **Parents.** The CW worker has face-to-face contact with the parent(s) of the child within the first two weeks of the child's removal and a minimum of once every ~~four weeks~~ calendar month thereafter, with no more than 31 days between contacts. The location of the contact is decided jointly by the CW supervisor and worker. The CW worker makes a home visit when assessing the home for reunification purposes. Exceptions to contacts with the parent(s) are made when:

(1) the parent(s)' whereabouts are unknown;

~~(2) the parent(s) lives out of state;~~

(~~3~~2) parental rights have been terminated; or

(~~4~~3) other justified reasons exist ~~which~~ that are documented in the case record.

(d) **Parents - special circumstances.** Phone contact with the parent(s) of the child is allowed in place of face-to-face contact when the parent(s) is incarcerated or living out-of-state. The CW county of jurisdiction worker is responsible for contact unless an exception applies. Appropriate exceptions include, but are not limited to, the:

(1) parent(s) has had no contact with the child and the child does not wish to have contact;

(2) parent(s) is incarcerated for an offense that resulted in the death penalty; or

(3) length of the parent(s)' incarceration is expected to surpass the date of the child obtaining the age of majority.

PART 11. PERMANENCY PLANNING AND PLACEMENT SERVICES

340:75-6-92. Services to ~~DHS custody~~ youth who are in OKDHS custody and pregnant

(a) **Specialized services.** Specialized services are provided to all ~~DHS custody~~ youth in Oklahoma Department of Human Services (OKDHS) custody who are pregnant. These services are designed to assist in making and implementing decisions regarding the pregnancy and are in addition to the other services the youth ~~is receiving~~ receives. The ~~custody~~ youth has the same rights as an adult and is legally and socially responsible for her decisions and the child.

(b) **Involvement of legal parents and father.** If the youth is in temporary OKDHS custody, her legal ~~parents~~ parent(s) or other relatives are involved with her in the planning. The named father is also involved, when appropriate, in the decision-making and planning for the child. ~~He~~ The father has a right to a relationship with his child and to share in the responsibilities. The Child Welfare (CW) worker addresses these issues with the pregnant youth, ~~the~~ father, ~~and the~~ youth's ~~parents~~ parent(s), and father's parent(s), if he is not an adult.

(c) **Counseling.** Counseling is provided for the pregnant youth for the purpose of examining the available options regarding the pregnancy. ~~Decisions made at this time may have a lifelong impact on the youth.~~ A CW worker with experience or in-service training in pregnancy counseling assists the youth in making decisions regarding the pregnancy. ~~In some cases, it may be advisable to refer the~~ The youth, if applicable, may be referred to a qualified professional in the community for counseling. Prenatal and postpartum care, diagnosis, nutrition, treatment of health problems, and other services are ~~also~~ arranged for the pregnant youth.

(1) **Parenting the child.** If the youth makes the decision to keep the child, services, including parenting skills training and assistance in accessing community resources are arranged. Services address the youth's abilities to meet her child's needs and the parent and child relationship. An assessment is conducted with the youth's participation. ~~and needs~~ Needs, performance criteria, services, and achievement dates are included in the treatment and service plan. Living arrangement options include:

(A) foster home or relative home for both the youth and her child that allows the youth to complete her education and learn parenting skills while in a nurturing environment;

(B) foster home or relative placement for the infant while the youth temporarily lives separately; or

(C) Pauline E. Mayer group home, ~~a DHS~~ an OKDHS residential facility for ~~custody~~ youth adjudicated deprived and their children. The ~~custody~~ youth must have already had her child. The group home provides an opportunity for the ~~mother~~ youth to live with her child, learn parenting and independent living skills, and continue her education or training while assuming full parenting responsibilities.

(2) **Relinquishment.** When a ~~custody~~ youth decides to relinquish her child for adoption, the ~~Adoption Section at the State Office~~ child's attorney is immediately contacted for relinquishment procedures.

(3) **Termination of the pregnancy.**

(A) If a ~~temporary custody~~ youth in temporary OKDHS custody decides to terminate ~~a~~ her pregnancy, her legal ~~parents~~ parent(s) or an adult relative are included in the arrangements. Pregnancy counseling is provided and documented in the CW case record. Cases involving decisions to terminate a pregnancy by ~~DHS custody children~~ youth in OKDHS custody are referred to ~~the State Office,~~ Children and Family Services Division Permanency Planning Section~~,~~ for consultation.

(B) OKDHS does not consent to or sign any type of form related to a procedure to terminate the pregnancy of a youth in OKDHS custody. OKDHS does not provide assistance with payment for the procedure. When a youth in OKDHS custody has a method of payment and a resource with which to pursue the procedure, OKDHS does not prohibit nor assist the youth with such action.

SUBCHAPTER 13. OTHER CHILD WELFARE SERVICES AND MEDICAL SERVICES FOR CHILDREN IN ~~SUBSTITUTE~~ OUT-OF-HOME CARE

PART 7. MEDICAL SERVICES

340:75-13-60. Scope [REVOKED]

~~A broad range of health related services are available to Oklahoma's children. Adequate medical and psychological care is essential to children to maximize their full potential.~~

340:75-13-61. Medical services to ~~custody~~ children in placement

~~It is the joint responsibility of Child Welfare (CW) workers and placement providers to ensure that all medical needs of children in out-of-home placements are met. The placement provider documents all medical and pharmaceutical information. This information is essential for inclusion in a child's Life Book and must be available to any future placement provider to ensure continuity of services.~~ Children in Oklahoma Department of Human Services (OKDHS) custody and out-of-home placements have fee-for-service medical cases. The Oklahoma Health Care Authority pays for each medical service provided at the Medicaid allowable rate. The CW worker:

(1) ~~aggressively works to make certain~~ ensures medical services are provided, ~~when indicated.~~ per OAC 340:75-6-88;

(2) ~~Workers make~~ informs the placement ~~providers aware~~ provider of medical service providers who are eligible for payment through ~~state~~ medical ~~programs.~~ resources; ~~Placement providers are advised they cannot utilize hospital emergency rooms unless the placed child suffers an acute physical injury.~~

(3) ~~Workers make application~~ applies for Medicaid for a ~~placed~~ child within five days of the filing of the petition ~~which~~ that results in ~~a child being removed~~ the child's removal from the home~~.~~; and

(4) ~~The worker~~ notifies the placement provider of the child's medical ~~case~~ number and person code ~~as soon as it is received~~ upon receipt to facilitate medical services and payment. ~~The workers' and placement provider's responsibilities for children's services include:~~

~~(1) a yearly Early Periodic, Screening, Diagnosis and Treatment (EPSDT) screening. All custody children in and out-of-home placement are eligible for EPSDT;~~

~~(2) a yearly dental exam for children over three years of age. Children under the age of three years receive dental services as needed;~~

~~(3) immunizations initiated and kept current;~~

~~(4) visual and hearing evaluation exams and corrective lenses or hearing aids, if indicated;~~

~~(5) counseling, if indicated;~~

~~(6) physician's services if child is sick. This service is not considered a physical exam; and~~

~~(7) follow-up and referral services as recommended by a qualified professional.~~

340:75-13-62. Medical services to ~~custody~~ children in ~~their~~ own home

(a) It is the joint responsibility of the Child Welfare (CW) ~~workers~~ worker and ~~parents~~ parent(s) to:

(1) ensure ~~that each custody child's~~ the medical needs of the child in Oklahoma Department of Human Services (OKDHS) custody are met~~.~~; and

(2) ~~Workers and parents~~ share all information to maximize the child's health and ~~welfare~~ well-being.

(b) The parent(s) is responsible for his or her child's medical expenses when the child resides with the parent(s), regardless of legal custody.

(1) The CW worker informs the ~~parents~~ parent(s) of available medical resources and refers ~~them~~ the parent(s) to the appropriate ~~agency staff~~ local OKDHS office to apply for medical assistance.

(2) At the time the parent(s) applies for medical assistance, the parent(s) must notify the person taking the application of the child's legal status to ensure proper coding in the medical case.

(3) ~~Children~~ If the family qualifies for medical assistance, the child in ~~the legal~~ OKDHS or tribal custody ~~of the state or a tribe will remain~~ remains fee-for-service on the medical case until the ~~state or tribe no longer has legal~~ child is released from OKDHS or tribal custody.

(4) ~~All children~~ Children in their own home eligible for a medical card are eligible for Early Periodic, Screening, Diagnosis and Treatment (EPSDT) services. Other children may be eligible for EPSDT services after their spenddown is met or other insurance is utilized. Eligibility, ~~is~~ based on the ~~parent's~~ parent(s)' income and resources, ~~therefore, eligibility will vary~~ varies with the specific circumstances of each family.

340:75-13-63. Prior authorization and claims procedures

(a) Prior authorization is required for ~~many~~ medical services, ~~such as psychological services, speech and hearing, physical therapy, appliances, prostheses, supplies, and others~~ per OAC 317:30-3-82. ~~Prior authorizations utilize Forms MS-MA-5 or CC-17 depending on the service.~~ Procedures and guidelines for prior authorization are ~~out lined~~ outlined in ~~the Provider's Manual,~~ OAC 317:30-3-82~~, with which~~ that is available to all healthcare providers ~~have been supplied~~ at www.ohca.state.ok.us. ~~All prior authorization requests and claims are completed by the providers or vendors as per OAC 317:30-3-82. If a vendor has questions concerning claims or prior authorization, he or she may contact Oklahoma Health Care Authority (OHCA), Customer Services, for guidance.~~

(b) For services, supplies, or equipment requiring prior authorization, the healthcare provider contacts the Oklahoma Health Care Authority contracted agency for specific instructions and assistance.

(c) ~~Should~~ If Child Welfare (CW) staff~~, foster parents~~ or ~~caretakers be~~ placement providers are referred to a collection agency for ~~non-payment~~ nonpayment of a medical bill for a child in Oklahoma Department of Human Services custody, CW staff ~~contact State Office DCFS,~~ contacts Children and Family Services Division Administrative Services Unit ~~with all pertinent information. State Office DCFS, Administrative Services Unit instructs staff of~~ for guidance regarding payment procedures ~~to get the provider or vendor paid~~.

340:75-13-64. Sources of funding

Medical services for ~~custody~~ children in Oklahoma Department of Human Services (OKDHS) custody are paid through a variety of funds.

(1) **Title XIX Medicaid and Children's Special Health Care Needs ~~Program via the Medical Authorization Unit~~ program.** ~~The foundation of Oklahoma's program is~~ Title XIX Medicaid, ~~which is~~ a combination of state and federal money, is administered through ~~the~~ Oklahoma Health Care Authority (OHCA). Medicaid claims are paid from the OHCA budget through a designated fiscal agent. The Medicaid ~~Program~~ program:

(A) has specific eligibility requirements~~.~~;

(B) covers specific services ~~are covered, and~~ as determined by Oklahoma's State Plan; and ~~determines the compensable amounts.~~

(C) ~~Medicaid will~~ does not pay for experimental procedures. ~~To access Medicaid, custody children must have a valid medical number.~~

(2) **Child Welfare medical - special approval.** ~~The~~ Children and Family Services Division (CFSD) has ~~a small budget~~ limited funds, state monies, that ~~can be~~ are utilized ~~for custody children~~ when the needed service, excluding experimental procedures, is not ~~within the scope of~~ covered by other medical programs. ~~Experimental procedures cannot be paid. These limited funds are state monies and come directly from the CFSD budget.~~ Utilization of these funds is ~~approved only~~ considered for approval by ~~State Office~~ CFSD~~,~~ Administrative Services Unit~~. CFSD funds expenditures are considered only as a last resort~~ after denial by Title XIX and ~~OHCA's Medical Authorization Unit~~ OHCA. All expenditures paid from state funds are paid at the Oklahoma Medicaid compensable amount.

(3) **Child abuse examinations.** When a child abuse examination is warranted, ~~including medical treatment needed at that time,~~ the reimbursement process is dependent upon the child's medical assistance case status on the date of the ~~exam~~ examination. If the child is:

(A) ~~If the child is~~ not a Medicaid recipient and the ~~parents are~~ parent(s) is unable or unwilling to pay for the ~~exam~~ examination, state funds ~~will~~ pay for the ~~exam~~ examination at established Medicaid rates. The ~~providers or vendors complete~~ provider completes claims ~~as~~ per ~~the Provider Manual,~~ OAC 317:30-7-1. The claim is routed to the county director with an explanation for using state funds~~.~~; or

(B) ~~If the child is~~ a Medicaid recipient and is designated eligible for:

(i) fee-for-service, OHCA ~~will reimburse~~ reimburses for these services at the established rates~~.~~;

(ii) SoonerCare ~~Choice~~, OHCA ~~will reimburse~~ reimburses for these services at the established rates ~~without~~ with referral from the ~~Primary Care Physician Case Manager.~~ primary care physician case manager (PCPCM); or

(iii) SoonerCare ~~Plus~~, when the ~~health plans are responsible for the payment~~ child is examined by a non-PCPCM without a referral from the PCPCM, state funds pay for the examination at established Medicaid rates. The provider completes claims per OAC 317:30-7-1. The claim is routed to the county director with an explanation for using state funds.

340:75-13-75. Out-of-state Medicaid coverage

Under federal law, children certified for Title IV-E foster care in Oklahoma are eligible for Title XIX Medicaid coverage in their state of residence when placed in out-of-state placement with relatives or non-relatives. ~~The child welfare worker provides Title IV-E eligibility information with the initial request sent to Interstate Compact on Placement of Children, ICPC, in DCFS State Office; workers may include a completed Form CWS-KIDS-4, Eligibility Determination Document, in the initial ICPC request as Title IV-E verification.~~ The ~~child welfare~~ Child Welfare (CW) worker sends written verification of the child's Title IV-E eligibility ~~verification~~ to the ~~caregiver~~ placement provider who ~~makes application~~ applies on behalf of the child in the state of residence. The child continues to receive Title XIX Medicaid coverage from the state of residence as long as the Title IV-E foster care eligibility remains in effect. A medical plan that includes a way to provide necessary and expected medical services and payment for those services must be in place before sending a ~~custody~~ child in Oklahoma Department of Human Services (OKDHS) custody to reside out-of-state.

(1) ~~Non~~ Children not Title IV-E ~~children~~ eligible may or may not be eligible for Medicaid from the receiving state depending on that state's eligibility criteria. If the receiving state ~~will~~ does not provide Medicaid for Oklahoma's non Title IV-E custody population, the Oklahoma medical case must remain open and the ~~caregiver~~ placement provider in the receiving state must locate all medical providers the child may need who are Oklahoma Medicaid providers or who may become Oklahoma Medicaid providers. The Oklahoma Health Care Authority (OHCA) assists providers from other states to become Oklahoma Medicaid providers.

(2) ~~Custody children~~ Children in OKDHS custody requiring medical attention while traveling through or vacationing in another state ~~should~~ must receive necessary emergency care. If the provider is:

(A) an Oklahoma Medicaid provider, the provider files a claim ~~as~~ per ~~the provider manual~~ OAC 317:30-7-1~~.~~;

(B) ~~If the provider is~~ not an Oklahoma Medicaid provider but is willing to become one, the provider is referred to the OHCA~~,~~ Provider Enrollment~~.~~; or

(C) ~~If the provider is~~ not an Oklahoma Medicaid provider and is not willing to become one, the ~~child welfare~~ CW worker contacts ~~State Office DCFS,~~ Children and Family Services Division Administrative Services Unit for assistance to pay for the medical service provided.

(3) When a child in OKDHS custody is placed with a parent(s), the parent(s) is responsible for the child's medical expenses. The parent(s) may apply for medical assistance for the child in the parent(s)' state of residence. The child receives medical coverage from the receiving state if the family meets that state's eligibility requirements.

340:75-13-80. Referral to the custody specialist for determination of medical eligibility

(a) ~~**General.**~~ **Determination of eligibility.** Determination of eligibility for the state's medical assistance programs is required when a child:

(1) ~~Children~~ is removed from ~~their homes~~ home and placed in the custody of ~~the~~ Oklahoma Department of Human Services (OKDHS), or a federally recognized Indian tribe ~~if~~ when the state is paying for the Indian child's care~~, require a determination of eligibility for the state's medical assistance programs.~~; or

(2) ~~Children entering~~ enters state paid care by parental agreement ~~also require determination for eligibility for the state's medical assistance programs~~.

(b) **Ineligible aliens.** Undocumented, ineligible, or illegal aliens are not eligible for medical assistance except in emergency medical situations, regardless of custody status. If a ~~custody~~ child ~~placed out of his or her home~~ in OKDHS custody and out-of-home placement:

(1) requires an emergency procedure, the Child Welfare (CW) worker consults the custody specialist about submitting ~~a medical assistance application~~ required documentation to Oklahoma Health Care Authority ~~(OHCA)~~ for approval~~.~~; or

(2) ~~To pay for~~ receives routine medical services ~~for a child in the custody of the Department and in out-of-home placement~~, the CW worker obtains a completed claim from the medical provider~~,~~ and notes ~~"illegal~~ ineligible alien~~"~~ and the child's KK number on the claim and forwards ~~that~~ the claim with ~~a~~ completed Form F-S-17, Claim Code Slip, to ~~State Office,~~ Children and Family Services Division~~,~~ Administrative Services Unit. ~~Those medical expenses will be paid from state monies.~~

(c) **Children ~~for whom DHS or a federally recognized tribe does~~ not ~~have~~ in OKDHS or tribal custody.** Children not in ~~DHS~~ OKDHS or tribal custody may apply for medical assistance.

(1) Children ~~in preventive~~ involved in Family-Centered Services cases must meet eligibility requirements based on the family income.

(2) Youth in voluntary OKDHS placement must notify the person taking the application of their status so they may retain the same medical coverage ~~status~~ as ~~custody~~ children in OKDHS or tribal custody.

(3) Youth leaving ~~DHS~~ OKDHS or federally recognized tribal care who are 18 years of age may receive medical assistance if their income is at or below 185% of the federal poverty level. Per Section 7004-1.6 of Title 10 of the Oklahoma Statutes, Independent Living Act, youth who were in OKDHS custody and out-of-home placement on their 18th birthday may be eligible to receive medical benefits until their 21st birthday. These youth:

(A) are managed care recipients and must meet eligibility criteria and re-apply for medical coverage every six months to have continuous coverage; and

(B) who lose medical coverage for lack of making timely application may apply for and receive medical coverage until their 21st birthday provided all eligibility requirements are met. OKDHS does not pay for services not covered by the OKDHS managed care program.

(4) Pregnant youth older than 18 years of age apply for medical assistance as the medical programs are extended for pregnancies.

SUBCHAPTER 19. WORKING WITH INDIAN CHILDREN

340:75-19-9. Child Protective Services reports on Indian children

(a) When Child Protective Services (CPS) receives a report involving a child residing on state land who is either identified or believed to be Indian, the investigation or assessment is conducted according to OAC 340:75-3. The child's tribe is notified and advised of the report and given the opportunity to accompany the Child Welfare (CW) worker on the investigation or assessment.

(b) When a CPS report is received involving a child known or believed to be Indian and the child is residing on tribal land, the CW worker immediately notifies the tribe of the report to allow the tribe to assess the report and provide appropriate child welfare services. If there is not a tribal social worker, the referral is made to the appropriate Bureau of Indian Affairs (BIA) office. State jurisdiction does not extend to an Indian child who is residing on tribal land.

(c) The responsibilities of CW for reporting child abuse or neglect that occurs on tribal land involving an Indian child victim and an Indian or non-Indian perpetrator are addressed in the Memorandum of ~~Understandings (MOUs)~~ Understanding (MOU) for Reporting and Investigating Child Abuse Criminal Offenses in Indian Country between ~~certain~~ the Oklahoma Department of Human Services (OKDHS), tribal law enforcement ~~agencies,~~ and CPS agencies, BIA, ~~the~~ United States ~~Attorney General's office~~ Attorney's offices for the Western, Northern, and Eastern Districts of Oklahoma, ~~and the~~ Federal Bureau of Investigation (FBI), and Indian Health Services (IHS). The ~~MOUs require~~ MOU requires that CW ~~provide notification to~~ notify these entities of any report involving abuse, ~~or~~ neglect, or both, of an Indian child that occurs on tribal land. ~~There are separate MOUs for the Western District of Oklahoma and the Northern and Eastern District of Oklahoma.~~ The ~~MOUs provide~~ MOU provides extensive guidelines for use and contact numbers and addresses for all ~~of the~~ parties who ~~need~~ require notification of CPS reports.

(d) The investigation or assessment of reports of abuse, ~~or~~ neglect, or both, of a non-Indian child residing or found

on tribal land does not fall under the jurisdiction of the tribe. These reports are referred to CW for disposition.

[OAR Docket #05-537; filed 4-6-05

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

[OAR Docket #05-536]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 10. Emergency Shelter Care
340:75-10-9. [AMENDED]
Subchapter 12. OKDHS Operated Group Homes
340:75-12-9. [AMENDED]
Subchapter 13. Other Child Welfare Services and Medical Services for Children in ~~Substitute~~Out-of-Home Care
Part 3. Income and Resources ~~to~~of the Child
340:75-13-25. through 340:75-13-26. [AMENDED]
340:75-13-27. [REVOKED]
340:75-13-28. through 340:75-13-29. [AMENDED]
Part 7. Medical Services
340:75-13-82. [AMENDED]
Subchapter 16. Mental Health Treatment Services
Part 1. Inpatient Mental Health Treatment
340:75-16-32. [AMENDED]
Part 3. Outpatient Behavioral Health Care Services
340:75-16-45. through 340:75-16-46. [AMENDED]
(Reference APA WF 04-21)
AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; Section 7004-3.1 of Title 10 of the Oklahoma Statutes; Section 5-521 of Title 43A of the Oklahoma Statutes; and House Bill 2526.
DATES:
Comment period:
December 15, 2004 through January 14, 2005
Public hearing:
None requested.
Adoption:
January 25, 2005
Submitted to Governor:
January 25, 2005
Submitted to House:
January 25, 2005
Submitted to Senate:
January 25, 2005
Gubernatorial approval:
March 9, 2005
Legislative approval:
Failure of the Legislature to disapprove the rule(s) resulted in approval on March 31, 2005.
Final adoption:
March 31, 2005
Effective:
May 12, 2005
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The revisions to Subchapters 10, 12, 13, and 16 of Chapter 75 clarify: (1) recently developed diversion protocol used to divert children from Oklahoma Department of Human Services (OKDHS) operated Pauline E. Mayer shelter, when overcrowded, into participating youth services shelters; (2) the amount of allowance provided to Pauline E. Mayer group home residents; (3) the role of the Child Welfare (CW) worker and custody specialist in providing children's benefits information to Children and Family Services Division; (4) child support procedures and benefits pursuant to House Bill (HB) 2526 that became effective May 4, 2004; (5) accrual limits for children receiving Supplemental Security Income (SSI) and procedures for establishing a special needs trust; (6) responsibility of funeral and burial expenses when children reside with their parents; and (7) the provision of mental health services for children.

340:75-10-9 is amended to reflect diversion procedures, when the resident population critically exceeds capacity, for children diverted from the Pauline E. Mayer shelter to participating youth services shelters.

340:75-12-9 is amended to clarify current practice regarding allowances for teenage residents of the Pauline E. Mayer group home. Residents are provided $25 each and an additional $10 for each of their children.

340:75-13-25 and 75-13-28 are amended to clarify the CW worker's and custody specialist's role in identifying and reporting financial benefits and resources for children in OKDHS custody and out-of home placement.

340:75-13-26 is amended to set forth current child support procedures in accordance with HB 2526 and incorporate some provisionary language found in OAC 340:75-13-27.

340:75-13-27 is revoked.

340:75-13-29 is amended to reflect a maximum accrual amount for child SSI recipients and instructions for establishing a special needs trust.

340:75-13-82 is amended to clarify that the parents are responsible for funeral and burial expenses when children reside with their parents.

340:75-16-32 is amended to reflect current extension time frames for acute inpatient and residential mental health care.

340:75-16-45 is amended to specify that children in OKDHS custody are eligible to receive a mental health assessment once per local community mental health center services provider or other outpatient Medicaid approved services provider, without prior authorization.

340:75-16-46 is amended to reflect current information regarding the systems of care model.
CONTACT PERSON:
Dena Thayer, Programs Manager, Policy Management Unit, DHS, 2400 N. Lincoln Blvd., Oklahoma City, OK 73105, 405-521-4326.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2005:

SUBCHAPTER 10. EMERGENCY SHELTER CARE

340:75-10-9. Admissions and discharges

(a) **Admission criteria.** Children ~~less~~ younger than 18 years of age, who are alleged ~~to be~~ abused or neglected, may be admitted to ~~a~~ one of the two Oklahoma Department of Human Services ~~(DHS)~~ (OKDHS) operated ~~shelter~~ shelters, Pauline E. Mayer or Laura Dester, or a ~~local non-DHS~~ non-OKDHS operated shelter.

(1) A ~~child's admission~~ child may be admitted to ~~a DHS~~ an OKDHS shelter ~~is arranged~~ by a:

(A) law enforcement officer~~,~~ who has assumed protective custody;

(B) law enforcement officer with an emergency custody order ~~of~~ from the court~~,~~; or

(C) ~~a~~ Child Welfare (CW) worker.

(2) Except in the case of ~~a~~ law enforcement admission, ~~Department custody children are admitted by their assigned~~ only the child's CW worker admits the child to the shelter. ~~Foster parents do not admit children to shelters.~~

(3) If the child has not been seen by a licensed health professional and displays a significant medical problem or

injury or appears under the influence of drugs or alcohol, the shelter staff requests the admitting law enforcement officer take the child for a medical examination prior to admission.

~~(b) **Admission by law enforcement.** The two DHS operated shelters do not deny admission to any child who is taken into protective custody as an alleged deprived child by law enforcement officers in their respective counties. The DHS shelters do not deny admission to a child admitted by court order.~~

(~~c~~b) **Shelter capacity and length of stay in ~~DHS~~ OKDHS operated shelters.** The specified licensed capacity ~~of each DHS operated shelter~~ is 42 children at the Pauline E. Mayer ~~Shelter~~ shelter and 38 children at the Laura Dester ~~Shelter~~ shelter. ~~DHS~~ OKDHS operated shelters deny further admission of ~~DHS custody~~ children in OKDHS custody when operating at 90% ~~of their~~ capacity, in order ~~to reserve capacity~~ to meet obligations under ~~their~~ established court orders. The child:

(1) ~~No child~~ five years of age or younger remains in the shelter ~~beyond~~ no more than 24 hours. ~~A child five years old or younger, who~~ If the child does not return home during this time, the child is discharged to ~~Emergency Foster Care~~ emergency foster care (EFC), ~~in accordance with~~ per OAC 340:75-7-262~~.~~;

(2) ~~A child~~ six years of age or older remains in shelter care no more than 30 days. If an extended stay is required, ~~a~~ the child's length of stay in ~~a~~ the shelter does not exceed 60 days~~.~~;

(3) ~~A child~~ is not discharged from either ~~DHS operated~~ shelter into another shelter setting in order to comply with the required time frames, per OAC 340:75-10-9(b)(1) and (2); and

(4) who remains in the shelter, due to the inability of staff to locate an appropriate placement, is staffed weekly to determine the plan for the child.

(~~d~~c) **Admission by Child Welfare.** Requests by CW for admission to ~~a DHS~~ an OKDHS operated shelter are made to a shelter social worker. ~~When a child arrives at a shelter, the shelter staff completes the intake process.~~

(1) The CW worker ~~involved~~ accompanies the child to the shelter and provides information essential to planning the child's care~~.~~, ~~During the child's stay, the child's CW worker makes all updated information available to the shelter.~~ including, but not limited to:

(A) the child's identifying information, such as name, date of birth, and parent(s)' name and address;

(B) the child's medical information, such as current prescriptions, planned medical appointments, medical problems, and current medical provider;

(C) the reason for admission;

(D) discharge plans;

(E) any significant behaviors regarding the child, such as suicidal behavior;

(F) visitation plans; and

(G) the child's education history, such as the name of the last school and grade attended. The CW worker continues to provide updated information during the child's stay.

(~~1~~2) ~~During the admission process to a DHS operated shelter, the~~ The shelter social worker reviews any KIDS ~~system~~ records of the child ~~being admitted~~.

~~(2) If the child being admitted has not been seen by a licensed health professional and displays a significant medical problem or injury or appears intoxicated, the shelter staff may request the admitting police officer or CW worker to take the child for a medical examination prior to admission.~~

(3) ~~During the admission process in a DHS operated shelter, shelter Direct Care Specialist~~ Shelter direct care specialist (DCS) staff ~~record~~ records the child's weight and height and ~~document~~ documents any bodily injuries. Shelter staff ~~ensure~~ ensures the child is fed, bathed, and ~~given~~ provided clean clothing, ~~if~~ as needed~~.~~, ~~The staff orient~~ and orients the child to the shelter.

(~~e~~d) ~~**The discharge**~~ **Discharge process.** The child is prepared ~~in advance~~ for ~~the~~ discharge, through counseling by the shelter social workers, personal contact by the CW worker, and preplacement visits, ~~to the placement choice~~ when possible. The shelter social worker ensures that the child's personal belongings and any medications accompany the child to the next placement. ~~DHS shelter~~ Shelter social work staff ~~complete~~ completes the discharge process when a child is placed into ~~emergency foster care~~ EFC.

(e) **Diversion.** When the resident population of the Pauline E. Mayer shelter reaches 45 or more children, the shelter administrator or designee directs social work staff to divert further admissions or current residents to other non-OKDHS operated shelters. This process continues until the population is reduced to less than 45 children.

(1) When a child arrives at the shelter for admission and diversion is necessary, the child is admitted and the intake process is completed.

(2) Shelter social work staff contacts participating youth services shelters to arrange placement of the child requiring diversion. All intake information is sent with the child to the youth services shelter.

(3) The child diverted to youth services shelters is not returned to the Pauline E. Mayer shelter when the population is less than 45 children. EFC services are sought for the eligible child who is diverted.

SUBCHAPTER 12. OKDHS OPERATED GROUP HOMES

340:75-12-9. Resident funds

(a) **Resident funds.** Each group home ~~has procedures which promote~~ encourages the deposit of resident personal funds into savings accounts.

(b) **Resident allowances.** Residents of ~~Child Welfare~~ Oklahoma Department of Human Services operated group homes are provided a monthly allowance of $25. Residents of the Pauline E. Mayer ~~Group Home~~ group home are ~~given~~ provided an additional $10 per month for each of their ~~child~~ children.

SUBCHAPTER 13. OTHER CHILD WELFARE SERVICES AND MEDICAL SERVICES FOR CHILDREN IN ~~SUBSTITUTE~~ OUT-OF-HOME CARE

PART 3. INCOME AND RESOURCES ~~TO~~ OF THE CHILD

340:75-13-25. Exploration of resources

(a) **Identifying resources.** ~~It is the~~ The Child Welfare (CW) ~~worker's responsibility to explore~~ worker of a child in Oklahoma Department of Human Services (OKDHS) custody and out-of-home placement:

(1) explores with the child's family all benefits or resources, ~~for example, funds,~~ such as Social Security benefits, Supplemental Security Income (SSI), Veterans benefits, child support, inheritance, trust funds, insurance benefits, and Indian trusts or monies, available and non-available for use, to which the child ~~in foster care placement~~ is or may be entitled~~.~~; and

(2) ~~The CW worker~~ identifies ~~children~~ the child who ~~are,~~ is or ~~who~~ may be~~,~~ Indian, per OAC 340:75-19, and requests through the appropriate tribe or ~~the~~ Bureau of Indian Affairs (BIA)~~,~~ information regarding:

(A) tribal membership or eligibility for membership; and

(B) the present balance of any individual money accounts and trust funds.

(b) **Reporting resources.** ~~Since it is Department policy that all income and resources available to the child are received by and made available to the Department to help reimburse the Department for the cost of the child's care,~~ The CW worker reports to the assigned custody specialist all current and subsequent information pertaining to any income or resources ~~is reported on Form DCYS-CWS-5, Report of SSA/SSI/VA and Other Benefits for Children In Out of Home Placement to the State Office, DCFS, Administrative Services Unit~~.

(1) Benefits received are used by ~~the Department~~ OKDHS to defray the cost of the child's care.

(2) Any amount over the cost of care is deposited to the child's trust fund account and is available to the child.

340:75-13-26. Child support

~~Section 1121 of Title 10 of the Oklahoma Statutes states: In any hearing concerning the status of a child, the court shall have the authority to adjudge birth or adoptive parents, who may be present at the hearing, or who have been served with notice of hearing, liable and accountable for the care and maintenance of any child or children, and to order the payment of funds for the care and maintenance of the child.~~

~~(1) It is also the policy of the Department to promote parental responsibility for meeting the needs of children placed outside their own homes whenever practical and feasible. It is the CW worker's responsibility to assess with a child's family their ability to contribute toward the cost of the child's care based upon their earned income and other sources of support and make an initial and subsequent recommendation to the court on Form CWS-KIDS-11, Court Report.~~

~~(2) When child support is court ordered or voluntarily made by a child's parent(s), the payment is submitted by the parent directly to the local Child Support Enforcement Office for handling. Payments are made in the form of a cashier's check or money order, although a personal check will be accepted. The payer is instructed to include on the payment the CW case number and name(s) of the child(ren) for whom payment is being made.~~

~~(3) When child support payments are received by CW staff in the county office, they are forwarded to the State Office, Office of Finance, Revenue Processing Unit, with identifying information, case number and child's name. A copy of the forwarded payment is retained in the case file, with a record of the date payment is sent to the Office of Finance. A copy of the payment with the child's identifying information and notation of the date it was sent to the Office of Finance is forwarded to the local Child Support Enforcement Office. Inquiry by memorandum or telephone may be made to the State Office, DCFS, Administrative Services Unit about receipt of payments from parents of custody children.~~

(a) **Legal basis.** Federal regulations require Oklahoma Department of Human Services (OKDHS) to pursue child support payments on Title IV-E foster care cases where federal funding is involved. Section 454 of Title IV-D of the Social Security Act requires a referral to the State's child support enforcement agency for child support services. Section 7003-8.8 of Title 10 of the Oklahoma Statutes (10 O.S. § 7003-8.8) requires the court to address paternity and child support issues for every child who is alleged or adjudicated deprived. OKDHS Child Support Enforcement Division (CSED) carries out the provisions of these regulations based on information provided by Child Welfare (CW) staff. Benefits to the child include:

(1) locating an absent parent(s);

(2) establishing paternity;

(3) obtaining previously unavailable child support; and

(4) exploring, on behalf of the child, eligibility for benefits through:

(A) Social Security Administration;

(B) Veterans Affairs; or

(C) other government programs.

(b) **Use of child support monies.** Support monies collected while the child is in OKDHS custody and out-of-home placement are used to reimburse:

(1) the federal government for Title IV-E expenditures; and

(2) OKDHS for monies expended to meet the child's needs.

(c) **Child support orders.** Child support must be ordered in a deprived action, per 10 O.S. § 7003-8.8. Within six months after the filing of a deprived petition, the court must either:

(1) order child support; or

(2) refer the issue of establishment and enforcement of child support to CSED.

(A) Each parent must be individually ordered to pay his or her percentage of the total monthly child support obligation, including parents who reside together.

(B) 43 O.S. § 118 and 119 require the court to follow child support guidelines in determining each parent's support obligation.

(C) Deviation from the child support guidelines is permitted when it is determined necessary in order for the parent to meet the obligations of an individual treatment and service plan or for other reasons the court deems appropriate. If the court deviates from the amount of support indicated by the guidelines, specific findings of fact supporting such action are required to be documented in the child support computation form.

(D) The child support order must:

(i) be filed as a separate document from the individual treatment and service plan or court minute and is therefore not confidential;

(ii) direct the parent to provide medical insurance when the parent has insurance available through employment or other group plan, regardless whether insurance is available at the time the order is entered;

(iii) include an immediate income assignment provision pursuant to 43 O.S. § 115; and

(iv) include, as an attachment, a child support computation form signed by the judge, per 43 O.S. § 120.

(E) The duty to pay child support continues after parental rights have been terminated and until the child has been adopted pursuant to 10 O.S. § 7503-2.3. Parents may be obligated to pay child support arrears even after adoption.

(F) After a deprived action is dismissed, the most recent child support order entered in the deprived action must remain in full force and effect, unless the judge presiding over the deprived action orders otherwise.

(G) All child support payments must be paid, per 43 O.S. § 413, through the Oklahoma Centralized Support Registry, P.O. Box 268849, Oklahoma City, OK 73126-8849.

(H) The CW worker verifies each parent's compliance with his or her child support obligation.

340:75-13-27. Child support enforcement requirements [REVOKED]

~~Federal regulations require the Department to pursue child support payments on Title IV-E foster care cases where Federal funding is involved and an assignment be made by the TANF recipient when making application for services. A referral for child support enforcement is also required when referring a child for Title XIX Medicaid coverage. The Child Support Enforcement Division (CSED) or district attorney's offices under cooperative agreement with DHS/CSED or CSED area Child Support Offices carry out the provisions of these regulations based on information provided by CW staff.~~

~~(1) When a child is referred for Title IV-E foster care or Title XIX Medicaid, the CW worker determines the appropriateness of referring absent parents, including mothers and legal, natural, or alleged fathers, to the custody specialist to establish paternity or pursue child support collection for the child. Exceptions are parents, legal or alleged, living in the home who are mentally or physically incapacitated as determined by:~~

~~(A) receipt of a disability benefits payment;~~

~~(B) Oklahoma Health Care Authority's Medical Authorization Unit (MAU) determination of incapacity; or~~

~~(C) the CW worker's assessment even if not receiving disability benefits or an MAU determination of incapacity made.~~

~~(2) Parents whose parental rights have been terminated are not excluded from child support responsibility.~~

~~(3) Federal regulations provide for waiver of cooperation by the parent or relative payee in establishing paternity or securing support when it is not in the best interests of the child. The CW worker tentatively determines that good cause exists if the circumstances can reasonably be expected to result in physical or emotional harm to the child, parent or relative payee, or if:~~

~~(A) the child was conceived as a result of incest or forcible rape;~~

~~(B) legal proceedings for adoption of the child are pending before a court; or~~

~~(C) the client is being assisted by a public or licensed private social agency to decide whether or not to relinquish him or her for adoption.~~

~~(4) Physical and emotional harm must be of a serious nature and based on a demonstration of an emotional impairment that substantially affects the individual's functioning. When considering anticipated emotional harm to the child, parent or relative payee, the CW worker considers the present emotional health history and state of the person subject to emotional harm and the intensity and probable duration of the emotional impairment. Support enforcement from absent parents will not be pursued when a good cause claim is made by the CW worker.~~

~~(5) When making a good cause claim based on potential physical or emotional harm, the case record contains:~~

~~(A) medical or psychological information;~~

~~(B) court documents and criminal records;~~

~~(C) protective services reports; or~~

~~(D) other pertinent written information confirming the potential physical or emotional harm.~~

~~(6) The CW worker is responsible for including in the case record documentation of a good cause claim to waive cooperation. Documentation includes:~~

~~(A) Birth verification, medical law enforcement records or protective services case information showing the child's birth was a result of incest or forcible rape.~~

~~(B) Court documentation or information showing legal proceedings for adoption are pending before a court of competent jurisdiction.~~

~~(C) Service plans showing the parent(s) has approached the agency to voluntarily relinquish parental rights or includes maternity services to the parent(s) to assist them in deciding whether or not to relinquish parental rights. Good cause exception on this basis is limited to three months from the date services begin or from the child's birth date, whichever comes first.~~

~~(7) Absent parents are exempt from the required referral for establishment and enforcement of child support if the CW worker determines that a referral will hinder the service plan for the family. This determination may be the result of a court order setting conditions to be met which he or she might not be as readily able to achieve if the parent were required to cooperate. The CW worker exempts parents for whom the burden of providing child support equal to the foster care cost will have a negative impact. By using their professional judgement the CW worker determines other circumstances of the parents that make it inadvisable to pursue paternity and child support enforcement. When an exemption is requested, effort is not made by the CSED or district attorney's office to establish paternity or secure support.~~

~~(8) When there is no basis for either a good cause exception or exemption the CSED or district attorney's office attempts to locate the absent parent(s), establish paternity or obtain a court order for child support. The Internal Revenue Service or the employer of the absent parent is contacted and other steps taken, if necessary, in an effort to obtain support. Benefits to the child include locating absent parents, establishing paternity, obtaining child support previously unavailable, and establishing the rights of the child to Social Security, Veterans, and other government programs to which the child would not otherwise have a claim. Support monies collected while the child is in DHS care are used to reimburse the Federal government for its participation in the Title IV-E program and to reimburse the Department for monies expended to meet the child's needs. Any excess is deposited into a trust account for the child's use.~~

~~(9) Federal mandates require specific information for child support enforcement in certain custody cases. This is accomplished by correctly completing Form CWS-KIDS-4, Eligibility Determination Document.~~

340:75-13-28. Social Security ~~and Veteran's~~ Administration ~~(VA)~~ and Veterans Affairs benefits

When a child who receives or may be eligible to receive Social Security ~~(SS)~~ Administration (SSA) or ~~Veteran's Administration~~ Veterans Affairs (VA) benefits is placed in ~~the~~ Oklahoma Department of Human Services (OKDHS) custody ~~of the Department, DCFS~~ and out-of-home placement, Children and Family Services Division Administrative Services Unit ~~makes application~~ (ASU) applies to become payee for these benefits. ~~Social Security~~ SSA benefits are based on the wage earner's work record and are paid due to the death, retirement, or disability of the wage earner. Entitlement to VA benefits may be due to a service connected or nonservice connected military record of the deceased or disabled parent(s). ~~Form DCYS-CWS-5, Report of Social Security/Supplemental Security Income/Veteran's Benefits or Other Benefits for Children in Out-of-Home Placement, is submitted by the child's worker to State Office, DCFS, Administrative Services Unit within ten work days after placement so a change of payee can be requested or an initial determination of eligibility made. A certified copy of the birth certificate and a copy of the legal document showing the custody date must accompany Form DCYS-CWS-5 when determination of initial eligibility for SS benefits is requested. A copy of the legal document showing the custody date must also accompany Form DCYS-CWS-5 when requesting a change of payee. Several months delay can be expected between the date of application and the receipt of the letter awarding benefits. The State Office DCFS, Administrative Services Unit notifies the CW worker of the application for and receipt of determination of eligibility for benefits. The CW worker then provides the benefits information to the custody specialist to assist in determining the child's continuing eligibility for Title IV-E foster care or Title XIX services.~~

~~(1) When a change in the type of placement for the child occurs, for example, from foster home care to residential child care, or the Department is relieved of the child's custody, a memorandum, DHS E-Mail message, or completed Part B of Form DCYS-CWS-5 is sent to the State Office, DCFS, Administrative Services Unit within ten work days of the change.~~

(1) To ensure the application for and transfer of SSA or VA benefits, the:

(A) Child Welfare (CW) worker, within ten working days after the child's placement or when potential eligibility is recognized, completes and submits to ASU Form DCFS-119, Report of Social Security and Veterans Benefits for Children in Out-of-Home Placement, requesting an initial eligibility determination;

(B) assigned custody specialist, within ten working days after the child's placement, completes and submits to ASU Form DCFS-119, requesting the payee be changed to OKDHS; and

(C) CW worker, within ten working days, notifies ASU via e-mail when the:

(i) child's placement type changes; or

(ii) child is released from OKDHS custody or out-of-home placement.

(2) The ~~child~~ youth who remains in school beyond age 18 to complete his or her high school education remains eligible for SSA and VA benefit payments. ~~As DHS no longer has legal custody, payment is made directly to the recipient. When voluntary foster care beyond age 18 is requested, the child signs a notarized statement agreeing to reimburse DHS for the cost of care from any benefits or resources available. The CW worker arranges with the child for endorsement of the checks to the Department to~~

~~be sent to the county office for forwarding to the State Office, DCFS, Administrative Services Unit.~~ The CW worker:

(A) submits Form SSA-1372, Student Statement Regarding School Attendance, ~~must be submitted if Social Security~~ to SSA when SSA is the source of the benefits~~.~~; or

(B) ~~If~~ if the ~~child~~ youth does not wish to make the benefit payments available to OKDHS to defray the cost of care, ~~the CW worker~~ explores with the ~~child~~ youth alternatives to ~~foster~~ OKDHS paid care ~~which~~ that are consistent with the goals of self-support and self-sufficiency.

(3) A non-paid placement provider for a child in OKDHS custody must become the payee for that child's benefits. The placement provider applies at the local SSA office to become payee.

340:75-13-29. Supplemental Security Income ~~(SSI)~~ - Disabled Children's ~~Program (DCP)~~ program

(a) Supplemental Security Income (SSI) is a federal program for which recipients must qualify based on disability criteria, household income, and resource criteria designated by the Social Security Administration (SSA). To remain eligible for SSI, recipients may not accrue more than the maximum allowed by SSA. ~~Certain~~ Some children in the legal custody of ~~the~~ Oklahoma Department of Human Services (OKDHS) receive or may be ~~receiving or be~~ eligible to receive SSI benefits on the basis of physical, mental, or emotional problems.

(1) Applications are made for these children by ~~the State Office DCFS,~~ Children and Family Services Division Administrative Services Unit (ASU) when the child:

(A) is in ~~legal~~ OKDHS custody ~~of the Department~~ and out-of-home placement; and

(B) appears ~~to be~~ eligible for SSI ~~due to a physical, mental, or emotional disability, or a combination thereof~~ based on disability.

(2) ~~The~~ To ensure the application for and transfer of benefits, the:

(A) CW worker completes, within ten working days after the child's placement or as soon as the child's disabling condition is identified, and submits to ASU Form ~~DCYS-CWS-5~~ DCFS-119, Report of Social Security~~/Supplemental Security Income/~~ and ~~Veteran's~~ Veterans Benefits ~~or Other Benefits~~ for Children in Out-of-Home Placement, ~~to the State Office, DCFS, Administrative Services Unit within ten work days after the child's entry into DHS custody or as soon as the disabling condition is identified. The information which must accompany Form DCYS-CWS-5 when~~ requesting an initial eligibility determination ~~of eligibility for Supplemental Security Income is:~~:

~~(A) a certified copy of the birth certificate;~~

~~(B) the legal document showing the most current custody date;~~

~~(C) medical or psychological information stating the diagnosis and prognosis, dated within the last three months; and~~

~~(D) the names and addresses of all medical or psychological sources used by the child.~~

~~(3) When a change of payee for existing benefits is requested, a copy of the legal document showing the most current custody date must accompany Form DCYS-CWS-5. When a child who is eligible for SSI benefits is released from Department custody or changes type of placement, the local CW worker notifies the State Office, DCFS, Administrative Services Unit on Part B of Form DCYS-CWS-5 or by memorandum or by DHS E-Mail within ten work days of the placement change.~~

~~(4) The child who remains in school beyond age 18 to complete his or her education may remain eligible for benefit payments. Since DHS no longer has legal custody, payment will be made directly to the recipient. When voluntary foster care beyond age 18 is requested, the same policy applies as for a custody child who receives Social Security or VA benefits. Detailed information is found at OAC 340:75-13-28(2).~~

(B) custody specialist completes, within ten working days after the child's placement, and submits to ASU Form DCFS-119, requesting the payee be changed to OKDHS; and

(C) CW worker, within ten working days, e-mails ASU when the child's placement type changes or the child is released from OKDHS custody or out-of-home placement.

(3) A non-paid placement provider for a child in OKDHS custody must become the payee for that child's benefits. The placement provider applies at the local SSA office to become payee.

(4) The child who is an SSI recipient remains eligible for SSI if the child's income, resources, and disability continue to meet SSI program eligibility criteria.

(A) OKDHS receives the child's benefits until the child leaves OKDHS out-of-home placement.

(B) ASU monitors each child's accrued funds and notifies the CW worker when the limit is approached to give specific instructions regarding the spenddown of that child's money. Purchases made with the child's accrued benefits must be items that benefit the child and are specifically for that child. These items must follow the child to all subsequent placements.

(~~5~~b) Section 1615 of the Social Security Act provides for the referral by ~~the Social Security Administration (~~SSA~~)~~ of SSI recipients ~~under 16~~ younger than 18 years of age to a designated state agency for provision of services to improve the child's disability. The Omnibus Reconciliation Act of 1981, ~~[~~Public Law (P.L.) 97-35~~]~~, authorizes ~~the State of~~ Oklahoma to operate a program for these children as a component of the Maternal and Child Health Block Grant. ~~DHS~~ OKDHS is ~~the~~ designated ~~agency in Oklahoma~~ to administer this program in Oklahoma.

(~~6~~1) ~~It is the right of all children to be encouraged and assisted in reaching their full potential. When a child has~~

~~chronic illness or disabilities, that child faces more barriers in attaining his fullest potential than the average child.~~ The purpose of ~~the~~ SSI-Disabled Children's Program (DCP) is to ensure that all available services and resources are used, as necessary, to assist each eligible ~~disabled~~ child to become a self-sustaining and self-supporting adult ~~are used. Additional services are available to SSI children ages 0-16 years of age~~.

(~~7~~2) The Department of Rehabilitation Services Disability Determination Unit ~~(DDU) makes the disability determination~~ determines SSI eligibility for ~~the~~ SSA and ~~DDU~~ refers ~~each individual under age 16 and determined eligible for SSI payments~~ every SSI recipient, younger than 18 years of age to ~~the Department of Human Services,~~ Family Support Services~~,~~ Division Health Related and Medical Services~~, State Office. A State Office~~ to maintain a control ~~is maintained~~ on all referrals. ~~and immediate notification made by memorandum to the county office of the parent's or guardian's residence. If the parents reside out of state, the referral is made to the county of the child's residence. For children in the Department's legal custody, the referral is made to the county of the child's residence.~~

~~(8) When a custody child under the age of 16 receiving SSI benefits is in need of services or equipment not available through any current program or other services, these may be purchased for him or her. Prior authorization is requested by memorandum to State Office, Family Support Services, Health Related Services.~~

PART 7. MEDICAL SERVICES

340:75-13-82. Funeral expenses for ~~custody~~ children

~~The~~ Oklahoma Department of Human Services (OKDHS) is responsible for funeral and burial expenses and related costs for ~~all children~~ the child in ~~the Department's~~ permanent OKDHS custody. ~~In the case of an~~ When the child is in emergency or temporary OKDHS custody ~~child~~ and out-of-home placement, a determination is made of the ability of the parent(s) or next-of-kin to assume the cost ~~is made~~. When the parent(s) or next-of-kin ~~are~~ is unable or unwilling, ~~the Department~~ OKDHS assumes the responsibility. A maximum reimbursement limit of $4,500 is allowed for the funeral and burial. The parent(s) is responsible for all funeral and burial expenses when the child resides with the parent(s).

SUBCHAPTER 16. MENTAL HEALTH TREATMENT SERVICES

PART 1. INPATIENT MENTAL HEALTH TREATMENT

340:75-16-32. Length of stay in inpatient mental health facilities and extension by IPCRC

(a) The initial length of stay for acute inpatient mental health care is up to five calendar days and residential inpatient mental health care is up to ten calendar days~~,~~. Length of stay is based on the review by the inpatient psychiatric care review coordinator (IPCRC) at the Oklahoma Foundation for Medical Quality (OFMQ) to determine the number of days required to resolve the identified presenting problems.

(b) An extension for acute inpatient mental health care is up to five calendar days as determined by the IPCRC, based upon the documented need for the extension of care. A request for extension is made by staff of the treating facility via phone on or before the last business day of the current authorization for inpatient care.

(c) An extension for residential mental health care is up to ~~15 to~~ 30 calendar days. The number of days allowed is determined by the IPCRC, based on the level of impairment, severity, and chronicity of the symptoms present that meet the medical necessity criteria. The treating facility submits the request for an extension three calendar days before the end of the current authorization.

(d) A reconsideration request for the length of stay is made to OFMQ by the Child Welfare (CW) worker or the inpatient psychiatric facility when the IPCRC denies an extension and the CW worker or the inpatient psychiatric facility has additional information ~~which~~ that was not considered in the extension decision by the IPCRC.

PART 3. OUTPATIENT BEHAVIORAL HEALTH CARE SERVICES

340:75-16-45. Outpatient mental health services

(a) ~~Custody children are~~ The child in Oklahoma Department of Human Services (OKDHS) custody is eligible ~~during each calendar year, January 1 through December 31,~~ to receive ~~an initial evaluation of up to six units of individual counseling, two units of family counseling, and one unit of treatment plan development from the~~ a mental health assessment once per local ~~Community Mental Health Center (CMHC)~~ community mental health center services provider or other outpatient Medicaid approved provider, ~~that can be utilized~~ without prior authorization ~~per OAC 317:30-5-241(a)~~. The mental health service plan development may also be provided without prior authorization.

(b) Prior authorization from Oklahoma Foundation for Medical Quality (OFMQ) is required for ~~custody children~~ the child in OKDHS custody to receive outpatient behavioral health rehabilitative services beyond the ~~basic array of services~~ initial assessment and service plan development.

(1) The Child Welfare (CW) worker refers the child for services to the local community mental health center or Medicaid approved provider in the county where the child resides.

(2) The mental health professional develops an assessment and service plan to indicate problem areas and potential services.

340:75-16-46. Systems of care

(a) Systems of care is funded through Oklahoma Department of Mental Health and Substance Abuse Services

(ODMHSAS) and offers a comprehensive array of mental health and other support services organized into a coordinated network to meet the multiple and changing needs of ~~seriously emotionally disturbed~~ children with serious emotional disturbances and their families. Counties are selected based on an evaluation of community readiness and the intensity of children's behavioral health needs within a community. Participating counties are listed at www.osoci.org/index.htm.

(b) Systems of care is individualized to each child, family, and community~~.~~, ~~The~~ and includes services that are:

(1) child centered~~,~~;
(2) family focused~~,~~;
(3) needs driven~~,~~;
(4) strengths based~~,~~; and
(5) based on national best practice model.

(c) The core aspects of systems of care are:

(1) partnerships with families~~,~~;
(2) collaboration with all child serving agencies~~,~~; and
(3) local control of services~~. Traditional services~~ that are enhanced ~~by the systems of care~~ through:

(A) the wraparound service philosophy~~,~~;
(B) flexible funds~~,~~;
(C) respite care~~,~~;
(D) case management~~,~~; and
(E) transitional services.

(d) Expected outcomes of systems of care are:

(1) improved level of functioning~~,~~;
(2) improved school attendance and performance~~,~~;
(3) fewer encounters with the juvenile justice system~~,~~;
(4) reduced number of out-of-home placements~~,~~; and
(5) parent and child satisfaction.

[OAR Docket #05-536; filed 4-6-05

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

[OAR Docket #05-494]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Administration
Part 1. General Administration
340:100-3-15. [NEW]
Part 3. Operations
340:100-3-38. [AMENDED]
Subchapter 5. Client Services
Part 3. Service Provisions
340:100-5-15. [AMENDED]
340:100-5-26. [AMENDED]
Subchapter 17. ~~Vocational~~Employment Services
Part 1. General. ~~Vocational~~Employment Expectations
340:100-17-1. through 340:100-17-2. [AMENDED]
340:100-17-3. through 340:100-17-4. [REVOKED]
Part 3. State-Funded Employment (Sheltered Workshop) Services
340:100-17-10. [AMENDED]
340:100-17-11. [REVOKED]
340:100-17-12. through 340:100-17-17. [AMENDED]
Part 4. Community Integrated Employment Services [NEW]
340:100-17-25. [NEW]
(Reference APA WF # 04-23)
AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; Section 13-121 et seq. of Title 70 of the Oklahoma Statutes; and Section 1020 of Title 56 of the Oklahoma Statutes.
DATES:
Comment period:
December 15, 2004 through January 14, 2005
Public hearing:
None requested.
Adoption:
January 25, 2005
Submitted to Governor:
January 25, 2005
Submitted to House:
January 25, 2005
Submitted to Senate:
January 25, 2005
Gubernatorial approval:
March 9, 2005
Legislative approval:
Failure of the Legislature to disapprove the rule(s) resulted in approval on March 31, 2005.
Final adoption:
March 31, 2005
Effective:
May 12, 2005
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
Developmental Disabilities Services Division (DDSD) rule amendments: (1) add procedures for determining if a training class will be cancelled due to inclement weather; (2) update case manager activities; (3) require the DDSD nurse and case manager to determine if a pharmacological review is needed, if the service recipient meets specified criteria; (4) clarify and update rules; and (5) revoke rules as the necessary information is covered in other rules.

New rules are established regarding: (1) the SoonerStart Early Intervention Program, contingent upon approval of a request to revoke OAC 340:75-4-120 through 340:75-4-128. The responsibility for administering this program was transferred from the Children and Family Services Division to DDSD in an organizational restructuring; and (2) Community Integrated Employment Services.
CONTACT PERSON:
Dena Thayer, Programs Manager, Policy Management Unit, DHS, 2400 N. Lincoln Blvd., Oklahoma City, OK 73105, 405-521-3611.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2005:

SUBCHAPTER 3. ADMINISTRATION

PART 1. GENERAL ADMINISTRATION

340:100-3-15. SoonerStart

(a) **Purpose.** This Section describes the SoonerStart Early Intervention Program (SoonerStart). SoonerStart is a statewide, interagency, multidisciplinary system of services to families with young children (0 through 36 months) who have developmental delays. Focusing on the family, early intervention seeks to:

(1) enhance the development of children served and minimize their potential for developmental delay;
(2) enhance and strengthen the abilities of families to meet the needs of children with developmental delays;
(3) reduce the need for special education and related services as these children reach school age; and
(4) maximize the child's potential for leading productive lives in the community as adults.

(b) **Eligibility.** SoonerStart is available to all eligible children regardless of income, custody status or their eligibility for other Oklahoma Department of Human Services (OKDHS) programs. A child who is eligible for early intervention services must be age birth through three years (0 through 36 months) and:

(1) exhibit a delay in his or her developmental age compared to his or her chronological age of 50 percent in one, or 25 percent in two or more of:
(A) cognitive development;
(B) physical development;
(C) communication development;
(D) social or emotional development;
(E) adaptive development; or

(2) have a diagnosed physical or mental condition that has a high probability of resulting in delay, including, but not limited to:
(A) chromosomal disorders;
(B) neurological abnormalities;
(C) inborn errors of metabolism;
(D) genetic disorders;
(E) congenital malformation of the brain;
(F) congenital infections;
(G) sensory abnormalities and impairments; or
(H) other identified syndromes.

(c) **Background and authority.** SoonerStart is authorized by Section 1471 of Title 20 of the United States Code (USC) and Section 13-123 of Title 70 of the Oklahoma Statutes.

(1) Legislation calls for joint participation in funding and provision of services from the:
(A) Oklahoma State Department of Education (OSDE);
(B) OKDHS;
(C) Oklahoma State Department of Health (OSDH); and
(D) Department of Mental Health and Substance Abuse Services (DMHSAS).

(2) The OSDE was designated lead agency for general administration, supervision, and monitoring of programs and activities.
(A) The OSDH was named to provide or arrange designated early intervention services.
(B) The Oklahoma Commission on Children and Youth (OCCY) was named to administer the Interagency Coordinating Council (ICC) for Early Childhood Intervention which advises and assists the OSDE as lead agency. The ICC is composed of 15 to 25 members appointed by the Governor, including parents of children with disabilities and public and private agency representatives.

(d) **Structure.** The early intervention program is multidisciplinary and capitalizes on the resources and functions of the participating agencies.

(1) The OSDE, OSDH, OKDHS, and OCCY have designated staff to serve as early intervention coordinators for their agencies. The early intervention coordinator position with OKDHS is located in the Developmental Disabilities Services Division (DDSD).

(2) Oklahoma is divided into 10 service delivery regions. Larger regions have several early intervention sites which may cover several counties. Each region consists of a regional coordinator and resource coordinators employed by OSDE and service providers employed by OSDH.
(A) The resource coordinators provide case management services to children and families.
(B) The regional coordinator supervises the resource coordinators and is responsible for direct linkage between the community, other agencies, local schools and service providers in SoonerStart.
(C) The OSDH service providers are responsible for the direct services to children and families.

(e) **Direct services.** SoonerStart uses a family-centered approach to arrange services for the child while helping parents to understand and enhance their child's development. Services may include:
(1) diagnostic and evaluation services;
(2) case management;
(3) family training, counseling and home visits;
(4) certain health and medical services;
(5) nursing services;
(6) nutrition services;
(7) occupational, physical and speech-language therapy;
(8) audiological services;
(9) special instruction;
(10) social work services; and
(11) psychological services.

(f) **Service provision.** A multidisciplinary team evaluates the child for eligibility purposes and assesses the child's individual needs. Parents participate in all aspects of the evaluation process.

(1) A written Individualized Family Service Plan (IFSP) is then developed by the family and service providers based on the child's evaluation.

(2) The IFSP is the plan of action for services to the child and family taking into consideration the child's and family's strengths, priorities, and resources.

(3) Services are provided in the child's natural environment such as the home, day care center, or other community setting that best meets the child's needs.

(g) **Funding.** There is no direct cost to families for services. Funding sources include Individuals with Disabilities Education Act, Sections 631 through 640 of Part H of Title 20 of the USC, Medicaid (Title XIX), Maternal and Child Health (Title V), and state appropriated dollars.

(h) **Referrals.** Referrals are encouraged and accepted from all sources. A parent or other referral source may contact the

early intervention unit by telephone, written, or personal contact.

(1) The early intervention unit needs the child's name and birth date, parent's name and address, reason for referral, and other available information such as a telephone number.

(2) Whenever possible, the parent is informed that a referral is being made on behalf of the child to SoonerStart. If the parent is unsure about the referral or in need of more information, the early intervention unit may be contacted directly for information on SoonerStart. This information can be mailed to the referral source to be shared with the parent or mailed directly to the parent.

(i) **Children in foster care.** Children in foster care are eligible for SoonerStart services. Under the Oklahoma Early Intervention Act and special education federal regulations, the foster parent serves as the child's parent in giving consent for services and in releasing information from SoonerStart to other agencies, including OKDHS. The SoonerStart resource coordinator must have the foster parent sign the appropriate OSDE release forms before SoonerStart can share the child's evaluations and IFSP with OKDHS.

(j) **Transition.** Eligibility for SoonerStart services ends after the child turns three years of age. The child may then be eligible for special education services through the local school district. Children who do not meet the criteria for special education services are referred to appropriate community programs.

PART 3. OPERATIONS

340:100-3-38. Community staff training

(a) **Application.** The rules in this Section apply to Developmental Disabilities Services Division (DDSD) staff, ~~to~~ foster care providers, and ~~to~~ agencies contracting for the delivery of residential supports as defined in OAC 340:100-5-22.1, habilitation training services, group home services, assisted living services, employment or vocational services, or in-home supports, through DDSD state funds or a Home and Community-Based Waiver as described in OAC 317:40-1-1.

(1) Training requirements for staff of public facilities operated by DDSD are outlined in OAC 340:100-3-37.

(2) DDSD community staff, provider agency employees, and foster care providers complete a course of instruction specific to their job duties. Training requirements are found for staff providing:

(A) residential supports and group home services in OAC 340:100-3-38.1;

(B) employment or vocational services in OAC 340:100-3-38.2;

(C) supports in the family's home or the individual's own home, other than residential supports, in OAC 340:100-3-38.3;

(D) specialized foster care in OAC 340:100-3-38.4;

(E) DDSD case management services in OAC 340:100-3-38.6;

(F) program coordination services in OAC 340:100-3-38.7;

(G) employment program manager services in OAC 340:100-3-38.8; and

(H) DDSD or provider agency supervisory or management support in OAC 340:100-3-38.9.

(3) Staff providing services through the In-Home Supports Waiver follow rules covering training that are given at OAC 340:100-3-38.5.

(b) **Mission.** The mission of training within DDSD is to support the values and philosophies of DDSD and to enhance the competencies of DDSD staff, provider agency employees, and specialized foster care providers. The mission is accomplished by:

(1) providing pertinent training in a timely and cost effective manner;

(2) continuously evaluating the relevancy of the training curricula based upon the expressed needs of people served, their families, training participants, trainers, and providers of service;

(3) maintaining a network with other agencies who provide training to ensure consistency and availability;

(4) using state-of-the-art technology and techniques to make training as effective as possible; and

(5) establishing and maintaining a monitoring system which ensures statewide consistency and quality of all training.

(c) **Training ~~Advisory Committee~~ advisory committee.** The DDSD director appoints a committee to advise DDSD in the development, revision, and delivery of training to DDSD staff, provider agency employees, and specialized foster care providers.

(1) The committee meets quarterly and is composed of representatives from each area to include:

(A) DDSD training staff;

(B) service providers, including direct support staff;

(C) ~~persons receiving services~~ service recipients or their family members; and

(D) case management staff.

(2) The committee members:

(A) communicate training-related information to their peers and solicit participation in training projects;

(B) assist in determining training needs;

(C) assist in developing and implementing policies for the DDSD statewide training system;

(D) participate in evaluating training proposals and contracts;

(E) review training curricula; and

(F) monitor, as requested, the delivery of training, including observation of instructors and solicitation of external reviewers.

(d) **Training curricula.** Training courses and curricula used to fulfill DDSD training requirements must meet the criteria given in this subsection.

(1) To fulfill the training requirements of this Section, any training course, curriculum, or method must

be approved by the DDSD director of human resource development unless the course is:

(A) a conference sponsored by DDSD;

(B) designed and offered by a professional training or education organization to enhance the management skills of supervisors; or

(C) offered by a regional, state, or national professional organization such as:

(i) The Association for the Severely Handicapped (TASH);

(ii) The Council on Quality and Leadership in Supports for People with Disabilities (Council); or

(iii) the American Association on Mental Retardation (AAMR).

(2) Trainers of approved courses must be licensed, certified, or otherwise qualified based on the requirements of the course or by approval of the DDSD director of human resource development.

(3) Competency-based courses require a specified level of proficiency to receive credit for satisfactory completion. Competencies are based upon specific identified outcomes. The trainer of each course communicates the required level of proficiency to participants at the beginning of each course.

(4) Each curriculum developed or sponsored by DDSD is reviewed at least every two years to ensure that the curriculum is:

(A) reflective of current best practice;

(B) in line with ~~DHS~~ Oklahoma Department of Human Services (OKDHS) policy; and

(C) reflective of changes in the service delivery system.

(e) **New employee training requirements.** No later than 30 days following the date of hire, foster care providers, provider agency staff providing direct supports or supervising, at any level, the delivery of direct supports, and all DDSD employees must complete the first available DDSD-approved foundation training course and the approved effective teaching course. The first available class is the first unfilled class held within 60 miles of the staff person's work location following the person's date of hire.

(f) **Classroom expectations.** DDSD training staff and contract training staff are authorized to dismiss a participant(s) or observer(s) from a class for the reasons explained in this subsection.

(1) Dismissal from a training class may occur for:

(A) sleeping in class, defined as an inability to remain awake, alert, and participate actively in the training;

(B) disruptive behavior, defined as:

(i) inappropriate comments during class which would be considered rude, insensitive, or derogatory;

(ii) whispering or talking to other participants during class;

(iii) conducting activities unrelated to the class topic;

(iv) being called out of class frequently; or

(v) leaving class frequently other than at designated break times;

(C) tardiness or absence.

(i) Tardiness is defined as:

(I) arriving at class more than 30 minutes late on the first day of class;

(II) arriving at class more than 15 minutes late on subsequent days of the same class from the time the class actually starts; or

(III) missing a total of more than 30 minutes of any day's presentation.

(ii) Participants may be granted no more than 30 minutes the first day of class to allow for difficulty in locating the building or parking, except in courses which require a specific number of training hours to meet certification requirements;

(D) incomplete preparation. Dismissal from the class occurs for any participant who has not completed required prerequisite courses or preparatory materials prior to attending. Some courses require that:

(i) other courses be completed before attending. For example, new employee training must be completed before the job-specific training can be taken; or

(ii) specific pre-course activities be completed before attending. For example, a pre-course competencies checklist is required to be completed before taking the Employment Training Specialist Orientation course; or

(E) violating confidentiality requirements, as stated in OAC 340:100-3-2 and other applicable rules.

(2) If dismissal from the class occurs, the trainer notifies the participant's agency and the trainer's supervisor as soon as possible and maintains a brief written summary of the incident.

(A) Dismissed participants do not receive credit for the class and are required to re-enroll and satisfactorily complete the entire course or module to receive credit.

(B) The trainer must give approval before re-enrollment is allowed. Appeals of the trainer's decision are made to the DDSD director of human resource development.

(3) No children, friends, or family members of participants may attend class unless also enrolled as participants.

(4) Persons receiving services from DDSD, family members, advocates, DDSD staff, and provider agency staff may observe training classes unless they engage in activities considered to be disruptive to the class. Persons receiving services from DDSD who wish to participate in the training and who need staff support must be accompanied by a staff member(s) who is not enrolled in the training.

(5) When other people come to class in place of enrolled participants, or in addition to enrolled participants, they are allowed to remain, if the trainer determines there are adequate materials and space.

(g) **Course availability.** The DDSD Human Resource Development Unit and contract training providers work to ensure the availability of all courses by taking into account:

(1) location;

(2) time of day; and

(3) day of the week.

(h) **Class closings due to inclement weather.** The rules in this subsection apply to all classes provided by DDSD training staff or contract training providers.

(1) If the public schools in the town where the class is to be held are closed due to bad weather, class will not be held. The provider agency is responsible to enroll the staff member in the next available class.

(2) If provider agency staff plan to attend an out-of-town class, but the schools are closed at the staff person's work location, the agency may determine that it is not safe for the staff person to travel. The agency is responsible to call the enrollment number for the class on the next work day to notify the training provider of this decision. The trainer enrolls the staff person in the next available class, and the staff person is not penalized for not attending. The letter confirming re-enrollment serves as notification of the next available class.

(3) If a class is cancelled due to bad weather, the enrolled staff person is expected to notify the provider agency of his or her potential availability to work.

(4) If a provider agency or staff person is uncertain about weather conditions or cancellations, they must call the enrollment telephone number for the particular class.

(~~h~~i) **Quality assurance.** To ensure consistency with state laws and regulations and current best practices, training provided by DDSD staff, service providers, or contract agents, and other classes required by DDSD are observed and monitored on a regular basis.

(1) The components of the monitoring system are listed in (A) through (E) of this paragraph.

(A) The DDSD director of human resource development attends and monitors training classes on a random basis throughout the year.

(B) DDSD training supervisors and contract training coordinators observe each trainer directly under their supervision at least twice a year.

(i) At least one review must include foundation training, if applicable.

(ii) Each review is at least one half training day, which is three hours in length.

(iii) The reviews:

(I) cover the range of primary training topics offered by each trainer;

(II) are conducted in both metropolitan and rural areas of the state, when applicable; and

(III) include announced and unannounced observations.

(iv) The supervisor or coordinator reviews the training classes as a participant rather than as an observer, whenever possible.

(v) Direct feedback is given to the trainer following the class in both written and verbal form.

(vi) A copy of the written review is also sent to the DDSD director of human resource development.

(vii) If significant areas of concern are noted, the trainer and immediate supervisor develop a specific plan of correction which may include such measures as retraining, increased supervision of classes, or co-training. A copy of the plan of correction is sent to the DDSD director of human resource development.

(viii) The supervisor or coordinator may request an unannounced review by another supervisor, coordinator, or trainer.

(ix) Exceptional performance is noted in writing with a copy to the trainer's personnel file and a copy to the director of human resource development.

(C) Provider agencies notify the DDSD area training staff at least the day before the class of the location and time when offering in-house training required in accordance with this Section. DDSD may provide unannounced monitoring at any time.

(D) To ensure that contract trainers support the DDSD mission, values, and philosophies, as well as demonstrate mastery of the subject matter and good training skills, each DDSD trainer is assigned to monitor a specific number of contract trainers per year.

(i) Each DDSD trainer is assigned to monitor contract trainers based upon the DDSD trainer's particular areas of expertise and interest.

(ii) The DDSD trainer reviews each assigned contract trainer at least one time per year for a minimum of one half training day, which is three hours.

(iii) The review is unannounced.

(iv) The DDSD trainer provides written and oral feedback to the contract trainer following the class.

(v) A copy of the written report is provided to the contract trainer, contract trainer's supervisor, and DDSD director of human resource development.

(vi) If significant areas of concern are noted, the contract trainer and immediate supervisor develop a specific plan of correction which may include such measures as retraining, increased supervision of classes, or co-training. A copy is sent to the director of human resource development.

(vii) Exceptional performance is noted in writing with a copy to the trainer's personnel file and a copy to the director of human resource development.

(viii) DDSD training staff review the primary training programs and other sensitive training programs provided by contract training staff.

(E) ~~Persons receiving services~~ Service recipients, family members, and advocates, as well as organizations with expertise in disability issues or training

may be invited to review training classes or portions of classes.

(i) These reviews may be announced or unannounced.

(ii) ~~Persons receiving services~~ Service recipients, family members, friends, advocates and guardians, or organizations provide feedback to the trainer, the trainer's supervisor, and the DDSD director of human resource development.

(2) Classes found to violate the requirements given in this Section including material covered, testing procedures, or DDSD policy requirements may result in corrective discipline for ~~Department of Human Services (DHS)~~ OKDHS employees, revocation of approval to provide training, or sanctions against the provider in accordance with OAC 340:100-3-27.

(3) Any participant or agency with concerns about course content, a course instructor, or availability of a course immediately notifies the supervisor of the course or instructor. If resolution of the issue does not occur, the participant or agency notifies the DDSD director of human resource development.

(4) Each class used to fulfill the training requirements in this Section which is offered by DDSD, contract training agents, or provider agencies offers participants the opportunity to provide feedback. Feedback options include:

(A) end-of-class evaluation forms;

(B) periodic surveys; or

(C) focus group discussions.

(5) DDSD case management staff access the training data system described in OAC 340:100-3-38.11 as a mechanism to ensure that staff in the homes and day program sites of people they serve have completed the new employee and annual training requirements. When staff are not trained as required by this Section, the case manager initiates the problem resolution process specified in OAC 340:100-3-27.

(6) Case managers and providers report to the DDSD director of human resource development any training system issues inhibiting fulfillment of the requirements of this Section.

SUBCHAPTER 5. CLIENT SERVICES

PART 3. SERVICE PROVISIONS

340:100-5-15. Developmental Disabilities Services Division (DDSD) ~~Case Manager/Team Leader~~ case manager activities

Each ~~client~~ person receiving waiver services through DDSD ~~shall have~~ has a ~~Case Manager/Team Leader~~ case manager who ~~assures~~ ensures that individual needs are met through linkage, assessment, brokerage, advocacy, and monitoring activities. The case manager assists service recipients in gaining access to needed medical, social, educational, and other services and supports. The case manager:

(1) ~~The Case Manager/Team Leader has overall responsibility for the development and updating of the Individual Habilitation Plan as appropriate and serves as the chair of the interdisciplinary team.~~ completes or arranges for necessary assessments to identify service recipient needs;

(2) ~~The Case Manager/Team Leader reconvenes the interdisciplinary team for an annual review of the Individual Habilitation Plan, at any time there is a significant change in the individuals status, or if there are major changes required in the Individual Habilitation Plan.~~ has overall responsibility for the development and updating of the Individual Plan (IP) in accordance with OAC 340:100-5-50 through 340:100-5-58 and Plan of Care;

(3) ~~The Case Manager/Team Leader~~ describes service options in sufficient detail to assure that the ~~individual~~ service recipient, or ~~parent/guardian~~ parent or guardian, as applicable, is able to make an informed choice ~~as to the~~ regarding services ~~he/she wishes to receive.~~;

(4) ~~The Case Manager/Team Leader~~ coordinates and monitors ~~and assures the~~ services being delivered to determine their effectiveness in meeting ~~consumer expectation/needs and documents findings in the client record.~~ the needs of the service recipient;

(5) ~~Case Managers have~~ has the authority to implement approved services prescribed in the ~~IHP~~ IP and to access emergency or crisis services as defined by policy~~.~~; and

(6) documents findings in the Client Contact Manager (CCM).

340:100-5-26. Health services

(a) **Purpose.** Persons receiving Developmental Disabilities Services Division (DDSD) services receive equal access to the quality and the range of health care services that are available to all people. Services are provided according to applicable state and federal statutes, Oklahoma Department of Human Services (OKDHS) rules, and recommendations made by the ~~person's~~ service recipient's Personal Support Team (Team).

(b) **Scope and applicability.** This Section applies to all persons who receive residential services funded or licensed by DDSD or Home and Community-Based Waiver (HCBW) services, and to all providers of services funded or licensed by DDSD or HCBW.

(1) DDSD health services are secured based on the individual's need and on service requests by the ~~person~~ service recipient, his or her parents, spouse, or guardian, or Team, as specified by the Individual Plan (~~Plan~~IP).

(2) Services outside the scope of programs funded by OKDHS or the Oklahoma Health Care Authority (OHCA) are provided contingent upon available resources.

(3) Oklahoma State Department of Health (OSDH) recommendations for immunizations, communicable disease testing, universal precautions, and infection control practices are used to prevent the transmission of communicable diseases.

(4) DDSD staff and contract agents implement procedures to maintain and improve the health of each service recipient, including procedures related to:

(A) providing emergency medical intervention including initiation of first aid, cardio-pulmonary resuscitation (CPR), and accessing emergency service systems;

(B) preventing disease;

(C) aging; and

(D) following physician orders.

(5) When health needs exceed the scope of DDSD services, the ~~person~~ service recipient is referred to an appropriate licensed community health care setting.

(6) DDSD staff and contract agents acknowledge the right of the individual, next of kin, legal guardian, or physician to execute an ~~Advance Directive~~ advance directive made in accordance with Section 3101.1 of Title 63 of the Oklahoma Statutes, or a Do-Not-Resuscitate Order (DNR) made in accordance with, Section 3131.1 of Title 63, of the Oklahoma Statutes.

(c) **Assessment.** Requirements for health related assessments and related record keeping are contained in this subsection.

(1) ~~A~~ Each service recipient or legal guardian identifies a primary care physician or provider ~~is identified for each person, by the person or the legal guardian,~~ from available resources. Specialty consultation and services are obtained when needed.

(2) Each ~~person receiving~~ recipient of residential services has an annual physical examination. The physician's report of the annual physical examination, documentation of medical visits, and reports of all other health-related assessments are maintained in the home record.

(d) **Physical ~~Status Review~~ status review (PSR).** Requirements for the PSR are contained in this subsection.

(1) The ~~person's~~ service recipient's primary care physician, nursing, and health care assessments identify the need for health care services.

(2) The case manager ensures Form DDS-7, Physical Status Review, is initially completed for each service recipient.

(3) The ~~person's~~ service recipient's health care needs are addressed by the Team, using Form DDS-7.

(A) Form DDS-7 is a review tool that objectively identifies a ~~person's~~ service recipient's functional ability to attend to activities of daily living based on past and present health history and current treatment modalities.

(B) The PSR assesses the ~~person's~~ service recipient's needs in the areas of:

(i) functional abilities, such as:

(I) eating;

(II) ambulation;

(III) transferring;

(IV) toileting; and

(V) days missed at day program due to illness;

(ii) behaviors, including:

(I) self-abuse;

(II) aggression toward others and property;

(III) use of mechanical restraints;

(IV) use of emergency chemical restraints; and

(V) use of psychotropic medication(s);

(iii) physiological needs, such as:

(I) gastrointestinal conditions;

(II) seizures;

(III) anticonvulsant medication use;

(IV) skin breakdown;

(V) bowel function;

(VI) nutrition; and

(VII) treatments;

(iv) safety considerations, such as:

(I) injuries; and

(II) falls;

(v) frequency of service, including:

(I) physician visits and nursing service;

(II) emergency room visits; and

(III) hospital admissions.

(C) The interviewer who completes Form DDS-7 is trained to complete the form.

(D) To complete Form DDS-7, the interviewer communicates with the service recipient or someone who knows the service recipient's medical history, current trends in overall health and behavior, daily care needs, medical or nursing treatments, the past year's medical incidents, emergency room visits, hospitalizations, and medication regimen.

(4) Form DDS-7 is completed annually, no more than 60 days prior to the annual Team meeting.

(5) Immediate action is taken to provide any emergency interventions required in a situation of acute health deterioration.

(6) When a significant change in function or health treatment occurs, which requires additional staff training or health care services, the Team completes a new Form DDS-7 and revises the ~~Plan~~ IP as necessary.

(7) The PSR is the Team's mechanism to identify a health care level based on the ~~person's~~ service recipient's health status.

(A) A registered nurse (RN) employed by DDSD assesses the responses documented by the interviewer, formulates a raw score, and computes the health care level, based on specific criteria.

(i) At Level I, the ~~person~~ service recipient ordinarily has no body system compromised. The ~~person~~ service recipient is assisted or has the ability to access the health care system.

(ii) At Level II, the ~~person~~ service recipient ordinarily has a chronic condition, but the health status is stable.

(iii) At Level III, the ~~person~~ service recipient ordinarily has two or more chronic co-existing conditions with no occurrences within the past year.

(iv) At Level IV, the ~~person~~ service recipient ordinarily has two or more existing health conditions which require close observation for symptoms and require specialized health training.

(v) At Level V, the ~~person~~ service recipient ordinarily meets all the criteria for Level IV and has health needs that require licensed nursing treatment one or more times daily.

(vi) At Level VI, the ~~person~~ service recipient ordinarily has several existing health issues that are unstable and require treatment by a licensed nurse more frequently than every two hours over a 24-hour period.

(B) Based on the health care level, the DDSD RN develops recommendations for staff health training, level of nursing supports, and the level of nursing monitoring to be delivered.

(i) At Level I, the annual PSR is ordinarily the only nursing service needed.

(ii) At Level II, the nurse is involved as a consultant to the Team.

(iii) At Level III, the nurse is involved as a consultant to the Team, to promote good communication, staff training, and preventive planning.

(iv) At Level IV, nursing services are provided according to the ~~person's~~ service recipient's needs and ordinarily do not exceed four hours of licensed nursing time in a 24-hour period.

(v) At Level V, nursing services are provided according to the ~~person's~~ service recipient's needs and do not ordinarily exceed eight hours of licensed nursing time in a 24-hour period.

(vi) At Level VI, nursing services are provided according to the ~~person's~~ service recipient's needs and ordinarily do not exceed 24 hours of licensed nursing time in a day.

(8) After a health care level is identified, the Team establishes health care service needs and staff health training needs.

(9) If the Team has questions or requires more information regarding a health care level, an informal resolution process is initiated.

(A) The area manager or designee reviews all requests and consults with members of the Team to reach consensus on the level of licensed nursing training or service provision required. If consensus is not reached, the Team moves to the step described in (c)(9)(B) of this Section.

(B) The area manager, RN supervisor, and medical director meet to review cases for nursing in excess of 12 hours in a 14 day period, or for need of conflict resolution.

(C) If consensus is still not reached, the case manager notifies the ~~person~~ service recipient of OKDHS fair hearing procedures. [OAC 340:2-5]

(e) **Planning.** Requirements for planning to meet the service recipient's health care needs are contained in this subsection.

(1) The Team identifies desired health care outcomes during the Team process.

(2) Health issues identified through health care evaluations and assessments which have an impact on the ~~person's~~ service recipient's life are incorporated and integrated by the Team into the ~~Plan~~ IP through goals and objectives.

(3) Plans for health care needs are developed in terms of individual outcomes, not units of clinically specific service.

(4) When plans for health care needs or implementation strategies are developed involving discipline-specific services, a representative from that discipline participates in at least a consulting role.

(f) **Planning for invasive or intrusive procedures.** Team review requirements for proposed invasive or intrusive procedures are contained in this subsection.

(1) Any invasive, intrusive, or intensive professional service or procedure is subject to a review by the Team, including participation from any other service provider as appropriate.

(2) The Team's review of an invasive, intrusive, or intensive service or procedure includes discussion, prior to implementation, of the proposed service or procedure, and of possible alternatives.

(3) Invasive or intrusive procedures subject to a review by the Team comprise both scheduled and emergency procedures including major surgery which:

(A) will produce a significant change in daily function or health;

(B) might require additional staff training or health care services; and

(C) include, but are not limited to:

(i) tracheotomy;

(ii) orthopedics;

(iii) gastrostomy;

(iv) jejunostomy;

(v) multiple dental extractions;

(vi) amputation; or

(vii) consideration of permanent sterilization.

(4) An invasive, intrusive, or intensive professional service or procedure which is implemented on an emergency basis is subject to review by the Team as soon as possible, but within five working days. Emergency procedures subject to review include, but are not limited to emergency:

(A) ~~emergency~~ surgery; or

(B) ~~emergency~~ behavioral intervention including:

(i) mechanical restraint; or

(ii) chemical restraint.

(g) **Health care coordination.** Requirements governing coordination of health care are contained in this subsection.

(1) The Team identifies a health care coordinator (HCC) for the ~~person~~ service recipient to ensure the implementation and coordination of health care services. The HCC:

(A) is an individual who has an overview of the ~~person's~~ service recipient's health care needs and lifestyle;

(B) may be the service recipient, a member of the ~~person's~~ service recipient's family, a foster parent, companion, member of the residential provider staff, or other person who is familiar with the ~~person's~~ service recipient's needs;

(C) is trained by DDSD staff;

(D) serves as a health care facilitator and follows all rules in this Section;

(E) documents that health concerns are acted upon, monitored, communicated, and that staff are trained;

(F) accompanies the ~~person~~ service recipient to the physician and communicates to the physician the reason the ~~person~~ service recipient is ~~being~~ seen;

(G) keeps the physician advised of medical status and data regarding any target symptoms;

(H) communicates any physician's order obtained during such visit to the core Team members and other service providers as appropriate ~~any physician's order obtained during such visit~~; and

(I) presents Form DDS-5, Referral Form for Examination or Treatment, to the physician at the time of the visit.

(i) Form DDS-5 is completed by the HCC prior to the visit including:

(I) the ~~person's~~ service recipient's name, case number, appointment date and time, date of birth, address, phone number, name of physician or medical facility referred to, name of case manager, and legal representative;

(II) the ~~person's~~ service recipient's current medication and treatment;

(III) allergies specifying medication, food, and environmental allergies; and

(IV) the specific reason(s) the ~~person~~ service recipient is being seen for the medical visit.

(ii) The HCC requests the physician to complete a short written summary of the findings.

(I) Form DDS-5 or documentation completed by the physician includes a diagnosis or findings, recommendations, and treatments.

(II) The physician signs and dates the documentation.

(iii) The original of Form DDS-5 is maintained by the physician, one copy is kept in the home record, and one is sent to the case manager.

(2) If the HCC is employed by an agency or contract provider, the employer develops and implements a procedure to ensure appropriate backup if the HCC is unable, for whatever reason, to perform these duties.

(h) **Implementation.** Implementation procedures for health care strategies are provided in this subsection.

(1) When a service recipient receives physician-prescribed nursing services, written nursing implementation strategies are developed and monitored by the contract nurse.

(2) Staff are trained and carry out implementation strategies addressing health care outcomes.

(3) Adequate current medical and program information is maintained in the home record by the residential provider and is available for review by authorized staff of OKDHS.

(i) **Evaluation and monitoring.** Requirements for evaluation and monitoring are contained in this subsection.

(1) ~~**Medication reviews.**~~ Medication reviews are completed by the HCC each month utilizing Form DDS-6, Medication Review, and include:

(A) the ~~person's~~ service recipient's name, provider, phone number, date of review, case number, and case manager;

(B) any changes in medication during the month, such as increases, decreases, additions, or discontinuations;

(C) any ~~p.r.n.~~ prn (as needed) medication usage;

(D) non-prescription medication use.

(i) Non-prescription medications taken by mouth or taken in suppository form are included in this monthly review.

(ii) Non-prescription medications administered via sprays, creams, ointments, drops, transdermal patches, or lozenges are not included in the HCC's monthly Form DDS-6, but use of these medications is monitored through routine health care visits;

(E) description of any changes, possible side effects, or physical signs or symptoms experienced during the month;

(F) a summary of medication incidents occurring during the month; and

(G) a recommendation, if any, for referral to an independent pharmacological review.

(2) The original Form DDS-6 is kept in the home record, one copy is sent to the case manager, and one copy remains available for the independent referral process.

(3) The DDSD case manager makes a referral for a pharmacological review by an independent clinical pharmacist or physician:

(A) upon the request of a Team member or a clinician participating with the Team;

(B) when the review performed by the case manager and the assigned nurse determines that referral to an independent clinical pharmacist or physician is indicated. The case manager and nurse perform a review if the ~~person~~ service recipient:

(i) receives five or more medications, prescription or non-prescription; or

(ii) has unusual physical sign(s) or symptom(s) during the month in review which are not resolved through other medical interventions; or

(C) if the ~~person~~ service recipient:

(i) uses a ~~p.r.n.~~ prn medication routinely for more than three months;

(ii) takes two or more psychotropic medications; or

(iii) takes more than two anticonvulsant medications used for a seizure disorder.

(4) If the ~~person~~ service recipient continues to meet the criteria listed in ~~(3)(A)-(C)~~ subparagraphs (A), (B), or (C) of paragraph (3) of this subsection ~~after an initial review is completed~~, the case manager and DDSD nurse annually, or more frequently, if necessary, complete a review of the service recipient's condition. If a pharmacological review is clinically indicated, the case manager requests a pharmacological review ~~annually~~ in conjunction with the annual ~~Plan, or more frequently, if necessary~~ IP.

(5) For the purpose of monitoring and evaluation, designated DDSD personnel have access at all times to the ~~person's~~ service recipient's medical and programmatic information.

(6) If the person receives DDSD services but has no case manager, the provider contacts the DDSD area manager or designee for assistance in requesting an independent pharmacological review.

SUBCHAPTER 17. ~~VOCATIONAL~~ EMPLOYMENT SERVICES

PART 1. GENERAL ~~VOCATIONAL~~ EMPLOYMENT EXPECTATIONS

340:100-17-1. Scope and applicability of employment services

The ~~vocational~~ employment needs of ~~consumers~~ service recipients are addressed through the prescription and implementation of services directed toward ~~consumer~~ the service recipient's entry into the work force.

(1) The ~~consumer~~ service recipient and a desired family member, representative, or legal guardian have an active role in identifying ~~vocational~~ employment needs.

(2) All ~~consumers~~ service recipients receiving employment services meet eligibility requirements as established by the Oklahoma Department of Human Services (OKDHS) or the Oklahoma Health Care Authority (OHCA).

(3) All provider agencies meet the criteria established by federal and state regulations.

(4) Specific employment needs are determined through ~~an interdisciplinary~~ the team process and are documented in the ~~consumer's~~ Individual Plan (IP). The services provided are those necessary to meet needs identified in the ~~Individual Plan~~ IP.

(5) ~~The case manager ensures that employment~~ Employment services are coordinated with all other services provided to the ~~consumer~~ service recipient.

(6) Reimbursement for employment services is provided under established rates or contract provisions approved by the Oklahoma Commission for Human Services or ~~the Oklahoma Health Care Authority~~ OHCA, within program capacities as determined by budgetary ~~restraints~~ constraints.

(7) Programs are monitored on a regular basis to ensure compliance with the Fair Labor Standards Act (FLSA), as amended, and applicable contract conditions, rules, and regulations. Documentation is maintained as a basis for contract renewal.

(8) Provider agencies are informed of, and provided an opportunity to correct, deficiencies which may result in the imposition of sanctions, which may include contract termination and have the right to appeal actions taken by the Developmental Disabilities Services Division (DDSD) with which they disagree in accordance with ~~OAC 340:100-3-27~~ OAC 340:100-3-27.2.

340:100-17-2. ~~Philosophy~~ Overview of ~~vocational~~ employment services

(a) ~~The ultimate service goal for adults with developmental disabilities is to enable consumers to have the same employment opportunities that are available to all citizens who are not disabled, including:~~ In the past, people receiving services were usually either fully employed, idle, or involved in nonproductive activities. There are many employment service options available. The options given in this subsection are not a continuum, but are prioritized as most desirable by people with and without disabilities. Provider agencies assess each service recipient in maximizing employment options.

(1) ~~full-time employment and benefits. Most citizens aspire to work full-time, 40 hours per week, in jobs which provide benefits such as health insurance, dental and optical insurance, paid holidays, vacation, and sick leave;~~ The optimum goal is full-time employment at prevailing wage in business or industry at an occupation of the service recipient's choice with natural supports. If prevailing wage is not available, then employment is at minimum wage with or without paid supports.

(2) ~~wages. Most citizens expect to be paid at least a prevailing wage;~~ If a service recipient cannot secure enough work hours through a single job of the service recipient's choice, then two part-time jobs or a job that is not the service recipient's first preference may need to be sought to equal a full-time job.

(3) ~~integration. Most citizens expect to work in jobs which are diverse and in which people with developmental disabilities are present in the same proportion as they are in society at large, that is, about 3 percent; and~~ If a fully integrated placement is not currently available, employment of the service recipient's choice in an enclave in a business or industry, with or without paid supports, is an option.

(4) ~~choice. Most citizens aspire to work in settings which they have chosen.~~ If there are no paid jobs to be found, temporary unpaid training or volunteer service in accordance with United States Department of Labor regulations, with or without paid supports, may be an option for the purpose of resume building or job exploration, or temporary participation in real work in a center-based setting can be obtained.

(b) ~~The Department recognizes that there are a number of factors which make job development somewhat different in each community. These factors include:~~ The provider agency makes available those supports needed, within the scope of the

contract for services, for the service recipient to achieve employment.

~~(1) the strength of the community's economy;~~

~~(2) the variety of jobs and job opportunities;~~

~~(3) the number and severity of a consumer's disabilities; and~~

~~(4) the prevailing attitudes and values regarding people with developmental disabilities and the community's willingness to include them in the work force.~~

(c) ~~Providers endeavor to:~~ Employment services are prescribed in accordance with this Subchapter and OAC 340:100-3-33.1.

~~(1) positively influence community attitudes, encouraging acceptance and inclusion in the work place;~~

~~(2) creatively seek jobs;~~

~~(3) hire competent personnel who are committed to the people they serve;~~

~~(4) work with employers to meet the employer's needs by providing opportunities for people with developmental disabilities;~~

~~(5) identify and use resources wisely and creatively, including natural supports available within the workplace and the larger community;~~

~~(6) provide work experience that promotes a consumer's ability to earn wages;~~

~~(7) provide work experiences that support the opportunity for the consumer to develop relationships with co-workers and employer;~~

~~(8) provide work experiences that enhance social skills development of consumers with developmental disabilities;~~

~~(9) provide work experiences that promote consumer satisfaction; and~~

~~(10) provide work experiences that promote increased job responsibilities.~~

340:100-17-3. Selection of a primary vocational provider [REVOKED]

~~(a) Each consumer designates a primary vocational provider agency.~~

~~(1) The primary vocational provider is responsible for all aspects of vocational service coordination and delivery.~~

~~(2) If the consumer receives supported employment services through a Department of Rehabilitation Services provider, then that agency is the primary provider if additional services are needed.~~

~~(b) When the consumer is initially choosing a vocational provider, or is following rules for changing waiver vocational providers described at OAC 317:40-7-18, the case manager, if applicable, or designated DDSD Area Office staff informs the consumer of all available vocational providers within the geographical area of the consumer's residence.~~

~~(c) The consumer, family member, or legal guardian, as appropriate, interviews potential providers and visits program sites prior to the selection of a primary vocational provider.~~

~~(d) The consumer, family member, or legal guardian informs the case manager, if the consumer receives DDSD case management services, of the selection of the primary provider. The case manager notifies the chosen provider of the selection.~~

~~(e) The general vocational services targeted to be delivered to the consumer are negotiated between the consumer, family member, or legal guardian, the case manager, if applicable, and primary provider in advance of the consumer's Plan meeting.~~

~~(f) A provider agency and the consumer may enter into an agreement which provides for vocational services throughout the plan of care or contract year.~~

~~(1) A consumer service agreement, if utilized by the provider agency, must provide for the consumer's right to terminate services in the event of:~~

~~(A) substantiated provider abuse, neglect, or exploitation.~~

~~(B) the provider's failure to provide services specified within the consumer's Plan.~~

~~(2) All consumer service agreements are subject to approval by the Administrator of DDSD Community Services or designee.~~

~~(3) Other issues of non-performance by a provider are addressed through technical assistance or by change of provider in accordance with OAC 340:100-17-11 or OAC 317:40-7-18.~~

340:100-17-4. Data collection in Vocational Services [REVOKED]

~~(a) For consumers receiving DDSD case management services, the data collection requirements listed in this subsection apply.~~

~~(1) Each provider submits a Vocational Progress Report (VPR), DDS-41, to the consumer's case manager and the Area Office staff by the 10th of each month for services provided during the preceding month.~~

~~(A) In Area I and Area III, reports are submitted to designated data entry staff.~~

~~(B) In Area II, reports are submitted to the designated employment services technical assistant (ESTA).~~

~~(2) The consumer's case manager notifies the vocational provider if the VPR has not been received by the 10th of the month or if the VPR is improperly completed.~~

~~(3) If any consumer's VPR is delinquent for more than three days for three consecutive months, the Area Office vocational staff notifies the Programs Administrator for Quality Assurance and requests an administrative inquiry based upon the Area Office VPR log and the case manager's case notes.~~

~~(4) The consumer's case manager is ultimately responsible for contacting the provider and for documenting attempts to obtain delinquent reports.~~

~~(b) For consumers **not** receiving DDSD case management services, the data collection requirements listed in this subsection apply.~~

~~(1) The provider agency submits the Quarterly Vocational Participant Report, DDS-54, to designated DDSD staff by the 10th of October, January, April and July.~~

~~(2) If the 10th of the month falls on a Saturday, Sunday, or holiday, the Quarterly Report is due on the next working day.~~

~~(c) No reports are accepted without the signature of the provider agency's vocational program coordinator or other administrative designee verifying that the information reported for each consumer is correct, accurate, and valid.~~

~~(d) If the report is submitted on time, but incorrectly filled out, the designated DDSD staff member attempts to reconcile the problem(s).~~

~~(e) The Area Office vocational staff is notified if vocational reports indicate a consistent pattern of errors. The Area Office vocational staff arrange and provide appropriate technical assistance for the provider agency.~~

~~(f) If errors appear to be deliberate in order to increase billing or to feign compliance with the consumer's Employment Services Plan or Individual Plan, the Area Office vocational staff contacts the Programs Administrator for Quality Assurance to request an administrative inquiry.~~

PART 3. STATE-FUNDED EMPLOYMENT (SHELTERED WORKSHOP) SERVICES

340:100-17-10. General state-funded employment (sheltered workshop) expectations

(a) ~~Consumer access~~ Access to state-funded (sheltered workshop) employment services is contingent upon sufficient resources and a determination of eligibility of the service recipient based upon criteria as established in ~~Department policy,~~ OAC 340:100-3-1. A person is not eligible for state-funded employment services if the person:

(1) receives Home and Community-Based Services funded by the Oklahoma Health Care Authority; or

(2) resides in a private intermediate care facility for persons with mental retardation (ICF/MR).

(b) ~~Sheltered workshop~~ State-funded (sheltered workshop) employment services are provided by private agencies ~~who~~ that have a current contract with the Oklahoma Department of Human Services (OKDHS).

(c) ~~Sheltered workshop~~ State-funded (sheltered workshop) employment services serve eligible ~~consumers~~ persons with developmental disabilities who are 16 years of age or older. Individuals between the ages of 16 and 21 who have not completed their eligibility for services provided through Individuals with Disabilities Education Act (IDEA) may receive state-funded employment services during times when school is not in session, if not participating in an Individual Education Program (IEP) that includes extended school year services through their school system.

(d) ~~Sheltered workshop employment services are provided to consumers a minimum of~~ The provider agency ensures that service recipients participate in meaningful work-related activities for the entire service day, five hours per day ~~plus a lunch period~~, unless determined otherwise by the ~~consumer's~~ service recipient's Team and justified in the Individual Plan (IP).

(e) ~~Services~~ State-funded (sheltered workshop) employment services ~~provided in sheltered workshops~~ include:

(1) evaluation;

(2) training;

(3) supportive assistance; and

(4) ~~remunerative~~ paid employment.

(f) The services allow the ~~consumer~~ service recipient to engage in meaningful work or participate in training activities which are age appropriate, work related, and consistent with the ~~consumer's career plan~~ service recipient's IP.

(1) The work day is devoted to ~~remunerative~~ paid employment, evaluation, or specific job task activities for which the ~~consumer~~ service recipient is remunerated ~~for work performed~~ in accordance with the ~~U.S.~~ United States Department of Labor Wage and Hour regulations and the Fair Labor Standards Act.

(2) During periods in which no paid work is available for ~~consumers~~ service recipients, despite the good faith efforts of the provider to secure such work, the ~~vocational~~ employment provider agency ensures that each ~~consumer~~ service recipient participates in training activities which are age appropriate, work related, and consistent with the ~~consumer's career plan~~ IP. Such activities may include, but are not limited to:

(A) resume development and application writing;

(B) work attire selection;

(C) job interview training and practice;

(D) job safety and evacuation training;

(E) personal or social skills training~~, such as banking~~; and

(F) stamina and wellness classes.

(3) Activities that ~~are not appropriate services include those which~~ do not contribute to the ~~consumer's~~ service recipient's work experience, skills, or knowledge are not appropriate services.

~~(g) Consumers of sheltered workshop services are remunerated for work performed in accordance with the U.S. Department of Labor Wage and Hour Regulations and the Fair Labor Standards Act.~~

(~~h~~g) Sheltered Workshop providers comply with Part 1~~, General Vocational Expectations,~~ of this Subchapter.

(h) The provider agency maintains documentation available for review that documents:

(1) the service recipient's:

(A) legal name;

(B) case number or Social Security number;

(C) date of birth;

(D) progress toward outcomes;

(E) wages earned; and

(F) hours worked;

(2) the type of service provided; and

(3) date(s) of service delivery.

340:100-17-11. Changing vocational providers [REVOKED]

~~(a) When a provider change occurs the DDSD area vocational staff and case manager assist in making the transition a smooth process.~~

~~(1) The area vocational staff assists:~~

~~(A) the new provider to obtain files;~~

~~(B) the new provider with billing needs and authorizations; and~~

~~(C) in the case transfer, if the consumer has a Rehabilitation Services Division (RSD) case open.~~

~~(2) The case manager assists by providing copies of the monthly QMRP report and other information as needed by the new provider.~~

~~(b) The situations which may warrant a provider change are listed in this subsection.~~

~~(1) A consumer is on a waiting list, or is being underserved, and the provider does not have adequate capacity to serve the consumer at the time needed.~~

~~(A) The case manager or provider submits a written statement verifying the lack of capacity by the provider to serve the consumer at the time needed.~~

~~(B) The provider or case manager immediately advises the Area vocational staff of an inability to serve the consumer at the time needed.~~

~~(C) Area vocational staff:~~

~~(i) assess the situation;~~

~~(ii) provide necessary technical assistance;~~

~~(iii) confirm the need for a provider transfer; and~~

~~(iv) forward a written confirmation of the transfer to the provider and consumer within five working days.~~

~~(D) Upon completion of (A) (C) of this paragraph, the consumer and his or her Team select another vocational provider.~~

~~(2) When a consumer moves to a different community which necessitates a provider change, the case manager notifies the existing provider of the consumer's decision to terminate services within three days of that decision. A confirmation letter is sent to the provider with copies going to the Area vocational staff.~~

~~(3) The consumer, family member or guardian, or Team is dissatisfied with the vocational services provided.~~

~~(A) There is documentation that the consumer, family member or guardian, or Team has had opportunity to meet with the provider to discuss the issue(s).~~

~~(B) If the consumer is willing to try and resolve the problem(s), the consumer, case manager, Area vocational staff, and provider review the issue(s) and identify:~~

~~(i) the remediation needed;~~

~~(ii) a timetable to accomplish remediation goals; and~~

~~(iii) the person(s) responsible for carrying out the remediation.~~

~~(C) If the consumer is unwilling to participate in problem resolution, or if mediation is unsuccessful, the case manager or area vocational staff assists the consumer in providing written termination notice to the existing provider.~~

340:100-17-12. ~~Involuntary termination~~ Termination of state funded employment (sheltered workshop) services to a ~~consumer~~ service recipient

(a) ~~A vocational~~ An employment provider may ~~involuntarily~~ terminate state funded sheltered workshop services for the:

(1) ~~the consumer's~~ service recipient's safety~~.~~;

(2) ~~the~~ safety of other ~~consumers~~ service recipients~~.~~; or

(3) ~~the consumer's~~ service recipient's chronic and consistent violation of workplace rules.

(b) Termination occurs only after:

(1) systematic programmatic supports to resolve the problem(s) have proven unsuccessful; and

(2) the termination has been discussed by the ~~consumer's~~ service recipient's Team.

(c) Termination of services must be consistent with the provider agency's policies regarding terminations and due process.

(d) Termination of ~~vocational~~ employment services to a ~~consumer~~ service recipient requires proper notification.

(1) The ~~consumer~~ service recipient and legal guardian or advocate are notified in writing of specific violations and of the provider agency's grievance procedure.

(A) Termination of ~~vocational~~ employment services is preceded by a minimum written notice of 30 days.

(B) The 30-day notice requirement does not apply when:

(i) an emergency termination is mandated by the ~~consumer's~~ service recipient's health care needs~~.~~; or

(ii) the termination is necessary due to imminent risk to the lives or health of other ~~consumers~~ service recipients as documented in the ~~consumer's~~ service recipient's record.

(2) Termination occurs only after reasonable attempts have been made to resolve the issue(s). Attempts to reconcile concerns are documented in the ~~consumer's~~ service recipient's record.

(e) Terminations or proposed terminations may be reviewed by the Oklahoma Department of Human Services (OKDHS) to determine compliance with this Section.

340:100-17-13. Physical plant expectations for state-funded employment services (sheltered workshops)

(a) The physical facilities ~~of the workshop~~ present no hazards to the safety and welfare of ~~the consumers served~~ service recipients~~,~~ and assure a degree of comfort sufficient to ensure the well-being of ~~the consumers~~ service recipients.

(b) Ventilation is provided, and the air is circulated to assure an environment that does not jeopardize the health or safety of ~~the worker~~ service recipients.

(c) The ~~workshop~~ premises have the general appearance of similar businesses.

(d) The ~~workshop~~ premises are kept:

(1) clean;

(2) neat; and

(3) free from accumulated rubbish, weeds, ponded water, or other characteristics of a similar nature, which would create a health hazard.

(e) The physical facilities comply with all applicable Occupational Safety and Health Administration (OSHA) and United States Department of Labor regulations.

(f) The physical facilities are accessible to ~~consumers receiving services~~ service recipients and comply with the requirements of the Architectural Barriers Act of 1968, the Uniform Accessibility Standards and their implementing regulations in ~~41 CFR~~ Subpart 101-19 of Part 101~~, Subpart 101-19~~ of Title 41 of the Code of Federal Regulations, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973.

340:100-17-14. Personnel expectations for state-funded employment (sheltered workshop)

(a) The agency providing state-funded employment (sheltered workshop) services employs sufficient personnel who are appropriately qualified and trained to provide the essential employment services to ~~consumers~~ service recipients as described in each Individual Plan (IP).

(b) There is one person who is administratively responsible for the entire program~~, in addition to the direct service staff~~.

~~(c) All staff have training and experience relevant to their job description.~~

(~~d~~c) All staff ~~must~~ have completed the required training as specified by ~~the Department~~ OAC 340:100-3-38 as well as additional specific ~~consumer~~ training requirements identified ~~through~~ in the ~~consumers' Plans~~ service recipients' IPs.

(~~e~~d) ~~Consumers~~ Service recipients do not supervise other ~~consumers~~ service recipients.

340:100-17-15. Requirements for agencies providing state-funded employment (sheltered workshop) services

(a) ~~Vocational~~ State-funded employment services provider agencies comply with all applicable United States Department of Labor rules and regulations ~~promulgated by the U.S. Department of Labor which~~ that govern the ~~certification of sheltered workshops and the payments of wages to employees of the sheltered workshop~~ employment of workers with disabilities under special certificates.

(b) Within the first 30 days of service delivery, the ~~sheltered workshop~~ provider agency ensures that all ~~consumers~~ service recipients have an individualized ~~vocational profile and career plan~~ employment assessment represented in the Individual Plan (IP) specifying short term and long term ~~vocational goals~~ employment outcomes and action steps. The ~~individualized vocational profile and career plan are~~ IP is reviewed and updated at least annually.

(c) The ~~sheltered workshop~~ provider agency has a clearly articulated mission statement and promulgates policy and procedures consistent with the Oklahoma Department of Human Services (OKDHS) policies regarding:

(1) services and programs;
(2) ~~consumers'~~ service recipient rights;
(3) grievances and appeals;
(4) involuntary discharge and due process;
(5) confidentiality;
(6) abuse and neglect prevention and reporting; and
(7) advocacy.

340:100-17-16. ~~Sheltered workshop~~ State-funded employment (sheltered workshop) reimbursement and therapeutic leave

(a) Agencies providing ~~authorized contract~~ state-funded employment (sheltered workshop) services for eligible ~~consumers~~ service recipients receive a flat daily rate approved by the Oklahoma Commission for Human Services.

(1) The provider agency may receive prorated reimbursement as recommended by the service recipient's Team and documented in the Individual Plan (IP) for ~~consumers~~ service recipients who are unable to work five hours per day ~~as recommended by the consumer's Team and documented in the Individual Plan (Plan)~~. If a ~~consumer~~ service recipient is unable to ~~work~~ participate a full five hours, other eligible ~~consumers~~ service recipients can fill the balance of the work day.

(2) ~~All reimbursable sheltered workshop~~ State-funded employment services for eligible ~~consumers~~ service recipients must be included in the ~~consumer's Plan~~ service recipient's IP.

(3) Payment is only disbursed following the delivery of authorized services to eligible ~~consumers~~ service recipients.

(b) Each ~~(sheltered workshop) consumer~~ service recipient is allowed 26 days per year of therapeutic leave without reduction in ~~sheltered workshop~~ agency funding.

(1) A maximum of 16 days of therapeutic leave may be used for:

(A) ~~legal~~ holidays, up to a maximum of 12 days per state fiscal year; and

(B) ~~consumer~~ service recipient or family initiated vacations.

(2) The remainder of each ~~consumer's~~ service recipient's leave days may be used for:

(A) ~~consumer~~ service recipient medical concerns, ~~illness~~ illnesses, doctor or therapy ~~appointment~~ appointments, or ~~injury~~ injuries.

(i) When a ~~consumer~~ service recipient is absent more than five consecutive days and therapeutic leave is billed, a Team meeting must be held to determine whether the ~~consumer's vocational~~ service recipient's employment program should be suspended to avoid exhausting all of the ~~consumer's~~ service recipient's therapeutic leave.

(ii) ~~Consumers~~ Service recipients are encouraged to schedule appointments outside of ~~vocational~~ employment hours~~.~~;

(B) severe weather conditions~~.~~;

(C) other conditions that threaten the safety or welfare of service recipients and staff; or

(~~C~~D) ~~consumer~~ service recipient refusal to attend. When a ~~consumer~~ service recipient refuses to attend

for three consecutive days, the Team must identify and address related issues before additional billing is authorized.

(c) In extraordinary situations, the Oklahoma Department of Human Services (OKDHS) may approve up to 20 additional days for ~~extended therapeutic leave~~ prolonged medical conditions as recommended by the ~~consumer's~~ service recipient's Team.

(1) Requests for additional days for ~~extended therapeutic leave~~ prolonged medical conditions are submitted to designated Developmental Disabilities Services Division (DDSD) staff for approval.

(2) The request for additional days for prolonged medical conditions must be specific to the service recipient and include:

(A) the name of the service recipient;

(B) the specific reason for the leave request;

(C) the number of extended medical leave days requested;

(D) supporting documentation, such as physician report or Team minutes; and

(E) the signature of the provider agency case manager or program coordinator.

(~~2~~3) The ~~designated~~ DDSD ~~staff~~ area manager or designee mails a written response of approval, denial, or request for additional information within five days of receipt of the request.

~~(3) The request for additional days of extended therapeutic leave must be specific to the consumer and include:~~

~~(A) the name of the consumer;~~

~~(B) the specific reason for the leave request;~~

~~(C) the number of therapeutic extended leave days requested;~~

~~(D) supporting documentation, such as physician report or Team minutes; and~~

~~(E) the signature of the case manager or program coordinator.~~

(4) Providers cannot request more hours or days of therapeutic leave than the ~~consumer(s)~~ service recipient(s) was scheduled to ~~attend the workshop~~ work.

~~(d) Therapeutic leave or extended leave is not authorized when the sheltered workshop is closed or when staff is absent on days other than legal holidays.~~

(~~e~~d) ~~The sheltered workshop is required to have trained back-up staff if the primary staff is in training or absent for other reasons.~~ If a ~~consumer~~ service recipient has to stay home because the ~~sheltered workshop has no backup~~ provider does not have adequate staff, therapeutic or extended leave is not authorized.

340:100-17-17. Billing for state-funded employment (sheltered workshop) services

(a) To receive payment, the ~~sheltered workshop~~ provider agency submits to the appropriate Developmental Disabilities Services Division (DDSD) ~~Area Office~~ area office:

(1) ~~Monthly Attendance Report,~~ Form DDS-44, Monthly Attendance Record;

(2) ~~Sheltered Workshop Claims Worksheet,~~ Form DDS-45, Sheltered Workshop Claims Work Sheet; and

(3) a cover sheet such as Form ~~Adm-12~~ ADM-12, Claim Form, or an agency-initiated invoice that includes the information listed in subsection (b) of this Section.

(b) The claims documents listed in subsection (a) must be complete and ~~must~~ specifically document ~~the~~ each service recipient's:

(1) legal name;

(2) case number;

(3) Social Security number;

(4) date of birth; and

(5) type, amount, rate, and date(s) of service delivery ~~for each consumer, identified by the consumer's Social Security number on the Adm-12~~.

(c) The DDSD ~~Area Office~~ area office attempts to reconcile claims that are incomplete or lacking supporting documentation. If unsuccessful, the DDSD ~~Area Office~~ area office mails the claim back to the provider agency indicating what documentation or corrections are needed.

(d) Claims for services rendered to eligible ~~consumers~~ service recipients must be submitted within 90 calendar days of the provision of services. Supporting encumbrances may be canceled upon a lapse of six months from the actual provision of services.

PART 4. COMMUNITY INTEGRATED EMPLOYMENT SERVICES

340:100-17-25. Community integrated employment (CIE) services

(a) Community integrated employment services promote independence through paid work and training activities. CIE services allow service recipients to engage in gainful integrated employment. CIE services are:

(1) delivered in integrated settings in the community by contracted providers; and

(2) provided to eligible individuals 18 years of age or older who are not:

(A) eligible for reimbursement by the Oklahoma Health Care Authority (OHCA) through waiver-funded employment services; or

(B) residing in a private intermediate care facility for persons with mental retardation (ICF/MR).

(b) Access to CIE services is contingent upon sufficient Oklahoma Department of Human Services (OKDHS) resources and written determination of eligibility as described in OAC 340:100-3-1.

(c) The provider agency may use, prior to placement, up to 20 hours for assessment and up to 40 hours for job development.

(d) After the placement, the provider agency provides, as needed, job site training, technical assistance to the employer, job adaptation, participation in Team meetings, benefits planning, and transportation to and from the work site. These services are reimbursed when the job coach is with the service recipient.

(e) The provider agency ensures that the service recipient is paid in accordance with the United States Department of Labor (USDOL), Wage and Hour Regulations for work performed.
(f) The provider agency ensures that the service recipient's employment plan includes specific employment outcomes and action steps.
(g) CIE services include reimbursement for securing individual gainful employment, individual follow-along, and group placements.
(1) The provider agency must secure gainful employment in a job paying at least minimum wage for service recipients, in accordance with the current contract for CIE services.
(2) Follow-along services are available to service recipients who were successfully placed in CIE services or who completed stabilization in the Department of Rehabilitation Services supported employment program during the prior contract year. Reimbursement for follow-along services cannot exceed amounts specified in the contract for CIE services.
(3) The provider agency may provide integrated group placements of two or more service recipients in gainful integrated group employment and claim in accordance with the contract for CIE services. The group placements may pay minimum wage or above or commensurate wages in accordance with USDOL wage and hour regulations. Group placements cannot exceed eight individuals.
(h) The provider agency ensures that all CIE services are provided by job coaches who have completed training as required in OAC 340:100-3-38.
(i) If the provider agency provides CIE services authorized by the employment plan prior to OKDHS determination of eligibility, and the service recipient is ultimately determined eligible, the provider agency may bill for CIE services rendered prior to OKDHS approval.
(j) The provider agency receives reimbursement for providing CIE services to only one service recipient at a given time. This does not preclude CIE services from being provided to service recipients in group settings. For example, one job coach simultaneously providing CIE services to three service recipients for three hours may only claim three units of reimbursement, not nine.
(k) Payment for CIE services is only disbursed following the delivery of authorized CIE service to eligible service recipients.
(1) To receive payment, the provider agency submits to the DDSD area office a claim for CIE services rendered and any supporting documentation required by OKDHS. Claims may be submitted on the provider agency's invoice or an ADM-12, Claim Form, and must include the:
(A) service recipient's legal name;
(B) service recipient's case number;
(C) service recipient's date of birth;
(D) service recipient's Social Security number; and
(E) category, amount, rate, and date(s) of CIE service delivered to the service recipient.
(2) The provider agency maintains documentation available for review that documents:
(A) the service recipient's:
(i) legal name;
(ii) case number or Social Security number;
(iii) date of birth;
(iv) progress toward outcomes;
(v) wages earned; and
(vi) hours worked;
(B) the type of CIE service provided; and
(C) date(s) of CIE service delivery.
(3) Claims for reimbursement of CIE services must be submitted within 90 calendar days of service provision. Supporting encumbrances may be cancelled upon a lapse of six months from the actual provision of CIE services.

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

[OAR Docket #05-539]

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PERMANENT final adoption
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Subchapter 10. Policies and Procedures Manual for Title III of the Older Americans Act of 1965, as Amended
Part 1. Introduction
340:105-10-3. [AMENDED]
Part 5. Area Agencies on Aging
340:105-10-41. [AMENDED]
Part 7. Program Standards for Services Funded Under Title III
340:105-10-50.1. through 340:105-10-51. [AMENDED]
340:105-10-61. [AMENDED]
340:105-10-85. [AMENDED]
340:105-10-89. [AMENDED]
340:105-10-90.1. through 340:105-10-91. [AMENDED]
340:105-10-94. [REVOKED]
Part 9. Fiscal and Administrative Policies for Area Agencies on Aging and Title III Projects
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The revisions to Subchapter 10 of Chapter 105: (1) provide clearer oversight and guidance to Aging Services Division (ASD) staff and contract providers; (2) incorporate requirements of the Office of Management and Budget (OMB) Notice of Action 0985-0008, OMB Circular A-133, and Section 212A of Title 74 of the Oklahoma Statutes (74 O.S. § 212A); (3) incorporate Oklahoma State Department of Health (OSDH) Food Service Establishment Regulation OAC 310:256-5-9; and (4) revoke a section to accommodate the transfer of state funded senior centers funding to the Oklahoma Department of Commerce (ODOC).
340:105-10-3 is amended to include OMB Notice of Action 0985-0008 requirements for clarity to definitions.
340:105-10-41 is amended to reflect Title III direct services allowed by the State Plan on Aging.
340:105-10-50.1 is amended to include OMB Notice of Action 0985-0008 requirements for clarity to the Older American Act (OAA) Title III services taxonomy.
340:105-10-51 is amended to include clarity to the intake procedures for OAA participants.
340:105-10-61 is amended to include OMB Notice of Action 0985-0008 requirements for clarity to information and assistance services.
340:105-10-85 is amended to include the proper home delivered meal temperatures.
340:105-10-89 is amended to include appropriate language regarding disease prevention and health promotion services.
340:105-10-90.1 is amended to include monitoring guidance and the OMB Notice of Action 0985-0008 requirements for clarity of the National Family Caregiver Support Program.
340:105-10-91 is amended to include the OMB Notice of Action 0985-0008 requirements for clarity of the homemaker service standards.
340:105-10-94 is revoked to accommodate the transfer of state funded senior centers funding to ODOC.
340:105-10-105.1 is amended to include guidance to grantee agencies regarding income generated from OAA funded programs.
340:105-10-106 is amended to include corrected authority references.
340:105-10-107 is amended to update language and format.
340:105-10-108 is amended to include OMB Circular A-133 requirements for audits of government entities and nonprofits receiving less than $25,000 federal and state funds.
340:105-10-109 is amended to include OMB Circular A-133 requirements for audit of profit-making grantees.
340:105-10-110 is amended to include OMB Circular A-133 requirements for audit of local governments and nonprofit organizations expending $500,000 or more in federal funds.
340:105-10-110.1 is amended to include 74 O.S. § 212A requirements for audit of government entities and nonprofit agencies receiving between $25,000 and $500,000 in federal and state funds.
340:105-10-112 is amended to include time extensions for audit reports not submitted within 150 days after the fiscal year end.
340:105-10-113 is amended to include reference to OMB Circular A-133.
CONTACT PERSON:
Dena Thayer, Programs Manager, Policy Management Unit, DHS, 2400 N. Lincoln Blvd., Oklahoma City, OK 73105, 405-521-4326.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2005:

SUBCHAPTER 10. POLICIES AND PROCEDURES MANUAL FOR TITLE III OF THE OLDER AMERICANS ACT OF 1965, AS AMENDED

PART 1. INTRODUCTION

340:105-10-3. Definitions

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

~~**"AAA or AAAs "** means Area Agency on Aging or Area Agencies on Aging.~~

~~**"A.o.A.** means Administration on Aging.~~

~~**"ASD"** means Aging Services Division of the Department of Human Services.~~

"Abuse" means the willful:

(A) infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm or pain or mental anguish; or

(B) deprivation by a person, including a caregiver, of goods or services ~~which are~~ necessary to avoid physical harm, mental anguish, or mental illness.

"Act" means the Older Americans Act (OAA) of 1965 as amended.

"Activities of daily living (ADL)" means:

(A) eating;
(B) dressing;
(C) bathing;
(D) toileting;
(E) transferring in and out of bed or chair; and
(F) walking.

~~**"Altering or renovating"** with respect to multipurpose senior centers, means making modifications to or in connection with an existing facility which are necessary for its effective use as a center. These may include renovation, repair, and expansion which is not in excess of double the square footage of the original facility and all physical improvements.~~

"Area Agency on Aging (AAA)" means an agency designated under the OAA, Section 305(a)(2)(A) or a State Agency performing the functions of AAA under the OAA, Section 305(b)(5).

~~**"Child"** as used in Section 316 of the Act with respect to the National Family Caregivers Support Program, means an individual who is not more than 18 years of age.~~

"CFR" means Code of Federal Regulations in the Federal Register published by the United States (U.S.) Department of Health and Human Services, Office of Human Development, and Administration on Aging (AoA).

"Caregiver" ~~See "Family caregiver."~~ means an adult family member, or another person, who is an informal provider of

in-home and community care to a person 60 years of age or older.

~~**"Caretaker"** means a family member or other individual, on behalf of such individual or of a public or private agency, organization, or institution, who provides uncompensated care to an older individual who needs supportive services.~~

"Case management service" means a service provided to an older ~~individual~~ person, at the direction of the older ~~individual~~ person or a family member of the ~~individual~~ older person:

(A) by ~~an individual~~ a person who is trained or experienced in the case management skills ~~that are~~ required to deliver the services and coordination described in (B) of this paragraph;

(B) to assess the needs, and arrange, coordinate, and monitor an optimum package of services to meet the needs~~,~~ of the older ~~individual~~ person; and

(C) ~~which includes~~ including services and coordination, such as:

(i) comprehensive assessment of the older ~~individual, including the~~ person's physical, psychological, and social needs ~~of the individual~~;

(ii) development and implementation of a service plan with the older ~~individual~~ person to mobilize the formal and informal resources and services identified in the assessment to meet the needs of the older ~~individual~~ person, including coordination of the resources and services with:

(I) any other plans ~~that exist~~ existing for various formal services, such as hospital discharge plans; and

(II) the information and assistance services funded by Title III of ~~the Older Americans Act~~ OAA;

(iii) ~~coordination and~~ monitoring ~~of~~ formal and informal service delivery~~, including coordination and monitoring~~ to ensure ~~that~~ services specified in the plan are ~~being~~ provided;

(iv) periodic reassessment and revision of the status of the older ~~individual~~ person with:

(I) the older ~~individual~~ person; or

(II) if necessary, a primary caregiver or family member of the older ~~individual~~ person; and

(v) advocacy on behalf of the older ~~individual~~ person for needed services or resources in accordance with the wishes of the older ~~individual~~ person.

"Child" means a person who is not older than 18 years of age.

"Commissioner" means the federal Commissioner of ~~the Administration on Aging~~ AoA.

"Comprehensive and coordinated system" means a system for providing all necessary supportive services, including nutrition services, in a manner designed to:

(A) facilitate accessibility to and utilization of all supportive services and nutrition services provided within the geographic area served by such system by any public or private agency or organization;

(B) develop and make the most efficient use of supportive services and nutrition services in meeting the needs of older ~~individuals~~ persons;

(C) use available resources efficiently and with a minimum of duplication~~.~~; and

(D) encourage and assist public and private entities ~~that have~~ having unrealized potential for meeting the service needs of older ~~individuals~~ persons to assist the older ~~individuals~~ persons on a voluntary basis.

~~**"Constructing**~~ **Construction,"** with respect to multipurpose senior centers, means building a new facility, including the costs of land acquisition and architectural and engineering fees or making modifications to or in connection with an existing facility ~~which are~~ in excess of double the square footage of the original facility and all physical improvements.

"DHS" means Oklahoma Department of Human Services.

"Department" means ~~the~~ U.S. Department of Health and Human Services (DHHS).

"Direct services" means any activity performed to provide services directly to an ~~individual~~ older person by the staff of a service provider, an ~~Area Agency on Aging~~ AAA, or a State Agency in a single planning and service area.

"Disability" means a mental or physical impairment, or a combination of mental and physical impairments, ~~that results~~ resulting in substantial functional limitations in one or more of the major life activities of:

(A) self-care;

(B) receptive and expressive language;

(C) learning;

(D) mobility;

(E) self-direction;

(F) capacity for independent living;

(G) economic self-sufficiency;

(H) cognitive functioning; and

(I) emotional adjustment.

"Disease prevention and health promotion services" means providing:

(A) health risk assessments;

(B) routine health screening, ~~which may include~~ such as hypertension, glaucoma, cholesterol, cancer, vision, hearing, diabetes, bone density, oral health, and nutrition screening;

(C) nutritional counseling and educational services for ~~individuals~~ older persons and their primary caregivers;

(D) health promotion programs, including ~~but not limited to,~~ programs relating to prevention and reduction of effects of chronic disabling conditions ~~including~~, such as osteoporosis, cardiovascular disease, dental care, alcohol and substance abuse reduction, smoking cessation, weight loss and control, and stress management;

(E) programs regarding physical fitness, group exercise, and music, art, and dance movement therapy, including programs for multigenerational participation ~~that are~~ provided by:

(i) an institution of higher education;

(ii) a local educational agency, as defined in Section 1471 of the Elementary and Secondary Education Act of 1965; or

(iii) a community-based organization;

(F) home injury control services, including screening of high risk home environments and provision of educational programs on injury prevention, such as fall and fracture prevention;

(G) screening for the prevention of depression, coordination of community mental health services, provision of educational activities, and referral to psychiatric and psychological services;

(H) educational programs on the availability, benefits, and appropriate use of preventive health services covered under Title XVIII of the Social Security Act;

(I) medication management screening and education to prevent incorrect medication and adverse drug reactions;

(J) information concerning diagnosis, prevention, treatment, and rehabilitation ~~of~~ concerning age related diseases and chronic disabling conditions, including osteoporosis, cardiovascular diseases, diabetes, and Alzheimer's disease and related disorders with neurological and organic brain dysfunction;

(K) gerontological counseling; and

(L) counseling regarding social services and ~~follow up~~ follow-up health services based on any of the services described in (A) ~~-~~ through (K) of this ~~Subsection~~ subsection.

"Elder abuse" means abuse of an older ~~individual~~ person.

"Eldercare (National Campaign)" means the ~~A.o.A.~~ AoA sponsored program to establish and promote public and private partnerships ~~that address~~ addressing the needs of the growing population of older persons and their ~~caretakers~~ caregivers.

~~**"Eldercare (Oklahoma)"** means the case management program for frail older persons administered by the Oklahoma State Department of Health.~~

~~**"Family caregiver"** means an adult family member, or another individual, who is an informal provider of in-home and community care to an older individual.~~

"Ethnicity status." See "Race or ethnicity status."

"Fiscal year (FY)" means the federal fiscal year, October 1 through September 30.

"Focal point" means a facility established to encourage the maximum collocation and coordination of services for older ~~individuals~~ persons.

"Frail" means ~~that the older individual is determined to be~~ a condition of functionally impaired determined because the ~~individual~~ older person:

(A) is unable to perform at least two activities of daily living without substantial human assistance, including verbal reminding, physical cueing, or supervision; or

(B) due to a cognitive or other mental impairment, requires substantial supervision because the ~~individual~~ person behaves in a manner ~~that poses~~ posing a serious health or safety hazard to ~~the individual~~ self or ~~to~~ another ~~individual~~ person.

"Grandparent or older ~~individual~~ person who is a relative caregiver" means a grandparent ~~or~~, stepgrandparent, ~~of a child,~~ or ~~a~~ relative of a child by blood or marriage, who is 60 years of age or older and:

(A) lives with the child;

(B) is the primary caregiver of the child because the biological or adoptive parents are unable or unwilling to serve as the primary caregiver of the child; and

(C) has a legal relationship to the child, such as legal custody or guardianship, or is raising the child informally.

"Grantee agency" means an agency ~~which is receiving~~ that receives funds granted or awarded by the sponsoring agency. The AAAs are grantees of the State Agency and the service providers are ~~the~~ grantees of the ~~agencies~~ AAAs.

"Grantor agency" means an agency ~~which is granting~~ that grants or ~~awarding~~ awards funds to another entity. The ~~ASD of the Oklahoma Department of Human Services~~ State Agency is the grantor agency for the AAAs and the AAAs are the grantor agencies for the ~~local~~ service providers.

"Greatest economic need" means ~~those older persons with incomes~~ the need resulting from an income level at or below the ~~Bureau of Census~~ poverty ~~threshold~~ line.

"Greatest social need" means ~~those older persons having~~ the need caused by non-economic factors, including physical and mental disabilities~~,~~; language barriers~~,~~; and cultural, geographical or social isolation, including that caused by racial or ethnic status~~, which~~ that restricts the person's ability to perform normal~~,~~ daily tasks or ~~which~~ threatens the person's capacity to live independently.

"Impairment in activities of daily living" means the inability to perform one or more of the six ADL without personal assistance, stand-by assistance, supervision, or cues.

"Impairment in instrumental activities of daily living" means the inability to perform one or more of the eight IADL without personal assistance, stand-by assistance, supervision, or cues.

"Informal care" means care not provided as part of a public or private formal service program.

"Information and assistance (I & A)" means a service for older ~~individuals~~ persons that:

(A) provides ~~individuals with~~ older persons current information on ~~opportunities and~~ services available ~~to the individuals~~ within their communities~~, including information relating to assistive technology~~;

~~(B) assesses the problems and capacities of the individuals;~~

(~~C~~B) links ~~the individuals to~~ older persons with the opportunities and services ~~that are~~ available within their communities; and

(~~D~~C) ~~ensures, to the maximum extent practicable, that the individuals receive the services needed and are aware of the opportunities available to the individuals, by establishing~~ establishes adequate ~~follow up~~ follow-up procedures~~; and~~ to the maximum extent practicable.

~~(E) serves the entire community of older individuals, particularly older individuals in greatest economic or social need.~~

"In-home service" means:

(A) ~~homemaker~~ services of homemakers and home health aides;

(B) visiting and telephone reassurance;

(C) chore maintenance;

(D) in-home respite care for families, including adult day care as a respite service for families; ~~and~~

(E) minor modification of homes ~~that is~~ necessary to facilitate the ability of older ~~individuals~~ persons to remain at home, and ~~that is~~ not available under other programs. Not more than ~~$150~~ $250 per client may be expended annually for such modification~~.~~; and

(F) personal care services.

"Instrumental activities of daily living (IADL)" means:

(A) preparing meals;

(B) shopping for personal items;

(C) managing medication;

(D) managing money;

(E) using the telephone;

(F) doing heavy housework;

(G) doing light housework; and

(H) making use of available transportation without assistance.

"Legal assistance" means legal advice and representation by an attorney ~~including~~ to an older person who has economic or social needs and includes, to the extent feasible, counseling or other appropriate assistance by a paralegal or law student under the supervision of an attorney~~,~~ and ~~includes~~ counseling or representation by a non-lawyer where permitted by law~~, to older individuals with economic or social needs~~.

"Living alone" means a one person household, using the census definition of household, where the householder lives by himself or herself in an owned or rented place of residence in a non-institutional setting, including board and care facilities, assisted living units, and group homes.

"Low income minority elderly" means a minority ~~elderly~~ older person with annual income at or below the federally established poverty ~~level~~ line.

"Low income non-minority elderly" means ~~all persons age 60 or older~~ an older person who is not a minority with an annual income at or below the federally established poverty ~~level~~ line~~, except the minority elderly~~.

"Means testing" means the use of an older person's income or resource to deny or limit ~~that~~ the person's receipt of services.

"Minority elderly" means ~~persons~~ a person age 60 or older who ~~are~~ is:

(A) American Indian or Alaskan Native;

(B) Asian ~~or Pacific Islander~~;

(C) Black~~, not of Hispanic origin;~~ or African American; ~~or~~

(D) Hispanic or Latino; or

(E) Native Hawaiian or Other Pacific Islander.

"Multipurpose senior center" means a community facility for the organization and provision of a broad spectrum of services, ~~which~~ to include~~, but are not limited to,~~ the provision of health, ~~including~~ such as mental health, social, nutritional, and educational services and ~~the provision of~~ facilities for recreational activities for older ~~individuals~~ persons.

"NAPIS" means the National Aging Program Information System.

"Nonprofit" means an agency, institution, or organization ~~which is, or is~~ owned or operated by~~,~~ one or more corporations or associations~~,~~ having no part of the net earnings ~~of which ensures or may lawfully ensure to the~~ or benefit of any private shareholder or individual.

"OAA" means the Older Americans Act of 1965, as amended.

"OKDHS" means Oklahoma Department of Human Services.

"Older person" or **"older individual"** means anyone 60 years of age or older.

"Periodic," as used in the OAA with respect to evaluations of and public hearings on activities carried out under State and Area Plans, means, at a minimum, once each fiscal year.

"Planning and service area (PSA)" means an area ~~specified~~ designated by the State Agency under Section 305(a)(1)(E) of the OAA, as amended, for the purposes of developing and coordinating service systems.

"Poverty" means the income level defined each year by the Office of Management and Budget (OMB), and adjusted by the DHHS Secretary in accordance with subsection 673(2) of the Community Services Block Grant Act. The annual DHHS Poverty Guidelines provide dollar thresholds representing poverty levels for households of various sizes.

"Poverty line" means the official poverty line as defined by OMB in accordance with Section 673(2) of the Community Services Block Grant Act, per Section 9902(2) of Title 42 of the U.S. Code.

"Project" as used in Section 306(a)(1) of the OAA with respect to the provision of supportive and nutrition services, means an entity awarded a subgrant or contract from an AAA to provide services under the Area Plan.

"Race or ethnicity status" reflects the requirements of OMB for obtaining information from persons regarding their self-identification of race and ethnicity.

(A) Race includes:

(i) American Indian or Alaskan Native: a person having origins in any of the original peoples of North America, including Central America, and who maintains tribal affiliation or community attachment;

(ii) Asian: a person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent, including Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam;

(iii) Black or African American: a person having origins in any of the black racial groups of Africa;

(iv) Native Hawaiian or Other Pacific Islander: a person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands; and

(v) White: a person having origins in any of the peoples of Europe, the Middle East, or North Africa.

(B) Ethnicity includes:

(i) Hispanic or Latino: a person of Cuban, Mexican, Puerto Rican, Central or South American, or other Spanish culture or origin, regardless of race; and

(ii) Not Hispanic or Latino.

"Rural" means an area not defined as urban by AoA.

"Rural counties" means counties not considered urban as defined by AoA.

"Rural elderly" means older persons ~~who live in rural zip code designations~~ not considered living in urban counties as defined by the federal ~~Administration on Aging~~ AoA.

"SUOA" means Special Unit on Aging, a unit of OKDHS Aging Services Division.

"Service provider," as used in Section 306(a)(1) of the OAA with respect to the provision of supportive and nutrition services, means an entity ~~that is~~ awarded a subgrant or contract from an AAA to provide services under the Area Plan.

"Severe disability," as used to carry out the provisions of the OAA, means a severe chronic disability attributable to mental or physical impairment of ~~an individual~~ a person that:

(A) is likely to continue indefinitely; and

(B) results in substantial functional limitation in three or more of ~~these~~ the major life activities of:

(i) self-care;

(ii) receptive and expressive language;

(iii) learning;

(iv) mobility;

(v) self-direction;

(vi) capacity for independent living; and

(vii) economic self-sufficiency.

~~**"SUOA"** means Special Unit on Aging.~~

"Sponsoring agency" means a multipurpose or ~~the~~ umbrella organization of a grantee.

"State Agency" means the ~~State Agency~~ agency designated by the state under Section 305(a)(1) of the OAA, as amended. In Oklahoma, the State Agency is ~~the ASD of the Department of Human Services~~ OKDHS.

"Subgrantee" means an agency that subcontracts with a grantee agency. Subgrantee usually refers to the service ~~providers although~~ provider, but it is possible for a service provider to subcontract with another entity.

"Taxonomy" means the uniform set of service definitions and service unit measures adopted by the federal ~~Administration on Aging~~ AoA for national reporting on programs and activities under Title III of the OAA.

"Unit of general purpose local government" means:

(A) a political subdivision of the state ~~which the authority is~~ having general authority and not limited to only one function or combination of related functions; or

(B) an Indian tribal organization.

"Urban" means areas defined by AoA comprised of an:

(A) urbanized area, a central place and its adjacent densely settled territories with a combined minimum population of 50,000; or

(B) incorporated place or census designated place with 20,000 or more inhabitants.

"Urban counties" means urban areas as defined by AoA. Counties in Oklahoma considered urban are:

(A) Canadian;

(B) Cleveland;

(C) Comanche;

(D) Creek;

(E) Garfield;

(F) Logan;

(G) McClain;

(H) Oklahoma;

(I) Osage;

(J) Pottawatomie;

(K) Rogers;

(L) Sequoyah;

(M) Tulsa; and

(N) Wagoner.

(b) **Authority.** The authority for this Section is OMB Notice of Action 0985-0008.

PART 5. AREA AGENCIES ON AGING

340:105-10-41. Title III direct services waivers

(a) **Policy.** ~~No~~ Provisions under the Older Americans Act (OAA), including subsequent amendments, specify which Title III direct services are ~~directly provided by the Area Agency on Aging (AAA), unless~~ authorized as well as prohibited under the law. Direct services otherwise prohibited by OAA may be permitted by the State Agency if, in the judgment of the State Agency, provision of such services is:

(1) necessary to ensure an adequate supply of such services;

(2) related to the administrative functions of the Area Agency on Aging (AAA); or

(3) more economical and of comparable quality ~~to the competing grantees~~.

(b) **Authority.** The authority for this Section is Section 307(a)(8) of the ~~Older Americans Act~~ OAA of 1965, as amended.

(c) **Procedures.** The State Agency determines that one or more of the criteria listed in (a) of this Section are met for an AAA to provide direct services when the requirement:

(1) necessary to ensure an adequate supply of services is considered met. The AAA can document that it has not received any proposals to deliver a service in all or a portion of the planning and service area, after the AAA has ~~twice~~ carried out the request for proposals (RFP) process in accordance with OAC 340:105-10-101;

(2) services related to AAA administrative functions is considered met. Services consist of advocacy, assessment and screening, follow-up and evaluation, information and

assistance (I&A), and placement. The State Plan on Aging:

(A) indicates all AAAs are allowed to directly provide I&A services; and

(B) names the AAAs allowed to directly provide case management services; or

(3) more economical and of comparable quality is considered met. The AAA service grant application substantiates that, according to AAA standard RFP evaluation criteria, it proposes to provide a priority service that is more cost effective and of a comparable quality ~~to the competing grantees~~. The cost is calculated on a per unit of service basis.

(d) **Cross references.** See OAC 340:105-10-40 and 340:105-10-101.

PART 7. PROGRAM STANDARDS FOR SERVICES FUNDED UNDER TITLE III

340:105-10-50.1. Title III services taxonomy

(a) **Rule.** Parts B, C, D, and E of Title III authorize the development of a variety of services to meet the needs of older persons. A comprehensive listing of services ~~which~~ that may be funded, service definitions, and service units are included in (1) ~~-~~ through (15) of this paragraph.

(1) Personal care - one hour~~. Personal care is providing hands-on~~; provides personal assistance, stand-by assistance, supervision, or cues ~~for persons having difficulties with one or more of the activities of daily living which are eating, dressing, grooming, bathing, toileting, and mobility including walking, using a wheelchair, or transferring from one place to another~~.

(2) Homemaker - one hour~~. Homemaker is providing~~; provides assistance ~~to persons having difficulty with one or more of the instrumental activities of daily living (IADLs) which are~~ preparing meals, shopping for personal items, managing money, using the telephone, or doing light housework.

(3) Chore - one hour~~. Chore is providing~~; provides assistance ~~to persons having difficulty~~ with ~~one or more of the (IADLs) which are:~~

~~(A)~~ heavy housework~~;~~,

~~(B)~~ yard work~~;~~, or

~~(C)~~ sidewalk maintenance.

(4) Home delivered ~~meals~~ meal - one meal~~. Home delivered meals is providing, to an eligible client or other eligible participant at the client's~~; provides a qualified person at his or her place of residence~~,~~ a meal ~~which~~ that:

(A) complies with the Dietary Guidelines for Americans, published by the ~~Secretaries~~ Secretary of the United States Department of Health and Human Services (DHHS) ~~and the United States Department of Agriculture (USDA)~~;

(B) provides, if one meal is served, a minimum of 33 and 1/3 percent of the current daily recommended dietary allowances (RDA) and dietary reference intakes (DRI) as established by the Food and Nutrition Board of the ~~National Research Council~~ Institute of Medicine of the National Academy of Sciences;

(C) provides, if two meals are served~~,~~ together, a minimum of 66 and 2/3 percent of the current daily RDA. Although there is no requirement regarding the percentage of the current daily RDA ~~which~~ an individual meal must provide, a second meal ~~must be~~ is balanced and proportional in calories and nutrients; and

(D) provides, if three meals are served~~,~~ together, 100 percent of the current daily RDA. Although there is no requirement regarding the percentage of the current daily RDA ~~which~~ an individual meal must provide, a second and third meal ~~must be~~ is balanced and proportional in calories and nutrients.

(5) Adult day care or adult day health - one hour~~. Adult day care or adult day health is providing~~; provides personal care for dependent adults in a supervised, protective, and congregate setting during some portion of a ~~24-hour~~ day. Services offered in conjunction with adult day care or adult day health typically include social and recreational activities, training, counseling, ~~meals for adult day care~~ and services such as rehabilitation, medications assistance, and home health aide services for adult day health.

(6) Case management - one ~~case. Case management is providing~~ hour; provides assistance either in the form of access or care coordination in circumstances where the older person~~, his or her caregiver(s), or both~~ is experiencing diminished functioning capacities, personal conditions, or other characteristics ~~which require~~ requiring the provision of services by formal service providers or family caregivers. Case management activities include:

(A) assessing needs;

(B) developing care plans;

(C) authorizing ~~services;~~ and

~~(D) arranging services;~~

~~(E)~~ coordinating ~~the provision of~~ services among providers; and

(~~F~~D) ~~follow up;~~ providing follow-up and

~~(G)~~ reassessment, as required.

(7) Congregate ~~meals~~ meal - one meal~~. Congregate meals is providing, to an eligible client or other eligible participant at a nutrition site, senior center, or other congregate~~; provides a qualified person in a congregate or group setting, a meal ~~which~~ that:

(A) complies with the Dietary Guidelines for Americans, published by the ~~Secretaries~~ Secretary of ~~the~~ DHHS ~~and the USDA~~;

(B) provides, if one meal is served, a minimum of 33 and 1/3 percent of the current daily RDA and DRI as established by the Food and Nutrition Board of the ~~National Research Council~~ Institute of Medicine of the National Academy of Sciences;

(C) provides, if two meals are served~~,~~ together, a minimum of 66 and 2/3 percent of the current daily RDA. Although there is no requirement regarding the percentage of the current daily RDA ~~which~~ an individual meal must provide, a second meal ~~must be~~

is balanced and proportional in calories and nutrients; and

(D) provides, if three meals are served~~,~~ together, 100 percent of the current daily RDA. Although there is no requirement regarding the percentage of the current daily RDA ~~which~~ an individual meal must provide, a second and third meal ~~must be~~ is balanced and proportional in calories and nutrients.

(8) Nutrition counseling - one ~~hour. Nutrition counseling is providing~~ session per participant; provides individualized ~~advice and~~ guidance to ~~individuals~~ a person who ~~are~~ is at nutritional risk because of ~~their~~ health or ~~nutritional~~ nutrition history, dietary intake, medications use, or chronic illnesses, or to caregivers. ~~about options and methods for improving their nutritional status, performed by a health professional in accordance with state law and policy~~ Counseling is provided one-on-one by a registered dietician and addresses the options and methods for improving nutrition status.

(9) Assisted transportation - one one-way trip~~. Assisted transportation is providing individualized~~; provides assistance and transportation, including escort, to a person who has difficulties, physical or cognitive, using regular vehicular transportation.

(10) Transportation - one one-way trip~~. Transportation is providing~~; provides transportation using a vehicle for a person who requires help in going from one location to another. Does not include any other activity.

(11) Legal assistance - one hour~~. Legal assistance is providing~~; provides legal advice, counseling, and representation by an attorney or other person acting under the supervision of an attorney.

(12) Nutrition education - one session per participant~~.~~; ~~Nutrition education is~~ a program promoting better health by providing accurate and culturally sensitive nutrition, physical fitness, or health information, as it relates to nutrition, information, and instruction to participants, caregivers, or both, in a group or individual setting overseen by a dietitian or ~~individual~~ person of comparable expertise.

(13) Information and assistance - one contact~~. Information and assistance is~~; a one-on-one contact between a service ~~for~~ provider and an older ~~individuals that~~ client or caregiver. Activities involving contact with multiple current or potential clients or caregivers, such as publications, publicity campaigns, and other mass media activities, are not counted as a unit of service. Internet Web site hits are counted only if information is requested and supplied. This service:

(A) provides ~~the individuals~~ older persons with current information on ~~opportunities and~~ services available within their communities~~, including information relating to assistive technology~~;

~~(B) assesses the problems and capacities of the individuals;~~

(~~C~~B) links ~~the individuals to~~ older persons with the opportunities and services ~~that are~~ available within their communities; and

(~~D~~C) ~~to the maximum extent practicable, ensures that the individuals receive the services needed and are aware of the opportunities available establishing~~ establishes adequate ~~follow up~~ follow-up procedures, to the maximum extent practicable.

(14) Outreach - one contact~~. Outreach is an~~; provides persons with intervention initiated by an agency or organization for the purpose of identifying potential clients or their caregivers and encouraging their use of existing services and benefits. Outreach is a one-on-one contact between a service provider and an older client or caregiver. Activities involving contact with multiple current or potential clients or caregivers, such as publications, publicity campaigns, and other mass media activities, are not counted as a unit of service.

(15) Funded "Other" category.

(A) Advocacy or representation - one hour~~. Advocacy or representation is~~; provides action taken on behalf of an older person to secure his or her rights or benefits. Advocacy or representation includes receiving, investigating, and working to resolve disputes or complaints. It does not include services provided by an attorney or person under the supervision of an attorney.

(B) Education or training - one session~~. Education or training is providing~~; provides formal and informal opportunities for ~~individuals~~ older persons to acquire knowledge, experience, or skills. Includes individual or group events designed to increase awareness.

(C) Health promotion - one event~~. Health promotion is providing~~; provides health promotion or disease prevention information, ~~and~~ instruction, or ~~health promotional~~ activities, such as exercise, to participants, caregivers, or both, in a group or individual setting. Examples include:

(i) individual health screenings, such as blood pressure screenings. The event is documented by a participant sign-in sheet at the time of the screening; or

(ii) a health promotion program in an individual or group setting. The program is counted as one event.

(D) Home repair - one job~~. Home repair is providing~~; provides minor repairs, modifications, or maintenance on a home owned and occupied by an eligible participant, up to ~~$150.00~~ $250 annually per participant.

(E) Coordination of services - unit to be determined by Aging Services Division (ASD)~~. Coordination of services is providing~~; provides for the administration or delivery of a service ~~whose~~ for which direct cost is not funded by Title III. The AAA contacts ASD regarding use of this category.

(F) National Family Caregiver Support Program service categories are:

(i) information ~~about~~ services - one ~~contact. Information about services is group~~ activity; provides caregivers information on resources and

services~~, including~~ available to the public ~~education, provision of information at health fairs~~ or persons within their communities. Information services are for activities directed to large audiences of current or potential caregivers, such as disseminating publications, conducting media campaigns, and other similar ~~designations~~ activities;

(ii) access assistance ~~with access to services~~ - one contact~~. Assistance with~~; assists caregivers in obtaining access to the services ~~is individual one-on-one contact~~ and resources available within their communities. To the maximum extent practicable, access assistance ensures persons receive the services needed by establishing adequate follow-up procedures. Internet Web site hits are counted only if information is requested and supplied;

(iii) ~~individual~~ counseling~~, support groups, and caregiver training~~ - one session~~. Individual~~; assists caregivers in making decisions and solving problems relating to their caregiver roles. This includes counseling to individuals, support groups, and caregiver training ~~is provision of advice, guidance, and instruction about options and methods for providing support to~~ of individual caregivers ~~in an individual or group setting~~ and families;

(iv) respite care - one ~~stay. Respite care is providing~~ hour; provides temporary, substitute supports or living arrangements for care recipients in order to provide a brief period of relief or rest for caregivers. ~~It can be in the form of in-home respite, adult day care respite, or institutional respite for an overnight stay on an intermittent, occasional, or emergency basis~~ When the specific service units purchased via a direct payment, such as cash or voucher, can be tracked or estimated, the service unit is reported by hour; otherwise, the unit of service is one payment. Respite care is:

(I) in-home respite, such as personal care, homemaker, and other in-home respite;

(II) respite provided by attendance of the care recipient at a senior center or other non-residential program; or

(III) institution respite provided by placing the care recipient in an institutional setting, such as a nursing home for a short period of time as a respite to the caregiver or summer camp as a respite for grandparents caring for children; and

(v) supplemental services - provides services on a limited basis to complement the care provided by caregivers. The unit and service ~~to be~~ are determined by ASD. The AAA contacts ASD regarding use of this category.

(b) **Authority.** The authority for this Section is the Office of Management and Budget Notice of Action 0985-0008 and Sections ~~321(a), 331, 342, 361,~~ 339 and 371 through 373 of the Older Americans Act of 1965, as amended.

(c) **Procedures.** The AAA:

(1) incorporates provisions of the rule into its ~~policy~~ policies and procedures manual;

(2) provides technical assistance to prospective service project applicants regarding the rule in the development of services; and

(3) utilizes the rule as an indicator in the evaluation of service project proposals.

(d) **Cross references.** See OAC 340:105-10-40 and 340:105-10-51.

340:105-10-51. General Title III service standards

(a) **Policy.** Parts B, C, D, and E of Title III provide funding for a variety of services to meet the needs of older persons. All such services meet service specific standards as well as the general standards given in (1) through (19) of this subsection.

(1) Project sponsors who are the recipients of grant awards may be public, private for-profit, or ~~non-profit~~ nonprofit agencies or organizations, institutions, political subdivisions of the state, or Indian tribal organizations ~~which demonstrate~~ demonstrating to the Area Agency on Aging (AAA) a capacity for the effective delivery of nutrition, supportive services, or both, throughout the project service area ~~(PSA)~~. Project sponsors serve all eligible persons in the ~~PSA~~ project service area and do not limit participation to their own membership or residents, such as church memberships or residents of a day care program.

(2) Project services are provided to persons 60 years of age and older unless otherwise allowed for in the eligibility requirements of a specific service.

(3) Project services are located in communities with the greatest occurrence of older persons in greatest economic and social need with particular attention to low income minority persons and older persons residing in rural areas. The project documents in its written grant agreement with the AAA:

(A) assurance that, to the extent possible, the project serves low income minority persons and older persons residing in rural areas in accordance with their need for services;

(B) specific objectives ~~which outline~~ outlining how the project satisfies the service needs of low income minority persons and older persons residing in rural areas served by the project. These objectives reflect the Area Plan objectives for targeting these persons;

(C) information on the extent ~~to which~~ the project met its objectives for serving low income minority persons and older persons residing in rural areas during the previous fiscal year, if previously funded; and

(D) other targeting activities required for specific funded services, as appropriate, such as targeting activities for outreach services.

(4) Projects provide recipients with the opportunity to contribute to the cost of services, with the restrictions in (A) through (G) of this paragraph.

(A) Contributions are voluntary and no otherwise eligible person is denied service because he or she chooses not to or cannot contribute to the cost of services.

(B) Participants are advised of the opportunity to contribute to the cost of programs through:

(i) individual consultation when they enter the program ~~which includes~~ to include a written suggested contribution schedule;

(ii) written brochures about the program and written schedules of activities of the program; and

(iii) signs posted at the project site.

(C) The participant's privacy regarding contributions is protected at all times.

(D) The project advisory council develops a suggested contribution schedule for funded services taking into consideration the income ranges of older persons in the community and the project's other means of income. Means testing is not used to determine suggested contributions.

(E) Congregate and home delivered meals participants are allowed to use United States (U.S.) Department of Agriculture food benefits to contribute toward the cost of their meals.

(F) The project utilizes appropriate procedures to safeguard and account for all contributions.

(G) The project uses participant contributions to expand funded services.

(5) Projects conform to the Title III fiscal accounting and program reporting systems as implemented by the State Agency and AAAs. All records are managed according to the guidelines in (A) through (D) of this paragraph.

(A) Older Americans Act (OAA) grantees maintain adequate and separate accounting and fiscal records, and account for all funds provided by any source to pay the cost of the OAA funded project. Grantees permit audit, examination, or both, of all such records, procedures, and accounts at any reasonable time by authorized personnel of the ~~United States~~ U.S. Department of Health and Human Services, the Oklahoma Department of Human Services (OKDHS), the State Auditor and Inspector, and other appropriate state entities. Authorized personnel are given open and complete access to the grantees' accounting records and practices, and to any other items of the service provider ~~that are~~ pertinent to the performance or payment of the grant in order to audit, examine, and make excerpts of records.

(B) All financial and program records, supporting documents, statistical records, and other records pertaining to the Title III services are retained by the grantee for at least three years. In the case of litigation, claim negotiation, audit, or other pending action before the end of the three year period, the records are retained until such action is completed, and until all issues arising from it have been resolved, or until the end of the regular three year period, whichever is later.

(C) Permanent records are maintained at the project office.

(D) The project is responsible for providing the appropriate security, confidentiality, and accommodations for the proper maintenance and organization of program records and reports.

(6) Where feasible and appropriate, projects make arrangements for the availability of services to older persons in weather related emergencies.

(7) Projects assist participants in taking advantage of benefits or services under other programs.

(8) Project staff report to the appropriate officials any situation that places the participant, his or her household, or both, in imminent danger.

(9) Projects coordinate Title III services with other appropriate services in the community, including Title VI Native American nutrition programs. Appropriate coordination efforts include:

(A) joint planning;

(B) information sharing; and

(C) negotiation of written agreements.

(10) Projects establish and maintain an advisory council to advise the projects on all matters relating to the delivery of project services, per OAC 340:105-10-52.

(11) Projects ensure ~~that~~ appropriate intake information is gathered on each participant.

(A) Participants receiving Title III:

(i) personal care, homemaker, chore, home repair, home delivered meals, adult day health or adult day care, or case management services, information is gathered on Form AG-2-A, Older Americans Act Assessment, Parts I and II, and includes at a minimum:

(I) identifying information;

(II) household composition;

(III) ability to perform activities of daily living (ADLs);

(IV) ability to perform instrumental activities of daily living;

(V) support system;

(VI) participant signature or witness signature if participant is unable to sign;

(VII) explanation of donation system;

(VIII) release of information authorization; and

(IX) status related to poverty level;

(ii) congregate meals, nutrition counseling, assisted transportation, outreach, or information and assistance, information is gathered on Form AG-2-A, Part I, and includes at a minimum:

(I) identifying information;

(II) household composition;

(III) participant signature or witness signature if participant is unable to sign;

(IV) explanation of donation system;

(V) release of information authorization; and

(VI) status related to poverty level;

(iii) home delivered meals, congregate meals, case management, or nutrition counseling, project staff ensure Form AG-2-A, Part I, Determine Your Nutritional Risk Checklist, assessment of nutritional status, is completed; and

(iv) National Family Caregiver Support Program services, information is gathered on an approved intake form and includes at a minimum:

(I) the family caregiver's identifying information;

(II) the caregiver's relationship to the care receiver;

(III) the care receiver's identifying information; and

(IV) a written description of the caregiver's current situation, including the care receiver's need for assistance due to inability to perform specific ADLs or need for supervision due to Alzheimer's disease or other dementia.

(B) Project staff:

(i) obtain from participants of other Title III services not given in (A) of this paragraph, or their informants, only information necessary to provide the appropriate Title III service(s) and ensure the safety and well-being of participants;

(ii) ensure assessment procedures are conducted in a confidential manner, with only the intake person, the participant, and other persons approved by the participant in attendance;

(iii) conduct an assessment of each participant upon his or her entry into a Title III service, with, at a minimum, annual reassessments; and

(iv) conduct a reassessment of in-home service participants every six months, at a minimum.

(C) Income source information is not required to receive Title III services and may only be used to assist the client in determining eligibility for programs with income guidelines.

(12) Projects have procedures, approved by the AAA, to ensure ~~that~~ strict confidentiality is maintained regarding all participant information. Projects ensure ~~that~~ identifying participant information is disclosed only when staff have obtained the informed consent of the participant or his or her legal representative. Exceptions to the rules in this paragraph include court orders, reporting possible neglect, abuse, or both, and monitoring of project records by federal, state, and AAA officials.

(13) Project staff post grievance procedures in a public area of the project facility and comply with AAA grievance procedures for Title III participants.

(14) Projects comply with the Americans with Disabilities Act, Section 504 of The Rehabilitation Act of 1973, and Title VI of The Civil Rights Act of 1964. A public notice of civil rights compliance is posted in a public area in all project facilities and offices.

(15) Projects comply with the Oklahoma Open Meetings Act when conducting public meetings. Public meetings are held in handicap accessible facilities with provisions for interpreters, as needed.

(16) Project staff conduct ongoing public information activities to ensure ~~that~~ the general public is aware of each project and the services it provides. All materials produced by or for the project include a statement that:

(A) ~~policy statement that~~ the project does not discriminate in admissions, access, treatment, or employment in its programs or activities on the basis of race, creed, color, sex, age, ancestry, national origin, religion, or disability; and

(B) ~~notation that~~ a portion of the project costs are met by state and federal OAA funds from the AAA and OKDHS.

(17) Project staff provide or arrange for orientation and ongoing training for all staff engaged in the implementation of the project. Training is designed to enhance staff performance as related to specific job responsibilities of each staff member. Projects authorize staff time to attend AAA and State Agency sponsored training as funds permit. Minimum orientation or training topics include:

(A) the OAA, as amended, and related regulations;

(B) the OKDHS Policies and Procedures Manual for Title III of the OAA, as amended;

(C) the AAA Title III ~~policy~~ policies and procedures manual;

(D) all program and fiscal reports, as appropriate;

(E) assessment procedures;

(F) the aging network; and

(G) specific job duties.

(18) Project staff participate in regularly scheduled assessments and evaluations by the AAA.

(A) The AAA schedules assessments at least 30 days in advance at a time mutually convenient for the AAA and the project.

(B) The AAA informs the project director of the areas to be covered during the assessment.

(C) The project director makes arrangements for site visits as requested by the AAA.

(19) The project allows unscheduled or unannounced visits by the AAA for the purposes of:

(A) investigating alleged problems;

(B) monitoring corrective action; or

(C) evaluating the normal daily activity of the project.

(b) **Authority.** The authority for this Section is Parts 1321.11, 1321.51, 1321.63(b), 1321.65, and 1321.67 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** The AAA is required to:

(1) incorporate the standards into its policies and procedures manual;

(2) provide training on the standards to Title III project directors and other appropriate staff ~~on the standards~~;

(3) monitor the compliance of Title III projects with the standards; and

(4) provide ongoing technical assistance to Title III projects regarding the standards.

(d) **Cross references.** See OAC 340:105-10-40, 340:105-10-50.1, and 340:105-10-52.

340:105-10-61. Information and assistance services

(a) **Policy.** All providers of information and assistance (I & A) services ~~must~~ comply with standards listed in OAC 340:105-10-50.1(a)(13), 340:105-10-51 and 340:105-10-61 through 340:105-10-63. I & A services for older ~~individuals~~ persons include services ~~that~~:

(1) ~~provide individuals with~~ providing current information on ~~opportunities and~~ services available ~~to the individuals~~ within their communities~~, including information relating to assistive technology~~;

~~(2) assess the problems and capacities of the individuals;~~

(~~3~~2) ~~link the individuals~~ linking older persons to the opportunities and services ~~that are~~ available within their communities; and

(~~4~~3) ~~to the maximum extent practicable, ensure that the individuals receive the services they need, and are aware of the opportunities available to them, by~~ establishing adequate follow-up procedures~~;~~, ~~and~~ to the maximum extent practicable.

~~(5) serve the entire community of older individuals, particularly older individuals in greatest economic or social need.~~

(b) **Authority.** The authority for this Section is the Office of Management and Budget Notice of Action 0985-0008 and Section 102(29) of the Older Americans Act of 1965, as amended.

(c) **Procedures.** The Area Agency on Aging implements this Section by:

(1) incorporating the provisions in this Section into its Title III ~~policy~~ policies and procedures manual;

(2) providing technical assistance to prospective service project applicants regarding the policy in the development of services; and

(3) utilizing the policy as an indicator in the evaluation of service project proposals.

(d) **Cross references.** See OAC 340:105-10-50.1(a)(13), 340:105-10-51, 340:105-10-54(a)(3), 340:105-10-62, and 340:105-10-63.

340:105-10-85. Home delivered meals packaging and delivery

(a) **Policy.** Home delivered meals are packaged and delivered ~~so as~~ to ensure temperature control and ~~to~~ prevent contamination and spillage.

(b) **Authority.** The authority for this Section is Oklahoma State Department of Health Food Service Establishment Regulations OAC 310:256-5-9 and Title 45 of the Code of Federal Regulations, Part 1321.11.

(c) **Procedures.** This Section is implemented by including procedures for:

(1) packaging and handling up to the point of delivery of the meals ~~the:~~.

(A) ~~hot~~ Hot foods ~~must be~~ are maintained at a minimum of 140 degrees Fahrenheit~~;~~.

(B) ~~cold~~ Cold foods ~~must be~~ are maintained at a temperature no more than ~~45~~ 41 degrees Fahrenheit~~;~~ ~~and~~.

(C) ~~frozen~~ Frozen foods ~~must be~~ are maintained ~~at a temperature of no more than 20 degrees Fahrenheit~~ frozen and hard**;**

(2) performing temperature checks ~~must be performed~~ at least quarterly on a random basis to ensure ~~that all~~ food is delivered at the proper temperature. Documentation of these checks ~~are~~ is maintained by the provider and monitored by the Area Agency on Aging;

(3) packaging and packing cold, hot, and frozen foods ~~must be packaged and packed~~ separately;

(4) packaging meals ~~must be~~ individually ~~packaged~~ and ~~packed~~ in secondary insulated food carriers ~~which~~ to meet established safety and sanitation standards;

(5) delivering meals ~~must be delivered~~ within one hour of packaging; and

(6) dating all disposable meal containers ~~are dated~~.

(d) **Cross references.** See OAC 340:105-10-50.1(a)(4), 340:105-10-51, 340:105-10-68, 340:105-10-70, 340:105-10-74 through 340:105-10-79, 340:105-10-82 through 340:105-10-84, and 340:105-10-86.

340:105-10-89. Disease prevention and health promotion services

(a) **Policy.** The Area Agency on Aging (AAA) makes grants to local entities to provide disease prevention and health promotion services and information at multipurpose senior centers, congregate meal sites, through home delivered meals programs, or other appropriate sites. Disease prevention and health promotion services include:

(1) health risk assessments;

(2) routine health screening, such as hypertension, glaucoma, cholesterol, cancer, vision, hearing, diabetes, bone density, oral health, and nutrition screening;

(3) nutritional counseling and educational services for older persons and their primary caregivers;

(4) health promotion programs, including programs relating to prevention and reduction of the effects of chronic disabling conditions, such as osteoporosis; ~~and~~ cardiovascular disease; dental care; alcohol and substance abuse reduction; smoking cessation; weight loss and control; and stress management;

(5) programs regarding physical fitness, group exercise, and music, art, and dance movement therapy, including programs for multigenerational participation ~~that are~~ provided by:

(A) an institution of higher education;

(B) a local educational agency, as defined in Section 1471 of the Elementary and Secondary Education Act of 1965; or

(C) a community-based organization;

(6) home injury control services, including screening of high risk home environments and provision of educational programs on injury prevention, such as fall and fracture prevention;

(7) screening for the prevention of depression, coordination of community mental health services, provision of educational activities, and referral to psychiatric and psychological services;

(8) educational programs on the availability, benefits, and appropriate use of preventive health services covered under Title XVIII of the Social Security Act;

(9) medication management screening and education to prevent incorrect medication and adverse drug reactions;

(10) information concerning diagnosis, prevention, treatment, and rehabilitation ~~of~~ concerning age related diseases and chronic disabling conditions, including osteoporosis, cardiovascular diseases, diabetes, and Alzheimer's disease and related disorders with neurological and organic brain dysfunction;

(11) gerontological counseling; and

(12) counseling regarding social services and follow-up health services based on any of the services described in (1) through (11) of this subsection.

(b) **Authority.** The authority for this Section is Sections 102(12), 361, and 362 of the Older Americans Act of 1965, as amended.

(c) **Procedures.** The requirements for implementing this Section are outlined in this subsection. The AAA:

(1) receives input from other entities in the planning and service area ~~that are~~ involved with disease prevention and health promotion regarding targeting of funds;

(2) considers use of funds to expand successful disease prevention and health promotion activities currently funded by Title III-B or other sources in the community, such as annual health fairs or periodic health screenings at nutrition sites;

(3) seeks technical assistance, as appropriate, from the State Agency staff; and

(4) submits a plan to the State Agency ~~OKDHS.~~ to include:

(A) services funded. Services funded do not include those for which payment may be made under Titles XVIII and XIX of the Social Security Act;

(B) projected expenditures for each service; and

(C) specific objectives to target services to the medically underserved older persons in the planning and service area (PSA). The definition of medically underserved used to allocate the funding is stated in the Area Plan and chosen from:

(i) the definition outlined by the Public Health Service Bureau of Health Care Delivery, Department of Health and Human Services;

(ii) a definition developed by the Oklahoma State Department of Health; or

(iii) any other definition in keeping with the intent of assisting medically underserved older persons.

(d) **Cross references.** See OAC 340:105-10-50.1(a)(15)(C) and 340:105-10-51.

340:105-10-90.1. National Family Caregiver Support Program

(a) **Policy.** The Area Agency on Aging (AAA) awards grants to entities to provide support services, including information and assistance, counseling, support groups, respite, and other home- and community-based services to families caring for their frail older members. The National Family Caregiver Support Program also recognizes the needs of grandparents who are caregivers of grandchildren and other older persons who are relative caregivers of children who are age 18 and younger. National Family Caregiver Support Program services include:

(1) information ~~about~~ services;

(2) ~~assistance with~~ access ~~to services~~ assistance;

(3) ~~individual~~ counseling~~, support groups, and caregiver training~~;

(4) respite care; and

(5) supplemental services, on a limited basis.

(b) **Authority.** The authority for this Section is the Office of Management and Budget Notice of Action 0985-0008 and Sections 371~~, 372, 373, and~~ through 374 of the Older Americans Act of 1965, as amended, ~~[P.L.~~ Public Law 106-501~~].~~, Grants for State and Community Programs on Aging.

(c) **Procedures.** The requirements for implementing this Section are outlined in this subsection. The AAA:

(1) incorporates the provisions of this Section into the Title III~~, Older Americans Act,~~ policies and procedures manual;

(2) provides technical assistance to prospective and funded Title III projects regarding this ~~policy~~ rule;

(3) monitors Title III project compliance according to OAC 340:105-10-43~~;~~, except on specific projects where the State Agency has agreed with the AAA to provide a service and monitoring is not required. The project:

(A) gathers information on an approved intake form, including, at a minimum:

(i) the family caregiver's identifying information;

(ii) the caregiver's relationship to the care receiver;

(iii) the care receiver's identifying information; and

(iv) a written description of the caregiver's current situation, including the care receiver's need for assistance due to inability to perform specific activities of daily living (ADLs) or need for supervision due to Alzheimer's disease or other neurological and organic brain dysfunction;

(B) conducts, at a minimum, annual visits to participants to assess the satisfaction and quality of services;

(C) ensures the safety and protection of the participants; and

(D) receives in-service training each fiscal year specifically designed to increase the project's knowledge and understanding of the programs and participants served;

(4) targets services to older persons in greatest social and economic need and older persons who care for a child with mental retardation or developmental disabilities;

(5) ~~grantees~~ may provide support services to ~~families caring~~ caregivers providing care for ~~their~~ frail older family members who are 60 years ~~of age~~ or older ~~who are~~ and unable to perform at least two ~~activities of daily living (~~ADLs~~) which include dressing, bathing, eating, transferring, toileting, or walking,~~ without substantial human assistance~~,~~ or ~~who~~ require substantial supervision due to a cognitive or other mental impairment.

(A) ADLs include:

(i) dressing;

(ii) bathing;

(iii) eating;

(iv) transferring;

(v) toileting; and

(vi) walking.

(B) A caregiver is an adult family member or another person who is an informal provider of in-home and community care to an older person.

(C) Informal means the care is not provided as part of a public or private formal service program;

(6) ~~grantees, on a limited basis,~~ may provide support services on a limited basis to grandparents and older persons who are relative caregivers.

(A) ~~The term child~~ Child means a person who is not older than 18 years of age.

(B) ~~The term grandparent~~ Grandparent or older person who is a relative caregiver means a grandparent or ~~step grandparent~~ stepgrandparent of a child, or a relative of a child by blood or marriage, who is 60 years of age or older and:

(i) lives with the child;

(ii) is the primary caregiver of the child because the biological or adoptive parents are unable or unwilling to serve as the primary caregiver of the child; and

(iii) has a legal relationship to the child, ~~as~~ such as legal custody or guardianship, or is raising the child informally;

(7) ensures ~~that~~ the cost of carrying out the program meets the requirement of a minimum non-federal share of 25 percent. The non-federal share is provided from state and local sources;

(8) ~~grantees~~ may not use funds to supplant, replace, or in substitution for, any funds ~~that are or would otherwise be~~ expended under any federal, state, or local law for the same purposes; and

(9) considers awarding funds to expand successful caregiver activities currently in communities, such as respite providers, support groups, outreach, information and assistance, adult day services, counseling, and case management.

(d) **Cross references.** See OAC 340:105-10-37, 340:105-10-38, 340:105-10-40, 340:105-10-41, 340:105-10-43, 340:105-10-44, and 340:105-10-50.1(a)(15)(F).

340:105-10-91. Homemaker service standards

(a) **Policy.** The homemaker service provides assistance to persons 60 years of age or older ~~who experience difficulty~~ with ~~one or more of the instrumental activities of daily living which are~~:

(1) preparing a meal ~~preparation,~~;

(2) shopping for ~~necessities~~ personal items~~,~~;

(3) managing money~~,~~;

(4) using the telephone, ~~laundry,~~; or

(5) doing light housework, ~~or mobility in the community. Assistance with mobility in the community is limited to errands related to the health and safety of the client. Assistance with light housekeeping~~ which is limited to:

(A) dusting~~,~~;

(B) vacuuming~~,~~;

(C) mopping floors~~,~~;

(D) cleaning bathroom and kitchen~~,~~;

(E) making beds~~,~~; and

(F) maintaining safe environment.

(b) **Procedures.** The requirements for implementing the homemaker service standards are outlined in this subsection.

(1) The Area Agency on Aging (AAA):

(A) incorporates the homemaker service standards into its Title III policies and procedures manual;

(B) provides technical assistance to homemaker service providers regarding the standards; and

(C) utilizes the standards as an indicator in the evaluation of service provider proposals and in the assessment of funded projects.

(2) The service provider:

(A) verifies, by completing Form AG-2-A, Older Americans Act Assessment, Parts I and II, participants who receive homemaker services have:

(i) functional, physical, or mental impairments, or limitations preventing them from providing the service for themselves; and

(ii) an unavailable or insufficient informal support network, for example, family, friends, or neighbors, capable of meeting their needs;

(B) initiates a written service plan for each participant based on the results of Form AG-2-A;

(C) staff receive in-service training at least twice each fiscal year specifically designed to increase their knowledge and understanding of the program and participants and to improve their skills at tasks performed in the provision of service. Comprehensive records identifying dates of training and topics covered are maintained in each employee's personnel file. An individualized in-service training plan is developed for each staff person, when performance evaluations indicate a need;

(4) conducts home visits to each participant at least twice each fiscal year to evaluate service provision; and

(5) checks references on all homemakers.

(~~b~~c) **Authority.** The authority for this Section is the Office of Management and Budget Notice of Action 0985-0008 and Title 45 of the Code of Federal Regulations, Part 1321.11.

(~~c~~d) **Cross references.** See OAC 340:105-10-50.1(a)(2), and 340:105-10-51.

340:105-10-94. State Funded Senior Centers [REVOKED]

~~(a) **Policy.** The Area Agency shall make grants of state funding to local senior centers for the general improvement of nutritional conditions and to enhance the quality of life for residents throughout Oklahoma. The funding shall be used to:~~

~~(1) Increase the number of meals served to individuals, families and their children, and older persons at senior centers or for home delivered meals; or~~

~~(2) Expand other needed services provided at senior centers for residents of the state.~~

~~(b) **Authority.** Senate Bill 109 of 1997.~~

~~(c) **Procedures.** The State Agency shall implement the rules as described in this subsection.~~

~~(1) The State Agency shall establish funding levels to the area agencies based on the funding formula supplied with the enabling legislation for this program.~~

~~(2) The State Agency shall develop and issue a request for proposal guide to be used by area agencies in granting the funds. The guide shall allow for flexibility in developing nutritional plans for each participating senior center and shall require:~~

~~(A) identifying information;~~

~~(B) a listing of goals and objectives; and~~

~~(C) a program budget.~~

~~(3) The Area Agency shall conduct a fair and open request for proposal process.~~

~~(4) The Area Agency shall require audits of funded senior centers as outlined in OAC 340:105-10-107 "Audits of grantees receiving state funds only".~~

~~(5) The Area Agency shall annually conduct an assessment of funded senior centers based on goals and objectives included in the grant proposals.~~

~~(d) **Cross references.** See OAC 340:105-10-107.~~

PART 9. FISCAL AND ADMINISTRATIVE POLICIES FOR AREA AGENCIES ON AGING AND TITLE III PROJECTS

340:105-10-105.1. Commercial and contractual activities of Area Agencies on Aging and Title III ~~Projects~~ projects

(a) **Policy.** Area Agencies on Aging (AAAs) and Title III ~~Projects~~ projects may engage in commercial and contractual activities ~~that are~~ compatible with the development or enhancement of comprehensive and coordinated service delivery systems for older persons. Commercial and contractual activities do not include activities ~~which~~ an ~~Area Agency~~ AAA or Title III Project performs pursuant to the Older Americans Act (OAA) ~~Program~~ program. This ~~section~~ Section applies to Title III ~~Projects~~ projects only when Title III facilities and staff are utilized in the performance of commercial and contractual activities. The AAA or Title III project performing commercial or contractual activities provides assurances to:

(1) demonstrate:

(A) a loss or diminution in the quantity or quality of OAA services provided, or to be provided, by the agency has not resulted and will not result from such contract or relationship; and

(B) the quantity or quality of OAA services to be provided will be enhanced as a result of such contract relationship;

(2) disclose:

(A) the identity of each nongovernmental entity with which the agency has a contract or commercial relationship relating to providing services to older persons;

(B) the nature of such contract or relationship; and

(C) all sources and expenditures of funds the agency receives or expends to provide services to older persons for the purpose of monitoring compliance with the OAA, including conducting an audit;

(3) maintain the integrity and public purpose of OAA services provided;

(4) not use OAA funds received to pay any part of a cost, including an administrative cost, incurred to carry out a contract or commercial relationship.

(A) Income generated from OAA funded programs provided to non-OAA participants is considered, akin to program income, service reimbursement. The complete cost of the service is reimbursed to the OAA funded program. No OAA funds are construed as having paid for a non-OAA service. Contract income above the actual cost of the service does not fall under the provision of Section 315 of the OAA.

(B) AAAs require OAA service providers to submit annual verification of the service cost computed in accordance with General Accepted Accounting Principles by a non-biased, qualified person, such as a certified public accountant (CPA).

(C) AAAs review the service cost methodology annually in accordance with General Accepted Accounting Principles using a qualified individual such as a CPA to either approve it or disapprove it and work with the service provider to obtain suitable information. The final computation, once approved by the AAA, is submitted to Aging Services Division annually in the AAA approved grants; and

(5) preference in receiving OAA services will not be given to particular older persons as a result of a contract or commercial relationship.

(b) **Authority.** The authority for ~~OAC 340:105-10-105.1~~ this Section is the Administration on Aging letter dated November 19, 2003; Oklahoma Department of Human Services Special Unit on Aging Policy Memo 04-05; and Sections 306(a)(13)~~-~~ through (16) ~~and 307(a)(7)(C)~~ of the Older Americans Act, as amended.

(c) **Cross references.** There are no cross references for commercial and contractual activities.

340:105-10-106. Audits for Title III ~~Projects~~ projects and Area Agencies on Aging

(a) **Policy.** The Assistant Secretary for Aging and the Comptroller General of the United States (U.S.), authorized personnel of the U.S. Department of Health and Human Services~~,~~; ~~the~~ State Auditor and Inspector~~,~~; and other appropriate state entities or any of their duly authorized representatives ~~shall~~ have open and complete access to any books, documents, papers, records, and ~~to~~ any other items of the Older Americans Act grantee ~~(Title III Project or Area Agency) that are~~ pertinent to the performance or payments of grants or contracts received through the State Agency or the Area ~~Agencies~~ Agency on Aging. ~~Further, all grantees must~~ Grantees arrange for independent audits or fiscal reviews of Older Americans Act ~~funds~~ and ~~State~~ state funds as required by federal ~~law,~~ and state law~~,~~ and State Agency ~~policy~~ rules.

(b) **Authority.** The authority for ~~OAC 340:105-10-106~~ this Section is the Single Audit Act ~~of 1984, P.L. 98-502~~ Amendments of 1996, Public Law 104-156; Office of Management and Budget ~~Circulars No. A-128, and~~ Circular A-133~~,~~; and ~~45 CFR~~ Part 1321.11 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** The procedures for implementing this Section are outlined in OAC 340:105-10-107 through 340:105-10-113.

(d) **Cross references.** See OAC 340:105-10-107 through 340:105-10-113.

340:105-10-107. Audits of grantees receiving state funds only

(a) **Policy.** Audit and fiscal review policy for grantees receiving ~~State~~ state funds only ~~shall be~~ are the same as for grantees receiving federal funds except ~~that~~ the State Agency reserves the right to modify such policy as appropriate. Factors ~~to be~~ considered in the modification of audit and fiscal review ~~policy~~ policies are:

(1) ~~Source of State~~ source of state funding;

(2) ~~Amount~~ amount of funding award;

(3) ~~Availability~~ availability of other grantee audits of award funds;

(4) ~~Purpose~~ purpose, scope, and duration of the Title III ~~Project or Area Agency~~ project or Area Agency on Aging (AAA) service;

(5) ~~Number~~ number and nature of transactions involved in the Title III project or ~~Area Agency~~ AAA service; and

(6) ~~The~~ availability of audit funds.

(b) **Authority.** The authority for ~~OAC 340:105-10-107 is 45 CFR~~ this Section is Part 1321.11 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** Procedures for implementing this Section are described in this subsection. The grantor:

(1) ~~The grantor will consider~~ considers the factors outlined in (a) of this Section; and

(2) ~~The grantor will outline~~ outlines audit policy for ~~State~~ state funds in the grant or contract agreement.

(d) **Cross references.** See OAC 340:105-10-106~~,~~ and ~~340:105-10-111~~ 340:105-10-108 through 340:105-10-113.

340:105-10-108. Audits of ~~public agencies, higher education institutions, and other non-profits~~ government entities and nonprofits receiving less than $25,000 in federal and state funds from all sources

(a) **Policy.** ~~Public agencies, higher education institutions,~~ Government entities and other ~~non-profits~~ nonprofits receiving less than $25,000 in federal and state funds from all sources are ~~subject to the special provisions of Office of Management and Budget Circulars (OMB) A-128, and A-133. Such agencies (Title III Projects) must, however, arrange for the completion of a fiscal review~~ monitored by the Area Agency on Aging (AAA) or pass through agency.

(b) **Authority.** The authority for ~~OAC 340:105-10-108 is OMB Circulars A-128 and~~ this Section is the Office of Management and Budget Circular A-133.

(c) **Procedures.** Procedures to implement this Section are ~~as follows:~~ described in this subsection.

(1) Agencies subject to this Part ~~conduct a fiscal review which includes~~ receive a monitoring visit from the AAA or pass through agency to include, at a minimum:

(A) ~~Testing~~ testing of a minimum of ten percent of all project expenditures for the period under review;

(B) ~~Testing~~ testing of items listed in the current fiscal assessment tool;

(C) ~~Preparation of~~ preparation of a report ~~which includes~~ to include a narrative description of project operations;

(D) ~~The~~ verification of the scope and time frame of the review;

(E) ~~A~~ a description of the findings regarding internal controls, accounting methods, and procedures~~,~~ ~~findings~~;

(F) ~~The following~~ schedules of:

(i) ~~Balance~~ balance sheet~~, revenue, expenditures and fund balance~~;

(ii) ~~Schedule of~~ budget compared to actual revenue and costs; and

(iii) ~~Schedule of~~ findings, questioned costs, and recommendations; and

(G) ~~The~~ an account of the grantee's response to findings, questioned costs, and recommendations~~;~~.

(2) ~~Fiscal reviews must be~~ Monitoring visits are conducted within 30 days after each project year~~; and~~.

~~(3) Fiscal reviews must be conducted by an independent Licensed Public or Certified Public Accountant.~~

(d) **Cross references.** See OAC 340:105-10-106 through 340:105-10-107, and ~~340:105-10-111~~ 340:105-10-109 through 340:105-10-113.

340:105-10-109. Audits of profit-making grantees

(a) **Policy.** Each profit-making grantee of Older Americans Act (OAA) funds ~~shall obtain~~ obtains an annual audit of ~~such~~ OAA funds ~~which meets~~ to meet the Office of Management and Budget (OMB) Circular A-133 standards for ~~content and format~~ a program audit or limited scope audit.

(b) **Authority.** The authority for ~~OAC 340:105-10-109~~ this Section is OMB Circular A-133 and the contract between the pass through agency and the for-profit grantees.

(c) **Procedures.** Procedures for implementing this Section are described in this subsection. The audit:

(1) ~~The audit~~ period ~~must be~~ is the same as the project's fiscal year;

(2) ~~The audit~~ report ~~must be~~ is specific to the grant-funded project, and ~~may not be~~ is not a single audit of the entire grantee agency; ~~and~~

(3) ~~The audit must be~~ is conducted by a Certified Public Accountant according to generally accepted government auditing standards; and

(4) cost is not charged to federal funds and is not used to meet match requirements.

(d) **Cross references.** See OAC 340:105-10-106 through 340:105-10-108 and ~~340:105-10-111~~ 340:105-10-110 through 340:105-10-113.

340:105-10-110. Audits of ~~public agencies, higher education institutions,~~ local governments and ~~other non-profit agencies receiving $300,000~~ nonprofit organizations expending $500,000 or more in federal funds from all sources

(a) **Policy.** ~~Public agencies, higher education institutions, and other non-profit agencies receiving $300,000~~ Local governments and nonprofit organizations expending $500,000 or more in federal funds from all sources in a year are required to obtain annual audits on such funds unless the grantee has a constitutional or statutory requirement for less frequent audits. All audits and accompanying reports must comply with the appropriate Federal Register Office of Management and Budget (OMB) ~~Circulars~~ Circular, as described in (c) of this Section.

(b) **Authority.** The authority for this Section is OMB ~~Circulars A-128 and~~ Circular A-133~~,~~; the Single Audit Act ~~of 1984~~ Amendments of 1996, ~~[~~Public Law ~~98-502~~ 104-156~~]~~; and Section ~~212~~ 212A of Title 74 of the Oklahoma Statutes.

(c) **Procedures.**

~~(1)~~ Audits ~~of public agencies~~:

(~~A~~1) are subject to the provisions of OMB Circular ~~A-128~~ A-133 and ~~to~~ the Single Audit Act ~~of 1984~~ Amendments of 1996. Each audit ~~must state that it was~~ states it is made in accordance with the provisions of OMB Circular ~~A-128~~ A-133;

(~~B~~2) ~~must be single audits which~~ meet the content and format requirements of Circular ~~A-128~~ A-133;

(~~C~~3) ~~must be~~ are arranged by following the procurement standards of OMB Circular A-102, ~~Uniform Requirements for~~ Grants ~~to state and local governments~~ and Cooperative Agreements with State and Local Governments or Circular A-110, Uniform Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations;

~~(D) must allow maximum practicable opportunity for small audit firms owned and controlled by socially and economically disadvantaged individuals to participate in contracts awarded to fulfill the requirements of OMB Circular A-128;~~

(~~E~~4) ~~must be~~ are made by a certified public ~~accountants (CPAs)~~ accountant (CPA) who ~~meet~~ meets the independence standards specified in ~~the Standards for Audit of Government Organizations, Programs, Activities, and Functions~~ government auditing standards. Selected auditors ~~must also be~~ are registered with the office of the ~~State Auditor and Inspector~~ Oklahoma Accountancy Board and have a current permit to practice; ~~and~~

(~~F~~5) ~~must be~~ are made in accordance with generally accepted government auditing standards covering financial and compliance audits~~.~~;

(6) encompass the grantee's fiscal year; and

(7) are supported by working papers available for review by the Oklahoma Department of Human Services.

~~(2) Audits of higher education institutions and other non-profits:~~

~~(A) are subject to the provisions of OMB Circular A-133 and each audit must state that it was made in accordance with the provisions of that circular;~~

~~(B) must meet the content and format requirements of OMB Circular A-133;~~

~~(C) must encompass the grantee's fiscal year;~~

~~(D) must be made by CPAs who meet the independence standards specified in the Standards for Audit of Government Organizations, Programs, Activities, and Functions. Selected auditors must also be registered with the office of the State Auditor and Inspector; and~~

~~(E) must be made in accordance with generally accepted government auditing standards covering financial and compliance audits.~~

(d) **Cross references.** See OAC 340:105-10-106 through 340:105-10-109 and ~~340:105-10-111~~ 340:105-10-110.1 through 340:105-10-113.

340:105-10-110.1. Audits of ~~public agencies, higher education institutions,~~ government entities and ~~other non-profit~~ nonprofit agencies receiving between $25,000 and ~~$300,000~~ $500,000 in federal and state funds from all sources

(a) **Policy.** ~~Public agencies, higher education institutions,~~ Government entities and ~~other non-profit~~ nonprofit agencies receiving ~~between~~ more than $25,000 in federal and state funds and ~~$300,000~~ less than $500,000 in federal funds from all sources are required to obtain annual audits on such funds unless the grantee has a constitutional or statutory requirement for less frequent audits.

(b) **Authority.** The authority for ~~OAC 340:105-10-110 is OMB Circulars A-128 and A-133, the Single Audit Act of 1984 [Public Law 98-502], and 74 O.S. 1993 Section 212~~ this Section is Section 212A of Title 74 of the Oklahoma Statutes and the contract between the Area Agency on Aging and the subgrantee.

(c) **Procedures.**

(1) The ~~provider that receives in excess of $25,000 in state or federal funds shall have~~ audit:

(A) is a certified independent audit of ~~it's~~ the agency's entire operations conducted in accordance with ~~Government Auditing Standards.~~ generally accepted government auditing standards;

(B) ~~The~~ includes financial statements ~~will be~~ prepared in accordance with ~~Generally Accepted Accounting Principles~~ generally accepted accounting principles;

(C) ~~and the report will include~~ includes a Supplementary Schedule of State and Federal Awards listing all state and federal revenues and expenditures by contract; ~~and a Supplementary Schedule of Revenue and Expenditures by function and funding source. For cost reimbursed or cost settled contracts, a separate schedule of revenue and expenditures shall be prepared by contract period. The certified independent audit will cover~~

(D) covers the period for which the contract was in effect~~.~~;

(E) ~~The audit will be~~ is performed by a certified public accountant or public accountant who has a valid and current permit to practice accountancy in ~~the State of~~ Oklahoma; and

(F) is not charged to federal funds or to meet match requirements.

(2) The Oklahoma Department of Human Services retains the right to ~~approve the selection of and~~ examine ~~the workpapers of said auditor. No approval will be withheld unreasonably~~ and audit paperwork.

(d) **Cross references.** See OAC 340:105-10-106~~,~~ ~~and 340:105-10-106, and 340:105-10-111~~ through 340:105-10-113.

340:105-10-112. Audit report and fiscal review report distribution

(a) **Policy.** Audit reports of Area Agencies on Aging (AAAs) and audit and fiscal review reports of ~~the~~ Title III ~~Projects must be~~ projects are transmitted to the State Agency within 150 days after the end of the fiscal year being audited or within 30 days after the completion of the audit or fiscal review report, whichever comes first.

(b) **Authority.** The authority for ~~OAC 340:105-10-112 is 45 CFR~~ this Section is Part 1321.11 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** The procedures for implementing this Section are ~~as follows:~~ described in this subsection.

(1) Each audit or fiscal review report submitted to the State Agency ~~must be~~ is accompanied by ~~an~~ completed Form SUOA-S-81, Audit Report Transmittal ~~Form~~. This form is ~~to be~~ completed in a format prescribed by the State Agency~~;~~.

(2) Each audit report ~~must also be~~ is accompanied by properly executed copies of equipment, food, and food supplies inventories, as appropriate~~;~~.

(3) Multiple copies of AAA and Title III ~~Project~~ project audit and fiscal review reports are ~~to be~~ submitted to the State Agency in quantities prescribed~~;~~.

(4) Audit and fiscal review reports ~~shall be~~ are submitted by the auditor to the organization audited, and to those requiring or arranging for the audit or fiscal review~~;~~.

(5) Grantees ~~shall~~ submit copies of audit or fiscal review reports to their grantor agency~~;~~. ~~and~~

(6) Audit and fiscal review reports ~~shall be~~ are made available for public inspection within 30 days after completion of the report~~;~~.

(7) Requests for time extensions are submitted to the State Agency when the audit report or fiscal review report cannot be submitted within 150 days after the fiscal year end.

(d) **Cross references.** See OAC 340:105-10-106 through 340:105-10-111 and 340:105-10-113.

340:105-10-113. Resolution of findings

(a) **Policy.** Clearance of audit reports and resolution of audit findings on Area Agencies on Aging (AAAs) and Title III ~~Projects~~ projects is the responsibility of the grantor agency.

(b) **Authority.** The authority for ~~OAC 340:105-10-113 is 45 CFR~~ this Section is Part 1321.11 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** The procedures for implementing this Section are ~~as follows:~~ described in this subsection.

(1) The ~~Area Agency~~ AAA or Title III ~~Project~~ project submits audit and fiscal review reports as outlined in OAC 340:105-10-112~~;~~.

(2) The grantor agency provides written acknowledgement to the ~~Area Agency~~ AAA or Title III ~~Project~~ project of the receipt of audit and fiscal review reports~~;~~.

(3) The grantor agency ~~shall monitor~~ monitors the compliance of the grantee agency with audit and fiscal review findings ~~(i.e.~~ or recommendations~~)~~ within six months of the completion of the audit or fiscal review~~;~~.

(4) The grantor agency ~~shall monitor~~ monitors the compliance of the grantee with ~~the Single Audit Act~~ Office of Management and Budget Circular A-133~~;~~.

(5) The State Agency ~~will~~ regularly ~~review~~ reviews the audit clearance activities of each ~~Area Agency~~ AAA~~;~~. ~~and~~

(6) The State Agency ~~shall reserve~~ reserves the right to suspend funds or to effect de-designation of ~~Area Agencies which demonstrate~~ any AAA demonstrating unwillingness or inability to resolve reasonable audit or fiscal review recommendations concerning ~~their~~ Title III ~~Projects~~ projects within a six month period after the completion of the audit or fiscal review.

(d) **Cross references.** See OAC 340:105-10-106 through 340:105-10-112.

[OAR Docket #05-539; filed 4-6-05]

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

[OAR Docket #05-538]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 10. Policies and Procedures Manual for Title III of the Older Americans Act of 1965, as Amended
Part 5. Area Agencies on Aging
340:105-10-43. [AMENDED]
Part 7. Program Standards for Services Funded Under Title III
340:105-10-72. [AMENDED]
Part 9. Fiscal and Administrative Policies for Area Agencies on Aging and Title III Projects
340:105-10-101. [AMENDED]
340:105-10-117. [AMENDED]
340:105-10-118. through 340:105-10-119. [REVOKED]
340:105-10-120. through 340:105-10-122. [AMENDED]
(Reference APA WF 04-13)
AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; and the Older Americans Act, as amended.
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Subchapter 10. Policies and Procedures Manual for Title III of the Older Americans Act of 1965, as Amended
Part 5. Area Agencies on Aging
340:105-10-43. [AMENDED]
Part 7. Program Standards for Services Funded Under Title III
340:105-10-72. [AMENDED]
Part 9. Fiscal and Administrative Policies for Area Agencies on Aging and Title III Projects
340:105-10-101. [AMENDED]
340:105-10-117. [AMENDED]
340:105-10-118. through 340:105-10-119. [REVOKED]
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n/a

ANALYSIS:
The revisions to Subchapter 10 of Chapter 105 update and clarify requirements for: (1) advertising availability of funds; (2) grantee staffing of Area Agencies on Aging (AAAs) and Title III projects, according to local need; (3) providing direct services; (4) monitoring the program and fiscal reports of Title III projects; and (5) developing personnel policies and procedures.

340:105-10-43 is amended to clarify that the Area Agency on Aging (AAA) monitors and evaluates Title III projects except when the State Agency has agreed with the AAA to provide the service.

340:105-10-72 is amended to clarify that: (1) AAAs are the final authority on appropriate staffing patterns in the Title III projects; (2) site visits are limited to one per day per registered dietitian (RD) or nutrition consultant; (3) the RD verifies requirements are met by signing monthly Form SUOA-S-74, Dietary Consultant's Report; and (4) the RD provides nutrition education and counseling, as appropriate, to meal participants.

340:105-10-101 is amended to clarify: (1) procedures in the request for proposals (RFP) process, including directing the announcement of availability of funds to newspapers and existing and potential service providers known to the AAA in the planning and service area (PSA); and (2) when the AAA has authority to provide a direct service.

340:105-10-117 is amended to clarify the authority of the AAAs in recruiting, selecting, and advancing employees.

340:105-10-118 and 340:110-10-119 are revoked as they are superseded by amendments to other sections.

340:105-10-120 is amended to clarify that AAAs and Title III projects develop, document, and update job descriptions based on local need.

340:105-10-121 is amended to clarify that AAAs and Title III projects assign job descriptions and salaries according to local market value and state and federal limits.

340:105-10-122 is amended to update cross references and define public agency.

CONTACT PERSON:
Dena Thayer, Programs Manager, Policy Management Unit, DHS, 2400 N. Lincoln Blvd., Oklahoma City, OK 73105, 405-521-4326.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2005:

SUBCHAPTER 10. POLICIES AND PROCEDURES MANUAL FOR TITLE III OF THE OLDER AMERICANS ACT OF 1965, AS AMENDED

PART 5. AREA AGENCIES ON AGING

340:105-10-43. Monitoring and evaluation of Title III projects

(a) **Policy.** The Area Agency ~~shall monitor~~ on Aging (AAA) monitors and ~~evaluate~~ evaluates all funded Title III projects ~~in order~~ to ~~assure that~~ ensure services are ~~being~~ provided in accordance with federal and state policy~~,~~ and ~~to assure that the~~ objectives of the service grant or contract are ~~being~~ met.

(b) **Authority.** The authority for OAC 340:105-10-43 is ~~45 CFR~~ Part 1321.65 and Section 1321.53(a) of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** ~~The Area Agency will fulfill~~ Except on specific projects where the State Agency has agreed with the AAA to provide a service, the AAA fulfills its responsibility ~~of monitoring and evaluation of~~ to monitor and evaluate Title

III projects by carrying out the ~~following~~ activities described in this subsection. The AAA:

(1) ~~Developing~~ develops a policy and procedures manual for Title III projects ~~which~~ that includes all federal and state mandates;

(2) ~~Monitoring~~ monitors the program and fiscal reports of Title III projects;

(3) ~~Conducting~~ conducts quarterly on-site program assessments with each Title III project ~~which~~ that include evaluation of the ~~following~~ extent to which:

(A) ~~The extent to which~~ the proposed service output, as outlined in the project grant or contract, is ~~being~~ met, ~~i.e.,~~ such as numbers of persons served, units of each service provided, and expenditures by source and service;

(B) ~~The extent to which~~ each objective, and related action steps, are ~~being~~ completed by the targeted dates as indicated in the grant~~/~~ or contract;

(C) ~~The extent to which~~ provider responsibilities regarding general Title III service standards, outlined in OAC 340:105-10-51, ~~(General Title III service standards)~~ are ~~being~~ met;

(D) ~~The extent to which~~ service specific standards are being met; and

(E) ~~The extent to which~~ federal, state, and local laws and regulations, such as Civil Rights Act and Americans with Disabilities Act, are ~~being~~ followed~~, e.g., Civil Rights laws, Americans With Disabilities Act, etc.~~;

(4) ~~Conducting~~ conducts semi-annual on-site fiscal assessments with each Title III project during the first year of operation, and annually thereafter if funding is continued. ~~(see~~ OAC 340:105-10-114 through 340:105-10-116 ~~for complete~~ describe rules on financial management, procurement, and property management standards for Title III projects~~)~~;

(5) ~~Forwarding~~ forwards written results of all assessments and monitoring visits to projects in a timely fashion, with remedial actions and due dates for compliance outlined;

(6) ~~Following~~ follows up with projects on remedial action compliance; and

(7) ~~Utilizing~~ utilizes termination, suspension of funding, ~~and/~~ or other appropriate action ~~with projects failing~~ when a project fails to achieve compliance with outlined requirements.

(d) **Cross references.** See OAC 340:105-10-31(a)(9), 340:105-10-36(c)(5)~~-~~ through (8), 340:105-10-51, and 340:105-10-114 through 340:105-10-116.

PART 7. PROGRAM STANDARDS FOR SERVICES FUNDED UNDER TITLE III

340:105-10-72. Congregate meals project staffing requirements

(a) **Policy.** Each congregate meals project maintains sufficient staff to carry out the required service activities.

(b) **Authority.** The authority for this Section is Part 1321.11 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** The congregate meals project is required to:

(1) employ a full-time director who is empowered with the necessary authority to conduct the daily management and administrative functions of the project;

(2) obtain the services of a licensed registered dietitian (RD) to provide nutrition consultation. The RD is an employee or independent consultant hired by the project or the Area Agency on Aging (AAA). A paid caterer is not acceptable in this position. Where feasible, the RD coordinates with a nutrition consultant, such as a dietetic student, person with a ~~Bachelor's~~ bachelor of ~~Science~~ science degree in nutrition, or certified dietary manager. ~~The RD signs off on all nutrition education, in-service training, and Form SUOA-S-74, Dietary Consultant's Report.~~ If the RD coordinates with a nutrition consultant, the RD visits every site a minimum of every other month. The RD verifies by signature on the monthly Form SUOA-S-74, Dietary Consultant's Report, the monthly consultation ~~includes~~ requirements, including:

(A) ~~spending a minimum of five hours on site per month per kitchen. Drive time does not count in the five hour total. A minimum of three hours on site per month per satellite site. Drive time does not count in the three hour total. Site~~ limiting site visits ~~are limited~~ to one ~~site visit~~ per day per RD or nutrition consultant;

(B) monitoring food service to include measurement of food temperatures and portion sizes, and assessment of food quality and adherence to contract specifications;

(C) training staff and volunteers in areas of food service management, nutrition, and sanitation;

(D) assessing participant satisfaction and preferences;

(E) reviewing menu and commodity utilization;

(F) coordinating nutrition education programs;

(G) providing ~~educational handouts~~ nutrition education and counseling, when appropriate, to ~~homebound~~ meal participants; ~~and~~

(H) monitoring perpetual inventory;

(I) documenting site recommendations for improvement;

(J) documenting on the date of the site visit the number of:

(i) reservations;

(ii) meals prepared;

(iii) meals served; and

(iv) leftovers; and

(~~H~~K) providing participants whose nutritional score is six or more on Form AG-2-A, Part I, Older Americans Act Assessment, page 3, Determine Your Nutritional Health, with individual consultation for:

(i) congregate meal participants, upon participant's approval; and

(ii) homebound meal participants, where feasible and upon participant's approval~~.~~;

(3) provide quarterly nutrition consultation, which includes:

(A) assessing food preferences; and

(B) preparing menus and documenting nutrition analysis to meet one third recommended dietary allowance for each meal; and

(~~3~~4) determine appropriate staffing patterns for each meal site in the project service area as specified in the AAA policy manual or Request for Proposal Application guide. AAAs are the final authority on appropriate staffing patterns in the Title III projects. ~~The guidelines include:~~

~~(A) determining the maximum staff hours per site by adding all hours for all positions in a given site;~~

~~(B) determining the maximum salary cost per site by multiplying the hours in each position by the corresponding allowable salary on the Aging Services Division (ASD) Nutrition Salary Schedule. The maximum allowable salary as specified on the ASD Nutrition Salary Schedule may not be exceeded using Title III funds;~~

~~(C) adding the corresponding allowable salaries to arrive at the total allowable project labor cost; and~~

~~(D) adding the maximum staff hours for each site to determine total allowable project staff hours. The maximum hours in a site may exceed allowables on ASD Staffing Guidelines For Nutrition Sites but any deviations and the resulting cost increases may not cause total project labor costs to exceed total allowable project labor costs.~~

(d) **Cross references.** See OAC 340:105-10-50.1(a)(4) and (7), 340:105-10-51, 340:105-10-68 through 340:105-10-71, 340:105-10-73 through 340:105-10-80, and 340:105-10-86.

PART 9. FISCAL AND ADMINISTRATIVE POLICIES FOR AREA AGENCIES ON AGING AND TITLE III PROJECTS

340:105-10-101. Request for proposal procedures

(a) **Policy.** All Older Americans Act pass through funds are awarded in an open, competitive, and fair manner via the request for proposals (RFP) process. Awards are made to applicants whose proposals include all components of the service(s) outlined in the RFP and who best meet the specifications of the RFP. The Area Agency on Aging (AAA) board of directors is directly responsible for reviewing proposals and awarding funds. This responsibility may not be delegated. The board of directors may not award funds to the AAA or to another subdivision of the sponsoring agency under the auspices of the same board of directors. The board of directors may not award funds to board members or the agencies or organizations they represent. Awarding funds through the RFP process during the plan year is required when:

(1) funds are allocated to the AAA at the beginning of the fiscal year;

(2) there is significant expansion of a service(s) already funded;

(3) funding a new service(s); or

(4) funding of an existing service is transferred from a defunct or terminated grantee.

(b) **Authority.** The authority for this Section is Part 1321.11 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** The requirements for implementing this Section are outlined in this subsection.

(1) To initiate RFP, the AAA:

(A) develops specifications for each service to be procured which clearly define the service and how units of service are measured. ~~Such specifications include and make reference to general and service specific standards outlined in paragraph (7) of this subsection.~~ The specifications ~~also~~ include the minimum units of services to be provided, the minimum unduplicated number to be served, and geographic service areas as appropriate;

(B) develops an RFP guide, grant application package, based on the State Agency standard format;

(C) submits a proposal guide to the State Agency for approval at least 30 days prior to the announcement of availability of funds as outlined in (1)(D) of this subsection;

(D) announces the availability of funds ~~in the legal journal section of~~ and documents the announcement in newspapers in the planning and service area (PSA)~~;~~, and concurrently sends a news release to the editor of at least three newspapers and to existing and potential service providers known to the AAA in the PSA.

(i) The announcement runs at least two times in daily papers or two weeks in weekly papers prior to the closing of the application period and in a sufficient number of papers to ensure complete coverage within the PSA.

(ii) The announcement begins at least 21 calendar days prior to the closing of the application period and is repeated at least once no less than five calendar days prior to the date of the proposers' conference.

(iii) All announcements include:

(I) a listing of services for which funding is available and the geographic areas that must be covered for each service;

(II) the address at which service specifications and proposal guide may be obtained;

(III) the closing date and time for application submittal;

(IV) the name and telephone number of a person to contact for additional information; and

(V) the date, time, and location of the proposers' conference, and notification that attendance at the conference is required in order to be considered for funding;

(E) makes proposal guides available for pick up at the AAA office;

(F) mails copies of the proposal guide upon request;

(G) conducts a conference for proposers prior to the deadline for submitting applications and requires applicants to attend the conference in order to be considered for funding;

(H) provides other reasonable technical assistance to applicants who request assistance, in writing, no later than seven calendar days prior to the closing of the application period; and

(I) at the close of the application period, evaluates and rates all proposals according to standard criteria based on requirements of the proposal guide. The AAA disqualifies incomplete proposals from evaluation and funding.

(2) The AAA advisory council reviews the proposals and makes recommendations on funding to the AAA board of directors. All decisions related to funding recommendations are conducted in accordance with applicable state and federal conflict of interest laws. The advisory council review is conducted during a scheduled meeting with a quorum present.

(3) The AAA board of directors:

(A) or a subcommittee of the board, reviews all proposals and the recommendations of the AAA staff and advisory council;

(B) approves funding of proposals that best meet or exceed the service specifications and the requirements of the proposal guide. All decisions related to granting awards are made in accordance with applicable state and federal conflict of interest laws, and documented through signed resolutions and minutes of meetings. All decisions are acted on as a board with at least a quorum present at a meeting. The AAA board of directors may not delegate its responsibilities related to granting awards;

(C) issues notification of grant awards (NGAs) to applicants who are approved for funding.

(i) The AAA submits to the State Agency for approval all proposed funding awards to for-profit, full-service providers at least 21 days prior to the scheduled issue of NGAs.

(ii) This rule does not apply to public or not-for-profit providers who subgrant or contract with a for-profit entity for a component(s) of the full Title III service, such as a for-profit food service; and

(D) provides an opportunity for appeal to applicants whose proposals for funding are denied, per OAC 340:105-10-102.

(4) If no complete proposals are submitted for a service(s) or if the AAA board of directors determines that no proposals for a service(s) meet the specifications of the RFP, the AAA, with State Agency approval, has the option of:

(~~i~~A) reprogramming the funds and issuing a new RFP for a different service(s); or

(B) requesting authority to provide a direct service as provided in OAC 340:105-10-41; or

(~~ii~~C) revising the initial specifications for the same service(s) and reissuing a new RFP; and

(~~iii~~D) initiating community development activities to create a potential provider of the service(s) as specified in the RFP and, in the interim, requesting approval from the State Agency to temporarily provide the service as a direct service.

(d) **Cross references.** See OAC 340:105-10-40, 340:105-10-102, and 340:105-10-104(c)(7).

340:105-10-117. Employment policies and procedures

(a) **Policy.** Each Area Agency on Aging (AAA) and Title III project, or grantee, maintains a system of personnel administration approved by the grantor agency, and complies with all state and federal statutes.

(b) **Authority.** The authority for this Section is Sections 2 and 208 of the Inter-governmental Personnel Act of 1970 and Part 1321.11 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** The procedures for implementing this Section require the grantee agency to:

(1) recruit, select, and advance employees on their relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment~~;~~.

(A) The grantee agency promptly notifies the grantor agency of an AAA director or project director vacancy.

(B) The grantor agency monitors the grantee's ability to sustain the continuity of operation during any transition and ensures the vacancy is filled in a fair and equitable manner.

(C) The grantor agency may participate in the interview process for the AAA director or project director vacancy;

(2) provide equitable and adequate compensation to all employees;

(3) provide training to employees, as needed, to ensure quality performance;

(4) retain employees on the basis of the adequacy of their performance, separating from employment employees whose inadequate performance cannot be corrected;

(5) ensure fair treatment of applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, national origin, sex, religion, age, or disability and with proper regard for their privacy and constitutional rights as citizens. This fair treatment principle includes compliance with all federal equal employment opportunity and non-discrimination laws, such as Civil Rights Act and Americans with Disabilities Act;

(6) protect employees from coercion for partisan political purposes and prohibit employees from using their official authority for the purpose of interfering with or affecting the result of an election or a nomination for office;

(7) provide reasonable grievance procedures to applicants and employees and post the procedures in a public place; and

(8) develop personnel policies~~.~~ that include:

(A) work schedules;

(B) leave;

(C) compensation for overtime;

(D) employee code of conduct;

(E) disciplinary procedures;

(F) travel and reimbursement;

(G) benefits, such as insurance and retirement;

(H) training;

(I) political activity;

(J) recruitment, appointment, and advancement;

(K) appeal procedures;

(L) lobbying prohibition;

(M) Civil Rights Act requirements;

(N) Rehabilitation Act and Americans with Disabilities Act requirements;

(O) nepotism regarding related employees and grantor or contractor prohibitions; and

(P) Family and Medical Leave Act of 1993.

(d) **Cross references.** See OAC 340:105-10-~~118~~ 120 through 340:105-10-122.

340:105-10-118. Recruitment of Area Agency on Aging or Title III project personnel [REVOKED]

~~(a) **Policy.** New or vacant Area Agency on Aging (AAA) or Title III project positions are filled using an open and equitable recruitment process which meets all state and federal statutes.~~

~~(b) **Authority.** The authority for this Section is Part 1321.11 of Title 45 of the Code of Federal Regulations.~~

~~(c) **Procedures.** Requirements for implementing this Section are outlined in (1) through (6).~~

~~(1) Current employees in the AAA or Title III project make application for new or vacant positions in the same manner as outside applicants, except in the case of an upgraded position.~~

~~(2) In the case of an upgraded position, the incumbent employee may fill the new position without going through the recruitment process if he or she meets the position qualifications.~~

~~(3) Positions are advertised at least one weekend. Advertisement for professional positions are placed in at least one major metropolitan newspaper for at least one weekend.~~

~~(4) Recruitment announcements include:~~

~~(A) position title;~~

~~(B) hours;~~

~~(C) education and experience requirements;~~

~~(D) salary range;~~

~~(E) Equal Opportunity Employer disclaimer; and~~

~~(F) closing date of announcement, as appropriate.~~

~~(5) Positions are advertised at least one additional weekend if the initial announcement yields fewer than five qualified applicants for the position. This requirement may be waived by the grantor agency upon receipt of a written justification from the grantee.~~

~~(6) The grantee makes demonstrable efforts to reach minority and disabled populations with position announcements, such as advertising in minority publications.~~

~~(d) **Cross references.** See OAC 340:105-10-117 and 340:105-10-119 through 340:105-10-122.~~

340:105-10-119. Selection of Area Agency on Aging and Title III project staff [REVOKED]

~~(a) **Policy.** The selection of Area Agency on Aging and Title III project employees is carried out in a fair and consistent manner.~~

~~(b) **Authority.** The authority for this Section is Part 1321.11 of Title 45 of the Code of Federal Regulations.~~

~~(c) **Procedures.** The requirements for implementing this Section are outlined in (1) through (8).~~

~~(1) The grantee agency promptly notifies the grantor agency of all vacancies.~~

~~(2) The grantee has written screening criteria for narrowing the field of applicants to those who are qualified and who will be interviewed. The grantee maintains documentation that reflects why each applicant was eliminated from consideration.~~

~~(3) The grantee interviews at least five of the eligible applicants for each position. This requirement may be waived by the grantor agency upon receipt of written justification from the grantee.~~

~~(4) The grantee appoints a selection committee of at least three individuals. Advisory Council members and board of directors members may serve on the selection committee.~~

~~(5) Each member of the selection committee is provided with copies of the resume or applications of those applicants who are to be interviewed, for review prior to the interview process.~~

~~(6) The selection committee interviews each candidate using a standardized format, questions, and ranking system. The grantor agency has the option of approving the format, questions, and ranking system prior to the interview process.~~

~~(7) The grantee agency selects an applicant who ranks among the top three interviewed candidates.~~

~~(8) The grantee agency may not underfill a position at a lower level within the same class except when the grantee agency demonstrates:~~

~~(A) there are not enough funds to support the higher level classification; or~~

~~(B) the agency is unable to recruit a qualified candidate for the vacant position at the higher classification level.~~

~~(d) **Cross references.** See OAC 340:105-10-117 through 340:105-10-118, and 340:105-10-120 through 340:105-10-122.~~

340:105-10-120. Area Agency on Aging and Title III ~~Project~~ project ~~position~~ job descriptions ~~(job specifications)~~

(a) **Policy.** Area Agencies on Aging (AAAs) and Title III ~~Projects shall~~ projects utilize ~~position~~ job descriptions ~~issued~~

~~or~~ approved by the ~~State Agency~~ grantee agency in the Area Plan or Request for Proposal Guide.

(b) **Authority.** The authority for OAC 340:105-10-120 is ~~45 CFR~~ Part 1321.11 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** The procedures for implementing this Section are ~~as follows:~~ outlined in this subsection.

(1) ~~Area Agencies~~ AAAs and Title III ~~Projects will utilize State Agency issued position descriptions for selection, training and evaluation of staff~~ projects develop their own job descriptions relevant to their local needs. Job descriptions meet minimum job descriptions set by the State Agency. Duties may be combined between multiple state job descriptions to meet local needs.~~; and~~

(2) ~~For positions not included in standard State Agency descriptions, the Area Agency or Title III Project shall develop a proposed description and submit the description to the State Agency for approval at least 30 days prior to its proposed implementation date (or as part of a grant application, as appropriate)~~ Except as otherwise specifically stated elsewhere for full-time AAA director, full-time nutrition project director, and 20 hours per week information and assistance specialist, AAAs and Title III projects determine the number of positions and types of positions based on local need.

(d) **Cross references.** See OAC 340:105-10-117 ~~through 340:105-10-119~~, 340:105-10-121, and 340:105-10-122.

340:105-10-121. Area Agency on Aging and Title III project salary schedules

(a) **Policy.** Area Agencies on Aging (AAAs) and Title III projects ~~utilize salary schedules issued or approved by the State Agency~~ develop competent staff to perform programmatic and financial duties based on local needs and market value, provided persons with comparable job family descriptors (JFDs) may not be paid more than the midpoint of a JFD paid within the salary cap set by the State Agency. The total administration costs charged to the Title III grant may not exceed the maximum provided in federal law.

(b) **Authority.** The authority for this Section is Part 1321.11 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** The requirements for implementing this Section are outlined in (1) through (3) of this subsection.

~~(1) The State Agency issues a standard salary schedule for AAA and selected Title III project positions.~~

~~(A) The salary schedule provides a minimum and maximum salary rate.~~

~~(B) The entrance salary for any position on the schedule is at the minimum salary, step one. The AAA or Title III project may submit a written request to raise the entrance salary for a particular position when the AAA or Title III project is able to document the AAA or Title III project is unable to recruit qualified candidates, or when a prospective employee has unusually high qualifications. Such special entrance rates may not exceed the third step of the salary schedule.~~

~~(C) A current employee may be hired to a different position. When the employee accepts a position in:~~

~~(i) the same grade, the salary is the employee's current step before the transfer;~~

~~(ii) a higher grade, the salary is the closest step on the salary schedule to the employee's current step before the transfer plus one step. If the position transfer results in an increase above one step, the third step of the salary schedule may not be exceeded; or~~

~~(iii) a lower grade, the salary is the step where the employee's current salary before the transfer is not exceeded. The third step of the salary schedule may not be exceeded.~~

~~(D) Salary advancements of one step annually may be paid from grant funds on employment anniversary dates and at 12 month intervals thereafter. Salary advancements are based on acceptable work performance, as evidenced by continued employment with the AAA or Title III project. The grantor or grantee agency may disapprove salary advancements due to funding limitations or uncertain allocation levels.~~

~~(E) Longevity payments may be made to all AAA and Title III project employees who have two or more years continuous service and work at least 86 hours per month. Longevity is paid in the month following the employee's annual employment anniversary date, in a lump sum, beginning with anniversary dates of October 1, 1988. Employees who terminate their employment before their anniversary date receive the pro rata portion of their budgeted longevity payment for the year. Payment is based upon the number of years of service according to the State Longevity Pay Schedule for Area Agencies on Aging and Projects.~~

~~(F) The grantee agency may pay AAA or Title III project staff at rates higher than the rates allowed under the State Agency issued salary schedule. Any amount paid by the grantee agency above the allowed rate is entirely at the expense of the sponsoring agency, and is not considered an allowable local match for grant funds.~~

(~~2~~1) AAAs and Title III projects ~~utilize State Agency issued salary schedules for preparation of budgets in grant or contract applications and for hiring additional staff during the project year~~ determine starting salary for positions based on local needs and market value, provided persons with comparable JFDs may not be paid more than the midpoint of the salary range paid by the State Agency for the JFD most like the job in question being done by the AAAs or Title III projects.

~~(3) For positions not included in the State Agency issued salary schedule, the AAA or Title III project develops a proposed salary with justification and submits the proposed salary to State Agency for approval.~~

(2) Salary advancements are based on acceptable work performance, as evidenced by continued employment with the AAA or Title III project. The AAA may disapprove

salary advances of its grantees due to uncertain funding allocations or funding levels. The State Agency may disapprove salary advances of AAAs that it believes may cause the AAA to exceed the maximum administrative cost allowed in federal law.

(3) Longevity payments may be made to all AAA and Title III employees who have two or more years continuous service and work at least 86 hours per month. Longevity is paid in the month following the employee's annual employment anniversary date, in a lump sum, beginning with anniversary dates of October 1, 1988. Employees who terminate employment before their anniversary date receive the pro rata portion of their budgeted longevity payment for the year. Payment is based upon the number of years of service according to the State Longevity Pay Schedule for AAAs and Title III projects.

(d) **Cross references.** See OAC 340:105-10-117, ~~through~~ 340:105-10-120, and 340:105-10-122.

340:105-10-122. Fair labor practices for Area Agencies on Aging and Title III projects

(a) **Policy.** Area Agencies on Aging and Title III projects comply with fair labor practices as outlined in applicable state and federal statutes.

(b) **Authority.** The authority for this Section is Part 1321.11 of Title 45 and Part 553.20 of Title 29 of the Code of Federal Regulations.

(c) **Procedures.** The requirements for implementing this Section are outlined in (1) through (~~9~~10) of this subsection.

(1) ~~Employees are~~ An employee is compensated for hours worked at ~~their~~ the appropriate wage unless ~~they are~~ the position is an exempt ~~positions that include~~ executive, administrative, or professional ~~positions~~ position.

(2) ~~Employees~~ An employee may not perform volunteer activities for ~~their~~ an employer that are the same or similar to ~~their~~ the employee's job duties. Such activities are compensated as hours worked.

(3) ~~Employers are~~ The employer is responsible for:

(A) assigning employee work hours and supervising employee start and end times~~.~~; ~~Employers are responsible for~~ and

(B) compensating the employee for all hours the supervisor assigns to the employee and has reasonable knowledge that the employee works.

(4) ~~Non-exempt employees~~ A non-exempt employee who ~~are~~ is full-time ~~are~~ is given at least a 30 minute uninterrupted break from compensated work time for a meal. ~~Employees are~~ An employee is offered a 15 minute break during compensated work time for every four hour period worked. Break time is considered compensated work time and may not be used for arriving late, leaving early, or extending the lunch period.

(5) ~~Non-exempt employees~~ A non-exempt employee of a public agency who ~~work~~ works in excess of 40 hours within a seven day work period ~~are~~ is compensated with one and one-half hours of compensatory time per hour of overtime or paid at a rate of one and one-half times ~~their~~ the hourly wage for each hour of overtime. A public agency is a state, political subdivision of a state, or interstate governmental agency.

(6) ~~Non-exempt employees~~ A non-exempt employee of a private agency who ~~work~~ works in excess of 40 hours within a seven day work period ~~are~~ is compensated with one and one-half hours of pay at a rate of one and one-half times ~~their~~ the hourly wage for each hour of overtime. A private agency may not replace overtime in one work week with compensatory time in another week.

(7) All overtime is approved in advance by the employee's supervisor. The supervisor may adjust the employee's regular work schedule to avoid having the employee work in excess of 40 hours in a seven day work period. Employee work shifts may exceed eight hours per day.

(8) Employers of public agencies require ~~employees~~ the employee to use compensatory time within 180 days, or pay the employee at the appropriate overtime rate.

(9) ~~Employees~~ An employee who ~~fail~~ fails to adhere to ~~their~~ assigned working hours, ~~do~~ does not keep accurate time sheets, or ~~claim~~ claims unauthorized overtime ~~are~~ is subject to disciplinary action by ~~their~~ the employer, which could result in ~~the~~ termination of ~~their~~ employment.

(10) Employers who base employees out of their own homes do not give out the employee's home telephone number to the general public. Arrangements are made to have a telephone number at a convenient location for the ~~worker~~ employee to take calls. An emergency response telephone number and procedure are established to avoid having persons contacting employees during non-working hours. ~~Employees report~~ The employee reports to ~~their~~ the employer all contacts during non-working hours that are business related.

(d) **Cross references.** See OAC 340:105-10-117, ~~through~~ 340:105-10-120, and 340:105-10-121.

[OAR Docket #05-538; filed 4-6-05]

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

[OAR Docket #05-540]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 3. Licensing Standards for Child Care Facilities
Part 1. Requirements for Child Care Centers
340:110-3-29. [AMENDED]
Part 2. Requirements for Part-Day Children's Programs
340:110-3-49.5. [AMENDED]
Part 5. Requirements for Family Child Care Homes and Large Family Child Care Homes
340:110-3-86. through 340:110-3-87. [AMENDED]
Part 9. Requirements for Residential Child Care Facilities
340:110-3-154.5. [AMENDED]
340:110-3-163. [AMENDED]
Part 14. Requirements for School-Age Programs
340:110-3-239. [AMENDED]

Subchapter 5. Requirements for Child-Placing Agencies
Part 5. Requirements for Foster Family Homes
340:110-5-57. [AMENDED]
(Reference APA WF 04-11 and 04-12)

AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; Oklahoma Child Care Facilities Licensing Act, Sections 401 et seq. of Title 10 of the Oklahoma Statutes; Sections 1247 et seq. of Title 21 of the Oklahoma Statutes, Smoking in Public Places and Indoor Workplaces Act; and Senate Bill (SB) 1224.

DATES:
Comment period:
December 15, 2004 through January 14, 2005
Public hearing:
None requested.
Adoption:
January 25, 2005
Submitted to Governor:
January 25, 2005
Submitted to House:
January 25, 2005
Submitted to Senate:
January 25, 2005
Gubernatorial approval:
March 9, 2005
Legislative approval:
Failure of the Legislature to disapprove the rule(s) resulted in approval on March 31, 2005.
Final adoption:
March 31, 2005
Effective:
May 12, 2005

SUPERSEDED EMERGENCY ACTIONS:
Superseded rules:
Subchapter 3. Licensing Standards for Child Care Facilities
Part 5. Requirements for Family Child Care Homes and Large Family Child Care Homes
340:110-3-86. [AMENDED]
Part 9. Requirements for Residential Child Care Facilities
340:110-3-163. [AMENDED]
(Reference APA WF 04-11)
Gubernatorial approval:
August 9, 2004
Register publication:
22 Ok Reg 35
Docket number:
04-1275
Superseded rules:
Subchapter 3. Licensing Standards for Child Care Facilities
Part 1. Requirements for Child Care Centers
340:110-3-29. [AMENDED]
Part 2. Requirements for Part-Day Children's Programs
340:110-3-49.5. [AMENDED]
Part 5. Requirements for Family Child Care Homes and Large Family Child Care Homes
340:110-3-87. [AMENDED]
Part 9. Requirements for Residential Child Care Facilities
340:110-3-154.5. [AMENDED]
Part 14. Requirements for School-Age Programs
340:110-3-239. [AMENDED]
Subchapter 5. Requirements for Child-Placing Agencies
Part 5. Requirements for Foster Family Homes
340:110-5-57. [AMENDED]
(Reference APA WF 04-12)
Gubernatorial approval:
August 9, 2004
Register publication:
22 Ok Reg 28
Docket number:
04-1276

INCORPORATIONS BY REFERENCE:
n/a

ANALYSIS:
The revisions to Subchapters 3 and 5 of Chapter 110 bring child care licensing requirements into compliance with: (1) the Smoking in Public Places and Indoor Workplaces Act, Sections 1247 et seq. of Title 21 of the Oklahoma Statutes, effective September 1, 2003; and (2) SB 1224, effective March 31, 2004.

340:110-3-86 and 340:110-3-163 are amended to include language to restrict smoking and prohibit drug usage and paraphernalia.

340:110-3-29, 340:110-3-49.5, 340:110-3-87, 340:110-3-154.5, 340:110-3-239, and 340:110-5-57 are amended to include language to require compliance with state law when children are transported by a licensed child care facility.

CONTACT PERSON:
Dena Thayer, Programs Manager, Policy Management Unit, DHS, 2400 N. Lincoln Blvd., Oklahoma City, OK 73105, 405-521-4326.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2005:

SUBCHAPTER 3. LICENSING STANDARDS FOR CHILD CARE FACILITIES

PART 1. REQUIREMENTS FOR CHILD CARE CENTERS

340:110-3-29. Transportation

(a) **Center responsibility.** When transportation, including field trips, is provided by paid staff or volunteers, all requirements regarding transportation are met.

(1) The vehicle and operator of a vehicle used to transport children are in compliance with all applicable state laws.

(2) Written permission from parents or guardian for transportation of their child is on file at the center.

(3) Parents receive prior notification of each field trip. Written parental permission is only required for participation in swimming and other potentially dangerous activities, in accordance with OAC 340:110-3-25.2(c)(5).

(4) Supervision of the children begins at the designated pick-up time.

(5) The driver is responsible for leaving the child only with the person or school designated by the parent. Written instructions and approval from the parent for such a plan is required.

(b) **Driver qualifications.** All drivers, including volunteers:

(1) are at least 18 years old and have an operator's license of the type appropriate for the vehicle that is valid in the driver's state of residence; and

(2) have no conviction of driving under the influence of alcohol or drugs or other impaired driving offense within the last three years.

(c) **Staff-child ratios.** ~~Staff-child ratios are listed in this subsection.~~

(1) When transporting children who are younger than four years of age, proper staff-child ratios are maintained without counting the driver. ~~However, centers~~ Centers

with only one staff person, or who transport one or two children, may provide transportation locally without a second staff person.

(2) For children four years old and older, the driver may be counted toward meeting the staff-child ratio.

(d) **Procedure.** Requirements pertaining to transportation procedure are listed in this subsection.

(1) A schedule showing accurate route and itinerary is planned and kept at the center to show approximately where the vehicle is at all times. If the vehicle is equipped with a mobile communication system, route information is not required.

(2) The driver is provided with:

(A) a copy of the scheduled route;

(B) the name, address, and telephone number of the child care center;

(C) names of children being transported; and

(D) a method to contact the children's parents in case of an emergency.

(3) Safe conduct to and from all vehicles and safe off-street loading space is provided to protect children from:

(A) backing vehicles~~,~~;

(B) ~~from~~ being between vehicles~~,~~; and

(C) ~~from~~ all traffic hazards.

(4) Attendance is checked each time children board and exit the vehicle.

(5) Children are not permitted to ride more than 60 minutes one way. Exceptions for a special field trip may be allowed, but these exceptions are infrequent, and allowance is made for rest and stretch stops during the trip.

(6) Children remain seated while the vehicle is in motion, and no part of a child's body extends from windows.

(7) Vehicles containing children are never left unattended.

(8) The use of tobacco products is prohibited while children are ~~being~~ transported.

(e) **Passenger restraints.** Children who are ~~being~~ transported in a passenger car, stationwagon, van, bus, or truck are properly secured in a child passenger restraint system (car seat) or individual seat belt. Buses with a capacity of ten or more passengers that meet state and federal requirements for school buses are exempt from this requirement.

(1) ~~When transported in a seat equipped with a shoulder belt, children who have not entered kindergarten and weigh less than 60 pounds are properly secured in a child passenger restraint system, such as a car seat or booster seat.~~ Children ~~who have entered kindergarten and older~~ are ~~protected by use of a car seat, booster seat, or individual seat belt~~ transported in compliance with applicable state law. [47 O.S. § 11-1112]

(2) The car seat is:

(A) federally approved;

(B) installed according to the manufacturer's instructions;

(C) appropriate to the height, weight, and physical condition of the child, according to the manufacturer's instructions; and

(D) properly maintained.

(3) Each seat belt is properly anchored to the vehicle and fits snugly across ~~children's~~ the child's hips or securely anchors the car seat.

(4) All adult passengers, except those in a full-size school bus, and the driver are properly secured by seat belts unless the driver or passenger has written verification from a doctor licensed in Oklahoma that the individual is unable to use a seat belt for medical reasons.

(5) Children 12 years of age and younger or under five feet in height are prohibited from sitting in the front seat of a passenger vehicle.

(f) **Vehicle requirements.** Any vehicle used to transport children complies with the requirements listed in this subsection.

(1) The vehicle's maximum seating capacity is not exceeded. Maximum seating capacity of the vehicle is based on the manufacturer's designated seating capacity for children or on a minimum of 13 inches of seating space per child.

(2) All passengers are able to sit comfortably in a stationary padded seat with a back that is properly anchored to the vehicle.

(3) Vehicles used to transport children are maintained in a clean, safe, operating condition, free of hazardous objects or other nonessential items that could injure children.

(4) Children are not transported in vehicles or parts of vehicles ~~which~~ that were not designed for the purpose of transporting people, ~~for example,~~ such as truck beds, campers, and trailers.

(5) When transporting children, vehicles, with the exception of public transportation, are visibly marked with the name of the facility or sponsoring organization.

(6) Each vehicle operated by a center for transportation of children has door locks. The driver is responsible for keeping the doors locked when the vehicle is moving.

(7) The transporting vehicle is covered by medical and liability insurance as required by Oklahoma laws.

(8) A vehicle used to transport children has an operable heater that is capable of maintaining a temperature of 50 degrees Fahrenheit in the vehicle, and a ventilation system.

(9) A first aid kit described in OAC 340:110-3-27(h) is taken on each field trip.

PART 2. REQUIREMENTS FOR PART-DAY CHILDREN'S PROGRAMS

340:110-3-49.5. Transportation

(a) **Program responsibility.** ~~Whenever~~ When transportation, including field trips, is provided by paid staff or volunteers, all requirements regarding transportation shall be met.

(1) The part-day children's program (program) shall ensure that the vehicle and operator of a vehicle used to transport children are in compliance with all applicable state laws.

(2) The program shall have on file written permission from parents or guardian for transportation of their child.

(3) Parents shall receive prior notification of each field trip. Written parental permission is only required for participation in swimming and other potentially dangerous activities, ~~[See also~~ in accordance with OAC 340:110-3-49~~]~~.

(4) The program shall be responsible for supervision of the children beginning at the designated pick-up time.

(5) The driver is responsible for leaving the child only at the designated drop-off point or with the person designated by the parent. The program shall obtain written instructions and approval from the parent for such a plan.

(b) **Driver qualifications.** All drivers, including volunteers, shall be at least 18 years old and have an operator's license of the type appropriate for the vehicle that is valid in the driver's state of residence.

(c) **Staff-child ratios.** Staff-child ratios specified in this ~~paragraph~~ subsection shall be met.

(1) When transporting children ~~under~~ younger than four years of age, proper staff-child ratios shall be maintained without counting the driver. ~~However, local~~ Local transportation may be provided for children without a second staff person when:

(A) a program has only one staff person;

(B) ~~when~~ only one or two children ~~will be~~ are transported; or

(C) no more than four children, who are at least two years of age, are ~~being~~ transported.

(2) For children four years old and ~~above~~ older, the driver may be counted toward meeting the staff-child ratio.

(d) **Procedure.** Requirements pertaining to transportation procedure contained in this subsection shall be met.

(1) A schedule showing accurate route and itinerary shall be planned and kept at the program to show approximately where the vehicle is at all times.

(2) The driver shall be provided with:

(A) a copy of the scheduled route;

(B) the name, address, and telephone number of the ~~part-day~~ program;

(C) names of children being transported; and

(D) a method to contact the children's parents in case of an emergency.

(3) Safe conduct to and from all vehicles and safe off-street loading space shall be provided so that the children are protected from:

(A) backing vehicles~~,~~;

(B) ~~from~~ being between vehicles~~,~~; and

(C) ~~from~~ all traffic hazards.

(4) Attendance shall be checked ~~whenever~~ each time children ~~are boarding~~ board and ~~exiting~~ exit the vehicle.

(5) Children shall not ride more than 60 minutes one way except for field trips.

(6) Children shall remain seated while the vehicle is in motion, and no part of a child's body may extend from windows.

(7) Vehicles containing children shall never be left unattended.

(8) The use of tobacco products is prohibited while children are ~~being~~ transported.

(e) **Passenger restraints.** Children ~~who are being~~ transported in a passenger car, ~~station wagon~~ stationwagon, van, bus, or truck shall be properly secured in a child passenger restraint system (car seat) or seat belt. ~~However, buses~~ Buses with a capacity of ~~10~~ ten or more passengers that meet state and federal requirements for school buses are exempt from this requirement.

(1) Children ~~under two years of age shall be secured in a car seat. However, a car seat is recommended for children up to four years of age~~ are transported in compliance with applicable state law. [47 O.S. § 11-1112]

(2) The car seat shall be:

(A) federally approved;

(B) installed according to the manufacturer's instructions;

(C) appropriate to the height, weight, and physical condition of the child according to the manufacturer's instructions; and

(D) properly maintained.

(3) Children ~~under the age of~~ younger than four years shall be properly secured in a rear seat of the vehicle.

(4) Each seat belt shall be properly anchored to the vehicle and fit snugly across ~~children's~~ the child's hips.

(5) All adult passengers, except those in a full-size school bus, and the driver shall be properly secured by seat belts unless the driver or passenger has written verification from a doctor licensed in this state that ~~her~~ he or she is unable to use a seat belt for medical reasons.

(f) **Vehicle requirements.** All vehicles used to transport children shall meet the requirements contained in this subsection.

(1) A vehicle shall not be used to transport children in excess of the maximum seating capacity. ~~(The maximum~~ Maximum seating capacity of the vehicle is based on the manufacturer's designated seating capacity for children or on a minimum of 13 inches of seating space per child.~~)~~

(2) All passengers shall be able to sit comfortably in a stationary padded seat with a back that is properly anchored to the vehicle.

(3) Vehicles used to transport children shall be maintained in a clean, safe~~-~~, operating condition, free of hazardous objects or other non-essential items which could injure children if thrown about as a result of a collision.

(4) Children shall not be transported in vehicles or parts of vehicles ~~which~~ that were not designed for the purpose of transporting people, ~~e.g.,~~ such as truck beds, campers, and trailers.

(5) Each vehicle shall have door locks~~,~~. ~~and doors~~ Doors shall be kept locked ~~whenever~~ when the vehicle is moving.

(6) The transporting vehicle shall be covered by medical and liability insurance as required by Oklahoma laws.

(7) A first aid kit as described in OAC 340:110-3-49.3(h) shall be taken on each field trip.

(8) In addition, vehicles owned by the program shall:

(A) be visibly marked with the name of the facility or sponsoring organization; and

(B) have an operable heater, capable of maintaining a temperature of 50 degrees ~~F.~~ Fahrenheit in the vehicle, and a ventilation system.

PART 5. REQUIREMENTS FOR FAMILY CHILD CARE HOMES AND LARGE FAMILY CHILD CARE HOMES

340:110-3-86. Home environment

(a) **Physical conditions.**

(1) **Accessibility to licensing staff.** All areas of the home are accessible to licensing staff.

(2) **Indoor space.** There is minimum indoor space available for child care of not less than 35 square feet per child exclusive of hallways, bathrooms, kitchen, and space not intended for children's use.

(3) **Maintenance.** The home is in a good state of repair and maintained in a clean and sanitary condition.

(4) **Toilet facilities.** The home has a sink with hot and cold running water and an operable toilet available for children's use.

(5) **Hazards.** The premises are free of hazards, indoor and out.

(A) All medicines, cleaning products, hazardous items, and smoking materials are inaccessible to children.

(B) The premises are free of illegal drugs and paraphernalia.

(~~B~~C) Clear glass doors are plainly marked at the child's eye level to avoid accidental impact.

(~~C~~D) All stairways with four or more steps have railings. Indoor stairways are made inaccessible when infants and toddlers are in care.

(6) **Weapons.** All weapons are stored unloaded in a locked container, cabinet, or closet. Ammunition is stored in a locked area separate from weapons.

(7) **Trampolines.** The use of trampolines by children in care is prohibited.

(8) **Lighting~~/~~ and ventilation.** Rooms used by children are well-lighted and ventilated.

(9) **Tobacco products.** When children are in care, smoking is prohibited inside the home and in the presence of children. Other tobacco products are not used in the presence of children or in areas designated for children's use. Parents are informed upon enrollment of the presence of smokers in the home.

(10) **Indoor temperature.** The indoor temperature is maintained between 65 and 85 degrees ~~F~~ Fahrenheit.

(11) **Screens.** When windows or doors are kept open, screens are maintained to minimize the entry of insects.

(12) **Outdoor play area.** There is an outdoor play area of not less than 75 square feet per child. This area must be hazard free, away from traffic, water, and other dangers. A fence beginning at ground level that is in good repair is required in most instances~~;~~. ~~however, the~~ The Oklahoma Department of Human Services (OKDHS) may grant an exception when the safety of children can be assured.

(13) **Fire safety.** The home complies with all fire safety requirements. [OAC 340:110-3-97]

(14) **Water supply and waste disposal.** Water supply, sewage disposal, and solid waste disposal meet local city ordinances and Oklahoma Department of Environmental Quality ~~(DEQ)~~ regulations.

(15) **Water testing.** When not on a public water supply, water is tested initially for lead and annually for bacteria and nitrates.

(16) **Questionable conditions.** If the fire, safety, or health conditions are questionable, the appropriate state or local agency is requested to inspect the home.

(b) **Water safety.**

(1) **Supervision.** Any play activity ~~which~~ that involves water is supervised constantly.

(2) **Accessibility of ponds, pools, and hot tubs.** No ponds, pools, or hot tubs are left accessible to children.

(3) **Fencing.** Pools are fenced to prevent unsupervised access. All doors and gates leading to the pool are locked. There is:

(A) a sturdy fence at least four feet high that cannot be easily climbed; or

(B) a fence which connects to the top of an above-ground pool and extends two feet above the pool.

(4) **Wading pools.** The use of portable wading pools is prohibited.

(5) **Swimming.** In accordance with state law, swimming pools used by the child care home are considered public bathing places and must be in compliance with the water quality, occupancy, and fencing standards in Design Standards and Operational Criteria for Public Bathing Places, ~~OSDH~~ Oklahoma State Department of Health Engineering Bulletin. This includes wading pools, ~~in-ground~~ inground pools, and above-ground pools. When children swim in a pool:

(A) the caregiver is at or in the water and is appropriately dressed to enter the water at any time; and

(B) a person with a Community Water Safety Certificate or a comparable certificate as approved by ~~DHS~~ OKDHS is in attendance at all times.

(6) **Restrictions.** ~~The restrictions which are complied with are contained in (A)-(B) of this paragraph.~~

(A) The use of hot tubs by ~~child-care~~ children in care is prohibited. The hot tub must be equipped with a hard cover.

(B) Swimming and wading is not permitted at a lake, pond, or other body of water.

(c) **Animals and household pets.** ~~The requirements pertaining to animals are listed in (1)-(9) of this subsection.~~

(1) Potential patrons are advised of the presence of animals.

(2) Animals are in good health, do not show evidence of carrying disease, are friendly toward children, and do not present a threat to the health, safety, and well-being of children.

(3) There is documentation of rabies vaccinations administered by a licensed veterinarian for dogs and cats kept on the premises.

(4) Ferrets, turtles, and any wild or dangerous animals are kept in an area that is inaccessible to children.

(5) Reptiles such as crocodiles, alligators, poisonous snakes and lizards, pythons, and boa constrictors are not kept on the premises.

(6) Animals are restricted from areas where food is ~~being~~ prepared or served and from children's sleeping surfaces.

(7) Animal litter boxes are not located in food preparation areas and are not easily accessible to children in other areas of the home.

(8) Outdoor play areas are cleaned of animal waste before children play outside.

(9) If an animal bites a child and the skin is broken, the child's parent is contacted immediately. The licensing representative and the county or state ~~health~~ department of health are notified within 24 hours.

(d) **Emergency procedures.** The caregiver is familiar with emergency procedures.

(1) There is a planned source of medical care~~:~~, such as a hospital emergency room, clinic, or other medical facility or physician acceptable to parents.

(2) The caregiver has emergency transportation available.

(3) The home has an operable telephone ~~with the~~. Emergency information posted next to the telephone includes:

(A) address of the home; ~~and the following emergency numbers posted:~~

(B) physician or clinic~~,~~;

(C) fire department~~,~~;

(D) police department~~,~~;

(E) poison control, ~~(1-800-764-7661)~~ 1-800-222-1222; and ~~the~~

(F) substitute caregiver.

(4) First aid supplies ~~including~~ are available in the home but made inaccessible to children. Supplies include:

(A) a thermometer~~,~~;

(B) disposable nonporous gloves~~,~~;

(C) blunt-tipped scissors~~,~~;

(D) tweezers~~,~~;

(E) bandage tape~~,~~;

(F) sterile gauze~~,~~;

(G) non-medicated adhesive strips~~,~~;

(H) current standard first aid text or equivalent first aid guide; and

(I) syrup of ipecac ~~are available in the home but made inaccessible to children. Syrup of ipecac~~, which is:

(~~A~~i) ~~is~~ used as a vomiting agent only under direction of the poison control center or a physician~~.~~;

(~~B~~ii) ~~is~~ not used before checking the expiration date to ensure it has not expired~~.~~; and

(~~C~~iii) ~~is~~ labeled with the telephone number for the poison control center.

(5) Fire and tornado drills are conducted quarterly. ~~and a~~ A record ~~kept~~ of the drills is maintained at the home.

340:110-3-87. Transportation

(a) **Written permission.** The caregiver has written permission from the parent or guardian to transport children.

(b) **Verifications.** The person driving the vehicle is at least 18 years old and has a current driver's license~~, and the~~. The vehicle ~~has a current inspection sticker and~~ is covered by liability insurance.

(c) **Records.** The driver has the names of the children being transported and a method to contact the children's parents or guardians in case of an emergency.

(d) **Passenger restraints.** Children ~~under four years of age and weighing less than 60 pounds~~ are ~~properly secured in a child passenger restraint system, and children four years of age and older are protected by use of an individual car seat or seat belt~~ transported in compliance with applicable state law. [47 O.S. § 11-1112]

(1) The car seat is:

(A) federally approved;

(B) installed according to the manufacturer's instructions;

(C) appropriate to the height, weight, and physical condition of the child, according to the manufacturer's instructions; and

(D) properly maintained.

(2) Each seat belt is properly anchored to the vehicle and fits snugly across ~~children's~~ the child's hips or securely anchors car seats.

(e) **Supervision.** Children are not left unattended in the vehicle at any time.

PART 9. REQUIREMENTS FOR RESIDENTIAL CHILD CARE FACILITIES

340:110-3-154.5. Transportation

(a) **Vehicle requirements.** ~~Facilities~~ Residential child care facilities (facilities) comply with the vehicle requirements described in (1) – and (2) of this subsection. A vehicle used for transportation of residents:

(1) conforms to all applicable state motor vehicle laws and regulations~~.~~; and

(2) ~~A vehicle used for transportation of residents~~ is maintained in a safe operating condition.

(b) **Driver requirements.** Facilities comply with driver requirements described in (1) – and (2) of this subsection. The driver of a vehicle used for the purpose of transporting:

(1) possesses a valid driver's license appropriate for that type of vehicle~~.~~; and

(2) ~~The driver~~ does not transport more persons than the manufacturer's designated capacity ~~of~~ for the vehicle.

(c) **Safety practices.** Facilities comply with the safety practices described in ~~(1) – (4) of~~ this subsection.

(1) The interior of each vehicle is maintained in a clean, safe condition with clear passage to operable doors.

(2) Residents who are transported in a passenger car, ~~station wagon~~ stationwagon, van, bus, or truck are properly secured in a child passenger restraint system or seat belt. The facility has policies to ~~assure~~ ensure the safety of residents involved in farm and ranch work. Buses with a capacity of ~~10~~ ten or more passengers that meet state and federal requirements for school buses are exempt from this requirement.

(A) Children ~~under four years of age and weighing less than 60 pounds~~ are ~~properly secured in a child passenger restraint system, and children four and five years of age are protected by use of a car seat or seat belt~~ transported in compliance with applicable state law. [47 O.S. § 11-1112]

(B) The car seat is:

(i) federally approved;

(ii) installed according to the manufacturer's instructions;

(iii) appropriate to the height, weight, and physical condition of the child, according to the manufacturer's instructions; and

(iv) properly maintained.

(3) Each seat belt is properly anchored to the vehicle and fits snugly across the child's hips or securely anchors car seats.

(4) In accordance with state law, all adult passengers, except those in a full-size school bus, and the driver are properly secured by seat belts unless the driver or passenger has written verification from a doctor licensed in Oklahoma that the individual is unable to use a seat belt for medical reasons.

(5) Vehicles containing residents ~~under~~ younger than age 12 years are never left without adult supervision.

(d) **Transportation records.** Facilities maintain transportation records.

(1) The facility maintains on file the name of each driver who transports residents and a copy of ~~a~~ the valid driver's license for that person.

(2) ~~Insurance~~ In accordance with state law, insurance verification is kept in the vehicle used to transport residents ~~in accordance with state law~~.

(e) **Insurance.** If the facility's transportation services are provided by a private individual, a firm under contract, or by another arrangement, the facility maintains on file a copy of the individual's or firm's insurance coverage.

(f) **Emergency planning.** The facility has a plan for transporting residents in case of emergency.

340:110-3-163. Health regulations: Buildings, utilities, and grounds

The requirements in this Section apply to all residential child care facilities constructed after the effective date of these requirements. Licensed facilities in operation on the effective date of the requirements continue to comply with the construction and safety regulations applicable to the issuance of their license.

(1) **Building.** Buildings used to house residential child care facilities are structurally sound. Structures comply with the building code adopted by the Oklahoma State Fire Marshal Office, the plumbing code, mechanical code, and fuel gas code adopted by the Oklahoma State ~~Health~~ Department of Health and the latest editions of the American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE) Standards Numbers 55, 62, and 90.

(A) Exterior and interior surfaces are maintained in sound condition, free of holes, peeling paper, and paint.

(B) Windows and doors are in good repair, and free of broken glass or hazards.

(C) Floors are cleanable and in good repair.

(D) All uncovered floors, including concrete and wood floors, are sealed.

(2) **Premises.** The premises are maintained in accordance with the requirements listed in this paragraph.

(A) The premises are free of harborage for insects, rodents, and other vermin.

(B) Safe, effective measures are taken to minimize the presence of, and to protect against, the entry of vermin.

(C) The premises are otherwise maintained free of hazards to children.

(D) The premises are free of illegal drugs and paraphernalia.

(3) **Tobacco use.** The facility prohibits the use of any tobacco product by residents. Smoking is prohibited in buildings used by residents or in the presence of residents. The facility prohibits staff members from using tobacco products in the presence of residents or in any rooms used by residents.

(~~3~~4) **Screening.** Every window, exterior door, and hatchway or similar device is rodent proof and reasonably water tight and weather tight and is kept in working condition and good repair. During the portion of the year when there is a need for protection against mosquitoes, flies, and other flying insects, every door and window is provided with a 16-mesh, properly fitting screen. Air conditioned habitable areas are adequate to meet this requirement when properly operated unless vermin are able to enter to such extent that a nuisance or hazard is created.

(~~4~~5) **Ventilation.** Each habitable room has at least one window facing outdoors ~~which~~ that can be easily opened. Window area requirements meet requirements of the State Fire Marshal. Non-habitable areas, such as bathrooms and food preparation areas, may provide other approved ventilation systems in lieu of windows or skylights. ~~However, adequately~~ Adequately designed, maintained, and operated central heating and cooling systems are deemed to meet the ventilation requirements.

(~~5~~6) **Laundry.** Laundry areas are maintained in a clean, safe condition. Equipment is installed to meet safety requirements.

(~~6~~7) **Water supply.** The water supply is adequate, of a safe and sanitary quality, meets state quality standards,

and is approved by the Oklahoma Department of Environmental Quality.

(A) When not on a public water supply, such as well water, water meets local and state testing requirements and is tested annually.

(B) All areas where food is prepared or equipment, utensils, or containers are used have hot and cold water under pressure.

(~~7~~8) **Sewage disposal.** All sewage, including mop water, is disposed of in a public sewage system or, in its absence, in a manner approved by the Oklahoma Department of Environmental Quality.

(~~8~~9) **Plumbing.** Plumbing is sized, installed, and maintained in a safe manner and in accordance with the Oklahoma Plumbing License Act.

(A) Plumbing constructed after June 1, 1987, is installed in compliance with the International Plumbing ~~code~~ Code or applicable local ordinances.

(B) Any cross-connection between the potable water supply and any nonpotable or questionable water supply, or any source of pollution through which the potable water supply might become contaminated, is prohibited.

(C) Water closets, lavatories, bathtubs, and showers are properly connected to a water and sewer system approved by the OSDH health officer and in good working condition.

(D) Every lavatory basin and bathtub or shower is supplied with hot and cold water under pressure at all times.

(~~9~~10) **Electrical.** The electrical distribution system is sized, installed, and maintained in a safe manner and in accordance with the Oklahoma Electrical Licensing Act. Portions of the electrical system constructed, repaired, or replaced after June 1, 1987, are installed in compliance with the current National Electrical Code. Lighting is at least 20 foot candles at desk level.

(~~10~~11) **Garbage and rubbish disposal.** Prior to disposal, all garbage and rubbish containing food wastes or diapers are kept in leak-proof, non-absorbent containers and covered with tight-fitting lids when filled, stored, or not in continuous use.

(A) The containers are adequate for the storage of all food waste and rubbish accumulating on the premises.

(B) Each container is thoroughly cleaned when soiled.

(C) Garbage disposal units, if used, are of suitable construction and installed in compliance with state and local standards.

(D) All garbage and rubbish are disposed of frequently and in such a manner to prevent a nuisance.

(E) All hazardous material is disposed of properly.

(~~11~~12) **Swimming pools.** In accordance with state law, swimming pools used by children in a residential facility are considered public bathing places and must meet the requirements of the Design Standards and Operational Criteria for Public Bathing Places of ~~the Oklahoma State Department of Health~~ OSDH. This includes ~~in ground~~ inground and above-ground pools.

(A) If a private swimming pool is used, it then becomes a public pool and ~~meets~~ must meet the requirements of ~~the Oklahoma State Department of Health~~ OSDH.

(B) The use of wading pools is prohibited.

(C) A certified life guard or person having a current emergency water safety certificate with CPR and first aid is in attendance at all times when the pool is in use.

(~~12~~13) **Animals.** ~~The requirements pertaining to animals are listed in (A) - (F) of this subsection.~~

(A) Harboring animals on the premises is in accordance with local ordinances.

(B) Animals may be kept on the premises only when the health and safety of each animal and the residents can be reasonably assured.

(C) Animals with which residents have contact are maintained in a state of good health and are free of diseases communicable to humans.

(D) Dogs and cats kept on the premises are vaccinated annually by a licensed veterinarian.

(E) Areas of confinement are cleaned of excrement regularly. Animals are maintained in a visibly clean manner.

(F) The county or state ~~health~~ department of health is immediately notified if a resident ~~has been~~ is bitten by an animal.

PART 14. REQUIREMENTS FOR SCHOOL-AGE PROGRAMS

340:110-3-239. Transportation

(a) **Program responsibility.** When transportation, including field trips, is provided by paid staff or volunteers, all requirements regarding transportation for school-age programs (programs) are met.

(1) The vehicle and operator or a vehicle used to transport children are in compliance with all applicable state laws.

(2) Written permission from parents or guardian for transportation of their child is on file at the program.

(3) Parents receive prior notification of each field trip. Written parental permission is only required for participation in swimming and other potentially dangerous activities, in accordance with OAC 340:110-3-234.

(4) Supervision of the children begins at the designated pick-up time.

(5) The driver is responsible for leaving the child only at the designated drop-off point or with the person designated by the parent. Written instructions and approval from the parent for such a plan is required.

(b) **Driver qualifications.** All drivers, including volunteers:

(1) are at least 18 years old;

(2) have an operator's license that is valid in the driver's state of residence and of the type appropriate for the vehicle; and

(3) have no conviction of driving under the influence of alcohol or drugs or other impaired driving offense within the last three years.

(c) **Staff-child ratios.** The driver is counted toward meeting the 1:20 staff-child ratio when transporting children.

(d) **Procedure.** ~~Requirements pertaining to transportation procedure are contained in this subsection.~~

(1) A schedule showing accurate route and itinerary is planned and kept at the program to show approximately where the vehicle is at all times. When the vehicle is equipped with a mobile communication system, route information is not required.

(2) The driver is provided with:

(A) the name, address, and telephone number of the program;

(B) the names of the children being transported; and

(C) a method to contact the children's parents in case of an emergency.

(3) Safe conduct to and from all vehicles and safe off-street loading space is provided to protect children from:

(A) backing vehicles~~,~~;

(B) ~~from~~ being between vehicles~~,~~; and

(C) ~~from~~ all traffic hazards.

(4) Attendance is checked when children board and exit the vehicle.

(5) Children are not permitted to ride more than 60 minutes one way except for field trips.

(6) Children remain seated while the vehicle is in motion, and no part of a child's body extends from windows.

(7) Vehicles containing children are never left unattended.

(8) Use of tobacco products is prohibited while children are ~~being~~ transported.

(e) **Passenger restraints.** Children ~~who~~ are ~~being~~ transported in ~~a passenger car, station wagon, van, bus, or truck are properly secured by a seat belt~~ compliance with applicable state law. [47 O.S. § 11-1112] Buses with a capacity of ten or more passengers that meet state and federal requirements for school buses are exempt from this requirement. Seat belts fit snugly across ~~children's~~ the child's hips and are:

(1) federally approved;

(2) installed according to the manufacturer's instructions;

(3) appropriate to the height, weight, and physical condition of the child according to the manufacturer's instructions;

(4) properly maintained; and

(5) properly anchored to the vehicle.

(f) **Vehicle requirements.** Any vehicle used to transport children complies with the requirements listed in this subsection.

(1) The vehicle's maximum seating capacity is not exceeded. Maximum seating capacity of the vehicle is based on the manufacturer's designated seating capacity for children or on a minimum of 13 inches of seating space per child.

(2) All passengers are able to sit comfortably in a stationary padded seat with a back that is properly anchored to the vehicle.

(3) Vehicles used to transport children are maintained in a clean, safe, operating condition, free of hazardous objects or other nonessential items that could injure children.

(4) Children are not transported in vehicles or parts of vehicles ~~which~~ that were not designed for the purpose of transporting people, ~~for example,~~ such as truck beds, campers, or trailers.

(5) When transporting children, vehicles, with the exception of public transportation, are visibly marked with the name of the ~~facility~~ program or sponsoring organization.

(6) Each vehicle operated by a program for transportation of children has door locks. The driver is responsible for keeping the doors locked when the vehicle is moving.

(7) The transporting vehicle is covered by medical and liability insurance as required by Oklahoma law.

(8) A vehicle used to transport children has an operable heater, capable of maintaining a temperature of 50 degrees ~~F.~~ Fahrenheit in the vehicle, and a ventilation system.

(9) A first aid kit, in accordance ~~in~~ with OAC 340:110-3-237(h), is taken on each field trip.

SUBCHAPTER 5. REQUIREMENTS FOR CHILD-PLACING AGENCIES

PART 5. REQUIREMENTS FOR FOSTER FAMILY HOMES

340:110-5-57. Requirements for child-placing agencies

(a) **Agency responsibility.** A licensed child-placing agency (agency) retains legal responsibility for supervision, decision-making, and ensuring continuity of care. ~~and~~ The agency is responsible for certification of foster family homes to Division of Child Care (DCC) Licensing, on forms provided by the Oklahoma Department of Human Services (OKDHS) ~~which~~ that verify that they meet minimum requirements.

(1) **Criminal history investigations.** The agency shall conduct a criminal history investigation through the Oklahoma State Bureau of Investigation (~~O.S.B.I.~~ OSBI) for each member of the foster family who is 18 years of age or older~~.~~, ~~[Also see~~ in accordance with OAC 340:110-5-57(b)(2)(F)~~]~~.

(2) **Certification.** A copy of the certification is maintained in the foster family file.

(A) Certification of any foster family home applies only to the location of the residence at the time the home study is made.

(B) If the family moves, the agency shall certify the new location.

(3) **Policy.** The agency shall provide foster parents with agency policy relative to foster care.

(4) **Medical services.** The agency shall ensure that foster children receive appropriate medical services.

(5) **Case planning.** The agency is responsible for case planning.

(6) **Supervision.** The agency shall provide supervision at least once a month to each foster child, which includes private visits with the foster child and on-site visits to the home, to assess the continued suitability of the foster home environment.

(7) **Written agreement.** The agency shall have a written agreement with each foster family, and both the agency and foster parents shall have a copy of the agreement. The agreement includes:

(A) the financial agreement, if applicable, between the agency and the foster home;

(B) a statement that the foster home will not accept a non-relative child from any source other than through the child-placing agency without the approval of the certifying agency or provide child care on a regular basis;

(C) the agency's right to remove a foster child at its discretion;

(D) a statement that the foster child shall be discharged from foster care only with the consent of the agency;

(E) a statement that visitation by the child's parents or relatives shall be approved by the agency;

(F) agreements regarding absences of the child from the home, including respite care, as per agency policy;

(G) a statement from the foster parents agreeing to cooperate with agency staff in evaluating the foster home and in the ~~on-going~~ ongoing supervision of the foster home; and

(H) foster parents' agreement to contact the agency if a household member is alleged to have committed an act described in OAC 340:110-5-8(c)(6).

(8) **Grievance policy and procedure.** The agency shall have grievance policy and procedure for foster parents and children.

(b) **Foster family home certification.** Certification of the foster family home includes written documentation of:

(1) application for foster home certification which includes prior child care experience with other agencies; and

(2) documentation of:

(A) an initial tuberculin skin test, or chest x-ray if appropriate, of all household members;

(B) appropriate immunizations for the foster parents' children; ~~and~~

(C) a statement from a licensed physician certifying that all members of the household have had a physical examination by a licensed physician within one year prior to application and verifying that they are in good health and do not have a condition that would interfere with their ability to care for children;

(D) three non-relative written references who have knowledge of family functioning;

(E) a foster home study which shall be completed and current before the home is approved; and

(F) a criminal history investigation conducted by the ~~O.S.B.I.~~ OSBI for each household member who is 18 years of age or older~~.~~, ~~[Also see~~ per OAC 340:110-5-57(a)(1).~~]~~

(c) **Foster home study.** The agency shall prepare a written home study before approving a foster family home and prior to placement of a foster child in that home and at a minimum contain information listed in (1) – through (18) of this subsection. ~~Additionally, the~~ The home study shall be updated annually to include any significant change.

(1) **Interviews and home visits.** Interviews and home visits shall include documentation of at least:

(A) one separate interview with each parent, school-age child, and any other household member;

(B) one joint interview; and

(C) a home visit.

(2) **Household composition.** Information regarding household composition shall include each person residing in the home.

(3) **Criminal history investigation.** A criminal history investigation shall be conducted by the ~~O.S.B.I.~~ OSBI on any household member who is 18 years of age or older prior to initial approval of the home and when a new household member, age 18 and older, moves into the home.

(4) **Foster child preferred.** The foster home study shall include statements from the applicants regarding age, gender, and special needs of the foster child preferred.

(5) **Motivation, attitudes, and expectations.** The foster home study shall include motivation and attitudes toward foster care and expectations regarding foster children.

(6) **Health.** Health information shall include:

(A) the present physical health of each household member;

(B) the emotional stability of each household member;

(C) each household member's medical history; and

(D) any history of drug or alcohol use.

(7) **Family functioning.** The foster home study shall include information regarding family functioning.

(8) **Foster parents' marital status.** The foster home study shall include information regarding the marital status of the foster parents, such as present marital status, history of previous marriages or significant relationships, date of present marriage, and description of the marriage or relationship.

(9) **Employment.** The foster home study shall include the employment history of family members.

(10) **Financial information.** Financial information in the foster home study shall include documentation of annual income.

(11) **Education.** The study shall include information regarding the education of family members.

(12) **Religion.** Information regarding religion shall include the family's religious preference and practices.

(13) **Description of the home.** ~~Included in the~~ The description of the home ~~are~~ includes the:

(A) type of dwelling and a physical description; and

(B) location of the home and a description of the neighborhood.

(14) **Weapons and firearms.** The foster home study shall include the location of weapons and firearms, if any, and an explanation of safety precautions.

(15) **Transportation.** Information regarding transportation shall include:

(A) a statement regarding the family's means of transportation; and

(B) verification of:

(i) a valid driver's license for each family member who ~~would~~ will transport a foster child~~, current vehicle safety sticker,~~;

(ii) license tag ~~and~~;

(iii) insurance~~,~~; and ~~passenger restraint system(s)~~

(iv) a statement that all children and adults transported are in compliance with applicable state law. [47 O.S. § 11-1112]

(16) **Family history.** The study shall include information regarding family history, ~~such as~~ including:

(A) names of parents and siblings;

(B) dates and places of birth;

(C) physical health and mental stability;

(D) relationship with family members;

(E) social, cultural, and religious orientation; and

(F) information regarding their childhood including how they were disciplined.

(17) **Written references.** The foster home study shall include three written references from individuals who have information relative to the family's ability to provide foster care to include:

(A) name, address, and telephone number;

(B) when and how the individual became acquainted with the applicants;

(C) how often the person has contact with the family;

(D) information regarding family functioning; and

(E) opinions regarding personal qualities and ability to provide care for foster children.

(18) **Recommendation.** The foster home study shall include a recommendation regarding approval of the home. The recommendation is signed and dated by the person who conducted the home study and the child placement supervisor. If the recommendation is to approve the foster home, the recommendation shall contain the type of foster child and number of foster children for which the home is approved.

(d) **Foster parent training.** The agency provides and documents that each foster parent has received at a minimum:

(1) six hours of orientation or preservice training prior to approval of the foster home or placement of a child and includes at a minimum:

(A) organizational structure of the agency;

(B) agency policy;

(C) program philosophy;

(D) confidentiality;

(E) mandatory reporting of child abuse;

(F) grievance process;

(G) emergency medical procedures; and

(H) fire and disaster plans;

(2) six additional hours of training within the first calendar year of certification ~~which~~ that is relevant to the needs of the child placed in their care and is documented by the agency to include but is not ~~be~~ limited to:

(A) normal child development;

(B) behavior management;

(C) separation and loss; and

(D) infection control and injury prevention; and

(3) 12 hours of training each calendar year thereafter ~~which~~ that is relevant to foster parents' roles and responsibilities and may include workshops and video presentations.

[OAR Docket #05-540; filed 4-6-05]

TITLE 360. OKLAHOMA STATE AND EDUCATION EMPLOYEES GROUP INSURANCE BOARD
CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #05-613]

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Changes to Chapter 1 clarify definitions, conform rules to recent benefit changes, clarify language, and clarify existing plan exclusions.

CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JANUARY 1, 2006:

SUBCHAPTER 3. THE BOARD

360:1-3-11. Call monitoring for quality control

The Administrator may institute procedures for monitoring of ~~incoming~~ telephone calls for purposes of providing quality control.

360:1-3-12. Application of retiree benefit allowance

When calculating premium rates for the retired population, the Board shall first apply in whole or in part, benefit allowances funded by the retirement systems to offset costs projected for the pharmacy portion of the health insurance plan. Remaining amounts, if any, will then be applied toward the medical coverage premium.

[OAR Docket #05-613; filed 4-8-05]

TITLE 360. OKLAHOMA STATE AND EDUCATION EMPLOYEES GROUP INSURANCE BOARD
CHAPTER 10. STATE AND EDUCATION EMPLOYEES HEALTH, LIFE, AND DENTAL PLANS

[OAR Docket #05-614]

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Subchapter 3. Administration of Plans
360:10-3-2.1 [AMENDED]
360:10-3-3.5 [AMENDED]
360:10-3-7 [AMENDED]
360:10-3-13 [AMENDED]
360:10-3-20 [AMENDED]
360:10-3-22 [AMENDED]
360:10-3-24 [AMENDED]
360:10-3-25 [AMENDED]
360:10-3-26 [AMENDED]
360:10-3-28 [NEW]
Subchapter 5. Coverage and Limitations
Part 5. Life Benefits
360:10-5-30 [AMENDED]
360:10-5-32 [AMENDED]
360:10-5-33 [AMENDED]
Part 11. Medicare Supplement
360:10-5-79 [AMENDED]
Part 13. Coordination of Health and Dental Benefits
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Changes to Chapter 10 clarify definitions, conform rules to recent benefit changes, clarify language, and clarify existing plan exclusions.
CONTACT PERSON:
Gary Goff, Attorney, Assistant Administrator, (405) 717-8744

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JANUARY 1, 2006:

SUBCHAPTER 1. GENERAL PROVISIONS

360:10-1-1. Purpose

The purpose of this chapter is to outline definitions, plan administration, coverage, and exclusions pertaining to health, dental, vision and life benefits.

360:10-1-2. Definitions

The following words and terms as defined by the Insurance Board, when used in this chapter, shall have the following meaning, unless the content clearly indicates otherwise:

"Active employee" means an employee in the service of a participating entity who receives compensation for services actually rendered and is listed on the payrolls and personnel records of said employer, as a current and present employee, including employees who are otherwise eligible who are on approved leave without pay, not to exceed twenty-four [24] months. An education employee absent from employment, not to exceed eight [8] years, because of election or appointment as local, state, or national education association officer who

is otherwise eligible prior to taking approved leave without pay will be considered an eligible, active employee. A person elected by popular vote will be considered an eligible employee during his tenure of office. Eligible employees are defined by statute. [74 O.S. §1303 and §1315]

"Administrative error" occurs when the coverage elections the member makes are not the same as those entered into payroll for deduction from the member's paycheck. This does not include untimely member coverage elections or member misrepresentation. When such an administrative error results in underpaid premiums, full payment to the Board shall be required before coverage elected by the member can be made effective. If overpayment occurs, the Board shall refund overpaid funds to the appropriate party.

"Administrator" means the Administrator of the Oklahoma State and Education Employees Group Insurance Program or his designee.

"Attorney representing the Board" means any attorney designated by the Administrator to appear on behalf of the Board.

"Business Associate" shall have the meaning given to "Business Associate" under the Health Insurance Portability and Accountability Act of 1996, Privacy Rule, including, but not limited to, 45 CFR §160.103.

"Carrier" means the State of Oklahoma.

"Comprehensive benefits" means benefits which reimburse the expense of facility room and board, other hospital services, certain out-patient expenses, maternity benefits, surgical expense, including obstetrical care, in-hospital medical care expense, diagnostic radiological and laboratory benefits, providers' services provided by house and office calls, treatments administered in providers' office, prescription drugs, psychiatric services, Christian Science practitioners' services, Christian Science nurses' services, optometric medical services for injury or illness of the eye, home health care, home nursing service, hospice care and such other benefits as may be determined by the Board. Such benefits shall be provided on a copayment or coinsurance basis, the insured to pay a proportion of the cost of such benefits, and may be subject to a deductible that applies to all or part of the benefits as determined by the Board. [74 O.S. §1303 (14)]

"Cosmetic procedure" means a procedure that primarily serves to improve appearance.

"Custodial care" means treatment or services regardless of who recommends them or where they are provided, that could be given safely and reasonably by a person not medically skilled. These services are designed mainly to help the patient with daily living activities. These activities include but are not limited to: personal care as in walking, getting in and out of bed, bathing, eating by spoon, tube or gastrostomy, exercising, dressing, using toilet, preparing meals or special diets, moving the patient, acting as companion or sitter, and supervising medication which can usually be self-administered.

"Dependent" means the primary member's spouse (if not legally separated), including common law. Dependents also include a member's unmarried child up to the child's nineteenth [19th] birthday, regardless of residence, provided that the member is primarily responsible for the child's support. This includes a stepchild or child who lives with the member in a regular parent-child relationship, or a child living with the member in a normal parent-child relationship where the member has adopted the child, or has been appointed guardian by a court. It also includes a stepchild who does not live with the member, when the primary member's spouse is covered by the Plan and has been ordered by a court to provide health insurance for his/her children, regardless of residence. A child may be provided coverage up to the age of twenty-five [25] if the child is dependent upon the member for support and is enrolled as a full time student at an accredited secondary school, college, university or institution of higher learning. A child may also be covered regardless of age if the child is incapable of self-support because of mental or physical incapacity that existed prior to reaching age nineteen [19]. Coverage is not automatic and must be approved with a review of medical information. A disabled dependent deemed disabled by Social Security does not automatically mean that this disabled dependent will meet Plan requirements. [74 O.S. § 1303 (13)]. A person cannot be enrolled as a principal insured and also as a dependent for any benefit options except dependent life.

"Durable medical equipment" means medically necessary equipment, prescribed by a provider, which serves a therapeutic purpose in the treatment of an illness or an injury. Durable medical equipment is for the exclusive use of the afflicted member, and is designed for prolonged use. Specific criteria and limitations apply.

"Emergency" means a sudden and unexpected symptom that a prudent lay person, who possesses an average knowledge of health and medicine, could reasonably expect that the absence of immediate medical attention would result in placing the health of the individual or others in serious jeopardy.

"Enrollment period" means the time period in which an individual may make an election of coverage or changes to coverage in effect.

"Facility" means any hospital, rehabilitation facility, skilled nursing facility, midwifery center, ambulatory surgical center, home health agency, infusion therapy entity, hospice program, durable medical equipment vendor, radiology facility, dialysis facility, or laboratory which is duly licensed under the laws of the state of operation, Medicare certified as applicable, and accredited by a nationally recognized accreditation organization that is approved by state or federal guidelines.

"Health benefit plans" means the self-insured Plans by the State of Oklahoma for the purpose of providing health benefits to eligible members and may include such other benefits as may be determined by the Board. Such benefits shall be provided on a coinsurance basis, the insured to pay a proportion of the cost of such benefits.

"Health information" means any information, whether oral or recorded in any form or medium: (1) that relates to the past, present or future physical or mental condition of a member; the provision of health care to a member; or the past, present or future payment for the provision of health care to a member; and (2) that identifies the member or with respect to which there is a reasonable basis to believe the information can be used to identify the member.

"Home health care" means a plan of continued care of an insured person who is under the care of a provider who certifies that without the Home Health Care, confinement in a hospital or skilled nursing facility would be required. Specific criteria and limitations apply.

"Hospice care" means a concept of supportive care for terminally ill patients. Treatment focuses on the relief of pain and suffering associated with a terminal illness. Specific criteria and limitations apply.

"Initial enrollment period" means the first thirty [30] days following the employee's entry on duty date. A group initial enrollment period is defined as the thirty [30] days following the enrollment date of the participating entity.

"Maintenance care" means there is no measurable progress of goals achieved, no skilled care required, no measurable improvement in daily function or self-care, or no change in basic treatment or outcome.

"Medically necessary" means services or supplies which are provided for the diagnosis and treatment of the medical and/or mental health/substance abuse condition and complies with criteria adopted by the Insurance Board. Direct care and treatment are within standards of good medical practice within the community, and are appropriate and necessary for the symptoms, diagnosis or treatment of the condition. The services or supplies must be the most appropriate supply or level of service, which can safely be provided. For hospital stays, this means that inpatient acute care is necessary due to the intensity of services the member is receiving or the severity of the member's condition, and that safe and adequate care cannot be received as an outpatient or in a less intensified medical setting. The services or supplies cannot be primarily for the convenience of the member, caregiver, or provider. The fact that services or supplies are medically necessary does not, in itself, assure that the services or supplies are covered by the Plan.

"Members" means all persons covered by the group insurance plans, including eligible current and qualified former employees of participating entities and their eligible covered dependents. Qualified former employees include those who have retired or vested through an eligible State of Oklahoma retirement system, or who have completed the statutory required years of service, or who have other coverage rights through COBRA or the Oklahoma Personnel Act.

"Mental health and substance abuse" means conditions including a mental or emotional disorder of any kind, organic or inorganic, and/or alcoholism and drug dependency.

"Network provider" means a practitioner who or facility that is duly licensed under the laws of the state in which the "Network Provider" operates and/or is accredited by a nationally recognized accrediting organization approved by state or federal guidelines, and has entered into a contract with the Board to accept scheduled reimbursement for covered health care services and supplies provided to members.

"Open enrollment period" means a limited period of time as approved by either the Board or the Legislature in which a specified group of individuals are permitted to enroll.

"Option period" means the time set aside at least annually by the Board in which enrolled plan members may make changes to their enrollments. Eligible but not enrolled employees may also make application for enrollment during this time. Enrollment is subject to approval by the Board.

"Orthodontia limitation" means an individual who enrolls in the Dental Plan without prior group dental coverage being in effect the day before Dental Plan coverage begins will not be eligible for any orthodontia benefits for services occurring within the first twelve (12) months after the effective date of coverage. Services continuing or occurring after the twelve (12) month waiting period will be paid by prorating or according to plan benefits.

"Other hospital services and supplies" means services and supplies rendered by the hospital that are required for treatment, but not including room and board nor the professional services of any provider, nor any private duty, special or intensive nursing services, by whatever name called, regardless of whatever such services are rendered under the direction of the hospital or otherwise.

"Participating entity" means any employer or organization whose employees or members are eligible to be participants in any plan authorized by or through the Oklahoma State and Education Employees Group Insurance Act.

"Pre-existing provision" means a charge incurred while eligible for benefit coverage under the Health Benefit Plan which resulted from any injury or illness which was treated, diagnosed, or medication prescribed within a period of one hundred eighty [180] days prior to commencement of Health Benefit Plan benefit coverage.

"Prosthetic appliance" means an artificial appliance that replaces body parts that may be missing or defective as a result of surgical intervention, trauma, disease, or developmental anomaly. Said appliance must be medically necessary.

"Provider" means a physician or other practitioner who is duly licensed or certified under the laws of the state in which the Provider practices and is recognized by this Plan, to render health care services and/or supplies.

"Skilled care" means treatment or services provided by licensed medical personnel as prescribed by a provider. Treatment or services that could not be given safely or reasonably by a person who is not medically skilled and would need continuous supervision of the effectiveness of the treatment and progress of the condition. Specific criteria and limitations are applied.

SUBCHAPTER 3. ADMINISTRATION OF PLANS

360:10-3-2.1. Approval of exceptional claims and eligibility matters

The Administrator shall have the authority to approve individual exceptional claims or eligibility matters when circumstances require.~~,subject to 360:10-5-17(10)(B).~~ The Administrator shall provide a regular report on exceptional claims approved to the Board or a committee designated by the Board.

360:10-3-3.5. Responsibility for premium payment

~~All premiums due, unless authorized below shall be remitted directly to the Board by the tenth of the month for which the payment is due. All checks, money orders, and cashier's checks shall be made payable to the Board. The full amount of the payment for the coverage selected by the individual must be remitted each month. All such remittances shall be the sole responsibility of the member, subject to final approval by the Board.~~

(a~~1~~) **Participating entity premiums.** Employer and employee premiums for participating entities are due to the Board ~~Each participating entity in the insurance plans offered through the State and Education Employees Group Insurance Act shall forward the employer and employee premiums to the Board~~ no later than the tenth (10th) day of each month following the month of coverage. The first payroll deductions for insurance premiums of individuals paid bi-weekly will be withheld from the first pay period that extends into the month during which insurance coverage begins. It is ultimately the employing agency's responsibility to check and verify that premiums paid to the Board are a true and accurate accounting of the member's approved coverage selections. If premium for coverage selected by the employee differs from the amount deducted from the member's check, then the participating entity is responsible for payment to the Board for any deficiencies in premium for the member's coverage. Any shortage of premiums due and payable will result in suspension of benefits for Plan participants.

(1~~2~~) ~~**Approved leave without pay premiums.**~~ An employee may continue coverage while on approved Leave Without Pay for up to twenty-four (24) months as long as the entity continues to remit premiums with the entity's monthly payment. The twenty-four (24) month limitation shall be extended to eight (8) years for education employees who are absent from employment because of election or appointment as a local, state, or national education association officer.~~shall remit the full amount each month for the coverage selected to the Insurance Coordinator, who shall immediately remit to the Board with a completed Remittance Advice form.~~ Except as protected by federal statute, employees on leave whose premiums are not remitted ~~remitting their payments~~in a timely manner shall have their coverage terminated at the end of the month for which last payment was received. If coverage is terminated for non-payment all coverage is terminated. Upon return to work, the employee may re-enroll. All Plan limitations apply and evidence of insurability is required to re-enroll in any life coverage.

(2) Provided that if a State employee is on leave without pay due to an injury or illness arising out of the course of his employment, the employee may continue the insurance during the maximum period of time allowed by law, and the employing agency shall pay the entire employee premium.

(3) An employee may continue coverage while on suspension without pay for up to ninety (90) days following the date of suspension or the duration of the administrative appeals process, whichever is greater, as long as premiums are remitted by the entity for the coverage.

(4) Collecting any employee share from an employee on leave without pay or suspension without pay is the responsibility of the entity.

~~(A) Provided that if a State employee is on leave without pay due to an injury or illness arising out of the course of his employment, the employee may continue the insurance during the maximum period of time allowed by law, and the employing agency shall pay the entire employee premium.~~

~~(B) The maximum period in which premiums can be paid is twenty-four [24] months, beginning with the date the employee goes into the leave without pay and cannot be again resumed until the employee is physically on the job, full time for thirty [30] consecutive days. However, Education employees who are absent from employment because of election or appointment as a local, state or national education association officer can pay premiums for a period of eight [8] years.~~

(b) **Premiums remitted by retirement systems.** ~~**Retirement member premiums.**~~ Any State of Oklahoma retirement system establishing a withholding system for its retired employees shall forward the retirement contribution and employees' withholding to the Board by the tenth of the month following the month for which payment is due. This same time frame also applies to members receiving disability benefits.

(c) **Premiums remitted by former employees, COBRA participants or survivors.** ~~**Vested member premiums.** Until such time as monthly retirement benefits are payable for vested employees,~~ Premiums are due by the twentieth (20th) day of the month of coverage. ~~premiums are due by the tenth of the month of coverage.~~ When a former employee ~~the member~~ begins to receive retirement benefits, all premiums due, in excess of the retirement system contributions, shall be paid by the member and deducted from the retirement check. If the total monthly premium for a retired member is the same as or greater than the retirement benefit, the member shall remit the entire amount due directly to the Board.

~~(5) **Premium in excess of benefit check.** If the premium to be paid is the same as or more than the retirement benefit, the member shall remit the entire amount due directly to the Board by the tenth of the month of coverage.~~

~~(6) **Continuation of coverage during suspension without pay.** An employee, while on suspension without pay, may continue his coverage. If the agency which has suspended the employee fails to pay the State share of premiums, the agency shall provide written notice to the Board that the employee has been given reasonable, written notice that the agency has failed to pay the State share and that such payments must be paid by the employee if the coverage is to remain in force and in effect. The employee shall remit the full amount each month for the coverage selected to the Insurance Coordinator, who shall immediately remit to the Board with a completed Remittance Advice form. Coverage is limited to ninety [90]~~

~~days following the date of suspension or the duration of the administrative appeals process, whichever is greater.~~

360:10-3-7. Refunds for ~~over-deductions~~ overpayment

Any refund of payment for any ~~over-deduction~~premium overpayment shall be made only when the Board is notified in writing no later than sixty [60] days after the actual date of the ~~over-deduction~~overpayment, unless lack of notification is beyond control as determined by the Board

(1) ~~**Administrative error.**~~ Refunds for ~~over-deductions~~ overpayment due to administrative error, as limited and defined in the rules in this Title, of the Insurance Coordinator or the payroll clerk for the agency, shall be made at 100%.

(2) Refunds on behalf of employees shall be paid to the entity. In order to receive a refund the entity must have a credit balance. ~~**Ineligible persons.** Any benefits paid under this plan for an ineligible employee, spouse or dependent shall be offset against any refund due for over-deduction.~~

~~(3) **Non-refund if services received.** Refunds shall not be considered for any month in which any treatment or service has been provided and for which claims have been submitted.~~

360:10-3-13. Payment of health, dental and life benefits

(a) Life insurance benefits are payable to the beneficiary designated by the employee. ~~Life insurance premiums~~Premiums due and payable at the time of the insured's death may be withheld from life insurance benefits. Life proceeds are not assignable, except a beneficiary may assign proceeds in an amount equal to the decedent's burial expenses. If no beneficiary form is on file at the Board, benefits will be paid to the decedent's estate.

(b) Health and dental benefits are payable to the employee or the provider. If any health or dental benefits remain unpaid at the employee's death, the Board, may at its option, pay the benefits to the employee's estate or to any one or more relatives such as follows: spouse, father, mother, children, brothers or sisters. Any such payment will constitute complete discharge of the Board's obligation to the extent of the amount paid.

(c) If a minor or person otherwise legally incapable of giving a valid receipt of discharge of any payment is selected as a beneficiary, a guardian must be appointed by a court of competent jurisdiction before benefits shall be paid.

360:10-3-20. Rights of eligible former employees to continue in the Group Health and Dental Insurance Program

(a) ~~Health and dental~~Health, dental and vision coverage may be elected or retained at the time of termination of employment from an employer who participates in that ~~health or dental~~ health, dental or vision coverage, if the following conditions are met:

(1) The former employee either retires or has a vesting right with a State funded retirement plan, or has the requisite years of service with an employer participating in the Plan.

(2) The election must be received by the Board no later than thirty [30] days after the date of termination of service.

(3) Group coverage must be continuous in order to waive the pre-existing conditions or ~~dental~~ orthodontia limitations when retaining or electing coverage.

(b) If an eligible former employee does not elect coverage at the time of termination of employment, or subsequently drops the coverage that was elected:

(1) The coverage may not be reinstated at a later date, except as permitted for former State employees exercising insurance retention rights available through a reduction in force (RIF) severance agreement.~~; and~~

~~(2) In such circumstances, all premium contributions by state retirement systems will be forfeit~~.

(c) A participating eligible former employee cannot add dependents to coverage after termination of employment, except as follows:

(1) During an Open Enrollment Period; or

(2) If the dependent is newly acquired. New dependent[s] or additional dependent coverage must be added within thirty [30] days after acquiring the new dependent[s]; or

(3) If the dependent has lost other group health or dental insurance coverage and notice has been given to the Board within thirty [30] days after the loss of the other coverage. In this situation, coverage will begin without penalty for pre-existing conditions and orthodontia limitations, provided group coverage was in effect and there is no break in coverage.

(d) During an Option Period, covered former employees may make changes to their existing benefits but not add additional benefits with the exception of vision coverage.~~shall have the same rights as active employees with regard to selection of health and dental plans.~~

(e) If an eligible former employee has a spouse who is participating in the Program as an employee of a participating entity, the former employee may transfer his or her ~~health and dental~~ health, dental and vision coverage to be dependent coverage under the spouse at any time, so long as the following conditions are met:

(1) Coverage must remain continuous; and

(2) All eligible dependents must be insured unless they have other verifiable group coverage.

(3) The eligible former employee, at a later date, may defer or transfer his or her insurance coverage from dependent status back to former employee status if coverage with the Program has remained continuous, and the former employer of the eligible former employee continues to participate in the Program.

(f) An individual who has retained ~~health or dental~~ health, dental or vision coverage who is returning to active employment for a participating entity and meets the ~~eligible~~eligibility criteria for an active employee is entitled to transfer his present

coverage to that employer as long as the employer is a participant in the benefit transferred. The employee may retain his present life coverage and may add life coverage so long as the total amount of life coverage does not exceed the guaranteed issue amount. Evidence of insurability must be submitted and approved for any amount exceeding guaranteed issue or the amount previously held in retirement, whichever is greater.~~The employer shall also furnish the employee with basic life coverage, if available.~~

(g) An eligible former employee who has retained any coverage and is returning to work for a participating entity but does not meet the eligibility criteria for an active employee is not entitled to coverage through that employer.

(h) In the event an otherwise eligible former employee returns to active employment who did not retain health coverage upon termination of employment, he must meet the eligibility requirements of a new employee in order to obtain coverage through the employer. Such individuals must work for three years in order to qualify for retaining any benefits not previously elected upon ceasing active employment when they re-retire. This includes members who terminated from employers not participating in the Insurance Program when they originally ended employment.

360:10-3-22. Effective dates of coverage for active employees

An employee other than an education employee is eligible to participate if not classified as seasonal or temporary and whose actual performance of duties normally requires one thousand [1,000] hours per year or more. An education employee who is a member of or eligible to participate in the Oklahoma Teacher's Retirement System and working a minimum of four [4] hours per day or twenty [20] hours per week may participate in the plan. Part-time education employees are those who meet the requirements of a half-time employee as defined by the Oklahoma Teachers Retirement System. Eligible employees shall be covered on the first day of the month following the month in which the employee is employed in an eligible status.

(1) If an employee is absent due to accident or illness on the date the employee coverage would normally become effective, benefits shall not be payable until the employee returns to the job. If the employee is absent from work because of a holiday, vacation or nonscheduled working day and the employee was on the job on a scheduled working day immediately preceding the effective date, this effective date will not be changed. An employee coming to work during the latter part of a payroll period who is not able to complete an Insurance Election Form should be placed on the appropriate plans on the first of the following month with employee only coverage, so that the employee life, dental and health will be in effect. Members may add optional coverages within the member's initial thirty [30] day enrollment period to be effective the first of the month following the date the member enrolled for optional coverages.

(2) Participating entities shall forward members' enrollment information and any changes to enrollment information during the initial enrollment period to the Administrator within ten [10] days after the last day a member may enroll.

(3) If an employee leaves a participating entity and is hired by another participating entity within the following thirty [30] day period, premiums must be forwarded to the Board to avoid a break in coverage.

(4) An enrolled member who terminates employment or is in Leave Without Pay status and whose spouse is also an enrolled employee may transfer coverage to their spouse to be insured as a dependent. The health, dental, vision and basic life may be transferred. The employee's basic life amount will transfer to a dependent spouse amount. If there are dependent children, they must also be insured unless they have other verifiable group coverage.

(5) An employee that terminates from a participating employer and is hired by another participating employer shall be entitled to be treated as a new employee with new health, dental, vision and life benefit options available. A rehired employee returning to a former employer has new health, dental and vision benefit options only after a thirty [30] day break in coverage and may be subject to pre-existing and ~~dental~~ orthodontia limitations.

(6) Except as provided by statute, an individual employee may choose to not be enrolled in the health or dental plans or may disenroll from these plans because of other group health or dental coverage or by reason of eligibility for military or Indian health services. Such employees who subsequently lose the other group coverage or eligibility for military or Indian health services may enroll in the corresponding health or dental plans offered through the Board if the election is made no later than thirty [30] days following the loss of the other coverage. At the insured's option, in order to avoid a break in coverage and the application of the pre-existing condition exclusion or dental limitation, coverage under this Plan shall become effective on the first day of the month during which the insured actually lost the previous group coverage, provided the insured pays the full premium for that month. Otherwise, coverage shall become effective under this Plan on the first day of the month following the election of health and/or dental coverage, and any break in coverage shall result in the application of the pre-existing condition exclusion or dental limitations.

360:10-3-24. Dependents

Eligible dependents may be enrolled by new employees with their coverage effective concurrently with the employee's coverage if the member has signed the Insurance Election Form requesting such coverage within the member's initial thirty [30] day enrollment period. Dependent coverage not elected at that time shall not become available until the next enrollment period. When one eligible dependent is covered, all eligible dependents must be covered for all elected coverage. The spouse or dependent may elect not to be covered when the spouse or dependent is covered by other verifiable group health, dental or vision coverage, or for religious beliefs. The spouse may elect not to be covered provided a statement signed

by the employee and the spouse is submitted to the Insurance Coordinator. Dependent's benefits shall only be covered under one primary insured except in the case of dependent life.

(1) In order for an employee to obtain coverage at birth for his or her own newborn child, a completed Insurance Election Form and any appropriate premium for the month of birth must be furnished the Insurance Coordinator within thirty [30] days after the date of birth of the newborn. Claims may not be processed or paid for the newborn until the newborn has been properly enrolled in the Plan.

(2) If optional coverage is not selected until after the employee's effective date, but within the member's Initial thirty [30] day Enrollment Period, the optional coverage will be effective the first of the month following the date the optional coverage was selected.

(3) In the event a dependent is hospital confined on the day his health coverage would otherwise become effective, health coverage for that dependent is not effective until the day following his or her final discharge from the hospital.

(4) Eligible dependents who lose other group ~~health and/or dental~~ health, dental or vision insurance coverage may be added to the equivalent health, dental or vision ~~or dental~~ coverage offered through the Board within thirty [30] days after the loss of other group insurance coverage without penalty for pre-existing conditions or ~~dental~~ orthodontia limitations if those dependents have been continuously covered by other group insurance, or have been eligible for treatment at military or Indian health facilities. Notice and proof of the loss of other coverage and termination date of other coverage must be submitted within thirty [30] days after the loss of the other coverage. At the insured's option, in order to avoid a break in coverage and the application of the pre-existing condition exclusion or ~~dental~~ orthodontia limitations, coverage under this Plan shall become effective on the first day of the month during which the insured actually lost previous coverage, provided the insured pays the full premium for that month. Otherwise, coverage shall become effective under this Plan on the first day of the month following notice of the loss of other coverage, and any break in coverage will result in the application of the pre-existing condition exclusion and orthodontia limitations.

(5) Newly acquired dependents may be added if the election is made within thirty [30] days after the qualifying event, or during the annual enrollment period as established by the Board. Documentation proving the qualifying event may be required. The effective date of coverage will be the first day of the month following notification to the Board of the qualified event except for newborn or adopted dependent children.

(6) Provided all other eligibility requirements are satisfied, newly born or adopted eligible dependent children, eligible children for which guardianship has been newly granted to the insured or the insured's spouse, or eligible children of which the insured has been newly granted physical custody pending adoption, guardianship, or other legal custody, may be covered from the first day they are placed in the insured's physical custody, only upon payment of the full monthly premium for that individual, not prorated, and only after written notice has been given to the Board within thirty [30] days after obtaining physical custody. Copies of all documents relating to the matter are also required.

(7) At the insured's option, coverage for eligible dependent children newly placed in the insured's physical custody may become effective on the first day of the second month following placement, if written notice is provided within thirty [30] days following placement, or at the next Option Period as established by the Board.

(8) If the spouse of a member is insured by this Plan as a dependent and such spouse has been ordered by a court to provide health insurance for his children, such children may be insured when they meet all requirements of and provide positive evidence in accordance with Board policy within thirty [30] days after the official filing date of the court order.

(9) In the absence of a court order indicating adoption, guardianship, legal separation or divorce, an insured may apply for coverage on other minor children living with the insured provided: (1) the insured submits a copy of his most recent federal income tax return showing the child was listed as the insured's dependent for income tax deduction purposes; and (2) if the last federal income tax form requested above does not list the child, the insured shall be required to provide an Declaration of Dependency form prescribed by the Plan; and (3) coverage, when approved, shall begin on the first day of the month following approval, and will never apply retroactively; and (4) all other applicable eligibility requirements must be satisfied; and (5) all necessary premiums have been paid. The Plan shall have the right to verify the dependent's status, to request copies of the insured's federal income tax returns from time to time, and to discontinue coverage for such dependents if they are found to be ineligible for any reason.

360:10-3-25. Termination of dependent coverage

(a) **Waiting period of twelve [12] months.** If coverage is discontinued for dependents, the employee cannot reapply for the discontinued coverage for any dependents again for at least twelve (12) months. Reinstated coverage shall be subject to penalty for pre-existing conditions or ~~dental~~ orthodontia limitations.

(b) **Loss of other group health, dental, vision or life insurance coverage.** The twelve [12] month requirement does not apply when the dependent has lost other group health, dental, vision and/or life insurance coverage and is seeking reinstatement pursuant to Rule 360:10-3-24(4).

(c) **Dependent reaches age nineteen (19).** Coverage will be terminated for dependents reaching age nineteen (19) unless a certificate of student status has been received. If at a later date, a student status letter is received, the dependent may be reinstated the first of the month following the month of notification of student status. If there is a break in coverage then pre-existing and orthodontia limitations may apply.

360:10-3-26. Withdrawal from plan; termination or loss of coverage

(a) **Withdrawal from plan.** Those eligible entities participating on a voluntary basis that elect to withdraw cannot re-enter the Program for one [1] year following the date of withdrawal except for extraordinary circumstances. Notice of the election to withdraw must be provided to the Board thirty [30] days prior to the actual withdrawal date.

(b) **Termination of coverage due to insolvency of carrier.** Any eligible entities who have withdrawn and purchased other coverage, then have been notified by their other group health and/or dental insurance carrier that coverage is being terminated due to insolvency of the carrier may re-enroll within thirty [30] days after the loss of coverage by submitting a completed application form which must be approved by the Board prior to enrollment.

(c) **Individual member withdrawal and re-enrollment.** An individual employee who discontinues coverage on himself ~~for any reason other than obtaining other group coverage~~ cannot re-enroll in any coverage for himself or his dependents for a period of twelve [12] months. Subsequent to the end of this twelve [12] month period, he may reapply for coverage offered by the State and Education Employees Group Insurance Board provided that he is eligible through a participating entity. The pre-existing condition and orthodontia limitations will apply.

(d) **Loss of other group health, dental or life insurance coverage.** The twelve (12) month requirement does not apply when the individual member has lost other group health, dental and/or life insurance coverage and is seeking reinstatement pursuant to Rule 360:10-3-26(c).

360:10-3-28. Corrections to benefit elections

Members shall review their confirmation of coverage statement to ensure that the coverage elected is correct. Any corrections shall be submitted to the member's Insurance Coordinator and the Board within sixty (60) days of the election. Errors reported after the sixty (60) days shall be effective the first of the month following the notification of the error.

SUBCHAPTER 5. COVERAGE AND LIMITATIONS

PART 5. LIFE BENEFITS

360:10-5-30. Term life coverage

(a) **Group Term Life Benefits.** A former employee who is reemployed by the same participating employer within twenty-four (24) months after the date of termination of previous employment shall not be enrolled for a greater amount of life insurance than the individual had at the time of termination of previous employment with the employer, unless the individual provides satisfactory evidence of insurability. The amount of coverage provided by the employer is specified in the benefit administration procedures or guidelines as adopted by the Plan. In the event of death, the proceeds of this coverage are payable to the beneficiary listed on the most recently signed beneficiary designation subject to the limitations in Title 15. [15 O.S. §178] If no beneficiary form is on file at the Board, benefits will be paid to the decedent's estate.

(b) **Unlimited contestability period.** There shall be no time limitation imposed upon the Board, during which coverage based on evidence of insurability submitted to the Board can be contested, if it is found that materially erroneous, false, inaccurate, or misleading information was provided in order to obtain optional or supplemental coverage in excess of any guaranteed amounts of coverage. In the event the Board determines coverage was granted based upon erroneous, false, inaccurate or misleading information, and that such information was material to the Board's providing any optional or supplemental coverage, the Board shall extinguish its liability by tendering a refund of premiums paid to the insured or the beneficiary.

360:10-5-32. Optional dependent life coverage

Active employees. Active employees may select life insurance coverage for eligible dependents if the employee is enrolled in basic life. This coverage does not include Accidental Death or Dismemberment benefits. This benefit is available even if the dependent is a participating employee. ~~This coverage is not available to new employees age 65 or older or re-employed ex-employees age 65 or older.~~

360:10-5-33. Optional supplemental life coverage for eligible employees

(a) **Supplemental life coverage.** Supplemental life coverage is available for eligible employees who are covered by the Basic Term Life Coverage until their termination of employment. ~~This coverage is not available to newly hired or re-hired employees over the age of 65, except elected state officials.~~

(b) **Enrollment.** At the time of Initial Enrollment, Supplemental Life may be requested up to the pre-established level set forth in the benefit administration procedures or guidelines as adopted by the Plan, without submitting Evidence of Insurability. All Supplemental Life insurance requested which exceeds the pre-established level will require Evidence of Insurability. Coverage selected in the Supplemental Life insurance program begins on the first day of the month following the date of employment. Optional coverages not selected within the member's Initial Enrollment Period may be added only during the next enrollment period. Members who waive or do not select Supplemental Life insurance coverage shall be required to obtain approval of current Evidence of Insurability to obtain coverage at a later date. Coverage obtained under this provision will be subject to certain additional restrictions as adopted by the Plan. Individuals who waived this coverage because they were covered by other group life insurance coverage will be allowed to enroll without being subject to these additional restrictions if they request the coverage in writing and supply proof of the loss of other group coverage within thirty [30] days following the loss of the other group life coverage.

(c) **Changes in levels of coverage.** Increases or reductions in coverage limits (except termination of coverage) are only accepted during the Option Period. Beneficiary changes may be made at any time, but must be communicated to the Plan in

writing. All changes in coverage levels will be subject to the benefit administration procedures or guidelines as adopted by the Plan.

(d) **Waiver of life insurance premiums.** In the event the employee becomes disabled, life insurance premiums may be waived for employee and dependent life insurance coverage. Provider certification shall be required, as specified by the Plan, and premium waiver shall start on the first day of the month after the employee has been disabled for thirty [30] consecutive days, and shall continue for as long as the employee remains disabled. The waiver shall terminate on the earliest of the following events: the employee has been found to be able to return to active duty in any capacity by any provider; the employee returns to any active duty for any period of time; the employee changes in status to inactive or retired; the employee notifies the Plan in writing that life insurance coverage is to be terminated; the employee is terminated for any reason, including, but not limited to resignation or discharge from his or her position; any termination of life insurance coverage occurs as set forth in 360:10-7-1.

(e) **Accidental Death and Dismemberment and loss of sight benefit.** The basic term life and the first twenty thousand dollars [$20,000] of the Supplemental Life coverage includes the Accidental Death and Dismemberment and loss of sight benefit and will pay a scheduled benefit in the event of accidental death and dismemberment or loss of sight injury within ninety [90] days after the date of accident or accidental injury. Death must be a direct result of the accidental bodily injury independent of all other causes.

PART 11. MEDICARE SUPPLEMENT

360:10-5-79. Enrollment in Medicare Supplement

(a) **Medicare Supplement coverage enrollment required regardless of age.** All covered individuals who are eligible for Medicare, except active employees as addressed in 360:10-5-76, must be enrolled in a Medicare Supplement Plan, offered through the Board, regardless of age.

(b) **Effective date of Medicare Supplement coverage.** Medicare Supplement coverage shall become effective on the first day of the month following the date the Plan receives actual notice of the member's eligibility for Medicare. There shall be no refund of premiums for prior months during which the member was eligible for Medicare, and written notice was not provided to the Plan. An exception shall be made for individuals who are retroactively awarded Medicare coverage by the Social Security Administration, when written notice of the retroactive award is provided to the Plan within thirty [30] days after the member's notification of the Social Security Administration award. A member's 65th birthday is considered automatic notification of Medicare eligibility.

(c) **Non-Medicare eligible individuals.** Nothing in the rules in this chapter prohibits individuals who are not eligible for Medicare from being enrolled in the Board's regular health plan; however, individuals eligible to purchase Medicare coverage are excluded.

PART 13. COORDINATION OF HEALTH AND DENTAL BENEFITS

360:10-5-86. Definitions

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

"Allowable expense" means any medically necessary item of expense at least a portion of which is covered under at least one of the Plans covering the person for whom the claim is made except where a statute requires a different definition. An expense or service, or a portion of an expense or service that is not covered by the Board's medical and or dental plan is not an allowable expense. The maximum liability under the Board's medical and or dental plan as a secondary or subordinate payor is the member's actual liability under any coordinating plan or the Board's standard benefit, whichever is less. However, items of expense under coverage such as, but not limited to, dental care, vision care, prescription drug or hearing aid programs may be excluded from the definition of allowable expense. A plan which provides benefits only for any such items of expense may limit its definition of allowable expense to like items of expense. When a Plan provides benefits in the form of services rather than cash payments, the reasonable cash value of each service rendered shall be deemed to be both an Allowable Expense and a benefit paid. The difference between the cost of a private hospital room and the cost of a semi-private hospital room shall not be deemed to be an "Allowable Expense", except for the period of time during which the patient's confinement to a private hospital room is deemed medically necessary in terms of generally accepted medical practice.

"Plan" means the following:

(A) "Plan" means any plan providing benefits or services for or by reason of medical or dental care or treatment, which benefits or services are provided by:

(i) group, blanket or franchise insurance coverage,

(ii) service plan contracts, group practice, individual practice and other prepayment coverage,

(iii) any coverage under labor-management trustee plans, union welfare plans, employer organization plans, or employee benefit organization plans, and

(iv) any coverage under governmental programs, and any coverage required or provided by any statute.

(B) The term "Plan" shall be construed separately with respect to each policy, contract, or other arrangement for benefits or services and separately with respect to that portion of any such policy, contract, or other arrangement which reserves the right to take the benefits or services of other Plans into consideration in determining its benefits and that portion which does not.

(C) Individually underwritten and issued contracts which provide a contractual right to renewal regardless of membership in or connection with any

particular organization or group shall not be considered group-type contracts, irrespective of the mode or channel of premium payment and regardless of any reduction in premium the covered person may receive by virtue of such method of premium collection.

(D) The definition of a "Plan" within the coordination of benefits provision of group contracts enumerates the types of coverage which the insurer may consider in determining whether other insurance exists with respect to a specific claim. Such definition:

(i) May not include individual or family policies, or individual or family subscriber contracts, except as provided in (2) of this part and in (e) of this definition.

(ii) May include all group or group subscriber contracts as well as such group-type contracts as are not available to the general public and can be obtained and maintained only because of the covered person's membership in or connection with a particular organization or group. Group-type contracts answering this description may be included in the definition, at the option of the insurer and its policyholder client, whether or not individual policy forms are utilized and whether the group-type coverage is designated as "franchise" or "blanket" or in some other fashion.

(E) The definition of "Plan" may include both group and individual automobile "no fault" contracts but, as to the traditional automobile "fault" contracts, only the medical benefits written on a group or group-type basis may be included.

(F) Interpretation of the definition of a "Plan" may not include group or group-type hospital indemnity benefits (written on a non-expense incurred basis) of thirty dollars [$30] per day or less unless they are characterized as reimbursement type benefits but are designed to administer so as to give the insured the right to elect indemnity type benefits, in lieu of such reimbursement type benefits at the time of the claim. In any event, the amount of group and group-type hospital indemnity benefits which exceed thirty dollars [$30] per day may be construed as being included under the definition of "Plan".

(G) School accident type coverages, written on either an individual, blanket, group or franchise basis should not be taken into consideration in coordination of benefits. In this context, school accident type coverages are defined to mean coverage covering grammar school, middle school, and high school students for accidents only, including athletic injuries, either on a twenty-four [24] hour basis or "to and from school" for which the parent pays the entire premium.

(H) If "Medicare" or similar governmental benefits are included in the definition of "Plan", such benefits may be taken into consideration without expanding any of the definitions of this provision beyond the hospital, medical, and surgical benefits which may be provided by the governmental program.

(I) A Plan may not coordinate or design benefits so that the benefits payable are altered solely on the basis that:

(i) another plan exists; or

(ii) except with respect to Part B of Medicare, that the claimant is or could have been covered under another Plan; or

(iii) the claimant has elected an option under another Plan providing a lower level of benefits than another option for which the claimant was eligible.

"This Plan" means that portion of the benefits that are subject to this part.

SUBCHAPTER 7. TERMINATION OF BENEFITS

360:10-7-1. Termination of benefits

(a) **Termination of coverage.** The coverage under this Plan will terminate at the earliest time stated below:

(1) On the last day of the calendar month in which employment terminates.

(2) When the Plan is discontinued.

(3) When any required premiums cease to be paid.

(4) The individual does not continue coverage upon changing to inactive status.

(5) For a dependent when said dependent becomes ineligible for coverage.

(6) A participating entity ceases to participate in this plan.

(b) **Submission of inaccurate or erroneous information.** If inaccurate or erroneous information is submitted by or on behalf of a member on any form or application for insurance coverage, coverage obtained pursuant to information provided on that form will be rescinded retroactive to the effective date.

(c) **Dependent termination of coverage.** In addition to (a) and (b) of this section, the coverage terminates with respect to an individual dependent~~:~~

~~(1) On the last day of the calendar month in which such person became covered as an employee.~~

~~(2) On~~ on the last day of the calendar month in which such person ceases to be an eligible dependent. If a covered individual is found to be ineligible, coverage will be terminated effective on the first day of the month the coverage of the ineligible person was discovered by the Board. The Board reserves the right to recover any claims paid on behalf of an ineligible person.~~, except that the coverage of a dependent child shall not cease because the child is incapable of self-support and meets the eligibility requirements of the Board. The child must have become so incapable prior to attainment of age nineteen [19] and the child must be chiefly dependent upon the employee for support and maintenance. The coverage as to such child will be~~

~~continued while such incapacity continues and while coverage with respect to dependents remains in force, provided such child meets all the requirements of the definition of "Dependent" except age. The Board shall have the right to require proof of the continuance of such incapacity of such child from time to time while the Plan remains in force.~~

[OAR Docket #05-614; filed 4-8-05]

TITLE 360. OKLAHOMA STATE AND EDUCATION EMPLOYEES GROUP INSURANCE BOARD CHAPTER 15. THE DISABILITY PROGRAM

[OAR Docket #05-615]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
360:15-1-14 [AMENDED]
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SUPERSEDED EMERGENCY ACTIONS:
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INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
Changes to Chapter 15 clarify definitions, conform rules to recent benefit changes, clarify language, and clarify existing plan exclusions.
CONTACT PERSON:
Gary Goff, Attorney, Assistant Administrator, (405) 717-8744

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JANUARY 1, 2006:

360:15-1-14. Payment of benefits

(a) **Payment of~~to to~~ benefits to employee only.** All benefits due to the employee from the disability program are payable only to the employee. If the benefit is payable to an employee who is a minor or who is not competent, the Board may only pay the court-appointed guardian or conservator. In the event of the employee's death, payment of any benefits still outstanding shall be made to the designated beneficiary or to the employee's estate.

(b) **Payment of benefits to another party other than the employee.** If the Board pays benefits to a party other than the employee as specified in (a) of this section or as required by law, the Board shall be deemed to have discharged its full responsibility with respect to those benefits.

(c) **Rehabilitation services.** Documented expenses payable for rehabilitation services may be paid directly to the provider[s] of such services or reimbursed to third party administrator; these payments shall not reduce the monthly disability benefits mentioned at 360:15-1-12.

(d) **Benefits are not assignable.** These benefits are not assignable.

[OAR Docket #05-615; filed 4-8-05]

TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 1. ADMINISTRATION AND ORGANIZATION

[OAR Docket #05-553]

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435:1-1-7. Fees [AMENDED]
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ANALYSIS:
This is the schedule of fees that are assessed by the Board.Pursuant to changes in law (SB 369, effective June 9, 2004) the amendments remove the fees for issuance of a special limited license.
CONTACT PERSON:
Jan Ewing, Deputy Director, 405-848-6841, #104

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2005:

435:1-1-7. Fees

(a) **Fee schedule.**

(1) **Licensure/registration.** The following fees shall be assessed for licensure and registration:

(A) Medical Doctor - Full license
(i) Application processing fee - $400.00
(ii) Reprocessing fee - 100.00
(iii) Temporary license - $200.00

(B) Medical Doctor - Special license
(i) Special training application processing fee - $200.00 (This fee may be applied toward the application processing fee in (a)(1)(A)(i) of this section when the special license was issued for first year post graduate training purposes.)
(ii) ~~Special limited application processing fee - $300.00~~
~~(iii)~~ Special ~~training/special limited~~training reprocessing fee - $100.00

(C) Physician Assistants
(i) Initial application for licensure - $100.00
(ii) Application to practice fee - $50.00
(iii) Disciplinary hearing fee - actual cost of proceedings (including probation and other fees) as determined by the Board.

(D) Physical Therapist
(i) Application processing fee - 75.00
(ii) Reprocessing fee - 25.00
(iii) License - 50.00
(iv) Temporary permit - 25.00

(E) Physical Therapist Assistant
(i) Application processing fee - 75.00
(ii) Reprocessing fee - 25.00
(iii) License - 50.00
(iv) Temporary permit - 25.00

(F) Athletic Trainer
(i) Application processing fee - 100.00
(ii) Reprocessing fee - 25.00
(iii) License - 25.00

(G) Apprentice athletic trainer
(i) Application processing fee - 20.00
(ii) Transfer processing fee - 15.00
(iii) License - 5.00

(H) Licensed Dietitian
(i) Application processing fee - 50.00
(ii) Reprocessing fee - 25.00
(iii) License - 50.00

(I) Provisional licensed dietitian
(i) Application processing fee - 10.00
(ii) Reprocessing fee - 25.00
(iii) License - 10.00

(J) Occupational therapist
(i) Application processing fee - 50.00
(ii) Reprocessing fee - 25.00
(iii) License - 50.00

(K) Occupational therapy assistant
(i) Application processing fee - 50.00
(ii) Reprocessing fee - 25.00
(iii) License - 50.00

(L) Registered electrologists
(i) Application processing fee - 25.00
(ii) License - 25.00
(iii) Examination fee - 65.00

(M) Respiratory Care - Full license
(i) Application processing fee - 75.00
(ii) Reprocessing fee - 25.00

(N) Respiratory Care - Provisional license
(i) Application processing fee - 75.00
(ii) Reprocessing fee - 25.00

(O) Licensed Pedorthists application processing fee - 150.00

(P) Licensed Orthotist/Prosthetist application processing fee - 250.00

(Q) Registered Orthotist/Prosthetist Assistant application processing fee - 75.00

(R) Registered Orthotist/Prosthetist Technician application processing fee - 50.00

(2) **Renewal/reregistration of license/registration.** The following fees shall be assessed for renewal/reregistration:

(A) Medical License - Full
(i) Application for annual reregistration fee - 150.00
(ii) Reactivation processing fee - 275.00
(iii) Reinstatement of license - 400.00

(B) Medical License - Special
(i) Application for annual reregistration fee for special training - $100.00
(ii) Application for annual reregistration fee for special limited - $125.00
(iii) Reactivation processing fee for special training - $150.00
(iv) Reactivation processing fee for special limited - $200.00
(v) Reinstatement processing fee for special training - $200.00
~~(vi) Reinstatement processing fee for special limited - $300.00~~

(C) Physical Therapist
(i) Annual renewal fee - 75.00
(ii) Late fee (After January 31) - 10.00

(D) Physical Therapist Assistant
(i) Annual renewal fee - 50.00
(ii) Late fee (After January 31) - 10.00

(E) Physician Assistants
(i) Annual renewal fee - $75.00
(ii) Late renewal fee - $125.00

(F) Athletic Trainer
(i) Application processing fee - 35.00
(ii) Annual renewal fee - 10.00
(iii) Late fee (After August 30) - 50.00

(G) Apprentice athletic trainer
(i) Application processing fee - 5.00
(ii) Annual renewal fee - 5.00
(iii) Late fee (After August 30) - 5.00
(H) Licensed Dietitian/provisional licensed dietitian
(i) Application processing fee - 55.00
(ii) Annual renewal fee - 20.00
(iii) Late fee (after October 31) - 50.00
(iv) Late fee (after January 31) - 75.00
(I) Occupational therapist/occupational therapy assistant
(i) Application processing fee - 55.00
(ii) Annual renewal fee - 20.00
(iii) Late renewal (after October 31) - 20.00
(J) Registered electrologists
(i) Application processing fee - 20.00
(ii) Annual renewal fee - 20.00
(K) Respiratory Care - Full license
(i) Biennially renewal fee - 75.00
(ii) Reinstatement - renewal fee plus 100.00
(L) Respiratory Care - Provisional license - six month renewal fee - 75.00
(M) Licensed Pedorthist
(i) Annual renewal fee - 50.00
(ii) Late fee (up to 30 days late) - 25.00
(iii) Late fee (30 days to 1 year late) - 50.00
(iv) Reinstatement fee - 150.00
(N) Licensed Orthotist/Prosthetist
(i) Annual renewal fee - 125.00
(ii) Late fee (up to 30 days late) - 50.00
(iii) Late fee (30 days to 1 year late) - 100.00
(iv) Reinstatement fee - 250.00
(O) Registered Orthotist/Prosthetist Assistant
(i) Annual renewal fee - 75.00
(ii) Late fee (up to 30 days late) - 50.00
(iii) Late fee (30 days to 1 year late) - 100.00
(iv) Reinstatement fee - 75.00
(P) Registered Orthotist/Prosthetist Technician
(i) Annual renewal fee - 50.00
(ii) Late fee (up to 30 days late) - 50.00
(iii) Late fee (30 days to 1 year late) - 100.00
(iv) Reinstatement fee - 50.00

(3) **Duplication or modification of license/registration.** The following fees shall be assessed for duplication or modification of a license/registration:
(A) Medical License (Full ~~and Special~~) - 50.00
(B) Physician Assistant - 25.00
(C) Physical Therapist - 50.00
(D) Physical Therapy Assistant - 25.00
(E) Athletic Trainer - 25.00
(F) Apprentice Athletic Trainer - 15.00
(G) Licensed Dietitian - 25.00
(H) Provisional Licensed Dietitian - 25.00
(I) Occupational Therapist - 25.00
(J) Occupational Therapy Assistant - 25.00
(K) Special license - 25.00
(L) Respiratory Care - 25.00
(M) Licensed Pedorthist - 25.00
(N) Licensed Orthotist/Prosthetist - 25.00
(O) Registered Orthotist/Prosthetist Assistant - 25.00
(P) Registered Orthotist/Prosthetist Technician - 25.00

(4) **Miscellaneous fees.** The following miscellaneous fees shall be assessed by the Board:
(A) Certification of scores - 40.00
(B) Written verification of license/registration - 20.00
(C) Credentialing service - 100.00 per licensee
(D) Web based services
(i) On-line monthly fee - 50.00 (Three hundred (300) query returns included)
(ii) 301 to 350 queries per month - 0.50 per return
(iii) 351 to 400 queries per month - 0.25 per return
(iv) 401 and above queries per month - 0.10 per return
(v) Database, statistical reports, mailing labels on floppy disks, CDs or by electronic mail-100.00/hour, minimum of one (1) hour. Fee is for one set of labels per order. Multiple labels may be printed for $50.00 each additional set.
(E) Duplicate renewal/registration card - 10.00
(F) Certification of public records (per page)- 1.00
(G) Duplication of public records (per page) - .25
(H) Unofficial transcript of public Board/Committee meetings (per page) - 1.50
(I) Issuance of subpoena - 5.00
(J) Returned check processing fee - 25.00
(K) Rate for Investigations for other agencies or bodies - at cost with deposit of $100.00 required to initiate investigation
(L) Premedical or Medical Education Qualifications Review - at cost with deposit of $100.00 required to initiate action
(M) Monitoring fees for Agreements: Actual costs of any testing or monitoring provided for in the Agreement.
(N) Disciplinary action fees:
(i) Probation fees - 100.00 per month.
(ii) Investigation/Prosecution fees - actual cost incurred.
(O) Filing of motions:
(i) Rehearing or reconsideration of any disciplinary case - 100.00
(ii) Rehearing or reconsideration of any licensing case - 100.00
(iii) Terminate or modify probation/agreement - 100.00
(iv) Request for Specialty Board Certification under 435:10-7-2 - 100.00

(v) Priority issuance of subpoena or duces tecum subpoena within seven (7) days of hearing - 10.00

(vi) Request for exception as allowed by law/rules - 100.00

(P) Reproduction of Board meeting video tape (per tape) - 15.00

(Q) Reproduction of Board meeting audio tape (per tape) - 15.00

(R) Administrative fine for practicing after revocation of license pursuant to 59 O.S. 491B - 5,000/day

(b) **Submission of fees.**

(1) All fees assessed by the Board as set out in the fee schedule in (a) of this section shall be received prior to processing an application for licensure or certification.

(2) All fees are non-refundable.

[OAR Docket #05-553; filed 4-7-05]

TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 3. INDIVIDUAL PROCEEDINGS

[OAR Docket #05-554]

RULEMAKING ACTION:
PERMANENT final adoption.
RULES:
Subchapter 3. Investigations and Hearings
435:3-3-12. ~~Rulings upon evidence and objections~~Board advisor [AMENDED]
AUTHORITY:
Title 59 O.S., Section 489, Board of Medical Licensure and Supervision
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Subchapter 3. Investigations and Hearings
435:3-3-12. ~~Rulings upon evidence and objections~~Board advisor [AMENDED]
Gubernatorial approval:
May 11, 2004
Register publication:
21 Ok Reg 1978
Docket number:
04-921
INCORPORATED BY REFERENCE:
n/a
ANALYSIS:
This rule sets forth the duties of the Board Advisor during a hearing or individual proceeding before the Board.
CONTACT PERSON:
Jan Ewing, Deputy Director, 405-848-6841, #104

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2005:

SUBCHAPTER 3. INVESTIGATIONS AND HEARINGS

435:3-3-12. Board advisor ~~Rulings upon evidence and objections~~

~~The President of the Board shall rule upon the admissibility of evidence or objections thereto and upon other motions or objections arising in the course of the hearing, unless that duty is delegated to the Trial Examiner by the Board. The rulings of the President, or the Trial Examiner, in all questions shall be the rulings of the Board unless reversed by a majority vote of the Board.~~

The Board may utilize a Board Advisor in the course of a hearing/individual proceeding to perform any of the following duties:

(1) To advise the Board on issues of law and rules of proceedings;

(2) To participate with the Board in the questioning of witnesses/applicants;

(3) To advise the President on the admissibility of evidence;

(4) To advise the President on motions or objections arising in the course of the hearing/individual proceeding; and

(5) To accompany the Board into Executive Session, provide assistance as legal advisor and take minutes.

[OAR Docket #05-554; filed 4-7-05]

TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 5. DISCIPLINARY ACTIONS

[OAR Docket #05-555]

RULEMAKING ACTION:
PERMANENT final adoption.
RULES:
435:5-1-5.2. Suspension/revocation upon conviction of a felony [NEW]
435:5-1-6. Reinstatement [AMENDED]
435:5-1-6.1. Reinstatement requirements [AMENDED]
AUTHORITY:
Title 59 O.S., Section 489, Board of Medical Licensure and Supervision
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INCORPORATED BY REFERENCE:
n/a
ANALYSIS:
The rules set forth procedures and authority of the Board in regard to action the Board may take in and for disciplinary actions and the reinstatement requirements after action has been taken. Amendments were made to comply with changes in law, SB 369 effective June 9, 2004.
CONTACT PERSON:
Jan Ewing, Deputy Director, 405-848-6841, #104

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2005:

435:5-1-5.2. Suspension/revocation upon conviction of a felony

(a) The Board may suspend the license of a person who has been convicted of a felony.
(b) The Board shall revoke the license of a person licensed by the Board who has a final felony conviction.
(c) The Board shall restore the license if the person's conviction is overturned on final appeal.

435:5-1-6. Reinstatement

(a) In any action by the Board in which a person licensed or certified by the Board has been suspended or revoked by the Board, or surrendered in lieu of prosecution, the Board may at any time, upon motion of any member of the Board reconsider such suspension or revocation if given the right to reapply.
(b) In addition, the person whose license or certificate has been suspended, ~~or~~ revoked or surrendered with the right to reapply may petition the Board for reinstatement in accordance with applicable law.
(c) In any case in which a person whose license or certificate has been suspended or revoked is considered by the Board for reinstatement, it shall be the burden of that person to show compliance with all terms and conditions imposed by the Board in the disciplinary action. The Board may deny reinstatement to any such person who does not satisfy the Board of compliance with any Board requirement or condition imposed by the Board in disciplinary action or may approve reinstatement without restriction or may approve reinstatement with terms of probation or restrictions as deemed necessary to protect the health, safety and well-being of the public.
(d) Upon the completion of any term of suspension imposed by the Board, the person whose license or certificate was suspended shall bear the burden to show compliance with all requirements and conditions imposed by the Board prior to reinstatement by the Board.
(e) An application for reinstatement shall be filed with the Board in writing and shall set forth action taken by the applicant to comply with conditions and requirements imposed by the Board, including all documents in support thereof. Such application or motion shall be reviewed by the Secretary prior to being scheduled for action by the Board at a meeting of the Board. If the Secretary determines the applicant has met the requirements and conditions imposed by the Board, the matter shall be scheduled for Board action. If the Secretary determines the applicant has not complied with requirements and conditions imposed by the Board, the Secretary shall advise the applicant of the noncompliance in writing and the matter shall not be scheduled for Board action. In the event an applicant disagrees with the determination of the Secretary, the applicant may move in writing for the original application to be reviewed by the Board, upon payment of the appropriate fee.

435:5-1-6.1. Reinstatement requirements

An applicant for reinstatement after suspension, ~~or~~ revocation or surrender in lieu of prosecution pursuant to 59 O.S. § 503 shall meet all application requirements in effect at the time reinstatement is requested, be of good moral character and have reimbursed the Board for taxed costs or worked out a repayment plan satisfactory to the Board. In addition, the Board may require the applicant to meet the continuing medical education (C.M.E.) requirements.

[OAR Docket #05-555; filed 4-7-05]

TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 10. PHYSICIANS AND SURGEONS

[OAR Docket #05-556]

RULEMAKING ACTION:
PERMANENT final adoption.
RULES:
Subchapter 4. Application and Examination Procedures for Licensure as Physician and Surgeon
435:10-4-4. Application procedure [AMENDED]
435:10-4-5. Additional requirements for foreign applicants [AMENDED]
Subchapter 11. Temporary and Special Licensure
435:10-11-3. Procedure for special licensure [AMENDED]
435:10-11-3.1. Special license for first-year post-graduate training [AMENDED]
435:10-11-4. Fees [AMENDED]
AUTHORITY:
Title 59 O.S., Section 489, Board of Medical Licensure and Supervision
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INCORPORATED BY REFERENCE:
n/a
ANALYSIS:
Pursuant to changes in law (SB 369 effective June 9, 2004) amendments are being made regarding reinstatement of an expired license, certification by the Educational Commission for Foreign Medical Graduates, and amendments regarding special licenses.
CONTACT PERSON:
Jan Ewing, Deputy Director, 405-848-6841, #104

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2005:

SUBCHAPTER 4. APPLICATION AND EXAMINATION PROCEDURES FOR LICENSURE AS PHYSICIAN AND SURGEON

435:10-4-4. Application procedure

(a) An applicant for licensure by the Board shall provide the Board with all information required pursuant to 59 O.S. § 493.1 on forms created therefore by staff. In addition, an applicant shall provide either original documents required thereby or notarized or certified duplicates. Academic records may be provided by submission of certified transcripts from all applicable schools.

(b) The applicant shall be forthright and open in the provision of information to the Board in the application process. No applicant shall be awarded a license who does not provide the Board with complete, open and honest responses to all requests for information.

(c) Any Board member may request an applicant to provide any additional information the Board member feels is necessary or useful to determine the applicant's ability to practice medicine and surgery in the application process which is raised by any response by an applicant to any question or request for information on the application form.

(d) The applicant shall present proof of graduation from an approved medical school and possess a valid degree of Doctor of Medicine or its equivalent, as applicable. The Board will accept as proof the original diploma conferred or a notarized copy thereof, but may request additional written information or verification from the Dean or other authority from the applicant's medical school.

(e) The applicant shall provide written verification of successful completion of at least twelve (12) months of progressive post-graduate medical training in a program approved by The American Council on Graduate Medical Education (ACGME), The Royal College of Physicians and Surgeons of Canada, The College of Family Physicians of Canada, The Royal College of Surgeons of Edinburgh, The Royal College of Surgeons of England, The Royal College of Physicians and Surgeons of Glasgow, or The Royal College of Surgeons in Ireland. The Board requires this training to be obtained in the same medical specialty. The Board will not accept combinations of months from multiple specialties as evidence of one (1) year of acceptable training for licensure; except that the Board will accept transitional residencies. It shall be the burden of the applicant to provide information as to the progressive nature of the post-graduate training. The Board construes progressive training to be that which steadily increases the student's duties and responsibilities during the training and which prepares the student for increasingly difficult medical challenges. If Fellowships are used to meet post-graduate education requirements, the Fellowships must be approved by the American Council on Graduate Medical Education (ACGME) and be conducted in an ACGME approved facility. Clerkships shall not constitute necessary medical post-graduate training required for licensure.

(f) The applicant shall be candid in regard to the provision of information related to any academic misconduct or disciplinary action.

(g) The applicant shall be provided a copy of the Act and Board rules on unprofessional conduct. The applicant shall review such rules and state candidly and honestly whether the applicant has committed any act which would constitute grounds for disciplinary action by the Board under Act and rules of the Board.

(h) The applicant shall take and complete the jurisprudence examination prepared by the staff. Seventy-five percent (75%) or above shall be a passing grade. The examination shall cover the Act and any other significant statute, rule or material related to the practice of medicine and surgery in this state. The applicant shall be provided a copy of all statutes, rules or other material from which the examination was created and may review such material while taking the jurisprudence examination. An applicant who fails the jurisprudence examination three (3) times shall be required to meet with the Secretary in order to devise a study plan prior to taking the jurisprudence examination again. The Board has determined that the jurisprudence examination is an integral part of the application process. A passing score on the jurisprudence examination is a requirement for licensure.

(i) The applicant shall pay all necessary fees related to the application.

(j) It is the responsibility of the applicant to verify the applicant's identity and the validity of any documents or information submitted to the Board in the licensure process.

(k) The Board must be in receipt of correspondence from the American Medical Association (AMA) and Federation of State Medical Boards (Federation) prior to issuance of any medical license. The Board may also contact other sources as necessary. Should information be found through correspondence with the AMA, Federation, or other sources that was previously unknown to the Board, the application will be held until such time as the Secretary of the Board is satisfied that the information has been validated by the Staff.

(l) An applicant may withdraw an application for licensure at any time prior to the submission of the application for consideration by members of the Board. No application may be withdrawn by an applicant after it has been submitted to members of the Board.

(m) An applicant for reinstatement for failure to renew pursuant to 59 O.S. s.s. 495d shall meet all application requirements in effect at the time reinstatement is requested, be of good moral character and shall provide proof that continuing education requirements have been met.

435:10-4-5. Additional requirements for foreign applicants

(a) It is the intent of the Board to provide graduates of foreign medical schools equal opportunity in the licensure process. All foreign applicants shall meet the requirements of 435:10-4-4. Additional requirements set forth in this Section are used solely for the purpose of ensuring the validity of the foreign applicant's fitness to practice and ability to work in the United States.

(b) Graduates of foreign medical schools whose documents are not printed in the English language shall provide all original documents in the manner of 435:10-4-4. In addition, foreign graduates shall identify a credible translator of applicant's documents. United States Consulates and formal educational foreign language programs from an institution accredited by the North Central Association of Colleges and Schools are approved to provide translations to the Board. An applicant may request to use another translator. Such a request shall be made in writing and include the proposed translator's name, address and qualifications to support the approval of the request. Upon approval by the Board of the proposed translator, all documents of the applicant shall be translated into English. Both the applicant and the translator shall attest to the accuracy of the translation.

(c) The Board shall investigate foreign medical schools with which the Board is not familiar to ensure the validity of the school's medical education program and that the education provided by the school is equivalent to the education and training offered by the University of Oklahoma School of Medicine. Effective January 1, 2004, any applicant that graduated from a foreign medical school after July 1, 2003 and completed clerkships in the United States, those clerkships must have been done in hospitals, schools or facilities that are accredited by the appropriate accrediting body such as the Accreditation Council for Graduate Medical Education. The Board may direct staff to contact an applicant's medical school to obtain any necessary information related to the school or the applicant. In the event the Board is unable to verify information related to an applicant or the applicant's medical school, the Board may in its discretion reject the applicant's application or require the applicant to score ten (10) percentage points higher on a medical licensure examination than is otherwise required.

(d) Graduates of foreign medical schools must submit a tape-recorded reading of a written selection created by the Board and evaluated by the Secretary as to the ability of the applicant to communicate in the English language or take an oral examination as determined by the Board.

(e) An applicant from a foreign medical school shall provide the Board with proof of successful completion of twenty-four (24) months of progressive post-graduate medical training, obtained in the same medical specialty, from a program approved by:

(1) The American Council on Graduate Medical Education (ACGME);

(2) The Royal College of Physicians and Surgeons of Canada;

(3) The College of Family Physicians of Canada;

(4) The Royal College of Surgeons of Edinburgh;

(5) The Royal College of Surgeons of England;

(6) The Royal College of Physicians and Surgeons of Glasgow; or

(7) The Royal College of Surgeons in Ireland .

(f) A foreign applicant shall provide the Board with written proof of the applicant's ability to work in the United States as authorized by the United States Immigration and Naturalization Service.

(g) The Board requires original source verification of Educational Commission for Foreign Medical Graduates (ECFMG) Certification. The Board shall waive this requirement for applicants ineligible to obtain ECFMG Certification, such as Fifth Pathway graduates and graduates from Canadian Medical Schools.

SUBCHAPTER 11. TEMPORARY AND SPECIAL LICENSURE

435:10-11-3. Procedure for special licensure

~~(a) In the event an applicant for a medical license without practice limitation is unable to meet all requirements for the issuance of such license, the Secretary, upon review of the application, may make a recommendation to the Board that a license with practice limitation, called a special license, be issued to the applicant. A special license is construed by the Board to be a license issued by the Board upon which the Board and the licensee have agreed to place limitations on the licensee's medical practice.~~

~~(b) Prior to making such a recommendation, the Secretary shall confer with staff to determine which requirements for licensure the applicant is unable to meet. The Secretary shall then determine if a special license can be issued under which the applicant will be able to practice an area of medicine or surgery with reasonable skill and safety in this state.~~

~~(c) The Secretary shall also review disciplinary action taken against every person whose license to practice medicine and surgery in this state has been suspended or revoked by the~~

~~Board, prior to reinstatement, for the purpose of making a recommendation as to the benefit to the public of granting the defendant in such disciplinary action a special license to practice in this state.~~

~~(d) A special license may limit the holder of such a license in any fashion set forth thereon. Among other limitations, the holder of a special license may be limited to practice only in state facilities, to provide pro bono services, to be prohibited from practicing upon an identified gender of persons or upon persons of identified age groups, to practice an identified area or specialty of medicine or surgery only and no other, to practice strictly under the supervision of another medical doctor licensed in this state and approved by the Board or specifically in a medical post-graduate program only.~~

~~(e) Applications for a special license, other than for post graduate training, shall be based on unique contributions the applicant may make to the health, safety and welfare of the public.~~

~~(f) Upon recommendation of the Secretary, the Board may issue a special license to practice medicine or surgery in this state.~~

(a) Effective June 9, 2004 only special licenses for training will be issued by the Board. Persons issued special licenses prior to June 9, 2004 may continue to apply for renewal.

(~~g~~b) No person granted a special license to practice medicine or surgery in this state shall practice outside the scope of the special license. Any practice outside the scope of a special license shall be deemed to be the unlicensed practice of medicine or surgery. The Secretary is authorized to seek injunctive action to prevent any person from violating terms or limitations of a special license granted by the Board.

(~~h~~c) Upon application for renewal, the Secretary shall review all special licenses granted on an annual basis to determine if such license should be renewed by the Board or amended as to its terms or limitations. In addition, the Board may grant the holder of a special license a license without practice limitation when appropriate.

435:10-11-3.1. Special license for first-year post-graduate training

(a) The Secretary of the Board is authorized to issue a special license for training to first-year residents. Unless otherwise renewed, amended, suspended or revoked by the Board, a special license issued under this section may be extended without renewal by the Secretary for a period not to exceed ninety (90) days until scores from the first-year resident's final licensing examination are received and application for full licensure is acted on by the Board.

(b) Effective January 1, 2002 no special license for first-year post-graduate training may be issued unless the applicant has passed Step 1 and Step 2 of the United States Medical Licensing Examination (USMLE) within the limits set forth in 435:10-4-6(g).

435:10-11-4. Fees

An applicant for either a temporary or special training license shall pay all appropriate fees to the Board prior to the issuance of such a license.

[OAR Docket #05-556; filed 4-7-05]

TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 15. PHYSICIAN ASSISTANTS

[OAR Docket #05-557]

RULEMAKING ACTION:
PERMANENT final adoption.
RULES:
Subchapter 11. Prescriptive Guidelines and Drug Formulary
435:15-11-2. Drug formulary [AMENDED]
AUTHORITY:
Title 59 O.S., Section 519.3, Board of Medical Licensure and Supervision
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ANALYSIS:
This Drug Formulary is for prescriptions issued by physician assistants. The Committee reviews this formulary each year for structure and content and makes revisions as necessary.
The rule was revised to make it inclusive of the drug categories that may be prescribed by physician assistants and a section that lists the exclusions for the formulary.
CONTACT PERSON:
Jan Ewing, Deputy Director, 405-848-6841, #104

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2005:

SUBCHAPTER 11. PRESCRIPTIVE GUIDELINES AND DRUG FORMULARY

435:15-11-2. Drug formulary

~~This Drug Formulary is for prescriptions issued by physician assistants. The Committee will, at least on an annual basis and in a timely manner, review the structure and content of the Physician Assistant Drug Formulary and make such revisions as it deems necessary. Any proposed changes must be reviewed and approved by the State Board of Medical Licensure and Supervision after consultation with the State Board of Pharmacy before becoming effective. Copies of the formulary shall be made available to any licensed pharmacy in the State of Oklahoma upon request. The Board assumes that all supervising physicians and physician assistants are completely familiar with the law and rules governing prescriptive authority of physician assistants.~~

~~(1) **Antihistamines.** All agents are included under the antihistamines category.~~

~~(2) **Anti-infective agents.**~~

~~(A) Agents included under the anti-infective agents category are:~~

~~(i) Amebicides~~

~~(ii) Antihelmintics~~

~~(iii) Antibiotics including:~~

~~(I) Aminoglycosides~~

~~(II) Antifungal antibiotics~~

~~(III) Cephalosporins~~

~~(IV) Miscellaneous beta lactam antibiotics~~

~~(V) Macrolides~~

~~(VI) Penicillins~~

~~(VII) Tetracyclines~~

~~(VIII) Miscellaneous antibiotics (Ref: American Hospital Formulary Service 8:12.28)~~

~~(iv) Antituberculosis agents~~

~~(v) Antivirals~~

~~(vi) Antimalarial agents~~

~~(vii) Quinolones~~

~~(viii) Sulfonamides~~

~~(ix) Antitreponemal agents~~

~~(x) Antitrichomonal agents~~

~~(xi) Urinary anti-infectives~~

~~(xii) Miscellaneous anti-infectives (Ref: American Hospital Formulary Service 8:40)~~

~~(B) Agents excluded under the anti-infective agents category are:~~

~~(i) Chloramphenicol~~

~~(ii) Pediatric quinolones~~

~~(iii) Pediatric tetracyclines~~

~~(3) **Antineoplastic agents.** All agents are excluded under the antineoplastic agents category~~

~~(4) **Autonomic agents.** Agents included under the autonomic agents category are:~~

~~(A) Parasympathomimetic(cholinergic) agents~~

~~(B) Anticholinergic agents~~

~~(C) Sympathomimetic (adrenergic) agents.28~~

~~(D) Sympatholytic (adrenergic blocking) agents~~

~~(E) Miscellaneous autonomic drugs (Ref: American Hospital Formulary Service 12:92)~~

~~(5) **Blood formation and coagulation agents.** Agents included under the blood formation and coagulation agents category are:~~

~~(A) Antianemia drugs~~

~~(B) Coagulants and anticoagulants~~

~~(C) Hemorrheologic agents~~

~~(D) Thrombolytic agents~~

~~(6) **Cardiovascular agents.** Agents included under the cardiovascular agents category are:~~

~~(A) Cardiac drugs~~

~~(B) Antilipemic agents~~

~~(C) Hypotensive agents~~

~~(D) Vasodilating agents~~

~~(E) Sclerosing agents~~

~~(7) **Central nervous system agents.**~~

~~(A) Agents included under the central nervous system agents category are:~~

~~(i) Analgesics and antipyretics~~

~~(ii) Miscellaneous analgesics and antipyretics (Ref: American Hospital Formulary Service 28:08.92)~~

~~(iii) Anticonvulsants~~

~~(iv) Psychotherapeutic agents~~

~~(v) Respiratory and cerebral stimulants~~

~~(vi) Anxiolytics, sedatives and hypnotics~~

~~(vii) Antimanic agents~~

~~(viii) Opiate and benzodiazepine antagonists~~

~~(B) Agents excluded under the central nervous system agents category are:~~

~~(i) Schedule I opiate agonists~~

~~(ii) Schedule I opiate partial agonists~~

~~(8) **Diagnostic agents.** All agents are included under the diagnostic agents category.~~

~~(9) **Electrolyte, caloric and water balance.** Agents included under the electrolyte, caloric and water balance category are:~~

~~(A) Acidifying agents~~

~~(B) Alkalinizing agents~~

~~(C) Ammonia detoxicants~~

~~(D) Replacement preparations~~

~~(E) Calcium removing resins~~

~~(F) Potassium removing resins~~

~~(G) Caloric agents~~

~~(H) Diuretics~~

~~(I) Irrigating solutions~~

~~(J) Uricosuric agents~~

~~(10) **Enzymes.** All agents are included under the enzymes category.~~

~~(11) **Expectorants, antitussives, and mucolytic agents.** Agents included under the expectorants, antitussives, and mucolytic agents category are:~~

~~(A) Antitussives~~

~~(B) Expectorants~~

~~(C) Mucolytic agents~~

~~(12) **Eye, ear, nose and throat preparations.**~~

~~(A) Agents included under the eye, ear, nose and throat preparations category are:~~

~~(i) Anti-infectives~~

~~(I) Antibiotics~~
~~(II) Antivirals~~
~~(III) Sulfonamides~~
~~(ii) Mouthwashes and gargles~~
~~(iii) Vasoconstrictors~~
~~(B) Agents excluded under the eye, ear, nose and throat preparations category are:~~
~~(i) Steroid-containing ophthalmic preparations~~
~~(ii) Carbonic anhydrase inhibitors~~
~~(iii) Ophthalmic anesthetics~~
~~(iv) Miotics~~
~~(v) Mydriatics~~
~~(vi) Miscellaneous EENT drugs (Ref: American Hospital Formulary Service52:36)~~
~~(C) Those physician assistants whose supervising physician's scope of practice includes eye care may prescribe:~~
~~(i) Steroid-containing ophthalmic preparations~~
~~(ii) Carbonic anhydrase inhibitors~~
~~(iii) Miotics~~
~~(iv) Mydriatics~~
~~(13) **Gastrointestinal agents.** Agents included under the gastrointestinal agents category are:~~
~~(A) Antacids and adsorbents~~
~~(B) Antidiarrhea agents~~
~~(C) Antiflatulents~~
~~(D) Cathartics and laxatives~~
~~(E) Cholelitholytic agents~~
~~(F) Digestants~~
~~(G) Emetics~~
~~(H) Antiemetics~~
~~(I) Miscellaneous GI drugs (Ref: American Hospital Formulary Service 56:40)~~
~~(14) **Hormone and synthetic substitutes.**~~
~~(A) Agents included under the hormone and synthetic substitutes category are:~~
~~(i) Adrenals~~
~~(ii) Contraceptives~~
~~(iii) Estrogens~~
~~(iv) Gonadotropins~~
~~(v) Antidiabetic agents~~
~~(I) Insulins~~
~~(II) Sulfonylureas~~
~~(III) Miscellaneous antidiabetic agents (Ref: American Hospital Formulary Service 68:20.92)~~
~~(vi) Progestins~~
~~(vii) Thyroid agents~~
~~(B) Agents excluded under the hormone and synthetic substitutes category are:~~
~~(i) Androgens~~
~~(ii) Antithyroid agents~~
~~(iii) Parathyroid hormones and synthetics~~
~~(iv) Pituitary hormones and synthetics~~
~~(15) **Oxytocics.** All agents are excluded under the oxytocics category.~~
~~(16) **Skin and mucous membrane agents.**~~
~~(A) Agents included under the skin and mucous membrane agents category are:~~
~~(i) Anti-infectives~~
~~(I) Antibiotics~~
~~(II) Antivirals~~
~~(III) Antifungals~~
~~(IV) Scabicides and pediculicides~~
~~(V) Miscellaneous local anti-infectives (Ref: American Hospital Formulary Service 4:04.16)~~
~~(ii) Anti-inflammatory agents~~
~~(iii) Antipruritics and local anesthetics~~
~~(iv) Detergents~~
~~(v) Emollients, demulcents, and protectants~~
~~(vi) Minoxidil~~
~~(vii) Sunscreen agents~~
~~(B) Agents excluded under the skin and mucous membrane agents category are:~~
~~(i) Cell stimulants and proliferants~~
~~(ii) Keratolytic agents~~
~~(iii) Keratoplastic agents~~
~~(iv) Miscellaneous skin and mucous membrane agents (Ref: American Hospital Formulary Service 84:36)~~
~~(v) Depigmenting and pigmenting agents~~
~~(C) Those physician assistants whose supervising physician's scope of practice includes skin care may prescribe:~~
~~(i) Cell stimulants and proliferants~~
~~(ii) Keratolytic agents~~
~~(iii) Keratoplastic agents~~
~~(iv) Miscellaneous skin and mucous membrane agents (Ref: American Hospital Formulary Service 84:36)~~
~~(v) Depigmenting and pigmenting agents~~
~~(17) **Musculoskeletal agents.** Agents included under the musculoskeletal agents category are:~~
~~(A) Anti-inflammatory agents~~
~~(B) Anti-osteoporosis agents~~
~~(C) Skeletal muscle relaxants~~
~~(D) Those physician assistants whose supervising physician's scope of practice includes disorders of connective tissues may prescribe anti-inflammatory agents not listed above.~~
~~(18) **Vitamins.** All agents are included under the vitamins category.~~

(a) Physician Assistants in accordance with the Physician Assistant Act may prescribe medications that are within the scope of physician assistant practice, under the supervision of a licensed supervising physician and the Physician Assistant Drug Formulary. The Drug Formulary shall list drugs or categories of drugs that shall or shall not be prescribed by the physician assistant or prescribed only under certain criteria.

(b) The Committee will, at least on an annual basis and in a timely manner, review the structure and content of the Physician Assistant Drug Formulary and make such revisions as it deems necessary. Any proposed changes must be reviewed and

approved by the State Board of Medical Licensure and Supervision after consultation with the State Board of Pharmacy before becoming effective. Copies of the formulary shall be made available to any licensed pharmacy in the State of Oklahoma upon request. The Board assumes that all supervising physicians and physician assistants are completely familiar with the law and rules governing prescriptive authority of physician assistants.

(c) All drugs in categories listed in 435:15-11-2(d) as defined by the American Hospital Formulary Service Information Book (current) may be prescribed by physician assistants, except as noted in section 435:15-11-2(e).

(d) Inclusionary formulary

(1) Antihistamine agents
(2) Anti-infectives
(3) Autonomic agents
(4) Blood formation and coagulation agents
(5) Cardiovascular agents
(6) Central nervous system agents
(7) Diagnostic agents
(8) Electrolyte, caloric and water balance agents
(9) Enzymes
(10) Expectorants, antitussives and mucolytic agents
(11) Eye, ear, nose and throat preparations
(12) Gastrointestinal agents
(13) Hormone and synthetic substitutes
(14) Local anesthetics
(15) Skin and mucous membrane agents
(16) Smooth muscle relaxants
(17) Vitamins
(18) Miscellaneous therapeutic agents

(e) Exclusions to the Drug Formulary

(1) Anti-infective agent - Chloramphenicol

(2) Anti-neoplastic agents - Anti-neoplastic agents used in the treatment of cancer are excluded except that a physician assistant whose supervising physician specializes in hematology/oncology may not originate a prescription for therapy but may be allowed to modify and continue previously established anti-neoplastic therapy.

(3) Eye agents

(A) Steroid-containing ophthalmic preparations
(B) Carbonic anhydrase inhibitors
(C) Miotics
(D) Mydriatics
(E) Physician assistants whose supervising physician's scope of practice includes eye care may prescribe the above eye agents.

(4) Hormone and synthetic substitutes

(A) Antithyroid agents
(B) Pituitary hormones and synthetics

(5) Oxytocics - All agents are excluded under the oxytocics category

(6) Skin and mucous membrane agents

(A) Cell stimulants and proliferants
(B) Keratolytic agents
(C) Keratoplastic agents
(D) Depigmenting and pigmenting agents
(E) Physician assistants whose supervising physician's scope of practice includes skin care may prescribe the above agents.

(7) Miscellaneous therapeutic agents - Physician assistants whose supervising physician's scope of practice includes disorders of connective tissues may prescribe disease-modifying anti-rheumatic drugs (DMARDs).

(8) All Schedule I controlled drugs are excluded.

[OAR Docket #05-557; filed 4-7-05]

TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 30. OCCUPATIONAL THERAPISTS AND ASSISTANTS

[OAR Docket #05-558]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
435:30-1-3. Licensure by examination [AMENDED]
435:30-1-10. Grounds for disciplinary action [AMENDED]
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ANALYSIS:
In rule 435:30-1-3, the Board approves the Examination of the National Board for Certification in Occupational Therapy (NBCOT) and amended the rule to accept proof of scores from and re-examinations from the NBCOT. It also sets a limit of one year for temporary status after which the examination must be passed. Rule 435:30-1-10 updates the grounds for disciplinary action.
CONTACT PERSON:
Jan Ewing, Deputy Director, 405-848-6841, #104

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2005:

435:30-1-3. Licensure by examination

Requirements for licensure by examination for Occupational Therapists or Occupational Therapy Assistants are as follows:

(1) All applicants for licensure by examination must meet the statutory requirements set forth in the Oklahoma Occupational Therapy Practice Act, hereinafter referred to as Act.

(2) The State Board of Medical Licensure and Supervision, hereinafter referred to as Board, recognizes and approves the Examination of the National Board for Certification in Occupational Therapy (NBCOT) as an examination acceptable for licensure of an occupational therapist or occupational therapy assistant.

(3) In the event the Board administers the examination set forth in (2) of this section or any other examination approved by them, the application for licensure by examination must be on file at the office of the Board at least 30 days prior to the examination. No person shall be admitted to the examination until satisfactory evidence is submitted to the Board of his/her qualifications to be admitted to such examination.

(4) Submission of proof of scores of a passing grade, as determined by the ~~American Occupational Therapy Association~~ (NBCOT), shall constitute satisfactory evidence of applicant's qualifications for licensure. Applicants must have the scores submitted to this Board through a reporting service approved by this Board.

(5) An applicant who meets academic, clinical and educational requirements for licensure as an Occupational Therapist or Occupational Therapy Assistant may practice under the direct, on-sight supervision of a licensed Occupational Therapist in the status of a graduate Occupational Therapy student or a graduate Occupational Therapy Assistant ~~student until the next meeting of the Oklahoma State Board of Medical Licensure and Supervision~~.

(A) Said status will be communicated to the applicant by informal letter from the Board staff. Such status is not tantamount to licensure and does not constitute licensure in any form. A person in this temporary status must identify himself/herself as such and may not hold ~~themselves~~ himself or herself out as a licensed Occupational Therapist or Occupational Therapy Assistant.

(B) ~~The progress to licensure of each applicant in this temporary status will be evaluated at each meeting of the State Board of Medical Licensure and Supervision and of the Advisory Committee of the Occupational Therapy Advisory Committee.~~ This temporary status may be valid for up to one year. After one year, the graduate Occupational Therapist student or graduate Occupational Therapy Assistant student may not practice in Oklahoma until a passing score on the exam is received.

(6) Upon failure of examination ~~for licensure~~ by any applicant for Occupational Therapist or Occupational Therapy Assistant licensure, said applicant ~~can~~ may still function as a graduate Occupational Therapist student or a graduate Occupational Therapy Assistant student ~~and shall take the examination the next time it is given~~. The status of said applicant will be reviewed at each meeting of the Occupational Therapy Advisory Committee.

~~(7) Following the receipt of the score report from the service providing the examination, the Committee shall have a meeting to determine the pass/fail status of each candidate and report the individual's score and status to the Board. At the next regularly scheduled Board meeting after such score meeting of the Committee, the Board will make a determination pertaining to the licensure of the individuals who took the examination.~~

(~~8~~7) The Committee may in its discretion require any applicant to appear in person before the Committee in connection with consideration of said initial licensure.

(~~9~~8) Applicants who have not taken and passed the approved licensure examination within the past five years may be required to provide proof of continued competence as evidenced by one or more of the following:

(A) Professional practice of at least 1000 hours per year for the past three years;

(B) Continuing education consisting of up to two hours for each month out of practice ~~not to exceed 24 hours~~, obtained within the last two years and approved by the Committee;

(C) Re-examination by the ~~American Occupational Therapy Certification Board~~ (NBCOT).

435:30-1-10. Grounds for disciplinary action

(a) The Board may reprimand or place on probation any holder of an Occupational Therapist License or Occupational Therapy Assistant License or revoke or suspend any license issued to an Occupational Therapist or Occupational Therapy Assistant who is found in violation of the Act. Violations include but shall not be limited to the following:

~~(1) Has been convicted of a felony.~~

~~(2) Habitually uses intoxicating liquor or a habit-forming drug.~~

~~(3) Secured the license by fraud or deceit.~~

~~(4) Has been grossly negligent while in the practice as an occupational therapist or occupational therapist assistant.~~

~~(5) Has failed to make timely application for renewal.~~

~~(6) Has conducted herself/himself in a manner considered improper by recognized acceptable standards of moral and ethical conduct as determined by the Board.~~

~~(7) Violated or conspired to violate the provisions of this Act or Rules and Regulations issued pursuant to the Act.~~

~~(8) Aiding or abetting, directly or indirectly, the practice of occupational therapy by any person not duly authorized under the laws of Oklahoma.~~

(1) Conviction of a felony or of any offense involving moral turpitude.

(2) Conviction of, or confession of or plea of no contest to a felony or misdemeanor.

(3) Dishonorable or immoral conduct that is likely to deceive, defraud, or harm the

public.
(4) Aiding, abetting or assisting any other person to violate or circumvent any law, rule or regulation intended to guide the conduct of a occupational therapist or occupational therapy assistant.
(5) Procuring, aiding or abetting a criminal operation.
(6) Participation in fraud, abuse and/or violation of state or federal laws.
(7) Fraudulent billing practices and/or violation of Medicare and Medicaid laws or abusive billing practices.
(8) Improper management of medical records, inaccurate recording, falsifying or altering of patient records.
(9) Falsely manipulating patient's records or forging a prescription for medication/drugs, or presenting a forged prescription.
(10) Habitual intemperance or the habitual use of habit-forming drugs.
(11) Habitual intemperance or addicted use of any drug, chemical or substance that could result in behavior that interferes with the practice of occupational therapy and the responsibilities of the licensee.
(12) Unauthorized possession or use of illegal or controlled substances or pharmacological agents without lawful authority or prescription by an authorized and licensed independent practitioner of the State of Oklahoma.
(13) Engaging in physical conduct with a patient that is sexual in nature, or in any verbal behavior that is seductive or sexually demeaning to a patient.
(14) While engaged in the care of a patient, engaging in conduct with a patient, patient family member, or significant other that is seductive or sexually demeaning/exploitive in nature.
(15) Verbally or physically abusing patients.
(16) Discriminating in the rendering of patient care.
(17) Leaving a patient care assignment without properly advising the appropriate
personnel.
(18) Violating the confidentiality of information or knowledge concerning a patient.
(19) Any conduct which potentially or actually jeopardizes a patient's life, health or
safety.
(20) Negligence while in practice of occupational therapy or violating the "Standards of Ethics and Professional Conduct" adopted by the Board.
(21) Being judged mentally incompetent by a court of competent jurisdiction.
(22) Failing to timely make application for license renewal.
(23) Falsifying documents submitted to the Occupational Therapy Committee or the
Oklahoma State Board of Medical Licensure and Supervision.
(24) Obtaining or attempting to obtain a license, certificate or documents of any form as a occupational therapist or occupational therapy assistant by fraud or deception.
(25) Cheating on or attempting to subvert the national occupational therapy examination or skills assessment tests.
(26) Failure to report through proper channels the unsafe, unethical or illegal practice of any person who is providing care.
(27) Failure to furnish to the Board, its investigators or representatives, information lawfully requested by the Board.
(28) Failure to cooperate with a lawful investigation conducted by the Board.
(29) Violation of any provision(s) of the Occupational Therapy Practice Act or the rules and regulations of the board or of an action, stipulation, agreement or order of the Board.
(30) Failure to report to the Board any adverse action taken against him or her by another licensing jurisdiction (United States or foreign), by any governmental agency, by any law enforcement agency, or by an court for acts or conduct similar to acts or conduct that would constitute grounds for action as defined in this section.

(b) An occupational therapist or occupational therapy assistant who knowingly allows or
participates with individual(s) who are in violation of the above will be prohibited from supervising other occupational therapy practitioners for so long as the Board deems appropriate, and may themselves be subject to disciplinary action pursuant to their conduct.

(c) All Occupational Therapists and Occupational Therapy Assistants are responsible for maintaining and promoting the ethical practice of occupational therapy. Occupational therapy personnel shall act in the best interest of the patient/client at every level of practice. This Code of Ethics modeled in principal and the spirit of the Code of Ethics of the American Occupational Therapy Association, sets forth principles for the ethical practice of occupational therapy for occupational therapy personnel. This Code of Ethics shall be binding on all Occupational Therapists and Occupational Therapy Assistants. All Occupational Therapy Personnel shall:
(1) Demonstrate a concern for the well-being of the recipients of their services. (Beneficence).
(2) Take reasonable precautions to avoid imposing or inflicting harm upon the recipient of services or to his/her property. (Nonmaleficence).
(3) Respect the recipient and/or their surrogate(s) as well as the recipient's rights. (Autonomy, privacy, confidentiality).
(4) Achieve and continually maintain high standards of competence. (Duties)
(5) Comply with laws and policies guiding the profession of occupational therapy. (Justice).
(6) Provide accurate information about occupational therapy services. (Veracity)
(7) Treat colleagues and other professionals with fairness, discretion and integrity

[OAR Docket #05-558; filed 4-7-05]

TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 40. REGISTERED ELECTROLOGISTS

[OAR Docket #05-559]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
435:40-1-9. License renewal and replacement [AMENDED]
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INCORPORATED BY REFERENCE:
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ANALYSIS:
The rule was amended to allow the Chairperson to approve continuing education units between meetings with subsequent ratification by the full Committee. The required number of continuing education hours was raised from ten (1.0 c.e.u.s) every three years to 15 hours (1.5 c.e.u.s) every three years. The requirement for the State Association's approval on Independent study was removed and language added to widen the range of acceptable activities to accommodate new technologies such as on-line courses. The final change limits the number of credits allowed for CPR to encourage Electrologists to gain a wider variety of electrology related hours.
CONTACT PERSON:
Jan Ewing, Deputy Director, 405-848-6841, #104

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2005:

435:40-1-9. License renewal and replacement

(a) **Purpose.** The purpose of this section is to set out the rules governing electrologist license renewal and replacement.

(b) **Date required to renew.**

(1) A licensee must renew the license annually.

(2) The application and fee for the renewal of the license shall be postmarked or hand delivered to the Board office not later than December 31st.

(3) Each licensee is responsible for renewing the license on or before the required date and shall not be excused from paying additional fees or penalties.

(c) **Renewal procedure.**

(1) At least thirty (30) days prior to December 31st, the Board will send an application for renewal of the license, and the amount of the renewal fee due. The licensee must complete the application and return it to the Board office with the required fee. The timely return of the completed renewal form shall be considered confirmation of the receipt of renewal notification.

(2) The license renewal form for all licensees shall require in addition to other information, the preferred mailing address and primary practice address.

(3) The Board shall not consider a license to be renewed until it receives both the completed license renewal form and the required fees set by the Board.

(4) The Board shall issue to a licensee who has met all requirements for renewal a renewal of license identification card.

(d) **Late renewal.**

(1) The chairman shall notify a person who has not renewed a license after a period of more than thirty (30) days that their license is inactive.

(2) A person whose license is inactive for not more than thirty (30) days may renew the license by paying to the Board the required renewal fee and a penalty fee that is one-half of the renewal fee in the form of a certified check or money order.

(3) A person whose license has been inactive for more than thirty (30) days but less than one (1) year of the last day for renewal of the license may renew the license by paying to the Board the unpaid licensure renewal fees, plus a late penalty that is equal to the renewal fee, in the form of a certified check or money order.

(4) A person whose license has been lapsed more than twelve months wishing to re-enter the practice of Electrology will be required to file an application on forms provided by the Board of Medical Licensure and Supervision and pay fees as set by the Board of Medical Licensure and Supervision. Electrologists may be required to meet one or more of the following:

(A) Personal appearance.

(B) One (1) continuing education unit (CEU) for each three (3) years out of practice, not to exceed six (6) CEU's, prorated based on the number of years license expired.

(C) Practice under the direct supervision of a Registered Electrologist licensed in the state of Oklahoma for up to forty (40) hours for each year license lapsed, with the exact number of hours to be established by the Committee. The supervising Registered Electrologist will provide reports to the Committee on the applicant's progress prior to each Advisory Committee meeting.

(D) Retake licensing examination.

(5) Surrender of a license certificate. A person who fails to renew a license after one (1) year is required to surrender the license certificate and license identification card to the Board.

(e) **Replacement of license.** The Board will replace a lost, damaged or destroyed license certificate or license identification card upon application by the licensee and payment of fees established by the Board. Applications must include an affidavit detailing the loss or destruction of the licensee's original license or license identification card, or be accompanied by the damaged certificate or card.

(f) **Continuing education.**

(1) Requirements. Applicants for renewal of their certificate as a Registered Electrologist must provide evidence to show successful completion of continuing education and compliance with the following requirements:

(A) A continuing education unit (CEU) is the equivalent of ten contact hours.

(B) The Advisory Committee of Registered Electrologists will oversee the program ~~and award CEUs on approved submittals~~. CEUs will be awarded by the Committee or the Committee chairperson with ratification by the Committee at the next meeting.

(C) CEUs will be approved according to the established guidelines and accepted proposal or at the discretion of the Committee when the aforementioned are inadequate or inapplicable.

(D) CEUs must be obtained over the designated accounting period for licensure.

(E) CEUs acquired beyond the requirement cannot be credited to the next accounting period.

(F) The accounting period shall be three (3) years and ~~1.0~~ 1.5 CEUs will be required during that period. Licensees shall report to the Committee earned CEUs no later than October 31 of the third year of the accounting period prior. The final two months of the accounting period shall be used by the Committee to review the reported CEUs earned by licensees prior to the renewal date to which the reported CEUs apply.

(G) Submittals must be made on standardized submittal cards signed by the sponsor of the program or activity being submitted for credit.

(H) Submittal cards may be obtained through the Oklahoma State Board of Medical Licensure and Supervision or the O.S.E.A.

(I) Submittals must be made to the Committee through the Board.

(J) The Committee will account for acquired CEUs and yearly notify each Registered Electrologist of the number acquired and the number lacking.

(K) New licentiates will be required to obtain CEUs on a pro rata basis depending upon when they are licensed during the accounting period. Furthermore, no CEUs will be required during the full calendar year in which one is just licensed.

(2) **Traditional methods of CEUs.**

(A) Workshops

(B) Seminars

(C) Conferences

The above are given by National, Regional or State electrolysis organizations.

(D) Programs attended at OSEA quarterly meetings

(E) Electrolysis related workshop, seminar or conference given by Committee approved school or other Assigned value = 0.1 CEU per hour of program attended.

(3) **Alternative Methods of CEUs.**

(A) Presentation of electrolysis programs

(~~1~~i) Presentation at National, Regional or State electrolysis organizational workshops, seminar or conference.

(~~2~~ii) Other presentation as approved by the Committee. Assigned value = .05 to 0.2 CEUs per presentation.

(B) Publications (published or accepted for publication)

(~~1~~i) Authorship or co-authorship of a book relating to electrolysis. 0.3 CEUs

(~~2~~ii) Authorship of a chapter in a book or journal article that appears in a professional electrolysis or health journal. 0.2 CEUs

(~~3~~iii) Authorship of an article, book review or abstract in a National, Regional or State electrolysis or health newsletter or magazine. 0.5 CEUs

(~~4~~iv) Production of other media such as videotape, slide/ tape presentation, etc. that is available for general viewing as approved by the Committee. Assigned value = 0.05 to 0.3 CEUs per publication or finished product.

(C) Research

(~~1~~i) Principal or co-investigator, project director or research assistant. Research proposal and final results submitted to Committee for approval.

(~~2~~ii) Quality assurance studies completed and published in a journal, newsletter or professional magazine. Assigned value = 0.2 CEUs per project.

(D) Formal course work

(~~1~~i) College and university course work directly relating to improvement, advancement or extension of one's skills as an electrologist, (i.e. courses such as those required for licensure or those in the Newberry degree program).

(~~2~~ii) College and university courses that are indirectly related, yet support skills and knowledge will be evaluated individually and assigned value accordingly by the Committee (i.e. business, improving human relations, etc.). Assigned value = 0.1 to 0.3 CEUs as approved.

(E) Independent study

(~~1~~i) Independent reading of articles, books, or journals followed by written or oral review ~~and submitted to the OSEA for approval~~.

(~~2~~ii) Watching relevant videotapes or programs followed by a written or oral review ~~submitted to the OSEA~~.

(~~3~~iii) Listening to electrolysis or other health related seminar tapes followed by a written or oral review ~~submitted to the OSEA~~.

(iv) Other self-study relevant to the practice of Electrology.

(~~4~~ v) ~~Materials for this category may be checked out through the OSEA and values~~ Values will be assigned for each submittal based on relevance to one's practice and the complexity of the material. Assigned value = .05 to 0.1 as approved, not to exceed 0.2 CEUs in one accounting period.

(F) National certification - C.C.E. or C.P.E. Achievement of a National certification by a recognized body such as AEA or SCME will be awarded 0.2 CEUs one time only. Assigned value = 0.2 CEUs one time only.

(G) Cardiopulmonary resuscitation certification or recertification. Assigned value = .2 CEUs per accounting period.

[OAR Docket #05-559; filed 4-7-05]

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

[OAR Docket #05-560]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 7. Regulation of Practice
435:50-7-1.1. Administrative fines [NEW]
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INCORPORATED BY REFERENCE:
n/a
ANALYSIS:
Pursuant to 59 O.S., Section 2307, this rule allows the Committee to recommend and Board to impose an administrative fine for violation of any provision of the Pedorthists Act or for practicing without a license.
CONTACT PERSON:
Jan Ewing, Deputy Director, 405-848-6841, #104

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2005:

SUBCHAPTER 7. REGULATION OF PRACTICE

435:50-7-1.1. Administrative fines

The Advisory Committee on Pedorthics shall recommend to the Board an appropriate administrative fine to be levied upon anyone who is in violation of any provision of the Oklahoma Licensed Pedorthists Act or who holds himself or herself out to be a pedorthist without being duly licensed. In accordance with 59 O.S., Section 2307, a fine of up to Five Hundred Dollars ($500.00) per day may be assessed based upon the severity of the offense.

[OAR Docket #05-560; filed 4-7-05]

TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 55. LICENSED ORTHOTISTS AND PROSTHETISTS AND REGISTERED TECHNICIANS AND ASSISTANTS

[OAR Docket #05-561]

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RULES:
Subchapter 7. Regulation of Practice
435:55-7-2.1. Administrative fines [NEW]
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INCORPORATED BY REFERENCE:
n/a
ANALYSIS:
Pursuant to 59 O.S., Section 3007, this rule allows the Committee to recommend and Board to impose an administrative fine for violation of any provision of the Orthotics and Prosthetics Practice Act.
CONTACT PERSON:
Jan Ewing, Deputy Director, 405-848-6841, #104

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2005:

SUBCHAPTER 7. REGULATION OF PRACTICE

435:55-7-2.1. Administrative fines

The Advisory Committee on Orthotics and Prosthetics shall recommend to the Board an appropriate administrative fine to be levied upon anyone who is in violation of any provision of the Oklahoma Orthotics and Prosthetics Practice Act or who holds himself or herself out to be a orthotist or prosthetist without being duly licensed or who holds himself or herself out to be a prosthetic/orthotic technician, or prosthetist/orthotist assistant without being duly registered. In accordance with 59 O.S., Section 3007, a fine of up to Five Hundred Dollars ($500.00) per day may be assessed based upon the severity of the offense.

[OAR Docket #05-561; filed 4-7-05]

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
CHAPTER 16. STANDARDS AND CRITERIA FOR COMMUNITY RESIDENTIAL MENTAL HEALTH FACILITIES

[OAR Docket #05-572]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 5. Services
450:16-5-1. [AMENDED]
Subchapter 7. Critical Incidents
450:16-7-2. [AMENDED]
450:16-7-3. [AMENDED]
Subchapter 11. Safety
450:16-11-1. [AMENDED]
450:16-11-2. [AMENDED]
Subchapter 13. Quality Of Life
450:16-13-12.2. [AMENDED]
450:16-13-16. [AMENDED]
450:16-13-27.1. [AMENDED]
Subchapter 25. Resident Management/General Services
450:16-25-3. [AMENDED]
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43A O.S. § 3-315; Board of Mental Health and Substance Abuse Services.
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ANALYSIS:
In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 16 are part of the Department's review of Title 450. These proposed amendments are intended to clarify certification requirements, delete redundant or superfluous language, and correct scrivener's errors. ODMHSAS anticipates these rules will enhance the quality of services for individuals who reside in community residential mental health facilities.
CONTACT PERSON:
Linda Winton, Policy Analyst and Agency Liaison Officer, Department of Mental Health and Substance Abuse Services, Post Office Box 53277, Oklahoma City, Oklahoma 73152-3277, (405) 522-6765.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2005:

SUBCHAPTER 5. SERVICES

450:16-5-1. Continuity of care agreements, other service providers

(a) The RCF shall have negotiated formal written agreements with other behavioral health ~~inpatient and outpatient~~ service providers to assure availability of continuous community based services to residents who will potentially need those services. The agreements must define responsibilities of each service entity. The Agreement(s) shall be renewed on an annual basis. If the Agreement is not obtained, the RCF shall show documentation of efforts to obtain the Agreement(s). At a minimum, there shall be agreements in place to sufficiently meet the emergency mental health needs of clients as well as insure continuous access to and collaboration with an array of outpatient behavioral psychiatric and rehabilitation services, including appropriate access to integrated services for individuals with co-occurring substance disorders.

(b) To ensure continuity of care with all components of services, these Agreements shall address the roles and responsibilities of the RCF, the local providers of community-based behavioral health services and any other pertinent party. One of the roles and responsibilities addressed shall be to provide access to emergency detention services and inpatient services.

(c) Compliance with 450:16-5-1 shall be determined by a review of documentation, including agreement(s) signed by all necessary parties; or agreement(s) signed by some of the parties with further notes from the RCF stating the date of attempts to have the agreement(s) signed by the other providers.

SUBCHAPTER 7. CRITICAL INCIDENTS

450:16-7-2. Critical incidents, documentation of

(a) The proper documentation of critical incidents is necessary to promote enhancement of resident care.

(b) The documentation of critical incidents shall contain, at a minimum:

(1) The name and signature of the person(s) reporting the incident;

(2) Identity of each resident or staff member involved;

(3) Facility name;

(4) Time and date incident was reported and name of person within the facility to whom it was reported;

(5) Description of incident;

(6) Time, place and date incident occurred;

(7) The severity of each injury, if applicable. Severity shall be indicated as follows:

(A) No off-site medical care required or first aid care administered on-site;

(B) Medical care by a physician or nurse or follow-up attention required; or

(C) Hospitalization or immediate off-site medical attention was required;

(8) Resolution or action taken, date action taken, and signature of the facility administrator.

(c) Compliance with 450:16-7-2 shall be determined by a review of the RCF's critical incident reports.

450:16-7-3. Critical incidents, reporting of

(a) The RCF shall report the following critical incidents to ODMHSAS.

(b) Critical incidents requiring medical care by a physician or nurse or follow-up attention and incidents requiring hospitalization or immediate off-site medical attention shall be delivered via fax or mail to ODMHSAS Provider Certification within twenty-four (24) hours of the incident being documented.

(c) Critical incidents involving allegations constituting a sentinel event or resident abuse shall be reported to ODMHSAS immediately via telephone or fax, but not ~~less~~ more than twenty-four (24) hours of the incident. If reported by telephone, the report shall be followed with a written report within twenty-four (24) hours.

(d) Compliance with 450:16-7-3 shall be determined by a review of critical incident reports at the RCF and those submitted to ODMHSAS.

SUBCHAPTER 11. SAFETY

450:16-11-1. First aid supplies~~/~~ and fire fighting equipment

(a) Residents and staff are entitled to a safe environment and accommodations. Staff of an RCF shall know the exact location, contents, and use of first aid supply kits and fire fighting equipment. First aid supplies and fire fighting equipment shall be located in areas in the RCF as designated by the State Fire Marshall or local authorities ~~appropriately designated areas within the RCF~~.

(b) Compliance with 450:16-11-1 shall be determined by a review of RCF training documentation; staff interviews of staff on duty, but not less than one (1) or more than five (5).

450:16-11-2. Annual fire and life safety inspection

(a) The RCF shall obtain an annual fire and safety inspection from the State Fire Marshall or local authorities which ~~results in the facility being allowed to continue to operate~~ documents approval for continued occupancy.

(b) Compliance with 450:16-11-2 shall be determined by a review of the RCF's annual fire and safety inspection report.

SUBCHAPTER 13. QUALITY OF LIFE

450:16-13-12.2. Toilets

(a) Toilets shall be ~~in~~ clean~~,~~ and in good repair, and provide individual privacy for residents.

(b) Compliance with 450:16-13.1 shall be determined by on-site observation; and, if applicable, a review of OSDH on-site inspection reports.

450:16-13-16. Frequency of activities held away from residential care facility

(a) Activities shall be provided by the RCF, away from the facility, two (2) or more times per week for those who do not attend Clubhouse or general psychosocial rehabilitation programs or for those who choose to attend the activities away from the facility.

(b) Compliance with 450:16-13-16 shall be determined by on-site observation; resident, staff, and CMHC staff interviews; and RCF documentation such as calendar of events and facility attendance sheets or compliance with ~~450:16-20-8~~ 450:16-29-8, if an Enhanced Residential Care facility.

450:16-13-27.1. Bed linens

(a) The RCF shall provide bed linens, to minimally include ~~blankets, if requested by the resident~~, bedspreads, upper and bottom bed sheets, and pillow cases. Blankets should be provided if requested by the resident. All bed linens shall be clean and in good repair.

(b) Compliance with 450:16-13-27.1 shall be determined by on-site observation of residents' beds; and a review of OSDH reports.

SUBCHAPTER 25. RESIDENT MANAGEMENT/GENERAL SERVICES

450:16-25-3. Health care services

(a) Annually, the RCF shall monitor and document each resident's physical conditions to detect early indications of health or nutritional risks~~, in a format to be prescribed by ODMHSAS~~.

(b) This assessment shall be completed by a Registered Nurse, Nurse Practitioner, Physician's Assistant, Doctor of Medicine, or Doctor of Osteopathy licensed in the State of Oklahoma, and said person shall complete the assessment based on personal examination/observation of the resident in addition to the resident's records.
(c) Assessments for new residents shall be completed within ninety (90) days of admission to the RCF. If an assessment has been completed at another facility within the preceding twelve (12) months before admission to the current RCF, a copy of that assessment will suffice, with annual assessments thereafter completed on the basis of the previous assessment.
(d) Compliance with 450:16-25-3 shall be determined by a review of RCF documentation.

[OAR Docket #05-572; filed 4-7-05]

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

[OAR Docket #05-573]

RULEMAKING ACTION:
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RULES:
Subchapter 1. General Provisions
450:17-1-2. [AMENDED]
450:17-1-6. [AMENDED]
Subchapter 3. Required Services
Part 7. Outpatient Counseling Services
450:17-3-62. [AMENDED]
Part 17. Services to Homeless Individuals
450:17-3-161. [AMENDED]
Subchapter 5. Optional Services
Part 5. Homebased Services to Children and Adolescents
450:17-5-25. [NEW]
Part 11. Community Living Programs
450:17-5-56. [AMENDED]
450:17-5-59.1. [AMENDED]
450:17-5-60. [AMENDED]
450:17-5-61. [REVOKED]
450:17-5-62. [REVOKED]
450:17-5-64. [AMENDED]
450:17-5-66. [AMENDED]
450:17-5-67. [REVOKED]
450:17-5-67.2. [AMENDED]
450:17-5-67.3. [AMENDED]
Subchapter 7. Facility Clinical Records
450:17-7-5. [AMENDED]
450:17-7-6. [REVOKED]
450:17-7-7. [REVOKED]
450:17-7-8. [AMENDED]
Subchapter 15. Performance Improvement and Quality Management
450:17-15-5. [AMENDED]
Subchapter 19. Human Resources
450:17-19-1. [AMENDED]
Subchapter 21. Staff Development and Training
450:17-21-3. [AMENDED]
Subchapter 23. Facility Environment
450:17-23-1. [AMENDED]

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ANALYSIS:
In accordance with the Administrative Procedures Act these proposed rules are part of the Department's review of Title 450. These proposed actions are intended to amend or revoke rules, clarify certification mandates, delete redundant or superfluous language, and correct scrivener's errors. Community mental health center programs provide comprehensive and essential services to citizens throughout the state of Oklahoma. The programs provide a public health service assuring quality and accessible care for persons and their families impacted by mental illnesses. Programs operating without the benefit of monitoring and oversight pursuant to these rules could potentially provide care in unsafe and ineffective manners.
CONTACT PERSON:
Linda Winton, Policy Analyst and Agency Liaison Officer, Department of Mental Health and Substance Abuse Services, Post Office Box 53277, Oklahoma City, Oklahoma 73152-3277, (405) 522-6765.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2005:

SUBCHAPTER 1. GENERAL PROVISIONS

450:17-1-2. Definitions

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

"Abuse" means the causing or permitting of harm or threatened harm to the health, safety, or welfare of a resident by a staff responsible for the resident's health, safety, or welfare, including but not limited to: non-accidental physical injury or mental anguish; sexual abuse; sexual exploitation; use of mechanical restraints without proper authority; the intentional use of excessive or unauthorized force aimed at hurting or injuring the resident; or deprivation of food, clothing, shelter,

or healthcare by a staff responsible for providing these services to a resident.

"Adults who have a serious mental illness" are persons eighteen (18) years of age or older who meet the following criteria:

(A) Currently or at any time during the past year have had a diagnosable mental, behavioral or emotional disorder of sufficient duration to meet criteria specified within DSM-IV with the exception of "V" codes, substance abuse disorders, and developmental disorders, unless they co-occur with another diagnosable serious mental illness; and

(B) Based on a client assessment scale, has moderate impairment in at least four, severe impairment in two or extreme impairment in one of the following areas:

(i) Feeling, mood and affect;
(ii) Thinking;
(iii) Family relationships;
(iv) Interpersonal skills;
(v) Role performance;
(vi) Socio-legal; or
(vii) Self care and basic needs; or

(C) Has a duration of illness of at least one year and at least moderate impairment in two, or severe impairment in one of the following areas:

(i) Feeling, mood and affect;
(ii) Thinking;
(iii) Family relationships;
(iv) Interpersonal skills;
(v) Role performance;
(vi) Socio-legal; or
(vii) Self care and basic needs.

"Case management services" means planned linkage, advocacy and referral assistance provided in partnership with a consumer to support that consumer in self sufficiency and community tenure and take place in the individual's home, in the community, or in the facility, in accordance with a treatment plan developed with and approved by the consumer and qualified staff. "Children who have a serious emotional disturbance" are persons under eighteen (18) years of age who meet the following criteria:

(A) Possess a diagnosable, serious disorder under DSM-IV such as pervasive developmental disorder, childhood schizophrenia, schizophrenia of adult-type manifesting in adolescence, conduct disorder, affective disorder, other disruptive behaviors, or other disorders with serious medical implications such as eating disorders, or persistent involvement with alcohol or drugs; and

(B) Based on a client assessment scale, has moderate impairment in at least four, severe impairment in two, or extreme impairment in one in the following areas:

(i) Feeling, mood and affect;
(ii) Thinking;
(iii) Substance use;
(iv) Family relationships;
(v) Interpersonal skills;
(vi) Role performance;
(vii) Socio-legal;
(viii) Self care and basic needs; or
(ix) Caregiver resources; or

(C) Has a duration of illness for at least one year and has a functioning level of moderate impairment in at least two, or severe impairment in one of the following areas:

(i) Feeling, mood and affect;
(ii) Thinking;
(iii) Family relationships;
(iv) Interpersonal skills;
(v) Role performance;
(vi) Socio-legal; or
(vii) Self care and basic needs.

"Chronic Homelessness" refers to an individual with a disabling condition who has either: (a) been continuously homeless for a year or more, or (b) has had at least 4 episodes of homelessness in the past 3 years. For this condition, the individual must have been on the streets or in an emergency shelter (i.e. not transitional housing) during these episodes. Chronic homelessness only includes single individuals, not families. A disabling condition is a diagnosable substance abuse disorder, serious mental illness, or developmental disability, including the co-occurrence of two or more of these conditions.

"Creating A Positive Environment" or **"CAPE"** means a specific curriculum designed by ODMHSAS to train staff in verbal and non-verbal communication techniques in the management of selected and potentially problematic behaviors and to foster attitudes that promote the consumer's dignity and self-esteem in facility treatment settings.

"Clinical privileging" means an organized method for treatment facilities to authorize an individual permission to provide specific care and treatment services to consumers within well-defined limits, based on the evaluation of the individual's license, education, training, experience, competence, judgment, and other credentials.

"Clubhouse" means a psychiatric rehabilitation program currently certified as a Clubhouse through the International Center for Clubhouse Development (ICCD).

"Community living programs" means a range of supportive housing options for persons not in crisis who need assistance with obtaining and maintaining an independent living situation and may include transitional housing and permanent supported housing.

"Community mental health center" or **"CMHC"** means a facility offering a comprehensive array of community-based mental health services, including but not limited to, inpatient treatment, outpatient treatment, partial hospitalization, emergency care, consultation and education; and, certain services at the option of the center, including, but not limited to, prescreening, rehabilitation services, pre-care and aftercare, training programs, and research and evaluation.

"Consumer" means an individual, adult or child, who has applied for, is receiving or has received evaluation or treatment services from a facility operated or certified by ODMHSAS

or with which ODMHSAS contracts and includes all persons referred to in OAC Title 450 as client(s) or patient(s) or resident(s) or a combination thereof.

"Consumer advocacy" includes all activities on behalf of the consumer to assist with or facilitate resolution of problems in the acquisition of resources or services needed by the consumer.

"Consumer committee" or **"consumer government"** means any established group within the facility comprised of consumers, led by consumers and meets regularly to address consumer concerns to support the overall operations of the facility.

"Crisis Intervention" means an immediately available service to meet the psychological, physiological and environmental needs of individuals who are mentally ill.

"Crisis stabilization" means emergency, psychiatric, and substance abuse services for the resolution of crisis situations and may include placement of an individual in a protective environment, basic supportive care, and medical assessment, referral provided in a ODMHSAS certified facility having nursing and medical support available.

"Critical incident" means an occurrence or set of events inconsistent with the routine operation of the facility, or the routine care of a consumer. Critical incidents specifically include but are not necessarily limited to the following: adverse drug events; self-destructive behavior; deaths and injuries to consumers, staff and visitors; medication errors; consumers that are absent without leave (AWOL); neglect or abuse of a consumer; fire; unauthorized disclosure of information; damage to or theft of property belonging to a consumers or the facility; other unexpected occurrences; or events potentially subject to litigation. A critical incident may involve multiple individuals or results.

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

"Emergency detention" means the detention of a person who appears to be a person requiring treatment in a facility approved by the Commissioner of Mental Health and Substance Abuse Services as appropriate for such detention after the completion of an emergency examination and a determination that emergency detention is warranted for a period not to exceed seventy-two (72) hours, excluding weekends and holidays, except upon a court order authorizing detention beyond a seventy-two-hour period or pending the hearing on a petition requesting involuntary commitment or treatment as provided by 43A of the Oklahoma Statutes.

"Emergency examination" means the examination of a person who appears to be a mentally ill person, an alcohol-dependent person, or drug-dependent person and a person requiring treatment, and whose condition is such that it appears that emergency detention may be warranted, by a licensed mental health professional to determine if emergency detention of the person is warranted.

"Facility" means community mental health center.

"General psychosocial rehabilitation" or **"PSR"** means a type of psychiatric rehabilitation program which focuses on long term recovery and maximization of self-sufficiency, role function and independence. General psychosocial rehabilitation programs may be organized within a variety of structures which seek to optimize the participants' potential for occupational achievement, goal setting, skill development and increased quality of life.

"Hard of hearing" is any degree of hearing loss which interferes with the individual's ability to communicate without some form of specialized accommodation which may include, but not be limited to: hearing aids, sign language interpreters, assistive listening devices, or communication through speech reading. The hearing loss of those individuals needing special services may range from mild, 25 to 45 decibels in the better functioning ear, to profound, 90 decibels or more.

"Historical timeline" means a method by which a specialized form is used to gather, organize and evaluate information about significant events in a consumer's life, experience with mental illness, and treatment history.

"Homebased services to children and adolescents" means intensive therapeutic services provided in the home to children for the purpose of reduction of psychiatric impairment and preventing removal of the child to a more restrictive setting for care. Services include a planned combination of procedures developed by a team of qualified mental health professionals, including a physician.

"Homeless" refers to a person who is sleeping in an emergency shelter; sleeping in places not meant for human habitation, such as cars, parks, sidewalks, or abandoned or condemned buildings; spending a short time (30 consecutive days or less) in a hospital or other institution, but ordinarily sleeping in the types of places mentioned above; living in transitional/supportive housing but having come from streets or emergency shelters; being evicted within a week from a private dwelling unit and having no subsequent residence identified and lacking the resources and support networks needed to obtain access to housing; being discharged from an institution and having no subsequent residence identified and lacking the resources and support networks needed to obtain access to housing; or is fleeing a domestic violence situation and no subsequent residence has been identified and the person lacks the resources and support networks needed to obtain housing.

"Independent living skills, assistance in development of" means all activities directed at assisting individuals in the development of skills necessary to live and function within the community, e.g., consumer education on topics such as hygiene, cooking, budgeting, meal planning, housecleaning and when clinically indicated, side-by-side work with the consumer in a normalized setting and prevocational and vocational activities.

"Integrated Client Information System" or **"ICIS"** is a comprehensive management information system based on national standards for mental health and substance abuse databases. It is a repository of diverse data elements that provide information about organizational concepts, staffing patterns, consumer profiles, program or treatment focus, and many other topics of interest to clinicians, administrators and consumers. It includes unique identifiers for agencies, staff and consumers that provide the ability to monitor the course of consumer services throughout the statewide DMHSAS

network. ICIS collects data from hospitals, community mental health centers, substance abuse agencies, domestic violence service providers, residential care facilities, prevention programs, and centers for the homeless which are operated or funded in part by DMHSAS.

"Independent living training" means a supervised place of temporary transitional residence for mental health consumers participating in an independent living training program before moving to a more independent living situation. These facilities are intended for participation by mental health consumers who have recently been released from an institution, and who need short-term training and support before entering an independent living situation.

"Job development services" means strategies which market the CMHC rehabilitation services and assist employers in facilitating the successful employment of individuals with psychiatric disabilities. Marketing, in this context, is defined as an ongoing, continuous approach which enables the rehabilitation unit to identify employer needs, refocus resources and management structures as needed and improve services to consumers and employers which satisfy those needs for the purpose of job development services such as developing long-term relationships between the agency and employers which will lead to more and better job opportunities for persons with psychiatric disabilities.

"Licensed mental health professional" or **"LMHP"** means:

(A) a psychiatrist who is a diplomate of the American Board of Psychiatry and Neurology;

(B) a licensed Doctor of Medicine or Doctor of Osteopathy who has received specific training for and is experienced in performing mental health therapeutic, diagnostic, or counseling functions;

(C) a licensed clinical psychologist;

(D) a licensed professional counselor as defined in Section 1906 of Title 59 of the Oklahoma Statutes;

(E) a person licensed as a clinical social worker pursuant to the provisions of Section 1250 et seq. of Title 59 of the Oklahoma Statutes;

(F) a licensed marital and family therapist as defined in Section 1925.2 of Title 59 of the Oklahoma Statutes;

(G) a licensed behavioral practitioner as defined in Section 1931 of Title 59 of the Oklahoma Statutes; or

(H) an advanced practice nurse as defined in Section 567.3a of Title 59 of the Oklahoma Statutes specializing in mental health.

"Linkage" refers to the communication and coordination with other service providers to assure timely appropriate referrals between the CMHC and other providers.

"Medical resident" means a physician who is a graduate of a school of medicine or osteopathy and who is receiving specialized training in a teaching hospital under physicians who are certified in that specialty.

"Medication error" means an error in prescribing, dispensing or administration of medication, regardless if the error reached the consumer, e.g., omission of prescribed drugs, giving drugs not prescribed, prescribing inappropriate drugs, prescribing or administering incorrect dosages, incorrectly filling or labeling prescriptions, incorrectly transcribing medication orders.

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

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

"Performance Improvement" or **"PI"** means an approach to the continuous study and improvement of the processes of providing health care services to meet the needs of consumers and others. Synonyms, and near synonyms include continuous quality improvement, continuous improvement, organization-wide quality improvement and total quality management.

"Permanent supported housing " means a permanent residential program for mental health consumers in which the agency facilitates placement of, and provides intensive case management services to, individuals who reside in an apartment or house, either individually or shared, and may include congregate or scattered site housing. Staffs are not required on-site, but are on-call for residents. These facilities are intended for Mental Health consumers who desire and are evaluated as being capable of, living in a house or apartment without on-site supervision.

"Program of Assertive Community Treatment" or **"PACT"** is a clinical program that provides continuous treatment, rehabilitation, and support services to persons with mental illness in settings that are natural to the consumer.

"Progress notes" mean a chronological written description of services provided to a consumer and documentation of the consumer's response related to the intervention plan.

"Psychosocial evaluations" are in-person interviews conducted by professionally trained personnel designed to elicit historical and current information regarding the behavior and experiences of an individual, and are designed to provide sufficient information for problem formulation and intervention.

"Rehabilitation assessment services" means a process utilized to determine the individual's functional work-related abilities and vocational preferences for the purpose of rehabilitation assessment the identification of the skills and environmental supports needed by the individual in order to function more independently in an employment setting, and to determine the nature and intensity of services which may be necessary to obtain and retain employment.

"Resident" means a person residing in a community living program certified by ODMHSAS.

"Residential treatment" means a structured, 24-hour supervised treatment program for individuals who are mentally ill with a minimum of twenty-one (21) hours of therapeutic services provided per week with the emphasis on stabilization and rehabilitation for transfer to a less restrictive environment. Stay in the program is time limited.

"Restraint" refers to manual, mechanical, and chemical methods that are intended to restrict the movement or normal functioning of a portion of an individual's body.

"Sentinel event" is a type of critical incident that is an unexpected occurrence involving the death or serious physical or psychological injury to a consumer, or risk thereof. Serious injury specifically includes loss of limb or function. The phrase "or risk thereof" includes a variation in approved processes which could carry a significant chance of a serious adverse outcome to a consumer. These events signal the need for immediate investigation and response. Sentinel events include, but are not limited to: suicide, homicide, criminal activity, assault and other forms or violence, including domestic violence or sexual assault, and adverse drug events resulting in serious injury or death.

"Serious Emotional Disturbance" or **"SED"** means a child from birth to eighteen years of age who does not have a primary diagnosis of a developmental disorder(s) and meets the following criteria:

(A) possesses a diagnosable, serious disorder under DSM-IV such as pervasive developmental disorder, childhood schizophrenia, schizophrenia of adult-type manifesting in adolescence, conduct disorder, affective disorder, other disruptive behaviors, or other disorders with serious medical implications such as eating disorders, or persistent involvement with alcohol or drugs; and

(B) has a functioning level which includes: a moderate impairment in at least four; severe impairment in two; or extreme impairment in one of the following areas; OR has an illness with a duration of at least one year and has a functioning level of moderate impairment in at least two; or a severe impairment in one of the following areas:

(i) Feeling, mood and affect include: an uncontrolled emotion that is clearly disruptive in its effects on other aspects of a child's life; frustration, anger, loneliness and boredom persist beyond the precipitating situation; and symptoms of distress are pervasive and do not respond to encouragement or reassurance;

(ii) Thinking processes include: daily life is disrupted due to impaired thoughts and thinking process; an inability to distinguish between fantasy and reality exists; and unusual thoughts or attachments to objects are present;

(iii) Substance use includes: frequent difficulties due to substance use and repeated use of substances causing difficulty at home or in school;

(iv) Family situation includes: disruption of family relationships or family does not function as a unit and experiences frequent turbulence; relationships that exist are psychologically devastating; the child does not have family support and is abused or neglected;

(v) Interpersonally the child will: have a severe inability to establish or maintain a personal social support system; lacks close friends or group affiliations; is socially isolated; and lacks age appropriate social skills;

(vi) Role performance consists of: frequent disruption of role performance and the individual is unable to meet usual expectations; has persistent behavior problems; and has failure, or been suspended or expelled from school;

(vii) Socio-legal issues include: inability to maintain conduct within the limits prescribed by law, rules and strong mores; shows little concern for consequences of actions; and delinquent acts or frequent contact with law enforcement exists;

(viii) Self care and basic needs are such that the ability to care for self is considerably below expectation; or

(ix) Caregiver resources are: the caregiver has difficulties in providing for the child's basic needs; or the developmental needs are such that there is a negative impact on the child's level of functioning.

"Service area" means a geographic area established by the Department of Mental Health and Substance Abuse Services for support of mental health and substance abuse services [43A O.S. § 3-302(1)].

"Socialization" means all activities, which encourage interaction and the development of communication, interpersonal, social and recreational skills and can include consumer education.

"Special need, persons with" means any persons with a condition which is considered a disability or impairment under the "American with Disabilities Act of 1990" including, but not limited to the deaf or hard of hearing, visually impaired, physically disabled, developmentally disabled, persons with disabling illness, persons with mental illness. See "Americans with Disabilities Handbook," published by U.S. Equal Employment Opportunity Commission and U.S. Department of Justice.

"Supervised housing programs" means a temporary or permanent residential program for mental health consumers, in which the consumer resides in one of a group of apartments. These facilities are intended for use by mental health consumers who desire and are evaluated as being capable of living in an apartment setting, without on-site staff.

"Supportive services" refers to assistance with the development of problem-solving and decision-making skills to maintain or achieve optimal functioning within the community and can include consumer education.

"Transitional housing program" means a type of Community Living Program in which the consumer's stay in the residence is considered temporary and time-limited in nature. The actual program model may include a range of approaches, including but not limited to independent living programs and supervised housing programs.

"Vocational placement services" means a process of developing or creating an appropriate employment situation matched to the functional abilities and choices of the individual for the purpose of vocational placement services such as the identification of employment positions, conducting job analysis, matching individuals to specific jobs, facilitating job

expansion or advancement and communicating with employers about training needs.

"Vocational preparation services" means services that focus on development of general work behavior for the purpose of vocational preparation such as the utilization of individual or group work-related activities to assist individuals in understanding the meaning, value and demands of work; to modify or develop positive work attitudes, personal characteristics and work behaviors; to develop functional capacities; and to obtain optimum levels of vocational development.

"Volunteer" means any person who is not on the program's payroll, but provides direct services and fulfills a defined role within the program and includes interns and practicum students.

450:17-1-6. Services

All facilities providing services shall have a group of services herein designated as core services. CMHCs may have specific additional services herein designated as optional services. Optional services may be an ODMHSAS contractual requirement(s).

(1) Core services are:

(A) Screening, intake and referral;

(B) Emergency services, which include crisis intervention, emergency examinations, and emergency detention if the CMHC is also certified as a community based structured crisis center or provides acute inpatient services;

(C) Medication clinic services;

(D) Case management (adult and juvenile);

(E) Adult psychiatric rehabilitation programs;

(F) Outpatient counseling; and

(G) Services to homeless individuals.

(2) Optional services are:

(A) Homebased services to children and adolescents;

(B) Day treatment services to children and adolescents;

(C) Vocational employment services;

(D) Community living programs;

(E) Crisis stabilization;

(F) Inpatient services within the CMHC setting; ~~and~~

(G) Program of Assertive Community Treatment~~.~~; and

(H) Behavioral health aide services to children, adolescents and families.

SUBCHAPTER 3. REQUIRED SERVICES

PART 7. OUTPATIENT COUNSELING SERVICES

450:17-3-62. Outpatient counseling services, substance abuse

(a) Facilities shall provide outpatient substance abuse counseling services.

(b) These services shall include the provision of Human Immunodeficiency Virus (HIV) education, training, and counseling services for drug dependent persons (43A O.S. § ~~3-125.1~~ 3-425.1), and every facility shall:

(1) Provide educational sessions regarding HIV to such persons, and also make the sessions available to spouses or other sexual partners of the drug dependent person; and

(2) Refer all drug dependent persons for HIV infection testing and counseling.

(c) The HIV testing and counseling may be provided by the facility, or through a public or private organization for the testing or counseling services. All test results shall be maintained in the confidential manner prescribed by applicable state or federal statutes or regulations.

(d) Compliance with 450:17-3-62 shall be determined by a review of the following: written policy and procedures; substance abuse consumer records; and other supporting facility records and documentation.

PART 17. SERVICES TO HOMELESS INDIVIDUALS

450:17-3-161. Services to homeless individuals

(a) ~~CMHCs shall provide linkage services to adults who have a serious mental illness and are homeless. These persons need access to a variety of support services.~~

~~(b)~~ CMHCs shall provide the following services to individuals within their service area who are homeless, including those individuals experiencing chronic homelessness and who have a serious mental illness, including co-occurring substance use disorders:

(1) Linkage and contacts with local emergency services, shelters, state-operated psychiatric inpatient unit, and any other organizations which may be in contact with homeless persons;

(2) Linkage and contacts with local housing authorities;

(3) Contact, and work with those who are homeless and who have a serious mental illness, to assist with accessing CMHC services, income benefit programs, and housing programs, among other services; and .

(4) These services shall be addressed in CMHC policy and procedures.

(~~c~~b) Compliance with 450:17-3-161 shall be determined by a review of the following: documentation of linkage activities and agreements; clinical records; ICIS reporting data; and, CMHC policy and procedures.

SUBCHAPTER 5. OPTIONAL SERVICES

PART 5. HOMEBASED SERVICES TO CHILDREN AND ADOLESCENTS

450:17-5-25. Behavioral health aide services to children, adolescents and families

(a) Behavioral health aide services to children and adolescents may be available in any location based on a consumer's need for the purpose of reducing psychiatric impairment or preventing out-of-home placement. Behavioral health aides provide behavior management, redirection and life skills remedial training in home, school or community setting, to include training and remediation of children and the families on behavioral, interpersonal, communication, self help, safety, substance use decisions, and daily living skills. If provided, these services shall:

(1) Be provided based on an assessed family need for this intensive service to prevent unnecessary out-of-home placement of the child/adolescent;

(2) Have written policies and procedures specific to this service;

(3) Use only qualified staff in accordance with the following requirements:

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

(B) Behavioral Health Aides must complete the Module 1, CPR, Blood Born Pathogens, and First Aid training portions of the specialized training and education curriculum provided by the ODMHSAS before beginning work with children and families, and must have successfully completed the entire training and education curriculum, including passing a final examination, within six (6) months of their employment.

(C) Behavioral Health Aides must be directly and closely supervised by a licensed Mental Health Professional, to include:

(i) one-half ($\frac{1}{2}$) hour of one-on-one supervision weekly for each 20 hours of direct service;

(ii) one-half ($\frac{1}{2}$) hour of group supervision weekly for each 20 hours of direct service; and

(iii) at least half of the one-on-one supervision will take place in real time consultation/coaching (on the job training - this can mean visiting the aide on the job, receiving calls from the aide from the job for consultation, etc.).

(b) Behavioral Health Aides will function under the general direction of the established systems of care team and pursuant to the child/adolescent's current plan of care (treatment plan).

(c) Compliance with 450:17-5-25 shall be determined by a review of written policy and procedures, personnel records, on-site observation; and staff interviews.

PART 11. COMMUNITY LIVING PROGRAMS

450:17-5-56. Community living programs

(a) Community living programs shall include at least one of the following two types of supportive housing options for persons not in crisis who need assistance with obtaining and maintaining an independent living situation:

(1) Transitional housing; or

(2) Permanent Supported housing;

(b) A community living program shall have written policies and procedures specifying how, and by whom, the following services shall be performed:

(1) Medical treatment for residents on both emergency and routine bases;

(2) Mental health and substance abuse services on both emergency and routine bases;

(3) Daily living, social and occupational evaluation and progress planning;

(4) Daily living and social skills training;

(5) Occupational and vocational training;

(6) Assistance to ~~consumers~~ residents in locating appropriate alternative living arrangements as clinically indicated or requested by resident or as part of program completion or graduation;

~~(7) Resolution of inappropriate admissions or placements; and~~

(~~8~~ 7) A mechanism for orientation and education of new residents, which shall include, at least:

(A) Emergency procedures including fire, health and safety procedures;

(B) ~~Consumer~~ Resident rights and responsibilities; and

(C) Program expectations and rules.

(8) Assistance to residents in accessing community resources including but not limited to rental assistance and other benefits.

(c) There shall be documentation indicating that each resident has received orientation and education on emergency procedures, resident rights and responsibilities, and program expectations and rules.

(~~c~~d) To ensure a ~~clean and~~ safe and sanitary environment for residents, the following shall apply for all CMHC owned and/or managed housing facilities:

(1) The apartment or house and furnishings shall be ~~clean and~~ in good repair, and free of unpleasant odors, and insect and rodent infestations.

(2) The apartment or house shall contain safe heating and air conditioning systems, which are in proper working conditions. Each apartment or house shall have an annual fire and safety inspection by the State or local Fire Marshal's office.

(3) Apartments or houses shall be inspected by CMHC staff on a regular basis as specified in agency Policy and Procedures to ensure that fire, health or ~~and~~ safety hazards do not exist~~, and cleanliness standards are met~~.

(4) The program shall develop and maintain emergency policy and procedures which shall include but are not limited to:

(A) Fire response and evaluations;

(B) Response to ~~external or internal~~ other disasters; ~~and~~

(C) Relocation if housing unit(s) become unlivable; and

(~~C~~D) Personal accident or illness.

(d) Compliance with 450:17-5-56 shall be determined by on-site observation; interviews with residents, program staff, and other appropriate CMHC staff; and a review of facility documentation including a review of the CMHC written policy and procedures and resident records.

450:17-5-59.1. Transitional housing programs

(a) The length of stay for Transitional housing programs shall be temporary and transitional in nature.

(b) Transitional housing programs shall include at least one of the following two types of housing programs:

(1) ~~Independent~~ Supervised transitional living ~~training~~ programs; or

(2) ~~Supervised~~ Supported transitional housing programs.

(c) Transitional housing programs shall define general parameters for length of stay. ~~To ensure the safety of residents, transitional housing programs shall develop and maintain emergency plans and procedures which shall include, but are not limited to:~~

~~(1) Fire response and evaluation;~~

~~(2) Response to external or internal disasters; and~~

~~(3) Personal accident or illness.~~

(d) ~~Response to the emergency plans and procedures shall be contained in the program's policy and procedures and there shall be documentation indicating each consumer is made aware of such plans and procedures.~~

~~(e)~~ Compliance with 450:17-5-59.1 shall be determined by a review of the program's written policy and procedures~~, and consumer records~~.

450:17-5-60. ~~Independent~~ Supervised transitional living ~~training~~ programs

(a) ~~Independent~~ Supervised transitional living programs ~~shall:~~ are supervised places of temporary transitional residence for mental health consumers needing on-site support twenty-four (24) hours a day. These programs are intended to assist residents with stabilization and acquisition of skills necessary to transition to an independent living situation.

~~(1) Define general parameters for length of stay in the independent living program; and~~

~~(2) Develop and implement a component of governance by the residents.~~

(b) Supervised transitional living programs shall:

(1) Have paid staff on duty twenty-four (24) hours a day, with backup coverage in case of staff unscheduled absences, illness or emergencies.

(2) Maintain staffing number and composition, and training and expertise to sufficiently supervise, provide and maintain the services as defined in the program's goals and objectives and to ensure the safety of the residents.

(3) Develop and implement a component of governance by the tenants.

(4) Be licensed by the Oklahoma State Department of Health if required.

(c) In these programs, the following shall be available for all residents, and shall be specified on the resident's treatment plan or housing plan, according to individual resident needs and interests: The program shall offer 20 hours per week of meaningful activity. A minimum of ten (10) hours should be provided on-site, with at least eight (8) of those ten (10) hours focusing specifically on independent living skills training.

(~~b~~d) Compliance with 450:17-5-60 shall be determined by on-site observation; interviews with residents, program staff, and other appropriate CMHC staff; and a review of the following: policy and procedures, facility documentation (including staff schedules), ~~and~~ residents' council minutes, and valid State Department of Health Certificate of Licensure if required.

450:17-5-61. Independent living training program, staffing [REVOKED]

~~(a) There shall be paid staff on duty twenty-four (24) hours a day, with backup coverage in case of staff unscheduled absences, illness or emergencies.~~

~~(b) The number and composition, and training and expertise of the staff of the program shall be sufficient to supervise, provide and maintain the services as defined in the program's goals and objectives and to ensure the safety of the consumers.~~

~~(c) Compliance with 450:17-5-61 shall be determined by on-site observation; interviews with residents, staff, and appropriate CMHC staff; and a review of facility documentation (staff schedules).~~

450:17-5-62. Independent living training program, licensure [REVOKED]

~~(a) Independent living programs shall be licensed by the Oklahoma State Department of Health if required.~~

~~(b) Compliance with 450:17-5-62 shall be determined by evidence of a valid State Department of Health Certificate of Licensure if required.~~

450:17-5-64. ~~Supervised~~ Supported transitional housing programs

(a) ~~Supervised~~ Supported transitional housing programs are grouped apartment or other residential settings with staff available as needed, but there is not necessarily twenty-four (24) hour on-site supervision. In these programs, the following shall be available for all ~~consumers~~ residents, and shall be specified on the ~~consumer's~~ resident's treatment plan or housing plan, according to individual ~~consumer~~ resident needs and interests:

(1) The program shall offer or make available ~~day program~~ psychosocial rehabilitation program services for ~~those~~ residents ~~are unemployed or are not actively involved in other structures programs~~;

(2) The program shall offer or make available at least one (1) evening or weekend socialization and recreational activity per week; and

(3) The program shall offer or make available eight (8) hours of meaningful activity per week. A minimum of five (5) of those hours should include on-site independent living skills training ~~at least eight (8) hours per week~~. This shall include working side-by-side with the ~~consumer(s)~~ resident(s) to instruct in the development of independent living skills.

(b) Compliance with 450:17-5-64 shall be determined by interviews with residents, program staff, or other appropriate CMHC staff; and a review of facility documentation including a review of the CMHC written policy and procedures and resident records.

450:17-5-66. Permanent supported housing programs

(a) ~~The CMHC, acting as facilitator for the consumer in obtaining housing, shall:~~

~~(1) Locate housing placement alternatives and facilitate the renting of apartments or houses, including negotiation with landlords when applicable; and~~

~~(2) Initially offer and make available financial assistance to individuals without the resources necessary to acquire an apartment or house.~~

~~(b)~~ Permanent supported housing programs include at least one of the following two (2) types of housing programs:

(1) Permanent scattered site housing programs; or

(2) Permanent congregate housing programs

(b) In permanent supported housing programs the following shall be available for all residents, and shall be specified on the resident's treatment plan or housing plan, according to individual resident needs and interests:

(1) The CMHC permanent supported housing programs shall make ongoing monthly contact with each resident, either on or offsite.

(2) The program shall offer independent living skill training. This training shall include working side by side with residents to provide instruction in the development of independent living skills.

(3) Psychosocial rehabilitation program services shall be made available to residents.

(4) The CMHC shall offer, or arrange for, socialization and recreational opportunities at least twice a week for individuals in permanent supported housing programs; including at least one evening activity.

(c) Compliance with 450:17-5-66 shall be determined by interviews with residents, program staff, and other appropriate CMHC staff; and a review of CMHC policy and procedures, and resident records.

450:17-5-67. Permanent supported housing programs, monthly contacts and activities [REVOKED]

~~(a) The CMHC permanent supported housing programs shall make ongoing monthly contact with each tenant, either on or offsite.~~

~~(b) Day program services for unemployed individuals or individuals not involved in other structured day programs shall be available.~~

~~(c) The CMHC shall offer, or arrange for, socialization and recreational opportunities at least twice a week for individuals in permanent supported housing programs; and socialization activities shall be equally available to all residents.~~

~~(d) The program shall offer independent living skill training based upon documented consumer need as validated by functional skills assessment. This training shall include working side by side with consumers to provide instruction in the development of independent living skills.~~

~~(e) Compliance with 450:17-3-67 shall be determined by on-site observation, tenant interviews, interviews with appropriate CMHC staff, and review of program policy and procedures, and consumer records.~~

450:17-5-67.2. ~~Consumer~~ Permanent scattered-site housing ~~assistance~~ programs

(a) The ~~CMHC consumer~~ permanent scattered-site housing ~~assistance~~ programs shall facilitate the acquisition of permanent, scattered site housing in the community, which in any given ~~apartment~~ housing complex has no more than fifty-percent (50%) of its residents with psychiatric disabilities.

(b) ~~Consumer~~ Resident choice shall be documented in the selection of housing.

(c) The ~~consumer~~ Resident shall be the lessee, and the services provider shall not be the landlord.

(d) ~~Services initially provided shall be intensive and move to lower levels of care based on the needs of the tenant and such shall be reflected in the treatment or housing plan.~~

~~(e)~~ Compliance with 450:17-3-67.2 shall be determined by the following: on-site observation; interviews with residents ~~tenant~~, program staff and other appropriate CMHC staff; and a review of facility and ~~consumer~~ resident record documentation.

450:17-5-67.3. Permanent congregate housing programs

(a) Permanent congregate housing programs are programs in which the individual is assisted in finding an apartment or housing within the community, where the housing complex has more than 50% of its residents with psychiatric disabilities. ~~In these programs, the following shall be available for all consumers, and shall be specified on the consumer's treatment plan as appropriate according to individual consumer needs:~~

~~(1) At least one (1) weekly social or recreational activity shall be offered in the evening.~~

~~(2) Eight (8) hours of services per week shall be offered.~~

~~(3) The eight (8) hours of services provided on site shall be based on tenant need and preference, and these may include group therapy, independent living skills training, education groups, recreation or social skills training.~~

(b) Resident choice shall be documented in the selection of housing.

(c) The Resident shall be the lessee, and the landlord may be the services provider.

(~~b~~ d) Compliance with 450:17-5-67.3 shall be determined by the following: on-site observation; interviews with residents ~~tenants~~, program staff and other appropriate CMHC staff; and

a review of facility and ~~consumer~~ resident record documentation.

SUBCHAPTER 7. FACILITY CLINICAL RECORDS

450:17-7-5. Clinical record content, intake ~~and~~ assessment

(a) All facilities shall assess each individual to determine appropriateness of admission.

(b) The CMHC shall document the first contact per episode between the potential consumer and the CMHC to determine appropriateness of admission.

(c) Consumer intake assessment information shall contain but not be limited to the following ~~identification data~~:

(1) Date, to include month, day and year of the interview or intake including re-admissions for CMHC services;

(2) Source of information;

(~~2~~3) Consumer's first name, middle initial, and last name;

(4) Gender;

(5) Birth date;

(~~3~~6) Home address;

(~~4~~7) Telephone number;

(~~5~~8) Referral source;

(~~6~~9) Reason for referral;

(~~7~~10) Significant other to be notified in case of emergency;

(~~8~~11) ICIS intake data core content; ~~and~~

(~~9~~12) Presenting problem and disposition~~.~~;

(13) Health and drug history information, with drug history information to include the following:

(A) Name of medication,

(B) Strength and dosage of current medication,

(C) Length of time patient was on the drug, if known,

(D) Benefit(s) of medication,

(E) Side effects, and

(F) Relevant drug history of family members;

(14) Psychosocial information, which shall include:

(A) Personal history, including:

(i) Family - social,

(ii) Educational,

(iii) Cultural - moral beliefs,

(iv) Occupational - military,

(v) Sexual,

(vi) Marital,

(vii) Domestic violence or sexual assault,

(viii) Recreation and leisure,

(ix) Financial,

(x) Clinical treatment history including medical and psychiatric treatment,

(xi) Legal or criminal record, and

(xii) Substance abuse;

(B) Present life situation;

(C) Interviewer's interpretation of findings;

(D) What consumer wants in terms of service;

(E) Disposition;

(F) Mental status information, including questions regarding:

(i) Physical presentation, such as general appearance, motor activity, attention and alertness, etc.,

(ii) Affective process, such as mood, affect, manner and attitude, etc., and

(iii) Cognitive process, such as intellectual ability, social-adaptive behavior, thought processes, thought content, and memory, etc.;

(G) Level of Functioning;

(H) Signature of interviewer and professional credentials, if any.

(15) Additional information as required by the facility.

(d) The CMHC shall have policy and procedures that dictate timeframes by when intake assessment must be completed for each program service to which a client is admitted.

(e) An intake assessment update, to include date, identifying information, source of information, present problems, present life situation, current level of functioning, and what consumer wants in terms of service, is acceptable only on re-admissions within one (1) year of previous admission.

(f) Compliance with 450:450:17-7-5 shall be determined by a review of the following: intake assessment instruments and other intake documents of the facility; ~~and~~ clinical records and other agency documentation of intake materials or requirements; and policies and procedures.

450:17-7-6. Health and drug history [REVOKED]

~~(a) A health and drug history shall be completed for each consumer at the time of admission.~~

~~(b) The drug history shall include, at a minimum, the following obtainable information regarding:~~

~~(1) Name of medication;~~

~~(2) Strength and dosage of current medication;~~

~~(3) Length of time patient was on the drug, if known;~~

~~(4) Benefit(s) of medication;~~

~~(5) Side effects; and~~

~~(6) Relevant drug history of family members.~~

~~(c) Compliance with 450:17-7-6 shall be determined by a review of clinical records.~~

450:17-7-7. Psychosocial evaluation [REVOKED]

~~(a) All consumer records shall include a psychosocial evaluation, which shall include:~~

~~(1) Date, to include month, day and year of interview or intake including re-admissions for CMHC services;~~

~~(2) Identification information, to minimally include consumer's first name, middle initial and last name, gender, birth date, source of referral, and additional information as required by the facility;~~

~~(3) Source of information;~~

~~(4) Presenting problem;~~

~~(5) Personal history, including:~~

~~(A) Family - social,~~

~~(B) Educational,~~
~~(C) Cultural - moral beliefs,~~
~~(D) Occupational - military,~~
~~(E) Sexual,~~
~~(F) Marital,~~
~~(G) Domestic violence or sexual assault,~~
~~(H) Recreation and leisure,~~
~~(I) Financial,~~
~~(J) Clinical treatment history, including:~~
~~(i) Medical treatment; and~~
~~(ii) Psychiatric treatment;~~
~~(K) Legal or criminal record; and~~
~~(L) Substance abuse;~~
~~(6) Present life situation;~~
~~(7) Interviewer's interpretation of findings;~~
~~(8) What consumer wants in terms of service;~~
~~(9) Disposition;~~
~~(10) Mental status exam, including:~~
~~(A) Physical presentation, such as general appearance, motor activity, attention and alertness, etc.,~~
~~(B) Affective process, such as mood, affect, manner and attitude, etc., and~~
~~(C) Cognitive process, such as intellectual ability, social adaptive behavior, thought processes, thought content, and memory, etc;~~
~~(11) Level of functioning; and~~
~~(12) Signature of interviewer and professional credentials, if any.~~
~~(b) The CMHC shall have policy and procedures that dictate timeframes by when psychosocial evaluations must be completed for each program service to which a client is admitted.~~
~~(c) A psychosocial evaluation update, to include date, ID information, source of information, present problems, present life situation, what consumer wants in terms of service, and mental status examination, is acceptable only on re-admissions within one (1) year of previous admission.~~
~~(d) Compliance with 450:17-7-7 shall be determined by a review of the clinical records, and policies and procedures.~~

450:17-7-8. Treatment plan

(a) The treatment plan shall provide evaluation, formation of measurable treatment objectives and ongoing changes in goals and objectives based upon consumer's progress or identification of new problems.

(b) An initial treatment plan shall be completed after completion of intake ~~the first~~ assessment or after the first treatment session on all consumers.

(c) The CMHC shall have policy and procedures that dictate timeframes by when comprehensive treatment plans must be completed for each program service to which a consumer is admitted.

(d) Comprehensive treatment plan contents shall:
(1) Describe assets and liabilities;
(2) Reflect consideration of clinical needs;
(3) Specify services necessary to meet the needs;
(4) Include referrals for needed services;
(5) Contain specific goals;
(6) Contain measurable time framed objectives;
(7) Specify frequency of treatment;
(8) Designate person(s) responsible for providing treatment;
(9) Delineate specific discharge criteria;
(10) Include substantiated diagnosis in terminology of the current DSM published by the American Psychiatric Association; and
(11) Describe the consumer's involvement in, and consumer's response to the treatment plan as evidenced by a statement dated and signed by the consumer verifying his or her involvement in the treatment planning process and his or her agreement with the plan, proposed interventions, and target dates for completion.

(e) Treatment plans shall be dated and signed by all members of the treatment team who participate in the planning or in providing the services.
(1) Treatment plan updates shall contain:
(A) Change in goals and objectives based upon consumer's progress or identification of new problems;
(B) Change in primary clinician assignment;
(C) Change in frequency or types of services provided; and
(D) A statement documenting review, including an explanation if no changes are made in the plan.
(2) The CMHC shall have policy and procedures that dictate timeframes by when treatment plan updates must be completed for each program service to which a client is admitted.

(f) Compliance with 450:17-7-8 shall be determined by a review of the clinical records.

SUBCHAPTER 15. PERFORMANCE IMPROVEMENT AND QUALITY MANAGEMENT

450:17-15-5. Incident reporting

(a) The facility shall have written policies and procedures requiring documentation and reporting of critical incidents.

(b) The documentation for critical incidents shall contain, minimally:
(1) the facility, name and signature of the person(s) reporting the incident;
(2) the name(s) of the consumer(s), staff member(s) or property involved;
(3) the time, date and physical location of the critical incident ;
(4) the time and date the incident was reported and name of the staff person within the facility to whom it was reported;
(5) a description of the incident;
(6) resolution or action taken, date action taken, and signature of appropriate staff; and
(7) severity of each injury, if applicable. Severity shall be indicated as follows:
(A) No off-site medical care required or first aid care administered on-site;

(B) Medical care by a physician or nurse or follow-up attention required; or

(C) Hospitalization or immediate off-site medical attention was required;

(c) Critical incidents shall be reported to ODMHSAS with specific timeframes, as follows:

(1) Critical incidents requiring medical care by a physician or nurse or follow-up attention and incidents requiring hospitalization or immediate off-site medical attention shall be delivered via fax or mail to ODMHSAS Provider Certification within twenty-four (24) hours of the incident being documented.

(2) Critical incidents involving allegations constituting a sentinel event or consumer abuse shall be reported to ODMHSAS immediately via telephone or fax, but not more than twenty-four (24) hours of the incident. If reported by telephone, the report shall be followed with a written report within twenty-four (24) hours.

(d) Compliance with 450:17-15-5 shall be determined by a review of facility policy and procedures; copies of incidents reports at the facility; and reports of incidents submitted to ODMHSAS.

SUBCHAPTER 19. HUMAN RESOURCES

450:17-19-1. Personnel policies and procedures

(a) The facility shall have written personnel policies and procedures approved by the governing authority.

(b) All employees shall have access to personnel policies and procedures, as well as other Rules and Regulations governing the conditions of their employment.

(c) The facility shall develop, adopt, and maintain policies and procedures at each provider location to promote the objectives of the center and provide for qualified personnel during all hours of operation to support the functions of the facility and the provision of quality care.

(d) Compliance with 450:17-19-1 shall be determined by a review of written personnel policies and procedures, and other supporting documentation provided.

SUBCHAPTER 21. STAFF DEVELOPMENT AND TRAINING

450:17-21-3. Annually required inservice training for all employees

(a) Inservice presentations shall be conducted ~~annually~~ each calendar year and are required for all employees on the following topics:

(1) Fire and safety;

(2) AIDS and HIV precautions and infection control;

(3) Consumer's rights and the constraints of the Mental Health Patient's Bill of Rights;

(4) Confidentiality; and

(5) Oklahoma Child Abuse Reporting and Prevention Act, 10 O.S. §§ 7101-7115; and

(6) Facility policy and procedures

(b) Compliance with 450:17-21-3 shall be determined by a review of inservice training records; personnel records; and other supporting written information provided.

SUBCHAPTER 23. FACILITY ENVIRONMENT

450:17-23-1. Facility environment

(a) The CMHC shall ~~meet accreditation, inspection, safety and building code regulations required by local, state and federal authorities and laws which results in the facility being allowed to continue to operate~~ obtain an annual fire and safety inspection from the State Fire Marshall or local authorities which documents approval for continued occupancy.

(b) CMHC staff shall know the exact location, contents and use of first aid supply kits and fire fighting equipment. First aid supplies and fire fighting equipment shall be maintained in appropriately designated areas within the facility.

(c) There shall be posted written plans and diagrams noting emergency evacuation routes in case of fire, and shelter locations in case of severe weather.

(d) Facility grounds shall be maintained in a manner to provide a safe environment for consumers, personnel, and visitors.

(e) The director of the CMHC or designee shall appointment of a safety officer.

(f) The facility shall have an emergency preparedness program designed to provide for the effective utilization of available resources so that consumer care can be continued during a disaster. The emergency preparedness program is evaluated annually and is updated as needed.

(g) Policies for the use and control of personal electrical equipment shall be developed and implemented.

(h) There shall be an emergency power system to provide lighting throughout the facility.

(i) The CMHC director shall ensure there is a written plan to cope with internal and external disasters. External disasters include, but are not limited to, tornados, explosions, and chemical spills.

(j) ~~The CMHC shall be inspected annually by:~~

~~(1) Representatives of the Oklahoma State Fire Marshall (if required);~~

~~(2) Designated fire and safety officials of the municipality who exercise fire and safety jurisdiction in the facility's location.~~

~~(k)~~ Compliance with 450:17-23-1 shall be determined by visual observation; posted evacuation plans; a review of the CMHC's annual fire and safety inspection report; and a review of policy, procedures and other supporting documentation provided.

[OAR Docket #05-573; filed 4-7-05]

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
CHAPTER 23. STANDARDS AND CRITERIA FOR COMMUNITY-BASED STRUCTURED CRISIS CENTERS

[OAR Docket #05-574]

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Subchapter 13. Performance Improvement and Quality Management
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Subchapter 21. Facility Environment
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In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 23 are part of the Department's review of Title 450. These actions are intended to amend or revoke rules, clarify certification mandates, delete redundant or superfluous language, and correct scrivener's errors. Community-based structured crisis centers are essential components of local emergency mental health and substance abuse response systems. The centers provide a public health service by assuring quality care for persons who may at risk of harming themselves or others as a result of severe symptoms related to mental illnesses or addictive disorders or both.
CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2005:

SUBCHAPTER 13. PERFORMANCE IMPROVEMENT AND QUALITY MANAGEMENT

450:23-13-5. Incident reporting

(a) The CBSCC shall have written policies and procedures requiring documentation and reporting of critical incidents.

(b) The documentation for critical incidents shall contain, minimally:

(1) the facility name and name and signature of person(s) reporting the incident;

(2) the name of consumer(s), staff person(s), or others involved in the incident;

(3) the time, place and date the incident occurred;

(4) the time and date the incident was reported and name of the person within the facility to whom it was reported;

(5) description of the incident; and

(6) the severity of each injury, if applicable. Severity shall be indicated as follows:

(A) No off-site medical care required or first aid care administered on-site;

(B) Medical care by a physician or nurse or follow-up attention required; or

(C) Hospitalization or immediate off-site medical attention was required;

(7) Resolution or action taken, date action taken, and signature of CBSCC director.

(c) The CBSCC shall report those critical incidents to ODMHSAS that include.

(1) Critical incidents requiring medical care by a physician or nurse or follow-up attention and incidents requiring hospitalization or immediate off-site medical attention shall be delivered via fax or mail to ODMHSAS Provider Certification within twenty-four (24) hours of the incident being documented.

(2) Critical incidents involving allegations constituting a sentinel event or resident abuse shall be reported to ODMHSAS immediately via telephone or fax, but not less than twenty-four (24) hours of the incident. If reported by telephone, the report shall be followed with a written report within twenty-four (24) hours.

(d) Compliance with 450:23-13-5 shall be determined by a review of policy and procedures and critical incident reports at the CBSCC and those submitted to ODMHSAS.

SUBCHAPTER 21. FACILITY ENVIRONMENT

450:23-21-1. Facility environment

(a) The CBSCC shall ~~meet inspection, safety, and building code regulations required by local, state and federal authorities and laws~~ obtain an annual fire and safety inspection from the State Fire Marshall or local authorities which documents approval for continued occupancy. Compliance with 450:23-21-1 shall be determined by a review of the CBSCC's annual fire and safety inspection report.

(b) CBSCC staff shall know the exact location, contents, and use of first aid supply kits and fire fighting equipment and fire detection systems. All fire fighting equipment shall be annually maintained in appropriately designated areas within the facility.

(c) The CBSCC shall post written plans and diagrams noting emergency evacuation routes in case of fire, and shelter locations in case of severe weather.
(d) Facility grounds shall be maintained in a manner, which provides a safe environment for consumers, personnel, and visitors.
(e) The CBSCC Facility Director or, designee, shall appoint a safety officer.
(f) The CBSCC shall have an emergency preparedness program designed to provide for the effective utilization of available resources so consumer care can be continued during a disaster. The CBSCC shall evaluate the emergency preparedness program annually and update as needed.
(g) Policies for the use and control of personal electrical equipment shall be developed and implemented.
(h) The CBSCC shall have an emergency power system to provide lighting throughout the facility.
(i) The CBSCC Facility Director shall ensure there is a written plan to respond to internal and external disasters. External disasters include, but are not limited to, tornadoes, explosions, and chemical spills.
(j) All CBSCCs shall be inspected annually by designated fire and safety officials of the municipality who exercise fire/safety jurisdiction in the facility's location which results in the facility being allowed to continue to operate.
(k) The CBSCC shall have a written Infection Control Program and staff shall be knowledgeable of Center for Disease Control (CDC) Guidelines for Tuberculosis and of the Blood Borne Pathogens Standard, location of spill kits, masks, and other personal protective equipment.
(l) The CBSCC shall have a written Hazardous Communication Program and staff shall be knowledgeable of chemicals in the workplace, location of Material Safety Data Sheets, personal protective equipment; and toxic or flammable substances shall be stored in approved locked storage cabinets.
(m) Compliance with 450:23-21-1 shall be determined by visual observation, posted evacuation plans and a review of policy/procedures, regulatory or internal inspection reports, training documentation and other supporting documentation provided.

[OAR Docket #05-574; filed 4-7-05]

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
CHAPTER 50. CERTIFIED BEHAVIORAL HEALTH CASE MANAGERS

[OAR Docket #05-575]

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Subchapter 3. Behavioral Health Case Manager Certification Application
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In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 55 are part of the Department's review of Title 450. These actions are intended to amend or revoke rules, clarify certification mandates, delete redundant or superfluous language, and correct scrivener's errors. Behavioral health case management services are essential to assure continuity of care, access to critical support services, and advocacy on behalf of persons with mental health, substance abuse, and domestic violence support or treatment needs. As such the practice of case management services positively impacts the public health and wellness of persons served and the general public.
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2005:

SUBCHAPTER 3. BEHAVIORAL HEALTH CASE MANAGER CERTIFICATION APPLICATION

450:50-3-6. Grandfathering [REVOKED]

~~Until June 30, 2003, the Commissioner upon receipt of an applicant's completed application form, fees and applicable official university or college transcripts, shall issue certifications for behavioral health case management to individuals who prior to March 1, 2003 had a minimum of an associates degree or 60 hours of college course work in any field, has attended 24 hours of case management training sponsored by ODMHSAS and two (2) years experience in providing behavioral health case management services.~~

SUBCHAPTER 5. BEHAVIORAL HEALTH CASE MANAGER CERTIFICATION TRAINING

450:50-5-4. Continuing education requirements

(a) Certified behavioral health case managers must complete twelve (12) hours continuing education per year and submit documentation of the continuing education to ODMHSAS every two (2) years.

(b) Continuing education is acceptable when it:

(1) Provides information to enhance delivery of case management services; or

(2) Meets the requirements for LPC, LMFT, LBP, LCSW, CADC, LADC, or CME continuing education; or

(3) Is a required undergraduate or graduate course in a behavioral health related field and pertains to direct interaction with consumers (three hours of course work is equal to twelve hours in-service); and

(4) Is accrued during the twenty-four (24) months preceding the renewal deadline.

(c) Continuing education may be accrued when the Certified Behavioral Health Case Manager provides supervision of a competency-based case management project. The Certified Behavioral Health Case Manager may accrue 6 hours for supervision of one competency-based project annually.

(d) Certified behavioral health case managers must complete, as part of their annually required twelve (12) hours, three (3) hours of ethics training every year. Ethics training must meet the requirements for LPC, LMFT, LBP, LCSW, CADC, LADC or CME ethics training.

(e~~d~~) Certified behavioral health case managers shall retain documents verifying attendance for all continuing education hours claimed for the reporting period. Acceptable verification documents include:

(1) An official continuing education validation form furnished by the presenter;

(2) A letter or certificate from the sponsoring agency verifying name of program, presenter, number of hours attended and participants name;

(3) An official grade transcript verifying completion of the undergraduate or graduate course; or

(4) A letter confirming supervision of a competency-based project which must be submitted on agency's letterhead and signed by the agency director or clinical director.

(f~~e~~) Failure to complete the continuing education requirements and submit the required documentation by the renewal date renders the certification in suspension, and results in the loss of all rights and privileges of a certified behavioral health case manager. The Certified Behavioral Health Case Manager certification may be reinstated during a period of no longer than 12 months following the suspension date. If not reinstated the certification shall become null and void. The Certified Behavioral Health Case Manager has the right to renew the certificate by payment of renewal fees ($15.00) and late renewal fees ($25.00) and documentation of obtaining 12 hours of continuing education for each of the two prior years.

[OAR Docket #05-575; filed 4-7-05]

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
CHAPTER 55. STANDARDS AND CRITERIA FOR PROGRAMS OF ASSERTIVE COMMUNITY TREATMENT

[OAR Docket #05-576]

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Subchapter 3. Program Description and PACT Services
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450:55-3-5. [AMENDED]
450:55-3-6. [AMENDED]
450:55-3-7. [AMENDED]
450:55-3-9. [AMENDED]
Subchapter 5. PACT Clinical Documentation
450:55-5-4. [AMENDED]
450:55-5-9. [AMENDED]
450:55-5-11. [AMENDED]
Subchapter 11. Organizational Management
450:55-11-1. [AMENDED]
450:55-11-2. [AMENDED]
Subchapter 13. Performance Improvement and Quality Management
450:55-13-2. [AMENDED]
Subchapter 17. Staff Development and Training
450:55-17-2. [AMENDED]
Subchapter 19. Facility Environment
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In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 55 are part of the Department's review of Title 450. These actions are intended to amend or revoke rules, clarify certification mandates,

delete redundant or superfluous language, and correct scrivener's errors. PACT provides essential alternatives to citizens with serious mental illnesses who, without these community-based services, are at risk for hospitalization or involvement with law enforcement and criminal justice institutionalization or both. PACT programs provide a public health service by ensuring quality care and active treatment for persons who are most in need of these specialized services.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2005:

SUBCHAPTER 3. PROGRAM DESCRIPTION AND PACT SERVICES

450:55-3-3. Total case load and admission rate

(a) The PACT program shall maintain written policies and procedures that at a minimum assure compliance with the following:

(1) A staff-to-consumer ratio of no more than ten (10) consumers for each staff person. The psychiatrist and program assistant are not included in determining the staff-to-consumer ratio;

(2) A gradual build-up of, on average, ~~limit of~~ no more than 5 consumers admitted per month into the program ~~for fully staffed teams~~, or no more than 3 consumers admitted per month for PACT teams with ~~6.5~~ 8.5 or less FTE, excluding psychiatrist and program assistant; and

(3) A limit of no more than 120 consumers on a PACT team case load at one time.

(b) Compliance with 450:55-3-3 shall be determined by on-site observation and a review of the following: clinical records, ICIS information and the PACT policy and procedures.

450:55-3-5. Hours of operation and staff coverage

(a) The PACT program shall assure adequate coverage to meet consumers' needs including but not limited to:

(1) The PACT team shall be available to provide treatment, rehabilitative and support services seven days per week, including holidays and evenings, according to the following:

(A) The PACT team hours of operation for a team size greater than ~~6.5~~ 8.5 FTEs, excluding the psychiatrist and program assistant, shall be weekdays, Monday through Friday, with two overlapping eight-hour-shifts ~~per day~~ for a total of 12 hours of coverage per day. The hours of operation for a team size of 8.5 FTE or less shall be a single eight-hour shift; with consumer needs as specified in the treatment plans driving any extended hours of operation.~~and~~

(B) In addition, for teams serving less than fifty (50) consumers, there shall be eight (8) hours of coverage per day with a minimum of ~~two (2)~~ one (1) clinical staff on weekends and holidays.

(C) For teams serving fifty (50) or more consumers, there shall be eight (8) hours of coverage per day with a minimum of two (2) clinical staff on weekends and holidays. ~~For a team size that is 6.5 FTEs excluding the psychiatrist and program assistant, the PACT team will include shifts to cover evenings, weekends and holidays. The consumer's needs as specified in the treatment plan shall drive the hours of operation for evenings and weekends.~~

(2) The PACT team shall operate an after-hours on-call system. ~~PACT team staff who are experienced in the program and skilled in crisis intervention procedures shall be on call and available to respond to consumers by telephone or in person.~~ PACT shall regularly schedule PACT staff for on-call duty to provide crisis and other services during the assigned on-call hours when staff is not working to personally respond to consumers by telephone or in person on a 24 hour per day, 7 day a week basis.

(3) Psychiatric backup shall also be available and on-call during all after-hours periods. If availability of the PACT team's psychiatrist during all hours is not feasible, alternative psychiatric backup shall be arranged.

(b) Compliance with 450:55-3-5 shall be determined by on-site observation and a review of the following: clinical records, ICIS information and the PACT policy and procedures.

450:55-3-6. Service intensity

(a) The PACT team is the primary provider of services and has the responsibility to meet the consumer's multiple treatment, rehabilitation and supportive needs with minimal referrals to external agencies or programs within the governing agency for services.

(b) The PACT team shall have the capacity to provide multiple contacts per week to consumers experiencing severe symptoms or significant problems in daily living.

(c) The PACT team shall provide an average of three contacts per week for each consumer, unless otherwise clinically indicated.

(d) Each team shall provide at least 75 percent of service contacts in the community, in non-office or non-facility based settings.

(e) The PACT team shall provide ongoing contact ~~with all consumers~~ when permitted by consumers who are hospitalized for drug and alcohol or psychiatric reasons. To ensure continuity of care the PACT team shall:

(1) Assist in the admission process if at all possible;

(2) Have ~~face-to-face~~ contact with the consumer and inpatient treatment providers within 48 hours of knowing of the inpatient admission to provide information, assessment, assist with the consumer's needs and begin discharge planning;

(3) Maintain a minimum of weekly face-to-face contact with the consumer and treatment team staff;

(4) Transition the consumer from the inpatient setting into the community ~~by providing a face-to-face service while in inpatient settings~~;

(5) Maintain at least three (3) face-to-face contacts per week for one month for consumers who are discharged from an inpatient facility. The team shall document any failed attempts.

(f) PACT clients shall have direct phone access to the PACT office. Monday through Friday, 8:00 a.m. to 5:00 p.m., the program assistant or other PACT staff shall personally answer all incoming phone calls. Telephone answering devices will not be used as a primary method to receive phone calls at any time.

(g) Compliance with 450:55-3-6 shall be determined by on-site observation; and a review of the following: clinical records; ICIS information; and the PACT policy and procedures.

450:55-3-7. Staffing requirements

(a) The PACT team shall include individuals qualified to provide the required services while closely adhering to job descriptions as defined in the "PACT Start-up Manual, most recent edition as published by the National Alliance for the Mentally Ill."

(b) Each PACT team shall have the following minimum staffing configuration:

(1) One (1) full-time team leader who is the clinical and administrative supervisor of the team and also functions as a practicing clinician in the PACT team. The team leader shall be a Mental Health Professional

(2) A Board Certified or Board Eligible psychiatrist providing a minimum of 16 hours per week of direct care to minimally include: initial and psychiatric assessments, daily organizational staff meetings, treatment planning, home visits, pharmacological management, collaboration with nurses, crisis intervention, and liaison with inpatient facilities. In the initial build-up phase, a minimum of 8 hours shall be provided until the team is serving ten or more clients. For teams serving over 50 consumers, the Psychiatrist shall provide an additional three (3) hours per week for every ~~ten (10)~~ fifteen (15) additional consumers admitted to the program. On-call time is not included.

(3) At least two (2) full-time registered nurses that have at least two (2) years or more of mental health experience.

(4) At least one (1) additional full-time Mental Health Professional.

(5) At least two (2) full-time bachelor's level or higher degree behavioral health case managers.

(6) At least one (1) professional staff member on the team, excluding the psychiatrist, team leader and program assistant shall be qualified as a substance abuse treatment specialist, and at least one (1) professional staff member on the team, excluding the psychiatrist, team leader and program assistant, shall be qualified as an employment specialist.

(7) A minimum of one-half time (0.5 FTE) peer specialist. The Peer Specialist must have been a recipient of mental health services in the past. The Peer Specialist shall be a fully integrated team member.

(8) A minimum of one-half time (.5 FTE) program assistant.

(c) Teams serving greater than 65 consumers shall include the following additional staff:

(1) A full-time assistant team leader who is the back-up clinical and administrative supervisor of the team and also functions as a practicing clinician in the PACT team. The assistant team leader shall be a Mental Health Professional

(2) One (1) full-time registered nurse who has at least two (2) years or more of mental health experience which shall result in three (3) fulltime registered nurses.

(3) One (1) additional full-time Mental Health Professional ~~serving as an employment specialist~~.

~~(4)~~ ~~A minimum~~ An additional ~~of~~ one-half time (.5 FTE) ~~part-time~~ peer specialist which will result in one (1) full-time or two (2) half-time (.5 FTE) Peer Specialists on the team.

(5) One (1) additional full-time bachelor level behavioral health case manager, when serving greater than 85 consumers on the team.

(d) The PACT program shall have policies and procedures addressing the use of students, medical residents, osteopathic residents, psychiatric residents and volunteers on the team.

(1) Psychiatric residents shall not replace the clinical work of the PACT psychiatrist such as on-call coverage, pharmacological management, treatment planning or crisis intervention.

(2) The hours a psychiatric resident works on a PACT team shall not be counted towards the standard hours of the PACT psychiatrist.

(e ~~d~~) Compliance with 450:55-3-6 shall be determined by on-site observation; and a review of the following: clinical records; ICIS information; and the PACT policy and procedures.

450:55-3-9. Clinical supervision

(a) Each PACT team shall have a written policy for clinical supervision of all staff providing treatment, rehabilitation, and support services. The team leader ~~and~~ or a clinical staff designee shall assume responsibility for supervising and directing all PACT team staff activities. This supervision and direction shall minimally consist of:

(1) Periodic observation, in which the supervisor accompanies an individual staff member to meet with consumers in regularly scheduled or crisis meetings to assess the staff member's performance, give feedback, and model alternative treatment approaches; and

(2) Participation with team members in daily organizational staff meetings and regularly scheduled treatment planning meetings to review and assess staff performance and provide staff direction regarding individual cases.

(b) Compliance with 450:55-3-9 shall be determined by on-site observation and a review of the following: clinical records, ICIS information and the PACT policy and procedures.

SUBCHAPTER 5. PACT CLINICAL DOCUMENTATION

450:55-5-4. Initial assessment and treatment plan

(a) The initial assessment data shall be collected and evaluated by PACT team leader or appropriate staff designated by the team leader. Such assessments shall be based upon all available information, including self-reports, reports of family members and other significant parties, and written summaries from other agencies, including police, courts, and outpatient and inpatient facilities, where applicable, culminating in a comprehensive initial assessment. Consumer assessment information for admitted consumers shall be completed on the day of admission to the PACT

(b) The initial assessment shall contain, but not be limited to, the following identification data:

(1) Consumer's name;
(2) Date of admission to PACT;
(3) Social Security number;
(4) Initial assessment;
(5) Reason for treatment;
(6) Availability of social supports and resources;
(7) History of psychiatric illness and previous services;
(8) Developmental and social history;
(9) Current functioning;
(10) Admitting diagnosis (Axis I-V); and
(11) Justification for Admission.

(c) The initial treatment plan is completed on the day of admission and guides team services until the comprehensive assessment and comprehensive treatment plan is completed. Interventions from the initial treatment plan should be reported on the consumer weekly schedule card. The initial treatment plan shall contain, but not be limited to, the following identification data:

(1) Consumer's name;
(2) Date;
(3) Problem(s) to be addressed;
(4) Intervention(s) to address problems;
(5) ~~Names of participants in case conference;~~
~~(6)~~ Consumer or guardian participation;
(6~~7~~) Consumer's signature; and
(7~~8~~) Team leader's signature

(d) Compliance with 450:55-5-4 shall be determined by a review of the following: intake assessment instruments and other intake documents of the PACT program, clinical records and other agency documentation of admission materials or requirements.

450:55-5-9. PACT progress note

(a) The PACT shall have a policy and procedure mandating the chronological documentation of progress notes. Every contact and service that relates to the consumer's treatment shall be documented.

(b) Progress notes shall minimally address the following:

(1) Person(s) ~~to whom~~ who services were rendered;
(2) Date and time-frame of the service provided;
(3) Staff travel times prior to and following the service, if applicable
(4) Activities and services provided and as they relate to the goals and objectives of the treatment plan;
(5) Detailed description of the contact or service;
(6) The consumer's response to intervention services, changes in behavior and mood, and outcome of intervention services;
(7) Plans for continuing treatment;
(8) The location of the service provided; and
(9) Clinician's signature with credentials.

(c) Compliance with 450:55-5-9 shall be determined by a review of clinical records.

450:55-5-11. Other records content

(a) The consumer record shall contain copies of all consultation reports concerning the consumer.

(b) When psychometric or psychological testing is done, the consumer record shall contain a copy of a written report describing the test results and implications and recommendations for treatment.

(c) The consumer record shall contain any additional information relating to the consumer that has been secured from sources outside the PACT program.

(d) Before any person can be admitted for treatment on a voluntary basis, a signed consent for treatment shall be obtained.

(e) The PACT program shall maintain a current and up-to-date Longitudinal Face Sheet on every admitted consumer. The Longitudinal Face Sheet will track all of the following ongoing information from the time of admission until discharge. The information shall include but is not limited to:

(1) Residence;
(2) Significant others;
(3) Children;
(4) Education;
(5) Legal involvement;
(6) Financial benefits;
(7) Health insurance benefits;
(8) Psychiatric diagnosis;
(9) Legal status;
(10) Institutional admissions, including associated dates and lengths of stay;
(11) Employment; and
(12) Special risks.

(f) In the case where a PACT consumer is re-admitted back into the same PACT program, the PACT team will adhere to all PACT standards for admission except comprehensive assessments shall only be updated for the time-frame the consumer did not participate in PACT.

(g) In the case where a consumer transfers from one PACT program to another, the receiving PACT program shall adhere to all PACT standards for admission. Prior PACT records may be accessed with the consent of the consumer.

(h~~f~~) Compliance with 450:55-5-11 shall be determined by a review of clinical records.

SUBCHAPTER 11. ORGANIZATIONAL MANAGEMENT

450:55-11-1. Organizational description

(a) The parent organization under which the PACT operates shall clarify formal management and reporting responsibilities related to the PACT within the parent organization's overall structure.

(b) The PACT's parent organization shall approve the mission statement and annual goals and objectives for the PACT and document their approval.

(c) The PACT or parent organization shall have a written organizational description which is reviewed annually and minimally includes:

(1) The overall target population for whom services will be provided;

(2) The specific geographic area in which PACT services are to be provided;

(3) The overall mission statement; and

(4) The PACT program's annual goals and objectives:

(d) There shall be documentation verifying these documents are available to the general public upon request.

(e) Compliance with 450:55-11-1 shall be determined by on-site observation and a review of organizational charts, ~~clinical records~~ and the PACT policy and procedures.

450:55-11-2. Program organization

(a) The parent organization under which the PACT operates shall vest authority with a team leader who shall be responsible for ensuring the PACT team meets the following organizational requirements.

(1) Each PACT shall have a written plan for professional services, which shall contain the following:

(A) Services description and philosophy;

(B) The identification of the professional staff organization to provide these services;

(C) Written admission and exclusionary criteria to identify the type of consumers for whom the services are primarily intended; and

(D) Written goals and objectives.

(2) There shall be a written statement of the procedures and plans for attaining the organization's goals and objectives. These procedures and plans should define specific tasks, set target dates and designate staff responsible for carrying out the procedures and plans.

(b) Compliance with 450:55-11-2 shall be determined by a review of the following: PACT target population definition, PACT policy and procedures, ~~mission statement,~~ written plan for professional services, other stated required documentation and any other supporting documentation

SUBCHAPTER 13. PERFORMANCE IMPROVEMENT AND QUALITY MANAGEMENT

450:55-13-2. Incident reporting

(a) There shall be written policies and procedures for PACT or the parent organization, to include PACT, requiring documentation and reporting of critical incidents.

(b) The documentation for critical incidents shall contain, minimally:

(1) the facility name and name and signature of person(s) reporting the incident;

(2) the name of consumer(s), staff person(s), or others involved in the incident;

(3) the time, place and date the incident occurred;

(4) the time and date the incident was reported and name of the person within the PACT or parent organization to whom it was reported;

(5) description of the incident;

(6) the severity of each injury, if applicable. Severity shall be indicated as follows:

(A) No off-site medical care required or first aid administered on-site;

(B) Medical care by a physician or nurse or follow-up attention required; or

(C) Hospitalization or immediate off-site medical attention was required;

(7) Resolution or action taken, date action taken, and signature of PACT program director.

(c) The PACT or parent organization shall report critical incidents to ODMHSAS with specific timeframes as follows:

(1) Critical incidents requiring medical care by a physician or nurse or follow-up attention and incidents requiring hospitalization or immediate off-site medical attention shall be delivered via fax or mail to ODMHSAS Provider Certification within twenty-four (24) hours of the incident being documented.

(2) Critical incidents involving allegations constituting a sentinel event or resident abuse shall be reported to ODMHSAS immediately via telephone or fax, but not less than twenty-four (24) hours of the incident. If reported by telephone, the report shall be followed with a written report within twenty-four (24) hours.

(d) Compliance with 450:55-13-2 shall be determined by a review of policy and procedures, critical incident reports at the PACT and those submitted to ODMHSAS.

SUBCHAPTER 17. STAFF DEVELOPMENT AND TRAINING

450:55-17-2. Staff development

(a) The PACT or parent organization shall have a written plan for the professional growth and development of all PACT administrative, professional clinical and support staff.

(b) This plan shall include but not be limited to:

(1) Orientation procedures;

(2) In-service training and education programs, including co-occurring disorder competencies;

(3) Availability of professional reference materials; and

(4) Mechanisms for insuring outside continuing educational opportunities for staff members.

(c) The results of performance improvement activities and accrediting and audit findings and recommendations shall be addressed by and documented in the staff development ~~and clinical privileging~~ processes.

(d) Staff education and in-service training programs shall be evaluated at least annually by the agency.

(e) Compliance with 450:55-17-2 shall be determined by a review of the staff development plan, ~~clinical privileging processes,~~ documentation of in-service training programs and other supporting documentation provided.

SUBCHAPTER 19. FACILITY ENVIRONMENT

450:55-19-1. Facility environment

(a) The PACT or parent organization shall ~~meet inspection, safety, and building code regulations required by local, state and federal authorities and laws~~ obtain an annual fire and safety inspection from the State Fire Marshall or local authorities which documents approval for continued occupancy. Compliance with 450:55-19-1 shall be determined by a review of the PACT or parent organization's annual fire and safety inspection report.

(b) PACT staff shall know the exact location, contents and use of first aid supply kits and fire fighting equipment and fire detection systems. All fire fighting equipment shall be annually maintained in appropriately designated areas within the facility.

(c) Written plans and diagrams noting emergency evacuation routes in case of fire, and shelter locations in case of severe weather shall be posted.

(d) Facility grounds shall be maintained in a manner which provides a safe environment for consumers, personnel, and visitors.

(e) The PACT's or parent organization shall appoint a safety officer.

(f) The PACT or parent organization shall have a written emergency preparedness program for the PACT that is designed to provide for the effective utilization of available resources so PACT consumer care can be continued during a disaster. The PACT or parent organization shall evaluate the emergency preparedness program annually and update as needed.

(g) Policies for the use and control of personal electrical equipment shall be developed and implemented.

(h) The PACT or parent organization shall have a written plan to respond to internal and external disasters. External disasters include, but are not limited to, tornadoes, explosions, and chemical spills.

(i) Facilities occupied by PACT on behalf of the parent organization shall be inspected annually by designated fire and safety officials of the municipality who exercise fire and safety jurisdiction in the facility's location.

(j) The PACT or parent organization shall have a written Infection Control Program and staff shall be knowledgeable of Center for Disease Control (CDC) Guidelines for Tuberculosis and of the Blood Borne Pathogens Standard, location of spill kits, masks and other personal protective equipment.

(k) The PACT or parent organization shall have a written Hazardous Communication Program and staff shall be knowledgeable of chemicals in the workplace, location of Material Safety Data Sheets, personal protective equipment; and toxic or flammable substances shall be stored in approved locked storage cabinets.

(l) Compliance with 450:55-19-1 shall be determined by visual observation, posted evacuation plans and a review of policy and procedures, regulatory or internal inspection reports, training documentation and other supporting documentation provided.

[OAR Docket #05-576; filed 4-7-05]

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

[OAR Docket #05-513]

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Subchapter 1. General Provisions
550:1-1-1. [AMENDED]
Subchapter 3. Organization of Board
550:1-3-3. [AMENDED]
550:1-3-4. [AMENDED]
Subchapter 5. Petition Procedures
550:1-5-2. [AMENDED]
550:1-5-5. [AMENDED]
Subchapter 7. Collections and Disbursements
550:1-7-2. [AMENDED]
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The amendments to OAC 550:1-1-1 correct grammar and clarify the purpose of the Chapter. The amendments to OAC 550:1-3-3 and OAC 550:1-3-4 correct grammar, provide that each member in a district under election will "be sent" a letter regarding the election of a Board member instead of stating that each member "will receive" the letter, and clarify when ballots will be mailed. The amendments to OAC 550:1-5-2 correct grammer and make gender references neutral. The amendments to OAC 550:1-5-5 correct a reference to a member's Deferred Option Plan account as it relates to qualified domestic relations orders. The amendments to OAC 550:1-7-2 mandate that those currently receiving monthly pension benefits from the Oklahoma Police Pension and Retirement System by paper voucher must identify a personal depository agent for direct deposit of the monthly pension benefit by December 31, 2005.
Related statutes are 11 O.S. Section 50-103.1 and 11 O.S. Section 50-124.
CONTACT PERSON:
Linda Ruckman, Administrative Officer, Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Ste. 305, Oklahoma City, OK 73116-7335, 405-840-3555 Ext. 27.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 1, 2005:

SUBCHAPTER 1. GENERAL PROVISIONS

550:1-1-1. Purpose

The rules of this Chapter are adopted for the purpose of simplifying ~~procedure~~ procedures, avoiding unnecessary delays, saving expenses, and facilitating the administration of the Oklahoma Police Pension and Retirement ~~Board~~ System.

SUBCHAPTER 3. ORGANIZATION OF BOARD

550:1-3-3. Nomination of Board members

(a) **Nomination ~~procedure~~ procedures.** The following ~~procedure~~ procedures shall govern the nomination of Board members:

(1) Each member in the district under election will ~~receive~~ be sent a letter from the Executive Director briefly describing the reason for the nomination/election, the general procedures to elect a Board member and the responsibilities of a Board member.

(2) Included with a cover letter will be a nomination petition. The nomination petition for districts 1, 2, 3, and 4 will include a list of participating municipalities whose active members are eligible to be nominated. To be placed on the ballot for districts 1, 2, 3, and 4, nominees must receive signatures from 5% of the eligible active members in their respective district and the petition must include at least one signature from five different participating municipalities. To be placed on the ballot for districts 5 and 6, nominees must receive signatures from 5% of the eligible active members in their respective district. To be placed on the ballot for district 7, nominees must receive signatures from 25 retired members of the district with at least one signature being from retirees of five different municipalities. Members eligible to receive nomination petitions and election ballots; their mailing addresses; and, for districts 1, 2, 3, 4, 5, and 6, the number of signatures required to be placed on the ballot, will be determined at least one week prior to the date the nomination petition is to be mailed.

(3) The cover letter and the nomination petition will be placed in individual envelopes addressed to each active member separately in care of their mailing address on file with the System. The envelopes will be mailed First Class to the member. Mailings to retired members will be made to the address used to mail year-end tax notices (1099R). Nomination petitions will be mailed at least six weeks prior to the date the election ballot is to be mailed. The System shall make no attempt to forward/resend any mailing returned by the United States Postal Service as undeliverable unless it is found that the mailing was sent to an incorrect address due to an administrative error on the part of the System.

(4) Nomination petitions must be returned by certified mail with return receipt or delivered in person to the certified public accounting firm supervising the election or to the System. The cover letter mailed with the nomination petition will specify the date by which the nomination petition must be received by the certified public accounting firm or by the System. The nominee must also provide a 25 words or less biographical sketch to be included in the election ballot. The names of the nominees will be posted in the System's office for public view for not less than seven days.

(5) Should only one member be nominated for any district, that member will automatically become the Board member for that district.

(6) If no nominations are received by the deadline, the nomination petitions will be remailed and handled in accordance with the normal procedures. The time frame for such remailing shall be set by the Board.

(7) The Executive Director will verify that each nominee is eligible to be elected to the Board.

(b) **Certified public accounting firm procedures.** A certified public accounting firm shall:

(1) Meet with the Executive Director and determine the timing of the initial nomination mailing to each member in the districts electing a board member.

(2) Obtain from the Executive Director a copy of a list of municipalities included in each district holding an election.

(3) Obtain from the Executive Director a copy of a cover letter to be sent with the nomination mailing outlining the duties of a Board member, nomination and election process, critical dates, etc.

(4) Review a mailing list obtained from the Oklahoma Police Pension and Retirement System which contains the

name and mailing address of each member in each district conducting an election.

(5) Obtain from the Executive Director a copy of the nomination petition and determine if any changes to the form are required.

(6) Review nomination package before mailing. Judgmatically select members listed on the mailing list and verify that they are to receive a nomination package. Judgmatically select nomination packages and verify that members are listed on correct district mailing list.

(7) Accumulate nomination responses and determine that each petition has the proper number of signatures from the appropriate municipalities.

(8) Require the Executive Director to verify that each nominee is eligible to be elected to the Board.

(c) **Oklahoma Police Pension and Retirement System procedures.** The Oklahoma Police Pension and Retirement System shall:

(1) Obtain a mailing list for each district conducting an election. The mailing list should contain the name and mailing address of each member in the district eligible to receive a nomination petition and election ballot.

(2) Obtain the nomination petition.

(3) Photocopy the nomination petition. Make enough copies for each member on district mailing list.

(4) Assemble the Executive Director's cover letter, nomination petition and list of eligible municipalities into a package, and mail a package to each member on district mailing list.

(5) Prepare the ballot for each district holding an election. Include each nominee's biographical sketch.

(6) Ballot to be posted in the office of the Oklahoma Police Pension and Retirement System for public view during regular office hours not less than seven business days before the ballot is to be mailed.

550:1-3-4. Election of Board members

(a) **Election procedures.** The following procedures shall govern the election of Board members:

(1) Eligible nominees will be placed on the election ballot.

(2) A ballot will be sent to each member in the same manner as nomination requests were sent. The ballot will be mailed at least three weeks prior to the ~~specified returned~~ date the completed ballot must be received by the certified public accounting firm. This ballot will instruct voters to return their ballot directly to the certified public accounting firm and will specify the date by which the certified public accounting firm must receive the ballot in order for it to be counted. Self-addressed, postage-paid envelopes will be enclosed to return the ballots.

(3) Ballots will be pre-numbered and require the individual signature of the voter to be counted. Ballots will be printed on the certified public accounting firm letterhead or watermarked paper.

(4) The nominee receiving the highest number of votes, even if this constitutes less than 50% of the total votes cast, will be elected to serve on the Board.

(5) Votes cast for members other than nominees contained on the ballot will not be counted.

(6) Ballots returned to the Oklahoma Police Pension and Retirement System or some location other than the certified public accounting firm's office will not be counted.

(7) Ballots received after the deadline will not be counted.

(8) Ballots with more than one vote will not be counted.

(9) Ballots which are not signed will not be counted.

(b) **Certified public accounting firm ~~procedure~~ procedures.** A certified public accounting firm shall:

(1) Review ballots before mailing. Judgmatically select members listed on the district mailing list and verify that they are to receive a ballot. Judgmatically select ballots and verify that members are listed on correct district mailing list.

(2) Accumulate responses and total results.

(3) Exclude any ballots not received by the certified public accounting firm by the cut-off date, or other spoiled ballots.

(4) Provide the total number of votes cast for each nominee and total available votes to the Oklahoma Police Pension and Retirement Board.

(c) **Oklahoma Police Pension and Retirement System procedures.** The Oklahoma Police Pension and Retirement System shall:

(1) Photocopy and/or print the ballot on the certified public accounting firm letterhead or watermarked paper.

(2) Pre-Number each ballot sequentially.

(3) Apply the name and mailing address of each member on district mailing list on a ballot and place the ballot and a self-addressed return envelope in window envelopes.

(4) After certified public accounting firm has audited the ballots, mail a package to each member on district mailing list.

(5) Send notification of election results to nominees via certified mail.

(d) **Tie votes.** Should two nominees tie for the most votes received, the election will be conducted again between the two nominees.

(e) **Election challenge.** A nominee has 10 days from the date they receive notice of the election results to provide the System with written notice of their desire to challenge the results.

(1) Should the election results be challenged by a nominee, procedures for determining the winning nominee will be established by the Oklahoma Police Pension and Retirement Board and could include but ~~is~~ are not limited to:

(A) Verification of a sample or all of the signatures on the ballots.

(B) Re-perform the election with notarized ballots.

(2) The Board may order a new election if the Board, in its discretion, finds that the previous election ~~an/or~~ and/or result was affected by some material impropriety. The new election will be conducted in the same manner as provided by rules with the exception that the Board may establish a revised time frame for the new election.

SUBCHAPTER 5. PETITION PROCEDURES

550:1-5-2. Individual hearings

(a) **Application/written request for right to relief.** In each individual proceeding, there shall be filed with the Oklahoma Police Pension and Retirement Board an application/written request stating a brief summary of facts giving rise to the request for relief.

(b) **Notice of receipt.** The Chairman of the Board, or other person designated by the Chairman, shall notify the party requesting the individual hearing of the acceptance of the application/written request for individual hearing by the Oklahoma Police Pension and Retirement Board or a hearing officer and shall specify the date, time, and place for the hearing. The notice shall comply with the requirements of 75 O.S., Section 309 and laws amendatory thereto, and may incorporate by reference material alleged in the application/written request.

(c) **Service of notices.** All notices or other papers requiring service in an individual proceeding shall, unless otherwise provided by statute, be served in one of the following manners:

(1) Personal service by a person appointed by the Board to make such service in the manner authorized by the laws of this state for the service of summons or other process in the state courts; or

(2) By certified mail forwarded by the Board or its designee, at the exact location that the person can be served such notice.

(3) If the personal service or if service by mail cannot be made after the exercise of all due diligence in attempting to learn the whereabouts or mailing address of any person to be served, then by publication in such newspapers as is determined by the Board.

(d) **Completed service of notice.** Service of notice shall be complete upon receipt of certified mail by the addressee or upon the first posting of publication notice.

(e) **Setting of hearing.** The time set for a hearing as specified in the notice shall not be less than ten (10) days after date of mailing of notice, unless otherwise agreed upon by the parties. Motions for extension of time or for a continuance of the hearing shall be made in writing and shall be filed with the Board or a person designated by the Board. Any such motion shall be for a time certain and any such motion for an extension or continuance shall state the reasons for the request and specify the length of time. The Board or the person designated by the Board shall act upon such motion promptly and grant or deny such request in the exercise of sound discretion. If the motion is denied, the party may renew his or her request at the hearing.

(f) **Subpoenas.** Subpoenas for the attendance of witnesses, for the furnishing of information required by the Board or hearing officer and for the production of evidence shall be issued by the Board or their designee upon written request.

(1) Subpoenas shall be served and a return made in the same manner as provided for ~~a~~ in state court proceedings.

(2) If a person fails to obey a subpoena, refuses to be sworn or make an affirmation at a hearing, or refuses to answer a question put to him or her in the course of a hearing, the Board or hearing officer may institute appropriate judicial proceedings to compel compliance with the subpoena or the giving of testimony. The hearing shall proceed as long as practical despite any such refusal but the Board or hearing officer may, at its discretion, at any time, continue the proceedings for such time as may be necessary to secure a court ruling.

(3) Any person who fails to appear as directed, after receipt of notice as provided by these rules, may be determined to have waived ~~his~~ the right to appear and present a defense to the allegations contained in the notice and/or request for relief. A final order in such a proceeding may be issued by the Chairman.

(g) **Order of procedure.** The order of procedure in all individual proceedings for members of the Police Pension and Retirement System shall generally follow that which applies in civil proceedings at law. Each party shall be afforded an opportunity to make a brief opening statement, to present witnesses, documents, and exhibits on its behalf, to cross examine adverse witnesses, and to rebut and to make closing arguments. The rules of evidence applicable to such hearing shall be those specified by the Administrative Procedures Act. At the discretion of the Board or hearing officer, any party may reopen his or her case in chief even after the adverse party has rested. Parties may enter into stipulations on any lawful matter.

(h) **Objections.** The Board or hearing officer shall rule on the admissibility of evidence and objections to evidence and shall rule on motions or objections raised in the course of such hearings. In the exercise of this function the Board or hearing officer may rely on the advice of counsel present and serving in such advisory capacity. Any party may object to a ruling which the party considers erroneous and an exception to such ruling shall be noted on the record. Failure to timely object to any alleged error or irregularity shall be deemed a waiver of such objection.

(i) **Findings of Fact / Conclusions of Law.** The Board or hearing officer shall hear all evidence and arguments applicable in a case and shall prepare Findings of Fact and Conclusions of Law which shall be submitted to the Chairman of the Board and mailed to parties to the action. The Board or hearing officer may request the parties to submit proposed Findings of Fact and Conclusions of Law before making a ruling on the matter at issue.

(j) **Record of hearing.** A record of the hearing, in the form of a tape recording, will be made of all hearings conducted by the Board or a hearing officer.

(k) **Issuance of Board's order.** At the conclusion of the proceedings, the Board shall issue an order reflecting the Findings of Fact made, and the Conclusions of Law specifying the action taken. The order shall be signed by the Chairman. Parties shall be notified by mail of the issuance of an order and a copy of the order shall be provided to the party or his/her attorney.

(l) **Record on file.** The record of a proceeding and the file containing the pleadings in such a proceeding will be maintained at the Oklahoma Police Pension and Retirement System.

(m) **Petition of rehearing.** Any person may petition for a rehearing, reopening or reconsideration of any decision in an individual proceeding. Such petition must be filed within ten (10) days of the date on which the order was issued and shall state the grounds for requesting such action. The grounds for

such action are set forth in 75 O.S., Section 317 and are the only grounds for rehearing, reopening or reconsidering such action. Hearings pursuant to such a request, when granted by the Board, shall be limited to the issues upon which the reconsideration, reopening or rehearing was granted.

550:1-5-5. Qualified domestic relations orders

(a) The Oklahoma Police Pension and Retirement System shall submit only that information which reflects the members contribution history and/or benefit amount.

(b) Said information shall not be furnished to any person unless prior written consent of the member is obtained or an order is issued by a court of competent jurisdiction.

(c) When a qualified domestic relations order is issued by a court of competent jurisdiction prior to the member entering the Deferred Option Plan and the qualified domestic relations order does not specifically address the division of the member's Deferred Option Plan account, the following shall apply:

(1) At the time of the issuance of the qualified domestic relations order, if the member has not entered the Deferred Option Plan but subsequently does so, the alternate payee's monthly pension amount is deposited into the Deferred Option account for the alternate payee's benefit and draws interest at the same rate as that of the member. When the member terminates the Deferred Option Plan, the alternate payee has the same options and rights as the member has relating to the payment of the Deferred Option Plan account.

(2) At the time of the issuance of the qualified domestic relations order, if the member has entered the Deferred Option Plan, the alternate payee's monthly pension amount is deposited in the Deferred Option Plan account for the alternate payee's benefit, draws interest at the same rate as that of the member, and the alternate payee receives a share of the municipality's contributions to the Deferred Option Plan account commensurate with the alternate payee's proportion of the total monthly pension amount.

(d) Provided the qualified domestic relations order does not state otherwise, whenever a member requests a refund of contributions, the alternate payee is entitled to a refund of contributions commensurate with the alternate payee's proportion of the total monthly pension amount.

(e) Provided the qualified domestic relations order does not state otherwise, whenever a retired member receives a cost of living adjustment, the alternate payee is entitled to a cost of living adjustment commensurate with the alternate payee's proportion of the total monthly pension amount.

SUBCHAPTER 7. COLLECTIONS AND DISBURSEMENTS

550:1-7-2. Pension vouchers

(a) The monthly pension voucher, payable to members, eligible beneficiaries, alternate payees, or the member's estate shall be mailed or directly deposited on the last business day of the month. Effective January 1, 2006, the monthly pension benefit payable to all members, beneficiaries, or alternate payees shall be directly deposited on the last business day of the month.

(1) Any member, ~~or~~ beneficiary, or alternate payee receiving a monthly pension benefit by paper voucher as of ~~June 30, 1999, has the option of continuing to receive their benefit by paper voucher~~ June 30, 2005, shall have until December 31, 2005, to identify a personal depository agent for direct deposit of their monthly pension benefit. Effective January 1, 2006, the monthly pension benefit will not be paid by the System until a personal depository agent is identified for direct deposit of the benefit.

(2) Any member or beneficiary receiving a monthly pension benefit by direct deposit ~~benefit~~ or who is eligible to begin to receive a monthly pension benefit on or after July 1, 1999, shall have each monthly pension benefit directly deposited on the last business day of the month.

(b) The deferred option voucher shall be mailed first class as directed by the member, eligible beneficiaries, alternate payees, or member's estate.

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

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CONTACT PERSON:
Linda Ruckman, Administrative Officer, Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Ste. 305, Oklahoma City, OK 73116-7335, 405-840-3555 Ext. 27.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 1, 2005:

550:15-1-3. Back drop

(a) **Definitions.** For purposes of this section, the definitions as stated in 11 O.S. Section 50-111.3(H)(1) shall apply.

(b) **Application.**

(1) The applicant must have greater than twenty (20) years of credited service with the Oklahoma Police Pension and Retirement System to be eligible.

(2) The applicant must submit his/her completed application for participation in the Oklahoma Police Deferred Option Plan under the back drop provision. Forms will be provided by the Oklahoma Police Pension and Retirement System.

(3) The effective date of membership will be the first day of the month.

(4) Once the Board has approved a member's application, the member's participation in the Oklahoma Police Deferred Option Plan under the back drop provision is irrevocable.

(c) **Contributions and benefits.**

(1) At the termination date, a member's monthly pension benefit shall be determined based on the earlier attained credited service and on the final average salary as of the back drop date.

(2) The member's individual deferred option account shall be credited with an amount equal to the deferred benefit balance, the member shall terminate employment with all participating municipalities as a police officer and shall start receiving the member's accrued monthly retirement benefit from the Oklahoma Police Pension and Retirement System.

~~(3) The member shall, upon application approved by the State Board and upon receipt of the completed payment selection form, be refunded from the fund an amount equal to the accumulated contributions the member made to the fund from the back drop date to the termination date, but excluding any interest.~~

(~~4~~3) A member shall not participate in the back drop pursuant to subsection H of Section 50-111.3 of Title 11 of the Oklahoma Statutes if the member has elected to participate in the Oklahoma Police Deferred Option Plan pursuant to subsections A, B, C, D, E and F of Section 50-111.3 of Title 11 of the Oklahoma Statutes.

(~~5~~4) The provisions of subsections B, C, E, F and G of Section 50-111.3 of Title 11 of the Oklahoma Statutes apply to the back drop.

(d) **Interest.** The methodology for computing interest described in OAC 550:15-1-2(d) applies with regard to this section.

(e) **Payment.** The provisions for payments in the forward drop pursuant to OAC 550:15-1-2(e) also apply to payments in the back drop.

[OAR Docket #05-514; filed 4-1-05]

TITLE 575. STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS
CHAPTER 1. ORGANIZATION OF BOARD AND PROCEDURES FOR HANDLING COMPLAINT

[OAR Docket #05-577]

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575:1-1-4. [AMENDED]
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Oklahoma State Board of Examiners of Psychologists; 59, O.S., 2001, Section 1352.1(8).
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INCORPORATION BY REFERENCE:
n/a
ANALYSIS:
The amendments to these rules interpret Title 59, O.S., 2001, Sections 1370.1. To make the rule for setting hearing dates more feasible.
CONTACT PERSON:
Sue A. Fleming, Executive Officer, Oklahoma State Board of Examiners of Psychologists, 201 N.E. 38th Terrace, Suite 3, Oklahoma City, OK 73105, 405-524-9094.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED

FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2005:

575:1-1-4. Hearings for psychologists

(a) **Issuance of formal complaint; setting date for formal hearing.** If the complaint and/or the summary and recommendation of the Probable Cause Committee appear to the Board to warrant and support such action, and upon the affirming vote of a majority of the members present in open meeting, the Board shall file its own complaint (the Board vs. the licensee) and the Chair of the Board or Executive Officer shall set the date, time, and place for a formal hearing ~~in open meeting~~. Notice shall be served as specified in Section 1370 (B and D) of the Psychologists Licensing Act, except that notice shall be served twenty (20) days before the date of the hearing.

(b) **Purpose of formal hearing.** The formal hearing will be an administrative proceeding held to determine whether or not a licensee should be disciplined due to alleged improper conduct. The purpose of the proceeding will be that of insuring the overall public interest inherent in such matters and not that of vindicating a private wrong alleged to have occurred to the complainant. As such, the complainant will become a witness only in the Board's proceedings and is not a party to the Board's action.

(c) **Notice to licensee.** The chairperson or vice chairperson of the Board shall then notify the licensee named in the Board's complaint by certified or registered mail. This notification shall include a copy of the Board's complaint, an explanation of rights, and the date, time, and location of the Board meeting at which the Board will hold its formal hearing regarding the complaint. The notice shall also include other information as required in the Administrative Procedures Act. The explanation of rights shall include the following alternatives regarding the licensee's response to the Board's complaint: The licensee may be represented at the hearing in writing, in person, or by counsel. If the licensee does not so appear, the Board may, within its discretion, summarily revoke or suspend the accused's license or may issue a formal reprimand. The Board shall record its findings and order in writing.

(d) **Notice to other persons.** The Board shall also notify other persons whose presence is required of the date, time, and place of the hearing. Notice shall be served as specified in Section 1370 (B and D) of the Psychologists Licensing Act.

(e) **Issuance of subpoenas for witnesses and physical evidence.** The Board may compel the attendance of witnesses, and the production of physical evidence before it from witnesses, upon whom process is served by subpoena anywhere within the state. Such subpoenas will be issued over the signature of the chairperson or vice chairperson and the seal of the Board.

(f) **Service of subpoenas.**

(1) From the institution of formal Board proceedings, subpoenas will be issued on behalf of the licensee or the Board as specified in Section 1370(D) of the Psychologists Licensing Act. Service of the subpoena will be the responsibility of the requesting party.

(2) Subpoenas shall be served and return made in the manner prescribed by general civil law.

(g) **Order of procedure.** In an individual hearing, the order of procedure shall follow that which applies in civil legal proceedings.

(h) **Rules of evidence.** Rules of evidence shall be those specified in the Administrative Procedures Act.

(i) **Hearing officer.** In accordance with 1370 (C), the Board or the presiding member of the Board may direct that the board utilize a hearing officer to hear matters specified by the Board or by the presiding member. The duties of the hearing officer shall be specified in writing prior to the assumption of the duties. The duties may include, but are not limited to, any of the following:

(1) to hear and rule upon pretrial discovery disputes.

(2) to hear and rule on Motions in Limine.

(3) to review Motions to Dismiss in order to advise the Board on questions of law therein.

(4) to hear and rule on Motions for Continuance of a hearing.

(5) to hear and rule on other preliminary motions.

(6) to hear and rule on motions to have a Board member recused from a hearing.

(7) to mark, identify and admit or deny exhibits.

(8) to rule upon objections made during the hearing.

(j) **Questioning of witnesses.** Notwithstanding subsection (i), a quorum of the Board shall be present at the hearing and may, in accordance with the procedures noted in the Administrative Procedures Act, direct questions to the witnesses.

(k) **Administration of oaths.** The Board may administer oaths through the chairperson, vice chairperson, or the hearing officer.

(l) **Evidentiary rulings.** Subject to subsection (i), the presiding member of the Board shall rule on the admissibility of evidence. The rulings of the presiding member shall be the rulings of the Board unless reversed by a majority vote of the Board.

(m) **Attorneys.** A representative of the Attorney General's Office or, if the Board chooses, a private attorney licensed in the State of Oklahoma and engaged by the Board, shall serve as the prosecutor of the Board's case. The respondent psychologist may be represented by a personally engaged attorney.

(n) **Majority vote.** Disciplinary action to be taken as a result of the hearing shall require a majority vote of the Board members present.

(o) **Record of hearing.** A record of the formal hearing will be made by audiotape and/or by a court reporter. A written transcript shall be provided by the secretary of the Board upon written application and a deposit sufficient in amount to have the record transcribed or copied, the deposit to be paid by the individual requesting the written transcript. The tape and/or transcript shall be kept on file in the Board office for one year.

(p) **Order setting forth findings of fact and conclusions of law.**

(1) The Board shall establish the findings of fact and conclusions of law in summarizing the outcome of a hearing. The Board will issue and record its order as

authorized in Section 1370(C) of the Psychologists Licensing Act.

(2) The order of the Board will be effective immediately.

(3) The Board may revoke a license, suspend it for a period of time, place the psychologist on probation with specific conditions of time, place the psychologist on probation with specific conditions of probation, reprimand the psychologist, or impose a combination of such sanctions. The Board may revoke the probation for failure to comply with the conditions and exact the penalty.

(4) As authorized in Section 1370(A) of the Psychologists Licensing Act, the Board may impose a financial penalty not to exceed $10,000.00, and/or may assess the psychologist the reasonable costs of the proceedings against him or her.

(5) Copies of the order shall be sent by certified mail to the licensee and to the licensee's attorney, kept in the permanent Board file, and made available to other psychologist licensing jurisdictions.

(q) **Petitions for rehearing.** A petition for rehearing, reopening, or reconsideration of an adverse final order may be filed with the Board within 10 days from the day upon which the licensee is served with the written order of the Board. It must be signed by the penalized licensee, or that licensee's attorney, and must set forth with particularity the statutory ground upon which it is based. However, a petition for rehearing based upon fraud by any party or procurement of the order by perjured testimony or fictitious evidence may be filed at any time. Such petition must be accompanied by sworn affidavit. Upon receipt of such petition, it shall be turned over to the Board member or other authorized individual responsible for complaints, who shall proceed to investigate in the manner prescribed in 575:1-1-3 for investigation of complaints.

(r) **Monitoring compliance with Board order.** The Board shall be responsible for monitoring compliance with an order of the Board.

(s) **Procedure for appeal of Board rulings.** A psychologist who feels aggrieved by reason of the suspension or revocation of his/her license, or of a probation or reprimand, may file suit within thirty (30) days after receiving notice of the Board's order in the district court of Oklahoma County, or in the district court of the county of his residence, to annul or vacate the order of the Board. The suit shall be filed against the Board as defendant, and service of process shall be upon either the chairperson or secretary of the Board. The suit shall be tried by the court without a jury and shall be a review of the record, but the burden of proof and the cost of transcribing the record are upon the plaintiff assailing the order of the Board. The judgment of the district court may be appealed to the Supreme Court of Oklahoma in the same manner as other civil cases.

[OAR Docket #05-577; filed 4-7-05]

TITLE 575. STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS
CHAPTER 10. LICENSURE OF PSYCHOLOGISTS

[OAR Docket #05-578]

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PERMANENT final adoption
RULES:
575:10-1-4. [AMENDED]
575:10-1-6. [AMENDED]
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ANALYSIS:
The amendments to these rules interpret Title 59, O.S., 2001, Sections 1367 and 1369. These rule changes will amend the wording from licensing fee to application fee and to remove the portion of the rule which requires the payment of the examination fee at the time of application and to amend the date of the publication of the annual directory.
CONTACT PERSON:
Sue A. Fleming, Executive Officer, Oklahoma State Board of Examiners of Psychologists, 201 N.E. 38th Terrace, Suite 3, Oklahoma City, OK 73105, 405-524-9094.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2005:

575:10-1-4. Fees for applicants

(a) ~~**Licensing**~~ **Application fee.** The application fee for licensure as a psychologist shall be four hundred dollars ($400.00) ~~plus the cost of the Examination for Professional Practice in Psychology~~, and shall be submitted with the application for licensure.

(b) **Re-examination fee.** The fee for each written re-examination for licensure as a psychologist shall be two hundred dollars ($200.00) ~~plus the cost of the Examination for the Professional practice in Psychology~~. The fee for each oral re-examination shall be two hundred dollars ($200.00).

(c) **Fee required to engage in private practice under supervision.** The fee for applicants for licensure as psychologists authorized to conduct private practice under supervision shall be two hundred dollars ($200.00) per year. Such fee shall be submitted with the application for approval to conduct such practice. The fee for each additional year of practice, if continued practice under supervision is authorized, shall also be two hundred dollars ($200.00) and shall be due on the anniversary date of approval for Private Practice Under Supervision. These fees may not be used to reduce or eliminate the fee for licensing.

(d) **Fee required to engage in ~~I~~institutional practice under supervision.** The fee for applicants for licensure as psychologists authorized to conduct Institutional practice under supervision shall be two hundred dollars ($200.00) per year. Such fee shall be submitted with the application for approval to conduct such practice. The fee for each additional year of practice, if continued practice under supervision is authorized, shall also be two hundred dollars ($200.00) and shall be due on the anniversary date of approval for Institutional Practice Under Supervision. These fees may not be used to reduce or eliminate the fee for licensing.

575:10-1-6. Directory listing of licensed psychologists

(a) **Information included in directory.** ~~During the month of April each year~~, ~~the~~ The Board shall publish a directory listing annually of all psychologists currently licensed as psychologists [Title 59 O.S. ~~1991~~ 2001, Section 1369]. The listing shall include the licensee's name, business address and telephone number, doctoral degree and date, department and university granting the degree, major program of doctoral study, license number, and date licensed. The listing will also indicate if the licensee is Board Certified with the American Board of Professional Psychology (ABPP), has Health Service Psychologist certification (HSP), or has acquired a different major program of study based upon formal, doctoral-level retraining and completion of experience requirements consistent with the new program of study.

(b) **Specialty listings in the directory.**

(1) **Continuation of specialty listings established by previous Board rules.** Psychologists licensed under previous Board rules which included the listing of a specialty, will continue to have that specialty listed in place of "major program of study".

(2) **Listing of major program of study.** The major program of study will be taken directly from the official transcript and only the doctoral program will be listed. However, if the transcript is nonspecific, e.g., "psychology", the Board will specify the program from written information supplied by the head of the department from which the doctoral degree was obtained. No major program of study will be listed unless the Board has determined that the psychologist has satisfactorily completed all requirements for licensure including postdoctoral experience consistent with that program listing. If an applicant for licensure or a psychologist was formally admitted to a doctoral retraining program and completed all academic and training requirements for a new major program of study, proof of such admission and of satisfactory completion of that retraining program must include written verification from the university department head.

(3) **Retraining.** Accumulation of courses is not accepted in lieu of a formal retraining program. The formal retraining program must be a defined, integrated, doctoral level program in a regionally accredited university. Only a completed formal retraining program, supplemented by work experience consistent with that program and necessary to meet licensure requirements, will be listed in the directory.

(4) **Multiple listings.** A psychologist may have more than one "major program of study" listed, based on formal and full doctoral retraining, provided that all licensure requirements are met for each program.

(5) **Health Service Psychologist.** The purpose of establishing a Health Service Psychologist certification is to protect the public, and to assist agencies and the courts by defining those psychologists who are, by training and supervised experience, qualified to provide professional psychological services to the public. In order to qualify for certification as a Health Service Psychologist, a psychologist licensed in the State of Oklahoma must:

(A) be Board Certified by the American Board of Professional Psychology, or

(B) have two years of supervised experience in health services psychology, one of which is a doctoral internship consistent with their university doctoral program in an organized health services training program, and one of which was post-doctoral at a site where health services are provided.

[OAR Docket #05-578; filed 4-7-05]

TITLE 775. BOARD OF VETERINARY MEDICAL EXAMINERS
CHAPTER 10. LICENSURE OF VETERINARIANS, VETERINARY TECHNICIANS AND ANIMAL EUTHANASIA TECHNICIANS

[OAR Docket #05-509]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 5. Rules of Professional Conduct
775:10-5-30. [AMENDED]
Subchapter 10. Complementary and Alternative Therapy [NEW]
775:10-10-1. [NEW]

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59 O.S. Supp.2002, SEC. 698.1 et seq.; Board of Veterinary Medical Examiners

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ANALYSIS:
The proposed chapter 10 revisions includes a correction for reference in statute; addition of a definition for Complementary and Alternative Therapies.
CONTACT PERSON:
Cathy Kirkpatrick, Executive Director, 201 N.E 38th Terr. Suite 1, Oklahoma City, OK 73105, 405-524-9006

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2005:

SUBCHAPTER 5. RULES OF PROFESSIONAL CONDUCT

775:10-5-30. Unprofessional conduct

The following acts and/or omissions shall be considered unprofessional conduct and shall constitute grounds for disciplinary action by the Board. They shall include, but not be limited to:

(1) failing to meet the minimum standards for veterinary clinics as set forth by Chapter 20 herein and for the practice of veterinary medicine as set forth by Chapter 25.

(2) engaging in conduct likely to deceive, defraud or harm the public or a demonstration of willful or careless disregard for the health, welfare or safety of a patient. For the purposes of this provision, acts of fraud herein shall include, but not be limited to:

(A) claiming to have performed or charging for an act or treatment that was, in fact, not performed or given;

(B) providing professional services to more than one party in any transaction where such parties have conflicting interests, without providing full, written disclosure of the dual representation and consent of the interested parties;

(C) claiming certification or recognition as a specialist which is untrue. Specialization shall be limited to those areas of specialization accepted by the American Veterinary Medical Association.

(D) practicing veterinary medicine under a false or assumed name or impersonating another practitioner;

(E) using a corporate or assumed name which is deceptive or misleading to the public;

(F) making a false, fraudulent or misleading statement of professional superiority in the practice of veterinary medicine;

(G) using any form of advertisement which is false, deceptive or misleading;

(H) performing surgery to conceal genetic or congenital defects, in any species, with the knowledge the surgery is performed to perpetrate a fraud;

(I) fraudulently issuing or using:

(i) certificate of veterinary inspection;

(ii) test chart;

(iii) vaccination report;

(iv) any other official report for the prevention of the dissemination of animal disease, the transportation of diseased animals or the sale of edible products of animal origin for human consumption;

(J) fraud or misrepresentation in applying for, procuring or renewing a veterinary license or certificate;

(K) the use of any false, fraudulent or deceptive statement in any document connected with the practice of veterinary medicine and surgery;

(3) practice under an expired, revoked or suspended Oklahoma veterinary license;

(4) promoting, aiding, abetting or allowing the practice of veterinary medicine by any unlicensed person, except as specifically authorized by the Veterinary Practice Act or rules of the Board. For the purposes of this provision, aiding the unlicensed practice of veterinary medicine shall also include, but shall not be limited to:

(A) allowing an unlicensed person to issue an animal health certificate~~s~~ with the veterinarian's signature affixed to the certificate, or to inoculate or treat animals unless the inoculation or treatment was performed under the direct supervision of the licensed veterinarian;

(B) allowing the issuance by any person in the employ of the veterinarian of a certificate of veterinary inspection of an animal unless the veterinarian performs the inspection and appropriate tests as required.

(5) performing any aspect of veterinary medicine outside a valid veterinarian, client, and patient relationship, except as specifically authorized by rules of the Board;

(6) violating any state or federal statute, rule or regulation regarding the prescription, dispensation or administration of veterinary prescription drugs or controlled dangerous substances. For the purposes of this provision, such violations shall include, but shall not be limited to:

(A) prescribing, providing, obtaining, ordering, administering, dispensing, giving or delivering any

veterinary prescription drug or controlled dangerous substance to or for an animal solely for training, show or racing purposes and not for a medically sound reason;

(B) failing to provide appropriate labels on veterinary prescription drugs or controlled dangerous substances;

(C) prescribing or dispensing, delivering, or ordering any veterinary prescription drug or controlled dangerous substance without first having established a veterinarian/client/patient relationship and determining that such prescription drug is therapeutically indicated for the health or well being of the animal;

(D) prescribing, providing, ordering, administering, possessing, dispensing, giving or delivering any veterinary prescription drugs or controlled dangerous substance under the following circumstances:

(i) when the drugs are not necessary or required for the medical care of animals; or

(ii) when the use or possession of the drugs would promote addiction thereto.

(E) prescribing, providing, obtaining, ordering, administering, dispensing, giving or delivering any controlled dangerous substance for the veterinarian's personal use.

(7) failing or refusing to cooperate in an investigation by the Board where no privilege for such exists. For the purposes of this provision~~s~~, such failure to cooperate shall include, but shall not be limited to:

(A) failing or refusing to allow the Board or its investigator the ability to inspect a veterinary facility at reasonable hours, pursuant to an investigation by or on behalf of the Board and permitted by the Act or rules of the Board, or in accordance with other applicable State and/or Federal Statutes and regulations;

(B) failing or refusing to respond to reasonable inquiry from the Board or its investigator in the course of an investigation;

(8) failing to report to the proper authorities cruel or inhumane treatment to animals by any person, when the veterinarian has direct knowledge of the cruel or inhumane treatment;

(9) practicing any form of medicine on humans, except that a veterinarian may render first aid or emergency care, without expectation of compensation, in an emergency or disaster situation;

(10) any disciplinary action taken against the licensee by any other licensing jurisdiction, professional veterinary association, veterinary specialty board, or government or regulatory agency, where the basis for such disciplinary action would be a basis for action by the Board.

(11) failing to report to the Board within 30 days any disciplinary action taken against the licensee by any other licensing jurisdiction, professional veterinary association, veterinary specialty board, or government or regulatory agency, where the basis for such disciplinary action would be a basis for action by the Board;

(12) except as appropriate in the course of a valid veterinarian, patient, client relationship, allowing any unlicensed person, as defined by 59 O.S. 698.2 ~~(16)~~,(13) to control the professional judgment of the veterinarian;

(13) failing to post or display, in a public area of the veterinarian's practice, the veterinarian's original license to practice veterinary medicine and current year's renewal certificate;

(14) failing to practice veterinary medicine with reasonable skill and safety. For the purpose of this provision, reasonable skill and safety shall refer to a level of care, skill and diligence in treating patients as is ordinarily used in the same or similar circumstances by average members of the profession in good standing in the community;

(15) commission of any act of sexual abuse, misconduct or exploitation related to the licensee's practice of veterinary medicine and surgery;

(16) improper preparation, recording, management and/or maintenance of veterinary records.

(17) no person, as defined by O.S., Sec. 698.2 (19) shall control, exploit, or intervene between the patient, client and the veterinarian. A veterinarian shall not allow a non-licensed person or entity to interfere with or intervene in the veterinarian's practice of veterinary medicine. Each veterinarian shall be responsible for the veterinarian's own actions and shall be directly responsible to the client for the care and treatment of the patient.

SUBCHAPTER 10. COMPLEMENTARY AND ALTERNATIVE THERAPY

775:10-10-1. Definition of Complementary and Alternative Therapy

Complementary and Alternative therapies, include, but are not limited to: acupuncture and related acupoint therapies; manual therapy which includes physical therapy, massage therapy, and osteopathic therapy; energy therapies which includes ultrasound, pulsating electromagnetic field (PEMF), static magnetic fields, laser, Reiki, therapeutic touch, Bowen, and shock wave therapy; integrative medicine which includes Ayurveda, aromatherapy, flower remedy therapy, holistic medicine, homeopathy, nutritional therapy, and phytotherapy; and shall be performed on animals only by a licensed veterinarian or under the direct supervision of a licensed veterinarian.

[OAR Docket #05-509; filed 4-1-05]

TITLE 775. BOARD OF VETERINARY MEDICAL EXAMINERS
CHAPTER 15. INVESTIGATIONS AND DISCIPLINARY ACTIONS

[OAR Docket #05-510]

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RULES:
Subchapter 3. Investigations and Disciplinary Actions
775:15-3-7. [AMENDED]
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59 O.S. Supp.2002, SEC. 698.1 et seq.; Board of Veterinary Medical Examiners
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ANALYSIS:
The proposed chapter 15 revisions include a change of language from "shall" to "may" for scheduling a prehearing conference.
CONTACT PERSON:
Cathy Kirkpatrick, Executive Director, 201 N.E 38th Terr. Suite 1, Oklahoma City, OK 73105, 405-524-9006

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2005:

SUBCHAPTER 3. INVESTIGATIONS AND DISCIPLINARY ACTIONS

775:15-3-7. Prehearing conference

(a) Upon the filing of a formal complaint, the hearing examiner ~~shall~~ may schedule and conduct a prehearing conference. Attendance at the conference by the prosecuting attorney and defendant or defendant's attorney is mandatory. The prehearing conference shall be scheduled approximately twenty (20) days after the initiation of the individual proceeding.

(b) Upon the date of the scheduled prehearing conference, there shall be determined deadline dates for the exchange of witness and exhibit lists, discovery cut-off, filing of dispositive motions, and the hearing date for the individual proceeding, all memorialized in an executed scheduling order.

(c) Continuances are disfavored by the Board. If either party seeks a continuance, the party shall specify to the hearing examiner the basis for such motion at any time prior to the hearing. The hearing examiner may confer with both parties by telephonic conference call and then rule upon the motion. If a party requests a continuance and the other party does not object, a continuance may be granted without further review.

(d) The parties are required to confer to formulate a statement of stipulations in the case. The Board prefers stipulations to be reached by the close of discovery, with a written statement of stipulations to be filed in the matter within five (5) days of the close of discovery. In no event shall the parties fail to provide a statement of stipulations later than five (5) days prior to the hearing date, if applicable.

[OAR Docket #05-510; filed 4-1-05]

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

1:2005-11.

EXECUTIVE ORDER 2005-11

I, Brad Henry, Governor of the State of Oklahoma, by the authority vested in the Office of the Governor by the Constitution of the State of Oklahoma, hereby amend Executive Order 2004-28, which created the Fuel Cell Initiative Task Force, and Executive Order 2005-2, which extended the Fuel Cell Initiative Task Force.

The Fuel Cell Task Force will be extended from April 1, 2005, until June 1, 2005. The Task Force shall make a final written report to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the appropriate committees of the State Senate and the Oklahoma House of Representatives by June 1, 2005. The remainder of Executive Order 2004-28 shall remain in full force and effect.

This Executive Order shall be distributed to the Secretary of Energy who shall cause the provisions of this order to be implemented by all appropriate agencies of state government.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 13 day of April, 2005.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:
M. Susan Savage
Secretary of State

[OAR Docket #05-633; filed 4-14-05]

1:2005-12.

EXECUTIVE ORDER 2005-12

I, Brad Henry, Governor of the State of Oklahoma, designate the American flag as the commemorative flag to be flown in memory of those killed and injured in the bombing of the Alfred P. Murrah Building on April 19, 1995. During the week of April 19, 2005, I encourage all Oklahomans to fly the American flag in commemoration of the ten-year anniversary of the Murrah Building bombing.

We shall never forget the one hundred sixty-eight Americans who lost their lives, including nineteen children, on that faithful day. We must never forget the more than eight hundred fifty others who were injured and bravely live on, emblematic of our great state and nation. The people of Oklahoma will never forget the courage and compassion of those from around the world who were involved in the rescue and recovery and who continue to share an outpouring of goodwill.

I hereby direct the appropriate steps be taken to fly all American and Oklahoma flags on State property at half-staff from 8:00 a.m. until 5:00 p.m. on Tuesday April 19, 2005. Further, appropriate steps shall be taken to fly the American flag on each of the fourteen flag poles located at the south plaza entrance to the state capitol building from 8:00 a.m. on Monday, April 18, 2005, until 5:00 p.m. on Sunday, April 24, 2005.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 14th day of April, 2005.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:
M. Susan Savage
Secretary of State

[OAR Docket #05-661; filed 4-15-05]