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

[OAR Docket #09-1560]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 11. Administration of Abstractors Act
[AMENDED]

SUMMARY:

The Oklahoma Abstractors Board is proposing amended permanent rules to several administrative issues that have arisen during the past year. The proposed permanent rules are intended to address who must hold an abstract license, formal procedures for the public and the regulated entities to follow in licensing its employees, providing for "inactive" status as a licensee, and requirement for a permit holder to exercise diligence in the building on an abstract plant, pursuant to the Oklahoma Abstractors Act, 1 O.S. §§20 through 43.

AUTHORITY:

Oklahoma Abstractors Board; Oklahoma Abstractors Act, 1 O.S. §§20 through 43.

COMMENT PERIOD:

Persons may submit oral or written comments to Glynda Reppond, Executive Director, Oklahoma Abstractors Board, 2401 Northwest 23rd Street, Suite 60B, Oklahoma City, Oklahoma, 73107-0076, Post Office Box 700076, Oklahoma City, Oklahoma, 73107-0076, (405) 522-5019, FAX (405) 522-5503 or via electronic mail to Glynda.Reppond@abstract.ok.gov no later than 4:30 p.m. during the period from January 15 to February 16, 2010.

PUBLIC HEARING:

A public hearing will be held at 2:00 p.m. on February 16, 2010, in the conference room of the Oklahoma Abstractors Board, 2401 Northwest 23rd Street, Suite 60B, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing from January 15 to February 16, 2010 to Glynda Reppond,

Executive Director, Oklahoma Abstractors Board, 2401 Northwest 23rd Street, Suite 60B, Oklahoma City, Oklahoma, 73107-0076, Post Office Box 700076, Oklahoma City, Oklahoma, 73107-0076, (405) 522-5019, FAX (405) 522-5503 or via electronic mail to Glynda.Reppond@abstract.ok.gov.

COPIES OF PROPOSED RULES:

Copies of the rules may be obtained by visiting www.abstract.ok.gov or contacting Glynda Reppond, Executive Director, Oklahoma Abstractors Board, 2401 Northwest 23rd Street, Suite 60B, Oklahoma City, Oklahoma, 73107-0076, Post Office Box 700076, Oklahoma City, Oklahoma, 73107-0076, (405) 522-5019, FAX (405) 522-5503 or via electronic mail to Glynda.Reppond@abstract.ok.gov.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. §303(D), a rule impact statement is available at the above website and address.

CONTACT PERSON:

Glynda Reppond, (405) 522-5019,
Glynda.Reppond@abstract.ok.gov.

[OAR Docket #09-1560; filed 12-22-09]

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

[OAR Docket #09-1569]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 15. Licensure and Regulation of Accountancy
[AMENDED]

SUMMARY:

Chapter 15 sets for the rules for administering the licensure for and regulation of the accounting profession.

Subchapter 1, General Provisions, amendments delete definitions of terms either not used anywhere in the Oklahoma Accountancy Act (Act) or the Oklahoma Administrative Code (Code) or that are already defined in the Act. Additional amendments clarify definitions for continuing professional education, generally accepted accounting principles, and the rolling three year CPE cycle.

Subchapter 3, Requirements to Practice Public Accountancy, substantive amendments provide for a national criminal history record check for applicants of a certificate or license as provided in Section 15.9 of the Oklahoma

Notices of Rulemaking Intent

Accountancy Act (Act) effective April 14, 2009, remove obsolete language, correct a reference due to an amendment to the Act, and correct sentence structure errors.

Subchapter 18, Standards for Computer Based Examinations, substantive amendments provide for a national criminal history record check for qualification applicants as provided in Section 15.8 of the Act, remove the provision that a qualification applicant can have graduated from a two-year college or university, stipulate that the required course in auditing must have a concentration on external auditing standards, provide the criteria that must be met in a written request for an extension due to incapacitation from serious illness or injury; clarify the consequences for failing to apply to take succeeding examinations, and add rules pertaining to cheating on the CPA/PA examination and security or irregularity issues regarding the examination.

Subchapter 21, Reciprocity, substantive amendments correct a codification error, clarify that an application for a reciprocal certificate or license will not be considered until all of the requirements have been provided to the Oklahoma Accountancy Board, and provide for a national criminal history record check for applicants for a certificate or license in accordance with Section 15.9 of the Act.

Subchapter 22, Substantial Equivalency, amendment eliminates the requirement that out-of-state CPAs must notify the Oklahoma Accountancy Board of their intent to practice under the substantial equivalency provisions.

Subchapter 23, Registration, substantive amendments delete outdated rules and add rules needed to comply with an amendment to the Act effective April 14, 2009, that changes the registration renewal and filing requirements from biennial fiscal year to an annual renewal based on each individual's birth month. Additional substantive amendments allow for postmarks for carriers other than the USPS, change the firm registration filing deadline from May 31 to June 30 in accordance with an amendment to Section 15.15 of the Act, and provide for amendments to a registrant's revoked status if the registrant was revoked for failure to register and the OAB later learns the registrant was deceased or incapacitated at the time of the administrative revocation.

Subchapter 25, Permits, tag line is amended to include date of expiration as well as date of issuance for permits. Other substantive amendments change the firm permit renewal dates of issuance and expiration in accordance with amendments to Section 15.15 of the Act effective April 14, 2009, remove language that has become obsolete because of changes to Section 15.12A of the Act, provide that sole proprietors will be issued a firm permit bearing the same date of issuance and expiration as the sole proprietor's individual permit, base the date of issuance and expiration of individual permits timely renewed on each registrant's birth month, clarify that a firm serving Oklahoma clients from outside this state is required to hold a valid permit only if the firm is providing services under the provision of Section 15.12A.A.5 of the Act, and provide that the Executive Director's designee may approve requests

for a transition period to complete CPE required for the permit to practice.

Subchapter 27, Fees, fees associated with substantial equivalence are revoked since individuals entering the state under the substantial equivalency provision are no longer required to make application or pay a fee under Section 15.12A of the Act. Registration fees are amended to provide for an annual registration fee with staggered due dates based on each individual's birth month. Another amendment provides that permit fees shall also be due based on each registrant's birth month. A final amendment provides for the proration of fees for purposes of transitioning to birth month renewals.

Subchapter 30, Continuing Professional Education, substantive amendments provide that reporting of CPE will be in conjunction with the filing of the registrants' annual registration renewal based on their birth months and provide examples of the types of descriptive materials that should be retained to substantiate CPE courses. A new provision requires that individuals actively involved in the supervision or review of compilation engagements for third party reliance complete at least 8 credits of CPE taken by the group program method each calendar year. This requirement would be waived if the registrant works for a public accounting firm currently enrolled in a peer review program with an approved sponsoring organization or if the registrant is a sole proprietor currently enrolled in a peer review program with an approved sponsoring organization. Additional substantive amendments make it clear the Board may verify in the CPE Audit that individuals claiming an exemption to the CPE requirement are entitled to do so, clarify that registrants must request an exemption each year and that the Board may deny exemption requests any time it is determined an individual is not eligible for the exemption, and provide that the Executive Director or his/her designee may grant extensions for good cause on a case by case basis.

Subchapter 32, Standards for Continuing Professional Education (CPE) Programs, substantive amendments correct a reference and make permanent the provisions currently in effect under the emergency rule promulgation effective August 6, 2009, that allow registrants to take self-study CPE courses from sponsors registered with any NASBA registry, not just with NASBA's National Registry of CPE Sponsors as provided in the last permanent rule promulgation. The provision allows for Quality Assurance Services (QAS) registered sponsors.

Subchapter 33, Peer Review, amendments require the submission of documents required by the Board under this subsection to be sent by electronic means by secure website unless the sponsoring organization does not have access to the website.

Subchapter 35, Reinstatement, substantive amendments provide for a national criminal history record check in accordance with an amendment to Section 15.9 of the Act effective April 14, 2009 and that evaluation and approval of applications for reinstatement shall be performed by the Executive Director or his or her designee.

Subchapter 37, Enforcement Procedures, amendment creates a specific rule violation for failure to cooperate with an investigation conducted by the Board.

Subchapter 39, Rules of Professional Conduct, amendments separate the subsections under "Other responsibilities and practices" into two separate sections. The firm name section provides further protection of the public by clarifying what constitutes a misleading firm name. This section regarding firm names does not affect firms licensed by the Board prior to the effective date of this section but does apply to any change in legal organization or name that occurs after the effective date of this section. The written communications section provides that a certificate or license holder, firm, candidate, or applicant shall provide copies of any requested documents and shall substantively respond in writing to any communications from the Board requesting a response within thirty (30) days of the mailing of such request or communication by registered or certified mail, to the last address of the registrant known to the Board.

Subchapter 43, Audits Performed in Accordance with Government Auditing Standards, amendments are not substantive and are consistent with other non-substantive changes made throughout the rules regarding changing the term "on a form" to "in a format," which applies to both paper forms and electronic filings.

AUTHORITY:

Oklahoma Accountancy Board, 59 O.S. Section 15.5

COMMENT PERIOD:

Written and oral comments will be accepted through close of business February 17, 2010. Comments can be submitted directly through the Oklahoma Accountancy Board (OAB) website at www.ok.gov/oab. Click on the link in the "In the Spotlight" section to submit your comments. Comments can also be submitted by contacting Barbara Walker, CPE Coordinator, or Edith Steele, Executive Director, Oklahoma Accountancy Board, 4545 North Lincoln Boulevard, Suite 165, Oklahoma City, Oklahoma 73105-3413. Telephone: 405-521-2397, E-mail: okaccybd@oab.ok.gov or FAX: 405-521-3118.

PUBLIC HEARING:

A public hearing to take comments on the proposed rules will be held by the Board at 9:00 a.m. on February 17, 2010, Suite 269, Lincoln Office Plaza, 4545 North Lincoln Boulevard, Oklahoma City, Oklahoma.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Edith Steele at the above address during the period from January 15, 2010 through February 17, 2010.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the OAB website at www.ok.gov/oab or from the Oklahoma Accountancy Board, 4545 North Lincoln Boulevard, Suite 165, Oklahoma City, Oklahoma 73105-3413.

RULE IMPACT STATEMENT:

Copies of the Rule Impact Statement will be prepared and will be available January 18, 2010 on the OAB website or from the OAB at the address and contact numbers listed above.

CONTACT PERSONS:

Barbara Walker or Edith Steele at 405-521-2397

[OAR Docket #09-1569; filed 12-22-09]

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

[OAR Docket #09-1533]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

Subchapter 3. Fee Schedules
35:2-3-12 [AMENDED]

SUMMARY:

Pursuant to federal law, the proposed rules mirror the phytosanitary certificate fee increases that the Department is required to collect on behalf of the federal government. These fees are set to be raised over time. The Department is required to amend its fees to ensure the appropriate amount of money is collected and therefore the Department does not owe any additional monies to the federal government.

AUTHORITY:

Oklahoma State Board of Agriculture; Article 6, Section 31, Constitution of the State of Oklahoma; 2 O.S. §§ 2-4 (A)(2)

COMMENT PERIOD:

Persons may submit written comments to Teena Gunter at teena.gunter@oda.state.ok.us, 2800 North Lincoln Boulevard, P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804 during the period from January 15, 2010 through February 17, 2010.

PUBLIC HEARING:

A public hearing will be held at 2:00 p.m., February 17, 2010, in the Consumer Protection Conference Room on the second floor of the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

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

Notices of Rulemaking Intent

rules. Business entities may submit this information in writing to Teena Gunter at the above address during the period from January 15, 2010 through February 17, 2010.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained by visiting www.ag.ok.gov/proposedrules or by contacting Teena Gunter at the above address.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement is available at the above addresses.

CONTACT PERSON:

Teena Gunter, (405) 522-4576, e-mail address: teena.gunter@oda.state.ok.us

[OAR Docket #09-1533; filed 12-18-09]

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

[OAR Docket #09-1534]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

Subchapter 3. Fee Schedules
35:2-3-23 [AMENDED]

SUMMARY:

Pursuant to an order of the State Board of Agriculture, this rule increases the surety required of a grain warehouse. The surety was increased in December of 2008 by the Board pursuant to the authority found in 2 O.S. § 9-22. This rulemaking is for the purpose of updating rules to match the current surety required for grain warehouses.

AUTHORITY:

Oklahoma State Board of Agriculture; Article 6, Section 31, Constitution of the State of Oklahoma; 2 O.S. §§ 2-4 (A)(2) and 9-22

COMMENT PERIOD:

Persons may submit written comments to Teena Gunter at teena.gunter@oda.state.ok.us, 2800 North Lincoln Boulevard, P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804 during the period from January 15, 2010 through February 17, 2010.

PUBLIC HEARING:

A public hearing will be held at 2:30 p.m., February 17, 2010, in the Consumer Protection Conference Room on the second floor of the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct

costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Teena Gunter at the above address during the period from January 15, 2010 through February 17, 2010.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained by visiting www.ag.ok.gov/proposedrules or by contacting Teena Gunter at the above address.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement is available at the above addresses.

CONTACT PERSON:

Teena Gunter, (405) 522-4576, e-mail address: teena.gunter@oda.state.ok.us

[OAR Docket #09-1534; filed 12-18-09]

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

[OAR Docket #09-1535]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

Subchapter 17. Combined Pesticide [AMENDED]

SUMMARY:

The proposed rules reflect rule changes suggested by a group of Oklahoma pesticide operators. The rules include changes to contracts, minimum standards for termite work for existing structures, wood infestation reports, perimeter termite treatments, and a pesticide advisory committee.

AUTHORITY:

Oklahoma State Board of Agriculture; Article 6, Section 31, Constitution of the State of Oklahoma; 2 O.S. §§ 2-4 (A)(2) and § 3-84

COMMENT PERIOD:

Persons may submit written comments to Teena Gunter at teena.gunter@oda.state.ok.us, 2800 North Lincoln Boulevard, P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804 during the period from January 15, 2010 through February 17, 2010.

PUBLIC HEARING:

A public hearing will be held at 3:30 p.m., February 17, 2010, in the Consumer Protection Conference Room on the second floor of the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct

costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Teena Gunter at the above address during the period from January 15, 2010 through February 17, 2010.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained by visiting www.ag.ok.gov/proposedrules or by contacting Teena Gunter at the above address.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement is available at the above addresses.

CONTACT PERSON:

Teena Gunter, (405) 522-4576, e-mail address: teena.gunter@oda.state.ok.us

[OAR Docket #09-1535; filed 12-18-09]

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

[OAR Docket #09-1536]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking **PROPOSED RULES:**

Subchapter 36. Weed Free Hay Certification [NEW]

SUMMARY:

Pursuant to 2 O.S. § 3-211, the proposed rules implement the Weed Free Hay Certification Act passed by the Oklahoma Legislature in 2009. These rules will address prohibition of noxious weeds, procedures to obtain certification, inspectors' qualifications, crop inspection procedures, treatment procedures, procedures to identify and tract certified crops, and reasonable fees to obtain certification.

AUTHORITY:

Oklahoma State Board of Agriculture; Article 6, Section 31, Constitution of the State of Oklahoma; 2 O.S. §§ 2-4 (A)(2) and § 3-213

COMMENT PERIOD:

Persons may submit written comments to Teena Gunter at teena.gunter@oda.state.ok.us, 2800 North Lincoln Boulevard, P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804 during the period from January 15, 2010 through February 17, 2010.

PUBLIC HEARING:

A public hearing will be held at 1:30 p.m., February 17, 2010, in the Consumer Protection Conference Room on the second floor of the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Teena Gunter at the above address during the period from January 15, 2010 through February 17, 2010.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained by visiting www.ag.ok.gov/proposedrules or by contacting Teena Gunter at the above address.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement is available at the above addresses.

CONTACT PERSON:

Teena Gunter, (405) 522-4576, e-mail address: teena.gunter@oda.state.ok.us

[OAR Docket #09-1536; filed 12-18-09]

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

[OAR Docket #09-1537]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking **PROPOSED RULES:**

Subchapter 1. Agriculture Environmental Permitting [NEW]

Subchapter 3. Concentrated Animal Feeding Operations [AMENDED]

SUMMARY:

These rules provide additional Code of Federal Regulations rules that are incorporated for purposes of the Department seeking authorization to operate the federal NPDES program for those environmental programs within the Department's environmental jurisdiction. In addition the rules provide procedural requirements to implement the Oklahoma Agriculture Environmental Permitting Act and the Oklahoma Agriculture Pollutant Discharge Elimination Act.

AUTHORITY:

State Board of Agriculture; 2 O.S. §§ 2-4, 2A-3, and 2A-23; Article 6, Section 31, Constitution of the State of Oklahoma

COMMENT PERIOD:

Persons may submit written and oral comments to Teena Gunter at teena.gunter@oda.state.ok.us, 2800 North Lincoln Boulevard, P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804 during the period from January 15, 2010 through February 17, 2010.

Notices of Rulemaking Intent

PUBLIC HEARING:

A public hearing will be held at 3:00 p.m., February 17, 2010, in the Consumer Protection Services Conference Room on the second floor of the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Teena Gunter at the above address during the period from January 15, 2010 through February 17, 2010.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained by visiting www.ag.ok.gov/proposedrules, or by contacting Teena Gunter, at the above address.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement is available at the above addresses.

CONTACT PERSON:

Teena Gunter, (405) 522-4576, e-mail address: teena.gunter@oda.state.ok.us

[OAR Docket #09-1537; filed 12-18-09]

TITLE 60. ARCHIVES AND RECORDS COMMISSION CHAPTER 15. ADMINISTRATION OF UNIFORM REAL PROPERTY ELECTRONIC RECORDING ACT

[OAR Docket #09-1577]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions [NEW]

60:15-1-1 [NEW]

60:15-1-2 [NEW]

60:15-1-3 [NEW]

60:15-1-7 [NEW]

Subchapter 3. Electronic Recording Standards [NEW]

60:15-3-1 [NEW]

60:15-3-2 [NEW]

60:15-3-3 [NEW]

60:15-3-4 [NEW]

60:15-3-5 [NEW]

60:15-3-6 [NEW]

60:15-3-7 [NEW]

60:15-3-8 [NEW]

60:15-3-9 [NEW]

60:15-3-10 [NEW]

60:15-3-11 [NEW]

SUMMARY:

The purpose of proposed Chapter 15 is to establish for the implementation of the requirements of House Bill 2587, passed by the Oklahoma Legislature during 2008 session. The Bill created the Uniform Real Property Electronic Recording Act, 16 O.S. § 86.1 et seq., which Act gives the Oklahoma Archives and Records Commission the authority to adopt standards to implement the Act. The statutory effective date was November 1, 2008.

AUTHORITY:

Archives and Records Commission; Uniform Real Property Electronic Recording Act, 16 O.S. § 86.1 et seq.

COMMENT PERIOD:

Persons may submit written or oral comments to Jan Davis at the Oklahoma Department of Libraries, Allen Wright Memorial Library, 200 N.E. 18th Street, Oklahoma City, OK 73105 during the period from January 15, 2010 to February 17, 2010.

PUBLIC HEARING:

A public hearing will be held at 10:00 a.m. on Monday, February 22, 2010 in the South Conference room of the Allen Wright Memorial Library, 200 N.E. 18th Street, Oklahoma City, OK. Anyone who wishes to speak must sign in at the door by 10:05 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing by 4:30 p.m. February 17, 2010, at the following address: Jan Davis Oklahoma Department of Libraries, 200 N.E. 18th Street, Oklahoma City, OK 73105.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Oklahoma Department of Libraries, 200 N.E. 18th Street, Oklahoma City, OK 73105.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be prepared and may be obtained from the Oklahoma Department of Libraries at the above address beginning January 25, 2010.

CONTACT PERSON:

Jan Davis, Administrative Archivist, (405) 521-2502; email address: jdavis@oltn.odl.state.ok.us

[OAR Docket #09-1577; filed 12-23-09]

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

[OAR Docket #09-1527]

INTENDED RULEMAKING ACTION:

Notice of proposed Permanent rulemaking

PROPOSED RULES:

Chapter 10. Licensure of Chiropractic Physicians [AMENDED]

SUMMARY:

The proposed revisions to Chapter 10 include changes necessary to amend current language regarding licensure, fees and amendments to definitions in the chapter.

AUTHORITY:

59 O.S. Supp 2008, SEC.; Board of Chiropractic Examiners

COMMENT PERIOD:

Written comments will be accepted January 15, 2010 through February 15, 2010 Oklahoma Board of Chiropractic Examiners. 201 N.E. 38th Terrace, Suite 3, Oklahoma City, Oklahoma 73105, Attn: Beth Carter

PUBLIC HEARING:

Public hearing is scheduled on February 23, 2010 at 9:00 a.m., at the Office of the Board of Veterinary Medical Examiners and the Oklahoma Board of Dentistry conference room, 201 N.E. 38th Terrace, Suite 1 and 2, Oklahoma City, Oklahoma 73105. Telephone 405-524-6223.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained from the Oklahoma Board of Chiropractic Examiners, 201 N.E. 38th Terrace, Suite 3, Oklahoma City, Oklahoma 73105. Telephone 405-524-6223.

RULE IMPACT STATEMENT:

The rule impact statement may be obtained from the Oklahoma Board of Chiropractic Examiners, 201 N.E. 38th Terrace, Suite 3, Oklahoma City, Oklahoma 73105. Telephone 405-524-6223.

CONTACT PERSON:

Beth Carter (405) 524-6223

[OAR Docket #09-1527; filed 12-17-09]

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

[OAR Docket #09-1526]

INTENDED RULEMAKING ACTION:

Notice of proposed Permanent rulemaking

PROPOSED RULES:

Chapter 15. Special Certifications and Miscellaneous Provisions [AMENDED]

SUMMARY:

The proposed revisions to Chapter 15 include changes necessary to amend current rules that the Board sees necessary to strengthen language as they relate to certifications, specialties and additional certifications that the Board feels is necessary to have new language promulgated into rules to ensure public safety, health and welfare.

AUTHORITY:

59 O.S. Supp 2008, SEC.; Board of Chiropractic Examiners

COMMENT PERIOD:

Written comments will be accepted January 15, 2010 through February 15, 2010 Oklahoma Board of Chiropractic Examiners. 201 N.E. 38th Terrace, Suite 3, Oklahoma City, Oklahoma 73105, Attn: Beth Carter

PUBLIC HEARING:

Public hearing is scheduled on February 23, 2010 at 9:00 a.m., at the Office of the Board of Veterinary Medical Examiners and the Oklahoma Board of Dentistry conference room, 201 N.E. 38th Terrace, Suite 1 and 2, Oklahoma City, Oklahoma 73105. Telephone 405-524-6223.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained from the Oklahoma Board of Chiropractic Examiners, 201 N.E. 38th Terrace, Suite 3, Oklahoma City, Oklahoma 73105. Telephone 405-524-6223.

RULE IMPACT STATEMENT:

The rule impact statement may be obtained from the Oklahoma Board of Chiropractic Examiners, 201 N.E. 38th Terrace, Suite 3, Oklahoma City, Oklahoma 73105. Telephone 405-524-6223.

CONTACT PERSON:

Beth Carter (405) 524-6223

[OAR Docket #09-1526; filed 12-17-09]

**TITLE 150. OKLAHOMA DEPARTMENT OF COMMERCE
CHAPTER 65. OKLAHOMA QUALITY JOBS PROGRAM**

[OAR Docket #09-1525]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 11. 21st Century Quality Jobs Incentive Act [NEW]

150:65-11-1 [NEW]

150:65-11-2 [NEW]

Notices of Rulemaking Intent

150:65-11-3 [NEW]

150:65-11-4 [NEW]

SUMMARY:

This action is to clarify the application process and the administration of the 21st Century Quality Jobs Incentive Act, a new incentive offered by the State of Oklahoma, which was recently enacted by the Oklahoma Legislature, and became effective November 1, 2009.

AUTHORITY:

The legislation establishing the Oklahoma Department of Commerce, 74 O.S. §§ 5001 et seq., and Section 7 of Senate Bill 938 of the 1st Session of the 52nd Oklahoma Legislature executed by the Governor of the State of Oklahoma on May 22, 2009. Also, the authority of the Oklahoma Department of Commerce to charge fees for review of the applications is set forth in 74 O.S. § 5012.1.

COMMENT PERIOD:

Written and oral comments will be accepted from January 16, 2010 through February 16, 2010 during regular business hours by contacting Donald R. Hackler, Jr., Deputy General Counsel, Oklahoma Department of Commerce, 900 North Stiles Avenue, Oklahoma City, Oklahoma 73104 (405) 815-5359.

PUBLIC HEARING:

A public hearing will be held at 9:00 a.m. on Wednesday, February 17, 2010, at Gallery 1-2, 900 North Stiles Avenue, Oklahoma City, Oklahoma. Time limitations may be imposed on oral presentations to ensure that all persons who desire to make oral comments will have an opportunity to do so.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Donald R. Hackler, Jr., Deputy General Counsel, Oklahoma Department of Commerce, 900 North Stiles Avenue, Oklahoma City, Oklahoma 73104.

COPIES OF THE PROPOSED RULES:

Copies of the proposed rules may be obtained without charge from the Oklahoma Department of Commerce, 900 North Stiles Avenue, Oklahoma City, Oklahoma 73104 by contacting Donald R. Hackler, Jr. at (405) 815-5359.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and is available at the offices of the Oklahoma Department of Commerce (address below).

CONTACT PERSON:

Donald R. Hackler, Jr., Deputy General Counsel, Oklahoma Department of Commerce, 900 North Stiles Avenue, Oklahoma City, Oklahoma 73104 (405) 815-5359.

[OAR Docket #09-1525; filed 12-17-09]

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

[OAR Docket #09-1585]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Priority Academic Student Skills

Part 3. Pre-Kindergarten and Kindergarten [AMENDED]

210:15-3-5.4 Mathematics for Pre-Kindergarten and Kindergarten [AMENDED]

SUMMARY:

The proposed rule amendments will provide additional clarity and detail to the *Priority Academic Student Skills*, Oklahoma's core curriculum.

AUTHORITY:

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

COMMENT PERIOD:

All interested persons wishing to present their views orally or in writing may do so before 4:30 p.m., February 24, 2010, at the following address: Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599.

PUBLIC HEARING:

A public hearing will be held at 9:30 a.m. on Thursday, February 25, 2010, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Suite 1-20, Oklahoma City, Oklahoma 73105-4599. Persons wishing to speak must sign in at the door of the State Board Room by 9:35 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

A Rule Impact Statement has been prepared, according to 70 O.S. §303(D), and will be available at the Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma, on January 25, 2010.

CONTACT PERSON:

Connie Holland, 405-521-3308

[OAR Docket #09-1585; filed 12-23-09]

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

[OAR Docket #09-1586]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 9. Professional Standards: Teacher Education and Certification

Part 9. Teacher Certification

210:20-9-95. Effective date of teaching certificates and licenses

SUMMARY:

Proposed rule amendments will clarify effective renewal dates of an educator's credential if they are not in compliance with Oklahoma tax laws.

AUTHORITY:

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

COMMENT PERIOD:

All interested persons wishing to present their views orally or in writing may do so before 4:30 p.m., February 24, 2010, at the following address: Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599.

PUBLIC HEARING:

A public hearing will be held at 9:30 a.m. on Thursday, February 25, 2010, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Suite 1-20, Oklahoma City, Oklahoma 73105-4599. Persons wishing to speak must sign in at the door of the State Board Room by 9:35 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

A Rule Impact Statement has been prepared, according to 70 O.S. §303(D), and will be available at the Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma, on January 25, 2010.

CONTACT PERSON:

Connie Holland, 405-521-3308

[OAR Docket #09-1586; filed 12-23-09]

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

[OAR Docket #09-1539]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Individual Providers and Specialties

Part 1. Physicians

317:30-5-20. [AMENDED]

Part 7. Certified Laboratories

317:30-5-100. [AMENDED]

(Reference APA WF # 09-52)

SUMMARY:

Agency rules are revised to clarify that reimbursement is only made for medically necessary laboratory services. Additional revisions include removing language which calls for OHCA to edit laboratory claims at the specialty/subspecialty level. CMS only allows edits for SoonerCare claims at the CLIA certificate level. Other revisions include general policy cleanup as it relates to these sections.

AUTHORITY:

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

COMMENT PERIOD:

Written and oral comments will be accepted January 16, 2010, through February 15, 2010, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Wednesday, February 17, 2010, at 2:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on February 15, 2010.

COPIES OF PROPOSED RULES:

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

Notices of Rulemaking Intent

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

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

[OAR Docket #09-1539; filed 12-21-09]

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

[OAR Docket #09-1543]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Individual Providers and Specialties

Part 63. Ambulatory Surgical Centers (ASC)

317:30-5-566. [AMENDED]

317:30-5-567. [AMENDED]

(Reference APA WF # 09-59)

SUMMARY:

Ambulatory Surgery Center (ASC) rules are revised to allow reimbursement for services not covered as Medicare ASC procedures but otherwise covered under the SoonerCare program. Currently, policy restricts OHCA reimbursement to only those services on the Medicare approved list of covered services. This revision will give OHCA additional flexibility in determining services which are appropriate for the populations we serve.

AUTHORITY:

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

COMMENT PERIOD:

Written and oral comments will be accepted January 16, 2010, through February 15, 2010, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Wednesday, February 17, 2010, at 2:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

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

equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on February 15, 2010.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

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

[OAR Docket #09-1543; filed 12-11-09]

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

[OAR Docket #09-1544]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Individual Providers and Specialties

Part 1. Physicians

317:30-5-24. [AMENDED]

Part 3. Hospitals

317:30-5-42.1. [AMENDED]

(Reference APA WF # 09-60)

SUMMARY:

Outpatient hospital rules are revised to clarify the intent of reimbursement for implantable devices inserted during the course of a surgical procedure. Separate payment will be made for implantable devices, but only when the implantable device is not included in the rate for the procedure to insert the device. Additional revisions include removing all-inclusive reimbursement language for outpatient radiological services and additional clarification in regards to adult therapies performed in an outpatient hospital based setting.

AUTHORITY:

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

COMMENT PERIOD:

Written and oral comments will be accepted January 16, 2010, through February 15, 2010, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Wednesday, February 17, 2010, at 2:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on February 15, 2010.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

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

[OAR Docket #09-1544; filed 12-21-09]

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

[OAR Docket #09-1545]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Individual Providers and Specialties

Part 6. Inpatient Psychiatric Hospitals

317:30-5-96.3. [AMENDED]

(Reference APA WF # 09-61)

SUMMARY:

Inpatient behavioral health rules are revised to more clearly define reimbursement methods for ancillary and professional services provided in inpatient psychiatric hospitals.

AUTHORITY:

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

COMMENT PERIOD:

Written and oral comments will be accepted January 16, 2010, through February 15, 2010, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care

Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Wednesday, February 17, 2010, at 2:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on February 15, 2010.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

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

[OAR Docket #09-1545; filed 12-21-09]

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

[OAR Docket #09-1546]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Individual Providers and Specialties

Part 85. ADvantage Program Waiver Services

317:30-5-764. [AMENDED]

Part 95. Agency Personal Care Services

317:30-5-950. [AMENDED]

(Reference APA WF # 09-65A)

SUMMARY:

Rules are revised to require the use of the new Interactive Voice Response Authentication (IVRA) system to document time and attendance for all Personal Care and certain in-home ADvantage services provided to SoonerCare members. In-home services are necessarily provided in the individual homes of persons with physical and cognitive disabilities. The verification of service delivery is typically a paper time sheet

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signed by the member receiving services with a high potential for errors. Additionally, a paper based time and attendance system which requires transcription of time units from paper to computer is both inefficient and affords many opportunities for inadvertent errors.

AUTHORITY:

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

COMMENT PERIOD:

Written and oral comments will be accepted January 16, 2010, through February 15, 2010, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Wednesday, February 17, 2010, at 2:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on February 15, 2010.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

Tywanda Cox, Director, Policy Development, (405)522-7153.

[OAR Docket #09-1546; filed 12-21-09]

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

[OAR Docket #09-1548]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Individual Providers and Specialties

Part 6. Inpatient Psychiatric Hospitals

317:30-5-95.33. [AMENDED]

(Reference APA WF # 09-68)

SUMMARY:

Children's inpatient psychiatric treatment rules are revised to add Licensed Alcohol and Drug Counselor (LADC) as a Licensed Behavioral Health Professional (LBHP). Children's inpatient services are reimbursed by DRG or per diem; this modification would expand the type of licensure staff can hold in order to provide the services required under these payments.

AUTHORITY:

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

COMMENT PERIOD:

Written and oral comments will be accepted January 16, 2010, through February 15, 2010, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Wednesday, February 17, 2010, at 2:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on February 15, 2010.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

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

[OAR Docket #09-1548; filed 12-21-09]

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

[OAR Docket #09-1549]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Individual Providers and Specialties
317:30-5-14. [AMENDED]
(Reference APA WF # 09-70)

SUMMARY:

Agency rules are revised to comply with CMS SHO #09-111 requiring all State Medicaid agencies to reimburse a vaccine administration fee to all Medicaid contracted providers administering the 2009 H1N1 vaccine to eligible population. Currently, rules only allow for reimbursement for vaccine administration in limited circumstances. Revisions allow for reimbursement of an administration fee for pandemic virus vaccines administered to eligible SoonerCare members following a declaration by the Centers for Disease Control of a pandemic virus. Revisions also allow for an administration fee to be paid to providers administering the Human Papillomavirus (HPV) vaccine to eligible SoonerCare members.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; The Centers for Medicare and Medicaid Services State Health Official Letter # 09-111

COMMENT PERIOD:

Written and oral comments will be accepted January 16, 2010, through February 15, 2010, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Wednesday, February 17, 2010, at 2:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on February 15, 2010.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

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

[OAR Docket #09-1549; filed 12-21-09]

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

[OAR Docket #09-1551]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED 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 # 09-72A)

SUMMARY:

Agency rules are revised to clarify provider eligibility requirements for Home and Community Based Services providers; clarify family training provider requirements; clarify the provision of Home and Community Based Dental Services; and specify that physical therapists and physical therapists assistants must have non-restricted licenses and clarify the provision of Habilitation Training Services.

AUTHORITY:

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

COMMENT PERIOD:

Written and oral comments will be accepted January 16, 2010, through February 15, 2010, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Wednesday, February 17, 2010, at 2:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

Notices of Rulemaking Intent

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on February 15, 2010.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

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

[OAR Docket #09-1551; filed 12-21-09]

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

[OAR Docket #09-1553]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. General Provider Policies
Part 1. General Scope and Administration
317:30-3-5. [AMENDED]

(Reference APA WF # 09-73)

SUMMARY:

Agency rules are revised to increase co-payments for certain medical services provided through SoonerCare. Under Section 1902(a)(14) of the Social Security Act, States are permitted to require certain members to share some of the cost of their health care by imposing upon them such payments as enrollment fees, premiums, deductibles, co-insurance, co-payments, or similar cost sharing charges. The Centers for Medicare and Medicaid Services excludes the States from requiring cost sharing for children, pregnant women and institutionalized individuals as well as for emergency and family planning services. According to Article 10, Section 23 of the Oklahoma Constitution, all state agencies must maintain a balanced budget. In order for the Agency to accomplish the necessary financial reductions, rules are in need of revision to increase the existing co-payments for some services for certain SoonerCare members.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; Article 10, Section 23 of the Oklahoma Constitution; 42 CFR 447.50 through 447.55

COMMENT PERIOD:

Written and oral comments will be accepted January 16, 2010, through February 15, 2010, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Wednesday, February 17, 2010, at 2:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on February 15, 2010.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

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

[OAR Docket #09-1553; filed 12-21-09]

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

[OAR Docket #09-1554]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. General Provider Policies
Part 3. General Medical Program Information
317:30-3-57. [AMENDED]
Subchapter 5. Individual Providers and Specialties
Part. 5 Pharmacies

317:30-5-72. [AMENDED]
(Reference APA WF # 09-74)

SUMMARY:

Agency rules are revised to change the script limit for SoonerCare members from three brand drugs and three generic to two brand drugs and four generic. The revisions are needed in order to reduce the Agency's budget to comply with the legislative mandated budget reductions.

AUTHORITY:

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

COMMENT PERIOD:

Written and oral comments will be accepted January 16, 2010, through February 15, 2010, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Wednesday, February 17, 2010, at 2:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on February 15, 2010.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

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

[OAR Docket #09-1554; filed 12-21-09]

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

[OAR Docket #09-1555]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Individual Providers and Specialties

Part 17. Medical Suppliers

317:30-5-211.10. [AMENDED]

317:30-5-211.12. [AMENDED]

317:30-5-211.15. [AMENDED]

317:30-5-218. [AMENDED]

Part 61. Home Health Agencies

317:30-5-547. [AMENDED]

(Reference APA WF # 09-76)

SUMMARY:

Durable medical equipment (DME) rules are revised to reduce and/or eliminate certain durable medical equipment benefits to adults in order to comply with the budget reductions mandated by the Oklahoma Legislature through the end of State Fiscal Year 2010. Revisions include the elimination of osteogenic stimulators, portable oxygen contents, the reduction of blood glucose strips and lancets without a prior authorization, and flexibility in the agency's reimbursement terminology.

AUTHORITY:

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

COMMENT PERIOD:

Written and oral comments will be accepted January 16, 2010, through February 15, 2010, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Wednesday, February 17, 2010, at 2:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on February 15, 2010.

Notices of Rulemaking Intent

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

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

[OAR Docket #09-1555; filed 12-21-09]

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

[OAR Docket #09-1556]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. General Provider Policies
Part 3. General Medical Program Information
317:30-3-62. [NEW]
317:30-3-63. [NEW]

(Reference APA WF # 09-77)

SUMMARY:

Agency rules are written to establish policy for hospital acquired conditions and for serious reportable events in healthcare, also called never events. Rules will set policy to no longer reimburse the extra cost of treating certain categories of conditions that occur while a member is in the hospital. For discharges, hospitals will not receive additional payment for cases in which one of the selected conditions was not present on admission. Payment will be made as though the secondary diagnosis was not present. The selected conditions that OHCA will recognize are those conditions identified as non-payable by Medicare. Additionally, rules will non-cover three surgical errors and set billing policy to implement appropriate claims processing. The three surgical errors are (1) wrong surgical or other invasive procedures performed on a member, (2) surgical or other invasive procedures performed on the wrong body part, and (3) surgical or other invasive procedures performed on the wrong member. Rules will also include a related claims review (if appropriate) and the avoidance of SoonerCare to act as a secondary payer for Medicare non-payment.

AUTHORITY:

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

COMMENT PERIOD:

Written and oral comments will be accepted January 16, 2010, through February 15, 2010, during regular business

hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Wednesday, February 17, 2010, at 2:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on February 15, 2010.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

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

[OAR Docket #09-1556; filed 12-21-09]

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

[OAR Docket #09-1587]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Individual Providers and Specialties
Part 21. Outpatient Behavioral Health Services
317:30-5-240.1. [AMENDED]
317:30-5-240.2. [AMENDED]
317:30-5-240.3. [AMENDED]
317:30-5-241. [AMENDED]
317:30-5-241.1. [AMENDED]
317:30-5-241.2. [AMENDED]
317:30-5-241.3. [AMENDED]
317:30-5-241.5. [AMENDED]
317:30-5-248. [AMENDED]

(Reference APA WF # 09-58)

SUMMARY:

Outpatient Behavioral Health rules are revised to coincide with the Oklahoma Department of Mental Health Substance Abuse Services (ODMHSAS). Revisions will also change the Licensed Behavioral Health Professional (LBHP) definition by disallowing the Certifies Alcohol and Drug Counselors (CADCs).

AUTHORITY:

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

COMMENT PERIOD:

Written and oral comments will be accepted January 16, 2010, through February 15, 2010, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Wednesday, February 17, 2010, at 2:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on February 15, 2010.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

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

[OAR Docket #09-1587; filed 12-23-09]

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

[OAR Docket #09-1588]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 5. Individual Providers and Specialties
 - Part 65. Case Management Services for Over 21
 - 317:30-5-585. [REVOKED]
 - 317:30-5-586. [REVOKED]
 - Part 67. Behavioral Health Case Management Services for ~~for~~ **Individuals Under 21 Years of Age**
 - 317:30-5-595. [AMENDED]
 - 317:30-5-596. [AMENDED]
 - 317:30-5-596.1. [AMENDED]
 - 317:30-5-596.2. [REVOKED]
 - Part 97. Case Management Services for Under Age 18 At Risk Of Or In The Temporary Custody Or Supervision Of Office Of Juvenile Affairs
 - 317:30-5-972. [AMENDED]
 - Part 99. Case Management Services For Under Age 18 In Emergency, Temporary Or Permanent Custody Or Supervision Of The Department Of Human Services
 - 317:30-5-992. [AMENDED]
- (Reference APA WF # 09-64)**

SUMMARY:

Targeted Case Management rules are being revised to combine the over and under 21 outpatient BH TCM rules into one streamline; broaden TCM to all BA/BS level degrees to increase access across the state; adding in service definition wording to be more consistent with DMHSAS.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; CMS-2237-IFC 25.

COMMENT PERIOD:

Written and oral comments will be accepted January 16, 2010, through February 15, 2010, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Wednesday, February 17, 2010, at 2:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on February 15, 2010.

COPIES OF PROPOSED RULES:

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

Notices of Rulemaking Intent

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

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

[OAR Docket #09-1588; filed 12-23-09]

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

[OAR Docket #09-1589]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Individual Providers and Specialties
Part 25. Psychologists Licensed Behavioral Health
Providers

317:30-5-275. [AMENDED]

317:30-5-276. [AMENDED]

317:30-5-278. [AMENDED]

317:30-5-278.1. [AMENDED]

(Reference APA WF # 09-78)

SUMMARY:

Rules are being revised to allow for direct contracting by licensed master's level behavioral health professionals. By allowing direct contracting with these providers it will increase specialist access, decrease use of ER and inpatient psych, and increase crisis intervention. The allowance of the direct contracting will also divert RTC usage due to LBHP being more accessible. This would be for licensed clinical social workers, licensed behavioral health professional licensed marriage, and family therapists.

AUTHORITY:

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

COMMENT PERIOD:

Written and oral comments will be accepted January 16, 2010, through February 15, 2010, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Wednesday, February 17, 2010, at 2:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on February 15, 2010.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

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

[OAR Docket #09-1589; filed 12-23-09]

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

[OAR Docket #09-1538]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

317:35-1-1. through 317:35-1-3. [AMENDED]

Subchapter 3. Coverage and Exclusions

317:35-3-1. through 317:35-3-3. [AMENDED]

Subchapter 5. Eligibility and Countable Income

Part 1. Determination of Qualifying Categorical Relationships

317:35-5-1. through 317:35-5-8. [AMENDED]

Part 3. Non-Medical Eligibility Requirements

317:35-5-25. through 317:35-5-26. [AMENDED]

Part 5. Countable Income Resources

317:35-5-40. through 317:35-5-49. [AMENDED]

Subchapter 6. SoonerCare Health Benefits for Categorically Needy Pregnant Women and Families with Children

Part 1. General

317:35-6-1. [AMENDED]

Part 3. Application Procedures

317:35-6-15. [AMENDED]

Part 5. Determination of Eligibility for SoonerCare Health Benefits for Pregnant Women and Families with Children
 317:35-6-35. through 317:35-6-38. [AMENDED]
 Part 7. Certification, Redetermination and Notification
 317:35-6-60. through 317:35-6-65. [AMENDED]
 Subchapter 7. Medical Services
 Part 1. General
 317:35-7-1. [AMENDED]
 Part 3. Application Procedures
 317:35-7-15. through 317:35-7-16. [AMENDED]
 Part 5. Determination of Eligibility for Medical Services
 317:35-7-35. through 317:35-7-38. [AMENDED]
 317:35-7-40. through 317:35-7-41. [AMENDED]
 317:35-7-43. through 317:35-7-44. [AMENDED]
 317:35-7-46. through 317:35-7-48. [AMENDED]
 Part 7. Certification, Redetermination and Notification
 317:35-7-60. through 317:35-7-66. [AMENDED]
 Subchapter 9. ICF/MR, HCBWW/MR, and Individuals Age 65 or Older in Mental Health Hospitals
 Part 1. Services
 317:35-9-1. [AMENDED]
 317:35-9-4. through 317:35-9-5.1. [AMENDED]
 317:35-9-7. [AMENDED]
 Part 2. Medicaid Recovery Program
 317:35-9-15. [AMENDED]
 Part 3. Application Procedures
 317:35-9-25. through 317:35-9-29. [AMENDED]
 Part 5. Determination of Medical Eligibility for ICF/MR, HCBWW/MR, and Individuals Age 65 or Older in Mental Health Hospitals
 317:35-9-45. [AMENDED]
 317:35-9-48. through 317:35-9-50. [AMENDED]
 Part 7. Determination of Financial Eligibility
 317:35-9-65. [AMENDED]
 317:35-9-67. through 317:35-9-68. [AMENDED]
 Part 9. Certification, Redetermination and Notification
 317:35-9-75. through 317:35-9-78. [AMENDED]
 Part 11. Payment, Billing, and Other Administrative Procedures
 317:35-9-95. [AMENDED]
 317:35-9-97. through 317:35-9-103. [AMENDED]
 Subchapter 10. Medical Aid to Families with Dependent Children
 Part 3. Resources
 317:35-10-10. [AMENDED]
 Part 5. Income
 317:35-10-25. through 317:35-10-26. [AMENDED]
 317:35-10-38. [AMENDED]
 Subchapter 13. Client Rights and Responsibilities
 317:35-13-1. through 317:35-13-7. [AMENDED]
 Subchapter 15. Personal Care Services
 317:35-15-1. through 317:15-10. [AMENDED]
 317:15-12. [AMENDED]
 317:15-13.1. through 317:15-15. [AMENDED]

Subchapter 17. ADvantage Waiver Services
 317:35-17-1. through 317:35-17-5. [AMENDED]
 317:35-17-9. through 317:35-17-12. [AMENDED]
 317:35-17-14. through 317:35-17-24. [AMENDED]
 Subchapter 19. Nursing Facility Services [AMENDED]
 317:35-19-2. through 317:35-19-6. [AMENDED]
 317:35-19-7.1. through 317:35-19-9. [AMENDED]
 317:35-19-14. [AMENDED]
 317:35-19-16. [AMENDED]
 317:35-19-18. through 317:35-19-31. [AMENDED]
 Subchapter 21. Breast and Cervical Cancer Treatment Program
 317:35-21-11. [AMENDED]
(Reference APA WF # 09-20)

SUMMARY:

Medical Assistance for Adults and Children-Eligibility rules are revised to clarify rules used by employees of the Oklahoma Department of Human Services and the Oklahoma Health Care Authority when determining an individual's eligibility for Medicaid. The proposed revisions will: (1) incorporate current procedures and terminology; (2) remove obsolete language; and (3) update incorrect policy citations and form references. Revisions are needed to provide consistency and clarity within agency rules.

AUTHORITY:

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

COMMENT PERIOD:

Written and oral comments will be accepted January 16, 2010, through February 15, 2010, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Wednesday, February 17, 2010, at 2:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on February 15, 2010.

COPIES OF PROPOSED RULES:

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

Notices of Rulemaking Intent

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

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

[OAR Docket #09-1538; filed 12-21-09]

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

[OAR Docket #09-1542]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 22. Pregnancy Related Benefits Covered Under Title XXI

317:35-22-9. [AMENDED]

317:35-22-11. [AMENDED]

(Reference APA WF # 09-56)

SUMMARY:

In 2007, the OHCA received a Transformation Grant through the Centers for Medicare and Medicaid Services (CMS) to develop a web based online application and eligibility determination system in order to improve the ease and efficiency of enrollment. Originally known as No Wrong Door, the process allows potential members to apply for SoonerCare electronically. Effective in March 2010, the OHCA will assume responsibility for determining eligibility for certain groups of individuals under SoonerCare. The process will be phased in over a period of time, starting with the easiest groups who have no asset test and use income declaration: families with children, pregnant women, and individuals requesting only family planning services. As OHCA will now be determining eligibility for some of our population, parts of our eligibility rules and grievance rules are revised to incorporate these new responsibilities. In addition, eligibility for these three groups will no longer be retroactive to the first day of the month of application but will be effective the date of application or later.

AUTHORITY:

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

COMMENT PERIOD:

Written and oral comments will be accepted January 16, 2010, through February 15, 2010, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Wednesday, February 17, 2010, at 2:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on February 15, 2010.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

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

[OAR Docket #09-1542; filed 12-21-09]

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

[OAR Docket #09-1547]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 15. Personal Care Services

317:35-15-13.2. [AMENDED]

Subchapter 17. ADvantage Waiver Services

317:35-17-22. [AMENDED]

(Reference APA WF # 09-65B)

SUMMARY:

Rules are revised to require the use of the new Interactive Voice Response Authentication (IVRA) system to document time and attendance for all Personal Care and certain in-home ADvantage services provided to SoonerCare members. In-home services are necessarily provided in the individual homes of persons with physical and cognitive disabilities. The verification of service delivery is typically a paper time sheet signed by the member receiving services with a high potential for errors. Additionally, a paper based time and attendance

system which requires transcription of time units from paper to computer is both inefficient and affords many opportunities for inadvertent errors.

AUTHORITY:

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

COMMENT PERIOD:

Written and oral comments will be accepted January 16, 2010, through February 15, 2010, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Wednesday, February 17, 2010, at 2:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on February 15, 2010.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

Tywanda Cox, Director, Policy Development, (405)522-7153.

[OAR Docket #09-1547; filed 12-21-09]

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

[OAR Docket #09-1552]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking
PROPOSED RULES:

- Subchapter 5. Member Services
- Part 1. Agency Companion Services
- 317:40-5-3. [AMENDED]

- 317:40-5-8. [AMENDED]
- 317:40-5-11. [AMENDED]
- Part 5. Specialized Foster Care
- 317:40-5-64. [AMENDED]
- Part 9. Service Provisions
- 317:40-5-101. [AMENDED]
- 317:40-5-102. [AMENDED]
- 317:40-5-104. [AMENDED]
- 317:40-5-110. [AMENDED]
- 317:40-5-111. [AMENDED]
- 317:40-5-113. [AMENDED]
- Part 11. Other Community Residential Supports
- 317:40-5-150. [AMENDED]
- 317:40-5-152. [AMENDED]
- 317:40-5-153. [AMENDED]
- Subchapter 7. Employment Services Through Home and Community-Based Services Waivers
- 317:40-7-12. [AMENDED]
- 317:40-7-21. [AMENDED]
- (Reference APA WF # 09-72B)

SUMMARY:

Agency rules are revised to clarify levels of support, outside employment guidelines and termination guidelines for Agency Companion Services; specify a review and approval process for Habilitation Training Services (HTS) and clarify proper utilization of HTS; clarify termination of foster providers; clarify the process for provision of nutritional services; clarify requirements for architectural modifications; clarify services and provider requirements relative to specialized medical equipment; clarify responsibilities of Adult Day Services and Daily Living Supports providers; clarify member eligibility for residence in a group home; clarify the process for documenting the need for an enhanced rate in an employment setting; and revise policy to limit state dollar reimbursement for absence of a member receiving Waiver services to not exceed 10% of the authorized units for employment services.

AUTHORITY:

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

COMMENT PERIOD:

Written and oral comments will be accepted January 16, 2010, through February 15, 2010, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Wednesday, February 17, 2010, at 2:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

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

Notices of Rulemaking Intent

as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on February 15, 2010.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

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

[OAR Docket #09-1552; filed 12-21-09]

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

[OAR Docket #09-1540]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 11. Insure Oklahoma/O-EPIC IP
Part 5. Insure Oklahoma/O-EPIC IP Member Eligibility
317:45-11-20. [AMENDED]
317:45-11-27. [AMENDED]
(Reference APA WF # 09-53)

SUMMARY:

Insure Oklahoma/O-EPIC rules are revised to clarify the intent of offering coverage under the Individual Plan (IP) program. Applicants applying for coverage under the IP program should be uninsured individuals without access to Employer Sponsored Insurance (ESI) or other private health insurance. It has never been the intent of Insure Oklahoma IP to be a secondary payer for services rendered under ESI or any other private health insurance policy or plan. Rules clarify IP eligibility requirements and closure criteria.

AUTHORITY:

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

COMMENT PERIOD:

Written and oral comments will be accepted January 16, 2010, through February 15, 2010, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care

Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Wednesday, February 17, 2010, at 2:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on February 15, 2010.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

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

[OAR Docket #09-1540; filed 12-21-09]

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

[OAR Docket #09-1557]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 45. Insure Oklahoma/Oklahoma Employer and Employee Partnership for Insurance Coverage
[AMENDED]
(Reference APA WF # 09-79)

SUMMARY:

Rules are revised to expand the Insure Oklahoma/O-EPIC ESI and IP programs. Expansions include incorporating Oklahoma children through 19 years of age whose household income is from 185 up to and including 300% of the Federal Poverty Level. In addition, revisions will expand the current Insure Oklahoma/O-EPIC ESI and IP program guidelines to include employees and working adults whose family

income does not exceed 250% of the Federal Poverty Level. These revisions comply with Sections 1009.2 and 1010.1 of Title 56 of Oklahoma Statutes. This expansion to the Insure Oklahoma/O-EPIC program will help increase access to health care for Oklahomans thereby reducing the amount of uncompensated care provided by health care providers.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; Section 1009.2 and Section 1010.1 of Title 56 of Oklahoma Statutes

COMMENT PERIOD:

Written and oral comments will be accepted January 16, 2010, through February 15, 2010, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Wednesday, February 17, 2010, at 2:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on February 15, 2010.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

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

[OAR Docket #09-1557; filed 12-21-09]

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

[OAR Docket #09-1567]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Fair Hearings
Part 9. Adoption and Foster Care
340:2-5-91 [AMENDED]
(Reference APA WF 09-30)

SUMMARY:

The proposed revisions to Subchapter 5 of Chapter 2 amend the rules for consistency revision to Subchapter 1 of Chapter 75. Proposed amendment removes the requirement for fair hearing for foster parents when a child, who was removed, is not returned to a foster home due to a child abuse or neglect investigation.

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; and Title 10A of the Oklahoma Statutes.

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2010 through February 16, 2010 during regular business hours by contacting Travis Smith, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-3638.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than February 16, 2010 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

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

[OAR Docket #09-1567; filed 12-22-09]

Notices of Rulemaking Intent

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

[OAR Docket #09-1566]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 2. Temporary Assistance for Needy Families (TANF) Work Program

340:10-2-1 through 340:10-2-4 [AMENDED]

340:10-2-8 [AMENDED]

Subchapter 3. Conditions of Eligibility - Need

Part 1. Resources

340:10-3-5 through 340:10-3-6 [AMENDED]

Part 3. Income

340:10-3-31 [AMENDED]

340:10-3-33 [AMENDED]

340:10-3-40 [AMENDED]

Part 5. Assistance Payments

340:10-3-56 [AMENDED]

340:10-3-58 [AMENDED]

Subchapter 9. Conditions of Eligibility - Relationship of Payee to Child

340:10-9-1 [AMENDED]

Subchapter 10. Conditions of Eligibility - Deprivation

340:10-10-1 [AMENDED]

340:10-10-3 [AMENDED]

Subchapter 15. Conditions of Eligibility - Citizenship and Alienage

340:10-15-1 [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]

(Reference APA WF 09-07, 09-12, 09-15, 09-26)

SUMMARY:

Proposed revisions to Subchapter 2 of Chapter 10 amend the rules to: (1) clarify deprivation when both parents are ineligible aliens; (2) update information about the Work Opportunity Tax Credit; (3) clarify that payment of flex funds are allowed as long as the service was rendered after application or request for flex funds; (4) change the name of the Work Supplementation Program (WSP) to Subsidized Employment Program (SEP); (5) change SEP participation requirements for participants and employers; (6) update language to current terminology; and (7) add clarifying language.

Proposed revisions to Subchapter 3 of Chapter 10 amend the rules to: (1) clarify definition of exempt vehicles; (2) increase the allowable exclusion of a combination of irrevocable burial contracts, revocable prepaid burial contract, and the cash value of life insurance; (3) explain that applicants are eligible to receive the same standard deduction for work related

expenses as recipients; (4) clarify what educational assistance is disregarded as income; (5) clarify how income is determined; (6) remove reference to voucher benefits for a child born ten months from the date of application; (7) change the name of the WSP to SEP; (8) update language to current terminology; and (9) add clarifying language.

Proposed revisions to Subchapter 9 of Chapter 10 clarify: (1) relation by marriage; and (2) verification of relationship.

Proposed revisions to Subchapter 10 of Chapter 10: (1) clarify which deprivation factors apply to one or two parent households; (2) clarify when both parents are ineligible aliens, the family does not qualify as a two parent family; and (3) specify what happens when the primary wage earner is not able to participate in TANF Work activities after certification.

Proposed revisions to Subchapter 15 of Chapter 10: (1) increase the number of months an Afghan in special immigrant status can receive TANF benefits; and (2) update legal cites for aliens in special immigrant status.

Proposed revisions to Subchapter 20 of Chapter 10 clarify that a stepparent may be included in the diversion assistance benefit.

Proposed revisions to Subchapter 22 of Chapter 10 amend rules to broaden eligibility for the Supported Permanency Program to reduce delay in achieving permanency for children.

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; Sections 230.50, 230.52, 230.62, 230.64, and 230.65 of Title 56 of the Oklahoma Statutes; the Deficit Reduction Act of 2005; Parts 261.2, 261.60, 261.61 and 262.2 of Title 45 of the Code of Federal Regulations (CFR); Section 101(a)(27) of the INA [8 U.S.C. 1101(a)(27)]; Section 1059, P.L. 109-163, the National Defense Authorization Act for Fiscal Year 2006; Section 1244 of P.L. 110-181, the National Defense Authorization Act for Fiscal Year 2008; Section 525 of Division G of P.L. 110-161, the Consolidated Appropriations Act of 2008; Section 602, Division F, P.L. 111-08, the Omnibus Appropriations Act of 2009; and the American Recovery and Reinvestment Act of 2009 which established the Emergency Contingency Fund for state Temporary Assistance for Needy Families (TANF) programs as Section 403(c) of the Social Security Act.

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2010 through February 16, 2010 during regular business hours by contacting Laura Brown, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4396.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than February 16, 2010 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

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

[OAR Docket #09-1566; filed 12-22-09]

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

[OAR Docket #09-1565]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. Low Income Home Energy Assistance Program

340:20-1-1 [AMENDED]

340:20-1-3 [AMENDED]

340:20-1-10 through 340:20-1-12 [AMENDED]

340:20-1-17 [AMENDED]

340:20-1-19 through 340:20-1-20 [NEW]

(Reference APA WF 09-27)

SUMMARY:

The proposed revisions to Subchapter 1 of Chapter 20 amend the rules to: (1) update language to current terminology; (2) clarify the different programs within the Low Income Home Energy Assistance Program (LIHEAP); (3) move specific information about the summer cooling and winter heating programs to their own new Sections for greater clarity; (4) remove outdated language regarding the uncertainty of running a summer cooling or Energy Crisis Assistance Program (ECAP) as funds for these programs are now budgeted each year; (5) clarify that the benefit level for the different LIHEAP programs is determined yearly; (6) explain how income is calculated to determine eligibility; (7) add clarifying information about how to consider educational assistance; (8) remove work related expenses and the Medicare Buy-In as income disregards as these are deductions; (9) add income deductions to follow Supplemental Nutrition Assistance Program (SNAP) rules; (10) add language regarding how to compute self-employment income to follow SNAP rules; (11) clarify which application form is used for LIHEAP depending on whether the household currently receives certain other benefits or those who do not for the various programs under LIHEAP; (12) clarify how pre-authorized households are handled; (13) give time frames for when applications are automatically mailed to certain households; (14) remove

outdated language; (15) clarify when the ECAP program is available; (16) clarify that households may receive up to the maximum benefit allowed for ECAP rather than a one time payment; (17) add information about which households are preauthorized for winter heating; and (18) add information about households who can now be pre-authorized for summer cooling.

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; Sections 96.80 through 96.89 of Title 45 of the Code of Federal Regulations; and Public Law 109-58, as amended.

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2010 through February 16, 2010 during regular business hours by contacting Laura Brown, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4326.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than February 16, 2010 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

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

[OAR Docket #09-1565; filed 12-22-09]

**TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 25. OKLAHOMA CHILD SUPPORT SERVICES**

[OAR Docket #09-1568]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1: Scope and Applicability

340:25-1-1.1 [AMENDED]

340:25-1-2 [AMENDED]

Subchapter 5. Operational Policies

Part 9. Disclosure of Information

340:25-5-66 through 340:25-5-67 [AMENDED]

Part 15. Case Initiation, Case Management, and Case Closure

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340:25-5-110.1 [AMENDED]
340:25-5-133 [AMENDED]
Part 17. Past Support
340:25-5-140 [AMENDED]
Part 19. Locate Services
340:25-5-155 [AMENDED]
Part 20. Medical Support
340:25-5-168 through 340:25-5-171 [AMENDED]
Part 21. Establishment
340:25-5-176 [AMENDED]
340:25-5-178 [AMENDED]
Part 22. Review and Modification
340:25-5-198.1 through 340:25-5-198.2 [AMENDED]
Part 23. Enforcement
340:25-5-211.1 through 340:25-5-212 [AMENDED]
Part 37. Recovery
340:25-5-305 [AMENDED]
Part 38. IV-D and Non-IV-D Central Case Registry Information
340:25-5-340 through 340:25-5-340.1 [AMENDED]
Part 39. Accounting and Distribution
340:25-5-351 [AMENDED]
(Reference APA WF 09-25)

SUMMARY:

The proposed revisions to Subchapters 1 and 5 of Chapter 25 amend the rules to: (1) ensure terms and definitions are used consistently throughout child support guidelines in a child support calculation; (2) add reasonable cost of and accessibility to health insurance provision; (3) require medical support for children from both parents and reasonable cost of cash medical and providing for computation of cash medical support; (4) define cash medical support; (5) require all support orders in the IV-D program address medical support and consider health insurance available to either parent; (6) define reasonable cost of health insurance and reasonable cost of cash medical support; (7) require health insurance coverage be accessible; (8) change federal substantial-compliance audit and state self-assessment to address medical support requirements; (9) reassign a 2006 mandatory federal annual \$25.00 fee on all child support cases where \$500.00 of support has been collected and distributed to the custodial person, except in those cases where current or former Temporary Assistance for Needy Families (TANF) or Aid to Families with Dependent Children (AFDC) has been provided effective October 8, 2009; (10) amend the revocation, suspension, nonissuance or renewal of license for noncompliance with a support order; (11) renumber the child support and paternity provisions of the Oklahoma Juvenile Code; (12) continue incremental change of division name from Child Support Enforcement Division (CSED) to Oklahoma Child Support Services (OCSS); and (13) comply with provisions of Oklahoma Senate Bill 1126 and House Bill 2028.

AUTHORITY:

Commission for Human Services; Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; Sections 453, 454, 454A, and 454B of the Social Security Act, codified in Sections

653, 654, 654a and 654b of Title 42 of the United States Code (U.S.C.); Section 1738B of Title 28 of the U.S.C.; United States House Resolution 3130, Public Law 105-200; Sections 302.31, 302.32, 302.33, 302.38, 303.6, 307.11, 307.13, and Part 310 of Title 45 of the Code of Federal Regulations; Sections 652 and 666 of Title 42 of the U.S.C. (federal Deficit Reduction Act of 2005); Section 1171.2 of Title 12 of the Oklahoma Statutes (federal Deficit Reduction Act of 2005); Section 139.1 of Title 43 of the Oklahoma Statutes (Oklahoma Senate Bill 1126); Sections 118 through 118l of Title 43 of the Oklahoma Statutes (Oklahoma Senate Bill 2194); Section 240.10 of Title 56 of the Oklahoma Statutes (Oklahoma Senate Bill 2194); Section 1-4-702 of Title 10A of the Oklahoma Statutes (Oklahoma House Bill 2028).

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2010 through February 16, 2010 during regular business hours by contacting Tammy Hall, Programs Manager, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-522-0022.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than February 16, 2010 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

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

[OAR Docket #09-1568; filed 12-22-09]

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

[OAR Docket #09-1564]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Initial Application
340:40-3-1 [AMENDED]
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 340:40-7-13 [AMENDED]
Subchapter 9. Procedures Relating to Case Changes
340:40-9-1 [AMENDED]
Subchapter 13. Child Care Rates and Provider Issues
340:40-13-2 [AMENDED]
340:40-13-5 [AMENDED]
Subchapter 15. Overpayments
340:40-15-1 [AMENDED]

(Reference APA WF 09-11, 09-16, and 09-28)

SUMMARY:

The proposed revisions to Subchapter 3 of Chapter 40 amend the rules to add two circumstances to when a new application is required.

The proposed revisions to Subchapter 7 of Chapter 40 amend the rules to: (1) remove language regarding non-cash Temporary Assistance for Needy Families (TANF) vouchers; (2) remove adoptions subsidy payments as countable income and add as an excluded source of income; (3) add language to exempt household income for certain children adopted through the Oklahoma Department of Human Services (OKDHS); (4) clarify that the number of household members is used to determine which scale on the OKDHS Appendix C-4, Child Care Eligibility/Co-payment Chart is used; (5) clarify that caretakers who are legally and financially responsible for the child and parents must earn at least minimum wage to be eligible with the exception of certain adoptive families; (6) add that child care may be approved for a client to participate in activities required to maintain a scholarship when proof is provided; (7) clarify that if another person lives in the household that is available and capable of caring for the child, protective or preventive child care is not approved; (8) clarify an Oklahoma Child Support Services referral is not required for the child of an adult non-relative opposite sex individual (ANROSI) living in the home; (9) explain the amount of the child's social security benefit used to meet a child's needs when that child no longer lives with the payee of the child's social security benefit is considered as unearned income; (10) remove non-recurring lump sum payments as a source of considered income; (11) clarify what types of educational assistance are excluded or considered; (12) clarify types of excluded Workforce Investment Act (WIA) income; (13) clarify income computation procedures; (14) remove outdated language regarding TANF families in the Work Supplementation Program (WSP), change the program name to the Subsidized Employment Program and change participation requirements; (15) update language to current terminology; (16) and add clarifying language.

The proposed revisions to Subchapter 9 of Chapter 40 amend the rules to update language to show differences between benefit reporting procedures for semi-annual and annual benefit reporters.

The proposed revisions to Subchapter 13 of Chapter 40 amend the rules to: (1) clarify that a parent may choose an in-home provider even if an out-of-home provider is available;

(2) change who is responsible for completing contract renewal procedures and monitoring the in-home provider's training hours; (3) allow child care center and home providers to sign a contract if they hold an appropriate star status within 30 calendar days; (4) add the term authorized signor to follow contract language; (5) remove requirement for directors to view the training compact disc (CD) and take and pass the proficiency test when the owner lives out-of-state; (6) remove the requirement for the owner to provide proof of ownership; (7) add collaborations and agreements and legal name change as changes that must be reported; (8) add legal name change to changes that do not require a new contract; (9) add language that when care is provided at an alternate site the provider must have adequate licensed capacity at that site; (10) add an additional contract violation when a provider charges a client for a fee not charged to a private pay family; (11) clarify that Child Welfare (CW) authorizations cannot be closed by Family Support Services (FSS) staff when a contract is cancelled; and (12) added clarifying language.

The proposed revisions to Subchapter 15 of Chapter 40 amend the rules to: (1) replace outdated language; and (2) clarify what information is sent to the client when an overpayment claim is established.

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; 45 Code of Federal Regulations (CFR) Parts 98 and 99; and Section 230.65 of Title 56 of the Oklahoma Statutes; and the American Recovery and Reinvestment Act of 2009 which established the Emergency Contingency Fund for state TANF Programs as Section 403(c) of the Social Security Act.

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2010 through February 16, 2010 during regular business hours by contacting Laura Brown, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4396.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than February 16, 2010 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

Notices of Rulemaking Intent

CONTACT PERSON:

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

[OAR Docket #09-1564; filed 12-22-09]

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

[OAR Docket #09-1563]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Application Process
340:50-3-2 through 340:50-3-3 [AMENDED]
Subchapter 5. Non-Financial Eligibility Criteria
Part 1. Household Definition
340:50-5-2 [AMENDED]
340:50-5-10.1 [AMENDED]
Part 3. Special Households
340:50-5-30 [AMENDED]
Part 5. Students, Strikers, Resident Farm Laborers, Migrant Households, Sponsored Aliens, and School Employees
340:50-5-45 [AMENDED]
340:50-5-48 [AMENDED]
Part 7. Related Provisions
340:50-5-64.1
Part 9. Work Registration
340:50-5-91 through 340:50-5-94 [AMENDED]
340:50-5-96 [AMENDED]
Subchapter 7. Financial Eligibility Criteria
Part 3. Income
340:50-7-22 [AMENDED]
340:50-7-29 through 340:50-7-31 [AMENDED]
Part 5. Determination of Income
340:50-7-45 through 340:50-7-46 [AMENDED]
Subchapter 9. Eligibility and Benefit Determination Procedures
340:50-9-1 [AMENDED]
Subchapter 10. Electronic Benefit Transfer (EBT)
340:50-10-1 [AMENDED]
340:50-10-9 [AMENDED]
340:50-10-11 [AMENDED]
Subchapter 11. Special Procedures
Part 1. Households Entitled to Expedited Service
340:50-11-1 [AMENDED]
Part 3. Simplified ~~Food Stamp~~ Supplemental Nutrition Assistance Program (~~SFSP~~—SSNAP) for Temporary Assistance for Needy Families (TANF) and Companion State Supplemental Payment (SSP) Recipient(s)
340:50-11-20 through 340:50-11-22 [AMENDED]
340:50-11-25 [AMENDED]
340:50-11-27 [AMENDED]

Part 7. Replacement When Food Purchased with Food ~~Stamp~~ Benefits Is Destroyed [AMENDED]

Part 9. Disaster Procedures and Reporting Requirements
340:50-11-86 [AMENDED]
340:50-11-88 [AMENDED]

Part 11. Special Procedures for Joint Processing of ~~Food Stamp~~ Supplemental Nutrition Assistance Program and SSI Applicants

340:50-11-105 [AMENDED]
340:50-11-107 through 340:50-11-108 [AMENDED]

Part 12. Categorically Eligible Households
340:50-11-111 [AMENDED]

Subchapter 13. Fair Hearings
340:50-13-2 [AMENDED]

Subchapter 15. Overpayments and Fraud
Part 1. Overpayments

340:50-15-1 [AMENDED]

340:50-15-3 [AMENDED]

340:50-15-5 through 340:50-15-6 [AMENDED]

(Reference APA WF 09-18 and 09-29)

SUMMARY:

The proposed revisions to Chapter 50 amend the rules to: (1) change all language regarding food stamps to food benefits; (2) update other language to current terminology; and (3) add clarifying information.

Subchapter 5 is amended to: (1) add information to clarify when children who normally live elsewhere are living with parents on weekends or other occasional times can be included in the benefits; (2) group types of disqualified households together that have their income, resources, and expenses treated the same way; (3) add clarifying language about who is considered a fleeing felon and the actions a worker must take regarding the fleeing felon; (4) update form names; and (5) update information about who is eligible for a Work Opportunity Tax Credit.

Subchapter 7 is amended to: (1) add clarifying language regarding educational income; (2) add additional income that is considered exempt; (3) remove redundant self-employment information from one section; (4) clarify how income from rental property is considered; (5) change fleeing felons to the household type whose income, resources, and expenses are not prorated; (6) add the policy cite for the definition of elderly or disabled; (7) update the allowable dependent care deduction to the total billed to the client; (8) add clarifying language regarding income used in a month when an extra check is received due to a third or fifth check; and (9) add clarifying language regarding when actual and anticipated income is to be used.

Subchapter 9 is amended to: (1) add language regarding determining the net food benefit income; (2) remove three month certification periods as an option; and (3) remove outdated language regarding certification periods.

Subchapter 11 is amended to: (1) remove participation in the Work Supplementation Program (WSP) as a reason why a household receiving Temporary Assistance for Needy Families (TANF) is no longer eligible for Simplified Supplemental

Nutrition Assistance Program (SSNAP); (2) add language that food benefit issued due to a disaster must be used within 90 days of certification or they are expunged and cannot be added back into the account; and (3) correct language regarding which households are considered categorically eligible.

Subchapter 13 is amended to add clarifying language that benefits are not continued when an appeal has been filed and the certification period has ended.

Subchapter 15 is amended to remove an obsolete form number.

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; Section 273.23 of Title 7 of the Code of Federal Regulations (CFR), the Food and Nutrition Act of 2008; and the American Recovery and Reinvestment Act of 2009 which established the Emergency Contingency Fund for State TANF Programs as Section 403(c) of the Social Security Act.

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2010 through February 16, 2010 during regular business hours by contacting Laura Brown, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4396.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than February 16, 2010 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

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

[OAR Docket #09-1563; filed 12-22-09]

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

[OAR Docket #09-1562]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

340:60-1-3 [AMENDED]

(Reference APA WF 09-13)

SUMMARY:

The proposed revisions to Chapter 60 update legal cites for aliens in special immigrant status.

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; Section 101(a)(27) of the INA [8 U.S.C. 1101(a)(27)]; Section 1059, P.L. 109-163, the National Defense Authorization Act for Fiscal Year 2006; Section 1244 of P.L. 110-181, the National Defense Authorization Act for Fiscal Year 2008; Section 525 of Division G of P.L. 110-161, the Consolidated Appropriations Act of 2008; and Section 602, Division F, P.L. 111-08, the Omnibus Appropriations Act of 2009.

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2010 through February 16, 2010 during regular business hours by contacting Laura Brown, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4396.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than February 16, 2010 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

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

[OAR Docket #09-1562; filed 12-22-09]

**TITLE 365. INSURANCE DEPARTMENT
CHAPTER 1. ADMINISTRATIVE OPERATIONS**

[OAR Docket #09-1570]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

365:1-1-4.1. Fees [AMENDED]

Subchapter 7. Hearings

365:1-7-9. Hearing procedure - emergency actions [AMENDED]

Subchapter 9. Description of Forms and Instructions

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365:1-9-5. Surplus lines forms [AMENDED]

SUMMARY:

The amendment to Section 365:1-1-4.1 changes the authority for the Insurance Commissioner to collect fees and licenses from the State Board of Property and Casualty Rates to the Rate and Form Compliance Division of the Insurance Department.

The amendment to Section 365:1-7-9 clarifies the number of days for requesting a hearing in emergency actions. The amendment specifies that within ten business days, the Insurance Department must conduct a hearing in emergency actions if the affected individual requests such a hearing.

The amendment to Section 365:1-9-5 removes the requirement that surplus lines brokers file affidavits in duplicate and requires surplus lines to file an affidavit in one-part instead.

AUTHORITY:

Insurance Commissioner, 36 O.S. §§ 307.1, 348.1, 1107, and 75 O.S. § 314.1.

COMMENT PERIOD:

Written or oral comments regarding the proposed rule amendment shall be received on or before February 16, 2010. Comments shall be directed to Melanie Pouncey, Staff Attorney, Oklahoma Insurance Department, P.O. Box 53408, Oklahoma City, Oklahoma 73152-3408.

PUBLIC HEARING:

A public hearing regarding the proposed rule amendment will be held February 25, 2010, at 9:30 a.m. at the Oklahoma Insurance Department, 2401 N.W. 23rd Street, Suite 28, Oklahoma City, Oklahoma 73107.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities are requested to provide any increase in costs expected to be incurred due to compliance with the proposed rules. The comments shall be submitted to Melanie Pouncey, Staff Attorney, Oklahoma Insurance Department, at the mailing address above on or before February 16, 2010.

COPIES OF PROPOSED RULES:

Copies of the proposed rule amendments may be inspected at the Oklahoma Insurance Department at the physical address listed above. Office hours are from 8:00 a.m. through 5:00 p.m., Monday through Friday. Additional copies of the rules may also be obtained at the Oklahoma Insurance Department.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared prior to January 15, 2010, in accordance with 75 O.S. § 303(D). A copy of the statement may be obtained at the physical address above.

CONTACT PERSON:

Melanie Pouncey, Staff Attorney, (405) 521-2746.

[OAR Docket #09-1570; filed 12-22-09]

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

[OAR Docket #09-1571]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

Part 1. General Provisions

365:10-1-14. Notice of withdrawal or discontinuance of writing [NEW]

Subchapter 5. Minimum Standards; Contract Guidelines

Part 1. Minimum Standards and Benefits for Accident and Health Insurance

365:10-5-9. Disclosure of reasonable charge determination [NEW]

Part 5. Long-Term Care Insurance

365:10-5-45.1. Reporting requirements [AMENDED]

365:10-5-55. Availability of New Services or Providers [AMENDED]

Part 17. Actuarial Opinion and Memorandum Regulation

365:10-5-177. Description of actuarial memorandum including an asset adequacy analysis [AMENDED]

Subchapter 15. Utilization Review Regulations

365:10-15-2. Private review agents [AMENDED]

Subchapter 17. Valuation of Life Insurance Policies Regulation (Including the Introduction and Use of New Select Mortality Factors)

365:10-17-4. General calculation requirements for basic reserves and premium deficiency reserves [AMENDED]

Subchapter 25. Regulation Permitting the Recognition of Preferred Mortality Tables for Use in Determining Minimum Reserve Liabilities

365:10-25-4. 2001 CSO Preferred Class Structure Table [AMENDED]

365:10-25-5. Conditions [AMENDED]

Appendix CC. Long-Term Care Insurance Claims Denial Reporting Form [REVOKED]

Appendix CC. Long-Term Care Insurance Claims Denial Reporting Form [NEW]

SUMMARY:

The new Section 365:10-1-14 provides notice requirements for an insurer who desires to withdraw from writing insurance in Oklahoma.

The new Section 365:10-5-9 provides disclosure requirements for contracts or certificates of insurance which base payment for health care services, procedures or supplies on a determination of average area charges for those services, procedures or supplies. The new section also defines "average area charge" and provides requirements for the disclosure.

The amendment to Section 365:10-5-45.1 adds the definitions of "claim", "denied" and "report" to the existing language as a result of the adoption of these amendments by the National Association of Insurance Commissioners.

The amendment to Section 365:10-5-55 changes the effective date of the section to July 14, 2010 in order to update the reference to the effective date.

The amendment to Section 365:10-5-177 clarifies a requirement of the regulatory asset adequacy issues summary.

The amendment to Section 365:10-15-2 updates the statutory reference for health maintenance organizations to reflect the relevant health maintenance organization sections of law within Title 36 of the Oklahoma Statutes.

The amendment to Section 365:10-17-4 deletes requirements for which certain select mortality factors are subject; specifically that the percentage not be less than twenty percent (20%) and that the percentage not decrease in any successive policy years. The amendment also adds the requirement of disclosure by the actuary if the percentage is less than one hundred percent (100%) at any duration for any policy. The actuary shall disclose the impact of the insufficiency of assets to support payment of benefits and expenses and the establishment of statutory reserves during one or more interim periods.

The amendment to Section 365:10-25-4 allows for the substitution of the 2001 CSO Preferred Class Structure Mortality Table and 2001 CSO Smoker or Nonsmoker Mortality Table as the minimum valuation standard for policies with the consent of the Commissioner subject to the conditions set forth in 365:10-25-5. Section 365:10-25-5 is amended to prohibit the use of the 2001 CSO Preferred Class Structure Table for the valuation of policies issued prior to January 1, 2007 if particular frequencies of modes of payment of the reinsurance premium exist.

The amendment to Appendix CC adds the manner of reporting long-term care denials to the instruction sections section of the appendix. The amendment specifies what is not included in the definition of a "denied" claim and adds a field to the form regarding the total number of In-force Policies as of the end of the year. These amendments are the result of adoptions by the National Association of Insurance Commissioners.

AUTHORITY:

Insurance Commissioner, 36 O.S. §§ 307.1, 311, 1466, 4427, 4502(B)(9)(d)(2), 6516(A)(6), 6555, and 6571.

COMMENT PERIOD:

Written or oral comments regarding the proposed rule amendment shall be received on or before February 16, 2010. Comments shall be directed to Melanie Pouncey, Staff Attorney, Oklahoma Insurance Department, P.O. Box 53408, Oklahoma City, Oklahoma 73152-3408.

PUBLIC HEARING:

A public hearing regarding the proposed rule amendment will be held February 25, 2010, at 9:30 a.m. at the Oklahoma Insurance Department, 2401 N.W. 23rd Street, Suite 28, Oklahoma City, Oklahoma 73107.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities are requested to provide any increase in costs expected to be incurred due to compliance with the

proposed rules. The comments shall be submitted to Melanie Pouncey, Staff Attorney, Oklahoma Insurance Department, at the mailing address above on or before February 16, 2010.

COPIES OF PROPOSED RULES:

Copies of the proposed rule amendments may be inspected at the Oklahoma Insurance Department at the physical address listed above. Office hours are from 8:00 a.m. through 5:00 p.m., Monday through Friday. Additional copies of the rules may also be obtained at the Oklahoma Insurance Department.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared prior to January 15, 2010, in accordance with 75 O.S. § 303(D). A copy of the statement may be obtained at the physical address above.

CONTACT PERSON:

Melanie Pouncey, Staff Attorney, (405) 521-2746.

[OAR Docket #09-1571; filed 12-22-09]

**TITLE 365. INSURANCE DEPARTMENT
CHAPTER 15. PROPERTY AND CASUALTY**

[OAR Docket #09-1572]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions
 - 365:15-1-3. Property and casualty form filings [AMENDED]
 - 365:15-1-18. Withdrawal or discontinue writing [AMENDED]
 - 365:15-1-22. Processing Fee for Affidavit of Exempt Status [REVOKED]
- Subchapter 7. Property and Casualty Competitive Loss Cost Rating Regulation
 - 365:15-7-3. Property and casualty rate, loss cost and manual rule filings [AMENDED]
 - 365:15-7-16. Statistical plans [AMENDED]
 - 365:15-7-31. Withdrawal or Discontinue Writing [AMENDED]
 - 365:15-7-32. Use of "A" Rates [AMENDED]
- Subchapter 9. Medical Professional Liability Rate Setting
 - 365:15-9-3. Notice to Policyholders [AMENDED]
 - 365:15-9-10. Property and casualty rate, loss cost and manual rule filings [AMENDED]
 - 365:15-9-18. Statistical plans [AMENDED]
 - 365:15-9-22. Withdrawal or discontinue writing [NEW]
- Appendix D. Format for Notification to Policyholders of Application for Rate Change [REVOKED]
- Appendix D. Format for Notification to Policyholders of Application for Rate Change [NEW]

SUMMARY:

The amendment to Section 365:15-1-3 removes a paragraph exempting filing fees for certain transactions, such as error corrections and changes in company logos for approved filings

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since all filings are required to be submitted electronically. The amendment also requires electronic filings through the System for Electronic Rate and Form Filing (SERFF) pursuant to SERFF General Instructions. The amendment changes the requirement for filing two (2) copies with the Insurance Department to filing one (1) copy. Notices of action taken by the Insurance Commissioner shall also be through the SERFF. The amendment also provides that extended reporting period options are not required to be offered if a policy is cancelled for nonpayment of premium or a material misrepresentation or fraud, so long as this is stated in the policy.

The amendment to Section 365:15-1-18 removes the reference to the State Board of Property and Casualty Rates and replaces it with the Rate and Form Compliance Division of the Insurance Department. The amendment also adds transferring policyholders between admitted companies within the same insurance holding company system to the provisions relating to withdrawal or discontinuation of writing insurance and provides that the ninety (90) days notice period is inclusive of any other notice requirement per line of business.

Section 365:15-1-22 is being revoked because of the online availability of the Affidavit of Exempt Status. As a result of online availability, the printing and mailing provision has made collection of the minimal fee more costly than originally intended by the rule.

The amendment to Section 365:15-7-3 removes a subsection exempting filing fees for certain transactions, such as error corrections since all filings are required to be submitted electronically and exempting these filing fees is unnecessary. The amendment also formalizes a bulletin that was previously issued by the Insurance Department by requiring electronic filings through the System for Electronic Rate and Form Filing (SERFF) pursuant to SERFF General Instructions. The amendment changes the requirement for filing two (2) copies with the Insurance Department to filing one (1) copy. Notices of action taken by the Insurance Commissioner shall also be through the SERFF.

The amendment to Section 365:15-7-16 clarifies existing statutes in Title 36 of the Oklahoma Statutes and existing regulations pertaining to statistical plans and statistical agents.

The amendment to Section 365:15-7-31 removes the reference to the State Board of Property and Casualty Rates and replaces it with the Rate and Form Compliance Division of the Insurance Department. The amendment also adds transferring policyholders between admitted companies within the same insurance holding company system to the provisions relating to withdrawal or discontinuation of writing insurance and provides that the ninety (90) days notice period is inclusive of any other notice requirement per line of business.

The amendment to Section 365:15-7-32 clarifies the application of the rules and that "a" rate filings are still use and file rather than prior approval. The amendment also requires that the justification statement be filed within thirty (30) days of the use of the rule and rate.

The amendment to Section 365:15-9-3 removes unnecessary language due to existing statutory language in Section 6821(C) of Title 36 of the Oklahoma Statutes.

The amendment to Section 365:15-9-10 removes a subsection exempting filing fees for certain transactions, such as error corrections since all filings are required to be submitted electronically and exempting these filing fees is unnecessary. The amendment also formalizes a bulletin that was previously issued by the Insurance Department by requiring electronic filings through the System for Electronic Rate and Form Filing (SERFF) pursuant to SERFF General Instructions. The amendment changes the requirement for filing two (2) copies with the Insurance Department to filing one (1) copy. Notices of action taken by the Insurance Commissioner shall also be through the SERFF.

The amendment to Section 365:15-9-18 clarifies existing statutes in Title 36 of the Oklahoma Statutes and existing regulations pertaining to statistical plans and statistical agents.

The new Section 365:15-9-22 adds provisions regarding the withdrawal or discontinue writing of medical malpractice insurance or programs in Oklahoma. This new section requires medical malpractice insurance carriers to notify the Insurance Department so that the Insurance Department may monitor which companies within the state are currently offering medical malpractice coverage.

Appendix D is being amended to reflect that approvals of increases must be on a percentage basis rather than seeking approvals based on a rate change and to reflect that the form should be submitted to the Rate and Form Compliance Division of the Insurance Department.

AUTHORITY:

Insurance Commissioner, 36 O.S. §§ 307.1, 924.4, 986, 987, and 6812.1

COMMENT PERIOD:

Written or oral comments regarding the proposed rule amendment shall be received on or before February 16, 2010. Comments shall be directed to Melanie Pouncey, Staff Attorney, Oklahoma Insurance Department, P.O. Box 53408, Oklahoma City, Oklahoma 73152-3408.

PUBLIC HEARING:

A public hearing regarding the proposed rule amendment will be held February 25, 2010, at 9:30 a.m. at the Oklahoma Insurance Department, 2401 N.W. 23rd Street, Suite 28, Oklahoma City, Oklahoma 73107.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities are requested to provide any increase in costs expected to be incurred due to compliance with the proposed rules. The comments shall be submitted to Melanie Pouncey, Staff Attorney, Oklahoma Insurance Department, at the mailing address above on or before February 16, 2010.

COPIES OF PROPOSED RULES:

Copies of the proposed rule amendments may be inspected at the Oklahoma Insurance Department at the physical address listed above. Office hours are from 8:00 a.m. through 5:00

p.m., Monday through Friday. Additional copies of the rules may also be obtained at the Oklahoma Insurance Department.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared prior to January 15, 2010, in accordance with 75 O.S. § 303(D). A copy of the statement may be obtained at the physical address above.

CONTACT PERSON:

Melanie Pouncey, Staff Attorney, (405) 521-2746.

[OAR Docket #09-1572; filed 12-22-09]

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

[OAR Docket #09-1573]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 3. Producers, Brokers, Limited Lines Producers and Vehicle Protection Product Warrantors
- 365:25-3-1.2. Provisional producer licensees [AMENDED]
- 365:25-3-14. Insurance adjusters continuing education [AMENDED]
- 365:25-3-15. Variable annuity licensing [AMENDED]
- 365:25-3-16. Examination exemptions [AMENDED]
- 365:25-3-21. Training and education requirements for the sale of annuities [NEW]
- Subchapter 5. Bail Bondsmen
- Part 5. General Provisions Pertaining to Bail Bondsmen
- 365:25-5-39. Affidavit as to undertaking [AMENDED]
- 365:25-5-40. Computation of time in 59 O.S. § 1332 [AMENDED]
- 365:25-5-44. Notice of return to custody [NEW]
- Part 7. Specific Financial Circumstances Warranting Release of Professional Deposit [NEW]
- 365:25-5-50. Authority and scope [NEW]
- 365:25-5-51. Specific financial circumstances enumerated [NEW]
- 365:25-5-52. Time governing release of professional deposit [NEW]
- 365:25-5-53. Limitations upon release of professional deposit below applicable limits [NEW]
- 365:25-5-54. Review of bail bondsmen's administrative history before release of professional deposit [NEW]
- 365:25-5-55. Denial of request if bail bondsman has prior forfeitures [NEW]
- 365: 25-5-56. Limits on outstanding liabilities [NEW]
- 365: 25-5-57. Commissioner discretion to release amount less than requested [NEW]

- 365: 25-5-58. Approval of final order by Commissioner [NEW]
- Subchapter 9. Prepaid Funeral Benefits
- 365:25-9-3. Forms [AMENDED]
- Appendix C. Application for Original Permit [NEW]
- Appendix M. Application for Renewal of Permit [NEW]
- Appendix X. Sellers Notice to the Insurance Commissioner [NEW]
- Appendix Y. Assumption Affidavit [NEW]

SUMMARY:

The amendment to Section 365:3-1.2 increases the number of provisional licensees that a producer may sponsor from five (5) to ten (10) provisional licensees per sponsoring producer. The amendment to Section 365:25-3-14 sets forth continuing education requirements and requires at least two of the adjuster continuing education credit hours to be state or federal legislative updates. The amendment to Section 365:25-3-15 provides that applicants for a variable annuity license are required to provide proof of current FINRA registration with series 6 or 7 and series 63 or 66, and pay an additional fee for the variable license. Company endorsements are no longer required with submission of a variable annuity application. The addition to Section 365:25-3-16 exempts multi-peril crop adjusters certified by the Federal Risk Management Agency from licensure if working on, or on behalf of, the Federal Crop Insurance Corporation. New Section 365:25-3-21 requires producers to hold a Life producer license before selling, soliciting or negotiating fixed or indexed annuities. The rule requires producers who sell, solicit or negotiate variable annuities to hold a variable annuity license as required by state law. In addition, the rule requires training for all producers who sell, solicit or negotiate fixed, indexed or variable annuities. The rule specifies a difference between the initial four (4) hours of training, which is not Continuing Education approved, and reduces the eight (8) hours for future renewal periods to four (4) hours, which is Continuing Education approved.

The amendment to Section 365:25-5-39 requires provisions regarding an Affidavit as to Undertaking to be mandatory rather than permissive so as to conform to mandatory language in 59 O.S. §1322. The amendment to Section 365:25-5-40 accommodates court clerks using electronic certified mail which has been introduced by the United States Postal Service and allows for certain dates of receipt to be evidenced electronically. The new Section 365:25-5-44 requires a bondsman to notify the court clerk of the county where the forfeiture occurred of the return of the defendant to custody for the purposes of maintaining an updated status of the case and allowing the clerk to monitor pending criminal cases falling under the disciplinary authority of the Oklahoma Insurance Department.

New Part 7 of Subchapter 5, Specific Financial Circumstances Warranting Release of Professional Deposit, establishes standards and guidelines for "the specific circumstances" the Insurance Commissioner may consider when reviewing a professional bail bondsman's request for the

Notices of Rulemaking Intent

partial release of deposit, as now allowed by amendments to Section 1306(A)(5) of Title 36 enacted in Senate Bill 406.

The amendment to Section 365:25-9-3 and new Appendices C, M, X and Y incorporate statutory changes, re-enact new versions of the revoked forms and add newly created forms as prescribed by Senate Bill 1231 which increases the background information, including requiring biographies from all parties seeking a Prepaid Funeral benefits permit, and provides that the process of assumption of a prepaid funeral trust will be more transparent and provide more information about the assumption process and the financial fitness and strength of purpose of the acquiring party.

AUTHORITY:

Insurance Commissioner, 36 O.S. §§ 307.1, 1435.19, 1435.29(H), and 6123; 59 O.S. §§ 1302(A) and 1306(A)(5).

COMMENT PERIOD:

Written or oral comments regarding the proposed rule amendment shall be received on or before February 16, 2010. Comments shall be directed to Melanie Pouncey, Staff Attorney, Oklahoma Insurance Department, P.O. Box 53408, Oklahoma City, Oklahoma 73152-3408.

PUBLIC HEARING:

A public hearing regarding the proposed rule amendment will be held February 25, 2010, at 9:30 a.m. at the Oklahoma Insurance Department, 2401 N.W. 23rd Street, Suite 28, Oklahoma City, Oklahoma 73107.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities are requested to provide any increase in costs expected to be incurred due to compliance with the proposed rules. The comments shall be submitted to Melanie Pouncey, Staff Attorney, Oklahoma Insurance Department, at the mailing address above on or before February 16, 2010.

COPIES OF PROPOSED RULES:

Copies of the proposed rule amendments may be inspected at the Oklahoma Insurance Department at the physical address listed above. Office hours are from 8:00 a.m. through 5:00 p.m., Monday through Friday. Additional copies of the rules may also be obtained at the Oklahoma Insurance Department.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared prior to January 15, 2010, in accordance with 75 O.S. § 303(D). A copy of the statement may be obtained at the physical address above.

CONTACT PERSON:

Melanie Pouncey, Staff Attorney, (405) 521-2746.

[OAR Docket #09-1573; filed 12-22-09]

TITLE 365. INSURANCE DEPARTMENT CHAPTER 40. HEALTH MAINTENANCE ORGANIZATIONS (HMO)

[OAR Docket #09-1574]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Holding Company System

Part 3. Holding Company System

365:40-3-14. Prior approval pursuant to 36 O.S. § 6903(C)
[AMENDED]

Subchapter 5. Life, Accident & Health Division and
Consumer Assistance and Claims Division Rules

Part 1. General Provisions

365:40-5-2. Form filings [NEW]

SUMMARY:

The amendment to Section 365:40-3-14 requires submission of items required pursuant to 36 O.S. § 6903(C)(5) and (6) to the Rate and Form Compliance Division of the Oklahoma Insurance Department and requires an Amended Registration Statement (HMO Form B) to be filed for all items approved by the Insurance Commissioner. The amendment also provides that approvals granted under other administrative rules of the Insurance Department will not be superseded nor transactions occurring prior to July 14, 2010.

A new Section 365:40-5-5 requires all group and individual contract forms and evidence of coverage or amendments thereto to be filed electronically for approval before use pursuant to 36 O.S. §§ 6903(C)(5) and (6) and 6908(E),(F) and (G). An appropriate fee shall accompany the filings, which must be filed with the Rate and Form Compliance Division of the Oklahoma Insurance Department.

AUTHORITY:

Insurance Commissioner, 36 O.S. §§ 307.1 and 6903(D)

COMMENT PERIOD:

Written or oral comments regarding the proposed rule amendment shall be received on or before February 16, 2010. Comments shall be directed to Melanie Pouncey, Staff Attorney, Oklahoma Insurance Department, P.O. Box 53408, Oklahoma City, Oklahoma 73152-3408.

PUBLIC HEARING:

A public hearing regarding the proposed rule amendment will be held February 25, 2010, at 9:30 a.m. at the Oklahoma Insurance Department, 2401 N.W. 23rd Street, Suite 28, Oklahoma City, Oklahoma 73107.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities are requested to provide any increase in costs expected to be incurred due to compliance with the proposed rules. The comments shall be submitted to Melanie Pouncey, Staff Attorney, Oklahoma Insurance Department, at the mailing address above on or before February 16, 2010.

COPIES OF PROPOSED RULES:

Copies of the proposed rule amendments may be inspected at the Oklahoma Insurance Department at the physical address listed above. Office hours are from 8:00 a.m. through 5:00 p.m., Monday through Friday. Additional copies of the rules may also be obtained at the Oklahoma Insurance Department.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared prior to January 15, 2010, in accordance with 75 O.S. § 303(D). A copy of the statement may be obtained at the physical address above.

CONTACT PERSON:

Melanie Pouncey, Staff Attorney, (405) 521-2746.

[OAR Docket #09-1574; filed 12-22-09]

**TITLE 365. INSURANCE DEPARTMENT
CHAPTER 45. HEALTH CARE FOR
OKLAHOMANS REGULATION**

[OAR Docket #09-1575]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. Plan Requirements [NEW]
 - 365:45-1-1. Standard health benefit plan requirements [NEW]
 - 365:45-1-2. Standard health benefit plan disclosure requirements [NEW]
- Subchapter 3. Product Certification Requirements [NEW]
 - 365:45-3-1. Certification of insurance programs for recommendation by the Health Care for the Uninsured Board [NEW]
- Subchapter 5. Producer Education Requirements [NEW]
 - 365:45-5-1. Training and education requirements for producers to market Health Care for the Uninsured Board (HUB) certified products [NEW]

SUMMARY:

House Bill 2026 directs the Insurance Commissioner in collaboration with the Oklahoma Health Care Authority to initiate a program to encourage enrollment of individuals not covered by insurance or Medicaid in health insurance programs. This program includes the creation of a Health Care for the Uninsured Board ("HUB"). The laws enacted in House Bill 2026 direct the affected agencies to establish a system of certification for insurance programs offered to be recommended by the HUB and to provide training and education requirements for producers to market HUB-certified products.

AUTHORITY:

Insurance Commissioner, 36 O.S. §§307.1, and 4601 through 4603.

COMMENT PERIOD:

Written or oral comments regarding the proposed rule amendment shall be received on or before February 16,

2010. Comments shall be directed to Melanie Pouncey, Staff Attorney, Oklahoma Insurance Department, P.O. Box 53408, Oklahoma City, Oklahoma 73152-3408.

PUBLIC HEARING:

A public hearing regarding the proposed rule amendment will be held February 25, 2010, at 9:30 a.m. at the Oklahoma Insurance Department, 2401 N.W. 23rd Street, Suite 28, Oklahoma City, Oklahoma 73107.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities are requested to provide any increase in costs expected to be incurred due to compliance with the proposed rules. The comments shall be submitted to Melanie Pouncey, Staff Attorney, Oklahoma Insurance Department, at the mailing address above on or before February 16, 2010.

COPIES OF PROPOSED RULES:

Copies of the proposed rule amendments may be inspected at the Oklahoma Insurance Department at the physical address listed above. Office hours are from 8:00 a.m. through 5:00 p.m., Monday through Friday. Additional copies of the rules may also be obtained at the Oklahoma Insurance Department.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared prior to January 15, 2010, in accordance with 75 O.S. § 303(D). A copy of the statement may be obtained at the physical address above.

CONTACT PERSON:

Melanie Pouncey, Staff Attorney, (405) 521-2746.

[OAR Docket #09-1575; filed 12-22-09]

**TITLE 380. DEPARTMENT OF LABOR
CHAPTER 50. ABATEMENT OF FRIABLE
ASBESTOS MATERIALS RULES**

[OAR Docket #09-1578]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions [AMENDED]
- Subchapter 4. Project Design Requirements [AMENDED]
- Subchapter 5. Contractor, Supervisor, and Worker Licensing and Requirements [AMENDED]
- Subchapter 6. Training Requirements [AMENDED]
- Subchapter 9. Contractor Procedures [AMENDED]
- Subchapter 11. Laboratory Requirements [AMENDED]
- Subchapter 13. Glovebag Operations [AMENDED]
- Subchapter 15. Worker and Work Area Protection [AMENDED]
- Subchapter 17. Minimum Abatement Standards [AMENDED]
- Subchapter 19. Variances [AMENDED]
- Subchapter 21. Non-Friable Asbestos-Containing Material Procedures [REVOKED]

Notices of Rulemaking Intent

Subchapter 23. Miscellaneous Friable Asbestos Material Abatement Procedures [AMENDED]

SUMMARY:

Several provisions of Chapter 50 will be amended. Some of the more important changes deal with air monitoring, decontamination units, and electrical requirements. Air monitoring technicians must follow sampling procedures and maintain an on-site daily activity log. Decontamination facilities must be attached to the work area and the temperature of the clean room and shower must be maintained above 65°F. A variance may be requested if these requirements cannot be met. Disposable decontamination facilities may only be used for up to three days. The informal policy statement regarding situations where it is not possible to shut down all electrical power to the asbestos work area is added to these rules. Several other changes are made in these proposed amendments to the administrative rules. Copies of the proposed rules may be obtained to review all proposed amendments.

AUTHORITY:

Department of Labor; 40 O.S. §453, Oklahoma Asbestos Control Act

COMMENT PERIOD:

Persons wishing to make written or oral comments may do so by 5:00 p.m., February 25, 2010, at the Oklahoma Department of Labor, Office of the General Counsel, 3017 N. Stiles, Ste. 100, Oklahoma City, OK 73105.

PUBLIC HEARING:

A public hearing will be held to provide a means by which persons may offer suggested input on the content of the proposed rules: 10:00 a.m., February 25, 2010, at the Oklahoma State Capital Conference Center, Room 104, 2300 North Lincoln Blvd., Oklahoma City, OK.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing by 5:00 p.m., February 25, 2010, at the Oklahoma Department of Labor, Office of the General Counsel, 3017 N. Stiles, Ste. 100, Oklahoma City, OK 73105.

COPIES OF PROPOSED RULES:

Copies of proposed rules are available at the Oklahoma Department of Labor, 3017 N. Stiles, Ste. 100, Oklahoma City, OK and on the Oklahoma Department of Labor website, www.ok.gov/odol.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement will be prepared and will be available beginning January 30, 2010 at the same locations listed above for reviewing and obtaining copies of the proposed rules.

CONTACT PERSON:

Tiffany J. Wythe, Assistant General Counsel, (405) 521-6186 or tiffany.wythe@labor.ok.gov or

Talmadge Rogers, Asbestos Director, (405) 521-6463 or talmadge.rogers@labor.ok.gov.

[OAR Docket #09-1578; filed 12-23-09]

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

[OAR Docket #09-1593]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provision

450:17-1-2. Definitions [AMENDED]

Subchapter 3. Required Services

Part 1. Required Services

450:17-3-2. Core community mental health services [AMENDED]

Part 7. Outpatient ~~Counseling~~ Therapy Services

450:17-3-61. Outpatient ~~counseling~~ therapy services [AMENDED]

450:17-3-62. Outpatient therapy ~~counseling~~ services, substance abuse, co-occurring [AMENDED]

Part 11. Case Management

450:17-3-101. Case management services [AMENDED]

450:17-3-102. Case management services, locale and frequency [AMENDED]

Part 15. ~~Adult Recovery~~ and Behavioral Health Rehabilitation Services Programs

450:17-3-141. Psychiatric rehabilitation ~~programs~~ services [AMENDED]

450:17-3-144. General psychiatric rehabilitation program (PSR) [AMENDED]

450:17-3-146. ICCD Clubhouse program Model [AMENDED]

450:17-3-147. Individual and Group Rehabilitation Services [NEW]

Part 21. Peer Support Services

450:17-3-191. Peer support services [AMENDED]

450:17-3-192. ~~Peer~~ Recovery Support Specialists staff requirements [AMENDED]

Subchapter 5. Optional Services

Part 5. Homebased Services To Children And Adolescents [REVOKED]

450:17-5-22. Homebased services to children and adolescents, family preservation [REVOKED]

450:17-5-25. Behavioral health aide services to children, adolescents and families [REVOKED]

Part 11. Community Living Programs

450:17-5-60. Supervised transitional living programs [AMENDED]

- 450:17-5-66. Permanent supported housing programs [AMENDED]
- Part 15. Inpatient Services
- 450:17-5-95. Inpatient services within the community mental health setting [AMENDED]
- Part 19. Program for Assertive Community Treatment
- 450:17-5-111. General program description and target population [REVOKED]
- 450:17-5-112. Admission criteria [REVOKED]
- 450:17-5-113. Discharge criteria [REVOKED]
- 450:17-5-114. Program Management and Capacity [REVOKED]
- 450:17-5-115. Staff communication and planning [REVOKED]
- 450:17-5-116. Clinical supervision [REVOKED]
- 450:17-5-117. Orientation and training [REVOKED]
- 450:17-5-118. Services [REVOKED]
- 450:17-5-119. Medication prescription, administration, monitoring, and documentation [REVOKED]
- 450:17-5-120. Rehabilitation [REVOKED]
- 450:17-5-121. Support services [REVOKED]
- 450:17-5-122. Staffing requirements [REVOKED]
- 450:17-5-123. Assessment and treatment planning [REVOKED]
- 450:17-5-124. Treatment planning [REVOKED]
- 450:17-5-125. Discharge [REVOKED]
- 450:17-5-126. PACT Consumer Clinical Records [REVOKED]
- Subchapter 7. Facility Clinical Records
- 450:17-7-5. Clinical record content, screening, intake and assessment [AMENDED]
- 450:17-7-8. ~~Integrated~~ Behavioral Health Service plan [AMENDED]
- 450:17-7-9. Medication record [AMENDED]
- 450:17-7-12. Discharge summary [AMENDED]
- Subchapter 9. Consumer Records and Confidentiality
- 450:17-9-1. Confidentiality, mental health consumer information and records [REVOKED]
- 450:17-9-1.1. Confidentiality of mental health and drug or alcohol abuse treatment information [AMENDED]
- 450:17-9-2. Confidentiality, substance abuse consumer information and records [REVOKED]
- Subchapter 13. Organizational and Facility Management
- 450:17-13-1. Organizational and facility description [AMENDED]
- Subchapter 15. Performance Improvement and Quality Management
- 450:17-15-1.1. Performance improvement program [AMENDED]
- 450:17-15-5. ~~Critical Incident~~ incident reporting [AMENDED]
- Subchapter 21. Staff Development and Training
- 450:17-21-1. Staff qualifications [AMENDED]

SUMMARY:

In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 17 are part of the

Department's review of Title 450. The proposed rules clarify existing rules and are intended to comply with statutory changes.

AUTHORITY:

Oklahoma Department of Mental Health and Substance Abuse Services Board; 43A O.S. §§ 2-101, 3-306, 3-306.1 and 3-315; 74 O.S. §85.9G.

COMMENT PERIOD:

Persons wishing to submit written comments may do so until 5:00 p.m., February 15, 2010, to the attention of Stephanie Kennedy, Administrative Rules Liaison. Written comments may be mailed to the Department of Mental Health and Substance Abuse Services, P.O. Box 53277, Oklahoma City, OK 73152-3277, e-mailed to skennedy@odmhsas.org, hand-delivered to the Department at 1200 N.E. 13th Street, Oklahoma City, OK or by facsimile, at (405) 522-0401.

PUBLIC HEARING:

The Department will conduct a public hearing on February 23, 2010 at 10:00 a.m. in Conference Room A of the Department at the address given above.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

ODMHSAS asks business entities affected by the proposed rules to provide written information to the Department, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Stephanie Kennedy, at the above address, before the close of the comment period on February 15, 2010.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from Stephanie Kennedy, Administrative Rules Liaison, at the above address.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D) ODMHSAS will prepare a rule impact statement which will be available beginning January 29, 2010. Copies may be obtained from Stephanie Kennedy, Administrative Rules Liaison, at the above address.

CONTACT PERSON:

Stephanie Kennedy, Administrative Rules Liaison, (405) 522-3871.

[OAR Docket #09-1593; filed 12-28-09]

**TITLE 450. DEPARTMENT OF MENTAL
HEALTH AND SUBSTANCE ABUSE
SERVICES
CHAPTER 18. STANDARDS AND CRITERIA
FOR ALCOHOL AND DRUG TREATMENT
PROGRAMS**

[OAR Docket #09-1594]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

Notices of Rulemaking Intent

PROPOSED RULES:

Subchapter 1. General Provisions
450:18-1-2. Definitions [AMENDED]
450:18-1-9. Staff qualifications [NEW]

SUMMARY:

In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 18 are part of the Department's review of Title 450. The proposed rules clarify existing rules and are intended to comply with statutory changes.

AUTHORITY:

Oklahoma Department of Mental Health and Substance Abuse Services Board; 43A O.S. §§ 2-101, 3-306, 3-306.1 and 3-315; 74 O.S. §85.9G.

COMMENT PERIOD:

Persons wishing to submit written comments may do so until 5:00 p.m., February 15, 2010, to the attention of Stephanie Kennedy, Administrative Rules Liaison. Written comments may be mailed to the Department of Mental Health and Substance Abuse Services, P.O. Box 53277, Oklahoma City, OK 73152-3277, e-mailed to skennedy@odmhsas.org, hand-delivered to the Department at 1200 N.E. 13th Street, Oklahoma City, OK or by facsimile, at (405) 522-0401.

PUBLIC HEARING:

The Department will conduct a public hearing on February 23, 2010 at 11:00 a.m. in Conference Room A of the Department at the address given above.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

ODMHSAS asks business entities affected by the proposed rules to provide written information to the Department, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Stephanie Kennedy, at the above address, before the close of the comment period on February 15, 2010.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from Stephanie Kennedy, Administrative Rules Liaison, at the above address.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D) ODMHSAS will prepare a rule impact statement which will be available beginning January 29, 2010. Copies may be obtained from Stephanie Kennedy, Administrative Rules Liaison, at the above address.

CONTACT PERSON:

Stephanie Kennedy, Administrative Rules Liaison, (405) 522-3871.

[OAR Docket #09-1594; filed 12-28-09]

TITLE 460. DEPARTMENT OF MINES CHAPTER 20. THE PERMANENT REGULATIONS GOVERNING THE COAL RECLAMATION ACT OF 1979

[OAR Docket #09-1595]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 20. The Permanent Regulations Governing The Coal Reclamation Act Of 1979 [AMENDED]

SUMMARY:

Due to Federal law enactments that require changes to the Applicant Violator System, with respect to the mining permit issuance process, the Department is being mandated by the Office of Surface Mining (OSM), our federal oversight agency, to revoke, amend, and enact new sections within 460:20-15, including but not limited to 460:20-15-11, 460:20-15-12, 460:20-15-13, and 460:20-15-14. These changes also include amending sections within Chapter 20 that references sections within Subchapter 15, that once changed will no longer be correct. Also being amended is 460:20-43-12, again pursuant to a request by OSM to make that section's language involving surface drainage and siltation structures clearer and no less effective than it's federal counterpart.

AUTHORITY:

45 O.S. Section 1.5, 45 O.S. Section 789; Oklahoma Mining Commission

COMMENT PERIOD:

From January 16, 2010, through February 16, 2010, the public may present their views orally or in writing to the below listed contact person.

PUBLIC HEARING:

Public hearings will be held on February 18, 2010, at 6:20 p.m. at the Department of Mines, 209 E. Wyandotte, Suite 500 at McAlester, OK, and on February 18, 2010, at the Department of Mines, 2915 N. Classen, Suite 213, Oklahoma City, OK 73106, beginning at 2:20 p.m.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due compliance with the proposed rules. Business entities may submit this information in writing from January 16, 2010, through February 16, 2010, to the contact person listed below.

RULE IMPACT STATEMENT:

Copies of the Rule Impact Statement may be obtained from the contact person.

COPIES OF THE PROPOSED RULES:

Copies of the proposed rules may be obtained from the contact person.

CONTACT PERSON:

Cathy Frank, Legal Officer, Oklahoma Department of Mines, Wagoner Field Office, 1102 W. Cherokee, Suite D, Wagoner, OK 74467, (918) 485-3999.

[OAR Docket #09-1595; filed 12-24-09]

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

[OAR Docket #09-1591]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Affirmative Action and Equal Employment Opportunity

Part 3. Affirmative Action

530:10-3-33.4 [AMENDED]

530:10-3-33.5 [AMENDED]

530:10-3-33.6 [AMENDED]

530:10-3-33.7 [AMENDED]

530:10-3-33.8 [AMENDED]

530:10-3-33.9 [AMENDED]

530:10-3-33.11 [AMENDED]

Subchapter 7. Salary and Payroll

Part 1. Salary and Rate of Pay

530:10-7-12

Subchapter 9. Recruitment and Selection

Part 3. Written and Performance Tests

530:10-9-37 [AMENDED]

530:10-9-38 [AMENDED]

Subchapter 13. Reduction-in-Force

Part 1. General Provisions for Reduction-in-Force

530:10-13-3 [AMENDED]

Subchapter 15. Time and Leave

Part 5. Miscellaneous Types of Leave

530:10-15-45 [AMENDED]

Subchapter 17. Performance Evaluation and Career Enhancement Programs

Part 7. Carl Albert Public Internship Program

530:10-17-70 [AMENDED]

530:10-17-75 [AMENDED]

530:10-17-76 [AMENDED]

530:10-17-77 [AMENDED]

SUMMARY:

The proposed amendments to 530:10-3-33.4-33.9 and 530:10-3-33.11 are being proposed to clarify and make the rules uniform to current practices and procedures and to omit duplicative or obsolete language. The proposed amendments to 530:10-7-12 are to clarify payment of overtime compensation. The proposed amendments to 530:10-9-37 and 38 are to amend the rules to be consistent with the current testing procedures and processes. The proposed amendments

to 530:10-13-3 are necessary due to the recent enactment of HB 1296, which provides that if the appointing authority is governed by an elected official, notice of a reduction-in-force does not have to be approved by the agency's cabinet secretary and to make this emergency rule permanent. The proposed amendments to 530:10-17-70,75,76 and 77 are necessary due to the recent enactment of SB 670, which created a new internship category (Senior Undergraduate Internship) and to make this emergency rule permanent. The proposed amendments to 530:10-15-45 are necessary to amend the Merit Rules to be consistent with recent federal amendments to the Family and Medical Leave Act and to make this emergency rule permanent.

AUTHORITY:

The Administrator of the Office of Personnel Management: 74 O.S., §§ 840-1.6A, 840-2.17, 840-2.1, 840-2.27C, 840-2.20, 840-3.2, 840-3.4 and 840-3.8.

COMMENT PERIOD:

Persons wishing to present their views may submit written comments to the Office of Personnel Management. Written comments should be addressed to Mr. Oscar B. Jackson, Jr., Administrator, ATTENTION: Kara I. Smith, Oklahoma Office of Personnel Management, 2101 North Lincoln Boulevard, Room G-80, Oklahoma City, OK 73105, or may be sent via email to kara.smith@opm.ok.gov. The comment period will begin on Friday, January 15, 2010. To be assured of consideration prior to the adoption of permanent rules, written comments must be received no later than 5:00 p.m., Monday, February 22, 2010.

PUBLIC HEARING:

A public hearing will be held to provide a means by which persons may offer suggested input on the content of the proposed rules at 2:00 p.m., Friday, February 19, 2010, at the State Office of Personnel Management, Jim Thorpe Building, 2101 N. Lincoln, OPM Conference Room, Fifth Floor, Room 560, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained beginning Friday, January 15, 2010, between 8:00 a.m. and 5:00 p.m. Monday through Friday at the Office of Personnel Management, 2101 N. Lincoln Blvd., Suite G-80, Oklahoma City, OK 73105. Telephone (405) 521-2177.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement will be prepared and will be available beginning Friday, January 15, 2010. Copies may be obtained at the Office of Personnel Management, address and telephone listed above.

CONTACT PERSON:

Kara I. Smith, General Counsel, (405) 522-1736.

[OAR Docket #09-1591; filed 12-23-09]

Notices of Rulemaking Intent

TITLE 530. OFFICE OF PERSONNEL MANAGEMENT CHAPTER 15. VOLUNTARY PAYROLL DEDUCTION

[OAR Docket #09-1590]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

530:15-1-1[AMENDED]

530:15-1-2[AMENDED]

530:15-1-5[AMENDED]

530:15-1-6[AMENDED]

530:15-1-7[AMENDED]

530:15-1-12[AMENDED]

Subchapter 3. Administrative Provisions

530:15-3-7[AMENDED]

530:15-3-7.1[AMENDED]

530:15-3-8[AMENDED]

530:15-3-9[AMENDED]

530:15-3-14[AMENDED]

Subchapter 5. Complaints and Hearings

530:15-5-8[AMENDED]

SUMMARY:

The proposed amendments to 530:15-1-1; 530:15-1-2; 530:15-1-5; 530:15-1-6; 530:15-1-7; 530:15-1-12; 530:15-3-7; 530:15-3-8; 530:15-5-8 are necessary to correct the statutory citations to the Voluntary Payroll Deduction statutes that were re-codified during the 1st Session of the 52nd Oklahoma Legislature and to make emergency provisions permanent. Proposed amendments are also necessary to 530:15-1-2, 530:15-3-9 and 530:15-3-14 due to the recent enactment of SB 384. The proposed amendments to 530:15-3-7.1 are necessary due to the recent enactment of SB 670 and to amend the Voluntary Payroll Deduction Rules to be consistent with the statutory authority and to make emergency provision permanent.

AUTHORITY:

The Administrator of the Office of Personnel Management; 74 O.S., § 840-1.6A and 62 O.S. §34.70.

COMMENT PERIOD:

Persons wishing to present their views may submit written comments to the Office of Personnel Management. Written comments should be addressed to Mr. Oscar B. Jackson, Jr., Administrator, ATTENTION: Kara I. Smith, Oklahoma Office of Personnel Management, 2101 North Lincoln Boulevard, Room G-80, Oklahoma City, OK 73105, or may be sent via email to kara.smith@opm.ok.gov. The comment period will begin on Friday, January 15, 2010. To be assured of consideration prior to the adoption of permanent rules, written comments must be received no later than 5:00 p.m., Monday, February 22, 2010.

PUBLIC HEARING:

A public hearing will be held to provide a means by which persons may offer suggested input on the content of the proposed rules at 2:00 p.m., Friday, February 19, 2010, at the State Office of Personnel Management, Jim Thorpe Building, 2101 N. Lincoln, OPM Conference Room, Fifth Floor, Room 560, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A:

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained beginning Friday, January 15, 2010, between 8:00 a.m. and 5:00 p.m. Monday through Friday at the Office of Personnel Management, 2101 N. Lincoln Blvd., Suite G-80, Oklahoma City, OK 73105. Telephone (405) 521-2177.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement will be prepared and will be available beginning Friday, January 15, 2010. Copies may be obtained at the Office of Personnel Management, address and telephone listed above.

CONTACT PERSON:

Kara I. Smith, General Counsel, (405) 522-1736.

[OAR Docket #09-1590; filed 12-23-09]

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

[OAR Docket #09-1523]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Pharmacists

535:10-3-1.2. Violations of professional conduct
[AMENDED]

Subchapter 5. Interns, Preceptors and Training Areas

535:10-5-3. Intern requirements; licenses [AMENDED]

535:10-5-4. Intern practice requirements [AMENDED]

535:10-5-8. Preceptor requirements [AMENDED]

535:10-5-9. Training area requirements [AMENDED]

Subchapter 7. Pharmacist Licensure

535:10-7-4. General requirements for pharmacist licensure
applicants [AMENDED]

535:10-7-10. Pharmacist reinstatement

SUMMARY:

This corrected notice will add language in 535:10-3-1.2 (3) which will say "or should have known". It includes the rule changes in the first notice as follows. Rule revisions include changes in 535:10-3-1.2 (24) - (27) that add to violations of professional conduct the failure by the pharmacist of pharmacist in charge to fulfill their responsibilities in under the rules of 535:15. It adds dispensing outdated drugs, failure

to cooperate in Board investigations, failure to adequately supervise pharmacy interns or pharmacy technicians as violations. It corrects 535:10-3-1.2 (20) to use a Board approved law exam.

The revisions in 535:10-5-3 correct numbering and cleanup language to make the rule more clear. In 535:10-5-4 will not allow a licensed intern to work in any capacity if a preceptor is not on duty. The rules in 535:10-5-8 and 535:10-5-9 will change preceptor and training licenses to run together with pharmacist and pharmacy licenses after December 31, 2011.

The changes in 535:10-7-4, Oklahoma law examination requirements, will allow the Board to choose which law examination to use; such as the NABP Multiple State Licensure jurisprudence/law examination which allows access to nationwide computer testing.

It corrects 535:10-7-10 (f) to use a Board approved law exam.

AUTHORITY:

Oklahoma State Board of Pharmacy is the regulatory authority under Title 59 O.S., Sec. 353.7, 353.9, 353.11, 353.16A, 353.18, 353.20, 353.22, and 353.24 - 353.26 and 364.

COMMENT PERIOD:

The comment period will run from January 15, 2010 through February 16, 2010, at 1:00 p.m. Written comments may be sent to the offices of the Board, 4545 N Lincoln Boulevard, Suite 112, Oklahoma City, OK 73105-3488.

PUBLIC HEARING:

A public hearing will be held to provide an opportunity for persons to orally present their views on March 3, 2010, at 1:00 p.m. in our office at 4545 Lincoln Boulevard, Suite 112, Oklahoma City, OK 73105-3488. Written notice of intent to make oral comment must be received by this office no later than February 16, 2010, at 1:00 p.m.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the Board, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees and indirect costs such as record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred due to compliance with the proposed rule(s).

COPIES OF PROPOSED RULES:

Proposed rules are available for review in our office at 4545 N Lincoln Blvd, Suite 112, Oklahoma City, OK 73105-3488. Copies may be provided at a cost of 25 cents per page.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared and will be available on and after January 15, 2010, at the location listed above for copies of the proposed rules. It may be reviewed in our office or copies may be obtained for 25 cents per page.

CONTACT PERSON:

Mr. John A. Foust, Executive Director, Oklahoma State Board of Pharmacy located at 4545 Lincoln Boulevard, Suite

112, Oklahoma City, OK 73105-3488. Phone number (405) 521-3815 and FAX number (405) 521-3758.

[OAR Docket #09-1523; filed 12-17-09]

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

[OAR Docket #09-1584]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

- Subchapter 1. General Provisions
 - 605:10-1-2. [AMENDED]
- Subchapter 3. Education and Examination Requirements
 - 605:10-3-2. [AMENDED]
 - 605:10-3-6. [AMENDED]
- Subchapter 5. Instruction and Entity Requirements and Standards
 - 605:10-5-1. [AMENDED]
 - 605:10-5-1.1 [AMENDED]
 - 605:10-5-2. [AMENDED]
 - 605:0-5-3. [AMENDED]
- Subchapter 7. Licensing Procedures and Options
 - 605:10-7-1.1 [AMENDED]
 - 605:10-7-4. [AMENDED]
 - 605: 10-7-9. [AMENDED]
- Subchapter 9. Broker's Operational Procedures
 - 605:10-9-1 [AMENDED]
 - 605:10-9-4 [AMEDNED]
- Subchapter 11. Associate's Licensing Procedures
 - 605:10-11-2 [AMENDED]
- Subchapter 13. Trust Account Procedures
 - 605:10-13-1 [AMENDED]
 - 605:10-13-2 [AMENDED]
- Subchapter 17. Causes for Investigation; Hearing Process; Prohibited Acts; Discipline
 - 605:10-17-4 [AMENDED]
 - 605:10-17-5 [AMENDED]
- Appendix A. Residential Property Condition Disclosure Statement [REVOKED]
- Appendix A. Residential Property Condition Disclosure Statement [NEW]

SUMMARY:

Permanent revisions to the Rules and Regulations are proposed as described herein. These proposed amendments affect real estate licensees, school entities and instructors, and the general public, and if promulgated will have an effective date of July 1, 2010. Proposed revisions are summarized as follows:

605:10-1-2. DEFINITIONS

Adding the word entity and its definition.

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605:10-3-2. APPLICATION FOR LICENSE

Removing from the application information pertaining to residential and employment history. Adding language pertaining to convictions of felonies.

605:10-3-6. CONTINUING EDUCATION REQUIREMENTS

Allowing additional course options to count for required continuing education for any licensee. Requiring that a licensee who maintains the license type of Broker Manager (BM), Proprietor Broker (BP), or Branch Broker (BB) during any portion of a license term shall be required to successfully complete the Broker in Charge course, or its equivalent, as approved by the Commission, each license term beginning with those licenses that expire on June 30, 2012. In addition, to complete the continuing education requirement of twenty-one (21) clock hours such broker shall complete at least two (2) of the four (4) required subject matter, equal to at least six (6) clock hours, as referenced in paragraph (3) of this subsection. This requirement also applies to brokers who are reinstating or activating their license.

605:10-5-1. APPROVAL OF PRELICENSE COURSE OFFERING

Amend qualifications to include sales associate experience. Modify language pertaining to retention of records to seven (7) years.

605:10-5-1.1 APPROVAL OF POSTLICENSE COURSE

Correction of state statute error, clarify grammar and change the word "teach" to instruct.

605:10-5-2. APPROVAL OF CONTINUING EDUCATION OFFERINGS

Deleting the requirement for schools to send unnecessary documentation relating to the course curriculum. Deleting the ability of a school to reference a prior submission regarding course content. Inserting new language Requiring schools to electronically notify the Commission of courses completed by students. Clarify grammar and change the word "teach" to instruct.

605:10-5-3. STANDARDS FOR COMMISSION APPROVED REAL ESTATE COURSES

Modifying language regarding the transfer of students. Clarifying that notices that are posted by real estate school entities must advise real estate applicants of the following notice: "If you have been convicted of any crime, or if charges are pending, or if you have delinquent unpaid child support or student loans, please check with the Real Estate Commission before enrolling in this class. The Commission will allow you to seek preapproval prior to enrolling in a prelicense course." Inserting language requiring all materials distributed to students be current and up to date with the License Code and Rules and state or federal laws.

605:10-7-1.1 DOCUMENTATION REQUIRED FOR COMPLIANCE NECESSARY TO VERIFY CITIZENSHIP, QUALIFIED ALIEN STATUS, AND ELIGIBILITY UNDER THE PERSONAL

RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996.

Amend language to include failure to comply.

605:10-7-4. REQUEST FOR ACTIVATION OR RE-ISSUANCE OF LICENSE

Clarify that compliance with continuing education must comply with Rule 605:10-3-6.

605:10-7-9. NONRESIDENT LICENSING

Deleting the requirement that a nonresident licensee provide the Commission with a letter of compliance with another jurisdiction's continuing education requirement. Clarifying that if such nonresident does not meet a continuing education requirement in any jurisdiction, then such nonresident must comply with the continuing education requirement for Oklahoma resident licensees.

605:10-9-1. BROKER REQUIREMENTS

Amend subchapter title and amend reference of "office" to place of business. Remove language regarding an office located in a home. Amend language for clarification.

605:10-9-4. ADVERTISING

Amending language to include social networking and yard sign requirements and indicate that a broker may promote a seller incentive is certain requirements are met. Amending language in reference to team names and requiring that the broker's reference appear on every individual page or frame of an associate's domain or website.

605:10-11-2. ASSOCIATES LICENSE

Amending language to allow an associate to release themselves from a broker by way of notification being sent to the broker rather than having such notice to be served on the broker.

605:10-13-1. DUTY TO ACCOUNT; BROKER

Amending language requiring broker's to return all documents, items or monies to a party.

605:10-13-2. DUTY TO ACCOUNT; ASSOCIATE

Amending language to require an associate to turned over all documents, files and monies to the broker and adding language that the associate shall not be authorized to open or maintain a trust or escrow account, nor shall they be a signor on such an account wherein the associate is providing licensed activities as defined in the License Code and/or Rules.

605:10-17-4. PROHIBITED DEALINGS

Adding new provisions that qualify as a prohibited act: failing to provide a licensee's license number on all purchase or lease contracts; providing false or misleading information to the Commission; interfering with an investigation by means of persuading, intimidating or threatening any party or witness; inducing or persuading any party to dishonor any purchase or lease contract; entering into contracts or cooperating with persons or entities unlicensed to perform activities requiring a license; failing to act in accordance with the broker relationship established and/or disclosed to a party; failure by a broker to ensure all persons who perform licensable activities under the broker's name are properly licensed; and an associate shall not perform licensed activities independently without broker's

supervision and as defined in the License Code and Rules of the Commission.

605:10-17-5. SUBSTANTIAL MISREPRESENTATION

Amending language to indicate that "representing to any lender, guaranteeing agency or any other interested party, either verbally or through the preparation of false documents, an amount in excess of the true and actual sales price of the real property or terms differing from those actually agreed upon by the parties to the transaction.

APPENDIX A. RESIDENTIAL PROPERTY CONDITION DISCLOSURE STATEMENT - MAKING CHANGES TO THE FOLLOWING QUESTIONS:

14. Approximate age of roof covering, if known _____
Number of layers, if known _____

20. Are you aware of major fire, tornado, hail, or wind damage?

21. Are you aware of problems pertaining to the sewer, septic or lateral lines?

Renumber all remaining questions.

38. Are you aware of any notices from any government or government-sponsored agencies or any other entities affecting the property?

39. Are you aware of any threatened or existing litigation or lawsuit(s), directly or indirectly, affecting the property or title to the property?

AUTHORITY:

Oklahoma Real Estate Commission; 59 O.S., Section 858-208

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 4:00 p.m. on

March 2, 2010 at the following address:

Oklahoma Real Estate Commission

Shepherd Mall

2401 N. W. 23rd St., Suite 18

Oklahoma City, Oklahoma 73107-2431

PUBLIC HEARING:

A public hearing will be held to provide an opportunity for persons to orally present their

views. Each person will be allowed a maximum of 10 minutes to speak and must sign in at the

door. Date, time and place of public hearing:

March 10, 2010 - 10:30 a.m.

Shepherd Mall

2401 N.W. 23rd St., Suite 18

Oklahoma City, Oklahoma 73107-2431

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

"N/A"

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by the public between 8:00 a.m. and 4:30 p.m., Monday through Friday, (with the exception of legal holidays) at the following location:

Oklahoma Real Estate Commission

2401 N. W. 23rd St., Suite 18

Oklahoma City, Oklahoma 73107-2431

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303 (D), a rule impact statement will be prepared and available on January 25, 2010 at the Oklahoma Real Estate Commission (address and phone number listed above).

CONTACT PERSON:

Anne M. Woody, Executive Director - (405) 521-3387

[OAR Docket #09-1584; filed 12-23-09]

**TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 1. ADMINISTRATIVE OPERATIONS**

[OAR Docket #09-1579]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

Subchapter 3. Public Policy

Part 3. Taxpayer Identification

710:1-3-6 [AMENDED]

SUMMARY:

Section 710:1-3-6 has been amended to clarify policy regarding the use of all 9 digits of a taxpayer's social security number on returns, applications, and forms required to be filed with the Oklahoma Tax Commission.

AUTHORITY:

68 O.S. § 203; Oklahoma Tax Commission

COMMENT PERIOD:

Persons wishing to make written submissions may do so by 4:30 p.m., February 15, 2010, to the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194. Those wishing to make oral comments at the public hearing should request placement on the docket well in advance of the hearing date, by calling Pat McDonald at (405) 521-3133.

PUBLIC HEARING:

A public hearing will be held to provide an additional means by which suggestions may be offered on the content of the proposed rules. Time, Date and Place of the hearing are as follows: March 2, 2010, 9:00 a.m. in the 4th floor hearing room at the Oklahoma Tax Commission, 2501 Lincoln Blvd., Oklahoma City, Oklahoma. In order to facilitate entry into the building, those wishing to appear should contact Pat McDonald at (405) 521-3133 at least 24 hours prior to the hearing date to complete their visitor pre-registration. Entry to the M.C. Connors' building must be made through the doors located on the east side of the building. In order to gain access to the 4th floor hearing room, attendees must register at the information desk in the lobby by presenting a driver license or other photo

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identification. A name badge and floor access card will be issued once registration is completed.

Time limitations may be imposed on oral presentations to ensure that all persons who have filed written requests for placement on the docket will have an opportunity to speak.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Although nothing in this rulemaking action is expected to adversely impact small business, the Oklahoma Tax Commission (OTC) requests that business entities affected by these rules provide the OTC, within the comment period, in dollar amounts, if possible, information on any increase in direct costs, such as fees, and indirect costs, such as those associated with reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed Rules.

COPIES OF PROPOSED RULES:

Interested persons may inspect proposed rules at the offices of the Oklahoma Tax Commission, Tax Policy Division, 5th floor, M. C. Connors Building, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma. Copies of proposed rules may be viewed online at www.oktax.state.ok.us or obtained without charge from the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194.

RULE IMPACT STATEMENT:

A Rule Impact Statement will be prepared and will be available for review from and after January 29, 2010, from the same source listed above for obtaining copies of proposed rules.

CONTACT PERSON:

Lisa R. Haws, Agency Liaison. Phone: 405-521-3133; FAX: 405-522-0063; Email: lhaws@oktax.state.ok.us

[OAR Docket #09-1579; filed 12-23-09]

TITLE 710. OKLAHOMA TAX COMMISSION CHAPTER 10. AD VALOREM

[OAR Docket #09-1580]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking.

PROPOSED RULES:

Chapter 10. AD Valorem [AMENDED]

SUMMARY:

As part of the Commission's ongoing review of its rules, proposed amendments to the existing Ad Valorem rules have been made.

Proposed amendments to **Subchapter 7, "Manufacturing Facilities"**, are intended to clarify eligibility and application requirements, to delete obsolete language referring to Standard Industrial Codes and to update statutory citations.

Other amendments may be made for clarification purposes, to delete and update obsolete references and to improve readability.

AUTHORITY:

68 O.S. §§ 203 and 2902(H); Oklahoma Tax Commission

COMMENT PERIOD:

Persons wishing to make written submissions may do so by 4:30 p.m. February 15, 2010, to the Oklahoma Tax Commission, Tax Policy Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194. Those wishing to make oral comments at the public hearing should request placement on the docket well in advance of the hearing date, by calling Pat McDonald at (405) 521-3133

PUBLIC HEARING:

A public hearing will be held to provide an additional means by which suggestions may be offered on the content of the proposed rules. Time, Date and Place of the hearing is as follows: March 2, 2010 at 10:00 a.m. in the 4th floor hearing room at the Oklahoma Tax Commission, 2501 Lincoln Blvd., Oklahoma City, Oklahoma. In order to facilitate entry into the building, those wishing to appear should contact Pat Mc Donald at (405) 521-3133 at least 24 hours prior to the hearing date to complete their visitor pre-registration. Entry to the M.C. Connors building must be made through the doors located on the east side of the building. In order to gain access to the 4th floor hearing room, attendees must register at the information desk in the lobby by presenting a driver's license or other photo identification. A name badge and floor access card will be issued once registration is completed.

Time limitations may be imposed on oral presentations to ensure that all persons who have filed written requests for placement on the docket will have an opportunity to speak.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Although nothing in this rulemaking action is expected to adversely impact small business, the Oklahoma Tax Commission (OTC) requests that any business entity affected by these rules provide the OTC, within the comment period, in dollar amounts, if possible, information on any increase in direct costs, such as fees, and indirect costs, such as those associated with reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity **due to** compliance with the proposed Rules.

COPIES OF PROPOSED RULES:

Interested persons may inspect proposed rules at the offices of the Oklahoma Tax Commission, Tax Policy Division, 5th floor, M. C. Connors Building, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma. Copies of proposed rules may be obtained without charge from the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194.

RULE IMPACT STATEMENT:

A Rule Impact Statement will be prepared and will be available for review from and after January 29, 2010, from

the same source listed above for obtaining copies of proposed rules.

CONTACT PERSON:

Lisa R. Haws, Liaison. Phone: 405-521-3133; FAX: 405-522-0063; Email: lhaws@oktax.state.ok.us

[OAR Docket #09-1580; filed 12-23-09]

**TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 45. GROSS PRODUCTION**

[OAR Docket #09-1581]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking.

PROPOSED RULES:

Chapter 45. Gross Production [AMENDED]

SUMMARY:

Proposed amendments to **Subchapter 9, "Exemptions and Exclusions"**, have been made to implement the provisions of Senate Bill 313 (52nd Legislature, 1st Regular Session, 2009) which extended the sunset date for certain rebates from July 1, 2009 to July 1, 2012.

AUTHORITY:

68 O.S. §§ 203 and 1001(M); Oklahoma Tax Commission

COMMENT PERIOD:

Persons wishing to make written submissions may do so by 4:30 p.m., February 15, 2010, to the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194. Those wishing to make oral comments at the public hearing should request placement on the docket well in advance of the hearing date, by calling Pat McDonald at (405) 521-3133.

PUBLIC HEARING:

A public hearing will be held to provide an additional means by which suggestions may be offered on the content of the proposed rules. Time, Date and Place of the hearing are as follows: March 2, 2010, 9:30 a.m. in the 4th floor hearing room at the Oklahoma Tax Commission, 2501 Lincoln Blvd., Oklahoma City, Oklahoma. In order to facilitate entry into the building, those wishing to appear should contact Pat McDonald at (405) 521-3133 at least 24 hours prior to the hearing date to complete their visitor pre-registration. Entry to the M.C. Connors' building must be made through the doors located on the east side of the building. In order to gain access to the 4th floor hearing room, attendees must register at the information desk in the lobby by presenting a driver license or other photo identification. A name badge and floor access card will be issued once registration is completed.

Time limitations may be imposed on oral presentations to ensure that all persons who have filed written requests for placement on the docket will have an opportunity to speak.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Although nothing in this rulemaking action is expected to adversely impact small business, the Oklahoma Tax Commission (OTC) requests that business entities affected by these rules provide the OTC, within the comment period, in dollar amounts, if possible, information on any increase in direct costs, such as fees, and indirect costs, such as those associated with reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed Rules.

COPIES OF PROPOSED RULES:

Interested persons may inspect proposed rules at the offices of the Oklahoma Tax Commission, Tax Policy Division, 5th floor, M. C. Connors Building, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma. Copies of proposed rules may be viewed online at www.oktax.state.ok.us or obtained without charge from the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194.

RULE IMPACT STATEMENT:

A Rule Impact Statement will be prepared and will be available for review from and after January 29, 2010, from the same source listed above for obtaining copies of proposed rules.

CONTACT PERSON:

Lisa R. Haws, Agency Liaison. Phone: 405-521-3133; FAX: 405-522-0063; Email: lhaws@oktax.state.ok.us

[OAR Docket #09-1581; filed 12-23-09]

**TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 60. MOTOR VEHICLES**

[OAR Docket #09-1582]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking.

PROPOSED RULES:

Chapter 60. Motor Vehicles [AMENDED]

SUMMARY:

As part of the Commission's ongoing review of its rules, many proposed amendments to the existing rules have been made to clarify policy, improve readability, correct scrivener's errors, update statutory citation, insure accurate internal cross-reference and comply with statutory changes. All legislative references are to the First Regular Session of the 52nd Legislature (2009).

Section 710:60-3-10 has been amended to clarify policy to prohibit the renewal of a vehicle registration prior to the first day of the month of expiration.

Section 710:60-3-12 has been amended to reflect the provisions of Senate Bill 318 which provides that the issuance

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of monthly vehicle registration expiration decals shall include a two-letter abbreviation corresponding to the county in which the vehicle is registered. [47:1113].

Section 710:60-3-17 has been amended to reflect the provisions of House Bill 2013 and Senate Bill 1161 which provides for all insurers, as a condition of writing motor vehicle liability policies in this state, to comply with the provisions of the on-line verification system. [47:7-600.2.]

Section 710:60-3-18 has been amended and new Section 710:60-5-62 has been added to reflect the provisions of Senate Bill 812 which creates the Oklahoma Lemon Law, requiring a manufacturer to either accept a vehicle return and refund the full purchase price to the consumer or replace the vehicle with a vehicle of the same model and features and a comparable model. [15:901, 901.1]

Section 710:60-3-21 has been amended to clarify policy of not assessing more for a replacement license plate and/or registration decal than the actual annual registration fee of the plate/decal being replaced.

Sections 710:60-3-30, 710:60-3-31, 710:60-3-33 through 710:60-3-36, 710:60-3-141 and 710:60-3-142 have been amended to reflect the provisions of Senate Bill 658 which changes the penalty for failure to register a vehicle in a timely manner and the penalty for failure to timely pay vehicle excise tax. [47:1115, 1132, 1141.1, 1151]

Section 710:60-3-91 has been amended to to more properly reflect applicable statutory language.

Section 710:60-3-111 has been amended to clarify policy regarding taxicab eligibility verification and rental vehicle registration rate eligibility.

Section 710:60-3-134 has been amended to clarify policy that a reinstatement of a manufactured home certificate of title does not absolve the owner of any Ad Valorem tax obligation to the county where the manufactured home was or is located.

Sections 710:60-3-150 and 710:60-3-151 have been amended to clarify the Commission's non-offensive content policy for personalized license plates and special license plates.

Section 710:60-5-55 has been amended to clarify policy regarding the review and processing of title cancellations and certificate of ownership transfers.

Section 710:60-5-71 has been amended to reflect a reconfiguration of the Oklahoma title certificate.

Section 710:60-5-74 has been amended to clarify policy and procedure to ensure that an Oklahoma title issued to an out-of-state motor vehicle entering Oklahoma with an odometer discrepancy is properly notated.

Section 710:60-5-77 has been amended to clarify policy and procedure for transfer of a motor vehicle title by a third party using a power of attorney.

Section 710:60-5-91 has been amended to clarify policy and procedure for assigned vehicle identification numbers and that an approval by the Commission of an application for title does not confirm roadworthiness of an assembled vehicle.

Section 710:60-5-96 has been amended to clarify policy regarding eligibility for the ownership affidavit process.

Section 710:60-5-116 has been amended to provide for an NCIC stolen vehicle check in the Title 42 lien filing review process.

Section 710:60-9-14 has been amended to clarify policy and responsibilities of a motor license agent regarding resolution of a field audit balance due the Commission.

Section 710:60-9-94 has been amended to conform to current statutory authority that the purchaser of a vehicle is not required, as a condition for registration of the vehicle, to pay any tax, fee or penalty due resulting from a dishonored check submitted by the previous owner. [47:1121]

Section 710:60-9-97 has been amended to conform to current statutory authority that all fees assessed by a motor license agent shall be reflected on the receipt provided to the taxpayer. [47:1140(E)]

Proposed amendments to **Part 13**, "*Special Provisions for Application, Qualification, Appointment and Agency Operation Applicable to Certain Motor License Agents and Agencies*" of **Subchapter 9**, "*Motor Vehicle License Agents/Agencies*" reflect the provisions of Senate Bill 888 which eliminates the population threshold relating to appointment procedures for motor license agents. The bill also permits currently appointed motor license agents to continue serving until such agent vacates the position. Senate Bill 888 establishes that the statutorily provided qualifications and requirements set forth in 47 O.S. § 1140 apply to all motor license agent applicants regardless of the population of the applicant's respective city or county.

AUTHORITY:

68 O.S. § 203 and 47 O.S. §§ 1113, 1136, 1140, 1146, 1149, 1151 and 1151.4; Oklahoma Tax Commission

COMMENT PERIOD:

Persons wishing to make written submissions may do so by 4:30 p.m., February 15, 2010, to the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194. Those wishing to make oral comments at the public hearing should request placement on the docket well in advance of the hearing date, by calling Pat McDonald at (405) 522-3133.

PUBLIC HEARING:

A public hearing will be held to provide an additional means by which suggestions may be offered on the content of the proposed rules. Time, Date and Place of the hearing are as follows: March 2, 2010, 2:00 p.m. in the office of the Oklahoma Tax Commission, 2501 Lincoln Blvd., 4th Floor, Oklahoma City, Oklahoma. In order to facilitate entry into the building, those wishing to appear should contact Pat McDonald at (405) 521-3133 at least 24 hours prior to the hearing date to complete their visitor pre-registration. Entry to the M.C. Connors' building must be made through the doors located on the east side of the building. In order to gain access to the 4th floor hearing room, attendees must register at the information desk in the lobby by presenting a driver's license or other photo identification. A name badge and floor access card will be issued once registration is completed.

Time limitations may be imposed on oral presentations to ensure that all persons who have filed written requests for placement on the docket will have an opportunity to speak.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Although it has been determined that the promulgation of these rules is not expected to adversely impact small business, the Oklahoma Tax Commission (OTC) requests that business entities affected by these rules provide the OTC, within the comment period, in dollar amounts, if possible, information on any increase in direct costs, such as fees, and indirect costs, such as those associated with reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed Rules.

COPIES OF PROPOSED RULES:

Interested persons may inspect proposed rules at the offices of the Oklahoma Tax Commission, Tax Policy Division, 5th floor, M. C. Connors Building, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma. Copies of proposed rules may be viewed online at www.oktax.state.ok.us or obtained without charge from the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194.

RULE IMPACT STATEMENT:

A Rule Impact Statement will be prepared and will be available for review from and after January 29, 2010, from the same source listed above for obtaining copies of proposed rules.

CONTACT PERSON:

Lisa Haws, Tax Policy Analyst, Phone: 405-521-3133, FAX 405-522-0063, Email: LHaws@oktax.state.ok.us

[OAR Docket #09-1582; filed 12-23-09]

**TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 90. WITHHOLDING**

[OAR Docket #09-1583]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

Subchapter 3. Returns and Payments
710:90-3-4 [AMENDED]

SUMMARY:

Section 710:90-3-4 has been amended to implement the provisions of Senate Bill 318 which requires all remitters of Oklahoma Income tax withholding that are on the federal semi-weekly deposit schedule to remit at the same time as under the federal semi-weekly deposit schedule. [68:2385.3]

AUTHORITY:

Oklahoma Tax Commission; 68 O.S. § 203

COMMENT PERIOD:

Persons wishing to make written submissions may do so by 4:30 p.m., February 15, 2010, to the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194. Those wishing to make oral comments at the public hearing should request placement on the docket well in advance of the hearing date, by calling Pat McDonald at (405) 521-3133.

PUBLIC HEARING:

A public hearing will be held to provide an additional means by which suggestions may be offered on the content of the proposed rules. Time, Date and Place of the hearing are as follows: March 2, 2010, 1:30 p.m. in the 4th floor hearing room at the Oklahoma Tax Commission, 2501 Lincoln Blvd., Oklahoma City, Oklahoma. In order to facilitate entry into the building, those wishing to appear should contact Pat McDonald at (405) 521-3133 at least 24 hours prior to the hearing date to complete their visitor pre-registration. Entry to the M.C. Connors' building must be made through the doors located on the east side of the building. In order to gain access to the 4th floor hearing room, attendees must register at the information desk in the lobby by presenting a driver license or other photo identification. A name badge and floor access card will be issued once registration is completed.

Time limitations may be imposed on oral presentations to ensure that all persons who have filed written requests for placement on the docket will have an opportunity to speak.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Although nothing in this rulemaking action has been determined to adversely impact small business, the Oklahoma Tax Commission (OTC) requests that, pursuant to 75 O.S. § 303(B)(6), business entities affected by these rules provide the OTC, within the comment period, in dollar amounts, if possible, information on any increase in direct costs, such as fees, and indirect costs, such as those associated with reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed Rules.

COPIES OF PROPOSED RULES:

Interested persons may inspect proposed rules at the offices of the Oklahoma Tax Commission, Tax Policy Division, 5th floor, M. C. Connors Building, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma. Copies of proposed rules may be viewed online at www.oktax.state.ok.us or obtained without charge from the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194.

RULE IMPACT STATEMENT:

A Rule Impact Statement will be prepared and will be available for review from and after January 29, 2010, from the same source listed above for obtaining copies of proposed rules.

Notices of Rulemaking Intent

CONTACT PERSON:

Lisa R. Haws, Agency Liaison. Phone: 405-521-3133;
FAX: 405-522-0063; Email: lhaws@oktax.state.ok.us

[OAR Docket #09-1583; filed 12-23-09]

TITLE 723. TOBACCO SETTLEMENT ENDOWMENT TRUST FUND CHAPTER 1. ORGANIZATION AND PROCEDURE

[OAR Docket #09-1528]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

723:1-1-1 through 723:1-1-8 [NEW]

SUMMARY:

The Tobacco Settlement Endowment Trust Fund is promulgating its initial permanent rules. The new chapter contains the rules required by the Administrative Procedures Act for every agency.

AUTHORITY:

The Board of Directors of the Tobacco Settlement Endowment Trust Fund; 62 O.S. § 2309(A)(3) and (D)(3), and 75 O.S. §§ 302(A)(1) and (A)(2), 305 and 307

COMMENT PERIOD:

Written and oral comments will be accepted until the conclusion of the public hearing on February 16, 2010, at the Tobacco Settlement Endowment Trust Fund. Written comments may be mailed to the Tobacco Settlement Endowment Trust Fund, 3700 N. Classen Blvd., Suite 215, Oklahoma City, OK 73118, Attn: Dorothy Antwine.

PUBLIC HEARING:

A public hearing will be held to provide a means by which persons may offer suggested input on the content of the proposed rules: 10:00 a.m., Tuesday, February 16, 2010, Tobacco Settlement Endowment Trust Fund, 3700 N. Classen Blvd., Room 265, Oklahoma City, OK 73118.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing by the conclusion of the public hearing on February 16, 2010, at the Tobacco Settlement Endowment Trust Fund, 3700 N. Classen Blvd., Suite 215, Oklahoma City, OK 73118, Attn: Dorothy Antwine.

COPIES OF PROPOSED RULES:

Interested persons may inspect proposed rules at the Tobacco Settlement Endowment Trust Fund, 3700 N. Classen Blvd., Suite 215, Oklahoma City, OK 73118. Copies of

proposed rules may be obtained at the established cost per page copying charge from the Tobacco Settlement Endowment Trust Fund, 3700 N. Classen Blvd., Suite 215, Oklahoma City, OK 73118, or they may be printed from the agency's web page at www.ok.gov/tset.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement will be prepared and will be available at the same locations listed above for reviewing and obtaining copies of the proposed rules beginning January 29, 2010.

CONTACT PERSON:

Dorothy Antwine, Office Manager, Tobacco Settlement Endowment Trust Fund, (405) 525-8738.

[OAR Docket #09-1528; filed 12-18-09]

TITLE 723. TOBACCO SETTLEMENT ENDOWMENT TRUST FUND CHAPTER 10. GRANTS AND PROGRAMS

[OAR Docket #09-1529]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

723:10-1-1 through 723:10-1-10 [NEW]

SUMMARY:

The Tobacco Settlement Endowment Trust Fund is promulgating its initial permanent rules. The new chapter provides regulations relating to the processes for program funding.

AUTHORITY:

The Board of Directors of the Tobacco Settlement Endowment Trust Fund; 62 O.S. § 2309(A)(3) and (D)(3)

COMMENT PERIOD:

Written and oral comments will be accepted until the conclusion of the public hearing on February 16, 2010, at the Tobacco Settlement Endowment Trust Fund. Written comments may be mailed to the Tobacco Settlement Endowment Trust Fund, 3700 N. Classen Blvd., Suite 215, Oklahoma City, OK 73118, Attn: Dorothy Antwine.

PUBLIC HEARING:

A public hearing will be held to provide a means by which persons may offer suggested input on the content of the proposed rules: 10:00 a.m., Tuesday, February 16, 2010, Tobacco Settlement Endowment Trust Fund, 3700 N. Classen Blvd., Room 265, Oklahoma City, OK 73118.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

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

conclusion of the public hearing on February 16, 2010, at the Tobacco Settlement Endowment Trust Fund, 3700 N. Classen Blvd., Suite 215, Oklahoma City, OK 73118, Attn: Dorothy Antwine.

COPIES OF PROPOSED RULES:

Interested persons may inspect proposed rules at the Tobacco Settlement Endowment Trust Fund, 3700 N. Classen Blvd., Suite 215, Oklahoma City, OK 73118. Copies of proposed rules may be obtained at the established cost per page copying charge from the Tobacco Settlement Endowment Trust Fund, 3700 N. Classen Blvd., Suite 215, Oklahoma City, OK 73118, or they may be printed from the agency's web page at www.ok.gov/tset.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement will be prepared and will be available at the same locations listed above for reviewing and obtaining copies of the proposed rules beginning January 29, 2010.

CONTACT PERSON:

Dorothy Antwine, Office Manager, Tobacco Settlement Endowment Trust Fund, (405) 525-8738.

[OAR Docket #09-1529; filed 12-18-09]

Cancelled Hearings/Comment Periods

If an agency cancels a hearing or comment period announced in a published Notice of Rulemaking Intent, the agency must submit a notice of such cancellation to the Office of Administrative Rules (OAR). The OAR publishes the cancellation notice in the next possible issue of the *Register*.

For additional information on cancelled hearings and comment periods, see OAC 655:10-7-27.

**TITLE 150. OKLAHOMA DEPARTMENT OF
COMMERCE
CHAPTER 65. OKLAHOMA QUALITY JOBS
PROGRAM**

[OAR Docket #09-1524]

RULEMAKING ACTION:

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

PROPOSED RULES:

Subchapter 11. 21st Century Quality Jobs Incentive Act
[NEW]
150:65-11-1 [NEW]
150:65-11-2 [NEW]
150:65-11-3 [NEW]
150:65-11-4 [NEW]

REGISTER PUBLICATION OF NOTICE:

The Notice of Rulemaking Intent for this action was published at 27 Ok Reg 227.

CANCELLED COMMENT PERIOD:

December 16, 2009 through January 15, 2010.

CANCELLED PUBLIC HEARING:

9:00 a.m. on Friday, January 15, 2010, at Gallery 1-2, 900 North Stiles Avenue, Oklahoma City, Oklahoma.

ADDITIONAL INFORMATION:

The Oklahoma Department of Commerce is filing a new Notice of Rulemaking Intent and has scheduled a new public hearing to be held at 9:00 a.m. on Wednesday, February 17, 2010, at Gallery 1-2, 900 North Stiles Avenue, Oklahoma City, Oklahoma.

[OAR Docket #09-1524; filed 12-17-09]

Continued Hearings/Comment Periods

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

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

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

[OAR Docket #09-1530]

RULEMAKING ACTION:

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

PROPOSED RULES:

Subchapter 1. Fine Schedules

Part 7. Forestry and Timber Violations [NEW]

REGISTER PUBLICATION OF NOTICE:

The Notice of Rulemaking Intent for this action was published at 27 Ok Reg 31.

CONTINUED COMMENT PERIOD:

Original comment period:

October 1, 2009 through November 2, 2009

Continued to:

February 4, 2010

CONTINUED PUBLIC HEARING:

Original public hearing:

3:00 p.m., November 2, 2009, Animal Industry conference room on the second floor, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Boulevard, Oklahoma City, Oklahoma

Continued to:

1:30 p.m., February 4, 2010, Consumer Protection Services conference room on the second floor, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Boulevard, Oklahoma City, Oklahoma

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing by the conclusion of the comment period on February 4, 2010 at the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4298.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained by visiting www.ag.ok.gov/proposedrules or by contacting Teena Gunter at the above address.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement is available at the above address.

ADDITIONAL INFORMATION:

For additional information, contact Teena Gunter, Deputy General Counsel, at (405) 522-4576.

[OAR Docket #09-1530; filed 12-18-09]

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

[OAR Docket #09-1531]

RULEMAKING ACTION:

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

PROPOSED RULES:

Subchapter 15. Equine Infectious Anemia (EIA)

Part 3. Procedures [AMENDED]

REGISTER PUBLICATION OF NOTICE:

The Notice of Rulemaking Intent for this action was published at 27 Ok Reg 93.

CONTINUED COMMENT PERIOD:

Original comment period:

October 15, 2009 through November 16, 2009

Continued to:

February 4, 2010

CONTINUED PUBLIC HEARING:

Original public hearing:

1:30 p.m., November 16, 2009, Board Room, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Boulevard, Oklahoma City, Oklahoma

Continued to:

2:30 p.m., February 4, 2010, Consumer Protection Services conference room on the second floor, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Boulevard, Oklahoma City, Oklahoma

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing by the conclusion of the comment period on February 4, 2010 at the Oklahoma Department of Agriculture, Food, and Forestry,

Continued Hearings/Comment Periods

2800 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4298.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained by visiting www.ag.ok.gov/proposedrules or by contacting Teena Gunter at the above address.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement is available at the above address.

ADDITIONAL INFORMATION:

For additional information, contact Teena Gunter, Deputy General Counsel, at (405) 522-4576.

[OAR Docket #09-1531; filed 12-18-09]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 20. FORESTRY

[OAR Docket #09-1532]

RULEMAKING ACTION:

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

PROPOSED RULES:

Subchapter 1. General Provisions [AMENDED]

Subchapter 3. Rural Fire Protection Program Fund Act [AMENDED]

Subchapter 17. Forest Resources Development Program [AMENDED]

Subchapter 19. Prescribed Burns [NEW]

REGISTER PUBLICATION OF NOTICE:

The Notice of Rulemaking Intent for this action was published at 27 Ok Reg 32.

CONTINUED COMMENT PERIOD:

Original comment period:

October 1, 2009 through November 2, 2009

Continued to:

February 4, 2010

CONTINUED PUBLIC HEARING:

Original public hearing:

2:30 p.m., November 2, 2009, Animal Industry conference room on the second floor, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Boulevard, Oklahoma City, Oklahoma

Continued to:

2:00 p.m., February 4, 2010, Consumer Protection Services conference room on the second floor, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Boulevard, Oklahoma City, Oklahoma

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing by the conclusion of the comment period on February 4, 2010 at the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4298.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained by visiting www.ag.ok.gov/proposedrules or by contacting Teena Gunter at the above address.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement is available at the above address.

ADDITIONAL INFORMATION:

For additional information, contact Teena Gunter, Deputy General Counsel, at (405) 522-4576.

[OAR Docket #09-1532; filed 12-18-09]

Withdrawn Rules

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

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

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

TITLE 92. OKLAHOMA STATE ATHLETIC COMMISSION CHAPTER 10. RULES FOR BOXING AND OTHER ACTIVITIES

[OAR Docket #09-1558]

RULEMAKING ACTION:

Withdrawal of EMERGENCY rulemaking

WITHDRAWN RULE:

Subchapter 1. General Provisions
92:10-1-4 [AMENDED]

DATES:

Adoption:

December 9, 2009

Submitted to Governor:

December 18, 2009

Withdrawn:

December 21, 2009

[OAR Docket #09-1558; filed 12-21-09]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 642. EMERGENCY RESPONSE SYSTEMS STABILIZATION AND IMPROVEMENT REVOLVING FUND

[OAR Docket #09-1576]

RULEMAKING ACTION:

Withdrawal of EMERGENCY rulemaking

WITHDRAWN RULES:

Subchapter 1. General Provisions [NEW]
Subchapter 3. Applications [NEW]
Subchapter 5. Scoring [NEW]
Subchapter 7. Disbursement [NEW]
Subchapter 9. Evaluation [NEW]

DATES:

Adoption:

November 12, 2009

Submitted to Governor:

November 20, 2009

Submitted to House:

November 20, 2009

Submitted to Senate:

November 20, 2009

Withdrawn:

December 22, 2009

[OAR Docket #09-1576; filed 12-22-09]

Emergency Adoptions

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

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

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

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

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

[OAR Docket #09-1518]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 3. General Provider Policies
Part 3. General Medical Program Information
317:30-3-61. [NEW]
(Reference APA WF # 09-04)

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 42 CFR 440.180

DATES:

Adoption:

November 12th, 2009

Approved by Governor:

December 3, 2009

Effective:

Immediately upon Governor's approval

Expiration:

Effective through July 14, 2010, unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

The Agency finds that a compelling public interest exists which necessitates promulgation of emergency rules to include language regarding minimum standards necessary for the operation of a self-directed services program for persons who qualify to be institutionalized but are living in a home and community based setting. Current self-direction programs, funded through the Oklahoma Health Care Authority, have varying methodologies for implementation and reporting and are therefore more costly to administer than a single system of self-direction. In a time of budget constraints, the efficiencies brought about by uniformity of operation will result in an overall cost savings to the Oklahoma Health Care Authority as well as improved reporting to the federal funding agency.

ANALYSIS:

Rules are revised to include an agency model for administration and operation of a program for self-direction. All programs implementing the self-direction option must adhere to the requirements of this policy. Self-direction is a method of service delivery that allows members, who qualify for institutional care, to determine what supports and services they need to live successfully in a home and community based setting.

CONTACT PERSON:

Tywanda Cox at (405)522-7153

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

SUBCHAPTER 3. GENERAL PROVIDER POLICIES

PART 3. GENERAL MEDICAL PROGRAM INFORMATION

317:30-3-61. Self-Directed Services

(a) **Agency Model.** The OHCA Self-Direction Model is an overarching set of guidelines to standardize policy for all self-directed service programs operated through the SoonerCare program. The following rules set forth minimum requirements to which all self-directed service programs must adhere. As the infrastructure for new or renewing self-direction programs is developed, the following elements will serve as a template for the programs to follow.

(b) **Definitions.**

(1) **"Financial Management Service"** (FMS) is defined as a fiscal intermediary that provides at a minimum, accounting, billing and payroll services on behalf of the member, for reimbursement through the OHCA.

(2) **"Program"** is defined as a set of benefits offered to a specific population of SoonerCare members (the program can be operated by the OHCA or another agency partner).

(3) **"Rendering provider"** is defined as the actual deliverer of allowable goods or services.

(4) **"Self-Direction"** is defined as a method of service delivery that allows members to determine what supports and services they need to live successfully in a home and community based setting.

(c) **Member processes.** The program will establish, at a minimum, the following processes for members who choose to self direct:

(1) The program will establish requirements for member eligibility including a process for evaluating member

Emergency Adoptions

needs. These requirements will also include a process for denial of eligibility.

(2) The program will determine detailed benefit packages and will specify allowable goods and services available to members.

(3) The program will define the member's options for self-direction. These will vary according to the approved benefit package. At a minimum, the options for self-direction will include:

(A) training for members that is appropriate to the care provided;

(B) utilization of a Financial Management Service (FMS) for purposes of payroll and payment to vendors. The FMS may also provide other services as determined by the individual program;

(C) detailed description demonstrating that members have freedom of choice under all levels of self-direction options offered;

(D) for security and auditing purposes, the program will design and implement a system for verification of services in accordance with CMS standards; and

(E) designate methods of outreach to inform members and potential members of available services, emergency procedures, concerns and general information.

(d) **Provider processes.** The program will establish minimum criteria for providers. These criteria will be specific to provider type and at a minimum include:

(1) training appropriate to each level of service to be provided;

(2) credentialing or licensure by a recognized state agency, if applicable to the provider type and duties;

(3) establish and specify an appropriate provider type and specialty code to apply to approved providers for the program. This provider type and specialty code must meet requirements for data integrity and auditing purposes.

(4) specify the minimum and maximum allowed rates for providers by provider type. Rates will be governed by guidelines determined by the program within approved limits and budget allowances. The program will also establish an appropriate methodology for fees paid to the FMS for administration of payroll, accounting and any other contracted duties;

(5) provider contracts with the OHCA or with a contracted agency operating as an Organized Health Care Delivery System (OHCDS);

(6) establish a provider enrollment process. At a minimum, the process shall include the following:

(A) all rendering providers will be entered into the OHCA provider tracking system and given a unique rendering provider ID number. In instances of an Organized Health Care Delivery System, the OHCDS will be considered the rendering provider for purposes of enrollment.

(B) the FMS will be entered into the OHCA provider tracking system and given a unique provider ID number as the billing or group provider;

(C) all rendering providers must pass a background investigation prior to employment.

(e) **Provider selection & outreach.**

(1) The program will identify methods for assisting members in provider selection.

(2) The program will determine processes for informing and recruiting providers.

(3) The program will develop processes for provider communication to inform providers of procedures, concerns and general information.

(f) **Claims filing process.**

(1) The program will ensure claims are billed to the OHCA from the FMS and processed through the OHCA claims tracking system.

(2) The program will have appropriate procedure codes with necessary modifiers for each benefit in the program.

(3) Procedure codes must provide sufficient detail to allow for claims identification in the OHCA claims tracking system (all claims must have at a minimum a billing, rendering and pay to).

(g) **Claims payment processes for providers, agents and agencies.** Payments for rendering providers must be paid through an FMS. The program will establish the payment options for the FMS to utilize for paying the rendering providers.

(h) **Payment processes for alternative goods & services.** Some programs may allow for non-traditional services and alternative sources for goods with approval. The program shall determine the process for the payment of these alternative benefits with the following restrictions:

(1) identify appropriate procedure codes with necessary modifiers to allow claims to be processed and identified in the OHCA claims tracking system;

(2) prior authorization for alternative goods and services and payment made directly to the vendor. No payment for good or services will be made to the member.

[OAR Docket #09-1518; filed 12-14-09]

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

[OAR Docket #09-1522]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 5. Individual Providers and Specialties

Part 10. Bariatric Surgery

317:30-5-137. [AMENDED]

317:30-5-137.1. [NEW]

317:30-5-137.2. [NEW]

317:30-5-138. [REVOKED]

317:30-5-139. [REVOKED]

(Reference APA WF #09-49)

AUTHORITY:

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

DATES:

Adoption:

November 12, 2009

Approved by Governor:

December 3, 2009

Effective:

Immediately upon Governor's approval

Expiration:

Effective through July 14, 2010, unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

The Agency finds that a compelling public interest exists which necessitates promulgation of emergency rules and requests emergency approval of rule revisions to the agency's bariatric surgery guidelines. Rules are revised to clarify the intent of coverage for bariatric surgery and provide consistency throughout policy. These emergency rule revisions will make rules consistent with current prior authorization practices and clarify coverage and access to healthcare for Oklahomans, thereby reducing confusion among SoonerCare providers and members regarding bariatric surgery coverage and requirements and ultimately reducing the amount of uncompensated care provided by Oklahoma healthcare providers.

ANALYSIS:

Bariatric surgery rules are revised to re-order the prior authorization process in policy and provide further clarification of the prior authorization process. This revision effectively re-orders policy to present member candidacy guidelines prior to presenting coverage guidelines. This will facilitate the current prior authorization process and encourage providers to request a member candidacy prior authorization before requesting the prior authorization for the surgery. These revisions are not changing the prior authorization process, only reinforcing the current process.

CONTACT PERSON:

Tywanda Cox at (405)522-7153

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

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 10. BARIATRIC SURGERY

317:30-5-137. Eligible providers to perform bariatric surgery

The Oklahoma Health Care Authority (OHCA) covers bariatric surgery under certain conditions as defined in this section. Bariatric surgery is not covered for the treatment of obesity alone. To be eligible for reimbursement, for bariatric surgery providers must be certified by the American College of Surgeons (ACS) as a Level I Bariatric Surgery Center or certified by the American Society for Bariatric Surgery as a Bariatric Surgery Center of Excellence (BSCO) or the surgeon and facility are currently participating in a bariatric surgery quality assurance program and a clinical outcomes assessment program review. All qualifications must be met and approved by the OHCA. Bariatric surgery facilities and their providers must be contracted with OHCA.

317:30-5-137.1. Member candidacy

Documentation must be submitted to the OHCA prior authorization unit prior to beginning any treatment program to ensure all requirements are met and the member is an appropriate candidate for bariatric surgery. This is the first of two prior authorizations required to approve a member for bariatric surgery. To be considered, members must meet the following candidacy criteria:

- (1) be between 18 and 65 years of age;
- (2) have body mass index (BMI) of 35 or greater;
- (3) be diagnosed with one of the following:
 - (A) diabetes mellitus;
 - (B) degenerative joint disease of a major weight bearing joint(s). The member must be a candidate for joint replacement surgery when optimal weight loss is achieved; or
 - (C) a rare co-morbid condition in which there is medical evidence that bariatric surgery is medically necessary to treat such a condition and that the benefits of bariatric surgery outweigh the risk of surgical mortality.
- (4) have presence of obesity that has persisted for at least 5 years;
- (5) have attempted weight loss in the past without successful long term weight reduction, which must be documented by a physician;
- (6) have absence of other medical conditions that would increase the member's risk of surgical mortality or morbidity; and
- (7) the member is not pregnant or planning to become pregnant in the next two years.

317:30-5-137.2. General coverage

(a) After receiving member candidacy prior authorization from OHCA and the determination that member candidacy requirements are met (see OAC 317:30-5-137.1), the primary care provider coordinates a pre-operative assessment and weight loss process to include:

- (1) a comprehensive psychosocial evaluation including:
 - (A) evaluation for substance abuse;
 - (B) evaluation for psychiatric illness which would preclude the member from participating in pre-surgical weight loss and evaluation program or successfully adjusting to the post surgical lifestyle changes;
 - (C) if applicable, documentation that the member has been successfully treated for a psychiatric illness and has been stabilized for at least six months; and
 - (D) if applicable, documentation that the member has been rehabilitated and is free from drug and/or alcohol for a period of at least one year.
- (2) an independent medical evaluation performed by an internist experienced in bariatric medicine who is contracted with the OHCA to assess the member's operative morbidity and mortality risks.
- (3) a surgical evaluation by an OHCA contracted surgeon who has credentials to perform bariatric surgery.

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- (4) participation in a six month weight loss program prior to surgery, under the supervision of an OHCA contracted medical provider. The member must, within 180 days from the initial or member candidacy prior authorization approval, lose at least five percent of member's initial body weight.
- (b) When all requirements have been met, a prior authorization for surgery must be obtained from OHCA. This authorization can not be requested before the initial 180 day weight loss program has been completed.
- (1) If the member does not meet the weight loss requirement in the allotted time the member will not be approved for bariatric surgery.
- (2) The member's provider must restart the prior authorization process if this requirement is not met.
- (c) The bariatric surgery facility or surgeon must, on an annual basis, provide to the OHCA the members statistical data which includes but is not limited to, mortality, hospital readmissions, re-operation, morbidity and average weight loss data.
- (d) OHCA considers surgery to correct complications from bariatric surgery, such as obstruction or stricture, medically necessary.
- (e) OHCA considers repeat bariatric surgery medically necessary for a member whose initial bariatric surgery was medically necessary, and member meets either of the following criteria:
- (1) has not lost more than fifty percent of excess body weight two years following the primary bariatric surgery procedure and is in compliance with prescribed nutrition and exercise programs following the procedure; or
- (2) failure due to dilation of the gastric pouch if the initial procedure was successful in inducing weight loss prior to the pouch dilation and the member is in compliance with prescribed nutrition and exercise programs following the initial procedure.
- (f) OHCA may withdraw authorization of payment for the bariatric surgery at any time if the OHCA determines that the member or provider is not in compliance with any of the requirements.

317:30-5-138. General coverage [REVOKED]

(a) ~~After determining member requirements are met (see OAC 317:30-5-139) and receiving prior authorization from OHCA, the primary care provider coordinates a process to include:~~

- (1) ~~a comprehensive psychosocial evaluation including:~~
- (A) ~~evaluation for substance abuse;~~
- (B) ~~evaluation for psychiatric illness which would preclude the member from participating in pre surgical dietary requirements or post surgical lifestyle changes;~~
- (C) ~~if applicable, documentation that the member has been successfully treated for a psychiatric illness and has been stabilized for at least six months; and~~
- (D) ~~if applicable, documentation that the member has been rehabilitated and is free from drug and/or alcohol for a period of at least one year.~~

- (2) ~~an independent medical evaluation performed by an internist who is contracted with the OHCA to assess the member's preoperative and mortality risks.~~
- (3) ~~a surgical evaluation by an OHCA contracted surgeon who has credentials to perform bariatric surgery.~~
- (4) ~~participation in a weight loss program prior to surgery, under the supervision of an OHCA contracted medical provider. The member must, within one hundred and eighty days from the approval of the OHCA's prior authorization, lose at least five percent of member's initial body weight.~~
- (A) ~~If the member does not meet the weight loss requirement in the allotted time the prior authorization is cancelled.~~
- (B) ~~The member's provider must reapply for prior authorization to restart the process if the requirement is not met.~~

- (b) ~~When all requirements have been met, a prior authorization for surgery must be obtained from OHCA. This authorization can not be requested before the initial 180 day weight loss program has been completed.~~
- (c) ~~The bariatric surgery facility or surgeon must, on an annual basis, provide to the OHCA the members statistical data which includes but is not limited to, mortality, hospital readmissions, re-operation, morbidity data and average weight loss.~~
- (d) ~~OHCA considers surgery to correct complications from bariatric surgery medically necessary, such as obstruction or stricture.~~
- (e) ~~OHCA considers repeat bariatric surgery medically necessary for a member whose initial bariatric surgery was medically necessary, and member meets either of the following criteria:~~

- (1) ~~has not lost more than fifty percent of excess body weight two years following the primary bariatric surgery procedure and is in compliance with prescribed nutrition and exercise programs following the procedure; or~~
- (2) ~~revision of a primary bariatric surgery procedure that failed due to dilation of the gastric pouch if the procedure was successful in inducing weight loss prior to the pouch dilation, and is in compliance with prescribed nutrition and exercise programs following the procedure.~~

(f) ~~OHCA may withdraw authorization of payment for the bariatric surgery at any time if the OHCA determines that the member or provider is not in compliance with any of the requirements.~~

317:30-5-139. Member requirements [REVOKED]

Members must meet the following criteria to be eligible:

- (1) ~~be between 18 and 65 years of age;~~
- (2) ~~have body mass index (BMI) of thirty five or greater;~~
- (3) ~~be diagnosed with one of the following:~~
- (A) ~~diabetes mellitus;~~
- (B) ~~degenerative joint disease of a major weight bearing joint(s). The member must be a candidate for joint replacement surgery if weight loss is achieved;~~
- ~~or~~

~~(C) a rare co-morbid condition in which there is medical evidence that bariatric surgery is medically necessary and that the benefits of bariatric surgery outweigh the risk of surgical mortality.~~

~~(4) have presence of obesity that has persisted for at least 5 years;~~

~~(5) have attempted weight loss in the past without successful long term weight reduction, which must be documented by a physician;~~

~~(6) have absence of other medical conditions that would increase the member's risk of surgical mortality or morbidity; and~~

~~(7) the member is not pregnant or planning to become pregnant in the next two years.~~

[OAR Docket #09-1522; filed 12-14-09]

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

[OAR Docket #09-1520]

RULEMAKING ACTION:
EMERGENCY adoption

RULES:

- Subchapter 5. Individual Providers and Specialties
- Part 17. Medical Suppliers
- 317:30-5-210.1. [NEW]
- 317:30-5-210.2. [NEW]
- 317:30-5-211.1. [AMENDED]
- 317:30-5-211.8. [REVOKED]
- 317:30-5-211.13. [AMENDED]
- 317:30-5-211.14. [AMENDED]
- 317:30-5-212. [REVOKED]
- 317:30-5-216. [AMENDED]
- (Reference APA WF # 09-42)

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

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SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

The Agency finds that a compelling public interest exists which necessitates promulgation of emergency rules and requests emergency approval of rule revisions to the agency's durable medical equipment (DME) guidelines. Rules are revised to clarify the intent of coverage for adult and child SoonerCare members and provide consistency throughout policy. These emergency rule revisions will make rules consistent with reimbursement practices and clarify coverage and access to healthcare for Oklahomans, thereby reducing confusion among SoonerCare providers and members regarding adult and child DME coverage and requirements and ultimately reducing the amount of uncompensated care provided by Oklahoma healthcare providers.

ANALYSIS:

Durable medical equipment (DME) rules are revised to provide further clarification in regards to the services available to adults and the additional services available to children. These revisions will further align policy with reimbursement practices and help alleviate confusion to the provider community. Revisions include specifying general coverage for adults, providing definition and clarification in regards to adult coverage of prosthetic and orthotic devices, specifying general coverage for children, and general policy cleanup as it relates to these sections.

CONTACT PERSON:

Tywanda Cox at (405)522-7153

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

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 17. MEDICAL SUPPLIERS

317:30-5-210.1. Coverage for adults

Coverage of durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) for adults is specified in OAC 317:30-5-211.1 through OAC 317:30-5-211.18.

317:30-5-210.2. Coverage for children

(a) Coverage. Coverage of durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) for children includes the specified coverage for adults found in OAC 317:30-5-211.1 through OAC 317:30-5-211.18. In addition the following are covered items for children only:

- (1) Orthotics and prosthetics.
- (2) Enteral nutrition is considered medically necessary for certain conditions in which, without the products, the member's condition would deteriorate to the point of severe malnutrition.

(A) Enteral nutrition must be prior authorized. PA requests must include:

- (i) the member's diagnosis;
- (ii) the impairment that prevents adequate nutrition by conventional means;
- (iii) the member's weight history before initiating enteral nutrition that demonstrates oral intake without enteral nutrition is inadequate;
- (iv) the percentage of the member's average daily nutrition taken by mouth and by tube; and
- (v) prescribed daily caloric intake.

(B) Enteral nutrition products that are administered orally and related supplies are not covered.

(b) EPSDT. Services deemed medically necessary and allowable under federal regulations may be covered by the EPSDT Child Health program even though those services may not be part of the SoonerCare program. These services must be prior authorized.

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(c) **Medical necessity.** Federal regulations require OHCA to make the determination as to whether the service is medically necessary and do not require the provision of any items or services that the State determines are not safe and effective or that are considered experimental.

317:30-5-211.1. Definitions

The following words and terms, when used in this Part, have the following meaning, unless the context clearly indicates otherwise.

"Adaptive equipment" means devices, aids, controls, appliances or supplies of either a communication or adaptive type, determined necessary to enable the person to increase his or her ability to function in a home and community based setting or private Intermediate Care Facilities for the Mentally Retarded (ICF/MR) with independence and safety.

"Capped rental" means monthly payments for the use of the Durable Medical Equipment (DME) for a limited period of time not to exceed 13 months. Items are considered purchased after 13 months of continuous rental.

"Certificate of medical necessity (CMN)" means a certificate required to help document the medical necessity and other coverage criteria for selected items, those items are defined in this Chapter. The physician's certification must include the member's diagnosis, the reason the equipment is required, and the physician's estimate, in months, of the duration of its need.

"Customized DME" means items of DME which have been uniquely constructed or substantially modified for a specific member according to the description and orders of the member's treating physician. For instance, a wheelchair would be considered "customized" if it has been:

(A) measured, fitted or adapted in consideration of the member's body size, disability, period of need, or intended use;

(B) assembled by a supplier or ordered from a manufacturer who makes available customized features, modifications, or components for wheelchairs; and

(C) intended for an individual member's use in accordance with instructions from the member's physician.

"DME information form (DIF)" means a document used to provide additional information needed to process a claim. The DIF is completed by the supplier and is not reviewed and signed by the physician. In the event of a post payment audit, the supplier must be able to produce the DIF and, if requested, produce information to substantiate the information on the DIF.

"Durable medical equipment (DME)" means equipment that can withstand repeated use, i.e.; the type of item that could normally be rented is used to serve a medical purpose, is not useful to a person in the absence of an illness or injury, and is used in the most appropriate setting including the home or workplace.

"Invoice" means a document that provides the following information when applicable; description of product, quantity, quantity in box, purchase price (less any discounts, rebates or commissions received), NDC, strength, dosage, provider, seller's name and address, purchaser's name and address and

date of purchase. At times, visit notes will be required to determine how much of the supply was expended. When possible, the provider should identify the SoonerCare member receiving the equipment or supply on the invoice.

"Medical supplies" means an article used in the cure, mitigation, treatment, prevention, or diagnosis of illnesses. Disposable medical supplies are medical supplies consumed in a single usage and do not include skin care creams or cleansers. Medical supplies do not include surgical supplies or medical or surgical equipment.

"OHCA CMN" means a certificate required to help document the medical necessity and other coverage criteria for selected items. Those items are defined in this chapter. The physician's certification must include the member's diagnosis, the reason equipment is required, and the physician's estimate, in months, of the duration of its need. This certificate is used when the OHCA requires a CMN and one has not been established by CMS.

"Orthotics" means an item used for the correction or prevention of skeletal deformities.

"Prosthetic devices" means a replacement, corrective, or supportive device (including repair and replacement parts for same) worn on or in the body, to artificially replace a missing portion of the body, prevent or correct physical deformity or malfunction, or support a weak or deformed portion of the body.

317:30-5-211.8. Coverage [REVOKED]

~~Durable medical equipment, adaptive equipment, medical supplies and prosthetic devices prescribed by the appropriate medical provider and medically necessary are covered for adults and children as set forth in coverage guidelines.~~

317:30-5-211.13. Prosthetic devices Prosthetics and orthotics

Coverage of prosthetics for adults is limited to (1) home dialysis equipment and supplies, (2) nerve stimulators, (3) external breast prosthesis and support accessories, and (4) implantable devices inserted during the course of a surgical procedure. Prosthetic devices Prosthetics prescribed by an appropriate medical provider as conditioned and as specified in this section are covered items for adults. There is no coverage of orthotics for adults.

~~(1) **Certificate of medical necessity.** The medical supplier must have a fully completed CMN on file for prosthetic items including Transcutaneous Electric Nerve Stimulators (TENS).~~

~~(2) **Prior authorization.** Prosthetic devices, except for cataract lenses, require prior authorization.~~

~~(3) **Home dialysis.** Equipment and supplies are covered items for members receiving home dialysis treatments only.~~

~~(4) **Nerve stimulators.** Payment is made for rental equipment which must not exceed the purchase price, for transcutaneous nerve stimulators, implanted peripheral nerve stimulators, and neuromuscular stimulators. After continuous rental for 13 months, the equipment becomes~~

~~the property of the OHCA to be used by the member until no longer medically necessary.~~

(53) Breast prosthesis, bras, and prosthetic garments.

- (A) Payment is limited to:
 - (i) one prosthetic garment with mastectomy form every 12 months for use in the postoperative period prior to a permanent breast prosthesis or as an alternative to a mastectomy bra and breast prosthesis;
 - (ii) two mastectomy bras per year; and
 - (iii) one silicone or equal breast prosthetic per side every 24 months; or
 - (iv) one foam prosthetic per side every six months.

(B) Payment will not be made for both a silicone and a foam prosthetic in the same 12 month period.

(C) Breast prostheses, bras, and prosthetic garments must be purchased from a Board Certified Mastectomy Fitter.

- (D) A breast prosthesis can be replaced if:
 - (i) lost;
 - (ii) irreparably damaged (other than ordinary wear and tear); or
 - (iii) the member's medical condition necessitates a different type of item and the physician provides a new prescription explaining the need for a different type of prosthesis.

(E) External breast prostheses are not covered after breast reconstruction is performed except in instances where a woman with breast cancer receives reconstructive surgery following a mastectomy, but the breast implant fails or ruptures and circumstances are such that an implant replacement is not recommended by the surgeon and/or desired by the member.

(64) Prosthetic devices inserted during surgery. Separate payment is made for prosthetic devices inserted during the course of surgery when the prosthetic devices are not integral to the procedure and are not included in the reimbursement for the procedure itself.

317:30-5-211.14. Nutritional support

(a) **Parenteral nutrition.** The member must require intravenous feedings to maintain weight and strength commensurate with the member's overall health status. Adequate nutrition must not be possible by dietary adjustment and/or oral supplements.

- (1) The member must have a permanent impairment. Permanence does not require a determination that there is no possibility that the member's condition may improve sometime in the future. If the judgment of the attending physician, substantiated in the medical record, is that the condition is of long and indefinite duration (ordinarily at least three months), the test of permanence is met. Parenteral nutrition will be denied as a non-covered service in situations involving temporary impairments.
- (2) The member must have a condition involving the small intestine, exocrine glands, or other conditions that

significantly impair the absorption of nutrients. Coverage is also provided for a disease of the stomach and/or intestine that is a motility disorder and impairs the ability of nutrients to be transported through the GI system, and other conditions as deemed medically necessary. There must be objective medical evidence supporting the clinical diagnosis.

(3) Re-certification of parenteral nutrition will be required as medically necessary and determined by the OHCA medical staff.

(b) **Prior authorization.** A written signed and dated order must be received by the supplier before a claim is submitted to the OHCA. If the supplier bills an item addressed in this policy without first receiving the completed order, the item will be denied as not medically necessary. The ordering physician is expected to see the member within 30 days prior to the initial certification or required re-certification. If the physician does not see the member within this time frame, the physician must document the reason why and describe what other monitoring methods were used to evaluate the member's parenteral nutrition needs.

~~(1) The ordering physician is expected to see the member within 30 days prior to the initial certification or required re-certification. If the physician does not see the member within this time frame, the physician must document the reason why and describe what other monitoring methods were used to evaluate the member's parenteral nutrition needs.~~

~~(2) A completed DIF must be kept on file by the supplier and made available to the OHCA on request. The initial request for prior authorization must include a copy of the DIF.~~

(c) **Enteral formulas.** Enteral formulas are covered for children only. See OAC ~~317:30-5-212-317:30-5-210.2~~.

317:30-5-212. Coverage for children [REVOKED]

~~(a) **Coverage.** Coverage of Durable Medical Equipment, Adaptive Equipment, Medical Supplies and Prosthetic Devices for children is the same as for adults. In addition the following are covered items:~~

~~(1) All orthotic equipment (procedures) listed by Health Care Finance Administration Common Procedural Code System (HCPCS).~~

~~(2) Durable medical equipment, adaptive equipment, medical supplies and prosthetic devices determined to be medically necessary.~~

~~(3) Enteral nutrition is considered medically necessary for certain conditions in which, without the products, the member's condition would deteriorate to the point of severe malnutrition.~~

~~(A) Enteral nutrition must be prior authorized. PA requests must include:~~

- ~~(i) the member's diagnosis;~~
- ~~(ii) the impairment that prevents adequate nutrition by conventional means;~~
- ~~(iii) the member's weight history before initiating enteral nutrition that demonstrates oral intake without enteral nutrition is inadequate; and~~

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- (iv) ~~the percentage of the member's average daily nutrition taken by mouth and by tube; and~~
- (v) ~~prescribed daily caloric intake.~~
- (B) ~~Enteral nutrition products that are administered orally and related supplies are not covered.~~
- (b) ~~**Prior authorization requirement.** Prior authorization is the same as adults and required for all L-series HCPCS codes L5000 and above.~~
- (c) ~~**EPSDT.** Services deemed medically necessary and allowable under federal regulations may be covered by the EPSDT Child Health program even though those services may not be part of the SoonerCare program. These services must be prior authorized.~~
- (d) ~~**Medical necessity.** Federal regulations require OHCA to make the determination as to whether the service is medically necessary and do not require the provision of any items or services that the State determines are not safe and effective or that are considered experimental.~~

317:30-5-216. Prior authorization requests

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

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

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

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

(b) **Submitting prior authorization requests.** Contact information for submitting prior authorization requests may be found in the OHCA Provider Billing and Procedures Manual. An electronic version of this manual is located on the OHCA web site.

(c) **Prior authorization review.** Upon verifying the completeness and accuracy of clerical items, the PA request is reviewed by OHCA staff to evaluate whether or not each

service being requested meets SoonerCare's definition of "medical necessity" [see OAC 317:30-3-1 (f)] as well as other criteria.

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

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

(f) **Prior authorization of manually-priced items.** Manually-priced items must include documentation showing the supplier's estimated cost Manufacturer's Suggested Retail Price (MSRP) of the item with the request for prior authorization. The MSRP must be listed for each item in the "billed charges" box on the HCA-12A. If an item does not have an MSRP, the provider must include a copy of the current invoice indicating the cost to the provider and a statement from the manufacturer that there is no MSRP available. Reimbursement will be determined as per OAC 317:30-5-218.

[OAR Docket #09-1520; filed 12-14-09]

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

[OAR Docket #09-1519]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 5. Individual Providers and Specialties
Part 17. Medical Suppliers
317:30-5-211.18. [NEW]
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SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

The Agency finds that a compelling public interest exists which necessitates promulgation of emergency rules and requests emergency approval of rule revisions to the agency's durable medical equipment (DME) program. Rules are written to clarify and establish a policy of ownership for all purchased durable medical equipment. These emergency rule revisions will allow durable medical equipment purchased by SoonerCare to remain the property of the OHCA to be used for the benefit of the requesting member until it is no longer medically necessary. This rule will allow OHCA to establish

a durable medical equipment retrieval program, comply with Oklahoma law, and meet the needs of Oklahomans who do not have access to durable medical equipment and ultimately reducing the amount of uncompensated care provided by Oklahoma healthcare providers.

ANALYSIS:

Durable medical equipment (DME) rules are written to establish a policy of ownership for all purchased durable medical equipment, prosthetics, orthotics, and supplies. This rule allows all durable medical equipment purchased by SoonerCare to remain the property of OHCA to be used for the benefit of the requesting member until it is no longer medically necessary. This is the first rule in complying with Oklahoma state law (56 O.S. 1011.11) mandating OHCA to promulgate rules and establish procedures necessary to implement a durable medical equipment retrieval program.

CONTACT PERSON:

Tywanda Cox at (405)522-7153

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

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 17. MEDICAL SUPPLIERS

317:30-5-211.18. Ownership of durable medical equipment

Durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) purchased by SoonerCare are the property of the Oklahoma Health Care Authority (OHCA) to be used for the benefit of the requesting member until it is no longer medically necessary. At such time as the item is no longer medically necessary, OHCA or an OHCA contractor may retrieve the DMEPOS product if it is determined to be administratively and fiscally prudent.

[OAR Docket #09-1519; filed 12-14-09]

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

[OAR Docket #09-1521]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 9. Self-Directed Services [NEW]

317:40-9-1. [NEW]

(Reference APA WF # 09-48)

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SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

The Agency finds that a compelling public interest exists which necessitates promulgation of emergency rules to allow for SoonerCare members receiving services through the In-Home Supports Waivers, the option to self-direct those services. Self-direction allows a greater freedom of choice and is proven to be a more efficient and cost effective method of service delivery. Under the self-directed services program each member is given a set budget amount and is given the opportunity to decide which goods and services provide the best outcomes for his/her quality of life. During this time of shrinking state budgets, the necessity to operate programs in a more efficient manner is of paramount importance.

ANALYSIS:

This rule revision adds a provision to the developmental disabilities section of policy for those SoonerCare members being served under the In-Home Supports Waivers. Self-direction provides the opportunity for members to exercise choice and control in identifying, accessing, and managing specific waiver services and supports in accordance with their needs and personal preferences.

CONTACT PERSON:

Tywanda Cox at (405)522-7153

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

SUBCHAPTER 9. SELF-DIRECTED SERVICES

317:40-9-1. Self-Directed Services (SDS)

(a) Applicability. The rules in this section apply to self-directed services provided through Home and Community Based Service (HCBS) Waivers operated by the Oklahoma Department of Human Services (OKDHS) Developmental Disabilities Services Division (DDSD).

(b) Traditional service delivery methods are available for eligible members who do not elect to self-direct their services.

(c) General Information. Self-Direction is an option for members receiving Home and Community Based Services (HCBS) through the In-Home Supports Waiver for Adults (IHSW-A) or the In-Home Supports Waiver for Children (IHSW-C). Self-Direction provides the opportunity for a member to exercise choice and control in identifying, accessing, and managing specific waiver services and supports in accordance with their needs and personal preferences. Self-Directed Services (SDS) are Waiver services that the Oklahoma Department of Human Services (OKDHS) Developmental Disabilities Services Division (DDSD) specifies may be directed by the member or representative using both employer and budget authority.

(1) Services may be directed by:

(A) an adult member, if the member has the ability to self-direct; or

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- (B) a legal representative of the member, including a parent, spouse or legal guardian; or
- (C) a non-legal representative freely chosen by the member or their legal representative.
- (2) The person directing services must:
- (A) be 18 years of age or older;
- (B) comply with OKDHS/DDSD and Oklahoma Health Care Authority (OHCA) rules and regulations;
- (C) complete required OKDHS/DDSD training for self-direction;
- (D) sign an agreement with OKDHS/DDSD;
- (E) be approved by the member or their legal representative to act in the capacity of a representative;
and
- (F) demonstrate knowledge and understanding of the member's needs and preferences.
- (d) SDS program includes:
- (1) SDS Budget. A plan of care is developed to meet the member's needs without consideration of SDS. The member may elect to self-direct part or all of the amount identified for traditional Habilitation Training Specialist (HTS) services. This amount is under the control and discretion of the member in accordance with this policy and the approved IHSW, and is the allocated amount which may be used to develop the SDS budget. The SDS budget details the specific plan for spending.
- (A) A SDS budget is developed annually at the time of the annual plan development and updated as necessary by the member, case manager, parent, legal guardian, and others the member invites to participate in the development of the budget.
- (B) Payment may only be authorized for goods and services not covered by SoonerCare or other generic funding sources, and meets the criteria of service necessity per OAC 340:100-3-33.1.
- (C) The member's SDS budget includes the actual cost of administrative activities including fees for services performed by a Financial Management Services (FMS) subagent, background checks, workers compensation insurance and the amount identified for SD-HTS and SD-GS.
- (D) The SDS budget is added to the plan of care to replace any portion of traditional HTS services to be self-directed.
- (2) The SD-Habilitation Training Specialist (SD-HTS) supports the member's self-care, daily living and leisure skills needed to reside successfully in the community. Services are provided in community-based settings in a manner that contributes to the member's independence, self-sufficiency, community inclusion and well-being. SD-HTS must be included in the approved SDS budget. Payment will not be made for routine care and supervision that is normally provided by a family member or the member's spouse. SD-HTS are provided only during periods when staff is engaged in purposeful activity that directly or indirectly benefits the member. At no time are SD-HTS services authorized for periods during which the staff are allowed to sleep. Legally responsible persons
- may not provide services per OAC 340:100-3-33.2. Other family members providing services must be employed by provider agencies per OAC 340:100-3-33.2. Payment does not include room and board, maintenance, upkeep or improvements to the member's or family's residence.
- A SD-HTS must:
- (A) be 18 years of age;
- (B) pass a background check per OAC 340:100-3-39;
- (C) demonstrate competency to perform required tasks;
- (D) complete required training per OAC 340:100-3-38.5;
- (E) sign an agreement with OKDHS/DDSD and the member;
- (F) be physically able and mentally alert to carry out the duties of the job;
- (G) not work more than 40 hours in any week in the capacity of a SD-HTS; and
- (H) not implement restrictive or intrusive procedures per OAC 340:100-5-57.
- (3) Self-Directed Goods and Services (SD-GS). SD-GS are incidental, non-routine goods and services that promote the member's self-care, daily living, adaptive functioning, general household activity, meal preparation and leisure skills needed to reside successfully in the community and do not duplicate other services authorized in the member's plan of care. These goods and services must be included in the individual plan and approved SDS budget. SD-GS must meet the following requirements:
- (A) The item or service is justified by a recommendation from a licensed professional.
- (B) The item or service is not prohibited by Federal and State statutes and regulations.
- (C) One or more of the following additional criteria are met:
- (i) the item or service would increase the member's functioning related to the disability;
- (ii) the item or service would increase the member's safety in the home environment; or
- (iii) the item or service would decrease dependence on other SoonerCare funded services.
- (D) SD-GS may include, but are not limited to:
- (i) fitness items that can be purchased at most retail stores;
- (ii) personal emergency monitoring systems;
- (iii) food catcher;
- (iv) specialized swing set;
- (v) toothettes or electric toothbrush;
- (vi) seat lift;
- (vii) weight loss program; or
- (viii) gym memberships when there is an identified need for weight loss or increased physical activity.
- (E) SD-GS may not be used for:
- (i) co-payments for medical services;
- (ii) over-the-counter medications;

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- (1) compliance with all OKDHS/DDSD and OHCA administrative rules and contract requirements;
 - (2) compliance with random and targeted audits conducted by OKDHS/DDSD or the OHCA;
 - (3) provision of financial management support to the member by tracking individual expenditures and monitoring SDS budgets;
 - (4) processing the member's employee payroll, withholding, filing and paying of applicable federal, state and local employment-related taxes and insurance;
 - (5) collection and process of employee's time sheets and making payment to member's employees;
 - (6) processing and payment of invoices for SD-GS as authorized in the member's SDS budget;
 - (7) providing each member with information that will assist with managing the SDS budget;
 - (8) providing reports to members/representatives, as well as OKDHS/DDSD monthly and to OHCA upon request;
 - (9) providing OKDHS/DDSD and OHCA authorities access to individual member's accounts through a web-based program;
 - (10) assisting members in verifying employee citizenship status;
 - (11) maintaining separate accounts for each member's SDS budget;
 - (12) tracking and reporting member funds, disbursements and the balance of member funds;
 - (13) receiving and disbursing funds for the payment of SDS under an agreement with the OHCA; and
 - (14) executing and maintaining contractual agreement between OKDHS/DDSD and the SD-HTS (employee).
- (g) OKDHS/DDSD Case Management responsibilities in support of SDS.
- (1) The case manager develops the member's Plan per OAC 340:100-5-50 through 58;
 - (2) The DDSD case manager meets with the member and/or the member's representative or legal guardian to discuss the following service delivery options in the HCBS Waiver:
 - (A) traditional Waiver services; and
 - (B) self-directed services including information regarding scope of choices, options, rights, risks, and responsibilities associated with self-direction.
 - (3) If the member chooses self-direction, the case manager will:
 - (A) discuss with member or representative the amount available in the budget;
 - (B) assist member or representative with the development and modification of the SDS budget;
 - (C) submit request for SD-GS to the DDSD division director or designee for review and approval prior to the case manager's approval of the SDS budget;
 - (D) approve the SDS budget and modifications;
 - (E) assist member or representative with developing or revising an emergency back-up plan;
 - (F) provide FMS subagent a copy of the member's authorized SDS budget and any modifications;
 - (G) monitor implementation of the Plan per OAC 340:100-3-27.
 - (H) ensure that services are initiated within required time frames;
 - (I) conduct ongoing monitoring of the implementation of the Plan and the member's health and welfare;
 - (J) specify additional employee qualifications in the Plan based on the member's needs and preferences so long as such qualifications are consistent with approved waiver qualifications;
 - (K) specify in the Plan how services are provided;
 - (L) refer potential SD-HTS providers to the FMS subagent for enrollment;
 - (M) assist in locating and securing services and other community resources that promote community integration, community membership and independence, as provided in the member's Plan; and
 - (N) ensure any restrictive or intrusive procedures per OAC 340:100-5-57 are not implemented by the SD-HTS. If the Team determines restrictive or intrusive procedures are necessary, SD-HTS is not appropriate to meet the needs of the member and traditional services must be used.
- (h) OKDHS/DDSD serves as the Organized Health Care Delivery System (OHCD) as well as the FMS provider in a Centers for Medicare and Medicaid Services (CMS) approved Government Fiscal/Employer Agent model. OKDHS/DDSD has an interagency agreement with OHCA.
- (i) Voluntary Termination of Self-Directed Services. Members may discontinue self-directing services without disruption at any time, provided traditional waiver services are in place. Members or representatives may not choose the self-directed option again until the next annual planning meeting, with services resuming no earlier than the beginning of the next plan of care. Any member desiring to file a complaint must follow the procedures set forth by OKDHS at OAC 340:2-5-61.
- (j) Involuntary Termination of Self-Directed Services.
- (1) Members may be terminated involuntarily from self-direction and offered traditional waiver services when it has been determined by OKDHS/DDSD Director or designee that any of the following exist:
 - (A) immediate health and safety risks associated with self-direction, such as, imminent risk of death or irreversible or serious bodily injury related to waiver services;
 - (B) intentional misuse of funds following notification, assistance and support from OKDHS/DDSD;
 - (C) failure to follow and implement policies of self-direction after technical assistance and guidance from OKDHS/DDSD;
 - (D) fraud; or
 - (E) it is determined that restrictive or intrusive procedures are essential for safety.

(2) When action is taken to terminate the member from self-directed services involuntarily, the case manager assists the member in accessing needed and appropriate services through the traditional waiver services option, ensuring that no lapse in necessary services occurs for which the member is eligible.

(3) The Fair Hearing process as described in OAC 340:100-3-13 applies.

(k) Reporting requirements. While operating as an Organized Health Care Delivery System, OKDHS/DDSD will provide to the OHCA reports detailing provider activity in the format and at such times as required by the OHCA.

[OAR Docket #09-1521; filed 12-14-09]

**TITLE 748. UNIFORM BUILDING CODE COMMISSION
CHAPTER 1. ADMINISTRATIVE OPERATIONS**

[OAR Docket #09-1561]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

- 748:1-1-1. Organization [NEW]
- 748:1-1-2. Address [NEW]
- 748:1-1-3. Commissioners [NEW]
- 748:1-1-4. Meetings [NEW]

AUTHORITY:

Uniform Building Code Commission; 59 O.S. SS 1000.23 and 1000.25.

DATES:

Public Hearing:

November 9, 2009

Adoption:

November 9, 2009

Approved by Governor:

December 3, 2009

Effective:

Immediately upon Governor's approval

Expiration:

Effective through July 14, 2010, unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY ACTIONS;

"n/a"

INCORPORATIONS BY REFERENCE:

"n/a"

FINDING OF EMERGENCY:

The Uniform Building Code Commission (UBCC) finds compelling and extraordinary circumstances for the promulgation of emergency rules for the operation and funding of the UBCC and the administration of the Oklahoma Uniform Building Code Commission Act ("the Act") at 59 O.S. SS 1000.20 - 1000.29. The Act requires immediate actions from the UBCC requiring the adoption of codes for the protection of the public welfare and safety. The actions require funds and the Act provides that the UBCC may implement rules establishing fees within parameters established by the Legislature, even though the Legislature is not in session developed in accordance with Oklahoma law to satisfy the immediate needs of the State-wide construction industries and to protect the health, safety and welfare of the consuming public.

ANALYSIS:

748:1-1-1; 748:1-1-2; 748:1-1-3 and 748:1-1-4 establish rules for the administrative operations of the UBCC by requiring an agency organization, establishing the agency address, setting forth the protocol for Commission members' election of officers, calling meetings and the conduct of meetings, and establishing guidelines for meeting dates, times and locations. The UBCC has found that these emergency rules are required by the enactment of SB1182,

which became effective on June 2, 2009. As expressly stated in 59 O.S. SS 1000.22, 1000.24 and 1000.26, the UBCC is required to take immediate action.

CONTACT PERSONS:

David Timberlake, Chairman, Uniform Building Code Commission, 2401 N.W. 23, Ste 5, Oklahoma City, OK 73107 telephone: (405) 840-2521; facsimile: (405) 271-5254; electronic mail: dbt@timberlakeconstruction.com
AND Mitchell Hort, Vice-Chairman, Uniform Building Code Commission, 2401 N.W. 23, Ste 5, Oklahoma City, OK 73107 telephone: (405) 354-6676; electronic mail: mhort@cityofyukon.gov

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

748:1-1-1. Organization

The employees of the Commission shall be organized and divided into such divisions or units, as the Commission deems desirable for efficiency. Such organization and division may be revised by the Commission as it finds necessary or expedient. Copies of the organizational chart are available upon request to the Chairman of the Commission.

748:1-1-2. Address

The principal office of the Oklahoma Uniform Building Code Commission shall be at the Construction Industries Board, 2401 NW 23rd Street, Suite 5, Oklahoma City, Oklahoma 73107.

748:1-1-3. Commissioners

(a) The Commission shall elect from its membership a Chairman and a Vice-Chairman.

(b) Officers of the Commission shall be elected annually, at the last meeting of each calendar year. In the event an officer's position becomes vacant, a replacement shall be elected to complete the unexpired term at the following meeting of the Commission.

(c) The Chairman shall preside over all Commission meetings and rule on all questions of procedures and order. He shall call a special meeting when requested by four members, in writing, to do so. The chairman shall determine the agenda of each meeting.

(d) The Vice-Chairman shall assume the duties of the Chairman during the chairman's absence or incapacity.

748:1-1-4. Meetings

(a) The Commission shall hold such meetings, as it deems necessary, with a regular meeting once during each quarter of the calendar year. Special meetings may be called by the Chairman in his discretion, and shall be called when four (4) members of the Commission of the Commission request of the Chairman, in writing, that such a meeting be called.

(b) The Commission may convene at any location within the state of Oklahoma as the Commission may specify; provided, that unless otherwise specified, meetings shall be conducted

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at the room provided for that purpose at the Construction Industries Board, 2401 NW 23rd Street, Suite 5, Oklahoma City, Oklahoma 73107.

[OAR Docket #09-1561; filed 12-22-09]

Executive Orders

As required by 75 O.S., Sections 255 and 256, Executive Orders issued by the Governor of Oklahoma are published in both the *Oklahoma Register* and the *Oklahoma Administrative Code*. Executive Orders are codified in Title 1 of the *Oklahoma Administrative Code*.

Pursuant to 75 O.S., Section 256(B)(3), "Executive Orders of previous gubernatorial administrations shall terminate ninety (90) calendar days following the inauguration of the next Governor unless otherwise terminated or continued during that time by Executive Order."

TITLE 1. EXECUTIVE ORDERS

1:2009-41.

EXECUTIVE ORDER 2009-41

I, Brad Henry, Governor of the State of Oklahoma, by virtue Section 8-109(C) of Title 11 of the Oklahoma Statutes, I hereby appoint Howard Humphrey as Interim Mayor and Acting Municipal clerk of the City of Rocky.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City this 18th day of December, 2009.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:
Kathy Jekel
Acting Assistant Secretary of State

[OAR Docket #09-1559; filed 12-21-09]

1:2009-42.

EXECUTIVE ORDER 2009-42

I, Brad Henry, Governor of the State of Oklahoma, pursuant to the power vested in me by Section 2 of Article VI of the Oklahoma Constitution, hereby declare the following:

1. All of the 77 counties in Oklahoma are currently under a blizzard or severe winter weather warning for freezing rain, ice and snow and/or flooding effective today, December 24, 2009, and continuing. The entire State is being affected.
2. It may be necessary to provide for the rendering of mutual assistance among the State and political subdivisions of the State with respect to carrying out disaster emergency functions during the continuance of the State emergency pursuant to the provisions of the Oklahoma Emergency Management Act of 2003.

3. There is hereby declared a disaster emergency caused by the snow and ice storms, and flooding in the entire State of Oklahoma that threatens the lives and property of the people of this State and the public's peace, health and safety

4. State agencies, in responding to this disaster emergency, may make necessary emergency acquisitions to fulfill the purposes of this proclamation without regard to limitations or bidding requirements on such acquisitions.

5. The State Emergency Operations Plan has been activated and resources of all State departments and agencies available to meet this emergency are hereby committed to the reasonable extent necessary to protect lives and to prevent, minimize, and repair injury and damage. These efforts shall be coordinated by the Director of the Department of Emergency Management with comparable functions of the federal government and political subdivisions of the State.

6. This Executive Order shall terminate at the end of thirty (30) days.

Copies of this Executive Order shall be distributed to the Director of Emergency Management who shall cause the provisions of this order to be implemented by all appropriate agencies of state government.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, this 24th day of December, 2009.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:
M. Susan Savage
Secretary of State

[OAR Docket #09-1597; filed 12-30-09]

