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**Brad Henry, Governor**  
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**Secretary of State**  
**Peggy Coe, Editor-in-Chief**

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# Notices of Rulemaking Intent

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

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

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

## TITLE 5. OKLAHOMA ABSTRACTORS BOARD CHAPTER 2. ADMINISTRATIVE OPERATIONS

*[OAR Docket #10-1443]*

### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

### **PROPOSED RULES:**

Chapter 2. Administrative Operations [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 definitions for new terms and revise definitions of existing terms to clarify the meaning and intent of these Rules and the Act, to create a special category for individual licensee working under the authority of a permit holder, to clarify the rules with respect to a final title report, to define the contents of the Uniform Abstract Certificate, and any other rule relating to the general administrative operations of the Oklahoma Abstractors Board.

### **AUTHORITY:**

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

### **COMMENT PERIOD:**

Persons may submit oral or written comments to Glynda Reppond, Executive Director, Oklahoma Abstractors Board, 2401 Northwest 23<sup>rd</sup> 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](mailto:Glynda.Reppond@abstract.ok.gov) no later than 4:30 p.m. during the period from January 18 to February 21, 2011.

### **PUBLIC HEARING:**

A public hearing will be held at 10:00 a.m. on February 22, 2011, in the conference room of the Oklahoma Abstractors Board, 2401 Northwest 23<sup>rd</sup> 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 18 to February 21, 2011 to Glynda Reppond, Executive Director, Oklahoma Abstractors Board, 2401 Northwest 23<sup>rd</sup> 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](mailto:Glynda.Reppond@abstract.ok.gov).

### **COPIES OF PROPOSED RULES:**

Copies of the rules may be obtained by visiting [www.abstract.ok.gov](http://www.abstract.ok.gov) or contacting Glynda Reppond, Executive Director, Oklahoma Abstractors Board, 2401 Northwest 23<sup>rd</sup> 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](mailto: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](mailto:Glynda.Reppond@abstract.ok.gov).

*[OAR Docket #10-1443; filed 12-22-10]*

## TITLE 5. OKLAHOMA ABSTRACTORS BOARD CHAPTER 11. ADMINISTRATION OF ABSTRACTORS ACT ADMINISTRATIVE OPERATIONS

*[OAR Docket #10-1444]*

### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

### **PROPOSED RULES:**

Chapter 11. Administration of Abstractors Act Administrative Operations [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 the procedures for the issuance and administration of a temporary certificate of authority, to provide the method by which a final title report is to be prepared, to clarify other services subject to, or not subject to, these Rules and the Act, including certification as to instruments and records from the United States District Courts and United States Bankruptcy Courts in Oklahoma, to clarify the requirements for county records bond, to address the

## Notices of Rulemaking Intent

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contents of an abstract, including digital format, and any other rule relating to the general administration of the Oklahoma Abstractors Act.

### **AUTHORITY:**

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

### **COMMENT PERIOD:**

Persons may submit oral or written comments to Glynda Reppond, Executive Director, Oklahoma Abstractors Board, 2401 Northwest 23<sup>rd</sup> 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](mailto:Glynda.Reppond@abstract.ok.gov) no later than 4:30 p.m. during the period from January 18 to February 21, 2011.

### **PUBLIC HEARING:**

A public hearing will be held at 10:00 p.m. on February 22, 2011, in the conference room of the Oklahoma Abstractors Board, 2401 Northwest 23<sup>rd</sup> 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 18 to February 21, 2011 to Glynda Reppond, Executive Director, Oklahoma Abstractors Board, 2401 Northwest 23<sup>rd</sup> 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](mailto:Glynda.Reppond@abstract.ok.gov).

### **COPIES OF PROPOSED RULES:**

Copies of the rules may be obtained by visiting [www.abstract.ok.gov](http://www.abstract.ok.gov) or contacting Glynda Reppond, Executive Director, Oklahoma Abstractors Board, 2401 Northwest 23<sup>rd</sup> 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](mailto: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](mailto:Glynda.Reppond@abstract.ok.gov).

*[OAR Docket #10-1444; filed 12-22-10]*

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

*[OAR Docket #10-1432]*

### **INTENDED RULEMAKING ACTION:**

Notice of proposed Permanent rulemaking

### **PROPOSED RULES:**

Chapter 1. Administrative Organization and Operations  
[AMENDED]

### **SUMMARY:**

The proposed revisions to Chapter 1 include amending language to incorporate language that clearly defines certain definitions throughout the chapter.

### **AUTHORITY:**

59 O.S. Supp. 2002, SEC. 161.2 et seq., 59 O.S. Supp 2004, SEC. 161.6; Board of Chiropractic Examiners

### **COMMENT PERIOD:**

Written comments will be accepted January 18, 2011 through February 18, 2011 at: Oklahoma Board of Chiropractic Examiners, 201 N.E. 38<sup>th</sup> Terrace, Suite 3, Oklahoma City, Oklahoma 73105, Attn: Beth Carter

### **PUBLIC HEARING:**

Public hearing is scheduled on February 24, 2011 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. 38<sup>th</sup> 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. 38<sup>th</sup> 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. 38<sup>th</sup> Terrace, Suite 3, Oklahoma City, Oklahoma 73105. Telephone 405-524-6223.

### **CONTACT PERSON:**

Beth Carter (405) 524-6223

*[OAR Docket #10-1432; filed 12-21-10]*

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

[OAR Docket #10-1433]

**INTENDED RULEMAKING ACTION:**

Notice of proposed Permanent rulemaking

**PROPOSED RULES:**

Chapter 3. Disciplinary Procedures [AMENDED]

**SUMMARY:**

The proposed revisions to Chapter 3 include amending language in this rule to coincide with current statutes in Title 59 O.S. Section 161.6, and 161.12 sections of this law that relate to disciplinary and investigative procedures.

**AUTHORITY:**

59 O.S. Supp. 2008, SEC. 161.2 et seq., 59 O.S. Supp 2008, SEC. 161.6; Board of Chiropractic Examiners

**COMMENT PERIOD:**

Written comments will be accepted January 18, 2011 through February 18, 2011 at: Oklahoma Board of Chiropractic Examiners, 201 N.E. 38<sup>th</sup> Terrace, Suite 3, Oklahoma City, Oklahoma 73105, Attn: Beth Carter

**PUBLIC HEARING:**

Public hearing is scheduled on February 24, 2011 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. 38<sup>th</sup> Terrace, Suite1 and 2, Oklahoma City, Oklahoma 73105. Telephone 405-524-6223.

**REQUESTS FOR COMMENTS FROM BUSINESS ETITIES:**

N/A

**COPIES OF PROPOSED RULES:**

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

**CONTACT PERSON:**

Beth Carter (405) 524-6223

[OAR Docket #10-1433; filed 12-21-10]

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

[OAR Docket #10-1434]

**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. 161.11; Board of Chiropractic Examiners

**COMMENT PERIOD:**

Written comments will be accepted January 18, 2011 through February 18, 2011 Oklahoma Board of Chiropractic Examiners. 201 N.E. 38<sup>th</sup> Terrace, Suite 3, Oklahoma City, Oklahoma 73105, Attn: Beth Carter

**PUBLIC HEARING:**

Public hearing is scheduled on February 24, 2011 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. 38<sup>th</sup> Terrace, Suite1 and 2, Oklahoma City, Oklahoma 73105. Telephone 405-524-6223.

**REQUESTS FOR COMMENTS FROM BUSINESS ETITIES:**

N/A

**COPIES OF PROPOSED RULES:**

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

**CONTACT PERSON:**

Beth Carter (405) 524-6223

[OAR Docket #10-1434; filed 12-21-10]

## Notices of Rulemaking Intent

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

*[OAR Docket #10-1435]*

#### **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 Animal Chiropractic Diagnosis and Treatment

#### **AUTHORITY:**

59 O.S. Supp 2008, SEC. 161.2; Board of Chiropractic Examiners

#### **COMMENT PERIOD:**

Written comments will be accepted January 18, 2011 through February 18, 2011 at: Oklahoma Board of Chiropractic Examiners, 201 N.E. 38<sup>th</sup> Terrace, Suite 3, Oklahoma City, Oklahoma 73105, Attn: Beth Carter

#### **PUBLIC HEARING:**

Public hearing is scheduled on February 24, 2011 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. 38<sup>th</sup> 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. 38<sup>th</sup> 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. 38<sup>th</sup> Terrace, Suite 3, Oklahoma City, Oklahoma 73105. Telephone 405-524-6223.

#### **CONTACT PERSON:**

Beth Carter (405) 524-6223

*[OAR Docket #10-1435; filed 12-21-10]*

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

*[OAR Docket #10-1436]*

#### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

#### **PROPOSED RULES:**

Subchapter 9. Lifelong Learning  
210:10-9-6. General educational development (GED) testing program [AMENDED]

#### **SUMMARY:**

The proposed rule amendments will increase user fees for GED testing and administrative services.

#### **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 23, 2011, 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 24, 2011, 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 20, 2011.

#### **CONTACT PERSON:**

Connie Holland, 405-521-3308

*[OAR Docket #10-1436; filed 12-21-10]*

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

[OAR Docket #10-1439]

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 13. Student Assessment  
210:10-13-21. Academic Assessment Monitoring Program (AAMP) [NEW]

**SUMMARY:**

The proposed rule establishes an Academic Assessment Monitoring Program (AAMP) for federal and state required academic assessments, to be in compliance with regulations as established by the United States Department of Education (USDE), Student Achievement and School Accountability Programs (SASA) for Formula Grant Programs, No Child Left Behind (NCLB) Act, Title I, § 1001, Part A, Title III § 3102, and 70 O.S., § 1210.505 Student Assessment, Oklahoma School Testing Program (OSTP), and Oklahoma Administrative Code (OAC) 210:10-13-2, 4, 6, 7, 9, 10, 11, 18, and 20. The proposed rule provides a process for the Office of Accountability and Assessments to monitor academic assessment administration practices of all public elementary and secondary schools, local education agencies, and public charter schools, which are subject to the Oklahoma State Testing Program.

**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 23, 2011, 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 24 2011, 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 20, 2011.

**CONTACT PERSON:**

Connie Holland, 405-521-3308

[OAR Docket #10-1439; filed 12-21-10]

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

[OAR Docket #10-1437]

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 3. Priority Academic Student Skills  
Part 21. Information Literacy  
210:15-3-172. Overview [AMENDED]  
210:15-3-173. Information literacy [AMENDED]

**SUMMARY:**

The proposed rule amendments will bring the Information Literacy *Priority Academic Student Skills (PASS)* up-to-date to address the new challenges and opportunities of digital media.

**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 23, 2011, 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 24, 2011, 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 20, 2011.

## Notices of Rulemaking Intent

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**CONTACT PERSON:**

Connie Holland, 405-521-3308

[OAR Docket #10-1437; filed 12-21-10]

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

[OAR Docket #10-1438]

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 9. Professional Standards: Teacher Education and Certification

Part 9. Teacher Certification

210:20-9-103. Career development plan to teach early childhood - infants, toddlers, and three-year-olds [NEW]

**SUMMARY:**

The proposed rule is to adopt a career development program for individuals with a bachelor's degree in family relations/child development or a related major/degree from an accredited higher education institution recognized by the Oklahoma State Board of Education to be eligible to teach infants, toddlers, and three-year-olds, not including pre-kindergarten age four.

**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 23, 2011, 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 24, 2011, 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 20, 2011.

**CONTACT PERSON:**

Connie Holland, 405-521-3308

[OAR Docket #10-1438; filed 12-21-10]

**TITLE 252. DEPARTMENT OF  
ENVIRONMENTAL QUALITY  
CHAPTER 515. MANAGEMENT OF SOLID  
WASTE**

[OAR Docket #10-1453]

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 21. Waste Tire Processing, Certification, Permits and Compensation

Part 1. General Provisions

252:515-21-2. Definitions [AMENDED]

Part 3. Waste Tire Facilities

252:515-21-34. Mobile Operations [AMENDED]

Part 7. Compensation from the Waste Tire Indemnity Fund

252:515-21-71. Eligibility requirements [AMENDED]

252:515-21-72. Ineligible for compensation [AMENDED]

Appendix H. Procedure for Calculating Closure Costs Estimates for Financial Assurance [REVOKED]

Appendix H. Procedure for Calculating Closure Costs Estimates for Financial Assurance [NEW]

**SUMMARY:**

The purpose of the proposed amendments to Subchapter 21 is to implement the requirements of Senate Bill 441, passed by the Oklahoma Legislature during its 2010 session. The Bill amended the Oklahoma Waste Tire Recycling Act, 27A O.S. § 2-11-401, *et seq.*, establishing a waste tire recycling fee for agricultural tires and requiring the Department to maintain a list of tire weights. The statutory effective date was July 1, 2010.

The Department is proposing additional changes to Subchapter 21 to clarify certain definitions and to add language relating to mobile operations and eligibility requirements for compensation.

The Department is proposing a new Appendix H, Procedure for Calculation Closure Cost Estimates for Financial Assurance, to update closure cost estimates for financial assurance as they relate to solid waste facilities and to include new cost estimates for financial assurance as they relate to waste tire processing facilities.

**AUTHORITY:**

Environmental Quality Board powers and duties, 27A O.S. § 2-2-101; Solid Waste Management Advisory Council powers and duties, 27A O.S. § 2-2-201; Solid Waste Management Act, 27A O.S. § 2-10-101, *et seq.*; and Oklahoma Waste Tire Recycling Act, 27A O.S. § 2-11-401, *et seq.*

**COMMENT PERIOD:**

Deliver or mail written comments on the proposed rules to the contact person from January 18, 2011 through February

22, 2011. Oral comments may be made at the Solid Waste Management Advisory Council meeting on January 20, 2011, or at the meeting of the Environmental Quality Board on February 25, 2011.

**PUBLIC HEARINGS:**

Before the Solid Waste Management Advisory Council at 9:00 a.m. on January 20, 2011, in the multipurpose room on the 1<sup>st</sup> floor of the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma 73102.

Before the Environmental Quality Board at 9:30 a.m. on February 25, 2011, in the multipurpose room on the 1<sup>st</sup> floor of the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma 73102.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

The Department requests that business entities affected by these proposed rules provide the Department, within the comment period and in dollar amounts if possible, the increase or decrease 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 a particular entity due to compliance with the proposed rules.

**COPY OF PROPOSED RULE CHANGES:**

A copy of the proposed rules may be obtained from the contact person or may viewed on the DEQ web site at www.deq.state.ok.us or at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma 73102.

**RULE IMPACT STATEMENT:**

The Rule Impact Statement for the proposed rules will be on file at the Department of Environmental Quality and may be requested from the contact person.

**CONTACT PERSON:**

The contact person is Mike Stickney, Land Protection Division, DEQ. Mr. Stickney can be reached at mike.stickney@deq.ok.gov (e-mail), (405) 702-5100 (phone) or (405) 702-5101 (fax). The DEQ is located at 707 N. Robinson, Oklahoma City, Oklahoma 73102. The mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677.

**ADDITIONAL INFORMATION:**

Persons with disabilities who desire to attend the rulemaking hearings and need an accommodation should notify the contact person three (3) days in advance of the hearing. For hearing impaired, the TDD relay number is 1-800-522-8506 or 1-800-722-0353, for TDD machine use only.

*[OAR Docket #10-1453; filed 12-22-10]*

**TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY  
CHAPTER 2. GRIEVANCE PROCEDURES AND PROCESS**

*[OAR Docket #10-1398]*

**INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

317:2-1-1. [AMENDED]  
(Reference APA WF # 10-37B)

**SUMMARY:**

Oklahoma Health Care Authority rules for SoonerCare grievance procedures and processes are amended to clarify that the majority, but not all hearings are conducted by the Oklahoma Department of Human Services. Currently the Oklahoma Health Care Authority conducts hearings for the ADvantage Waiver program and will conduct hearings for the Oklahoma Cares Breast and Cervical Cancer Treatment Program upon approval of permanent rule changes by the Governor and legislature.

**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 19, 2011, through February 18, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

**PUBLIC HEARING:**

A public hearing is scheduled for Tuesday, February 22, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107.

**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 18, 2011.

**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.

## Notices of Rulemaking Intent

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### CONTACT PERSON:

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

*[OAR Docket #10-1398; filed 12-20-10]*

### TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 2. GRIEVANCE PROCEDURES AND PROCESS

*[OAR Docket #10-1399]*

### INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

### PROPOSED RULES:

317:2-1-2. [AMENDED]

317:2-1-5. [AMENDED]

317:2-1-7. [AMENDED]

317:2-1-13. [AMENDED]

(Reference APA WF # 10-45)

### SUMMARY:

Agency rules are revised regarding provider program integrity audits/reviews appeals to comply with Section 1011.9 of Title 56 of Oklahoma Statutes. These revisions allow for the recoupment of overpayments due to identified errors determined not to be fraudulent only after a provider has had the opportunity to exercise the right to an appeal that includes a hearing conducted by an administrative law judge appointed by the Oklahoma Attorney General. Rules also clarify that a provider has the right to participate in the hearing and to be represented by legal counsel.

### AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes, Section 1011.9 of Title 56 of Oklahoma Statutes

### COMMENT PERIOD:

Written and oral comments will be accepted January 19, 2011, through February 18, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

### PUBLIC HEARING:

A public hearing is scheduled for Tuesday, February 22, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107.

### 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 18, 2011.

### 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 #10-1399; filed 12-20-10]*

### TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 25. SOONERCARE CHOICE

*[OAR Docket #10-1388]*

### INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

### PROPOSED RULES:

Subchapter 9. Health Access Networks

317:25-9-1. through 317:25-9-3. [NEW]

(Reference APA WF # 10-14)

### SUMMARY:

Effective July 1, 2010, the Oklahoma Health Care Authority will initiate a pilot program to pay Health Access Networks to coordinate and improve the quality of care for SoonerCare members. Rules are needed to establish provider requirements and billing guidelines for HAN's which are not-for-profit, administrative entities that work with SoonerCare providers to coordinate and improve the quality of care for our members. Contracted HAN's will be paid a \$5.00 per member per month fee in order to enhance the development of comprehensive medical homes for SoonerCare Choice members.

### 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 19, 2011, through February 18, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

### PUBLIC HEARING:

A public hearing is scheduled for Tuesday, February 22, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107.

**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 18, 2011.

**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 #10-1388; filed 12-20-10]*

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

*[OAR Docket #10-1385]*

**INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 5. Individual Providers and Specialties  
Part 75. Federally Qualified Health Centers [AMENDED]  
(Reference APA WF # 10-04)

**SUMMARY:**

Rules are being revised to clarify reimbursement methods for providers of FQHC's and their relationship to the Prospective Payment System (PPS) rate. Currently, rules are not clear as to which providers would be reimbursed the PPS rate or the Fee-for-service rate for services provided. Additionally, rules are revised to clarify requirements for FQHC contracting and behavioral health services provided in school settings.

**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 §405.2400 through §405.2472.

**COMMENT PERIOD:**

Written and oral comments will be accepted January 19, 2011, through February 18, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health

Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

**PUBLIC HEARING:**

A public hearing is scheduled for Tuesday, February 22, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107.

**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 18, 2011.

**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 #10-1385; filed 12-20-10]*

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

*[OAR Docket #10-1387]*

**INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 3. General Provider Policies  
Part 3. General Medical Program Information  
317:30-3-59. [AMENDED]  
317:30-3-60. [AMENDED]  
Subchapter 5. Individual Providers and Specialties  
Part 1. Physicians  
317:30-5-2. [AMENDED]  
317:30-5-9. [AMENDED]  
(Reference APA WF # 10-11)

**SUMMARY:**

General coverage rules are revised to make OHCA rules consistent with reimbursement practices and make coverage rules more consistent throughout policy. Specifically, rules are revised to be consistent with the Centers for Medicare and Medicaid Services (CMS) regarding the elimination of office

## Notices of Rulemaking Intent

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and inpatient consultation codes. Additional 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 19, 2011, through February 18, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

### **PUBLIC HEARING:**

A public hearing is scheduled for Tuesday, February 22, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107.

### **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 18, 2011.

### **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 #10-1387; filed 12-20-10]*

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

*[OAR Docket #10-1389]*

### **INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

### **PROPOSED RULES:**

Subchapter 5. Individual Providers and Specialties  
Part 62. Private Duty Nursing  
317:30-5-555. through 317:30-5-560.1. [AMENDED]

### **(Reference APA WF # 10-23)**

### **SUMMARY:**

Private duty nursing rules are revised to provide additional clarification in regards to prior authorization requests for such services. Revisions clarify that providers should submit the required OHCA forms and documentation along with the treatment plan when requesting the prior authorization for private duty nursing. Revisions also provide additional flexibility for OHCA to conduct a preliminary telephonic interview with members prior to arranging a personal visit. The additional flexibility in allowing the telephonic interview will provide an opportunity for OHCA to ensure medical necessity prior to arranging the personal home visit. Additional 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 19, 2011, through February 18, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

### **PUBLIC HEARING:**

A public hearing is scheduled for Tuesday, February 22, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107.

### **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 18, 2011.

### **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 #10-1389; filed 12-20-10]*

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

*[OAR Docket #10-1390]*

**INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 3. General Provider Policies  
Part 1. General Scope and Administration  
317:30-3-24. [AMENDED]

(Reference APA WF # 10-28A)

**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. The Online Enrollment process allows potential members to apply for SoonerCare electronically. Soon, the OHCA will assume responsibility for determining eligibility for certain groups of individuals under SoonerCare through this process. As OHCA will now be making eligibility determinations, our rules regarding Third Party Liability are in need of revision to update procedures to be followed by both OKDHS and OHCA employees.

**AUTHORITY:**

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; State Medicaid Manual, Chapter 3, Section 3904.5; Oklahoma State Statute §56-1010.4C

**COMMENT PERIOD:**

Written and oral comments will be accepted January 19, 2011, through February 18, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

**PUBLIC HEARING:**

A public hearing is scheduled for Tuesday, February 22, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107.

**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 18, 2011.

**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 #10-1390; filed 12-20-10]*

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

*[OAR Docket #10-1393]*

**INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 5. Individual Providers and Specialties  
Part 17. Medical Suppliers  
317:30-5-211.19. [NEW]

(Reference APA WF # 10-34)

**SUMMARY:**

Durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) rules are revised to set guidelines for quality assurances and safeguards. Rules set guidelines related to DMEPOS quality standards, manufacturer standards, member education, maintenance and repair of products, safety and infection control, and provider contact and follow-up 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 19, 2011, through February 18, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

**PUBLIC HEARING:**

A public hearing is scheduled for Tuesday, February 22, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107.

**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

## Notices of Rulemaking Intent

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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 18, 2011.

### 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 #10-1393; filed 12-20-10]*

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

*[OAR Docket #10-1394]*

### INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

### PROPOSED RULES:

Subchapter 3. General Provider Policies  
Part 1. General Scope and Administration  
317:30-3-29. [NEW]

(Reference APA WF # 10-36)

### SUMMARY:

Agency rules are revised to clarify the criteria used to review and revise provider fee schedules. Rules clarify that provider fee schedules may be revised based on efficiency, budget considerations, economy, and quality of care. Rules provide guidelines related to fee schedule updates and provider notifications of such updates. Rules also provide guidance related to public notice of significant proposed changes in methods and standards for setting provider payment rates for 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 19, 2011, through February 18, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

### PUBLIC HEARING:

A public hearing is scheduled for Tuesday, February 22, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107.

### 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 18, 2011.

### 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 #10-1394; filed 12-20-10]*

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

*[OAR Docket #10-1396]*

### INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

### PROPOSED RULES:

Subchapter 3. General Provider Policies  
Part 1. General Scope and Administration  
317:30-3-20.1. [REVOKED]

(Reference APA WF # 10-44)

### SUMMARY:

OHCA provider rules are revised to update pharmacy provider appeals rules in order to bring them in line with current practice. Current pharmacy provider appeals rules refer to processes that no longer take place.

### 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 19, 2011, through February 18, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

**PUBLIC HEARING:**

A public hearing is scheduled for Tuesday, February 22, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107.

**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 18, 2011.

**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 #10-1396; filed 12-20-10]*

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

*[OAR Docket #10-1397]*

**INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 3. General Provider Policies  
Part 1. General Scope and Administration  
317:30-3-30. [NEW]  
(Reference APA WF # 10-39)

**SUMMARY:**

Agency rules are revised to establish provider signature requirements. For medical review purposes, the OHCA will require that all services provided and/or ordered be authenticated by the author. The method used shall be a hand written signature, electronic signature, or signature attestation statement. Stamp signatures are not acceptable. Rules are revised to be consistent with the Centers for Medicare and Medicaid Services (CMS) regarding such provider signature requirements.

**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 19, 2011, through February 18, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

**PUBLIC HEARING:**

A public hearing is scheduled for Tuesday, February 22, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107.

**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 18, 2011.

**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 #10-1397; filed 12-20-10]*

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

*[OAR Docket #10-1400]*

**INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 3. General Provider Policies  
Part 1. General Scope and Administration  
317:30-3-28. [NEW]  
(Reference APA WF # 10-49)

## Notices of Rulemaking Intent

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### SUMMARY:

OHCA policy is revised to create rules for the new Oklahoma Electronic Health Records Incentive Payment Program, which will begin January 2011 and is authorized by the American Recovery and Reinvestment Act of 2009. The rules provide a basic governing structure for the program, including the delineation of eligible providers and eligible hospitals, patient volume requirements, and incentive payment processes.

### AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; American Recovery and Reinvestment Act of 2009; CMS-0033-F; 45 CFR 170; Sections 4101(a) and 4102(a)(1) of HITECH Act

### COMMENT PERIOD:

Written and oral comments will be accepted January 19, 2011, through February 18, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 NW 23<sup>rd</sup>, Suite 1A Oklahoma City, Oklahoma 73107, Telephone 405-522-7153.

### PUBLIC HEARING:

A public hearing is scheduled for February 22, 2011 at 12.30 p.m., at the Oklahoma Health Care Authority, 2401 NW 23<sup>rd</sup>, Suite 1A Oklahoma City, Oklahoma 73107

### 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 18, 2011.

### 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 #10-1400; filed 12-20-10]*

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

*[OAR Docket #10-1401]*

### INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

### PROPOSED RULES:

Subchapter 5. Individual Providers and Specialties

Part 1. Physicians

317:30-5-24. [AMENDED]

(Reference APA WF # 10-50)

### SUMMARY:

Radiology rules are revised to update coverage guidelines to include positron emission tomography (PET) and computed tomography (CT/CTA).

### 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 19, 2011, through February 18, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

### PUBLIC HEARING:

A public hearing is scheduled for Tuesday, February 22, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107.

### 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 18, 2011.

### 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 #10-1401; filed 12-20-10]*

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

*[OAR Docket #10-1402]*

**INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 5. Individual Providers and Specialties  
Part 33. Transportation By Ambulance  
317:30-5-336.10 [AMENDED]  
(Reference APA WF # 10-52)

**SUMMARY:**

Agency rules are revised to comply with CMS and align fixed wing air ambulance services with OHCA current claims review practice. Revisions will remove previous prior authorization requirements and adds language that allows fixed wing air ambulance services on the contingency of medical necessity. This change will adhere to the existing OHCA medical necessity claims review process and comply with CMS medical necessity guidelines.

**AUTHORITY:**

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes, Title 42 CFR 410.40(3)(D).

**COMMENT PERIOD:**

Written and oral comments will be accepted January 19, 2011, through February 18, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 NW 23<sup>rd</sup>, Suite 1A Oklahoma City, Oklahoma 73107 Telephone 405-522-7153.

**PUBLIC HEARING:**

A public hearing is scheduled for February 22, 2011 at 12.30 p.m., at the Oklahoma Health Care Authority, 2401 NW 23<sup>rd</sup>, Suite 1A Oklahoma City, Oklahoma 73107

**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 18, 2011.

**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 #10-1402; filed 12-20-10]*

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

*[OAR Docket #10-1403]*

**INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 5. Individual Providers and Specialties  
Part 3. Hospitals  
317:30-5-42.16. [AMENDED]  
Part 58. Non-Hospital Based Hospice  
317:30-5-532. [AMENDED]  
(Reference APA WF # 10-54)

**SUMMARY:**

Hospice rules are revised to allow hospice services to be available to children eligible for Medicaid without forgoing any other service for treatment of terminal conditions. Public Laws 111-148 and 111-152 were enacted which remove the restriction that children in need of hospice that are eligible for Medicaid have to elect hospice services in lieu of standard Medicaid services that had the objective to treat or cure the terminal illness. Additional revisions include allowing nurse practitioners to recertify the continuation of hospice services. The revisions ensure the Agency is in compliance with federal law.

**AUTHORITY:**

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; Public Laws 111-148 and 111-152.

**COMMENT PERIOD:**

Written and oral comments will be accepted January 19, 2011, through February 18, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 NW 23<sup>rd</sup>, Suite 1A Oklahoma City, Oklahoma 73107 Telephone 405-522-7153.

**PUBLIC HEARING:**

A public hearing is scheduled for February 22, 2011 at 12.30 p.m., at the Oklahoma Health Care Authority, 2401 NW 23<sup>rd</sup>, Suite 1A Oklahoma City, Oklahoma 73107

## Notices of Rulemaking Intent

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### 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 18, 2011.

### 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 #10-1403; filed 12-20-10]*

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

*[OAR Docket #10-1404]*

### INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

### PROPOSED RULES:

Subchapter 5. Individual Providers and Specialties  
Part 85. Advantage Program Waiver Services  
317:30-5-763. [AMENDED]  
(Reference APA WF # 10-55A)

### SUMMARY:

Rules are revised to include a re-evaluation and approval of additional hospice services within the ADvantage waiver. The ADvantage waiver is a Home and Community Based Services program that allows individuals qualifying for SoonerCare long term care institutional services to live in a home or community based setting. Hospice is a service provided to SoonerCare members within the waiver, and currently has no authorization limits. Rules are revised to include a re-authorization process after the initial 6 months of hospice care. A re-evaluation of the member will be performed and additional hospice care authorized for a period not to exceed 60 days. A re-evaluation will be performed every 60 days until the member no longer requires hospice.

### AUTHORITY:

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

5016 of Title 63 of Oklahoma Statutes; Public Laws 111-148 and 111-152

### COMMENT PERIOD:

Written and oral comments will be accepted January 19, 2011, through February 18, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

### PUBLIC HEARING:

A public hearing is scheduled for Tuesday, February 22, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107.

### 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 18, 2011.

### 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 #10-1404; filed 12-20-10]*

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

*[OAR Docket #10-1405]*

### INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

### PROPOSED RULES:

Subchapter 3. General Provider policies  
Part 4. Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program/Child Health Services  
317:30-3-65.8 [AMENDED]  
Subchapter 5. Individual Providers and Specialties  
Part 79. Dentists  
317:30-5-695 [AMENDED]  
317:30-5-696 [AMENDED]  
317:30-5-698 [AMENDED]

317:30-5-699 [AMENDED]  
317:30-5-700 [AMENDED]  
317:30-5-700.1 [AMENDED]  
(Reference APA WF # 10-58)

**SUMMARY:**

Dental rules are revised to: (1) ensure consistency throughout policy; (2) clarify (EPSDT) dental services; (3) exclude oral hygiene instruction; (4) revise oral evaluation; (5) clarify endodontic and restorations prior authorization request; (6) amend orthodontic referral and (7) clarify malocclusion requirements for orthodontic procedures (i.e. cleft palate.)

**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 19, 2011, through February 18, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 NW 23<sup>rd</sup>, Suite 1A Oklahoma City, Oklahoma 73107, Telephone 405-522-7153.

**PUBLIC HEARING:**

A public hearing is scheduled for February 22, 2011 at 12.30 p.m., at the Oklahoma Health Care Authority, 2401 NW 23<sup>rd</sup>, Suite 1A Oklahoma City, Oklahoma 73107

**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 18, 2011.

**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 #10-1405; filed 12-20-10]*

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

*[OAR Docket #10-1406]*

**INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

- Subchapter 3. General Provider Policies
  - Part 3. General Medical Program Information  
317:30-3-43. [AMENDED]
  - Subchapter 5. Individual Providers and Specialties
  - Part 9. Long Term Care Facilities  
317:30-5-122. [AMENDED]
  - Part 41. Family Support Services  
317:30-5-412. [AMENDED]
- (Reference APA WF # 10-59A)

**SUMMARY:**

Rules are revised to clarify the level of care criteria for individuals seeking SoonerCare payment for long term care services in a nursing facility, skilled nursing facility, institutional care facility for the mentally retarded or through a Home and Community Based Services Waiver for people with institutional level of care needs. Additionally rules are revised to broaden family training provider qualifications from a specified medical provider type to an individual with a licensure, certification or degree in a human service field related to the training curriculum and have the training curriculum approved by OKDHS/DDSD staff prior to utilization.

**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 19, 2011, through February 18, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

**PUBLIC HEARING:**

A public hearing is scheduled for Tuesday, February 22, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107.

**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

## Notices of Rulemaking Intent

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Tywanda Cox, at the above address, before the close of the comment period on February 18, 2011.

### **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 #10-1406; filed 12-20-10]*

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

*[OAR Docket #10-1409]*

### **INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

### **PROPOSED RULES:**

Subchapter 3. General Provider Policies  
Part 1. General Scope and Administration  
317:30-3-4.1 [AMENDED]

**(Reference APA WF # 10-60)**

### **SUMMARY:**

Agency rules are revised to establish medical records date entry requirements. Revisions include clarifying authentication of electronic signature and date entry. Changes require medical records be completed and closed within 30 days of signature entry. This rule change will ensure providers practice consistent closure of medical records

### **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 482.24(c)(1)

### **COMMENT PERIOD:**

Written and oral comments will be accepted January 19, 2011, through February 18, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 NW 23<sup>rd</sup>, Suite 1A Oklahoma City, Oklahoma 73107, Telephone 405-522-7153.

### **PUBLIC HEARING:**

A public hearing is scheduled for February 22, 2011 at 12.30 p.m., at the Oklahoma Health Care Authority, 2401 NW 23<sup>rd</sup>, Suite 1A Oklahoma City, Oklahoma 73107

### **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 18, 2011.

### **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 #10-1409; filed 12-20-10]*

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

*[OAR Docket #10-1410]*

### **INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

### **PROPOSED RULES:**

Subchapter 5. Individual Providers and Specialties  
Part 17. Medical Suppliers  
317:30-5-210. [AMENDED]

**(Reference APA WF # 10-61)**

### **SUMMARY:**

Durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) rules are revised to clarify OHCA's DMEPOS provider criteria. DMEPOS providers must meet Medicare accreditation standards unless the OHCA grants an exemption based on CMS exemptions, the provider is a government-owned entity, or at a provider's request. Revisions clarify that DMEPOS providers be located within the State of Oklahoma, unless the OHCA provides an exception to this requirement. Additionally, DMEPOS providers must comply with Medicare DMEPOS Supplier Standards as specified in 42 C.F.R. 424.57(c).

### **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 19, 2011, through February 18, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

**PUBLIC HEARING:**

A public hearing is scheduled for Tuesday, February 22, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107.

**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 18, 2011.

**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 #10-1410; filed 12-20-10]*

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

*[OAR Docket #10-1411]*

**INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

- Subchapter 5. Individual Providers and Specialties
- Part 5. Pharmacies
- 317:30-5-72. through 317:30-5-72.1. [AMENDED]
- 317:30-5-77. [AMENDED]
- 317:30-5-77.3. [AMENDED]
- 317:30-5-78. through 317:30-5-78.1. [AMENDED]

(Reference APA WF # 10-62)

**SUMMARY:**

Pharmacy rules are revised to reflect the change in pricing methodology for injectable drugs that are submitted through the pharmacy system. Policy revisions are needed to clarify payment methodology and reduce expenditures. This change ensures compliance with the Oklahoma Constitution, Article X, Section 23 which prohibits a state agency from spending more money than is allocated. As a result, when dispensed

through a pharmacy, the provider will be reimbursed at a rate which is equivalent to the Medicare rate plus the standard dispensing fee. Other revisions include the coverage of non-prescription EPSDT products offered through the pharmacy point of sale system and the exemptions of I/T/U facilities from prior authorization requirements for brand name drugs. Additionally, pharmacy rules are revised to set a new pricing benchmark as a result of the discontinuation of publishing Average Wholesale Price (AWP) by OHCA's pharmacy pricing vendor. In order to continue to pay claims a new pricing benchmark is set. OHCA recommends using Wholesale Acquisition Cost (WAC) to replace AWP. Revisions also include general policy cleanup as it relates to these sections to ensure policy is consistent with the State Plan.

**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 19, 2011, through February 18, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

**PUBLIC HEARING:**

A public hearing is scheduled for Tuesday, February 22, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107.

**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 18, 2011.

**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 #10-1411; filed 12-20-10]*

## Notices of Rulemaking Intent

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

*[OAR Docket #10-1414]*

#### **INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

#### **PROPOSED RULES:**

Subchapter 5. Individual Providers and Specialties

Part 108. Nutrition Services

317:30-5-1076. [AMENDED]

(Reference APA WF # 10-66)

#### **SUMMARY:**

Current nutrition services policy refers to a section of policy that has previously been revoked. Nutrition services policy, therefore, is clarified and revised to bring the language in line with current reimbursement practices and rules, which allows payment for medically necessary nutritional counseling and treatment of obesity as part of the EPSDT program.

#### **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 19, 2011, through February 18, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

#### **PUBLIC HEARING:**

A public hearing is scheduled for Tuesday, February 22, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107.

#### **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 18, 2011.

#### **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 #10-1414; filed 12-20-10]*

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

*[OAR Docket #10-1415]*

#### **INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

#### **PROPOSED RULES:**

Subchapter 3. General Provider Policies

Part 1. General Scope and Administration

317:30-3-3. [AMENDED]

Subchapter 5. Individual Providers and Specialties

Part 64. Clinic Services [NEW]

317:30-5-575 [NEW]

317:30-5-576 [NEW]

317:30-5-577 [NEW]

317:30-5-578 [NEW]

(Reference APA WF # 10-67)

#### **SUMMARY:**

Agency rules are revised to add clarification and differentiate between provider group and clinic contracts. Provider groups are business entities in which one or more individual providers practice. Provider clinics are facilities or distinct parts of facilities used for the diagnosis and treatment of outpatients. Provider clinics are limited to organizations serving specialized treatment requirements or distinct groups. Clinics must have a specialized contract with the Oklahoma Health Care Authority (OHCA). These rules allow the OHCA to effectively distinguish between provider business entities and treatment facilities during the contracting process.

#### **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 19, 2011, through February 18, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

#### **PUBLIC HEARING:**

A public hearing is scheduled for Tuesday, February 22, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107.

**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 18, 2011.

**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 #10-1415; filed 12-20-10]*

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

*[OAR Docket #10-1416]*

**INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 3. General Provider Policies  
Part 1. General Scope and Administration  
317:30-3-27. [AMENDED]

(Reference APA WF # 10-68)

**SUMMARY:**

Agency telemedicine rules are revised to add store and forward technology services as a covered and reimbursable SoonerCare delivery option. Store and forward is the asynchronous transmission of medical information to be reviewed at a later time. A camera or similar device records (stores) an image(s) that is then sent (forwarded) via telecommunications media to another location for later viewing. Providers must be approved by the OHCA before rendering store and forward technology services. Approved store and forward providers must meet specific conditions, including specific contracting requirements, documentation requirements, and secure network standards. Additional telemedicine revisions clarify that all services and/or networks be allowed and approved at the OHCA's discretion to ensure medical necessity.

**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 19, 2011, through February 18, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

**PUBLIC HEARING:**

A public hearing is scheduled for Tuesday, February 22, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107.

**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 18, 2011.

**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 #10-1416; filed 12-20-10]*

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

*[OAR Docket #10-1418]*

**INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 3. General Provider Policies  
Part 3. General Medical Program Information  
317:30-3-39. [NEW]  
317:30-3-40. [AMENDED]  
317:30-3-41. [AMENDED]

(Reference APA WF # 10-71)

## Notices of Rulemaking Intent

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### SUMMARY:

Oklahoma Health Care Authority rules are revised to include general information about three new Waivers operated by the Authority, the Medically Fragile Waiver, the My Life My Choice Waiver and the Sooner Seniors Waiver. Additionally language is added requiring the OHCA to assess all contracted home-based providers of waiver services an amount to be placed in a Home-based Quality Assurance fund and used by the Authority for payment of eligible HCBS services. Initiation of the assessment is contingent upon approval by the Centers for Medicare and Medicaid.

### AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; Section 1 (G) (1) and (2) of House Bill 2828

### COMMENT PERIOD:

Written and oral comments will be accepted January 19, 2011, through February 18, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

### PUBLIC HEARING:

A public hearing is scheduled for Tuesday, February 22, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107.

### 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 18, 2011.

### 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 #10-1418; filed 12-20-10]*

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

*[OAR Docket #10-1419]*

### INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

### PROPOSED RULES:

Subchapter 5. Individual Providers and Specialties

Part 18. Genetic Counselors

317:30-5-221. [AMENDED]

**(Reference APA WF # 10-72)**

### SUMMARY:

OHCA individual provider rules are revised to clarify that children deemed at risk for a genetic disorder are eligible for genetic counseling.

### 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 19, 2011, through February 18, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

### PUBLIC HEARING:

A public hearing is scheduled for Tuesday, February 22, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107.

### 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 18, 2011.

### 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.

[*OKAR Docket #10-1419; filed 12-20-10*]

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

[*OKAR Docket #10-1420*]

**INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 5. Individual Providers and Specialties

Part 1. Physicians

317:30-5-22.1. [AMENDED]

(Reference APA WF # 10-73)

**SUMMARY:**

Current policy for High Risk Obstetrics (HROB) requires an assessment by a Maternal Fetal Medicine (MFM) Specialist before a primary obstetric provider can request Prior Authorization for HROB services. Rules are revised to waive the requirement for an MFM assessment for a limited set of high risk conditions, which are to include controlled chronic hypertension, postdates (>40 weeks, 6 days), and Dichorionic/Diamniotic (Di/Di) twins. The requested rule change will allow a general OB to manage these conditions without an MFM specialist's referral. Rules are revised further to allow both general OBs and Family Practitioners to provide one ultrasound without an MFM referral to assess Previa/low lying placenta and size not equal to dates. These services would still require Prior Authorization and documentation.

**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 19, 2011, through February 18, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

**PUBLIC HEARING:**

A public hearing is scheduled for Tuesday, February 22, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107.

**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 18, 2011.

**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.

[*OKAR Docket #10-1420; filed 12-20-10*]

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

[*OKAR Docket #10-1421*]

**INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 3. General Provider Policies

Part 4. Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program/Child Health Services

317:30-3-65.8. [AMENDED]

(Reference APA WF # 10-74)

**SUMMARY:**

Child health services are revised to allow for reimbursement of fluoride varnish application by the member's primary care provider.

**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 19, 2011, through February 18, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

**PUBLIC HEARING:**

A public hearing is scheduled for Tuesday, February 22, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107.

**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

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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 18, 2011.

### **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 #10-1421; filed 12-20-10]*

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

*[OAR Docket #10-1422]*

### **INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

### **PROPOSED RULES:**

Subchapter 5. Individual Providers and Specialties

Part 1. Physicians

317:30-5-22. [AMENDED]

(Reference APA WF # 10-75)

### **SUMMARY:**

Obstetrical care rules are revised to allow obstetric care providers to conduct one non stress test per pregnancy without a referral from a maternal fetal medicine specialist for a diagnosis of decreased fetal movement.

### **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 19, 2011, through February 18, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

### **PUBLIC HEARING:**

A public hearing is scheduled for Tuesday, February 22, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107.

### **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 18, 2011.

### **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 #10-1422; filed 12-20-10]*

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

*[OAR Docket #10-1423]*

### **INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

### **PROPOSED RULES:**

Subchapter 5. Individual Providers and Specialties

Part 6. Inpatient Psychiatric Hospitals

317:30-5-95.34. [AMENDED]

317:30-5-95.42. [AMENDED]

(Reference APA WF # 10-76)

### **SUMMARY:**

Inpatient Psychiatric Hospital rules are revised to clarify the inspections of care requirements for inpatient psychiatric programs.

### **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 19, 2011, through February 18, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

**PUBLIC HEARING:**

A public hearing is scheduled for Tuesday, February 22, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107.

**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 18, 2011.

**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 #10-1423; filed 12-20-10]*

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

*[OAR Docket #10-1391]*

**INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 5. Eligibility and Countable Income  
Part 5. Countable Income and Resources  
317:35-5-43. [AMENDED]  
(Reference APA WF # 10-28B)

**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. The Online Enrollment process allows potential members to apply for SoonerCare electronically. Soon, the OHCA will assume responsibility for determining eligibility for certain groups of individuals under SoonerCare through this process. As OHCA will now be making eligibility determinations, our rules regarding Third Party Liability are in need of revision to update procedures to be followed by both OKDHS and OHCA employees.

**AUTHORITY:**

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; State Medicaid Manual, Chapter 3, Section 3904.5; Oklahoma State Statute §56-1010.4C

**COMMENT PERIOD:**

Written and oral comments will be accepted January 19, 2011, through February 18, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

**PUBLIC HEARING:**

A public hearing is scheduled for Tuesday, February 22, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107.

**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 18, 2011.

**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 #10-1391; filed 12-20-10]*

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

*[OAR Docket #10-1395]*

**INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 21. Breast and Cervical Cancer Treatment Program  
317:35-21-1. through 317:35-21-6. [AMENDED]  
317:35-21-8. through 317:35-21-9. [AMENDED]  
317:35-21-11. through 317:35-21-13. [AMENDED]

## Notices of Rulemaking Intent

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317:35-21-14. [NEW]  
(Reference APA WF # 10-37A)

### SUMMARY:

OHCA rules for the Oklahoma Cares Breast and Cervical Cancer Treatment Program are revised to clarify that women must have breast or cervical cancer or a precancerous condition to qualify for treatment through SoonerCare. Additionally, the rules include provision for an OHCA medical review of breast or cervical cancer screening information prior to the OKDHS eligibility review and determination. Finally, rules are revised to clarify that women seeking breast and cervical cancer treatment through SoonerCare must meet income eligibility guidelines.

### 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 19, 2011, through February 18, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

### PUBLIC HEARING:

A public hearing is scheduled for Tuesday, February 22, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107.

### 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 18, 2011.

### 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 #10-1395; filed 12-20-10]

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

[OAR Docket #10-1407]

### INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

### PROPOSED RULES:

Subchapter 9. ICF/MR, HCBW/MR, and Individuals Age 65 or Older In Mental Health Hospitals

Part 1. Services

317:35-9-4. [AMENDED]

317:35-9-5. [AMENDED]

317:35-9-5.1. [REVOKED]

Part 5. Determination of Medical Eligibility For ICF/MR, HCBW/MR, and Individuals Age 65 or Older In Mental Health Hospitals

317:35-9-45. [AMENDED]

(Reference APA WF # 10-59B)

### SUMMARY:

Rules are revised to clarify eligibility and level of care criteria for individuals seeking SoonerCare payment for long term services in an institutional facility for persons with mental retardation. Rules are also revised to set forth service limitations for individuals receiving services in a Home and Community Based Waiver for persons with mental retardation.

### 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 19, 2011, through February 18, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

### PUBLIC HEARING:

A public hearing is scheduled for Tuesday, February 22, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107.

### 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 18, 2011.

**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 #10-1407; filed 12-20-10]*

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

*[OAR Docket #10-1412]*

**INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 5. Eligibility and Countable Income  
Part 3. Non-Medical Eligibility Requirements  
317:35-5-25. [AMENDED]

(Reference APA WF # 10-63)

**SUMMARY:**

OHCA eligibility rules are revised to comply with new Federal law that eliminates the five-year bar on SoonerCare services for Afghan and Iraqi special immigrants. Previously, Afghan and Iraqi special immigrants were eligible for SoonerCare services for eight months and then were required to wait five years before they became eligible again. New policy eliminates the five-year bar so Afghan and Iraqi special immigrants may continue to receive SoonerCare services after eight months. Additionally, eligibility rules are revised so that only new certified birth certificates will be accepted as verification of citizenship for Puerto Ricans who are using their birth certificate as proof of citizenship and whose eligibility for benefits will be determined for the first time on or after October 1, 2010. This rule change does not prohibit Puerto Ricans from using other forms of citizenship verification; it only applies to the use of birth certificates. In the case the applicant has not yet received his or her new certified birth certificate, reasonable opportunity to obtain citizenship verification will be afforded to the applicant.

**AUTHORITY:**

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; Public Law 111-118, Section 8120 of the Department of Defense Appropriations Act, 2010

**COMMENT PERIOD:**

Written and oral comments will be accepted January 19, 2011, through February 18, 2011, during regular business

hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

**PUBLIC HEARING:**

A public hearing is scheduled for Tuesday, February 22, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107.

**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 18, 2011.

**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 #10-1412; filed 12-20-10]*

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

*[OAR Docket #10-1413]*

**INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 5. Eligibility and Countable Income  
Part 5. Countable Income and Resources  
317:35-5-41.6. [AMENDED]

317:35-5-41.9. [AMENDED]

317:35-5-42. [AMENDED]

Subchapter 10. Other Eligibility Factors for Families with Children and Pregnant Women

Part 5. Income

317:35-10-26. [AMENDED]

(Reference APA WF # 10-65)

**SUMMARY:**

Policy is changed to clarify OHCA's treatment of Individual Indian Money (IIM) Accounts as a converted resource. Funds and property held in IIM Accounts will no longer be used in an

## Notices of Rulemaking Intent

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eligibility test. References to per capita payments are removed and the period in which money disbursed from IIM accounts can be counted as a resource is revised.

### **AUTHORITY:**

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; Section 5006(b) of the American Recovery and Reinvestment Act of 2009

### **COMMENT PERIOD:**

Written and oral comments will be accepted January 19, 2011, through February 18, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

### **PUBLIC HEARING:**

A public hearing is scheduled for Tuesday, February 22, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107.

### **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 18, 2011.

### **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 #10-1413; filed 12-20-10]*

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

*[OAR Docket #10-1417]*

### **INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

### **PROPOSED RULES:**

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

317:35-17-4. [AMENDED]

317:35-17-16. [AMENDED]

**(Reference APA WF # 10-69)**

### **SUMMARY:**

OHCA rules for the ADvantage Waiver are revised to remove language approving ADvantage services when services exceed the cost cap. Currently if a member's services exceed the cap, the OKDHS Aging Services Division can approve that member for services if certain conditions are met. Additionally, waitlist procedures are revised to prohibit entry into the waiver at 90% of capacity, rather than the current 102% of capacity. The current procedure measures actual capacity against anticipated capacity for a given month. Once the capacity in any month exceeds 102% of the anticipated capacity for that month, the waitlist is initiated. The new process sets capacity at 90% of anticipated capacity for the year, allowing for proper advance warning to activate the waitlist so that waiver capacity will not be exceeded. Also, exceptions to the waitlist procedure are eliminated. Lastly, language is revised to state that OKDHS performs all annual eligibility determinations rather than the ADvantage Administration (AA). Current policy requires an eligibility determination by OKDHS only in the member's third year of service or if eligibility review by the case manager or AA requires further assessment.

### **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 19, 2011, through February 18, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

### **PUBLIC HEARING:**

A public hearing is scheduled for Tuesday, February 22, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107.

### **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 18, 2011.

### **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 #10-1417; filed 12-20-10]*

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

*[OAR Docket #10-1424]*

**INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 5. Eligibility and Countable Income  
Part 1. Determination of Qualifying Categorical Relationships  
317:35-5-6. [AMENDED]  
317:35-5-6.1. [AMENDED]  
(Reference APA WF # 10-77)

**SUMMARY:**

OHCA eligibility rules are revised to extend the deadline by which pregnant women must submit verification of pregnancy to the Agency. The deadline will be extended from 10 days to 30 days within date of application.

**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 19, 2011, through February 18, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

**PUBLIC HEARING:**

A public hearing is scheduled for Tuesday, February 22, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107.

**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 18, 2011.

**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 #10-1424; filed 12-20-10]*

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

*[OAR Docket #10-1408]*

**INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 1. General Provisions  
317:40-1-1. [AMENDED]  
Subchapter 5. Member Services  
Part 1. Agency Companion Services  
317:40-5-8. [AMENDED]  
Part 3. Guidelines to Staff  
317:40-5-40. [AMENDED]  
Part 5. Specialized Foster Care  
317:40-5-55. [AMENDED]  
317:40-5-59. [AMENDED]  
Part 9. Service Provisions  
317:40-5-100. [AMENDED]  
317:40-5-103. [AMENDED]  
317:40-5-113. [AMENDED]  
Subchapter 7. Employment Services Through Home and Community-Based Services Waivers  
317:40-7-5. [AMENDED]  
317:40-7-7. [AMENDED]  
317:40-7-15. [AMENDED]  
317:40-7-21. [AMENDED]  
Subchapter 9. Self-Directed Services  
317:40-9-1. [AMENDED]  
(Reference APA WF # 10-59C)

**SUMMARY:**

Rules are revised to clarify eligibility for individuals seeking payment from SoonerCare for long term care services provided through Home and Community Based Services Waivers for persons with mental retardation. Additional changes include revisions to the Agency Companion back up plan review and approval process, bringing policy in into

## Notices of Rulemaking Intent

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alignment with current practice for background checks for in-home service providers and inclusion of provisions for natural supports for specialized foster care members. Further rule revisions include clarification of the procurement process for assistive technology devices, clarification of requirements for transportation providers, requirements for job coaching providers to have completed DDS sanctioned training, clarification of allowable goods and services for waiver members utilizing Self-Direction and other minor policy revisions.

### **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 19, 2011, through February 18, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

### **PUBLIC HEARING:**

A public hearing is scheduled for Tuesday, February 22, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107.

### **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 18, 2011.

### **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 #10-1408; filed 12-20-10]*

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

*[OAR Docket #10-1386]*

### **INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

### **PROPOSED RULES:**

Subchapter 1. General Provisions

317:45-1-1 through 317:45-1-4. [AMENDED]

Subchapter 3. Insure Oklahoma/~~O-Epic~~ Carriers

317:45-3-1. [AMENDED]

317:45-3-2. [AMENDED]

Subchapter 5. Insure Oklahoma/~~O-Epic~~ Qualified Health Plans

317:45-5-1. [AMENDED]

317:45-5-2. [AMENDED]

Subchapter 7. Insure Oklahoma/~~O-Epic~~ ESI Employer Eligibility

317:45-7-1 through 317:45-7-8. [AMENDED]

Subchapter 9. Insure Oklahoma/~~O-Epic~~ ESI Employee Eligibility

317:45-9-1 through 317:45-9-4. [AMENDED]

317:45-9-6 through 317:45-9-8. [AMENDED]

Subchapter 11. Insure Oklahoma/~~O-Epic~~ IP

Part 1. Individual Plan Providers

317:45-11-1. [AMENDED]

317:45-11-2. [AMENDED]

Part 3. Insure Oklahoma/~~O-Epic~~ IP Member Health Care Benefits

317:45-11-10. [AMENDED]

317:45-11-11. [AMENDED]

317:45-11-12. [NEW]

317:45-11-13. [NEW]

Part 5. Insure Oklahoma/~~O-Epic~~ IP Member Eligibility

317:45-11-20 through 317:45-11-28. [AMENDED]

**(Reference APA WF # 10-08)**

### **SUMMARY:**

Rules are revised to expand the Insure Oklahoma ESI and IP programs. Expansions include incorporating Oklahoma children through 18 years of age whose household income is from 185 up to and including 300 percent of the Federal Poverty Level. The inclusion of children into the program will be phased in over a period of time as determined by the OHCA. In addition, revisions will expand the current Insure Oklahoma ESI and IP program guidelines to include employees and working adults whose family income does not exceed 250 percent of the Federal Poverty Level. The increase from 200 to 250 percent of the FPL will be phased in over a period of time as determined by the OHCA. These revisions comply with Sections 1009.2 and 1010.1 of Title 56 of Oklahoma Statutes. This expansion to the Insure Oklahoma 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; Sections 1009.2 and 1010.1 of Title 56 of Oklahoma Statutes

**COMMENT PERIOD:**

Written and oral comments will be accepted January 19, 2011, through February 18, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

**PUBLIC HEARING:**

A public hearing is scheduled for Tuesday, February 22, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107.

**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 18, 2011.

**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 #10-1386; filed 12-20-10]*

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

*[OAR Docket #10-1392]*

**INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 3. Insure Oklahoma/~~Epie~~ Carriers  
317:45-3-3. [NEW]

Subchapter 5. Insure Oklahoma/~~Epie~~ Qualified Health  
Plans

317:45-5-3. [NEW]

(Reference APA WF # 10-33)

**SUMMARY:**

Insure Oklahoma rules are revised to provide clarification in regard to carrier and health plan rate structure requirements. Carriers and health plans must meet OHCA's system specifications for all rate structure tiers and requirements. The OHCA must be able to recreate premium invoice amounts for all approved Insure Oklahoma members. If a carrier and/or health plan can not accommodate OHCA's system specifications for all rate structure tiers and requirements, the carrier and/or health plan will not be allowed to participate in the Insure Oklahoma program. Carrier and/or health plan rate structure requirements include all rate tiers and age-up methodologies.

**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 19, 2011, through February 18, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

**PUBLIC HEARING:**

A public hearing is scheduled for Tuesday, February 22, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23<sup>rd</sup>, Suite 1A, Oklahoma City, Oklahoma, 73107.

**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 18, 2011.

**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.

## Notices of Rulemaking Intent

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**CONTACT PERSON:**

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

*[OAR Docket #10-1392; filed 12-20-10]*

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

*[OAR Docket #10-1450]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking.

**PROPOSED RULE:**

325:20-1-12. Stewards' list [AMENDED]

**SUMMARY:**

Mr. Constantin A. Rieger, Commission Executive Director, recommends that the rule be amended to expand the reasons that may result in a horse being placed on the Stewards' List.

**AUTHORITY:**

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

**COMMENT PERIOD:**

Persons wishing to present their views in writing may do so before 4:30 p.m., February 16, 2011, at the following address: Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107.

**PUBLIC HEARING:**

A public hearing will be held between the hours of 9:00 a.m. and 12:00 p.m. and 1:00 p.m. and 4:30 p.m. on February 16, 2011, at the following address: Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

The Oklahoma Horse Racing Commission requests that business entities affected by this proposed rule provide the Commission, within the comment period, in dollar amounts, if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rule. Business entities may submit this information in writing to the Commission, at the above address, before the close of the comment period on February 16, 2011.

**COPIES OF PROPOSED RULES:**

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

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. §303(D), a rule impact statement will be prepared by January 18, 2011 and may be obtained from the Oklahoma Horse Racing Commission at the above address.

**CONTACT PERSON:**

Bonnie Morris, Agency Rulemaking Liaison, (405) 943-6472.

*[OAR Docket #10-1450; filed 12-22-10]*

**TITLE 325. OKLAHOMA HORSE RACING  
COMMISSION  
CHAPTER 75. OKLAHOMA-BRED  
PROGRAM**

*[OAR Docket #10-1451]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking.

**PROPOSED RULE:**

325:75-1-2. Definitions [AMENDED]

325:75-1-21. Expenditure of Oklahoma Breeding Development Fund Special Account Monies for the Purpose of Caring for Retired and Unwanted Oklahoma-Bred Racing Stock [NEW]

**SUMMARY:**

At the June 17, 2010 Commission meeting, a Task Force on Criteria for Non-Profit Entities' Receipt of Oklahoma-Bred Funding was created to develop criteria for the non-profit entities to implement SB 820. SB 820 amended Section 208.3, Oklahoma Breeding Development Fund Special Account, of Title 3A, Oklahoma Horse Racing Act, to allow an additional use of Oklahoma-Bred funds to provide funding to an Oklahoma non-profit entity exempt from taxation to take care of retired and unwanted Oklahoma-Bred racing stock.

Commissioner Smicklas chaired the Task Force with the following other members: Commissioner Goumaz; Commissioner Savage; Justin Cassity, Executive Director, Thoroughbred Racing Association of Oklahoma; Constantin Rieger, Commission Executive Director; and Neal Leader, Senior Assistant Attorney General and Commission Counsel. The Task Force met a number of times and proposed changes to Chapter 75, Oklahoma-Bred Program: rule amendments to one rule to add two new definitions [for adoption program and pension program] and a proposed new rule.

**AUTHORITY:**

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

**COMMENT PERIOD:**

Persons wishing to present their views in writing may do so before 4:30 p.m., February 16, 2011, at the following address: Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107.

**PUBLIC HEARING:**

A public hearing will be held between the hours of 9:00 a.m. and 12:00 p.m. and 1:00 p.m. and 4:30 p.m. on February 16, 2011, at the following address: Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

The Oklahoma Horse Racing Commission requests that business entities affected by this proposed rule provide the Commission, within the comment period, in dollar amounts, if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rule. Business entities may submit this information in writing to the Commission, at the above address, before the close of the comment period on February 16, 2011.

**COPIES OF PROPOSED RULES:**

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

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. §303(D), a rule impact statement will be prepared by January 18, 2011 and may be obtained from the Oklahoma Horse Racing Commission at the above address.

**CONTACT PERSON:**

Bonnie Morris, Agency Rulemaking Liaison, (405) 943-6472.

*[OAR Docket #10-1451; filed 12-22-10]*

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

*[OAR Docket #10-1425]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 5. Fair Hearings  
Part 7. Assistance Programs  
340:2-5-79 [AMENDED]  
**(Reference APA WF 10-06)**

**SUMMARY:**

The proposed revisions to Subchapter 5 of Chapter 2 allow fair hearings to be conducted by telephone. The purpose is to reduce the funds and time spent on travel by administrative hearing officers and other Oklahoma Department of Human Services (OKDHS) employees in the fair hearing

**AUTHORITY:**

Commission for Human Services, Article XXV, Sections 2 and 4 of the Oklahoma Constitution; and Section 168 of Title 56 of the Oklahoma Statutes.

**COMMENT PERIOD:**

Written and oral comments will be accepted January 18, 2011 through February 17, 2011 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 17, 2011 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 #10-1425; filed 12-21-10]*

**TITLE 340. DEPARTMENT OF HUMAN SERVICES  
CHAPTER 5. ADULT PROTECTIVE SERVICES**

*[OAR Docket #10-1426]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 1. General Provisions  
340:5-1-5 through 340:5-1-6 [AMENDED]  
Subchapter 5. Investigation of Adult Protective Services Referrals  
340:5-5-8 [AMENDED]  
**(Reference APA WF 10-11)**

**SUMMARY:**

The proposed revisions to Subchapter 1 of Chapter 5 amend the rules to: (1) add language to comply with new statute, Section 10-110.1 of Title 43A of the Oklahoma Statutes (43A O.S. § 10-110.1), regarding the release of certain information to the public about an individual charged or indicted with committing a crime resulting in death or near death of a vulnerable adult; and (2) add the definition of near death.

The Subchapter 5 of Chapter 5 proposed revisions add language clarifying that investigative records are not expunged except by court order in accordance with 43A O.S. § 10-110.

**AUTHORITY:**

Commission for Human Services, Article XXV, Sections 2 and 4 of the Oklahoma Constitution; and 43A O.S. §§ 10-110 (SB 1601) and 10-110.1 (HB 2776).

**COMMENT PERIOD:**

Written and oral comments will be accepted January 18, 2011 through February 17, 2011 during regular business hours by contacting Laura Brown, Oklahoma Department of

# Notices of Rulemaking Intent

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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 17, 2011 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 #10-1426; filed 12-21-10]*

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

*[OAR Docket #10-1427]*

## **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

## **PROPOSED RULES:**

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

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

340:10-2-4 through 340:10-2-5 [AMENDED]

340:10-2-7 [AMENDED]

Subchapter 3. Conditions of Eligibility - Need

Part 1. Resources

340:10-3-5 [AMENDED]

Part 3. Income

340:10-3-32 [AMENDED]

340:10-3-39 through 340:10-3-40 [AMENDED]

Part 5. Assistance Payments

340:10-3-57 [AMENDED]

Subchapter 5. Conditions of Eligibility - Age

340:10-5-1 [AMENDED]

Subchapter 7. Conditions of Eligibility - Residence

340:10-7-1 [AMENDED]

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

340:10-9-1 [AMENDED]

Subchapter 10. Conditions of Eligibility - Deprivation

340:10-10-4 [AMENDED]

Subchapter 13. Conditions of Eligibility - School Attendance

340:10-13-1 [AMENDED]

Subchapter 14. Conditions of Eligibility - Immunizations

340:10-14-1 [AMENDED]

**(Reference APA WF 10-08 and 10-19)**

## **SUMMARY:**

The proposed revisions to Subchapter 2 of Chapter 10 amend the rules to: (1) add a new reason for failure to participate in Temporary Assistance for Needy Families (TANF) Work activities; (2) add to vocational training and job skills training that in certain instances homework or study time can be counted toward required work activities; (3) add Community Partnership as a work activity component for TANF work requirements; (4) add clarifying language; (5) remove unnecessary and outdated language; and (6) update terminology.

The proposed revisions to Subchapter 3 of Chapter 10 amend rules to: (1) clarify how to consider child support income; (2) define person acting in the role of a spouse; (3) add clarifying language; (4) disregard income received from programs funded by the Workforce Investment Act (WIA) as a resource; and (5) disregard all income received from programs funded by WIA.

The proposed revisions to Subchapter 5 of Chapter 10 amend rules to update language and terminology regarding acceptable verification of age.

The proposed revisions to Subchapter 7 of Chapter 10 amend rules to clarify that a worker must check out-of-state receipt of benefits before certification.

The proposed revisions to Subchapter 9 of Chapter 10 amend rules to clarify legal responsibility when parental rights are terminated or the child is adopted by someone else.

The proposed revisions to Subchapter 10 of Chapter 10 amend rules to: (1) update information needed to determine deprivation; and (2) remove outdated information.

The proposed revisions to Subchapter 13 of Chapter 10 amend rules to: (1) update type of schools that meet school attendance requirement; (2) remove worker instructions from the rule; and (3) update information to current terminology.

The proposed revisions to Subchapter 14 of Chapter 10 amend rules to: (1) change time limit for providing proof of current immunizations; (2) update language to current terminology; and (3) add clarifying information.

## **AUTHORITY:**

Commission for Human Services, Article XXV, Sections 2 and 4 of the Oklahoma Constitution; Sections 230.50, 230.52, 230.56, 230.64, 230.65 and 230.66 of Title 56 of the Oklahoma Statutes; Section 2931 of Title 29 of the Code of Federal Regulations (CFR); Parts 261.2, 261.10, 261.30, and 261.50 of Title 45 of the CFR; and Section 7301 of Public Law 109-171.

## **COMMENT PERIOD:**

Written and oral comments will be accepted January 18, 2011 through February 17, 2011 during regular business hours by contacting Laura Brown, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4196.

**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 17, 2011 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 #10-1427; filed 12-21-10]*

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

*[OAR Docket #10-1428]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 1. Low Income Home Energy Assistance Program

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

340:20-1-17 [AMENDED]

(Reference APA WF 10-15)

**SUMMARY:**

The purpose of the proposed revisions to Subchapter 1 of Chapter 20 amend the rules to add: (1) an income disregard; (2) additional program factors that must be verified; (3) information regarding denial actions; (4) time frames for processing applications and requesting additional information; (5) information regarding households pre-authorized for the Low Income Home Energy Assistance Program (LIHEAP) including when payments are not made; (6) clarifying information regarding benefit amounts and notices; and (7) updated language and form names.

**AUTHORITY:**

Commission for Human Services, Article XXV, Sections 2 and 4 of the Oklahoma Constitution; the Omnibus Budget Reconciliation Act of 1981 Public Law (P.L.) 97-35; Section 405(c)(2)(C)(i) of Title 42 of the United States Code (42 USC 405(c)(2)(C)(i)); 5 USC 552A; Sections 96.80 through 96.89 of Title 45 of the Code of Federal Regulations; and P.L. 109-58, as amended.

**COMMENT PERIOD:**

Written and oral comments will be accepted January 18, 2011 through February 17, 2011 during regular business hours by contacting Laura Brown, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4196.

**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 17, 2011 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 #10-1428; filed 12-21-10]*

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

*[OAR Docket #10-1446]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 1. Scope and Applicability

340:25-1-1.1 [AMENDED]

340:25-1-5.1 [AMENDED]

Subchapter 5. Operational Policies

Part 9. Disclosure of Information

340-25-5-67 through 340:25-5-67.1 [AMENDED]

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

340:25-5-114 [AMENDED]

340:25-5-117 [AMENDED]

340:25-5-123 [AMENDED]

340:25-5-124.2 through 340:25-5-124.3 [AMENDED]

Part 17. Past Support

340:25-5-140 through 340:25-5-140.1 [AMENDED]

Part 20. Medical Support

340:25-5-168 through 340:25-5-169 [AMENDED]

Part 21. Establishment

340:25-5-178 [AMENDED]

340:25-5-179.1 [AMENDED]

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Part 22. Review and Modification  
340:25-5-198.1 through 340:25-5-198.2 [AMENDED]  
Part 23. Enforcement  
340:25-5-203.1 [AMENDED]  
Part 25. Federal Offset Programs  
340:25-5-215 [AMENDED]  
Part 27. State Tax Refund Offset Program  
340:25-5-235 [AMENDED]  
Part 33. Interstate and International Cases  
340:25-5-270 [AMENDED]  
Part 37. Recovery  
340:25-5-312 [AMENDED]  
Part 39. Accounting and Distribution  
340:25-5-350.1 [AMENDED]  
340:25-5-350.3 [AMENDED]  
340:25-5-351 [AMENDED]  
**(Reference APA WFs 10-05, 10-10, 10-21)**

### SUMMARY:

The proposed revisions to Subchapters 1 and 5 of Chapter 25 amend the rules to: (1) reduce the fiscal impact on families when OCSS is recovering an overpayment from current child support collections and retaining interest collections assigned to the State; (2) implement policy changes for House Bill 3166; (3) implement policy changes recommended during the Oklahoma Child Support Services (OCSS) annual policy review process; and (4) make non-substantive housekeeping changes improving rule clarity.

### AUTHORITY:

Commission for Human Services, Article XXV, Sections 2 and 4 of the Oklahoma Constitution; and Parts 98 and 99 of Title 45 of the Code of Federal Regulations (CFR).

### COMMENT PERIOD:

Written and oral comments are accepted January 18, 2011 through February 17, 2011, during regular business hours by contacting Tammy Hall, Oklahoma Department of Human Services, OCSS, 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 5:00 p.m., February 17, 2011.

### REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

### COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained 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, Office of Intergovernmental Relations and Policy, 405-521-4326.

*[OAR Docket #10-1446; filed 12-22-10]*

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

*[OAR Docket #10-1429]*

### RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

### PROPOSED RULES:

Subchapter 3. Initial Application  
340:40-3-1 [AMENDED]  
Subchapter 5. Plan of Service  
340:40-5-1 [AMENDED]  
Subchapter 7. Eligibility  
340:40-7-3.1 [AMENDED]  
340:40-7-6 [AMENDED]  
340:40-7-8 through 340:40-7-9 [AMENDED]  
340:40-7-11 [AMENDED]  
Subchapter 9. Procedures Relating to Case Changes  
340:40-9-1 through 340:40-9-2 [AMENDED]  
Subchapter 10. Electronic Benefit Transfer (EBT) System for Child Care  
340:40-10-2 through 340:40-10-4 [AMENDED]  
Subchapter 13. Child Care Rates and Provider Issues  
340:40-13-5 [AMENDED]  
**(Reference APA WF 10-17)**

### SUMMARY:

The proposed revisions to Subchapter 3 of Chapter 40 amend the rules to: (1) clarify when a new application is required; and (2) remove specific application form names and numbers.

The proposed revisions to Subchapter 5 of Chapter 40 amend the rules to: (1) remove language allowing approval for care in a child care home in which the client works; (2) remove star status references; and (3) add clarifying language requiring providers to charge all parents for hours subsidy child care is requested.

The proposed revisions to Subchapter 7 of Chapter 40 amend the rules to: (1) change responsibility for approval of the special needs rate; (2) remove instructions for completion of Form 08AD006E, Special Needs Child Care Rate Certification; (3) add additional reasons a new Form 08AD006E must be completed; (4) add the definition for a person acting in the role of spouse; (5) change whose income must be considered to determine child care eligibility; (6) add clarifying language regarding the need factor; (7) remove requirement for a new application for job search approvals; (8) specify when enrichment care may be approved for school age children; (9) add language clarifying the process regarding

child support cooperation; (10) add language clarifying types of payments considered as income; (11) add clarifying language specifying self employment income calculations; and (12) add language regarding required client and worker action when the client is not the payee of a child's Supplemental Security Income (SSI).

The proposed revisions to Subchapter 9 of Chapter 40 amend the rules to: (1) remove language regarding benefit reporter households; (2) change review time frames for most child care households; (3) remove interview requirement for most child care reviews; (4) clarify the process for determining eligibility at review; (5) update language regarding when a new application is required; and (6) add clarifying language.

The proposed revisions to Subchapter 10 of Chapter 40 amend the rules to: (1) add clarifying language regarding swipes and error messages on the Point of Sale (POS) machine; (2) update form numbers; (3) remove outdated language; and (4) update language to current terminology.

The proposed revisions to Subchapter 13 of Chapter 40 amend the rules to: (1) remove specific star status reference; (2) clarify the contract denial process; (3) include additional changes that must be reported; (4) clarify when a new contract is not required; (5) rearrange language for clarity; (6) remove a requirement for child care liaisons; (7) add new contract violations; and (8) remove the requirement of initiating contract cancellations by certified mail.

**AUTHORITY:**

Commission for Human Services, Article XXV, Sections 2 and 4 of the Oklahoma Constitution; and Parts 98 and 99 of Title 45 of the Code of Federal Regulations (CFR).

**COMMENT PERIOD:**

Written and oral comments will be accepted January 18, 2011 through February 17, 2011 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 17, 2011 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 #10-1429; filed 12-21-10]

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

[OAR Docket #10-1430]

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

- Subchapter 3. Application Process  
340:50-3-2 [AMENDED]
  - Subchapter 5. Non-Financial Eligibility Criteria
    - Part 1. Household Definition  
340:50-5-3 [AMENDED]  
340:50-5-6 [AMENDED]  
340:50-5-8.1 [AMENDED]
    - Part 3. Special Households  
340:50-5-28 [AMENDED]
    - Part 5. Students, Strikers, Resident Farm Laborers, Migrant Households, Sponsored Aliens, and School Employees  
340:50-5-48 through 340:50-5-49 [AMENDED]
    - Part 7. Related Provisions  
340:50-5-67 through 340:50-5-68 [AMENDED]
    - Part 9. Work Registration  
340:50-5-88 [AMENDED]
  - Subchapter 7. Financial Eligibility Criteria
    - Part 1. Resources  
340:50-7-1 [AMENDED]  
340:50-7-2 through 340:50-7-5 [REVOKED]
    - Part 3. Income  
340:50-7-22 [AMENDED]  
340:50-7-29 through 340:50-7-31 [AMENDED]
  - Subchapter 9. Eligibility and Benefit Determination Procedures  
340:50-9-1 [AMENDED]  
340:50-9-5 [AMENDED]
  - Subchapter 11. Special Procedures
    - Part 1. Households Entitled to Expedited Service  
340:50-11-5 [AMENDED]
    - Part 7. Replacement When Food Purchased With Food Benefits Is Destroyed  
340:50-11-64 [AMENDED]
    - Part 12. Categorically Eligible Households  
340:50-11-111 through 340:11-113 [AMENDED]  
340:50-11-115 [AMENDED]
  - Subchapter 15. Overpayments and Fraud
    - Part 3. Fraud  
340:50-15-25 [AMENDED]
- (Reference APA WF 10-16)**

**SUMMARY:**

The proposed revisions to Subchapter 3 of Chapter 50 amend the rules to: (1) waive recertification interviews for households where all adults are elderly or disabled and there is no earned income; (2) add language to allow certain households that appear eligible for expedited services to be

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certified for one or two months prior to the required interview and requirement to complete the interview before further benefits can be approved; and (3) remove worker responsibility to inquire about resources.

The proposed revisions to Subchapter 5 of Chapter 50 amend the rules to: (1) remove language regarding resources for all households except sponsored alien households as they are no longer a factor of eligibility; (2) remove incorrect language regarding residents of shelters for battered women and children; (3) add information about deductions from income; (4) add clarifying language; and (5) restructure information for greater readability.

The proposed revisions to Subchapter 7 of Chapter 50 amend the rules to: (1) remove resources as an eligibility factor; (2) clarify that liquid resources are considered for expedited processing; (3) clarify what military pay is countable; (4) add language that self-employment losses cannot offset other household income; (5) add clarifying language regarding temporary disability and worker compensation, how to determine monthly income from certain unearned income sources, and the medical expense deduction; (6) add information regarding consideration of income for household members absent from the home, in foster care, and receiving adoption subsidy payments; and (7) correct language regarding child care expenses.

The proposed revisions to Subchapter 9 of Chapter 50 amend the rules to: (1) remove language regarding resources; (2) add information regarding reopening benefits; and (3) change information regarding benefit reviews.

The proposed revisions to Subchapter 11 of Chapter 50 amend the rules to: (1) add a new requirement prior to restoration of benefits because of a natural disaster; (2) remove language that liquid resources must be verified; (3) add language regarding when postponed interviews must be scheduled; and (4) change language regarding which households can and cannot be considered categorically needy.

The proposed revisions to Subchapter 15 of Chapter 50 amend the rules to remove language regarding resources.

### **AUTHORITY:**

Commission for Human Services, Article XXV, Sections 2 and 4 of the Oklahoma Constitution; the Food and Nutrition Act of 2008; waivers received affect federal regulations at Section 272.3 of Title 7 of the Code of Federal Regulations (CFR), 7 CFR 273.12, 7 CFR 273.14, 7 CFR 273.2, and 7 CFR 273.8; and Chapter 4 of Title 10 of the Oklahoma Statutes.

### **COMMENT PERIOD:**

Written and oral comments will be accepted January 18, 2011 through February 17, 2011 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 17, 2011 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 #10-1430; filed 12-21-10]*

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

*[OAR Docket #10-1431]*

### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

### **PROPOSED RULES:**

Subchapter 3. Eligibility for Benefits

340:65-3-1 through 340:65-3-2.1 [AMENDED]

340:65-3-4 through 340:65-3-6 [AMENDED]

340:65-3-8 through 340:65-3-9 [AMENDED]

Subchapter 5. Procedures Relating to Case Changes

Part 1. General Provisions

340:65-5-1 [AMENDED]

340:65-5-3 [AMENDED]

Subchapter 9. Overpayments and Fraud in Temporary Assistance for Needy Families and State Supplemental Payment Benefits

340:65-9-1 through 340:65-9-2 [AMENDED]

340:65-9-4 through 340:65-9-6 [AMENDED]

340:65-9-8 [AMENDED]

**(Reference APA WF 10-18)**

### **SUMMARY:**

The proposed revisions to Subchapter 3 of Chapter 65 amend the rules to: (1) update information about the application process that includes filing requirements, online applications, removing specific forms used, clarifying verbal requests, adding and revising information about time frames, and worker responsibility to determine receipt of out-of-state benefits before certification; (2) add information about the Oklahoma Health Care Authority (OHCA) Online Enrollment which includes removing certification information for the SoonerCare (Medicaid) populations in Online Enrollment; (3) add information for the Low Income Home Energy Assistance Program (LIHEAP) regarding Social Security number requirement, who can be payee for the benefit, and use of the Systematic Alien Verification for Entitlement (SAVE)

system; (4) add requirement to close the State Supplemental Payment (SSP) when the client does not pin the debit card within 90 calendar days; (5) update information about reviews that includes changing the time frame for subsidized child care, removing the interview requirement for most subsidized child care reviews and food benefit recertifications for elderly and disabled households with no earned income, revising notification information, adding information about eligibility determinations, and reordering information for greater readability; (6) update information regarding birth verification; and (7) add clarifying information regarding data exchange, notices, and for readability and understanding.

The proposed revisions to Subchapter 5 of Chapter 65 amend the rules to: (1) update information about benefit changes for all programs; (2) add two reasons advance notice is not required; (3) add clarifying information; and (4) update language to current terminology.

The proposed revisions to Subchapter 9 of Chapter 65 amend the rules to: (1) update information regarding overpayments for the Temporary Assistance to Needy Families (TANF) and SSP programs including deductions allowed, the length of time for which the Oklahoma Department of Human Services (OKDHS) may determine overpayments, and when OKDHS does not initiate collection efforts; and (2) update language and forms to current terminology.

**AUTHORITY:**

Commission for Human Services, Article XXV, Sections 2 and 4 of the Oklahoma Constitution; Sections 161 et seq. of Title 56 of the Oklahoma Statutes; and Section 41.19 of Title 62 of the Oklahoma Statutes.

**COMMENT PERIOD:**

Written and oral comments will be accepted January 18, 2011 through February 17, 2011 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 17, 2011 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 #10-1431; filed 12-21-10]

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

[OAR Docket #10-1447]

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 1. General Provisions of Child Welfare Services [AMENDED]

Subchapter 3. Child Protective Services [AMENDED]

Subchapter 6. Permanency Planning [AMENDED]

Subchapter 7. Foster Home Care [AMENDED]

Subchapter 10. Emergency Shelter Care [AMENDED]

Subchapter 11. Child Welfare Community-Based Residential Care [AMENDED]

Subchapter 13. Other Child Welfare Services and Medical Services for Children In Out-of-Home Care [AMENDED]

Subchapter 15. Adoptions [AMENDED]

Subchapter 16. Mental Health Treatment Services [AMENDED]

(Reference APA WFs 10-12, 10-22)

**SUMMARY:**

The proposed revisions to Subchapter 1, 3, 6, 7, 10, 11, 13, 15, and 16 of Chapter 75 amend the rules to: (1) bring the rules into conformity with current state law; (2) clarify and update protocols and procedures that support the safety, permanency, and well-being of children alleged or adjudicated deprived; and (3) revoke Sections when information is contained in other Sections.

**AUTHORITY:**

Commission for Human Services, Article XXV, Sections 2 and 4 of the Oklahoma Constitution; House Bill 1741 (HB 1741); HB 1964; HB 3292; Section 601.3 of Title 10 of the Oklahoma Statutes (10 O.S. § 601.3); 10 O.S. § 7504-1.2; 10A O.S. § 1-1-104; 10A O.S. § 1-2-101; 10A O.S. § 1-2-102; 10A O.S. § 1-2-105; 10A O.S. § 1-2-106; 10A O.S. § 1-2-109; 10A O.S. § 1-3-102; 10A O.S. § 1-4-101; 10A O.S. § 1-4-102; 10A O.S. § 1-4-203; 10A O.S. § 1-4-710; 10A O.S. § 1-4-711; 10A O.S. § 1-4-804; 10A O.S. § 1-4-805; 10A O.S. § 1-4-806; 10A O.S. § 1-4-902; 10A O.S. § 1-4-909; 10A O.S. § 1-6-103; 10A O.S. § 1-6-108; 10A O.S. § 1-7-103; 10A O.S. § 1-7-105; 10A O.S. § 1-9-102; 10A O.S. § 1-9-111; 10A O.S. § 1-9-119; 10A O.S. § 2-4-101; 22 O.S. § 20; 22 O.S. § 60.14; and 43A O.S. § 5-511.

**COMMENT PERIOD:**

Written and oral comments are accepted January 18, 2011 through February 17, 2011, during regular business hours by contacting Caprice Tyner, Oklahoma Department of Human Services, Children and Family Services (CFSD), P.O. Box 25352, Oklahoma City, OK 73125, 918-794-7538.

**PUBLIC HEARING:**

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by

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contacting the above listed person no later than 5:00 p.m., February 17, 2011.

### **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, Office of Intergovernmental Relations and Policy, 405-521-4326.

*[OAR Docket #10-1447; filed 12-22-10]*

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

*[OAR Docket #10-1448]*

### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

### **PROPOSED RULES:**

Subchapter 3. Administration [AMENDED]

Subchapter 5. Client Services [AMENDED]

Subchapter 6. Group Home Regulations [AMENDED]

Subchapter 18. Licensing [NEW]

**(Reference APA WFs 10-09, 10-13)**

### **SUMMARY:**

The proposed revisions to Subchapters 3, 5, 6, and 18 of Chapter 100 amend the rules to: (1) direct members of the Homeward Bound class to resolve financial eligibility issued within a 90-day period, or receive state-funded services available to other eligible persons; (2) remove the requirement for Form 06MP034E, Guardianship, Advocacy, and Capacity Annual Review, as the information will be required in the Individual Plan or Needs Assessment; (3) establish online training expectations; (4) establish supervised retraining as a course of action following training violations; (5) establish documentation and reporting requirements to substantiate training; (6) add an online option for foundation training, (7) clarify the requirements for individual specific training, job specific training, specialized training, and ongoing training; (8) clarify that any nurse with a current unrestricted license is exempt from training requirements and can administer medications; (9) disallow a temporary employee from working alone or solely with other temporary employees pending the results of the OSBI criminal history records search; (10) remove the requirement of Form 06HM007E, Physical Status Review - PSR; (11) require that contract provider agencies develop a form that certifies that persons accessing information

within the home record have been informed and understand the penalties for the misuse of confidential and protected information within the home record, per HB 3323 "Kelley's Law"; (12) allow contract provider agency administration staff to complete monitoring visits; (13) allow unannounced visits to be reduced to one per month when certain criteria are met; (14) allow full-time equivalent experience in a supervisory position for program coordinators; (15) increase program coordinator case loads from 15 to 20 and establish a formula for calculating case loads; (16) reduce the awake staff requirement for alternative group homes, and add the requirement that the alternative group home provider agency have additional staff available in the event of need; (17) remove the requirement that the DDS area medical director or designee approve the use of p.r.n. medications; (18) change the review of psychotropic medications from semi-annual to annual; (19) direct Teams to provide appropriate information to the prescribing physician when psychotropic medications are believed to be ineffective in treating a psychiatric illness; (20) remove the requirement for Form 06HM063E, Individual Medication Support Plan - IMSP; (21) remove the requirement that the DDS area medical director or designee approve the use of p.r.n. medications; (22) exempt hospice patients from p.r.n. medication requirements; (23) clarify the disposal requirements for discontinued and expired medications, and the disposal of medications of a deceased service recipient; (24) establish the scope of HTS services in non-residential settings; (25) establish the scope of Prader Willi services; (26) change the summary of progress reporting requirement from monthly to quarterly; (27) remove the requirement for a state fire marshal inspection of group homes every three years, and require that the inspection be dictated by the local or state fire marshal; (28) remove the requirement for an annual plumbing and electrical inspection of group homes; (29) clarify that home visits are to monitor service recipients and to supervise staff; (30) allow monitoring visits be completed by agency administration staff in addition to the program coordinator; (31) allow for a reduction in unannounced visits to one per month, when specific criteria are met; (32) allow for a group home administrator or program coordinator to substitute full-time experience in a supervisory position for a four year any combination college level course work or full-time equivalent experience; and (33) Subchapter 18 of Chapter 100 is issued to comply with Section 1928 of Title 59 of the Oklahoma Statutes to provide for licensing of board certified behavior analysts and certification of board certified assistant behavior analysts.

### **AUTHORITY:**

Commission for Human Services, Article XXV, Sections 2 and 4 of the Oklahoma Constitution; Section 1414 of Title 10 of the Oklahoma Statutes (10 O.S. § 1414); 10 O.S. § 1415; 10 O.S. § 1430.1 through 1430.41; 10 O.S. § 7102; 21 O.S. § 888; 21 O.S. § 1123; 21 O.S. § 1533.1; 22 O.S. § 1175.1; 22 O.S. § 1175.6b and 1175.6bA; 30 O.S. § 3-102 through 3-104; 30 O.S. § 119; 43A O.S. §10-103; 56 O.S. § 192; 56 O.S. § 1020;

56 O.S. § 1025.1; 56 O.S. § 1025.3; 59 O.S. § 1928; and 75 O.S. § 318.

**COMMENT PERIOD:**

Written and oral comments are accepted January 18, 2011 through February 17, 2011, during regular business hours by contacting Samantha Galloway, Oklahoma Department of Human Services, Developmental Disabilities Services Division (DDSD), P.O. Box 25352, Oklahoma City, OK 73125, 405-521-4989.

**PUBLIC HEARING:**

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than 5:00 p.m., February 17, 2011.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

n/a

**COPIES OF PROPOSED RULES:**

Copies of proposed rules may be obtained 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, Office of Intergovernmental Relations and Policy, 405-521-4326.

*[OAR Docket #10-1448; filed 12-22-10]*

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

*[OAR Docket #10-1449]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 10. Policies and Procedures Manual for Title III of the Older Americans Act of 1965, as Amended

Part 3. State Agency

340:105-10-12 [AMENDED]

Part 7. Program Standards for Services Funded Under Title III

340:105-10-64 [AMENDED]

Part 9. Fiscal and Administrative Policies for Area Agencies on Aging and Title III Projects

340:105-10-102 [AMENDED]

340:105-10-108 [AMENDED]

340:105-10-110.1 [AMENDED]

340:105-10-121 [AMENDED]

**(Reference APA WF 10-20)**

**SUMMARY:**

The proposed revisions to Subchapter 10 Policies and Procedures Manual for Title III of the Older Americans Act of 1965, as Amended of Chapter 105 amend the rules to: (1) change authority and add cross references for clarification purposes; (2) to change State Council on Aging policy to match by-law changes; and (3) match audit dollar amounts to agency fiscal policy.

**AUTHORITY:**

Commission for Human Services, Article XXV, Sections 2 and 4 of the Oklahoma Constitution; and Parts 98 and 99 of Title 45 of the Code of Federal Regulations (CFR).

**COMMENT PERIOD:**

Written and oral comments are accepted January 18, 2011 through February 17, 2011, during regular business hours by contacting Jennifer K. Case, Oklahoma Department of Human Services, Aging Services Division, P.O. Box 25352, Oklahoma City, OK 73125, 405-521-4489.

**PUBLIC HEARING:**

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by the above listed person, no later than 5:00 p.m., February 17, 2011.

**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 no later than February 17, 2011 at 5:00 p.m.

**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, Office of Intergovernmental Relations and Policy, 405-521-4326.

*[OAR Docket #10-1449; filed 12-22-10]*

**TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION  
CHAPTER 15. PHYSICIAN ASSISTANTS**

*[OAR Docket #10-1445]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 3. Licensure of Physician Assistants

435:15-3-15. Approval to supervise more than two PAs [AMENDED]

**SUMMARY:**

The proposed amendment would add medical directors or supervising physicians employed by federal institutions to

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those who are exempt from the limit on number of PAs one physician may supervise

**AUTHORITY:**

Title 59 O.S., Section 519.3(D), State Board of Medical Licensure and Supervision

**COMMENT PERIOD:**

The comment period will run from January 18, 2011 to March 4, 2011. Written comments may be sent to the office of the Board, PO Box 18256, Oklahoma City, OK 73154-0256.

**PUBLIC HEARING:**

A public hearing will be held to provide an opportunity for persons to orally present their views on March 10, 2011, 9:00 a.m. at the office of the Board, 101 N.E. 51<sup>st</sup> Street, Oklahoma City, Oklahoma. Written notice of intent to make oral comment must be received by this office no later than March 4, 2011.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

n/a

**COPIES OF PROPOSED RULES:**

Copies of the proposed rules may be obtained at the office of the Board, 101 N.E. 51<sup>st</sup> Street, Oklahoma City, Oklahoma.

**RULE IMPACT STATEMENT:**

A rule impact statement will be prepared and available after January 18, 2010 at the office of the Board, 101 N.E. 51<sup>st</sup> Street, Oklahoma City, Oklahoma, 73105.

**CONTACT PERSON:**

Kathy Plant, Executive Secretary (405) 962-1400, ext. 122

*[OAR Docket #10-1445; filed 12-22-10]*

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### **TITLE 515. PARDON AND PAROLE BOARD CHAPTER 1. PROCEDURES OF THE PARDON AND PAROLE BOARD**

*[OAR Docket #10-1441]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rule making.

**PROPOSED RULES:**

Subchapter 3. General Operation

515:1-3-1. Office location and hours; communications  
[AMENDED]

**SUMMARY:**

The section concerning the agency location is being amended in order to remove a reference to the Agency's address. The proposed rule amendment will not change any parole docket dates.

**AUTHORITY:**

Pardon and Parole Board, 57 O.S. § 331 (2001).

**COMMENT PERIOD:**

Written comments will be accepted until February 18, 2011. Written comments may be mailed to Tracy George, General Counsel, at First National Center, 120 N. Robinson Ave., Suite

900W, Oklahoma City, Oklahoma 73102-7436, during the period from January 18, 2011 through February 18, 2011.

**PUBLIC HEARING:**

A public hearing has not been scheduled; however, pursuant to 75 O.S., Section 303(B)(9), "persons may demand a hearing" by contacting Tracy George, General Counsel at (405) 602-5863, ext. 2 no later than 5:00 p.m. on February 18, 2011.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

N/A

**COPIES OF PROPOSED RULES:**

Interested persons may obtain copies of proposed rules in person from the Pardon and Parole Board's office located at First National Center, 120 N. Robinson Ave., Suite 900W, Oklahoma City, Oklahoma or by written request to the attention of Tracy George, General Counsel at the address above. Copies of proposed rules may be obtained at a cost of .25¢ per page copying charge from the Pardon and Parole Board.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S., Section 303(D) a Rule Impact Statement will be prepared and will be available for review at the Pardon and Parole Board office, located at First National Center, 120 N. Robinson Ave., Suite 900W, Oklahoma City, Oklahoma, on or after publication of this Notice of Rulemaking Intent on January 18, 2011.

**CONTACT PERSON:**

Contact Tracy George, General Counsel, at (405) 602-5863 extension 2, if you have any questions.

*[OAR Docket #10-1441; filed 12-21-10]*

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### **TITLE 515. PARDON AND PAROLE BOARD CHAPTER 5. IT ACCESSIBILITY COMPLIANCE REPRESENTATIVE**

*[OAR Docket #10-1442]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rule making.

**PROPOSED RULES:**

Chapter 5. IT Accessibility Compliance Representative  
[NEW]

**SUMMARY:**

Oklahoma statutes implementing state agency compliance regarding accessibility of information technology for individuals with disabilities based on the provisions of Title 62 O.S., Section 41.5(t) and Section 508 of the Rehabilitation Act (29 U.S.C. 794(d), as amended by the Workforce Investment Act of 1998 (P.L. 105-220), August 7, 1998 require this Agency to promulgate new rules in order to designate an IT Accessibility Compliance Representative and procedures for any complaints received. The proposed new rule will not change any parole docket dates.

**AUTHORITY:**

Pardon and Parole Board, 57 O.S. § 331 (2001).  
OAC:260:15-1-5  
62 O.S., Section 34.28

**COMMENT PERIOD:**

Written comments will be accepted until February 18, 2011. Written comments may be mailed to Tracy George, General Counsel, at First National Center, 120 N. Robinson Ave., Suite 900W, Oklahoma City, Oklahoma 73102-7436, during the period from January 18, 2011 through February 18, 2011.

**PUBLIC HEARING:**

A public hearing has not been scheduled; however, pursuant to 75 O.S., Section 303(B)(9), "persons may demand a hearing" by contacting Tracy George, General Counsel at (405) 602-5863, ext. 2 no later than 5:00 p.m. on February 18, 2011.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

N/A

**COPIES OF PROPOSED RULES:**

Interested persons may obtain copies of proposed rules in person from the Pardon and Parole Board's office located at First National Center, 120 N. Robinson Ave., Suite 900W, Oklahoma City, Oklahoma or by written request to the attention of Tracy George, General Counsel at the address above. Copies of proposed rules may be obtained at a cost of .25¢ per page copying charge from the Pardon and Parole Board.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S., Section 303(D) a Rule Impact Statement will be prepared and will be available for review at the Pardon and Parole Board office, located at First National Center, 120 N. Robinson Ave., Suite 900W, Oklahoma City, Oklahoma, on or after publication of this Notice of Rulemaking Intent on January 18, 2011.

**CONTACT PERSON:**

Contact Tracy George, General Counsel, at (405) 602-5863 extension 2, if you have any questions.

*[OAR Docket #10-1442; filed 12-21-10]*

**TITLE 580. DEPARTMENT OF CENTRAL SERVICES  
CHAPTER 15. CENTRAL PURCHASING  
[REVOKED]**

*[OAR Docket #10-1374]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Chapter 15. Central Purchasing [REVOKED]

**SUMMARY:**

To achieve a complete reorganization of Chapter 15 and update the rules for clarification or better alignment with current statutes, DCS determined it is more efficient and in

the best interest of our customers to replace Chapter 15 with a new Chapter 16. The new and revised state purchasing rules (Chapter 16) are being promulgated and filed simultaneously with this revocation action.

**AUTHORITY:**

Director of the Department of Central Services; 74 O.S., Section 85.5

**COMMENT PERIOD:**

Persons wishing to present their views orally or in writing may do so before 5:00 p.m. on Wednesday, February 2, 2011, at the following address: Gerry Smedley, Department of Central Services, Administration, 2401 N. Lincoln Boulevard, Suite 206, P.O. Box 53218, Oklahoma City, OK 73152-3218. A person may submit e-mail comments to gerry\_smedley@dcs.state.ok.us

**PUBLIC HEARING:**

A public hearing will be held at the Department of Central Services, Will Rogers Office Building, Suite 214, 2401 N. Lincoln Boulevard, Oklahoma City, OK, on Thursday, February 3, 2011 at 10:00 a.m. Anyone who wishes to speak must sign in by 9:50 a.m. on that day.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

N/A

**COPIES OF PROPOSED RULES:**

Copies of proposed rules may be obtained from the Department of Central Services, Administration Division, 2401 N. Lincoln Boulevard, Suite 206, P.O. Box 53218, Oklahoma City, OK 73152-3218.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be available for review on and after January 18, 2011 at the Department of Central Services, Administration Division, 2401 N. Lincoln Boulevard, Suite 206, Oklahoma City, OK.

**CONTACT PERSON:**

Gerry Smedley, Administrative Rules Liaison, (405) 522-8519

*[OAR Docket #10-1374; filed 12-10-10]*

**TITLE 580. DEPARTMENT OF CENTRAL SERVICES  
CHAPTER 16. CENTRAL PURCHASING**

*[OAR Docket #10-1373]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Chapter 16. Central Purchasing [NEW]

**SUMMARY:**

Proposed rules in new Chapter 16 represent the reorganization of state purchasing rules currently codified in OAC 580:15. The reorganization represents a DCS effort to provide state agencies and suppliers doing business with the

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state a quality, user-friendly Chapter to work with. All rules currently located in Chapter 15 are transferred to Chapter 16 and contain some revisions and additions for clarification or updating to better correlate with the statutes.

### **AUTHORITY:**

Director of the Department of Central Services; 74 O.S., Section 85.5

### **COMMENT PERIOD:**

Persons wishing to present their views orally or in writing may do so before 5:00 p.m. on Wednesday, February 2, 2011, at the following address: Gerry Smedley, Department of Central Services, Administration, 2401 N. Lincoln Boulevard, Suite 206, P.O. Box 53218, Oklahoma City, OK 73152-3218. A person may submit e-mail comments to gerry\_smedley@dcs.state.ok.us

### **PUBLIC HEARING:**

A public hearing will be held at the Department of Central Services, Will Rogers Office Building, Suite 214, 2401 N. Lincoln Boulevard, Oklahoma City, OK, on Thursday, February 3, 2011 at 10:00 a.m. Anyone who wishes to speak must sign in by 9:50 a.m. on that day.

### **REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

N/A

### **COPIES OF PROPOSED RULES:**

Copies of proposed rules may be obtained from the Department of Central Services, Administration Division, 2401 N. Lincoln Boulevard, Suite 206, P.O. Box 53218, Oklahoma City, OK 73152-3218.

### **RULE IMPACT STATEMENT:**

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be available for review on and after January 18, 2011 at the Department of Central Services, Administration Division, 2401 N. Lincoln Boulevard, Suite 206, Oklahoma City, OK.

### **CONTACT PERSON:**

Gerry Smedley, Administrative Rules Liaison, (405) 522-8519

*[OAR Docket #10-1373; filed 12-10-10]*

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

*[OAR Docket #10-1452]*

### **RULEMAKING ACTION:**

Notice of proposed **PERMANENT** rulemaking

### **PROPOSED RULES:**

Chapter 65. Sales and Use Tax [AMENDED]

### **SUMMARY:**

Section 710:65-13-173, dealing with the sales tax exemption for medical appliances, medical devices and other medical equipment furnished to Medicare/Medicaid program recipients, has been amended concerning the documentation

required to substantiate claims for refunds by hospitals, nursing homes, similar institutions and practitioners, and to reclassify certain medical equipment. Section 710:65-19-330, dealing with telecommunications services, has been amended to include the definition of paging services.

In addition, other rule changes may be made to clarify policy, improve readability, correct scrivener's errors, remove obsolete language, update statutory citation, and insure accurate internal cross-references.

### **AUTHORITY:**

68 O.S. §§ 203, 1354.18, Oklahoma Tax Commission

### **COMMENT PERIOD:**

Persons wishing to make written submissions may do so by 4:30 p.m. February 18, 2011 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: February 22, 2011 at 9:30 a.m. in the 4<sup>th</sup> 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 4<sup>th</sup> 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 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 reviewed online at [www.oktax.state.ok.us](http://www.oktax.state.ok.us).

**RULE IMPACT STATEMENT:**

A Rule Impact Statement will be prepared and will be available for review from and after February 2, 2011 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 #10-1452; filed 12-22-10]

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

[OAR Docket #10-1379]

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

- 715:1-1-5 [AMENDED]
- 715:1-1-6 [AMENDED]
- 715:1-1-7 [AMENDED]
- 715:1-1-8 [AMENDED]
- 715:1-1-10 [AMENDED]
- 715:1-1-12 [AMENDED]

**SUMMARY:**

715:1-1-5, 715:1-1-6, 715:1-1-7, 715:1-1-8, 715:1-1-10, and 715:1-1-12 are being amended to change the title of the Executive Secretary of the Oklahoma Teachers Retirement System to Executive Director and the Assistant Executive Secretary to Assistant Executive Director, as mandated by HB 1935.

**AUTHORITY:**

70 O.S. Section 17-101, et seq., especially Section 17-106(10); Board of Trustees

**COMMENT PERIOD:**

Written comments may be made from January 18, 2011, through February 17, 2011, filed and available for inspection in the Office of the Executive Director, Teachers' Retirement System of Oklahoma, 5<sup>th</sup> Floor, Oliver Hodge Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma, from 8:00 a.m. until 4:30 p.m., Monday through Friday, excluding holidays, or by mailing same to the Executive Director, Teachers' Retirement System of Oklahoma, P.O. Box 53524, Oklahoma City, OK 73152.

**PUBLIC HEARING:**

A public hearing will be held from 9:00 a.m. to 10:00 a.m. on February 17, 2011, at the offices of the Teachers' Retirement System, 5<sup>th</sup> Floor, Oliver Hodge Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma. Written notice of intent to make oral comments is encouraged. Individuals who file a written notice to comment will be scheduled to speak before comments are accepted from the audience. Written notice

may be filed with the Executive Director, Teachers' Retirement System of Oklahoma, 5<sup>th</sup> Floor, Oliver Hodge Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma 73105, until 4:30 p.m. on February 17, 2011. Written notice may be mailed to: Executive Director, Teachers' Retirement System of Oklahoma, P.O. Box 53524, Oklahoma City, OK 73152

**REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:**

N/A

**COPIES OF PROPOSED RULES:**

Copies of the proposed rules may be obtained for review from the Teachers' Retirement System of Oklahoma, 5<sup>th</sup> Floor, Oliver Hodge Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma 73105, and also will be available on the TRS website ([www.ok.gov/TRS](http://www.ok.gov/TRS)).

**RULE IMPACT STATEMENT:**

The Oklahoma Teachers' Retirement System will issue a rule impact statement. Copies of the statement will be available on the TRS website ([www.ok.gov/TRS](http://www.ok.gov/TRS)) or may be obtained from the Teachers' Retirement System of Oklahoma, 5<sup>th</sup> Floor, Oliver Hodge Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma 73105, beginning January 10, 2011, between 8:00 a.m. and 4:30 p.m., Monday through Friday, excluding holidays.

**CONTACT PERSON:**

Kim Bold, Rules Liaison (405) 521-2387.

[OAR Docket #10-1379; filed 12-16-10]

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

[OAR Docket #10-1379A]

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

- Subchapter 1. Membership Provisions
- 715:10-1-7 [AMENDED]
- Subchapter 5. Establishing Other Service Credits
- 715:10-5-6 [AMENDED]
- 715:10-5-17 [AMENDED]
- 715:10-5-31 [AMENDED]
- Subchapter 9. Survivor Benefits
- 715:10-9-6 [AMENDED]
- Subchapter 11. Withdrawal From Membership and Refund of Deposits
- 715:10-11-2 [AMENDED]
- Subchapter 13. Contributions for Membership Service
- 715:10-13-1 [AMENDED]
- 715:10-13-9 [AMENDED]
- Subchapter 15. Service Retirement
- 715:10-15-5 [AMENDED]
- 715:10-15-24 [AMENDED]

## Notices of Rulemaking Intent

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Subchapter 17. Post-Retirement Employment

715:10-17-6 [AMENDED]

715:10-17-7 [AMENDED]

### SUMMARY:

715:10-1-7 is being amended to change the title of the Executive Secretary of the Oklahoma Teachers Retirement System to Executive Director, as mandated by HB 1935.

715:10-5-6 is being amended to change the title of the Executive Secretary of the Oklahoma Teachers Retirement System to Executive Director, as mandated by HB 1935.

715:10-5-17 is being amended to change the title of the Executive Secretary of the Oklahoma Teachers Retirement System to Executive Director, as mandated by HB 1935. Additionally, this rule is being amended to correct a typographical error in the first paragraph - the word "perform" is being changed to "performed."

715:10-5-31 is being amended to change the title of the Executive Secretary of the Oklahoma Teachers Retirement System to Executive Director, as mandated by HB 1935.

715:10-9-6 is being amended to change the title of the Executive Secretary of the Oklahoma Teachers Retirement System to Executive Director, as mandated by HB 1935.

715:10-11-2 is being amended to clarify when pre-tax contributions can be refunded to a terminating optional member; specifically, the amendment adds that pre-tax contributions can be refunded once the member turns 62.

715:10-13-1 is being amended to clarify fringe benefits and regular annual compensation. The amendment specifically excludes from regular annual compensation any employer contributions to a deferred compensation plan not provided to all qualified members of the employer.

715:10-13-9 is being amended to change the title of the Executive Secretary of the Oklahoma Teachers Retirement System to Executive Director, as mandated by HB 1935. Additionally, this rule is being amended to clarify the process for submitting monthly remittance reports from local school districts.

715:10-15-5 was adopted as an emergency rule and is being promulgated as a permanent rule to allow a member who elected a reduced benefit a one-time irrevocable election to change their retirement plan within sixty (60) days of the retirement date. Additionally, this rule will allow a member who elected the maximum benefit, and marries after the retirement date, a one-time election to change their retirement plan.

715:10-15-24 is being amended to change the title of the Executive Secretary of the Oklahoma Teachers Retirement System to Executive Director, as mandated by HB 1935.

715:10-17-6 is being amended to clarify post-retirement earnings limits; specifically, the amendment removes earnings limits on post-retirement employment for members who have been retired for 36 months or more.

715:10-17-7 is being amended to change the title of the Executive Secretary of the Oklahoma Teachers Retirement System to Executive Director, as mandated by HB 1935.

### AUTHORITY:

70 O.S. Section 17-101, et seq., especially Section 17-106(10); Board of Trustees

### COMMENT PERIOD:

Written comments may be made from January 18, 2011, through February 17, 2011, filed and available for inspection in the Office of the Executive Director, Teachers' Retirement System of Oklahoma, 5<sup>th</sup> Floor, Oliver Hodge Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma, from 8:00 a.m. until 4:30 p.m., Monday through Friday, excluding holidays, or by mailing same to the Executive Director, Teachers' Retirement System of Oklahoma, P.O. Box 53524, Oklahoma City, OK 73152.

### PUBLIC HEARING:

A public hearing will be held from 9:00 a.m. to 10:00 a.m. on February 17, 2011, at the offices of the Teachers' Retirement System, 5<sup>th</sup> Floor, Oliver Hodge Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma. Written notice of intent to make oral comments is encouraged. Individuals who file a written notice to comment will be scheduled to speak before comments are accepted from the audience. Written notice may be filed with the Executive Director, Teachers' Retirement System of Oklahoma, 5<sup>th</sup> Floor, Oliver Hodge Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma 73105, until 4:30 p.m. on February 17, 2011. Written notice may be mailed to: Executive Director, Teachers' Retirement System of Oklahoma, P.O. Box 53524, Oklahoma City, OK 73152

### REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

### COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained for review from the Teachers' Retirement System of Oklahoma, 5<sup>th</sup> Floor, Oliver Hodge Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma 73105, and also will be available on the TRS website ([www.ok.gov/TRS](http://www.ok.gov/TRS)).

### RULE IMPACT STATEMENT:

The Oklahoma Teachers' Retirement System will issue a rule impact statement. Copies of the statement will be available on the TRS website ([www.ok.gov/TRS](http://www.ok.gov/TRS)) or may be obtained from the Teachers' Retirement System of Oklahoma, 5<sup>th</sup> Floor, Oliver Hodge Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma 73105, beginning January 10, 2011, between 8:00 a.m. and 4:30 p.m., Monday through Friday, excluding holidays.

### CONTACT PERSON:

Kim Bold, Rules Liaison (405) 521-2387.

[OAR Docket #10-1379A; filed 12-16-10]

**TITLE 748. UNIFORM BUILDING CODE  
COMMISSION  
CHAPTER 20. ADOPTED CODES**

*[OAR Docket #10-1440]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

- Subchapter 1. General Provisions [RESERVED]
- Subchapter 3. [RESERVED]
- Subchapter 5. IRC 2009 [NEW]
- 748:20-5-1. Adoption of IRC 2009 [NEW]
- 748:20-5-2. Effect of Code [NEW]
- 748:20-5-3. IRC 2009 Appendices [NEW]
- 748:20-5-4. Provisions Adopted and Modified [NEW]
- 748:20-5-5. IRC 2009 Chapter 1 Scope and Administration [NEW]
- 748:20-5-6. IRC 2009 Chapter 3 Building Plans [NEW]
- 748:20-5-7. IRC 2009 Chapter 4 Foundations [NEW]
- 748:20-5-8. IRC 2009 Chapter 5 Floors [NEW]
- 748:20-5-9. IRC 2009 Chapter 6 Wall Construction [NEW]
- 748:20-5-10. IRC 2009 Chapter 7 Wall Covering [NEW]
- 748:20-5-11. IRC 2009 Chapter 8 Roof-Ceiling Construction [NEW]
- 748:20-5-12. IRC 2009 Chapter 11 Energy Efficiency [NEW]
- 748:20-5-13. IRC 2009 Chapter 15 Exhaust Systems [NEW]
- 748:20-5-14. IRC 2009 Chapter 24 Fuel Gas [NEW]
- 748:20-5-15. IRC 2009 Chapter 25 Plumbing Administration [NEW]
- 748:20-5-16. IRC 2009 Chapter 26 General Plumbing Requirements [NEW]
- 748:20-5-17. IRC 2009 Chapter 27 Plumbing Fixtures [NEW]
- 748:20-5-18. IRC 2009 Chapter 28 Water Heaters [NEW]
- 748:20-5-19. IRC 2009 Chapter 29 Water Supply and Distribution [NEW]
- 748:20-5-20. IRC 2009 Chapter 30 Sanitary Drainage [NEW]
- 748:20-5-21. IRC 2009 Chapter 31 Vents [NEW]
- 748:20-5-22. IRC 2009 Chapter 34 General Requirements (Electrical) [NEW]
- 748:20-5-23. IRC 2009 Chapter 40 Devices and Luminaries [NEW]

**SUMMARY:**

The Commission reserves Subchapter 1 "General Provisions" of Chapter 20, Title 748 for purposes of possible future rulemaking.

748:20-5-1, 20-5-2, 20-5-3 and 20-5-4 adopt the IRC 2009, without appendices, as the minimum standards for residential construction in the State of Oklahoma for one and two family dwellings and townhouses. 748:20-5-5 establishes that Chapter 1 of the IRC 2009 is adopted to the extent its

provisions are not inconsistent with other laws or lawfully established code administration and enforcement policies.

748:20-5-6, 20-5-7, 20-5-8, 20-5-9, 20-5-10, 20-5-11 and 20-5-12 set forth the Commission's adoption of Oklahoma modifications to the general building provisions of the IRC 2009.

748:20-5-13 and 20-5-14 set forth the Commission's adoption of Oklahoma modifications to the mechanical provisions of the IRC 2009.

748:20-5-15, 20-5-16, 20-5-17, 20-5-18, 20-5-19, 20-5-20 and 20-5-21 set forth the Commission's adoption of Oklahoma modifications to the plumbing provisions of the IRC 2009.

748:20-5-22 and 20-5-23 set forth the Commission's adoption of Oklahoma modifications to the electrical provisions of the IRC 2009.

**AUTHORITY:**

59 O.S. §§ 1000.23, 1000.24 and 1000.29; Uniform Building Code Commission

**COMMENT PERIOD:**

Written and oral comments will be accepted beginning January 18<sup>th</sup> and will be accepted through March 8, 2011, during regular business hours at the offices of the Oklahoma Uniform Building Code Commission. Written comments may be hand delivered to the Commission at the Offices of the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107 or may be mailed to the following address: Oklahoma Uniform Building Code Commission, P.O. Box 60410, Oklahoma City, Oklahoma 73146.

**PUBLIC HEARING:**

A public hearing on these proposed rules will be held at 10:00 A.M. on March 15, 2011, at a special meeting of the Uniform Building Code Commission in Room 101 South, Building 7 at the Francis Tuttle Technology Center, 12777 North Rockwell, Oklahoma City, Oklahoma 73142. Anyone who wishes to speak must sign in at the door by 10:05 A.M.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

The Uniform Building Code Commission requests that business entities affected by these proposed rules provide the Uniform Building Code Commission, within the comment period set forth and described above, in dollar amounts if possible, the increase in the level of direct costs, such as administrative fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs that the business entity expects to be incurred due to compliance with the proposed rules. Business entities may submit this information in writing to Kathleen Hehnlly at the above address, before the close of the comment period on March 8, 2011.

**COPIES OF PROPOSED RULES:**

Copies of the proposed rules may be obtained from the Uniform Building Code Commission at the offices of the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma 73107, before the close of the comment period on March 8, 2011. Proposed rules can found

## Notices of Rulemaking Intent

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on the Uniform Building Code Commission website at:  
[www.ok.gov/oubcc/code\\_&\\_rules](http://www.ok.gov/oubcc/code_&_rules)

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303 (D), a rule impact statement will be prepared prior to February 2, 2011, and may be obtained from the Uniform Building Code Commission at the offices of the Construction Industries Board at the above address.

**CONTACT PERSONS:**

Billy Pope, Chief Executive Officer 405.271.1595

Kathleen Hehny, Commission Secretary 405.271.1595

*[OAR Docket #10-1440; filed 12-21-10]*

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# Submissions for Review

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

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

## **TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION CHAPTER 1. GENERAL PROVISIONS**

*[OAR Docket #10-1380]*

### **RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

### **RULES:**

- Subchapter 1. General Provisions
- 240:1-1-2. Definitions [AMENDED]
- Subchapter 3. Records and Inspections
- 240:1-3-9. Release of Confidential Information to Specific Government Agencies [NEW]

### **SUBMITTED TO GOVERNOR:**

December 15, 2010

### **SUBMITTED TO HOUSE:**

December 15, 2010

### **SUBMITTED TO SENATE:**

December 15, 2010

*[OAR Docket #10-1380; filed 12-16-10]*

## **TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION CHAPTER 10. UNEMPLOYMENT INSURANCE PROGRAM**

*[OAR Docket #10-1381]*

### **RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

### **RULES:**

- Subchapter 1. General Provisions
- 240:10-1-2. Definitions [AMENDED]
- Subchapter 3. Benefits
- Part 5. Eligibility
- 240:10-3-23. Claims for total unemployment benefits [AMENDED]
- 240:10-3-29. Employer leave due to illness or disability [NEW]
- Subchapter 5. Contributions
- Part 3. Rates
- 240:10-5-15. Successor acquiring the experience rating account of predecessor [AMENDED]
- Part 19. Maintenance and Production of Work Records
- 240:10-5-91. Employer's Quarterly Contribution Wage Reports [AMENDED]
- 240:10-5-96. Application for Oklahoma UI Tax Account Number [NEW]

Subchapter 11. Assessment Board Procedures

Part 5. Hearings

240:10-11-20. Notice of hearings [AMENDED]

240:10-11-22. Conduct of hearings [AMENDED]

240:10-11-25. Motion to reopen after failure to appear [AMENDED]

Subchapter 13. Appeal Tribunal Procedures

Part 5. Hearings

240:10-13-33. ~~Notices~~ Notice of hearing [AMENDED]

240:10-13-40. Reopen [AMENDED]

240:10-13-42. Conduct of hearings [AMENDED]

### **SUBMITTED TO GOVERNOR:**

December 16, 2010

### **SUBMITTED TO HOUSE:**

December 16, 2010

### **SUBMITTED TO SENATE:**

December 16, 2010

*[OAR Docket #10-1381; filed 12-16-10]*

## **TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION CHAPTER 15. BOARD OF REVIEW PROCEDURES**

*[OAR Docket #10-1372]*

### **RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

### **RULES:**

- Subchapter 5. Hearings [REVOKED]
- 240:15-5-1. Request for hearing; new additional evidence [REVOKED]
- 240:15-5-1. Hearings; notice; Appeal Tribunal testimony; failure to appear [REVOKED]
- 240:15-5-3. Continuances [REVOKED]
- 240:15-5-4. Recording hearings [REVOKED]
- 240:15-5-5. Cameras [REVOKED]
- Subchapter 7. Witnesses and Subpoenas
- 240:15-7-1. Attendance at hearings [REVOKED]
- Subchapter 9. Records of the Board of Review
- 240:15-9-2. Board of Review records [AMENDED]
- Subchapter 11. Appeals to District Court
- 240:15-11-1. Board of Review decisions; appeal to district court [AMENDED]

### **SUBMITTED TO GOVERNOR:**

December 6, 2010

### **SUBMITTED TO HOUSE:**

December 6, 2010

## Submissions for Review

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**SUBMITTED TO SENATE:**

December 6, 2010

*[OAR Docket #10-1372; filed 12-10-10]*

**TITLE 240. OKLAHOMA EMPLOYMENT  
SECURITY COMMISSION  
CHAPTER 21. WORKFORCE INVESTMENT  
ACT**

*[OAR Docket #10-1382]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

Subchapter 9. Audits

240:21-9-2. Delinquent audit [AMENDED]

**SUBMITTED TO GOVERNOR:**

December 16, 2010

**SUBMITTED TO HOUSE:**

December 16, 2010

**SUBMITTED TO SENATE:**

December 16, 2010

*[OAR Docket #10-1382; filed 12-16-10]*

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

*[OAR Docket #10-1383]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

Subchapter 1. General Provisions

360:1-1-1.5. [AMENDED]

Subchapter 3. The Board

360:1-3-8. [AMENDED]

Subchapter 5. Grievance Panel Authority and Hearing  
Procedures

360:1-5-1. [AMENDED]

360:1-5-7. [AMENDED]

360:1-5-8. [AMENDED]

**SUBMITTED TO GOVERNOR:**

December 17, 2010

**SUBMITTED TO HOUSE:**

December 17, 2010

**SUBMITTED TO SENATE:**

December 17, 2010

*[OAR Docket #10-1383; filed 12-17-10]*

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

*[OAR Docket #10-1384]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

Subchapter 1. General Provisions

360:10-1-2. [AMENDED]

Subchapter 3. Administration of Plans

360:10-3-24. [AMENDED]

360:10-3-24.1. [AMENDED]

360:10-3-25. [AMENDED]

**SUBMITTED TO GOVERNOR:**

December 17, 2010

**SUBMITTED TO HOUSE:**

December 17, 2010

**SUBMITTED TO SENATE:**

December 17, 2010

*[OAR Docket #10-1384; filed 12-17-10]*

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# Gubernatorial Approvals

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

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

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

*[OAR Docket #10-1375]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules.

**PROPOSED RULE:**

325:25-1-32.[NEW]

**GUBERNATORIAL APPROVAL:**

December 1, 2010

*[OAR Docket #10-1375; filed 12-13-10]*

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

*[OAR Docket #10-1376]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules.

**PROPOSED RULE:**

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

**GUBERNATORIAL APPROVAL:**

December 1, 2010

*[OAR Docket #10-1376; filed 12-13-10]*

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# 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.*

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## **TITLE 655. SECRETARY OF STATE CHAPTER 25. NOTARY PUBLIC**

*[OAR Docket #10-1378]*

### **RULEMAKING ACTION:**

Withdrawal of permanent rulemaking

### **WITHDRAWN RULES:**

Chapter 25. Notary Public [AMENDED]

### **DATES:**

#### **Adoption:**

October 28, 2010

### **Submitted to governor:**

November 4, 2010

### **Submitted to House:**

November 4, 2010

### **Submitted to Senate:**

November 4, 2010

### **Withdrawn:**

December 15, 2010

*[OAR Docket #10-1378; filed 12-16-10]*

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# 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 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 75. CHILD WELFARE

*[OAR Docket #10-1377]*

### RULEMAKING ACTION:

EMERGENCY adoption

### RULES:

Subchapter 1. General Provisions of Child Welfare Services  
Part 3. Child Welfare Confidentiality  
340:75-1-44 [AMENDED]  
Subchapter 3. Child Protective Services  
340:75-3-6.1 [AMENDED]  
340:75-3-11 [AMENDED]  
340:75-3-13 [AMENDED]  
Subchapter 6. Permanency Planning  
Part 5. Permanency Planning Services  
340:75-6-31.3 [AMENDED]  
Part 11. Permanency Planning and Placement Services  
340:75-6-86 [AMENDED]  
340:75-6-88 [AMENDED]  
Subchapter 11. Child Welfare Community-Based Residential Care  
Part 17. Contracted Community-Based Residential Care Providers  
340:75-11-240 [AMENDED]  
Subchapter 13. Other Child Welfare Services and Medical Services for Children in Out-of-Home Care  
Part 7. Medical Services  
340:75-13-65 [REVOKED]  
Subchapter 15. Adoptions  
Part 2. Legal Base and Scope of the Adoption Program  
340:75-15-9 [AMENDED]  
Subchapter 16. Mental Health Treatment Services  
Part 1. Inpatient Mental Health Treatment  
340:75-16-30 [AMENDED]  
340:75-16-38 [AMENDED]  
**(Reference APA WF 10-12)**

### AUTHORITY:

Commission for Human Services, Article XXV, Sections 2 and 4 of the Oklahoma Constitution; House Bill 1741 (HB 1741); HB 1964; HB 3292; Section 1-6-103 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-6-103); 10A O.S. § 2-4-101; 10A O.S. § 1-6-103; 22 O.S. § 20; 10A O.S. § 1-4-101; 10A O.S. § 1-2-105; 10A O.S. § 1-4-806; 10A O.S. § 1-7-103; 10A O.S. § 1-4-804; 10A O.S. § 1-3-102; 10 O.S. § 7504-1.2; and 43A O.S. § 5-511.

### DATES:

#### Adoption:

October 26, 2010

#### Approved by Governor:

December 1, 2010

#### Effective:

Upon Governor's approval.

#### Expiration:

Effective through July 14, 2011, unless superseded by another rule or disapproved by the Legislature.

### SUPERSEDED EMERGENCY ACTIONS:

n/a

### INCORPORATIONS BY REFERENCE:

n/a

### FINDING OF EMERGENCY:

Emergency rulemaking approval is requested as Oklahoma Department of Human Services (OKDHS) finds a compelling public interest to conform rules to recently enacted statutes.

### ANALYSIS:

The proposed revision to Subchapter 5 of Chapter 25 amends the rule to help offset the budget shortfall by retaining interest collections assigned to the state of Oklahoma that are currently passed through or paid to custodial parents.

### CONTACT PERSON:

Dena Thayer at (405)521-4326

**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 1. GENERAL PROVISIONS OF CHILD WELFARE SERVICES

### PART 3. CHILD WELFARE CONFIDENTIALITY

#### 340:75-1-44. Disclosure of client information and records without a court order

(a) **Authorized persons.** Client information or records are, upon request and with verification of the requester's credentials, disclosed without a court order to the persons or entities listed in this subsection, pursuant to Section 1-6-103 of the Oklahoma Statutes of Title 10A.

- (1) **Courts.** Information and records are disclosed to:
  - (A) the court having the child currently before it in any proceeding pursuant to Title 10 or Title 10A of the Oklahoma Statutes;
  - (B) any district court or tribal court to which the proceedings may be transferred;
  - (C) employees and officers of the court in the performance of their duties, including but not limited to the guardian ad litem appointed by the court;
  - (D) court-appointed special advocates as defined in Section 1-1-105 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-1-105), in the course of their official duties pertaining to recruiting, screening,

## Emergency Adoptions

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- training, assigning cases, supervising and supporting volunteers in their roles as guardian ad litem pursuant to ~~Section 1-4-306 of Title 10A O.S. § 1-4-306 of the Oklahoma Statutes;~~
- (E) post-adjudication review boards who may inspect information that includes, but is not limited to:
- (i) psychological and medical records;
  - (ii) placement history and information, including the names and addresses of foster parents;
  - (iii) family assessments;
  - (iv) individualized service plans; and
  - (v) school records; and
- (F) any district court that has ordered a home study by the Oklahoma Department of Human Services (OKDHS) in a divorce, annulment, custody matter, guardianship, or any subsequent proceeding. OKDHS may limit disclosure to summaries or information directly necessary for the purposes of the disclosure.
- (2) **OKDHS employees.** OKDHS employees acting in the course of their official duties performed in connection with the implementation or administration of any program for children, youth, and families. The administration of programs includes:
- (A) any activity relating to the review, audit, or monitoring of Child Welfare (CW) service, program, or fiscal performance; and
  - (B) any activity in connection with potential or actual criminal, civil, or administrative proceedings relating to CW services and programs.
- (3) **Office of Juvenile System Oversight employees.** Any employee of the Office of Juvenile System Oversight acting in the course of his or her official duties performed in connection with any investigation, inquiry, audit, or inspection conducted pursuant to ~~Section 601.6 of Title 10 O.S. § 601.6 of the Oklahoma Statutes.~~
- (4) **DHHS employees.** Any employee of the United States Department of Health and Human Services (DHHS) or the Comptroller General of the United States acting in the course of his or her official duties performed in connection with any investigation, inquiry, audit, or inspection conducted pursuant to federal law.
- (5) **Office of the District Attorney employees.** Any employee of the Office of the District Attorney acting in the course of his or her official duties performed pursuant to Title 10A of the Oklahoma Statutes or in connection with the prosecution of crimes against children or in the capacity of advisor to a grand jury.
- (6) **Office of the Attorney General or United States Attorney employees.** Employees of the Office of the Attorney General or United States Attorney when acting in the course of their official duties performed pursuant to ~~Section 7002-3.1 of Title 10 of the Oklahoma Statutes 10A.~~
- (7) **Attorneys.** The attorney representing a child who is the subject of a proceeding conducted pursuant to the provisions of Title 10A of the Oklahoma Statutes or other proceeding where child custody or visitation is at issue.
- (8) **Law enforcement officers.** Any law enforcement officer of Oklahoma or another state, or military enclave with proper identification, who is:
- (A) conducting an investigation of a report of known or suspected child abuse or neglect or crimes against children; or
  - (B) determining whether to place an alleged deprived child in protective custody.
- (9) **Child protective services agency employees.** Employees of child protective services agencies in other states, or military enclave with proper identification, who are:
- (A) conducting an investigation of a report of known or suspected child abuse or neglect or crimes against children; or
  - (B) determining whether to place a child in protective custody.
- (10) **Indian tribes.** Pursuant to the Federal Indian Child Welfare Act, Section 1915 et seq. of Title 25 of the United States Code, and the Oklahoma Indian Child Welfare Act, Section 40 et seq., of Title 10 of the Oklahoma Statutes, a federally recognized Indian tribe:
- (A) with proper identification;
  - (B) in which the child who is the subject of the records filed with the court is a member or is eligible to become a member and is the biological child of a member of an Indian tribe; and
  - (C) who is performing the official duties of:
    - (i) investigating a report of known or suspected child abuse or neglect or crimes against children;
    - (ii) determining whether to place a child into protective custody;
    - (iii) providing or supervising services to or for the benefit of the child, including but not limited to protective, emergency, medical, and social services; or
    - (iv) the tribe, tribal court, or tribal CW program by:
      - (I) taking jurisdiction or intervening in the child's case; or
      - (II) being a party to the juvenile court proceedings pursuant to the authority provided in the Oklahoma Indian Child Welfare Act.
- (11) **Employees of a statutorily established juvenile bureau.** Employees of a statutorily established juvenile bureau pursuant to 10A O.S. § 2-4-101 with proper identification in the course of their official duties ~~pursuant to Sections 7305-1.1 et seq. of Title 10 of the Oklahoma Statutes.~~
- (12) **Child Death Review Board.** The Child Death Review Board upon the Board's request pursuant to ~~Section 1150.2 of Title 10 O.S. § 1150.2 of the Oklahoma Statutes.~~
- (13) **Physicians.** Any physician examining a child whom the physician suspects is a victim of child abuse or neglect.

- (14) **Health care or mental health professionals.** Any health care or mental health professional involved in the evaluation or treatment of the child, the child's parents, legal guardian, foster parent, custodian, or other family members.
- (15) **Multidisciplinary child abuse team.** Any multidisciplinary child abuse team designated by the administrator of OKDHS Field Operations Division or Children and Family Services Division as authorized to review confidential information to:
- (A) investigate a report of known or suspected child abuse or neglect; or
  - (B) provide services to a child or family who is the subject of the report.
- (16) **Public or private agency.** Any public or private agency or person authorized by OKDHS to diagnose or provide care, treatment, supervision, or other services to a child who is the subject of a report or record of child abuse or neglect. OKDHS may limit the disclosure of information and records to a summary of or the information directly necessary for the purpose of the disclosure.
- (17) **OHCA.** Any employee of the Oklahoma Health Care Authority (OHCA) acting in the course of his or her official duties.
- (18) **Medical Examiner.** When a medical examiner when determining the cause of death of a child.
- (19) **OJA.** Any employee of the Office of Juvenile Affairs (OJA) acting in the course of his or her official duties.
- (20) **OCCY.** Any employee of the Oklahoma Commission on Children and Youth (OCCY) acting in the course of his or her official duties.
- (21) **The Governor of Oklahoma.** The Governor or any person the Governor designates in writing.
- (22) **Legislators.** Any member of the legislature approved in writing by the Speaker of the House or the President Pro Tempore of the Senate.
- (23) **Persons or agencies engaging in research.** Persons or agencies engaging in research, provided that the person or agency:
- (A) is employed by or under contract with the State of Oklahoma and is authorized by OKDHS to conduct the research; and
  - (B) ensures that:
    - (i) all documents containing identifying information are securely maintained to prohibit unauthorized access;
    - (ii) identifying information is not included in any document generated for the research; and
    - (iii) identifying information is deleted from documents when the research is completed.
- (24) **Foster parents.** Information and records concerning the social, medical, psychological, or educational needs of a child currently placed with or being considered for placement with foster parents are disclosed to the foster parents. Foster parents with whom a child is currently placed are provided a copy of the court-approved individualized service plan and progress reports.
- (25) **Schools.** A summary of or the information directly necessary for the school to know regarding a child enrolled in the school is disclosed upon the request for the information by the school. Any information disclosed to the school is kept confidential.
- (26) **Department of Corrections employees.** An employee of any federal or state corrections or law enforcement agency in the performance of the official duties of the employee concerning pre-sentence investigations or supervision of a parent of an alleged or adjudicated deprived child or the legal guardian, custodian, or any other adult member of the child's home who is responsible for the health, safety, or welfare of the child.
- (27) **Adoptions.** Any person or agency authorized to receive any paper record pursuant to the Oklahoma Adoption Code pertaining to a child who is the subject of an adoption proceeding or relatives who are related to the child within the third degree of consanguinity.
- (28) **Child support enforcement employees.** Employees of ~~the OKDHS~~ Oklahoma Child Support Services or ~~any other state child support enforcement agency~~ agencies in the performance of the official duties of the employee concerning the establishment of paternity or the establishment or enforcement of a child support order or other entitlement for the benefit of a child. Disclosure is limited to information related directly to the purpose of the disclosure.
- (29) **Parent, legal guardian, or custodian.** A parent, legal guardian, or custodian of the child who is the subject of the records, provided that the records disclosed are limited to juvenile court records that are records filed with the court. All other agency records pertaining to or related to any alleged or adjudicated abuse or neglect of the child may not be inspected or disclosed.
- (A) Information about the child is withheld from the parent only when a court order is in effect that prohibits the parent from obtaining information about the child.
  - (B) The parent may not inspect the case record, but information may be disclosed in accordance with this Section.
  - (C) If the child is removed from the child's home or placement, the child's parent(s) is informed of the child's general location, but not the specific address.
  - (D) With the foster parent's consent, the foster parent's name and address are disclosed when requested as part of the family reunification effort.
- (30) **Youth 18 and older.** Any youth leaving out-of-home placement at the age of 18 or older, or an adult who was in OKDHS custody as a child, is entitled to the individual's health and education records maintained in the case record at no cost.
- (b) **Disclosure when child is in need of services.** ~~Any client information or record may be disclosed without a court order to any person or agency when the disclosure of confidential information is necessary to secure appropriate care, treatment, or supervision for a child and as may be necessary in conducting~~

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~~any investigation to determine whether a child is taken into protective custody or may otherwise come within the jurisdiction of the juvenile court. Disclosure pursuant to this subsection is limited to summaries or information reasonably necessary for the purpose of securing needed services or conducting an investigation. Pursuant to 10A O.S. 1-6-103, OKDHS may disclose confidential information as necessary to secure appropriate care, treatment, protection, or supervision of a child alleged to be abused or neglected.~~

(c) **Disclosure limited.**

(1) Request for disclosure of information must be made in writing to OKDHS per OAC 340:75-1-46 and ~~Sections 10 O.S. §§ 620.1 through 620.4 of Title 10 of the Oklahoma Statutes.~~

(2) Authorized persons receiving information are notified at the time of disclosure that the information remains confidential by law and may not be further disclosed.

(3) Information disclosed is limited to the specific information or record relevant to the need of the person offered or requesting confidential information.

(4) OKDHS does not disclose the identity or location of any person who has reported child abuse or neglect, unless specifically ordered by the court.

(d) **Media inquiries.** The confidentiality rules for inquiries govern case-specific information and requests from the public and the media. Inquiries may provide opportunities to discuss CW programs and services, in general, with the public or media representatives.

(e) **Disclosure in cases of death or near death of a child.**

~~When~~ Pursuant to 10A O.S. § 1-6-105, when a person responsible for a child is charged with committing a crime resulting in the child's death or near death, as defined in OAC 340:75-3-2, the best interests of the public are served by public disclosure of information concerning the investigation of the death or near death of the child and any other investigations concerning the child or other children living in the same household within three years of, and one year after, the death or near death.

(1) Any disclosure of information does not identify or provide, other than the identity of the person criminally charged:

- (A) an identifying description of any complainant or reporter of child abuse or neglect;
- (B) the name of the child victim's siblings or other children living in the same household;
- (C) the parent or other person responsible for the child; or
- (D) any other member of the household.

(2) ~~at~~ At any time seven days after but no more than 30 days, from the date the person responsible for the child is criminally charged, OKDHS, OCCY, the district court clerk, the judge having jurisdiction over the case, or the district attorney may upon request, release to the public:

- (A) confirmation that a report has been made concerning the alleged victim or other children living in the same household and whether an investigation has begun;

(B) confirmation as to whether previous reports were made and the dates and a summary of the previous reports, including:

- (i) the dates and outcomes of any investigations or actions taken by OKDHS in response to any report of child abuse or neglect;
- (ii) the specific recommendation made to the district attorney by OKDHS; and
- (iii) any action taken by the district attorney after submission of any investigative report; and

(C) the dates of any judicial proceeding prior to the child's death or near death, including:

- (i) specific recommendations made by OKDHS in any progress reports submitted to the court;
- (ii) a summary of each participant's recommendations made at the judicial proceedings, including recommendations made at the hearing as they relate to the custody or placement of the child; and
- (iii) the rulings of the court.

### SUBCHAPTER 3. CHILD PROTECTIVE SERVICES

#### 340:75-3-6.1. ~~Exceptional reports~~ Reports of child abuse and neglect with specialized protocols

Reports of child abuse and neglect with specialized protocols considered for assessment or investigation include, but are not limited to:

- (1) reports resulting from child custody or visitation proceedings, per Section 1-4-102 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-4-102);
- (2) anonymous reports;
- (3) Child Protective Services (CPS) reports regarding an Oklahoma Department of Human Services (OKDHS) employee;
- (4) reports of abuse or neglect in an active permanency planning or voluntary Family-Centered Services (FCS) case;
- (5) newborns in an active permanency planning or voluntary FCS case;
- (6) reports regarding a child whose address is confidential per the Address Confidentiality Program (ACP) (22 O.S. § 60.14);
- (7) reports regarding Indian children;
- (8) reports regarding abandoned newborns;
- (9) reports regarding children in foster or trial adoptive homes;
- (10) reports of abuse or neglect in child care center or home;
- (11) reports of alleged medical neglect of infants born alive and infants with disabilities;
- (12) reports of a child death or near death;
- (13) new report(s) on open assessments or investigations;

- (14) reports from the court, per 10A O.S. § 1-4-102 and 22 O.S. § 20; and
- (15) reports of abuse or neglect by someone other than the person responsible for the child (PRFC) per 10A O.S. § 1-2-102.

(A) OKDHS makes a referral, either verbally or in writing, to the appropriate local law enforcement agency for the purpose of conducting a possible criminal investigation, when, upon receipt of a report alleging abuse or neglect or during the assessment or investigation, OKDHS determines that the:

- (i) ~~the~~ alleged perpetrator is someone other than a person responsible for the child's health, safety, or welfare; and
- (ii) ~~the~~ alleged abuse or neglect of the child does not appear to be attributable to failure on the part of a person responsible for the child's health, safety, or welfare to provide protection for the child.

(B) After making the referral to the law enforcement agency, OKDHS is not responsible for further investigation unless:

- (i) OKDHS has reason to believe the alleged perpetrator is a parent of another child, not the subject of the criminal investigation, or is otherwise a person responsible for the health, safety, or welfare of another child;
- (ii) notice is received from a law enforcement agency that it has determined the alleged perpetrator is a parent of or a person responsible for the health, safety, or welfare of another child not the subject of the criminal investigation; or
- (iii) the appropriate law enforcement agency requests OKDHS, in writing, to participate in the investigation. If funds and personnel are available, as determined by the ~~Director of OKDHS~~ Director, or designee, OKDHS may assist law enforcement in interviewing children alleged to be victims of physical or sexual abuse.

**340:75-3-11. Reports to the District Attorney regarding child abuse or neglect investigations**

(a) ~~Section Sections~~ Sections 1-2-102 and 1-4-101 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-2-102 and 10A O.S. § 1-4-101), ~~provides provide~~ that a complete written report of the child abuse or neglect investigation conducted by Oklahoma Department of Human Services be made and that the report, together with its recommendations, be submitted to the appropriate district attorney's office where:

- (1) ~~the child is found;~~
- (2) ~~the child resides, or has resided for six months preceding the filing;~~
- (3) ~~the alleged acts of deprivation occurred; or~~
- (4) ~~a parent or sibling has a deprived action pending; or~~
- (4) if none of the locations are known, in the county where the child is found.

(b) A petition for a deprived child proceeding is filed within seven judicial days from the date the child is taken into custody, unless, upon request of the district attorney at the emergency custody hearing, the court determines there are compelling reasons to grant additional time for the filing of the petition for a period of time not to exceed 15 calendar days from the assumption of custody, per 10A O.S. § 1-4-205.

**340:75-3-13. Completion of the Child Protective Services assessment or investigation process**

(a) **Determination of services.** ~~Per Pursuant~~ to Section 1-2-105 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-2-105), Oklahoma Department of Human Services (OKDHS), where appropriate and in its discretion, identifies prevention and intervention-related services available in the community and arranges for services to be provided to the family when an investigation or assessment indicates the family would benefit from services or OKDHS may provide services directly.

- (1) Attempts to provide, refer, or arrange voluntary services are documented in the OKDHS record.
- (2) OKDHS determines within 60 days whether the family has accessed services directly related to safety of the child.
- (3) When the family refuses voluntary services or does not access services directly related to the safety of the child, and it is determined by OKDHS that the child's surroundings endanger the health, safety, or welfare of the child, OKDHS may recommend the child be placed in protective or emergency custody, or that a petition be filed.

(b) **Notification of assessment conclusion or investigative finding to person responsible for the child (PRFC).**

- (1) Following completion of the assessment, the CW worker notifies each PRFC of the conclusion.
- (2) Following completion of the investigation, the Child Welfare (CW) worker notifies each PRFC of any findings pertaining to ~~the PRFC them~~.

(c) **Disclosure of information to reporter of child abuse or neglect.** Per 10A O.S. § 1-6-102, OKDHS may summarize the outcome of an investigation to the person who reported a known or suspected instance of child abuse or neglect or to any person providing services to a child who is or is alleged to be a victim of child abuse.

(d) **Disclosure of findings or conclusions and other information to persons or agencies providing professional services.**

- (1) ~~Per Pursuant~~ to 10A O.S. § 1-2-107, OKDHS may provide information to a person or agency that provides professional services such as medical examination of or therapeutic intervention with a victim of abuse or neglect. This information may include, but is not limited to:
  - (A) the investigative determination; or
  - (B) the services offered and provided.
- (2) OKDHS forwards to any hospital or any physician, including, but not limited to, doctors of medicine and dentistry, licensed osteopathic physicians, residents and interns, reporting the abuse or neglect of a child ~~pursuant~~

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~~to~~ per 10A O.S. § 1-2-101, information including the investigative determination, the services offered or provided, and such other information deemed necessary by OKDHS. The information is entered and maintained in the child's medical records of the child record.

### SUBCHAPTER 6. PERMANENCY PLANNING

#### PART 5. PERMANENCY PLANNING SERVICES

##### 340:75-6-31.3. Trial reunification

~~(a) To further protect children, Trial home reunification supervision of child in Oklahoma Department of Human Services (OKDHS) custody. Pursuant to Sections 1-4-806 and 1-7-103(A)(2)(f) of Title 10A of the Oklahoma Statutes provides...The court may order a trial home reunification by returning the child to the care of the parent or legal guardian from whom the child was removed for a period not to exceed six (6) months. the court may order a trial home reunification by returning the child to the care of the parent or legal guardian from whom the child was removed for a period not to exceed six months, provided when determined necessary, the court may extend the period of trial reunification to a specific date, by entering an extension order prior to the expiration of the initial six-month trial reunification period. During the period of the trial reunification, OKDHS:~~

- ~~(1) continues to have legal custody of the child, permitting OKDHS to visit the child in the home of the parent, at school, in a child care facility, or any other setting OKDHS deems necessary and appropriate;~~
- ~~(2) continues to provide appropriate services to the parent, if eligible, and the child;~~
- ~~(3) terminates the trial home reunification and removes the child to out-of-home placement, without court order or authorization, when necessary to protect the child's health, safety, or welfare; and~~
- ~~(4) advises the court and parties within three judicial days of the termination of the trial home reunification when terminated by OKDHS without a court order.~~

~~(b) Trial home reunification supervision of a child not in OKDHS custody. The Department shall, if ordered by the court, provide supervision of children adjudicated deprived who are placed by the court in the custody of a parent, relative, or other responsible person. Such supervision shall be in accordance with rules promulgated by the Department. Per Section 1-4-806 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-4-806), upon completion of the six-month trial home reunification period or any extension of the trial home reunification, the court may extend supervision of the child in the home by awarding legal custody of the child to the parent or legal guardian with whom the child is reunited and order OKDHS to provide supervision per OAC 340:75-6-48.~~

~~(c) Extended supervision of trial home reunification. The duration of the extended supervision may not exceed six months except in circumstances the court finds appropriate~~

and necessary to protect the health, safety, or welfare of the child, per 10A O.S. § 1-4-806.

(d) Report required when trial home reunification terminated. When trial home reunification is terminated by OKDHS or by court order, OKDHS prepares a report for the court describing the circumstances of the child during the trial home reunification period and recommends court orders, when appropriate, to provide for the safety and stability of the child, in accordance with 10A O.S. § 1-4-806.

#### PART 11. PERMANENCY PLANNING AND PLACEMENT SERVICES

##### 340:75-6-86. Changes in child's living arrangements

~~(a) Notification requirement when a child in Oklahoma Department of Human Services (OKDHS) custody is moved from one location to another. Section 7003-5-4a 1-4-804 of Title 10A of the Oklahoma Statutes (10A O.S. 1-4-804) requires that when a child in Oklahoma Department of Human Services (OKDHS) custody is moved from one location to another, OKDHS must notify, within a reasonable time after OKDHS is made aware of the need for movement, but in no event less than five judicial days prior to movement unless an emergency exists the:~~

- ~~(1) court of jurisdiction;~~
- ~~(2) child's attorney;~~
- ~~(3) district attorney;~~
- ~~(4) Post Adjudication Review Board (PARB); and~~
- ~~(5) court-appointed special advocate (CASA); and~~
- ~~(6) guardian ad litem of the child, if any.~~

~~(b) Notification to parents. The parent(s), legal guardian, or custodian involved with the child and court case is informed of: Emergency movement of a child in OKDHS custody. "Emergency," as used in 10A O.S. § 1-4-804, means movement of a child that is:~~

- ~~(1) all changes in the child's living arrangements;~~
- ~~(2) the address of the child's placement when case circumstances allow; and~~
- ~~(3) the child's location when needed for scheduled family visits or correspondence.~~

- ~~(1) pursuant to an order of the court including, but not limited to, an order authorizing placement of a child with a parent or sibling;~~
- ~~(2) immediate removal of the child without delay or notice requested by the child-placing agency or foster parent of the child;~~
- ~~(3) for emergency medical or mental health treatment;~~
- ~~(4) for substantial noncompliance by a foster parent or child-placing agency with applicable placement standards and agreements such that the child is in imminent danger;~~
- ~~or~~
- ~~(5) due to a pending investigation of an allegation of abuse or neglect of a child by a foster parent or child-placing agency or other person residing in the foster family home.~~

~~(c) Prior court approval required to change placement after a hearing. Child Welfare may not move a child from~~

~~one placement to another without court approval if the child has already moved once since the last court hearing. A child may be moved due to an emergency, but a hearing may be conducted if requested in writing within ten days after moving the child. Court approval is not required for movement to or from a shelter due to an emergency, including a placement failure, placement disruption, or other similar cause. [10 O.S. § 7003-5.4a(B)(1) through (3)]~~ **Removal from foster care and required notification when a child has resided in the foster home for three months or more.** Pursuant to 10A O.S. § 1-4-805, ~~Except~~ except in an emergency, when a child has been in a foster home three months or more, written notice is provided to the foster parent, including tribal, emergency, therapeutic, Developmental Disabilities Services Division (DDSD), regular, and kinship care, and to the court five judicial days prior to removal of the child from the placement. The length of time applies to placement in each individual therapeutic or emergency foster care home and not placement with the therapeutic or emergency foster care agency. OKDHS ~~does not remove the child from the foster home solely on the grounds that a foster parent exercised substitute parental authority.~~

**(d) Foster parent's objection to removal of when a child has resided in the foster home for more than six months.** When a child has been in the same foster home for more than six months, the foster parent has the ~~legal~~ right to file a written objection to the child's removal from the foster home per 10A O.S. § 1-4-805. ~~[10 O.S. § 7208(D)]~~ This objection must be filed with the court and served on OKDHS within five judicial days after receipt of the notice to remove the child. Timely filing and service of the objection ~~shall stay~~ stays removal of the child pending review by the court, unless the reason OKDHS stated for removal is:

- ~~(A) reunification with a parent(s) with prior approval of the court; or~~
- ~~(B) based upon an emergency situation, that includes:~~
  - ~~(i) the child's need for emergency medical or mental health treatment;~~
  - ~~(ii) substantial noncompliance by the foster parent with applicable contract requirements and agreements; or~~
  - ~~(iii) a pending investigation of allegations of abuse or neglect of a child by a foster parent or other person residing in the foster family home due to an emergency, as defined in subsection (b) of this Section including:~~

- (1) placement of a child with a parent or a sibling pursuant to an order of the court;
- (2) immediate removal of the child without delay or notice requested by the child-placing agency or foster parent of the child;
- (3) for emergency medical or mental health treatment;
- (4) for substantial noncompliance by a foster parent or child-placing agency with applicable placement standards and agreements such that the child is in imminent danger; or

(5) due to a pending investigation of an allegation of abuse or neglect of a child by a foster parent or child-placing agency or other person residing in the foster family home.

**(2e) Hearing on any party or foster parent's objection to removal of child.** When a child is being removed from a foster home and any party or the foster parent has filed an objection, an informal placement review hearing ~~on the objection~~ is held within 15 judicial days per 10A O.S. § 1-4-805. ~~At the hearing the worker informs the court of the reason(s) for removing the child and the number of times the child has been moved.~~

- ~~(A) If the court finds the OKDHS decision to remove the child was arbitrary or inconsistent with the child's treatment and service plan, the court may order the child to remain in or be returned to the objecting foster parent's home.~~
- ~~(B) If the court upholds the OKDHS decision, the court explains, in the court record, why removal of the child from the foster home is in the best interests of the child. The court may order that the child remain in, or be returned to, the home of the objecting foster parent if the court finds the OKDHS placement decision was arbitrary, inconsistent with the child's permanency plan, or not in the best interests of the child.~~

**340:75-6-88. Medical services for children in Oklahoma Department of Human Services (OKDHS) custody**

**(a) Medical services for a child in OKDHS custody in out-of-home care.**

(1) Section 1-7-103 of Title 10A of the Oklahoma Statutes requires OKDHS to provide medical care necessary to preserve the health of the child in accordance with the provisions of the Oklahoma Children's Code. A child in OKDHS custody receives:

- (4A) Early Periodic, Screening, Diagnosis, and Treatment (EPSDT) screening according to the schedule of frequency, or at a minimum an annual physical exam. In addition, OKDHS provides, as soon as practicable, after the filing of the petition, an initial health screening for each child placed in OKDHS emergency custody, to identify any health problems that require immediate treatment, diagnose infections and communicable diseases, and evaluate injuries or other signs of abuse or neglect.
- (2B) a yearly behavioral health or developmental screening, and if when recommended, a behavioral health or developmental assessment, within 60 days of the screening;
- (3C) a yearly dental exam for children when the child is over three years of age. Children A child under the age of three years receive receives dental services as needed;
- (4D) initiation of immunizations initiated and that are kept current;
- (5E) a visual and hearing evaluation exams exam and corrective lenses or hearing aides, if when indicated;

## Emergency Adoptions

- (6F) outpatient or inpatient behavioral mental health treatment, when appropriate;
- (7G) physician's services, if when the child is sick. This service is not considered a physical exam; and
- (8H) follow-up and referral services as recommended by a qualified professional.
- (b) **Consent for medical services.**
- (1) **Consent.** Consent is informed consent, requiring an explanation of the necessity for the procedure involved, any known risks involved, and, when appropriate, any alternative course of care.
- (2) **Extraordinary medical care or treatment.** Section 1-3-102 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-3-102), provides that extraordinary medical care and treatment, includes, but is not limited to:
- (A) surgery;
- (B) general anesthesia;
- (C) blood transfusions; or
- (D) invasive or experimental procedures.
- (3) **Routine and ordinary medical care and treatment.** 10A O.S. § 1-3-102 provides that routine and ordinary medical care and treatment does not include any type of extraordinary care or treatment and includes, but is not limited to:
- (A) any necessary medical and dental examinations and treatment;
- (B) medical screenings;
- (C) clinical laboratory tests;
- (D) blood testing;
- (E) preventative care;
- (F) health assessments;
- (G) physical examinations;
- (H) immunizations;
- (I) contagious or infectious disease screenings;
- (J) tests and care required for treatment of illness and injury, including:
- (i) x-rays; and
- (ii) stitches and casts; or
- (K) the provision of psychotropic medication.
- (4) **OKDHS authority to consent to routine and ordinary medical care and treatment.**
- (A) OKDHS may consent to routine and ordinary medical care and treatment when a child is in OKDHS voluntary, emergency, temporary, or permanent custody. OKDHS makes reasonable attempts, in accordance with 10A O.S. § 1-3-102, to:
- (i) notify the child's parent or legal guardian of the provision of routine and ordinary medical care and treatment; and
- (ii) keep the parent or legal guardian involved in the care.
- (B) OKDHS may authorize, in writing, any person, foster parent, or administrator of a facility into whose care the child is entrusted to consent to routine and ordinary medical care and treatment to be provided to a child upon the advice of a licensed physician, including the continuation of psychotropic medication. Providers are not granted authority to consent to new
- psychotropic medications when a separate and specific consent is requested.
- (5) **Consent for extraordinary medical care.**
- (A) When a child is in OKDHS voluntary, emergency, or temporary custody, consent for the child's extraordinary medical care and treatment is obtained from the parent or legal guardian unless the:
- (i) parent is unavailable to provide consent;
- (ii) parent refuses to consent; or
- (iii) care and treatment is related to the suspected abuse or neglect.
- (B) Court authority is required for extraordinary medical care and treatment when the:
- (i) child is in OKDHS permanent custody;
- (ii) parent is unavailable to provide consent;
- (iii) parent refuses to provide consent; or
- (iv) care and treatment is related to the suspected abuse or neglect.
- (C) When the recommended extraordinary medical care and treatment is not an emergency, the court, per 10A O.S. § 1-3-102:
- (i) holds a hearing, upon the application of the district attorney and notice to all parties; and
- (ii) may authorize the recommended extraordinary care and treatment.
- (D) OKDHS does not consent to a child's abortion, sterilization, termination of life support, or a Do Not Resuscitate order. The court may authorize the withdrawal of life-sustaining medical treatment or the denial of the administration of cardiopulmonary resuscitation on behalf of a child in OKDHS custody, upon the written recommendation of a licensed physician, after notice to the parties and a hearing.
- (E) No OKDHS employee is authorized to consent to extraordinary medical care and treatment for any child in OKDHS voluntary, emergency, temporary, or permanent custody.
- (6) **Medical consent for child in protective custody.**
- (A) Per 10A O.S. § 1-3-102, when a child taken into protective custody without a court order requires emergency medical care prior to the emergency custody hearing, a peace officer, court employee, or the court may authorize treatment as necessary to safeguard the health and life of the child when:
- (i) the treatment is related to the suspected abuse and neglect;
- (ii) the parent or guardian is unavailable to consent to the treatment recommended by a physician; or
- (iii) the parent or guardian refuses to consent to the treatment recommended by a physician.
- (B) Before a peace officer, court employee, or the court authorizes treatment based on unavailability of the parent or legal guardian, law enforcement exercises diligence in locating the parent or guardian, if known.
- (7) **Consent for medical care for child in own home.** The parent, of a child in OKDHS custody placed in his

or her own home, consents to routine and ordinary medical care and treatment and extraordinary medical care and treatment.

(8) **Consent for extraordinary medical care for a child who has traveled out-of-state.** When a child is out-of-state and requires extraordinary medical care and treatment, the judge may authorize the physician or medical facility to provide the extraordinary medical care via a verbal or written order.

(9) **Experimental medical procedures.** Medical procedures that are experimental are not compensable through Medicaid and must be authorized by the OKDHS Director, Human Services Centers chief operating officer, or the Children and Family Services Division director.

**SUBCHAPTER 11. CHILD WELFARE  
COMMUNITY-BASED RESIDENTIAL CARE**

**PART 17. CONTRACTED COMMUNITY-BASED  
RESIDENTIAL CARE PROVIDERS**

**340:75-11-240. General requirements for contracted  
community-based residential care  
placement providers**

All contracted community-based residential care (CBRC) providers must:

- (1) maintain a written case record on each child that documents all services provided or obtained for the child while in placement;
- (2) implement and review an individualized treatment plan for each child in placement, with documented input of the child's Child Welfare (CW) county of jurisdiction worker, according to the requirements set forth in the Oklahoma Department of Human Services (OKDHS) contract;
- (3) assume responsibility for basic needs maintenance of each child placed;
- (4) accept responsibility for a reasonable knowledge of the child's whereabouts at all times.

- (A) When a child:
  - (i) is removed by anyone without authorization;
  - (ii) is taken into custody by law enforcement officials;
  - (iii) runs away; or
  - (iv) otherwise cannot be accounted for, the provider notifies by phone the:
    - (I) CW county of jurisdiction worker;
    - (II) facility CW CBRC liaison; and
    - (III) police.

(B) The provider submits a written report to the child's CW county of jurisdiction worker describing the circumstances surrounding the incident and files a copy in the child's case record;

(5) ensure the child timely receives all needed routine, specialized, and emergency medical care provided by a medical provider who accepts Medicaid payment.

(A) Prior consultation and consent from OKDHS, child's parent(s), and the court, ~~if when~~ applicable, as set out by Section 1-3-102 of Title 10A of the Oklahoma Statutes, are required for:

- (i) emergency medical care. When appropriate OKDHS staff cannot be located and the situation is life-threatening, the provider obtains emergency care and treatment and notifies OKDHS at the earliest possible time; and
- (ii) any extraordinary medical care and treatment, such as surgery, general anesthesia, blood transfusions, invasive or experimental procedures; ~~or the provision of psychotropic medications and requires consent of the:~~

(I) ~~consent of the~~ child's parent or guardian, ~~if when~~ the child is in OKDHS emergency or temporary custody of OKDHS; or

(II) ~~consent of the~~ court of legal jurisdiction, ~~if when~~ the child is in the OKDHS emergency or temporary custody of OKDHS, and the treatment is related to the abuse or neglect, or the parent is unavailable or will not consent; or

(III) ~~consent of the~~ court of jurisdiction, ~~if when~~ the child is in the OKDHS permanent custody of OKDHS.

(B) Prior consultation and consent from OKDHS and the child's parent(s), is not required for routine and ordinary medical care, unless a separate and specific consent for care and treatment is requested from the physician or medical facility. Refer to OAC 340:75-6-88 Instructions to Staff. Provision of all medical or dental care is documented in the provider's case record, including notification and attempts of notification in ~~emergency situations~~ emergencies;

(6) notify the CW county of jurisdiction worker and the contract liaison of any accidental or non-accidental injuries sustained by the child;

(7) ensure that the religious and cultural observations of the child comply with OAC 340:75-6-49.

(A) The provider arranges transportation to the nearest place of worship of the child's choice. On-site voluntary religious services are acceptable.

(B) Exceptions to this requirement are made for non-funded contracts with faith-based CBRC providers that require the child's and parent(s)' agreement for the child to attend a specific place of worship as a requirement for admission;

(8) develop and implement written policy and procedures regarding each child's access to legal counsel, court-appointed special advocate (CASA), OKDHS staff, phone, mail, and visitation, per OAC 340:75-11-237 and 340:75-6-30;

(9) develop and implement written policy and procedures regarding securing and safeguarding each child's

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property and funds, the disbursement of allowances, and items allowed and not allowed into the placement;

(10) ensure each child is discharged with all personal items and clothing;

(11) obtain prior approval from the CW county of jurisdiction worker any time the child travels overnight outside of the county of placement per OAC 340:75-6-89;

(12) develop and implement written policy and procedures defining situations in which any person, other than family members previously approved by the CW county of jurisdiction worker, may take the child away from the placement on a day pass, not to exceed six hours, without supervision of the provider. The provider:

(A) does not allow a child any overnight visitation, except with peers per OAC 340:75-7-37, without prior planning and documented written approval of the child's CW county of jurisdiction worker. A home study is:

(i) completed on the overnight visitation resource, either by a CW worker in the county where the resource is located or by the contractor ~~if when~~ the contractor is a licensed child-placing agency; and

(ii) approved by the CW county of jurisdiction worker and supervisor prior to the child's overnight visitation;

(B) does not secure any placement without prior planning and documented written approval of the CW county of jurisdiction worker; and

(C) when utilizing volunteers, ensures the provider's policy for approval and utilization of volunteers complies with OAC 340:2-35-4;

(13) develop and implement written policy and procedures that prohibit the utilization of children for commercial purposes;

(14) submit written reports to the child's CW county of jurisdiction worker describing the child's stay in placement, progress toward meeting identified treatment goals, education, and medical care on a quarterly basis, or more frequently ~~if when~~ requested for court hearings, and file a copy of the reports in the child's case record;

(15) develop and implement written policy and procedures for discipline that comply with OAC 340:75-7-38, and Section 1-7-105 of Title 10A of the Oklahoma Statutes that prohibit the use of solitary confinement, separation programs, use of mechanical restraints, and administration of medicine as discipline.

(A) Room restriction may be utilized in the child's own room for a cooling off period not to exceed 60 minutes.

(B) The duration of the restriction is specified at the time of the assignment;

(16) ensure all employees are trained in an approved passive physical restraint curriculum per OAC 340:75-11-237;

(17) develop and implement written policy and procedures that require the contractor, and all employees of the contractor, having reason to believe any child in placement

has been subjected to physical abuse, neglect, or both, to report the matter to the OKDHS Office of Client Advocacy ~~and the child abuse hotline.~~

(A) The provider makes the report to the Office of Client Advocacy the same day of the incident or the next working day ~~if when~~ an incident occurs evenings, weekends, or holidays.

(B) Failure to report is a criminal misdemeanor offense and upon conviction punishable under 10A O.S. § 1-2-101;

(18) develop and implement written policy ~~that prohibits~~ to prohibit:

(A) possession of or use of tobacco and tobacco products by children in placement; and

(B) use of tobacco or tobacco products by the provider, employees of the provider, or visitors in the presence of children in placement, and designates clearly marked smoking areas outside of the children's placement and treatment areas;

(19) develop and implement written policy for the resolution of grievances by recipients of the services provided under the contract regarding the substance or application of any written or unwritten policy or rule of the contractor, or any decision, act, or omission of the contractor, or employees or agents of the contractor. The contractor:

(A) utilizes a grievance system in compliance with OAC 340:2-3-45 through 340:2-3-47 and 340:2-3-61 through 340:2-3-64; and

(B) submits policy regarding the resolution of grievances, and any subsequent revisions, to the Office of Client Advocacy for approval prior to the placement of any child, per OAC 340:2-3-45;

(20) develop and implement written policy and procedures ~~in accordance with~~ pursuant to OAC 340:75-1-120;

(21) develop and implement written policy and procedures that certify compliance in providing or continuing to provide a drug-free workplace in accordance with the Drug-Free Workplace Act of 1988;

(22) develop and implement written policy and procedures to maintain strict standards of confidentiality regarding children in placement in compliance with OKDHS requirements regarding the absolute protection, use, and release of personal client information consistent with 10A O.S. § 1-6-107 and OAC 340:75-1-42 through 340:75-1-46, and professional standards. The contractor agrees to hold confidential all personal information about children served, including lists of names, addresses, photographs, records of evaluation, and all other records about each child;

(23) submit monthly and annual reports to the Children and Family Services Division (CFSD) CBRC programs manager to provide an overview of the provider's activities.

(A) The monthly report includes:

(i) information on each child's progress toward goals and objectives;

(ii) significant behavior events, including descriptions of delinquent acts committed and the

- legal and judicial consequences of the delinquent acts committed by each child;
- (iii) each child's absent without leave (AWOL) days;
  - (iv) total bed days utilized;
  - (v) each child's leave days utilized;
  - (vi) total number of children served during the month, the number of children served who are also adjudicated delinquent, and the total number of children served who are adjudicated delinquent and in the custody of Office of Juvenile Affairs custody;
  - (vii) number of children admitted during the month;
  - (viii) number of children discharged during the month and the reasons for ~~those~~ discharges; and
  - (ix) vacancies in contract mandated staffing requirements, and other significant program events.
- (B) The annual report, due within 60 days after the end of the contract year, includes the information listed in OAC 340:75-11-240(23)(A) for the contract year;
- (24) plan and coordinate each child's discharge with the child's CW county of jurisdiction worker and provide a minimum of 48 hours notice to discharge, except in medical or psychiatric emergencies. Contractor's recommendation for discharge is approved by the child's CW county of jurisdiction worker prior to the provider's implementation of the discharge plan;
- (25) submit a written discharge summary to the child's CW county of jurisdiction worker within 30 days of discharge and file a copy in the child's case record, including a summary of treatment services, child's progress on treatment goals, reason for discharge, and recommendations for future placements and services for the child's treatment needs;
- (26) ensure all staff comply, as applicable, with the minimum licensing standards defined in the Oklahoma Child Care Services standards for child-placing agencies or OKDHS Publication No. 86-78, Licensing Requirements for Residential Child Care Facilities, or OAC 340:75-11-286;
- (27) ensure all staff comply with the staffing requirements mandated in the contract that are in addition to the minimum staffing requirements in OKDHS Publication No. 86-78.
- (A) ~~If~~ When the provider's actual staffing pattern differs from the requirements set forth in the contract, the provider submits a written plan to the CBRC programs manager that defines the proposed staffing pattern of the contractor and clearly illustrates how each of the staffing functions are provided.
  - (B) The provider's proposed staffing pattern requires written approval of the CBRC programs manager prior to implementation of the provider's proposed staffing pattern;
- (28) fill vacant positions required by the OKDHS contract within 30 days of the position becoming vacant. The

- contractor notifies the CBRC programs manager in writing:
- (A) when contractually required positions are vacant;
  - (B) of updates during the selection process; and
  - (C) of the effective hiring date for these positions;
- (29) develop and implement written policy and procedures regarding corrective discipline ~~procedures~~ for employees;
- (30) notify the CBRC programs manager immediately by phone, and in writing within two ~~working~~ business days, of any critical incidents that may have grave consequences, such as:
- (A) the death of a child or employee caused by murder, suicide, or accident;
  - (B) severe injury to a child as a result of abuse, neglect, or maltreatment by a service provider, employee, or another child;
  - (C) misappropriation of state or federal funds by an employee of a private or public service agency that receives these funds;
  - (D) a violent crime committed by a child against another person; or
  - (E) any event that occurs in the facility that gains or is likely to gain media attention;
- (31) ~~if provide 60-day notice to the local school board prior to the opening of the facility per 70 O.S. § 1-113, when required by terms of the OKDHS contract to provide an on-site educational program, provide 60 day notice to the local school board prior to the opening of the facility per 70 O.S. § 1-113; and~~
- (32) maintain a current Life Book, in a format separate from the provider's case record, for each child placed, regardless of the child's age, that documents the child's stay in care and provides continuity throughout the child's life, per OAC 340:75-7-37. The provider:
- (A) when the child's Life Book is not provided by the CW county of jurisdiction worker, initiates and maintains a Life Book with current information about the child while in placement including, but not limited to:
    - (i) placement name and address;
    - (ii) date of admission and discharge;
    - (iii) educational history;
    - (iv) medical history;
    - (v) awards and achievements;
    - (vi) photographs; and
    - (vii) family information; and
  - (B) gives the Life Book to the child and CW county of jurisdiction worker when the child is discharged.

**SUBCHAPTER 13. OTHER CHILD WELFARE SERVICES AND MEDICAL SERVICES FOR CHILDREN IN OUT-OF-HOME CARE**

**PART 7. MEDICAL SERVICES**

## Emergency Adoptions

### 340:75-13-65. Consent for medical services

#### [REVOKED]

(a) **Consent.** ~~Consent is informed consent, requiring an explanation of the necessity for the procedure involved, any known risks involved, and, when appropriate, any alternative course of care.~~

(b) **Emergency medical care or treatment.** ~~Emergency medical care or treatment is medical care or treatment provided by a qualified medical practitioner in circumstances presenting an imminent and substantial threat to a child's life or health.~~

(c) **Extraordinary medical care or treatment.** ~~Per Section 1-3-102 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-3-102), extraordinary medical care or treatment is medical care or treatment provided by a qualified medical practitioner using procedures or medications that are substantially invasive or restrictive or involve significant risk of harm, including, but not limited to;~~

- (1) surgery;
- (2) general anesthesia;
- (3) blood transfusions;
- (4) invasive or experimental procedures; or
- (5) the provision of psychotropic medications.

(d) **Routine and ordinary medical care and treatment.** ~~Routine and ordinary medical care and treatment does not include any type of extraordinary care and includes, but is not limited to:~~

- (1) any necessary medical and dental examinations and treatment;
- (2) medical screenings;
- (3) clinical laboratory tests;
- (4) blood testing;
- (5) preventative care;
- (6) health assessments;
- (7) physical examinations;
- (8) immunizations;
- (9) contagious or infectious disease screenings; or
- (10) tests and care required for treatment of illness and injury, including:
  - (A) x-rays; and
  - (B) stitches and casts.

(e) **Oklahoma Department of Human Services (OKDHS) Authority to consent.**

(1) ~~OKDHS may consent to routine and ordinary medical care and treatment when a child is in voluntary, emergency, temporary, or permanent OKDHS custody and makes reasonable attempts to notify the child's parent or legal guardian of the provision of routine and ordinary medical care and treatment.~~

(2) ~~OKDHS may authorize, in writing, any person, foster parent, or administrator of a facility into whose care the child is entrusted to consent to routine and ordinary medical care and treatment to be provided to a child upon the advice of a licensed physician, including the continuation of psychotropic medication.~~

(f) **Consent for extraordinary medical care.**

(1) ~~If a child is in the voluntary, emergency, temporary, or permanent OKDHS custody, consent for the child's extraordinary medical care and treatment is obtained from the parent or legal guardian unless:~~

- (A) the parent is unavailable to provide consent;
- (B) the parent refuses to consent; or
- (C) the treatment is related to suspected abuse or neglect.

(2) ~~Court authority is required for extraordinary medical care and treatment when:~~

- (A) the child is in OKDHS permanent custody;
- (B) the parent is unavailable to provide consent;
- (C) the parent refuses to provide consent; or
- (D) the extraordinary medical care and treatment is related to the suspected abused or neglect.

(3) ~~In the case of an emergency, based on the recommendation of a physician, the court may enter an ex parte order authorizing treatment or procedures to safeguard the child's health or life.~~

(4) ~~If the recommended extraordinary medical care and treatment is not an emergency, the court:~~

- (A) must hold a hearing, upon the application of the district attorney;
- (B) provides notice to all parties; and
- (C) may authorize the recommended extraordinary care and treatment.

(5) ~~OKDHS does not consent to a child's abortion, sterilization, termination of life support, or a Do Not Resuscitate order. The court may authorize the withdrawal of life sustaining medical treatment or the denial of the administration of cardiopulmonary resuscitation on behalf of a child in OKDHS custody, upon the written recommendation of a licensed physician, after notice to the parties and a hearing.~~

(6) ~~No OKDHS employee is authorized to consent to emergency or extraordinary medical care and treatment for any child in voluntary, emergency, temporary, or permanent OKDHS custody.~~

(g) **Medical consent for child in protective custody.**

(1) ~~When a child is taken into protective custody without a court order and requires emergency or extraordinary medical care, law enforcement, a designated court employee, or the court may authorize treatment as necessary to safeguard the health and life of the child when:~~

- (A) the treatment is related to the suspected abuse and neglect;
- (B) the parent or guardian is unavailable to consent to the treatment recommended by a physician; or
- (C) the parent or guardian refuses to consent to the treatment recommended by a physician.

(2) ~~Law enforcement or the designated court employee must exercise diligence in locating the parent or guardian, if known, prior to authorizing treatment based on the unavailability of the parent or guardian.~~

(h) **Reasonable attempts to contact parents or legal guardians.** ~~The CW worker makes reasonable attempts to secure parental consent for emergency or extraordinary medical services provided to children in OKDHS custody.~~

A reasonable attempt includes attempts to contact parents by phone to inform them of necessary medical services. If services will be provided at a medical facility or by a medical practitioner, the parent(s) is required to contact the facility or practitioner directly. The CW worker facilitates contact, if needed.

(i) ~~Consent for child in own home.~~ The parent(s) of a child placed in OKDHS legal custody and own home consents to routine and ordinary medical care and treatment and emergency or extraordinary medical care and treatment. When the facility or provider requires authorization in addition to the parent(s) consent, the court is notified.

(j) ~~Consent for emergency medical care for a child traveling out of state.~~ The judge, authorizes the foster parent to give consent for emergency medical care to a child in OKDHS custody for travel purposes via Form 04FC006E, Travel and Medical Authorization.

(k) ~~Medical care unavailable locally.~~ When a child in out of home placement needs medical care outside the county of residence, the attending physician makes the recommendation and referral. If the physician recommends treatment he or she cannot give, but does not make the referral, the CW worker in the county where the child is receiving care makes the appointment.

(l) ~~Experimental medical procedures.~~ Medical procedures that are experimental are not compensable through Medicaid and must be authorized by the Oklahoma Department of Human Services (OKDHS) Director, Human Services Centers chief operating officer, or Children and Family Services Division director.

to 10 O.S. § 7504-1.2, when a minor is in OKDHS legal custody, his or her medical and social history may be disclosed to the prospective adoptive parent without any agreement and without redacting identifying information when the prospective adoptive parent is a kinship or relative caregiver for the minor, or the minor has lived in the prospective adoptive parent's home for two or more years, unless OKDHS determines redaction of such information is in the best interest of the child.

(2) Oklahoma Commission on Children and Youth (OCCY) access to pre-adoption or adoption records. Pursuant to 10 O.S. § 601.6, OCCY may access, examine, and copy OKDHS Child Welfare records. This includes records regarding the transition of the child in the custody of OKDHS into adoptive placement from foster care status. Pursuant to 10 O.S. § 7505-1.1, adoption records are confidential and not open to inspection except for good cause shown and upon an order of the court of record.

(23) Non-identifying information Adoption assistance records. All records regarding adoption assistance are confidential.

(3) Identifying information redacted. The adoptive family is not identified in any form in the child's birth family record or in reports to the court in the child's juvenile court case. The Oklahoma Commission on Children and Youth (OCCY) may have access to records regarding the transition of children in the custody of OKDHS into adoptive placement from foster care status. These records are redacted by OKDHS to exclude any information identifying the adoptive parent(s). When OCCY requests access to records pertaining to a child in adoptive placement, the State Office, CFSD Post Adoption Services Section is notified prior to the release of any information for direction in processing the request.

(4) Oklahoma Mutual Consent Voluntary Registry. Certain types of non-identifying information may be released when Form 04CI002E, Oklahoma Mutual Consent Voluntary Registry, is submitted by an adoptive family or adult adoptee, per OAC 340:75-15-132.

SUBCHAPTER 15. ADOPTIONS

PART 2. LEGAL BASE AND SCOPE OF THE ADOPTION PROGRAM

340:75-15-9. Confidentiality

Section 7505-1.1 of Title 10 of the Oklahoma Statutes (10 O.S. § 7505-1.1) requires that all papers and records pertaining to the adoption ~~shall be~~ are confidential except as authorized by Sections 7504-1.2, 7505-6.6, 7508-1.2, and 7508-1.3 of Title 10 or upon order of a court of record for good cause shown. The adoption case record includes the child's case file and the adoptive family resource files. These files are ~~considered an adoption record~~ records once they become part of an authorized adoptive placement, per OAC 340:75-15-103.

(1) ~~Locked files.~~ Adoption records are kept in locked files or desks to ensure confidentiality. ~~After an adoption is finalized on a child placed by the Oklahoma Department of Human Services (OKDHS), the adoption record, including the child's birth family record, adoptive placement record, and the adoptive resource file, is kept in locked storage in the State Office, Children and Family Services Division (CFSD), Post Adoption Services Section.~~Disclosure of medical and social history. Pursuant

SUBCHAPTER 16. MENTAL HEALTH TREATMENT SERVICES

PART 1. INPATIENT MENTAL HEALTH TREATMENT

340:75-16-30. Admission to inpatient mental health treatment

The inpatient reviewer facilitates all inpatient mental health services for children in ~~the custody of the Oklahoma Department of Human Services (OKDHS)~~ custody prior to admission.

(1) **Inpatient review.** An inpatient review is required for Title XIX Medicaid reimbursement of acute inpatient mental health treatment and residential mental health treatment for children in OKDHS custody.

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- (A) The inpatient reviewer is responsible for:
- determining whether the child meets medical necessity criteria for inpatient treatment; and
  - completing the medical necessity review form at APS Healthcare and submitting to the facility.
- (B) The inpatient review is a phone review to determine the level of inpatient mental health treatment needed by the child, based on the medical necessity criteria developed for each level of treatment, acute and residential, per OAC 317:30-5-95.2.
- (2) **Authorization and denial.** Authorization for the length of services is approved at the time of admission for treatment. ~~If~~ When the inpatient reviewer denies inpatient mental health treatment for the child, the Child Welfare (CW) worker may request reconsideration of the decision by the inpatient reviewer.
- (3) **Admission.** When the inpatient reviewer authorizes inpatient mental health treatment based on the facility assessment, the child is admitted to an inpatient mental health treatment facility on an emergency basis for up to five days from the time of admission, excluding weekends and holidays.
- (A) The CW worker gives notification of the emergency inpatient admission to the child's attorney, court-appointed special advocate (CASA), guardian ad litem, post adjudication review board (PARB), judge, and district attorney no later than the next business day following the child's admission to the facility.
- (B) A mental health evaluation, per Section 5-507 of Title 43A of the Oklahoma Statutes (43A O.S. § 5-507), is:
- completed by a licensed mental health professional at the inpatient facility and a report is provided to the district attorney within 48 hours of admission, excluding weekends and holidays; and
  - attached to the petition requesting inpatient treatment.
- (4) **Petition.** After filing the petition, the district attorney obtains a pre-hearing detention order authorizing the child to remain inpatient pending the hearing.
- (A) The hearing is set within one to three judicial days from the filing of the petition.
- (B) The child is detained in the mental health treatment facility ~~for~~ no longer than necessary for a hearing on the petition as provided by ~~Section 5-510 of Title 43A of the Oklahoma Statutes~~ 43A O.S. § 5-510.
- (C) The inpatient facility submits a proposed individualized treatment plan to the court 24 hours in advance of the scheduled hearing.
- (5) **Hearing.** At the hearing, the court determines whether by clear and convincing evidence the child is a minor in need of mental health and substance abuse treatment. When the court:
- finds the child is not a minor in need of mental health and substance abuse treatment, the court dismisses the commitment case;
  - finds the child is a minor in need of mental health and substance abuse treatment, but does not require inpatient treatment, the court may order mental health and substance abuse treatment or services through a less restrictive alternative;
  - finds the child is a minor in need of mental health and substance abuse treatment and requires inpatient treatment in an inpatient mental health treatment facility, the court orders the commitment of the child to a mental health treatment facility for not more than 30 days; or
  - commits a child to a mental health treatment facility for inpatient treatment, the court sets the case for review every 30 days from the date of the commitment hearing provided the child receives inpatient treatment.
- (6) **Telephonic or teleconference hearing.** ~~Section 1-4-503 of Title 10A of the Oklahoma Statutes, if authorized by the court, Per 43A O.S. 5-511, provides that when~~ authorized by the court, any proceeding held pursuant to the ~~Oklahoma Children's Code~~ Inpatient Mental Health and Substance Abuse Treatment of Minors Act may be conducted via teleconference communication; provided, that when a parent or child appears for a proceeding via teleconference, the attorney representing that parent or child personally appears at the hearing. Teleconference communication means participation in the hearing by interactive telecommunication, including telephonic communication, by the absent party, parties present in court, the attorneys, and other participants deemed necessary to the proceeding including, but not limited to, foster parents and facility staff where a child may be receiving care or treatment.
- (7) **Individualized treatment plan.** An individualized treatment plan is submitted by the facility within ten days after the order authorizing inpatient treatment.
- (8) **Progress report.** The inpatient facility submits a report on progress and recommendations three days prior to any review hearing.
- (9) **Child's rights.** The child's rights during the commitment process include:
- notice of hearing;
  - representation by an attorney;
  - right to a private hearing unless the judge directs otherwise according to the statute;
  - right to a jury trial; and
  - right to cross examine.
- 340:75-16-38. Children's rights Rights of children in an inpatient mental health treatment facility**
- (a) The facility strictly prohibits all forms of corporal punishment, abuse, neglect, or other mistreatment of residents as required by state law and Oklahoma Department of Human Services (OKDHS) policy. The facility agrees to comply with the terms of OKDHS policy on mistreatment investigations

~~found~~ at per OAC 340:2-3-32 through 340:2-3-37, and immediately reports as provided in policy any abuse, neglect, or mistreatment of a resident to the Office of Client Advocacy.

(b) The facility agrees to cooperate in any investigation made pursuant to a report of abuse, neglect, or mistreatment, and makes available to the investigator all records pertaining to an incident of abuse, neglect, or mistreatment, including personnel records ~~if~~ when needed.

(c) The facility operates a system for the resolution of grievances by residents regarding the application of any written or unwritten policy or rule of the facility, or any decision, behavior, or action by the facility, its agents, or employees. The grievance system used by the facility complies with the OKDHS grievance policy for private and public agencies ~~found~~ at per OAC 340:2-3-45 through 340:2-3-47 and 340:2-3-49, and is approved by the Office of Client Advocacy. The facility submits to the Office of Client Advocacy, on a monthly basis, a copy of any grievance filed during that month by residents who are in OKDHS custody.

(d) Residents are not subjected to unreasonable silence rules, group punishment for inappropriate individual acts, profanity, verbal abuse, or threats of unnecessary or unauthorized physical force by staff, or "make work"; provided that nothing herein prevents children from performing routine housekeeping tasks, or maintenance work directly related to a vocational program, such as specific skill training. Maintenance work directly related to a vocational program must be part of a resident's individualized treatment plan, be performed voluntarily, must monetarily compensate the resident at a percentage of the minimum hourly wage that is equal to the amount of work completed as a percentage of the total work that would normally be completed by a skilled adult, and the work conditions must comply with applicable law and regulations.

(e) The facility provides, whether on or off campus, education and training for each resident that conforms with the course of instruction approved by the State Board of Education, as provided by 70 O.S. § 11-103. The facility assures that educational opportunities are available that will satisfy each resident's special educational requirements, in accord with 70 O.S. § 13-101 et seq., and all applicable federal laws. Services are provided or arranged for by the facility for those residents who are deemed by the facility, the school system, or OKDHS in need of services.

(f) The religious preferences of residents are respected and each resident has reasonable opportunity to practice the religion of his or her choice.

(g) The facility allows residents visitation with parents, other family members, and legal guardians, unless otherwise ordered by a court of jurisdiction. In ~~emergency~~ situations ~~emergencies~~, based upon demonstrable evidence, the resident's physician may disapprove visitation by specific family members and legal guardians. The facility involves the child's Child Welfare (CW) worker in the decision to disapprove visitation and in determining the need for subsequent denials. Disapproval of visitation is not extended beyond the next court review of the resident's case without a court order. In every instance of disapproved visitation, the facility fully documents the reasons for disapproval and promptly notifies and informs

the resident's CW worker of the reasons. The facility maintains a written schedule of reasonable visiting days and hours, a copy of which is provided to each resident's parent or legal guardian. The visitation schedule accommodates the special needs of working family members. Attorneys are permitted to visit privately with residents during business hours and at all other reasonable times by arrangement with facility administration. The facility may ask attorneys to verify the existence of an attorney-client relationship, or the request for attorney visitation may be orally confirmed by the resident. In no case is attorney visitation denied when the visitation has been requested by the resident. Residents are permitted reasonable access to an unmonitored telephone to make or receive calls from attorneys and family members who have not been denied visitation by the court or the resident's physician.

(h) The facility allows residents to send and receive written correspondence. The facility assures the delivery of incoming mail and posting of outgoing mail within 24 hours, excluding weekends and holidays. Unless permission is given by the resident, on a case-by-case basis, written correspondence is not read or censored, but may be inspected for contraband. When mail is opened for inspection of contraband, it is done by the resident in the presence of facility staff. Correspondence may be denied, based upon demonstrable evidence by the resident's physician in specific instances where it is clearly documented that the correspondence is from someone whose continued relationship poses, or may pose, a decided detriment to the resident's care and treatment. In each case involving the denial of written correspondence, the facility physician fully documents reasons, promptly notifies and informs resident's CW worker of the reasons. The facility actively involves the resident's CW worker in the decision of subsequent denial. In cases where correspondence is denied, the facility promptly returns the correspondence to the sender.

(i) Medications such as stimulants, tranquilizers, or psychotropics may be administered only as a part of a program of medically approved therapy, are included in the resident's individual treatment plan, and are listed in the facility's formulary. Prior to the implementation of the order of such medication, the resident's county CW worker and the resident are informed of the benefits and hazards of the medication. ~~If~~ When the county worker cannot be located, the facility informs the facility liaison. ~~If~~ When the liaison is unavailable, the county worker's supervisor or county director or designee is informed. The administration or dispensing of such drugs is periodically monitored by a licensed psychiatrist according to accepted medical standards. The use of medication for punishment, experimentation and research, staff convenience, control, or program management is prohibited.

~~(1) The administration of any psychotropic medication is considered extraordinary medical care and treatment and, requires the consent of the parent or guardian if the child is in emergency or temporary custody.~~

~~(2) If the child's parent or guardian cannot or will not consent to the medication or if the child is in OKDHS permanent custody a court order is required from the court of jurisdiction.~~

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~~(3) If the recommended extraordinary treatment is not an emergency, a hearing may be held upon the application of the district attorney, with notice provided to all parties, and the court may authorize the recommended care or treatment.~~

(j) The resident has the right to refuse medications and such medications cannot be administered to the resident unless a court order is obtained authorizing its forcible administration;

except in situations that pose a serious threat to life or health of the resident, necessary medication prescribed by a physician may be forcibly administered by staff trained in the administration of medication who are familiar with the resident's condition.

*[OAR Docket #10-1377; filed 12-15-10]*

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