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

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State Board of Examiners of <b>PSYCHOLOGISTS</b>	575	Oklahoma <b>WHEAT</b> Commission	795
Department of <b>CENTRAL</b> Services ( <i>Formerly: Office of PUBLIC Affairs</i> )	580	Department of <b>WILDLIFE</b> Conservation	800
<b>PUBLIC</b> Employees Relations Board	585	<b>WILL</b> Rogers and J.M. Davis Memorials Commission	805
Oklahoma <b>PUBLIC</b> Employees Retirement System	590		
Department of <b>PUBLIC</b> Safety	595		
<b>REAL</b> Estate Appraiser Board	600		
Oklahoma <b>REAL</b> Estate Commission	605		
Board of Regents of <b>REDLANDS</b> Community College ( <i>exempted 11-1-98</i> )	607		
State <b>REGENTS</b> for Higher Education	610		
State Department of <b>REHABILITATION</b> Services	612		
Board of Regents of <b>ROGERS</b> State College ( <i>exempted 11-1-98</i> )	615		
Board of Regents of <b>ROSE</b> State College ( <i>exempted 11-1-98</i> )	620		

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

*[OAR Docket #11-1258]*

### **RULEMAKING ACTION:**

Notice of proposed **PERMANENT** rulemaking

### **PROPOSED RULES:**

- Subchapter 36. Scrapie
- 35:15-36-3 [AMENDED]
- Subchapter 45. Brucellosis in Cervidae
- Part 3. Rules Adopted from USDA Uniform Methods and Rules for Brucellosis in Cervidae
- 35:15-45-37 [REVOKED]
- 35:15-45-39 [AMENDED]

### **SUMMARY:**

The proposed new and amended rules establish procedures for the expiration of pesticide registrations

### **AUTHORITY:**

Oklahoma State Board of Agriculture; 2 O.S. §§ 2-4, 6-501 et seq.; Article 6, Section 31, Constitution of the State of Oklahoma.

### **COMMENT PERIOD:**

Persons may submit written comments to Bennett Abbott at [bennett.abbott@ag.ok.gov](mailto:bennett.abbott@ag.ok.gov), 2800 North Lincoln Boulevard, P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804 during the period from January 17, 2012 through February 22, 2012.

### **PUBLIC HEARING:**

A public hearing will be held at 10:00 a.m., February 22, 2012 in the Board Room, located at the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

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

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Bennett Abbott at the above address during the period from January 17, 2012 through February 22, 2012.

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

Copies of proposed rules may be obtained by visiting [www.ag.ok.gov/proposedrules](http://www.ag.ok.gov/proposedrules) or by contacting Bennett Abbott at the above address.

### **RULE IMPACT STATEMENT:**

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

### **CONTACT PERSON:**

Bennett Abbott, (405) 522-5803, e-mail address: at [bennett.abbott@ag.ok.gov](mailto:bennett.abbott@ag.ok.gov).

*[OAR Docket #11-1258; filed 12-28-11]*

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

*[OAR Docket #11-1256]*

### **RULEMAKING ACTION:**

Notice of proposed **PERMANENT** rulemaking

### **PROPOSED RULES:**

- Subchapter 17. Combined Pesticide
- Part 8. Expiration of Registrations and Permits
- 35:30-17-17 [AMENDED]
- 35:30-17-17.1 [NEW]
- 35:30-17-17.2 [NEW]
- 35:30-17-17.3 [NEW]
- 35:30-17-17.4 [NEW]
- 35:30-17-17.5 [NEW]
- 35:30-17-17.6 [NEW]
- 35:30-17-17.7 [NEW]
- 35:30-17-17.8 [NEW]
- 35:30-17-17.9 [NEW]
- 35:30-17-17.10 [NEW]
- 35:30-17-18 [AMENDED]

### **SUMMARY:**

The proposed new and amended rules establish procedures for the expiration of pesticide registrations

### **AUTHORITY:**

Oklahoma State Board of Agriculture; 2 O.S. §§ 2-4, 3-60.1 et seq.; Article 6, Section 31, Constitution of the State of Oklahoma.

### **COMMENT PERIOD:**

Persons may submit written comments to Bennett Abbott at [bennett.abbott@ag.ok.gov](mailto:bennett.abbott@ag.ok.gov), 2800 North Lincoln Boulevard, P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804 during the period from January 17, 2012 through February 22, 2012.

### **PUBLIC HEARING:**

A public hearing will be held at 9:30 a.m., February 22, 2012 in the Board Room, located at the Oklahoma Department

## Notices of Rulemaking Intent

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of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

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

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Bennett Abbott at the above address during the period from January 17, 2012 through February 22, 2012.

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

Copies of proposed rules may be obtained by visiting [www.ag.ok.gov/proposedrules](http://www.ag.ok.gov/proposedrules) or by contacting Bennett Abbott at the above address.

### **RULE IMPACT STATEMENT:**

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

### **CONTACT PERSON:**

Bennett Abbott, (405) 522-5803, e-mail address: at [bennett.abbott@ag.ok.gov](mailto:bennett.abbott@ag.ok.gov).

*[OAR Docket #11-1256; filed 12-28-11]*

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

*[OAR Docket #11-1257]*

### **RULEMAKING ACTION:**

Notice of proposed **PERMANENT** rulemaking

### **PROPOSED RULES:**

Subchapter 43. Castor Plants or Products [NEW]

### **SUMMARY:**

The proposed rules regulate the commercial production of castor plants and products, including castor beans. Castor plants and products may be legally produced in the State of Oklahoma for various commercial purposes. However, castor beans contain ricin; which is on the US Department of Health and Human Services' Select Agent list (42 CFR 73) and the possession, transfer, and use or ricin is restricted under the Public Health Security and Bioterrorism Preparedness Act of 2002 (P.L. 107-188). Ricin is poisonous to animals and humans alike. Because castor plants and products are commercially produced in Oklahoma, these rules are necessary as emergency measures to protect the public health, safety and welfare.

### **AUTHORITY:**

2 O.S. §§ 2-4(A)(2), (16) and (29).

### **COMMENT PERIOD:**

Persons may submit written comments to Bennett Abbott at [bennett.abbott@ag.ok.gov](mailto:bennett.abbott@ag.ok.gov), 2800 North Lincoln Boulevard, P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804

during the period from January 17, 2012 through February 22, 2012.

### **PUBLIC HEARING:**

A public hearing will be held at 9:00 a.m., February 22, 2012 in the Board Room, located at the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

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

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Bennett Abbott at the above address during the period from January 17, 2012 through February 22, 2012.

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

Copies of proposed rules may be obtained by visiting [www.ag.ok.gov/proposedrules](http://www.ag.ok.gov/proposedrules) or by contacting Bennett Abbott at the address above.

### **RULE IMPACT STATEMENT:**

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

### **CONTACT PERSON:**

Bennett Abbott, (405) 522-5803, e-mail address: [bennett.abbott@ag.ok.gov](mailto:bennett.abbott@ag.ok.gov)

*[OAR Docket #11-1257; filed 12-28-11]*

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## **TITLE 55. BOARD OF GOVERNORS OF THE LICENSED ARCHITECTS, LANDSCAPE ARCHITECTS AND REGISTERED INTERIOR DESIGNERS OF OKLAHOMA CHAPTER 10. LICENSURE AND PRACTICE OF ARCHITECTS, LANDSCAPE ARCHITECTS AND REGISTRATION OF INTERIOR DESIGNERS**

*[OAR Docket #11-1251]*

### **RULEMAKING ACTION:**

Notice of proposed **PERMANENT** rulemaking

### **PROPOSED RULES:**

Subchapter 1. General Provisions

55:10-1-3. [AMENDED]

Subchapter 3. Administrative Operations

55:10-3-3. [AMENDED]

55:10-3-6. [AMENDED]

55:10-3-11. [AMENDED]

55:10-3-13. [AMENDED]

Subchapter 5. Application and Eligibility for Licensing or Registration

55:10-5-1. [AMENDED]

55:10-5-2. [AMENDED]

55:10-5-4. [AMENDED]

- 55:10-5-5. [AMENDED]
- 55:10-5-6. [AMENDED]
- 55:10-5-7. [AMENDED]
- 55:10-5-8. [AMENDED]
- 55:10-5-10. [AMENDED]
- 55:10-5-11. [AMENDED]
- Subchapter 7. Examination
- 55:10-7-1. [AMENDED]
- 55:10-7-2. [AMENDED]
- 55:10-7-9. [AMENDED]
- Subchapter 9. Licensing and Registration
- 55:10-9-1. [AMENDED]
- 55:10-9-6. [AMENDED]
- 55:10-9-8. [AMENDED]
- 55:10-9-10. [AMENDED]
- Subchapter 11. Rules of Professional Conduct
- 55:10-11-7. [AMENDED]
- 55:10-11-9. [AMENDED]
- 55:10-11-10. [AMENDED]
- Subchapter 13. Organizational Practice
- 55:10-13-1. [AMENDED]
- 55:10-13-2. [AMENDED]
- 55:10-13-4. [AMENDED]
- 55:10-13-5. [AMENDED]
- 55:10-13-6. [AMENDED]
- 55:10-13-7. [AMENDED]
- 55:10-13-8. [AMENDED]
- 55:10-13-9. [AMENDED]
- 55:10-13-10. [AMENDED]
- 55:10-13-12. [AMENDED]
- 55:10-13-13. [AMENDED]
- 55:10-13-16. [AMENDED]
- 55:10-13-20. [AMENDED]
- Subchapter 15. Violations
- 55:10-15-4. [AMENDED]
- 55:10-15-9. [AMENDED]
- 55:10-15-11. [AMENDED]
- Subchapter 17. Continuing Education Requirements
- 55:10-17-6. [AMENDED]
- 55:10-17-7. [AMENDED]
- 55:10-17-9. [AMENDED]
- 55:10-17-10. [AMENDED]
- 55:10-17-12. [AMENDED]

**SUMMARY:**

The proposed revisions to Subchapter 1 are expanding definitions and clean-up. Changes to Subchapter 3 are reducing initial licensing fees, biennial License, Registration or renewal fees for individuals and firms. Changes to Subchapter 11 address the use of prototypical design within the State of Oklahoma by incorporating Board policy into these Rules. All other Rule changes are minor clean-up items.

**AUTHORITY:**

Oklahoma State Architectural and Registered Interior Designers Act in O.S. 59, Section 46.7.

**COMMENT PERIOD:**

Persons wishing to present their views orally or in writing may do so before 4:30 p.m. on Thursday, February 16, 2012 at the following address: 3555 N.W. 58<sup>th</sup> Street, Suite 640, Oklahoma City, OK 73112 Attention: Jean Williams, Executive Director, Board of Governors of the Licensed Architects, Landscape Architects and Registered Interior Designers of Oklahoma.

**PUBLIC HEARING:**

A public hearing has been scheduled for Friday, February 17, 2012 at 9:30 a.m. at the following address: Francis Tuttle Technology Center, 3500 N. W. 150<sup>th</sup>, Classroom 229, Oklahoma City, OK 73134. This hearing will be held to provide an opportunity for persons to orally present their views. Each person will be allowed a maximum of 5 minutes to speak and must sign in at the door by 9:05 a.m.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

The Board of Governors of the Licensed Architects, Landscape Architects and Registered Interior Designers of Oklahoma requests that business entities affected by these proposed amendments provide the Board, within the comment period, in dollar amounts if possible, any increase in the level of direct costs such as fees, and the indirect costs such as reporting, record keeping, 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, at the above address, before the close of the comment period before 4:30 p.m. on Thursday, February 16, 2012 at the following address: 3555 N.W. 58<sup>th</sup> Street, Suite 640, Oklahoma City, OK 73112 Attention: Jean Williams, Executive Director.

**COPIES OF PROPOSED RULES:**

Copies of the proposed rules may be obtained from the Board of Governors of the Licensed Architects, Landscape Architects and Registered Interior Designers of Oklahoma, from our website @www.ok.gov/architect or write us at 3555 N.W. 58<sup>th</sup> Street, Suite 640, Oklahoma City, OK 73112.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S., Section 303 (D), a Rule Impact Statement (RIS) will be prepared and may be obtained from the Board of Governors of the Licensed Architects, Landscape Architects and Registered Interior Designers of Oklahoma at the above address beginning on January 18, 2012.

**CONTACT PERSON:**

Jean Williams, Executive Director, (405) 949-2383

*[OAR Docket #11-1251; filed 12-22-11]*

## Notices of Rulemaking Intent

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### TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 110. LEAD-BASED PAINT MANAGEMENT

[OAR Docket #11-1252]

#### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

#### **PROPOSED RULES:**

Subchapter 1. General Provisions

252:110-1-1. [AMENDED]

252:110-1-2. [AMENDED]

252:110-1-7. [REVOKED]

Subchapter 5. Incorporation by Reference

252:110-5-1. [AMENDED]

Subchapter 15. Additional Renovation, Repair, and Painting (RRP) Requirements [NEW]

252:110-15-1. [NEW]

252:110-15-2. [NEW]

252:110-15-3. [NEW]

252:110-15-4. [NEW]

252:110-15-5. [NEW]

252:110-15-6. [NEW]

#### **SUMMARY:**

The Department is proposing to amend OAC 252:110, Lead-Based Paint Management, to add a new Subchapter 15, Additional Renovation, Repair, and Painting (RRP) Requirements. The proposed rule would establish state requirements that are consistent with those established by the U.S. Environmental Protection Agency (EPA) in 40 CFR Part 745 and affect contractors who perform renovation, repair, and painting projects in homes, child-care facilities, and schools built before 1978. The proposal would also affect training providers who offer renovation and dust sampling courses. The proposed state rule is no more stringent than the federal rule and would incorporate changes to be consistent with the Department's current rules. This rule revision is essential to the Department's efforts to obtain EPA delegation to administer the federal Lead-Based Paint Renovation Program in Oklahoma.

The proposal includes amending OAC 252:110-5-1, Incorporation by reference, to add the federal RRP requirements in 40 CFR Part 745. Also, the proposal would establish fees for obtaining and renewing firm certifications and other associated services, which would be assessed after EPA has delegated the Department authority for the program. This proposal provides that a fee for firm certification is to be paid to the Department upon expiration of any existing EPA renovation firm certification. The proposal would also establish an accreditation fee to be paid annually by the accredited facility for each renovation and dust sampling course, in addition to fees and requirements currently established in OAC 252:110-9, Additional accreditation requirements. Training programs previously accredited by EPA would submit fees for accreditation upon expiration

of their current accreditation. Both the proposed firm certification and the accreditation fees are equal over time to the corresponding fees in the federal rule.

The Department is proposing to revoke OAC 252:110-1-7, Reference to 40 CFR, because it is a duplication of language already included in Subchapter 5, Incorporation by Reference. In addition, the Department is proposing to amend OAC 252:110-1-1, Purpose, and 252:110-1-2, Basis and authority, to clarify statutory language.

#### **AUTHORITY:**

Environmental Quality Board and Air Quality Advisory Council powers and duties, 27A O.S. §§ 2-2-101 and 2-2-201, respectively; and Oklahoma Lead-Based Paint Management Act, 27A O.S. §§ 2-12-101 and 2-12-201.

#### **COMMENT PERIOD:**

The initial comment period for this rulemaking began on September 1, 2011, when the Notice of Rulemaking Intent was published in the Oklahoma Register (28 Ok Reg 2351) and ended at the conclusion of the Air Quality Advisory Council meeting on October 5, 2011. Additional oral comments may be made at the Environmental Quality Board meeting on February 24, 2012.

#### **PUBLIC HEARINGS:**

Before the Environmental Quality Board on February 24, 2012 at the DEQ headquarters, 707 N. Robinson, Oklahoma City, Oklahoma 73102. A prior public hearing was held by the Air Quality Advisory Council on October 5, 2011.

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

N/A

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

The proposed rules are available for review on the DEQ Air Quality Division website at [http://www.deq.state.ok.us/AQDnew/council\\_mtg/index.htm](http://www.deq.state.ok.us/AQDnew/council_mtg/index.htm), or copies may be obtained from the Department by calling Cheryl Bradley, Environmental Programs Manager, at (405) 702-4100.

#### **RULE IMPACT STATEMENT:**

Copies of the rule impact statement may be obtained by contacting Cheryl Bradley at (405) 702-4100.

#### **CONTACT PERSON:**

For information regarding the proposed rulemaking, contact Cheryl Bradley at [cheryl.bradley@deq.state.ok.us](mailto:cheryl.bradley@deq.state.ok.us). Mail should be addressed to Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, ATTN: Cheryl Bradley. The Air Quality Division FAX is (405)702-4101.

#### **ADDITIONAL INFORMATION:**

This Notice provides the date and location for the hearing of these rules by the Environmental Quality Board.

#### **PERSONS WITH DISABILITIES:**

Should you desire to attend but have a disability and need an accommodation, please notify the Department

of Environmental Quality three (3) days in advance at (405)702-7100. The TDD relay number is (800) 522-8506.

[OAR Docket #11-1252; filed 12-23-11]

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

[OAR Docket #11-1213]

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

- 300:20-1-1. [AMENDED]
- 300:20-1-4. [AMENDED]
- 300:20-1-8. [AMENDED]
- 300:20-1-10. [AMENDED]
- 300:20-1-11. [AMENDED]
- 300:20-1-12. [AMENDED]
- 300:20-1-13. [AMENDED]
- 300:20-1-15. [AMENDED]

**SUMMARY:**

The proposed rule amendments provide that the acquisition of coal and natural gas, and the delivery of same, may require special acquisition processes and, further, that the selection of vendors may deviate from the guidelines. Further, the proposed rule amendments define the authority of the General Manager to delegate acquisition approval not to exceed \$50,000 to the Chief Technical Officer and may authorize a designee to approve a change order not requiring approval by the Board of Directors. The proposed rule amendments reflect that statewide contracts awarded by the Department of Central Services may be utilized when such may bring efficiency to the acquisition process. The proposed rule amendments further clarify the bid process source selection types.

The proposed rule amendments to the section concerning emergency purchase orders provide for the purchase of items or services required to ensure continued operation and transmission capabilities if the General Manager or his designee determines an emergency exists. The proposed rule amendments allow the General Manager to authorize the purchase of items and/or services in a total amount not more than \$50,000 per emergency.

The proposed changes to the business expenses rule provide clarification of the types of expenses allowed. Language has been added to state to the extent practicable, the General Manager shall authorize the expense prior to it being incurred. Further, every reimbursement request shall include a justification accompanied by specific receipts and/or invoices or other appropriate supporting documentation, and a monthly summary shall be provided to the Board of Directors.

**AUTHORITY:**

Grand River Dam Authority; 82 O.S.Supp.2011-2012, § 861A(B)(1); 82 O.S.Supp.2011-2012, § 863.2(B).

**COMMENT PERIOD:**

Written and oral comments will be accepted January 18, 2012 through February 16, 2012 at Grand River Dam Authority, 226 West Dwain Willis Avenue, P.O. Box 409, Vinita, OK 74301, Attention: Ellen C. Edwards.

**PUBLIC HEARING:**

A public hearing will be conducted to provide an opportunity for persons to orally present their views on the content of the proposed rules. Each person will be allowed a maximum of five minutes to speak and each person must sign in at the door. The public hearing will be held on Friday, February 17, 2012 at 9:00 a.m. in the Board Room of Grand River Dam Authority, 226 West Dwain Willis Avenue, Vinita, Oklahoma 74301.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

Grand River Dam Authority requests that business entities or any other members of the public affected by these rules provide the agency, 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 or public member due to compliance with the proposed rules. This information may be submitted in writing from January 18, 2012 through February 16, 2012 at Grand River Dam Authority, 226 West Dwain Willis Avenue, P.O. Box 409, Vinita, Oklahoma 74301, Attention: Ellen C. Edwards.

**COPIES OF PROPOSED RULES:**

Copies of the proposed rules may be obtained by contacting Ellen C. Edwards at Grand River Dam Authority, 226 West Dwain Willis Avenue, P.O. Box 409, Vinita, Oklahoma 74301, (918) 256-5545.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303 (D), a rule impact statement has been prepared and is available at the offices of Grand River Dam Authority, Legal Division, 226 West Dwain Willis Avenue, P.O. Box 409, Vinita, Oklahoma 74301.

**CONTACT PERSON:**

Ellen C. Edwards, General Counsel, (918) 256-5545

[OAR Docket #11-1213; filed 12-21-11]

**TITLE 317. OKLAHOMA HEALTH CARE  
AUTHORITY  
CHAPTER 10. PURCHASING**

[OAR Docket #11-1235]

**INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

- 317:10-1-1. [AMENDED]
  - 317:10-1-12. [AMENDED]
- (Reference APA WF # 11-31)

# Notices of Rulemaking Intent

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## SUMMARY:

Purchasing rules are revised to align policy with Department of Central Services (DCS) rules. Rules refer to sections that are not valid; therefore rules need to be revised to reflect new numbering for DCS policy.

## AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 and Section 5051.3 of Title 63 of Oklahoma Statutes

## COMMENT PERIOD:

Written and oral comments will be accepted January 18, 2012, through February 16, 2012, 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 Wednesday, February 22, 2012, at 1:00 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 16, 2012.

## 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 #11-1235; filed 12-21-11]*

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

*[OAR Docket #11-1214]*

## INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

## PROPOSED RULES:

Subchapter 5. Individual Providers and Specialties  
Part 1. Physicians

317:30-5-12. [AMENDED]

Part 49. Family Planning Centers

317:30-5-465. [REVOKED]

317:30-5-466. [REVOKED]

317:30-5-467. [REVOKED]

Part 75. Federally Qualified Health Centers

317:30-5-664.5. [AMENDED]

Part 112. Public Health Clinic Services

317:30-5-1154. [AMENDED]

**(Reference APA WF # 11-03A)**

## SUMMARY:

OHCA rules for the SoonerPlan Family Planning Program are revised to remove references to the Family Planning Waiver. Section 2303 of the Patient Protection and Affordable Care Act allows individuals receiving Family Planning Waiver services to receive those same services plus additional family planning and family planning related services under the Title XIX State Plan rather than a waiver program. In addition to a broader service package, the State Plan option allows a more efficient way of making future changes to the SoonerPlan program. If approved, the rule change will allow over 32,000 SoonerPlan members and future members to receive the enhanced package of State Plan Family Planning services. The rule revision also includes the removal of language relating to family planning centers, clarification of eligibility rules and other minor policy corrections.

## AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; Section 2303 of the Patient Protection and Affordable Care Act

## COMMENT PERIOD:

Written and oral comments will be accepted January 18, 2012 through February 16, 2012, 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 Wednesday, February 22, 2012, at 1:00 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 16, 2012.

## 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 #11-1214; filed 12-21-11]*

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

*[OAR Docket #11-1216]*

**INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

- Subchapter 3. General Provider Policies
- Part 3. General Medical Program Information
- 317:30-3-40. [AMENDED]
- 317:30-3-42. [AMENDED]
- 317:30-3-57. [AMENDED]
- Subchapter 5. Individual Providers and Specialties
- Part 6. Inpatient Psychiatric Hospitals
- 317:30-5-96.2. [AMENDED]
- Part 9. Long Term Care Facilities
- 317:30-5-122. [AMENDED]
- Part 39. Skilled Nursing Services
- 317:30-5-390. [AMENDED]
- Part 41. Family Support Services
- 317:30-5-410. [AMENDED]
- Part 43. Agency Companion, Specialized Foster Care, Daily Living Supports, Group Homes, and Community Transition Services
- 317:30-5-420. [AMENDED]
- 317:30-5-423. [AMENDED]
- Part 51. Habilitation Services
- 317:30-5-480. [AMENDED]
- Part 53. Specialized Foster Care
- 317:30-5-495. [AMENDED]
- Part 55. Respite Care
- 317:30-5-515. [AMENDED]
- Part 59. Homemaker Services
- 317:30-5-535. [AMENDED]
- Part 85. Advantage Program Waiver Services
- 317:30-5-760. [AMENDED]
- Part 101. Targeted Case Management Services for Persons with ~~Mental Retardation~~ an Intellectual Disability and/or Related Conditions

317:30-5-1011. [AMENDED]

Part 108. Nutrition Services

317:30-5-1076. [AMENDED]

**(Reference APA WF # 11-04A)**

**SUMMARY:**

OHCA rules are revised to change language in policy that references "mental retardation" to "intellectual disabilities". Revisions are necessary to comply with Public Law 111-256 (Rosa's Law) that replaces the term mental retardation with intellectual disability, in federal education, health and labor laws.

**AUTHORITY:**

The Oklahoma Health Care Authority Board; Then Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; Public Law 111-256

**COMMENT PERIOD:**

Written and oral comments will be accepted January 18, 2012, through February 16, 2012, 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 Wednesday, February 22, 2012, at 1:00 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 16, 2012.

**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 #11-1216; filed 12-21-11]*

## Notices of Rulemaking Intent

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

*[OAR Docket #11-1224]*

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

Notice of proposed PERMANENT rulemaking

#### **PROPOSED RULES:**

Subchapter 5. Individual Providers and Specialties

Part 3. Hospitals

317:30-5-42.6. [AMENDED]

Part 29. Renal Dialysis Facilities

317:30-5-306. [AMENDED]

317:30-5-307. [AMENDED]

**(Reference APA WF # 11-19)**

#### **SUMMARY:**

Policy, the State Plan, and reimbursement methodology will be updated to correspond to new Medicare guidelines regarding payment to End Stage Renal Disease (ESRD) facilities. Currently policy and methodology utilizes Medicare's old composite rate for a defined set of ESRD items and services, while paying separately for services not included in the composite rate, such as drugs and laboratory tests. This payment system is replaced with a new bundled prospective payment system (PPS), in which a single bundled payment to the ESRD facility for each treatment will cover all renal dialysis services. If the change is not made, OHCA will be out of line with Medicare reimbursement rates for this provider type.

#### **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 110-275, Section 153; 42 CFR Parts 410, 413, and 414; CMS-1418-F (Federal Register Vol. 75, No. 155)

#### **COMMENT PERIOD:**

Written and oral comments will be accepted January 18, 2012 through February 16, 2012, 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 Wednesday, February 22, 2012, at 1:00 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 16, 2012.

#### **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 #11-1224; filed 12-21-11]*

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

*[OAR Docket #11-1225]*

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

Notice of proposed PERMANENT rulemaking

#### **PROPOSED RULES:**

Subchapter 3. General Provider Policies

Part 1. General Scope and Administration

317:30-3-2. [AMENDED]

**(Reference APA WF # 11-20)**

#### **SUMMARY:**

Provider agreement rules are revised to ensure clarity. Revisions are made to reflect language in 42 CFR 455.414; that provider agreements must be renewed at least every five years. Additionally, revisions are made to revise the contact information for the OHCA Provider Contracting Unit.

#### **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 455.414

#### **COMMENT PERIOD:**

Written and oral comments will be accepted January 18, 2012, through February 16, 2012, 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 Wednesday, February 22, 2012, at 1:00 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 16, 2012.

**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 #11-1225; filed 12-21-11]*

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

*[OAR Docket #11-1226]*

**INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

- Subchapter 5. Individual Providers and Specialties
- Part 113. Living Choice Program
- 317:30-5-1200. [AMENDED]
- 317:30-5-1201. [AMENDED]
- 317:30-5-1202. [AMENDED]
- 317:30-5-1203. [AMENDED]
- 317:30-5-1204. [AMENDED]
- 317:30-5-1205. [AMENDED]
- 317:30-5-1206. [AMENDED]

(Reference APA WF # 11-21A)

**SUMMARY:**

Living Choice Program rules are revised to add Assisted Living services as a compensable service under the Living Choice demonstration program for the elderly and those with physical disabilities. Assisted Living services are personal care and supportive services that are furnished to Living Choice members who reside in an OHCA certified assisted living center. Additionally, rules are revised to add Private Duty Nursing as an allowable service and revise the re-enrollment policy to allow members who have been in Living Choice for the maximum 365 days, and have been re-institutionalized for a minimum of 90 consecutive days, the opportunity to re-enroll in the Living Choice program for an additional 365 days. Finally, rules are revised to include coverage for people who have transitioned to the community from institutions for mental disease.

**AUTHORITY:**

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; Section 6071 of the Deficit Reduction Act of 2005, Section 2403 of the Affordable Care Act, June 1, 2011 CMS guidance correspondence

**COMMENT PERIOD:**

Written and oral comments will be accepted January 18, 2012 through February 16, 2012, 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 Wednesday, February 22, 2012, at 1:00 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 16, 2012.

**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 #11-1226; filed 12-21-11]*

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

*[OAR Docket #11-1228]*

**INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

- Subchapter 5. Individual Providers and Specialties
- Part 21. Outpatient Behavioral Health Services
- 317:30-5-241.2. [AMENDED]
- (Reference APA WF # 11-24)

## Notices of Rulemaking Intent

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### SUMMARY:

Rules are revised to reflect that behavioral health therapy services may only be provided by licensed professionals effective July 1, 2013. Currently, Certified Alcohol Drug Counselors (CADCs) may perform therapy services in accordance with their Licensure Act. Revisions are made to comply with Oklahoma Statutes.

### AUTHORITY:

The Oklahoma Health Care Authority Board; Then Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 43A Oklahoma Statutes Section 3-406.1.

### COMMENT PERIOD:

Written and oral comments will be accepted January 18, 2012, through February 16, 2012, 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 Wednesday, February 22, 2012, at 1:00 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 16, 2012.

### 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 #11-1228; filed 12-21-11]*

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

*[OAR Docket #11-1229]*

### INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

### PROPOSED RULES:

Subchapter 5. Individual Providers and Specialties  
Part 32. Soonerride Non-Emergency Transportation  
317:30-5-326.1. [AMENDED]  
317:30-5-327. [AMENDED]  
317:30-5-327.1. [AMENDED]  
317:30-5-327.2. [AMENDED]  
317:30-5-328. [NEW]  
317:30-5-329. [NEW]

**(Reference APA WF # 11-25A)**

### SUMMARY:

SoonerCare non-emergency transportation rules are revised to clarify OHCA's current policy concerning meals and lodging, travel distance, and eligibility. This rule will assist with future cost savings and prevent abuse of services. This rule will also ensure services for current and future SoonerCare members.

### AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 and Section 5051.3 of Title 63 of Oklahoma Statutes

### COMMENT PERIOD:

Written and oral comments will be accepted January 18, 2012, through February 16, 2012, 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 Wednesday, February 22, 2012, at 1:00 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 16, 2012.

### 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 #11-1229; filed 12-21-11]*

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

*[OAR Docket #11-1231]*

**INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 3. General Provider Policies  
Part 1. General Scope and Administration  
317:30-3-19.1. [NEW]  
(Reference APA WF # 11-26)

**SUMMARY:**

OHCA's provider agreements policy is expanded to explain situations in which a provider agreement and billing privileges may be revoked for improper actions. These situations include noncompliance with enrollment requirements, provider misconduct, and felony convictions, among others. These rules will assist the agency in provider integrity determinations and will align agency policy with CMS's Medicare regulations on provider agreements.

**AUTHORITY:**

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 42 U.S.C § 1396a; 42 CFR 424.535

**COMMENT PERIOD:**

Written and oral comments will be accepted January 18, 2012 through February 16, 2012, 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 Wednesday, February 22, 2012, at 1:00 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 16, 2012.

**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 #11-1231; filed 12-21-11]*

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

*[OAR Docket #11-1232]*

**INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 5. Individual Providers and Specialties  
Part 6. Inpatient Psychiatric Hospitals  
317:30-5-95.24. [AMENDED]  
317:30-5-95.25. [AMENDED]  
317:30-5-95.26. [AMENDED]  
317:30-5-95.27. [AMENDED]  
317:30-5-95.28. [AMENDED]  
317:30-5-95.29. [AMENDED]  
317:30-5-95.30. [AMENDED]  
317:30-5-95.31. [AMENDED]  
Part 21. Outpatient Behavioral Health Services  
317:30-5-240.2. [AMENDED]  
317:30-5-241. [AMENDED]  
317:30-5-241.1. [AMENDED]  
317:30-5-241.2. [AMENDED]  
317:30-5-241.3. [AMENDED]  
317:30-5-241.4. [AMENDED]  
317:30-5-241.5. [AMENDED]  
Part 25 Psychologist  
317:30-5-276. [AMENDED]  
Part 26. Licensed Behavioral Health Providers  
317:30-5-281. [AMENDED]  
Part 67. Behavioral Health Case Management Services  
317:30-5-596. [AMENDED]  
317:30-5-596.1. [AMENDED]  
Part 83. Outpatient Behavioral Health Services in  
Therapeutic Foster Care Homes  
317:30-5-741. [AMENDED]  
(Reference APA WF # 11-27)

**SUMMARY:**

Agency Behavioral Health rules are revised in order to sufficiently and accurately set forth the substantive requirements for providing covered SoonerCare behavioral health services. Provider credentials and coverage guidelines will be transferred from the current Behavioral Health Provider Manual to the Agency's Behavioral Health rules in order to

## Notices of Rulemaking Intent

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comply with rule promulgation requirements set forth in the Oklahoma Administrative Procedures Act (APA). These revisions will not only ensure that the Agency remains in compliance with the APA, but also provides the Agency the necessary legal basis to successfully maintain program integrity. Additionally, Outpatient Behavioral Health, Psychologist and Licensed Behavioral Health Professional (LBHP) rules are being revised to remove the guidelines for obtaining authorizations to provide services. Authorization requirements will be placed in the Behavioral Health Provider Manual and the rule revisions will reference the manual. The authorization requirements are procedural in nature and are more appropriate in the context of a billing manual rather than the Agency's administrative rules.

### **AUTHORITY:**

The Oklahoma Health Care Authority Board; Then Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; Section 308.2 of Title 75 of Oklahoma Statutes

### **COMMENT PERIOD:**

Written and oral comments will be accepted January 18, 2012, through February 16, 2012, 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 Wednesday, February 22, 2012, at 1:00 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 16, 2012.

### **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 #11-1232; filed 12-21-11]*

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

*[OAR Docket #11-1234]*

### **INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

### **PROPOSED RULES:**

Subchapter 5. Individual Providers and Specialties

Part 103. Qualified Schools as Providers of Health Related Services

317:30-5-1023. [AMENDED]

317:30-5-1027. [AMENDED]

**(Reference APA WF # 11-30)**

### **SUMMARY:**

School Based rules are revised to align current policy with systematic and coding procedures.

### **AUTHORITY:**

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 and Section 5051.3 of Title 63 of Oklahoma Statutes

### **COMMENT PERIOD:**

Written and oral comments will be accepted January 18, 2012, through February 16, 2012, 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 Wednesday, February 22, 2012, at 1:00 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 16, 2012.

### **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 #11-1234; filed 12-21-11]

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

[OAR Docket #11-1236]

**INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

- Subchapter 5. Individual Providers and Specialties
  - Part 9. Long Term Care Facilities
  - 317:30-5-123. [AMENDED]
  - Part 51. Habilitation Services
  - 317:30-5-482. [AMENDED]
  - Part 101. Targeted Case Management Services for Persons with Mental Retardation and/or Related Conditions
  - 317:30-5-1012. [AMENDED]
  - 317:30-5-1014. [AMENDED]
- (Reference APA WF # 11-32A)

**SUMMARY:**

Permanent rule revisions are proposed by the OKDHS Developmental Disability Services Division (DDSD) pertaining to clarification of policy for the termination of Agency Companion providers based on certain background check information and to provide clarification on the limits of background search information for Specialized Foster Care providers regarding involvement in a court action. Additionally policy is revised to require architectural modification contractors to provide evidence of a lead based paint safety certificate; the addition of Adult Day Services for members in the Homeward Bound Waiver; Targeted Case Management to be billed weekly rather than monthly; removal of the Physical Status Review score as one of criteria for determining the enhanced rate for Community Based Group services and Job Coaching Services, and removal of Adult Day Services as an option to the member's required employment hours. Other minor policy revisions are also included.

**AUTHORITY:**

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of the Oklahoma Statutes; Medically Fragile 1915(c) Home and Community Based Services (HCBS) Waiver program as approved by The Centers for Medicare and Medicaid Services (CMS)

**COMMENT PERIOD:**

Written and oral comments will be accepted January 18, 2012, through February 16, 2012, 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 Wednesday, February 22, 2012, at 1:00 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 16, 2012.

**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 #11-1236; filed 12-21-11]

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

[OAR Docket #11-1239]

**INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

- Subchapter 5. Individual Providers and Specialties
  - Part 17. Medical Suppliers
  - 317:30-5-211.15. [AMENDED]
- (Reference APA WF # 11-34)

**SUMMARY:**

Rules are revised to limit the number and type of catheters covered per member per month and bring policy in line with CMS regulations on catheter utilization. The change will allow a combined maximum of 200 intermittent catheters per member per month. Of the 200 catheters, 60 may be the intermittent catheter with insertion supplies kit. Finally, prior authorization for these catheters will no longer be required.

## Notices of Rulemaking Intent

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### **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 18, 2012 through February 16, 2012, 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 Wednesday, February 22, 2012, at 1:00 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 16, 2012.

### **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 #11-1239; filed 12-21-11]*

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

*[OAR Docket #11-1241]*

### **INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

### **PROPOSED RULES:**

Subchapter 5. Individual Providers and Specialties  
Part 79. Dentists

317:30-5-696. [AMENDED]

317:30-5-698. [AMENDED]

**(Reference APA WF # 11-36)**

### **SUMMARY:**

Agency dental policy is revised to allow for permanent restoration of a tooth when done as part of a Cvek Pulpotomy. The Cvek Pulpotomy is a procedure that better maintains the vitality of exposed pulps, especially in young patients. Allowing permanent restoration with the Cvek Pulpotomy will reduce the need for root canals. Finally, rules are revised to allow dentists to choose the proper type of crown that best serves the member's oral environment.

### **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 18, 2012 through February 16, 2012, 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 Wednesday, February 22, 2012, at 1:00 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 16, 2012.

### **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 #11-1241; filed 12-21-11]*

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

*[OAR Docket #11-1242]*

**INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 5. Individual Providers and Specialties

Part 17. Medical Suppliers

317:30-5-211.10. [AMENDED]

(Reference APA WF # 11-38)

**SUMMARY:**

Policy is revised to remove the requirement for a certificate of medical necessity for positive airway pressure devices (BiPAP and CPAP) as such CMNs are no longer used for authorization decisions. The agency's Medical Authorization Unit and physicians rely on documentation from sleep studies and other medical records to prior authorize.

**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 18, 2012 through February 16, 2012, 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 Wednesday, February 22, 2012, at 1:00 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 16, 2012.

**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 #11-1242; filed 12-21-11]*

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

*[OAR Docket #11-1243]*

**INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 5. Individual Providers and Specialties

Part 85. ADvantage Waiver Program Services

317:30-5-761. [AMENDED]

317:30-5-762. [AMENDED]

317:30-5-763. [AMENDED]

317:30-5-763.1. [AMENDED]

317:30-5-764. [AMENDED]

(Reference APA WF # 11-39A)

**SUMMARY:**

OHCA rules for the ADvantage Waiver are revised to remove Respiratory Therapy as an allowable service within the waiver and remove Hospice when the member is in a nursing facility receiving ADvantage Facility Based Extended Respite. Both services are removed due to lack of utilization. Additionally, rules are revised to remove language allowing for reimbursement to providers of case management transition services when the member fails to transition into the ADvantage waiver program. The revisions are necessary to align OHCA policy with revised operational procedures as approved by the Centers for Medicare and Medicaid Services.

Additional rule revisions include the following: removal of language requiring transportation to be provided by Adult Day Health Care Centers; clarification of family support services versus waiver services; addition of language clarifying "client support moderate risk", "client support high risk" and addition of language describing "client support low risk" and "environmental low risk"; the addition of eligibility language clarifying member reauthorization, recertification and redetermination; clarification regarding the member's level of need in order to be eligible for waiver services; clarification about the types of living arrangements allowable for ADvantage members; clarification regarding the member's health, safety and welfare; policy is revised to remove language allowing a financial eligibility assessment for individuals who are not applying for waiver services; clarification regarding when a new level of care determination is required; removal of language requiring recertification of the member by a case manager and requiring an OKDHS nurse to provide medical certification, and at a minimum annually; language added regarding plan of care documentation when more

## Notices of Rulemaking Intent

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than one member of the household receives waiver services; clarification regarding the use of family members as paid providers; clarification of conditions requiring a member's service plan goals to be amended; removal of policy regarding the expedited eligibility determination process (SPEED); other minor clean-up language.

### **AUTHORITY:**

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of the Oklahoma Statutes; Medically Fragile 1915(c) Home and Community Based Services (HCBS) Waiver program as approved by The Centers for Medicare and Medicaid Services (CMS)

### **COMMENT PERIOD:**

Written and oral comments will be accepted January 18, 2012, through February 16, 2012, 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 Wednesday, February 22, 2012, at 1:00 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 16, 2012.

### **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 #11-1243; filed 12-21-11]*

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

*[OAR Docket #11-1246]*

### **INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

### **PROPOSED RULES:**

Subchapter 5. Individual Providers and Specialties  
Part 21. Outpatient Behavioral Health Services

317:30-5-240. [AMENDED]

317:30-5-240.1. [AMENDED]

**(Reference APA WF # 11-41)**

### **SUMMARY:**

Outpatient Behavioral Health Rules are revised to add ODMHSAS Mental Illness Service Program certification as an option for provider participation standards in lieu of national accreditation.

### **AUTHORITY:**

The Oklahoma Health Care Authority Board; Then Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; Section 3-323A of Title 43A of Oklahoma Statutes

### **COMMENT PERIOD:**

Written and oral comments will be accepted January 18, 2012 through February 16, 2012, 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 Wednesday, February 22, 2012, at 1:00 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 16, 2012.

### **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 #11-1246; filed 12-21-11]*

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

*[OAR Docket #11-1248]*

**INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 5. Individual Providers and Specialties  
Part 1. Physicians  
317:30-5-7. [AMENDED]  
(Reference APA WF # 11-43)

**SUMMARY:**

Agency policy on anesthesia is revised to allow reimbursement for a pain management procedure when performed during an anesthesia session.

**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 18, 2012 through February 16, 2012, 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 Wednesday, February, 22 2012, at 1:00 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 16, 2012.

**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 #11-1248; filed 12-21-11]*

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

*[OAR Docket #11-1215]*

**INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 5. Eligibility and Countable Income  
Part 1. Determination of Qualifying Categorical Relationships  
317:35-5-2. [AMENDED]  
317:35-5-8. [AMENDED]  
Subchapter 7. Medical Services  
Part 5. Determination of Eligibility for Medical Services  
317:35-7-37. [AMENDED]  
317:35-7-48. [AMENDED]  
Part 7. Certification, Redetermination and Notification  
317:35-7-60. [AMENDED]  
317:35-7-60.1. [AMENDED]  
(Reference APA WF # 11-03B)

**SUMMARY:**

OHCA rules for the SoonerPlan Family Planning Program are revised to remove references to the Family Planning Waiver. Section 2303 of the Patient Protection and Affordable Care Act allows individuals receiving Family Planning Waiver services to receive those same services plus additional family planning and family planning related services under the Title XIX State Plan rather than a waiver program. In addition to a broader service package, the State Plan option allows a more efficient way of making future changes to the SoonerPlan program. If approved, the rule change will allow over 32,000 SoonerPlan members and future members to receive the enhanced package of State Plan Family Planning services. The rule revision also includes the removal of language relating to family planning centers, clarification of eligibility rules and other minor policy corrections.

**AUTHORITY:**

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; Section 2303 of the Patient Protection and Affordable Care Act

# Notices of Rulemaking Intent

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## COMMENT PERIOD:

Written and oral comments will be accepted January 18, 2012 through February 16, 2012, 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 Wednesday, February, 22 2012, at 1:00 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 16, 2012.

## 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 #11-1215; filed 12-21-11]*

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

*[OAR Docket #11-1217]*

## 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

317:35-9-1. [AMENDED]

317:35-9-5. [AMENDED]

Part 3. Application Procedures

317:35-9-25. [AMENDED]

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]

317:35-9-48.1 [AMENDED]

317:35-9-49 [AMENDED]

Part 11. Payment, Billing, and Other Administrative Procedures

317:35-9-97. [AMENDED]

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

Part 5. Income

317:35-10-38. [AMENDED]

Subchapter 15. Personal Care Services

317:35-15-1. [AMENDED]

Subchapter 19. Nursing Facility Services

317:35-19-3. [AMENDED]

317:35-19-8. [AMENDED]

317:35-19-9. [AMENDED]

**(Reference APA WF # 11-04B)**

## SUMMARY:

OHCA rules are revised to change language in policy that references "mental retardation" to "intellectual disabilities". Revisions are necessary to comply with Public Law 111-256 (Rosa's Law) that replaces the term mental retardation with intellectual disability, in federal education, health and labor laws.

## AUTHORITY:

The Oklahoma Health Care Authority Board; Then Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; Public Law 111-256

## COMMENT PERIOD:

Written and oral comments will be accepted January 18, 2012, through February 16, 2012, 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 Wednesday, February 22, 2012, at 1:00 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 16, 2012.

## 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 #11-1217; filed 12-21-11]*

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

*[OAR Docket #11-1220]*

**INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 6. SoonerCare for Pregnant Women and  
Families with Children

Part 3. Application Procedures  
317:35-6-15. [AMENDED]

Subchapter 7. Medical Services  
Part 3. Application Procedures  
317:35-7-15. [AMENDED]

**(Reference APA WF # 11-08)**

**SUMMARY:**

Eligibility rules are revised to provide clarification regarding dates of application for SoonerCare services. Current rules are difficult to interpret and, in some instances, obsolete. The revisions will make interpreting rules easier for OHCA staff, contracted agency partners, and applicants to understand when an application is considered received and completed. Rules are further amended to add the Notification of Date of Service feature for hospitals in official agency policy.

**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 18, 2012 through February 16, 2012, 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 Wednesday, February, 22 2012, at 1:00 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 16, 2012.

**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 #11-1220; filed 12-21-11]*

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

*[OAR Docket #11-1223]*

**INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 5. Eligibility and Countable Income  
Part 5. Countable Income and Resources

317:35-5-41.8 [AMENDED]

**(Reference APA WF # 11-15)**

**SUMMARY:**

Oklahoma Health Care Authority long-term care eligibility rules are revised to include a brief description of the Long-term Care Partnership program. The Long-term Care Partnership program (LTCP) allows individuals with qualified LTCP insurance policies the opportunity to protect certain assets in determining eligibility for SoonerCare long term care services.

**AUTHORITY:**

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; Oklahoma Long-term Care Partnership Act, 63 O.S. § 1-1955.1, et seq.

**COMMENT PERIOD:**

Written and oral comments will be accepted January 18, 2012 through February 16, 2012, 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 Wednesday, February 22, 2012, at 1:00 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 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 16, 2012.

### 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 #11-1223; filed 12-21-11]*

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

*[OAR Docket #11-1227]*

### INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

### PROPOSED RULES:

Subchapter 23. Living Choice Program

317:35-23-1. [AMENDED]

317:35-23-2. [AMENDED]

317:35-23-3. [AMENDED]

317:35-23-4. [AMENDED]

(Reference APA WF # 11-21B)

### SUMMARY:

Living Choice Program rules are revised to add Assisted Living services as a compensable service under the Living Choice demonstration program for the elderly and those with physical disabilities. Assisted Living services are personal care and supportive services that are furnished to Living Choice members who reside in an OHCA certified assisted living center. Additionally, rules are revised to add Private Duty Nursing as an allowable service and revise the re-enrollment policy to allow members who have been in Living Choice for the maximum 365 days, and have been re-institutionalized for a minimum of 90 consecutive days, the opportunity to re-enroll in the Living Choice program for an additional 365 days. Finally, rules are revised to include coverage for people

who have transitioned to the community from institutions for mental disease.

### AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; Section 6071 of the Deficit Reduction Act of 2005, Section 2403 of the Affordable Care Act, June 1, 2011 CMS guidance correspondence

### COMMENT PERIOD:

Written and oral comments will be accepted January 18, 2012 through February 16, 2012, 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 Wednesday, February, 22 2012, at 1:00 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 16, 2012.

### 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 #11-1227; filed 12-21-11]*

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

*[OAR Docket #11-1230]*

### INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

### PROPOSED RULES:

Subchapter 3. Coverage and Exclusions

317:35-3-2. [AMENDED]

**(Reference APA WF # 11-25B)**

**SUMMARY:**

SoonerCare non-emergency transportation rules are revised to clarify OHCA's current policy concerning meals and lodging, travel distance, and eligibility. This rule will assist with future cost savings and prevent abuse of services. This rule will also ensure services for current and future SoonerCare members.

**AUTHORITY:**

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 and Section 5051.3 of Title 63 of Oklahoma Statutes

**COMMENT PERIOD:**

Written and oral comments will be accepted January 18, 2012, through February 16, 2012, 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 Wednesday, February 22, 2012, at 1:00 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 16, 2012.

**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 #11-1230; filed 12-21-11]*

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

*[OAR Docket #11-1240]*

**INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 18. Programs of All-Inclusive Care for the Elderly

317:35-18-1. [AMENDED]

317:35-18-2. [AMENDED]

317:35-18-3. [AMENDED]

317:35-18-4. [AMENDED]

317:35-18-5. [AMENDED]

317:35-18-6. [AMENDED]

317:35-18-7. [AMENDED]

317:35-18-9. [AMENDED]

317:35-18-10. [AMENDED]

317:35-18-11. [AMENDED]

**(Reference APA WF # 11-35)**

**SUMMARY:**

PACE rules are revised to remove pilot specific requirements and replace with language that is applicable to all PACE providers. Additional revisions include revising the Nursing Facility Level of Care criteria to be more specific to PACE eligibility criteria and cleaning up rules for clarity.

**AUTHORITY:**

The Oklahoma Health Care Authority Board; Then 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 18, 2012 through February 16, 2012, 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 Wednesday, February, 22 2012, at 1:00 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 16, 2012.

**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 #11-1240; filed 12-21-11]*

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

*[OAR Docket #11-1244]*

### INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

### PROPOSED RULES:

Subchapter 17. ADvantage Waiver Services

- 317:35-17-1. [AMENDED]
- 317:35-17-2. [AMENDED]
- 317:35-17-3. [AMENDED]
- 317:35-17-4. [AMENDED]
- 317:35-17-5. [AMENDED]
- 317:35-17-6. [AMENDED]
- 317:35-17-7. [AMENDED]
- 317:35-17-8. [AMENDED]
- 317:35-17-8.1. [AMENDED]
- 317:35-17-9. [AMENDED]
- 317:35-17-10. [AMENDED]
- 317:35-17-11. [AMENDED]
- 317:35-17-12. [AMENDED]
- 317:35-17-13. [AMENDED]
- 317:35-17-14. [AMENDED]
- 317:35-17-15. [AMENDED]
- 317:35-17-16. [AMENDED]
- 317:35-17-17. [AMENDED]
- 317:35-17-18. [AMENDED]
- 317:35-17-19. [AMENDED]
- 317:35-17-20. [AMENDED]
- 317:35-17-21. [AMENDED]
- 317:35-17-21.1. [AMENDED]
- 317:35-17-22. [AMENDED]
- 317:35-17-23. [AMENDED]
- 317:35-17-24. [AMENDED]

**(Reference APA WF # 11-39B)**

### SUMMARY:

OHCA rules for the ADvantage Waiver are revised to remove Respiratory Therapy as an allowable service within the waiver and remove Hospice when the member is in a nursing facility receiving ADvantage Facility Based Extended Respite. Both services are removed due to lack of utilization. Additionally, rules are revised to remove language allowing for reimbursement to providers of case management transition services when the member fails to transition into the ADvantage waiver program. The revisions are necessary to align OHCA policy with revised operational procedures as approved by the Centers for Medicare and Medicaid Services.

Additional rule revisions include the following: removal of language requiring transportation to be provided by Adult Day Health Care Centers; clarification of family support services versus waiver services; addition of language clarifying "client support moderate risk", "client support high risk" and addition of language describing "client support low risk" and "environmental low risk"; the addition of eligibility language clarifying member reauthorization, recertification and redetermination; clarification regarding the member's level of need in order to be eligible for waiver services; clarification about the types of living arrangements allowable for ADvantage members; clarification regarding the member's health, safety and welfare; policy is revised to remove language allowing a financial eligibility assessment for individuals who are not applying for waiver services; clarification regarding when a new level of care determination is required; removal of language requiring recertification of the member by a case manager and requiring an OKDHS nurse to provide medical certification, and at a minimum annually; language added regarding plan of care documentation when more than one member of the household receives waiver services; clarification regarding the use of family members as paid providers; clarification of conditions requiring a member's service plan goals to be amended; removal of policy regarding the expedited eligibility determination process (SPEED); other minor clean-up language.

### AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of the Oklahoma Statutes; Medically Fragile 1915(c) Home and Community Based Services (HCBS) Waiver program as approved by The Centers for Medicare and Medicaid Services (CMS)

### COMMENT PERIOD:

Written and oral comments will be accepted January 18, 2012, through February 16, 2012, 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 Wednesday, February 22, 2012, at 1:00 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 16, 2012.

**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 #11-1244; filed 12-21-11]*

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

*[OAR Docket #11-1245]*

**INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

- Subchapter 5. Eligibility and Countable Income
- Part 1. Determination of Qualifying Categorical Relationships
- 317:35-5-4. [AMENDED]
- Part 5. Countable Income and Resources
- 317:35-5-43. [AMENDED]
- Subchapter 22. Pregnancy Related Benefits Covered Under Title XXI
- 317:35-22-1. [AMENDED]
- (Reference APA WF # 11-40)

**SUMMARY:**

Eligibility policy is revised for clarity and updates. All changes are minor and will not affect programs or budget. The revisions include changing a form number and altering punctuation to ensure the meaning and intention of the policy is clear.

**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 18, 2012 through February 16, 2012, 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 Wednesday, February, 22 2012, at 1:00 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 16, 2012.

**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 #11-1245; filed 12-21-11]*

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

*[OAR Docket #11-1247]*

**INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

- Subchapter 13. Member Rights and Responsibilities
- 317:35-13-7. [AMENDED]
- (Reference APA WF # 11-42)

**SUMMARY:**

Eligibility policy is revised to address sanctioning of members who abuse SoonerCare benefits. For members who OHCA has determined to have abused their benefits, sanctions are put in place such that on the first violation, the member's eligibility will be suspended for up to six months; for the second violation, the member's eligibility will be suspend for up to twelve months; and for the third violation, the member's eligibility will be suspended indefinitely. All sanctions, including the length of the penalty period, are subject to administrative due process.

**AUTHORITY:**

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

## Notices of Rulemaking Intent

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### COMMENT PERIOD:

Written and oral comments will be accepted January 18, 2012 through February 16, 2012, 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 Wednesday, February, 22 2012, at 1:00 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 16, 2012.

### 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 #11-1247; filed 12-21-11]*

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

*[OAR Docket #11-1249]*

### INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

### PROPOSED RULES:

Subchapter 21. Oklahoma Cares Breast and Cervical Cancer Treatment Program

317:35-21-1. [AMENDED]

317:35-21-2. [AMENDED]

317:35-21-3. [AMENDED]

317:35-21-4. [AMENDED]

(Reference APA WF # 11-44)

### SUMMARY:

The Breast and Cervical Cancer Treatment Program is amended to provide a limited diagnostic testing benefit package to women who receive an abnormal finding on their

mammogram screening, pap smear, or clinical breast exam, prior to receiving full-scope benefits. Women who have a true pre-cancerous or cancerous diagnosis will then receive full-scope benefits.

### AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; Breast and Cervical Cancer Treatment Act of 2000

### COMMENT PERIOD:

Written and oral comments will be accepted January 18, 2012 through February 16, 2012, 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 Wednesday, February, 22 2012, at 1:00 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 16, 2012.

### 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 #11-1249; filed 12-21-11]*

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

*[OAR Docket #11-1218]*

### INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

### PROPOSED RULES:

Subchapter 1. General Provisions

317:40-1-1. [AMENDED]

Subchapter 5. Member Services  
Part 11. Other Community Residential Supports  
317:40-5-152. [AMENDED]  
Subchapter 7. Employment Services Through Home and  
Community-Based Services Waivers  
317:40-7-4. [AMENDED]  
(Reference APA WF # 11-04C)

**SUMMARY:**

OHCA rules are revised to change language in policy that references "mental retardation" to "intellectual disabilities". Revisions are necessary to comply with Public Law 111-256 (Rosa's Law) that replaces the term mental retardation with intellectual disability, in federal education, health and labor laws.

**AUTHORITY:**

The Oklahoma Health Care Authority Board; Then Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; Public Law 111-256

**COMMENT PERIOD:**

Written and oral comments will be accepted January 18, 2012, through February 16, 2012, 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 Wednesday, February 22, 2012, at 1:00 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 16, 2012.

**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 #11-1218; filed 12-21-11]

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

[OAR Docket #11-1237]

**INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

- Subchapter 5. Member Services
  - Part 1. Agency Companion Services
  - 317:40-5-3. [AMENDED]
  - 317:40-5-5. [AMENDED]
  - 317:40-5-8. [REVOKED]
  - 317:40-5-9. [AMENDED]
  - 317:40-5-13. [AMENDED]
  - Part 5. Specialized Foster Care
  - 317:40-5-59. [AMENDED]
  - Part 9. Service Provisions
  - 317:40-5-101. [AMENDED]
  - 317:40-5-113. [AMENDED]
  - Subchapter 7. Employment Services Through Home and Community Based Services Waiver
  - 317:40-7-12. [AMENDED]
  - 317:40-7-15. [AMENDED]
  - 317:40-7-21. [AMENDED]
- (Reference APA WF # 11-32B)

**SUMMARY:**

Permanent rule revisions are proposed by the OKDHS Developmental Disability Services Division (DDSD) pertaining to clarification of policy for the termination of Agency Companion providers based on certain background check information and to provide clarification on the limits of background search information for Specialized Foster Care providers regarding involvement in a court action. Additionally policy is revised to require architectural modification contractors to provide evidence of a lead based paint safety certificate; the addition of Adult Day Services for members in the Homeward Bound Waiver; Targeted Case Management to be billed weekly rather than monthly; removal of the Physical Status Review score as one of criteria for determining the enhanced rate for Community Based Group services and Job Coaching Services, and removal of Adult Day Services as an option to the member's required employment hours. Other minor policy revisions are also included.

**AUTHORITY:**

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of the Oklahoma Statutes; Medically Fragile 1915(c) Home and Community Based Services (HCBS) Waiver program as approved by The Centers for Medicare and Medicaid Services (CMS)

**COMMENT PERIOD:**

Written and oral comments will be accepted January 18, 2012, through February 16, 2012, during regular business

## Notices of Rulemaking Intent

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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 Wednesday, February 22, 2012, at 1:00 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 16, 2012.

### **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 #11-1237; filed 12-21-11]*

## **TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 45. INSURE OKLAHOMA**

*[OAR Docket #11-1238]*

### **INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

### **PROPOSED RULES:**

Subchapter 1. General Provisions

317:45-1-3. [AMENDED]

317:45-1-4. [AMENDED]

317:45-5-1. [AMENDED]

**(Reference APA WF # 11-33)**

### **SUMMARY:**

Insure Oklahoma rules are revised to clarify in-network is defined as the highest percentage reimbursement network approved by OHCA. The rules are also revised to clarify that OHCA will only reimburse expenses related to the highest percentage network.

### **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 18, 2012, through February 16, 2012, 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 Wednesday, February 22, 2012, at 1:00 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 16, 2012.

### **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 #11-1238; filed 12-21-11]*

## **TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 50. HOME AND COMMUNITY BASED SERVICES WAIVERS**

*[OAR Docket #11-1219]*

### **INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

### **PROPOSED RULES:**

Subchapter 1. Medically Fragile Waiver Services

317:50-1-2. [AMENDED]

317:50-1-3. [AMENDED]

Subchapter 3. My Life, My Choice Waiver Services

317:50-3-2. [AMENDED]

Subchapter 5. Sooner Seniors Waiver Services

317:50-5-2. [AMENDED]

**(Reference APA WF # 11-04D)**

**SUMMARY:**

OHCA rules are revised to change language in policy that references "mental retardation" to "intellectual disabilities". Revisions are necessary to comply with Public Law 111-256 (Rosa's Law) that replaces the term mental retardation with intellectual disability, in federal education, health and labor laws.

**AUTHORITY:**

The Oklahoma Health Care Authority Board; Then Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; Public Law 111-256

**COMMENT PERIOD:**

Written and oral comments will be accepted January 18, 2012, through February 16, 2012, 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 Wednesday, February 22, 2012, at 1:00 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 16, 2012.

**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 #11-1219; filed 12-21-11]*

**TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY  
CHAPTER 50. HOME AND COMMUNITY BASED SERVICES WAIVERS**

*[OAR Docket #11-1221]*

**INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 3. My Life, My Choice Waiver Services 317:50-3-4. [AMENDED]

(Reference APA WF # 11-13)

**SUMMARY:**

OHCA rules for the My Life, My Choice Waiver are revised to clarify waiting list procedures for individuals who apply for services but cannot enter the waiver due to capacity limitations. The rules clarify that individuals applying for the waiver but unable receive services due to capacity limitations are placed on a waiting list and enter the waiver on a first on first off basis.

**AUTHORITY:**

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of the Oklahoma Statutes; Medically Fragile 1915(c) Home and Community Based Services (HCBS) Waiver program as approved by The Centers for Medicare and Medicaid Services (CMS)

**COMMENT PERIOD:**

Written and oral comments will be accepted January 18, 2012, through February 16, 2012, 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 Wednesday, February 22, 2012, at 1:00 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 16, 2012.

**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 #11-1221; filed 12-21-11]*

## Notices of Rulemaking Intent

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### **TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 50. HOME AND COMMUNITY BASED SERVICES WAIVERS**

*[OAR Docket #11-1222]*

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

Notice of proposed PERMANENT rulemaking

#### **PROPOSED RULES:**

Subchapter 5. Sooner Seniors Waiver Services  
317:50-5-4. [AMENDED]

(Reference APA WF # 11-14)

#### **SUMMARY:**

OHCA rules for the Sooner Seniors Waiver are revised to clarify waiting list procedures for individuals who apply for services but cannot enter the waiver due to capacity limitations. The rules clarify that individuals applying for the waiver but unable receive services due to capacity limitations are placed on a waiting list and enter the waiver on a first on first off basis.

#### **AUTHORITY:**

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of the Oklahoma Statutes; Medically Fragile 1915(c) Home and Community Based Services (HCBS) Waiver program as approved by The Centers for Medicare and Medicaid Services (CMS)

#### **COMMENT PERIOD:**

Written and oral comments will be accepted January 18, 2012, through February 16, 2012, 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 Wednesday, February 22, 2012, at 1:00 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 16, 2012.

#### **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 #11-1222; filed 12-21-11]*

### **TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 50. HOME AND COMMUNITY BASED SERVICES WAIVERS**

*[OAR Docket #11-1233]*

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

Notice of proposed PERMANENT rulemaking

#### **PROPOSED RULES:**

Subchapter 1. Medically Fragile Waiver Services  
317:50-1-4. [AMENDED]

(Reference APA WF # 11-29)

#### **SUMMARY:**

OHCA rules for the Medically Fragile Waiver are revised to clarify waiting list procedures for individuals who apply for services but cannot enter the waiver due to capacity limitations. The rules clarify that individuals applying for the waiver but unable receive services due to capacity limitations are placed on a waiting list and enter the waiver on a first on first off basis.

#### **AUTHORITY:**

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of the Oklahoma Statutes; Medically Fragile 1915(c) Home and Community Based Services (HCBS) Waiver program as approved by The Centers for Medicare and Medicaid Services (CMS)

#### **COMMENT PERIOD:**

Written and oral comments will be accepted January 18, 2012, through February 16, 2012, 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 Wednesday, February 22, 2012, at 1:00 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 16, 2012.

**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 #11-1233; filed 12-21-11]*

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

*[OAR Docket #11-1205]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

- Subchapter 3. Office of Client Advocacy
- Part 3. Investigations
- 340:2-3-2 [AMENDED]
- 340:2-3-32 through 340:2-3-33 [AMENDED]
- 340:2-3-35 through 340:2-3-37 [AMENDED]
- (Reference APA WF 11-12)

**SUMMARY:**

Proposed amendments to Chapter 2 of Subchapter 3: (1) amend definitions contained in the recodification of the Oklahoma Children's Code enacted by the Legislature in 2009 and 2010 and add definitions contained in the Oklahoma Protective Services for Vulnerable Adults Act; (2) expand legal authority and scope for investigating abuse, neglect, and exploitation of vulnerable adults receiving care from a community services worker, employee of a community services provider, Medicaid personal care assistant; or employee of a Medicaid personal care services provider; (3) update reporting requirement no longer required to the district attorney; (4) clarify caretaker misconduct reviews apply only to vulnerable adults at Northern Oklahoma Resource Center of Enid (NORCE), Southern Oklahoma Resource Center (SORC) of Pauls Valley, and the Robert M. Greer Center in Enid (Greer); (5) remove reference to Office of Client Advocacy (OCA) investigations in Adult Protective Services (APS) substantiated cases; (6) add clarifying language regarding distribution of investigation reports when the accused caretaker is and is not subject to the Community Services Worker Registry; (7) add language the OCA finding will be sent to a vulnerable adult's caretaker, guardian, and next of kin; (8) eliminate the requirement to send certified letters to accused caretakers who cannot be reached for interview; (9) add Medicaid personal care assistant when referencing caretakers

subject to the Community Services Worker Registry; and (10) update language to current terminology and for clarification.

**AUTHORITY:**

Commission for Human Services, Article XXV, Sections 2 and 4 of the Oklahoma Constitution; Section 1-1-101 *et seq.* of Title 10A of the Oklahoma Statutes (10A O.S. § 1-1-101 *et seq.*); 43A O.S. § 10-102 *et seq.*; and 56 O.S. § 1025.1.

**COMMENT PERIOD:**

Written and oral comments will be accepted January 17, 2012 through February 16, 2012 during regular business hours by contacting Diana L. Smith, Office of Client Advocacy, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-525-4850.

**PUBLIC HEARING:**

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than February 16, 2012 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 or going to [www.okdhs.org/library/policy/pp/](http://www.okdhs.org/library/policy/pp/).

**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 #11-1205; filed 12-20-11]*

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

*[OAR Docket #11-1207]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

- Subchapter 3. Reports of Maltreatment of Vulnerable Adults
- 340:5-3-4 [AMENDED]
- Subchapter 5. Investigation of Adult Protective Services Referrals
- 340:5-5-4 [AMENDED]
- 340:5-5-6 [AMENDED]
- (Reference APA WF 11-04 and 11-16)

**SUMMARY:**

The proposed revisions to Subchapters 3 and 5 of Chapter 5 amend the rules to add: (1) additional types of reports of

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maltreatment Adult Protective Services (APS) staff refer to the Oklahoma Department of Human Services (OKDHS) Office of Client Advocacy (OCA) including reports involving persons subject to the Community Services Worker Registry (CSWR); (2) remove rules regarding APS staff investigating reports of maltreatment by persons subject to the CSWR; (3) clarify information regarding religious beliefs of the vulnerable adult; (4) remove the provision that emergency placement is not made to facilities for the acutely mentally ill when the individual is under the guardianship of APS; (5) add provision that emergency placement not be made as an alternative to involuntary commitment; (6) add provision that services to vulnerable adults must be provided in a setting that is segregated from residents who have been determined to be a danger to others; (7) add that transportation by law enforcement can be court ordered; and (8) add clarifying language.

### **AUTHORITY:**

Commission for Human Services, Article XXV, Sections 2 and 4 of the Oklahoma Constitution; and Sections 10-105 and 10-108 of Title 43A of the Oklahoma Statutes (Senate Bill 492).

### **COMMENT PERIOD:**

Written and oral comments will be accepted January 17, 2012 through February 16, 2012 during regular business hours by contacting Laura Brown, Family Support Services Division, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4396.

### **PUBLIC HEARING:**

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than February 16, 2012 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 or going to [www.okdhs.org/library/policy/pp/](http://www.okdhs.org/library/policy/pp/).

### **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 #11-1207; filed 12-20-11]*

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

*[OAR Docket #11-1206]*

### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

### **PROPOSED RULES:**

Subchapter 3. Conditions of Eligibility - Need

340:10-3-5 [AMENDED]

340:10-3-31 through 340:10-3-32 [AMENDED]

340:10-3-40 [AMENDED]

340:10-3-56 through 340:10-3-57 [AMENDED]

Subchapter 19. Eligibility Requirements for Emergency Assistance to Needy Families with Children [REVOKED]

340:10-19-1 through 340:10-19-6 [REVOKED]

340:10-19-8 through 340:10-19-10 [REVOKED]

Subchapter 20. Diversion Assistance [REVOKED]

340:10-20-1 [REVOKED]

**(Reference APA WF 11-13)**

### **SUMMARY:**

The proposed revisions to Subchapters 3, 19, and 20 of Chapter 10 amend the rules to: (1) clarify consideration of income tax refunds, payments to volunteers, and past due child support as resources and income; (2) define a self-employed person; (3) add clarifying language regarding self-employment income calculations; (4) clarify who may be included in the Temporary Assistance For Needy Families (TANF) benefit; (5) remove incorrect language; (6) update policy citations; and (7) revoke rules for programs that are no longer funded.

### **AUTHORITY:**

Commission for Human Services, Article XXV, Sections 2 and 4 of the Oklahoma Constitution; Sections 230.50, 230.52, 230.64, 230.65 of Title 56 of the Oklahoma Statutes; Sections 261.2, 261.10, and 261.30 of Title 45 of the Code of Federal Regulations (CFR), and Section 5044(f) of Title 42 of the United State Code (U.S.C.).

### **COMMENT PERIOD:**

Written and oral comments will be accepted January 17, 2012 through February 16, 2012 during regular business hours by contacting Laura Brown, Family Support Services Division, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4396.

### **PUBLIC HEARING:**

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than February 16, 2012 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 or going to [www.okdhs.org/library/policy/pp/](http://www.okdhs.org/library/policy/pp/).

**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 #11-1206; filed 12-20-11]*

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

*[OAR Docket #11-1208]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

- Subchapter 1. Low Income Home Energy Assistance Program
- 340:20-1-4 [AMENDED]
- 340:20-1-10 through 340:20-1-11 [AMENDED]
- 340:20-1-17 [AMENDED]
- 340:20-1-20 [AMENDED]
- (Reference APA WF 11-09)

**SUMMARY:**

The proposed revisions to Subchapter 1 of Chapter 20 amend the rules to: (1) clarify, correct, update, and rearrange rules regarding the Oklahoma Department of Human Services (OKDHS) relationship with tribal Low Income Home Energy Assistance Program (LIHEAP), the definition of household, when subsidized households are not considered vulnerable, how income is treated for ineligible aliens, and rules regarding the Energy Crisis Assistance Program (ECAP) component of LIHEAP; (2) better align LIHEAP cooling assistance rules with winter heating rules regarding preauthorization criteria and types of cooling equipment that may be purchased; and (3) remove outdated language.

**AUTHORITY:**

Commission for Human Services, Article XXV, Sections 2 and 4 of the Oklahoma Constitution; Sections 2601 through 2605 of the Low-Income Home Energy Assistance Act of 1981 (Title XXVI of the Omnibus Budget Reconciliation Act of 1981 Public Law (P.L.) 97-35, as amended); Section 927 of the Housing and Community Development Act of 1992 (P.L. 102-550), as amended by P.L. 103-185; and Sections 96.30 and 96.42 of Title 45 of the Code of Federal Regulations.

**COMMENT PERIOD:**

Written and oral comments will be accepted January 17, 2012 through February 16, 2012 during regular business hours by contacting Laura Brown, Family Support Services Division, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4396.

**PUBLIC HEARING:**

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than February 16, 2012 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 or going to [www.okdhs.org/library/policy/pp/](http://www.okdhs.org/library/policy/pp/).

**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 #11-1208; filed 12-20-11]*

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

*[OAR Docket #11-1202]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

- Subchapter 1. Scope and Applicability
- 340:25-1-1.2 [AMENDED]
- 340:25-1-2.1 [AMENDED]
- 340:25-1-5.1 [AMENDED]
- Subchapter 5. Operational Policies
- Part 9. Disclosure of Information
- 340:25-5-66 [AMENDED]
- 340:25-5-67 [AMENDED]
- Part 15. Case Initiation, Case Management, and Case Closure
- 340:25-5-110.1 [AMENDED]
- 340:25-5-117 [AMENDED]
- 340:25-5-123 [AMENDED]
- 340:25-5-124 [AMENDED]
- Part 17. Past Support
- 340:25-5-140 [AMENDED]
- 340:25-5-140.1 [AMENDED]
- Part 20. Medical Support

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340:25-5-168 [AMENDED]  
340:25-5-171 [AMENDED]  
Part 21. Establishment  
340:25-5-176 [AMENDED]  
340:25-5-178 [AMENDED]  
340:25-5-179.1 [AMENDED]  
Part 22. Review and Modification  
340:25-5-198.1 [AMENDED]  
Part 23. Enforcement  
340:25-5-200 [AMENDED]  
340:25-5-200.1 [AMENDED]  
340:25-5-201.1 [AMENDED]  
Part 33. Interstate and International Cases  
340:25-5-270 [AMENDED]  
Part 38. IV-D and Non-IV-D Central Case Registry Information  
340:25-5-339 [AMENDED]  
340:25-5-340 [AMENDED]  
Part 39. Accounting and Distribution  
340:25-5-345.2 [AMENDED]  
340:25-5-350.1 [AMENDED]  
340:25-5-350.3 [AMENDED]  
**(Reference APA WF 11-08)**

### SUMMARY:

The proposed amendments to Chapter 25 Subchapter 1 and Subchapter 5 amend the rules to: (1) implement policy changes recommended during the annual Oklahoma Child Support Services (OCSS) policy review process; and (2) make non-substantive housekeeping changes to improve the clarity of rules.

### AUTHORITY:

Commission for Human Services, Article XXV, Sections 2 and 4 of the Oklahoma Constitution; Social Security Act, codified at Chapter 7 of Title 42 of the Code of Federal Regulations; Child Support Performance and Incentive Act of 1998, Public Law 105-200, codified in sections of Title 42 of the United States Code; Servicemembers Civil Relief Act, codified in Sections 501 through 596 of Title 50A of the United States Code; Parts 302, 303, and 453 et seq. of Title 45 of the Code of Federal Regulations; Section 1738B of Title 28 and Sections 664 and 666 of Title 42 of the United States Code; Sections 83, 7700-204, and 7700-636 of Title 10 of the Oklahoma Statutes; Section 1-4-702 of Title 10A of the Oklahoma Statutes; Chapters 3 and 21 of Title 12 of the Oklahoma Statutes; Sections 566 and 567 of Title 21 of the Oklahoma Statutes (21 O.S. §§ 566-567); 31 O.S. § 285.3; 36 O.S. § 6058A; 43 O.S.; 56 O.S. §§ 183 and 231 through 240.23.

### COMMENT PERIOD:

Written and oral comments are accepted January 17, 2012 through February 16, 2012, 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 the above listed person, no later than 5:00 p.m., February 16, 2012.

### 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 or going to [www.okdhs.org/library/policy/pp/](http://www.okdhs.org/library/policy/pp/).

### 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 #11-1202; filed 12-19-11]*

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

*[OAR Docket #11-1203]*

### RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

### PROPOSED RULES:

Subchapter 5. Operational Policies  
Part 25. Federal Offset Programs  
340:25-5-215 [AMENDED]  
340:25-5-215.1 [AMENDED]  
Part 27. State Tax Refund Offset Program.  
340:25-5-235 [AMENDED]

**(Reference APA WF 11-11)**

### SUMMARY:

The proposed amendments to Chapter 25 Subchapter 5 amend the rules to: (1) implement policy changes recommended during the annual OCSS policy review process; (2) continue improving the quality of the services provided by OCSS; (3) redistribute costs that are currently paid by OKDHS; and (4) make non-substantive changes to improve the clarity of rules.

### AUTHORITY:

Commission for Human Services, Article XXV, Sections 2 and 4 of the Oklahoma Constitution; Sections 653, 654, 654a, and 654b of Title 42 of the United States Code; Section 1738B of Title 28 of the United States Code; Sections 302.32, 302.33, 302.38; 302.60, 302.70, 303.6, 303.72, 307.11, and 307.13 of Title 45 of the Code of Federal Regulations; Sections 205.2 and 205.3 of Title 68 of the Oklahoma Statutes.

**COMMENT PERIOD:**

Written and oral comments are accepted January 17, 2012 through February 16, 2012, 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 the above listed person, no later than 5:00 p.m., February 16, 2012.

**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 or going to [www.okdhs.org/library/policy/pp/](http://www.okdhs.org/library/policy/pp/).

**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 #11-1203; filed 12-19-11]*

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

*[OAR Docket #11-1209]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 7. Eligibility

340:40-7-8 [AMENDED]

340:40-7-11 [AMENDED]

(Reference APA WF 11-14)

**SUMMARY:**

The proposed revisions to Subchapter 7 of Chapter 40 amend the rules to: (1) clarify how minimum wage is determined and actions taken when the client earns less than minimum wage; (2) clarify allowances included in military pay are counted as earned income; (3) define who is considered self-employed; (4) add clarifying language regarding self-employment income calculations and examples of on-the-job training; and (5) other clarifying language.

**AUTHORITY:**

Commission for Human Services, Article XXV, Sections 2 and 4 of the Oklahoma Constitution; and Sections 98.16 and 98.20 of Title 45 of the Code of Federal Regulations.

**COMMENT PERIOD:**

Written and oral comments will be accepted January 17, 2012 through February 16, 2012 during regular business hours by contacting Laura Brown, Family Support Services Division, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4396.

**PUBLIC HEARING:**

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than February 16, 2012 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 or going to [www.okdhs.org/library/policy/pp/](http://www.okdhs.org/library/policy/pp/).

**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 #11-1209; filed 12-20-11]*

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

*[OAR Docket #11-1210]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 3. Application Process

340:50-3-1 through 340:50-3-3 [AMENDED]

Subchapter 5. Non-financial Eligibility Criteria

Part 1. Household Definition

340:50-5-3 [AMENDED]

Part 3. Special Households

340:50-5-28 [AMENDED]

Part 5. Students, Strikers, Resident Farm Laborers, Migrant

Households, Sponsored Aliens, and School Employees

340:50-5-45 [AMENDED]

Subchapter 7. Financial Eligibility Criteria

Part 3. Income

340:50-7-29 through 340:50-7-30 [AMENDED]

Subchapter 9. Eligibility and Benefit Determination

Procedures

340:50-9-1 [AMENDED]

340:50-9-4 through 340:50-9-6 [AMENDED]

(Reference APA WF 11-10)

## Notices of Rulemaking Intent

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### SUMMARY:

The proposed revisions to Subchapters 3, 5, 7, and 9 of Chapter 50 amend the rules to: (1) add language regarding electronically filing applications; (2) correct the disqualification time period when a household fails to cooperate with an Office of Inspector General Quality Control review; (3) update a policy citation; (4) add policy citation regarding postponement of the interview when the household appears eligible for expedited services; (5) specify the time frame given and the form used to request proof of eligibility; (6) correct language regarding the age at which a child can be considered a separate household from adult household members; (7) remove language requiring shelters for battered women and children to provide the majority of the resident's meals for residents to be eligible to receive food benefits; (8) reorder and clarify information regarding student classification; (9) add policy citations regarding how to consider income and deductible expenses for ineligible students; (10) add language regarding how to consider guardianship and Department of Veterans Affairs (VA) Aid and Attendance payments; (11) remove obsolete terminology regarding military allowances; (12) add the definition of a self-employed person; (13) add clarifying language regarding self-employment income calculations; (14) remove language regarding delayed applications from one Section and add revised language regarding delayed applications to another Section; (15) update language to current terminology; and (16) add clarifying language.

### AUTHORITY:

Commission for Human Services, Article XXV, Sections 2 and 4 of the Oklahoma Constitution; Title 7 Code of Federal Regulations Section 271.2 (7CFR 271.2); 7CFR 273.2(c), (d)(2), and (h); 7CFR273.5; 7CFR 273.9(b); and 7CFR 273.11.

### COMMENT PERIOD:

Written and oral comments will be accepted January 17, 2012 through February 16, 2012 during regular business hours by contacting Laura Brown, Family Support Services Division, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4396.

### PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than February 16, 2012 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 or going to [www.okdhs.org/library/policy/pp/](http://www.okdhs.org/library/policy/pp/).

### 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 #11-1210; filed 12-20-11]*

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

*[OAR Docket #11-1211]*

### RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

### PROPOSED RULES:

Subchapter 1. General Provisions

340:65-1-2 [AMENDED]

Subchapter 3. Eligibility for Benefits

340:65-3-1 [AMENDED]

340:65-3-4 [AMENDED]

340:65-3-7 through 340:65-3-8 [AMENDED]

Subchapter 5. Procedures Relating to Case Changes

Part 1. General Provisions

340:65-5-1 [AMENDED]

**(Reference APA WF 11-15)**

### SUMMARY:

The proposed revisions to Subchapters 1, 3, and 5 of Chapter 65 amend the rules to: (1) add detailed information regarding practices for safeguarding case information and raw tax data; (2) clarify information regarding the client's right to apply for benefits in the human services center of choice; (3) reorganize citizenship, collateral contact, and denial procedures information; (4) add additional information regarding collateral contacts, denial process, and fair hearing rights; (5) change the time frame to resolve data exchange discrepancies; (6) add policy citations regarding safeguarding of information; and (7) reorganize and update information regarding notices and fair hearing procedures.

### AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, and 4 of the Oklahoma Constitution; Sections 71, 161, 164, and 168 of Title 56 of the Oklahoma Statutes (O.S.); Section 20j of Title 74 O.S.; Section 272.8 of Title 7 of the Code of Federal Regulations (CFR); Sections 435.940 and 435.952 of Title 42 of the CFR; Section 205.51 and 205.56 of Title 45 of the CFR; and summary of the last Internal Revenue Service (IRS) SafeGuard Review in May 2010.

### COMMENT PERIOD:

Written and oral comments will be accepted January 17, 2012 through February 16, 2012 during regular business hours by contacting Laura Brown, Family Support Services Division, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4396.

**PUBLIC HEARING:**

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than February 16, 2012 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 or going to [www.okdhs.org/library/policy/pp/](http://www.okdhs.org/library/policy/pp/).

**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 #11-1211; filed 12-20-11]*

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

*[OAR Docket #11-1204]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

- Subchapter 3. Administration
    - Part 1. General Administration
      - 340:100-3-4 [AMENDED]
      - 340:100-3-6 [AMENDED]
      - 340:100-3-16 [NEW]
    - Part 3. Administration
      - 340:100-3-27 through 340:100-3-27.2 [AMENDED]
      - 340:100-3-27.3 [REVOKED]
      - 340:100-3-27.4 through 340:100-3-27.5 [AMENDED]
      - 340:100-3-34 [AMENDED]
      - 340:100-3-40 [AMENDED]
  - Subchapter 5. Client Services
    - Part 3. Service Provisions
      - 340:100-5-20 [AMENDED]
  - Subchapter 18. Licensing
    - 340:100-18-1 [AMENDED]
- (Reference APA WF 11-07)**

**SUMMARY:**

The proposed amendments to Chapter 100 Subchapters 3, 5, and 18 amend the rules to: (1) prohibit Developmental Disabilities Services Division (DDSD) employees from assisting service recipient's with financial transactions or being listed on service recipient bank accounts, clarifying the

use of spending programs; (2) no longer require submission of Human Rights Committee minutes to DDSD state office; (3) establish policy for the provider application process and requirements; (4) clarify case manager monitoring responsibilities and documentation requirements and quality assurance monitoring requirements for Specialized Foster Care and DDSD area surveys; (5) allow email as a means for presenting contract provider agencies with findings of administrative inquiries; (6) clarify contract performance survey and administrative inquiry practices; (7) extend the amount of time from one week to two for contract provider agencies to respond to citations issued by quality assurance with a compliance plan and schedule or provide supplemental information for consideration; (8) establish penalties for failure to cooperate and prohibit retaliation; (9) remove the provision for financial penalties for contract non-compliance; (10) revoke person-centered evaluations as they are no longer a component of the DDSD quality assurance program; (11) clarify the distribution of the quality assurance reports, and remove information pertaining to the distribution of person-centered evaluation reports as this is no longer a component of the quality assurance program; (12) disallow an extension on a financial audit when a contract provider's previous year's audit is delinquent; (13) define maltreatment and provide statutory authority, and clarify notification requirements; (14) change reporting requirements from monthly to quarterly to be consistent with changes made to other Sections, and require an official form to comply with statute; (15) clarify the application process and eligibility for a respite voucher; and (16) remove autism designation from the Board Certified Behavior Analyst licensure, per the Board's recommendation, and clarify the fee schedule.

**AUTHORITY:**

Commission for Human Services, Article XXV, Sections 2 and 4 of the Oklahoma Constitution; Section 1-1-105 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-1-105); 21 O.S. § 1533.1; 43A O.S. §§103-104; 56 O.S. § 1025.1; 59 O.S. §1928; Sections 455.104 and 455.106 of Title 42 of the Code of Federal Regulations (42 CFR §§ 455.104-106); 42 CFR § 483.440; and Section 1128 of the Social Security Act.

**COMMENT PERIOD:**

Written and oral comments are accepted January 17, 2012 through February 16, 2012, 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 the above listed person, no later than 5:00 p.m., February 16, 2012.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

n/a

## Notices of Rulemaking Intent

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### COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed person or going to [www.okdhs.org/library/policy/pp/](http://www.okdhs.org/library/policy/pp/).

### 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 #11-1204; filed 12-19-11]*

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

*[OAR Docket #11-1255]*

### RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

### PROPOSED RULES:

Subchapter 5. Regulation of Practice  
435:20-5-10. Referrals [NEW]

### SUMMARY:

The proposed rule would extend or reinstitute physical therapy for a the patient for up to ninety days after the origination of the referral, unless a longer duration of physical therapy services is requested by the referring health care professional if the diagnosis or symptom listed on the referral is the same as the reason for the extension or reinstatement of the physical therapy treatment. The rule also requires that the referring physician or PA be notified of the extension or reinstatement of the treatment within five business days of the date of the extension or reinstatement of the physical therapy treatment. The patient involved must be making sufficient improvement in symptoms or function to warrant the extension or reinstatement of the physical therapy treatment without first being seen or re-evaluated by the by the referring health care professional.

The physical therapist may not make a medical diagnosis or diagnosis of disease. If the physical therapist determines that the patient's condition is outside the scope of the physical therapy practice, or sufficient progress is not being made, the patient must be referred to a licensed health care professional.

The proposed rule would not apply if the patient is receiving physical therapy services pursuant to the Individuals with Disabilities Education Improvement Act of 2004, as may be amended, and the Rehabilitation Act of 1973, Section 504, as may be amended.

### AUTHORITY:

TITLE 59 O.S., Section 887.5, State Board of Medical Licensure and Supervision

### COMMENT PERIOD:

The comment period will run from January 17, 2012, to March 2, 2012. 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 8, 2012, at 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 2, 2012.

### 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 January 17, 2012 at the office of the Board, 101 N.E. 51<sup>st</sup> Street, Oklahoma City, Oklahoma, 73015.

### CONTACT PERSON:

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

*[OAR Docket #11-1255; filed 12-23-11]*

### TITLE 460. DEPARTMENT OF MINES CHAPTER 3. NON-COAL RULES OF PRACTICE AND PROCEDURES

*[OAR Docket #11-1253]*

### RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

### PROPOSED RULES:

Chapter 3. Non-Coal Rules of Practice and Procedures  
[AMENDED]

### SUMMARY:

The Department of Mines (ODM) is proposing an amendment to Chapter 3, Subchapter 1. The Department is deleting text from 460:-3-1-5(g)(2). The text requires out of state attorneys to either be duly license to practice law in Oklahoma or to sign an Oath that is set forth in Appendix A of Chapter 3. The Department is deleting the option because neither the Department nor its Hearing Examiner has the authority to determine matters. That authority belongs to the Oklahoma Bar Association.

### AUTHORITY:

45 O.S., Sections 1.5, 721, and 732, et seq., 75 O.S. Section 302 et.seq., Oklahoma Mining Commission.

### COMMENT PERIOD:

From January 17, 2012 through February 22, 2012, the public may present their views, either orally or in writing, to the contact person listed below.

**PUBLIC HEARING:**

Public Hearings will be held on February 22, 2012, at the Kiamichi Vo-Tech, McAlester, OK starting at 6:00 p.m. and at the Department of Mines, 2915 N. Classen Blvd., Ste. 213, Oklahoma City, OK, starting at 2:00 p.m.

**REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:**

Business entities affected by this proposed amendment are requested to provide the agency with information, in dollars if possible, about the increase in the level of the direct costs, indirect costs, or other costs expected to be incurred by that business entity due to compliance with the proposed change. Business entities may submit this information in writing from January 18, 2012, through February 22, 2012, to the contact person listed below.

**COPIES OF THE PROSED RULES:**

Copies of the proposed rules changes may be obtained from the contact person listed below after January 17, 2012.

**RULE IMPACT STATEMENT:**

Copies of the Rule Impact Statement may be obtained from the contact person listed below after January 31, 2012.

**CONTACT PERSON:**

Cathy Frank, Legal officer, Oklahoma Department of Mines, Wagoner Field Office, 1102 W. Cherokee, Ste. D, Wagoner, Ok 74467, (918) 485-3999.

*[OAR Docket #11-1253; filed 12-23-11]*

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

*[OAR Docket #11-1254]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Chapter 10. Non-Coal Rules and Regulations  
[AMENDED]

**SUMMARY:**

The Department of Mines (ODM) is proposing two amendments to Chapter 10. In 2011, Oklahoma Supreme Court ruled that 460:10 -17-6(a) was unconstitutional by restricting participation in permit applications conferences to those adversely affected property owners or occupied dwelling residents located within one (1) mile of a proposed or actual mining operation, so ODM is eliminating the one (1) mile language. The Subchapter 35, 460:10-35-8, amendment is due to a previously unreported mining fatality. The amendment is to ensure that whenever a loss of life or a serious injury occurs in or about a non-coal mine, it shall be the operator's duty to report the accident without delay. ODM can then investigate the accident and determine the safety of the mine. The amendment will ensure that the operator understands that

there will be a consequence for waiting or for not reporting a serious injury or a loss of life to ODM in a timely manner.

**AUTHORITY:**

45 O.S.Sections 1.5, 418, 435, 724, and 732, et seq., 75 O.S. Section 302 et.seq., Oklahoma Mining Commission.

**COMMENT PERIOD:**

From January 17, 2012 through February 17, 2012, the public may present their views, either orally or in writing, to the contact person listed below.

**PUBLIC HEARING:**

Public Hearings will be held on February 22, 2012, at the Kiamichi Vo-Tech, McAlester, OK starting at 6:00 p.m. and at the Department of Mines, 2915 N. Classen Blvd., Ste. 213, Oklahoma City, OK, starting at 2:00 p.m.

**REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:**

Business entities affected by this proposed amendment are requested to provide the agency with information, in dollars if possible, about the increase in the level of the direct costs, indirect costs, or other costs expected to be incurred by that business entity due to compliance with the proposed change. Business entities may submit this information in writing from January 17, 2012, through February 22, 2012, to the contact person listed below.

**COPIES OF THE PROSED RULES:**

Copies of the proposed rules changes may be obtained from the contact person listed below after January 17, 2012.

**RULE IMPACT STATEMENT:**

Copies of the Rule Impact Statement may be obtained from the contact person listed below after January 31, 2012.

**CONTACT PERSON:**

Cathy Frank, Legal officer, Oklahoma Department of Mines, Wagoner Field Office, 1102 W. Cherokee, Ste.D, Wagoner, Ok 74467, (918) 485-3999.

*[OAR Docket #11-1254; filed 12-23-11]*

**TITLE 595. DEPARTMENT OF PUBLIC  
SAFETY  
CHAPTER 1. GENERAL RULES OF THE  
DEPARTMENT OF PUBLIC SAFETY**

*[OAR Docket #11-1194]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 15. Sale and Auction of Surplus and Forfeited Property  
595:1-15-3. Sale of surplus property [AMENDED]

**SUMMARY:**

Amendments to this rule would modify the method at which the minimum sale price of equipment to be sold at auction would be calculated.

## Notices of Rulemaking Intent

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The proposed actions are amendments to existing rules and creation of new rules.

The circumstance which created the need for these rules is the increased value retention of equipment sold at auction.

The intended effect of these rules is to allow the Department of Public Safety to perform its duties as required or authorized by law.

### **AUTHORITY:**

Commissioner of Public Safety; 47 O.S., 2-123

### **COMMENT PERIOD:**

Interested persons may present their views regarding these rules in writing to the contact person referenced below. Comments will be accepted until 4:30 p.m., Friday, February 17, 2012.

### **PUBLIC HEARING:**

A public hearing regarding these proposed rules has not been scheduled. A public hearing will be scheduled if written request is received by the contact person no later than 4:30 p.m., Friday, February 17, 2012, in accordance with 75 O.S. § 303(C).

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

Any business entity affected by these proposed rules is requested to provide the Department of Public Safety, in writing to the contact person and within the comment period or at the public hearing, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred due to compliance with these proposed rules.

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

A copy of the proposed rules may be obtained from the Department's website <http://www.dps.state.ok.us/rules/> or from the contact person.

### **RULE IMPACT STATEMENT:**

A Rule Impact Statement for the proposed rules will be prepared, as required by 75 O.S. §303(D), and may be obtained from the contact person.

### **CONTACT PERSON:**

David W. Beatty, Administrative Rules, Department of Public Safety, 3600 N. M.L. King Ave., P.O. Box 11415, Oklahoma City, OK 73136-0415. Phone: (405) 425-2024. Fax: (405) 419-2043. E-mail: [dbeatty@dps.state.ok.us](mailto:dbeatty@dps.state.ok.us)

*[OAR Docket #11-1194; filed 12-14-11]*

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## **TITLE 595. DEPARTMENT OF PUBLIC SAFETY CHAPTER 35. ENFORCEMENT OF OKLAHOMA MOTOR CARRIER SAFETY AND HAZARDOUS MATERIALS TRANSPORTATION ACT**

*[OAR Docket #11-1195]*

### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

### **PROPOSED RULES:**

595:35-1-6. Deletions, substitutions, and additions to federal rules adopted by reference [AMENDED]

595:35-1-9. Hearings [AMENDED]

595:35-1-10. Administrative penalty assessment guidelines [AMENDED]

### **SUMMARY:**

Amendments to this chapter would bring rules into conformity with federal regulations.

The proposed actions are amendments to existing rules.

The circumstance which created the need for these rules is to remove or update language which is not in conformity with or is contradictory to federal regulations.

The intended effect of these rules is to allow the Department of Public Safety to perform its duties as required or authorized by law.

### **AUTHORITY:**

Commissioner of Public Safety; 47 O.S. § 230.4(1) and (2); 75 O.S., § 250.4(A)(8)

### **COMMENT PERIOD:**

Interested persons may present their views regarding these rules in writing to the contact person referenced below. Comments will be accepted until 4:30 p.m., Friday, February 17, 2012.

### **PUBLIC HEARING:**

A public hearing regarding these proposed rules has not been scheduled. A public hearing will be scheduled if written request is received by the contact person no later than 4:30 p.m., Friday, February 17, 2012, in accordance with 75 O.S. § 303(C).

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

Any business entity affected by these proposed rules is requested to provide the Department of Public Safety, in writing to the contact person and within the comment period or at the public hearing, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred due to compliance with these proposed rules.

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

A copy of the proposed rules may be obtained from the Department's website <http://www.dps.state.ok.us/rules/> or from the contact person.

**RULE IMPACT STATEMENT:**

A Rule Impact Statement for the proposed rules will be prepared, as required by 75 O.S. §303(D), and may be obtained from the contact person.

**CONTACT PERSON:**

David W. Beatty, Administrative Rules, Department of Public Safety, 3600 N. M.L. King Ave., P.O. Box 11415, Oklahoma City, OK 73136-0415. Phone: (405) 425-2024. Fax: (405) 419-2043. E-mail: dbeatty@dps.state.ok.us

*[OAR Docket #11-1195; filed 12-14-11]*

**TITLE 595. DEPARTMENT OF PUBLIC SAFETY  
CHAPTER 50. TABS, TAGS, SIGNS AND INSIGNIAS**

*[OAR Docket #11-1196]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 3. Parking Placards for Physically Disabled Persons

595:50-3-2. Physically disabled parking placards [AMENDED]

595:50-3-6. Duplication of physically disabled parking placards; replacement of a lost stolen, or defective physically disabled parking placard [AMENDED]

**SUMMARY:**

Amendments to this chapter would clarify the issuance of parking placards for physically disable persons.

The proposed action is to amend existing rule.

The circumstance which created the need for this rule is the need for clarification.

The intended effect of these rules is to allow the Department of Public Safety to perform its duties as required or authorized by state law.

**AUTHORITY:**

Commissioner of Public Safety; 47 O.S., Section 15-112(G)

**COMMENT PERIOD:**

Interested persons may present their views regarding these rules in writing to the contact person referenced below. Comments will be accepted until 4:30 p.m., Friday February 17, 2012.

**PUBLIC HEARING:**

A public hearing regarding these proposed rules has not been scheduled. A public hearing will be scheduled if written request is received by the contact person no later than 4:30 p.m., Friday, February 17, 2012, in accordance with 75 O.S. § 303(C).

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

Any business entity affected by these proposed rules is requested to provide the Department of Public Safety, in

writing to the contact person and within the comment period or at the public hearing, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred due to compliance with these proposed rules.

**COPIES OF PROPOSED RULES:**

A copy of the proposed rules may be obtained from the Department's website <http://www.dps.state.ok.us/rules/> or from the contact person.

**RULE IMPACT STATEMENT:**

A Rule Impact Statement for the proposed rules will be prepared, as required by 75 O.S. 303(D), and may be obtained from the contact person.

**CONTACT PERSON:**

David W. Beatty, Administrative Rules, Department of Public Safety, 3600 N. M.L. King Ave., P.O. Box 11415, Oklahoma City, OK 73136-0415. Phone: (405) 425-2024. Fax: (405) 419-2043. E-mail: dbeatty@dps.state.ok.us

*[OAR Docket #11-1196; filed 12-14-11]*

**TITLE 595. DEPARTMENT OF PUBLIC SAFETY  
CHAPTER 60. AUTHORIZATION TO CARRY CONCEALED FIREARMS**

*[OAR Docket #11-1197]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

595:60-1-1. Purpose [AMENDED]

595:60-1-4. Eligibility [AMENDED]

**SUMMARY:**

Amendments to this chapter would update the eligibility requirements for retired law enforcement officers of the Department of Public Safety to carry concealed firearms as provided in the "Law Enforcement Officers Safety Act Improvements Act of 2010".

The proposed action is to amend existing rule.

The circumstance which created the need for this rule was enactment of S. 1132, "Law Enforcement Officers Safety Act Improvements Act of 2010", Public Law No: 111-272, effective October 12, 2010.

The intended effect of these rules is to allow the Department of Public Safety to perform its duties as required or authorized by state law.

**AUTHORITY:**

Commissioner of Public Safety; 47 O.S. §2-108

**COMMENT PERIOD:**

Interested persons may present their views regarding these rules in writing to the contact person referenced below. Comments will be accepted until 4:30 p.m., Friday, February 17, 2012.

## Notices of Rulemaking Intent

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### **PUBLIC HEARING:**

A public hearing regarding these proposed rules has not been scheduled. A public hearing will be scheduled if written request is received by the contact person no later than 4:30 p.m., Friday, February 17, 2012, in accordance with 75 O.S. § 303(C).

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

Any business entity affected by these proposed rules is requested to provide the Department of Public Safety, in writing to the contact person and within the comment period or at the public hearing, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred due to compliance with these proposed rules.

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

A copy of the proposed rules may be obtained from the Department's website <http://www.dps.state.ok.us/rules/> or from the contact person.

### **RULE IMPACT STATEMENT:**

A Rule Impact Statement for the proposed rules will be prepared, as required by 75 O.S. §303(D), and may be obtained from the contact person.

### **CONTACT PERSON:**

David W. Beatty, Administrative Rules, Department of Public Safety, 3600 N. M.L. King Ave., P.O. Box 11415, Oklahoma City, OK 73136-0415. Phone: (405) 425-2024. Fax: (405) 419-2043. E-mail: [dbeatty@dps.state.ok.us](mailto:dbeatty@dps.state.ok.us)

*[OAR Docket #11-1197; filed 12-14-11]*

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

*[OAR Docket #11-1200]*

### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

### **PROPOSED RULES:**

- 715:1-1-2 [AMENDED]
- 715:1-1-3 [AMENDED]
- 715:1-1-4 [AMENDED]
- 715:1-1-6 [REVOKED]
- 715:1-1-9 [REVOKED]

### **SUMMARY:**

715:1-1-2 and 715:1-1-3 are being amended to remove language that is duplicative to Oklahoma State Statute O.S. 70, Sec. 17-106.

715:1-1-4 is being amended to remove obsolete information.

715:1-1-6 is being revoked to remove language that is duplicative to Oklahoma State Statute O.S. 70, Sec. 17-111.

715:1-1-9 is being revoked to remove language that is duplicative to Oklahoma State Statute O.S. 70, Sec. 17-106.1.

### **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 17, 2012, through February 16, 2012, 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 8:30 a.m. until 5:00 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 10:00 a.m. to 11:00 a.m. on February 16, 2012, 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 5:00 p.m. on February 16, 2012. 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 9, 2012, between 8:30 a.m. and 5:00 p.m., Monday through Friday, excluding holidays.

### **CONTACT PERSON:**

Becky Wilson, Rules Liaison (405) 521-2387.

*[OAR Docket #11-1200; filed 12-19-11]*

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

*[OAR Docket #11-1201]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

- Subchapter 1. Membership Provisions
  - 715:10-1-2 [AMENDED]
  - 715:10-1-3 [AMENDED]
  - 715:10-1-4 [AMENDED]
  - 715:10-1-5 [AMENDED]
  - 715:10-1-6 [AMENDED]
  - 715:10-1-7 [AMENDED]
- Subchapter 3. Service Eligibility
  - 715:10-3-1 [AMENDED]
  - 715:10-3-2 [AMENDED]
  - 715:10-3-3 [AMENDED]
  - 715:10-3-4 [AMENDED]
  - 715:10-3-5 [AMENDED]
- Subchapter 5. Establishing Other Service Credits
  - 715:10-5-4 [REVOKED]
  - 715:10-5-7.3 [AMENDED]
  - 715:10-5-9 [AMENDED]
  - 715:10-5-11 [REVOKED]
  - 715:10-5-28 [AMENDED]
  - 715:10-5-33 [REVOKED]
- Subchapter 7. Membership Vesting and Termination
  - 715:10-7-6 [AMENDED]
- Subchapter 9. Survivor Benefits
  - 715:10-9-2 [REVOKED]
  - 715:10-9-3 [AMENDED]
  - 715:10-9-4 [REVOKED]
  - 715:10-9-5 [AMENDED]
  - 715:10-9-6 [REVOKED]
- Subchapter 11. Withdrawal From Membership and Refund of Deposits
  - 715:10-11-1 [AMENDED]
  - 715:10-11-2 [AMENDED]
- Subchapter 13. Contributions for Membership Service
  - 715:10-13-1 [REVOKED]
  - 715:10-13-4.1 [REVOKED]
  - 715:10-13-9 [REVOKED]
  - 715:10-13-13 [AMENDED]
- Subchapter 15. Service Retirement
  - 715:10-15-1 [AMENDED]
  - 715:10-15-2 [AMENDED]
  - 715:10-15-7 [AMENDED]
  - 715:10-15-7.1 [REVOKED]
  - 715:10-15-10.2 [AMENDED]
  - 715:10-15-10.3 [AMENDED]
  - 715:10-15-13 [REVOKED]
- Subchapter 17. Post-Retirement Employment
  - 715:10-17-2 [AMENDED]

- 715:10-17-6 [AMENDED]
- Subchapter 25. Qualified Domestic Order
  - 715:10-25-1 [REVOKED]
  - 715:10-25-2 [REVOKED]
  - 715:10-25-3 [REVOKED]
  - 715:10-25-4 [REVOKED]
  - 715:10-25-5 [REVOKED]
  - 715:10-25-6 [REVOKED]

**SUMMARY:**

715:10-1-2 and 715:10-1-3 are being amended to remove language that is duplicative to Oklahoma State Statute O.S. 70, Section 17-103 and to clarify membership provisions.

715:10-1-4, 715:10-1-5, 715:10-1-6 and 715:10-1-7 are being amended to clarify membership provisions. Additionally, Teachers Retirement no longer requires Form 1-A for membership.

715:10-3-1, 715:10-3-2, 715:10-3-3, 715:10-3-4, and 715:10-3-5 are being amended to provide clarification and consistency after the implementation of changes in 715:10-1-2 through 715:10-1-7. Specifically, with the requirement that Classified personnel must be members of the System regardless of the number of hours worked, this change will allow all such members to receive retirement service credit in line with the fraction of full time service that is worked. This will also treat all members of the System consistently in that service credit will be based on the fraction of full time service for similar positions. The current rule grants a year of retirement service credit for those working as little as 30 hours a week. Similarly, members who work for 120 days currently receive a year of service credit. With this change, a member who works 120 days, when a full time employee in a similar position would work 180 days, would receive 0.67 years of retirement service credit. Also, a member who works 30 hours per week, when a full time employee in a similar position would work 40 hours per week, would receive 0.75 years of retirement service credit. This change in service credit calculation and accrual will apply to all service earned after July 1, 2013.

715:10-5-4 is being revoked to remove language that is duplicative to Oklahoma State Statute O.S. 70, Sec. 17-116.8.

715:10-5-7.3 is being amended to remove language that is duplicative to Oklahoma State Statute O.S. 47, Sec. 2-314.

715:10-5-9 is being amended to remove inconsistencies in the rule.

715:10-5-11 is being revoked to remove language that is duplicative to Oklahoma State Statute O.S. 70, Sec. 17-113.

715:10-5-28 is being amended to provide clarification and consistency after the implementation of changes in 715:10-3-1 through 715:10-3-5.

715:10-5-33 is being revoked to remove language that is duplicative to Oklahoma State Statute O.S. 70, Sec. 6-104.1.

715:10-7-6 is being amended to provide clarification and consistency after the implementation of changes in 715:10-1-2 through 715:10-1-7.

715:10-9-2 is being revoked to remove language that is duplicative in Oklahoma State Statute O.S. 70, Sec. 17-105(11).

## Notices of Rulemaking Intent

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715:10-9-3 is being amended to clarify the requirements of the rule.

715:10-9-4 is being revoked to remove language that is duplicative to Oklahoma State Statute O.S. 70, Sec. 17-105(12).

715:10-9-5 is being amended to incorporate statutory changes under House Bill 2004, enacted in the 2011 Legislative Session.

715:10-9-6 is being revoked to remove language that is duplicative to Oklahoma State Statute O.S. 70, Sec. 17-105(13).

715:10-11-1 and 715:10-11-2 are being amended to remove inconsistencies in the rules.

715:10-13-1 is being revoked to remove language that is duplicative to Oklahoma State Statute O.S. 70, Sec. 17-116.2.

715:10-13-4.1 is being revoked to remove language that is duplicative to Oklahoma State Statute O.S. 70, Sec. 17-116.2A.

715:10-13-9 is being revoked to remove language that is duplicative to Oklahoma State Statute O.S. 70, Sec. 17-120.

715:10-13-13 is being amended to clarify the requirement of the rule.

715:10-15-1 and 715:10-15-2 are being amended to remove language that is duplicative to Oklahoma State Statute O.S. 70, Sec. 17-105.

715:10-15-7 is being amended to remove language that is duplicative to Oklahoma State Statute O.S. 70, Sec. 17-116.2.

715:10-15-7.1 is being revoked to remove language that is duplicative to Oklahoma State Statute O.S. 70, Sec. 17-116.2.

715:10-15-10.2 is being amended to remove language that is duplicative to Oklahoma State Statute O.S. 70, Sec. 17-105.2.

715:10-15-10.3 is being amended to remove inconsistencies in the rule.

715:10-15-13 is being revoked to remove language that is duplicative to Oklahoma State Statute O.S. 70, Sec. 17-105(12).

715:10-17-2 and 715:10-17-6 are being amended to remove language that is duplicative to Oklahoma State Statute O.S. 70, Sec. 17-116.10.

Subchapter 25 (715:10-25-1, 715:10-25-2, 715:10-25-3, 715:10-25-4, 715:10-25-5, 715:10-25-6) is being revoked to remove language that is duplicative to Oklahoma State Statute O.S. 70, Sec. 17-109.

### **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 17, 2012, through February 16, 2012, 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 8:30 a.m. until 5:00 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 10:00 a.m. to 11:00 a.m. on February 16, 2012, 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 5:00 p.m. on February 16, 2012. 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 9, 2012, between 8:30 a.m. and 5:00 p.m., Monday through Friday, excluding holidays.

### **CONTACT PERSON:**

Becky Wilson, Rules Liaison (405) 521-2387.

*[OAR Docket #11-1201; filed 12-19-11]*

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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.*

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

*[OAR Docket #11-1198]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

Subchapter 3. Administration of Plans

360:10-3-13. [AMENDED]

360:10-3-24. [AMENDED]

360:10-3-25. [AMENDED]

360:10-3-29.1. [AMENDED]

Subchapter 5. Coverage and Limitations

Part 3. The Plans

360:10-5-16. [AMENDED]

Part 11. Medicare Supplement

360:10-5-79. [AMENDED]

**SUBMITTED TO GOVERNOR:**

December 16, 2011

**SUBMITTED TO HOUSE:**

December 16, 2011

**SUBMITTED TO SENATE:**

December 16, 2011

*[OAR Docket #11-1198; filed 12-16-11]*

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

*[OAR Docket #11-1199]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

360:15-1-2. [AMENDED]

360:15-1-20. [AMENDED]

**SUBMITTED TO GOVERNOR:**

December 16, 2011

**SUBMITTED TO HOUSE:**

December 16, 2011

**SUBMITTED TO SENATE:**

December 16, 2011

*[OAR Docket #11-1199; filed 12-16-11]*

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

[OAR Docket #11-1193]

### RULEMAKING ACTION:

EMERGENCY adoption

### RULES:

Subchapter 1. General Provisions

Part 1. General Provisions

365:10-1-15. Eliminating unfair discrimination on basis of children as single applicants [AMENDED]

### AUTHORITY:

Insurance Commissioner; 36 O.S. §§ 307.1, 2043, 3611, 4403

### DATES:

#### Adoption:

October 28, 2011

#### Approved by Governor:

December 5, 2011

#### Effective:

Immediately upon approval by the Governor

#### Expiration:

Effective through July 14, 2012, unless superseded by another rule or disapproved by the Legislature

### SUPERSEDED EMERGENCY RULES:

n/a

### INCORPORATION BY REFERENCE:

n/a

### FINDING OF EMERGENCY:

A compelling public interest requires an emergency rule to amend new permanent rule 365:10-1-15 made effective on July 14, 2011. The rule requires insurers issuing individual accident and health policies within the state to have an open enrollment period for children under the age of 19. The section required an initial open enrollment period from September 1 through October 31 for the year 2011; however an insufficient number of insurers participated in that initial open enrollment period. Amendment to the definition of "qualifying event" is made in order to encourage additional insurers to participate. An additional open enrollment period, from January 1 through February 29, 2012 is also added.

### ANALYSIS:

The initial purpose of the rule was to eliminate the act of denying benefits or coverage unfairly in the issuance, terms and conditions of insurance contracts and in underwriting criteria of insurance carriers. It was not intended to prohibit reasonable and justifiable differences in premium rates based upon sound actuarial principles or actual or reasonably anticipated experience. The lack of participation by insurers in the 2011 open enrollment period necessitates change to the rule in an effort to encourage insurers to participate in the 2012 open enrollment periods. During an open enrollment period, children under the age of nineteen (19) shall be offered coverage on a guaranteed issue basis, without any limitations or riders based on health status.

### CONTACT PERSON:

Julie Meaders, Oklahoma Insurance Department, (405) 521-2746

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

## SUBCHAPTER 1. GENERAL PROVISIONS

### PART 1. GENERAL PROVISIONS

#### 365:10-1-15. Eliminating unfair discrimination on basis of children as single applicants

(a) **Purpose.** The purpose of this section is to eliminate the act of denying benefits or coverage unfairly in the issuance, terms and conditions of insurance contracts and in underwriting criteria of insurance carriers. It is not intended to prohibit reasonable and justifiable differences in premium rates based upon sound actuarial principles or actual or reasonably anticipated experience.

(b) **Definitions.**

(1) "Child only policy" means an individual health benefit policy, which provides coverage to an individual under the age of nineteen (19). This shall not include health benefit policies that cover children under the age of nineteen (19) as a dependent;

(2) "Insurer" includes:

(A) every person engaged in the business of making contracts of insurance or indemnity,

(B) a nonprofit hospital service and medical indemnity corporation, and

(C) a health maintenance organization.

(3) "Qualifying event" ~~includes birth, means adoption, or an involuntary a loss of existing health insurance coverage due to marriage of a child's parent, dissolution of a parent's marriage, death of a parent, loss of employer sponsored insurance, loss of eligibility under the Oklahoma Medicaid Program, including loss of eligibility in the SoonerCare or SoonerStart programs; (56 O.S. §§ 1010.1 through 1010.13 and 1011.1 through 1011.11), entry of a valid court order mandating the child be covered, or loss of other existing coverage~~ for any reason other than fraud, misrepresentation or failure to pay premium.

## Emergency Adoptions

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"Qualifying event" shall also mean entry of a valid court order mandating the child be covered if there is no employer sponsored coverage available to the parent ordered to provide health insurance coverage to the child.

(c) **Enrollment.**

(1) Enrollment only allowed during certain periods.

(A) Insurers issuing child only policies on or after September 23, 2010 shall only accept applications for coverage during the open enrollment periods outlined in this section or during the ~~30~~ 31 day period following a qualifying event.

(B) Enrollment outside the open enrollment periods shall be prohibited, except upon the occurrence of a qualifying event.

(2) For the year ~~2011~~ 2012, insurers offering child only policies shall hold an open enrollment period from ~~September 1 through October 31~~ January 1 through February 29, 2012. During this open enrollment period, ~~all~~ children under the age of nineteen (19) shall be offered coverage on a guaranteed issue basis, without any limitations or riders based on health status. ~~Insurers shall use such rates as have been filed and approved by the Insurance Commissioner.~~

(3) ~~Beginning January 1, 2012, Insurers~~ insurers offering child only policies shall hold an open enrollment period ~~from that begins on June 1 through and ends on July 31 of each year.~~ During ~~these~~ the annual open enrollment periods, ~~all~~ children under the age of nineteen (19) shall be offered coverage on a guaranteed issue basis, without any limitations or riders based on health status. ~~Insurers shall use such rates as have been filed and approved by the Insurance Commissioner.~~

(4) Notice of the open enrollment opportunity and open enrollment dates for new applicants, as well as the opportunity to enroll due to a qualifying event, shall be displayed prominently on the insurer's website throughout the year.

(5) Applications for coverage during an open enrollment period shall become effective on the first day of the month following receipt of the completed application, except that if mutually agreed upon by the applicant and the insurer an alternative effective date may be selected.

(6) ~~Nothing contained in this section shall alter the ability of an applicant to obtain a child only policy outside the open enrollment period upon the occurrence of a qualifying event.~~ Non-health eligibility underwriting rules may be applied to child-only coverage, provided such eligibility rules are uniformly applied to all applicants applying for child-only coverage.

(7) Insurers shall use such rates as have been filed and approved by the Insurance Commissioner.

(e~~d~~) **Insurer participation.** Only insurers that participate in the most recent open enrollment period shall be permitted to write child only policies. Any insurer not participating in the most recent open enrollment period shall be prohibited from issuing child only policies until the commencement of the next subsequent open enrollment period, regardless of whether the policy is issued as a result of a qualifying event.

(f~~e~~) **Penalty for violations.** Noncompliance with this section may result, after proper notice and hearing, in an administrative action and penalty.

[OAR Docket #11-1193; filed 12-13-11]

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# Executive Orders

As required by 75 O.S., Sections 255 and 256, Executive Orders issued by the Governor of Oklahoma are published in both the *Oklahoma Register* and the *Oklahoma Administrative Code*. Executive Orders are codified in Title 1 of the *Oklahoma Administrative Code*.

Pursuant to 75 O.S., Section 256(B)(3), "Executive Orders of previous gubernatorial administrations shall terminate ninety (90) calendar days following the inauguration of the next Governor unless otherwise terminated or continued during that time by Executive Order."

## TITLE 1. EXECUTIVE ORDERS

1:2011-55.

### EXECUTIVE ORDER 2011-55

I, Mary Fallin, Governor of the State of Oklahoma, hereby direct the appropriate steps be taken to fly all American and Oklahoma flags on State property at half-staff from 8:00 a.m. until 5:00 p.m. on Friday, December 30, 2011, to honor former Langston University President Ernest L. Holloway, who died on Saturday, December 24, 2011, at the age of 81.

Dr. Holloway graduated from Langston University with a bachelor's degree in agriculture in 1952. He later served the University in a number of capacities including as President from 1979 until his retirement in 2005, becoming the University's longest serving President. While in office, Dr. Holloway oversaw numerous expansions and improvements to the University.

Dr. Holloway was inducted into the Oklahoma Educators Hall of Fame in 1996 and the Oklahoma Higher Education Hall of Fame in 1999.

This executive order shall be forwarded to the Director of Central Services who shall cause the provisions of this order to be implemented by all appropriate agencies of state government.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 28th day of December, 2011.

BY THE GOVERNOR OF THE  
STATE OF OKLAHOMA

Mary Fallin

ATTEST:  
Michelle R. Day  
Assistant Secretary of State

[OAR Docket #11-1260; filed 12-29-11]

