

Volume 33  
Number 12  
March 1, 2016  
Pages 355 - 380

# The Oklahoma Register

---

Oklahoma  
Secretary of State  
Office of Administrative Rules



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

**THE OKLAHOMA REGISTER** is an official publication of the State of Oklahoma. It is published semi-monthly on the first working day of the month and on the first working day following the 14th day of the month under the authority of 75 O.S., Sections 250 et seq. and OAC 655:10-15-1. The rules of the State of Oklahoma are codified and published in the *Oklahoma Administrative Code*.

*The Oklahoma Register* and the documents accepted for publication are **AVAILABLE FOR PUBLIC INSPECTION** at the Office of Administrative Rules pursuant to the Oklahoma Open Records Act. Copies of the *Register* are also available for public inspection at many County Clerks' offices in Oklahoma, the Jan Eric Cartwright Memorial Law Library in the State Capitol, and the following depository libraries:

**Ada** - East Central University, Linscheid Library

**Alva** - Northwestern Oklahoma State University,  
J.W. Martin Library

**Bartlesville** - Bartlesville Public Library

**Claremore** - Rogers State University, Stratton Taylor Library

**Clinton** - Clinton Public Library

**Durant** - Southeastern Oklahoma State University, H.G.  
Bennett Memorial Library

**Edmond** - University of Central Oklahoma, Chambers Library

**Enid** - Public Library of Enid and Garfield County

**Goodwell** - Oklahoma Panhandle State University, Marvin E.  
McKee Library

**Lawton** - Lawton Public Library

**McAlester** - McAlester Public Library

**Norman** - University of Oklahoma, Bizzell Memorial  
Library

**Oklahoma City** - Metropolitan Library System

**Oklahoma City** - Oklahoma Department of Libraries

**Stillwater** - Oklahoma State University, Edmon Low  
Library

**Tahlequah** - Northeastern State University, John  
Vaughan Library

**Tulsa** - Tulsa City-County Library System

**Tulsa** - University of Tulsa, McFarlin Library

**Weatherford** - Southwestern Oklahoma State  
University, Al Harris Library

**CITE MATERIAL PUBLISHED IN THE OKLAHOMA REGISTER** by the volume and the beginning page number of the document in the *Register*. For example: 31 *Ok Reg* 256.

**SUBSCRIPTION RATES** for the *Register* are \$500.00 per year for the printed issues and \$300.00 per year for the CD-ROM issues, payable in advance. When available, individual printed issues may be purchased for \$20.00 plus the cost of postage, payable in advance. Make checks payable to "Secretary of State." Send subscription requests, change of address notices, and undelivered copies to: Secretary of State, Office of Administrative Rules, 421 NW 13th Street, Suite 220, Oklahoma City, OK 73103.

**INFORMATION ABOUT THIS PUBLICATION** may be obtained by contacting the OAR by mail at Oklahoma Secretary of State, Office of Administrative Rules, 2300 North Lincoln Boulevard, Suite 101, Oklahoma City, OK 73105, by phone at (405) 521-4911, or by fax at (405) 522-3555. Information may also be obtained by visiting the OAR's office, located in Suite 220, Colcord Center, 421 NW 13th Street, Oklahoma City, between 8:00 a.m. and 5:00 p.m., Monday through Friday.

This publication is issued and printed by the Secretary of State as authorized by 75 O.S., Section 255. 43 copies have been prepared and distributed at a cost of \$120.43. Copies have been deposited with the Oklahoma Department of Libraries, Publications Clearinghouse.

ISSN 0030-1728

# Table of Contents

<b>Agency/Action/Subject Index</b> .....	iii
<b>Rules Affected Index</b> .....	iv
<b>Agency Index (Title numbers assigned)</b> .....	v
<b>Notices of Rulemaking Intent</b>	
Health Care Authority, Oklahoma (Title 317) .....	355
<b>Submissions to Governor and Legislature</b>	
Agriculture, Food, and Forestry, Oklahoma Department of (Title 35) .....	357, 358, 359
Corporation Commission (Title 165) .....	359, 360, 361
Cosmetology and Barbering, State Board of (Title 175) .....	361
Health, Oklahoma State Department of (Title 310) .....	362, 363
Nursing, Oklahoma Board of (Title 485) .....	363
Optometry, Board of Examiners in (Title 505) .....	363
Real Estate Appraiser Board (Title 600) .....	363
<b>Emergency Adoptions</b>	
Health Care Authority, Oklahoma (Title 317) .....	365, 379



---

# Agency/Action/Subject Index

---

## **AGRICULTURE, Food, and Forestry, Oklahoma Department of (Title 35)**

### *Submissions to Governor and Legislature*

Agricultural Products (Chapter 10) .....	357
Fuel Alcohol (Chapter 13) .....	357
Animal Industry (Chapter 15) .....	357
Water Quality (Chapter 17) .....	358
Food Safety (Chapter 37) .....	358
Agriculture Pollutant Discharge Elimination System (Chapter 44) .....	358
Aquaculture (Chapter 50) .....	358
Commercial Pet Breeders and Animal Shelters (Chapter 55) .....	359

## **CORPORATION Commission (Title 165)**

### *Submissions to Governor and Legislature*

Fuel Inspection (Chapter 15) .....	359
Underground Storage Tanks (Chapter 25) .....	359
Aboveground Storage Tanks (Chapter 26) .....	360
Indemnity Fund (Chapter 27) .....	361
Corrective Action of Petroleum Storage Tank Releases (Chapter 29) .....	361

## **COSMETOLOGY and Barbering, State Board of (Title 175)**

### *Submissions to Governor and Legislature*

Administrative Operations (Chapter 1) .....	361
Licensure of Cosmetologists, Barbers, Schools and Related Establishments (Chapter 10) .....	361

## **HEALTH, Oklahoma State Department of (Title 310)**

### *Submissions to Governor and Legislature*

<u>Clinical Trials on the Use of Cannabidiol</u> (Chapter 15) ...	362
Food Service Establishments (Chapter 257) .....	362
Hearing Aid Dealers and Fitters (Chapter 265) .....	362
Nursing and Specialized Facilities (Chapter 675) .....	362
Residential Care Homes (Chapter 680) .....	363

## **HEALTH Care Authority, Oklahoma (Title 317)**

### *Notices of Rulemaking Intent*

Medical Providers-Fee for Service (Chapter 30) .....	355
--	-----

### *Emergency Adoptions*

Medical Providers-Fee for Service (Chapter 30) .....	365
Medical Assistance for Adults and Children-Eligibility (Chapter 35) .....	379

## **NURSING, Oklahoma Board of (Title 485)**

### *Submissions to Governor and Legislature*

Licensure of Practical and Registered Nurses (Chapter 10) .....	363
--	-----

## **OPTOMETRY, Board of Examiners in (Title 505)**

### *Submissions to Governor and Legislature*

Licensure and Regulation of Optometrists (Chapter 10) ...	363
---	-----

## **REAL Estate Appraiser Board (Title 600)**

### *Submissions to Governor and Legislature*

Licensure and Certification Requirements (Chapter 10) .....	363
--	-----

# Rules Affected Index

[(E) = Emergency action]

Rule	Register Page	Rule	Register Page
35:15-11-41. ....	[AMENDED] (E) ..... 197	230:15-5-130. ....	[AMENDED] (E) ..... 77
35:15-34-3. ....	[NEW] (E) ..... 51	230:15-5-131. ....	[AMENDED] (E) ..... 77
35:40-5-31. ....	[AMENDED] (E) ..... 198	230:15-5-132. ....	[AMENDED] (E) ..... 78
35:40-5-51. ....	[AMENDED] (E) ..... 199	317:30-5-696. ....	[AMENDED] (E) ..... 52
35:40-5-71. ....	[AMENDED] (E) ..... 199	317:30-5-763. ....	[AMENDED] (E) ..... 365
35:40-5-91. ....	[AMENDED] (E) ..... 199	317:35-5-41.8. ....	[AMENDED] (E) ..... 55
35:40-5-111. ....	[AMENDED] (E) ..... 200	317:35-17-5. ....	[AMENDED] (E) ..... 379
35:40-5-191. ....	[AMENDED] (E) ..... 201	340:110-3-146. ....	[AMENDED] (E) ..... 146
35:40-5-221. ....	[NEW] (E) ..... 201	340:110-3-152. ....	[AMENDED] (E) ..... 148
35:40-19-1. ....	[NEW] (E) ..... 202	340:110-3-153.1. ....	[AMENDED] (E) ..... 149
35:40-19-2. ....	[RESERVED] (E) ..... 202	340:110-3-154.1. ....	[AMENDED] (E) ..... 153
35:40-19-3. ....	[NEW] (E) ..... 202	340:110-5-3. ....	[AMENDED] (E) ..... 154
35:40-19-4. ....	[NEW] (E) ..... 202	340:110-5-6. ....	[AMENDED] (E) ..... 156
35:40-19-5. ....	[NEW] (E) ..... 202	340:110-5-57. ....	[AMENDED] (E) ..... 157
35:40-19-6. ....	[NEW] (E) ..... 202	340:110-5-58. ....	[AMENDED] (E) ..... 159
35:40-19-7. ....	[NEW] (E) ..... 202	340:110-5-61. ....	[AMENDED] (E) ..... 160
135:10-26-1. ....	[NEW] (E) ..... 351	485:10-6-2. ....	[AMENDED] (E) ..... 161
135:10-26-2. ....	[NEW] (E) ..... 351	485:10-12-1. ....	[NEW] (E) ..... 163
135:10-26-3. ....	[NEW] (E) ..... 352	485:10-12-2. ....	[NEW] (E) ..... 163
135:10-26-4. ....	[NEW] (E) ..... 352	485:10-12-3. ....	[NEW] (E) ..... 163
158:50-9-1. ....	[AMENDED] (E) ..... 127	485:10-12-4. ....	[NEW] (E) ..... 163
210:1-3-8.1. ....	[AMENDED] (E) ..... 61	575:10-1-3. ....	[AMENDED] (E) ..... 164
210:10-13-2. ....	[AMENDED] (E) ..... 29	590:40-1-3. ....	[AMENDED] (E) ..... 79
210:10-13-22. ....	[AMENDED] (E) ..... 31	590:40-5-1. ....	[AMENDED] (E) ..... 81
210:15-3-133. ....	[REVOKED] (E) ..... 129	590:40-5-5. ....	[AMENDED] (E) ..... 82
210:15-3-133.1. ....	[REVOKED] (E) ..... 131	590:40-5-6. ....	[AMENDED] (E) ..... 82
210:15-3-134. ....	[REVOKED] (E) ..... 132	590:40-5-7. ....	[AMENDED] (E) ..... 82
210:15-3-135. ....	[REVOKED] (E) ..... 132	590:40-5-15. ....	[AMENDED] (E) ..... 83
210:15-3-136. ....	[REVOKED] (E) ..... 136	590:40-5-16. ....	[AMENDED] (E) ..... 83
210:15-3-137. ....	[REVOKED] (E) ..... 140	590:40-7-1. ....	[AMENDED] (E) ..... 83
210:20-9-95. ....	[AMENDED] (E) ..... 64	590:40-7-21. ....	[AMENDED] (E) ..... 84
210:20-9-98. ....	[AMENDED] (E) ..... 64	590:40-7-22. ....	[AMENDED] (E) ..... 84
210:25-3-4. ....	[AMENDED] (E) ..... 145	590:40-7-25. ....	[AMENDED] (E) ..... 84
210:35-9-31. ....	[AMENDED] (E) ..... 67	590:40-7-30. ....	[AMENDED] (E) ..... 84
230:15-5-100. ....	[AMENDED] (E) ..... 72	590:40-7-53. ....	[AMENDED] (E) ..... 84
230:15-5-101. ....	[AMENDED] (E) ..... 72	590:40-9-1. ....	[AMENDED] (E) ..... 84
230:15-5-102. ....	[AMENDED] (E) ..... 72	590:40-9-20. ....	[AMENDED] (E) ..... 84
230:15-5-103. ....	[AMENDED] (E) ..... 73	590:40-9-23. ....	[AMENDED] (E) ..... 85
230:15-5-104. ....	[AMENDED] (E) ..... 74	590:40-9-25. ....	[AMENDED] (E) ..... 85
230:15-5-106. ....	[AMENDED] (E) ..... 74	590:40-9-32. ....	[AMENDED] (E) ..... 85
230:15-5-107. ....	[AMENDED] (E) ..... 74	590:40-9-38. ....	[AMENDED] (E) ..... 85
230:15-5-108. ....	[AMENDED] (E) ..... 74	765:4-1-1. ....	[NEW] (E) ..... 11
230:15-5-109. ....	[AMENDED] (E) ..... 75	765:4-1-2. ....	[NEW] (E) ..... 11
230:15-5-110. ....	[AMENDED] (E) ..... 75	765:4-1-3. ....	[NEW] (E) ..... 11
230:15-5-121. ....	[AMENDED] (E) ..... 75	765:10-1-7. ....	[AMENDED] (E) ..... 12
230:15-5-122. ....	[AMENDED] (E) ..... 75	765:15-1-6. ....	[AMENDED] (E) ..... 13
230:15-5-124. ....	[AMENDED] (E) ..... 76	765:25-1-6. ....	[AMENDED] (E) ..... 13
230:15-5-125. ....	[AMENDED] (E) ..... 76	765:35-3-6. ....	[AMENDED] (E) ..... 14
230:15-5-126. ....	[AMENDED] (E) ..... 77	765:36-3-6. ....	[AMENDED] (E) ..... 15
230:15-5-127. ....	[AMENDED] (E) ..... 77	765:37-3-6. ....	[AMENDED] (E) ..... 15
230:15-5-128. ....	[AMENDED] (E) ..... 77	765:38-1-5. ....	[AMENDED] (E) ..... 16
230:15-5-129. ....	[AMENDED] (E) ..... 77	800:25-7-86.1. ....	[AMENDED] (E) ..... 97

# Agency/Title Index

[Assigned as of 3-1-16]

Agency	Title	Agency	Title
Oklahoma <b>ABSTRACTORS</b> Board	5	Office of <b>DISABILITY</b> Concerns ( <i>Formerly:</i> Office of <b>HANDICAPPED</b> Concerns) - <i>See</i> Title 305	
Oklahoma <b>ACCOUNTANCY</b> Board	10	Board of Regents of <b>EASTERN</b> Oklahoma State College ( <i>exempted 11-1-98</i> )	205
State <b>ACCREDITING</b> Agency	15	<b>EDGE</b> Fund Policy Board	208
<b>AD</b> Valorem Task Force ( <i>abolished 7-1-93</i> )	20	State Department of <b>EDUCATION</b>	210
Oklahoma <b>AERONAUTICS</b> Commission	25	<b>EDUCATION</b> Oversight Board ( <i>merged under Office of Educational Quality and Accountability 7-1-14 - See Title 218</i> )	215
Board of Regents for the Oklahoma <b>AGRICULTURAL</b> and Mechanical Colleges ( <i>exempted 11-1-98</i> )	30	Office of <b>EDUCATIONAL</b> Quality and Accountability	218
Oklahoma Department of <b>AGRICULTURE</b> , Food, and Forestry	35	Oklahoma <b>EDUCATIONAL</b> Television Authority	220
Oklahoma Board of Licensed <b>ALCOHOL</b> and Drug Counselors	38	[RESERVED]	225
Board of Tests for <b>ALCOHOL</b> and Drug Influence	40	State <b>ELECTION</b> Board	230
<b>ALCOHOLIC</b> Beverage Laws Enforcement Commission	45	Oklahoma <b>FUNERAL</b> Board ( <i>Formerly:</i> Oklahoma State Board of <b>EMBALMERS</b> and Funeral Directors)	235
<b>ANATOMICAL</b> Board of the State of Oklahoma	50	Oklahoma Department of <b>EMERGENCY</b> Management ( <i>Formerly:</i> Department of <b>CIVIL</b> Emergency Management) - <i>See</i> Title 145	
Board of Governors of the Licensed <b>ARCHITECTS</b> , Landscape Architects and Registered Interior Designers of Oklahoma ( <i>Formerly:</i> Board of Governors of the Licensed <b>ARCHITECTS</b> and Landscape Architects of Oklahoma; and Board of Governors of the Licensed <b>ARCHITECTS</b> , Landscape Architects and Interior Designers of Oklahoma)	55	Oklahoma <b>EMPLOYMENT</b> Security Commission	240
<b>ARCHIVES</b> and Records Commission	60	Oklahoma <b>ENERGY</b> Resources Board	243
Board of Trustees for the <b>ARDMORE</b> Higher Education Program ( <i>exempted 11-1-98</i> )	65	State Board of Licensure for Professional <b>ENGINEERS</b> and Land Surveyors ( <i>Formerly:</i> State Board of Registration for Professional <b>ENGINEERS</b> and Land Surveyors)	245
Oklahoma <b>ARTS</b> Council	70	Board of Trustees for the <b>ENID</b> Higher Education Program ( <i>exempted 11-1-98</i> )	250
Oklahoma State <b>ATHLETIC</b> Commission ( <i>Formerly:</i> Oklahoma Professional <b>BOXING</b> Commission) - <i>See</i> Title 92		Department of <b>ENVIRONMENTAL</b> Quality	252
<b>ATTORNEY</b> General	75	State Board of <b>EQUALIZATION</b>	255
State <b>AUDITOR</b> and Inspector	80	<b>ETHICS</b> Commission ( <i>Title revoked</i> )	257
State <b>BANKING</b> Department	85	<b>ETHICS</b> Commission	258
Oklahoma State Employees <b>BENEFITS</b> Council ( <i>consolidated under Office of Management and Enterprise Services 8-26-11 - See Title 260</i> )	86	Office of <b>MANAGEMENT</b> and Enterprise Services ( <i>Formerly:</i> Office of State <b>FINANCE</b> )	260
Oklahoma State Employees <b>BENEFITS</b> Council	87	State <b>FIRE</b> Marshal Commission	265
Council of <b>BOND</b> Oversight	90	Oklahoma Council on <b>FIREFIGHTER</b> Training	268
Oklahoma State <b>ATHLETIC</b> Commission ( <i>Formerly:</i> Oklahoma Professional <b>BOXING</b> Commission)	92	Oklahoma <b>FIREFIGHTERS</b> Pension and Retirement System	270
State <b>BURIAL</b> Board ( <i>abolished 7-1-92</i> )	95	[RESERVED]	275
[RESERVED]	100	<b>FORENSIC</b> Review Board	277
Oklahoma <b>CAPITAL</b> Investment Board	105	State Board of Registration for <b>FORESTERS</b>	280
Oklahoma <b>CAPITOL</b> Improvement Authority	110	<b>FOSTER</b> Care Review Advisory Board	285
State <b>CAPITOL</b> Preservation Commission	115	Oklahoma <b>FUNERAL</b> Board ( <i>Formerly:</i> Oklahoma State Board of Embalmers and Funeral Directors) - <i>See</i> Title 235	
<b>CAPITOL-MEDICAL</b> Center Improvement and Zoning Commission	120	Oklahoma <b>FUTURES</b>	290
Oklahoma Department of <b>CAREER</b> and Technology Education ( <i>Formerly:</i> Oklahoma Department of <b>VOCATIONAL</b> and Technical Education) - <i>See</i> Title 780		<b>GOVERNOR</b> ( <i>See also</i> Title 1, Executive Orders)	295
Board of Regents of <b>CARL</b> Albert State College ( <i>exempted 11-1-98</i> )	125	<b>GRAND</b> River Dam Authority	300
Department of <b>CENTRAL</b> Services ( <i>Formerly:</i> Office of <b>PUBLIC</b> Affairs) - <i>See</i> Title 580		Group Self-Insurance Association <b>GUARANTY</b> Fund Board	302
<b>CEREBRAL</b> Palsy Commission	130	Individual Self-Insured <b>GUARANTY</b> Fund Board	303
Commission on <b>CHILDREN</b> and Youth	135	<b>STATE</b> Use Committee ( <i>Formerly:</i> Committee on Purchases of Products and Services of the Severely <b>HANDICAPPED</b> ; <i>consolidated under</i> Office of Management and Enterprise Services 8-26-11 - <i>See</i> Title 260)	304
Board of <b>CHIROPRACTIC</b> Examiners	140	Office of <b>DISABILITY</b> Concerns ( <i>Formerly:</i> Office of <b>HANDICAPPED</b> Concerns)	305
Oklahoma Department of <b>EMERGENCY</b> Management ( <i>Formerly:</i> Department of <b>CIVIL</b> Emergency Management)	145	Oklahoma State Department of <b>HEALTH</b>	310
Oklahoma Department of <b>COMMERCE</b>	150	Oklahoma Basic <b>HEALTH</b> Benefits Board ( <i>abolished 11-1-97</i> )	315
<b>COMMUNITY</b> Hospitals Authority	152	Oklahoma <b>HEALTH</b> Care Authority	317
<b>COMPSOURCE</b> Oklahoma ( <i>Formerly:</i> State <b>INSURANCE</b> Fund) - <i>See</i> Title 370		<b>HIGHWAY</b> Construction Materials Technician Certification Board	318
Oklahoma <b>CONSERVATION</b> Commission	155	Oklahoma <b>HISTORICAL</b> Society	320
<b>CONSTRUCTION</b> Industries Board	158	Oklahoma <b>HORSE</b> Racing Commission	325
Department of <b>CONSUMER</b> Credit	160	Oklahoma <b>HOUSING</b> Finance Agency	330
<b>CORPORATION</b> Commission	165	Oklahoma <b>HUMAN</b> Rights Commission	335
Department of <b>CORRECTIONS</b>	170	Department of <b>HUMAN</b> Services	340
State Board of <b>COSMETOLOGY</b> and Barbering	175	Committee for <b>INCENTIVE</b> Awards for State Employees	345
Oklahoma State <b>CREDIT</b> Union Board	180	Oklahoma <b>INDIAN</b> Affairs Commission	350
<b>CRIME</b> Victims Compensation Board	185	Oklahoma <b>INDIGENT</b> Defense System	352
Joint <b>CRIMINAL</b> Justice System Task Force Committee	190	Oklahoma <b>INDUSTRIAL</b> Finance Authority	355
Board of <b>DENTISTRY</b>	195	<b>INJURY</b> Review Board	357
Oklahoma <b>DEVELOPMENT</b> Finance Authority	200	Oklahoma State and Education Employees Group <b>INSURANCE</b> Board ( <i>consolidated under</i> Office of Management and Enterprise Services 8-26-11 - <i>See</i> Title 260)	360
		<b>INSURANCE</b> Department	365

## Agency/Title Index – *continued*

Agency	Title	Agency	Title
<b>COMPSOURCE</b> Oklahoma (Formerly: State <b>INSURANCE</b> Fund) . . . . .	370	<b>PUBLIC</b> Employees Relations Board . . . . .	585
Oklahoma State Bureau of <b>INVESTIGATION</b> . . . . .	375	Oklahoma <b>PUBLIC</b> Employees Retirement System . . . . .	590
Council on <b>JUDICIAL</b> Complaints . . . . .	376	Department of <b>PUBLIC</b> Safety . . . . .	595
Office of <b>JUVENILE</b> Affairs . . . . .	377	<b>REAL</b> Estate Appraiser Board . . . . .	600
Department of <b>LABOR</b> . . . . .	380	Oklahoma <b>REAL</b> Estate Commission . . . . .	605
Department of the Commissioners of the <b>LAND</b> Office . . . . .	385	Board of Regents of <b>REDLANDS</b> Community College ( <i>exempted</i> <i>11-1-98</i> ) . . . . .	607
Council on <b>LAW</b> Enforcement Education and Training . . . . .	390	State <b>REGENTS</b> for Higher Education . . . . .	610
Oklahoma <b>LAW</b> Enforcement Retirement System . . . . .	395	State Department of <b>REHABILITATION</b> Services . . . . .	612
Board on <b>LEGISLATIVE</b> Compensation . . . . .	400	Board of Regents of <b>ROGERS</b> State College ( <i>exempted 11-1-98</i> ) . . . . .	615
Oklahoma Department of <b>LIBRARIES</b> . . . . .	405	Board of Regents of <b>ROSE</b> State College ( <i>exempted 11-1-98</i> ) . . . . .	620
<b>LIEUTENANT</b> Governor . . . . .	410	Oklahoma <b>SAVINGS</b> and Loan Board ( <i>abolished 7-1-93</i> ) . . . . .	625
Oklahoma <b>LINKED</b> Deposit Review Board . . . . .	415	<b>SCENIC</b> Rivers Commission . . . . .	630
Oklahoma <b>LIQUEFIED</b> Petroleum Gas Board . . . . .	420	Oklahoma Commission on <b>SCHOOL</b> and County Funds Management . . . . .	635
Oklahoma <b>LIQUEFIED</b> Petroleum Gas Research, Marketing and Safety Commission . . . . .	422	Advisory Task Force on the Sale of <b>SCHOOL</b> Lands ( <i>functions</i> <i>concluded 2-92</i> ) . . . . .	640
<b>LITERACY</b> Initiatives Commission . . . . .	425	The Oklahoma School of <b>SCIENCE</b> and Mathematics . . . . .	645
<b>LONG-RANGE</b> Capital Planning Commission . . . . .	428	Oklahoma Center for the Advancement of <b>SCIENCE</b> and Technology . . . . .	650
Oklahoma State Board of Examiners for <b>LONG-TERM</b> Care Administrators (Formerly: Oklahoma State Board of Examiners for <b>NURSING</b> Home Administrators) - <i>See</i> Title 490		<b>SECRETARY</b> of State . . . . .	655
<b>LOTTERY</b> Commission, Oklahoma . . . . .	429	Department of <b>SECURITIES</b> . . . . .	660
Board of Trustees for the <b>MCCURTAIN</b> County Higher Education Program ( <i>exempted 11-1-98</i> ) . . . . .	430	Board of Regents of <b>SEMINOLE</b> State College ( <i>exempted</i> <i>11-1-98</i> ) . . . . .	665
Office of <b>MANAGEMENT</b> and Enterprise Services (Formerly: Office of State <b>FINANCE</b> ) - <i>See</i> Title 260		<b>SHEEP</b> and Wool Commission . . . . .	670
Commission on <b>MARGINALLY</b> Producing Oil and Gas Wells . . . . .	432	State Board of Licensed <b>SOCIAL</b> Workers . . . . .	675
State Board of <b>MEDICAL</b> Licensure and Supervision . . . . .	435	<b>SOUTHERN</b> Growth Policies Board . . . . .	680
<b>MEDICAL</b> Technology and Research Authority of Oklahoma . . . . .	440	Oklahoma <b>SOYBEAN</b> Commission ( <i>abolished 7-1-97</i> ) . . . . .	685
Board of <b>MEDICOLEGAL</b> Investigations . . . . .	445	Board of Examiners for <b>SPEECH-LANGUAGE</b> Pathology and Audiology (Formerly: Board of Examiners for <b>SPEECH</b> Pathology and Audiology) . . . . .	690
Department of <b>MENTAL</b> Health and Substance Abuse Services . . . . .	450	<b>STATE</b> Employee Charitable Contributions, Oversight Committee for (Formerly: <b>STATE</b> Agency Review Committee) . . . . .	695
<b>MERIT</b> Protection Commission . . . . .	455	<b>STATE</b> Use Committee (Formerly: Committee on Purchases of Products and Services of the Severely <b>HANDICAPPED</b> ) - <i>See</i> Title 304	
<b>MILITARY</b> Planning Commission, Oklahoma Strategic . . . . .	457	Oklahoma <b>STUDENT</b> Loan Authority . . . . .	700
Department of <b>MINES</b> . . . . .	460	<b>TASK</b> Force 2000 . . . . .	705
Oklahoma <b>MOTOR</b> Vehicle Commission . . . . .	465	Oklahoma <b>TAX</b> Commission . . . . .	710
Board of Regents of <b>MURRAY</b> State College ( <i>exempted 11-1-98</i> ) . . . . .	470	Oklahoma Commission for <b>TEACHER</b> Preparation ( <i>merged under</i> <i>Office of Educational Quality and Accountability 7-1-14 - See Title</i> <i>218</i> ) . . . . .	712
Oklahoma State Bureau of <b>NARCOTICS</b> and Dangerous Drugs Control . . . . .	475	<b>TEACHERS'</b> Retirement System . . . . .	715
Board of Regents of <b>NORTHERN</b> Oklahoma College ( <i>exempted</i> <i>11-1-98</i> ) . . . . .	480	State <b>TEXTBOOK</b> Committee . . . . .	720
Oklahoma Board of <b>NURSING</b> . . . . .	485	<b>TOBACCO</b> Settlement Endowment Trust Fund . . . . .	723
Oklahoma State Board of Examiners for <b>LONG-TERM</b> Care Administrators (Formerly: Oklahoma State Board of Examiners for <b>NURSING</b> Home Administrators) . . . . .	490	Oklahoma <b>TOURISM</b> and Recreation Department . . . . .	725
Board of Regents of <b>OKLAHOMA</b> City Community College ( <i>exempted</i> <i>11-1-98</i> ) . . . . .	495	Department of <b>TRANSPORTATION</b> . . . . .	730
Board of Regents of <b>OKLAHOMA</b> Colleges ( <i>exempted 11-1-98</i> ) . . . . .	500	Oklahoma <b>TRANSPORTATION</b> Authority ( <i>Name changed to</i> Oklahoma <b>TURNPIKE</b> Authority <i>11-1-05</i> ) - <i>See</i> Title 731	
Board of Examiners in <b>OPTOMETRY</b> . . . . .	505	Oklahoma <b>TURNPIKE</b> Authority (Formerly: Oklahoma <b>TRANSPORTATION</b> Authority AND Oklahoma <b>TURNPIKE</b> Authority) - <i>See</i> also Title 745 . . . . .	731
State Board of <b>OSTEOPATHIC</b> Examiners . . . . .	510	State <b>TREASURER</b> . . . . .	735
<b>PARDON</b> and Parole Board . . . . .	515	Board of Regents of <b>TULSA</b> Community College ( <i>exempted</i> <i>11-1-98</i> ) . . . . .	740
Oklahoma <b>PEANUT</b> Commission . . . . .	520	Oklahoma <b>TURNPIKE</b> Authority ( <i>Name changed to Oklahoma</i> <b>TRANSPORTATION</b> Authority <i>11-1-99 - no rules enacted in this</i> <i>Title - See</i> Title 731) . . . . .	745
Oklahoma State <b>PENSION</b> Commission . . . . .	525	Oklahoma <b>UNIFORM</b> Building Code Commission . . . . .	748
State Board of Examiners of <b>PERFUSIONISTS</b> . . . . .	527	Board of Trustees for the <b>UNIVERSITY</b> Center at Tulsa ( <i>exempted</i> <i>11-1-98</i> ) . . . . .	750
Office of <b>PERSONNEL</b> Management ( <i>consolidated under</i> Office of Management and Enterprise Services <i>8-26-11 - See Title</i> <i>260</i> ) . . . . .	530	<b>UNIVERSITY</b> Hospitals Authority . . . . .	752
Board of Commercial <b>PET</b> Breeders ( <i>abolished 7-1-12 - See Title</i> <i>35</i> ) . . . . .	532	<b>UNIVERSITY</b> Hospitals Trust . . . . .	753
Oklahoma State Board of <b>PHARMACY</b> . . . . .	535	Board of Regents of the <b>UNIVERSITY</b> of Oklahoma ( <i>exempted</i> <i>11-1-98</i> ) . . . . .	755
<b>PHYSICIAN</b> Manpower Training Commission . . . . .	540	Board of Regents of the <b>UNIVERSITY</b> of Science and Arts of Oklahoma ( <i>exempted 11-1-98</i> ) . . . . .	760
Board of <b>PODIATRIC</b> Medical Examiners . . . . .	545	Oklahoma <b>USED</b> Motor Vehicle and Parts Commission . . . . .	765
Oklahoma <b>POLICE</b> Pension and Retirement System . . . . .	550	Oklahoma Department of <b>VETERANS</b> Affairs . . . . .	770
State Department of <b>POLLUTION</b> Control ( <i>abolished 1-1-93</i> ) . . . . .	555	Board of <b>VETERINARY</b> Medical Examiners . . . . .	775
<b>POLYGRAPH</b> Examiners Board . . . . .	560	Statewide <b>VIRTUAL</b> Charter School Board . . . . .	777
Oklahoma Board of <b>PRIVATE</b> Vocational Schools . . . . .	565		
State Board for <b>PROPERTY</b> and Casualty Rates ( <i>abolished 7-1-06; see also Title 365</i> ) . . . . .	570		
State Board of Examiners of <b>PSYCHOLOGISTS</b> . . . . .	575		
Department of <b>CENTRAL</b> Services (Formerly: Office of <b>PUBLIC</b> Affairs; <i>consolidated under</i> Office of Management and Enterprise Services <i>8-26-11 - See Title 260</i> ) . . . . .	580		

<b>Agency</b>	<b>Title</b>	<b>Agency</b>	<b>Title</b>
Oklahoma Department of <b>CAREER</b> and Technology Education (Formerly: Oklahoma Department of <b>VOCATIONAL</b> and Technical Education) . . . . .	780	Oklahoma <b>WHEAT</b> Commission . . . . .	795
Oklahoma <b>WATER</b> Resources Board . . . . .	785	Department of <b>WILDLIFE</b> Conservation . . . . .	800
Board of Regents of <b>WESTERN</b> Oklahoma State College ( <i>exempted</i> <i>11-1-98</i> ) . . . . .	790	<b>WILL</b> Rogers and J.M. Davis Memorials Commission . . . . .	805
		Oklahoma <b>WORKERS'</b> Compensation Commission . . . . .	810



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

*[OAR Docket #16-141]*

### **INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

### **PROPOSED RULES:**

Subchapter 5. Individual Providers and Specialties

Part 26. Licensed Behavioral Health Providers

317:30-5-280. [REVOKED]

317:30-5-281. [REVOKED]

317:30-5-282. [REVOKED]

317:30-5-283. [REVOKED]

Part 75. Federally Qualified Health Centers

317:30-5-661.4. [AMENDED]

**(Reference APA WF # 16-01)**

### **SUMMARY:**

The Oklahoma Department of Mental Health and Substance Abuse Services (ODMHSAS) is proposing revisions to SoonerCare Rules regarding coverage and reimbursement for services provided by Licensed behavioral health professionals (LBHP) in independent practice. The proposed revisions revoke all coverage and reimbursement guidelines for this specific provider type, as ODMHSAS is requesting that independently contracted providers in private practice no longer be reimbursed for SoonerCare services. LBHP services will remain available to all SoonerCare members through SoonerCare contracted outpatient behavioral health agencies. Changes are necessary to reduce the Agency's spending to balance the state budget in accordance with Article 10, Section 23 of the Oklahoma Constitution, which prohibits a state agency from spending more money than is allocated.

### **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 March 1, 2016 through March 31, 2016, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4345 N. Lincoln Blvd., Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

### **PUBLIC HEARING:**

A public hearing is scheduled for Friday, April 1, 2016, at 9:00 a.m., at the Oklahoma Health Care Authority, 4345 N. Lincoln Blvd., Oklahoma City, Oklahoma, 73105.

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

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on March 31, 2016.

### **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, Chief of Federal & State Policy, Federal & State Policy, 405-522-7153.

*[OAR Docket #16-141; filed 2-8-16]*



# Submissions to Governor and Legislature

Within 10 calendar days after adoption by an agency of proposed PERMANENT rules, the agency must submit the rules to the Governor and the Legislature. A "statement" of such submission must subsequently be published by the agency in the *Register*.  
For additional information on submissions to the Governor/Legislature, see 75 O.S., Section 303.1 and 308.

## TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 10. AGRICULTURAL PRODUCTS

[OAR Docket #16-132]

### RULEMAKING ACTION:

Submission to Governor and Legislature

### RULES:

Subchapter 1. General Provisions

35:10-1-3 [AMENDED]

### SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

January 29, 2016

[OAR Docket #16-132; filed 2-4-16]

## TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 13. FUEL ALCOHOL

[OAR Docket #16-133]

### RULEMAKING ACTION:

Submission to Governor and Legislature

### RULES:

35:13-1-1 [AMENDED]

35:13-1-2 [AMENDED]

### SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

January 29, 2016

[OAR Docket #16-133; filed 2-4-16]

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

[OAR Docket #16-134]

### RULEMAKING ACTION:

Submission to Governor and Legislature

### RULES:

Subchapter 1. General Provisions

35:15-1-2. Definitions [AMENDED]

35:15-1-6. Animals in disaster purpose [NEW]

Subchapter 3. Animal Health Reportable Diseases

35:15-3-2. Oklahoma reportable disease list [AMENDED]

Subchapter 5. Biological Products and Laboratories

35:15-5-1. Biological products [AMENDED]

35:15-5-2. Laboratories [AMENDED]

Subchapter 11. Importation of Livestock, Poultry, and Pets

Part 11. Poultry and Other Avian Species

35:15-11-41. Poultry and other avian species importation [AMENDED]

Subchapter 15. Equine Infectious Anemia (EIA)

Part 11. Requirements for Equidae Entering Oklahoma

35:15-15-111. General requirements for Equidae entering Oklahoma [AMENDED]

Subchapter 16. Contagious Equine Metritis

35:15-16-1. Incorporation by reference [AMENDED]

Subchapter 17. Bovine and Bison Brucellosis

Part 11. Entry Permit and Retest Requirements

35:15-17-80. Rodeo bulls [REVOKED]

Subchapter 19. Poultry Regulations

35:15-19-5. Live bird imports from Avian Influenza quarantined states [AMENDED]

Subchapter 22. Swine Pseudorabies and Brucellosis

Part 1. General Provisions

35:15-22-3. Change of ownership requirements [AMENDED]

Part 3. Requirements for Swine Entering Oklahoma

35:15-22-33. Entry requirements for transitional production swine [AMENDED]

Part 5. Requirements for a Validated/Qualified Herd

35:15-22-51. Validated/qualified herd establishment [AMENDED]

Part 7. Requirements for Swine Exhibitions

35:15-22-71. Exhibition requirements [AMENDED]

Subchapter 36. Scrapie

35:15-36-1. Incorporation by reference of federal regulations [AMENDED]

35:15-36-2. Deleted regulations [AMENDED]

Subchapter 38. Bovine Trichomoniasis

35:15-38-1. Definitions [AMENDED]

35:15-38-2. Import requirements for bulls [AMENDED]

35:15-38-2.1. Intrastate change of ownership requirements for bulls [AMENDED]

35:15-38-3.1. Exposed female cattle [NEW]

Subchapter 44. Farmed Cervidae

35:15-44-19. Entry and export requirements [AMENDED]

35:15-44-20. Animal identification requirements [AMENDED]

Subchapter 47. Chronic Wasting Disease (CWD) in Cervids

Part 3. Herd Certification Standards

35:15-47-6. Minimum requirements for herd certification [AMENDED]

## Submissions to Governor and Legislature

---

### SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

February 2, 2016

*[OAR Docket #16-134; filed 2-4-16]*

---

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

*[OAR Docket #16-135]*

#### RULEMAKING ACTION:

Submission to Governor and Legislature

#### RULES:

Subchapter 5. Registered Poultry Feeding Operations

35:17-5-2. Definitions [AMENDED]

35:17-5-3. Registration, Nutrient Management Plan (NMP) and ~~Animal Waste Management Plan (AWMP)~~ required [AMENDED]

35:17-5-4. Soil and litter tests required [NEW]

35:17-5-5. Nutrient Management Plan and ~~Animal Waste Management Plan~~ requirements [AMENDED]

35:17-5-7. Record keeping [AMENDED]

35:17-5-10.1. Violation points system [REVOKED]

Subchapter 7. Poultry Waste Applicators Certification

35:17-7-4. Private poultry waste applicators certificate [AMENDED]

35:17-7-8. Education requirements [AMENDED]

Subchapter 9. Agricultural Compost Facilities

35:17-9-1. Purpose and applicability [AMENDED]

35:17-9-6. Leachate and storm water control [AMENDED]

35:17-9-9. Closure of licensed compost facility retention structures [NEW]

35:17-4-22. Variances [NEW]

### SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

February 2, 2016

*[OAR Docket #16-135; filed 2-4-16]*

---

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

*[OAR Docket #16-136]*

#### RULEMAKING ACTION:

Submission to Governor and Legislature

#### RULES:

Subchapter 3. Meat Inspection

Part 1. General Provisions

35:37-3-1. Incorporation by reference of federal meat inspection regulations [AMENDED]

Subchapter 5. Poultry Products Inspection

Part 1. General Provisions

35:37-5-1. Definitions and incorporation by reference of federal poultry inspection regulations [AMENDED]

35:37-5-2. Deleted regulations and exemptions [AMENDED]

### SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

February 3, 2016

*[OAR Docket #16-136; filed 2-4-16]*

---

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

*[OAR Docket #16-137]*

#### RULEMAKING ACTION:

Submission to Governor and Legislature

#### RULES:

Subchapter 1. Agriculture Environmental Permitting and AgPDES

Part 1. General Provisions

35:44-1-3. Date of federal regulations incorporated [AMENDED]

Subchapter 3. Permit Conditions and Requirements

35:44-3-3. Date of federal regulations incorporated [AMENDED]

### SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

February 3, 2016

*[OAR Docket #16-137; filed 2-4-16]*

---

### TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 50. AQUACULTURE

*[OAR Docket #16-138]*

#### RULEMAKING ACTION:

Submission to Governor and Legislature

#### RULES:

Subchapter 1. Private Commercial Production

Part 1. General Provisions

35:50-1-2. Definitions [AMENDED]

Part 3. Licensing, Reporting, and Records

35:50-1-37. Technical services [REVOKED]

### SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

February 3, 2016

*[OAR Docket #16-138; filed 2-4-16]*

---

**TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY  
CHAPTER 55. COMMERCIAL PET BREEDERS AND ANIMAL SHELTERS**

[OAR Docket #16-139]

**RULEMAKING ACTION:**

Submission to Governor and Legislature

**RULES:**

- Subchapter 3. Standards of Care
- 35:55-3-1. Incorporation by reference [AMENDED]
- 35:55-3-6.1. Canine Brucellosis [NEW]

**SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

February 4, 2016

[OAR Docket #16-139; filed 2-4-16]

**TITLE 165. CORPORATION COMMISSION  
CHAPTER 15. FUEL INSPECTION**

[OAR Docket #16-142]

**RULEMAKING ACTION:**

Submission to Governor and Legislature

**RULES:**

- Subchapter 1. General Provisions
- 165:15-1-2. Definitions [AMENDED]
- 165:15-1-3. Application of rules [AMENDED]
- 165:15-1-4. Application of motor fuel rules [AMENDED]
- 165:15-1-6. Fuel Specialists' ~~Identification~~ Requirements [AMENDED]
- Subchapter 3. Fuel Specialists, Testing, Accessibility, and Assistance
- Part 1. General Authority
- 165:15-3-1. Authority to enter and/or stop for inspection [AMENDED]
- 165:15-3-2. Authority to lock or seal for violation [AMENDED]
- Part 3. Motor Fuels and Antifreeze
- 165:15-3-11. Testing methods [AMENDED]
- Part 5. Liquid Measuring Devices
- 165:15-3-15. Fuel Specialist's duty [AMENDED]
- 165:15-3-16. Inspection for compliance [AMENDED]
- Part 7. Storage Tanks and Ancillary Equipment
- 165:15-3-20. Water in storage tanks [AMENDED]
- 165:15-3-21. Containment of petroleum products [AMENDED]
- 165:15-3-23. Marina inspections [AMENDED]
- 165:15-3-24.3. ~~Farm~~ UST inspections at farms [AMENDED]
- Part 9. Large Volume Meters
- 165:15-3-25. Testing and inspection of large volume meters [AMENDED]

Subchapter 7. Specifications, Standards, and Labeling for Motor Fuels

165:15-7-5. Diesel fuel [AMENDED]

Subchapter 9. Description of Motor Fuel

165:15-9-1. General representation; lettering [AMENDED]

Subchapter 13. Labeling of Tanks and Product Lines

165:15-13-1. General identification and color coding requirements [AMENDED]

165:15-13-2. Underground tanks [REVOKED]

165:15-13-3. Aboveground storage tanks [REVOKED]

Subchapter 15. Liquid Measuring Devices

Part 9. Equipment and Operations

165:15-15-54. Wholesale devices [AMENDED]

Subchapter 19. Violations and Contempt

165:15-19-1. Penalty; violations and contempt [AMENDED]

165:15-19-2. Enforcement procedure [AMENDED]

165:15-19-3. Notices of Violation [AMENDED]

**SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

February 8, 2016

[OAR Docket #16-142; filed 2-8-16]

**TITLE 165. CORPORATION COMMISSION  
CHAPTER 25. UNDERGROUND STORAGE TANKS**

[OAR Docket #16-143]

**RULEMAKING ACTION:**

Submission to Governor and Legislature

**RULES:**

- Subchapter 1. General Provisions
- Part 3. Definitions
- 165:25-1-11. Definitions [AMENDED]
- Part 5. Scope of Rules
- 165:25-1-23.1. Specified applications [AMENDED]
- Part 6. Administrative Provisions
- 165:25-1-26.2. Public participation [NEW]
- Part 9. Notification and Reporting Requirements
- 165:25-1-41. General reporting requirements [AMENDED]
- 165:25-1-42. New tank systems [AMENDED]
- Part 11. Recordkeeping
- 165:25-1-53. Availability of records [AMENDED]
- 165:25-1-54. Repair records [AMENDED]
- 165:25-1-57. Spill and overflow records [AMENDED]
- 165:25-1-60. Walkthrough inspection records [NEW]
- Part 13. Fees
- 165:25-1-64. Fees [AMENDED]
- Part 15. Shutdown of Operations
- 165:25-1-67. Shutdown of operations [AMENDED]
- Part 19. Operator Training

## Submissions to Governor and Legislature

---

165:25-1-122. Operator Class designations [AMENDED]  
Subchapter 2. General Requirements for Underground Storage Tank Systems  
Part 1. Codes and Standards  
165:25-2-2. Incorporated codes and standards [AMENDED]  
Part 3. Design and Installation  
165:25-2-32. Compatibility [AMENDED]  
165:25-2-39. Spill and overflow protection [AMENDED]  
Part 5. Protection Against Corrosion  
165:25-2-53.1 Underground storage tank internal lining requirements [AMENDED]  
Part 7. Dispensers  
165:25-2-75. Required signs [AMENDED]  
Part 11. Repairs to Underground Storage Tank Systems  
165:25-2-111. Repairs to underground storage tank systems [AMENDED]  
Part 13. Removal and Closures of Underground Storage Tank Systems  
165:25-2-131. Tank removal and closure [AMENDED]  
165:25-2-133. Temporary removal from service [AMENDED]  
165:25-2-135. Permanent closure [AMENDED]  
Subchapter 3. Release Prevention and Detection Requirements  
Part 2. Release Detection Requirements and Methods  
165:25-3-6.22. Tank system tightness testing with monthly inventory control [AMENDED]  
165:25-3-6.25. Interstitial monitoring [AMENDED]  
Part 3. Release Investigation Requirements  
165:25-3-7.1. Release reporting [AMENDED]  
Subchapter 18. Inspections, Notices of Violation, and Citations  
Part 3. Notices of Violation and Citations  
165:25-18-10. Notice of Violation and Citations [AMENDED]  
165:25-18-12. Re-inspection and Fine Citation [AMENDED]

### **SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

February 8, 2016

*[OAR Docket #16-143; filed 2-8-16]*

### **TITLE 165. CORPORATION COMMISSION CHAPTER 26. ABOVEGROUND STORAGE TANKS**

*[OAR Docket #16-144]*

#### **RULEMAKING ACTION:**

Submission to Governor and Legislature

#### **RULES:**

Subchapter 1. General Provisions  
Part 1. Purpose and Definitions

165:26-1-2. Definitions [AMENDED]  
Part 3. Scope of Rules  
165:26-1-21. Overview of applicability [AMENDED]  
Part 4. Administrative Provisions  
165:26-1-26.1. Public participation [NEW]  
Part 5. Standards and Codes  
165:26-1-31. Codes and standards [AMENDED]  
Part 6. Financial Responsibility  
165:26-1-36. Financial responsibility [AMENDED]  
Part 7. Notification and Reporting Requirements  
165:26-1-42. New tank systems [AMENDED]  
165:26-1-44. Tank closure or change in service [AMENDED]  
Part 11. Fees  
165:26-1-70. Fees [AMENDED]  
Part 13. Shutdown of Operations  
165:26-1-90. Shutdown of operations [AMENDED]  
Subchapter 2. General Requirements for Aboveground Storage Tank Systems  
Part 3. Secondary Containment  
165:26-2-31. Double-walled tanks [AMENDED]  
Part 4. Requirements for Corrosion Protection Systems  
165:26-2-40. Corrosion protection [AMENDED]  
Part 13. Miscellaneous Safety Provisions  
165:26-2-132. Required signs [AMENDED]  
Part 21. Removal and Closure of Aboveground Storage Tank Systems  
165:26-2-210. Tank removal and closure [AMENDED]  
Subchapter 3. Release Prevention and Detection  
Part 4. Release Detection  
165:26-3-20.1. Monitoring requirements for aboveground tanks and aboveground piping [AMENDED]  
Part 14. Release Reporting Requirements  
165:26-3-77. Release reporting [AMENDED]  
Subchapter 4. Inspections, Penalties, and Field Citations  
Part 5. Notices of Violation, Warning Citations and Fine Citations  
165:26-4-17. Re-inspection and Citation [AMENDED]  
Subchapter 16. Requirements for Aboveground Storage Tank Systems Utilized by Emergency Generators  
Part 1. General Application and Compliance Provisions  
165:26-16-1. Application [REVOKED]  
165:26-16-2. Timeframes for registration and compliance with rules [REVOKED]  
Appendix J. Table Establishing Permeability Rates for Secondary Containment [REVOKED]  
Appendix J. Table Establishing Permeability Rates for Secondary Containment [NEW]  
**SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**  
February 8, 2016

*[OAR Docket #16-144; filed 2-8-16]*

**TITLE 165. CORPORATION COMMISSION  
CHAPTER 27. INDEMNITY FUND**

*[OAR Docket #16-145]*

**RULEMAKING ACTION:**

Submission to Governor and Legislature

**RULES:**

- Subchapter 1. General Provisions
- 165:27-1-2. Definitions [AMENDED]
- Subchapter 7. Reimbursement
- 165:27-7-1. Reimbursable expenses [AMENDED]
- Subchapter 9. Administrative Provisions
- 165:27-9-3. Notices [AMENDED]

**SUBMISSION OF ADOPTED RULES TO GOVERNOR  
AND LEGISLATURE:**

February 8, 2016

*[OAR Docket #16-145; filed 2-8-16]*

**TITLE 165. CORPORATION COMMISSION  
CHAPTER 29. CORRECTIVE ACTION OF  
PETROLEUM STORAGE TANK RELEASES**

*[OAR Docket #16-146]*

**RULEMAKING ACTION:**

Submission to Governor and Legislature

**RULES:**

- Subchapter 1. General Provisions
- Part 3. Definitions
- 165:29-1-11. Definitions [AMENDED]
- Part 7. National Industry Codes
- 165:29-1-32. Incorporated codes and standards [AMENDED]
- Subchapter 3. Release Prevention, Detection and Correction
- Part 1. Release Prohibition, Reporting, and Investigation
- 165:29-3-2. Release reporting [AMENDED]
- Part 5. Corrective Action Requirements
- 165:29-3-71. General applicability; exception [AMENDED]
- 165:29-3-82. Closure of a case [AMENDED]

**SUBMISSION OF ADOPTED RULES TO GOVERNOR  
AND LEGISLATURE:**

February 8, 2016

*[OAR Docket #16-146; filed 2-8-16]*

**TITLE 175. STATE BOARD OF  
COSMETOLOGY AND BARBERING  
CHAPTER 1. ADMINISTRATIVE  
OPERATIONS**

*[OAR Docket #16-120]*

**RULEMAKING ACTION:**

Submission to Governor and Legislature

**RULES:**

- Subchapter 5. Rules of Practice
- 175:1-5-4 [AMENDED]
- 175:1-5-15 [AMENDED]

**SUBMISSION OF ADOPTED RULES TO GOVERNOR  
AND LEGISLATURE:**

January 27, 2016

*[OAR Docket #16-120; filed 1-27-16]*

**TITLE 175. STATE BOARD OF  
COSMETOLOGY AND BARBERING  
CHAPTER 10. LICENSURE OF  
COSMETOLOGISTS, BARBERS, SCHOOLS  
AND RELATED ESTABLISHMENTS**

*[OAR Docket #16-121]*

**RULEMAKING ACTION:**

Submission to Governor and Legislature

**RULES:**

- Subchapter 3. Licensure of Schools
- Part 1. Initial School Licensing
- 175:10-3-1 [AMENDED]
- Part 7. General Operations and Licensing Requirements
- 175:10-3-60 [AMENDED]
- 175:10-3-61 [AMENDED]
- 175:10-3-67 [AMENDED]
- Subchapter 7. Sanitation, Disinfection and Safety Standards for Establishments and Schools
- 175:10-7-17 [AMENDED]
- 175:10-7-29 [AMENDED]
- 175:10-7-32 [NEW]

**SUBMISSION OF ADOPTED RULES TO GOVERNOR  
AND LEGISLATURE:**

January 27, 2016

*[OAR Docket #16-121; filed 1-27-16]*

## Submissions to Governor and Legislature

---

### **TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 15. CLINICAL TRIALS ON THE USE OF CANNABIDIOL**

*[OAR Docket #16-125]*

#### **RULEMAKING ACTION:**

Submission to Governor and Legislature

#### **PROPOSED RULES:**

- Subchapter 1. Purpose and Definitions [NEW]
- 310:15-1-1. Purpose [NEW]
- 310:15-1-2. Definitions [NEW]
- Subchapter 3. Physician Application and Reporting [NEW]
- 310:15-3-1. Physician application [NEW]
- 310:15-3-2. Physician reporting [NEW]

#### **SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

December 28, 2015

*[OAR Docket #16-125; filed 2-1-16]*

---

### **TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 257. FOOD SERVICE ESTABLISHMENTS**

*[OAR Docket #16-126]*

#### **RULEMAKING ACTION:**

Submission to Governor and Legislature

#### **PROPOSED RULES:**

- Subchapter 1. Purpose and Definitions [AMENDED]
- Subchapter 3. Management and Personnel [AMENDED]
- Subchapter 5. Food [AMENDED]
- Subchapter 7. Equipment, Utensils and Linens [AMENDED]
- Subchapter 9. Water, Plumbing and Waste [AMENDED]
- Subchapter 11. Physical Facilities [AMENDED]
- Subchapter 13. Poisonous or Toxic Materials [AMENDED]
- Subchapter 15. Compliance and Enforcement [AMENDED]
- Subchapter 17. Mobile Pushcarts, Mobile Food Service Establishments, and Mobile Retail Food Service Establishments [AMENDED]
- Appendix A. Tables [NEW]

#### **SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

December 28, 2015

*[OAR Docket #16-126; filed 2-1-16]*

---

### **TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 265. HEARING AID DEALERS AND FITTERS**

*[OAR Docket #16-127]*

#### **RULEMAKING ACTION:**

Submission to Governor and Legislature

#### **PROPOSED RULES:**

- Subchapter 1. General Provisions
- 310:265-1-3 [AMENDED]
- Subchapter 3. Examinations
- 310:265-3-1 [AMENDED]
- 310:265-3-2 [AMENDED]
- 310:265-3-3 [AMENDED]
- Subchapter 5. License Requirements
- 310:265-5-1 [AMENDED]
- 310:265-5-2 [AMENDED]
- 310:265-5-3 [AMENDED]
- 310:265-5-4 [AMENDED]
- 310:265-5-6 [AMENDED]
- 310:265-5-7 [AMENDED]
- 310:265-5-8 [AMENDED]
- Subchapter 7. Regulatory Enforcement
- 310:265-7-2 [AMENDED]
- 310:265-7-3 [AMENDED]

#### **SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

December 28, 2015

*[OAR Docket #16-127; filed 2-1-16]*

---

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

*[OAR Docket #16-128]*

#### **RULEMAKING ACTION:**

Submission to Governor and Legislature

#### **PROPOSED RULES:**

- Subchapter 9. Resident Care Services
- 310:675-9-9.1 [AMENDED]

#### **SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

December 28, 2015

*[OAR Docket #16-128; filed 2-1-16]*

---

**TITLE 310. OKLAHOMA STATE  
DEPARTMENT OF HEALTH  
CHAPTER 680. RESIDENTIAL CARE  
HOMES**

*[OAR Docket #16-129]*

**RULEMAKING ACTION:**

Submission to Governor and Legislature

**PROPOSED RULES:**

Subchapter 13. Medication Storage and Administration  
310:680-13-2. [AMENDED]

**SUBMISSION OF ADOPTED RULES TO GOVERNOR  
AND LEGISLATURE:**

December 28, 2015

*[OAR Docket #16-129; filed 2-1-16]*

**TITLE 485. OKLAHOMA BOARD OF  
NURSING  
CHAPTER 10. LICENSURE OF PRACTICAL  
AND REGISTERED NURSES**

*[OAR Docket #16-130]*

**RULEMAKING ACTION:**

Submission to Governor and Legislature

**RULES:**

Subchapter 3. Regulations for Approved Nursing  
Education Programs

485:10-3-2. [AMENDED]

485:10-3-5. [AMENDED]

485:10-3-6. [AMENDED]

Subchapter 5. Minimum Standards for Approved Nursing  
Education Programs

485:10-5-2. [AMENDED]

485:10-5-3.2. [AMENDED]

485:10-5-4. [AMENDED]

485:10-5-4.1. [AMENDED]

485:10-5-5. [AMENDED]

485:10-5-5.2. [AMENDED]

485:10-5-6. [AMENDED]

485:10-5-7. [AMENDED]

485:10-5-8. [AMENDED]

485:10-5-10. [AMENDED]

485:10-5-12. [AMENDED]

Subchapter 6. Minimum Standards for Approved Advanced  
Practice Registered Nursing (APRN) Education  
Programs (Effective January 1, 2016)

485:10-6-2. [AMENDED]

Subchapter 12. Corrective Action [NEW]

485:10-12-1. [NEW]

485:10-12-2. [NEW]

485:10-12-3. [NEW]

485:10-12-4. [NEW]

Subchapter 15. Requirements for Practice as an Advanced  
Practice Registered Nurse

485:10-15-4. [AMENDED]

Subchapter 16. Requirements for Prescriptive Authority for  
Advanced Practice Registered Nurses

485:10-16-7. [AMENDED]

**SUBMISSION OF ADOPTED RULES TO GOVERNOR  
AND LEGISLATURE:**

February 2, 2016

*[OAR Docket #16-130; filed 2-2-16]*

**TITLE 505. BOARD OF EXAMINERS IN  
OPTOMETRY  
CHAPTER 10. LICENSURE AND  
REGULATION OF OPTOMETRISTS**

*[OAR Docket #16-131]*

**RULEMAKING ACTION:**

Submission to Governor and Legislature

**RULES:**

Subchapter 5. Regulation of Licensees

505:10-5-11 [AMENDED]

**SUBMISSION OF ADOPTED RULES TO GOVERNOR  
AND LEGISLATURE:**

February 1, 2016

*[OAR Docket #16-131; filed 2-2-16]*

**TITLE 600. REAL ESTATE APPRAISER  
BOARD  
CHAPTER 10. LICENSURE AND  
CERTIFICATION REQUIREMENTS**

*[OAR Docket #16-140]*

**RULEMAKING ACTION:**

Submission to Governor and Legislature

**RULES:**

10-1-5. Qualifying education prerequisites [AMENDED]

10-1-16. Supervision of trainee appraisers [AMENDED]

**SUBMISSION OF ADOPTED RULES TO GOVERNOR  
AND LEGISLATURE:**

February 4, 2016

*[OAR Docket #16-140; filed 2-5-16]*



# Emergency Adoptions

"If an agency finds that a rule is necessary as an emergency measure, the rule may be promulgated" if the Governor approves the rules after determining "that the rule is necessary as an emergency measure to do any of the following:

- a. protect public health, safety or welfare,
- b. comply with deadlines in amendments to an agency's governing law or federal programs,
- c. avoid violation of federal law or regulation or other state law,
- d. avoid imminent reduction to the agency's budget, or
- e. avoid serious prejudice to the public interest." [75 O.S., Section 253(A)]

An emergency rule is considered promulgated immediately upon approval by the Governor, and effective immediately upon the Governor's approval or a later date specified by the agency in the emergency rule document. An emergency rule expires on September 15 following the next regular legislative session after its 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 cites to the *Register* publication of the emergency action, is added to the *Code* upon promulgation of a superseding permanent rule or expiration/termination of the emergency action.

*For additional information on the emergency rulemaking process, see 75 O.S., Section 253.*

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

[OAR Docket #16-124]

### RULEMAKING ACTION:

EMERGENCY adoption

### RULES:

Subchapter 5. Individual Providers and Specialties

Part 85. Advantage Program Waiver Services

317:30-5-763. [AMENDED]

(Reference APA WF # 15-14B)

### AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, 42 CFR 441.301, 441.710, and 441.730

### ADOPTION:

December 10, 2015

### APPROVED BY GOVERNOR:

January 13, 2016

### EFFECTIVE:

Immediately upon Governor's approval

### EXPIRATION:

Effective through September 14, 2016, unless superseded by another rule or disapproved by the Legislature

### SUPERSEDED EMERGENCY ACTIONS:

N/A

### INCORPORATIONS BY REFERENCE:

N/A

### FINDING OF EMERGENCY:

The Agency finds that a compelling public interest exists and finds that an imminent peril exists to the preservation of the public health, safety, or welfare which necessitates promulgation of emergency rules and requests emergency approval of rule revisions to comply with federal regulation.

### ANALYSIS:

Department of Human Services policy is being revised to comply with federal regulation. The proposed changes adhere to the CMS conflict free case management requirements and changes adhere to Home and Community Based settings requirements for Medicaid Assisted Living Programs that are directly related to the Assisted Living Service Option in ADvantage program. There is no anticipated budget impact to comply with the federal regulation.

### CONTACT PERSON:

Tywanda Cox at (405) 522-7153

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

## SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

### PART 85. ADVANTAGE PROGRAM WAIVER SERVICES

#### 317:30-5-763. Description of services

Services included in the ADvantage Program are as follows:

(1) **Case Managementmanagement.**

(A) Case ~~Management~~management services ~~are services~~ that assist a member in gaining access to medical, social, educational, or other services, regardless of payment source ~~of services~~, that may benefit the member in maintaining health and safety. Case managers initiate and oversee necessary assessments and reassessments to establish or reestablish ~~waiver~~Waiver program eligibility. Case managers develop the member's comprehensive service plan of care, listing only services ~~which are~~ necessary to prevent institutionalization of the member, as determined through the assessments. Case managers initiate the addition of necessary services or deletion of unnecessary services, as dictated by the member's condition and available support. Case managers monitor the member's condition to ensure delivery and appropriateness of services and initiate service plan of care reviews. Case managers submit an individualized Form 02CB014, Services Backup Plan, on all initial service plans, annually at reassessment, and on updates as appropriate throughout the year, reflecting risk factors and measures in place to minimize risks. ~~If~~When a member requires hospital or nursing facility services, the case manager assists the member in accessing institutional care and, as appropriate, periodically monitors the member's progress during the institutional stay ~~and~~ helps the member transition from institution to home by updating the service plan, and preparing services to start on the date the member is discharged from the institution. ~~Case Managers~~managers must meet ADvantage Program

## Emergency Adoptions

minimum requirements for qualification and training prior to providing services to ADvantage members. Providers of ADvantage services for the member, or for those who have an interest in, or are employed by an ADvantage provider for the member must not provide case management or develop the person-centered service plan, except when the AA demonstrates the only willing and qualified entity to provide case management and/or develop person-centered service plans in a geographic area, also provides other ADvantage services. Prior to providing services to members receiving Consumer-Directed Personal Assistance Services and Supports (CD-PASS), Case Managers case manager supervisors and case managers are required to receive training and demonstrate knowledge regarding the CD-PASS service delivery model, "Independent Living Philosophy," and demonstrate competency in Person centered planning person-centered planning competency.

(B) Providers may only claim time for billable Case Management case management activities described as follows:

(i) A billable case management activity is any task or function defined under per Oklahoma Administrative Code (OAC) 317:30-5-763(1)(A) that only an ADvantage case manager because of skill, training, or authority, can perform on behalf of a member; and

(ii) Ancillary ancillary activities, such as clerical tasks like including, but not limited to, mailing, copying, filing, faxing, drive driving time, or supervisory and administrative activities that are not billable case management activities, and although the The administrative cost of these activities and other normal and customary business overhead costs have been are included in the reimbursement rate for billable activities.

(C) Case Management management services are prior authorized and billed per 15-minute unit of service using the rate associated with the location of residence of the member served.

(i) Standard Rate: Case Management management services are billed using a Standard standard rate for reimbursement for billable service activities provided to a member who resides in a county with a population density greater than 25 persons per square mile.

(ii) Very Rural/Difficult Service Area rural/difficult service area rate: Case Management management services are billed using a Very Rural/Difficult Service Area very rural/difficult service area rate for billable service activities provided to a member who resides in a county with a population density equal to, or less than 25 persons per square mile. An exception would be Exceptions are services to members that who reside in Oklahoma Department of Human Services/ Aging Services Division (OKDHS/ASD) (DHS

AS) identified zip codes in Osage County adjacent to the metropolitan areas of Tulsa and Washington Counties. Services to these members are prior authorized and billed using the Standard standard rate.

(iii) The latest United States Census, Oklahoma Counties population data is the source for determination of whether a member resides in a county with a population density equal to, or less than 25 persons per square mile, or resides in a county with a population density greater than 25 persons per square mile.

### (2) Respite.

(A) Respite services are provided to members who are unable to care for themselves. They Services are provided on a short-term basis because of due to the primary caregiver's absence or need for relief of the primary caregiver. Payment for respite care does not include room and board costs unless more than seven hours are provided in a nursing facility. Respite care will is only be utilized when other sources of care and support have been are exhausted. Respite care will is only be listed on the service plan of care when it is necessary to prevent institutionalization of the member. Units of services are limited to the number of units approved on the service plan of care.

(B) In Home Respite In-home respite services are billed per 15-minute unit units of service. Within any one-day period, a minimum of eight units must be provided with a maximum of 28 units provided. The service is provided in the member's home.

(C) Facility Based Extended Respite Facility-based extended respite is filed for a per diem rate if when provided in Nursing Facility a nursing facility. Extended Respite respite must be at least eight hours in duration.

(D) In Home Extended Respite In-home extended respite is filed for a per diem rate. A minimum of eight hours must be provided in the member's home.

### (3) Adult Day Health Care day health care.

(A) Adult Day Health Care day health care is furnished on a regularly scheduled basis for one or more days per week in an outpatient setting. It provides both health and social services which are necessary to ensure the member's optimal functioning of the member. Physical, occupational, and/or speech therapies may are only be provided as an enhancement to the basic Adult Day Health Care adult day health care service when authorized by the service plan of care and are billed as a separate procedure. Meals provided as part of this service do not constitute a full nutritional regimen. Personal Care care service enhancement in Adult Day Health Care adult day health care is assistance in bathing, and/or hair washing care, or laundry service, authorized by the service plan of care and billed as a separate procedure procedures. Most assistance with activities of daily living (ADL), such as eating, mobility, toileting, and nail care, are services

~~that are integral services to the Adult Day Health Care adult day health care service and are covered by the Adult Day Health Care adult day health care basic reimbursement rate. Assistance with bathing, hair care, or laundry service is not a usual and customary adult day health care service. Enhanced personal care in adult day health care for assistance with bathing, hair care, or laundry will be service is authorized when an ADvantage waiver Waiver member who uses adult day health care requires assistance with bathing, hair care, or laundry service to maintain his or her health and safety.~~

(B) ~~Adult Day Health Care day health care is a 15-minute unit of service. No more than eight hours, (32 units), are authorized per day. The number of units of service a member may receive is limited to the number of units approved on the member's approved service plan of care.~~

(C) ~~Adult Day Health Care Therapy Enhancement day health care therapy enhancement is a maximum of one session unit per day unit of service.~~

(D) ~~Adult Day Health Personal Care Enhancement day health personal care enhancement is a maximum of one unit per day unit of bathing, hair care, or laundry service.~~

(4) **Environmental Modifications modifications.**

(A) ~~Environmental Modifications modifications are physical adaptations to the home, required by the member's service plan of care, which that are necessary to ensure the health, welfare, and safety of the individual member, or which enable the individual member to function with greater independence in the home and that without which such, the member would require institutionalization. Adaptations or improvements to the home which are not of direct medical or remedial benefit to the waiver Waiver member are excluded.~~

(B) All services require prior authorization.

(5) **Specialized Medical Equipment medical equipment and Supplies supplies.**

(A) ~~Specialized Medical Equipment medical equipment and Supplies supplies are devices, controls, or appliances specified in the service plan of care, which that enable members to increase their abilities his or her ability to perform activities of daily living ADLs, or to perceive, control, or communicate with the environment in which they live. Also included are items necessary Necessary items for life support, ancillary supplies, and equipment necessary to for the proper functioning of such items, and durable and non-durable medical equipment not available under the Medicaid state plan are also included. This service excludes any equipment and/or supply items which are not of direct medical or remedial benefit to the waiver Waiver member. This service is necessary to prevent institutionalization.~~

(B) ~~Specialized Medical Equipment medical equipment and Supplies supplies are billed using the~~

~~appropriate HCPC procedure code HealthCare Common Procedure Code (HCPC). Reoccurring supplies which are shipped and delivered to the member are compensable only when the member remains eligible for waiver Waiver services, continues to reside in the home, and is not institutionalized in a hospital, skilled nursing facility, or nursing home. It is the provider's responsibility to verify the member's status prior to shipping and delivering these items. Payment for medical supplies is limited to the the SoonerCare rate if established, to the Medicare rate, or to actual acquisition cost, plus 30 percent. All services must be have prior authorized authorization.~~

(6) **Advanced Supportive/Restorative Assistance supportive/restorative assistance.**

(A) ~~Advanced Supportive/Restorative Assistance supportive/restorative assistance services are maintenance services used to assist a member who has a chronic, yet stable, condition. These services assist with activities of daily living which ADLs that require devices and procedures related to altered body functions. This service is These services are for maintenance only and is are not utilized as a treatment services services.~~

(B) ~~Advanced Supportive/Restorative Assistance supportive/restorative assistance service is billed per 15-minute unit of service. The number of units of this service a member may receive is limited to the number of units approved on the service plan of care.~~

(7) **Nursing.**

(A) ~~Nursing services are services listed in the service plan of care which that are within the scope of the Oklahoma Nursing Practice Act, and These services are provided by a registered professional nurse (RN), or a licensed practical nurse (LPN), or a licensed vocational nurse (LVN) under the supervision of a registered nurse, an RN licensed to practice in the State state. Nursing services may be provided on an intermittent or part-time basis or may be comprised of continuous care. The provision of the nursing service will work works to prevent or postpone the institutionalization of the member.~~

(B) ~~Nursing services are services of a maintenance or preventive preventative nature provided to members with stable, chronic conditions. These services are not intended to treat an acute health condition and may not include services which would be reimbursable under either Medicaid or Medicare's the Medicare Home Health Program. This service primarily provides nurse supervision to the Personal Care Assistant personal care assistant or to the Advanced Supportive/Restorative Assistance Aide advanced supportive/restorative assistance aide and assesses the member's health and prescribed medical services to ensure that they meet the member's needs as specified in the service plan of care. A nursing assessment/evaluation, on-site~~

## Emergency Adoptions

visit is made to each member for whom ~~Advanced Supportive/Restorative Assistance~~ advanced supportive/restorative assistance services are authorized to evaluate the condition of the member and medical appropriateness of services. An assessment/evaluation visit report ~~will be~~ is made to the ADvantage Program case manager in accordance with review schedule determined ~~in consultation~~ between the ~~Case Manager~~ case manager and the ~~Nurse~~ nurse, to report the member's condition or other significant information concerning each advanced supportive/restorative care member.

(i) The ADvantage Program case manager may recommend authorization of ~~Nursing~~ nursing services as part of the interdisciplinary team planning for the member's service plan and/or assessment/evaluation of ~~the~~:

(I) ~~the~~ member's general health, functional ability, and needs; and/or

(II) ~~the~~ adequacy of personal care and/or advanced supportive/restorative assistance services to meet the member's needs, including providing on-the-job training and competency testing for personal care or advanced supportive/restorative care aides ~~in accordance with~~ per rules and regulations for ~~the~~ delegation of nursing tasks as established by the Oklahoma Board of Nursing.

(ii) In addition to assessment/evaluation, the ADvantage Program case manager may recommend authorization of ~~Nursing~~ nursing services ~~for the following to~~:

(I) ~~preparing~~ prepare a one-week supply of insulin syringes for a ~~blind diabetic person who is blind and has diabetes~~, who can safely self-inject the medication but cannot fill ~~his/her~~ his or her own syringe. This service ~~would include~~ includes monitoring the member's continued ability to self-administer the insulin;

(II) ~~preparing~~ prepare oral medications in divided daily compartments for a member who self-administers prescribed medications but needs assistance and monitoring due to a minimal level of disorientation or confusion;

(III) ~~monitoring~~ monitor a member's skin condition when a member is at risk for skin breakdown due to immobility or incontinence; or the member has a chronic stage II decubitus ulcer requiring maintenance care and monitoring;

(IV) ~~providing~~ provide nail care for the ~~diabetic member with diabetes~~ or member ~~with who has~~ circulatory or neurological compromise;

(V) ~~providing~~ provide consultation and education to the member, member's family, and/or

other informal caregivers identified in the service plan; regarding the nature of the member's chronic condition. ~~Provide skills~~ Skills training, (including return skills demonstration to establish competency), to the member, family, and/or other informal caregivers as specified in the service plan for preventive and rehabilitative care procedures ~~are also provided~~.

(C) Nursing service ~~can be billed for~~ includes ~~interdisciplinary team planning and recommendations for the member's~~ service plan development and/or assessment/evaluation services, or, for other services within the scope of the Oklahoma Nursing Practice Act, including private duty nursing. Nursing services are billed per 15-minute unit of service. A specific procedure code is used to bill for ~~interdisciplinary team planning and recommendations for the member's service plan and for performing assessment/evaluations,~~ assessment/evaluation/service plan development nursing services and ~~other~~ another procedure codes ~~are~~ code is used to bill for all other authorized nursing services. A maximum of eight units per day of nursing for ~~assessment /evaluation and/or~~ service plan development and ~~assessment evaluation~~ are allowed. An agreement by a provider to perform a nurse evaluation is also an agreement, to provide ~~the nurse assessment identified in~~ the Medicaid in-home care services for which the provider is certified and contracted. Reimbursement for a nurse evaluation is denied ~~if when~~ the provider that produced the nurse evaluation fails to provide the nurse assessment identified in the Medicaid in-home care services for which the provider is certified and contracted.

(8) ~~Skilled Nursing Services~~ nursing services.

(A) Skilled ~~Nursing Services~~ nursing services listed in the ~~service plan of care~~ which that are within the scope of the ~~State's~~ state's Nurse Practice Act and are ordered by a licensed ~~medical~~ physician, osteopathic physician, physician assistant, or ~~an~~ advanced practice nurse and are provided by a ~~registered professional nurse, or licensed practical or vocational nurse~~ an RN, or an LPN or LVN under the supervision of a registered nurse, licensed to practice in the ~~State~~ state. Skilled ~~Nursing~~ nursing services provided in the member's home or other community setting are services requiring the specialized skills of a licensed nurse. The scope and nature of these services are ~~intended~~ for treatment of a disease or a medical condition and are beyond the scope of ADvantage ~~Nursing Services~~ nursing services. These intermittent nursing services are targeted toward a prescribed treatment or procedure that must be performed at a specific time or other predictable rate of occurrence. ~~It is the responsibility of the RN to contact~~ The RN contacts the member's physician to obtain ~~any~~ necessary information or orders pertaining to the ~~member's~~ care of the member. ~~If When~~ the member has an ongoing

need for service activities, ~~which require~~ requiring more or less units than authorized, the RN ~~shall~~ must recommend, in writing, that the ~~Plan of Care~~ service plan be revised.

(B) Skilled ~~Nursing~~ nursing services are provided on an intermittent or part-time basis, and billed ~~in units of per 15-minute increments~~ units of service. ~~ADvantage~~ Skilled ~~Nursing~~ nursing services are provided when nursing services are not available through Medicare or other sources or when ~~SoonerCare~~ plan nursing services furnished under ~~SoonerCare~~ plan limits are exhausted. Amount, frequency, and duration of services are prior-authorized in accordance with the member's service plan.

(9) **Home Delivered Meals** delivered meals.

(A) Home ~~Delivered Meals~~ delivered meals provide one meal per day. A home delivered meal is a meal prepared in advance and brought to the member's home. Each meal must have a nutritional content equal to at least one-third of the ~~Recommended Daily Allowance~~ dietary reference intakes as established by the Food and Nutrition Board of the National Academy of Sciences. Meals are only provided to members who are unable to prepare meals and lack an informal provider to do meal preparation.

(B) Home ~~Delivered Meals~~ delivered meals are billed per meal, with one meal equaling one unit of service. The limit of the number of units a member is allowed to receive is ~~limited on~~ in accordance with the member's ~~service plan of care~~ service plan of care. The provider must obtain a signature from the member or the member's representative at the time the ~~meals are~~ meal is delivered. In the event ~~that~~ the member is temporarily unavailable, ~~such as at a (i.e., doctor's appointment, etc.)~~ and the meal is left at the member's home, the provider must document the reason a signature ~~is~~ was not obtained. The signature logs must be available for review.

(10) **Occupational Therapy Services** therapy services.

(A) Occupational ~~Therapy~~ therapy services are ~~those~~ services that increase functional independence by enhancing the development of adaptive skills and performance capacities of members with physical disabilities and related psychological and cognitive impairments. Services are provided in the member's home and are intended to help the member achieve greater independence enabling him or her to reside and participate in the community. Treatment involves the therapeutic use of self-care, work, and play activities, and may include modification of the tasks or environment to enable the member to achieve maximum independence, prevent further disability, and maintain health. Under a physician's order, a licensed occupational therapist evaluates the member's rehabilitation potential and develops an appropriate written, therapeutic regimen. The regimen utilizes

paraprofessional occupational therapy assistant services, within the ~~limits~~ limitations of ~~their~~ his or her practice, working under the supervision of ~~the~~ a licensed occupational therapist. The regimen includes education and training for informal caregivers to assist with and/or maintain services, ~~where~~ when appropriate. The occupational therapist ~~will ensure~~ ensures monitoring and documentation of the member's rehabilitative progress and ~~will report~~ reports to the member's case manager and physician to coordinate the necessary addition and/or deletion of services, based on the member's condition and ongoing rehabilitation potential.

(B) Occupational ~~Therapy~~ therapy services are billed per 15-minute unit of service. Payment is not allowed solely for written reports or record documentation.

(11) **Physical Therapy Services** therapy services.

(A) Physical ~~Therapy~~ therapy services are those services that prevent maintain or improve physical disability through the evaluation and rehabilitation of members disabled by pain, disease, or injury. Services are provided in the member's home and are intended to help the member achieve greater independence to reside and participate in the community. Treatment involves the use of physical therapeutic means, such as massage, manipulation, therapeutic exercise, cold and/or heat therapy, hydrotherapy, electrical stimulation, and light therapy. Under a physician's order, a licensed physical therapist evaluates the member's rehabilitation potential and develops an appropriate, written, therapeutic regimen. The regimen utilizes paraprofessional physical therapy assistant services, within the ~~limits~~ limitations of ~~their~~ his or her practice, working under the supervision of the licensed physical therapist. The regimen includes education and training for informal caregivers to assist with and/or maintain services, ~~where~~ when appropriate. The licensed physical therapist ~~will ensure~~ ensures monitoring and documentation of the member's rehabilitative progress and ~~will report~~ reports to the member's case manager and physician to coordinate the necessary addition and/or deletion of services, based on the member's condition and ongoing rehabilitation potential.

(B) Physical ~~Therapy~~ therapy services are billed per 15-minute units of service. Payment is not allowed solely for written reports or record documentation.

(12) **Speech and Language Therapy Services** language therapy services.

(A) ~~Speech/Language Therapy~~ and language therapy services are those that prevent maintain or improve speech and language communication and swallowing disorders/disability through the evaluation and rehabilitation of members disabled by pain, disease, or injury. Services are provided in the member's home and are intended to help the member

## Emergency Adoptions

achieve greater independence to reside and participate in the community. Services involve the use of therapeutic means, such as evaluation, specialized treatment, ~~and~~ or development, and oversight of a therapeutic maintenance program. Under a physician's order, a licensed ~~Speech/Language Pathologist~~ speech and language pathologist evaluates the member's rehabilitation potential and develops an appropriate, written, therapeutic regimen. The regimen utilizes ~~paraprofessional therapy assistant~~ Speech Language Pathology Assistant services within the ~~limits~~ limitations of ~~their~~ his or her practice, working under the supervision of the licensed ~~Speech/Language Pathologist~~ Speech and Language Pathologist. The regimen includes education and training for informal caregivers to assist with and/or maintain services, ~~where~~ when appropriate. The ~~Pathologist~~ Speech and Language Pathologist ~~will ensure~~ ensures monitoring and documentation of the member's rehabilitative progress and ~~will report~~ reports to the member's case manager and physician to coordinate the necessary addition and/or deletion of services, based on the member's condition and ongoing rehabilitation potential.

(B) ~~Speech/Language Therapy~~ Speech and language therapy services are billed per 15-minute unit of service. Payment is not allowed solely for written reports or record documentation.

### (13) ~~Hospice Services~~ services.

(A) ~~Hospice services~~ are palliative and/or comfort care provided to the member and ~~his/her~~ his or her family when a physician certifies ~~that~~ the member has a terminal illness, ~~and has six months or less to live~~ with a life expectancy of six months or less, and orders hospice care. ~~ADvantage Hospice Care~~ hospice care is authorized for a six-month period, and requires a physician certification of a terminal illness and orders of hospice care. ~~When~~ the member requires more than six months of hospice care, a physician or nurse practitioner must have a face-to-face visit with the member ~~thirty~~ 30-calendar days prior to the initial hospice authorization end date, and re-certify that the member has a terminal illness, ~~and~~ has six months or less to live, and orders additional hospice care. After the initial authorization period, additional periods of ~~ADvantage Hospice~~ hospice may be authorized for a maximum of 60-calendar day increments with physician certification that the member has a terminal illness and ~~has~~ six months or less to live. A member's service plan that includes hospice care must comply with ~~waiver~~ Waiver requirements to be within total service plan cost limits.

(B) A hospice program offers palliative and supportive care to meet the special needs arising out of the physical, emotional, and spiritual stresses ~~which are~~ experienced during the final stages of illness, ~~and during dying~~ through the end of life, and

bereavement. The member signs a statement choosing hospice care instead of routine medical care ~~that~~ has with the objective to treat and cure the member's illness. Once the member has elected hospice care, the hospice medical team assumes responsibility for the member's medical care for the ~~terminal~~ illness in the home environment. Hospice care services include nursing care, physician services, medical equipment and supplies, drugs for symptom ~~control~~ and pain relief, home health aide and personal care services, physical, occupational and/or ~~speech therapy~~ therapies, medical social services, dietary counseling, and grief and bereavement counseling to the member and/or the member's family. ~~A Hospice plan of care must be developed by the hospice team in conjunction with the member's ADvantage case manager before hospice services are provided. The hospice services must be related to the palliation or management of the member's terminal illness, symptom control, or to enable the individual to maintain activities of daily living and basic functional skills. A member that is eligible for Medicare Hospice provided as a Medicare Part A benefit, is not eligible to receive ADvantage Hospice services. A hospice plan of care must be developed by the hospice team in conjunction with the member's ADvantage case manager before hospice services are provided. The hospice services must be related to the palliation or management of the member's terminal illness, symptom control, or to enable the member to maintain ADL and basic functional skills. A member who is eligible for Medicare hospice provided as a Medicare Part A benefit, is not eligible to receive ADvantage hospice services.~~

(C) A hospice plan of care must be developed by the hospice team in conjunction with the member's ADvantage case manager before hospice services are provided. The hospice services must be related to the palliation or management of the member's terminal illness, symptom control, or to enable the member to maintain ADL and basic functional skills. A member who is eligible for Medicare hospice provided as a Medicare Part A benefit, is not eligible to receive ADvantage hospice services.

(~~C~~) Hospice services are billed per diem of service for days covered by a Hospice hospice plan of care and during which while the hospice provider is responsible for providing hospice services as needed by the member or member's family. The maximum total annual reimbursement for a member's Hospice hospice care within a twelve 12-month period is limited to an amount equivalent to 85% percent of the Medicare Hospice Cap hospice cap payment, and must be authorized on the member's service plan.

### (14) ~~ADvantage Personal Care~~ personal care.

(A) ~~ADvantage Personal Care~~ personal care is assistance to a member in carrying out ~~activities of daily living~~ ADLs, such as bathing, grooming, and

toileting, or in carrying out instrumental activities of daily living (IADLs), such as preparing meals and doing laundry service, to assure personal health and safety of the individual ensure the member's personal health and safety, or to prevent or minimize physical health regression or deterioration. Personal Care services do not include service provision of a technical nature, i.e. such as tracheal suctioning, bladder catheterization, colostomy irrigation, and/or the operation/maintenance operation and maintenance of equipment of a technical nature.

(B) ADvantage Home Care Agency Skilled Nursing home care agency skilled nursing staff working in coordination with an ADvantage Case Manager case manager are responsible for the development and monitoring of the member's Personal Care plan personal care services.

(C) ADvantage Personal Care personal care services are prior-authorized and billed per 15-minute unit of service, with units of service limited to the number of units on the ADvantage approved service plan of care.

**(15) Personal Emergency Response System emergency response system.**

(A) Personal Emergency Response System emergency response system (PERS) is an electronic device which that enables certain individuals members at high risk of institutionalization, to secure help in an emergency. The individual Members may also wear a portable "help" button to allow for mobility. The system PERS is connected to the person's phone and programmed to signal, in accordance with per member preference, a friend, a relative, or a response center, once the "help" button is activated. The response center is staffed by trained professionals. For an ADvantage Program member to be eligible to receive for PERS service, the member must meet all of the following service criteria in (i) through (vi). The

- (i) member has a recent history of falls as a result of an existing medical condition that prevents the individual member from getting up unassisted from a fall unassisted;
- (ii) member lives alone and has now without a regular caregiver, paid or unpaid, and therefore is left alone for long periods of time;
- (iii) member demonstrates the capability to comprehend the purpose of and activate the PERS;
- (iv) member has a health and safety plan detailing the interventions beyond the PERS to assure ensure the member's health and safety in his/her his or her home;
- (v) member has a disease management plan to implement medical and health interventions that reduce the possibility of falls by managing the member's underlying medical condition causing the falls; and;

(vi) The service avoids premature or unnecessary institutionalization of the member.

(B) PERS services are billed using the appropriate HCPC procedure code for installation, monthly service, or PERS purchase of PERS. All services are prior-authorized in accordance with the ADvantage approved service plan of care.

**(16) Consumer-Directed Personal Assistance Services and Support (CD-PASS).**

(A) Consumer Directed Personal Assistance Services and Supports CD-PASS are Personal Services Assistance personal services assistance (PSA) and Advanced Personal Services Assistance advanced personal services assistance (APSA) that enable an individual a member in need of assistance to reside in their home and in the community of their choosing rather than in an institution; and to carry out functions of daily living, self-care, and mobility. CD-PASS services are delivered as authorized on the service plan. The member becomes the employer of record and employs the Personal Services Assistant (PSA) and/or the Advanced Personal Services Assistant (APSA), and The member is responsible, with assistance from ADvantage Program Administrative Financial Management Services (FMS), for ensuring that the employment complies with State state and Federal Labor Law federal labor law requirements. The member/employer may designate an adult family member or friend, an individual who is not a PSA or APSA to the member, as an "authorized representative" to assist in executing these the employer functions. The member/employer:

- (i) recruits, hires and, as necessary, discharges the PSA or APSA;
- (ii) provides is solely responsible to provide instruction and training to the PSA or APSA on tasks to be done and works with the Consumer Directed Agent/Case Manager consumer directed agent/case manager (CDA) to obtain ADvantage skilled nursing services assistance with training, when necessary. Prior to performing an Advanced Personal Services Assistance APSA task for the first time, the APSA must demonstrate competency in the tasks in an on-the-job training session conducted by the member and the member must document the attendant's competency in performing each task in the ASPA's APSA's personnel file;
- (iii) determines where and how the PSA or APSA works, hours of work, what is to be accomplished and, within Individual Budget Allocation individual budget allocation limits, wages to be paid for the work;
- (iv) supervises and documents employee work time; and;
- (v) provides tools and materials for work to be accomplished.

(B) The services services the Personal Services Assistance PSA may provide include:

## Emergency Adoptions

- (i) assistance with mobility and ~~with transferring~~ transferring in and out of bed, wheelchair, or motor vehicle, or ~~both~~;
- (ii) assistance with routine bodily functions that may include:
  - (I) bathing and personal hygiene;
  - (II) dressing and grooming; and
  - (III) eating, including meal preparation and cleanup;
- (iii) assistance with ~~homemaker type~~ home services that may include shopping, laundry service, cleaning, and seasonal chores;
- (iv) companion ~~type~~ assistance that may include letter writing, reading mail, and providing escort or transportation to participate in approved activities or events. "Approved activities or events," means community, civic participation guaranteed to all citizens including, but not limited to, exercise of religion, voting or participation in daily life activities in which exercise of choice and decision making is important to the member, ~~that~~ and may include shopping for food, clothing, or other necessities, or for participation in other activities or events ~~that are~~ specifically approved on the service plan.

(C) ~~Advanced Personal Services Assistance are maintenance services provided to assist~~ An APSA provides assistance with ADLs to a member with a stable, chronic condition ~~with activities of daily living~~, when such assistance requires devices and procedures related to altered body function if such activities, in the opinion of the attending physician or licensed nurse, may be performed if the ~~individual member~~ were physically capable, and the procedure may be safely performed in the home. ~~Advanced Personal Services Assistance is a~~ Services provided by the APSA are maintenance services and ~~should~~ are never be used as a therapeutic treatment. Members who develop medical complications requiring skilled nursing services while receiving ~~Advanced Personal Services Assistance~~ APSA services ~~should be~~ referred to ~~their~~ his or her attending physician, who ~~may, if~~ when appropriate, order home health services. ~~The service of Advanced Personal Services Assistance~~ APSA includes assistance with health maintenance activities that may include:

- (i) routine personal care for persons with ostomies, (including tracheotomies, gastrostomies, and colostomies with well-healed stoma), and external, indwelling, and suprapubic catheters ~~which includes~~ that include changing bags and soap and water hygiene around the ostomy or catheter site;
- (ii) ~~remove~~ removing external catheters, inspect skin, and reapplication of same;
- (iii) ~~administer~~ administering prescribed bowel program, including use of suppositories and

sphincter stimulation, and enemas (~~Pre~~ pre-packaged only) ~~with members~~ without contraindicating rectal or intestinal conditions;

- (iv) ~~apply~~ applying medicated (prescription) lotions or ointments; and dry, non-sterile dressings to unbroken skin;
- (v) ~~use~~ using a lift for transfers;
- (vi) manually ~~assist~~ assisting with oral medications;
- (vii) ~~provide~~ providing passive range of motion (non-resistive flexion of joint) therapy, delivered in accordance with the service plan of care, unless contraindicated by underlying joint pathology;
- (viii) ~~apply~~ applying non-sterile dressings to superficial skin breaks or abrasions; and
- (ix) ~~use Universal~~ using universal precautions as defined by the ~~Center~~ Centers for Disease Control and Prevention.

(D) ~~The service Financial Management Services~~ FMS are program administrative services provided to participating CD-PASS ~~employer/members~~ members/employers by the ~~OKDHS/ASDDHS AS~~ Financial Management Services FMS are employer-related assistance that provides Internal Revenue Service (IRS) fiscal reporting agent and other financial management tasks and functions including, but not limited to:

- (i) processing employer payroll, after the member/employer has verified and approved the employee timesheet, at a minimum of semi-monthly, and associated withholding for taxes, or for other payroll withholdings performed on behalf of the member as employer of the PSA or APSA;
- (ii) other employer related payment disbursements as agreed to with the member/employer and in accordance with the member/employer's ~~Individual Budget Allocation~~ individual budget allocation;
- (iii) responsibility for obtaining criminal and abuse registry background checks, ~~on behalf of the member~~, on prospective hires for PSAs or APSAs on the member/employer's behalf;
- (iv) ~~providing to the member, as needed, assistance with employer related cognitive tasks, decision making and specialized skills that may include assistance with Individual Budget Allocation planning and support for making decisions including training and providing reference material and consultation regarding employee management tasks such as recruiting, hiring, training and supervising the member's Personal Services Assistant or Advanced Personal Services Assistant~~ providing orientation and training regarding employer responsibilities, as well employer information and management guidelines, materials, tools and staff

consultant expertise to support and assist the member in successfully performing employer-related functions; and

(v) ~~for~~ making available Hepatitis B vaccine and vaccination series available to PSA and APSA employees in compliance with Occupational Safety and Health Administration (OSHA) standards.

(E) ~~The service of Personal Services Assistance~~ PSA service is billed per 15-minute unit of service. The number of units of PSA a member may receive is limited to the number of units approved on the Service Plan service plan.

(F) ~~The service of Advanced Personal Services Assistance~~ APSA service is billed per 15-minute unit of service. The number of units of APSA a member may receive is limited to the number of units approved on the Service Plan service plan.

**(17) ~~Institution Transition Services~~ Institutional transition services.**

(A) ~~Institution Transition Services~~ Institutional transition services are those services that are necessary to enable an individual member to leave the institution and receive necessary support through ADvantage waiver Waiver services in their his or her home and/or in the community.

(B) ~~Institution Transition Case Management Services~~ Transitional case management services are services as described in per OAC 317:30-5-763(1) required by the individual's plan of care member and included on the member's service plan, which that are necessary to ensure the health, welfare, and safety of the individual member, or to enable the individual member to function with greater independence in the home, and without which, the individual member would continue to require institutionalization. ADvantage Transition Case Management Services transitional case management services assist institutionalized individuals members that who are eligible to receive ADvantage services in gaining access to needed waiver Waiver and other State plan services, as well as needed medical, social, educational, and other services to assist in the transition, regardless of the funding source for the services to which access is gained. Transition Case Management Services Transitional case management services may be authorized for periodic monitoring of an ADvantage member's progress during an institutional stay, and for assisting the member transition from institution to home by updating the service plan, including necessary Institution Transition Services institutional transition services to prepare services and supports to be in place or to start on the date the member is discharged from the institution. Transition Case Management Services Transitional case management services may be authorized to assist individuals that have not previously received ADvantage services, but have been were referred by the OKDHS/ASD DHS AS

to the Case Management Provider case management provider for assistance in transitioning from the institution to the community with ADvantage services support.

(i) ~~Institution Transition Case Management~~ Institutional transition case management services are prior authorized and billed per 15-minute unit of service using the appropriate HCPC procedure code and modifier associated with the location of residence of the member served as described in per OAC 317:30-5-763(1)(C).

(ii) A unique modifier code is used to distinguish Institution Transition Case Management transitional case management services from regular Case Management case management services.

(C) ~~Institutional Transition Services~~ transition services may be authorized and reimbursed under the following per the conditions in (i) through (iv):

(i) The service is necessary to enable the individual member to move from the institution to their his or her home;

(ii) The individual member is eligible to receive ADvantage services outside of the institutional setting;

(iii) Institutional Transition Services transition services are provided to the individual member within 180 calendar days of discharge from the institution;

(iv) Transition Services services provided while the individual member is in the institution are to be claimed as delivered on the day of discharge from the institution.

(D) ~~If~~ When the member has received receives Institution Transition Services institutional transition services but fails to enter the waiver Waiver, any Institution Transition Services institutional transition services provided are not reimbursable.

**(18) ~~Assisted Living Services~~ living services.**

(A) Assisted Living Services living services (ALS) are personal care and supportive services that are furnished to waiver Waiver members who reside in a homelike, non-institutional setting that includes 24-hour, on-site response capability to meet scheduled or unpredictable resident member needs and to provide supervision, safety, and security. Services also include social and recreational programming and medication assistance, (to the extent permitted under State state law). The assisted living services ALS provider is responsible for coordinating services provided by third parties to ADvantage members in the assisted living center. Nursing services are incidental rather than integral to the provision of assisted living services ALS. ADvantage reimbursement for Assisted Living Services ALS includes services of personal care, housekeeping, laundry service, meal preparation, periodic nursing evaluations, nursing supervision during nursing intervention, intermittent or

## Emergency Adoptions

unscheduled nursing care, medication administration, assistance with cognitive orientation, assistance with transfer and ambulation, planned programs for socialization, activities, and exercise, and for arranging or coordinating transportation to and from medical appointments. Services, except for planned programs for socialization, activities, and exercise, are to meet the member's specific needs of the participant as determined through the individualized assessment and documented on the participant's member's service plan.

(B) ~~The ADvantage Assisted Living Services~~ ALS philosophy of service delivery promotes service member choice, and to the greatest extent possible, service member control. Members have A member has control over their his or her living space and his or her choice of personal amenities, furnishing-furnishings, and activities in theirthe residence. The ADvantage member must have the freedom to control his or her schedule and activities. The ~~Assisted Living Service~~ ALS provider's documented operating philosophy, including policies and procedures, must reflect and support the principles and values associated with the ADvantage assisted living philosophy and approach to service delivery ~~that emphasizes~~ emphasizing member dignity, privacy, individuality, and independence.

(C) ~~ADvantage Assisted Living~~ ALS required policies for ~~Admission/Termination~~ admission and termination of services and definitions.

(i) ~~ADvantage-certified Assisted Living Centers~~ assisted living centers (ALCs) are required to accept all eligible ADvantage members who choose to receive services through the ALC, subject only to issues relating to, one or more of the following:

- (I) rental unit availability;
- (II) the compatibility of the ~~partici-~~ participant member with other residents; ~~and~~
- (III) the center's ability to accommodate residents who have behavior problems, wander, or have needs that exceed the services the center provides; or
- (IV) restrictions initiated by statutory limitations.

(ii) The ALC may specify the number of units the provider is making available to service ADvantage ~~participants~~ members. The number of rental units available to service the ADvantage participants may be altered based upon written request from the provider and acceptance by the ADvantage Administration (AA).

(iii) Mild or moderate, cognitive impairment of the applicant is not a justifiable reason to deny ALC admission. Centers are required to specify whether they are able to accommodate ~~individ-~~ uals ~~members~~ who have behavior problems or

wander. Denial of admission due to a determination of incompatibility must be approved by the case manager and the ADvantage Administration (AA). Appropriateness of placement is not a unilateral determination by the ALC. ~~The ADvantage Case Manager~~ case manager, the member, and/ or member's designated representative, and the ALC in consultation determine the appropriateness of placement.

(iv) The ALC is responsible for meeting the member's needs for privacy, ~~and~~ dignity, respect, and freedom from coercion and restraint. The ALC must optimize member's initiative, autonomy and independence in making life choices. The ALC must facilitate member choices regarding services and supports, and who provides them. Inability to meet those needs ~~will~~ is not ~~be~~ recognized as a reason for determining ~~that~~ an ADvantage ~~participant's~~ member's placement is inappropriate. The ALC agrees to provide or arrange and coordinate all of the services listed ~~in the description of assisted living center services~~ in the Oklahoma State Department of Health regulations (OAC 310:663-3-3), except for specialized services.

(v) In addition, the ADvantage participating ALC agrees to provide or coordinate the ~~following~~ services listed in (I) through (III).

(I) Provide an emergency call system for each participating ADvantage member;

(II) Provide up to three meals per day plus snacks sufficient to meet nutritional requirements, including modified special diets, appropriate to ~~members'~~ the member's needs and choices; and provide members with 24-hour access to food by giving members control in the selection of the foods they eat, by allowing the member to store personal food in his or her room, by allowing the member to prepare and eat food in his or her room, and allowing him or her to decide when to eat.

(III) Arrange or coordinate transportation to and from medical appointments. The ALC must assist the member with accessing transportation for integration into the community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, and control his or her personal resources and receive services in the community to the same degree of access as residents not receiving ADvantage services.

(vi) The provider may offer any specialized service or rental unit for ~~residents~~ members with Alzheimer's disease and related dementias, physical disabilities, or other special needs ~~that~~ the facility intends to market. Heightened scrutiny, through additional monitoring of the ALC by AA, will be utilized for those ALC's that also provide

inpatient treatment; settings on the grounds of or adjacent to a public institution and/or other settings that tend to isolate individuals from the community. The ALC must include evidence that the ALC portion of the facility has clear administrative, financial, programmatic and environmental distinctions from the institution.

(vii) ~~If~~When the provider arranges and coordinates services for members, the provider is obligated to assure the provision of those services.

(viii) ~~Under~~Per OAC 310:663-1-2, "personal care" is defined as "assistance with meals, dressing, movement, bathing or other personal needs or maintenance, or general supervision of the physical and mental well-being of a person, and includes assistance with toileting." For ADvantage Assisted Living Services ALS, assistance with "other personal needs" in this definition includes assistance with ~~toileting~~, grooming and transferring, ~~and the~~The term "assistance" is clarified to mean hands-on help, in addition to supervision.

(ix) The specific ~~Assisted Living Services~~ALS assistance provided along with amount and duration of each type of assistance is based upon the ~~individual~~ member's assessed need for service assistance and is specified in the ALC's service plan ~~which~~that is incorporated as supplemental detail into the ADvantage comprehensive service plan. The ADvantage ~~Case Manager~~case manager in cooperation with ~~the Assisted Living Center~~ALC professional staff, develops the service plan to meet member needs. As member needs change, the service plan is amended consistent with the assessed, documented need for change in services.

(x) ~~Definition of Inappropriate ALC Placement.~~ Placement, or continued placement of an ADvantage member in an ALC is inappropriate if any one or more of the ~~following~~ conditions in (I) through (IV) exist:

(I) The member's needs exceed the level of services the center provides. Documentation must support ALC efforts to provide or arrange for the required services to accommodate participant needs;

(II) The member exhibits behavior or actions that repeatedly and substantially ~~interferes~~interfere with the rights or well-being of other residents and the ALC has documented efforts to resolve behavior problems including medical ~~interventions~~, behavioral, interventions and increased staffing interventions. Documentation must support ~~that~~the ALC attempted interventions to resolve behavior problems;

(III) The member has a ~~medical condition that~~ is complex, unstable, or unpredictable medical condition and treatment cannot be

appropriately developed and implemented appropriately in the assisted living environment. Documentation must support ~~that~~the ALC ~~attempted~~attempts to obtain appropriate member care for the member; or

(IV) The member fails to pay room and board charges and/or ~~the OKDHS~~DHS determined vendor payment obligation.

(xi) Termination of residence when inappropriately placed. Once a determination is made that a member is inappropriately placed, the ~~assisted living center~~ALC must inform the member and/or the member's representative, if any, the AA and the member's ADvantage ~~Case Manager~~case manager. The ALC must develop a discharge plan in consultation with the member, the member's ~~support network~~representative, the ADvantage ~~Case Manager~~case manager, and the AA. The ALC and ~~Case Manager~~case manager must ensure ~~that~~ the discharge plan includes strategies for providing increased services, when appropriate, to minimize risk and meet the higher care needs of members ~~awaiting a move~~transitioning out of the ALC, ~~if~~when the reason for discharge is inability to meet member needs. If voluntary termination of residency is not arranged, the ALC must provide written notice to the member and to the member's representative, with a copy to the member's ADvantage ~~Case Manager~~case manager and the AA, giving the member 30 calendar-days, written notice of the ALC's intent to terminate the residency agreement and move the member to a ~~more~~an appropriate care provider. The 30 calendar-day requirement ~~shall~~must not apply when emergency termination of the residency agreement is mandated by the member's immediate health needs or when the termination of the residency agreement is necessary for the physical safety of the member or other ALC residents of ~~the~~ ALC. The written notice of involuntary termination of residency for reasons of inappropriate placement must include:

(I) a full explanation of the reasons for the termination of residency;

(II) the notice date of the notice;

(III) the date notice was given to the member and the member's representative, the ADvantage Case Manager, and the AA;

(IV) the date ~~by which~~ the member must leave ~~the~~ ALC; and

(V) notification of appeal rights and the process for submitting appeal of termination of Medicaid Assisted Living services ALS to the OHCA.

(D) ADvantage ~~Assisted Living Services~~ALS provider standards in addition to licensure standards.

(i) Physical environment,

(I) The ALC must provide lockable doors on the entry door of each rental unit and an

## Emergency Adoptions

~~attached, lockable compartment within each member unit for valuables. Member residents~~ Members must have exclusive rights to ~~their units~~ this or her unit with lockable doors at the entrance of ~~their~~ the individual and/or shared rental unit ~~and to a lockable compartment within each member's rental unit for valuables, except in the case of documented contraindication.~~ Keys to rooms may be held by appropriate ALC staff as designated by the member's choice. Rental units may be shared only ~~if~~ when a request to do so is initiated by the member ~~resident~~. Members must be given the right to choose his or her roommate.

(II) The member has a legally enforceable agreement (lease) with the ALC. The member must have the same responsibilities and protections from eviction as all tenants under the landlord tenant law of the state, county, city, or other designated entity.

~~(HIII)~~ The ALC must provide each rental unit with a means for each member ~~resident~~ to control the temperature in the ~~individual living~~ residential unit through the use of a damper, register, thermostat, or other reasonable means that is under the control of the ~~resident~~ member and that preserves ~~resident~~ privacy, independence, and safety, provided that the Oklahoma State Department of Health may approve an alternate means based on documentation that the design of the temperature control is appropriate to the special needs of each member who has an alternate temperature control.

~~(HHIV)~~ For ~~ALCS~~ ALCs built prior to January 1, 2008, each ALC individual residential unit must have a minimum total living space, ~~(including closets and storage area) areas,~~ of 250 square feet; for ALCs built after December 31, 2007, each ALC individual residential unit must have a minimum total living space, ~~(including closets and storage area) areas,~~ of 360 square feet.

~~(IVV)~~ The ALC ~~shall~~ must provide a private bathroom for each living unit ~~which that~~ must be equipped with one lavatory, one toilet, and one bathtub or shower stall.

~~(VVI)~~ The ALC must provide at a minimum, a kitchenette, defined as a space containing a refrigerator, ~~adequate storage space for utensils, and a cooking appliance,~~ adequate storage space for utensils, and a cooking appliance, ~~(a microwave is acceptable), and adequate storage space for utensils.~~

~~(VVII)~~ The member is responsible for furnishing ~~their~~ the rental unit. If a member is unable to supply basic furnishings defined as a bed, dresser, nightstand, chairs, table, trash can, and lamp, or if ~~the~~ member supplied furnishings pose a health or safety risk, the member's ~~Case~~

~~Manager~~ ADvantage case manager in coordination with the ALC must assist the member in obtaining basic furnishings for the rental unit. The member must have the freedom to furnish and decorate the rental unit within the scope of the lease or residency agreement.

~~(VHVIII)~~ The ALC must meet the requirements of all applicable federal and state laws and regulations including, but not limited to, ~~the~~ state and local sanitary codes, state building and fire safety codes, and laws and regulations governing use and access by persons with disabilities.

~~(VHHIX)~~ The ALC must ensure the design of common areas accommodates the special needs of ~~their~~ the resident population and that the rental unit accommodates the special needs of the ~~individual~~ member in compliance with ~~ADA Accessibility Guidelines~~ the Americans with Disabilities Act accessibility guidelines ~~per 28 CFR Code of Federal Regulations, Part 36, Appendix A,~~ at no additional cost to the member.

~~(HX)~~ The ALC must provide adequate and appropriate social and recreational space for residents and the common space must be proportionate to the number of residents and appropriate for the resident population.

~~(XXI)~~ The ALC must provide appropriately monitored outdoor space for resident use.

(XII) The ALC must provide the member with the right to have visitors of his or her choosing at any time. Overnight visitation is allowed, but may be limited by the ALC to the extent to which a visitor may stay overnight.

~~(XHXIII)~~ The ALC must be physically accessible to members.

### (ii) Sanitation,

(I) The ALC must maintain the facility, including its individual rental units, that ~~is~~ are clean, safe, sanitary, insect and rodent free, odorless, and in good repair at all times.

(II) The ALC must maintain buildings and grounds in a good state of repair, ~~and~~ in a safe and sanitary condition, and in compliance with the requirements of applicable regulations, by-laws, and codes.

(III) The ALC stores clean laundry in a manner that prevents contamination and changes linens at time intervals necessary to avoid health issues.

(IV) The ALC must provide housekeeping in member rental units ~~that maintain~~ to maintain a safe, clean, and sanitary environment.

(V) The ALC must have policies and procedures for members' pets.

### (iii) Health and Safety,

- (I) The ALC must provide building security that protects ~~residents~~members from intruders with security measures appropriate to building design, ~~environment~~environmental risk factors, and the resident population.
- (II) The ALC must respond immediately and appropriately to missing ~~residents~~members, accidents, medical emergencies, or deaths.
- (III) The ALC must have a plan in place to prevent, contain, and report any diseases ~~that are~~ considered to be infectious ~~and/or~~ are listed as diseases that must be reported to the Oklahoma State Department of Health (OSDH).
- (IV) The ALC must adopt policies for the prevention of abuse, neglect, and exploitation that include screening, training, prevention, investigation, protection during investigation, and reporting.
- (V) The ALC must provide services and facilities that accommodate the needs of ~~resident~~members to safely evacuate in the event of fires or other emergencies.
- (VI) The ALC must ensure ~~that~~ staff is trained to respond appropriately to emergencies.
- (VII) The ALC ~~staff~~ must ensure that fire safety requirements are met.
- (VIII) The ALC must offer meals that provide balanced and adequate nutrition for ~~residents~~members.
- (IX) The ALC must adopt safe practices for the preparation and delivery of meals.
- (X) The ALC must provide a 24-hour response to personal emergencies that is appropriate to the needs of the resident population.
- (XI) The ALC must provide safe transportation to and from ALC sponsored social~~/or~~ recreational outings.
- (iv) Staff to resident ratios.
- (I) The ALC must ensure ~~that~~ a sufficient number of trained staff are on duty, awake, and present at all times, 24 hours a day, and seven days a week, to meet the needs of residents and to carry out all of the processes listed in the ALC's written emergency and disaster preparedness plan for fires and other ~~natural~~ disasters.
- (II) The ALC must ensure ~~that~~ staffing is sufficient to meet the needs of the ADvantage Program ~~residents~~members in accordance with each ~~individual's~~member's ADvantage ~~Service Plan~~service plan.
- (III) The ALC must have plans in place to address situations where there is a disruption to the ALC's regular work force.
- (v) Staff training and qualifications.
- (I) The ALC must ensure ~~that all~~ staff ~~have~~has qualifications consistent with their job responsibilities.
- (II) All staff assisting in, or responsible for, food service must have attended a food service training program offered or approved by ~~the Oklahoma Department of Health~~OSDH.
- (III) The ALC must provide staff orientation and ongoing training to develop and maintain ~~the staff~~ knowledge and skills ~~of staff~~. All direct care and activity staff receive at least eight hours of orientation and initial training within the first month of ~~their~~ employment and at least four hours annually thereafter. Staff providing direct care on a dementia ~~or memory~~ ~~care~~ unit must receive four additional hours of dementia specific training. Annual first aid and cardiopulmonary resuscitation (CPR) certification do not count ~~towards~~toward the four hours of annual training.
- (vi) Staff supervision.
- (I) The ALC must ensure delegation of tasks to non-licensed staff must be consistent and in compliance with all applicable ~~State~~state regulations including, but not limited to, the Oklahoma Nurse Practice Act and ~~the~~ OSDH Nurse Aide Certification rules.
- (II) The ALC must ensure that, where the monitoring of food intake or therapeutic diets is provided at the prescribed services level, a registered dietitian monitors ~~the member's~~member health and nutritional status.
- (vii) Resident rights.
- (I) The ALC must provide to each member and each member's representative, at the time of admission, a copy of the resident statutory rights listed in ~~O.S. 63-1-1918~~Section 1-1918 of Title 63 of the Oklahoma Statutes (O.S. 63-§-1-1918) amended to include additional rights and the clarification of rights as listed in the ADvantage ~~assisted living~~ Member Assurances. A copy of ~~the~~ resident rights must be posted in an easily accessible, conspicuous place in the facility. The facility must ensure that ~~its~~ staff is familiar with, and observes, the resident rights.
- (II) The ALC must conspicuously post for display in an area accessible to residents, employees, and visitors, the assisted living center's complaint procedures and the name, address, and telephone number of a person authorized to receive complaints. A copy of the complaint procedure must also be given to each ~~resident~~member, the ~~resident's~~member's representative, or ~~where appropriate, the court~~ appointed legal guardian. The ALC must ensure ~~that~~ all employees comply with the ALC's complaint procedure.

## Emergency Adoptions

---

- (III) The ALC must provide to each member and member's representative, at the time of admission, information about Medicaid grievance ~~and~~ appeal rights, including a description of the process for submitting a grievance ~~or~~ appeal of any decision that decreases Medicaid services to the member.
- (viii) Incident reporting.
- (I) The ALC must maintain a record of incidents that occur and report incidents to the member's ADvantage ~~Case Manager~~case manager and to the AA, utilizing the AA Critical Incident Reporting form. Incident reports are also to be made to Adult Protective Services (APS) and to the Oklahoma State Department of Health (OSDH), as appropriate, in accordance with the ALC's licensure rules, utilizing the specific reporting forms required.
- (II) Incidents requiring report by licensed ~~Assisted Living Centers~~ALC are those defined by ~~the Oklahoma State Department of Health (OSDH) in~~per OAC 310:663-19-1 and listed on the AA Critical Incident Reporting Form.
- (III) Reports of incidents must be made to the member's ADvantage ~~Case Manager~~case manager and to the AA via facsimile or mail within one business day of the reportable incident's discovery utilizing the AA Critical Incident Reporting form. If required, a follow-up report of the incident ~~must~~will be submitted via facsimile or mail to the member's ADvantage ~~Case Manager~~case manager and to the AA. The follow up report must be submitted within five business days ~~after~~of the incident. The final report must be filed with the member's ADvantage ~~Case Manager~~case manager and ~~to the AA~~. The ADvantage ~~Administration~~AA when the full investigation is complete, not to exceed ~~ten~~10 business days after the incident.
- (IV) Each ALC having reasonable cause to believe that a member is suffering from abuse, neglect, exploitation, or misappropriation of member property must make a report to either ~~the Oklahoma Department of Human Services, the office of the district attorney in the county in which the suspected abuse, neglect, exploitation, or property misappropriation occurred,~~ DHS Adult Protective Services (APS) or the local municipal police department or sheriff's department as soon as the person is aware of the situation, ~~in accordance with Section 10-104.A of Title 43A of Oklahoma Statutes per O.S. 43A § 10-104.A.~~ Reports ~~should~~are also be made to the OSDH, as appropriate, ~~in accordance with the ALC's~~per ALC licensure rules.
- (V) The preliminary incident report must at the minimum, include who, what, when, ~~and~~

where, and the measures taken to protect the member and resident(s) during the investigation. The follow-up report must at the minimum, include preliminary information, the extent of the injury or damage, if any, and preliminary investigation findings ~~of the investigation~~. The final report at ~~the~~a minimum, includes preliminary and follow-up information, a summary of investigative actions representing a thorough investigation, investigative findings and conclusions based on findings, and corrective measures to prevent future occurrences. ~~When it is necessary to omit items,~~ the final report must include why such items were omitted and when they will be provided.

- (ix) Provision of or arrangement for necessary health services.

(I) The ALC must arrange or coordinate transportation for members to and from medical appointments.

(II) The ALC must provide or coordinate with the member and the member's ADvantage ~~Case Manager~~case manager for delivery of necessary health services. The ADvantage ~~Case Manager~~case manager is responsible for monitoring ~~that~~ all health-related services required by the member as identified through assessment and documented on the service plan, are provided in an appropriate and timely manner. The member has the freedom to choose any available provider qualified by licensure or certification to provide necessary health services in the ALC.

- (E) ~~Assisted Living Services~~ALS are billed per diem of service for days covered by the ADvantage member's service plan and during which the ~~Assisted Living Services~~ALS provider is responsible for providing ~~Assisted Living services~~as needed by ALS for the member. The per diem rate for the ADvantage assisted living services for a member ~~will be~~is one of three per diem rate levels based ~~upon~~on a member's need for service type of, intensity of, and frequency of service to address member ADL/IADL/ADLs, IADLs, and health care needs. The rate level is based ~~upon~~on the Universal Comprehensive Assessment Tool (UCAT) assessment by the member's ADvantage ~~Case Manager~~case manager employed by a ~~Case Management~~case management agency ~~that is independent of the Assisted Living Services~~ALS provider. The determination of the appropriate per diem rate is made by the AA clinical review staff.

[OAR Docket #16-124; filed 1-29-16]

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

[OAR Docket #16-123]

**RULEMAKING ACTION:**

EMERGENCY adoption

**RULES:**

Subchapter 17. Advantage Waiver Services  
317:35-17-5. [AMENDED]  
(Reference APA WF # 15-14A)

**AUTHORITY:**

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, 42 CFR 441.301, 441.710, and 441.730

**ADOPTION:**

December 10, 2015

**APPROVED BY GOVERNOR:**

January 13, 2016

**EFFECTIVE:**

Immediately upon Governor's approval

**EXPIRATION:**

Effective through September 14, 2016, unless superseded by another rule or disapproved by the Legislature

**SUPERSEDED EMERGENCY ACTIONS:**

N/A

**INCORPORATIONS BY REFERENCE:**

N/A

**FINDING OF EMERGENCY:**

The Agency finds that a compelling public interest exists and finds that an imminent peril exists to the preservation of the public health, safety, or welfare which necessitates promulgation of emergency rules and requests emergency approval of rule revisions to comply with federal regulation.

**ANALYSIS:**

Department of Human Services policy is being revised to comply with federal regulation. The proposed changes adhere to the CMS conflict free case management requirements and changes adhere to Home and Community Based settings requirements for Medicaid Assisted Living Programs that are directly related to the Assisted Living Service Option in ADvantage program. There is no anticipated budget impact to comply with the federal regulation.

**CONTACT PERSON:**

Tywanda Cox at (405) 522-7153

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

**SUBCHAPTER 17. ADVANTAGE WAIVER SERVICES**

**317:35-17-5. ADvantage program medical eligibility determination**

The OKDHSOklahoma Department of Human Services (DHS) area nurse, or nurse designee, makes the medical eligibility determination utilizing professional judgment, the Uniform Comprehensive Assessment Tool (UCAT) Parts I, Part II, and III, and other available medical information.

(1) When ADvantage care services are requested or the UCAT I is received in the county office, the:

(A) the OKDHSDHS nurse is responsible for completing the UCAT III; and

(B) the social workersservice specialist is responsible for contacting the individualapplicant within three workingbusiness days to initiate the financial eligibility application process.

(2) Categorical relationship must be established for determination of eligibility for ADvantage services. If a categorical relationship to disability haswas not alreadybeen established, the local social workersservice specialist submits the same information described inOACperOklahoma Administrative Code (OAC) 317:35-5-4(2) to the Level of Care Evaluation Unit (LOCEU) to request a determination of eligibility for categorical relationship. LOCEU renders a decision on thecategorical relationship to the disabledperson with the disability using the same definition used by SSASocial Security Administration (SSA) definition. A follow-up is required by the OKDHSDHS social workersservice specialist with theSocial Security Administration SSA to besure theensure thedisability decision agrees with the LOCEU decision of LOCEU.

(3) Community agencies complete the UCAT, Part I, and forwardsforward the form to the county office. IfWhen the UCAT, Part I indicates that the applicant does not qualify for Medicaid long-term care services, the applicant is referred to appropriate community resources. Members may also call the care line at 800-435-4711.

(4) The OKDHSDHS nurse completesthe UCAT, Part III assessment visitvisits with the member within 10 workingbusiness days of receipt of the referral for ADvantage services for a clientan applicant who is Medicaid eligible at the time of the request. The OKDHSDHS nurse completes the UCAT, Part III assessment within 20 workingbusiness days of the date the Medicaid application is completed for new applicants.

(5) During the assessment visit, the OKDHSDHS nurse informs the applicant of medical eligibility and provides information about the different long-term care service options. IfWhen there are multiple household members applying for the ADvantage program, the UCAT assessment is done for theapplicant household membersthem during the same visit. The OKDHSDHS nurse documents whether the member chooses NEnursing facility program services or ADvantage program services. Inaddition, theOKDHS nurse and makes a level of care and service program recommendation.

(6) The OKDHSDHS nurse informs the member and family of agencies certified to deliver ADvantage case management and in-home care services in the local area to obtain the clientsapplicant's primary and secondary informed choices, ensuring adherence to conflict free case management requirements

(A) Ifthe member and/or family declines to make a providerchoice, theOKDHS nurse documents that decision on the member choice form. Providers ofADvantage services for the member, or for those who havean interest in, or are employed by an ADvantage provider for the member must not provide case management or develop the person-centered service

## Emergency Adoptions

---

plan, except when the ADvantage Administration (AA) demonstrates the only willing and qualified entity to provide case management and/or develop person-centered service plans in a geographic area, also provides other ADvantage services.

(B) The AA uses a rotating system to select an agency for the member from a list of all local certified case management and in-home care agencies. If the member and/or family declines to make a provider choice, the DHS nurse documents the decision on Form 02CB001, Member Consents and Rights.

(C) The AA uses a rotating system to select an agency for the member from a list of all local, certified case management and in-home care agencies, ensuring adherence to conflict free case management requirements.

(7) The ~~OKDHS~~DHS nurse documents the names of the chosen agencies and the agreement ~~(by dated signature)~~ of the member, by dated signature, to receive services provided by the agencies.

(8) ~~If~~When the ~~needs of the member~~member's needs require an immediate interdisciplinary team (IDT) meeting with home health agency nurse participation to develop a care plan and service plan, the ~~OKDHS~~DHS nurse documents the need for priority processing.

(9) The ~~OKDHS~~DHS nurse scores the UCAT, Part III. The ~~OKDHS~~DHS nurse forwards the UCAT, Parts I and III, documentation of financial eligibility, ~~and~~ documentation of the member's case management and in-home care agency choices to the area nurse, or nurse designee, for medical eligibility determination.

(10) If, based upon the information obtained during the assessment, the ~~OKDHS~~DHS nurse determines ~~that~~ the member may be at risk for health and safety, ~~OKDHS~~DHS Adult Protective Services (APS) staff ~~are~~is notified immediately and the referral is documented on the UCAT.

(11) Within ~~ten working~~10 business days of receipt of a complete ADvantage application, the area nurse, or nurse designee, determines medical eligibility using ~~NF~~nursing facility level of care criteria and service eligibility criteria ~~refer to per~~ OAC 317:35-17-2 and ~~OAC 317:35-17-3~~ and enters the medical decision on the system.

(12) Upon notification of financial eligibility from the social ~~worker~~service specialist, medical eligibility ~~(MS-52)~~, and approval for ADvantage entry from the area nurse, or nurse designee, the AA communicates with the

case management provider to begin care ~~plan~~ and service plan development. The AA communicates to the ~~client's~~ case management provider, the member's name, address, case number, ~~and social security~~ Social Security number, the number of units of case management and, ~~if~~when applicable, the number of units of home health agency nurse evaluation authorized for ~~care plan~~ and service plan development. ~~If~~When the member requires an immediate home visit to develop a service plan within 24 hours, the AA contacts the case management provider directly to confirm availability and ~~then~~ sends the new case packet information to the case management provider via ~~facsimile~~email.

(13) ~~If~~When the services must be in place to ensure the health and safety of the member upon discharge to the home from the ~~NF~~nursing facility or ~~Hospital~~hospital, a ~~nurse~~ case manager from an ADvantage case management provider selected by the ~~client~~member and referred by the AA follows ~~the ADvantage Institution Transition~~institution transition, case management procedures for care ~~plan~~ and service plan development and implementation.

(14) A new medical level of care determination is required when a member requests any ~~of the following~~ changes in service program, from:

(A) ~~from~~ State Plan Personal Care to ADvantage services;

(B) ~~from~~ ADvantage to State Plan Personal Care services;

(C) ~~from Nursing Facility~~nursing facility to ADvantage services; or

(D) ~~from~~ ADvantage to ~~Nursing Facility~~nursing facility services.

(15) A new medical level of care determination is not required when a member requests re-activation of ADvantage services after a short-term stay ~~(of 90 calendar-days or less)~~ in a ~~Nursing Facility~~nursing facility when the member has had previous ADvantage services and the ADvantage certification period has not expired.

(16) When a UCAT assessment ~~has been~~was completed more than 90 calendar-days prior to submission to the area nurse or nurse designee for a medical decision, a new assessment is required.

[OAR Docket #16-123; filed 1-29-16]