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Department of MENTAL Health and Substance Abuse Services	450	Pathology and Audiology)	690
MERIT Protection Commission	455	STATE Employee Charitable Contributions, Oversight	
MILITARY Planning Commission, Oklahoma Strategic	457	Committee for (Formerly: STATE Agency	
Department of MINES	460	Review Committee)	695
Oklahoma MOTOR Vehicle Commission	465	STATE Use Committee (Formerly: Committee on Purchases of Products	
Board of Regents of MURRAY State College (<i>exempted</i> 11-1-98)	470	and Services of the Severely HANDICAPPED) – See Title 304	
Oklahoma State Bureau of NARCOTICS and Dangerous Drugs		Oklahoma STUDENT Loan Authority	700
Control	475	TASK Force 2000	705
Board of Regents of NORTHERN Oklahoma College (<i>exempted</i>		Oklahoma TAX Commission	710
11-1-98)	480	Oklahoma Commission for TEACHER Preparation (<i>merged under</i>	
Oklahoma Board of NURSING	485	<i>Office of Educational Quality and Accountability</i> 7-1-14 - See Title	
Oklahoma State Board of Examiners for LONG-TERM Care		218)	712
Administrators (Formerly: Oklahoma State Board of Examiners		TEACHERS' Retirement System	715
for NURSING Home Administrators)	490	State TEXTBOOK Committee	720
Board of Regents of OKLAHOMA City Community College (<i>exempted</i>		TOBACCO Settlement Endowment Trust Fund	723
11-1-98)	495	Oklahoma TOURISM and Recreation Department	725
Board of Regents of OKLAHOMA Colleges (<i>exempted</i> 11-1-98)	500	Department of TRANSPORTATION	730
Board of Examiners in OPTOMETRY	505	Oklahoma TRANSPORTATION Authority (<i>Name changed to</i>	
State Board of OSTEOPATHIC Examiners	510	Oklahoma TURNPIKE Authority 11-1-05) - See Title 731	
PARDON and Parole Board	515	Oklahoma TURNPIKE Authority (Formerly: Oklahoma	
Oklahoma PEANUT Commission	520	TRANSPORTATION Authority AND Oklahoma TURNPIKE	
Oklahoma State PENSION Commission	525	Authority) - See also Title 745	731
State Board of Examiners of PERFUSIONISTS	527	State TREASURER	735
Office of PERSONNEL Management (<i>consolidated under</i> Office		Board of Regents of TULSA Community College (<i>exempted</i>	
of Management and Enterprise Services 8-26-11 - See Title		11-1-98)	740
260)	530	Oklahoma TURNPIKE Authority (<i>Name changed to</i> Oklahoma	
Board of Commercial PET Breeders (<i>abolished</i> 7-1-12 - See Title		TRANSPORATION Authority 11-1-99 - no rules enacted in this	
35)	532	Title - See Title 731)	745
Oklahoma State Board of PHARMACY	535	Oklahoma UNIFORM Building Code Commission	748
PHYSICIAN Manpower Training Commission	540	Board of Trustees for the UNIVERSITY Center at Tulsa (<i>exempted</i>	
Board of PODIATRIC Medical Examiners	545	11-1-98)	750
Oklahoma POLICE Pension and Retirement System	550	UNIVERSITY Hospitals Authority	752
State Department of POLLUTION Control (<i>abolished</i> 1-1-93)	555	UNIVERSITY Hospitals Trust	753
POLYGRAPH Examiners Board	560	Board of Regents of the UNIVERSITY of Oklahoma (<i>exempted</i>	
Oklahoma Board of PRIVATE Vocational Schools	565	11-1-98)	755
State Board for PROPERTY and Casualty Rates		Board of Regents of the UNIVERSITY of Science and Arts	
(<i>abolished</i> 7-1-06; see also Title 365)	570	of Oklahoma (<i>exempted</i> 11-1-98)	760
State Board of Examiners of PSYCHOLOGISTS	575	Oklahoma USED Motor Vehicle and Parts Commission	765
Department of CENTRAL Services (Formerly: Office of PUBLIC		Oklahoma Department of VETERANS Affairs	770
Affairs; <i>consolidated under</i> Office of Management and Enterprise		Board of VETERINARY Medical Examiners	775
Services 8-26-11 - See Title 260)	580	Statewide VIRTUAL Charter School Board	777

Agency/Title Index – *continued*

Agency	Title	Agency	Title
Oklahoma Department of CAREER and Technology Education (Formerly: Oklahoma Department of VOCATIONAL and Technical Education)	780	Oklahoma WHEAT Commission	795
Oklahoma WATER Resources Board	785	Department of WILDLIFE Conservation	800
Board of Regents of WESTERN Oklahoma State College (<i>exempted</i> <i>11-1-98</i>)	790	WILL Rogers and J.M. Davis Memorials Commission	805
		Oklahoma WORKERS' 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 145. OKLAHOMA DEPARTMENT OF EMERGENCY MANAGEMENT CHAPTER 10. DISASTER RELIEF PROGRAMS TO POLITICAL SUBDIVISIONS

[OAR Docket #17-39]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General [AMENDED]

Subchapter 3. The Declaration Process [AMENDED]

Subchapter 5. Public Assistance Project Administration
[AMENDED]

Subchapter 7. Public Assistance Eligibility [AMENDED]

Subchapter 9. Public Assistance Insurance Requirements
[AMENDED]

SUMMARY:

The proposed amendments provide revisions to the State Public Assistance Program. Proposed amendments to Section 145:10-5-4 establish a maximum of one Gubernatorial Declaration per Grantee in a calendar year, a maximum State share of one hundred thousand dollars (\$100,000.00) per Grantee in a calendar year, cost share responsibilities for the Grantee and the State, and limitations of eligibility due to delinquency and time limitations for requests. Proposed amendments to Section 145:10-7-3 identify entities eligible for funding through the State Public Assistance Program. Proposed amendments to all subchapters provide an update to the agency acronym, from "ODCEM" to "OEM".

AUTHORITY:

63 O.S., § 683.8(d)(1); Senate Bill 1091 (1994); Oklahoma Department of Emergency Management

COMMENT PERIOD:

Written comments will be accepted until the conclusion of the public hearing on March 3, 2017 at the Department of Emergency Management. Written comments may be mailed to the Department of Emergency Management, PO BOX 53365, Oklahoma City, OK 73152, or emailed to Albert.Ashwood@oem.ok.gov.

PUBLIC HEARING:

A public hearing will be held at 11:00 a.m. on Friday, March 3, 2017 at the Sequoyah-Will Rogers Concourse Theater, located at 2400 North Lincoln Boulevard, Sequoyah-Will Rogers Tunnel, Oklahoma City, OK 73105. Anyone who wishes to speak must sign in at the door by 11:05 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing by the conclusion of the comment period and public hearing on March 3, 2017 at the Department of Emergency Management at the above addresses.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Department of Emergency Management, 2401 North Lincoln Boulevard, Sequoyah-Will Rogers Tunnel, Oklahoma City, OK 73105. The proposed rules are also available on the OEM website at <http://www.oem.ok.gov/>.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement will be prepared and may be obtained from the Department of Emergency Management at the above addresses beginning February 4, 2017.

CONTACT PERSON:

Albert Ashwood, Director, Department of
Emergency Management, 405-521-2481, or
Albert.Ashwood@oem.ok.gov.

[OAR Docket #17-39; filed 1-6-17]

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

[OAR Docket #17-1]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 36. Affordable Housing Tax Credit Program
[AMENDED]

SUMMARY:

The Internal Revenue Code of 1986, as amended (Code) provides for the Allocation of Housing Tax Credits to eligible Owners of residential rental property used for Low-Income housing. Oklahoma Housing Finance Agency (OHFA), as the State designated Credit Agency, administers the State of Oklahoma's Affordable Housing Tax Credit Program.

Notices of Rulemaking Intent

OHFA must develop a Qualified Allocation Plan (QAP) to provide for the evaluation of Applications for Credits, the monitoring for noncompliance with the provisions of the Code and reporting noncompliance to the Internal Revenue Service. The Affordable Housing Tax Credit Program Rules (Chapter 36) adopted by OHFA are intended to be part of the QAP for Oklahoma.

The proposed amendments to Chapter 36 Rules are being undertaken to clarify administrative guidelines, and to conform the Credit Program Rules to changes in the requirements of the Code, Treasury Regulations, and other enactments of Law or administrative guidelines from Federal agencies.

AUTHORITY:

These Chapter 36 Rules are authorized by the Board of Trustees of OHFA, the amended trust indenture of OHFA, and the Bylaws of OHFA as established by the OHFA Board of Trustees.

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may submit written or oral comments to Darcy Green, Housing Development Program Supervisor, or Pamela Miller, Housing Financial Analyst, at Oklahoma Housing Finance Agency by 4:00 p.m. on or before March 3, 2017. Written comments should be sent to Oklahoma Housing Finance Agency, Attn: Darcy Green, P. O. Box 26720, Oklahoma City, Oklahoma 73126-0720,

PUBLIC HEARING:

A public hearing will be held: March 6, 2017 at 1:30 p.m., at the offices of OHFA, 100 NW 63rd, Oklahoma City, OK 73116, in the Will Rogers Room. All interested persons are invited to attend and present their views.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

OHFA requests that all business entities, developers, contractors, applicants, etc., provide OHFA on or before, March 3, 2017, in dollar amounts, if possible, the level of costs (indirect or direct including reporting, record keeping, etc.) expected to be incurred due to compliance with the Proposed Rules.

COPIES OF PROPOSED RULES:

Copies of the Proposed Rules are available on the OHFA website located at www.ohfa.org or at the offices of OHFA, 100 NW 63rd, Oklahoma City, Oklahoma 73116.

RULE IMPACT STATEMENT:

A rule impact statement will be issued and made available on or before February 15, 2017 at the offices of OHFA.

CONTACT PERSON:

Darcy Green, Housing Development Program Supervisor, 405.419.8145 or Pamela Miller, Housing Financial Analyst, 405.419.8134.

[OAR Docket #17-1; filed 1-4-17]

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

[OAR Docket #17-26]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULE:

Subchapter 28. Office of Administrative Hearings: Child Support

340:2-28-57 [NEW]

(Reference WF 17-02)

SUMMARY:

The proposed rule authorizes certification of administrative orders through electronic or digital means, in addition to physical or handwritten means, and provides that orders bearing electronic or digital signatures by the administrative law judge (ALJ) are deemed certified. The proposed rule provides a formal mechanism by which orders entered by the Office of Administrative Hearings: Child Support may be "certified," and therefore filed in Oklahoma's county district courts and facilitates the registration of those orders for enforcement or modification in other states and foreign countries.

AUTHORITY:

Director of Human Services; Sections 162 and 237.9a of Title 56 of the Oklahoma Statutes (56 O.S. §§ 162 and 237.9a); and Oklahoma Administrative Code 340:2-28.

COMMENT PERIOD:

Written and oral comments are accepted February 1, 2017, through March 3, 2017, during regular business hours by contacting Travis Smith, Oklahoma Department of Human Services (DHS), Legal Services, PO Box 25352, Oklahoma City, Oklahoma 73125, 405-521-3638.

PUBLIC HEARING:

A public hearing is scheduled for 10:00 a.m. on March 9, 2017, at DHS, Sequoyah Memorial Office Building, 2400 N. Lincoln Boulevard, Oklahoma City, Oklahoma 73105, Room C-48. Anyone who wants to speak must sign in at the door by 10:05 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the person listed above or going to <http://www.okdhs.org/sites/searchcenter/Pages/okdhsproposedpolicyresults.aspx>.

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

Dena Thayer, Programs Administrator, Legal Services - Policy, 405-521-4326, Dena.Thayer@okdhs.org.

[OAR Docket #17-26; filed 1-5-17]

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

[OAR Docket #17-27]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Office of Client Advocacy

Part 1. Administration

340:2-3-2 [AMENDED]

Part 3. Investigations

340:2-3-34 [AMENDED]

340:2-3-36 [AMENDED]

340:2-3-38 [AMENDED]

Part 5. Grievances

340:2-3-45 through 340:2-3-46 [AMENDED]

340:2-3-51 through 340:2-3-53 [AMENDED]

Part 9. Advocacy Programs

340:2-3-71 [AMENDED]

340:2-3-74 [AMENDED]

(Reference WF 17-07)

SUMMARY:

The proposed amendments to Chapter 2, Subchapter 3 amend the rules to: (1) add definitions; (2) add Office of Client Advocacy (OCA) findings regarding OCA investigations involving a vulnerable adult or foster parent discrimination, retaliation, or harassment; (3) add harassment to foster parent complaints; (4) change timeframes regarding investigations of foster parent discrimination, retaliation, and harassment, and the timeframe for Oklahoma Department of Human Services (DHS) Director's request for reconsideration by the Advocate General; (5) add an additional responsibility for Local Grievance Coordinators; and (6) update terminology, acronyms, and language.

AUTHORITY:

Director of Human Services; Section 162 of Title 56 of the Oklahoma Statutes (O.S. 56 § 162); 10A O.S. § 162; 10A O.S. §§ 1-1-101 et seq.; 43A §§ 10-102 et seq.; and Section 5101 et seq. of Title 42 of the United States Code.

COMMENT PERIOD:

Written and oral comments are accepted February 1, 2017, through March 3, 2017, during regular business hours by contacting Dawn Leemon, Oklahoma Department of Human Services (DHS), Office of Client Advocacy, PO Box 25352, Oklahoma City, Oklahoma 73125, 405-522-2877.

PUBLIC HEARING:

A public hearing is scheduled for 10:00 a.m. on March 9, 2017, at DHS, Sequoyah Memorial Office Building, 2400 N. Lincoln Boulevard, Oklahoma City, Oklahoma 73105, Room C-48. Anyone who wants to speak must sign in at the door by 10:05 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the person listed above or going to <http://www.okdhs.org/sites/searchcenter/Pages/okdhsproposedpolicyresults.aspx>.

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

Dena Thayer, Programs Administrator, Legal Services - Policy, 405-521-4326, Dena.Thayer@okdhs.org.

[OAR Docket #17-27; filed 1-5-17]

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

[OAR Docket #17-28]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

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

340:10-2-3 through 340:10-2-4 [AMENDED]

Subchapter 3. Conditions of Eligibility - Need

Part 1. Resources

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

Part 3. Income

340:10-3-32 [AMENDED]

340:10-3-40 [AMENDED]

Part 5. Assistance Payments

340:10-3-57 [AMENDED]

Part 7. Transitional Benefits

340:10-3-75 [AMENDED]

Subchapter 18. Conditions of Eligibility for Support Service Funds for Child Only Cases

340:10-18-1 [AMENDED]

(Reference WFs 16-09 and 17-08)

SUMMARY:

The proposed revisions to Chapter 10, Subchapter 2 amend the rules to: (1) remove substance abuse screening information from employability planning and the names of assessment tools; (2) add information regarding the Child Care Subsidy

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Program; (3) add clarifying and plain language for enhanced understanding; and (4) update terminology.

The proposed revisions to Chapter 10, Subchapter 3 amend the rules to: (1) change self-employment business expense computations; (2) exclude all educational income unless it serves the same purpose as TANF; (3) add information regarding how to verify loans received on a recurrent basis; (4) reorder and clarify information regarding receipt or loss of receipt of a State Supplemental Payment; (5) add information regarding how to apply for SoonerCare (Medicaid) when the TANF benefit closes; (6) remove gender information when considering if someone is acting in the role of a spouse; (7) remove incorrect information regarding income allocation of an alien parent; (8) add rule citations; (9) update, reorder, and clarify information regarding continued medical benefit receipt following a TANF closure due to earnings; (10) remove an outdated form; (11) update the medical application process after continued medical benefits (CMB) end or when an additional member moves into the home during receipt of CMB; (12) exclude from income and resource consideration money deposited into or withdrawn, from a qualified Achieving a Better Life Experience (ABLE) Program account per federal and state regulations; (2) remove outdated information and staff instructions regarding stocks and bonds; (13) remove from Oklahoma Administrative Code (OAC) 340:10-3-5 disregarded resources duplicated as disregarded income in OAC 340:10-3-40; (14) exclude all educational income unless it serves the same purpose as Temporary Assistance for Needy Families (TANF); (15) add information regarding how to verify loans received on a recurrent basis; (16) add clarifying and plain language for enhanced understanding; and (17) update terminology and legal citation.

The proposed revisions to Chapter 10, Subchapter 18 amend the rules to: (1) state support service funds are not approved to reimburse an individual for already paid services; and (2) reorder and clarify the use and payment of support service funds for enhanced understanding.

AUTHORITY:

Director of Human Services; Section 162, 230.52, 230.65, 230.72 and 4001.1 through 4001.5 of Title 56 of the Oklahoma Statutes (56 O.S. §§ 162, 230.52, 230.65, 230.72, and 4001.1 through 4001.5); Part 261.11 and 261.12 of Title 45 of the Code of Federal Regulations; Sections 401 and 408 of the Social Security Act, Sections 529A and 2503 of Title 26 of the United States Code (26 U.S.C. §§ 529A and 2503); and 42 U.S.C. §§ 601 and 608.

COMMENT PERIOD:

Written and oral comments are accepted February 1, 2017, through March 3, 2017, during regular business hours by contacting Laura Brown, Oklahoma Department of Human Services (DHS), Adult and Family Services, PO Box 25352, Oklahoma City, Oklahoma 73125, 405-521-4396.

PUBLIC HEARING:

A public hearing is scheduled for 10:00 a.m. on March 9, 2017, at DHS, Sequoyah Memorial Office Building, 2400 N. Lincoln Boulevard, Oklahoma City, Oklahoma 73105, Room

C-48. Anyone who wants to speak must sign in at the door by 10:05 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the person listed above or going to <http://www.okdhs.org/sites/searchcenter/Pages/okdhsproposedpolicyresults.aspx>.

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

Dena Thayer, Programs Administrator, Legal Services - Policy, 405-521-4326, Dena.Thayer@okdhs.org.

[OAR Docket #17-28; filed 1-5-17]

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

[OAR Docket #17-29]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. Low Income Home Energy Assistance Program

340:20-1-14 [AMENDED]

(Reference WF 17-10)

SUMMARY:

The proposed revisions to Chapter 20 Subchapter 1 amends the rule to: (1) increase timely application processing time to 60-calendar days for winter heating and summer cooling and include timeliness information for the Energy Crisis Assistance Program (ECAP) portion of LIHEAP; (2) reorganize and clarify information for increased understanding; (3) add approval requirements, denial reasons, and associated policy cites; (4) update and remove no longer applicable information regarding payment issuances and closures; (5) reference an appendix; and (6) update terminology.

AUTHORITY:

Director of Human Services; Section 162 of Title 56 of the Oklahoma Statutes (56 O.S. § 162); and Sections 8621 through 8624 of Title 42 of the United States Code.

COMMENT PERIOD:

Written and oral comments are accepted February 1, 2017, through March 3, 2017, during regular business hours by contacting Laura Brown, Oklahoma Department of Human Services (DHS), Adult and Family Services, PO Box 25352, Oklahoma City, Oklahoma 73125, 405-521-4396.

PUBLIC HEARING:

A public hearing is scheduled for 10:00 a.m. on March 9, 2017, at DHS, Sequoyah Memorial Office Building, 2400 N. Lincoln Boulevard, Oklahoma City, Oklahoma 73105, Room C-48. Anyone who wants to speak must sign in at the door by 10:05 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the person listed above or going to <http://www.okdhs.org/sites/searchcenter/Pages/okdhsproposedpolicyresults.aspx>.

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

Dena Thayer, Programs Administrator, Legal Services - Policy, 405-521-4326, Dena.Thayer@okdhs.org.

[OAR Docket #17-29; filed 1-5-17]

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

[OAR Docket #17-30]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. Scope and Applicability
340:25-1-1.1 [AMENDED]
340:25-1-2 [AMENDED]
340:25-1-3.1 [AMENDED]
- Subchapter 3. Commissioned Peace Officers
340:25-3-3 [AMENDED]
- Subchapter 5. Operational Policies
- Part 9. Disclosure of Information
340:25-5-67.1 [AMENDED]
- Part 15. Case Initiation, Case Management, and Case Closure
340:25-5-114 [AMENDED]
340:25-5-117 through 340:25-5-118 [AMENDED]
- Part 17. Past Support
340:25-5-140.2 [REVOKED]
- Part 19. Locate Services
340:25-5-155 [AMENDED]
- Part 20. Medical Support
340:25-5-169 [AMENDED]
- Part 22. Review and Modification
340:25-5-198.2 [AMENDED]
- Part 23. Enforcement

- 340:25-5-200 [AMENDED]
 - 340:25-5-200.3 [AMENDED]
 - 340:25-5-211.1 [AMENDED]
 - 340:25-5-213 [AMENDED]
 - Part 37. Recovery
340:25-5-312 [AMENDED]
 - Part 38. Title IV-D and Non-Title IV-D Central Case Registry Information
340:25-5-340 through 340:25-5-340.1 [AMENDED]
 - Part 39. Accounting and Distribution
340:25-5-350.1 [AMENDED]
340:25-5-351 [AMENDED]
- (Reference WF 17-05)**

SUMMARY:

The proposed amendments to Chapter 25 Subchapters 1, 3, and 5 amend the rules to: (1) implement policy changes recommended during the annual Child Support Services (CSS) policy review process; (2) amend legal authority as necessary; (3) conserve CSS funding by eliminating non-essential program services and implementing a service fee when child support is distributed to the custodial person; and (4) make non-substantive housekeeping changes to improve rule clarity.

AUTHORITY:

Director of Human Services, Section 162 of Title 56 of the Oklahoma Statutes (56 O.S. § 162); Section 1738B of Title 28 of the United States Code (28 U.S.C. § 1738B); 42 U.S.C., Chapter 7, Subchapter IV, Part D; 50A U.S.C. §§ 501 through 596; Chapter III of Subtitle B of Title 45 of the Code of Federal Regulations; 3A O.S. § 724.1; 10 O.S. §§ 80, 83, 90.5, 7700-101 through 7800; 12 O.S. §§ 1170, 1171.2 through 1171.4, 2004, and 2005; 21 O.S. §§ 566, 566.1, 567, and 852; 36 O.S. § 6058A; 43 O.S. §§ 109.2 through 110, 112, 112A, 112.1A, 114 through 120, 135 through 139.1, 140, 410 through 413, 601-100 through 601-903; 47 O.S. §§ 1-153, 6-201, 6-201.1, 6-211, and 6-212; 56 O.S. §§ 166.1, 183, 230.60, and 231 through 240.24; 63 O.S. §§ 1-311, 1-311.2, 1-311.3, and 1-321; 68 O.S. § 205.2; and 70 O.S. §§ 3970.1 through 3970.12.

COMMENT PERIOD:

Written and oral comments are accepted February 1, 2017, through March 3, 2017, during regular business hours by contacting Tammy Hall, Oklahoma Department of Human Services (DHS), Child Support Services, PO Box 25352, Oklahoma City, Oklahoma 73125, 405-522-0022.

PUBLIC HEARING:

A public hearing is scheduled for 10:00 a.m. on March 9, 2017, at DHS, Sequoyah Memorial Office Building, 2400 N. Lincoln Boulevard, Oklahoma City, Oklahoma 73105, Room C-48. Anyone who wants to speak must sign in at the door by 10:05 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

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

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to <http://www.okdhs.org/sites/searchcenter/Pages/okdhsproposedpolicyresults.aspx>.

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

Dena Thayer, Programs Administrator, Legal Services - Policy, 405-521-4326, Dena.Thayer@okdhs.org.

[OAR Docket #17-30; filed 1-5-17]

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

[OAR Docket #17-31]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

340:40-1-2 through 340:40-1-3 [AMENDED]

340:40-1-5 [AMENDED]

Subchapter 3. Initial Application

340:40-3-1 [AMENDED]

Subchapter 7. Eligibility

340:40-7-3 [AMENDED]

340:40-7-5 through 340:40-7-9 [AMENDED]

340:40-7-11 through 340:40-7-12 [AMENDED]

Subchapter 9. Procedures Relating to Case Changes

340:40-9-1 through 340:40-9-2 [AMENDED]

Subchapter 13. Child Care Rates and Provider Issues

340:40-13-3 [AMENDED]

340:40-13-5 [AMENDED]

(Reference WFs 16-03, 16-08 and 17-11)

SUMMARY:

The proposed revisions to Chapter 40, Subchapter 1 amend the rules to: (1) add the Child Care Development Block Grant of 2014 to the legal authority for the Child Care Subsidy Program; and (2) update terminology.

The proposed revisions to Chapter 40, Subchapter 3 amend the rules to: (1) rename expedited eligibility processing to presumptive eligibility processing; (2) expand the reasons for an initial 30-calendar day approval; (3) clarify eligibility requirements prior to approval and before further care is approved; (4) update terminology regarding request, application, and certification dates to match systems fields; (5) clarify that the child care interview may be completed over the phone and must be completed prior to determining the applicant eligible; (6) add required 12-month eligibility period; (7) add information that application approval is subject to available funding; (8) clarify when a new application is needed following a denial; (9) add legal and policy cites; (10) update a form name; and (11) simplify and clarify terminology.

The proposed revisions to Chapter 40, Subchapter 7 amend the rules to: (1) allow a child to remain eligible for child care until renewal when the child reaches the maximum allowable age during an eligibility period; (2) add an eligibility requirement that household resources may not exceed \$1,000,000 to qualify for subsidized child care; (3) add resource types; (4) add a definition for a person acting in the role of a spouse; (5) remove gender information when considering whether to count the income of an adult non-relative living in the child care household; (6) add definition for acting in the role of a spouse; (7) simplify and clarify the eligibility process when parents share custody of the child; (8) add Supplemental Nutrition Assistance Program (SNAP) Education and Training (E&T) activities as an allowable need factor; (9) remove job search as an allowable need factor; (10) remove court-ordered community service hours as a non-allowable need factor for child care subsidy; (11) allow child care to remain open until renewal, when after initial approval, the client begins new employment with an employer who refuses to pay the client at least minimum wage; (12) allow child care to remain open until renewal when the client is not making at least minimum wage and has been self-employed or working for an employer paying wages based on commission or another performance measure for less than one year; (13) add qualifications to when child care is approved for a person working from home; (14) remove job search as meeting the employment need factor for child care subsidy for clients who lose employment or complete an education or training program; (15) change proof of progress and attendance requirements from when requested or as a class ends to at renewal for the training and education need factors; (16) remove the requirement to provide proof of initial education or literacy level testing results when child care is requested to participate in high school equivalency, literacy, or adult basic education (ABE) classes; (17) change the time frame for not approving further child care, to at renewal when the client is not making satisfactory progress or stops attending training or education during an eligibility period; (18) add approval requirements for the SNAP E&T need factor and time frame for discontinuing child care when the client stops participating; (19) update Temporary Assistance for Needy Families (TANF) related subsidized child care to: (a) remove limited approval period for TANF clients waiting to enter an approved TANF Work activity and TANF applicants in job search, (b) include child care for a child included in a child only TANF benefit, and (c) include time frame for discontinuing child care when the client stops meeting a need factor; (20) for protective or preventive child care: (a) reorder information, (b) remove the face-to-face interview requirement, (c) add reasons protective or preventive child care may be approved, (d) add definition of homeless and when a homeless family or a family that experienced a natural disaster may be approved for child care, and (e) clarify procedures to request approval for more than 30-calendar days of care; (21) remove the requirement that a minor parent must pursue child support for his or her own child; (22) update terminology regarding a non-relative adult

considered a household member to remove gender information and use the term acting in the role of a spouse; (23) add information that a person in non-cooperation status with Child Support Services (CSS) at application must verify cooperation before approval; (24) change the requirement to close child care when a client fails to cooperate with CSS during an eligibility period from 10-calendar days to not approving further care at renewal; (25) change the requirement to pursue identified potential income from 90-calendar days to before the next child care renewal; (26) change the requirement to close child care when the client does not pursue potential identified income, accept a pay raise, or decreases work hours or pay rate to decrease or avoid a family share copayment during an eligibility period to not approving further care at renewal; (27) remove no longer applicable information regarding calculation of self-employment income from a new source; (28) remove gender information and update terminology regarding a non-relative adult; (29) change the time frame regarding when a client must take action to become the payee for a Social Security Administration (SSA) benefit when appropriate; (30) allow an eligible child adopted through the Oklahoma Department of Human Services (DHS) to remain eligible for child care with a household income exemption until renewal when the child turns 6 years of age during an eligibility period; (31) update and simplify language and terminology; (32) add, remove, and update policy and legal cites; (33) change self-employment business expense computations; (34) clarify that excess benefit allowances are considered earned income; (35) add clarifying information regarding loans; (36) exclude all educational income; (37) exclude from income and resource consideration money deposited into or withdrawn from a qualified Achieving a Better Life Experience (ABLE) Program account per state statute and federal regulations; and (38) update a legal cite.

The proposed revisions to Chapter 40, Subchapter 9 amend the rules to: (1) change the child care renewal time frame from six months to no earlier than 12 months from the date of approval or last renewal unless the client applies for food benefits before the next renewal; (2) remove the requirement for a face-to-face interview at renewal for the protective or preventive need factor; (3) clarify information regarding income changes and advance notice procedures when child care benefits decrease; (4) add effective dates for different types of closure actions; (5) clarify that a new child care application based on the adoptive parent's income is not required until renewal when a child adopted through DHS turns 6 years of age during an eligibility period; (6) add a policy cite; and (7) update terminology and simplify language.

The proposed revisions to Chapter 40, Subchapter 13 amend the rules to: (1) remove information regarding when eligibility stops because of a child's age as it is duplicated in another section and is not rate related; (2) update a form name; (3) remove the reference to contracting with out-of-state providers; (4) remove the Oklahoma State Bureau of Investigation background investigation as a procedure for obtaining child care contracts; (5) add clarifying language that Adult and

Family Services Child Care Subsidy staff will provide written notice when approving care to be provided at a different site; (6) remove the requirement for providers to maintain copies of manual claims and daily attendance records and to make them available to DHS upon request; and (7) update and simplify language and terminology.

AUTHORITY:

Director of Human Services; Section 162 of Title 56 of the Oklahoma Statutes (O.S. 56 § 162); Title 45 of the Code of Federal Regulations (C.F.R.) Parts 98 and 99; Public Law 113-186, and the Child Care and Development Block Grant of 2014.

COMMENT PERIOD:

Written and oral comments are accepted February 1, 2017, through March 3, 2017, during regular business hours by contacting Laura Brown, Oklahoma Department of Human Services (DHS), Adult and Family Services, PO Box 25352, Oklahoma City, Oklahoma 73125, 405-521-4396.

PUBLIC HEARING:

A public hearing is scheduled for 10:00 a.m. on March 9, 2017, at DHS, Sequoyah Memorial Office Building, 2400 N. Lincoln Boulevard, Oklahoma City, Oklahoma 73105, Room C-48. Anyone who wants to speak must sign in at the door by 10:05 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the person listed above or going to <http://www.okdhs.org/sites/searchcenter/Pages/okdhsproposedpolicyresults.aspx>.

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

Dena Thayer, Programs Administrator, Legal Services - Policy, 405-521-4326, Dena.Thayer@okdhs.org.

[OAR Docket #17-31; filed 1-5-17]

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

[OAR Docket #17-32]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions
- 340:50-1-5 [AMENDED]
- 340:50-1-8 through 340:50-1-9 [AMENDED]

Notices of Rulemaking Intent

Subchapter 3. Application Process

340:50-3-2 [AMENDED]

Subchapter 5. Non-Financial Eligibility Criteria

Part 1. Household Definition

340:50-5-5 [AMENDED]

340:50-5-7 [AMENDED]

340:50-5-7.1 [NEW]

340:50-5-10.1 [AMENDED]

Part 5. Students, Strikers, Resident Farm Laborers, Migrant Households, Sponsored Aliens, and School Employees

340:50-5-48 [AMENDED]

Part 7. Related Provisions

340:50-5-64 [AMENDED]

Part 9. Work Registration and Employment and Training Program

340:50-5-85 through 340:50-5-86 [AMENDED]

340:50-5-87 [REVOKED]

340:50-5-88 through 340:50-5-89 [AMENDED]

340:50-5-90 through 340:50-5-91 [REVOKED]

340:50-5-92 [AMENDED]

340:50-5-94 through 340:50-5-95 [AMENDED]

340:50-5-96 through 340:50-5-97 [REVOKED]

Subchapter 7. Financial Eligibility Criteria

Part 3. Income

340:50-7-22 [AMENDED]

340:50-7-29 through 340:50-7-31 [AMENDED]

Part 5. Determination of Income

340:50-7-45 through 340:50-7-46 [AMENDED]

Subchapter 9. Eligibility and Benefit Determination

Procedures

340:50-9-1 [AMENDED]

340:50-9-5 [AMENDED]

Subchapter 11. Special Procedures

Part 1. Households Entitled to Expedited Service

340:50-11-1 [AMENDED]

Part 12. Categorically Eligible Households

340:50-11-111 [AMENDED]

340:50-11-113 [AMENDED]

Subchapter 15. Overpayments and Fraud

Part 1. Overpayments

340:50-15-1 [AMENDED]

340:50-15-3 through 340:50-15-4 [AMENDED]

340:50-15-6 [AMENDED]

Part 3. ~~Fraud~~ Intentional Program Violation

340:50-15-25 [AMENDED]

(Reference APA WFs 16-10 and 17-12)

SUMMARY:

The proposed revisions to Chapter 50, Subchapter 1 amend the rules to: (1) change the name of the Section; (2) update: (a) the Supplemental Nutrition Assistance Program (SNAP) non-discrimination statement; (b) client rights information; (c) client and Oklahoma Department of Human Services (DHS) staff responsibility requirements; and (d) terminology; (3) add information regarding: (a) public notification requirements; (b) the civil rights complaint process and form; (c) ethnic and racial categories and data reporting requirements; (d)

interpreter services and alternative means of communication for persons with disabilities; and (e) policy citations; and (4) remove redundant and unnecessary information.

The proposed revisions to Chapter 50, Subchapter 3 amend the rules to: (1) update interview requirements to allow completion by phone on all SNAP interviews and remove the hardship condition and duplicative interview waiver information requirements; (2) add clarifying information regarding verification and worker assistance requirements following a postponed interview, when requested; (3) simplify language regarding interview scheduling; (4) update a form name; and (5) add clarifying language for household cooperation with eligibility determination and quality control.

The proposed revisions to Chapter 50, Subchapter 5 amend the rules to: (1) simplify and remove repetitive information regarding persons who cannot be considered non-household members; (2) reorganize, rename, and move information regarding households in this Subchapter to: (a) combine all boarder information into one Section; (b) clarify information regarding when a child in foster care or placed by Developmental Disabilities Services (DDS) with an extended family care provider may receive food benefits and how to consider the child's income; (c) separate information regarding food distribution programs and residents of institutions; (d) define excluded household members as disqualified or ineligible household members and clarify income and expense differences; and (e) update and clarify information regarding migrant farm laborers; (3) add information to able-bodied adults without dependents (ABAWD) work requirements to: (a) clarify that in-kind, unpaid, or volunteer work meets the 20 hours per week work rule; (b) clarify when job search may be included in an Employment and Training (E&T) Program; (c) add chronically-homeless as a work requirement exemption; (d) clarify that a refugee participating in a refugee-specific training program meets student exemption criteria; and (e) add good cause provisions for failing to meet the work requirement; (4) change the Part and Section titles regarding the SNAP E&T Program; (5) update and clarify SNAP work registration and E&T plan rules to meet the revised and expanded SNAP E&T plan that includes: (a) making participation in the SNAP E&T program voluntary; (b) referring ABAWDs and other voluntary E&T participants to a contracted service provider for E&T services; (c) explaining the referral and assessment process, SNAP E&T component assignments, and contractor and SNAP E&T staff responsibilities; (d) updating supportive services; (e) updating and clarifying work registration exemption rules; (f) removing information that is no longer applicable; and (g) revoking SNAP E&T Program rules, including voucher-authorized child care language, that are no longer applicable; (6) update voluntary quit rules to: (a) add information regarding reduction of work effort; (b) increase the number of hours a person must have worked for voluntary quit to apply from 20 to 30 before the voluntary quit provision applies; (c) revoke information regarding the head of household as it applies to voluntary quit so the disqualification penalty is the same for any adult household member that

voluntarily quits a job; (d) increase the hours a person must work from 20 to 30 hours per week before eligibility may be reestablished during a voluntary quit disqualification period; and (e) clarify and simplify language; (7) update terminology; and (8) add and remove applicable legal and rule citations.

The proposed revisions to Chapter 50 Subchapter 7 amend the rules to: (1) exempt all educational assistance income; (2) explain how to consider an excess benefit allowance; (3) add information regarding loan verification requirements; (4) exclude from income and resource consideration money deposited into or withdrawn from a qualified Achieving a Better Life Experience (ABLE) Program account per state statute and federal regulations; (5) add information regarding when to count a DDS room and board payment as income; (6) add clarifying language on how to consider income when a public assistance program penalty is imposed; (7) define excluded household members as ineligible or disqualified and update how income and expenses are considered for them; (8) update and change how self-employment farm income losses are offset by other household income; (9) change how self-employment business expenses are computed; (10) add clarifying language that allowable medical expenses must be prescribed or approved by a state-licensed or qualified practitioner; (11) add that costs associated with all service animals are medical expenses; (12) add information on calculating one-time medical and other expenses; (13) remove incorrect and error prone information regarding expense averaging; (14) clarify that households approved for Low Income Heat Energy Assistance Program payments are eligible for the standard utility allowance; (15) update terminology and simplify language regarding expense calculation for households that include disqualified or ineligible household members; (16) add clarifying language regarding documentary evidence, unreported income, loan verification, and income calculation methods; (17) remove duplicative information and staff instructions not affecting clients or the public; (18) update terminology, rules, and legal citations; and (19) reorder and simplify information.

The proposed revisions to Chapter 50, Subchapter 9 amend the rules to: (1) add clarifying language regarding income and expense calculation for different households, benefit proration, and certification periods; (2) remove duplicative, confusing, and inaccurate language regarding benefit calculation and proration; (3) add identifying a household member as a fleeing felon or probation violator to the reasons why benefits may decrease or close between reporting periods for benefit reporters; (4) update reporting rules for change and benefit reporters to the 10th day of the month following the month the change occurred; (5) add the verification request requirement before closing or reducing benefits for change reporting households; (6) add a definition for when an advance notice of adverse action is considered timely and effective dates for making changes; and (7) add applicable legal and rule citations.

The proposed revisions to Chapter 50, Subchapter 11 amend the rules to: (1) add clarifying language regarding applicable deductions when determining eligibility for expedited services;

(2) replace the Oklahoma Marriage Initiative with 2-1-1 Oklahoma when determining categorical eligibility; and (3) add applicable rule and legal citations.

The proposed revisions to Chapter 50, Subchapter 15 amend the rules to: (1) add clarifying information regarding: (a) when an overpayment referral is made following a fair hearing request; (b) which staff is responsible for determining the amount of an overpayment; and (c) when an overpayment claim classified as an inadvertent household error may exceed 12 months from the month the overpayment was discovered; (2) update terminology to remove the term fraud, when referring to an intentional program violation and change the term used to describe an agency error overpayment from incorrect benefit allotment to excess benefit allotment; (3) add qualifying language regarding the overpayment repayment time frame when food benefits are reopened; (4) remove benefit expungement from repayment options and add recalculation of debt as a more accurate term to explain how expunged benefits may reduce an overpayment claim balance; (5) clarify criteria used in referring a delinquent claim to the Treasury Offset Program for collection; and (6) add qualifying language to a court specified disqualification period when it supersedes a disqualification period imposed by Adult and Family Services (AFS).

AUTHORITY:

Director of Human Services; Section 162 of Title 56 of the Oklahoma Statutes (O.S. 56 § 162), Sections 272.6, 273.1, 273.2, 273.7, 273.9, 273.10, 273.11, 273.12, 273.13, 273.18, and 273.24 of Title 7 of the Code of Federal Regulations (C.F.R.); Civil Rights Compliance Review Report, FNS Approval Memo to change Oklahoma Marriage Initiative to 2-1-1 Oklahoma; FNS Memo regarding SNAP ABAWD Time Limit; FNS Memo regarding Deductible Excess Medical Expenses; FNS Waiver Approval to Align Timeframes for Reporting Changes for All Households; and FNS Waiver Approval of Telephone Interviews.

COMMENT PERIOD:

Written and oral comments are accepted February 1, 2017, through March 3, 2017, during regular business hours by contacting Laura Brown, Oklahoma Department of Human Services (DHS), Adult and Family Services, PO Box 25352, Oklahoma City, Oklahoma 73125, 405-521-4396.

PUBLIC HEARING:

A public hearing is scheduled for 10:00 a.m. on March 9, 2017, at DHS, Sequoyah Memorial Office Building, 2400 N. Lincoln Boulevard, Oklahoma City, Oklahoma 73105, Room C-48. Anyone who wants to speak must sign in at the door by 10:05 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the person listed above or going to <http://www.okdhs.org/sites/searchcenter/Pages/okdhsproposedpolicyresults.aspx>.

Notices of Rulemaking Intent

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

Dena Thayer, Programs Administrator, Legal Services - Policy, 405-521-4326, Dena.Thayer@okdhs.org.

[OAR Docket #17-32; filed 1-5-17]

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

[OAR Docket #17-33]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Eligibility for Benefits

340:65-3-2.1 [AMENDED]

340:65-3-5 through 340:65-3-6 [AMENDED]

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

(Reference WFs 16-05 and 17-09)

SUMMARY:

The proposed revisions to Chapter 65, Subchapter 3 amend the rules to: (1) update and clarify information regarding the type of assistance the worker provides when requested and interview information; (2) increase timely application processing time to 60-calendar days for Low Income Home Energy Assistance Program (LIHEAP) winter heating and summer cooling to match LIHEAP rule changes; (3) add processing time limits for State Supplemental Payment; (4) update and clarify information regarding Temporary Assistance for Needy Families cash assistance certifications for additional persons and proration of benefits; (5) update and clarify debit card and direct deposit procedures and remove outdated secondary cardholder information; (6) remove notice requirement for a denial when an applicant dies; (7) change the Child Care Subsidy renewal time frame from six to 12 months and remove the interview requirement for renewals based on a protective or preventive need factor to match Child Care Subsidy emergency rules; (8) update benefit renewal notification information and policy citations; and (9) simplify language and update terminology.

AUTHORITY:

Director of Human Services; and Sections 162, 167, and 241.1 of Title 56 of the Oklahoma Statutes (56 O.S. §§ 162, 167, and 241.1); Sections 8621 through 8624 of Title 42 of the United States Code, Section 5N of Public Law 113-186, and the Child Care Development Block Grant Act of 2014.

COMMENT PERIOD:

Written and oral comments are accepted February 1, 2017, through March 3, 2017, during regular business hours by

contacting Laura Brown, Oklahoma Department of Human Services (DHS), Adult and Family Services, PO Box 25352, Oklahoma City, Oklahoma 73125, 405-521-4396.

PUBLIC HEARING:

A public hearing is scheduled for 10:00 a.m. on March 9, 2017, at DHS, Sequoyah Memorial Office Building, 2400 N. Lincoln Boulevard, Oklahoma City, Oklahoma 73105, Room C-48. Anyone who wants to speak must sign in at the door by 10:05 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the person listed above or going to <http://www.okdhs.org/sites/searchcenter/Pages/okdhsproposedpolicyresults.aspx>.

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

Dena Thayer, Programs Administrator, Legal Services - Policy, 405-521-4326, Dena.Thayer@okdhs.org.

[OAR Docket #17-33; filed 1-5-17]

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

[OAR Docket #17-34]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Child Protective Services

Part 1. Purpose, Definitions, and Hotline Protocol

340:75-3-120 [AMENDED]

340:75-3-130 [AMENDED]

Part 5. Investigative Findings and Appeals

340:75-3-530 [AMENDED]

Subchapter 6. Permanency Planning

Part 1. General Provisions

340:75-6-4 [AMENDED]

Part 5. Permanency Planning Services

340:75-6-31 [AMENDED]

Part 7. Family and Child Individualized Service Planning Components

340:75-6-40.1 [AMENDED]

340:75-6-40.4 [AMENDED]

340:75-6-40.9 [AMENDED]

Part 8. Child Welfare Specialist Role

340:75-6-48.3 [AMENDED]

340:75-6-50 [AMENDED]

- Part 11. Permanency Planning and Placement Services
 - 340:75-6-85 [AMENDED]
 - 340:75-6-85.2 [AMENDED]
 - 340:75-6-85.5 [AMENDED]
 - 340:75-6-89 [AMENDED]
 - 340:75-6-91 [AMENDED]
 - Part 13. ~~Independent Living~~ Successful Adulthood
 - 340:75-6-110 [AMENDED]
 - Subchapter 7. Foster Home Care
 - Part 6. ~~Foster~~ Resource Home Care Support Services
 - 340:75-7-65 [AMENDED]
 - Subchapter 8. Therapeutic Foster Care and Developmental Disabilities Services
 - Part 1. Therapeutic Foster Care
 - 340:75-8-6 through 340:75-8-9 [AMENDED]
 - 340:75-8-11 through 340:75-8-12 [AMENDED]
 - Subchapter 11. Child Welfare Community-Based Residential Services
 - Part 17. Contracted Community-Based Residential Care Providers
 - 340:75-11-230 [AMENDED]
 - 340:75-11-233.1 [AMENDED]
 - 340:75-11-237 [AMENDED]
 - 340:75-11-239 through 340:75-11-240 [AMENDED]
 - Part 27. Residential Maternity Services
 - 340:75-11-320 [AMENDED]
 - Part 33. Contracted Level D Plus and Level E Placements
 - 340:75-11-360 [AMENDED]
 - Subchapter 13. Other Child Welfare Services and Medical Services for Children in Out-of-Home Care
 - Part 1. Eligibility for Substitute Care Services and Claims for Payment
 - 340:75-13-9 [AMENDED]
 - Part 5. Clothing Purchases
 - 340:75-13-45 [AMENDED]
 - Subchapter 16. ~~Mental~~ Behavioral Health Treatment Services
 - Part 1. Inpatient ~~Mental~~ Behavioral Health Treatment Services
 - 340:75-16-29 [AMENDED]
 - 340:75-16-31 [AMENDED]
 - 340:75-16-35 [AMENDED]
- (Reference WF 17-06 and 15-01)**

SUMMARY:

The proposed revisions to Chapter 75 Subchapter 3, amend the rules to: (1) clarify the review procedure for substantiated findings of child abuse or neglect appeals; and (2) revise definitions and protocols for child protective services to comply with statutory changes following passage of House Bills (HBs) 1078 and 1273 (2015) and Senate Bills (SBs) 292 and 535 (2015).

The proposed revisions to Chapter 75 Subchapter 6, amend child permanency planning definitions and rules to: (1) comply with statutory changes following passage of HBs 1078, 1320, and 2069 (2015); SBs 762 and 763 (2015) along with federal law per House Resolution 4980 (2014); (2) update policy

prohibiting use of corporal punishment by school personnel; (3) change approval requirements on overnight travel out of Oklahoma and the United States (U.S.); and (4) revise preventative child care subsidy policy to comply with federal requirements.

The proposed revisions to Chapter 75 Subchapter 7, amend the foster care rule to address child care subsidy, respite care, and travel reimbursement.

The proposed revisions to Chapter 75 Subchapter 8, amend therapeutic foster care (TFC) rules to: (1) comply with statutory changes per HB 1078 (2015) and SB 763 (2015); and (2) align with foster care rules.

The proposed revisions to Chapter 75 Subchapter 11 amend community-based residential care (CBRC) rules to: (1) comply with statutory requirements per HBs 1078 (2015) and 1273 (2015); and (2) implement core strategy approved by Pinnacle Plan Co-Neutrals regarding maltreatment in care (MIC).

The proposed revisions to Chapter 75 Subchapter 13, amend the rules to: (1) align rule with Statute regarding responsibility for providing required documentation; and (2) update clothing authorization policy to reflect the Pinnacle Plan priority to increase resource parent reimbursement rates.

The proposed revisions to Chapter 75 Subchapter 16, amend rules for mental health treatment services to comply with statutory requirements per HB 1078 (2015).

AUTHORITY:

Director of Human Services; Section 162 of Title 56 of the Oklahoma Statutes (56 O.S. § 162).

Chapter 75 Subchapter 3: 10A O.S. §1-4-203, Child Abuse Prevention and Treatment Act, 42 United States Code (U.S.C.) § 5101 et seq.,

Chapter 75 Subchapter 3: 10 O.S. §§ 175.20 and 402; 10A O.S. §§ 1-1-101, 1-1-102, 1-1-105, 1-2-101, 1-2-102, 1-2-105, 1-6-102, and 1-6-105; 21 O.S. §§ 748, 748.2, and 1040.13a; HBs 1078 and 1273; SBs 292 and 535.

Chapter 75 Subchapter 6: 10 O.S. § 40.6; 10A O.S. §§ 1-1-102, 1-4-204, 1-4-705, 1-4-707, 1-4-803 through 1-4-805, 1-4-704, 1-4-812, 1-7-103, 1-7-106, 1-7-107, 1-7-110, 1-9-119; 70 O.S. § 1-101 et seq.; Multiethnic Placement Act 1994 Public Law 103-82, Interethnic Adoption Provisions 1996, Individuals with Disabilities Education Act, Education of All Handicapped Children Act, 20 U.S.C. §§ 1400 through 1461, and 25 U.S.C. 1915.

Chapter 75 Subchapter 6: 10 O.S. §§ 7700-102, 7700-204; 10A O.S. §§ 1-1-102, 1-1-105, 1-4-203, 1-4-204, 1-4-704, 1-4-706, 1-4-707, 1-4-709, 1-4-807, 1-4-809, 1-4-811, 1-4-901, 1-4-902, 1-4-904, 1-4-907, 1-4-908, 1-7-103, 1-7-106, 1-9-107; 70 O.S. § 1-101, 2601 through 2605, 3230; 20 U.S.C. §§ 1400 through 1461; 22 U.S.C. § 7102; 42 U.S.C. §§ 671 and 673; HBs 1078, 1320, and 2069; SBs 762 and 763.

Chapter 75 Subchapter 7: 10A O.S. § 1-9-119; 68 O.S. § 2358.5-1.

Chapter 75 Subchapter 8: 10A O.S. §§ 1-1-105, 1-2-101, 1-6-102, 1-7-105, and 1-9-119; and HB 1078 and SB 763.

Notices of Rulemaking Intent

Chapter 75 Subchapter 11: 10A O.S. §§ 1-2-101, 1-3-102, 1-6-107, 1-7-103, 1-7-105, and 1-9-110; 70 O.S. § 1-113; and HBs 1078 and 1273.

Chapter 75 Subchapter 13: 10A O.S. § 1-4-203.

Chapter 75 Subchapter 16: 10A O.S. § 1-1-105; 43A O.S. §§ 5-502 and 5-513; and HB 1078.

COMMENT PERIOD:

Written and oral comments are accepted February 1, 2017, through March 3, 2017, during regular business hours by contacting Shirley Russell, Oklahoma Department of Human Services (DHS), Child Welfare Services, PO Box 25352, Oklahoma City, Oklahoma 73125, 405-521-2881.

PUBLIC HEARING:

A public hearing is scheduled for 10:00 a.m. on March 9, 2017, at DHS, Sequoyah Memorial Office Building, 2400 N. Lincoln Boulevard, Oklahoma City, Oklahoma 73105, Room C-48. Anyone who wants to speak must sign in at the door by 10:05 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the person listed above or going to <http://www.okdhs.org/sites/searchcenter/Pages/okdhsproposedpolicyresults.aspx>.

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

Dena Thayer, Programs Administrator, Legal Services - Policy, 405-521-4326, Dena.Thayer@okdhs.org.

[OAR Docket #17-34; filed 1-5-17]

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

[OAR Docket #17-35]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Administration

Part 1. General Administration

340:100-3-1 [AMENDED]

340:100-3-6 [REVOKED]

340:100-3-10 [REVOKED]

Part 3. Administration

340:100-3-27 [AMENDED]

340:100-3-38.1 through 340:100-3-38.5 [AMENDED]

340:100-3-38.10 [AMENDED]

340:100-3-38.12 through 340:100-3-38.13 [AMENDED]

Subchapter 5. Client Services

Part 3. Service Provisions

340:100-5-22.1 [AMENDED]

340:100-5-22.6 [AMENDED]

340:100-5-36 [NEW]

Subchapter 6. Group Home Regulations

Part 11. Program Standards

340:100-6-55 [AMENDED]

Part 19. Involuntary Transfer or Discharge of Service Recipient

340:100-6-85 [AMENDED]

Part 21. Resident Rights and Responsibilities

340:100-6-95 [AMENDED]

(Reference WF 15-04)

SUMMARY:

The proposed revisions to Chapter 100 Subchapters 3, 5, and 6 amend and revoke rules to implement changes recommended during the annual Developmental Disabilities Services (DDS) rule review process. The proposed amendments: (1) update and clarify DDS rules per federal and state laws; (2) provide clear guidance to DDS partners and staff; and (3) position DDS to adhere to "best practice" standards.

AUTHORITY:

Director of Human Services; Section 162 of Title 56 of the Oklahoma Statutes (56 O.S. § 162); 61 O.S. § 331; 10 O.S. § 1414; and Sections 441.301, 441.302, 441.715, 441.720, and 441.710 of Title 42 of the Code of Federal Regulations.

COMMENT PERIOD:

Written and oral comments are accepted February 1, 2017, through March 3, 2017, during regular business hours by contacting Ray Hester, Oklahoma Department of Human Services (DHS), Developmental Disabilities Services, PO Box 25352, Oklahoma City, Oklahoma 73125, 405-522-8094.

PUBLIC HEARING:

A public hearing is scheduled for 10:00 a.m. on March 9, 2017, at DHS, Sequoyah Memorial Office Building, 2400 N. Lincoln Boulevard, Oklahoma City, Oklahoma OK 73105, Room C-48. Anyone who wants to speak must sign in at the door by 10:05 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the person listed above or going to <http://www.okdhs.org/sites/searchcenter/Pages/okdhsproposedpolicyresults.aspx>.

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

Dena Thayer, Programs Administrator, Legal Services - Policy, 405-521-4326, Dena.Thayer@okdhs.org.

[OAR Docket #17-35; filed 1-5-17]

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

[OAR Docket #17-36]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 11. State Long-Term Care Ombudsman Program

Part 37. Statewide Long-Term Care Ombudsman Program

340:105-11-231 through 340:105-11-233 [AMENDED]

340:105-11-233.1 [NEW]

340:105-11-234 [AMENDED]

340:105-11-234.1 through 340:105-11-234.2 [NEW]

340:105-11-235 [AMENDED]

340:105-11-235.1 [NEW]

340:105-11-236 through 340:105-11-237 [AMENDED]

340:105-11-237.1 through 340:105-11-237.2 [NEW]

340:105-11-238 through 340:105-11-240 [AMENDED]

340:105-11-242 through 340:105-11-243 [AMENDED]

340:105-11-243.1 [NEW]

340:105-11-245 [AMENDED]

340:105-11-248 [AMENDED]

340:105-11-251 through 340:105-11-252 [AMENDED]

340:105-11-254 [REVOKED]

340:105-11-255 [AMENDED]

(Reference WF 17-01)

SUMMARY:

The proposed revisions to Chapter 105, Subchapter 11 amend the rules to: (1) achieve substantial compliance with 42 Code of Federal Regulations Part §1324.1 through §1324.2; (2) make non-substantive housekeeping changes to improve the rule clarity; (3) create timeframes for responses to complaints; (4) improve processes for the investigation and reporting of abuse, neglect and exploitation; and (5) increase the focus on person centered care and resident directed services.

AUTHORITY:

Director of Human Services, Section 162 of Title 56 of the Oklahoma Statutes (56 O.S. § 162); Section 1681b of Title 15 of the United State Code (15 U.S.C. § 1681b); 18 U.S.C. § 228; 28 U.S.C. § 1738B; 31 U.S.C. § 3716; 42 U.S.C., Chapter 7, Subchapter IV, Part D; 50A U.S.C. §§ 501 through 596; Sections 285.1 and 285.3 of Title 31 of the Code of Federal Regulations (31 C.F.R. §§ 285.1 and 285.3); 45 C.F.R., Subtitle B, Chapter III; 3A O.S. § 724.1; 10 O.S. § 83; 10A O.S. §§ 1-4-702, 7700-307, 7700-308, and 7700-312; 12 O.S. §§ 719 through 726, 842, 1171.2, and 2005; 21 O.S. §§ 566, 566.1,

567, and 852; 24 O.S. §§ 112 through 123; 36 O.S. §§ 6058A and 6059A; 43 O.S. §§ 112, 112A, 112.1A, 118 through 118I, 118.2, 119, 120, 135, 137, 139, 139.1, 140, 413, 601-100 through 601-901; 47 O.S. §§ 1-153, 6-201, 6-201.1, 6-211, and 6-212; 56 O.S. §§ 183, 230.50, and 231 through 240.23; Title 58; Title 62; 63 O.S. §§ 1-311 and 1-311.3; 68 O.S. §§ 205.2 and 205.3; 70 O.S. § 11-103; Internal Revenue Service Publication 1075; Executive Order 13019; and Section 6305 of the Internal Revenue Code of 1954.

COMMENT PERIOD:

Written and oral comments are accepted February 1, 2017, through March 3, 2017, during regular business hours by contacting William J. Whited, State Long-Term Care Ombudsman, Oklahoma Department of Human Services (DHS), Office of the State Long-Term Care Ombudsman, PO Box 25352, Oklahoma City, Oklahoma 73125, 405-521-6734.

PUBLIC HEARING:

A public hearing is scheduled for 10:00 a.m. on March 9, 2017, at DHS Sequoyah Memorial Office Building, 2400 N. Lincoln Boulevard, Oklahoma City, Oklahoma 73105, Room C-48. Anyone who wants to speak must sign in at the door by 10:05 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the person listed above or going to <http://www.okdhs.org/sites/searchcenter/Pages/okdhsproposedpolicyresults.aspx>.

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

Dena Thayer, Programs Administrator, Legal Services - Policy, 405-521-4326, Dena.Thayer@okdhs.org.

[OAR Docket #17-36; filed 1-5-17]

**TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 110. LICENSING SERVICES**

[OAR Docket #17-37]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

Part 1. Licensing Services - Child Care

340:110-1-6 [AMENDED]

340:110-1-9 [AMENDED]

340:110-1-9.3 [AMENDED]

340:110-1-15 [AMENDED]

Notices of Rulemaking Intent

Part 3. Licensing Services - Residential Care and Agencies

340:110-1-45 [AMENDED]

340:110-1-47.2 [AMENDED]

340:110-1-54 [AMENDED]

Subchapter 3. Licensing Standards for Child Care Facilities

Part 15. Requirements for Child Care Centers, Day Camps,

Drop-In Programs, Out-of-School Time Programs,

Part-Day Programs and Programs for Sick Children

340:110-3-309 [AMENDED]

(Reference WF 17-04)

SUMMARY:

The proposed revisions to Chapter 110, Subchapter 1, Parts 1 and 3 amend Child Care Services (CCS) policy and licensing procedures. Amendments reflect clarifying CCS practice and licensing procedures regarding the application process, monitoring of licensed programs and agencies, non-compliance with licensing requirements, and grievances. Licensed child care programs and agencies impacted by the proposed amendments include: (1) family child care homes; (2) child care centers; (3) day-camps; (4) drop-in programs; (5) out-of-school time programs; (6) part-day programs; (7) programs for sick children; (8) residential programs; and (9) child-placing agencies.

The proposed revisions to Chapter 110, Subchapter 3, Part 15 amend licensing requirements for out-of-school time programs.

AUTHORITY:

Director of Human Services; Section 162 of Title 56 of the Oklahoma Statutes (56 O.S. § 162).

COMMENT PERIOD:

Written and oral comments are accepted February 1, 2017, through March 3, 2017, during regular business hours by contacting Mitzi Lee, Oklahoma Department of Human Services (DHS), Child Care Services, PO Box 25352, Oklahoma City, Oklahoma 73125, 405-521-2556.

PUBLIC HEARING:

A public hearing is scheduled for 10:00 a.m. on March 9, 2017, at DHS, Sequoyah Memorial Office Building, 2400 N. Lincoln Boulevard, Oklahoma City, Oklahoma 73105, Room C-48. Anyone who wants to speak must sign in at the door by 10:05 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

DHS requests that business entities affected by these proposed rules provide DHS, within the comment period, in dollar amounts if possible, the increase in the level of direct costs, such as fees and indirect costs, 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 Mitzi Lee, at the above address, before the close of the comment period on March 3, 2017.

COPIES OF PROPOSED RULES:

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

to <http://www.okdhs.org/sites/searchcenter/Pages/okdhsproposedpolicyresults.aspx>.

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

Dena Thayer, Programs Administrator, Legal Services - Policy, 405-521-4326, Dena.Thayer@okdhs.org.

[OAR Docket #17-37; filed 1-5-17]

TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 110. LICENSING SERVICES

[OAR Docket #17-38]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

Part 1. Licensing Services - Child Care

340:110-1-17 [AMENDED]

Subchapter 3. Licensing Standards for Child Care Facilities

Part 5. Requirements for Family Child Care Homes and

Large Family Child Care Homes

340:110-3-85 through 340:110-3-86 [AMENDED]

340:110-3-86.1 [NEW]

340:110-3-88 [AMENDED]

340:110-3-89.1 [AMENDED]

340:110-3-91.1 [AMENDED]

340:110-3-93 [AMENDED]

340:110-3-97.1 [AMENDED]

Part 15. Requirements for Child Care Centers, Day Camps,

Drop-In Programs, Out-of-School Time Programs,

Part-Day Programs and Programs for Sick Children

340:110-3-278 through 340:110-3-280 [AMENDED]

340:110-3-281.1 through 340:110-3-281.2 [AMENDED]

340:110-3-284 [AMENDED]

340:110-3-284.1 [AMENDED]

340:110-3-284.2 [AMENDED]

340:110-3-289 [AMENDED]

340:110-3-296 [AMENDED]

340:110-3-301 [AMENDED]

340:110 Appendix EE. Oklahoma Director's Credential [REVOKED]

340:110 Appendix EE. Oklahoma Director's Credential [NEW]

(Reference WFs 16-02, 16-06, and 16-07)

SUMMARY:

The proposed revisions to Chapter 110, Subchapter 1, Part 1, amend Child Care Advisory (CCAC) by-laws. The passage of Senate Bill (SB) 1211 during the 2016 legislative session amended Section 404 of Title 10 of the Oklahoma

Statutes (10 O.S. § 404), Oklahoma Child Care Facilities Licensing Act. Statutory amendments include: (1) revising the responsibilities of CCAC members; (2) revising the process of the development of minimum licensing requirements; (3) identifying agencies that Oklahoma Department of Human Services (DHS) consults with prior to promulgating child care licensing rules; (3) expanding the role of the Oklahoma Commission on Children and Youth (OCCY) representative; (4) expanding membership of the standing subcommittees; and (5) clarifying Peer Review Board representation.

The proposed revisions to Chapter 110 Subchapter 3 Part 5 and 15 amend minimum licensing requirements affecting family child care homes, child care centers, day-camps, drop-in, out-of-school time programs, part-day, and programs for sick children to comply with federal and state statutory changes.

On November 19, 2014, President Barack Obama signed the Child Care Development Block Grant (CCDBG) Act of 2014 (Public Law No. 113-186) into law following its passage in the 113th Congress. The CCDBG Act authorizes the Child Care and Development Fund (CCDF) that is the primary federal funding source devoted to providing low-income families who are working or participating in education or training activities with help paying for child care and improving the quality of child care for all children. CCDBG criteria was revised to provide further protection to the health and safety of children in child care and enhances the overall quality of child care and the early childhood workforce. Revisions to CCDBG criteria required Child Care Services to revise child care licensing requirements to meet the new criteria. Revisions include health and safety orientation topics for child care programs in areas of: (1) immunizations; (2) physical premise safety; (3) handling and storage of hazardous materials and disposal of bio-contaminants; (4) emergency preparedness; (5) administration of medication; and (6) prevention of and responses to food and allergic reactions. Revisions to minimum licensing requirements included: (1) expulsion program policies; (2) emergency preparedness and emergency drills; (3) cardio-pulmonary resuscitation (CPR) and first aid certification for all caregivers; and (4) requirements addressing any orientation topic not currently addressed by requirement language.

An interim study was conducted on infant safe sleep environments in licensed family child care homes and child care center based programs. This study resulted in Senate Bill (SB) 1273 during the 2016 legislative session amending Section 404 of Title 10 of the Oklahoma Statutes (10 O.S. § 404), Oklahoma Child Care Facilities Licensing Act to improve infant sleep environments. Amendments included restricting items and bedding within rest equipment and requiring infants to sleep in approved rest equipment. An agreement between legislators leading the interim study and DHS also resulted in request for requirement revisions in lieu of statutory revisions. These requirement revisions included: (1) restrictions of infant swaddling; (2) restriction of infants in

car seats; (3) observation of infants; and (4) required safe sleep training.

SB 1274 approved during the 2016 legislative session amends 10 O.S. § 404.3 of the Oklahoma Child Care Facilities Licensing Act to require parental notification of the program's compliance file and liability insurance. An agreement between authors of SB 1274 and DHS also resulted in request for requirement revisions in lieu of statutory revisions. These requirement revisions impacted further rule language development regarding parental notifications.

SB 1554 approved during the 2016 legislative session amends previous requirement language for child care center based programs regarding infant room square footage.

Amendments also reflect compliance with 21 O.S. § 870 requiring reporting of human trafficking.

The proposed revisions to Chapter 110, Appendix EE Oklahoma Director's Credential (Appendix EE) amend minimum educational licensing requirements for child care directors. Child care programs impacted include child care centers, drop-in programs, and programs for sick children.

Senate Bill (SB) 1554 approved during the 2016 Legislative Session, amends minimum educational licensing requirements for child care directors effective November 1, 2016. Appendix EE amendments provide an additional education option for child care program directors to include having obtained a bachelor's degree or post graduate degree in any field of study.

AUTHORITY:

Director of Human Services; O.S. 56 § 162; Child Care Development Block Grant (CCDBG) Act of 2014 (Public Law No. 113-186); 10 O.S. § 404; 10 O.S. § 404.3; and 21 O.S. § 870.

COMMENT PERIOD:

Written and oral comments are accepted February 1, 2017, through March 3, 2017, during regular business hours by contacting Mitzi Lee, Oklahoma Department of Human Services (DHS), Child Care Services, PO Box 25352, Oklahoma City, Oklahoma 73125, 405-521-2556.

PUBLIC HEARING:

A public hearing is scheduled for 10:00 a.m. on March 9, 2017, at DHS, Sequoyah Memorial Office Building, 2400 N. Lincoln Boulevard, Oklahoma City, Oklahoma 73105, Room C-48. Anyone who wants to speak must sign in at the door by 10:05 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

DHS requests that business entities affected by these proposed rules provide DHS, within the comment period, in dollar amounts if possible, the increase in the level of direct costs, such as fees and indirect costs, 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 Mitzi Lee, at the above address, before the close of the comment period on March 3, 2017.

Notices of Rulemaking Intent

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the person listed above or going to <http://www.okdhs.org/sites/searchcenter/Pages/okdhsproposedpolicyresults.aspx>.

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

Dena Thayer, Programs Administrator, Legal Services - Policy, 405-521-4326, Dena.Thayer@okdhs.org.

[OAR Docket #17-38; filed 1-5-17]

TITLE 377. OFFICE OF JUVENILE AFFAIRS CHAPTER 1. FUNCTION AND STRUCTURE OF THE OFFICE OF JUVENILE AFFAIRS

[OAR Docket #17-8]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. Function and Structure of the Office of Juvenile Affairs

377:1-1-5. Board of Juvenile Affairs [AMENDED]

SUMMARY:

Proposed rule changes are the results of changes to 10A O.S. § 2-7-608 which relates to the promulgation of rules to establish detention beds. The proposed rules are necessary in order to provide clarity and correctly reference provisions of law.

AUTHORITY:

The Board of Juvenile Affairs, pursuant to 10A O.S., Sections 2-7-101(H)(3), 2-7-101(I)(1), and 75 O.S. § 302(A)(1).

COMMENT PERIOD:

The comment period will begin on Tuesday, February 1, 2017, and end on Thursday, March 3, 2017. Written comments will be accepted during the comment period at the following address: Office of Juvenile Affairs, Attn: Charlene Hughes, 3812 N. Santa Fe Ave., Ste. 400, Oklahoma City, OK 73118, or by email at charlene.hughes@oja.ok.gov.

PUBLIC HEARING:

A Public Hearing will be held at 8:00 a.m. on Wednesday, March 8, 2017, at the Office of Juvenile Affairs, 3812 N. Santa Fe Ave., Ste. 400, Oklahoma City, OK 73118. Persons wishing to make oral comments must sign-in at the door by 8:05 a.m. on that day, must be present when called to make oral comments, and will be given an opportunity to make oral comments for a maximum of five (5) minutes.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Office of Juvenile Affairs requests business entities affected by the proposed rules to provide written information to the Office of Juvenile Affairs, within the comment period, in dollar amounts if possible, of the increase in the level of direct services, revenue loss, direct or indirect costs, or other costs, such as fees, reporting, recordkeeping, equipment, construction, labor, or professional costs, expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Charlene Hughes at the above address before the close of the comment period on Thursday, March 3, 2017.

COPIES OF THE PROPOSED RULES:

Copies of the proposed rules may be obtained during normal business hours from the Office of Juvenile Affairs, 3812 N. Santa Fe Ave., Ste. 400, Oklahoma City, OK, 73118, or by email at charlene.hughes@oja.ok.gov. The proposed rules are available on the OJA website at <https://www.ok.gov/oja/>.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., § 303(D), a rule impact statement will be prepared and available for review at the Office of Juvenile Affairs, 3812 N. Santa Fe Ave., Ste. 400, Oklahoma City, OK, 73118 beginning on or before February 1, 2017, as well as on the OJA website at <https://www.ok.gov/oja/>.

CONTACT PERSON:

Charlene Hughes, OAC Liaison, (405) 530-2883, or charlene.hughes@oja.ok.gov.

[OAR Docket #17-8; filed 1-5-17]

TITLE 377. OFFICE OF JUVENILE AFFAIRS CHAPTER 3. ADMINISTRATIVE SERVICES

[OAR Docket #17-9]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 13. Office of Public Integrity

Part 3. Requirements for Secure Juvenile Detention Centers
377:3-13-43. Staff requirements [AMENDED]

Part 7. Requirements for Community Intervention Centers (CIC)

377:3-13-88. Personnel [AMENDED]

Part 11. Requirements for Certification of Secure Juvenile Facilities

377:3-13-147.1. Background history records searches [AMENDED]

SUMMARY:

Proposed rule changes are the results of 10 O.S., § 404.1 amendments related to OSBI providing required records searches for certain persons when directly requested by OJA.

The proposed rules are necessary in order to provide clarity and correctly reference provisions of law.

AUTHORITY:

The Board of Juvenile Affairs, pursuant to 10A O.S., Sections 2-7-101(H)(3), 2-7-101(I)(1), and 75 O.S. § 302(A)(1).

COMMENT PERIOD:

The comment period will begin on Tuesday, February 1, 2017, and end on Thursday, March 3, 2017. Written comments will be accepted during the comment period at the following address: Office of Juvenile Affairs, Attn: Charlene Hughes, 3812 N. Santa Fe Ave., Ste. 400, Oklahoma City, OK 73118, or by email at charlene.hughes@oja.ok.gov.

PUBLIC HEARING:

A Public Hearing will be held at Wednesday, March 8, 2017, at the Office of Juvenile Affairs, 3812 N. Santa Fe Ave., Ste. 400, Oklahoma City, OK 73118. Persons wishing to make oral comments must sign-in at the door by 8:05 a.m. on that day, must be present when called to make oral comments, and will be given an opportunity to make oral comments for a maximum of five (5) minutes.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Office of Juvenile Affairs requests business entities affected by the proposed rules to provide written information to the Office of Juvenile Affairs, within the comment period, in dollar amounts if possible, of the increase in the level of direct services, revenue loss, direct or indirect costs, or other costs, such as fees, reporting, recordkeeping, equipment, construction, labor, or professional costs, expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Charlene Hughes at the above address before the close of the comment period on Thursday, March 3, 2017.

COPIES OF THE PROPOSED RULES:

Copies of the proposed rules may be obtained during normal business hours from the Office of Juvenile Affairs, 3812 N. Santa Fe Ave., Ste. 400, Oklahoma City, OK, 73118, or by email at charlene.hughes@oja.ok.gov. The proposed rules are available on the OJA website at <https://www.ok.gov/oja/>.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., § 303(D), a rule impact statement will be prepared and available for review at the Office of Juvenile Affairs, 3812 N. Santa Fe Ave., Ste. 400, Oklahoma City, OK, 73118 beginning on or before February 1, 2017, as well as on the OJA website at <https://www.ok.gov/oja/>.

CONTACT PERSON:

Charlene Hughes, OAR Liaison, (405) 530-2883, or charlene.hughes@oja.ok.gov.

[OAR Docket #17-9; filed 1-5-17]

**TITLE 377. OFFICE OF JUVENILE AFFAIRS
CHAPTER 5. INSTITUTIONAL
PLACEMENT**

[OAR Docket #17-10]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Hearings

377:5-5-3. Parole revocation hearing [AMENDED]

SUMMARY:

The proposed rule revisions are necessary to be compliant with current 10A O.S. § 2-7-601 statutory amendments regarding where revocations hearings may be held. The proposed changes are necessary in order to be accurately referenced in rule.

AUTHORITY:

The Board of Juvenile Affairs, pursuant to 10A O.S., Sections 2-7-101(H)(3), 2-7-101(I)(1), and 75 O.S. § 302(A)(1).

COMMENT PERIOD:

The comment period will begin on Tuesday, February 1, 2017, and end on Thursday, March 3, 2017. Written comments will be accepted during the comment period at the following address: Office of Juvenile Affairs, Attn: Charlene Hughes, 3812 N. Santa Fe Ave., Ste. 400, Oklahoma City, OK 73118, or by email at charlene.hughes@oja.ok.gov.

PUBLIC HEARING:

A Public Hearing will be held at 8:00 a.m. on Wednesday, March 8, 2017, at the Office of Juvenile Affairs, 3812 N. Santa Fe Ave., Ste. 400, Oklahoma City, OK 73118. Persons wishing to make oral comments must sign-in at the door by 8:05 a.m. on that day, must be present when called to make oral comments, and will be given an opportunity to make oral comments for a maximum of five (5) minutes.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Office of Juvenile Affairs requests business entities affected by the proposed rules to provide written information to the Office of Juvenile Affairs, within the comment period, in dollar amounts if possible, of the increase in the level of direct services, revenue loss, direct or indirect costs, or other costs, such as fees, reporting, recordkeeping, equipment, construction, labor, or professional costs, expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Charlene Hughes at the above address before the close of the comment period on Thursday, March 3, 2017.

COPIES OF THE PROPOSED RULES:

Copies of the proposed rules may be obtained during normal business hours from the Office of Juvenile Affairs, 3812 N. Santa Fe Ave., Ste. 400, Oklahoma City, OK, 73118, or by email at charlene.hughes@oja.ok.gov. The proposed rules are available on the OJA website at <https://www.ok.gov/oja/>.

Notices of Rulemaking Intent

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., § 303(D), a rule impact statement will be prepared and available for review at the Office of Juvenile Affairs, 3812 N. Santa Fe Ave., Ste. 400, Oklahoma City, OK, 73118 beginning on or before February 1, 2017, as well as on the OJA website at <https://www.ok.gov/oja/>.

CONTACT PERSON:

Charlene Hughes, OAC Liaison, (405) 530-2883, or charlene.hughes@oja.ok.gov.

[OAR Docket #17-10; filed 1-5-17]

TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING CHAPTER 10. PEACE OFFICER CERTIFICATION

[OAR Docket #17-15]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

390:10-1-5 [AMENDED]

390:10-1-8 [NEW]

SUMMARY:

Amendments to 390:10-1-5 are necessary to remove Director's authority to allow additional challenges of the certification examination for students who are returning to Oklahoma law enforcement after a break of service in Oklahoma of more than five years. This limits each officer to two attempts to pass the examination prior to being required to attend the full peace officer academy.

New rule 390:10-1-8 requires peace officers to notify CLEET when they are arrested, charges are filed, or protective orders are filed naming them as the defendant/respondent.

AUTHORITY:

Council on Law Enforcement Education and Training; 70 O.S., § 3311.2 through 3311.13.

COMMENT PERIOD:

Persons wishing to make written or oral comments may do so by 4:00 p.m. on March 8, 2017 at CLEET, 2401 Egypt Road, Ada, Oklahoma 74820-0669, Attn: Norma Floyd, or by e-mail to norma.floyd@cleet.state.ok.us.

PUBLIC HEARING:

Public hearings will be held to provide an opportunity for persons to orally present their views. Each person will be allowed a maximum of 5 minutes to speak and must sign in at the door. The public hearing will be held at 10:00 a.m. on March 8, 2017 at CLEET, 2401 Egypt Road, Ada, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

CLEET requests that business entities affected by these proposed rule changes provide CLEET, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as labor,

reporting, professional services 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 Norma Floyd, at the above address, before the close of the comment period on March 8, 2017.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained by contacting Norma Floyd at CLEET, 2401 Egypt Road, Ada, Oklahoma 74820-0669, 405-945-9153, 405-239-5100 or from the CLEET web site at www.ok.gov/cleet.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be issued and made available on January 6, 2017 at the CLEET offices and web address listed above.

CONTACT PERSON:

Norma Floyd, Data Entry Analyst, 405-945-9153 or 405-239-5100.

[OAR Docket #17-15; filed 1-5-17]

TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING CHAPTER 15. BASIC PEACE OFFICER CERTIFICATION TRAINING

[OAR Docket #17-16]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. Basic Academy Programs

390:15-1-21 [NEW]

Subchapter 3. Collegiate Officer Program

390:15-3-8 [AMENDED]

390:15-3-9 [AMENDED]

SUMMARY:

390:15-1-21 is a new rule regarding basic academy registration fees. This fee will be charged to law enforcement agencies to cover the cost of meals provided to basic academy students.

Amendments to 390:15-3-8 reduces the number of attempts Collegiate Officer Program student can challenge the qualification examination from two to one retest.

Changes to 390:15-3-9 requires skills instructors who are not lead instructors, and are assisting in a Collegiate Officer academy to teach in a CLEET academy, or an approved academy every three years.

AUTHORITY:

Council on Law Enforcement Education and Training; 70 O.S., § 3311 through 3311.13; 20 O.S., § 1313.2.

COMMENT PERIOD:

Persons wishing to make written or oral comments may do so by 4:00 p.m. on March 8, 2017 at CLEET, 2401 Egypt Road, Ada, Oklahoma 74820-0669, Attn: Norma Floyd, or by e-mail to norma.floyd@cleet.state.ok.us.

PUBLIC HEARING:

Public hearings will be held to provide an opportunity for persons to orally present their views. Each person will be allowed a maximum of 5 minutes to speak and must sign in at the door. The public hearing will be held at 10:00 a.m. on March 8, 2017 at CLEET, 2401 Egypt Road, Ada, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

CLEET requests that business entities affected by these proposed rule changes provide CLEET, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as labor, reporting, professional services 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 Norma Floyd, at the above address, before the close of the comment period on March 8, 2017.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained by contacting Norma Floyd at CLEET, 2401 Egypt Road, Ada, Oklahoma 74820-0669, 405-945-9153, 405-239-5100, or from the CLEET web site at www.ok.gov/cleet.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be issued and made available on January 6, 2017, at the CLEET offices and web address listed above.

CONTACT PERSON:

Norma Floyd, Data Entry Analyst, 405-945-9153 or 405-239-5100.

[OAR Docket #17-16; filed 1-5-17]

**TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING
CHAPTER 20. RESERVE OFFICER CERTIFICATION AND TRAINING**

[OAR Docket #17-17]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- 390:20-1-6 [AMENDED]
- 390:20-1-16 [NEW]

SUMMARY:

Amendments to 390:20-1-16 requires reserve academy coordinators to submit a list of all skills instructors who will be utilized in an academy. The list must be submitted not less than 90 days prior to the start of, or the opening date of the reserve academy.

New rule 390:1-16 makes instructor requirements for reserve academy classes the same as requirements to teach in a Collegiate Officer program. Lead skills instructors will be required to assist CLEET, or an approved academy, every

year and assistant skills instructors must assist CLEET, or an approved academy, every three years.

AUTHORITY:

Council on Law Enforcement Education and Training; 70 O.S., § 3311 through 3311.13; 11 O.S., § 34-101; 19 O.S., § 547; 63 O.S., § 683.1 et. seq.

COMMENT PERIOD:

Persons wishing to make written or oral comments may do so by 4:00 p.m. on March 8, 2017, at CLEET, 2401 Egypt Road, Ada, Oklahoma 74820-0669, Attn: Norma Floyd, or by e-mail to norma.floyd@cleet.state.ok.us.

PUBLIC HEARING:

Public hearings will be held to provide an opportunity for persons to orally present their views. Each person will be allowed a maximum of 5 minutes to speak and must sign in at the door. The public hearing will be held at 10:00 a.m. on March 8, 2017, at CLEET, 2401 Egypt Road, Ada, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

CLEET requests that business entities affected by these proposed rule changes provide CLEET, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as labor, reporting, professional services 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 Norma Floyd, at the above address, before the close of the comment period on March 8, 2017.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained by contacting Norma Floyd at CLEET, 2401 Egypt Road, Ada, Oklahoma 74820-0669, 405-945-9153, 405-239-5100 or from the CLEET web site at www.ok.gov/cleet.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be issued and made available on January 6, 2017, at the CLEET offices and web address listed above.

CONTACT PERSON:

Norma Floyd, Data Entry Analyst, 405-945-9153 or 405-239-5100.

[OAR Docket #17-17; filed 1-5-17]

**TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING
CHAPTER 25. CONTINUING LAW ENFORCEMENT EDUCATION**

[OAR Docket #17-18]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- 390:25-1-3 [AMENDED]
- 390:25-1-8 [AMENDED]

Notices of Rulemaking Intent

390:25-1-14 [AMENDED]

SUMMARY:

Amendment to 390:25-1-3 removes "course catalog" from the tag line. CLEET no longer produces a course catalog, all classes are listed on the CLEET website.

390:25-1-8 changes the length of time outside agencies must maintain copy of rosters from two to three years to meet the length of time the course is accredited by CLEET.

390:25-1-14 adds requirement for reserve officer continuing education pursuant to SB 1202 last year. The language states reserve officers must meet requirements found in 70 O.S. Section 3311.4. There is also a statutory citation correction in the amendment.

AUTHORITY:

Council on Law Enforcement Education and Training; 70 O.S., § 3311 through 3311.13.

COMMENT PERIOD:

Persons wishing to make written or oral comments may do so by 4:00 p.m. on March 8, 2017 at CLEET, 2401 Egypt Road, Ada, Oklahoma 74820-0669, Attn: Norma Floyd, or by e-mail to norma.floyd@cleet.state.ok.us.

PUBLIC HEARING:

Public hearings will be held to provide an opportunity for persons to orally present their views. Each person will be allowed a maximum of 5 minutes to speak and must sign in at the door. The public hearing will be held at 10:00 a.m. on March 8, 2017, at CLEET, 2401 Egypt Road, Ada, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

CLEET requests that business entities affected by these proposed rule changes provide CLEET, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as labor, reporting, professional services 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 Norma Floyd, at the above address, before the close of the comment period on March 8, 2017.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained by contacting Norma Floyd at CLEET, 2401 Egypt Road, Ada, Oklahoma 74820-0669, (405) 945-9153, (405) 239-5100, or from the CLEET web site at www.ok.gov/cleet.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be issued and made available on January 6, 2017 at the CLEET offices and web address listed above.

CONTACT PERSON:

Norma Floyd, Data Entry Analyst, (405) 945-9153 or 239-5100.

[OAR Docket #17-18; filed 1-5-17]

TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING CHAPTER 35. REGULATION OF PRIVATE SECURITY INDUSTRY

[OAR Docket #17-19]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. License Requirements

390:35-5-1 [AMENDED]

390:35-5-2 [AMENDED]

390:35-5-2.1 [NEW]

390:35-5-3 [AMENDED]

390:35-5-4 [AMENDED]

390:35-5-9 [AMENDED]

390:35-5-13 [AMENDED]

Subchapter 7. Application Procedure

390:35-7-4 [AMENDED]

390:35-7-7 [AMENDED]

390:35-7-8 [NEW]

Subchapter 9. Violations and Investigations

390:35-9-4 [AMENDED]

Subchapter 11. Insurance and Bond Requirements

390:35-11-3 [AMENDED]

Subchapter 13. Use of Firearms

390:35-13-2 [AMENDED]

Subchapter 15. Training Requirements

390:35-15-8 [AMENDED]

APPENDIX C [REVOKED]

APPENDIX D [NEW]

SUMMARY:

Subchapter 5. License Requirements

390:35-5-1. States in numerous places that documents must have original signatures and changes will not be accepted over the phone, by fax or by email. The changes include adding a letter of good standing from licensees who were licensed out of state and are applying in Oklahoma.

390:35-5-2. Adds that license will not be issued if person is named as a respondent in a final victim's protective order. Also adds that license will not be issued for 5 years after final determination of deferred prosecution.

390:35-5-2.1. New heading regarding renewals and continuing education. States that renewal applications will be accepted up to 30 days after the date of expiration of the license. If renewal application is received more than 30 days after expiration date, a letter will be sent to applicant with instructions to complete a regular application. Continuing education will still be required with new application.

390:35-5-3. Limits individuals to one (1) conditional license for each 5-year period and requires an OSBI Name check prior to receiving conditional license.

390:35-5-4. Specifies that Special Event licensees are unarmed only and limits an individual to 2, 7-day licenses per year.

390:35-5-9. Includes armed private investigator as a type of individual identification card issued by CLEET.

390:35-5-13. Requires name and address changes within 10 days and stipulates that they will not be accepted by phone, fax or email.

Subchapter 7. Application Procedure

390:35-7-4. States license will not be issued if any disqualifying charges are pending in any court. Changes preclusive period for a deferred sentence from three years to five years to match statute.

390:35-7-7. Adds requirement for an upgrade application when going from an unarmed to an armed license.

390:35-7-8. is a new rule regarding individual private security applicant requirements.

Subchapter 9. Violations and Investigations

390:35-9-4. Adds arrests to legal action that must be reported to CLEET by licensed security guards and private investigators.

Subchapter 11. Insurance and Bond Requirements

390:35-11-3. Adds requirement for surety bond or insurance information to be maintained and provided to CLEET within 10 days of change.

Subchapter 13. Use of Firearms

390:35-13-2. Requires written statement from licensee after telephone report of discharge of firearm, adds required information to be included in written report.

Subchapter 15. Training Requirements

390:35-15-8. Adds failure to provide a report or summary to CLEET when requested, as a violation of licensed security guards, investigators and agencies.

Appendix C. Revoked to make revisions to Fine Schedule for Private Security.

Appendix D. New Fine Schedule for Private Security

AUTHORITY:

Council on Law Enforcement Education and Training; 59 O.S., § 1350.1 et seq.; 59 O.S., § 1750.1 though 1750.14; 70 O.S., § 3311 et seq.

COMMENT PERIOD:

Persons wishing to make written or oral comments may do so by 4:00 p.m. on March 8, 2017 at CLEET, 2401 Egypt Road, Ada, Oklahoma 74820-0669, Attn: Norma Floyd, or by e-mail to norma.floyd@cleet.state.ok.us.

PUBLIC HEARING:

Public hearings will be held to provide an opportunity for persons to orally present their views. Each person will be allowed a maximum of 5 minutes to speak and must sign in at the door. The public hearing will be held at 10:00 a.m. on March 8, 2017 at CLEET, 2401 Egypt Road, Ada, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

CLEET requests that business entities affected by these proposed rule changes provide CLEET, within the comment period, in dollar amounts if possible, the increase in the level

of direct costs such as fees, and indirect costs such as labor, reporting, professional services 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 Norma Floyd, at the above address, before the close of the comment period on March 8, 2017.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained by contacting Norma Floyd at CLEET, 2401 Egypt Road, Ada, Oklahoma 74820-0669, 405-945-9153, 405-239-5100, or from the CLEET web site at www.ok.gov/cleet.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be issued and made available on January 6, 2017 at the CLEET offices and web address listed above.

CONTACT PERSON:

Norma Floyd, Data Entry Analyst, 405-945-9153 or 405-239-5100.

[OAR Docket #17-19; filed 1-5-17]

**TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING
CHAPTER 45. RETIRED PEACE OFFICER FIREARMS PERMITS**

[OAR Docket #17-20]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- 390:45-1-3 [AMENDED]
- 390:45-1-5 [AMENDED]
- 390:45-1-6 [AMENDED]
- 390:45-1-7 [AMENDED]
- 390:45-1-7.1 [NEW]

SUMMARY:

Amendments to 390:45-1-3 removes the definition of concealed handgun and adds the definition for firearm.

390:45-1-5, 390:45-1-6 are changed to make eligibility requirements and verification letter for a retired peace officer firearms permit match the changes in Senate Bill 959 passed last session.

390:45-1-7 adds an expiration date for retired peace officer firearms permits every ten years.

390:45-1-7.1 is a new rule regarding renewals of retired peace officer firearms permits to match the statute change. Renewals will include a renewal fee (fingerprint fee) pursuant to Title 74, Section 150.9.

AUTHORITY:

Council on Law Enforcement Education and Training; 21 O.S., § 1289.8 and 1290.1 et seq.; 70 O.S., § 3311 et seq., 74 O.S. Section 150.9

Notices of Rulemaking Intent

COMMENT PERIOD:

Persons wishing to make written or oral comments may do so by 4:00 p.m. on March 8, 2017 at CLEET, 2401 Egypt Road, Ada, Oklahoma 74820-0669, Attn: Norma Floyd, or by e-mail to norma.floyd@cleet.state.ok.us.

PUBLIC HEARING:

Public hearings will be held to provide an opportunity for persons to orally present their views. Each person will be allowed a maximum of 5 minutes to speak and must sign in at the door. The public hearing will be held at 10:00 a.m. on March 8, 2017 at CLEET, 2401 Egypt Road, Ada, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

CLEET requests that business entities affected by these proposed rule changes provide CLEET, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as labor, reporting, professional services 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 Norma Floyd, at the above address, before the close of the comment period on March 8, 2017.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained by contacting Norma Floyd at CLEET, 2401 Egypt Road, Ada, Oklahoma 74820-0669, (405) 239-5100, or from the CLEET web site at www.ok.gov/cleet.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be issued and made available on January 6, 2017 at the CLEET offices and web address listed above.

CONTACT PERSON:

Norma Floyd, Data Entry Analyst, (405) 945-9153 or (405) 239-5100.

[OAR Docket #17-20; filed 1-5-17]

TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING CHAPTER 60. REGULATING BAIL ENFORCERS

[OAR Docket #17-21]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

390:60-1-5 [AMENDED]

Subchapter 7. Disciplinary Actions

390:60-7-2 [AMENDED]

Subchapter 11. Restrictions

390:60-11-2 [AMENDED]

SUMMARY:

Changes to 390:60-1-5 address reserve officers authority to assist a bail enforcer pursuant to Senate Bill 952 passed last session.

390:60-7-2 Adds Alford Plea as grounds for action against a bail enforcer pursuant to Senate Bill 952.

390:60-11-2 requires the words "Bail Enforcer" or "Bail Enforcement" to be visible on apparel pursuant to Senate Bill 952.

AUTHORITY:

Council on Law Enforcement Education and Training; 59 O.S., § 1301, 1303, 1327, 1328, 1329, 1332 and 1332.1.1; 59 O.S., §1350.1 through 1350.20; 59 O.S. §1750.1 through 1750.14; 70 O.S., § 3311 et seq.

COMMENT PERIOD:

Persons wishing to make written or oral comments may do so by 4:00 p.m. on March 8, 2017 at CLEET, 2401 Egypt Road, Ada, Oklahoma 74820-0669, Attn: Norma Floyd, or by e-mail to norma.floyd@cleet.state.ok.us.

PUBLIC HEARING:

A public hearing will be held to provide an opportunity for persons to orally present their views. Each person will be allowed a maximum of 5 minutes to speak and must sign in at the door. The public hearing will be held at 1:00 p.m. on March 8, 2017 at CLEET, 2401 Egypt Road, Ada, Oklahoma, 74820.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

CLEET requests that business entities affected by these proposed rule changes provide CLEET, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as labor, reporting, professional services 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 Norma Floyd, at the above address, before the close of the comment period on March 8, 2017.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained by contacting Norma Floyd at CLEET, 2401 Egypt Road, Ada, Oklahoma 74820-0669, 405-945-9153, 405-239-5100, or from the CLEET web site at www.ok.gov/cleet.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be issued and made available on January 6, 2017 at the CLEET offices and web address listed above.

CONTACT PERSON:

Norma Floyd, Data Entry Analyst, 405-945-9153 or 405-239-5100.

[OAR Docket #17-21; filed 1-5-17]

**TITLE 505. BOARD OF EXAMINERS IN OPTOMETRY
CHAPTER 1. ADMINISTRATIVE OPERATIONS**

[OAR Docket #17-24]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 3. Board Organization and Administration
 - 505:1-3-1. General Board purpose and method of operation [AMENDED]
 - 505:1-3-2. Powers and duties of the Board [AMENDED]
 - 505:1-3-3. Board composition and officers [AMENDED]
 - 505:1-3-4. Board meetings [AMENDED]
 - 505:1-3-5. Official Board records [AMENDED]
 - 505:1-3-7. Availability of Board rules, regulations, policy statements [AMENDED]
 - 505:1-3-8. Office of the Board is deemed to be the office of the Secretary-Treasurer [AMENDED]
- Subchapter 5. Rulemaking and Declaratory Rulings
 - 505:1-5-2. Petition for Rulemaking [AMENDED]
 - 505:1-5-3. Notice [AMENDED]
 - 505:1-5-4. Rulemaking hearing [AMENDED]
 - 505:1-5-7. Request for declaratory ruling [AMENDED]
- Subchapter 7. Individual Proceedings
 - 505:1-7-2. Filing of papers [AMENDED]
 - 505:1-7-4. Notice to parties [AMENDED]
 - 505:1-7-5. Service of notice [AMENDED]
 - 505:1-7-6. Time of hearing; request for extension [AMENDED]
 - 505:1-7-8. Record of hearing [AMENDED]
 - 505:1-7-9. Findings of fact [AMENDED]
 - 505:1-7-14. Requests for disqualification [AMENDED]
 - 505:1-7-15. Rehearing, reopening or reconsideration [AMENDED]

SUMMARY:

The purposes of the proposed revisions to Chapter 1 of Title 505 are to modernize and update the Board's rules, particularly to reflect the creation of the position of Executive Director to take over many of the functions of the Secretary Treasurer. The revisions also formalize what had become the settled practice of the Board, such as quarterly meetings, and the dates of examination of candidates for licensure. Finally, the revisions conform the rules more closely to the Administrative Procedures Act and the Open Records Act.

AUTHORITY:

Oklahoma Optometry Act; 59 O.S. §§ 583, 587.

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 5:00 p.m. on March 7, 2017 at the following address: 2008 S. Post Road, Suite 200, Midwest City, OK 73130, Attn: Mary Walker.

PUBLIC HEARING:

The Board of Examiners will hold a public hearing at 2:30 p.m. on Friday, March 9, 2017 at The Embassy Suites, 2501 Conference Drive, Norman, OK, 73069. Anyone who wishes to speak must sign in at the door by 2:00 p.m.

REQUESTS FOR COMMENT FROM BUSINESS ENTITIES:

N/A.

COPIES OF PROPOSED RULES:

Copies of the proposed rule may be obtained from the Board of Examiners in Optometry at 2008 S. Post Road, Suite 200, Midwest City, OK 73130, Attn: Mary Walker.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement has been prepared and may be obtained beginning immediately at the offices of the Board at 2008 S. Post Road, Suite 200, Midwest City 73130, Attn: Mary Walker.

CONTACT PERSON:

Mary Walker, Administrative Assistant to the Board, (405) 733-7836.

[OAR Docket #17-24; filed 1-5-17]

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

[OAR Docket #17-25]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions
 - 505:10-1-1. Purpose [AMENDED]
 - 505:10-1-2. Forms and instructions [AMENDED]
 - 505:10-1-3. Sample of official forms [REVOKED]
- Subchapter 3. Licensing Procedures
 - 505:10-3-1. Application for license [AMENDED]
 - 505:10-3-2. Examination of candidates [AMENDED]
- Subchapter 5. Regulation of Licensees
 - 505:10-5-1. Minimum standard of sanitation, hygiene and professional surroundings [AMENDED]
 - 505:10-5-6. Requirement of registering intent to dispense dangerous drugs and controlled dangerous substances [AMENDED]
 - 505:10-5-7. Practice in two locations [AMENDED]
 - 505:10-5-11. Authorized post-graduate educational work [AMENDED]
 - 505:10-5-13. Acts constituting unprofessional conduct [AMENDED]
 - 505:10-5-14. Release of contact lenses prescription [AMENDED]
- Subchapter 7. Complaints, Regulations and Renewals
 - 505:10-7-2. Complaints against licensees [AMENDED]

Notices of Rulemaking Intent

SUMMARY:

The proposed revisions to Chapter 10 of Title 505 modernize and update the Board's rules, particularly to reflect the creation of the position of Executive Director to take over many of the functions of the Secretary Treasurer. The revisions also formalize what had become the settled practice of the Board, such as quarterly meetings, and the dates of examination of candidates for licensure. The revisions also clarify and update certain administrative practices of the Board, as well as updating somewhat the equipment each optometrist must have in his or her office. The revisions also increase the fees for taking or retaking the licensure examination. Finally, the revisions conform the rules more closely to the Administrative Procedures Act and the Open Records Act.

AUTHORITY:

Oklahoma Optometry Act; 59 O.S. §§ 583, 587.

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 5:00 p.m. on March 7, 2017 at the following address: 2008 S. Post Road, Suite 200, Midwest City, OK 73130, Attn: Mary Walker.

PUBLIC HEARING:

The Board of Examiners will hold a public hearing at 2:30 p.m. on Friday, March 9, 2017 at The Embassy Suites, 2501

Conference Drive, Norman, OK, 73069. Anyone who wishes to speak must sign in at the door by 2:00 p.m.

REQUESTS FOR COMMENT FROM BUSINESS ENTITIES:

N/A.

COPIES OF PROPOSED RULES:

Copies of the proposed rule may be obtained from the Board of Examiners in Optometry at 2008 S. Post Road, Suite 200, Midwest City, OK 73130, Attn: Mary Walker.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement has been prepared and may be obtained beginning immediately at the offices of the Board at 2008 S. Post Road, Suite 200, Midwest City 73130, Attn: Mary Walker.

CONTACT PERSON:

Mary Walker, Administrative Assistant to the Board, (405) 733-7836.

[OAR Docket #17-25; filed 1-5-17]

Cancelled Hearings/Comment Periods

If an agency cancels a hearing or comment period announced in a published Notice of Rulemaking Intent, the agency must submit a notice of such cancellation to the Office of Administrative Rules (OAR). The OAR publishes the cancellation notice in the next possible issue of the *Register*.

For additional information on cancelled hearings and comment periods, see OAC 655:10-7-27.

TITLE 505. BOARD OF EXAMINERS IN OPTOMETRY CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #17-22]

RULEMAKING ACTION:

Cancelled public hearing relating to a proposed PERMANENT rulemaking action

PROPOSED RULES:

- Subchapter 3. Board Organization and Administration
 - 505:1-3-1. General Board purpose and method of operation [AMENDED]
 - 505:1-3-2. Powers and duties of the Board [AMENDED]
 - 505:1-3-3. Board composition and officers [AMENDED]
 - 505:1-3-4. Board meetings [AMENDED]
 - 505:1-3-5. Official Board Records [AMENDED]
 - 505:1-3-7. Availability of Board rules, regulations, policy statements [AMENDED]
 - 505:1-3-8. Office of the Board is deemed to be the office of the Secretary-Treasurer [AMENDED]
- Subchapter 5. Rulemaking and Declaratory Rulings
 - 505:1-5-2. Petition for rulemaking [AMENDED]
 - 505:1-5-3. Notice [AMENDED]
 - 505:1-5-4. Rulemaking hearing [AMENDED]
 - 505:1-5-7. Request for declaratory ruling [AMENDED]
- Subchapter 7. Individual Proceedings
 - 505:1-7-2. Filing of papers [AMENDED]
 - 505:1-7-4. Notice to parties [AMENDED]
 - 505:1-7-5. Service of notice [AMENDED]
 - 505:1-7-6. Time of hearing; request for extension [AMENDED]
 - 505:1-7-8. Record of hearing [AMENDED]
 - 505:1-7-9. Findings of fact [AMENDED]
 - 505:1-7-14. Requests for disqualification [AMENDED]
 - 505:1-7-15. Rehearing, reopening or reconsideration [AMENDED]

REGISTER PUBLICATION OF NOTICE:

The Notice of rulemaking Intent for this action was published at 34 OK Reg 163.

CANCELLED PUBLIC HEARING:

6:00 p.m., January 27, 2017, 1711 W. 6th Street, Stillwater, OK 74076

[OAR Docket #17-22; filed 1-5-17]

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

[OAR Docket #17-23]

RULEMAKING ACTION:

Cancelled public hearing relating to a proposed PERMANENT rulemaking action

PROPOSED RULES:

- Subchapter 1. General Provisions
 - 505:10-1-1. Purpose [AMENDED]
 - 505:10-1-2. Forms and instructions [AMENDED]
 - 505:10-1-3. Sample of official forms [REVOKED]
- Subchapter 3. Licensing Procedures
 - 505:10-3-1. Application for license [AMENDED]
 - 505:10-3-2. Examination of candidates [AMENDED]
- Subchapter 5. Regulation of Licensees
 - 505:10-5-1. Minimum standard of sanitation, hygiene and professional surroundings [AMENDED]
 - 505:10-5-6. Requirement of registering intent to dispense dangerous drugs and controlled dangerous substances [AMENDED]
 - 505:10-5-7. Practice in two locations [AMENDED]
 - 505:10-5-11. Authorized post-graduate educational work [AMENDED]
 - 505:10-5-13. Acts constituting unprofessional conduct [AMENDED]
 - 505:10-5-14. Release of contact lenses prescription [AMENDED]
- Subchapter 7. Complaints, Regulations and Renewals
 - 505:10-7-2. Complaints against licensees [AMENDED]

REGISTER PUBLICATION OF NOTICE:

The Notice of rulemaking Intent for this action was published at 34 OK Reg 164.

CANCELLED PUBLIC HEARING:

6:00 p.m., January 27, 2017, 1711 W. 6th Street, Stillwater, OK 74076

[OAR Docket #17-23; filed 1-5-17]

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 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 2. PROCEDURES OF THE STATE DEPARTMENT OF HEALTH

[OAR Docket #17-2]

RULEMAKING ACTION:

Submission to Governor and Legislature

PROPOSED RULES:

Subchapter 31. Humanity of the Unborn Child Act [NEW]

310:2-31-1. Purpose [NEW]

310:2-31-2. Definitions [NEW]

310:2-31-3. Signage [NEW]

310:2-31-4. Language and web portal requirements [NEW]

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

December 23, 2016

[OAR Docket #17-2; filed 1-4-17]

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

[OAR Docket #17-3]

RULEMAKING ACTION:

Submission to Governor and Legislature

PROPOSED RULES:

Subchapter 1. Purpose and Definitions

310:15-1-2. Definitions [AMENDED]

Subchapter 3. Physician Application and Reporting

310:15-3-1. Physician application [AMENDED]

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

December 23, 2016

[OAR Docket #17-3; filed 1-4-17]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 233. BODY PIERCING AND TATTOOING

[OAR Docket #17-4]

RULEMAKING ACTION:

Submission to Governor and Legislature

PROPOSED RULES:

Subchapter 9. License Requirements

310:233-9-2. Artist license [AMENDED]

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

December 23, 2016

[OAR Docket #17-4; filed 1-4-17]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 512. CHILDHOOD LEAD POISONING PREVENTION RULES

[OAR Docket #17-5]

RULEMAKING ACTION:

Submission to Governor and Legislature

PROPOSED RULES:

Subchapter 1. General Provisions

310:512-1-1 [AMENDED]

310:512-1-2 [AMENDED]

310:512-1-3 [AMENDED]

310:512-1-4 [AMENDED]

Subchapter 3. ~~Specimen~~Risk Assessment, Screening and
Management

310:512-3-1 [AMENDED]

310:512-3-2 [REVOKED]

310:512-3-2.1 [NEW]

310:512-3-3 [AMENDED]

310:512-3-4 [REVOKED]

310:512-3-4.1 [NEW]

310:512-3-5 [AMENDED]

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

December 23, 2016

[OAR Docket #17-5; filed 1-4-17]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 515. COMMUNICABLE DISEASE AND INJURY REPORTING

[OAR Docket #17-6]

RULEMAKING ACTION:

Submission to Governor and Legislature

PROPOSED RULES:

Subchapter 1. Disease and Injury Reporting

Submissions to Governor and Legislature

- 310:515-1-1.1. Definitions [AMENDED]
- 310:515-1-2. Diseases to be reported [AMENDED]
- 310:515-1-3. Diseases to be reported immediately [AMENDED]
- 310:515-1-4. Additional diseases, conditions, and injuries to be reported [AMENDED]
- 310:515-1-6. Additional diseases may be designated [AMENDED]
- 310:515-1-7. Control of Communicable Diseases Manual [AMENDED]
- 310:515-1-8. Organisms/specimens to be sent to the Public Health Laboratory [AMENDED]

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

December 23, 2016

[OAR Docket #17-6; filed 1-4-17]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 599. ZOO NOTIC DISEASE CONTROL

[OAR Docket #17-7]

RULEMAKING ACTION:

Submission to Governor and Legislature

PROPOSED RULES:

- Subchapter 1. General Provisions
- 310:599-1-2. Definitions [AMENDED]
- Subchapter 3. Rabies Control
- 310:599-3-1. Management of dogs, cats, or ferrets that bite a person [AMENDED]
- 310:599-3-2. Supervising veterinarian's responsibility [AMENDED]
- 310:599-3-5. Vaccinated domestic animals exposed to a rabid animal [AMENDED]
- 310:599-3-6. Unvaccinated domestic animals exposed to a rabid animal [AMENDED]
- 310:599-3-9. Administration of rabies vaccine [AMENDED]

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

December 23, 2016

[OAR Docket #17-7; filed 1-4-17]

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 the 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 2. GRIEVANCE PROCEDURES AND PROCESS

[OAR Docket #17-11]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

317:2-1-2. [AMENDED]

317:2-1-16. [NEW]

(Reference APA WF # 16-16A)

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; Section 30-101 of Title 11 of Oklahoma Statutes; Section 790.1 of Title 19 of Oklahoma Statutes; Section 176 of Title 60 of Oklahoma Statutes; Sections 1-1902 and 1-1905 of Title 63 of Oklahoma Statutes

ADOPTION:

December 8, 2016

APPROVED BY GOVERNOR:

December 29, 2016

EFFECTIVE:

Immediately upon Governor's approval

EXPIRATION:

Effective through September 14, 2017, 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 to the preservation of the public health, safety, or welfare which necessitates promulgation of this emergency rule. The rule change is critical to the financial sustainability of financially challenged urban and rural nursing facilities.

ANALYSIS:

These emergency revisions are necessary in order to establish a supplemental payment program for nursing facilities owned and as applicable operated by non-state government owned (NSGO) entities. The program will leverage federal dollars governed under federal policy. The federal dollars are in addition to the current nursing facility reimbursement. The additional funding may provide financial stability for nursing facilities. The impact to nursing home residents, as a result of the funding, will be an enhancement in the quality of care. in ownership, disbursement of payment, and appeal requirements.

CONTACT PERSON:

Tywanda Cox at (405)522-7153, Tywanda.Cox@okhca.org

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):

317:2-1-2. Appeals

(a) Member Process Overview.

(1) The appeals process allows a member to appeal a decision which adversely affects their rights. Examples are decisions involving medical services, prior authorizations for medical services, or discrimination complaints.

(2) In order to file an appeal, the member files a LD-1 form within 20 days of the triggering event. The triggering event occurs at the time when the Appellant (Appellant is the person who files a grievance) knew or should have known of such condition or circumstance for appeal.

(3) If the LD-1 form is not received within 20 days of the triggering event, OHCA sends the Appellant a letter stating the appeal will not be heard because it is untimely. In the case of tax warrant intercept appeals, if the LD-1 form is not received by OHCA within the timeframe pursuant to Title 68 O.S. § 205.2, OHCA sends the Appellant a letter stating the appeal will not be heard because it is untimely.

(4) If the LD-1 form is not completely filled out or if necessary documentation is not included, then the appeal will not be heard.

(5) The staff advises the Appellant that if there is a need for assistance in reading or completing the grievance form that arrangements will be made.

(6) Upon receipt of the member's appeal, a fair hearing before the Administrative Law Judge (ALJ) will be scheduled. The member will be notified in writing of the date and time for this procedure. The member must appear at this hearing and it is conducted according to 317:2-1-5. The ALJ's decision may be appealed to the Chief Executive Officer of the OHCA, which is a record review at which the parties do not appear (317:2-1-13).

(7) Member appeals are ordinarily decided within 90 days from the date OHCA receives the member's timely

Emergency Adoptions

request for a fair hearing unless the member waives this requirement. [Title 42 CFR 431.244(f)]

(8) Tax warrant intercept appeals will be heard directly by the ALJ. A decision is normally rendered by the ALJ within 20 days of the hearing before the ALJ.

(b) **Provider Process Overview.**

(1) The proceedings as described in this subsection contain the hearing process for those appeals filed by providers. These appeals encompass all subject matter cases contained in 317:2-1-2(c)(2).

(2) All provider appeals are initially heard by the OHCA Administrative Law Judge under 317:2-1-2(c)(2).

(A) The Appellant (Appellant is the provider who files an appeal) files an LD form requesting an appeal hearing within 20 days of the triggering event. The triggering event occurs at the time when the Appellant knew or should have known of such condition or circumstance for appeal. (LD-2 forms are for provider appeals and LD-3 forms are for nursing home wage enhancement grievances.)

(B) If the LD form is not received within 20 days of the triggering event, OHCA sends the Appellant a letter stating the appeal will not be heard because it is untimely.

(C) A decision will be rendered by the ALJ ordinarily within 45 days of the close of all evidence in the case.

(D) Unless an exception is provided in 317:2-1-13, the Administrative Law Judge's decision is appealable to OHCA's CEO under 317:2-1-13.

(c) **ALJ jurisdiction.** The Administrative Law Judge has jurisdiction of the following matters:

(1) Member Appeals:

(A) Discrimination complaints regarding the SoonerCare program;

(B) Appeals which relate to the scope of services, covered services, complaints regarding service or care, enrollment, disenrollment, and reenrollment in the SoonerCare Program;

(C) Fee for Service appeals regarding the furnishing of services, including prior authorizations;

(D) Appeals which relate to the tax warrant intercept system through the Oklahoma Health Care Authority. Tax warrant intercept appeals will be heard directly by the ALJ. A decision will be rendered by the Administrative Law Judge within 20 days of the hearing before the ALJ;

(E) Proposed administrative sanction appeals pursuant to 317:35-13-7. Proposed administrative sanction appeals will be heard directly by the ALJ. A decision by the ALJ will ordinarily be rendered within 20 days of the hearing before the ALJ. This is the final and only appeals process for proposed administrative sanctions;

(F) Appeals which relate to eligibility determinations made by OHCA;

(G) Appeals of insureds participating in Insure Oklahoma which are authorized by 317:45-9-8(a); and

(2) Provider Appeals:

(A) Whether Pre-admission Screening and Resident Review (PASRR) was completed as required by law;

(B) Denial of request to disenroll member from provider's SoonerCare Choice panel;

(C) Appeals by Long Term Care facilities for non-payment of wage enhancements, determinations of overpayment or underpayment of wage enhancements, and administrative penalty determinations as a result of findings made under 317:30-5-131.2(b)(5), (e)(8), and (e)(12);

(D) Appeals of Professional Service Contract awards and other matters related to the Central Purchasing Act pursuant to Title 74 O. S. § 85.1;

(E) Drug rebate appeals;

(F) Proposed administrative sanction appeals pursuant to 317:30-3-19. Proposed administrative sanction appeals will be heard directly by the ALJ. A decision will normally be rendered by the ALJ within 20 days of the hearing before the ALJ. This is the final and only appeals process for proposed administrative sanctions;

(G) Provider appeals of OHCA audit findings pursuant to 317:2-1-7. This is the final and only appeals process for appeals of OHCA audits; and

(H) Oklahoma Electronic Health Records Incentive program appeals related only to incentive payments, incentive payment amounts, provider eligibility determinations, and demonstration of adopting, implementing, upgrading, and meaningful use eligibility for incentives.

(I) Supplemental Hospital Offset Payment Program (SHOPP) annual assessment, Supplemental Payment, fees or penalties as specifically provided in OAC 317:2-1-15.

(J) Nursing Facility Supplemental Payment Program (NFSP) eligibility determinations, the assessed amount for each component of the Intergovernmental transfer, Upper Payment Limit payments, the Upper Payment Limit Gap, and penalties specifically provided in OAC 317:30-5-136. This is the final and only process for appeals regarding NFSP.

317:2-1-16. Nursing Facility Supplemental Payment Program appeals

In accordance with OAC 317:30-5-136, OHCA is authorized to promulgate rules for appeals of the Nursing Facility Supplemental Payment Program (NFSP). The rules in this Section describe those appeal rights.

(1) The following are appealable issues of the program: program eligibility determination, the assessed amount for each component of the Intergovernmental transfer, the Upper Payment Limit (UPL) payment, the Upper Payment Limit Gap payment, and penalties for the providers. This is the final and only process for appeals regarding NFSP. Suspensions or terminations from the program are not appealable in the administrative process.

- (2) Appeals are heard by the OHCA Administrative Law Judge (ALJ).
- (3) To file an appeal, the provider (Appellant is the provider who files an appeal) shall file an LD-2 form within twenty (20) days from the date of the OHCA letter which advises the provider of the program eligibility determination, component of intergovernmental transfer (IGT), UPL payment, UPL GAP and/or a penalty. An IGT that is not received by the date specified by OHCA, or that is not the total indicated on the NPR shall be subject to penalty and suspension from the program. Any applicable penalties must also be deducted from the UPL payment regardless of any appeal action requested by the facility. Any change in the payment amount resulting from an appeals decision in which a recoupment or additional allocation is necessary will be adjusted in the future from any Medicaid payments.
- (4) Consistent with Oklahoma rules of practice, the non-state government owned (NSGO) entity must be represented by an attorney licensed to practice within the State of Oklahoma. Attorneys not licensed to practice in Oklahoma must comply with 5 O.S. Art II, Sec. 5, and rules of the Oklahoma Bar Association.
- (5) The hearing will be conducted in an informal manner, without formal rules of evidence or procedure. However parties who fail to appear at a hearing, after notification of said hearing date, will have their cases dismissed for failure to prosecute.
- (6) The provider has the burden of proof by the preponderance of the evidence standard as defined by the Oklahoma Supreme Court.
- (7) The docket clerk will send the Appellant and any other necessary party a notice which states the hearing location, date, and time.
- (8) The ALJ may:
 - (A) Identify and rule on issues being appealed which will be determined at the administrative hearing;
 - (B) Require the parties to state their positions concerning appeal issue(s);
 - (C) Require the parties to produce for examination those relevant witnesses and documents under their control;
 - (D) Rule on whether witnesses have knowledge of the facts at issue;
 - (E) Establish time limits for the submission of motions or memoranda;
 - (F) Rule on relevant motions, requests and other procedural items, limiting all decisions to procedure matters and issues directly related to the contested determination resulting from OAC 317:30-5-136;
 - (G) Rule on whether discovery requests are relevant;
 - (H) Strike or deny witnesses, documents, exhibits, discovery requests, and other requests or motions which are cumulative, not relevant, not material, used as a means of harassment, unduly burdensome, or not timely filed;

- (I) Schedule pre-hearing conferences to settle, simplify, or identify issues in a proceeding or to consider other matters that may end the appeal;
- (J) Impose appropriate sanctions against any party failing to obey an order of the ALJ;
- (K) Rule on any requests for extension of time;
- (L) Dismiss an issue or appeal if:
 - (i) it is not timely filed or is not within the OHCA's jurisdiction or authority;
 - (ii) it is moot or there is insufficient evidence to support the allegations;
 - (iii) the appellant fails or refuses to appear for a scheduled meeting; or
 - (iv) the appellant refuses to accept a settlement offer which affords the relief the party could reasonably expect if the party prevailed in the appeal;
- (M) Set and/or limit the time frame for the hearing.
- (9) After the hearing:
 - (A) The ALJ should attempt to make the final hearing decision within ninety (90) days from the date of the hearing and send a copy of the ALJ's decision to both parties outlining their rights to appeal the decision. Any appeal of the final order pursuant to 12 O.S. §951 must be filed with the District Court of Oklahoma County within 30 days.
 - (B) It shall be the duty of the Appellant in any District Court appeal to order a written transcript of proceedings to be used on appeal. The transcript must be ordered within thirty (30) days of the filing of an appeal in the District Court and any costs associated with the preparation of the transcript shall be borne by the Appellant.
- (10) All orders and settlements are non-precedential decisions.
- (11) The hearing shall be digitally recorded and closed to the public.
- (12) The case file and any audio recordings shall remain confidential.

[OAR Docket #17-11; filed 1-5-17]

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

[OAR Docket #17-14]

RULEMAKING ACTION:
EMERGENCY adoption

RULES:
Subchapter 3. General Provider Policies
Part 1. General Scope and Administration
317:30-3-27 [AMENDED]
(Reference APA WF # 16-18)

AUTHORITY:
The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 36 O.S. Section 6801 - 6804; OK H.B. No. 2547

Emergency Adoptions

ADOPTION:

December 8, 2016

APPROVED BY GOVERNOR:

December 29, 2016

EFFECTIVE:

Immediately upon Governor's approval

EXPIRATION:

Effective through September 14, 2017, 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. The agency requests emergency approval of rule revisions to general provider policies in order to comply with Oklahoma H.B. 2547 which repealed Section 6804 of the Oklahoma Telemedicine Act.

ANALYSIS:

These emergency revisions are necessary in order to comply with Oklahoma H.B. 2547 which repealed Section 6804 of the Oklahoma Telemedicine Act. Section 6804 related to the practitioner obtaining informed consent from the patient before delivering health care via telemedicine/telehealth. Obtaining informed consent is no longer necessary for telehealth services due to the repeal of Section 6804 and due to the fact that telehealth is a mode of delivering healthcare services rather than a different form of service. The rule revisions will facilitate additional services being delivered via telehealth.

CONTACT PERSON:

Tywanda Cox at (405)522-7153, Tywanda.Cox@okhca.org

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 3. GENERAL PROVIDER POLICIES

PART 1. GENERAL SCOPE AND ADMINISTRATION

317:30-3-27. Telemedicine

(a) **Applicability and scope.** The purpose of this Section is to implement telemedicine policy that improves access to health care services, while complying with all applicable federal and state statutes and regulations. Telemedicine services are not an expansion of SoonerCare covered services but an option for the delivery of certain covered services. However, if there are technological difficulties in performing an objective thorough medical assessment or problems in the member's understanding of telemedicine, hands-on-assessment and/or in person care must be provided for the member. Any service delivered using telehealth technology must be appropriate for telemedicine delivery and be of the same quality and otherwise on par with the same service delivered in person. A telemedicine encounter must comply with the Health Information Portability and Accountability Act (HIPAA). For purposes of SoonerCare reimbursement telemedicine is the use of interactive audio, video or other electronic media for the purpose

of diagnosis, consultation or treatment that occur in real-time and when the member is actively participating during the transmission. Telemedicine does not include the use of audio only telephone, electronic mail, or facsimile transmission. Transfer of data from one site to another through the use of a camera or similar device that records (stores) an image that is sent (forwarded) via telecommunication to another site for consultation. Asynchronous or "store and forward" applications would not be considered telemedicine but may be utilized to deliver services.

(b) **Conditions.** The following conditions apply to all services rendered via telemedicine.

(1) Interactive audio and video telecommunications must be used, permitting encrypted real-time communication between the physician or practitioner and the SoonerCare member. The telecommunication service must be secure and adequate to protect the confidentiality and integrity of the telemedicine information transmitted. As a condition of payment the member must actively participate in the telemedicine visit.

(2) The telemedicine equipment and transmission speed and image must be technically sufficient to support the service billed. If a peripheral diagnostic scope is required to assess the member, it must provide adequate resolution or audio quality for decision making. Staff involved in the telemedicine visit need to be trained in the use of the telemedicine equipment and competent in its operation.

(3) The medical or behavioral health related service must be provided at an appropriate site for the delivery of telemedicine services. An appropriate telemedicine site is one that has the proper security measures in place; the appropriate administrative, physical and technical safeguards should be in place that ensure the confidentiality, integrity, and security of electronic protected health information. The location of the room for the encounter at both ends should ensure comfort, privacy, and confidentiality. Both visual and audio privacy are important, placement and selection of the rooms should consider this. Appropriate telemedicine equipment and networks must be used considering factors such as appropriate screen size, resolution, and security. Providers and/or members may provide or receive telemedicine services outside of Oklahoma when medically necessary.

(4) The provider must be contracted with SoonerCare and appropriately licensed for the service to be provided. If the provider is outside of Oklahoma, the provider must comply with all laws and regulations of the provider's location, including health care and telemedicine requirements.

~~(5) The health care practitioner must obtain written consent from the SoonerCare member that states he or she agrees to participate in the telemedicine based office visit. The consent form must include a description of the risks, benefits and consequences of telemedicine and be included in the member's medical record.~~

~~(6) If the member is a minor child, a parent/guardian must present the minor child for telemedicine services~~

unless otherwise exempted by State or Federal law. The parent/guardian need not attend the telemedicine session unless attendance is therapeutically appropriate.

(76) The member retains the right to withdraw at any time.

(87) All telemedicine activities must comply with the HIPAA Security Standards, OHCA policy, and all other applicable state and federal laws and regulations.

(98) The member has access to all transmitted medical information, with the exception of live interactive video as there is often no stored data in such encounters.

(409) There will be no dissemination of any member images or information to other entities without written consent from the member.

(c) **Reimbursement.**

(1) Services provided by telemedicine must be billed with the appropriate modifier.

(2) If the technical component of an X-ray, ultrasound or electrocardiogram is performed during a telemedicine transmission, the technical component can be billed by the provider that provided that service. The professional component of the procedure and the appropriate visit code should be billed by the provider that rendered that service.

(3) The cost of telemedicine equipment and transmission is not reimbursable by SoonerCare.

(d) **Documentation.**

(1) Documentation must be maintained by the rendering provider to substantiate the services rendered.

(2) Documentation must indicate the services were rendered via telemedicine, and the location of the services.

(3) All other SoonerCare documentation guidelines apply to the services rendered via telemedicine. Examples include but are not limited to:

- (A) Chart notes;
- (B) Start and stop times;
- (C) Service provider's credentials; and
- (D) Provider's signature.

(e) The OHCA has discretion and the final authority to approve or deny any telemedicine services based on agency and/or SoonerCare members' needs.

[OAR Docket #17-14; filed 1-5-17]

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

[OAR Docket #17-13]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 5. Individual Providers and Specialties

Part 9. Long Term Care Facilities

317:30-5-136. [NEW]

(Reference APA WF # 16-16B)

AUTHORITY:

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

Section 30-101 of Title 11 of Oklahoma Statutes; Section 790.1 of Title 19 of Oklahoma Statutes; Section 176 of Title 60 of Oklahoma Statutes; Sections 1-1902 and 1-1905 of Title 63 of Oklahoma Statutes

ADOPTION:

December 8, 2016

APPROVED BY GOVERNOR:

December 29, 2016

EFFECTIVE:

Immediately upon Governor's approval

EXPIRATION:

Effective through September 14, 2017, 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 to the preservation of the public health, safety, or welfare which necessitates promulgation of this emergency rule. The rule change is critical to the financial sustainability of financially challenged urban and rural nursing facilities.

ANALYSIS:

These emergency revisions are necessary in order to establish a supplemental payment program for nursing facilities owned and as applicable operated by non-state government owned (NSGO) entities. The program will leverage federal dollars governed under federal policy. The federal dollars are in addition to the current nursing facility reimbursement. The additional funding may provide financial stability for nursing facilities. The impact to nursing home residents, as a result of the funding, will be an enhancement in the quality of care.

CONTACT PERSON:

Tywanda Cox at (405)522-7153, Tywanda.Cox@okhca.org

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 9. LONG TERM CARE FACILITIES

317:30-5-136. Nursing Facility Supplemental Payment Program

(a) **Purpose.** The Nursing Facility Supplemental Payment Program is a supplemental payment, up to the Medicare upper payment limit, made to a non-state government owned entity that owns and as applicable has operating responsibility for a nursing facility(ies).

(b) **Definitions.** The following words and terms, when used in this Section have the following meaning, unless the context clearly indicates otherwise:

- (1) **"Funds"** means a sum of money or other resources, as outlined in 42 Code of Federal Regulations 433.51, appropriated directly to the State or local Medicaid agency, or funds that are transferred from other public agencies (including Indian tribes) to the State or local agency and under its administrative control, or funds certified by the contributing public agency as representing expenditures eligible for Federal Financial Participation (FFP).

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- (2) **"Intergovernmental transfer (IGT)"** means a transfer of state share funds from a non-state government owned entity to the Oklahoma Health Care Authority.
- (3) **"Non-state government-owned (NSGO)"** means an entity owned and as applicable operated by a unit of government other than the state and approved by OHCA as a qualified NSGO. Pursuant to federal and OHCA approval an NSGO may include public trusts pursuant to the Trust Authorities established under Oklahoma Statute Title 60.
- (4) **"Resource Utilization Groups (RUGs)"** means the system used to set Medicare per diem payments for skilled nursing facilities, as the basis to demonstrate a Medicare payment estimate for use in the upper payment limit calculation.
- (5) **"Supplemental payment calculation period"** means the calendar quarter for which supplemental payment amounts are calculated based on adjudicated claims for days of service provided in the qualifying quarter. Note, in the event there are no paid days in the quarter as a result of the time in which the claims are adjudicated, the supplemental payment will be calculated on days billed in a subsequent quarter.
- (6) **"Upper payment limit (UPL)"** refers to a reasonable estimate of the amount that would be paid for the services furnished by a facility under Medicare payment principles.
- (c) **Eligible nursing facilities.** A nursing facility that is owned and as applicable under the operational responsibility of an NSGO is eligible for participation when the following conditions are met:
- (1) the nursing facility is licensed and certified by the Oklahoma State Department of Health;
 - (2) the participating NSGO has provided proof that it holds the facility's license and has complete operational responsibility for the facility;
 - (3) the participating NSGO has filed the certification of eligibility application for the UPL program participation and received approval from OHCA for participation;
 - (4) the NSGO has signed an attestation that a plan towards the reduction and mitigation of unnecessary Return to Acute Admissions (RTA) will be implemented within six months of program participation;
 - (5) the facility is an active participant in the Focus on Excellence program; and
 - (6) the facility and NSGO comply with Care Criteria requirements.
- (d) **NSGO participation requirements.** The following conditions are required of the NSGO:
- (1) must execute a nursing facility provider contract as well as an agreement of participation with the OHCA;
 - (2) must provide and identify the state share dollars' source of the IGT;
 - (3) must pay the calculated IGT to OHCA by the required deadline;
 - (4) must provide proof of ownership, if applicable (i.e. Change of Ownership) as Licensed Operator of the nursing facility;
 - (5) must provide OHCA with an executed Management Agreement between the NSGO and the facility Manager;
 - (6) must provide proof of district authority for nursing facility participants which include proximity requirements of no greater than 150 miles of NSGO. Exceptions may be made at the sole discretion of OHCA; and
 - (7) must provide per facility, the per patient per Medicaid day (PPMD) IGT within specified timeframe of receipt of the Notice of Program Reimbursement (NPR) as indicated below:
 - (A) For the first year-\$6.50 PPMD.
 - (B) For the second year-\$7.50 PPMD.
 - (C) For the third year-\$8.50 PPMD, or the equivalent of 10% of nursing facility budget of the current fiscal year, whichever is less. This amount excludes any IGT for actual administration cost associated with the nursing home UPL supplemental program. Any remaining IGT after administration cost will be distributed through the rate setting methodology process. Distribution will occur once escrowed funds reach an amount sufficient to distribute as determined by OHCA.
- (e) **Care Criteria.** Each facility must comply with the below care criteria quality metric:
- (1) Facilities must adhere to performance measures outlined in the Focus on Excellence program. The resulting outcome is to improve the quality of care being delivered to members. A written action plan must be developed and must include the following:
 - (A) the satisfaction survey results;
 - (B) analysis of satisfaction survey with identification of areas for improvement; and
 - (C) plan of action towards identified areas of improvement.
 - (2) Facilities must develop and implement a written plan for the mitigation of unnecessary Return to Acute Admissions (RTA) within six (6) months of participation. The resulting outcome is to improve the efficiency and care avoidance cost to the overall SoonerCare program. A written plan must be developed and must include the following:
 - (A) the RTA management tool which identifies those residents at high risk for the potential return to acute;
 - (B) the RTA management tools to support effective communications;
 - (C) advance directive planning and implementation; and
 - (D) application of Quality Assurance/Program Integrity (QA/PI) methodology in review of RTAs for the root cause analysis and teaching needs.
 - (3) Facilities are required to implement a pro-active Pneumonia/Flu Vaccination program which will result in improved vaccination scores above the facility specific baseline at or above the national average, as measured using the CMS Quality Metrics. The resulting outcome is to improve efficiency and care avoidance costs to the overall

SoonerCare program. A written plan must be developed and must include the following:

(A) the latest available three quarter average of CMS measure code 411 (% of long-stay residents assessed and appropriately given the seasonal influenza vaccine) and 415 (% of long-stay residents assessed and appropriately given the pneumococcal vaccine) to establish baseline;

(B) the current measure code 411 and 415 score; and

(C) the written plan for flu and pneumonia vaccination program to address new admissions and current residents.

(4) Facilities are required to participate in the Oklahoma Healthy Aging Initiative. The resulting outcome is to improve the quality of care and health of members. Facilities must attest to elevate healthy aging in Oklahoma by implementing a plan that accomplishes at least one of the following strategies:

(A) preventing and reducing of falls;

(B) improving of nutrition;

(C) increasing physical activity; or

(D) reducing depression.

(5) Facilities are required to demonstrate improvement above the facility specific baseline in the 5-Star Quality Measures Composite scoring. Metrics will be determined based upon CMS Nursing Home Compare composite score over the trailing 12-month period. Facilities with Quality Measures star rating of three (3) or better for the most recent quarter or showing improvement in composite scoring with no two (2) quarters consistently below three (3), will be recognized as meeting the care criteria. The resulting outcome is to improve the quality of care being provided.

(A) Facilities must provide the most recent three (3) quarter average of the CMS quality measure star rating to establish baseline.

(B) Facilities are required to have a star rating of (3) or better or must demonstrate improvement over previous quarter with no two (2) quarters below three (3) stars.

(6) The care criteria measures may be evaluated at the discretion of OHCA on an annual basis after each fiscal year, following implementation of the program. However, OHCA reserves the right to conduct intermittent evaluations within any given year based on the quality, care and safety of SoonerCare members. The evaluation may be conducted by an independent evaluator. In addition, care criteria metrics may be internally evaluated after each fiscal year at the discretion of OHCA, in collaboration with an advisory committee composed of OHCA agency staff and provider representatives. The OHCA may make adjustments to the care criteria measures based on findings and recommendations as a result of the independent or internal evaluation.

(f) **Supplemental payments.**

(1) The nursing facility supplemental payments to a NSGO under this program shall not exceed Medicare payment principles pursuant to 42 CFR 447.272. Payments are made in accordance with the following criteria:

(A) The methodology utilized to calculate the upper payment limit is the RUGs.

(B) The eligible supplemental amount is the difference/gap between the SoonerCare payment and the Medicare upper payment limit as determined based on compliance with the Care Criteria metrics.

(2) The amount of the eligible supplemental payment is associated with improvement of care of SoonerCare nursing facility residents as demonstrated through the care criteria. NSGO participants receive payment under the program based on earned percentages related to the care criteria. The NSGO must meet or exceed at least two (2) of the five (5) established care criteria metrics to be eligible for UPL payment for each quarter. After at least two (2) of the five (5) metrics have been met, the NSGO is eligible for eighty-five percent (85%) of the total eligible UPL amount for participating nursing facilities. The NSGO may qualify for the remaining fifteen percent (15%) of the total UPL by attribution in five percent (5%) increments for each additional care criterion that is met resulting in the full one hundred percent (100%) of the eligible UPL amount.

(g) **Change in ownership.**

(1) A nursing facility participating in the supplemental payment program must notify the OHCA of changes in ownership (CHOW) that may affect the nursing facility's continued eligibility within thirty (30) days after such change.

(2) For a nursing facility that changes ownership on or after the first day of the SoonerCare supplemental payment limit calculation period, the data used for the calculations will include data from the facility for the entire upper payment limit calculation period relating to payments for days of service provided under the prior owner, pro-rated to reflect only the number of calendar days during the calculation period that the facility is owned by the new owner.

(h) **Disbursement of payment to facilities.** Facilities must secure allowable Intergovernmental Transfer funds (IGT) from a NSGO to fund the non-federal share amount. The method is as follows:

(1) The OHCA or its designee will notify the NSGO of the non-federal share amount to be transferred by an IGT, via a designated portal and NPR, for purposes of seeking federal financial participation (FFP) for the UPL supplemental payment, within twenty-five (25) business days after the end of the quarter. This amount will take into account the percentage of metrics achieved under the care criteria requirement. The NSGO will have five (5) business days to sign the participant agreement and make payment of the state share in the form of an IGT either in person or via mail. In addition, the NSGO will be responsible to also remit, upon receipt of the NPR, the applicable PPMD IGT in full, pursuant to (d)(7) above.

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(2) If the total transfer and PPMD IGT are received within five (5) business days, the UPL payment will then be disbursed to the NSGO by OHCA within ten (10) business days in accordance with established payment cycles. An IGT that is not received by the date specified by OHCA, or that is not the total indicated on the NPR shall be subject to penalty and suspension from the program.

(i) **Penalties/Adjustments.** Failure by an NSGO to remit the full IGT indicated on the NPR by OHCA or its designee within the defined timeframes below indicates the NSGO has voluntarily elected to withdraw participation for that current quarter and may reapply for participation in the program in subsequent quarter(s).

(1) The total IGT must be received within five (5) business days from receipt of the NPR uploaded by OHCA or its designee in the program portal.

(A) Receipt of the total IGT within five (5) business days is not subject to penalty.

(B) The date the NPR is uploaded to the portal is the official date the clock starts to measure the five (5) business days.

(2) Any IGT received after the fifth business day but with an OHCA date stamp or mailing postal mark on or prior to five (5) business days from the official date of the uploaded NPR in the portal will not be subject to penalty; however, payment will be disbursed during the next available OHCA payment cycle.

(3) Any IGT with an OHCA date stamp or mailing postal mark received with a date after five (5) business days of receipt of the NPR, but not exceeding eight (8) business days of receipt of the NPR will be deemed late and subject to a penalty in accordance with (3)(B) below.

(A) Any NSGO that remits payment of the total IGT under the above circumstances will receive payment during the next available OHCA payment cycle including an assessed penalty as described below.

(B) A five percent (5%) penalty will be assessed for total IGT payments received after five (5) business days but within eight business days of receipt of the NPR of assessed amount. The five percent (5%) penalty will be assessed on the total eligible supplemental payment for the quarter in which the IGT is late and assessed to the specific NSGO as applicable.

(C) The OHCA will notify the NSGO of the assessed penalty via invoice. If the provider fails to pay the OHCA the assessed penalty within the time frame noted on the invoice to the NSGO, the assessed penalty will be deducted from the nursing facility's Medicaid payment. The penalty must be paid regardless of any appeals action requested by the NSGO. Should an appeals decision result in a disallowance of a portion or the entire assessed penalty, reimbursement to the NSGO will be made to future nursing facility Medicaid payments.

(4) If a nursing facility fails to achieve at a minimum, two (2) of the care criteria metrics for two (2) consecutive quarters, the facility will be suspended for two (2) subsequent quarters and will not be eligible to participate in

the program during suspended quarters. A facility that has been suspended for a total of four (4) quarters within a two (2) year period due to non-compliance with the Care Criteria will be terminated from the program, and if the facility wishes to participate again, it will be required to reapply. Reentry into the program is at the sole discretion of the OHCA, taking into consideration input from the advisory committee and/or stakeholders. If the facility is readmitted to the program, terms of participation may include a probationary period with defined requirements as it relates to care.

(j) **Appeals.** Applicant and participant appeals may be filed in accordance with grievance procedures found at OAC 317:2-1-2(b) and 317:2-1-16.

[OAR Docket #17-13; filed 1-5-17]

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

[OAR Docket #17-12]

RULEMAKING ACTION:
EMERGENCY adoption

RULES:

Subchapter 5. Individual Providers and Specialties

Part 5. Pharmacies

317:30-5-72.1. [AMENDED]

317:30-5-78. [AMENDED]

317:30-5-87. [AMENDED]

Part 110. Indian Health Services, Tribal Programs, and Urban Indian Clinics (I/T/US)

317:30-5-1090. [AMENDED]

317:30-5-1098. [AMENDED]

(Reference APA WF # 16-13)

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 42 CFR 447

ADOPTION:

December 8, 2016

APPROVED BY GOVERNOR:

December 29, 2016

EFFECTIVE:

Immediately upon Governor's approval

EXPIRATION:

Effective through September 14, 2017, 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. The agency requests emergency approval of rule revisions to general provider policies in order to comply with Federal regulation CMS-2345-FC. The regulation pertains to 42 CFR §447.500 through 42 CFR §447.522.

ANALYSIS:

These emergency revisions are necessary in order to comply with regulations that update the reimbursement structure for Indian Health Services, Tribal Programs, Urban Indian Clinics (I/T/U), and non-I/T/U pharmacies. Revisions align reimbursement for covered outpatient drugs with Actual Acquisition Cost and create new pricing terms for specialty pharmaceutical

products. Revisions also modify the current dispensing fee to a professional dispensing fee. The revisions will modify the reimbursement structure for I/T/U pharmacies; these pharmacies will be reimbursed at the federal Office of Management and Budget encounter rate, and will receive one payment per member per facility per day regardless of the number of prescriptions dispensed to the member on that day. Revisions also remove limitations for smoking cessation benefits and replace references to old sections of policy with current sections of policy.

CONTACT PERSON:

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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 5. PHARMACIES

317:30-5-72.1. Drug benefit

OHCA administers and maintains an Open Formulary subject to the provisions of Title 42, United States Code (U.S.C.), Section 1396r-8. The OHCA covers a drug that has been approved by the Food and Drug Administration (FDA) and whose manufacturers have entered into a drug rebate agreement with the Centers for Medicare and Medicaid Services (CMS), subject to the following exclusions and limitations.

- (1) The following drugs, classes of drugs, or their medical uses are excluded from coverage:
 - (A) Agents used to promote fertility.
 - (B) Agents primarily used to promote hair growth.
 - (C) Agents used for cosmetic purposes.
 - (D) Agents used primarily for the treatment of anorexia or weight gain. Drugs used primarily for the treatment of obesity, such as appetite suppressants are not covered. Drugs used primarily to increase weight are not covered unless otherwise specified.
 - (E) Agents that are investigational, experimental or whose side effects make usage controversial.
 - (F) Covered outpatient drugs which the manufacturer seeks to require as a condition of sale that associated tests or monitoring services be purchased exclusively from the manufacturer or designee.
 - (G) Agents when used for the treatment of sexual or erectile dysfunction, unless such agents are used to treat a condition, other than sexual or erectile dysfunction, for which the agents have been approved by the Food and Drug Administration.
- (2) The drug categories listed in (A) through ~~(E)~~(D) of this paragraph are covered at the option of the state and are subject to restrictions and limitations. An updated list of products in each of these drug categories is included on the OHCA's public website.

(A) Agents used for the systematic relief of cough and colds. Antihistamines for allergies or antihistamine use associated with asthmatic conditions may be covered when medically necessary and prior authorized.

(B) Vitamins and Minerals. Vitamins and minerals are not covered except under the following conditions:

- (i) prenatal vitamins are covered for pregnant women up to age 50;
- (ii) fluoride preparations are covered for persons under 16 years of age or pregnant;
- (iii) vitamin D, metabolites, and analogs when used to treat end stage renal disease are covered;
- (iv) iron supplements may be covered for pregnant women if determined to be medically necessary;
- (v) vitamin preparations may be covered for children less than 21 years of age when medically necessary and furnished pursuant to EPSDT protocol; and
- (vi) some vitamins are covered for a specific diagnosis when the FDA has approved the use of that vitamin for a specific indication.

~~(C) Agents used for smoking cessation. A limited smoking cessation benefit is available.~~

~~(D)~~ Coverage of non-prescription or over the counter drugs is limited to:

- (i) Insulin, PKU formula and amino acid bars, other certain nutritional formulas and bars for children diagnosed with certain rare metabolic conditions;
- (ii) certain smoking cessation products;
- (iii) family planning products;
- (iv) OTC products may be covered if the particular product is both cost-effective and clinically appropriate; and
- (v) prescription and non-prescription products which do not meet the definition of outpatient covered drugs, but are determined to be medically necessary.

~~(E)~~ Coverage of food supplements is limited to PKU formula and amino acid bars for members diagnosed with PKU, other certain nutritional formulas and bars for children diagnosed with certain rare metabolic conditions when medically necessary and prior authorized.

(3) All covered outpatient drugs are subject to prior authorization as provided in OAC 317-30-5-77.2 and 317:30-5-77.3.

(4) All covered drugs may be excluded or coverage limited if:

- (A) the prescribed use is not for a medically accepted indication as provided under 42 U.S.C. § 1396r-8; or
- (B) the drug is subject to such restriction pursuant to the rebate agreement between the manufacturer and CMS.

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317:30-5-78. Reimbursement

(a) **Reimbursement.** Reimbursement for pharmacy claims is based on the sum of an estimate of the ingredient cost, plus a dispensing fee.

(b) **Ingredient Cost.** Ingredient cost is estimated by one of the following methods:

(1) **Maximum Allowable Cost.**

(A) The State Maximum Allowable Cost (SMAC) is established for certain products which have a Food and Drug Administration (FDA) approved generic equivalent. The SMAC will be calculated using prices from pharmaceutical wholesalers who supply these products to pharmacy providers in Oklahoma. Pharmacies may challenge a specific product's SMAC price by providing invoices that reflect a net cost higher than the calculated SMAC price and by certifying that there is not another product available to them which is generically equivalent to the higher priced product.

(B) The Federal Upper Limit (FUL) is established by CMS in accordance with applicable federal laws and regulations.

(C) Injectable drugs which are dispensed by a retail pharmacy through the Vendor Drug Program shall be priced based on a formula equivalent to the Medicare allowed charge whether they are furnished through the pharmacy program or through the medical program.

(2) **The Estimated Acquisition Cost.** The Estimated Acquisition Cost (EAC) means the agency's best estimate of the price generally and currently paid by providers for a drug marketed or sold by a particular manufacturer or labeler. EAC is typically based on a benchmark published price plus or minus a percentage. The current benchmark price is the Average Wholesale Price (AWP) as provided by the OHCA's pricing resource. EAC is calculated as AWP minus 12%. The Wholesale Acquisition Cost (WAC) means the price paid by the wholesaler for drugs purchased from the wholesaler's supplier, typically the manufacturer of the drug. Should the AWP no longer be published by the agency's pricing vendor then the agency will use WAC as the benchmark price whereas the EAC will be calculated as WAC + 5.6%.

(a) **Reimbursement.** Reimbursement for pharmacy claims is based on the sum of the ingredient cost plus a professional dispensing fee for brand and generic drugs dispensed by a retail community pharmacy or for a member residing in a long term care facility.

(b) **Ingredient cost.** Ingredient cost is determined by one of the following methods:

(1) **Maximum Allowable Cost.** The State Maximum Allowable Cost (SMAC) is established for certain products which have a Food and Drug Administration (FDA) approved generic equivalent. The SMAC will be calculated using prices from pharmaceutical wholesalers who supply these products to pharmacy providers in Oklahoma. Pharmacies may challenge a specific product's SMAC price by providing information from their

wholesaler(s) to certify a net cost higher than the calculated SMAC price and that there is not another product available to them which is generically equivalent to the higher priced product.

(2) **Actual Acquisition Cost.** The Actual Acquisition Cost (AAC) means the cost of a particular drug product to the pharmacy based on a review of invoices or the Wholesale Acquisition Cost (WAC), whichever is lower. The National Average Drug Acquisition Cost (NADAC) is based on a review of invoices and published by Centers for Medicare and Medicaid Services (CMS) and will be used in the determination of AAC.

(3) **Specialty Pharmaceutical Allowable Cost.** Reimbursement for specialty drugs not typically dispensed by a retail community pharmacy and dispensed primarily by delivery, including clotting factor for hemophilia, shall be set as a Specialty Pharmaceutical Allowable Cost (SPAC). The Medicare Part B allowed charge, defined as Average Sales Price (ASP) plus 6%, WAC, and NADAC when available, will be considered in setting the SPAC rate. For the purpose of this section, a drug may be classified as a specialty drug when it has one or more of the following characteristics:

(A) Covered by Medicare Part B;

(B) "5i drug" B Injected, infused, instilled, inhaled, or implanted;

(C) Cost greater than \$1,000.00 per claim;

(D) Licensed by the FDA under a Biological License Application;

(E) Special storage, shipping, or handling requirements;

(F) Available only through a limited distribution network; and/or

(G) Does not have a NADAC price from CMS.

(4) **Exceptions.**

(A) Physician administered drugs shall be priced based on a formula equivalent to the Medicare Part B allowed charge, defined as ASP plus 6%. If a price equivalent to the Medicare Part B allowed charge cannot be determined, a purchase invoice may be supplied by the provider and will be considered in setting the reimbursement.

(B) I/T/U pharmacies shall be reimbursed at the OMB encounter rate as a per member per facility per day fee regardless of the number of prescriptions filled on that day. I/T/U pharmacies should not split prescriptions into quantities less than a one month supply for maintenance medications. For this purpose a maintenance medication is one that the member uses consistently month to month.

(C) Pharmacies other than I/T/U facilities that acquire drugs via the Federal Supply Schedule (FSS) or at nominal price outside the 340B program or FSS shall notify OHCA and submit claims at their actual invoice price plus a professional dispensing fee.

(c) **Maximum allowable Professional dispensing fee.** The maximum allowable professional dispensing fee for prescribed

medication is established by review of surveys. A recommendation is made by the State Plan Amendment Rate Committee and presented to the Oklahoma Health Care Authority Board for their approval. There may be more than one level or type of dispensing fee if approved by the OHCA Board and CMS. A contracted pharmacy agrees to participate in any survey conducted by the OHCA with regard to dispensing fees. The pharmacy shall furnish all necessary information to determine the cost of dispensing drug products. Failure to participate may result in administrative sanctions by the OHCA which may include but are not limited to a reduction in the dispensing fee.

(d) **Reimbursement for prescription claims.** Prescription claims will be reimbursed using the lower of the following calculation methods:

~~(1) the lower of estimated acquisition cost, Federal Upper Limit (FUL), or State Maximum Allowable Cost (SMAC) plus a dispensing fee, or~~

(1) the lower of Actual Acquisition Cost (AAC), State Maximum Allowable Cost (SMAC), or Specialty Pharmaceutical Allowable Cost (SPAC) plus a professional dispensing fee, or

(2) usual and customary charge to the general public. The pharmacy is responsible to determine its usual and customary charge to the general public and submit it to OHCA on each pharmacy claim. The OHCA may conduct periodic reviews within its audit guidelines to verify the pharmacy's usual and customary charge to the general public and the pharmacy agrees to make available to the OHCA's reviewers prescription and pricing records deemed necessary by the reviewers. The OHCA defines general public as the patient group accounting for the largest number of non-SoonerCare prescriptions from the individual pharmacy, but does not include patients who purchase or receive their prescriptions through other third-party payers. If a pharmacy offers discount prices to a portion of its customers (i.e. -10% discount to senior citizens), these lower prices would be excluded from the usual and customary calculations unless the patients receiving the favorable prices represent more than 50% of the pharmacy's prescription volume. The usual and customary charge will be a single price which includes both the product price and the dispensing fee. For routine usual and customary reviews, the pharmacy may provide prescription records for non-SoonerCare customers in a manner which does not identify the customer by name so long as the customer's identity may be determined later if a subsequent audit is initiated. The OHCA will provide the pharmacy notice of its intent to conduct a review of usual and customary charges at least ten days in advance of its planned date of review.

(e) **Payment of Claims.** In order for an eligible provider to be paid for filling a prescription drug, the pharmacy must complete all of the following:

- (1) have an existing provider agreement with OHCA,
- (2) submit the claim in a format acceptable to OHCA,
- (3) have a prior authorization before filling the prescription, if a prior authorization is necessary,

(4) have a proper brand name certification for the drug, if necessary, and

(5) include the usual and customary charges to the general public as well as the ~~estimated~~ actual acquisition cost and professional dispensing fee.

(f) **Claims.** Prescription reimbursement may be made only for individuals who are eligible for coverage at the time a prescription is filled. Member eligibility information may be accessed by swiping a SoonerCare identification card through a commercial card swipe machine which is connected to the eligibility database or via the Point of Sale (POS) system when a prescription claim is submitted for payment. Persons who do not contract with commercial vendors can use the Member Eligibility Verification System (EVS) at no additional cost.

317:30-5-87. 340B Drug Discount Program

(a) The purpose of this Section is to provide special provisions for providers participating in the 340B Drug Discount program. The 340B Drug Discount program special provisions apply to a provider that has asserted it is a "covered entity" or a contract pharmacy for a covered entity under the provisions of 42 U.S.C. § 256b of the United States Code (otherwise known as the 340B Drug Discount Program).

(b) Covered Entities.

(1) The covered entity must notify OHCA in writing within 30 days of any changes in 340B participation, as well as any changes in name, address, NPI number, etc.

(2) The covered entity must maintain their status on the HRSA Medicaid exclusion file and report any changes to OHCA within 30 days.

(3) The covered entity must execute a contract addendum with OHCA in addition to their provider contract.

(4) To prevent a duplicate discount, quarterly adjustments will be made to all pharmacy or medical claims for drugs submitted by the covered entity. OHCA will adjust each claim by subtracting the ~~Unit Rebate Amount~~ 340B Ceiling Price from the amount reimbursed and multiplied multiplying the difference by the quantity submitted. All drugs shall be adjusted by the ~~URA~~ 340B Ceiling Price whether purchased through the 340B program or otherwise when billed using the registered SoonerCare NPI number on the HRSA Medicaid Exclusion File. OHCA will use the ~~Unit Rebate Amount~~ 340B Ceiling Price applicable to the quarter in which the claim is ~~submitted to OHCA for payment paid.~~

(c) Contract pharmacies for covered entities may be permitted to bill drug products purchased under the 340B Drug Discount Program to the Oklahoma Medicaid Program when certain conditions are met and an agreement is in place between OHCA, the contract pharmacy and the covered entity. These pharmacies will be subject to the recovery process stated above.

PART 110. INDIAN HEALTH SERVICES, TRIBAL PROGRAMS, AND URBAN INDIAN CLINICS (I/T/US)

Emergency Adoptions

317:30-5-1090. Provision of other health services outside of the I/T/U encounter

(a) Medically necessary SoonerCare covered services that are not included in the I/T/U outpatient encounter rate may be billed outside the encounter rate within the scope of the SoonerCare fee-for-service contract. The services will be reimbursed at the fee-for-service rate, and will be subject to any limitations, restrictions or prior authorization requirements.

Examples of these services include but are not limited to:

- ~~(1)~~ pharmaceuticals/drugs;
- ~~(2)~~ durable medical equipment;
- ~~(3)~~ glasses;
- ~~(4)~~ ambulance;
- ~~(5)~~ home health;
- ~~(6)~~ inpatient practitioner services;
- ~~(7)~~ non-emergency transportation [refer to OAC 317:35-3-2];
- ~~(8)~~ behavioral health case management [~~refer to OAC 317:30-5-240 through 317:30-5-249~~]; [refer to OAC 317:30-5-241.6];
- ~~(9)~~ psychosocial rehabilitative services [~~refer to OAC 317:30-5-240 through 317:30-5-249~~]; [refer to OAC 317:30-5-241.3]; and
- ~~(10)~~ psychiatric residential treatment facility services [~~refer to OAC 317:30-5-96.3~~]; [refer to OAC 317:30-5, Part 6, Inpatient Psychiatric Hospitals].

(b) If the I/T/U facility chooses to provide other SoonerCare State Plan covered health services which are not included in the I/T/U encounter definition, those service providers must be contracted with OHCA and bill for those services under their assigned provider number consistent with program coverage limitations and billing procedures described by the OHCA.

317:30-5-1098. I/T/U outpatient encounters

(a) I/T/U outpatient encounters that are billed to the OHCA must meet the definition in this Section and are limited to services covered by the OHCA. These services include health services included in the State Plan under Title XIX or Title XXI of the Social Security Act.

(b) The following words and terms have the following meaning unless the context clearly indicates otherwise:

(1) An I/T/U encounter means a face to face or telemedicine contact between a health care professional and an IHS eligible SoonerCare member for the provision of medically necessary Title XIX or Title XXI covered services through an IHS or Tribal 638 facility or an urban Indian clinic within a 24-hour period ending at midnight, as documented in the patient's record.

(2) An I/T/U outpatient encounter means outpatient services that may be covered when furnished to a patient by a contracted SoonerCare provider employed by the I/T/U facility and rendered at the I/T/U facility or other location, including the patient's place of residence.

(c) The following services may be considered reimbursable encounters subject to the limitations of the Oklahoma State Plan and include any related medical supplies provided during the course of the encounter:

- (1) Medical;

- (2) Diagnostic;
- (3) Behavioral Health services [refer to OAC 317:30-5-1094];
- (4) Dental, Medical and Mental Health Screenings;
- (5) Vision;
- (6) Physical Therapy;
- (7) Occupational Therapy;
- (8) Podiatry;
- (9) Speech;
- (10) Hearing;
- (11) Visiting Nurse Service [refer to OAC 317:30-5-1093];
- (12) Smoking and Tobacco Use Cessation Counseling
- (13) Other Title XIX or XXI services as allowed under OHCA's SoonerCare State Plan and OHCA Administrative Rules;
- (14) Drugs or medication treatments provided during a clinic visit are part of the encounter rate. For example, a member has come into the clinic with high blood pressure and is treated at the clinic with a hypertensive drug or drug sample. Drug samples are included in the encounter rate. ~~Prescriptions are not included in the encounter rate and must be billed through the pharmacy program by a qualified enrolled pharmacy.~~ Prescriptions are reimbursed pursuant to OAC 317:30-5-78(b)(4)(B).
- (15) Encounters with a registered professional nurse or a licensed practical nurse and related medical supplies (other than drugs and biologicals) furnished on a part-time or intermittent basis to home-bound members; and
- (16) I/T/U Multiple Outpatient Encounters.

(A) OHCA will cover one medically necessary outpatient medical encounter per member per day unless if due to an emergency, the same member returns on the same day for a second visit with a different diagnosis. Then, a second encounter is allowed.

(B) OHCA will cover one dental encounter per member per day regardless of how many procedures are done or how many providers are seen unless if due to an emergency, the same member returns on the same day for a second visit and has a different diagnosis. Then, a second encounter is allowed.

(C) OHCA will cover one behavioral health professional outpatient encounter per member per day unless if due to an emergency, the same member returns on the same day for a second visit and has a different diagnosis. Then, a second encounter is allowed.

(D) Each service must have distinctly different diagnoses in order to meet the criteria for multiple I/T/U outpatient encounters.

(d) More than one outpatient visit with a medical professional within a 24-hour period for distinctly different diagnoses may be reported as two encounters. This does not imply that if a member is seen at a single office visit with multiple problems that multiple encounters can be billed. For example, a member comes to the clinic in the morning for an immunization, and in the afternoon, the member falls and breaks an arm. This would be considered multiple medical encounters and can be billed as

two encounters. However, a member who comes to the I/T/U facility for a diabetic wellness screening and is then referred to a podiatrist within the clinic for diabetes-related follow-up on the same date of service would not be considered a distinctly different diagnosis and can only be billed as a single encounter. (e) The following services may be considered as separate or multiple encounters when two or more services are provided on the same date of service with distinctly different diagnoses:

- (1) Medical Services;
- (2) Dental Services
- (3) Mental Health and addiction services with similar diagnoses can only be billed as one encounter. In addition, if the member is also seen for a medical office visit with a mental health or addiction diagnosis, then it is considered a single encounter;
- (4) Physical or occupational therapy (PT/OT). If this service is also performed on the same date of service as the medical encounter that determined the need for PT/OT (initial referral), then it is considered a single encounter;
- (5) Administration of immunizations. If no other medical office visit occurs on the same date of services; and
- (6) Tobacco cessation limited to state plan services. If no other medical or addiction encounter occurs on the same date of service.

(f) I/T/U outpatient encounters for IHS eligible SoonerCare members whether medical, dental, or behavioral health, are not subject to prior authorization. Other State Plan covered services that the I/T/U facility chooses to provide but which are not part of the I/T/U encounter are subject to all applicable SoonerCare regulations which govern the provision and coverage for that service.

[OAR Docket #17-12; filed 1-5-17]

**TITLE 365. INSURANCE DEPARTMENT
CHAPTER 25. OTHER LICENSEES**

[OAR Docket #16-982]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

- Subchapter 7. Companies
- Part 11. Credit for Reinsurance
- 365:25-7-60. ~~Purpose~~Authority [AMENDED]
- 365:25-7-63. Credit for reinsurance – Accredited reinsurers [AMENDED]
- 365:25-7-65. Credit for reinsurance – Reinsurers maintaining trust funds [AMENDED]
- 365:25-7-66. Credit for reinsurance required by law [AMENDED]
- 365:25-7-67. ~~Reduction~~Asset or reduction from liability for reinsurance ceded to an unauthorized assuming insurer not meeting the requirements of 365:25-7-62 through 66 and 365:25-7-73 [AMENDED]
- 365:25-7-68. Trust agreements qualified under Section 365:25-7-67 [AMENDED]
- 365:25-7-70. Reinsurance contract [AMENDED]
- 365:25-7-72. Letters of credit qualified under 365:25-7-67 [AMENDED]
- 365:25-7-73. Credit for reinsurance - certified reinsurers [NEW]
- Appendix CC. Certificate of Certified Reinsurer [NEW]
- Appendix DD. Annual Reinsurance Review - Property & Casualty Insurers [NEW]
- Appendix EE. Annual Reinsurance Review - Life & Health Insurers [NEW]

Appendix FF. Small Employer Stop Loss Disclosure [NEW]

AUTHORITY:

Insurance Commissioner, 36 O.S. §§ 307.1, 5124, and 7401

ADOPTION:

October 31, 2016

APPROVED BY GOVERNOR:

December 16, 2016

EFFECTIVE:

Immediately upon Governor's approval

EXPIRATION:

Effective through September 14, 2017, unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

The rules are necessary to implement the provisions of two new pieces of legislation passed in 2016: SB 1488 and HB 2996.

ANALYSIS:

365:25-7-60 sets out the authority for the promulgation of Part 11. Section 63 is amended to allow a reinsurer to obtain accreditation if the Insurance Commissioner finds that it has adequate financial capacity to meet its reinsurance obligations. Section 65 is amended to allow a commissioner with principal regulatory oversight of a trust maintained by a reinsurer to reduce the required surplus level of the trust in certain circumstances, and sets out the manner in which a letter of credit may qualify as an asset of the trust. Section 66 is amended to update references to the appropriate portions of 36 O.S. § 5122. Section 67 is amended to update references to the appropriate portions of 36 O.S. § 5123.1. Section 68 is amended to provide that the failure of the trustee to draw against the letter of credit in circumstances where such draw would be required shall be deemed to be negligence and/or willful misconduct. Section 68 also sets out the provisions required to be included in reinsurance trust agreements. Section 70 is amended to include the correct statutory references and to clarify the required insolvency clause and intermediary clause required in reinsurance contracts. Section 72 is amended to update references. Section 73 is a new rule promulgated to set forth the requirements for reinsurers to become certified reinsurers, and specifies the criteria that will be used to determine a certified reinsurer's mandated collateral security levels. Appendix CC is a certificate that all certified reinsurers must submit to the Insurance Department. Appendix DD is an annual reinsurance review for property and casualty insurers. Appendix EE is an annual reinsurance review for life and health reinsurers. Appendix FF is a small employer stop loss disclosure.

CONTACT PERSON:

Buddy Combs, Oklahoma Insurance Department, (405) 522-4609

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 7. COMPANIES

PART 11. CREDIT FOR REINSURANCE

365:25-7-60. ~~Purpose~~Authority

~~The purpose of this part is to set forth rules and procedural requirements which the Commissioner deems necessary to carry out the provisions of the Law on Credit for Reinsurance, Section 5121 et seq. of the Insurance Code ("the Act"). The actions and information required by this part are hereby declared to be necessary and appropriate in the public interest and for the protection of the ceding insurers in this state. This~~

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part is promulgated pursuant to the authority granted by 36 O.S. § 5124.

365:25-7-63. Credit for reinsurance - Accredited reinsurers

(a) Pursuant to Section 5122(C) of the Act, the Commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer which is accredited as a reinsurer in this state as of any date on which statutory financial credit for reinsurance is claimed. An accredited reinsurer is one which:

(1) Files a properly executed Form AR-1, as set forth in Appendix P of this Chapter, as evidence of its submission to this state's jurisdiction and to this state's authority to examine its books and records;

(2) Files with the Commissioner a certified copy of a certificate of authority or other acceptable evidence that it is licensed to transact insurance or reinsurance in at least one state, or, in the case of a United States branch of an alien assuming insurer, is entered through and licensed to transact insurance or reinsurance in at least one state;

(3) Files ~~annually~~ with the Commissioner, on or before March 1 of each year, a copy of its annual statement filed with the insurance department of its state of domicile or, in the case of an alien assuming insurer, with the state through which it is entered and in which it is licensed to transact insurance or reinsurance, and a copy of its most recent audited financial statement; and

~~(A) Maintains a surplus as regards policyholders in an amount not less than \$20,000,000 and whose accreditation has not been denied by the Commissioner within ninety (90) days of its submission or~~

~~(B) Maintains a surplus as regards policyholders of less than \$20,000,000, and whose accreditation has been approved by the Commissioner.~~

(4) Maintains a surplus as regards policyholders in an amount not less than \$20,000,000, or obtains the affirmative approval of the Commissioner upon a finding that it has adequate financial capacity to meet its reinsurance obligations and is otherwise qualified to assume reinsurance from domestic insurers.

(b) If the Commissioner determines that the assuming insurer has failed to meet or maintain any of these qualifications, the Commissioner may, upon written notice and hearing, suspend or revoke the accreditation. Credit shall not be allowed a domestic ceding insurer if the assuming insurer's accreditation has been revoked by the Commissioner, or if the reinsurance was ceded while the assuming insurer's accreditation was under suspension by the Commissioner.

365:25-7-65. Credit for reinsurance - Reinsurers maintaining trust funds

(a) Pursuant to Section 5122(E) of the Act, the Commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer which, as of any date on which statutory financial statement credit for reinsurance is claimed, and thereafter for so long as credit for reinsurance is claimed,

maintains a trust fund in an amount prescribed below in a qualified United States financial institution for the payment of the valid claims of its United States domiciled ceding insurers, their assigns and successors in interest. The assuming insurer shall report annually to the Commissioner substantially the same information as that required to be reported on the NAIC annual statement form by licensed insurers, to enable the Commissioner to determine the sufficiency of the trust fund.

(b) The following requirements apply to the following categories of assuming insurer:

(1) **Trust fund for a single assuming insurer.** The trust fund for a single assuming insurer shall consist of funds in trust in an amount not less than the assuming insurer's liabilities attributable to reinsurance ceded by U.S. domiciled insurers, and in addition, the assuming insurer shall maintain a trustee surplus of not less than \$20,000,000, except as provided in paragraph (2) of this subsection.

(2) **Reduction in required trustee surplus.** At any time after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least three (3) full years, the commissioner with principal regulatory oversight of the trust may authorize a reduction in the required trustee surplus, but only after a finding, based on an assessment of the risk, that the new required surplus level is adequate for the protection of U.S. ceding insurers, policyholders and claimants in light of reasonably foreseeable adverse loss development. The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows, and shall consider all material risk factors, including when applicable the lines of business involved, the stability of the incurred loss estimates and the effect of the surplus requirements on the assuming insurer's liquidity or solvency. The minimum required trustee surplus may not be reduced to an amount less than thirty percent (30%) of the assuming insurer's liabilities attributable to reinsurance ceded by U.S. ceding insurers covered by the trust.

(23) **Trust fund for a group including incorporated and individual unincorporated underwriters.**

(A) The trust fund for a group including incorporated and individual unincorporated underwriters shall consist of:

(i) For reinsurance ceded under reinsurance agreements with an inception, amendment or renewal date on or after ~~August~~ January 1, 1995 ~~1993~~, funds in trust in an amount not less than the group's several liabilities attributable to business ceded by U.S. domiciled ceding insurers to any member of the group;

(ii) For reinsurance ceded under reinsurance agreements with an inception date on or before ~~July~~ December 31, 1995 ~~1992~~, and not amended or renewed after that date, notwithstanding the other provisions of this regulation, funds in trust in an amount not less than the group's several insurance and reinsurance liabilities attributable to business written in the United States; and

(iii) In addition to these trusts, the group shall maintain a trusteed surplus of which \$100,000,000 shall be held jointly for the benefit of the U.S. domiciled ceding insurers of any member of the group for all the years of account.

(B) The incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of regulation and solvency control by the group's domiciliary regulator as are the unincorporated members. The group shall, within ninety (90) days after its financial statements are due to be filed with the group's domiciliary regulator, provide to the Commissioner:

(i) An annual certification by the group's domiciliary regulator of the solvency of each underwriter member of the group; or

(ii) If a certification is unavailable, a financial statement, prepared by independent public accounts, of each underwriter member of the group.

(34) Trust fund for a group of incorporated insurers under common administration.

(A) The trust fund for a group of incorporated insurers under common administration, whose members possess aggregate policyholders surplus of \$10,000,000,000 (calculated and reported in substantially the same manner as prescribed by the annual statement instructions and Accounting Practices and Procedures Manual of the National Association of Insurance Commissioners) and which has continuously transacted an insurance business outside the United States for at least three (3) years immediately prior to making application for accreditation, shall:

~~(i) consist~~ Consist of funds in trust in an amount not less than the assuming insurers' several liabilities attributable to business ceded by United States domiciled ceding insurers to any members of the group pursuant to reinsurance contracts issued in the name of such group ~~and~~;

~~(ii)~~ Maintain a joint trusteed surplus of which \$100,000,000 shall be held jointly for the benefit of United States domiciled ceding insurers of any member of the group; and

~~(iii)~~ File a properly executed Form AR-1 as evidence of the submission to this state's authority to examine the books and records of any of its members and shall certify that any member examined will bear the expense of any such examination.

(B) Within ninety (90) days after the statements are due to be filed with the group's domiciliary regulator, the group shall file with the Commissioner an annual certification of each underwriter member's solvency by the members' domiciliary regulators and financial statements, prepared by independent public accountants, of each underwriter member.

(c) Credit for reinsurance shall not be granted unless the form of the trust and any amendments to the trust have been approved by either the Commissioner of the state where the

trust is domiciled or the Commissioner of another state who, pursuant to the terms of the trust instrument, has accepted responsibility for regulatory oversight of the trust. The form of the trust and any trust amendments also shall be filed with the Commissioner of every state in which the ceding insurer beneficiaries of the trust are domiciled. The trust instrument shall provide that:

(1) Contested claims shall be valid and enforceable out of funds in trust to the extent remaining unsatisfied thirty (30) days after entry of the final order of any court of competent jurisdiction in the United States.

(2) Legal title to the assets of the trust shall be vested in the trustee for the benefit of the grantor's United States ceding insurers, their assigns and successors in interest.

(3) The trust shall be subject to examination as determined by the Commissioner.

(4) The trust shall remain in effect for as long as the assuming insurer, or any member or former member of a group of insurers, shall have outstanding obligations under reinsurance agreements subject to the trust; and

(5) No later than ~~March 1~~ February 28 of each year the trustees of the trust shall report to the Commissioner in writing setting forth the balance in the trust and listing the trust's investments at the preceding year end, and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next following December 31.

(d) Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because it contains an amount less than the amount required by this ~~subsection~~ section or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the Commissioner with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the Commissioner with regulatory oversight over the trust or other designated receiver all of the assets of the trust fund.

(1) The assets shall be distributed by and claims shall be filed with and valued by the Commissioner with regulatory oversight over the trust in accordance with the laws of the state in which the trust is domiciled applicable to the liquidation of domestic insurance companies.

(2) If the Commissioner with regulatory oversight over the trust determines that the assets of the trust fund or any part thereof are not necessary to satisfy the claims of the U.S. beneficiaries of the trust, the Commissioner with regulatory oversight over the trust shall return the assets, or any part thereof, to the trustee for distribution in accordance with the trust agreement.

(3) The grantor shall waive any right otherwise available to it under U.S. law that is inconsistent with this provision.

(e) For purposes of this regulation, the term "liabilities" shall mean the assuming insurer's gross liabilities attributable to reinsurance ceded by U.S. domiciled insurers that are not otherwise secured by acceptable means, and, shall include:

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- (1) For business ceded by domestic insurers authorized to write accident and health, and property and casualty insurance:
- (A) Losses and allocated loss expenses paid by the ceding insurer, recoverable from the assuming insurer;
 - (B) Reserves for losses reported and outstanding;
 - (C) Reserves for losses incurred but not reported;
 - (D) Reserves for allocated loss expenses; and
 - (E) Unearned premiums.
- (2) For business ceded by domestic insurers authorized to write life, health and annuity insurance:
- (A) Aggregate reserves for life policies and contracts net of policy loans and net due and deferred premiums;
 - (B) Aggregate reserves for accident and health policies;
 - (C) Deposit funds and other liabilities without life or disability contingencies; and
 - (D) Liabilities for policy and contract claims.
- (f) ~~Assets deposited in the trust trusts pursuant to 36 O.S. § 5122 and this Section shall be valued according to their fair market value and shall consist only of cash in U.S. dollars, certificates of deposit issued by a U.S. financial institution as defined in Section 5122(J)(4)36 O.S. § 5123.1(A), clean, irrevocable, unconditional and "evergreen" letters of credit issued or confirmed by a qualified U.S. financial institution, as defined in 36 O.S. § 5123.1(A), and investments of the type specified in this subsection, but investments in or issued by an entity controlling, controlled by or under common control with either the grantor or beneficiary of the trust shall not exceed five percent (5%) of total investments. No more than twenty percent (20%) of the total of the investments in the trust may be foreign investments authorized under Paragraphs (1)(E), (3), (6)(B) or (7) of this subsection, and no more than ten percent (10%) of the total of the investments in the trust may be securities denominated in foreign currencies. For purposes of applying the preceding sentence, a depository receipt denominated in U.S. dollars and representing rights conferred by a foreign security shall be classified as a foreign investment denominated in a foreign currency. The assets of a trust established to satisfy the requirements of Section 5122 shall be invested only as follows:~~
- (1) Government obligations that are not in default as to principal or interest, that are valid and legally authorized and that are issued, assumed or guaranteed by:
 - (A) The United States or by any agency or instrumentality of the United States;
 - (B) A state of the United States;
 - (C) A territory, possession or other governmental unit of the United States;
 - (D) An agency or instrumentality of a governmental unit referred to in Subparagraphs (B) and (C) of this paragraph if the obligations shall be by law (statutory or otherwise) payable, as to both principal and interest, from taxes levied or by law required to be levied or from adequate special revenues pledged or otherwise appropriated or by law required to be provided for making these payments, but shall not be obligations eligible for investment under this paragraph if payable solely out of special assessments on properties benefited by local improvements; or
 - (E) The government of any other country that is a member of the Organization for Economic Cooperation and Development and whose government obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC;
 - (2) Obligations that are issued in the United States, or that are dollar denominated and issued in a non-U.S. market, by a solvent U.S. institution (other than an insurance company) or that are assumed or guaranteed by a solvent U.S. institution (other than an insurance company) and that are not in default as to principal or interest if the obligations:
 - (A) Are rated A or higher (or the equivalent) by a securities rating agency recognized by the Securities Valuation Office of the NAIC, or if not so rated, are similar in structure and other material respects to other obligations of the same institution that are so rated;
 - (B) Are insured by at least one authorized insurer (other than the investing insurer or a parent, subsidiary or affiliate of the investing insurer) licensed to insure obligations in this state and, after considering the insurance, are rated AAA (or the equivalent) by a securities rating agency recognized by the Securities Valuation Office of the NAIC; or
 - (C) Have been designated as Class One or Class Two by the Securities Valuation Office of the NAIC;
 - (3) Obligations issued, assumed or guaranteed by a solvent non-U.S. institution chartered in a country that is a member of the Organization for Economic Cooperation and Development or obligations of U.S. corporations issued in a non-U.S. currency, provided that in either case the obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC;
 - (4) An investment made pursuant to the provisions of Paragraph (1), (2) or (3) of this subsection shall be subject to the following additional limitations:
 - (A) An investment in or loan upon the obligations of an institution other than an institution that issues mortgage-related securities shall not exceed five percent (5%) of the assets of the trust;
 - (B) An investment in any one mortgage-related security shall not exceed five percent (5%) of the assets of the trust;
 - (C) The aggregate total investment in mortgage-related securities shall not exceed twenty-five percent (25%) of the assets of the trust; and
 - (D) Preferred or guaranteed shares issued or guaranteed by a solvent U.S. institution are permissible investments if all of the institution's obligations are eligible as investments under Paragraphs (2)(A) and

(2)(C) of this subsection, but shall not exceed two percent (2%) of the assets of the trust.

(5) As used in this regulation:

(A) "Mortgage-related security" means an obligation that is rated AA or higher (or the equivalent) by a securities rating agency recognized by the Securities Valuation Office of the NAIC and that either:

(i) Represents ownership of one or more promissory notes or certificates of interest or participation in the notes (including any rights designed to assure servicing of, or the receipt or timeliness of receipt by the holders of the notes, certificates, or participation of amounts payable under, the notes, certificates or participation), that:

(I) Are directly secured by a first lien on a single parcel of real estate, including stock allocated to a dwelling unit in a residential cooperative housing corporation, upon which is located a dwelling or mixed residential and commercial structure, or on a residential manufactured home as defined in 42 U.S.C.A. Section 5402(6), whether the manufactured home is considered real or personal property under the laws of the state in which it is located; and

(II) Were originated by a savings and loan association, savings bank, commercial bank, credit union, insurance company, or similar institution that is supervised and examined by a federal or state housing authority, or by a mortgagee approved by the Secretary of Housing and Urban Development pursuant to 12 U.S.C.A. Sections 1709 and 1715-b, or, where the notes involve a lien on the manufactured home, by an institution or by a financial institution approved for insurance by the Secretary of Housing and Urban Development pursuant to 12 U.S.C.A. Section 1703; or

(ii) Is secured by one or more promissory notes or certificates of deposit or participations in the notes (with or without recourse to the insurer of the notes) and, by its terms, provides for payments of principal in relation to payments, or reasonable projections of payments, or notes meeting the requirements of Items (i)(I) and (i)(II) of this subsection.

(B) "Promissory note," when used in connection with a manufactured home, shall also include a loan, advance or credit sale as evidenced by a retail installment sales contract or other instrument.

(6) Equity interests.

(A) Investments in common shares or partnership interests of a solvent U.S. institution are permissible if:

(i) Its obligations and preferred shares, if any, are eligible as investments under this subsection; and

(ii) The equity interests of the institution (except an insurance company) are registered on a

national securities exchange as provided in the Securities Exchange Act of 1934, 15 U.S.C. §§ 78a to 78kk or otherwise registered pursuant to that Act, and if otherwise registered, price quotations for them are furnished through a nationwide automated quotations system approved by the National Association of Securities Dealers, Inc. A trust shall not invest in equity interests under this paragraph an amount exceeding one percent (1%) of the assets of the trust even though the equity interests are not so registered and are not issued by an insurance company;

(B) Investments in common shares of a solvent institution organized under the laws of a country that is a member of the Organization for Economic Cooperation and Development, if:

(i) All its obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC; and

(ii) The equity interests of the institution are registered on a securities exchange regulated by the government of a country that is a member of the Organization for Economic Cooperation and Development;

(C) An investment in or loan upon any one institution's outstanding equity interests shall not exceed one percent (1%) of the assets of the trust. The cost of an investment in equity interests made pursuant to this paragraph, when added to the aggregate cost of other investments in equity interests then held pursuant to this paragraph, shall not exceed ten percent (10%) of the assets in the trust;

(7) Obligations issued, assumed or guaranteed by a multinational development bank, provided the obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC;

(8) Investment companies.

(A) Securities of an investment company registered pursuant to the Investment Company Act of 1940, 15 U.S.C. § 802, are permissible investments if the investment company:

(i) Invests at least ninety percent (90%) of its assets in the types of securities that qualify as an investment under Paragraph (1), (2) or (3) of this subsection or invests in securities that are determined by the Commissioner to be substantively similar to the types of securities set forth in Paragraph (1), (2) or (3) of this subsection; or

(ii) Invests at least ninety percent (90%) of its assets in the types of equity interests that qualify as an investment under Paragraph (6)(A) of this subsection;

(B) Investments made by a trust in investment companies under this paragraph shall not exceed the following limitations:

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(i) An investment in an investment company qualifying under Subparagraph (A)(i) of this paragraph shall not exceed ten percent (10%) of the assets in the trust and the aggregate amount of investment in qualifying investment companies shall not exceed twenty-five percent (25%) of the assets in the trust; and

(ii) Investments in an investment company qualifying under Subparagraph (A)(ii) of this paragraph shall not exceed five percent (5%) of the assets in the trust and the aggregate amount of investment in qualifying investment companies shall be included when calculating the permissible aggregate value of equity interests pursuant to Paragraph (6)(A) of this subsection;

(9) Letters of Credit.

(A) In order for a letter of credit to qualify as an asset of the trust, the trustee shall have the right and the obligation pursuant to the deed of trust or some other binding agreement (as duly approved by the Commissioner), to immediately draw down the full amount of the letter of credit and hold the proceeds in trust for the beneficiaries of the trust if the letter of credit will otherwise expire without being renewed or replaced.

(B) The trust agreement shall provide that the trustee shall be liable for its negligence, willful misconduct or lack of good faith. The failure of the trustee to draw against the letter of credit in circumstances where such draw would be required shall be deemed to be negligence and/or willful misconduct.

(g) A specific security provided to a ceding insurer by an assuming insurer pursuant to 365:25-7-67 shall be applied, until exhausted, to the payment of liabilities of the assuming insurer to the ceding insurer holding the specific security prior to, and as a condition precedent for, presentation of a claim by the ceding insurer for payment by a trustee of a trust established by the assuming insurer pursuant to this section.

365:25-7-66. Credit for reinsurance required by law

Pursuant to Section ~~5122(F)~~5122(G) of the Act, the Commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of Section 5122(B), (C), (D), ~~or (E)~~, or (F) but only as to the insurance of risks located in jurisdictions where the reinsurance is required by the applicable law or regulation of that jurisdiction. As used in this section, "jurisdiction" means state, district or territory of the United States and any lawful national government.

365:25-7-67. Reduction of asset or reduction from liability for reinsurance ceded to an unauthorized assuming insurer not meeting the requirements of 365:25-7-62 through 66 and 365:25-7-73

(a) Pursuant to Section 5123, the Commissioner shall allow a reduction from liability for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of

Section 5122 in an amount not exceeding the liabilities carried by the ceding insurer. The reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the exclusive benefit of the ceding insurer, under a reinsurance contract with such assuming insurer as security for the payment of obligations under the reinsurance contract. The security shall be held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer or, in the case of a trust, held in a qualified United States financial institution. This security may be in the form of any of the following:

- (1) Cash;
- (2) Securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners and qualifying as admitted assets;
- (3) Clean, irrevocable, unconditional and "ever-green" letters of credit issued or confirmed by a qualified United States institution, as defined in Section ~~5122(J)(1)~~5123.1(A), effective no later than December 31 of the year for which filing is being made, and in the possession of, or in trust for, the ceding company on or before the filing date of its annual statement. Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance (or confirmation) shall, notwithstanding the issuing (or confirming) institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification or amendment, whichever first occurs; or
- (4) Any other form of security acceptable to the Commissioner.

(b) An admitted asset or a reduction from liability for reinsurance ceded to an unauthorized assuming insurer pursuant to 365:25-7-67(a)(1) and (2) shall be allowed only when the requirements of 365:25-7-68, 365:25-7-69 or 365:25-7-72 are met.

365:25-7-68. Trust agreements qualified under Section 365:25-7-67

(a) **Definitions.** As used in this section:

- (1) "Beneficiary" means the entity for whose sole benefit the trust has been established and any successor of the beneficiary by operation of law. If a court of law appoints a successor in interest to the named beneficiary, then the named beneficiary includes and is limited to the court appointed domiciliary receiver (including conservator, rehabilitator or liquidator).
- (2) "Grantor" means the entity that has established a trust for the sole benefit of the beneficiary. When established in conjunction with a reinsurance agreement, the grantor is the unlicensed, unaccredited assuming insurer.
- (3) "Obligations," as used in paragraph (b)(11) of this section, means:

- (A) Reinsured losses and allocated loss expenses paid by the ceding company, but not recovered from the assuming insurer;
- (B) Reserves for reinsured losses reported and outstanding;

- (C) Reserves for reinsured losses incurred but not reported; and
 - (D) Reserves for allocated reinsured loss expenses and unearned premiums.
- (b) **Required conditions.**
- (1) The trust agreement shall be entered into between the beneficiary, the grantor and a trustee which shall be a qualified United States financial institution.
 - (2) The trust agreement shall create a trust account into which assets shall be deposited.
 - (3) All assets in the trust account shall be held by the trustee at the trustee's office in the United States.
 - (4) The trust agreement shall provide that:
 - (A) The beneficiary shall have the right to withdraw assets from the trust account at any time, without notice to the grantor, subject only to written notice from the beneficiary to the trustee;
 - (B) No other statement or document is required to be presented in order to withdraw assets, except that the beneficiary may be required to acknowledge receipt of withdrawn assets;
 - (C) It is not subject to any conditions or qualifications outside of the trust agreement; and
 - (D) It shall not contain references to any other agreements or documents except as provided for under paragraph (b)(11) or (b)(12) of this section.
 - (5) The trust agreement shall be established for the sole benefit of the beneficiary.
 - (6) The trust agreement shall require the trustee to:
 - (A) Receive assets and hold all assets in a safe place;
 - (B) Determine that all assets are in such form that the beneficiary, or the trustee upon direction by the beneficiary, may whenever necessary negotiate any such assets, without consent or signature from the grantor or any other person or entity;
 - (C) Furnish to the grantor and the beneficiary a statement of all assets in the trust account upon its inception and at intervals no less frequent than the end of each calendar quarter;
 - (D) Notify the grantor and the beneficiary within ten (10) days, of any deposits to or withdrawals from the trust account;
 - (E) Upon written demand of the beneficiary, immediately take any and all steps necessary to transfer absolutely and unequivocally all right, title and interest in the assets held in the trust account to the beneficiary and deliver physical custody of the assets to the beneficiary; and
 - (F) Allow no substitutions or withdrawals of assets from the trust account, except on written instructions from the beneficiary, except that the trustee may, without the consent of but with notice to the beneficiary, upon call or maturity of any trust asset, withdraw such asset upon condition that the proceeds are paid into the trust account.
 - (7) The trust agreement shall provide that at least thirty
 - (30) days, but not more than forty-five (45) days, prior to

termination of the trust account, written notification of termination shall be delivered by the trustee to the beneficiary.

(8) The trust agreement shall be made subject to and governed by the laws of the state in which the trust is domiciled.

(9) The trust agreement shall prohibit invasion of the trust corpus for the purpose of paying compensation to, or reimbursing the expenses of, the trustee.

(10) The trust agreement shall provide that the trustee shall be liable for its own negligence, willful misconduct or lack of good faith. The failure of the trustee to draw against the letter of credit in circumstances where such draw would be required shall be deemed to be negligence and/or willful misconduct.

(11) Notwithstanding other provisions of this part, when a trust agreement is established in conjunction with a reinsurance agreement covering risks other than life, annuities and accident and health, where it is customary practice to provide a trust agreement for a specific purpose, the trust agreement may provide that the ceding insurer shall undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer, only for the following purposes:

(A) To pay or reimburse the ceding insurer for the assuming insurer's share under the specific reinsurance agreement regarding any losses and allocated loss expenses paid by the ceding insurer, but not recovered from the assuming insurer, or for unearned premiums due to the ceding insurer if not otherwise paid by the assuming insurer;

(B) To make payment to the assuming insurer of any amounts held in the trust account that exceed 102 percent of the actual amount required to fund the assuming insurer's obligations under the specific reinsurance agreement; or

(C) Where the ceding insurer has received notification of termination of the trust account and where the assuming insurer's entire obligations under the specific reinsurance agreement remain unliquidated and undischarged ten (10) days prior to the termination date, to withdraw amounts equal to the obligations and deposit those amounts in a separate account, in the name of the ceding insurer in any qualified United States financial institution apart from its general assets, in trust for such uses and purposes specified in subparagraphs (b)(11)(A) and (B) of this section as may remain executory after such withdrawal and for any period after the termination date.

(12) Notwithstanding other provisions of this regulation, when a trust agreement is established to meet the requirements of Section 365:25-7-67 in conjunction with a reinsurance agreement covering life, annuities or accident and health risks, where it is customary to provide a trust agreement for a specific purpose, the trust agreement may provide that the ceding insurer shall undertake to use and apply amounts drawn upon the trust account, without

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diminution because of the insolvency of the ceding insurer or the assuming insurer, only for the following purposes:

(A) To pay or reimburse the ceding insurer for:

(i) The assuming insurer's share under the specific reinsurance agreement of premiums returned, but not yet recovered from the assuming insurer, to the owners of policies reinsured under the reinsurance agreement on account of cancellations of the policies, and

(ii) The assuming insurer's share under the specific reinsurance agreement of surrenders and benefits or losses paid by the ceding insurer, but not yet recovered from the assuming insurer, under the terms and provisions of the policies reinsured under the reinsurance agreement;

(B) To pay to the assuming insurer amounts held in the trust account in excess of the amount necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer; or

(C) Where the ceding insurer has received notification of termination of the trust and where the assuming insurer's entire obligations under the specific reinsurance agreement remain unliquidated and undischarged ten (10) days prior to the termination date, to withdraw amounts equal to the assuming insurer's share of liabilities, to the extent that the liabilities have not yet been funded by the assuming insurer, and deposit those amounts in a separate account, in the name of the ceding insurer in any qualified U.S. financial institution apart from its general assets, in trust for the uses and purposes specified in Subparagraphs (A) and (B) of this paragraph as may remain executory after withdrawal and for any period after the termination date.

(13) The reinsurance agreement may, but need not, contain the provisions required by subparagraph (d)(1)(B) of this section, so long as these required conditions are included in the trust agreement. Either the reinsurance agreement or the trust agreement must stipulate that assets deposited in the trust account shall be valued according to their current fair market value and shall consist only of cash in United States dollars, certificates of deposit issued by a United States bank and payable in United States dollars, and investments permitted by Title 36 of the Oklahoma Statutes or any combination of the above, provided investments in or issued by an entity controlling, controlled by or under common control with either the grantor or the beneficiary of the trust shall not exceed five percent (5%) of total investments. The agreement may further specify the types of investments to be deposited. If the reinsurance agreement covers life, annuities or accident and health risks, then the provisions required by this paragraph must be included in the reinsurance agreement.

(14) ~~Notwithstanding any other provisions in the trust instrument, if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an~~

~~order of the Commissioner with regulatory oversight over the trust or court of competent jurisdiction directing the trustee to transfer to the Commissioner with regulatory oversight or other designated receiver all of the assets of the trust fund. The assets shall be applied in accordance with the priority statutes and laws of the state in which the trust is domiciled applicable to the assets of insurance companies in liquidation. If the commissioner with regulatory oversight determines that the assets of the trust fund or any part of the assets are not necessary to satisfy claims of the U.S. beneficiaries of the trust, the assets or any part of the assets shall be returned to the trustee for distribution in accordance with the trust agreement.~~

(c) **Permitted conditions.**

(1) The trust agreement may provide that the trustee may resign upon delivery of a written notice of resignation, effective not less than ninety (90) days after the beneficiary and grantor receive the notice and that the trustee may be removed by the grantor by delivery to the trustee and the beneficiary of a written notice of removal, effective not less than ninety (90) days after the trustee and the beneficiary receive the notice, provided that no such resignation or removal shall be effective until a successor trustee has been duly appointed and approved by the beneficiary and the grantor and all assets in the trust have been duly transferred to the new trustee.

(2) The grantor may have the full and unqualified right to vote any shares of stock in the trust account and to receive from time to time payments of any dividends or interest upon any shares of stock or obligations included in the trust account. Any such interest or dividends shall be either forwarded promptly upon receipt to the grantor or deposited in a separate account established in the grantor's name.

(3) The trustee may be given authority to invest, and accept substitutions of, any funds in the account, provided that no investment or substitution shall be made without prior approval of the beneficiary, unless the trust agreement specifies categories of investments acceptable to the beneficiary and authorizes the trustee to invest funds and to accept substitutions which the trustee determines are at least equal in market value to the assets withdrawn and that are consistent with the restrictions in subparagraph (d)(1)(B) of this section.

(4) The trust agreement may provide that the beneficiary may at any time designate a party to which all or part of the trust assets are to be transferred. Such transfer may be conditioned upon the trustee receiving, prior to or simultaneously, other specified assets.

(5) The trust agreement may provide that, upon termination of the trust account, all assets not previously withdrawn by the beneficiary shall, with written approval by the beneficiary, be delivered over to the grantor.

(d) **Additional conditions applicable to reinsurance agreements.**

(1) A reinsurance agreement may contain provisions that:

(A) Require the assuming insurer to enter into a trust agreement and to establish a trust account for the benefit of the ceding insurer, and specifying what the agreement is to cover;

~~(B) Stipulate that assets deposited in the trust account shall be valued according to their current fair market value and shall consist only of cash (United States legal tender), certificates of deposit (issued by a United States bank and payable in United States legal tender), and investments of the types permitted by the Insurance Code or any combination of the above, provided investments in or issued by an entity controlling, controlled by or under common control with either the grantor or the beneficiary of the trust shall not exceed five percent (5%) of total investments. The reinsurance agreement may further specify the types of investments to be deposited. Where a trust agreement is entered into in conjunction with a reinsurance agreement covering risks other than life, annuities and accident and health, then the trust agreement may contain the provisions required by this paragraph in lieu of including such provisions in the reinsurance agreement;~~

~~(C)~~ Require the assuming insurer, prior to depositing assets with the trustee, to execute assignments or endorsements in blank, or to transfer legal title to the trustee of all shares, obligations or any other assets requiring assignments, in order that the ceding insurer, or the trustee upon the direction of the ceding insurer, may whenever necessary negotiate these assets without consent or signature from the assuming insurer or any other entity;

~~(D)~~ Require that all settlements of account between the ceding insurer and the assuming insurer be made in cash or its equivalent; and

~~(E)~~ Stipulate that the assuming insurer and the ceding insurer agree that the assets in the trust account, established pursuant to the provisions of the reinsurance agreement, may be withdrawn by the ceding insurer at any time, notwithstanding any other provisions in the reinsurance agreement, and shall be utilized and applied by the ceding insurer or its successors in interest by operation of law, including without limitation any liquidator, rehabilitator, receiver or conservator of such company, without diminution because of insolvency on the part of the ceding insurer or the assuming insurer, only for the following purposes:

- (i) To pay or reimburse the ceding insurer for:
 - (I) The assuming insurer's share under specific reinsurance agreement of premiums returned, but not yet recovered from the assuming insurer, to the owners of policies reinsured under the reinsurance agreement because of cancellations of such policies;
 - (II) The assuming insurer's share of surrenders and benefits or losses paid by the ceding

insurer pursuant to the provisions of the policies reinsured under the reinsurance agreement; and
 (III) Any other amounts necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer.

(ii) To make payment to the assuming insurer of amounts held in the trust account in excess of the amount necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer.

(2) The reinsurance agreement may also contain provisions that:

(A) Give the assuming insurer the right to seek approval from the ceding insurer, which shall not be unreasonably or arbitrarily withheld, to withdraw from the trust account all or any part of the trust assets and transfer those assets to the assuming insurer, provided ~~the ceding insurer shall not unreasonably or arbitrarily withhold its approval and:~~

- (i) The assuming insurer shall, at the time of withdrawal, replace the withdrawn assets with other qualified assets having a market value equal to the market value of the assets withdrawn so as to maintain at all times the deposit in the required amount, or
- (ii) After withdrawal and transfer, the market value of the trust account is no less than 102 percent of the required amount.

(B) Provide for:

- ~~(i) The return of any amount withdrawn in excess of the actual amounts required for (d)(1)(E)(i), (ii) and (iii)(d)(1)(D) of this section, or in the case of (d)(1)(E)(iv) of this section, any amounts that are subsequently determined not to be due; and~~
- ~~(ii) Interest for interest payments; at a rate not in excess of the prime rate of interest, on the such amounts held pursuant to (d)(1)(E)(iii) of this section.~~

(C) Permit the award by any arbitration panel or court of competent jurisdiction of:

- (i) Interest at a rate different from that provided in (d)(2)(B)(ii) of this section,
- (ii) Court of arbitration costs,
- (iii) Attorney's fees, and
- (iv) Any other reasonable expenses.

(3) **Financial reporting.** A trust agreement may be used to reduce any liability for reinsurance ceded to an unauthorized assuming insurer in financial statements required to be filed with this department in compliance with the provisions of this part when established on or before the date of filing of the financial statement of the ceding insurer. Further, the reduction for the existence of an acceptable trust account may be up to the current fair market value of acceptable assets available to be withdrawn from the trust account at that time, but such reduction shall be no greater than the specific obligations under the reinsurance agreement that the trust account was established to secure.

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(4) **Existing agreements.** Notwithstanding the effective date of this part, any trust agreement or underlying reinsurance agreement in existence prior to the effective date of this rule will continue to be acceptable until at which time the agreements will have to fully comply with this part for the trust agreement to be acceptable.

(5) **Trust agreement beneficiary.** The failure of any trust agreement to specifically identify the beneficiary as defined in (a) of this section shall not be construed to affect any actions or rights which the Commissioner may take or possess pursuant to the provisions of the laws of this state.

365:25-7-70. Reinsurance contract

Credit will not be granted, nor an asset or reduction from liability allowed, to a ceding insurer for reinsurance effected with assuming insurers meeting the requirements of 365:25-7-62, 365:25-7-63, 365:25-7-64, 365:25-7-65, ~~or 365:25-7-67 or 365:25-7-73~~ or otherwise in compliance with Section 5122 of the Act after the adoption of this part unless the reinsurance agreement:

(1) Includes a proper insolvency clause, which states that reinsurance is payable directly to the liquidator or successor without diminution regardless of the status of the ceding company, pursuant to Section 711 of the Insurance Code; and

(2) Includes a provision pursuant to Section ~~5122(G)~~ 5122(H) of the Act whereby the assuming insurer, if an unauthorized assuming insurer, has submitted to the jurisdiction of an alternative dispute resolution panel or court of competent jurisdiction within the United States, has agreed to comply with all requirements necessary to give such court or panel jurisdiction, has designated an agent upon whom service of process may be effected, and has agreed to abide by the final decision of such court or panel; and

(3) Includes a proper reinsurance intermediary clause, if applicable, which stipulates that the credit risk for the intermediary is carried by the assuming insurer.

365:25-7-72. Letters of credit qualified under 365:25-7-67

(a) The letter of credit must be clean, irrevocable, unconditional and issued or confirmed by a qualified United States institution as defined in Section ~~5122(J)(2)~~ 5123.1(A) of the Act. The letter of credit shall contain an issue date and expiration date and shall stipulate that the beneficiary need only draw a sight draft under the letter of credit and present it to obtain funds and that no other document need be presented. The letter of credit also shall indicate that it is not subject to any condition or qualifications outside of the letter of credit. In addition, the letter of credit itself shall not contain reference to any other agreements, documents or entities, except as provided in ~~Subsection (i)(1) of this rule~~ Section (i)(1) of this rule. As used in this ~~rule~~ section, "beneficiary" means the domestic insurer for whose benefit the letter of credit has been established and any successor of the beneficiary by operation of law. ~~If delinquency proceedings have been filed, then the beneficiary shall be deemed to be the~~

~~Insurance Commissioner as Receiver or Conservator.~~ If a court of law appoints a successor in interest to the named beneficiary, then the named beneficiary includes and is limited to the court appointed domiciliary receiver (including conservator, rehabilitator or liquidator).

(b) The heading of the letter of credit may include a boxed section containing the name of the applicant and other appropriate notations to provide a reference for the letter of credit. The boxed section shall be clearly marked to indicate that such information is for internal identification purposes only.

(c) The letter of credit shall contain a statement to the effect that the obligation of the qualified United States financial institution under the letter of credit is in no way contingent upon reimbursement with respect thereto.

(d) The term of the letter of credit shall be for at least one year and shall contain an "evergreen clause" that prevents the expiration of the letter of credit without due notice from the issuer. The "evergreen clause" shall provide for a period of no less than thirty (30) days' notice prior to expiration date or nonrenewal.

(e) The letter of credit shall state whether it is subject to and governed by the laws of this state or the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce (~~Publication 500~~) Publication 600 (UCP 600) or International Standby Practices of the International Chamber of Commerce Publication 590 (ISP98), or any successor publication, and all drafts drawn thereunder shall be presentable at an office in the United States of a qualified United States financial institution.

(f) If the letter of credit is made subject to the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce (~~Publication 500~~) Publication 600 (UCP 600) or International Standby Practices of the International Chamber of Commerce Publication 590 (ISP98), or any successor publication, then the letter of credit shall specifically address and provide for an extension of time to draw against the letter of credit in the event that one or more of the occurrences specified in Article 47 ~~of Publication 500~~ 36 of Publication 600, or any other successor publication, occur.

(g) ~~The letter of credit shall be issued or confirmed by a qualified United States financial institution authorized to issue letters of credit, pursuant to Section 5122(J)(2) of the Act.~~

~~(h)~~ If the letter of credit shall be issued or confirmed by a qualified United States financial institution authorized to issue letters of credit, other than a qualified United States financial institution as described in ~~Subsection (g)~~ (a) of this section, then the following additional requirements shall be met:

(1) The issuing ~~qualified United States~~ financial institution shall formally designate the confirming qualified United States financial institution as its agent for the receipt and payment of the drafts; and

(2) The "evergreen clause" shall provide for thirty (30) days' notice prior to expiration date for nonrenewal.

~~(h)~~ **Reinsurance agreement provisions.**

(1) The reinsurance agreement in conjunction with which the letter of credit is obtained may contain provisions that:

(A) Require the assuming insurer to provide letters of credit to the ceding insurer and specify what they are to cover;

(B) Stipulate that the assuming insurer and ceding insurer agree that the letter of credit provided by the assuming insurer pursuant to the provisions of the reinsurance agreement may be drawn upon at any time, notwithstanding any other provisions in the agreement, and shall be utilized by the ceding insurer or its successors in interest only for one or more of the following reasons:

- (i) To pay or reimburse the ceding insurer for:
 - (I) The assuming insurer's share under the specific reinsurance agreement of premiums returned, but not yet recovered from the assuming insurers, to the owners of policies reinsured under the reinsurance agreement on account of cancellations of such policies;
 - (II) The assuming insurer's share, under the specific reinsurance agreement, of surrenders and benefits or losses paid by the ceding insurer, but not yet recovered from the assuming insurers, under the terms and provisions of the policies reinsured under the reinsurance agreement; and
 - (III) Any other amounts necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer;

(ii) Where the letter of credit will expire without renewal or be reduced or replaced by a letter of credit for a reduced amount and where the assuming insurer's entire obligations under the specific reinsurance remain unliquidated and undischarged ten (10) days prior to the termination date, to withdraw amounts equal to the assuming insurer's share of the liabilities, to the extent that the liabilities have not yet been funded by the assuming insurer and exceed the amount of any reduced or replacement letter of credit, and deposit those amounts in a separate account in the name of the ceding insurer in a qualified U.S. financial institution apart from its general assets, in trust for such uses and purposes specified in ~~Subsection (i)(1)(B)(i)(h)(1)(B)(i)~~ of this ~~rule~~ section as may remain after withdrawal and for any period after the termination date.

(C) All of the provisions of ~~Paragraph (1) of Subsection (i)(h)(1) of this section~~ shall be applied without diminution because of insolvency on the part of the ceding insurer or assuming insurer.

(2) Nothing contained in ~~Paragraph (1) of Subsection (i)(h)(1) of this section~~ shall preclude the ceding insurer and assuming insurer from providing for:

(A) An interest payment, at a rate not in excess of the prime rate of interest, on the amounts held pursuant to ~~Paragraph (1)(B)(h)(1)(B) of this regulation~~ section; or

(B) The return of any amounts drawn down on the letters of credit in excess of the actual amounts required for the above or any amounts that are subsequently determined not to be due.

365:25-7-73. Credit for reinsurance - certified reinsurers

(a) Pursuant to 36 O.S. § 5122(F), the Commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that has been certified as a reinsurer in this state at all times for which statutory financial statement credit for reinsurance is claimed under this section. The credit allowed shall be based upon the security held by or on behalf of the ceding insurer in accordance with a rating assigned to the certified reinsurer by the Commissioner. The security shall be in a form consistent with the provisions of Sections 5122(F) and 5123 of the Act and 365:25-7-68, 365:25-7-69 or 365:25-7-72. The amount of security required in order for full credit to be allowed shall correspond with the following requirements:

(1) Assuming insurer ratings and security requirements.

- (A) Secure - 1: 0% security required
- (B) Secure - 2: 10% security required
- (C) Secure - 3: 20% security required
- (D) Secure - 4: 50% security required
- (E) Secure - 5: 75% security required
- (F) Vulnerable - 6: 100% security required

(2) Affiliated reinsurance transactions shall receive the same opportunity for reduced security requirements as all other reinsurance transactions.

(3) The Commissioner shall require the certified reinsurer to post one hundred percent (100%), for the benefit of the ceding insurer or its estate, security upon the entry of an order of rehabilitation, liquidation or conservation against the ceding insurer.

(4) In order to facilitate the prompt payment of claims, a certified reinsurer shall not be required to post security for catastrophe recoverables for a period of one year from the date of the first instance of a liability reserve entry by the ceding company as a result of a loss from a catastrophic occurrence as recognized by the Commissioner. The one year deferral period is contingent upon the certified reinsurer continuing to pay claims in a timely manner. Reinsurance recoverables for only the following lines of business as reported on the NAIC annual financial statement related specifically to the catastrophic occurrence will be included in the deferral:

- (A) Line 1: Fire
- (B) Line 2: Allied Lines
- (C) Line 3: Farmowners multiple peril
- (D) Line 4: Homeowners multiple peril
- (E) Line 5: Commercial multiple peril
- (F) Line 9: Inland Marine
- (G) Line 12: Earthquake
- (H) Line 21: Auto physical damage

(5) Credit for reinsurance under this section shall apply only to reinsurance contracts entered into or renewed on or

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after the effective date of the certification of the assuming insurer. Any reinsurance contract entered into prior to the effective date of the certification of the assuming insurer that is subsequently amended after the effective date of the certification of the assuming insurer, or a new reinsurance contract, covering any risk for which collateral was provided previously, shall only be subject to this section with respect to losses incurred and reserves reported from and after the effective date of the amendment or new contract.

(6) Nothing in this section shall prohibit the parties to a reinsurance agreement from agreeing to provisions establishing security requirements that exceed the minimum security requirements established for certified reinsurers under this section.

(b) The procedure for certification of a reinsurer shall be as follows:

(1) The Commissioner shall post notice on the Oklahoma Insurance Department's website promptly upon receipt of any application for certification, including instructions on how members of the public may respond to the application. The Commissioner may not take final action on the application until at least thirty (30) days after posting the notice required by this paragraph.

(2) The Commissioner shall issue written notice to an assuming insurer that has made application and been approved as a certified reinsurer. Included in such notice shall be the rating assigned the certified reinsurer in accordance with (a) of this section. The Commissioner shall publish a list of all certified reinsurers and their ratings.

(3) In order to be eligible for certification, the assuming insurer shall meet the following requirements:

(A) The assuming insurer must be domiciled and licensed to transact insurance or reinsurance in a Qualified Jurisdiction, as determined by the Commissioner pursuant to (c) of this section.

(B) The assuming insurer must maintain capital and surplus, or its equivalent, of no less than \$250,000,000 calculated in accordance with (b)(4)(H) of this section. This requirement may also be satisfied by an association including incorporated and individual unincorporated underwriters having minimum capital and surplus equivalents (net of liabilities) of at least \$250,000,000 and a central fund containing a balance of at least \$250,000,000.

(C) The assuming insurer must maintain financial strength ratings from two or more rating agencies deemed acceptable by the Commissioner. These ratings shall be based on interactive communication between the rating agency and the assuming insurer and shall not be based solely on publicly available information. These financial strength ratings will be one factor used by the Commissioner in determining the rating that is assigned to the assuming insurer. Acceptable rating agencies include the following:

- (i) Standard & Poor's;
- (ii) Moody's Investors Service;
- (iii) Fitch Ratings;
- (iv) A.M. Best Company; or

(v) Any other nationally recognized statistical rating organization.

(D) The certified reinsurer must comply with any other requirements reasonably imposed by the Commissioner.

(4) Each certified reinsurer shall be rated on a legal entity basis, with due consideration being given to the group rating where appropriate, except that an association including incorporated and individual unincorporated underwriters that has been approved to do business as a single certified reinsurer may be evaluated on the basis of its group rating. Factors that may be considered as part of the evaluation process include, but are not limited to, the following:

(A) The certified reinsurer's financial strength rating from an acceptable rating agency. The Commissioner shall use the lowest financial strength rating received from an approved rating agency in establishing the maximum rating of a certified reinsurer. A failure to obtain or maintain at least two financial strength ratings from acceptable rating agencies will result in loss of eligibility for certification. The maximum rating that a certified reinsurer may be assigned will correspond to its financial strength rating as follows:

(i) Secure - 1 rating:

- (I) A.M. Best Company = A++
- (II) Standard & Poor's = AAA
- (III) Moody's Investor Service = Aaa
- (IV) Fitch Ratings = AAA

(ii) Secure - 2 rating:

- (I) A.M. Best Company = A+
- (II) Standard & Poor's = AA+, AA, or AA-
- (III) Moody's Investor Service = Aa1, Aa2, or Aa3
- (IV) Fitch Ratings = AA+, AA, or AA-

(iii) Secure - 3 rating:

- (I) A.M. Best Company = A
- (II) Standard & Poor's = A+ or A
- (III) Moody's Investor Service = A1 or A2
- (IV) Fitch Ratings = A+ or A

(iv) Secure - 4 rating:

- (I) A.M. Best Company = A-
- (II) Standard & Poor's = A-
- (III) Moody's Investor Service = A3
- (IV) Fitch Ratings = A-

(v) Secure - 5 rating:

- (I) A.M. Best Company = B++ or B+
- (II) Standard & Poor's = BBB+, BBB, or BBB-
- (III) Moody's Investor Service = Baa1, Baa2, or Baa3
- (IV) Fitch Ratings = BBB+, BBB, or BBB-

(vi) Vulnerable - 6 rating:

- (I) A.M. Best Company = B, B-, C++, C+, C, C-, D, E, or F
- (II) Standard & Poor's = BB+, BB, BB-, B+, B, B-, CCC, CC, C, D, or R

- (III) Moody's Investor Service = Ba1, Ba2, Ba3, B1, B2, B3, Caa, Ca, or C
- (IV) Fitch Ratings = BB+, BB, BB-, B+, B, B-, CCC+, CC, CCC-, or DD.
- (B) The business practices of the certified reinsurer in dealing with its ceding insurers, including its record of compliance with reinsurance contractual terms and obligations;
- (C) For certified reinsurers domiciled in the U.S., a review of the most recent applicable NAIC Annual Statement Blank, either Schedule F (for property/casualty reinsurers) or Schedule S (for life and health reinsurers);
- (D) For certified reinsurers not domiciled in the U.S., a review annually of Form CR-F (for property and casualty reinsurers; attached to this Chapter as Appendix DD) or Form CR-S (for life and health reinsurers; attached to this Chapter as Appendix EE);
- (E) The reputation of the certified reinsurer for prompt payment of claims under reinsurance agreements, based on an analysis of ceding insurer's Schedule F reporting of overdue reinsurance recoverables, including the proportion of obligations that are more than ninety (90) days past due or are in dispute, with specific attention given to obligations payable to companies that are in administrative supervision or receivership;
- (F) Regulatory actions against the certified reinsurer;
- (G) The report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in (b)(4)(H) of this section;
- (H) For certified reinsurers not domiciled in the U.S., audited financial statements (audited U.S. GAAP basis if available; audited IFRS basis statements are allowed but must include an audited footnote reconciling equity and net income to a U.S. GAAP basis, or, with the permission of the Commissioner, audited IFRS statements with reconciliation to U.S. GAAP certified by an officer of the company), regulatory filings, and actuarial opinion (as filed with the non-U.S. jurisdiction supervisor). Upon the initial application for certification, the Commissioner shall consider audited financial statements for the last three (3) years filed with its non-U.S. jurisdiction supervisor;
- (I) The liquidation priority of obligations to a ceding insurer in the certified reinsurer's domiciliary jurisdiction in the context of an insolvency proceeding;
- (J) A certified reinsurer's participation in any solvent scheme of arrangement, or similar procedure, which involves U.S. ceding insurers. The Commissioner shall receive prior notice from a certified reinsurer that proposes participation by the certified reinsurer in a solvent scheme of arrangement; and
- (K) Any other information deemed relevant by the Commissioner.
- (5) Based on the analysis conducted under (b)(4)(E) of this section of a certified reinsurer's reputation for prompt payment of claims, the Commissioner may make appropriate adjustments in the security the certified reinsurer is required to post to protect its liabilities to U.S. ceding insurers, provided that the Commissioner shall, at a minimum, increase the security the certified reinsurer is required to post by one rating level under (b)(4)(A) of this section if the Commissioner finds that:
- (A) more than fifteen percent (15%) of the certified reinsurer's ceding insurance clients have overdue reinsurance recoverables on paid losses of ninety (90) days or more which are not in dispute and which exceed \$100,000 for each cedent; or
- (B) the aggregate amount of reinsurance recoverables on paid losses which are not in dispute that are overdue by ninety (90) days or more exceeds \$50,000,000.
- (6) The assuming insurer must submit a properly executed Form CR-1 (attached to this Chapter as Appendix CC) as evidence of its submission to the jurisdiction of this state, appointment of the Commissioner as an agent for service of process in this state, and agree to provide security for one hundred percent (100%) of the assuming insurer's liabilities attributable to reinsurance ceded by U.S. ceding insurers if it resists enforcement of a final U.S. judgment. The Commissioner shall not certify any assuming insurer that is domiciled in a jurisdiction that the Commissioner has determined does not adequately and promptly enforce final U.S. judgments or arbitration awards.
- (7) The certified reinsurer must agree to meet applicable information filing requirements as determined by the Commissioner, both with respect to an initial application for certification and on an ongoing basis. All information submitted by certified reinsurers which are not otherwise public information subject to disclosure shall be exempted from disclosure under the Oklahoma Open Records Act and shall be withheld from public disclosure. The applicable information filing requirements are as follows:
- (A) Notification within ten (10) days of any regulatory actions taken against the certified reinsurer, any change in the provisions of its domiciliary license, or any change in rating by an approved rating agency, including a statement describing such changes and the reasons therefore;
- (B) Annually, Form CR-F (attached to this Chapter as Appendix DD) or CR-S (attached to this Chapter as Appendix EE), as applicable;
- (C) Annually, the report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in (b)(7)(D) of this section;
- (D) Annually, audited financial statements (audited U.S. GAAP basis if available; audited IFRS basis statements are allowed but must include an audited footnote reconciling equity and net income to a U.S. GAAP basis, or, with the permission of the state

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insurance Commissioner, audited IFRS statements with reconciliation to U.S. GAAP certified by an officer of the company), regulatory filings, and actuarial opinion (as filed with the certified reinsurer's supervisor). Upon the initial certification, audited financial statements for the last three (3) years filed with the certified reinsurer's supervisor;

(E) At least annually, an updated list of all disputed and overdue reinsurance claims regarding reinsurance assumed from U.S. domestic ceding insurers;

(F) A certification from the certified reinsurer's domestic regulator that the certified reinsurer is in good standing and maintains capital in excess of the jurisdiction's highest regulatory action level; and

(G) Any other information that the Commissioner may reasonably require.

(8) If a certified reinsurer has a change in rating, the procedure shall be as follows:

(A) In the case of a downgrade by a rating agency or other disqualifying circumstance, the Commissioner shall upon written notice assign a new rating to the certified reinsurer in accordance with the requirements of (b)(4)(A) of this section.

(B) The Commissioner shall have the authority to suspend, revoke, or otherwise modify a certified reinsurer's certification at any time if the certified reinsurer fails to meet its obligations or security requirements under this section, or if other financial or operating results of the certified reinsurer, or documented significant delays in payment by the certified reinsurer, lead the Commissioner to reconsider the certified reinsurer's ability or willingness to meet its contractual obligations.

(C) If the rating of a certified reinsurer is upgraded by the Commissioner, the certified reinsurer may meet the security requirements applicable to its new rating on a prospective basis, but the Commissioner shall require the certified reinsurer to post security under the previously applicable security requirements as to all contracts in force on or before the effective date of the upgraded rating. If the rating of a certified reinsurer is downgraded by the Commissioner, the Commissioner shall require the certified reinsurer to meet the security requirements applicable to its new rating for all business it has assumed as a certified reinsurer.

(D) Upon revocation of the certification of a certified reinsurer by the Commissioner, the assuming insurer shall be required to post security in accordance with 365:25-7-67 in order for the ceding insurer to continue to take credit for reinsurance ceded to the assuming insurer. If funds continue to be held in trust in accordance with 365:25-7-65, the Commissioner may allow additional credit equal to the ceding insurer's *pro rata* share of such funds, discounted to reflect the risk of uncollectibility and anticipated expenses of trust administration. Notwithstanding the change of a certified reinsurer's rating or revocation

of its certification, a domestic insurer that has ceded reinsurance to that certified reinsurer may not be denied credit for reinsurance for a period of three (3) months for all reinsurance ceded to that certified reinsurer, unless the reinsurance is found by the Commissioner to be at high risk of uncollectibility.

(c) The procedure for determining if a jurisdiction is a qualified jurisdiction shall be as follows:

(1) If, upon conducting an evaluation under this section with respect to the reinsurance supervisory system of any non-U.S. assuming insurer, the Commissioner determines that the jurisdiction qualifies to be recognized as a qualified jurisdiction, the Commissioner shall publish notice and evidence of such recognition in an appropriate manner. The Commissioner may establish a procedure to withdraw recognition of those jurisdictions that are no longer qualified.

(2) In order to determine whether the domiciliary jurisdiction of a non-U.S. assuming insurer is eligible to be recognized as a qualified jurisdiction, the Commissioner shall evaluate the reinsurance supervisory system of the non-U.S. jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits and the extent of reciprocal recognition afforded by the non-U.S. jurisdiction to reinsurers licensed and domiciled in the U.S. The Commissioner shall determine the appropriate approach for evaluating the qualifications of such jurisdictions, and create and publish a list of jurisdictions whose reinsurers may be approved by the Commissioner as eligible for certification. A qualified jurisdiction shall agree to share information and cooperate with the Commissioner with respect to all certified reinsurers domiciled within that jurisdiction. Additional factors to be considered in determining whether to recognize a qualified jurisdiction, in the discretion of the Commissioner, include but are not limited to the following:

(A) The framework under which the assuming insurer is regulated.

(B) The structure and authority of the domiciliary regulator with regard to solvency regulation requirements and financial surveillance.

(C) The substance of financial and operating standards for assuming insurers in the domiciliary jurisdiction.

(D) The form and substance of financial reports required to be filed or made publicly available by reinsurers in the domiciliary jurisdiction and the accounting principles used.

(E) The domiciliary regulator's willingness to cooperate with U.S. regulators in general and the Commissioner in particular.

(F) The history of performance by assuming insurers in the domiciliary jurisdiction.

(G) Any documented evidence of substantial problems with the enforcement of final U.S. judgments in the domiciliary jurisdiction. A jurisdiction will not be considered to be a qualified jurisdiction if the Commissioner has determined that it does not adequately

and promptly enforce final U.S. judgments or arbitration awards.

(H) Any relevant international standards or guidance with respect to mutual recognition of reinsurance supervision adopted by the International Association of Insurance Supervisors or a successor organization.

(I) Any other matters deemed relevant by the Commissioner.

(3) The Commissioner shall consider the list of qualified jurisdictions published through the NAIC Committee Process in determining qualified jurisdictions. If the Commissioner approves a jurisdiction as qualified that does not appear on the list of qualified jurisdictions, the Commissioner shall provide thoroughly documented justification with respect to the criteria provided under (c)(2)(A) through (I) of this section.

(4) U.S. jurisdictions that meet the requirements for accreditation under the NAIC financial standards and accreditation program shall be recognized as qualified jurisdictions.

(d) The Commissioner may recognize a reinsurer's certification in another NAIC accredited jurisdiction according to the following:

(1) If an applicant for certification has been certified as a reinsurer in an NAIC accredited jurisdiction, the Commissioner has the discretion to defer to that jurisdiction's certification, and to defer to the rating assigned by that jurisdiction, if the assuming insurer submits a properly executed Form CR-1 and such additional information as

the Commissioner requires. The assuming insurer shall be considered to be a certified reinsurer in this State.

(2) Any change in the certified reinsurer's status or rating in the other jurisdiction shall apply automatically in this State as of the date it takes effect in the other jurisdiction. The certified reinsurer shall notify the Commissioner of any change in its status or rating within 10 days after receiving notice of the change.

(3) The Commissioner may withdraw recognition of the other jurisdiction's rating at any time and assign a new rating in accordance with (b)(8) of this section.

(4) The Commissioner may withdraw recognition of the other jurisdiction's certification at any time, with written notice to the certified reinsurer. Unless the Commissioner suspends or revokes the certified reinsurer's certification in accordance with (b)(8) of this section, the certified reinsurer's certification shall remain in good standing in this State for a period of three (3) months, which shall be extended if additional time is necessary to consider the assuming insurer's application for certification in this State.

(e) In addition to the clauses required under 365:25-7-70, reinsurance contracts entered into or renewed under this section shall include a proper funding clause, which requires the certified reinsurer to provide and maintain security in an amount sufficient to avoid the imposition of any financial statement penalty on the ceding insurer under this section for reinsurance ceded to the certified reinsurer.

(f) The Commissioner shall comply with all reporting and notification requirements that may be established by the NAIC with respect to certified reinsurers and qualified jurisdictions.

APPENDIX CC. CERTIFICATE OF CERTIFIED REINSURER [NEW]

FORM CR-1

CERTIFICATE OF CERTIFIED REINSURER

I, _____, _____
(name of officer) (title of officer)

of _____, the assuming insurer
(name of assuming insurer)
under a reinsurance agreement with one or more insurers domiciled in

_____, in order to be considered for approval in this state, hereby certify that
(name of state)

_____, (“Assuming Insurer”):
(name of assuming insurer)

1. Submits to the jurisdiction of any court of competent jurisdiction in _____
(ceding insurer’s state of domicile)
for the adjudication of any issues arising out of the reinsurance agreement, agrees to comply with all requirements necessary to give such court jurisdiction, and will abide by the final decision of such court or any appellate court in the event of an appeal. Nothing in this paragraph constitutes or should be understood to constitute a waiver of Assuming Insurer’s rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. This paragraph is not intended to conflict with or override the obligation of the parties to the reinsurance agreement to arbitrate their disputes if such an obligation is created in the agreement.

2. Designates the Insurance Commissioner of _____
(ceding insurer’s state of domicile)
as its lawful attorney upon whom may be served any lawful process in any action, suit or proceeding arising out of the reinsurance agreement instituted by or on behalf of the ceding insurer.

3. Agrees to provide security in an amount equal to 100% of liabilities attributable to U.S. ceding insurers if it resists enforcement of a final U.S. judgment or properly enforceable arbitration award.

4. Agrees to provide notification within 10 days of any regulatory actions taken against it, any change in the provisions of its domiciliary license or any change in its rating by an approved rating agency, including a statement describing such changes and the reasons therefore.

5. Agrees to annually file information comparable to relevant provisions of the NAIC financial statement for use by insurance markets in accordance with 365:25-7-73.
6. Agrees to annually file the report of the independent auditor on the financial statements of the insurance enterprise.
7. Agrees to annually file audited financial statements, regulatory filings, and actuarial opinion in accordance with 365:25-7-73.
8. Agrees to annually file an updated list of all disputed and overdue reinsurance claims regarding reinsurance assumed from U.S. domestic ceding insurers.
9. Is in good standing as an insurer or reinsurer with the supervisor of its domiciliary jurisdiction.

Dated: _____
_____ (name of assuming insurer)

BY: _____
_____ (name of officer)

(title of officer)

Form CR-F – PART 2
 Ceded Reinsurance as of December 31, Current Year (000 Omitted)

1 Company Code or ID Number	2	3 Name of Reinsurer	4 Domicility Jurisdiction	5 Reinsurance Contracts Ceding 75% or More of Direct Premiums Written	6 Reinsurance Premiums Ceded	7 Paid Losses	8 Paid LAE	9 Known Case Loss Reserves	10 Known Case LAE Reserves	11 IBNR Loss Reserves	12 IBNR LAE Reserves	13 Unearned Premiums	14 Contingent Commissions	15 Cols 7 through 14 Total	16 Reinsurance Payable		18 Net Amount Recoverable From Reinsurers Cols 15 - [16 + 17]	19 Funds Held by Company Under Reinsurance Treaties	
															16 Ceded Balances Payable	17 Other Amounts Due to Reinsurers			
999999	Total																		

APPENDIX FF. SMALL EMPLOYER STOP LOSS DISCLOSURE [NEW]

Date Prepared: _____

Insurer Name: _____

Plan Sponsor/Employer: _____

Policy ID/#: _____

Policyholder: _____

Plan Name: _____

Policy Effective Date: _____

Policy Expiration Date: _____

Plan expenses are eligible if incurred from _____ to _____

Plan expenses are eligible if paid from _____ to _____

Individual Attachment Point for Specific Coverage: _____

This Policy [does] [does not] (circle one) have different Individual Attachment Point(s) for certain individuals or conditions.

If it does, describe:

Aggregate Attachment Point: _____

Producer: _____

Important Policyholder/Plan Sponsor Information:

You have purchased a policy that provides reimbursement to you for losses of your self-funded health Plan identified above, subject to the terms and conditions of your Policy.

Your Policy is not a policy that pays for the direct medical expenses incurred by your employees or the beneficiaries of your Plan. Your Policy is NOT A GROUP OR INDIVIDUAL medical insurance policy offering health insurance benefits. You are responsible for payment of your employees' claims covered by your self-funded health Plan.

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The insurer issuing this Policy is not responsible for the payment of the benefits provided by your Plan. The insurer is only responsible for reimbursing you for covered claims which you have paid as provided by the Policy.

Self-funding an employer medical benefit plan may subject you to financial obligations and regulatory requirements that are not present when you purchase a group health insurance policy. YOU SHOULD CONSULT WITH A QUALIFIED ACTUARY, PRODUCER, CONSULTANT, OR ATTORNEY REGARDING YOUR OBLIGATIONS AS A SELF-FUNDED PLAN SPONSOR, and YOUR SELECTION OF STOP LOSS POLICY TERMS.

This disclosure is provided as required by Section 7401 of Title 36 of the Oklahoma Statutes, and is for your information only. In the event of a conflict between this disclosure and your Policy, the terms and conditions of your Policy will apply.

[OAR Docket #16-982; filed 12-29-16]

Executive Orders

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

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

TITLE 1. EXECUTIVE ORDERS

1:2017-1.

EXECUTIVE ORDER 2017-01

I, Mary Fallin, Governor of the State of Oklahoma, pursuant to the power vested in me by Section 2 of Article VI of the Oklahoma Constitution hereby declare the following:

1. Winter storms, snow, freezing rain, ice, severe storms, tornadoes, straight line winds and flooding beginning January 13, 2017, and continuing, may cause extensive damage to public and private properties within the State of Oklahoma; and said damages may cause an undue hardship on the residents of this state.
2. It may be necessary to provide for the rendering of mutual assistance among the State and political subdivisions of the State with respect to carrying out disaster emergency functions during the continuance of the State emergency pursuant to the provisions of the Oklahoma Emergency Management Act of 2003.
3. There is hereby declared a disaster emergency caused by the flooding, severe storms, tornadoes, and straight-line winds in the State of Oklahoma that threatens the lives and property of the people of this State and the public's peace, health, and safety. The counties included in this declaration are:

All 77 Oklahoma Counties

4. The State Emergency Operations Plan has been activated, and resources of all State departments and agencies available to meet this emergency are hereby committed to the reasonable extent necessary to protect lives and to prevent, minimize, and repair injury and damage. These efforts shall be coordinated by the Director of the Department of Emergency Management with comparable functions of the federal government and political subdivisions of the State.
5. State agencies, in responding to this disaster emergency, may make necessary emergency acquisitions to fulfill the purposes of this proclamation without regard to limitations or bidding requirements on such acquisitions.
6. This Executive Order shall terminate at the end of thirty (30) days.

Copies of this Executive Order shall be distributed to the Director of Emergency Management who shall cause the

provisions of this Order to be implemented by all appropriate agencies of State government.

IN WITNESS WHEREOF, I have set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, this 12th day of January 2017.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Mary Fallin

ATTEST:
Mike Hunter
Secretary of State

[OAR Docket #17-40; filed 1-12-17]

1:2017-2.

EXECUTIVE ORDER 2017-2

I, Mary Fallin, Governor of the State of Oklahoma, pursuant to the power vested in me by Sections 1 and 2 of Article VI of the Oklahoma Constitution and 63 O.S. §§ 683.1 *et seq.*, and pursuant to 49 C.F.R. Part 390.23, hereby declare that there is a State of Emergency continuing in the State of Oklahoma. Due to catastrophic weather occurring statewide, it is necessary to assist and expedite all efforts of storm relief. In order to accommodate this need and to provide assistance to the citizens of the State of Oklahoma in this extraordinary situation, I hereby order the temporary suspension of the following as they apply to vehicles in the support efforts:

1. The requirements for size and weights permits of oversized vehicles under Title 47 of the Oklahoma Statutes whose sole purpose is transportation of materials and supplies used for storm relief;
2. The requirements under Parts 390 through 399 pursuant to part 390.23 of Title 49 of the Federal Motor Carrier Safety Administration Regulations;
3. The requirements for licensing/operating authority as required by the Oklahoma Corporation Commission; and
4. The requirements for licensing/registration authority as required by the Oklahoma Tax Commission.

Executive Orders

Due to the on-going State of Emergency, resulting from the winter storms, snow, freezing rain, ice, severe storms, tornadoes, straight line winds and flooding forecast to begin January 13, 2017 and continuing, this Executive Order shall be effective until the end of thirty (30) days after the filing of this Order.

Declaration of this emergency provides relief from Sections 390 through 399 of the Federal Motor Carrier Safety regulations for those interstate and intrastate carriers who are providing direct assistance for the immediate restoration of essential services (such as electrical, sewer, water, and telecommunications) or essential supplies (such as feed, food and fuel). It does not include transportation related to long-term rehabilitation of damaged physical infrastructure or routine commercial deliveries after the initial threat to life and property has passed. Direct assistance terminates when a driver or commercial motor vehicle is used in interstate or intrastate commerce to transport cargo not destined for the emergency relief effort, or when a motor carrier dispatches such driver or vehicle to a location outside the relief area.

Nothing contained in this declaration shall be construed as an exemption from the Controlled Substance and Alcohol Use and Testing requirements (49 C.F.R. Part 382), the Commercial Driver License requirements (49 C.F.R.

Part 383), the Financial Responsibility requirements (49 C.F.R. Part 387), or any other portion of the regulations not specifically identified herein. Motor carriers that have an Out-Of-Service Order in effect cannot take advantage of the relief from regulation that this declaration provides.

This Executive Order shall be forwarded to the Oklahoma Corporation Commission, the Oklahoma Tax Commission, and the Commissioner of Public Safety, who shall cause the provisions of this Order to be implemented by all appropriate agencies of State government.

IN WITNESS WHEREOF, I have set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 12th day of January 2017.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Mary Fallin

ATTEST:
Mike Hunter
Secretary of State

[OAR Docket #17-41; filed 1-12-17]

**STATE BOND ADVISOR'S OFFICE
NOTICE OF STATE CEILING AMOUNT FOR THE
CALENDAR YEAR 2017**

In accordance with Title 62 O.S, Section 695.25, the maximum total volume (also referred to as "Volume Cap" or "State Ceiling Amount") of Private Activity Bonds that may be issued pursuant to federal law by the State of Oklahoma during calendar year 2017 is \$392,356,100. From the first business day of 2017 through September 1, 2017, the Volume Cap is subdivided into the following categories ("Pools") and amounts: (1) Qualified Small Issue Pool, \$47,082,732; (2) Exempt Facility Pool, \$9,808,902; (3) Beginning Agricultural Producer Pool, \$3,923,561; (4) Student Loan Pool, \$60,815,195; (5) Economic Development Pool, \$47,082,732; (6) Oklahoma Housing Finance Agency Pool, \$58,853,415; (7) State Issuer Pool, \$15,694,244; (8) Metropolitan Area Housing Pool, \$49,044,513; (9) Rural Area Housing Pool, \$31,388,488; and (10) Local Issuer Single Family Pool, \$68,662,318. From September 2, 2017, to 9:00 a.m., December 20, 2017, any amount remaining to be allocated from these pools is combined and managed from the Consolidated Pool. On or after 9:00 a.m. on December 20, 2017, certain Private Activity Bond issuing authorities may apply to the State Bond Advisor to carry forward a portion of any remaining State Ceiling Amount.

[OAR Docket #16-984; filed 12-30-16]

