

## **TITLE 340. DEPARTMENT OF HUMAN SERVICES**

### **CHAPTER 1. FUNCTION AND STRUCTURE OF THE OKLAHOMA DEPARTMENT OF HUMAN SERVICES**

[**Authority:** Federal Social Security Act; Civil Rights Act of 1964, as amended; Older Americans Act; Rehabilitation Act; Food Stamp Act; Job Training Partnership Act; Age Discrimination Act of 1975; Americans with Disabilities Act of 1990; Oklahoma Social Security Act; 10 O.S.; 21 O.S.; 25 O.S.; 51 O.S.; 56 O.S. § 162; 63 O.S.; 73 O.S.; 74 O.S.; 75 O.S., §§250.1 through 323]  
[**Source:** Codified 12-31-91]

#### **SUBCHAPTER 1. GENERAL PROVISIONS**

##### **340:1-1-1. Purpose, legal basis, and Director of Human Services (Director)**

- (a) **Purpose.** This Subchapter describes the Oklahoma Human Services (OKDHS) organizational structure and function and includes the legal basis and other rules governing OKDHS operations.
- (b) **Legal basis.** The Director's position and duties are authorized by and described in Section 162 of Title 56 of the Oklahoma Statutes. OKDHS responsibilities, and the Director's authority to ensure those responsibilities are carried out, is found in the Oklahoma Statutes.
- (c) **Director of Human Services.** The Director serves, at the pleasure of the Governor with Senate confirmation, as Oklahoma Human Services (OKDHS) chief executive and administrative officer. The Director is responsible for the daily direction of the activities necessary for OKDHS to accomplish its mission.
- (d) **Organizational chart.** OKDHS is organized as the Director deems appropriate to achieve the OKDHS mission. OKDHS Administrative Services provides organizational charts upon request.

[**Source:** Amended at 16 Ok Reg 1006, eff 4-26-99 ; Amended at 21 Ok Reg 1337, eff 5-27-04 ; Amended at 30 Ok Reg 1328, eff 7-1-13 ; Amended at 39 Ok Reg 1651, eff 9-15-22]

##### **340:1-1-2. Legal basis [REVOKED]**

[**Source:** Amended at 13 Ok Reg 421, eff 11-14-95 (emergency); Amended at 13 Ok Reg 2165, eff 6-14-96 ; Amended at 16 Ok Reg 1006, eff 4-26-99 ; Amended at 30 Ok Reg 1328, eff 7-1-13 ; Revoked at 39 Ok Reg 1651, eff 9-15-22]

##### **340:1-1-3. The Commission for Human Services [REVOKED]**

[**Source:** Amended at 16 Ok Reg 1006, eff 4-26-99 ; Revoked at 30 Ok Reg 1328, eff 7-1-13]

##### **340:1-1-4. Director of Human Services [REVOKED]**

[**Source:** Amended at 16 Ok Reg 1006, eff 4-26-99 ; Amended at 22 Ok Reg 761, eff 5-12-05 ; Amended at 30 Ok Reg 1328, eff 7-1-13 ; Revoked at 39 Ok Reg 1651, eff 9-15-22]

### **340:1-1-5. The Deputy Director [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-1-6. External Relations [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-1-7. The Office of General Counsel [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-1-8. The Office of Policy Analysis [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-1-9. Office of Client Advocacy [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-1-10. Office of Administration [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-1-11. Information services [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-1-12. Parole, Review and Hearing Board [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-1-13. Office for Civil Rights [REVOKED]**

[Source: Amended at 15 Ok Reg 860, eff 2-1-98 (emergency); Amended at 15 Ok Reg 1587, eff 5-11-98 ; Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-1-14. Public Information Office [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-1-15. Oklahoma Medical Center [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-1-16. Oklahoma Medical Center acceptance of gifts, donations, and memorials [REVOKED]**



[Source: Added at 9 Ok Reg 869, eff 1-17-92 (emergency); Added at 9 Ok Reg 2481, eff 6-25-92 ; Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-1-17. Organizational structure [REVOKED]**

[Source: Added at 16 Ok Reg 1006, eff 4-26-99 ; Amended at 19 Ok Reg 2660, eff 7-11-02 ; Amended at 20 Ok Reg 838, eff 5-13-03 ; Amended at 24 Ok Reg 975, eff 5-11-07 ; Amended at 27 Ok Reg 988, eff 5-13-10 ; Revoked at 39 Ok Reg 1651, eff 9-15-22]

### **340:1-1-18. Strategic planning [REVOKED]**

[Source: Added at 16 Ok Reg 1006, eff 4-26-99 ; Amended at 19 Ok Reg 2660, eff 7-11-02 ; Amended at 20 Ok Reg 838, eff 5-13-03 ; Amended at 26 Ok Reg 812, eff 4-25-09 ; Revoked at 30 Ok Reg 1328, eff 7-1-13]

### **340:1-1-19. Open Meeting Act [REVOKED]**

[Source: Added at 21 Ok Reg 1337, eff 5-27-04 ; Revoked at 39 Ok Reg 1651, eff 9-15-22]

### **340:1-1-20. Confidentiality**

The Oklahoma Department of Human Services (OKDHS) complies with:

(1) all federal and state statutes, rules, and regulations regarding client confidentiality.

(A) Per Section 183 of Title 56 of the Oklahoma Statutes, information and records obtained by OKDHS concerning an applicant or recipient of OKDHS programs or services is confidential. This includes electronic data and records generated by OKDHS.

(i) OKDHS employees only examine applicant or recipient information in connection with the performance of their official duties.

(ii) OKDHS does not furnish or release information from client records for commercial or political purposes.

(B) All Child Welfare (CW) records and information are confidential pursuant to state and federal statutes and regulations. [10 O.S. § 7005-1.2 through 7005-1.4 and 7107; and 45 CFR Part 1340]

(C) All records, working papers, and reports related to an Adult Protective Services (APS) investigation are confidential under Section 10-110 of Title 43A of the Oklahoma Statutes.

(D) All files and records concerning the assistance or services provided under the Child Support Enforcement Program or concerning a putative father of a child born out of wedlock are confidential, except as otherwise authorized by law; [56 O.S. § 237]

(2) Sections 7213, 7213A, and 7431 of the Internal Revenue Code safeguarding federal tax information regarding an applicant or

recipient;

(3) the Open Records Act to ensure and assist the public's right to access, review, and copy governmental records, except where specifically required by federal or state law, rule, and regulation to be kept confidential; [51 O.S. § 24A.1 through 24A.22] and

(4) Part 160 and Subparts A and E of Part 164 of Title 45 of the Code of Federal Regulations constituting the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule, which provides protection for the privacy of health information.

[Source: Added at 22 Ok Reg 761, eff 5-12-05]

### **340:1-1-21. Copyrighted software and documents**

(a) Oklahoma Department of Human Services (OKDHS) employees:

- (1) sign Form 11AD133E, Employee Acknowledgment of Confidentiality of Computer Accessible Case Records and Computer and Internet Usage Restrictions;
- (2) comply with the terms and conditions regarding the copyrights of all vendors with whom OKDHS enters into software license agreements or from whom OKDHS purchases software; and
- (3) may not reproduce software or its related documentation unless authorized by the software developer.

(b) OKDHS employees adhere to copyright laws. Copyrighted documents are not reproduced without written permission from the copyright source.

[Source: Added at 22 Ok Reg 761, eff 5-12-05 ; Amended at 24 Ok Reg 975, eff 5-11-07]

## **SUBCHAPTER 3. DIVISIONS WITHIN THE DEPARTMENT [REVOKED]**

### **340:1-3-1. Program divisions [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-3-2. Field Operations [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-3-3. The role of the County Administrator [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-3-4. Administrative divisions [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

## **SUBCHAPTER 5. UNITS WITHIN THIS DEPARTMENT [REVOKED]**

### **340:1-5-1. Accounting [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-5-2. Administrative Review Unit [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-5-3. Administrative Services (DCYS) [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-5-4. Administrative Services (MID) [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-5-5. Administrative Support [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-5-6. Affirmative Action [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-5-7. Appeals [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-5-8. Architecture and Engineering [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-5-9. Assistance Payments [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-5-10. Audit [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-5-11. Budget [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-5-12. Case Management [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-5-13. Child Study Center [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-5-14. Child Support Enforcement [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-5-15. Contracts [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-5-16. Construction [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-5-17. Crippled Children [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-5-18. Data Base [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-5-19. Data Center Services [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-5-20. Departmental Services [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-5-21. Disability Determination Services [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-5-22. Employee Assistance [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-5-23. Employee Relations [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

**340:1-5-24. Employee's Library [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

**340:1-5-25. Enid State School [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

**340:1-5-26. Finance Operations [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

**340:1-5-27. Finance Systems [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

**340:1-5-28. Food and Nutrition Services [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

**340:1-5-29. Hissom Memorial Center [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

**340:1-5-30. Information and Referral [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

**340:1-5-31. Licensing [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

**340:1-5-32. Long Term Care [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

**340:1-5-33. Management Analysis and Planning [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

**340:1-5-34. Medical Claims Payment and Review [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

**340:1-5-35. Mentally Retarded and Developmentally Disabled  
Community Resources [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

**340:1-5-36. Non-Technical Medical Care (NTMC) in own home  
[REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

**340:1-5-37. O'Donoghue Rehabilitation Institute [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

**340:1-5-38. Office of Inspector General [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

**340:1-5-39. Office Services, Communications and Reception  
[REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

**340:1-5-40. Oklahoma Children's Memorial Hospital [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

**340:1-5-41. Oklahoma Memorial Hospital [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

**340:1-5-42. Oklahoma School for the Blind [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

**340:1-5-43. Oklahoma School for the Deaf [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

**340:1-5-44. Parole, Review and Hearing Board [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

**340:1-5-45. Pauls Valley State School [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

**340:1-5-46. Personnel [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

**340:1-5-47. Policy Development [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

**340:1-5-48. Policy Planning and Review [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

**340:1-5-49. Program Services DCYS [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

**340:1-5-50. Provider Relations/Correspondence [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

**340:1-5-51. Publications [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

**340:1-5-52. Rehabilitative Services [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

**340:1-5-53. Research, Evaluation and Statistics [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

**340:1-5-54. Residential Services (MR/DD) [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

**340:1-5-55. Residential Services (DCYS) [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

**340:1-5-56. Services [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

**340:1-5-57. Special Projects [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

**340:1-5-58. Special Unit on Aging [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

**340:1-5-59. Staff Development [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

**340:1-5-60. State OASI Bureau [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

**340:1-5-61. Support Services [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

**340:1-5-62. System Development and Coordination [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

**340:1-5-63. Visual Services [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

**SUBCHAPTER 7. COORDINATION OF MEDICAL SERVICES**

**340:1-7-1. With elected state officials [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

**340:1-7-2. With appointed state officials [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

**340:1-7-3. With health related state and county boards-ex officio representation from the Department [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

**340:1-7-4. With non-health related state and county boards-ex officio representation from the Department [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

**340:1-7-5. With federal officials [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]



### **340:1-7-6. With county officials [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-7-7. Coordination with the Oklahoma Health Care Authority**

Medicaid rates are established by the Oklahoma Health Care Authority (OHCA). These rates apply, unless otherwise indicated, for services paid by DHS on behalf of clients who are not Medicaid eligible or for services that are not compensable through Medicaid. DHS staff takes applications and determines eligibility for Medicaid. However, the Oklahoma Health Care Authority specifies the scope of medical services, contracts with health care providers, sets the Medicaid rates, and establishes eligibility criteria.

[Source: Added at 16 Ok Reg 264, eff 11-3-98 (emergency); Added at 16 Ok Reg 1006, eff 4-26-99]

## **SUBCHAPTER 9. COMPLIANCE WITH SECTION 504 OF THE REHABILITATION ACT OF 1973 [REVOKED]**

### **340:1-9-1. General prohibitions against discrimination [REVOKED]**

[Source: Revoked at 15 Ok Reg 2085, eff 5-20-98 (emergency); Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-9-2. Qualified handicapped person [REVOKED]**

[Source: Revoked at 15 Ok Reg 2085, eff 5-20-98 (emergency); Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-9-3. Program, service and employment self-evaluation [REVOKED]**

[Source: Revoked at 15 Ok Reg 2085, eff 5-20-98 (emergency); Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-9-4. Reproduction of certain agency rules, policies and procedures for employees with impaired sensory, manual or speaking skills [REVOKED]**

[Source: Revoked at 15 Ok Reg 2085, eff 5-20-98 (emergency); Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-9-5. Meaning of "Reasonable Accommodation" [REVOKED]**

[Source: Revoked at 15 Ok Reg 2085, eff 5-20-98 (emergency); Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-9-6. Department responsibility when contracting with outside organizations [REVOKED]**

[Source: Revoked at 15 Ok Reg 2085, eff 5-20-98 (emergency); Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-9-7. Department responsibility when preemployment medical examinations are required [REVOKED]**

[Source: Revoked at 15 Ok Reg 2085, eff 5-20-98 (emergency); Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-9-8. DHS responsibility when providing aid, benefit or service [REVOKED]**

[Source: Revoked at 15 Ok Reg 2085, eff 5-20-98 (emergency); Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-9-9. Required statement on DHS printed documents [REVOKED]**

[Source: Revoked at 15 Ok Reg 2085, eff 5-20-98 (emergency); Revoked at 16 Ok Reg 1006, eff 4-26-99]

## **SUBCHAPTER 10. THE AMERICANS WITH DISABILITIES ACT [REVOKED]**

### **PART 1. PURPOSE AND LEGAL BASIS [REVOKED]**

#### **340:1-10-1. Purpose and structure [REVOKED]**

[Source: Added at 9 Ok Reg 3781, eff 8-7-92 (emergency); Added at 10 Ok Reg 1797, eff 5-13-93 ; Revoked at 15 Ok Reg 2085, eff 5-20-98 (emergency); Revoked at 16 Ok Reg 1006, eff 4-26-99]

#### **340:1-10-2. Definitions [REVOKED]**

[Source: Added at 10 Ok Reg 389, eff 11-19-92 (emergency); Added at 10 Ok Reg 2777, eff 6-25-93 ; Revoked at 15 Ok Reg 2085, eff 5-20-98 (emergency); Revoked at 16 Ok Reg 1006, eff 4-26-99]

#### **340:1-10-3. Legal basis [REVOKED]**

[Source: Added at 9 Ok Reg 3781, eff 8-7-92 (emergency); Added at 10 Ok Reg 1797, eff 5-13-93 ; Revoked at 15 Ok Reg 2085, eff 5-20-98 (emergency); Revoked at 16 Ok Reg 1006, eff 4-26-99]

#### **340:1-10-4. DHS and the Americans With Disabilities Act [REVOKED]**

[Source: Added at 9 Ok Reg 3781, eff 8-7-92 (emergency); Added at 10 Ok Reg 1797, eff 5-13-93 ; Revoked at 15 Ok Reg 2085, eff 5-20-98 (emergency); Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **PART 3. REASONABLE ACCOMMODATION [REVOKED]**

#### **340:1-10-20. DHS requirement for reasonable accommodation [REVOKED]**

[Source: Added at 9 Ok Reg 3781, eff 8-7-92 (emergency); Added at 10 Ok Reg 1797, eff 5-13-93 ;  
Revoked at 15 Ok Reg 2085, eff 5-20-98 (emergency); Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-10-21. Overview of reasonable accommodation [REVOKED]**

[Source: Added at 9 Ok Reg 3781, eff 8-7-92 (emergency); Added at 10 Ok Reg 1797, eff 5-13-93 ;  
Revoked at 15 Ok Reg 2085, eff 5-20-98 (emergency); Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-10-22. Examples of reasonable accommodation [REVOKED]**

[Source: Added at 9 Ok Reg 3781, eff 8-7-92 (emergency); Added at 10 Ok Reg 1797, eff 5-13-93 ;  
Amended at 13 Ok Reg 3633, eff 4-29-96 (emergency); Amended at 14 Ok Reg 1294, eff 5-12-97 ;  
Revoked at 15 Ok Reg 2085, eff 5-20-98 (emergency); Revoked at 16 Ok Reg 1006, eff 4-26-99]

## **PART 5. REQUEST RESPONSIBILITIES [REVOKED]**

### **340:1-10-35. Responsibilities for reasonable accommodation requests [REVOKED]**

[Source: Added at 9 Ok Reg 3781, eff 8-7-92 (emergency); Added at 10 Ok Reg 1797, eff 5-13-93 ;  
Revoked at 15 Ok Reg 2085, eff 5-20-98 (emergency); Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-10-36. Affirmative Action Officer responsibilities [REVOKED]**

[Source: Added at 9 Ok Reg 3781, eff 8-7-92 (emergency); Added at 10 Ok Reg 1797, eff 5-13-93 ;  
Revoked at 15 Ok Reg 2085, eff 5-20-98 (emergency); Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-10-37. Division coordinator responsibilities [REVOKED]**

[Source: Added at 9 Ok Reg 3781, eff 8-7-92 (emergency); Added at 1 Ok Reg 1797, eff 5-13-93 ;  
Revoked at 15 Ok Reg 2085, eff 5-20-98 (emergency); Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-10-38. Local/county coordinator responsibilities [REVOKED]**

[Source: Added at 9 Ok Reg 3781, eff 8-7-92 (emergency); Added at 10 Ok Reg 1797, eff 5-13-93 ;  
Revoked at 15 Ok Reg 2085, eff 5-20-98 (emergency); Revoked at 16 Ok Reg 1006, eff 4-26-99]

## **PART 7. REQUEST MANAGEMENT [REVOKED]**

### **340:1-10-50. DHS request management [REVOKED]**

[Source: Added at 9 Ok Reg 3781, eff 8-7-92 (emergency); Added at 10 Ok Reg 1797, eff 5-13-93 ;  
Revoked at 15 Ok Reg 2085, eff 5-20-98 (emergency); Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-10-51. Request by a client [REVOKED]**

[Source: Added at 9 Ok Reg 3781, eff 8-7-92 (emergency); Added at 10 Ok Reg 1797, eff 5-13-93 ; Revoked at 15 Ok Reg 2085, eff 5-20-98 (emergency); Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-10-52. Request by an employee [REVOKED]**

[Source: Added at 9 Ok Reg 3781, eff 8-7-92 (emergency); Added at 10 Ok Reg 1797, eff 5-13-93 ; Revoked at 15 Ok Reg 2085, eff 5-20-98 (emergency); Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-10-53. Role of the immediate supervisor [REVOKED]**

[Source: Added at 9 Ok Reg 3781, eff 8-7-92 (emergency); Added at 10 Ok Reg 1797, eff 5-13-93 ; Revoked at 15 Ok Reg 2085, eff 5-20-98 (emergency); Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-10-54. Review by the associate director, division administrator or area manager [REVOKED]**

[Source: Added at 9 Ok Reg 3781, eff 8-7-92 (emergency); Added at 10 Ok Reg 1797, eff 5-13-93 ; Revoked at 15 Ok Reg 2085, eff 5-20-98 (emergency); Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-10-55. Review by the Reasonable Accommodation Committee [REVOKED]**

[Source: Added at 9 Ok Reg 3781, eff 8-7-92 (emergency); Added at 10 Ok Reg 1797, eff 5-13-93 ; Revoked at 15 Ok Reg 2085, eff 5-20-98 (emergency); Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-10-56. Appeal of request for reasonable accommodation [REVOKED]**

[Source: Added at 9 Ok Reg 3781, eff 8-7-92 (emergency); Added at 10 Ok Reg 1797, eff 5-13-93 ; Revoked at 15 Ok Reg 2085, eff 5-20-98 (emergency); Revoked at 16 Ok Reg 1006, eff 4-26-99]

## **PART 9. MEDICAL CONSIDERATIONS [REVOKED]**

### **340:1-10-70. Medical documentation [REVOKED]**

[Source: Added at 9 Ok Reg 3781, eff 8-7-92 (emergency); Added at 10 Ok Reg 1797, eff 5-13-93 ; Revoked at 15 Ok Reg 2085, eff 5-20-98 (emergency); Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-10-71. Illegal use of drugs [REVOKED]**

[Source: Added at 9 Ok Reg 3781, eff 8-7-92 (emergency); Added at 10 Ok Reg 1797, eff 5-13-93 ; Revoked at 15 Ok Reg 2085, eff 5-20-98 (emergency); Revoked at 16 Ok Reg 1006, eff 4-26-99]

## **PART 11. UNDUE HARDSHIP [REVOKED]**

**340:1-10-85. Undue hardship and reasonable accommodation  
[REVOKED]**

[Source: Added at 9 Ok Reg 3781, eff 8-7-92 (emergency); Added at 10 Ok Reg 1797, eff 5-13-93 ; Revoked at 15 Ok Reg 2085, eff 5-20-98 (emergency); Revoked at 16 Ok Reg 1006, eff 4-26-99]

**PART 13. RETALIATION OR COERCION [REVOKED]**

**340:1-10-90. Retaliation or Coercion [REVOKED]**

[Source: Added at 10 Ok Reg 389, eff 11-19-92 (emergency); Added at 10 Ok Reg 2777, eff 6-25-93 ; Revoked at 15 Ok Reg 2085, eff 5-20-98 (emergency); Revoked at 16 Ok Reg 1006, eff 4-26-99]

**SUBCHAPTER 11. CIVIL RIGHTS AND  
NONDISCRIMINATION**

**PART 1. ADMINISTRATION METHODS**

**340:1-11-1. Statement of compliance and practices prohibited**

(a) Oklahoma Human Services (OKDHS) administers its programs and business, per:

- (1) Title VI and Title VII of the Civil Rights Acts of 1964;
- (2) Section 504 of the Rehabilitation Act of 1973;
- (3) the Age Discrimination Act of 1975;
- (4) the Age Discrimination in Employment Act;
- (5) the Americans With Disabilities Act of 1990;
- (6) the Americans With Disabilities Act Amendments Act;
- (7) the Equal Pay Act;
- (8) the Pregnancy Discrimination Act;
- (9) the Genetic Information Non-Discrimination Act; and
- (10) the Oklahoma Anti-Discrimination Act.

(b) The OKDHS Director does not discriminate and does not allow OKDHS staff, or OKDHS contractors, vendors, or sub-grantees to discriminate.

(c) The OKDHS Director does not issue and does not allow the issuance of rules, regulations, directives, or other public communications that have the effect of subjecting individuals to discrimination.

[Source: Amended at 15 Ok Reg 860, eff 2-1-98 (emergency); Amended at 15 Ok Reg 1587, eff 5-11-98 ; Amended at 15 Ok Reg 2085, eff 5-20-98 (emergency); Amended at 16 Ok Reg 1006, eff 4-26-99 ; Amended at 33 Ok Reg 1560, eff 9-15-16 ; Amended at 40 Ok Reg 917, eff 9-15-23]

**340:1-11-1.1. Definitions**

The following words and terms when used in this Subchapter, shall have the following meanings unless the context clearly indicates otherwise:

"ADA" means the Americans With Disabilities Act of 1990, per Sections 12101-12117 of Title 42 of the United States Code (42 U.S.C. §§

12101-12117), (SUPP.V.1994) Public Law 101-336.

**"Discrimination"** means differential treatment, such as conduct, actions, or decisions, based on race, color, national origin, sex, religion, age, disability, genetic information, or political opinion or affiliation unless authorized by law.

**"Essential job functions"** means the fundamental job duties of an individual position. The term does not include marginal functions of the position. Evidence of the essential job functions are:

- (A) the employer's judgment of the essential job functions;
- (B) a written job description prepared before advertising or interviewing employees or applicants for the position;
- (C) the amount of time spent performing the job functions;
- and
- (D) identified as critical on the employee's performance evaluation.

**"Harassment"** means unwelcome or offensive behavior based on membership in a protected class that is so severe or pervasive in nature that it alters the conditions of the victim's working environment.

**"Protected Activity"** means:

- (A) filing a discrimination complaint or a request for reasonable accommodation;
- (B) participating in an investigation or administrative or court hearing regarding a complaint of discrimination; or
- (C) opposing an alleged discriminatory act in a lawful manner.

**"Protected Class"** means a group of people or an identifying characteristic of people prohibited by law from being used as a basis or motivation for employment actions or program or service delivery or eligibility. Protected classes include race, color, national origin, religion, sex, age, disability, political opinion or affiliation, and genetic information.

[Source: Added at 15 Ok Reg 860, eff 2-1-98 (emergency); Added at 15 Ok Reg 1587, eff 5-11-98 ; Amended at 15 Ok Reg 2085, eff 5-20-98 (emergency); Amended at 16 Ok Reg 1006, eff 4-26-99 ; Amended at 18 Ok Reg 1177, eff 5-11-01 ; Amended at 33 Ok Reg 1560, eff 9-15-16 ; Amended at 40 Ok Reg 917, eff 9-15-23]

### **340:1-11-2. Designated agency [REVOKED]**

[Source: Amended at 15 Ok Reg 860, eff 2-1-98 (emergency); Amended at 15 Ok Reg 1587, eff 5-11-98 ; Amended at 18 Ok Reg 1177, eff 5-11-01 ; Revoked at 33 Ok Reg 1560, eff 9-15-16]

### **340:1-11-3. Practices prohibited [REVOKED]**

[Source: Amended at 15 Ok Reg 860, eff 2-1-98 (emergency); Amended at 15 Ok Reg 1587, eff 5-11-98 ; Amended at 18 Ok Reg 1177, eff 5-11-01 ; Amended at 33 Ok Reg 1560, eff 9-15-16 ; Revoked at 40 Ok Reg 917, eff 9-15-23]

### **340:1-11-4. Administration responsibilities, administration of programs, dissemination of policy, and awareness training**

(a) The Oklahoma Human Services (OKDHS) Director assumes full responsibility for compliance, per Oklahoma Administrative Code (OAC)

340:1-11-1.

(b) The OKDHS Director designates a staff member who is knowledgeable of civil rights laws.

(c) The OKDHS Director assigns full compliance responsibility to all OKDHS administrators, managers, and supervisors. The administrators, managers, and supervisors maintain essential records and files, per OAC 340:1-11-1.

(d) Administrators, managers, and supervisors avail themselves of the Office for Civil Rights (OCR) administrator's technical assistance and training. Administrators, managers, and supervisors comply with the Methods of Administration designed and prepared by the OCR administrator.

(e) The OCR administrator is responsible for:

(1) developing rules, regulations, and compliance programs, per OAC 340:1-11-1, and disseminating those requirements to:

(A) staff;

(B) clients;

(C) contractors, vendors, and sub-grantees;

(D) the general public; and

(E) customary referral services; and

(2) developing the Methods of Administration;

(3) keeping the OKDHS Director, administrators, managers, and supervisors informed of nondiscrimination requirements and responsibilities, per OAC 340:1-11-1;

(4) monitoring and evaluating OKDHS nondiscrimination activities, identifying the need for remedial action and appropriate follow-up review, and submitting reports, as required to the OKDHS Director, the Department of Health and Human Services-Office for Civil Rights (DHHS-OCR), and the Food and Nutrition Service (FNS);

(5) providing training and technical assistance, and serving as a resource for OKDHS staff regarding nondiscrimination responsibilities;

(6) assigning OCR personnel to perform compliance reviews and to investigate discrimination complaints;

(7) directing and coordinating Americans with Disabilities Amendments Act compliance inspections of OKDHS facilities and recommending remedial action as necessary when complaints are received;

(8) receiving Request Review Committee appeal decisions;

(9) overseeing investigations of discrimination complaints OCR receives;

(10) acting as the liaison between the OKDHS Director, DHHS-OCR, FNS, minority and community organizations, and groups advocating for persons with disabilities in all matters concerning nondiscrimination in the OKDHS delivery of services; and

(11) testifying in matters concerning civil rights before entities, such as boards, commissions, or legislative panels.

(f) Prior to implementation of any new programs or methods for providing existing services, the OCR administrator, upon request, conducts a study and prepares a report that shows the impact on

minority groups and persons with disabilities, and the accessibility of the services, as proposed, to minority clients or clients with disabilities, both present and prospective.

(g) OKDHS informs staff, clients, applicants, contractors, vendors, sub-grantees, and the general public that programs and services are provided on a nondiscriminatory basis.

(h) The OCR administrator ensures OKDHS staff is provided on-going training designed to ensure awareness of diversity issues and of appropriate responses to minorities and persons with disabilities.

Training includes:

- (1) legal interpretations of anti-discrimination laws;
- (2) compliance review objectives; and
- (3) cultural and disability awareness.

[Source: Amended at 15 Ok Reg 860, eff 2-1-98 (emergency); Amended at 15 Ok Reg 1587, eff 5-11-98 ; Amended at 15 Ok Reg 2085, eff 5-20-98 (emergency); Amended at 16 Ok Reg 1006, eff 4-26-99 ; Amended at 18 Ok Reg 1177, eff 5-11-01 ; Amended at 33 Ok Reg 1560, eff 9-15-16 ; Amended at 37 Ok Reg 1740, eff 9-15-20 ; Amended at 40 Ok Reg 917, eff 9-15-23]

#### **340:1-11-5. Administration of programs [REVOKED]**

[Source: Amended at 15 Ok Reg 860, eff 2-1-98 (emergency); Amended at 15 Ok Reg 1587, eff 5-11-98 ; Amended at 33 Ok Reg 1560, eff 9-15-16 ; Revoked at 40 Ok Reg 917, eff 9-15-23]

#### **340:1-11-6. Dissemination of policy [REVOKED]**

[Source: Amended at 15 Ok Reg 860, eff 2-1-98 (emergency); Amended at 15 Ok Reg 1587, eff 5-11-98 ; Amended at 33 Ok Reg 1560, eff 9-15-16 ; Revoked at 40 Ok Reg 917, eff 9-15-23]

#### **340:1-11-7. Awareness training [REVOKED]**

[Source: Amended at 15 Ok Reg 860, eff 2-1-98 (emergency); Amended at 15 Ok Reg 1587, eff 5-11-98 ; Amended at 15 Ok Reg 2085, eff 5-20-98 (emergency); Amended at 16 Ok Reg 1006, eff 4-26-99 ; Amended at 33 Ok Reg 1560, eff 9-15-16 ; Revoked at 40 Ok Reg 917, eff 9-15-23]

#### **340:1-11-8. Data regarding race, ethnicity, conditions of disability, and limited English proficiency (LEP)**

(a) The Department collects and maintains racial, ethnic, conditions of disability, and LEP data showing the extent to which members of these groups are beneficiaries of and participants in its programs.

(b) The data alerts the Department and the OCR administrator of suspect situations where there is a relatively low rate of minorities and disabled persons participating or where these groups do not appear to be receiving equal benefits and services. The OCR administrator uses this data to set investigative priorities.

[Source: Amended at 15 Ok Reg 860, eff 2-1-98 (emergency); Amended at 15 Ok Reg 1587, eff 5-11-98 ; Amended at 18 Ok Reg 1177, eff 5-11-01]

#### **340:1-11-9. Composition of planning and rulemaking bodies**

(a) The Oklahoma Department of Human Services (DHS) provides minority groups and persons with disabilities membership opportunities



on its planning and advisory boards.

(b) DHS ensures contractors, vendors, and sub-grantees are aware of, and comply with the legal stipulations per federal regulations pertaining to the inclusion of minorities and persons with disabilities on planning and advisory boards.

(c) DHS provides interested persons, including persons with disabilities or organizations representing persons with disabilities the opportunity to assist in the self-evaluation of current rules and practices and their effect, per Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, and the Americans with Disabilities Act Amendments Act.

[Source: Amended at 15 Ok Reg 860, eff 2-1-98 (emergency); Amended at 15 Ok Reg 1587, eff 5-11-98 ; Amended at 15 Ok Reg 2085, eff 5-20-98 (emergency); Amended at 16 Ok Reg 1006, eff 4-26-99 ; Amended at 18 Ok Reg 1177, eff 5-11-01 ; Amended at 33 Ok Reg 1560, eff 9-15-16]

### **340:1-11-10. Interpreter Services Program**

(a) The purpose of this Section is to establish a uniform system for processing requests for interpreter services for clients, employees, applicants for services or employment, or children in Oklahoma Department of Human Services (DHS) custody. DHS provides at no charge, interpreter services for DHS clients, applicants, and employees with limited English proficiency (LEP), or who are deaf or hard of hearing to overcome language barriers and provide equal access and equal opportunity to participate in DHS services and employment.

(b) This Section is applicable to all DHS programs and offices.

(c) Arrangements for interpreters are made per (1) and (2).

(1) **LEP or bilingual interpreters.** Each local county office or facility maintains a list of employees and community members who are available to provide translation services. The list designates the translator's name, phone number, and the language spoken. Employees use contracted language translation providers when a local, suitable translator is not available. Friends or family members of clients, especially children, are not used for translating information related to eligibility for services, except in emergency situations. In areas where the client population served by a program is five percent or more non-English speaking, a formalized procedure for bilingual services and literature in the respective language must be provided by DHS.

(2) **Deaf or hard of hearing interpreters.** DHS provides, at no cost, oral or sign language interpreter services to anyone who is deaf and needs an oral or sign language interpreter to receive or continue to receive DHS services, or retain or maintain DHS employment. DHS uses contracted vendors to provide qualified interpreter services statewide for all deaf persons requesting American Sign Language, Manually Coded English, or oral interpretation, except when services are specifically authorized through the Interpreter Services Program of the Oklahoma Department of Rehabilitation Services. Clients or employees may contact local DHS offices to request services. DHS Pub. No. 05-

02, Sign Language Services, posters are placed prominently in DHS offices and facilities.

[Source: Amended at 15 Ok Reg 860, eff 2-1-98 (emergency); Amended at 15 Ok Reg 1587, eff 5-11-98 ; Amended at 15 Ok Reg 2085, eff 5-20-98 (emergency); Amended at 16 Ok Reg 1006, eff 4-26-99 ; Amended at 18 Ok Reg 1177, eff 5-11-01 ; Amended at 33 Ok Reg 1560, eff 9-15-16]

#### **340:1-11-11. Execution of compliance reviews**

(a) Upon request, the Office for Civil Rights administrator develops procedures to analyze and evaluate applications for new facilities with change of ownership and initial applications. The procedures include, but are not limited to:

- (1) initiating an original information packet;
- (2) orienting the facility per Oklahoma Administrative Code (OAC) 340:1-11-1;
- (3) analyzing and evaluating material upon receipt; and
- (4) determining compliance status.

(b) Upon request, the Oklahoma Department of Human Services (DHS) makes periodic compliance reviews to ensure practices being utilized conform with OAC 340:1-11-1 and DHS Methods of Administration and Statement of Compliance.

[Source: Amended at 15 Ok Reg 860, eff 2-1-98 (emergency); Amended at 15 Ok Reg 1587, eff 5-11-98 ; Amended at 15 Ok Reg 2085, eff 5-20-98 (emergency); Amended at 16 Ok Reg 1006, eff 4-26-99 ; Amended at 33 Ok Reg 1560, eff 9-15-16]

#### **340:1-11-12. Complaint policy and procedures, retaliation, and confidentiality**

(a) Any person or group who believes they were subjected to discrimination in an Oklahoma Human Services (OKDHS) program subject to Oklahoma Administrative Code (OAC) 340:1-11-1 may make a complaint of discrimination in person, by representation, by phone, or by written communication. The complainant has a right to file a complaint of the alleged discriminatory action(s) with OKDHS, the Food and Nutrition Service (FNS), or with the Department of Health and Human Services-Office for Civil Rights (DHHS-OCR).

(b) For Supplemental Nutrition Assistance Program or service-delivery complaints, refer to OAC 340:1-11-20.

(c) Employees or applicants for employment have the right to file a complaint of alleged discriminatory employment action(s) with any or all of the entities listed in (1) through(3) of this subsection. The complainant may file with:

- (1) OKDHS within 180-calendar days. When the complaint is filed directly with OKDHS, at the State Office, a local county office, or at a facility, representatives of that office or facility explain both the federal and state complaint systems and advise the complainant of his or her right to file in either, or both, systems;
- (2) the Oklahoma Attorney General's Office for Civil Rights Enforcement within 180-calendar days; or
- (3) the Equal Employment Opportunity Commission within 300-calendar days.

- (d) Any person who expresses an interest in filing a complaint or files a complaint is protected from retaliation.
- (e) OKDHS conducts a prompt and thorough complaint investigation. The Office for Civil Rights (OCR) administrator determines if discrimination occurred. When discrimination occurred, OKDHS takes all necessary action to correct the discriminatory practice(s). The complainant is timely advised of OKDHS findings regarding his or her complaint and is advised of the right to appeal to DHHS-OCR, or FNS, when not satisfied with the OKDHS decision. Records are maintained that include the nature of the complaint, the investigation details, and the OKDHS actions taken.
- (f) When the complaint is initially filed with DHHS-OCR, that office may investigate the complaint utilizing its own resources.
- (g) The complainant's identity is kept confidential, except to the extent necessary to conduct the investigation, hearing, or judicial proceeding. Violations of confidentiality are subject to corrective discipline.
- (h) Any applicant or recipient who expresses an interest in filing a complaint or files a complaint may do so without fear of reprisal, intimidation, coercion, or threats. No person is adversely affected because they made a charge, testified, assisted, or participated in any manner in an investigation, review, proceeding, or hearing per this Section.
- (i) Information concerning any complaint is only given to persons who have a need to know as determined by the Oklahoma Human Services OKDHS Director or the OCR administrator. Violations of confidentiality are subject to discipline per OKDHS: 2-1-7 Discipline.

[Source: Amended at 15 Ok Reg 860, eff 2-1-98 (emergency); Amended at 15 Ok Reg 1587, eff 5-11-98 ; Amended at 15 Ok Reg 2085, eff 5-20-98 (emergency); Amended at 16 Ok Reg 1006, eff 4-26-99 ; Amended at 18 Ok Reg 1177, eff 5-11-01 ; Amended at 33 Ok Reg 1560, eff 9-15-16 ; Amended at 39 Ok Reg 1652, eff 9-15-22 ; Amended at 40 Ok Reg 917, eff 9-15-23]

### **340:1-11-13. Determination of site or location of facilities**

Oklahoma Department of Human Services (DHS) offices or facilities or those of a DHS vendor contracted for the delivery of services must be physically accessible to all minority groups and persons with disabilities. DHS may withhold approval until requirements per Oklahoma Administrative Code 340:1-11-1 are met by applicants for grants, reimbursements, and provisions of services, based on the criteria in (1) - (4).

- (1) The effect on the particular racial, ethnic, or disabled groups served by the facility prior to the proposed relocation is studied.
- (2) Where a particular group has no other alternative services available, the contractual participant ensures services for minority and disabled persons.
- (3) The relocating agency provides adequate assurance that it does provide services to disabled persons and minorities residing in the community, such as specialty hospitals or other unique service facilities.
- (4) The relocating agency provides adequate assurance that the facilities or agencies remaining in the area originally serviced must provide adequate services to the concerned minorities or

disabled group.

[Source: Amended at 15 Ok Reg 860, eff 2-1-98 (emergency); Amended at 15 Ok Reg 1587, eff 5-11-98 ; Amended at 33 Ok Reg 1560, eff 9-15-16]

**340:1-11-14. Oklahoma Department of Human Services (DHS) responsibility to contractors, vendors, and sub-grantees**

(a) DHS requires its contractors, vendors, and sub-grantees to comply per Oklahoma Administrative Code (OAC) 340:1-11-1. Contractors, vendors, and sub-grantees are informed that compliance with OAC 340:1-11-1 is a condition of the initial or continued participation in any part of the programs in which they are involved. In each DHS-written authorization for the purchase of services, a requirement is included stipulating the services are rendered without regard to race, color, religion, sex, national origin, or disability, age, or genetic information.

(b) DHS incorporates in its requirements for contractors, vendors, and sub-grantees, a condition of approval, and a written assurance to comply.

(c) DHS obtains from each contractor, vendor, and sub-grantee, written assurance to comply, per OAC 340:1-11-1. Periodically DHS reviews its contractors, vendors, and sub-grantees to determine that DHS requirements are fulfilled and that practices are nondiscriminatory. A complete report of the entire review is prepared and is included in the DHS files for Department of Health and Human Services Office of Civil Rights regional review.

[Source: Amended at 15 Ok Reg 860, eff 2-1-98 (emergency); Amended at 15 Ok Reg 1587, eff 5-11-98 ; Amended at 15 Ok Reg 2085, eff 5-20-98 (emergency); Amended at 16 Ok Reg 1006, eff 4-26-99 ; Amended at 33 Ok Reg 1560, eff 9-15-16]

**340:1-11-15. Recruitment and employment practices [REVOKED]**

[Source: Amended at 15 Ok Reg 860, eff 2-1-98 (emergency); Amended at 15 Ok Reg 1587, eff 5-11-98 ; Revoked at 33 Ok Reg 1560, eff 9-15-16]

**PART 2. SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM DISCRIMINATION COMPLAINT AND NON-COMPLIANCE SYSTEM**

**340:1-11-20. Purpose and scope**

(a) The purpose of this Section is to establish a uniform system for processing discrimination complaints from clients who participate in, or apply for the Supplemental Nutrition Assistance Program (SNAP).

(b) This policy is applicable to Oklahoma Human Services (OKDHS) employees and to any person who may require OKDHS assistance or services.

(1) A copy of the United States Department of Agriculture's "And Justice for All" poster AD-475B, is posted in a conspicuous place in the lobby of each OKDHS office where applications for SNAP may be received.

- (2) Copies of Form 14CR001E, Discrimination Complaint Form-Client or Vendor, are available in each OKDHS office and facility for use by any person upon request.
- (c) The Office for Civil Rights (OCR) is the delegated authority to accept, investigate, and seek resolution of complaints of discrimination to SNAP applicants or participants. All written or verbal complaints alleging discrimination are forwarded to OCR within five-business days by the OKDHS employee who received the complaint.
- (d) Discrimination is prohibited in all aspects of the delivery of SNAP benefits. Prohibited actions include, but are not limited to:
- (1) denial or unreasonable delay of a household's application for any services or benefits based on protected class membership;
  - (2) distinction in the quality, quantity, or manner in which the benefits are provided;
  - (3) segregation or separate treatment of persons in any manner related to the receipt of program benefits; and
  - (4) selection of the site for certification and issuance offices that have the effect of excluding persons.
- (e) OKDHS does not condone rudeness or disrespectful behavior toward program applicants, recipients, or the general public.
- (f) OKDHS conducts continuing civil rights training for employees involved with SNAP, including workers, hearing officials, performance reporting system reviewers, and receptionists. Training topics include (1) through (6) of this subsection.
- (1) Nondiscrimination requirements relating to eligibility criteria.
  - (2) Certification procedures.
  - (3) Household rights and responsibilities.
  - (4) Complaint procedures.
  - (5) Protected classes.
  - (6) Theories of discrimination.

[Source: Added at 15 Ok Reg 860, eff 2-1-98 (emergency); Added at 15 Ok Reg 1587, eff 5-11-98 ; Amended at 15 Ok Reg 3535, eff 6-4-98 (emergency); Amended at 16 Ok Reg 1006, eff 4-26-99 ; Amended at 33 Ok Reg 1560, eff 9-15-16 ; Amended at 40 Ok Reg 917, eff 9-15-23]

#### **340:1-11-21. Complaints of discrimination in the Supplemental Nutrition Assistance Program (SNAP) [REVOKED]**

[Source: Added at 15 Ok Reg 860, eff 2-1-98 (emergency); Added at 15 Ok Reg 1587, eff 5-11-98 ; Amended at 24 Ok Reg 2171, eff 6-25-07 ; Amended at 33 Ok Reg 1560, eff 9-15-16 ; Revoked at 40 Ok Reg 917, eff 9-15-23]

#### **340:1-11-22. Discrimination and non-compliance in the Supplemental Nutrition Assistance Program (SNAP) [REVOKED]**

[Source: Added at 15 Ok Reg 860, eff 2-1-98 (emergency); Added at 15 Ok Reg 1587, eff 5-11-98 ; Amended at 24 Ok Reg 2171, eff 6-25-07 ; Amended at 33 Ok Reg 1560, eff 9-15-16 ; Revoked at 40 Ok Reg 917, eff 9-15-23]

#### **340:1-11-23. Right to file complaint of discrimination or allegation of rude treatment [REVOKED]**

[Source: Added at 15 Ok Reg 860, eff 1-2-98 (emergency); Added at 15 Ok Reg 1587, eff 5-11-98 ; Revoked at 18 Ok Reg 1177, eff 5-11-01]

#### **340:1-11-24. Retaliation [REVOKED]**

[Source: Added at 15 Ok Reg 860, eff 2-1-98 (emergency); Added at 15 Ok Reg 1587, eff 5-11-98 ; Amended at 33 Ok Reg 1560, eff 9-15-16 ; Revoked at 40 Ok Reg 917, eff 9-15-23]

#### **340:1-11-25. Complaint processing [REVOKED]**

[Source: Added at 15 Ok Reg 860, eff 2-1-98 (emergency); Added at 15 Ok Reg 1587, eff 5-11-98 ; Amended at 15 Ok Reg 3535, eff 6-4-98 (emergency); Amended at 16 Ok Reg 1006, eff 4-26-99 ; Revoked at 18 Ok Reg 1177, eff 5-11-01]

#### **340:1-11-26. Confidentiality [REVOKED]**

[Source: Added at 15 Ok Reg 860, eff 2-1-98 (emergency); Added at 15 Ok Reg 1587, eff 5-11-98 ; Amended at 18 Ok Reg 1177, eff 5-11-01 ; Amended at 33 Ok Reg 1560, eff 9-15-16 ; Revoked at 40 Ok Reg 917, eff 9-15-23]

#### **340:1-11-27. Civil Rights training [REVOKED]**

[Source: Added at 15 Ok Reg 860, eff 2-1-98 (emergency); Added at 15 Ok Reg 1587, eff 5-11-98 ; Amended at 33 Ok Reg 1560, eff 9-15-16 ; Revoked at 40 Ok Reg 917, eff 9-15-23]

### **PART 3. THE AMERICANS WITH DISABILITIES ACT REQUEST AND COMPLAINT SYSTEM**

#### **340:1-11-40. Purpose and scope**

(a) The purpose of this Section is to establish a uniform system for processing:

- (1) requests for reasonable accommodation per the Americans with Disabilities Act Amendments Act (ADAAA) from employees, job applicants, or clients; and
- (2) appeals from employees, applicants, or clients regarding a request for reasonable accommodation.

(b) Oklahoma Human Services (OKDHS) employees, OKDHS applicants for OKDHS employment, and clients served by OKDHS have the right to request a reasonable accommodation when a disability causes:

- (1) an employee to be unable to perform an essential function of the position;
- (2) an applicant for employment to need assistance to apply or interview; or
- (3) a client to be unable to access an OKDHS service or program.

(c) Discrimination, including retaliation, against persons exercising rights under the accommodation request procedure is prohibited. Form 14CR003, The Request for Reasonable Accommodation, is available online and in each office and facility upon request.

(d) Examples of reasonable accommodations are found at:  
[www.askJAN.org](http://www.askJAN.org).

[Source: Added at 15 Ok Reg 2085, eff 5-20-98 (emergency); Added at 16 Ok Reg 1006, eff 4-26-99 ; Amended at 33 Ok Reg 1560, eff 9-15-16 ; Amended at 40 Ok Reg 917, eff 9-15-23]

**340:1-11-41. Reasonable accommodations and undue hardship for Oklahoma Human Services (OKDHS) employees**

(a) OKDHS employee requests for reasonable accommodations are resolved at the lowest level possible, on a case-by-case basis, after the Office for Civil Rights (OCR) accepts Form 14CR003E, Request for Reasonable Accommodation, and opens a case. OCR considers Americans with Disabilities Act (ADA) protocol for reasonable accommodation requests, when:

- (1) the employee has a disability;
- (2) the employee is qualified; and
- (3) an effective and reasonable accommodation is available and does not create an undue hardship.

(b) When feasible, an employee makes a request for a reasonable accommodation in writing by submitting Form 14CR003E to the local ADA coordinator. The employee attaches a definitive, narrative medical statement from a medical professional that confirms the employee is disabled per the Americans with Disabilities Act Amendments Act (ADAAA) and specifies the reasonable accommodation(s) needed to perform the essential functions of the position.

(c) The ADA coordinator in OKDHS local county offices is the Adult and Family Services field manager or the Child Welfare Services (CWS) district director in stand-alone CWS offices. In other offices and facilities the ADA coordinator is the person administratively responsible for that location. The local ADA coordinator is familiar with the information contained on the "Requests for Reasonable Accommodation" page located on the OCR page of the OKDHS InfoNet. The local ADA coordinator signs Form 14CR003E, retains a copy, and forwards the original and the medical documentation to the deputy director, division or program director, or designee, who signs the form and retains a copy. Original Form 14CR003E and the medical documentation are immediately forwarded to the OKDHS OCR to open a case and approve the medical statement. Signatures under this subsection of the form serve only to acknowledge the request and do not indicate agreement to provide the accommodation requested or any other accommodation.

(d) When the Form 14CR003E is fully-signed and is forwarded to OCR, and OCR approves the medical statement and opens a case, the local OKDHS office initiates the mandated interactive-process by meeting with the requesting employee one or more times in an attempt to clarify the need for accommodation and to determine what, if any, accommodation is provided. The interactive process may take up to 30-calendar days. At the end of the interactive process the employee is notified in writing of the decision, whether an accommodation is to be provided, and a copy of the notice is sent to OCR. When a decision is not made by the 30th day after OCR opens the case, OCR refers the request to the Request Review Committee (RRC) for a decision.

- (e) Upon receipt of the fully-signed Form 14CR003E and an approved, definitive, narrative medical statement, OCR opens a file and notifies the requesting employee that the local OKDHS office approves or denies the request and of his or her right to appeal the decision. OCR monitors the interactive process and serves as a resource to all parties.
- (f) Accommodations that would result in an undue hardship to OKDHS do not have to be provided. Before making such a determination OCR consults with the regional director, division or program director, or designee.
- (g) Appeals to the RRC are routed through the OKDHS OCR administrator.
- (h) Employees who request a reasonable accommodation have the right to file a written appeal with the RRC when:
- (1) his or her request is denied;
  - (2) a decision is not made by the 30th day of the interactive process; or
  - (3) the accommodation provided is not effective.
- (i) OKDHS is not required to provide a reasonable accommodation when doing so would place an undue hardship on OKDHS in terms of effort or expense.
- (1) For an employment-related accommodation the factors in (A) through (J) of this paragraph are considered with regard to employment.
    - (A) The nature and cost of the accommodation.
    - (B) The overall financial resources of the facility or facilities involved in providing the accommodation.
    - (C) The number of persons employed at the facility.
    - (D) The effect on expenses and resources, or the impact otherwise of the accommodation upon the facility's operation.
    - (E) OKDHS financial resources.
    - (F) The overall size of OKDHS with respect to the number of its employees.
    - (G) The number, type, and location of OKDHS facilities.
    - (H) The type of OKDHS operation or operations, including the composition, structure, and functions of the OKDHS work force.
    - (I) Geographic separateness.
    - (J) The administrative or fiscal relationship of the facility or facilities in question to OKDHS.
  - (2) For a program-related accommodation, the factors in (A) through (D) of this paragraph are considered.
    - (A) The OKDHS resources available for use in the funding and operation of the service, program, or activity.
    - (B) When the accommodation would fundamentally alter the nature of the service, program, or activity.
    - (C) If the accommodation is consistent with providing services in the most integrated setting appropriate to the needs of individuals with disabilities.
    - (D) If an alternative and accessible site is available for the provision of services.



[Source: Added at 15 Ok Reg 2085, eff 5-20-98 (emergency); Added at 16 Ok Reg 1006, eff 4-26-99 ; Amended at 33 Ok Reg 1560, eff 9-15-16 ; Amended at 40 Ok Reg 917, eff 9-15-23]

### **340:1-11-42. Examples of reasonable accommodation [REVOKED]**

[Source: Added at 15 Ok Reg 3535, eff 6-4-98 (emergency); Added at 16 Ok Reg 1006, eff 4-26-99 ; Revoked at 33 Ok Reg 1560, eff 9-15-16]

### **340:1-11-43. Office for Civil Rights (OCR) responsibilities**

(a) OCR, as designated by the Oklahoma Human Services (OKDHS) Director, is responsible for coordination, oversight, and implementation of the reasonable accommodation request and appeal process.

(1) OCR continuously evaluates each program, office, and facility to ensure compliance with all current rules, practices, and Americans with Disabilities Act Amendments Act procedures.

(2) OCR receives notification of all accommodation requests and dispositions. After opening a case, OCR monitors each request to ensure the requests are processed timely and contacts the responsible regional director, division or program director, or designee when an accommodation request is not resolved by the end of the 30-calendar day, interactive process.

(3) OCR maintains a record of all requests for reasonable accommodation, and summary information on the numbers, natures, and outcomes of requests filed separately and apart from individual employee personnel files and client case records.

(4) Statistical information concerning request activity is released or reported to interested persons. The Oklahoma Open Records Act governs access to individual records and only those persons with a right of access as provided in the Oklahoma Open Records Act may review an individual request file. OKDHS maintains open record requests per federal and state laws governing record retention and destruction.

(b) All OKDHS employees are responsible for assisting any client who may be in need of reasonable accommodation by referring the client to the local Americans with Disabilities coordinator.

(c) The local ADA coordinator may assist a client in completing Form 14CR003E, Request for Reasonable Accommodation, and then forwards the original form to OCR. The OCR coordinator determines if the request can be resolved locally, and if not, the request is forwarded to the regional director, division or program director, or designee for resolution.

[Source: Added at 15 Ok Reg 3535, eff 6-4-98 (emergency); Added at 16 Ok Reg 1006, eff 4-26-99 ; Amended at 18 Ok Reg 1177, eff 5-11-01 ; Amended at 33 Ok Reg 1560, eff 9-15-16 ; Amended at 40 Ok Reg 917, eff 9-15-23]

### **340:1-11-44. Request for accommodation by a client [REVOKED]**

[Source: Added at 15 Ok Reg 3535, eff 6-4-98 (emergency); Added at 16 Ok Reg 1006, eff 4-26-99 ; Amended at 33 Ok Reg 1560, eff 9-15-16 ; Revoked at 40 Ok Reg 917, eff 9-15-23]

**340:1-11-45. Request for accommodation by a job applicant**

(a) A job applicant may request a reasonable accommodation for assistance in applying or interviewing for a position by submitting Form 14CR003E, Request for Reasonable Accommodation, either to Oklahoma Department of Human Services (DHS) Human Resources Management (HRM), to the office that posted the opening, or by making a verbal request to either office. When requested, the applicant is responsible for providing medical documentation to confirm the need for the accommodation.

(b) HRM forwards the request and the medical documentation to the hiring division, program, or facility staff who copies the documents and forwards the original form and medical documentation to the Office for Civil Rights (OCR) for medical documentation approval and to open a case.

(c) The hiring division, program, or facility is responsible for determining if any and what accommodation is provided after OCR approves the medical statement and opens a case.

(d) The job applicant is notified in writing, of the decision and a copy of the notice is sent to OCR.

[Source: Added at 15 Ok Reg 3535, eff 6-4-98 (emergency); Added at 16 Ok Reg 1006, eff 4-26-99 ; Amended at 33 Ok Reg 1560, eff 9-15-16]

**340:1-11-46. Role of the immediate supervisor [REVOKED]**

[Source: Added at 15 Ok Reg 3535, eff 6-4-98 (emergency); Added at 16 Ok Reg 1006, eff 4-26-99 ; Revoked at 33 Ok Reg 1560, eff 9-15-16]

**340:1-11-47. Local coordinator and supervisor responsibilities [REVOKED]**

[Source: Added at 15 Ok Reg 3535, eff 6-4-98 (emergency); Added at 16 Ok Reg 1006, eff 4-26-99 ; Amended at 18 Ok Reg 1177, eff 5-11-01 ; Revoked at 33 Ok Reg 1560, eff 9-15-16]

**340:1-11-48. Division coordinator or county director responsibilities [REVOKED]**

[Source: Added at 15 Ok Reg 3535, eff 6-4-98 (emergency); Added at 16 Ok Reg 1006, eff 4-26-99 ; Revoked at 33 Ok Reg 1560, eff 9-15-16]

**340:1-11-49. Division administrator, associate director, or area director responsibilities [REVOKED]**

[Source: Added at 15 Ok Reg 3535, eff 6-4-98 (emergency); Added at 16 Ok Reg 1006, eff 4-26-99 ; Amended at 18 Ok Reg 1177, eff 5-11-01 ; Revoked at 33 Ok Reg 1560, eff 9-15-16]

**340:1-11-50. Review by the Request Review Committee (RRC) [REVOKED]**

[Source: Added at 15 Ok Reg 3535, eff 6-4-98 (emergency); Added at 16 Ok Reg 1006, eff 4-26-99 ; Amended at 18 Ok Reg 1177, eff 5-11-01 ; Amended at 33 Ok Reg 1560, eff 9-15-16 ; Revoked at 40 Ok

Reg 917, eff 9-15-23]

### **340:1-11-51. Appeal of request for reasonable accommodation [REVOKED]**

[Source: Added at 15 Ok Reg 3535, eff 6-4-98 (emergency); Added at 16 Ok Reg 1006, eff 4-26-99 ;  
Revoked at 33 Ok Reg 1560, eff 9-15-16]

### **340:1-11-52. Medical documentation [REVOKED]**

[Source: Added at 15 Ok Reg 3535, eff 6-4-98 (emergency); Added at 16 Ok Reg 1006, eff 4-26-99 ;  
Revoked at 33 Ok Reg 1560, eff 9-15-16]

### **340:1-11-53. Illegal drug use**

- (a) Current illegal drug use does not qualify as a disability.
- (b) Former, illegal drug users qualify as disabled, when they:
  - (1) have successfully completed a supervised, drug rehabilitation program;
  - (2) have otherwise been rehabilitated;
  - (3) are participating in a supervised, drug rehabilitation program;
  - and
  - (4) are no longer illegally using drugs.

[Source: Added at 15 Ok Reg 3535, eff 6-4-98 (emergency); Added at 16 Ok Reg 1006, eff 4-26-99 ;  
Amended at 33 Ok Reg 1560, eff 9-15-16]

### **340:1-11-54. Undue hardship and reasonable accommodation [REVOKED]**

[Source: Added at 15 Ok Reg 3535, eff 6-4-98 (emergency); Added at 16 Ok Reg 1006, eff 4-26-99 ;  
Amended at 33 Ok Reg 1560, eff 9-15-16 ; Revoked at 40 Ok Reg 917, eff 9-15-23]

### **340:1-11-55. Retaliation or coercion [REVOKED]**

[Source: Added at 15 Ok Reg 3535, eff 6-4-98 (emergency); Added at 16 Ok Reg 1006, eff 4-26-99 ;  
Revoked at 33 Ok Reg 1560, eff 9-15-16]

## **SUBCHAPTER 13. DEPARTMENT MANUAL [REVOKED]**

### **340:1-13-1. Purpose and distribution of the manual [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-13-2. Availability of manual [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

**340:1-13-3. Relationship of DHS Manual to Oklahoma Administrative Code [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

**SUBCHAPTER 15. AVAILABILITY OF INFORMATION,  
SCOPE AND DESCRIPTION OF PUBLIC RECORDS  
[REVOKED]**

**340:1-15-1. Access to DHS records [REVOKED]**

[Source: Revoked at 14 Ok Reg 1079, eff 12-12-96 (emergency); Revoked at 14 Ok Reg 1294, eff 5-12-97]

**340:1-15-2. Scope and description of the Open Meetings Act [REVOKED]**

[Source: Revoked at 16 Ok Reg 1006, eff 4-26-99]

**340:1-15-3. News media contacts [REVOKED]**

[Source: Amended at 14 Ok Reg 868, eff 1-24-97 (emergency); Amended at 14 Ok Reg 2287, eff 6-12-97 ; Revoked at 16 Ok Reg 1006, eff 4-26-99]

**SUBCHAPTER 17. DHS RULES FOR BLOODBORNE  
PATHOGENS INCLUDING AIDS AND HIV INFECTION  
[REVOKED]**

**340:1-17-1. Purpose [REVOKED]**

[Source: Amended at 11 Ok Reg 1111, eff 1-25-94 (emergency); Amended at 11 Ok Reg 3219, eff 6-27-94 ; Revoked at 16 Ok Reg 1006, eff 4-26-99]

**340:1-17-2. Definitions [REVOKED]**

[Source: Amended at 11 Ok Reg 1111, eff 1-25-94 (emergency); Amended at 11 Ok Reg 3219, eff 6-27-94 ; Revoked at 16 Ok Reg 1006, eff 4-26-99]

**340:1-17-3. General policy [REVOKED]**

[Source: Amended at 11 Ok Reg 1111, eff 1-25-94 (emergency); Amended at 11 Ok Reg 3219, eff 6-27-94 ; Revoked at 16 Ok Reg 1006, eff 4-26-99]

**340:1-17-4. Educational programs [REVOKED]**

[Source: Amended at 11 Ok Reg 1111, eff 1-25-94 (emergency); Amended at 11 Ok Reg 3219, eff 6-27-94 ; Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-17-5. Confidentiality [REVOKED]**

[Source: Amended at 11 Ok Reg 1111, eff 1-25-94 (emergency); Amended at 11 Ok Reg 3219, eff 6-27-94 ; Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-17-6. Counseling [REVOKED]**

[Source: Amended at 11 Ok Reg 1111, eff 1-25-94 (emergency); Amended at 11 Ok Reg 3219, eff 6-27-94 ; Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-17-7. Management of exposure to blood or other body fluids [REVOKED]**

[Source: Amended at 11 Ok Reg 1111, eff 1-25-94 (emergency); Amended at 11 Ok Reg 3219, eff 6-27-94 ; Revoked at 16 Ok Reg 1006, eff 4-26-99]

## **SUBCHAPTER 19. LEGISLATION REVIEW AND COORDINATING COMMITTEE [REVOKED]**

### **340:1-19-1. Purpose [REVOKED]**

[Source: Added at 10 Ok Reg 1279, eff 3-19-93 (emergency); Added at 10 Ok Reg 3597, eff 7-12-93 ; Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-19-2. Composition of the LRCC [REVOKED]**

[Source: Added at 10 Ok Reg 1279, eff 3-19-93 (emergency); Added at 10 Ok Reg 3597, eff 7-12-93 ; Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-19-3. Responsibilities of the LRCC [REVOKED]**

[Source: Added at 10 Ok Reg 1279, eff 3-19-93 (emergency); Added at 10 Ok Reg 3597, eff 7-12-93 ; Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-19-4. Function of the designated representative [REVOKED]**

[Source: Added at 10 Ok Reg 1279, eff 3-19-93 (emergency); Added at 10 Ok Reg 3597, eff 7-12-93 ; Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-19-5. Responsibilities of the designated representative [REVOKED]**

[Source: Added at 10 Ok Reg 1279, eff 3-19-93 (emergency); Added at 10 Ok Reg 3597, eff 7-12-93 ; Revoked at 16 Ok Reg 1006, eff 4-26-99]

### **340:1-19-6. Employees' personal or private opinions [REVOKED]**

[Source: Added at 10 Ok Reg 1279, eff 3-19-93 (emergency); Added at 10 Ok Reg 3597, eff 7-12-93 ; Revoked at 16 Ok Reg 1006, eff 4-26-99]

**APPENDIX A. REQUEST FOR REASONABLE  
ACCOMODATION FOR A DISABILITY (CLIENT)  
[REVOKED]**

**[Source:** Added at 9 Ok Reg 3781, eff 8-7-92 (emergency); Added at 10 Ok Reg 1797, eff 5-13-93 ;  
Revoked at 15 Ok Reg 2085, eff 5-20-98 (emergency); Revoked at 16 Ok Reg 1006, eff 4-26-99]

**APPENDIX B. RESPONSE TO REQUEST FOR  
REASONABLE ACCOMMODATION FOR A DISABILITY  
[REVOKED]**

[**Source:** Added at 9 Ok Reg 3781, eff 8-7-92 (emergency); Added at 10 Ok Reg 1797, eff 5-13-93 ;  
Revoked at 33 Ok Reg 1560, eff 9-15-16]

## CHAPTER 2. ADMINISTRATIVE COMPONENTS

[**Authority:** Title II Section 218 and Title IV-D of Federal Social Security Act; Section 504 of Rehabilitation Act of 1973; P.L. 98-502; P.L. 94-165; Civil Rights Act of 1964; Title IX of Education Amendments of 1972; Section 306 of the Clean Air Act; Section 508 of the Clean Water Act; 18 U.S.C. 874; 31 U.S.C. § 7501 et seq.; 40 U.S.C. 276(a) to 1-7; 40 U.S.C. 327 through 330; 42 U.S.C. § 5101 et seq.; 7 CFR 273.15; 29 CFR Parts 3 and 5; 21 CFR Parts 50 and 56; 29 CFR 1910 and 1200; 40 CFR 303.72; 45 CFR §§ 46.108 and 46.116; 45 CFR 303.72; 45 CFR Parts 160 and 164, Subparts A and E; 46 CFR Part 45; 10 O.S., 405.3; 5 O.S., Appendix 4; 10 O.S., §§ 404.1, 7700-101 et seq., 175.20, 602, 1138(3), 1141, 1403.3, 1406, 1414.1, 1415.1, 1419, 1430.1 et seq., 1430.11, 1430.20, 7004-1.1, 7004-3.4, 7204.1, 7213, and 7306-2.11; 10A O.S., §§ 1-1-101 et seq., 21 O.S., §§ 843, 845, and 946; 12 O.S., §§ 3224 et seq; 40 O.S., §§ 401 through 424, 551 and 554; 42 O.S., §§ 43 and 44; 43 O.S., §§ 801 through 810; 43A O.S., §§ 10-102 et seq.; 47 O.S., § 156; 51 O.S., §§ 24A.1 et seq; 151 et seq.; 56 O.S., §§ 162, 162.4, 168, 177, 183, 200, 233, 236, 237, 237.7, 237.9a, 238.1, 238.4(B), 240 et seq., 1020, 1025.1 et seq., and 2376 et seq.; 67 O.S., § 201; 68 O.S., §§ 205.2 and 205.3; 74 O.S., §§ 85.1 through 85.45K, 85.34, 85.39, 564, and 840.1 et seq.; 75 O.S., §§ 85.1 et seq., 250 et seq., 302, 305, 307, and 317; *Homeward Bound et al. vs. The Hissom Memorial Center*, U.S. District Court for Northern District of Oklahoma, Case No. 85-C-437-E Code of Judicial Conduct Rule 2.9]  
[**Source:** Codified 12-31-91]

### SUBCHAPTER 1. HUMAN RESOURCES MANAGEMENT DIVISION

#### PART 1. GENERAL PROVISIONS

##### **340:2-1-1. Purpose [REVOKED]**

[**Source:** Amended at 20 Ok Reg 1981, eff 6-26-03 ; Amended at 27 Ok Reg 1826, eff 7-1-10 ; Revoked at 40 Ok Reg 924, eff 9-15-23]

##### **340:2-1-2. Appointing authority [REVOKED]**

[**Source:** Amended at 10 Ok Reg 3943, eff 6-22-93 (emergency); Amended at 11 Ok Reg 1607, eff 5-12-94 ; Amended at 11 Ok Reg 3623, eff 7-1-94 (emergency); Amended at 12 Ok Reg 1387, eff 5-26-95 ; Amended at 13 Ok Reg 421, eff 11-14-95 (emergency); Amended at 13 Ok Reg 2583, eff 6-28-96 ; Amended at 16 Ok Reg 1008, eff 4-26-99 ; Amended at 20 Ok Reg 1981, eff 6-26-03 ; Amended at 27 Ok Reg 1826, eff 7-1-10 ; Amended at 38 Ok Reg 2095, eff 9-15-21 ; Revoked at 40 Ok Reg 924, eff 9-15-23]

##### **340:2-1-3. Oklahoma Merit System of Personnel Administration (Merit System) [REVOKED]**

[**Source:** Amended at 13 Ok Reg 2583, eff 6-28-96 ; Amended at 11 Ok Reg 3623, eff 7-1-94 (emergency); Amended at 12 Ok Reg 1387, eff 5-26-95 ; Amended at 13 Ok Reg 421, eff 11-14-95 through 7-14-96 (emergency); Amended at 16 Ok Reg 1008, eff 4-26-99 ; Amended at 18 Ok Reg 2592, eff 6-26-01 ; Amended at 20 Ok Reg 1981, eff 6-26-03 ; Amended at 38 Ok Reg 2095, eff 9-15-21 ; Revoked at 40 Ok Reg 924, eff 9-15-23]

##### **340:2-1-4. Political activity**

(a) A state employee may not:

- (1) use his or her position for the purpose of interfering with an election to, or a nomination for, office or affecting the result thereof;
- (2) wear a campaign item, such as a button, hat, or badge during the hours he or she is officially in work status for the agency;
- (3) wear items, such as a uniform, badge, or anything that identifies him or her as a state employee while engaged in



political activity or while campaigning for himself or herself, or any candidate for office;

(4) disseminate, either directly or indirectly, any political commentary, discussion, or advertisement for non-work purposes during the hours he or she is officially in work status for the agency;

(5) campaign for, or on behalf of, any candidate or ballot or election question, during the hours the employee is officially in work status for the agency; or

(6) become a candidate for an elective public office in a partisan election or in which the office has direct or indirect oversight of the agency.

(b) A state employee not directly or indirectly coerce, attempt to coerce, command, or direct any state employee to pay, lend, or contribute any part of his or her salary or compensation, time, effort, or anything else of value to any party, committee, organization, agency, or person for political purposes. Any person convicted of willfully violating the provisions of Section 360 of Title 21 of the Oklahoma Statutes is guilty of a felony and is punished by the imposition of a fine of not more than \$10,000.00 or by imprisonment for not longer than two years, or by both said fine and imprisonment.

(c) Agency positions that are partially federally funded are also subject to provisions of the Hatch Act, Sections 1501 et. seq. of Title 5 of the United States Code. In addition to certain prohibitions listed above in subsection (a), the Hatch Act also prohibits state employees who are in 100 percent federally funded positions from running for election for a partisan office.

(d) Violations of any provision in this Section may result in disciplinary action including, but not limited to, written reprimand, demotion, or termination.

[Source: Amended at 10 Ok Reg 3943, eff 6-22-93 (emergency); Amended at 11 Ok Reg 1607, eff 5-12-94 ; Amended at 11 Ok Reg 3623, eff 7-1-94 (emergency); Amended at 12 Ok Reg 1387, eff 5-26-95 ; Amended at 16 Ok Reg 1008, eff 4-26-99 ; Amended at 38 Ok Reg 2095, eff 9-15-21]

### **340:2-1-5. Employee benefits**

(a) **Benefits.** Oklahoma Human Services (OKDHS) employee benefits include:

(1) a core benefit allowance for the employee's mandatory coverage of:

- (A) health insurance;
- (B) dental insurance;
- (C) basic life insurance; and
- (D) disability insurance;

(2) an increased benefit allowance for the employee's dependents' health, dental, and life insurance coverage;

(3) premium conversion for qualifying insurance benefits, when chosen;

(4) reimbursement accounts, when the employee chooses, for:

- (A) child care and dependent elder care expenses;
- (B) qualifying medical expenses; or
- (C) both; and

(5) retirement benefits through the Oklahoma Public Employees Retirement System (OPERS) or Pathfinders.

(b) **Unemployment compensation.** OKDHS employees may qualify for unemployment compensation under certain circumstances. When correspondence related to unemployment compensation is received in an OKDHS office, Human Resource Management (HRM) is immediately contacted. HRM serves as the official representative for the unemployment compensation process and, a written response from OKDHS must be postmarked, pursuant to timeframes established by the Oklahoma Employment Security Commission (OESC). When the written response is not submitted timely, OESC determines the eligibility for compensation only from the information provided by the claimant. OKDHS employees, as deemed necessary by HRM, cooperate in the unemployment compensation process to ensure valid benefit determinations.

(c) **Eligibility for OKDHS program benefits.** Benefits through OKDHS programs are available to OKDHS employees as well as legal dependents, who meet all conditions of eligibility for the specific program for which application is made. The application for benefits, the determination of original eligibility and continuing eligibility, and the delivery of services are handled in the same manner as for any other individual, except that an employee cannot certify himself or herself, relatives, or unrelated persons living in the employee's home.

(d) **Other benefits.** Other benefits, including deferred compensation, leave, and paid holidays are provided to employees, pursuant to the Oklahoma Personnel Act and OKDHS rules.

[Source: Amended at 10 Ok Reg 3943, eff 6-22-93 (emergency); Amended at 11 Ok Reg 1607, eff 5-12-94 ; Amended at 11 Ok Reg 3623, eff 7-1-94 (emergency); Amended at 12 Ok Reg 1387, eff 5-26-95 ; Amended at 16 Ok Reg 1008, eff 4-26-99 ; Amended at 20 Ok Reg 1981, eff 6-26-03 ; Amended at 25 Ok Reg 1292, eff 6-1-08 ; Amended at 35 Ok Reg 1559, eff 9-17-18 ; Amended at 38 Ok Reg 2095, eff 9-15-21]

#### **340:2-1-6. Investigation of employees accused of abuse or neglect**

Oklahoma Human Services (OKDHS) is responsible for receiving and investigating complaints of abuse and neglect. When an OKDHS employee is alleged to have abused or neglected a vulnerable person, special procedures are followed to provide outside accountability and to ensure the employee that an unbiased investigation is completed. These procedures are outlined in Oklahoma Administrative Code 340:75-3-400 and 340:5-1-8(2).

[Source: Amended at 11 Ok Reg 3623, eff 7-1-94 (emergency); Amended at 12 Ok Reg 1387, eff 5-26-95 ; Amended at 16 Ok Reg 1008, eff 4-26-99 ; Amended at 20 Ok Reg 1981, eff 6-26-03 ; Amended at 27 Ok Reg 1826, eff 7-1-10 ; Amended at 38 Ok Reg 2095, eff 9-15-21]

#### **340:2-1-7. Financial Disclosures filed with the Ethics Commission (EC) required and designated [REVOKED]**

[Source: Added at 22 Ok Reg 1173, eff 6-1-05 ; Revoked at 35 Ok Reg 1559, eff 9-17-18]

**340:2-1-8. Employee ethics, duties, conduct and secondary employment**

(a) **Employee duties and conduct, secondary employment, prohibition against use of position for personal gain, impartiality, and avoidance of conflicts of interest.** All Oklahoma Human Services (OKDHS) employees are subject to appropriate corrective or disciplinary action if the employee fails to comply with this provision, the Ethics Rules, per Title 74 of the Oklahoma Statutes, or any other statute or regulation regarding employee ethics, duties, and conduct, including but not limited to Section 840-2.8 of Title 74 of the Oklahoma Statutes (74 O.S. § 840-2.8), Oklahoma Administrative Code (OAC) 260:25-11-91, and OAC 260:130-19-50.

(b) **Work hours.** During work hours, every employee devotes full time and attention to OKDHS business. An employee may not use:

- (1) work hours for private gain, including but not limited to, activities involved in a business enterprise, secondary employment, or self-employment; nor
- (2) paid work time, state offices, phones, supplies, and or equipment to further the programs or activities of private, non-profit organizations, even when the private organization's objectives are compatible with those of OKDHS. Exceptions may occur as authorized by the division director and only for activities in which OKDHS can legitimately expend agency dollars, such as when OKDHS is a member of an organization or in situations where OKDHS has responsibility as a member of a board or commission by law or by appointment of the executive or legislative branch of government.

(c) **Conflicts of interest and impartiality.** An OKDHS employee avoids actual and perceived conflicts of interest. An OKDHS employee must inform his or her supervisors about, and be recused from, participation in any matter that would reasonably bring the employee's impartiality into question. Employees, specifically including local administrators or higher, and other decision makers, are strongly encouraged to consult with Legal Services for advice on determining any potential conflict of interest or impartiality concern. OKDHS has the sole authority to make conflicts of interest and impartiality determinations, and there is not a right to appeal or further contest such determinations.

(d) **Secondary employment.** An employee may accept other employment outside of his or her OKDHS regular work hours, provided such employment is approved in advance and does not create a conflict of interest, whether actual or perceived, regarding work for OKDHS.

(1) If the requested secondary employment does not create a conflict of interest, prior written approval is needed from both the immediate supervisor and local administrator or regional deputy director.

(2) If the requested secondary employment creates a conflict of interest, prior written approval is needed from all the following:

- (A) immediate supervisor;
- (B) local administrator or regional deputy director; and

(C) division director or higher senior administrator. The senior administrator is either the OKDHS Director or deputy director.

(3) An OKDHS employee may not be employed by another governmental agency or entity, any provider or vendor contracting with OKDHS, or any entity licensed or regulated by OKDHS without the prior written approval of the employee's division director or a senior administrator.

(e) **Related employees.** Placement in a position that results in relatives, members of the same household, or comparably situated persons occupying positions within the same division must be approved in writing by the OKDHS Director. OKDHS may make placements and work assignments of personnel as necessary to eliminate or prevent situations of this nature. Relative is defined as spouse, child, parent, stepparent, parent-in-law, grandchild, grandparent, brother, sister, stepchild, brother-in-law, sister-in-law, son-in-law, daughter-in-law, aunt, uncle, niece, nephew, first cousin, or foster relationship. OKDHS policy prohibits, unless waived by the OKDHS Director or designee, the employment of any person in a position that results in:

- (1) immediate supervision by a relative, a member of the employee's household, or a comparably situated person. ;
- (2) placement in a position, as a second level reviewing supervisor, within a relative's line of authority or chain of command; or
- (3) two or more relatives reporting to the same immediate supervisor.

(f) **Processing applications for OKDHS benefits or services for an employee's relatives, persons living in the employee's home, or any other person with whom the employee has a personal relationship.** Employees perform their duties in a manner that maintains impartiality, per subsection (c) of this Section.

(1) An employee may not:

(A) process, certify, or approve an application for benefits, payments, or services for any:

- (i) relative as defined in subsection (e) of this Section;
- (ii) unrelated person living in the employee's household. This includes a relationship to a relative that is terminated by death, divorce, or other reasons; or
- (iii) person with whom the employee has an existing off-duty personal relationship; nor

(B) act as an authorized representative for clients receiving OKDHS program benefits without the specific written approval of the local administrator after a determination is made that no one else is available to serve.

(2) In offices with limited staff, it may be necessary for an employee to take an application for a person(s) listed in subsection (f)(1) of this Section; however, he or she cannot certify the person(s) for benefits, payments, or services.

(g) **Client relationships.** OKDHS employees assist clients in developing independence and self-sufficiency while recognizing their rights. A client is defined as a program applicant, recipient, patient, and any other person receiving or making application for OKDHS services. Clients' rights include, but are not limited to:

- (1) privacy and the expectation that information obtained by OKDHS employees in the course of their duties is held confidential;
- (2) treatment that conveys dignity, respect, courtesy, fairness, and good faith;
- (3) expectation of high standards of personal conduct from OKDHS employees. OKDHS employees are prohibited from:
  - (A) using their positions to form personal relationships with clients;
  - (B) exploiting the trust and dependency of clients or engaging in any activity that is, or is perceived to be, an exploitation of the client relationship. Examples of prohibited activities include, but are not limited to:
    - (i) taking clients on overnight trips, unless such overnight outings are officially arranged and authorized by OKDHS supervisory or administrative staff;
    - (ii) extending or accepting social invitations to or from clients;
    - (iii) engaging in sexual intimacies with clients;
    - (iv) encouraging clients to engage in illegal activities, including use or possession of illicit drugs;
    - (v) giving or accepting gifts from clients, or exchanging or suggesting the exchange of any goods or services of value, unless specifically authorized by rules or appropriate supervisory personnel; or
    - (vi) making home visits or other client contacts outside the scope of employment and job duties;
- and
- (4) freedom from discrimination on the basis of race, gender, age, color, creed, national origin, religion, or disability;
- (5) freedom from harassment, including sexual harassment; and
- (6) freedom from interference by OKDHS employees regarding matters of individual belief or faith.

[Source: Added at 22 Ok Reg 1173, eff 6-1-05 ; Amended at 25 Ok Reg 1292, eff 6-1-08 ; Amended at 29 Ok Reg 1224, eff 7-1-12 ; Amended at 38 Ok Reg 2095, eff 9-15-21 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **PART 3. INTERNAL HUMAN RESOURCES [REVOKED]**

### **340:2-1-25. Application [REVOKED]**

[**Source:** Amended at 9 Ok Reg 275, eff 11-12-91 (emergency); Amended at 9 Ok Reg 2061, eff 6-11-92 ; Amended at 10 Ok Reg 3943, eff 6-22-93 (emergency); Amended at 11 Ok Reg 1607, eff 5-12-94 ; Amended at 11 Ok Reg 3623, eff 7-1-94 (emergency); Amended at 12 Ok Reg 1387, eff 5-26-95 ; Amended at 13 Ok Reg 421, eff 11-14-95 (emergency); Amended at 13 Ok Reg 2583, eff 6-28-96 ; Amended at 16 Ok Reg 1008, eff 4-26-99 ; Amended at 18 Ok Reg 2592, eff 6-26-01 ; Amended at 20 Ok Reg 1981, eff 6-26-03 ; Amended at 22 Ok Reg 1173, eff 6-1-05 ; Amended at 25 Ok Reg 1292, eff 6-1-08 ; Revoked at 27 Ok Reg 1826, eff 7-1-10]

### **340:2-1-26. Employment and assignment [REVOKED]**

[**Source:** Amended at 10 Ok Reg 3943, eff 6-22-93 (emergency); Amended at 11 Ok Reg 1607, eff 5-12-94 ; Amended at 11 Ok Reg 3623, eff 7-1-94 (emergency); Amended at 12 Ok Reg 1387, eff 5-26-95 ; Amended at 13 Ok Reg 421, eff 11-14-95 (emergency); Amended at 13 Ok Reg 2583, eff 6-28-96 ; Amended at 16 Ok Reg 1008, eff 4-26-99 ; Amended at 18 Ok Reg 2592, eff 6-26-01 ; Amended at 19 Ok Reg 2182, eff 6-27-02 ; Amended at 20 Ok Reg 1981, eff 6-26-03 ; Amended at 22 Ok Reg 1173, eff 6-1-05 ; Amended at 25 Ok Reg 1292, eff 6-1-08 ; Amended at 27 Ok Reg 1826, eff 7-1-10 ; Amended at 32 Ok Reg 1797, eff 9-15-15 ; Amended at 35 Ok Reg 1559, eff 9-17-18 ; Revoked at 38 Ok Reg 2095, eff 9-15-21]

### **340:2-1-27. Entering on duty [REVOKED]**

[**Source:** Amended at 10 Ok Reg 3943, eff 6-22-93 (emergency); Amended at 11 Ok Reg 1607, eff 5-12-94 ; Amended at 11 Ok Reg 3623, eff 7-1-94 (emergency); Amended at 12 Ok Reg 1387, eff 5-26-95 ; Amended at 13 Ok Reg 421, eff 11-14-95 (emergency); Amended at 13 Ok Reg 2583, eff 6-28-96 ; Amended at 16 Ok Reg 1008, eff 4-26-99 ; Amended at 18 Ok Reg 2592, eff 6-26-01 ; Amended at 19 Ok Reg 2182, eff 6-27-02 ; Amended at 20 Ok Reg 1981, eff 6-26-03 ; Amended at 22 Ok Reg 1173, eff 6-1-05 ; Amended at 25 Ok Reg 1292, eff 6-1-08 ; Amended at 27 Ok Reg 1826, eff 7-1-10 ; Amended at 32 Ok Reg 1797, eff 9-15-15 ; Amended at 35 Ok Reg 1559, eff 9-17-18 ; Revoked at 38 Ok Reg 2095, eff 9-15-21]

### **340:2-1-28. Probationary period, classified service [REVOKED]**

[**Source:** Amended at 10 Ok Reg 3943, eff 6-22-93 (emergency); Amended at 11 Ok Reg 1607, eff 5-12-94 ; Amended at 11 Ok Reg 3623, eff 7-1-94 (emergency); Amended at 12 Ok Reg 1387, eff 5-26-95 ; Amended at 13 Ok Reg 421, eff 11-14-95 (emergency); Amended at 13 Ok Reg 617, eff 11-28-95 (emergency); Amended at 13 Ok Reg 2583, eff 6-28-96 ; Amended at 16 Ok Reg 264, eff 11-3-98 (emergency); Amended at 16 Ok Reg 1008, eff 4-26-99 ; Amended at 18 Ok Reg 2592, eff 6-26-01 ; Amended at 19 Ok Reg 2182, eff 6-27-02 ; Amended at 20 Ok Reg 1981, eff 6-26-03 ; Amended at 21 Ok Reg 1338, eff 5-27-04 ; Amended at 25 Ok Reg 1292, eff 6-1-08 ; Amended at 27 Ok Reg 1826, eff 7-1-10 ; Amended at 32 Ok Reg 1797, eff 9-15-15 ; Amended at 35 Ok Reg 1559, eff 9-17-18 ; Amended at 38 Ok Reg 2095, eff 9-15-21 ; Revoked at 40 Ok Reg 924, eff 9-15-23]

### **340:2-1-29. Appointments [REVOKED]**

[**Source:** Amended at 11 Ok Reg 3623, eff 7-1-94 (emergency); Amended at 12 Ok Reg 1387, eff 5-26-95 ; Amended at 13 Ok Reg 421, eff 11-14-95 (emergency); Amended at 13 Ok Reg 2583, eff 6-28-96 ; Amended at 16 Ok Reg 1008, eff 4-26-99 ; Amended at 18 Ok Reg 2592, eff 6-26-01 ; Amended at 19 Ok Reg 2182, eff 6-27-02 ; Amended at 20 Ok Reg 1981, eff 6-26-03 ; Amended at 21 Ok Reg 1338, eff 5-27-04 ; Amended at 22 Ok Reg 1173, eff 6-1-05 ; Amended at 25 Ok Reg 1292, eff 6-1-08 ; Amended at 27 Ok Reg 1826, eff 7-1-10 ; Amended at 35 Ok Reg 1559, eff 9-17-18 ; Amended at 38 Ok Reg 2095, eff 9-15-21 ; Revoked at 40 Ok Reg 924, eff 9-15-23]

### **340:2-1-30. The drug-free workplace [REVOKED]**

[**Source:** Amended at 13 Ok Reg 421, eff 11-14-95 (emergency); Amended at 13 Ok Reg 2583, eff 6-28-96 ; Amended at 16 Ok Reg 1008, eff 4-26-99 ; Amended at 19 Ok Reg 2182, eff 6-27-02 ; Revoked at 38 Ok Reg 2095, eff 9-15-21]

### **340:2-1-31. Classification plan [REVOKED]**

[Source: Amended at 11 Ok Reg 3623, eff 7-1-94 (emergency); Amended at 12 Ok Reg 1387, eff 5-26-95 ; Amended at 13 Ok Reg 421, eff 11-14-95 (emergency); Amended at 13 Ok Reg 2583, eff 6-28-96 ; Amended at 16 Ok Reg 1008, eff 4-26-99 ; Amended at 19 Ok Reg 2182, eff 6-27-02 ; Amended at 20 Ok Reg 1981, eff 6-26-03 ; Amended at 35 Ok Reg 1559, eff 9-17-18 ; Amended at 38 Ok Reg 2095, eff 9-15-21 ; Revoked at 40 Ok Reg 924, eff 9-15-23]

### **340:2-1-32. Salary Administration Plan and Oklahoma Human Services OKDHS Compensation Guidelines (OKDHSCG) [REVOKED]**

[Source: Amended at 10 Ok Reg 3943, eff 6-22-93 (emergency); Amended at 11 Ok Reg 1607, eff 5-12-94 ; Amended at 11 Ok Reg 3623, eff 7-1-94 (emergency); Amended at 12 Ok Reg 535, eff 12-10-94 (emergency); Amended at 12 Ok Reg 1387, eff 5-26-95 ; Amended at 13 Ok Reg 421, eff 11-14-95 (emergency); Amended at 13 Ok Reg 2583, eff 6-28-96 ; Amended at 16 Ok Reg 1008, eff 4-26-99 ; Amended at 18 Ok Reg 2592, eff 6-26-01 ; Amended at 19 Ok Reg 2182, eff 6-27-02 ; Amended at 20 Ok Reg 1981, eff 6-26-03 ; Amended at 24 Ok Reg 342, eff 1-1-07 (emergency); Amended at 24 Ok Reg 977, eff 5-11-07 ; Amended at 35 Ok Reg 1559, eff 9-17-18 ; Amended at 38 Ok Reg 2095, eff 9-15-21 ; Revoked at 40 Ok Reg 924, eff 9-15-23]

### **340:2-1-33. Fair Labor Standards Act rules [REVOKED]**

[Source: Amended at 10 Ok Reg 3943, eff 6-22-93 (emergency); Amended at 11 Ok Reg 1607, eff 5-12-94 ; Amended at 11 Ok Reg 3623, eff 7-1-94 (emergency); Amended at 12 Ok Reg 1387, eff 5-26-95 ; Amended at 16 Ok Reg 1008, eff 4-26-99 ; Revoked at 25 Ok Reg 884, eff 5-11-08]

### **340:2-1-34. Employment verifications and references [REVOKED]**

[Source: Added at 18 Ok Reg 2606, eff 6-26-01 ; Amended at 19 Ok Reg 2182, eff 6-27-02 ; Amended at 20 Ok Reg 1981, eff 6-26-03 ; Amended at 21 Ok Reg 1338, eff 5-27-04 ; Amended at 22 Ok Reg 1173, eff 6-1-05 ; Amended at 25 Ok Reg 1933, eff 7-1-08 ; Amended at 35 Ok Reg 1559, eff 9-17-18 ; Revoked at 40 Ok Reg 924, eff 9-15-23]

## **PART 4. ALCOHOL AND DRUG TESTING POLICY APPLICABLE TO OKLAHOMA HUMAN SERVICES APPLICANTS**

### **340:2-1-40. Purpose**

The purpose of this Section is to inform applicants on Oklahoma Human Services expectations regarding drugs or alcohol in the workplace.

[Source: Added at 18 Ok Reg 146, eff 11-2-00 (emergency); Added at 18 Ok Reg 1184, eff 5-11-01 ; Amended at 23 Ok Reg 2644, eff 9-1-06 ; Amended at 38 Ok Reg 2095, eff 9-15-21]

### **340:2-1-41. Drug and alcohol free workplace**

(a) **Purpose.** Oklahoma Human Services (OKDHS) is a drug- and alcohol-free workplace. All OKDHS employees are prohibited from unlawfully manufacturing, distributing, dispensing, possessing, using, or being under the influence of a controlled substance or alcohol during scheduled work hours; while operating a state vehicle; on state property; or at his or her workplace.

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

(1) **"Alcohol"** means and includes hydrated oxide of ethyl, ethyl alcohol, ethanol, or spirits of wine, per Section 1-103 of Title 37A of the Oklahoma Statutes.

(2) **"Applicant"** means any person making application for initial hire, reinstatement, or transfer from a state agency for any position within OKDHS.

(3) **"Conditional offer of employment"** means an offer made to an applicant for employment with OKDHS, conditioned upon successful completion of a drug test prior to the start of employment.

(4) **"Controlled substance"** means substances listed in Schedule I through V of Section 812 of Title 21 of the United States Code, and as further defined by applicable federal and state regulations. Controlled substances include, but are not limited to, marijuana, including marijuana consumed or possessed with a medical marijuana license; cocaine; opiates; phencyclidine (PCP); and amphetamines.

(5) **"Drug"** means any controlled substance approved for hair or urine testing by the Oklahoma State Department of Health, including amphetamines, cannabinoids, cocaine, PCP, hallucinogens, methaqualone, opiates, barbiturates, benzodiazepines, synthetic narcotics, designer drugs, or a metabolite of any of these substances.

[Source: Added at 18 Ok Reg 146, eff 11-2-00 (emergency); Added at 18 Ok Reg 1184, eff 5-11-01 ; Amended at 23 Ok Reg 2644, eff 9-1-06 ; Amended at 38 Ok Reg 2095, eff 9-15-21]

#### **340:2-1-42. Definitions [REVOKED]**

[Source: Added at 18 Ok Reg 146, eff 11-2-00 (emergency); Added at 18 Ok Reg 1184, eff 5-11-01 ; Amended at 19 Ok Reg 1114, eff 5-13-02 ; Amended at 23 Ok Reg 2644, eff 9-1-06 ; Amended at 24 Ok Reg 2172, eff 6-25-07 ; Amended at 29 Ok Reg 1224, eff 7-1-12 ; Revoked at 38 Ok Reg 2095, eff 9-15-21]

#### **340:2-1-43. Implementation of alcohol and drug testing of OKDHS employees and applicants [REVOKED]**

[Source: Added at 18 Ok Reg 146, eff 11-2-00 (emergency); Added at 18 Ok Reg 1184, eff 5-11-01 ; Amended at 19 Ok Reg 1114, eff 5-13-02 ; Amended at 23 Ok Reg 2644, eff 9-1-06 ; Amended at 24 Ok Reg 2172, eff 6-25-07 ; Revoked at 38 Ok Reg 2095, eff 9-15-21]

#### **340:2-1-44. Alcohol and drug testing**

(a) All Oklahoma Human Services (OKDHS) applicants for employment are subject to testing for alcohol or drug use. OKDHS may require an applicant to submit and pass a drug screening as a conditional offer of employment.

(b) OKDHS may utilize any testing facility licensed by the State Board of Health, per Section 557 of Title 40 of the Oklahoma Statutes (40 O.S. § 557). Refusal to undergo testing as a condition of employment or a positive test result may result in a rescission of the employment offer.



(c) A small number of applicants fall under United States Department of Transportation (U.S. DOT) regulations for alcohol and drug testing, specifically Controlled Substance Testing, per Section 391.81 et seq. of Title 49 of the Code of Federal Regulations (49 C.F.R. §§ 391.81 et seq.), Procedures for Transportation Workplace Drug Testing Programs (49 C.F.R. §§ 40.1 et seq.), and other applicable federal statutes and regulations. Applicants are tested according to the U.S. Department of Transportation regulations.

[Source: Added at 18 Ok Reg 146, eff 11-2-00 (emergency); Added at 18 Ok Reg 1184, eff 5-11-01 ; Amended at 19 Ok Reg 1114, eff 5-13-02 ; Amended at 23 Ok Reg 2644, eff 9-1-06 ; Amended at 38 Ok Reg 2095, eff 9-15-21]

#### **340:2-1-45. Employee Assistance Program referral [REVOKED]**

[Source: Added at 18 Ok Reg 146, eff 11-2-00 (emergency); Added at 18 Ok Reg 1184, eff 5-11-01 ; Revoked at 24 Ok Reg 2172, eff 6-25-07]

#### **340:2-1-46. Confidentiality [REVOKED]**

[Source: Added at 18 Ok Reg 146, eff 11-2-00 (emergency); Added at 18 Ok Reg 1184, eff 5-11-01 ; Revoked at 38 Ok Reg 2095, eff 9-15-21]

#### **340:2-1-47. Grievance rights [REVOKED]**

[Source: Added at 18 Ok Reg 146, eff 11-2-00 (emergency); Added at 18 Ok Reg 1184, eff 5-11-01 ; Revoked at 24 Ok Reg 2172, eff 6-25-07]

## **PART 5. ADMINISTRATIVE PROCEDURES**

#### **340:2-1-55. Individual personnel records**

A local personnel file is set up in each office. Documentation in the file includes, but is not limited to, official communications, training records, performance evaluations, supervisory memoranda, and similar material relating to the employee. The divisions and units housed at Oklahoma Department of Human Services (DHS) State Office building may instead use the records maintained by Human Resource Management. The employee and any individual in the line of authority above the employee may review the employee's personnel file either in the local office or in the state office. Local administrators or selecting officials may review personnel files for employees who are seeking assignment within their offices. Other DHS officials may review an employee personnel file when there is an administrative need. Any other requests to review employee personnel files are handled per and are subject to the limitations of the Oklahoma Open Records Act and the Oklahoma Discovery Code. Section 840-2.11 of Title 74 of the Oklahoma Statutes prohibits public inspection or disclosure of state employees' home addresses, phone numbers, and Social Security numbers.

[Source: Amended at 10 Ok Reg 3943, eff 6-22-93 (emergency); Amended at 11 Ok Reg 1607, eff 5-12-94 ; Amended at 11 Ok Reg 3623, eff 7-1-94 (emergency); Amended at 12 Ok Reg 1387, eff 5-26-95 ; Amended at 16 Ok Reg 1008, eff 4-26-99 ; Amended at 18 Ok Reg 2592, eff 6-26-01 ; Amended at 20 Ok Reg 1981, eff 6-26-03 ; Amended at 35 Ok Reg 1559, eff 9-17-18]

### **340:2-1-56. Criminal history background checks**

(a) Criminal history background checks are completed for all employees prior to, and when necessary, during their employment when the scope of employment brings them into direct contact with any vulnerable population, per Section 162 of Title 56 of the Oklahoma Statutes (56 O.S. § 162). The job categories within Oklahoma Human Services (OKDHS) subject to background searches prior to employment are determined at the discretion of the OKDHS Director. Criminal history background checks can include, but are not limited to, a search of:

- (1) the Oklahoma State Courts Network, including Oklahoma District Court records;
- (2) the Restricted Registry maintained by OKDHS, per 10 O.S. § 405.3;
- (3) the Department of Corrections files maintained by OKDHS, per the Sex Offender Registration Act, 56 O.S. § 404.1 and 56 O.S. § 162(C)(1);
- (4) the Oklahoma Department of Corrections Violent Offender Registry, also known as the Mary Rippe Violent Crime Offender Registry;
- (5) DHS abuse and neglect records;
- (6) all applicable out-of-state child abuse and neglect registries when the subject of the search did not live in Oklahoma continuously for the past five years; and
- (7) the Community Services Worker Registry, per 56 O.S. § 1025.3.

(b) Applicants for positions requiring criminal history background checks are advised any offer of employment is conditional upon completion of a background check that reveals no disqualifying history.

[Source: Amended at 11 Ok Reg 147, eff 10-11-93 (emergency); Amended at 11 Ok Reg 1607, eff 5-12-94 ; Amended at 11 Ok Reg 3623, eff 7-1-94 (emergency); Amended at 12 Ok Reg 1387, eff 5-26-95 ; Amended at 16 Ok Reg 1008, eff 4-26-99 ; Amended at 19 Ok Reg 2182, eff 6-27-02 ; Amended at 20 Ok Reg 1981, eff 6-26-03 ; Amended at 27 Ok Reg 1826, eff 7-1-10 ; Amended at 37 Ok Reg 1741, eff 9-15-20 ; Amended at 38 Ok Reg 2095, eff 9-15-21]

### **340:2-1-57. Tobacco policy [REVOKED]**

[Source: Amended at 10 Ok Reg 3943, eff 6-22-93 (emergency); Amended at 11 Ok Reg 1607, eff 5-12-94 ; Amended at 15 Ok Reg 723, eff 11-10-97 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Amended at 16 Ok Reg 1008, eff 4-26-99 ; Amended at 19 Ok Reg 2182, eff 6-27-02 ; Amended at 20 Ok Reg 737, eff 3-5-03 (emergency); Amended at 20 Ok Reg 1981, eff 6-26-03 ; Amended at 27 Ok Reg 1826, eff 7-1-10 ; Revoked at 29 Ok Reg 1795, eff 7-12-12 (emergency); Revoked at 30 Ok Reg 1331, eff 7-1-13]

### **340:2-1-58. Reduced services and temporary office or facility closures**

(a) **Reduction of services due to hazardous weather conditions.**  
Based on authorization received from the appropriate authority,

Oklahoma Human Services (OKDHS) may temporarily close or reduce services during hazardous weather conditions, per Oklahoma Administrative Code 260:25-15-70 and 260:25-15-71, as well as clarification from the Office of Management and Enterprise Services Human Capital Management Division (HCM) Memorandum 16-01.

(1) OKDHS is responsible for maintaining its essential functions regardless of weather conditions.

(2) Services provided by OKDHS hot lines, institutions, shelters, and other residential care facilities are not reduced during hazardous weather conditions.

(3) The Commissioner of Public Safety is the appropriate authority for agencies and offices within the seven-county region of the Oklahoma City metropolitan area, which consists of Canadian, Cleveland, Lincoln, Logan, McClain, Oklahoma, and Pottawatomie Counties.

(4) The OKDHS Director or designee is the appropriate authority for OKDHS offices outside the seven-county region of the Oklahoma City metropolitan area.

**(b) Temporary office closings.**

(1) An OKDHS office may be temporarily closed because of an imminent peril threatening public health, safety, or welfare.

(2) An OKDHS office may be temporarily closed because of staff's inability to perform the essential functions of their jobs.

(3) The OKDHS Director or designee is the appropriate authority for OKDHS temporary office closures.

[Source: Added at 18 Ok Reg 2606, eff 6-26-01 ; Amended at 19 Ok Reg 2182, eff 6-27-02 ; Amended at 20 Ok Reg 1981, eff 6-26-03 ; Amended at 27 Ok Reg 989, eff 5-13-10 ; Amended at 35 Ok Reg 1559, eff 9-17-18 ; Amended at 38 Ok Reg 2095, eff 9-15-21]

**340:2-1-59. Conducting background checks and utilizing Oklahoma Human Services (OKDHS) records of abuse, neglect, and exploitation for OKDHS investigations**

**(a) Authorization.**

(1) Per Section 162 of Title 56 of the Oklahoma Statutes (56 O.S. §162(C)(1) and Section 162 of Title 56 of the Oklahoma Statutes (56 O.S. §162(C)(2), the Director has determined an individual seeking any position of employment or who is currently employed by Oklahoma Human Services (OKDHS) may be subjected to a background check. Any results of a background check are considered when determining an individual's pending or continued employment with OKDHS.

(2) Per 56 O.S. § 162(C)(2), the Director has determined a search of OKDHS records, as defined in subsection (d), may be conducted on any individual employed with or who may be potentially employed with the following programs:

(A) Child Welfare Services (CWS);

(B) Developmental Disabilities Services (DDS);

(C) Adult and Family Services;

(D) Community Living, Aging, and Protective Services (CAP);

- (E) Child Care Services;
- (F) Office of the Inspector General (OIG); or
- (G) Office of Client Advocacy.

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

- (1) **"Background check"** means searching available public record databases for purposes of assessing whether to initiate or continue an individual's employment with OKDHS.
- (2) **"Investigation"** means reviews of both potential and current employees for any acts that are in violation of a statute, rule, or policy related to a vulnerable population or acts that could be associated with criminal activity or potentially disqualify an individual from becoming an OKDHS employee or continuing employment with OKDHS.
- (3) **"Record"** or **"records"** means any OKDHS record, whether or not containing confidential information, related to a determination by OKDHS, whether substantiated or unsubstantiated, that an employee or potential employee subjected any member of a vulnerable population to abuse, neglect, or exploitation.
- (4) **"Vulnerable population"** means any individual or group, whether comprised of children or adults, that OKDHS is responsible for protecting, ensuring the welfare of, guarding, or investigating allegations of abuse, neglect, or exploitation.

(c) **Background checks.** A background check includes, but is not limited to, searching and reviewing:

- (1) the Oklahoma State Courts Network and Oklahoma District Court records;
- (2) the Restricted Registry maintained by OKDHS;
- (3) the Department of Corrections files pursuant to the Sex Offender Registration Act and the Violent Offender Registry;
- (4) all applicable out-of-state child abuse and neglect registries if the potential or current employee has not lived continuously in Oklahoma for the past five years;
- (5) the Community Services Worker Registry maintained by OKDHS; and
- (6) a fingerprint-based national criminal history record check.

(d) **Access to, review of, and utilization of OKDHS records.**

- (1) Any record is to be accessed and used solely for the purpose of:
  - (A) assisting in the investigative efforts of the OKDHS OIG;
  - (B) assessing whether an employee is authorized or permitted to work or interact with a vulnerable population in the course and scope of their employment; or
  - (C) determining whether an individual begins or, for purposes of disciplinary action, continues employment with OKDHS.
- (2) Subject to an assessment of relevancy, any records involving the potential or current employee, including records associated with members of the potential or current employee's household or

immediate family, may be accessed, reviewed, and utilized pursuant to this Section.

(3) Any and all records, including any work product and other documentation created in the course and scope of an individual's employment with OKDHS, may be accessed, reviewed, and utilized pursuant to this Section.

(4) Records relating to any complaint about the potential or current employee's actions or inaction may be accessed, reviewed, and utilized pursuant to this Section.

(5) The relevancy of records is considered on a case-by-case basis and is jointly determined by both Human Resource Management (HRM) and the program responsible for maintaining the record with consultation, as needed, involving OIG and OKDHS Legal Services (LS).

(6) Relevant acts contained in any record include, but are not limited to:

(A) being the alleged perpetrator of abuse, neglect, or exploitation involving a vulnerable population, including complaints of failing to supervise or protect;

(B) failing to cooperate in an investigation conducted by OKDHS or other law enforcement agencies;

(C) failing to follow laws, rules, and regulations that pertain to the conduct of an investigation related to a vulnerable population; or

(D) failing to report suspected abuse, neglect, or exploitation of a vulnerable population.

(7) Dissemination of the records outside of the program responsible for maintaining the records is limited to only the individuals who are directly involved in conducting the investigation or background check, including any consultation with LS. Records do not need to be redacted for purposes of the investigation or background checks, but are, to the extent possible, labeled as confidential when disseminated outside of the program responsible for maintaining the records. Records are not saved in any personnel file and all copies sent to HRM for purposes of the employment investigation or background check are securely destroyed, per OKDHS:2-21-57.

(e) **Records remain confidential pursuant to applicable law.** The use of any records pursuant to this Section does not invalidate or in any way compromise other legal protection or regulation of those records including, but not limited to, the confidentiality of records involving CWS, CAP, or DDS.

[Source: Added at 40 Ok Reg 924, eff 9-15-23]

## **PART 7. RECRUITMENT, SELECTION, AND PLACEMENT POLICY AND PROCEDURES**

### **340:2-1-75. Equal opportunity employment**

(a) The Oklahoma Department of Human Services (DHS) is an equal opportunity employer and has as its employment goal the recruitment, selection, and placement of persons most likely to become productive, motivated employees. To accomplish this goal, procedures designed to meet the hiring process objectives include:

- (1) recruiting qualified applicants with the general knowledge, skills, and abilities to perform the variety of work available in DHS;
- (2) selecting persons who meet minimum qualifications and can perform the essential functions and who are or will become successful employees of DHS;
- (3) placing employees in positions suited to their qualifications where they are successful in providing a variety of services to the citizens of Oklahoma;
- (4) ensuring all employment decisions are based on job-related qualifications and consistent with applicable laws, rules, policies, procedures, and regulations governing such actions; and
- (5) providing DHS employees opportunities for career development and advancement.

(b) DHS employment policies and practices do not discriminate against employees or applicants for employment because of race, creed, color, religion, sex, age, national origin, disability, or political affiliation or opinion. DHS takes affirmative action to ensure applicants and employees are treated in a non-discriminatory way. Such employment actions include, but are not limited to, hiring, promotion, demotion, transfer, recruitment, recruitment advertising, layoff, termination, rates of pay, or other forms of compensation, and selection for training.

(c) The rules in this Part apply throughout DHS, except where a separate rule is issued, or a pilot is being tested, per Oklahoma Administrative Code 340:2-1-76(9).

[Source: Amended at 10 Ok Reg 3943, eff 6-22-93 (emergency); Amended at 11 Ok Reg 1607, eff 5-12-94 ; Amended at 11 Ok Reg 3623, eff 7-1-94 (emergency); Amended at 12 Ok Reg 1387, eff 5-26-95 ; Amended at 13 Ok Reg 421, eff 11-14-95 (emergency); Amended at 13 Ok Reg 2583, eff 6-28-96 ; Amended at 16 Ok Reg 1008, eff 4-26-99 ; Amended at 18 Ok Reg 2592, eff 6-26-01 ; Amended at 19 Ok Reg 2182, eff 6-27-02 ; Amended at 20 Ok Reg 1981, eff 6-26-03 ; Amended at 27 Ok Reg 1826, eff 7-1-10 ; Amended at 35 Ok Reg 1559, eff 9-17-18]

### **340:2-1-76. Appointments and changes in employee classification not subject to vacancy posting provisions [REVOKED]**

[Source: Amended at 10 Ok Reg 3943, eff 6-22-93 (emergency); Amended at 11 Ok Reg 1607, eff 5-12-94 ; Amended at 11 Ok Reg 3623, eff 7-1-94 (emergency); Amended at 12 Ok Reg 1387, eff 5-26-95 ; Amended at 13 Ok Reg 421, eff 11-14-95 (emergency); Amended at 13 Ok Reg 2583, eff 6-28-96 ; Amended at 16 Ok Reg 1008, eff 4-26-99 ; Amended at 18 Ok Reg 2592, eff 6-26-01 ; Amended at 19 Ok Reg 2182, eff 6-27-02 ; Amended at 20 Ok Reg 1981, eff 6-26-03 ; Amended at 25 Ok Reg 1292, eff 6-1-08 ; Amended at 27 Ok Reg 1826, eff 7-1-10 ; Amended at 35 Ok Reg 1559, eff 9-17-18 ; Amended at 37 Ok Reg 1741, eff 9-15-20 ; Revoked at 40 Ok Reg 924, eff 9-15-23]

### **340:2-1-77. Vacancy posting procedures [REVOKED]**

[Source: Amended at 10 Ok Reg 3943, eff 6-22-93 (emergency); Amended at 11 Ok Reg 1607, eff 5-12-94 ; Amended at 11 Ok Reg 3623, eff 7-1-94 (emergency); Amended at 12 Ok Reg 1387, eff 5-26-95 ; Amended at 13 Ok Reg 421, eff 11-14-95 (emergency); Amended at 13 Ok Reg 2583, eff 6-28-96 ; Amended at 16 Ok Reg 1008, eff 4-26-99 ; Amended at 18 Ok Reg 2592, eff 6-26-01 ; Amended at 19 Ok

Reg 2182, eff 6-27-02 ; Amended at 20 Ok Reg 1981, eff 6-26-03 ; Amended at 25 Ok Reg 1292, eff 6-1-08 ; Amended at 27 Ok Reg 1826, eff 7-1-10 ; Amended at 35 Ok Reg 1559, eff 9-17-18 ; Amended at 38 Ok Reg 2095, eff 9-15-21 ; Revoked at 40 Ok Reg 924, eff 9-15-23]

### **340:2-1-78. Method of application [REVOKED]**

[**Source:** Amended at 10 Ok Reg 3943, eff 6-22-93 (emergency); Amended at 11 Ok Reg 1607, eff 5-12-94 ; Amended at 11 Ok Reg 3623, eff 7-1-94 (emergency); Amended at 12 Ok Reg 535, eff 12-10-94 (emergency); Amended at 12 Ok Reg 1387, eff 5-26-95 ; Amended at 13 Ok Reg 421, eff 11-14-95 (emergency); Amended at 13 Ok Reg 2583, eff 6-28-96 ; Amended at 16 Ok Reg 1008, eff 4-26-99 ; Amended at 18 Ok Reg 2592, eff 6-26-01 ; Amended at 20 Ok Reg 1981, eff 6-26-03 ; Amended at 21 Ok Reg 1338, eff 5-27-04 ; Amended at 22 Ok Reg 1173, eff 6-1-05 ; Amended at 25 Ok Reg 1292, eff 6-1-08 ; Amended at 27 Ok Reg 1826, eff 7-1-10 ; Amended at 35 Ok Reg 1559, eff 9-17-18 ; Amended at 38 Ok Reg 2095, eff 9-15-21 ; Revoked at 40 Ok Reg 924, eff 9-15-23]

### **340:2-1-79. Eligibility to compete for classified service positions [REVOKED]**

[**Source:** Amended at 10 Ok Reg 3943, eff 6-22-93 (emergency); Amended at 11 Ok Reg 1607, eff 5-12-94 ; Amended at 11 Ok Reg 3623, eff 7-1-94 (emergency); Amended at 12 Ok Reg 1387, eff 5-26-95 ; Amended at 13 Ok Reg 421, eff 11-14-95 (emergency); Amended at 13 Ok Reg 2583, eff 6-28-96 ; Amended at 16 Ok Reg 1008, eff 4-26-99 ; Amended at 18 Ok Reg 2592, eff 6-26-01 ; Amended at 19 Ok Reg 2182, eff 6-27-02 ; Amended at 20 Ok Reg 1981, eff 6-26-03 ; Amended at 22 Ok Reg 1173, eff 6-1-05 ; Amended at 25 Ok Reg 1292, eff 6-1-08 ; Amended at 27 Ok Reg 1826, eff 7-1-10 ; Amended at 35 Ok Reg 1559, eff 9-17-18 ; Amended at 38 Ok Reg 2095, eff 9-15-21 ; Revoked at 40 Ok Reg 924, eff 9-15-23]

### **340:2-1-80. Eligibility to compete for positions in the unclassified service [REVOKED]**

[**Source:** Amended at 11 Ok Reg 3623, eff 7-1-94 (emergency); Amended at 12 Ok Reg 535, eff 12-10-94 (emergency); Amended at 12 Ok Reg 1387, eff 5-26-95 ; Amended at 13 Ok Reg 421, eff 11-14-95 (emergency); Amended at 13 Ok Reg 2583, eff 6-28-96 ; Amended at 16 Ok Reg 1008, eff 4-26-99 ; Amended at 19 Ok Reg 2182, eff 6-27-02 ; Amended at 20 Ok Reg 1981, eff 6-26-03 ; Amended at 27 Ok Reg 1826, eff 7-1-10 ; Amended at 38 Ok Reg 2095, eff 9-15-21 ; Revoked at 40 Ok Reg 924, eff 9-15-23]

### **340:2-1-81. Issuing eLists [REVOKED]**

[**Source:** Amended at 10 Ok Reg 3943, eff 6-22-93 (emergency); Amended at 11 Ok Reg 1607, eff 5-12-94 ; Amended at 11 Ok Reg 3623, eff 7-1-94 (emergency); Amended at 12 Ok Reg 1387, eff 5-26-95 ; Amended at 16 Ok Reg 1008, eff 4-26-99 ; Amended at 18 Ok Reg 2592, eff 6-26-01 ; Amended at 19 Ok Reg 2182, eff 6-27-02 ; Amended at 20 Ok Reg 1981, eff 6-26-03 ; Amended at 22 Ok Reg 1173, eff 6-1-05 ; Amended at 25 Ok Reg 1292, eff 6-1-08 ; Amended at 32 Ok Reg 1797, eff 9-15-15 ; Amended at 35 Ok Reg 1559, eff 9-17-18 ; Revoked at 40 Ok Reg 924, eff 9-15-23]

### **340:2-1-82. Job-related selection criteria [REVOKED]**

[**Source:** Amended at 10 Ok Reg 3943, eff 6-22-93 (emergency); Amended at 11 Ok Reg 1607, eff 5-12-94 ; Amended at 11 Ok Reg 3623, eff 7-1-94 (emergency); Amended at 12 Ok Reg 1387, eff 5-26-95 ; Amended at 13 Ok Reg 421, eff 11-14-95 (emergency); Amended at 13 Ok Reg 2583, eff 6-28-96 ; Amended at 16 Ok Reg 1008, eff 4-26-99 ; Amended at 18 Ok Reg 2592, eff 6-26-01 ; Amended at 19 Ok Reg 2182, eff 6-27-02 ; Amended at 20 Ok Reg 1981, eff 6-26-03 ; Amended at 21 Ok Reg 1338, eff 5-27-04 ; Amended at 22 Ok Reg 1173, eff 6-1-05 ; Amended at 25 Ok Reg 1292, eff 6-1-08 ; Amended at 27 Ok Reg 1826, eff 7-1-10 ; Amended at 35 Ok Reg 1559, eff 9-17-18 ; Revoked at 40 Ok Reg 924, eff 9-15-23]

### **340:2-1-83. Selection advisory committee for classified positions [REVOKED]**

[Source: Amended at 10 Ok Reg 3943, eff 6-22-93 (emergency); Amended at 11 Ok Reg 1607, eff 5-12-94 ; Amended at 11 Ok Reg 3623, eff 7-1-94 (emergency); Amended at 12 Ok Reg 1387, eff 5-26-95 ; Amended at 13 Ok Reg 421, eff 11-14-95 (emergency); Amended at 13 Ok Reg 2583, eff 6-28-96 ; Amended at 16 Ok Reg 1008, eff 4-26-99 ; Amended at 18 Ok Reg 2592, eff 6-26-01 ; Amended at 19 Ok Reg 2182, eff 6-27-02 ; Amended at 20 Ok Reg 1981, eff 6-26-03 ; Amended at 26 Ok Reg 2194, eff 6-25-09 ; Amended at 27 Ok Reg 1826, eff 7-1-10 ; Amended at 35 Ok Reg 1559, eff 9-17-18 ; Revoked at 40 Ok Reg 924, eff 9-15-23]

### **340:2-1-84. Interviews for positions in the classified service [REVOKED]**

[Source: Amended at 11 Ok Reg 3623, eff 7-1-94 (emergency); Amended at 12 Ok Reg 1387, eff 5-26-95 ; Amended at 16 Ok Reg 1008, eff 4-26-99 ; Amended at 18 Ok Reg 2592, eff 6-26-01 ; Amended at 19 Ok Reg 2182, eff 6-27-02 ; Amended at 20 Ok Reg 1981, eff 6-26-03 ; Amended at 22 Ok Reg 1173, eff 6-1-05 ; Amended at 25 Ok Reg 1292, eff 6-1-08 ; Amended at 27 Ok Reg 1826, eff 7-1-10 ; Revoked at 35 Ok Reg 1559, eff 9-17-18]

### **340:2-1-85. Final selection [REVOKED]**

[Source: Amended at 10 Ok Reg 3943, eff 6-22-93 (emergency); Amended at 11 Ok Reg 1607, eff 5-12-94 ; Amended at 11 Ok Reg 3623, eff 7-1-94 (emergency); Amended at 12 Ok Reg 1387, eff 5-26-95 ; Amended at 16 Ok Reg 1008, eff 4-26-99 ; Amended at 18 Ok Reg 2592, eff 6-26-01 ; Amended at 19 Ok Reg 2182, eff 6-27-02 ; Amended at 20 Ok Reg 1981, eff 6-26-03 ; Amended at 25 Ok Reg 1292, eff 6-1-08 ; Amended at 27 Ok Reg 1826, eff 7-1-10 ; Amended at 35 Ok Reg 1559, eff 9-17-18 ; Revoked at 40 Ok Reg 924, eff 9-15-23]

### **340:2-1-86. Delegation of responsibility for vacancy posting and selection procedures [REVOKED]**

[Source: Amended at 10 Ok Reg 3943, eff 6-22-93 (emergency); Amended at 11 Ok Reg 1607, eff 5-12-94 ; Amended at 11 Ok Reg 3623, eff 7-1-94 (emergency); Amended at 12 Ok Reg 1387, eff 5-26-95 ; Amended at 16 Ok Reg 1008, eff 4-26-99 ; Amended at 18 Ok Reg 2592, eff 6-26-01 ; Amended at 19 Ok Reg 2182, eff 6-27-02 ; Amended at 20 Ok Reg 1981, eff 6-26-03 ; Amended at 25 Ok Reg 1292, eff 6-1-08 ; Revoked at 27 Ok Reg 1826, eff 7-1-10]

### **340:2-1-87. Compensation [REVOKED]**

[Source: Amended at 10 Ok Reg 3943, eff 6-22-93 (emergency); Amended at 11 Ok Reg 1607, eff 5-12-94 ; Amended at 11 Ok Reg 3623, eff 7-1-94 (emergency); Amended at 12 Ok Reg 535, eff 12-10-94 (emergency); Amended at 12 Ok Reg 1387, eff 5-26-95 ; Amended at 13 Ok Reg 421, eff 11-14-95 (emergency); Amended at 13 Ok Reg 2583, eff 6-28-96 ; Amended at 16 Ok Reg 1008, eff 4-26-99 ; Amended at 18 Ok Reg 2592, eff 6-26-01 ; Revoked at 40 Ok Reg 924, eff 9-15-23]

### **340:2-1-88. Alternate hiring levels [REVOKED]**

[Source: Amended at 10 Ok Reg 3943, eff 6-22-93 (emergency); Amended at 11 Ok Reg 1607, eff 5-12-94 ; Amended at 11 Ok Reg 3623, eff 7-1-94 (emergency); Amended at 12 Ok Reg 1387, eff 5-26-95 ; Amended at 16 Ok Reg 1008, eff 4-26-99 ; Amended at 18 Ok Reg 2592, eff 6-26-01 ; Amended at 19 Ok Reg 2182, eff 6-27-02 ; Amended at 20 Ok Reg 1981, eff 6-26-03 ; Amended at 27 Ok Reg 1826, eff 7-1-10 ; Amended at 35 Ok Reg 1559, eff 9-17-18 ; Amended at 38 Ok Reg 2095, eff 9-15-21 ; Revoked at 40 Ok Reg 924, eff 9-15-23]

### **340:2-1-89. Office of Management and Enterprise Services Human Capital Management Division eList - classified service [REVOKED]**

[Source: Amended at 10 Ok Reg 3943, eff 6-22-93 (emergency); Amended at 11 Ok Reg 1607, eff 5-12-94 ; Amended at 11 Ok Reg 3623, eff 7-1-94 (emergency); Amended at 12 Ok Reg 1387, eff 5-26-95 ; Amended at 16 Ok Reg 1008, eff 4-26-99 ; Amended at 18 Ok Reg 2592, eff 6-26-01 ; Amended at 19 Ok



Reg 2182, eff 6-27-02 ; Amended at 20 Ok Reg 1981, eff 6-26-03 ; Amended at 25 Ok Reg 1933, eff 7-1-08 ; Amended at 35 Ok Reg 1559, eff 9-17-18 ; Revoked at 40 Ok Reg 924, eff 9-15-23]

### **340:2-1-90. Required forms to be completed by OPM certificate applicants [REVOKED]**

[**Source:** Amended at 10 Ok Reg 3943, eff 6-22-93 (emergency); Amended at 11 Ok Reg 1607, eff 5-12-94 ; Amended at 11 Ok Reg 3623, eff 7-1-94 (emergency); Amended at 12 Ok Reg 1387, eff 5-26-95 ; Revoked at 16 Ok Reg 1008, eff 4-26-99]

### **340:2-1-91. Submission of OPM certificate and support documentation to personnel [REVOKED]**

[**Source:** Amended at 10 Ok Reg 3943, eff 6-22-93 (emergency); Amended at 11 Ok Reg 1607, eff 5-12-94 ; Amended at 11 Ok Reg 3623, eff 7-1-94 (emergency); Amended at 12 Ok Reg 1387, eff 5-26-95 ; Revoked at 16 Ok Reg 1008, eff 4-26-99]

### **340:2-1-92. Review of returned OPM certificate [REVOKED]**

[**Source:** Amended at 10 Ok Reg 3943, eff 6-22-93 (emergency); Amended at 11 Ok Reg 1607, eff 5-12-94 ; Amended at 11 Ok Reg 3623, eff 7-1-94 (emergency); Amended at 12 Ok Reg 1387, eff 5-26-95 ; Revoked at 16 Ok Reg 1008, eff 4-26-99]

### **340:2-1-93. Applicants previously discharged from employment [REVOKED]**

[**Source:** Added at 21 Ok Reg 1338, eff 5-27-04 ; Amended at 27 Ok Reg 1826, eff 7-1-10 ; Amended at 35 Ok Reg 1559, eff 9-17-18 ; Amended at 38 Ok Reg 2095, eff 9-15-21 ; Revoked at 40 Ok Reg 924, eff 9-15-23]

## **PART 9. TRAVEL REIMBURSEMENT**

**Editor's Note:** *The emergency action that added Sections 340:2-1-100 through 340:2-1-108 was superseded by permanent rules numbered as 340:2-11-115 through 340:2-11-123.*

### **340:2-1-100. Purpose and authority [SUPERSEDED]**

[**Source:** Added at 10 Ok Reg 983, eff 2-4-93 (emergency); Superseded by 340:2-11-115 at 10 Ok Reg 2779, eff 6-25-93]

### **340:2-1-101. Definitions [SUPERSEDED]**

[**Source:** Added at 10 Ok Reg 983, eff 2-4-93 (emergency); Superseded by 340:2-11-116 at 10 Ok Reg 2779, eff 6-25-93]

### **340:2-1-102. Applicability; employee/non-employee responsibility [SUPERSEDED]**

[**Source:** Added at 10 Ok Reg 983, eff 2-4-93 (emergency); Superseded by 340:2-11-117 at 10 Ok Reg 2779, eff 6-25-93]

### **340:2-1-103. Completion of Travel Reimbursement Form (Adm-6) [SUPERSEDED]**

[Source: Added at 10 Ok Reg 983, eff 2-4-93 (emergency); Superseded by 340:2-11-118 at 10 Ok Reg 2779, eff 6-25-93]

### **340:2-1-104. Authorization of travel (Classified/Unclassified/Exempt Service) [SUPERSEDED]**

[Source: Added at 10 Ok Reg 983, eff 2-4-93 (emergency); Superseded by 340:2-11-119 at 10 Ok Reg 2779, eff 6-25-93]

### **340:2-1-105. Attendance at previously arranged meetings [SUPERSEDED]**

[Source: Added at 10 Ok Reg 983, eff 2-4-93 (emergency); Superseded by 340:2-11-120 at 10 Ok Reg 2779, eff 6-25-93]

### **340:2-1-106. Per diem [SUPERSEDED]**

[Source: Added at 10 Ok Reg 983, eff 2-4-93 (emergency); Superseded by 340:2-11-121 at 10 Ok Reg 2779, eff 6-25-93]

### **340:2-1-107. Subsistence in lieu of per diem [SUPERSEDED]**

[Source: Added at 10 Ok Reg 983, eff 2-4-93 (emergency); Superseded by 340:2-11-122 at 10 Ok Reg 2779, eff 6-25-93]

### **340:2-1-108. Miscellaneous expenses [SUPERSEDED]**

[Source: Added at 10 Ok Reg 983, eff 2-4-93 (emergency); Superseded by 340:2-11-123 at 10 Ok Reg 2779, eff 6-25-93]

## **SUBCHAPTER 3. OFFICE OF CLIENT ADVOCACY [TRANSFERRED]**

**Editor's Note:** *Effective 11-1-24, "...administrative rules promulgated by the Director of Human Services for the Office of Client Advocacy shall be transferred to and become a part of the administrative rules of the State Department of Health." [Senate Bill 1709 (2024)]. For additional information relating to this transfer, see Senate Bill 1709 (2024).*

## **PART 1. ADMINISTRATION [TRANSFERRED]**

### **340:2-3-1. Purpose [TRANSFERRED]**

[Source: Amended at 18 Ok Reg 3435, eff 7-1-01 (emergency); Amended at 19 Ok Reg 1117, eff 5-13-02 ; Amended at 20 Ok Reg 1994, eff 7-1-03 ; Amended at 21 Ok Reg 2330, eff 6-25-04 ; Amended at 26 Ok Reg 2195, eff 7-1-09 ; Amended at 30 Ok Reg 597, eff 7-1-13 ; Amended at 38 Ok Reg 2115, eff 9-15-21 ; Transferred to 310:678-1-1 by SB 1709 (2024), eff 11-1-24]

## **340:2-3-2. Definitions [TRANSFERRED]**

[Source: Amended at 11 Ok Reg 4461, eff 8-1-94 (emergency); Amended at 12 Ok Reg 1387, eff 5-26-95 ; Amended at 15 Ok Reg 3541, eff 6-4-98 (emergency); Amended at 16 Ok Reg 1008, eff 4-26-99 ; Amended at 18 Ok Reg 3435, eff 7-1-01 (emergency); Amended at 19 Ok Reg 1117, eff 5-13-02 ; Amended at 20 Ok Reg 1994, eff 7-1-03 ; Amended at 21 Ok Reg 2330, eff 6-25-04 ; Amended at 22 Ok Reg 1180, eff 5-26-05 ; Amended at 23 Ok Reg 1776, eff 6-11-06 ; Amended at 24 Ok Reg 978, eff 7-1-07 ; Amended at 25 Ok Reg 1935, eff 7-1-08 ; Amended at 26 Ok Reg 2195, eff 7-1-09 ; Amended at 29 Ok Reg 726, eff 7-1-12 ; Amended at 30 Ok Reg 1332, eff 7-1-13 ; Amended at 31 Ok Reg 1790, eff 9-15-14 ; Amended at 34 Ok Reg 1402, eff 9-15-17 ; Amended at 39 Ok Reg 561, eff 1-12-22 (emergency); Amended at 39 Ok Reg 1653, eff 9-15-22 ; Transferred to 310:678-1-2 by SB 1709 (2024), eff 11-1-24]

## **340:2-3-3. Legal basis and authority [REVOKED]**

[Source: Amended at 11 Ok Reg 4461, eff 8-1-94 (emergency); Amended at 12 Ok Reg 1387, eff 5-26-95 ; Revoked at 18 Ok Reg 3435, eff 7-1-01 (emergency); Revoked at 19 Ok Reg 1117, eff 5-13-02]

## **340:2-3-4. Scope of rules [REVOKED]**

[Source: Amended at 11 Ok Reg 4461, eff 8-1-94 (emergency); Amended at 12 Ok Reg 1387, eff 5-26-95 ; Amended at 15 Ok Reg 3541, eff 6-4-98 (emergency); Amended at 16 Ok Reg 1008, eff 4-26-99 ; Revoked at 18 Ok Reg 3435, eff 7-1-01 (emergency); Revoked at 19 Ok Reg 1117, eff 5-13-02]

## **340:2-3-5. Child abuse, neglect or mistreatment shall not include [REVOKED]**

[Source: Amended at 11 Ok Reg 4461, eff 8-1-94 (emergency); Amended at 12 Ok Reg 1387, eff 5-26-95 ; Revoked at 18 Ok Reg 3435, eff 7-1-01 (emergency); Revoked at 19 Ok Reg 1117, eff 5-13-02]

## **340:2-3-6. Procedure for reporting incidents of abuse, neglect or mistreatment [REVOKED]**

[Source: Amended at 11 Ok Reg 4461, eff 8-1-94 (emergency); Amended at 12 Ok Reg 1387, eff 5-26-95 ; Revoked at 18 Ok Reg 3435, eff 7-1-01 (emergency); Revoked at 19 Ok Reg 1117, eff 5-13-02]

## **340:2-3-7. Ensuring client safety [REVOKED]**

[Source: Amended at 11 Ok Reg 4461, eff 8-1-94 (emergency); Amended at 12 Ok Reg 1387, eff 5-26-95 ; Revoked at 18 Ok Reg 3435, eff 7-1-01 (emergency); Revoked at 19 Ok Reg 1117, eff 5-13-02]

## **340:2-3-8. Office of Advocate Defender [REVOKED]**

[Source: Amended at 9 Ok Reg 507, eff 12-13-91 (emergency); Amended at 9 Ok Reg 2057, eff 6-11-92 ; Amended at 11 Ok Reg 4461, eff 8-1-94 ; Amended at 12 Ok Reg 1387, eff 5-26-95 ; Revoked at 18 Ok Reg 3435, eff 7-1-01 (emergency); Revoked at 19 Ok Reg 1117, eff 5-13-02]

## **340:2-3-9. Procedure for investigation [REVOKED]**

[Source: Amended at 9 Ok Reg 507, eff 12-13-91 (emergency); Amended at 9 Ok Reg 2057, eff 6-11-92 ; Amended at 11 Ok Reg 4461, eff 8-1-94 (emergency); Amended at 12 Ok Reg 1387, eff 5-26-95 ; Revoked at 18 Ok Reg 3435, eff 7-1-01 (emergency); Revoked at 19 Ok Reg 1117, eff 5-13-02]

### **340:2-3-10. Review of investigative reports [REVOKED]**

[Source: Amended at 11 Ok Reg 4461, eff 8-1-94 (emergency); Amended at 12 Ok Reg 1387, eff 5-26-95 ; Revoked at 18 Ok Reg 3435, eff 7-1-01 (emergency); Revoked at 19 Ok Reg 1117, eff 5-13-02]

### **340:2-3-11. Role of the Grievance and Abuse Review Committee [REVOKED]**

[Source: Amended at 9 Ok Reg 507, eff 12-13-91 (emergency); Amended at 9 Ok Reg 2057, eff 6-11-92 ; Amended at 11 Ok Reg 4461, eff 8-1-94 (emergency); Amended at 12 Ok Reg 1387, eff 5-26-95 ; Revoked at 18 Ok Reg 3435, eff 7-1-01 (emergency); Revoked at 19 Ok Reg 1117, eff 5-13-02]

### **340:2-3-12. Disciplinary options regarding Oklahoma Department of Human Services (OKDHS) employees [REVOKED]**

[Source: Amended at 11 Ok Reg 4461, eff 8-1-94 (emergency); Amended at 12 Ok Reg 1387, eff 5-26-95 ; Amended at 18 Ok Reg 3435, eff 7-1-01 (emergency); Amended at 19 Ok Reg 1117, eff 5-13-02 ; Amended at 20 Ok Reg 1994, eff 7-1-03 ; Amended at 21 Ok Reg 2330, eff 6-25-04 ; Amended at 30 Ok Reg 597, eff 7-1-13 ; Revoked at 40 Ok Reg 930, eff 9-15-23]

### **340:2-3-13. Grievance and abuse review committee [REVOKED]**

[Source: Amended at 11 Ok Reg 4461, eff 8-1-94 (emergency); Amended at 12 Ok Reg 1387, eff 5-26-95 ; Revoked at 18 Ok Reg 3435, eff 7-1-01 (emergency); Revoked at 19 Ok Reg 1117, eff 5-13-02]

### **340:2-3-14. Grievance rules [REVOKED]**

[Source: Revoked at 18 Ok Reg 3435, eff 7-1-01 (emergency); Revoked at 19 Ok Reg 1117, eff 5-13-02]

### **340:2-3-15. Resolving the Grievance [REVOKED]**

[Source: Revoked at 18 Ok Reg 3435, eff 7-1-01 (emergency); Revoked at 19 Ok Reg 1117, eff 5-13-02]

### **340:2-3-16. Grievance logs, files and reports [REVOKED]**

[Source: Revoked at 18 Ok Reg 3435, eff 7-1-01 (emergency); Revoked at 19 Ok Reg 1117, eff 5-13-02]

### **340:2-3-17. Monitoring and evaluation [REVOKED]**

[Source: Revoked at 18 Ok Reg 3435, eff 7-1-01 (emergency); Revoked at 19 Ok Reg 1117, eff 5-13-02]

### **340:2-3-18. Group homes [REVOKED]**

[Source: Revoked at 18 Ok Reg 3435, eff 7-1-01 (emergency); Revoked at 19 Ok Reg 1117, eff 5-13-02]

### **340:2-3-19. Community based programs [REVOKED]**

[Source: Revoked at 18 Ok Reg 3435, eff 7-1-01 (emergency); Revoked at 19 Ok Reg 1117, eff 5-13-02]

### **340:2-3-20. Appeals procedure - State Office [REVOKED]**

[Source: Revoked at 18 Ok Reg 3435, eff 7-1-01 (emergency); Revoked at 19 Ok Reg 1117, eff 5-13-02]

### **340:2-3-21. Grievance rules, guidelines and procedures for Department operated facilities and community based services for the mentally retarded and developmentally disabled [REVOKED]**

[Source: Revoked at 18 Ok Reg 3435, eff 7-1-01 (emergency); Revoked at 19 Ok Reg 1117, eff 5-13-02]

### **340:2-3-22. Grievance rules, guidelines and procedures for private group homes for the mentally retarded and developmentally disabled [REVOKED]**

[Source: Revoked at 18 Ok Reg 3435, eff 7-1-01 (emergency); Revoked at 19 Ok Reg 1117, eff 5-13-02]

### **340:2-3-23. Rules, guidelines and procedures for investigating allegations of abuse, neglect and exploitation of Hissom class members who reside in the community [REVOKED]**

[Source: Amended at 11 Ok Reg 4461, eff 8-1-94 (emergency); Amended at 12 Ok Reg 1387, eff 5-26-95 ; Revoked at 18 Ok Reg 3435, eff 7-1-01 (emergency); Revoked at 19 Ok Reg 1117, eff 5-13-02]

### **340:2-3-24. Grievance policy and procedure for clients receiving services from the Department of Human Services [REVOKED]**

[Source: Amended at 9 Ok Reg 507, eff 12-13-91 (emergency); Amended at 9 Ok Reg 2057, eff 6-11-92 ; Revoked at 18 Ok Reg 3435, eff 7-1-01 (emergency); Revoked at 19 Ok Reg 1117, eff 5-13-02]

### **340:2-3-25. Investigation of foster parent complaints of retaliation, harassment, or discrimination by an employee of the Department or child placing agency [REVOKED]**

[Source: Added at 15 Ok Reg 3541, eff 6-4-98 (emergency); Added at 16 Ok Reg 1008, eff 4-26-99 ; Revoked at 18 Ok Reg 3435, eff 7-1-01 (emergency); Revoked at 19 Ok Reg 1117, eff 5-13-02]

### **340:2-3-26. Customer complaint process [TRANSFERRED]**

[Source: Added at 22 Ok Reg 1180, eff 5-26-05 ; Amended at 30 Ok Reg 597, eff 7-1-13 ; Transferred to 310:678-1-3 by SB 1709 (2024), eff 11-1-24]

## **PART 3. INVESTIGATIONS [TRANSFERRED]**

### **340:2-3-32. Office of Client Advocacy (OCA) investigations [TRANSFERRED]**

[Source: Added at 18 Ok Reg 3435, eff 7-1-01 (emergency); Added at 19 Ok Reg 1117, eff 5-13-02 ; Amended at 20 Ok Reg 1994, eff 7-1-03 ; Amended at 21 Ok Reg 2330, eff 6-25-04 ; Amended at 22 Ok Reg 1180, eff 5-26-05 ; Amended at 23 Ok Reg 1776, eff 6-11-06 ; Amended at 28 Ok Reg 1681, eff 7-1-

11 ; Amended at 29 Ok Reg 726, eff 7-1-12 ; Amended at 30 Ok Reg 597, eff 7-1-13 ; Amended at 31 Ok Reg 1790, eff 9-15-14 ; Amended at 32 Ok Reg 1800, eff 9-15-15 ; Transferred to 310:678-3-1 by SB 1709 (2024), eff 11-1-24]

### **340:2-3-33. Procedure for reporting suspected abuse, neglect, verbal abuse, caretaker misconduct, and exploitation [TRANSFERRED]**

[Source: Added at 18 Ok Reg 3435, eff 7-1-01 (emergency); Added at 19 Ok Reg 1117, eff 5-13-02 ; Amended at 20 Ok Reg 1994, eff 7-1-03 ; Amended at 21 Ok Reg 2330, eff 6-25-04 ; Amended at 23 Ok Reg 1776, eff 6-11-06 ; Amended at 24 Ok Reg 978, eff 7-1-07 ; Amended at 28 Ok Reg 1681, eff 7-1-11 ; Amended at 29 Ok Reg 726, eff 7-1-12 ; Amended at 30 Ok Reg 1332, eff 7-1-13 ; Amended at 31 Ok Reg 1790, eff 9-15-14 ; Amended at 32 Ok Reg 1800, eff 9-15-15 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24; Transferred to 310:678-3-2 by SB 1709 (2024), eff 11-1-24]

### **340:2-3-34. Facility administrator's responsibilities regarding allegations reportable to Office of Client Advocacy (OCA) [TRANSFERRED]**

[Source: Added at 18 Ok Reg 3435, eff 7-1-01 (emergency); Added at 19 Ok Reg 1117, eff 5-13-02 ; Amended at 20 Ok Reg 1994, eff 7-1-03 ; Amended at 21 Ok Reg 2330, eff 6-25-04 ; Amended at 22 Ok Reg 1180, eff 5-26-05 ; Amended at 24 Ok Reg 978, eff 7-1-07 ; Amended at 28 Ok Reg 1681, eff 7-1-11 ; Amended at 30 Ok Reg 1332, eff 7-1-13 ; Amended at 32 Ok Reg 1800, eff 9-15-15 ; Amended at 34 Ok Reg 1402, eff 9-15-17 ; Amended at 35 Ok Reg 1569, eff 9-17-18 ; Transferred to 310:678-3-3 by SB 1709 (2024), eff 11-1-24]

### **340:2-3-35. Processing referrals received by the Office of Client Advocacy (OCA) [TRANSFERRED]**

[Source: Added at 18 Ok Reg 3435, eff 7-1-01 (emergency); Added at 19 Ok Reg 1117, eff 5-13-02 ; Amended at 20 Ok Reg 1994, eff 7-1-03 ; Amended at 22 Ok Reg 1180, eff 5-26-05 ; Amended at 23 Ok Reg 1776, eff 6-11-06 ; Amended at 24 Ok Reg 978, eff 7-1-07 ; Amended at 28 Ok Reg 1681, eff 7-1-11 ; Amended at 29 Ok Reg 726, eff 7-1-12 ; Amended at 30 Ok Reg 597, eff 7-1-13 ; Amended at 32 Ok Reg 1800, eff 9-15-15 ; Transferred to 310:678-3-4 by SB 1709 (2024), eff 11-1-24]

### **340:2-3-36. Office of Client Advocacy (OCA) investigation procedures for cases involving child victims [TRANSFERRED]**

[Source: Added at 18 Ok Reg 3435, eff 7-1-01 (emergency); Added at 19 Ok Reg 1117, eff 5-13-02 ; Amended at 20 Ok Reg 1994, eff 7-1-03 ; Amended at 21 Ok Reg 2330, eff 6-25-04 ; Amended at 22 Ok Reg 1180, eff 5-26-05 ; Amended at 23 Ok Reg 1776, eff 6-11-06 ; Amended at 24 Ok Reg 978, eff 7-1-07 ; Amended at 25 Ok Reg 1935, eff 7-1-08 ; Amended at 28 Ok Reg 1681, eff 7-1-11 ; Amended at 29 Ok Reg 726, eff 7-1-12 ; Amended at 30 Ok Reg 597, eff 7-1-13 ; Amended at 31 Ok Reg 1790, eff 9-15-14 ; Amended at 32 Ok Reg 1800, eff 9-15-15 ; Amended at 34 Ok Reg 1402, eff 9-15-17 ; Amended at 35 Ok Reg 1569, eff 9-17-18 ; Amended at 39 Ok Reg 1653, eff 9-15-22 ; Transferred to 310:678-3-5 by SB 1709 (2024), eff 11-1-24]

### **340:2-3-36.1. Office of Client Advocacy (OCA) investigation procedures for cases involving vulnerable adults [TRANSFERRED]**

[Source: Added at 39 Ok Reg 1653, eff 9-15-22 ; Amended at 40 Ok Reg 930, eff 9-15-23 ; Transferred to 310:678-3-6 by SB 1709 (2024), eff 11-1-24]

### **340:2-3-37. Caretaker conduct review (CCR) [TRANSFERRED]**

[Source: Added at 18 Ok Reg 3435, eff 7-1-01 (emergency); Added at 19 Ok Reg 1117, eff 5-13-02 ; Amended at 20 Ok Reg 1994, eff 7-1-03 ; Amended at 21 Ok Reg 2330, eff 6-25-04 ; Amended at 22 Ok Reg 1180, eff 5-26-05 ; Amended at 23 Ok Reg 1776, eff 6-11-06 ; Amended at 24 Ok Reg 978, eff 7-1-07 ;

Amended at 28 Ok Reg 1681, eff 7-1-11 ; Amended at 29 Ok Reg 726, eff 7-1-12 ; Amended at 30 Ok Reg 597, eff 7-1-13 ; Amended at 32 Ok Reg 1800, eff 9-15-15 ; Transferred to 310:678-3-7 by SB 1709 (2024), eff 11-1-24]

### **340:2-3-38. Investigation of complaints made by foster parents or made by or on behalf of children being served by Child Welfare Services (CWS) [TRANSFERRED]**

[Source: Added at 18 Ok Reg 3435, eff 7-1-01 (emergency); Added at 19 Ok Reg 1117, eff 5-13-02 ; Amended at 20 Ok Reg 1994, eff 7-1-03 ; Amended at 21 Ok Reg 2330, eff 6-25-04 ; Amended at 22 Ok Reg 1180, eff 5-26-05 ; Amended at 23 Ok Reg 1776, eff 6-11-06 ; Amended at 24 Ok Reg 978, eff 7-1-07 ; Amended at 28 Ok Reg 1681, eff 7-1-11 ; Amended at 32 Ok Reg 1800, eff 9-15-15 ; Amended at 34 Ok Reg 1402, eff 9-15-17 ; Amended at 38 Ok Reg 2115, eff 9-15-21 ; Transferred to 310:678-3-8 by SB 1709 (2024), eff 11-1-24]

### **340:2-3-39. Program Review process for substantiated child abuse or neglect findings in Office of Client Advocacy investigations [TRANSFERRED]**

[Source: Added at 31 Ok Reg 1790, eff 9-15-14 ; Amended at 39 Ok Reg 561, eff 1-12-22 (emergency); Amended at 39 Ok Reg 1653, eff 9-15-22 ; Transferred to 310:678-3-9 by SB 1709 (2024), eff 11-1-24]

#### **340:2-3-39.1. Reconsideration process for substantiated findings of vulnerable adult maltreatment in Office of Client Advocacy (OCA) investigations and Community Services Worker Registry (CSWR) procedures [TRANSFERRED]**

[Source: Added at 38 Ok Reg 2115, eff 9-15-21 ; Amended at 40 Ok Reg 930, eff 9-15-23 ; Transferred to 310:678-3-10 by SB 1709 (2024), eff 11-1-24]

## **PART 5. GRIEVANCES [TRANSFERRED]**

### **340:2-3-45. Grievance system protocols [TRANSFERRED]**

[Source: Added at 18 Ok Reg 3435, eff 7-1-01 (emergency); Added at 19 Ok Reg 1117, eff 5-13-02 ; Amended at 20 Ok Reg 1994, eff 7-1-03 ; Amended at 21 Ok Reg 2330, eff 6-25-04 ; Amended at 22 Ok Reg 1180, eff 5-26-05 ; Amended at 23 Ok Reg 1776, eff 6-11-06 ; Amended at 24 Ok Reg 978, eff 7-1-07 ; Amended at 25 Ok Reg 1935, eff 7-1-08 ; Amended at 26 Ok Reg 2195, eff 7-1-09 ; Amended at 30 Ok Reg 597, eff 7-1-13 ; Amended at 31 Ok Reg 1790, eff 9-15-14 ; Amended at 34 Ok Reg 1402, eff 9-15-17 ; Amended at 38 Ok Reg 2115, eff 9-15-21 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24; Transferred to 310:678-5-1 by SB 1709 (2024), eff 11-1-24]

### **340:2-3-46. Contested grievances appealed to the State Office [TRANSFERRED]**

[Source: Added at 18 Ok Reg 3435, eff 7-1-01 (emergency); Added at 19 Ok Reg 1117, eff 5-13-02 ; Amended at 20 Ok Reg 1994, eff 7-1-03 ; Amended at 21 Ok Reg 2330, eff 6-25-04 ; Amended at 22 Ok Reg 1180, eff 5-26-05 ; Amended at 23 Ok Reg 1776, eff 6-11-06 ; Amended at 24 Ok Reg 978, eff 7-1-07 ; Amended at 25 Ok Reg 1935, eff 7-1-08 ; Amended at 26 Ok Reg 2195, eff 7-1-09 ; Amended at 33 Ok Reg 1574, eff 9-15-16 ; Amended at 34 Ok Reg 1402, eff 9-15-17 ; Amended at 38 Ok Reg 2115, eff 9-15-21 ; Transferred to 310:678-5-2 by SB 1709 (2024), eff 11-1-24]

### **340:2-3-47. Grievances of minors being served by Child Welfare Services [TRANSFERRED]**

[Source: Added at 18 Ok Reg 3435, eff 7-1-01 (emergency); Added at 19 Ok Reg 1117, eff 5-13-02 ; Amended at 21 Ok Reg 2330, eff 6-25-04 ; Amended at 24 Ok Reg 978, eff 7-1-07 ; Amended at 26 Ok Reg 2195, eff 7-1-09 ; Amended at 30 Ok Reg 597, eff 7-1-13 ; Amended at 38 Ok Reg 2115, eff 9-15-21 ; Transferred to 310:678-5-3 by SB 1709 (2024), eff 11-1-24]

### **340:2-3-48. Grievances of minors in OKDHS operated shelters and group homes [REVOKED]**

[Source: Added at 18 Ok Reg 3435, eff 7-1-01 (emergency); Added at 19 Ok Reg 1117, eff 5-13-02 ; Amended at 24 Ok Reg 978, eff 7-1-07 ; Amended at 26 Ok Reg 2195, eff 7-1-09 ; Revoked at 38 Ok Reg 2115, eff 9-15-21]

### **340:2-3-49. Grievances of minors in OKDHS custody and youth in voluntary care living in other residential settings [REVOKED]**

[Source: Added at 18 Ok Reg 3435, eff 7-1-01 (emergency); Added at 19 Ok Reg 1117, eff 5-13-02 ; Amended at 21 Ok Reg 2330, eff 6-25-04 ; Amended at 24 Ok Reg 978, eff 7-1-07 ; Revoked at 38 Ok Reg 2115, eff 9-15-21]

### **340:2-3-50. Foster parent grievances [TRANSFERRED]**

[Source: Added at 18 Ok Reg 3435, eff 7-1-01 (emergency); Added at 19 Ok Reg 1117, eff 5-13-02 ; Amended at 20 Ok Reg 1994, eff 7-1-03 ; Amended at 21 Ok Reg 2330, eff 6-25-04 ; Amended at 22 Ok Reg 1180, eff 5-26-05 ; Amended at 23 Ok Reg 1776, eff 6-11-06 ; Amended at 24 Ok Reg 978, eff 7-1-07 ; Amended at 25 Ok Reg 1935, eff 7-1-08 ; Amended at 26 Ok Reg 2195, eff 7-1-09 ; Amended at 30 Ok Reg 597, eff 7-1-13 ; Amended at 33 Ok Reg 1574, eff 9-15-16 ; Amended at 38 Ok Reg 2115, eff 9-15-21 ; Transferred to 310:678-5-4 by SB 1709 (2024), eff 11-1-24]

### **340:2-3-51. Developmental Disabilities Services (DDS) Greer Center Facility (Greer) resident grievances [TRANSFERRED]**

[Source: Added at 18 Ok Reg 3435, eff 7-1-01 (emergency); Added at 19 Ok Reg 1117, eff 5-13-02 ; Amended at 20 Ok Reg 1994, eff 7-1-03 ; Amended at 21 Ok Reg 2330, eff 6-25-04 ; Amended at 23 Ok Reg 1776, eff 6-11-06 ; Amended at 24 Ok Reg 978, eff 7-1-07 ; Amended at 26 Ok Reg 2195, eff 7-1-09 ; Amended at 34 Ok Reg 1402, eff 9-15-17 ; Transferred to 310:678-5-5 by SB 1709 (2024), eff 11-1-24]

### **340:2-3-52. Grievances of Hissom class members [TRANSFERRED]**

[Source: Added at 18 Ok Reg 3435, eff 7-1-01 (emergency); Added at 19 Ok Reg 1117, eff 5-13-02 ; Amended at 20 Ok Reg 1994, eff 7-1-03 ; Amended at 21 Ok Reg 2330, eff 6-25-04 ; Amended at 23 Ok Reg 1776, eff 6-11-06 ; Amended at 24 Ok Reg 978, eff 7-1-07 ; Amended at 34 Ok Reg 1402, eff 9-15-17 ; Transferred to 310:678-5-6 by SB 1709 (2024), eff 11-1-24]

### **340:2-3-53. Grievances of clients receiving services from the Developmental Disabilities Services (DDS) [TRANSFERRED]**

[Source: Added at 18 Ok Reg 3435, eff 7-1-01 (emergency); Added at 19 Ok Reg 1117, eff 5-13-02 ; Amended at 20 Ok Reg 1994, eff 7-1-03 ; Amended at 21 Ok Reg 2330, eff 6-25-04 ; Amended at 23 Ok Reg 1776, eff 6-11-06 ; Amended at 24 Ok Reg 978, eff 7-1-07 ; Amended at 31 Ok Reg 1790, eff 9-15-14 ; Amended at 34 Ok Reg 1402, eff 9-15-17 ; Transferred to 310:678-5-7 by SB 1709 (2024), eff 11-1-24]



### **340:2-3-54. Grievances of residents of private group homes for individuals with developmental disabilities [TRANSFERRED]**

[Source: Added at 18 Ok Reg 3435, eff 7-1-01 (emergency); Added at 19 Ok Reg 1117, eff 5-13-02 ; Amended at 21 Ok Reg 2330, eff 6-25-04 ; Amended at 26 Ok Reg 2195, eff 7-1-09 ; Transferred to 310:678-5-8 by SB 1709 (2024), eff 11-1-24]

### **340:2-3-55. DHS client grievances not covered by another grievance system [TRANSFERRED]**

[Source: Added at 18 Ok Reg 3435, eff 7-1-01 (emergency); Added at 19 Ok Reg 1117, eff 5-13-02 ; Amended at 20 Ok Reg 1994, eff 7-1-03 ; Amended at 21 Ok Reg 2330, eff 6-25-04 ; Amended at 24 Ok Reg 978, eff 7-1-07 ; Amended at 31 Ok Reg 1790, eff 9-15-14 ; Transferred to 310:678-5-9 by SB 1709 (2024), eff 11-1-24]

### **340:2-3-56. Foster Care Ombudsman (FCO) services [TRANSFERRED]**

[Source: Added at 33 Ok Reg 1574, eff 9-15-16 ; Transferred to 310:678-5-10 by SB 1709 (2024), eff 11-1-24]

## **PART 7. GRIEVANCE AND ABUSE REVIEW COMMITTEE [TRANSFERRED]**

### **340:2-3-61. Grievance and Abuse Review Committee (GARC) [TRANSFERRED]**

[Source: Added at 18 Ok Reg 3435, eff 7-1-01 (emergency); Added at 19 Ok Reg 1117, eff 5-13-02 ; Amended at 20 Ok Reg 1994, eff 7-1-03 ; Amended at 21 Ok Reg 2330, eff 6-25-04 ; Amended at 31 Ok Reg 1790, eff 9-15-14 ; Amended at 39 Ok Reg 1653, eff 9-15-22 ; Transferred to 310:678-7-1 by SB 1709 (2024), eff 11-1-24]

### **340:2-3-62. Grievance and Abuse Review Committee (GARC) review of Office of Client Advocacy (OCA) investigation reports [REVOKED]**

[Source: Added at 18 Ok Reg 3435, eff 7-1-01 (emergency); Added at 19 Ok Reg 1117, eff 5-13-02 ; Amended at 21 Ok Reg 2330, eff 6-25-04 ; Amended at 22 Ok Reg 1180, eff 5-26-05 ; Amended at 30 Ok Reg 597, eff 7-1-13 ; Amended at 31 Ok Reg 1790, eff 9-15-14 ; Revoked at 39 Ok Reg 1653, eff 9-15-22]

### **340:2-3-63. Grievance and Abuse Review Committee (GARC) review of Office of Client Advocacy (OCA) investigation reports regarding foster parent complaints [TRANSFERRED]**

[Source: Added at 18 Ok Reg 3435, eff 7-1-01 (emergency); Added at 19 Ok Reg 1117, eff 5-13-02 ; Amended at 20 Ok Reg 1994, eff 7-1-03 ; Amended at 21 Ok Reg 2330, eff 6-25-04 ; Amended at 22 Ok Reg 1180, eff 5-26-05 ; Transferred to 310:678-7-2 by SB 1709 (2024), eff 11-1-24]

### **340:2-3-64. Grievance and Abuse Review Committee (GARC) review of unresolved contested grievances [TRANSFERRED]**

[Source: Added at 18 Ok Reg 3435, eff 7-1-01 (emergency); Added at 19 Ok Reg 1117, eff 5-13-02 ; Amended at 20 Ok Reg 1994, eff 7-1-03 ; Amended at 21 Ok Reg 2330, eff 6-25-04 ; Amended at 23 Ok Reg 1776, eff 6-11-06 ; Amended at 24 Ok Reg 978, eff 7-1-07 ; Amended at 26 Ok Reg 2195, eff 7-1-09 ; Amended at 33 Ok Reg 1574, eff 9-15-16 ; Amended at 38 Ok Reg 2115, eff 9-15-21 ; Transferred to 310:678-7-3 by SB 1709 (2024), eff 11-1-24]

### **340:2-3-65. Grievance and Abuse Review Committee (GARC) review of care and treatment of clients [TRANSFERRED]**

[Source: Added at 18 Ok Reg 3435, eff 7-1-01 (emergency); Added at 19 Ok Reg 1117, eff 5-13-02 ; Amended at 21 Ok Reg 2330, eff 6-25-04 ; Transferred to 310:678-7-4 by SB 1709 (2024), eff 11-1-24]

## **PART 9. ADVOCACY PROGRAMS [TRANSFERRED]**

### **340:2-3-71. Office of Client Advocacy (OCA) general advocacy services [TRANSFERRED]**

[Source: Added at 19 Ok Reg 1730, eff 6-14-02 ; Amended at 20 Ok Reg 1994, eff 7-1-03 ; Amended at 22 Ok Reg 1180, eff 5-26-05 ; Amended at 23 Ok Reg 1776, eff 6-11-06 ; Amended at 26 Ok Reg 2195, eff 7-1-09 ; Amended at 32 Ok Reg 1800, eff 9-15-15 ; Amended at 33 Ok Reg 1574, eff 9-15-16 ; Amended at 34 Ok Reg 1402, eff 9-15-17 ; Amended at 35 Ok Reg 1569, eff 9-17-18 ; Amended at 38 Ok Reg 2115, eff 9-15-21 ; Transferred to 310:678-9-1 by SB 1709 (2024), eff 11-1-24]

### **340:2-3-72. Office of Client Advocacy (OCA) services specific to residents of Robert M. Greer Center (Greer) and Laura Dester Children's Center (SHIELD) [TRANSFERRED]**

[Source: Added at 19 Ok Reg 1730, eff 6-14-02 ; Amended at 20 Ok Reg 1994, eff 7-1-03 ; Amended at 22 Ok Reg 1180, eff 5-26-05 ; Amended at 26 Ok Reg 2195, eff 7-1-09 ; Amended at 32 Ok Reg 1800, eff 9-15-15 ; Amended at 35 Ok Reg 1569, eff 9-17-18 ; Amended at 38 Ok Reg 2115, eff 9-15-21 ; Transferred to 310:678-9-2 by SB 1709 (2024), eff 11-1-24]

### **340:2-3-73. Office of Client Advocacy (OCA) advocacy services specific to Hissom Class Members (HCM)s and former Northern Oklahoma Resource Center of Enid (NORCE) and Southern Oklahoma Resource Center (SORC) residents [TRANSFERRED]**

[Source: Added at 19 Ok Reg 1730, eff 6-14-02 ; Amended at 20 Ok Reg 1994, eff 7-1-03 ; Amended at 21 Ok Reg 2330, eff 6-25-04 ; Amended at 24 Ok Reg 978, eff 7-1-07 ; Amended at 26 Ok Reg 2195, eff 7-1-09 ; Amended at 32 Ok Reg 1800, eff 9-15-15 ; Amended at 33 Ok Reg 1574, eff 9-15-16 ; Amended at 35 Ok Reg 1569, eff 9-17-18 ; Amended at 38 Ok Reg 2115, eff 9-15-21 ; Transferred to 310:678-9-3 by SB 1709 (2024), eff 11-1-24]

### **340:2-3-74. Advocacy services for Hissom class members [REVOKED]**

[Source: Added at 19 Ok Reg 1730, eff 6-14-02 ; Amended at 20 Ok Reg 1994, eff 7-1-03 ; Amended at 24 Ok Reg 978, eff 7-1-07 ; Amended at 26 Ok Reg 2195, eff 7-1-09 ; Amended at 32 Ok Reg 1800, eff 9-15-15 ; Amended at 33 Ok Reg 1574, eff 9-15-16 ; Amended at 34 Ok Reg 1402, eff 9-15-17 ; Revoked at 35 Ok Reg 1569, eff 9-17-18]

### **340:2-3-75. Office of Client Advocacy (OCA) services specific to clients with special advocacy needs [TRANSFERRED]**

[Source: Added at 19 Ok Reg 1730, eff 6-14-02 ; Amended at 20 Ok Reg 1994, eff 7-1-03 ; Amended at 26 Ok Reg 2195, eff 7-1-09 ; Amended at 32 Ok Reg 1800, eff 9-15-15 ; Amended at 35 Ok Reg 1569, eff 9-17-18 ; Transferred to 310:678-9-4 by SB 1709 (2024), eff 11-1-24]

## **SUBCHAPTER 4. OFFICE OF THE PUBLIC GUARDIAN**

### **340:2-4-1. Purpose, legal basis, and definitions**

(a) **Purpose.** The Oklahoma Department of Human Services (DHS) Office of the Public Guardian provides guardianship services throughout Oklahoma to criminal defendants, who are deemed incompetent to stand trial due to intellectual disability, per Section 1408 of Title 10 of the Oklahoma Statutes (10 O.S. § 1408), and were found by the Court to be dangerous, per 22 O.S. § 1175.1. The DHS Office of the Public Guardian must place wards in the least restrictive placement, which ensure appropriate levels of supervision and supports, sufficient to keep the ward and public safe.

(b) **Legal basis.** Statutory authority for the DHS Office of the Public Guardian is derived from 22 O.S. § 1175.6b.

(c) The following words and terms, when used in this Subchapter shall have the following meanings unless the context clearly indicates otherwise:

(1) **"Court"** means the district court assigned to hear criminal matters in the jurisdiction where the crime was committed and the ward was charged.

(2) **"Public guardian"** means the attorney who is the DHS administrator of the Office of the Public Guardian.

(3) **"Ward"** means a person placed in the custody of the DHS Office of the Public Guardian by court order, per requisite statutory requirements.

[Source: Added at 37 Ok Reg 1743, eff 9-15-20]

### **340:2-4-3. Ward placement requirements**

(a) **Placement requirements.** To place a ward into the Oklahoma Department of Human Services (DHS) Office of the Public Guardian, he or she must be:

(1) a defendant in a criminal matter, misdemeanor or felony, in any Oklahoma district court;

(2) found incompetent to stand trial in a criminal matter due to intellectual disability, per Section 1408 of Title 10 of the Oklahoma Statutes (10 O.S. § 1408); and

(3) deemed dangerous by the court, per 22 O.S. § 1175.1.

(b) **Ward placement procedure.** When a valid order placing an individual in the custody of the DHS Office of the Public Guardian is received by DHS Legal Services (LS), LS forwards the order and all information on him or her to the Office of the Public Guardian.

(1) When the Office of the Public Guardian receives the information from LS, Office of the Public Guardian staff meets with Developmental Disabilities Services (DDS) staff to begin the evaluation process to determine what level of DDS placement best meets his or her service and supervision needs. Office of the Public Guardian staff accompanies DDS intake staff for the initial assessment, when possible.

(2) Ward placement is at the Office of the Public Guardian's sole discretion, per 22 O.S. 1175.6b(A)(2). All placements must be made within six months of the date of the order placing the ward in the custody of the Office of the Public Guardian.

(3) Any extension past the six months must be approved by the court.

(c) **Public guardian status reports.** The Office of the Public Guardian reports to the court of jurisdiction at least once every six months. The information for these reports are obtained from the individual's DDS case manager and include:

- (1) the placement type;
- (2) the services provided;
- (3) the supervision level;
- (4) his or her medical and psychological health;
- (5) if he or she would be dangerous if conditionally released into a non-secure environment;
- (6) the assistance and services that are required for such conditional release and if he or she has achieved competency; and
- (7) other information the Office of the Public Guardian deems important or pertinent.

(d) **Conditional Release.** When a criminal defendant is found incompetent to stand trial due to intellectual disability, per 10 O.S. § 1408, and is deemed not dangerous, per 22 O.S. § 1175.1, he or she may be referred to DHS for consideration of voluntary assistance or conditional release.

(e) **Procedure.** When a valid order for conditional release is entered and received by DHS LS, the order and information pertaining to the individual is forwarded to the Office of the Public Guardian.

(f) **Public guardian role.** When a conditional release individual is in a DDS placement or receives DDS services, the Office of the Public Guardian assists the individual's personal support team, when necessary, regarding the conditional release order or requests to modify orders.

(g) **Conditional release status reports.** The Office of the Public Guardian submits annual reports regarding an individual's compliance with the conditions of release and overall progress. When the individual receives DDS services, the information is obtained from the DDS case manager and, when he or she is in any other placement, the information is obtained from the person responsible for the individual's care. When there are major non-compliances between annual reports, the Office of the Public Guardian notifies the court of jurisdiction.

### **340:2-4-5. Ward removed from public guardianship**

(a) **Regaining competency.** When the Office of the Public Guardian determines a ward has regained competency, the Office of the Public Guardian notifies the court of jurisdiction.

(b) **Conditional Release.** When the Office of the Public Guardian determines a ward is no longer dangerous and release to a private guardian or other caretaker is appropriate, the Office of the Public Guardian notifies the court of jurisdiction.

(c) **Case dismissal by court.** When the court of jurisdiction dismisses the underlying charges, the Office of the Public Guardian no longer has jurisdiction or guardianship of the individual.

[Source: Added at 37 Ok Reg 1743, eff 9-15-20]

## **SUBCHAPTER 5. FAIR HEARINGS**

### **PART 1. APPEAL PROCESSES FOR PROGRAMS, EXCEPT TITLE III OF THE OLDER AMERICANS ACT AND 53-10 OF THE FEDERAL TRANSIT ACT PROGRAMS [REVOKED]**

#### **340:2-5-1. Purpose [REVOKED]**

[Source: Amended at 10 Ok Reg 4063, eff 7-26-93 ; Amended at 15 Ok Reg 724, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Revoked at 19 Ok Reg 2199, eff 6-27-02]

#### **340:2-5-2. Definitions [REVOKED]**

[Source: Amended at 10 Ok Reg 4063, eff 7-26-93 ; Amended at 15 Ok Reg 724, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Revoked at 19 Ok Reg 2199, eff 6-27-02]

#### **340:2-5-3. Legal bases [REVOKED]**

[Source: Amended at 10 Ok Reg 4063, eff 7-26-93 ; Amended at 15 Ok Reg 724, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Revoked at 19 Ok Reg 2199, eff 6-27-02]

#### **340:2-5-4. General provisions [REVOKED]**

[Source: Amended at 10 Ok Reg 4063, eff 7-26-93 ; Amended at 15 Ok Reg 724, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Revoked at 19 Ok Reg 2199, eff 6-27-02]

#### **340:2-5-5. Client hearing procedures [REVOKED]**

[Source: Amended at 10 Ok Reg 4063, eff 7-26-93 ; Amended at 15 Ok Reg 724, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Revoked at 19 Ok Reg 2199, eff 6-27-02]

### **340:2-5-6. Client hearings conducted by the Appeals Unit [REVOKED]**

[Source: Amended at 10 Ok Reg 651, eff 12-23-92 (emergency); Amended at 10 Ok Reg 4063, eff 7-26-93 ; Amended at 11 Ok Reg 807, eff 12-14-93 (emergency); Amended at 11 Ok Reg 2653, eff 6-13-94 ; Amended at 15 Ok Reg 724, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Revoked at 19 Ok Reg 2199, eff 6-27-02]

### **340:2-5-7. Client hearings and procedures conducted by specially designated hearing officers [REVOKED]**

[Source: Amended at 10 Ok Reg 4063, eff 7-26-93 ; Revoked at 15 Ok Reg 724, eff 1-1-98 (emergency); Revoked at 15 Ok Reg 1595, eff 5-11-98]

### **340:2-5-8. Handling of client complaints [REVOKED]**

[Source: Amended at 10 Ok Reg 4063, eff 7-26-93 ; Revoked at 15 Ok Reg 724, eff 1-1-98 (emergency); Revoked at 15 Ok Reg 1595, eff 5-11-98]

### **340:2-5-9. Procedures relating to client hearings [REVOKED]**

[Source: Amended at 10 Ok Reg 4063, eff 7-26-93 ; Amended at 15 Ok Reg 724, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Revoked at 19 Ok Reg 2199, eff 6-27-02]

### **340:2-5-10. Withdrawal of request for hearing [REVOKED]**

[Source: Amended at 10 Ok Reg 4063, eff 7-26-93 ; Amended at 15 Ok Reg 724, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Revoked at 19 Ok Reg 2199, eff 6-27-02]

### **340:2-5-11. Scheduling of the hearing [REVOKED]**

[Source: Amended at 10 Ok Reg 4063, eff 7-26-93 ; Amended at 15 Ok Reg 724, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Revoked at 19 Ok Reg 2199, eff 6-27-02]

### **340:2-5-12. Local office contact with client after receipt of appointment letter [REVOKED]**

[Source: Amended at 10 Ok Reg 4063, eff 7-26-93 ; Amended at 15 Ok Reg 724, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Revoked at 19 Ok Reg 2199, eff 6-27-02]

### **340:2-5-13. Conduct of a hearing by the Appeals Unit [REVOKED]**

[Source: Amended at 10 Ok Reg 4063, eff 7-26-93 ; Amended at 15 Ok Reg 724, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Revoked at 19 Ok Reg 2199, eff 6-27-02]

### **340:2-5-14. Recording of the hearing proceedings [REVOKED]**

[Source: Amended at 10 Ok Reg 4063, eff 7-26-93 ; Amended at 15 Ok Reg 724, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Revoked at 19 Ok Reg 2199, eff 6-27-02]

### **340:2-5-15. Obtaining testimony [REVOKED]**

[Source: Amended at 10 Ok Reg 4063, eff 7-26-93 ; Revoked at 19 Ok Reg 2199, eff 6-27-02]

### **340:2-5-16. Presentations by the client and his/her witnesses [REVOKED]**

[Source: Amended at 10 Ok Reg 4063, eff 7-26-93 ; Revoked at 19 Ok Reg 2199, eff 6-27-02]

### **340:2-5-17. Presentations by the local office [REVOKED]**

[Source: Amended at 10 Ok Reg 4063, eff 7-26-93 ; Amended at 15 Ok Reg 724, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Revoked at 19 Ok Reg 2199, eff 6-27-02]

### **340:2-5-18. Recessed hearings [REVOKED]**

[Source: Amended at 10 Ok Reg 4063, eff 7-26-93 ; Revoked at 19 Ok Reg 2199, eff 6-27-02]

### **340:2-5-19. Closing statement by the hearing officer [REVOKED]**

[Source: Amended at 10 Ok Reg 4063, eff 7-26-93 ; Revoked at 19 Ok Reg 2199, eff 6-27-02]

### **340:2-5-20. Hearing officer's summary [REVOKED]**

[Source: Amended at 10 Ok Reg 4063, eff 7-26-93 ; Amended at 15 Ok Reg 724, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Revoked at 19 Ok Reg 2199, eff 6-27-02]

### **340:2-5-21. Decision by the State Department [REVOKED]**

[Source: Amended at 10 Ok Reg 4063, eff 7-26-93 ; Amended at 15 Ok Reg 724, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Revoked at 19 Ok Reg 2199, eff 6-27-02]

### **340:2-5-22. Abandonment of hearing [REVOKED]**

[Source: Amended at 10 Ok Reg 4063, eff 7-26-93 ; Amended at 15 Ok Reg 724, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Revoked at 19 Ok Reg 2199, eff 6-27-02]

### **340:2-5-23. Reopened hearings [REVOKED]**

[Source: Amended at 10 Ok Reg 4063, eff 7-26-93 ; Amended at 15 Ok Reg 724, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Revoked at 19 Ok Reg 2199, eff 6-27-02]

### **340:2-5-24. Appeals Unit responsibility for notification of decision and assuring that decision is carried out [REVOKED]**

[Source: Amended at 10 Ok Reg 4063, eff 7-26-93 ; Amended at 11 Ok Reg 807, eff 12-14-93 (emergency); Amended at 11 Ok Reg 2653, eff 6-13-94 ; Amended at 15 Ok Reg 724, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Revoked at 19 Ok Reg 2199, eff 6-27-02]

**340:2-5-25. Action by local office following receipt of decision  
[REVOKED]**

[Source: Amended at 10 Ok Reg 4063, eff 7-26-93 ; Amended at 11 Ok Reg 807, eff 12-14-93 (emergency); Amended at 11 Ok Reg 2653, eff 6-13-94 ; Amended at 15 Ok Reg 724, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Revoked at 19 Ok Reg 2199, eff 6-27-02]

**340:2-5-26. Availability of hearing decisions [REVOKED]**

[Source: Amended at 10 Ok Reg 4063, eff 7-26-93 ; Revoked at 15 Ok Reg 724, eff 1-1-98 (emergency); Revoked at 15 Ok Reg 1595, eff 5-11-98]

**340:2-5-27. Administrative disqualification hearings - Food Stamp Program only [REVOKED]**

[Source: Amended at 10 Ok Reg 4063, eff 7-26-93 ; Amended at 15 Ok Reg 724, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Revoked at 19 Ok Reg 2199, eff 6-27-02]

**340:2-5-28. Medical provider administrative reviews (Medicaid and Children's Special Health Care Needs Program) [REVOKED]**

[Source: Amended at 10 Ok Reg 4063, eff 7-26-93 ; Revoked at 15 Ok Reg 724, eff 1-1-98 (emergency); Revoked at 15 Ok Reg 1595, eff 5-11-98]

**340:2-5-29. Hearings on licensing actions related to child care facilities and child placing agencies [REVOKED]**

[Source: Amended at 10 Ok Reg 4063, eff 7-26-93 ; Amended at 15 Ok Reg 724, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Revoked at 19 Ok Reg 2199, eff 6-27-02]

**340:2-5-30. Telephonic hearings [REVOKED]**

[Source: Amended at 10 Ok Reg 4063, eff 7-26-93 ; Amended at 15 Ok Reg 724, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Revoked at 19 Ok Reg 2199, eff 6-27-02]

**PART 3. FAIR HEARINGS FOR TITLE III OLDER AMERICANS ACT AND 16(B)2 INTERMODAL SURFACE TRANSPORTATION ACT PROGRAMS**

**340:2-5-40. General provisions**

The Department provides an opportunity for a hearing to any prospective or existing Title III or 16(B)2 grantee when an application for funding is denied, when a grant is suspended or terminated prior to the end of an approved budget year, or when designation as a planning and service area or Area Agency on Aging has been denied. A request for hearing is a clearly written expression by the grantee/applicant (or authorized representative) of the grantee/applicant's desire to present testimony and evidence regarding any adverse action by the Department or Area Agency on Aging, and be informed through testimony and other



evidence, of the basis for the action on the part of the Aging Services Division or Area Agency on Aging. All requests for hearing must be in writing and must be submitted to the Aging Services Division (ASD) within 30 days of notification of adverse action by the ASD, or within 30 days of notification of an adverse appeal decision by an Area Agency on Aging.

[Source: Added eff 12-14-93 (emergency); Added eff 6-13-94]

#### **340:2-5-41. Purpose**

The primary purposes of fair hearings are to:

- (1) Safeguard the rights and interests of the grantee/applicant;
- (2) Afford protection to the grantee/applicant against infractions on the part of the Department (Aging Services Division) or the Area Agency on Aging; and
- (3) Help identify the need for clarification or revision of the policy or practice of the Department (Aging Services Division) or the Area Agency on Aging.

[Source: Added at 11 Ok Reg 807, eff 12-14-93 (emergency); Added at 11 Ok Reg 2653, eff 6-13-94]

#### **340:2-5-42. Definitions**

The following words and terms, when used in this Part, shall have the following meaning, unless the context clearly indicates otherwise:

**"Adverse action"** means:

- (A) Denial of application for funding;
- (B) Suspension or termination of funding prior to the end of an approved budget year; or
- (C) Denial of designation as a planning and service area or Area Agency on Aging.

**"Appeals Committee"** means the following staff members, appointed by the State Director of Human Services:

- (A) General counsel;
- (B) Supervisor of the Appeals Unit; and
- (C) Programs Administrator of the Special Unit on Aging.

**"Appeals Unit"** means the unit established within the Department responsible for:

- (A) Scheduling the time and place of the hearing;
- (B) Conducting the hearing;
- (C) Electronically recording the hearing;
- (D) Preparing the Hearing Officer's Summary; and
- (E) Preparing the decision letter.

**"Grantee/applicant complaint"** means a grantee/applicant's expressed belief that proper consideration has not been given to circumstances surrounding grant/application process. A grantee or applicant's complaint can be expressed orally, in correspondence, or by authorizing another entity to advise the Department of the grievance. A complaint may be addressed to the grantee/applicant's satisfaction without resorting to the formal hearing process or it may result in the grantee or applicant's request for a hearing.

**"Official report (record)"** means the information that will be made available to the appellant, upon request, at a reasonable time and place and consists of:

- (A) The administrative hearing officer's summary which contains the substance of what transpired in the hearing unless oral proceedings are transcribed;
- (B) All written evidence filed in the hearing;
- (C) A verbatim recording of the hearing; and
- (D) The resulting decision of the appeals process.

[Source: Added at 11 Ok Reg 807, eff 12-14-93 (emergency); Added at 11 Ok Reg 2653, eff 6-13-94]

#### **340:2-5-43. Legal authority**

Title 42 U.S.C. Section 3027(a)(5) provides for granting a hearing before the Department for Title III Older Americans Act grantees or applicants. In order for a grantee or applicant to be able to exercise this right, the State Agency (Aging Services Division) or the Area Agency on Aging, is responsible for informing, in writing, each grantee or applicant at the time of application for funding of the right to a hearing. This is done in conjunction with the Request for Proposal process at the State and Area Agency on Aging level.

[Source: Added at 11 Ok Reg 807, eff 12-14-93 (emergency); Added at 11 Ok Reg 2653, eff 6-13-94]

#### **340:2-5-44. Procedures relating to grantee hearings**

(a) **General provisions.** The rules in this Section apply to any hearing to be scheduled by the Appeals Unit, and voted on by the Appeals Committee. Once the grantee/applicant has requested a hearing before the Department, the hearing is not delayed or cancelled for any reason other than:

- (1) Withdrawal, in writing;
- (2) Abandonment of the request by the grantee; or
- (3) Evidence by the grantee of good cause for delay of the hearing (see (f)(1)(F) of this Section for good cause).

(b) **Request for a hearing.** The Aging Services Division or the Area Agency on Aging is responsible for assisting the grantee/applicant in completing OAC 340:2 Appendix G, Request for Fair Hearing, after the written request is received. The Appendix G is signed by the grantee/applicant. The Aging Services Division is responsible for transmitting the OAC 340:2 Appendix G to the Appeals Unit not later than the first working day following the date of the grantee/applicant's signature.

(c) **Hearing officers.** The professional staff member of the Appeals Unit who conducts a fair hearing is a person who has not had a part in the protested decision. This person is one who has been designated by the State Director to conduct the fair hearing and may either be an Administrative Hearing Officer (AHO) or an Administrative Law Judge (ALJ). The AHO or ALJ is responsible for preparing a written summary of the testimony and written evidence presented in the hearing for presentation to the Appeals Committee.

- (1) If the ALJ or AHO who conducts the hearing concludes that the Department (Aging Services Division) or the Area Agency on Aging acted correctly in taking the adverse action, a decision letter will be issued within 90 days of the appellant's written request for a hearing.
- (2) The following situations will be addressed by the ALJ or AHO:
  - (A) Requests for hearing will be dismissed if not submitted by the appellant within 30 days of the notice of adverse action.
  - (B) If the appellant or authorized representative fails to establish "good cause" for failure to appear (see (f)(1)(F) of this Section), the AHO/ALJ will issue a decision letter dismissing appellant's request for hearing and upholding the original decision of the Aging Services Division or Area Agency on Aging.
  - (C) If the appellant or authorized representative files a request for a hearing and subsequently files a written withdrawal before a final decision is rendered, the request for hearing is dismissed.
  - (D) At the pre-hearing conference or hearing, the AHO/ALJ may determine that additional evidence is needed before a decision can be made. If so, the AHO/ALJ may continue the hearing or remand the case to the Aging Services Division or affected Area Agency on Aging for reconsideration or inclusion of additional evidence before proceeding with the hearing.

**(d) Responsibilities of Aging Services Division or affected Area Agency on Aging.** The Aging Services Division or the affected Area Agency on Aging shall be responsible for assisting the appellant with whatever help is needed/wanted in requesting a fair hearing from the Department. Further, the Aging Services Division or the affected Area Agency on Aging shall:

- (1) Prepare a written summary of the adverse action in question to include:
  - (A) Type of decision or action on the part of the Aging Services Division or the Area Agency on Aging;
  - (B) Nature of appellant's complaint;
  - (C) Point at issue - exactly what the grantee or applicant is appealing;
  - (D) Chronological summary of pertinent events and evidence leading to the action;
  - (E) Verbatim quotations from the State Title III Policies and Procedures Manual, the Area Agency on Aging Title III Policies and Procedures Manual, or the 16(B)2 Policies and Procedures Manual, as appropriate, regarding the policy on which the adverse action was based; and
  - (F) Evidence and pertinent documents supporting the action of the Department (Aging Services Division) or the Area Agency on Aging.
- (2) Provide a copy of the summary to the appellant and the hearing officer at least eight days prior to the scheduled hearing;

and

(3) Notify the appellant, in writing, of the following procedures relating to the hearing:

(A) That the request for hearing received by the Department (Aging Services Division) or the Area Agency on Aging will be sent to the Appeals Unit and that the Appeals Unit will mail a letter to the appellant outlining the date, time and place of the hearing;

(B) That prior to the scheduled hearing, the appellant will receive a copy of the Aging Services Division's or the Area Agency on Aging's written summary regarding the adverse action in question, as well as documents and records the Department (Aging Services Division) or Area Agency on Aging will present at the hearing;

(C) That testimony given by the appellant, the appellant's witnesses, and the Department (Aging Services Division) or Area Agency on Aging will be taken by a hearing officer from the Appeals Unit of the Department;

(D) That a recording of the testimony will be made; and

(E) That the appellant will receive a written decision from the Appeals Unit.

(e) **Withdrawal of request for hearing.** If at any time following the formal request for a hearing, the appellant decides to withdraw the request for hearing, the Department (Aging Services Division) or the Area Agency on Aging shall advise the grantee or applicant of their responsibility to submit their withdrawal in writing to the Department (Aging Services Division) or the affected Area Agency on Aging, as appropriate. It will be the responsibility of the Department (Aging Services Division) or the Area Agency on Aging to receive the written withdrawal and to submit the withdrawal to the Appeals Unit of the Department within one working day of receipt. If the appellant refuses to submit the withdrawal of request for hearing in writing, the Aging Services Division or the Area Agency on Aging, as appropriate, shall prepare a memo outlining the reason(s) for the appellant's refusal to submit a written withdrawal and submit the memo to the Appeals Unit of the Department. In such instances, the Appeals Unit will advise the appellant by letter of the Department's action.

(f) **Scheduling of the hearing.** Upon receipt of OAC 340:2 Appendix G, Request for Fair Hearing, by the Appeals Unit, the request is registered and the Appeals Unit supervisor assigns the request to a hearing officer within the unit and sets a date for the hearing. The Unit then mails the appellant an appointment letter (Form H-S-6). Copies of this notification are routed to the Aging Services Division and the affected Area Agency on Aging, as appropriate. The notification is mailed not less than eight days prior to the date set for the hearing. The following procedures are followed related to the appellant's notification of the hearing:

(1) The letter to the appellant from the Appeals Unit includes:

(A) The name of the hearing officer who will conduct the hearing;

(B) The date, time, and location of the hearing;

(C) A request that the appellant have ready at the time of the hearing any evidence the appellant wishes to present;

(D) A statement of the appellant's right to have witnesses attend the hearing to give testimony;

(E) A statement of the appellant's (or the appellant's authorized representative) right to access all documents and records to be used by the agency at the hearing at a reasonable time prior to the date of the hearing, as well as during the hearing.

(F) A statement that failure to appear at the scheduled hearing without "good cause" will result in dismissal of the hearing request. Good cause may be established for any of the following reasons:

(i) Death in the family of any individual considered by the appellant to be critical to the hearing process, e.g., the project director, board chairman, legal representative;

(ii) Personal injury or illness of any individual critical to the hearing process which reasonably prevents such individual from attending the hearing;

(iii) Court subpoena; or

(iv) Sudden and unexpected emergencies.

(G) An explanation of how consideration of "good cause" can be requested; and

(H) An invitation for the individual to raise any questions regarding the information in the letter with the name, address, and telephone number of the Aging Services Division or the Area Agency on Aging responsible for the action being appealed.

(2) The Aging Services Division or affected Area Agency on Aging submits its written testimony to the Appeals Unit which is entered into the official record of the hearing;

(g) **Conduct of hearing.** All hearings scheduled by the Appeals Unit are conducted by one of the hearing officers assigned to that unit. The hearing is closed to the public. Persons permitted to attend the hearing in addition to the hearing officer, representatives of the appellant grantee/applicant, Aging Services Division staff and/or affected Area Agency on Aging staff, are those persons invited by these parties or authorized by the State Director as representatives or witnesses. The hearing proceedings include:

(1) A pre-hearing conference conducted by the hearing officer prior to the formal beginning of each hearing of record. The purpose of the pre-hearing conference is to organize the hearing process. It provides an opportunity for all parties to identify witnesses, identify all exhibits including those exhibits brought to the hearing. (All witnesses and exhibits introduced during the pre-hearing conference are to be specifically identified on the record during the actual hearing.)

(2) An oath administered by the hearing officer to the appellant, representatives of the appellant, the State Agency on Aging staff

(or to Area Agency on Aging staff, as appropriate), and to witnesses. (The form used for the oath consists of: "Do you solemnly swear (or affirm) that the evidence you give in this case will be the truth, the whole truth, and nothing but the truth.")

(3) In hearings in which a party is assisted by an interpreter, an oath administered by the hearing officer to the interpreter. (The form used for the oath consists of: "Do you solemnly swear (or affirm) that you will truthfully translate from English into (state the other language) the questions about to be asked, and from (state the other language) into English the answers about to be given in the case to the best of your ability.")

(h) **Recording of the hearing proceedings.** The hearing officer is responsible for arranging for a verbatim record of the proceedings of the hearing. The hearing officer's record of the hearing is the official record. However, a representative of the appellant can provide his/her own recording device for use during the hearing, if desired. Any party may request a copy of the tape recording of their administrative hearing. The record of the hearing shall include but shall not be limited to:

- (1) All pleadings, motions, and intermediate rulings;
- (2) Evidence received or considered;
- (3) Any decision, opinion, or report by the hearing officer presiding at the hearing; and
- (4) All staff memoranda or data submitted to the hearing officer or members of the agency regarding their consideration of the case.

(i) **Obtaining testimony.** As initial testimony, the hearing officer requests from the representative of the State Agency on Aging (or the affected Area Agency on Aging) and from the appellant, a brief statement of the reason(s) for the appeal. The hearing officer then makes a brief summary of these statements in order to define the point(s) at issue.

(1) The hearing officer is responsible, before taking further testimony, for explaining that any presentation by the appellant or representatives of the appellant, or representative(s) of the State Agency on Aging (or the affected Area Agency on Aging) must be related to the point(s) at issue.

(2) It is the responsibility of the hearing officer to aid in the development of the statement of facts relative to the point(s) at issue. When opinions of a subjective nature or expert opinions of a technical nature are relevant, the hearing officer elicits information which will indicate the competence of the persons making these statements.

(3) The hearing officer affords representatives of both the appellant and the State Agency on Aging (or the affected Area Agency on Aging) opportunity to establish all pertinent facts and circumstances, to advance any arguments without undue interference, to refute any testimony and evidence, and to confront, question, and cross examine any witnesses who furnished evidence upon which the decision to deny or terminate funding was made. Care is taken by the hearing officer to ensure accuracy and clarity of all materials used as testimony or exhibits.

**(j) Presentations by the appellant and the appellant's witnesses.**

The appellant is provided the opportunity to present evidence in any way desired. Representatives or staff of the appellant may wish to present evidence or they may wish to bring witnesses to help establish pertinent facts, ask for substantiation or any statements made by other witnesses and present evidence in rebuttal. Legal counsel is unnecessary, but the appellant may be represented by legal counsel, if desired.

**(k) Presentations by the Department (Aging Services Division) or the affected Area Agency on Aging.** The individual representing the State Agency on Aging (or the affected Area Agency on Aging) is, whenever possible, the staff member who is familiar with and was involved in the protested decision. The evidence is presented in the form of a written summary prepared in advance and a copy provided to the appellant. The testimony presented by the Department (Aging Services Division) or the Area Agency on Aging must contain a verbatim recording of the State or Area Agency on Aging Title III Older Americans Act policy or policies which relate to the point(s) at issue. The written summary must be supported by live testimony of witnesses with personal knowledge of the facts related to the protested decision.

**(l) Recessed hearings.** At any point during the taking of testimony that there is a clear need for allowing additional time before proceeding with the taking of testimony, the hearing officer may recess a hearing for a reasonable period of time. Since postponements are costly both in time and travel, this procedure is not used unless the information sought seems essential to a proper decision and cannot be obtained without a recess.

**(m) Closing statement by hearing officer.** After testimony is given by representatives of and on behalf of the appellant, by the representative of the Aging Services Division (or the affected Area Agency on Aging), and any cross examinations have been completed, the hearing officer inquires whether there is any additional testimony to be presented. If so, this information is elicited by the hearing officer. If the hearing is being recessed, the hearing officer explains the reason(s) for the recess and the responsibilities to be carried out by the appellant and the Aging Services Division (or the affected Area Agency on Aging) before the hearing is reconvened. The hearing officer will be responsible for setting the date on which the hearing will be resumed and for notifying the appellant and the Aging Services Division (or the Area Agency on Aging).

(1) If the hearing is not being recessed, as soon as all pertinent testimony has been presented, the hearing officer makes a closing statement in which he/she explains that:

- (A) Any one of several decisions might be reached (the hearing officer explains what these possible decisions are based upon the type of hearing);
- (B) The decision will be made within 90 days of the date the appellant requested the hearing;
- (C) A letter will be sent to the client from the Appeals Unit (with a copy to the Aging Services Division or the Area Agency on Aging, as appropriate) stating the decision made on the appeal and reasons for the decision; and

(D) The Aging Services Division or the Area Agency on Aging is responsible for taking whatever action is required to carry out the decision made on the appeal.

(2) The hearing officer closes the hearing.

(n) **Hearing officer's summary.** As soon as practical after the hearing officer closes the hearing, a hearing officer's summary is prepared by the hearing officer. The summary consists of what transpired in the hearing including testimony and written evidence introduced into the record of the hearing.

(o) **Decision by the Department.** The administrative hearing officer is responsible for reviewing the evidence and applicable policy submitted during the hearing procedures. If the hearing officer concludes that the State Agency on Aging (or the Area Agency on Aging) acted correctly in taking the adverse action, a decision letter will be issued to the grantee/applicant advising that the adverse action will be upheld. The decision letter, which represents the Department's final decision, is issued within 90 days from the date of the appellant's written request for a hearing. If the administrative hearing officer disagrees with the Aging Services Division or Area Agency on Aging action, the Division Administrator for Aging Services will be given five days to review the case, concur with the administrative hearing officer or request that the Appeals Committee be convened to decide the issue. The decision of the Appeals Committee is based only on testimony and exhibits introduced at the hearing, including the hearing officer's summary, and any supplemental material requested by the Appeals Committee. The decision is made on the situation as it was at the time the appealed action was taken by the State Agency on Aging (or the Area Agency on Aging):

(1) The Appeals Committee may make any one of the following decisions:

(A) To sustain the grantee/applicant;

(B) Not to sustain the grantee/applicant;

(C) To dismiss the hearing or cancel by reason of appellant withdrawal or abandonment; or

(D) To reopen for the taking of additional evidence.

(2) The decision of the Appeals Committee is final.

(p) **Abandonment of hearing.** The Appeals Committee may authorize the dismissal of a hearing under special circumstances which indicate that it is impossible to hold the hearing. If the appellant fails to appear at the time the hearing is scheduled and fails to submit evidence to establish "good cause," the hearing will be considered abandoned on the part of the appellant. A hearing may not be considered abandoned as long as the appellant has provided notification, up to time of hearing, that he/she is unable due to "good cause" to keep the appointment and that he/she still desires a hearing.

(q) **Reopened hearings.** When, in the judgement of a majority of the Appeals Committee, the evidence presented in the hearing is so inadequate that a decision cannot be rendered, the hearing is reopened and further information requested. When it is necessary to reopen a hearing, the Appeals Unit sends to the appellant and the State Agency on Aging (or the Area Agency on Aging) a statement of the points on which information is unclear or inadequate with instructions that further



investigation of these points is to be made and by whom. The appellant is expected to cooperate in any way necessary to obtain the desired information and failure to do without "good cause" will result in the dismissal of the hearing.

(1) The hearing officer will request that the State Agency on Aging (or the Area Agency on Aging) obtain the needed information. When the additional facts are obtained, the representative of the State Agency on Aging (or the Area Agency on Aging) interviews the appellant or representative of the appellant and advises him/her of the facts secured, the sources of the facts and how the facts relate to the point(s) at issue.

(2) The appellant is given an opportunity to decide whether he/she prefers that all parties reconvene. The appellant is advised of the right to submit material directly to the Appeals Committee if the appellant desires to do so. If the appellant elects to have all parties reconvene, the State Agency on Aging (or the Area Agency on Aging) notifies the Appeals Unit in writing and the unit schedules a date for reconvening all parties. Immediately following the interview with the appellant or representative of the appellant, the State Agency on Aging (or the Area Agency on Aging) prepares a written summary of the facts secured since the reopening of the hearing. A copy of this summary is forwarded to the appellant by the State Agency on Aging (or the Area Agency on Aging) within two working days after receipt of the copy of the Appeals Unit letter setting the date for continuation of the hearing. The summary is used as testimony presented by the State Agency on Aging (or the Area Agency on Aging) at the reconvened hearing. The same procedures are followed during the taking of testimony and subsequent to the taking of testimony as are used in relation to any other hearing.

[Source: Added at 11 Ok Reg 807, eff 12-14-93 (emergency); Added at 11 Ok Reg 2653, eff 6-13-94]

#### **340:2-5-45. Appeals Unit responsibility for notification of decision and assuring that decision is carried out**

(a) **Notification of decision.** After the decision is reached in the appeals process, a written notification of decision is prepared by the hearing officer for the signature of the supervisor of the Appeals Unit. The decision letter must specify the reason for the decision and identify the supporting evidence. When applicable, the letter shall include statements specifying:

- (1) The month that the award of funds is to be made;
- (2) The amount of funding to be awarded; or
- (3) That although the grantee/applicant is not sustained, the grantee/applicant may reapply for funding during the next "request for proposals" process.

(b) **Assuring the decision is carried out.** It is the responsibility of the Appeals Unit to assure itself that decisions are carried out by maintaining a control on the date each decision is rendered and the date the Aging Services Division or Area Agency on Aging completes the action specified

in each letter of decision.

(1) When the applicant is sustained on the basis that a denial of the project was in error, award of grant is made in the regular manner. The grant shall begin the first fiscal quarter in which funds are available. The Notification of Grant Award shall have the word "Hearing" written at the top in red.

(2) When the grantee is sustained on the basis that the project was suspended or terminated in error, the reinstatement is made in the usual manner except that the word "Hearing" is written in red at the top of the Notification of Grant Award. The effective date is the first day of the fiscal quarter after the Appeals Unit decision is rendered and may not be retroactive.

(3) In all cases of sustained appeals, the Aging Services Division shall forward to the Appeals Unit a copy of the "Notification of Grant Award" with the word "Hearing" written in red at the top. The Appeals Unit then makes an entry in its control to indicate that appropriate action has been taken.

[Source: Added at 11 Ok Reg 807, eff 12-14-93 (emergency); Added at 11 Ok Reg 2653, eff 6-13-94]

## **PART 5. GENERAL PROVISIONS**

### **340:2-5-50. Purpose**

(a) The purpose of this Subchapter is to describe the Department of Human Services (DHS) administrative hearing process.

(b) Hearings are intended to:

(1) safeguard the rights and interests of individual clients by affording them due process;

(2) correct improper actions taken by DHS; and

(3) contribute to uniformity in the application of law and policy.

(c) The hearing process is not a substitute for proper and efficient program administration by DHS.

[Source: Added at 19 Ok Reg 2199, eff 6-27-02]

### **340:2-5-51. Organization**

This subchapter is divided into four parts.

(1) Part 5, OAC 340:2-5-50 to 340:2-5-51, applies to all hearings conducted by the Appeals Unit.

(2) Part 7, OAC 340:2-5-60 to 340:2-5-80, applies to hearings conducted by the Appeals Unit regarding:

(A) Children's Special Health Care Needs Program;

(B) Child Care Services;

(C) Services for persons with developmental disabilities;

(D) Food Stamp Program;

(E) Individual and Family Disaster Grant Program;

(F) Low Income Home Energy Assistance Program;

(G) Medical Assistance Program under Title XIX of the Social Security Act;

- (H) Social Services under Title XX of the Social Security Act;
  - (I) State Supplemental Payment (SSP) for the Aged, Blind, and Disabled; and
  - (J) Temporary Assistance to Needy Families (TANF), including TANF Emergency Assistance.
- (3) Part 9, OAC 340:2-5-90 to 340:2-5-105, applies to hearings conducted by the Appeals Unit regarding:
- (A) foster homes; and
  - (B) adoption assistance.
- (4) Part 11, OAC 340:2-5-110 to 340:2-5-124, applies to hearings conducted by the Appeals Unit regarding child care facility licensing.
- (5) This Subchapter does not apply to hearings related to the Department of Human Services Child Support Enforcement Division.

[Source: Added at 19 Ok Reg 2199, eff 6-27-02]

## **PART 7. ASSISTANCE PROGRAMS**

### **340:2-5-60. Legal bases**

Section 168 of Title 56 of the Oklahoma Statutes provides an administrative hearing for an Oklahoma Department of Human Services (DHS) client who is aggrieved by a DHS action or failure to act for programs listed in Oklahoma Administrative Code (OAC) 340:2-5-61.

[Source: Added at 19 Ok Reg 2199, eff 6-27-02 ; Amended at 31 Ok Reg 1820, eff 9-15-14]

### **340:2-5-61. Client hearings conducted by the Appeals Unit**

(a) **Children's Special Health Care Needs Program.** Circumstances that constitute a basis for a hearing are:

- (1) a denial of an individual's application for services;
  - (2) a decision regarding eligibility has not been reached within 45 days from the application date;
  - (3) the client disagrees with the date on which assistance begins;
- or
- (4) the client is dissatisfied with an action affecting eligibility for receipt of medical services or with the relevant policy as applied to his or her situation.

(b) **Child Care Subsidy Program.** A hearing may be granted if:

- (1) there is a delay in reaching a decision on an application for assistance of more than two working days of receiving all necessary verification to certify or deny the application;
- (2) the client disagrees with the date on which assistance begins;
- (3) the client disagrees with the amount of the family share co-payment; or
- (4) the client, family, or guardian is aggrieved because of Oklahoma Department of Human Services (DHS) actions to deny,

terminate, or reduce services.

(c) **Services for persons with developmental disabilities.**

(1) A hearing may be granted if:

- (A) the application for services is denied;
- (B) the DHS action regarding the application for state-funded services has not occurred within 180 days from the date DHS received the application and the client has exhausted the remedies afforded by the Office of Client Advocacy (OCA);
- (C) when resources are sufficient for initiation of Home and Community Based Waivered Services and action is not taken within 45 days; or
- (D) the client, family, or guardian is aggrieved because of the DHS action to suspend, terminate, or reduce services.

(2) All other complaints or grievances are made to OCA and are addressed per OCA policies and procedures.

(3) Nothing contained in this subsection is construed as a limitation of the rights of class members regarding the review and appeal procedures set forth in the Consent Decree in *Homeward Bound vs. The Hissom Memorial Center*.

(d) **Supplemental Nutrition Assistance Program (SNAP).** A hearing may be granted if:

- (1) the household's application is denied;
- (2) a decision regarding eligibility has not been reached within 30 days from the date of application;
- (3) a requested change in the amount of benefits has not been made within 10 days from the request;
- (4) a decision regarding loss of benefits occurred in the previous 90 days; or
- (5) the household is aggrieved by:
  - (A) reason of DHS interpretation and application of SNAP policy as applied to the household's situation during the certification period; or
  - (B) any other DHS action in its administration of the program that affects the household's participation.

(e) **Individual and Family Disaster Grant Program.** A hearing may be granted if:

- (1) the applicant's application is denied;
- (2) the applicant is dissatisfied with the amount of the grant award; or
- (3) there is an unreasonable delay relating to the application.

(f) **Low Income Home Energy Assistance Program and Energy Crisis Assistance Program.** A hearing may be granted if:

- (1) the applicant's application is denied;
- (2) there is a delay in reaching a decision regarding eligibility on an application for assistance of more than 10 calendar days;
- (3) the client disagrees with the date on which assistance begins; or
- (4) the applicant is dissatisfied with the amount of the payment.

(g) **Medical Assistance Program under Title XIX of the Social Security Act.**

(1) The Oklahoma Health Care Authority (OHCA) is the state agency authorized to operate Oklahoma's Medical Assistance Program pursuant to Title XIX of the Social Security Act. Through an interagency agreement with OHCA, DHS:

(A) determines financial and non-financial eligibility for certain categories of eligibility for the Medical Assistance Program;

(B) conducts hearings regarding:

(i) financial and non-financial eligibility for certain categories of eligibility for the Medical Assistance Program; and

(ii) the scope of services provided through the DHS Developmental Disabilities Services; and

(C) does not conduct hearings when the action being appealed is based on an OHCA decision, or the action relates to the Advantage Waiver Program.

(2) Circumstances that constitute a basis for a hearing are:

(A) the individual's application for medical services is denied;

(B) a decision regarding eligibility has not been reached within the specified time limit from the date of the application:

(i) 30 days for:

(I) Refugee Medical Assistance; and

(II) categorically related to Aid to the Aged;

(ii) 45 days for:

(I) Medical Assistance only, categorically related to Aid to the Disabled;

(II) a request for long-term care on an active State Supplement Payment (SSP) or Medical Assistance case; and

(III) Medical Assistance for optional tuberculosis (TB) coverage group;

(iii) 60 days for categorically related to Aid to the Blind or Disabled when disability must be established; and

(C) the client disagrees with the date on which assistance begins; or

(D) the client is dissatisfied with any other action affecting eligibility for Medical Assistance.

(3) Administrative hearings are not granted when either state or federal law requires automatic adjustments for classes of recipients unless the reason for an individual appeal is incorrect eligibility determination.

(h) **Social services under Title XX of the Social Security Act.** A hearing may be granted if:

(1) the client is aggrieved because of:

(A) denial of a request for, or exclusion from, a service program;

(B) failure to consider the individual's choice of service in assignment of program; or

(C) a decision requiring participation in a service program;  
or

(2) the recipient is aggrieved about the operation of the service program.

**(i) SSP for the Aged, Blind, and Disabled and TANF, including TANF Emergency Assistance.**

(1) A hearing is not granted in these programs when either state or federal law or regulation requires automatic grant adjustments for classes of recipients unless the reason for an individual appeal is incorrect grant computation.

(2) A hearing may be granted when:

(A) there is a delay in reaching a decision on an application for assistance of more than:

(i) five business days for TANF Emergency Assistance;

(ii) 30 days for:

(I) SSP for the Aged;

(II) TANF; or

(III) Refugee Cash Assistance;

(iii) 45 days for SSP for the Blind; or

(iv) 60 days for SSP for the Disabled;

(B) there is a delay of more than 10 days in implementing a requested change regarding an assistance payment;

(C) the client disagrees with the date on which assistance begins;

(D) the assistance payment was discontinued or suspended;

(E) the client is aggrieved regarding protective payments because:

(i) payment is made in the form of a protective payment; or

(ii) of any action with regard to the protective payment, such as the protective payee selected; or

(F) the client is aggrieved about conditions of payment, including the requirements for work, medical treatment, or training, but only when the requirement complained of, if true, would constitute a violation of DHS policy.

**(j) Assistance.** In any other program which constitutes assistance within the definition of Section 164 of Title 56 of the Oklahoma Statutes, a hearing may be requested if the client disagrees with:

(1) denial or termination of assistance;

(2) amount of assistance; or

(3) the conditions on receipt of benefits.

**(k) Overpayments.** If a client is notified of an overpayment in any of the programs listed in this Section, the client may request a hearing regarding:

(1) the existence of the overpayment;

(2) the amount of the overpayment;

(3) when appropriate, whether the overpayment was caused due to DHS error, inadvertent client error, or willful misrepresentation by the client; and

- (4) when appropriate, the client's liability to repay the overpayment.
- (l) Any action, not specified in subsections (a) through (k) of this Section, for which DHS is required to provide an administrative hearing by state or federal constitution, statute or regulation.

[Source: Added at 19 Ok Reg 2199, eff 6-27-02 ; Amended at 31 Ok Reg 1820, eff 9-15-14]

### **340:2-5-62. Definitions**

The following words and terms, when used in this Part, shall have the following meanings, unless the context clearly indicates otherwise:

**"Access to the entire case file"** means the client and authorized representative have, with the exceptions described in this Section, the right to review the entire contents of the case file(s) that relates to the issue(s) appealed, and all documents and records to be used by the Oklahoma Department of Human Services (DHS) at the hearing.

(A) Certain documents and information within the case file are made confidential by state and federal laws and therefore are not available to the client or authorized representative, unless such information is to be used by DHS at the hearing. Confidential documents and information include:

- (i) child abuse or neglect reports including the names and information from complainants;
- (ii) psychological and medical reports, unless there are written releases from both the author and the patient;
- (iii) information from other family members unrelated to the appeal;
- (iv) information from references or witnesses, unless there is a written release of information;
- and
- (v) confidential Supplemental Nutrition Assistance Program (SNAP) information.

(B) The review may be made at a reasonable time before the date of the hearing as well as during the hearing.

- (i) When a request for file access is made, the local office must make arrangements for the client, authorized representative, or both to review the case file with as much privacy as possible.
- (ii) A supervisory staff member observes the review of the case file to ensure the contents of the case file are not removed from the record.
- (iii) The client and authorized representative are free to make written notes from the record or make copies of documents.
- (iv) A client or representative is not charged for copies of documents made for the purpose of hearing preparation or presentation.

**"Administrative hearing officer (AHO)"** means:

- (A) the DHS employee designated by the Appeals Unit supervisor to conduct an administrative hearing. The AHO may not have had a part in the action or failure to act, which is the subject of the appeal; or
- (B) a lawyer who has a contract with DHS to preside over administrative hearings that are the responsibility of the Appeals Unit, and designated by the Appeals Unit supervisor to preside over a particular case.

**"Appeals Committee"** means the committee that makes the hearing decision, consisting of:

- (A) the AHO who presided over a hearing;
- (B) the division director of the affected program or the division director's designee. The designee must report directly to the division director; and
- (C) the Appeals Unit supervisor. If the Appeals Unit supervisor made, or helped make the decision that led to the action that is the subject of a hearing, a lawyer employed by DHS Legal Services is designated by the supervisor to vote in his or her place. The DHS Director has the authority to alter the members as he or she deems appropriate.

**"Appeals Unit"** means the unit established within Legal Services responsible for conducting administrative hearings.

**"Appeals Unit supervisor"** means the person designated by the DHS general counsel to supervise the Appeals Unit.

**"Authorized representative"** means a person authorized by the client to represent him or her in the hearing process.

- (A) Any party may be represented by a lawyer, or legal intern, licensed by the Supreme Court of Oklahoma.
- (B) A party may be represented by a non-lawyer only when federal law requires that non-lawyer representatives are allowed. Appeals in which non-lawyer representatives may appear include, but are not limited to:

- (i) SNAP;
- (ii) Temporary Assistance for Needy Families (TANF);
- (iii) SoonerCare, Oklahoma's medical assistance program authorized per Section 1396, et seq. of Title 42 of the United States Code;
- (iv) State Supplement Payment for the Aged, Blind, and Disabled;
- (v) TANF Emergency Assistance;
- (vi) services for persons with developmental disabilities; and
- (vii) Low Income Home Energy Assistance Program.

- (C) If the representative is not a lawyer, DHS must verify the authority of the person to represent the client through:

- (i) personal contact with the client;
- (ii) an original written authorization signed by the client; or



(iii) in instances where the client is unable to give oral or written authorization, a non-lawyer may represent a client when the proposed representative is a:

(I) friend or relative, and circumstances show the proposed representative is knowledgeable about the issues involved in the case and will act in the client's best interest; or

(II) vendor of services relating to the issue in dispute and has no interests adverse to the client; there is no friend or relative who is willing and able to adequately represent the client; circumstances show the vendor is knowledgeable about the issues involved in the case and will act in the client's best interest.

**"Client"** means:

(A) an applicant for DHS services or payments in any of the programs per Oklahoma Administrative Code (OAC) 340:2-5-61; or

(B) a recipient of DHS services or payments in any of the programs per OAC 340:2-5-61.

**"DHS"** means the Oklahoma Department of Human Services.

**"Fair hearing"** means an administrative hearing held pursuant to Section 168 of Title 56 of the Oklahoma Statutes.

**"Hearing"** means the process by which an AHO obtains evidence and makes a decision regarding the protested action, or failure to act, by DHS.

**"Hearing request"** means a clear expression by a client or authorized representative of the client's desire to contest an action, or failure to act, by DHS through the presentation of testimony and evidence to an AHO. Except for SNAP, a hearing request must be made in writing and contain the signature of the client or authorized representative.

**"Hearing summary"** means a document prepared by the local office stating the reasons for the local office action or inaction. It provides the client with information needed to prepare for the hearing. The six areas covered in the hearing summary are described per OAC 340:2-5-66.

**"Local office"** means any part of DHS which is responsible for the act, or failure to act, which is the subject of the hearing request.

**"Local staff member"** means the particular staff member who was responsible for the protested action, or failure to act, and who represents DHS in activities during the time period extending from the client's request for a hearing through implementation of the hearing decision.

**"OAC"** means the Oklahoma Administrative Code, which contains the regulations promulgated by each state agency.

**"Official record"** means a record consisting of:

(A) all evidence offered for introduction at the hearing;

(B) an electronic recording of the hearing; and

(C) the hearing decision.

[Source: Added at 19 Ok Reg 2199, eff 6-27-02 ; Amended at 31 Ok Reg 1820, eff 9-15-14]

### **340:2-5-63. Time**

In computing any period of time prescribed or allowed by this Part, the day of the act, or event, from which the designated period of time begins to run is not included. The last day of the period so computed is included, unless it is a weekend, or a legal holiday as defined by the Oklahoma Statutes. Unless otherwise noted, all time periods are calendar days.

(1) Items received by the client from the Oklahoma Department of Human Services (DHS) for:

(A) mailed items:

- (i) time deadlines begin with the second day on which mail is delivered after the date of mailing to the client's last known address; and
- (ii) items are considered mailed on the date on the notice, determination, or decision unless otherwise indicated by the facts, such as the postmark on the envelope containing the item mailed; and

(B) items delivered in person:

- (i) time deadlines begin with the day after the date of delivery to the client; and
- (ii) items are considered delivered to the client on the date the item is:
  - (I) given to the client or authorized representative; or
  - (II) left at the client's last known address with a person who is 15 years of age or older.

(2) Items are considered received by DHS from the client if transmitted:

(A) via the United States Postal Service (USPS), on the date it is mailed. The mailing date is:

- (i) shown by the postmark;
  - (ii) in the absence of a postmark, the postage-meter mark on the envelope in which it is received; or
  - (iii) if not postmarked or postage-meter marked, or if the mark is illegible, the date received by DHS;
- or

(B) by means of the United Parcel Service, Inc. (UPS), FedEx, or a similar entity:

- (i) on the date shown on the package, or document attached by the delivering entity to the outside of the package, that the item was entrusted to the delivering entity; or
- (ii) in the absence of such date, on the date of receipt by DHS; or

- (C) by any means not listed in paragraph (2) of this Section, on the date it is received by DHS.
- (3) The submission by a client of any item beyond the specified time period is considered timely if the administrative hearing officer is satisfied that the delay is due to a cause that is beyond the control of the client.

[Source: Added at 19 Ok Reg 2199, eff 6-27-02 ; Amended at 31 Ok Reg 1820, eff 9-15-14]

#### **340:2-5-64. Hearing request**

- (a) In the Supplemental Nutrition Assistance Program a hearing request is any indication by a client or authorized representative that the client wants to contest an Oklahoma Department of Human Services (DHS) action, or failure to act, through the hearing process.
- (b) In all other cases within this Part, a hearing request is a written expression by a client or authorized representative that the client wants to contest a DHS action, or failure to act, through the hearing process.
- (1) The writing must be signed by the client or authorized representative.
- (2) An original document, as well as a facsimile of a written document, are both considered a writing.
- (3) An email, or a document attached to an email from the client or authorized representative, is considered a writing signed by the client.

[Source: Added at 19 Ok Reg 2199, eff 6-27-02 ; Amended at 31 Ok Reg 1820, eff 9-15-14]

#### **340:2-5-65. Explanations by the local office when a client or authorized representative indicates a hearing is desired**

For any of the programs within this Part, at the time a client or authorized representative indicates that the client wants an administrative hearing, the local office must explain the information listed in (1) - (4) of this Section to the client or authorized representative.

- (1) If the issue involves a proposed closure or reduction of State Supplemental Payment, Temporary Assistance for Needy Families (TANF), social services, medical assistance, Child Care Subsidy, or food benefits, known in Oklahoma as Supplemental Nutrition Assistance Program (SNAP), the client or authorized representative is advised:
- (A) of the option of having benefits continued pending outcome of the hearing if, within 10 days of the notice being appealed, the client or authorized representative submits a written request for a hearing which is signed by the client or authorized representative;
- (B) if he or she fails to indicate a preference in a written request for hearing made within 10 days following mailing of the notice, benefits are continued during the hearing process and if the hearing is not decided in his or her favor, a claim is made against him or her for all benefits received pending the hearing decision;

(C) if benefits are continued during the appeals process and the hearing is not decided in his or her favor, a claim is made against him or her for all benefits received pending the hearing decision; and

(D) if the client elects to not continue benefits during the pendency of the appeal, if the appeal is decided in his or her favor, the local office authorizes supplemental payment(s) for the period of time covered during the appeal.

(2) If the issue concerns a SNAP case, the household or authorized representative is advised:

(A) if necessary, he or she is entitled to receive a postponement of a scheduled hearing. The household is advised the postponement will not exceed 30 days and the time limit for action on the decision will be extended for as many days as the hearing is postponed; and

(B) if the client, such as a migrant farm worker, plans to move from the state before the end of the 60 days in which a hearing decision must be made, that processing of the hearing will be expedited in order that a decision may be rendered before he or she leaves the state.

(3) When a hearing is requested on a medical decision made by the Oklahoma Department of Human Services (DHS), the client or authorized representative is advised:

(A) of the right to introduce as evidence at the hearing the report of any examination he or she may have obtained, provided that the records are signed by the health care provider; and

(B) when the hearing involves medical issues, such as those concerning a diagnosis, if the administrative hearing officer (AHO) considers it necessary, DHS will obtain at the expense of DHS:

(i) an examining physician's report;

(ii) a medical review team's decision; or

(iii) a medical assessment other than that of the person or persons involved in making the original decision.

(4) In every case, the local office advises the client or authorized representative:

(A) that the request for hearing will be sent to the Appeals Unit and a letter will be sent from that office regarding the date, time, and place of the hearing;

(B) of the right to be represented by legal counsel if desired, but that DHS does not provide, or pay for, legal representation;

(C) that the client, authorized representative, or both, has access to the following at a reasonable time before the date of the hearing, as well as during the hearing:

(i) all documents to be introduced at the hearing by DHS; and

(ii) the case file, except for confidential documents;

- (D) that the client may ask the AHO to require:
  - (i) individual DHS employees be present at the hearing; and
  - (ii) DHS produce specific records at the hearing;
- (E) that before the hearing, the client will receive a copy of the hearing summary, documents, and records the local office will present at the hearing;
- (F) that transportation equivalent to the rate for public transportation is paid for the client and witnesses, if any, when essential for attendance at the hearing;
- (G) that the testimony given by the client, witnesses, and the local office is taken by an AHO, who records the proceedings;
- (H) that an opportunity is given at the time of the hearing to give all the evidence on the points at issue the client believes necessary and the evidence can be presented by anyone he or she desires;
- (I) that if the client needs help in understanding how to present evidence, explanation is given regarding some of the ways in which this may be done, such as presenting evidence orally, in writing, or by having anyone the client chooses present the evidence for him or her; and
- (J) that the client will receive the written decision of the AHO.

[Source: Added at 19 Ok Reg 2199, eff 6-27-02 ; Amended at 31 Ok Reg 1820, eff 9-15-14]

### **340:2-5-66. Hearing summary**

- (a) As soon as a request for a hearing is received:
  - (1) in cases involving services through Developmental Disabilities Services, a programs manager prepares Oklahoma Department of Human Services (DHS) Form 13MP002E, Hearing Summary; and
  - (2) in other cases, the local staff member responsible for the case prepares Form 13MP002E. The supervisor of the local staff member is responsible for review of the Form 13MP002E for completeness and for pertinence to the point(s) at issue.
- (b) The six areas covered in the hearing summary are:
  - (1) the type of decision, action, or inaction on the part of the local office that is the subject of the hearing request;
  - (2) nature of client's complaint;
  - (3) point at issue, exactly what the client is appealing;
  - (4) chronological summary of pertinent events and evidence leading to the action or inaction;
  - (5) policy including:
    - (A) verbatim quotations from the manual regarding the policy on which the decision was based; or
    - (B) copies of applicable policy with the pertinent portions marked; and
  - (6) documents and other evidence that supports the decision being appealed and that the local office intends to introduce at

the hearing.

(c) A copy of Form 13MP002E is delivered to the client no later than the fifth business day before the hearing.

[Source: Added at 19 Ok Reg 2199, eff 6-27-02 ; Amended at 31 Ok Reg 1820, eff 9-15-14]

**340:2-5-67. Appeals Unit action following hearing request receipt**

(a) Upon hearing request receipt in the Appeals Unit, a hearing number is assigned.

(b) The Appeals Unit supervisor assigns the case to an administrative hearing officer (AHO).

(c) The AHO determines if the hearing request was timely made.

(1) A hearing request is considered timely:

(A) in the Supplemental Nutrition Assistance Program (SNAP), when the client or authorized representative indicates, in any way, the desire to have a hearing within 90 days of the action, or failure to act that is being appealed;

(B) in all other cases:

(i) if the initial indication that the client wants a hearing is in writing, signed by the client or authorized representative, if the writing was received by the Oklahoma Department of Human Services (DHS) within 30 days of the action, or failure to act being appealed; or

(ii) if the initial indication that the client wants a hearing other than in writing, signed by the client or authorized representative:

(I) the indication to DHS was made to DHS within 30 days of the action, or failure to act, which is being appealed; and

(II) DHS receives a written hearing request, signed by the client or authorized representative within the later of 10 days from the date of the initial indication that the client wanted a hearing, or 30 days of the action, or failure to act being appealed.

(2) When the AHO or Appeals Unit supervisor determines the hearing request was not timely made, the AHO notifies the client and authorized representative that the hearing request is dismissed. This notice includes a statement of appeal rights.

(d) When a hearing request was timely made, the AHO determines whether the request relates to an appealable issue.

(e) When a hearing request is both timely and relates to an appealable issue, paragraph (1) or (2) of this subsection apply.

(1) When the client appeal relates to a delay in decision, or a delay in acting on a case change, the evidence is reviewed by an AHO.

(A) If the available information clearly shows there has been a delay, the AHO issues a decision, without holding a

hearing.

(B) If the available information does not clearly show there has been a delay, the AHO schedules a hearing to determine whether there has been a delay.

(2) When the request for hearing does not involve delay, the Appeals Unit mails a notice of hearing to the client. Copies of this notification are sent to the local office, appropriate supervisory staff, and the authorized representative, if any. The notification is mailed prior to the date of hearing not less than:

(A) 10 days for SNAP appeals, unless waived by the client; and

(B) eight days in all other cases, unless waived by the client.

[Source: Added at 19 Ok Reg 2199, eff 6-27-02 ; Amended at 31 Ok Reg 1820, eff 9-15-14]

### **340:2-5-68. Communications with the administrative hearing officer (AHO)**

Following a hearing request, there is no direct or indirect contact regarding the merits of the case between the AHO and a person with a direct or indirect interest in the case unless there is notice to all parties and an opportunity to participate in the communication, except the AHO may:

(1) be contacted on matters of an informational or procedural nature; or

(2) contact the local office in order to obtain information regarding:

(A) timeliness of the hearing request; or

(B) whether an appealable issue exists.

[Source: Added at 19 Ok Reg 2199, eff 6-27-02]

### **340:2-5-69. Local office contact with client after hearing notice receipt**

(a) At least five business days before the hearing, the local office representative contacts the client or authorized representative and gives him or her a copy of Oklahoma Department of Human Services Form 13MP002E, Hearing Summary.

(b) Form 13MP002E must be delivered at least five complete business days prior to the date scheduled for the hearing. If Form 13MP002E is not delivered timely, paragraph (1) or (2) of this subsection applies.

(1) When the local office shows good cause for failure to deliver Form 13MP002E timely, the administrative hearing officer (AHO) continues the hearing to another date if the client is not prepared to proceed as a result of receiving Form 13MP002E late.

(2) When the local office does not show good cause for failure to deliver Form 13MP002E timely, the AHO may prohibit the local office from presenting evidence at the hearing and decide the case based only on evidence presented by the client.

(c) Immediately upon receipt of the hearing notice, the local office submits a copy of Form 13MP002E to the Appeals Unit.

[Source: Added at 19 Ok Reg 2199, eff 6-27-02 ; Amended at 31 Ok Reg 1820, eff 9-15-14]

### **340:2-5-70. Hearing continuance, withdrawal, and dismissal**

#### **(a) Continuance of hearing.**

(1) At any point after setting a case for hearing, the administrative hearing officer (AHO) may determine additional evidence is needed before a final decision can be made. If so, the AHO may continue the hearing and direct the parties to take whatever action the AHO deems necessary. The AHO may set time limits for the actions.

(2) If the AHO is informed in advance of a hearing that the client, authorized representative, or local office representative cannot participate in the hearing at the scheduled time, the AHO continues the hearing when good cause exists for the person's absence. The AHO may require whatever proof of good cause that is deemed necessary.

(3) Clients who are appealing an action in the Supplemental Nutrition Assistance Program are entitled to one hearing continuance of up to 30 days, for which good cause need not be shown.

**(b) Withdrawal of request for hearing.** A client or authorized representative may withdraw a hearing request only by a signed writing. Any other indication of a desire to withdraw a hearing request is insufficient.

**(c) Dismissal of hearing request.** The AHO may dismiss a hearing request when, in the AHO's judgment:

- (1) the Oklahoma Department of Human Services (DHS), by written notice, withdraws the action appealed and restores the client's status which existed before the action appealed was taken. Continuation of benefits because a hearing request has been made does not constitute restoration of the client's status;
- (2) DHS implements action and issues a notice to correct a DHS error that resulted in the appeal; or
- (3) there are circumstances that indicate it is impossible to hold the hearing, such as the death of a client.

[Source: Added at 19 Ok Reg 2199, eff 6-27-02 ; Amended at 31 Ok Reg 1820, eff 9-15-14]

### **340:2-5-71. Presence of Oklahoma Department of Human Services (DHS) employees or DHS records at hearings**

(a) An administrative hearing officer (AHO), at the request of a client, authorized representative, or on his or her own motion, may require the presence at a hearing of:

- (1) a DHS employee;
- (2) DHS records; and
- (3) other DHS evidence.



- (b) A client's request for the presence of a DHS employee, DHS documents, or other evidence, is granted by the AHO only when the client shows that the presence of the DHS employee or evidence is:
- (1) relevant to the issues involved in the hearing;
  - (2) necessary for determination of the issue; and
  - (3) not otherwise obtainable by the client.
- (c) When the AHO determines that a DHS employee, or DHS evidence, must be present at the hearing, the AHO gives notice to the DHS employee, or office where the evidence is located the:
- (1) date, time, and location of the hearing; and
  - (2) employee's name, records, or other evidence that must be present.
- (d) When, without good cause, the DHS employee fails to appear or DHS fails to produce the needed records or evidence, the AHO may:
- (1) decide the case as if the missing evidence was as the client asserted, if the client's assertion is reasonable; or
  - (2) continue the hearing so the missing testimony or evidence may be produced.

[Source: Added at 19 Ok Reg 2199, eff 6-27-02 ; Amended at 31 Ok Reg 1820, eff 9-15-14]

### **340:2-5-72. Hearing issue, standard of review, and burden of proof**

- (a) **Hearing issue.** The issue determined through the hearing process is whether the Oklahoma Department of Human Services (DHS) acted correctly in taking the action, or failed to act, which is the subject of the client's request for hearing.
- (b) **Standard of review.** The administrative hearing officer (AHO) determines the relevant facts and applies the law to those facts. No presumptions are made for or against DHS concerning the validity of the factual or legal basis for the action, or inaction, which is the subject matter of the hearing.
- (c) **Standard of proof.**
- (1) The standard of proof necessary to prove a fact is governed by state and federal law and regulations applicable to the subject matter of the hearing.
  - (2) If such law and regulations are silent, the standard of proof is a preponderance of the evidence. A preponderance of the evidence is evidence that, in light of the record as a whole, leads the AHO to believe a fact is more likely true than not true.
- (d) **Burden of proof.**
- (1) The burden of proof is governed by state and federal law and regulations applicable to the subject matter of the hearing.
  - (2) When such law and regulations are silent, the party seeking to alter the status quo has the burden of proof.
  - (3) Examples of the burden of proof are shown in (A) and (B) of this paragraph.
    - (A) The burden of proof is on a client to show that:
      - (i) the applicant is eligible for Temporary Assistance for Needy Families (TANF), medical assistance, Supplemental Nutrition Assistance

Program (SNAP), other DHS benefit programs, or the amount of benefits the applicant receives;  
(ii) when seeking recertification for benefits, the recipient remains eligible for TANF, medical assistance, SNAP, or other DHS benefit programs;  
or  
(iii) an applicant is eligible for services through Developmental Disabilities Services (DDS).

- (B) The burden of proof is on DHS to show that:
- (i) during a period of certification, the recipient's TANF, medical assistance, SNAP, or other DHS program benefits should be reduced or terminated;
  - or
  - (ii) during a DDS plan of care, services should be reduced or terminated.

[Source: Added at 19 Ok Reg 2199, eff 6-27-02 ; Amended at 31 Ok Reg 1820, eff 9-15-14]

### **340:2-5-73. Hearing procedures**

(a) **Hearings.** All hearings scheduled by the Appeals Unit are conducted by an administrative hearing officer (AHO), who:

- (1) administers oaths;
- (2) regulates and conducts the hearing in an orderly manner;
- (3) ensures all relevant issues are considered;
- (4) rules on the admissibility of evidence;
- (5) at his or her discretion, requests written comments be submitted;
- (6) if necessary for a client's case to be adequately presented, assists a client to present his or her case; and
- (7) takes such action as the AHO deems necessary to reach a proper disposition of the case.

(b) **Hearing location.**

- (1) It is solely within the discretion of the AHO whether to hold the hearing in person or by telephone. When in person, it is solely within the discretion of the AHO to designate the location at which the hearing is held.
- (2) When the hearing is held in the local office and the AHO determines the space provided for the hearing by the local office is inadequate, the local office provides other space acceptable to the AHO.

(c) **Hearings are not open to the public.**

- (1) In order that the confidential nature of case material and the relationship between the client and the Oklahoma Department of Human Services (DHS) are maintained, hearings are not open to the public.
- (2) No one other than the client, the authorized representative, and the DHS representative are permitted to attend the hearing, without permission of the AHO and the client.

(d) **Failure to appear.**

(1) When an appropriate representative from the local office fails to appear, and the local office fails to show good cause, the AHO proceeds with the hearing, taking evidence from the client, and issues a decision.

(2) Client failure to appear in:

(A) Supplemental Nutrition Assistance Program (SNAP) disqualification hearings a hearing must be held and a decision issued; and

(B) in all other cases, if a client fails to show good cause, the AHO dismisses the hearing request.

**(e) Pre-hearing conference.**

(1) A conference may be conducted by the AHO immediately prior to the formal beginning of a hearing. The purpose of the pre-hearing conference is to reduce the actual amount of time spent in the hearing. In the pre-hearing conference the AHO identifies all:

(A) witnesses;

(B) exhibits;

(C) issues to be covered in the hearing; and

(D) does not record the conference.

(2) At the AHO's discretion, a pre-hearing conference may be held before the date of the hearing.

(A) The AHO notifies the parties of the date and time of the conference.

(B) The conference is not recorded.

(C) Based on the statements of the parties, the AHO determines the issues to address at the hearing.

(D) The AHO establishes dates for submission of the following:

(i) the DHS proposed exhibits, witness list, and Hearing Summary;

(ii) appealing party's proposed exhibits, witness list, and response to DHS Hearing Summary; and

(ii) the DHS reply to the appealing party's response.

(E) The AHO schedules a hearing date.

(F) The AHO issues a Scheduling Order.

(G) All documents must be mailed or emailed to the AHO with a copy to the opposing party. Documents must be received by the AHO and the opposing party on the date established by the AHO.

**(f) Recording the hearing.**

(1) The AHO is responsible for arranging for the hearing to be recorded. The hearing may be recorded electronically or by a certified court reporter.

(2) The AHO's recording of the hearing is the official recording. The client or authorized representative may provide his or her own recording device for use during the hearing if such recording is not disruptive. In no case is videotaping allowed.

(3) Upon written request to the Appeals Unit, DHS provides the client or authorized representative a copy of the recording of the

hearing. A transcript of the recording is provided only when required by federal or state law.

(g) **Admonitions.**

(1) When the hearing involves assistance, as defined at Section 161(g) of Title 56 of the Oklahoma Statutes (56 O.S. § 161(g)), all persons presenting evidence are advised of the provisions of 56 O.S. § 182.

(2) When the hearing involves an applicant for or a recipient of the Medical Assistance Program, Children's Special Health Care Needs Services, State Supplemental Payment for the Aged, Blind, and Disabled, Child Care Subsidy, or Temporary Assistance for Needy Families, all persons presenting evidence are advised by the AHO of the provisions of 56 O.S. § 185.

(3) When the hearing involves SNAP, all individuals appearing to give testimony are advised by the AHO of the provisions of 56 O.S. § 243.

(h) **Oath for Witnesses.**

(1) An oath is administered by the AHO to the client, witness(es), and the representative(s) of the local office. The following form is used for the oath, "Do you solemnly swear or affirm that the evidence you give in this case will be the truth, the whole truth, and nothing but the truth?"

(2) In hearings in which a client is assisted by an interpreter, the AHO also administers an oath to the interpreter. The following form is used for the oath, "Do you solemnly swear or affirm that you will truthfully translate from English into (state the other language) the questions about to be asked and from (state the other language) into English the answers about to be given in the case to the best of your ability?"

(i) **Sequestration of witnesses.** The AHO may require that any witness, other than the client, authorized representative, and the local office representative, absent himself or herself from the hearing room except when the witness is testifying.

(j) **Presentation of the case.**

(1) Presentation of the case includes:

- (A) participation in the pre-hearing conference;
- (B) opening statements;
- (C) calling witnesses;
- (D) questioning witnesses;
- (E) offering of non-testimonial evidence; and
- (F) closing statements.

(2) Case presentation.

(A) Presentation of the DHS case is made by the DHS employee most familiar with the issues.

(B) The client:

- (i) may elect to present the case himself or herself;  
or
- (ii) have an authorized representative present the case.

(3) The AHO directs the order of presentation of evidence.

(A) The AHO may call and/or examine witnesses to develop the record and ensure all evidence favorable to an unrepresented client is presented.

(B) If during the hearing, the AHO determines a party can submit evidence after the hearing, without the necessity of reconvening the hearing, the AHO sets the time and manner in which the evidence is submitted.

(4) When presentation of the evidence is complete, the AHO allows closing statements, with the party bearing the burden of proof presenting last.

**(k) Other AHO duties.**

(1) When opinions of a subjective nature or expert opinions of a technical nature are relevant, the AHO elicits information that indicates the competence of the persons making these statements.

(2) When the AHO determines the client cannot adequately represent himself or herself, the AHO may continue the hearing and direct the local office to help the client obtain an authorized representative.

**(l) AHO closing statement.**

(1) When the hearing is continued, the AHO explains the reason(s) for the continuance and the responsibilities to be carried out by the client and local office before the hearing is reconvened. The AHO is responsible for setting the date on which the hearing will be resumed and for notifying the client and the local office.

(2) When the hearing is not continued, as soon as all pertinent evidence is presented, the parties are given an opportunity to make closing statements.

(3) Following closing statements by the parties, the AHO makes a closing statement in which he or she explains:

(A) the Appeals Committee will make a decision in the case;

(B) the possible decisions that may be reached;

(C) the decision is normally made within the following time periods, plus any delay caused by the client:

(i) 30 days for the Low Income Home Energy Assistance Program;

(ii) 60 days for SNAP; and

(iii) 90 days for all other cases;

(D) that a letter will be sent to the client, authorized representative, and local office by the AHO that constitutes the decision; and

(E) the local office is responsible for taking whatever action is required to carry out the decision made on the client's hearing.

**(m) Closing the hearing.** The AHO closes the hearing.

### **340:2-5-74. Evidence**

#### **(a) General.**

- (1) Formal rules of evidence are not observed.
- (2) Evidence is admitted when it is the type of evidence upon which reasonable persons are accustomed to rely on in the conduct of serious affairs.
- (3) Evidence reasonably construed as relevant and not otherwise unduly repetitious is admitted. Evidence that is irrelevant or unduly repetitious may be excluded.
- (4) The fact that evidence is admitted does not limit the authority of an administrative hearing officer (AHO) in determining the appropriate weight given such evidence.

#### **(b) Specific evidentiary issues.**

- (1) Documentary evidence may be received in the form of copies or excerpts if the original is not readily available. Upon request, all parties are given an opportunity to compare the copy with the original.
- (2) Information stored in electronic form may be printed and introduced as if the printed page was the original. Electronically stored information includes, but is not limited to:
  - (A) Oklahoma Department of Human Services (DHS) records;
  - (B) email; and
  - (C) Internet pages.
- (3) When all parties stipulate to a fact, the AHO officer may make a finding of fact on the basis of the stipulation. Signed statements by the parties or on-the-record oral statements by the parties are sufficient as stipulations.
- (4) Judicial notice.
  - (A) Law. Judicial notice is taken by the AHO of the common law, constitutions, statutes, and administrative regulations in force in every state, territory, and jurisdiction of the United States.
  - (B) Facts.
    - (i) A judicially noticed adjudicative fact is not subject to reasonable dispute. It is either:
      - (I) generally known within the state; or
      - (II) capable of accurate and ready determination by reference to sources whose accuracy cannot reasonably be questioned.
    - (ii) An AHO may take judicial notice of a fact:
      - (I) if requested by a party and supplied with the necessary information; or
      - (II) on his or her own motion.
  - (C) Propriety. In determining the propriety of taking judicial notice of a matter:
    - (i) the AHO may consult and use any source of pertinent information, whether or not furnished by a party;

- (ii) a party is entitled, upon timely request, to an opportunity to be heard as to the propriety of taking judicial notice and the scope of the matter noticed; and
- (iii) judicial notice may be taken at any stage of the proceeding.

(5) Hearsay.

- (A) Hearsay is evidence regarding a statement made outside of the hearing by a person not present at the hearing and offered to prove the truth of the statement.
- (B) Hearsay evidence is not excluded because of its hearsay nature, but is admitted or excluded based upon the standards for admissibility and weight of hearsay evidence explained in (i) - (iii) of this subparagraph.
  - (i) Generally, evidence is admissible if it is the type of evidence upon which reasonable persons are accustomed to rely on in the conduct of serious affairs.
  - (ii) Unlike judicial proceedings in which certain classes of hearsay evidence are automatically excluded due to concerns over the hearsay's reliability, no class of hearsay evidence is automatically excluded in administrative proceedings.
  - (iii) Once hearsay evidence is admitted, it is necessary for the AHO to decide what weight is given to the evidence.
- (D) When hearsay evidence is admitted and accorded great weight, an administrative decision may not be based solely on hearsay.

[Source: Added at 19 Ok Reg 2199, eff 6-27-02 ; Amended at 31 Ok Reg 1820, eff 9-15-14]

**340:2-5-75. Reopened hearings**

(a) If, following a hearing at which a decision was not pronounced, the administrative hearing officer (AHO) determines the evidence presented in the hearing was so inadequate that a decision cannot be made, the hearing is reopened and further information requested.

(1) When it is necessary to reopen a hearing, the AHO sends the client, authorized representative, and the local office a letter clearly stating:

- (A) what evidence is to be submitted;
- (B) who submits the evidence;
- (C) a deadline for submission;
- (D) the manner in which the evidence is submitted; and
- (E) the deadline for the opposing party to submit comments regarding the evidence or to request the hearing be reconvened.

- (2) The client is expected to cooperate in any way necessary to obtain the desired information and failure to do so without good cause may result in the dismissal of the hearing request.
- (b) When the hearing is reopened for the purpose of obtaining additional medical information, the needed examination is arranged in the usual manner.
  - (1) When the examination is authorized by a local office, the office routes the original completed report to the Appeals Unit and the client or authorized representative.
  - (2) When the examination is authorized by State Office, all copies of the completed report are forwarded to the Appeals Unit by the division or unit that authorized the examination. The Appeals Unit sends a copy of the completed report to the local requesting office and to the client.
- (c) The AHO may make a referral to another unit or division, or request the local office obtain the needed information.
- (d) Following receipt of additional information, the AHO informs the client, authorized representative, and local office in writing of:
  - (1) the additional evidence obtained;
  - (2) the source of the additional evidence;
  - (3) how the evidence relates to the issues; and
  - (4) that either party may ask the hearing be reconvened, but the AHO is not required to grant the request.

[Source: Added at 19 Ok Reg 2199, eff 6-27-02 ; Amended at 31 Ok Reg 1820, eff 9-15-14]

### **340:2-5-76. Hearing decision**

#### **(a) The Appeals Committee.**

- (1) The Appeals Committee makes the hearing decision.
- (2) No member of the Appeals Committee may obtain information about the case from outside the hearing record.

#### **(b) Legal and factual basis of the decision.**

- (1) The factual basis of the decision is the information available to the Oklahoma Department of Human Services (DHS) on the date of the decision and, if DHS failed to follow its own rules regarding the gathering of information, the information that would have been available to DHS at the time of the decision had the rules been followed. This information is obtained through:
  - (A) hearing testimony;
  - (B) exhibits introduced at the hearing; and
  - (C) facts or law of which the AHO has taken judicial notice.
- (2) The law applied to the case is described in (A) - (C) of this paragraph.
  - (A) The relevant Sections of the Oklahoma Administrative Code (OAC) are applied.
  - (B) Where the OAC is ambiguous or silent on a point critical to the decision, reference to other sources, including state and federal statutes, federal regulations, sub-regulatory material, and case law is appropriate.



(C) No Section of the OAC is declared invalid. However, if the validity of any Section of the OAC is raised as an issue, the AHO permits arguments concerning the issue so that it is preserved for subsequent review.

**(c) Making the decision.**

(1) Following the hearing, the AHO reviews the evidence and applicable law.

(2) If the AHO concludes DHS acted correctly, the AHO issues a written decision on behalf of the Appeals Committee.

(3) If the AHO concludes DHS acted incorrectly, the AHO refers the case to the other members of the Appeals Committee.

(A) The AHO prepares a vote sheet containing the AHO's vote and the reasoning supporting the vote.

(i)

(B) The AHO sends the vote sheet and Appeals Unit file to the member of the Appeals Committee from the affected division, who reviews the summary and Appeals Unit file prior to voting.

(C) If the vote from the division member is:

(i) favorable to the client, the file is returned to the AHO to issue a decision; or

(ii) unfavorable to the client, the file is sent to the Appeals Unit supervisor to review and vote.

(D) Following the vote by the Appeals Unit supervisor, the file is returned to the AHO to issue a decision in accord with the majority vote of the Appeals Committee.

**(d) The Appeals Committee may make a decision:**

(1) completely favorable to the client;

(2) partially favorable to the client;

(3) completely unfavorable to the client;

(4) dismissing the hearing request because of client withdrawal or abandonment;

(5) dismissing the hearing request because the hearing request does not relate to an appealable issue;

(6) to hold a supplemental hearing; or

(7) direct one, or both parties to obtain and submit additional information.

**(e) The Appeals Committee decision must contain:**

(1) a sufficient explanation of the issues, evidence, findings of fact, and law sufficient to inform the parties of the basis for the decision; and

(2) appeal rights, the action required to appeal, and the time within which such action must be taken.

**(f) The Appeals Committee decision is sent to:**

(1) the client;

(2) the authorized representative, if any;

(3) the local office;

(4) the DHS State Office programs manager of the program most affected by the decision;

(5) other DHS components necessary for implementation of the decision; and

(6) other DHS components the AHO or Appeals Unit supervisor chooses to notify.

[Source: Added at 19 Ok Reg 2199, eff 6-27-02 ; Amended at 31 Ok Reg 1820, eff 9-15-14]

### **340:2-5-77. Action by local office following receipt of decision**

Immediately following receipt of the copy of the Appeals Committee decision the local office takes whatever action is indicated in the decision. Appropriate action must be initiated within ten calendar days of receipt of the decision.

[Source: Added at 19 Ok Reg 2199, eff 6-27-02]

### **340:2-5-78. Administrative disqualification hearings**

(a) **Administrative disqualification hearings.** An administrative disqualification hearing is initiated by the Oklahoma Department of Human Services (DHS) when the facts of the individual Supplemental Nutrition Assistance Program (SNAP) or Temporary Assistance for Needy Families (TANF) case indicate an intentional program violation may have occurred.

(b) **Definition of intentional program violation.**

(1) SNAP. An intentional program violation consists of a client intentionally:

- (A) making a false or misleading statement;
- (B) misrepresenting, concealing, or withholding facts; or
- (C) committing any act that constitutes a violation of the Food Stamp Act; SNAP regulations; or Oklahoma laws or regulations relating to the use, presentation, transfer, acquisition, receipt, or possession of food stamp coupons, authorization to participate (ATP) document, or electronic benefit transfer (EBT) cards.

(2) TANF. An intentional program violation occurs when an individual, for the purpose of establishing or maintaining the household's eligibility for TANF or for increasing or preventing a reduction in the amount of the grant, intentionally:

- (A) makes a false or misleading statement or misrepresentation, concealment, or withholding of facts;
- (B) performs any act intended to mislead, misrepresent, or conceal;
- (C) withholds facts; or
- (D) offers or proposes a falsity.

(c) **Consolidation of administrative disqualification hearing with administrative hearing.** DHS may combine an administrative hearing and an administrative disqualification hearing into a single hearing when the factual issues arise out of the same, or related circumstances and the household receives prior notice the hearings will be combined. If the disqualification hearing and administrative hearing are combined:

(1) DHS follows the time frame for conducting disqualification hearings; and

(2) the household loses its right to an additional administrative hearing on the existence or amount of the overpayment when the combined hearing addressed the overpayment amount.

(d) **Advance notice of hearing.** DHS sends a written notice to the household member suspected of an intentional program violation by first class mail at least 30 days in advance of the scheduled date of a disqualification hearing. The household may waive the 30-day advance notice if an administrative hearing and disqualification hearing are combined.

(e) **Failure to appear at the hearing.**

(1) If the household member suspected of an intentional program violation or its representative cannot be located or fails to appear at the DHS initiated hearing without good cause, the hearing is conducted without the household member present.

(2) Even though the household member suspected of an intentional program violation is not present, the administrative hearing officer (AHO) is required to carefully consider the evidence and determine if an intentional program violation was committed. In the event of an adverse decision against the client, the client may demonstrate to the AHO good cause for failure to appear. If good cause is shown, the adverse decision is rescinded and another hearing scheduled.

(f) **Waiver of hearing.** DHS provides the accused household member(s) the option of signing a waiver for an administrative disqualification hearing.

(g) **Postponement of hearing.**

(1) The household member or representative is entitled to a postponement of a scheduled SNAP hearing, provided the request for the postponement is made at least 10 days in advance of the scheduled hearing.

(2) The local office notifies the Appeals Unit, if a postponement is requested.

(h) **Right to refuse to answer questions.** At an administrative disqualification hearing, the AHO advises the household member(s) or representative they have the right to remain silent and that anything said, or signed, may be used against them in a court of law.

(i) **Criteria for determining intentional program violation.** The AHO bases the determination of intentional program violation on clear and convincing evidence that demonstrates the household member(s) committed an intentional program violation, as defined in this Section.

(j) **Time limit for decision.** Within 90 days of the date on the notice of hearing the household member is notified in writing of the decision. However, if the hearing has been postponed at the request of the household member suspected of an intentional program violation, the time limit is extended for as many days as the hearing was postponed.

(k) **Further appeal.**

(1) No further administrative appeal procedure exists after an individual waives his or her right to an administrative disqualification hearing or is determined by an AHO to have committed an intentional program violation.

(2) The disqualification penalty cannot be changed by a subsequent administrative hearing decision.

[Source: Added at 19 Ok Reg 2199, eff 6-27-02 ; Amended at 31 Ok Reg 1820, eff 9-15-14]

### **340:2-5-79. Telephonic hearings**

#### **(a) Telephonic hearings.**

(1) The Appeals Unit supervisor or the administrative hearing officer (AHO) may designate a hearing be conducted by the AHO by telephone.

(2) When a hearing is conducted by an AHO in-person, the AHO may allow a witness, including the client or an Oklahoma Department of Human Services (OKDHS) employee, to testify by telephone, if the AHO determines:

(A) the person's testimony is needed and he or she is unable to testify in person; or

(B) requiring in-person testimony would be burdensome.

#### **(b) Procedures relating to telephonic hearings.**

(1) All procedures, forms, and policies regarding hearings apply to telephonic hearings, unless otherwise specified by the AHO.

(2) The notice of hearing includes instructions to the parties regarding:

(A) the submission of exhibits;

(B) the location of the client and OKDHS employee during the hearing; and

(C) any other instructions regarding pre-hearing and hearing procedures or requirements.

(c) **AHO authority.** The AHO has the authority to issue directions regarding any aspect of a hearing conducted by telephone, even if different than directions and procedures included in other subsections of this Section, if necessary to ensure that the hearing process is fair to the client and OKDHS.

[Source: Added at 19 Ok Reg 2199, eff 6-27-02 ; Amended at 27 Ok Reg 2624, eff 6-21-10 (emergency); Amended at 28 Ok Reg 777, eff 5-26-11]

### **340:2-5-80. Director review of administrative hearing officer (AHO) decision**

With the exception of administrative disqualification hearings, the decision of the Appeals Committee is subject to review by the Director of Human Services (Director) or the Director's designee per Section 168 of Title 56 of the Oklahoma Statutes.

(1) Requests for review of an Appeals Committee decision may be made by a client or authorized representative when a written request for review is received by DHS within 30 days from the date of the Administrative Hearing Officer decision letter. Benefits are not continued or reinstated during the pendency of the review.

(2) Request for review of an Appeals Committee decision may be made by the director of the DHS division that completed the action appealed.

- (A) The authority to request review may be delegated when the division director is unable to make the request due to absence or illness.
- (B) The request must be made in writing and received by the Appeals Unit or Director within 10 business days of the date of the hearing decision.
- (C) On receipt of a request for review by the Director, the Appeals Unit immediately notifies the client of the request for review, with a copy of the request attached. The notice includes:
  - (i) a statement that the client may submit documents and written comments within 10 business days;
  - (ii) the hearing decision is implemented immediately unless the client wishes to maintain the pre-hearing status quo until the Director issues a decision; and
  - (iii) when the hearing decision has already been implemented, implementation is not undone unless the client wants to maintain the pre-hearing status quo until the Director issues a decision.
- (D) The decision of the Director, or designee is issued within 10 business days of the earlier of receipt of the client's comments or running of the deadline for client comments.

[Source: Added at 19 Ok Reg 2199, eff 6-27-02 ; Amended at 31 Ok Reg 1820, eff 9-15-14]

**340:2-5-81. General authority of the appeals unit supervisor and administrative hearing officer**

- (a) An administrative hearing officer (AHO) has the authority to:
  - (1) alter any requirement or procedure set forth in Oklahoma Administrative Code (OAC) 340:2-5-60 through 340:2-5-80 when necessary to provide due process to a client or give the client and the Oklahoma Department of Human Services (DHS) an adequate opportunity to present evidence and argument regarding issues relevant to the action being appealed. However, the AHO may not take an action that violates state or federal constitutions, statutes, or regulations;
  - (2) take appropriate action regarding any situation not addressed in OAC 340:2-5-60 through 340:2-5-80; and
  - (3) take any action necessary to provide a fair process for resolution of an appeal. However, the AHO may not take an action that violates the state or federal constitutions, statutes, or regulations.
- (b) The appeals unit supervisor has the authority to:
  - (1) in case of absence or unavailability of the assigned AHO, make decisions regarding administrative issues in a case including, but not limited to, the granting of a request for continuance of a hearing or the determination of timeliness of a hearing request;

and

(2) make any decision necessary to provide a fair process for resolution of an appeal. This may include the direction of an AHO to take, or not take, a specific action. However, the appeals unit supervisor may not take an action that violates state or federal constitutions, statutes, or regulations.

(c) The appeals unit supervisor may not direct the AHO to take, or not take, action regarding the merits of a case.

[Source: Added at 31 Ok Reg 1820, eff 9-15-14]

## **PART 9. ADOPTION AND FOSTER CARE**

### **340:2-5-90. Legal base**

Section 7206.1 of Title 10 of the Oklahoma Statutes and Title IV-E of the Social Security Act provide an administrative hearing for a Department of Human Services (DHS) resource family aggrieved by a DHS action, or failure to act, in any of the programs listed in OAC 340:2-5-91.

[Source: Added at 19 Ok Reg 2199, eff 6-27-02]

### **340:2-5-91. Fair hearings conducted by the Appeals Unit**

(a) **Purpose.** The primary purpose of the fair hearing is to safeguard the rights of clients and provide recourse to address infractions of individual rights and interests. Administrative fair hearing may be granted to foster parents, adoptive parents, or kinship guardians.

(b) **Foster parents.** An administrative hearing is granted to foster parents when Oklahoma Department of Human Services (OKDHS):

- (1) denies the foster parent's claim for foster care maintenance payments;
- (2) pays foster care maintenance payments in an amount lower than the amount claimed;
- (3) does not pay the foster care maintenance payments to the foster parent in a timely manner;
- (4) closes the foster home unless the court ordered the child removed from the foster home or upheld a decision removing the child from the foster home;
- (5) does not return a child in OKDHS custody removed from the foster home due to a child abuse or neglect investigation, and the foster parent:
  - (A) was not provided notice of the foster parent's right to be heard during proceedings before the court; or
  - (B) received the notice, attempted to have the court hear the question but was denied a right to be heard by the court regarding the decision not to return the child during a hearing, and the court never heard the question about whether the child should be returned; or

(6) notifies the foster parent of an overpayment the foster parent disputes.

(c) **Adoptive parents.** An administrative hearing is granted to adoptive parents when OKDHS:

(1) denies the adoptive parent's application for adoption assistance;

(2) approves the adoptive parent's application for adoption assistance in an amount less than requested;

(3) modifies or terminates adoption assistance without the concurrence of the adoptive parents;

(4) delays or denies an authorized adoptive placement with an out-of-state family; or

(5) notifies the adoptive parent of an overpayment the adoptive parent disputes.

(d) **Kinship guardians.** An administrative fair hearing may be granted to kinship guardians when OKDHS:

(1) denies a kinship guardianship assistance payment as indicated on Form 04AN011E, Request for Review of Denial;

(2) approves the kinship guardianship payment in an amount less than requested;

(3) delays or denies an authorized kinship guardian placement out-of-state with the kinship guardian; or

(4) notifies the kinship guardian of an overpayment the kinship guardian disputes.

[Source: Added at 19 Ok Reg 2199, eff 6-27-02 ; Amended at 27 Ok Reg 989, eff 6-1-10]

### **340:2-5-92. Definitions**

The following words and terms, when used in this Part, shall have the following meanings, unless the context clearly indicates otherwise:

**"Access to the case file"** means that the resource family and their authorized representative have the right to review any information to be used by the Department of Human Services (DHS) in the hearing.

(A) The review may be made at a reasonable time before the date of the hearing.

(B) Access to the case file means access to the resource family file but does not include the Division of Children and Family Services (DCFS) records and any report to the district attorney unless ordered released by the administrative hearing officer (AHO). The order is based upon a request by the resource family and, after an in camera review by the AHO, a determination that a compelling reason exists and that disclosure is necessary for the protection of a public or private interest. Any child's name and the reporter's name is removed prior to submitting the information to the AHO.

(C) When a request for file access is made, the local office makes arrangements for the resource family, authorized representative, or both to review the resource file with as much privacy as possible. A supervisory staff member

observes the review of the resource file to ensure that contents of the resource file are not removed from the record.

(D) The resource family and their authorized representative are free to make written notes from the record or obtain copies of available documents. A resource family or their authorized representative are not charged for copies of documents made for the purpose of the hearing preparation or presentation.

**"Administrative hearing officer" (AHO)** means:

(A) the professional staff member of the Appeals Unit who has been designated by the Appeals Unit supervisor to conduct an administrative hearing and issue a decision; or  
(B) a lawyer who has a contract with DHS to preside over administrative hearings and issue a decision.

**"Appeals Committee"** means the committee which makes the hearing decision, consisting of the AHO who presided over a hearing, the division director of the affected program or designee, and the Appeals Unit supervisor. The Director of DHS has the authority to alter the members as he or she deems appropriate.

**"Appeals Unit"** means the unit established within the Legal Division which is responsible for conducting administrative hearings.

**"Authorized representative"** means a person authorized by the resource family to represent them in the hearing process.

(A) Any party may be represented by a lawyer, or legal intern, licensed to practice by the Supreme Court of Oklahoma.

(B) A party may be represented by a non-lawyer.

(C) If the representative is not a lawyer, DHS verifies the authority of the person to represent the resource family through verbal or written authorization of the resource family.

**"DHS"** means the Oklahoma Department of Human Services.

**"Hearing"** means the process by which the AHO obtains evidence and makes a decision regarding the protested action, or failure to act, by DHS.

**"Hearing summary"** is a document stating the reasons for DHS' action or inaction. It provides the resource family with information needed to prepare for the hearing.

**"Local office"** means any office in any division or unit of DHS which is responsible for the act, or failure to act, which is the subject of the hearing.

**"Local staff member"** means the particular staff member who was responsible for the protested action, or failure to act, and who represents DHS in activities during the time period extending from the resource family's request for a hearing through any needed action following the decision on the hearing.

**"OAC"** means the Oklahoma Administrative Code, which contains the regulations promulgated by each state agency.

**"Official record"** means records consisting of:

(A) all evidence offered for introduction at the hearing;



- (B) an electronic recording of the hearing; and
- (C) the hearing decision.

**"Resource family"** means an adoptive or foster home, including kinship.

**"Substantial evidence"** means evidence which shows that there is a substantial basis of facts to support the decision being appealed. Substantial evidence need not rise to the level of a preponderance of the evidence, but must be more than a scintilla of evidence.

[Source: Added at 19 Ok Reg 2199, eff 6-27-02]

#### **340:2-5-93. Time**

In computing any period of time prescribed or allowed by this Part, the day of the act, or event, from which the designated period of time begins to run is not included. The last day of the period so computed is included, unless it is a weekend, or a legal holiday as defined by the Oklahoma Statutes.

[Source: Added at 19 Ok Reg 2199, eff 6-27-02]

#### **340:2-5-94. Hearing request**

A hearing request is a written expression by a resource family or authorized representative that the resource family wants to contest a Department of Human Services (DHS) action, or failure to act, through the hearing process. The request must be written on Form H-4, Resource Family Request for Fair Hearing, and signed by the resource family or authorized representative.

[Source: Added at 19 Ok Reg 2199, eff 6-27-02]

#### **340:2-5-95. Appeals Unit action following receipt of a hearing request**

(a) Upon receipt of a hearing request, the Appeals Unit supervisor assigns the case to an administrative hearing officer (AHO) who determines if:

- (1) the hearing request was made timely. A hearing request is considered timely if the hearing request was in writing, signed by the resource family or authorized representative, and received by the Department of Human Services (DHS) within 30 days of the action, or failure to act, which is being appealed; and
- (2) the appeal relates to an appealable issue. Issues on which an appeal can be granted are described at OAC 340:2-5-91.

(b) If a hearing request is both timely and relates to an appealable issue, the Appeals Unit mails the notice of hearing to the resource family. Copies of this notification are sent to the local office or State Office, as appropriate, and the authorized representative, if any.

[Source: Added at 19 Ok Reg 2199, eff 6-27-02]

#### **340:2-5-96. Hearing summary**

(a) As soon as a request for a hearing is received, the child welfare worker, Children and Family Services Division (CFSD) program staff responsible for the Adoption Assistance Program, or Developmental Disabilities Services Division programs manager, as applicable, prepares the hearing summary on Form H-1-A, Hearing Summary. The areas that are covered include:

- (1) the type of decision, action, or inaction on the part of the local office;
- (2) nature of resource family's complaint;
- (3) point at issue, exactly what the resource family is appealing;
- (4) chronological summary of pertinent events and evidence leading to the action or inaction;
- (5) policy including:
  - (A) verbatim quotations from the manual regarding the policy on which the decision was based; or
  - (B) copies of applicable policy with the pertinent portions marked;
- (6) evidence and pertinent documents supporting the action of the local office; and
- (7) any other items required by the Department of Human Services (DHS) regulations.

(b) A copy of Form H-1-A is mailed or hand-delivered to the resource family as soon as a copy of the notification of the hearing date is received from the Appeals Unit.

[Source: Added at 19 Ok Reg 2199, eff 6-27-02]

### **340:2-5-97. Communications with the administrative hearing officer (AHO)**

Following a hearing request, there is no contact regarding the merits of the case between the AHO and a person with an interest in the case unless there is notice to all parties and an opportunity to participate in the communications, except:

- (1) when necessary to the disposition of the case;
- (2) on matters of an informational or procedural nature; or
- (3) the AHO may contact the local office in order to obtain information regarding the timeliness of the hearing request or whether an appealable issue exists.

[Source: Added at 19 Ok Reg 2199, eff 6-27-02]

### **340:2-5-98. Hearing continuance, withdrawal, and dismissal**

#### **(a) Continuance of hearing.**

- (1) **Additional evidence.** At the conclusion of a hearing, the administrative hearing officer (AHO) may determine that additional evidence is needed before a final decision can be made. If so, the AHO may continue the hearing and direct the parties to submit any additional evidence the AHO deems necessary. The AHO may set time limits for the submission.

(2) **Scheduling.** If the AHO is informed, in advance of a hearing, that the resource family, authorized representative, or Department of Human Services (DHS) needs a continuance, the AHO continues the hearing if good cause is shown.

(b) **Withdrawal of request for hearing.** A resource family or authorized representative may withdraw a hearing request in writing, signed by the resource family or authorized representative.

(c) **Dismissal of hearing request.** If the resource family or authorized representative fails to appear for the scheduled hearing and fails to submit sufficient evidence to establish good cause for failure to appear, the AHO issues a letter of decision dismissing the request for hearing.

[Source: Added at 19 Ok Reg 2199, eff 6-27-02]

### **340:2-5-99. Presence of Department of Human Services (DHS) employees or DHS records at hearings**

An administrative hearing officer (AHO) does not have the authority to issue subpoenas for the presence of witnesses or production of evidence at hearings.

(1) An AHO, at the request of a resource family, authorized representative, or on his or her own motion, may require the presence or production at a hearing of:

- (A) a particular DHS employee;
- (B) DHS records; or
- (C) other evidence in the possession of DHS.

(2) A resource family's request for the presence of a DHS employee, DHS records, or other evidence, is granted by the AHO only if the resource family shows that the presence of the DHS employee or evidence is:

- (A) relevant to the issues involved in the hearing;
- (B) necessary for determination of the issues; and
- (C) not confidential pursuant to state or federal law.

(3) If the AHO determines that a DHS employee needs to be present, or the records or evidence in DHS possession are to be produced at the hearing, the AHO gives notice to the DHS employee or office where the evidence is located of the date, time, and location of the hearing.

[Source: Added at 19 Ok Reg 2199, eff 6-27-02]

### **340:2-5-100. Standard of review and burden of proof**

(a) **Standard of review.** The administrative hearing officer (AHO) determines whether the Department of Human Services (DHS) action is supported by substantial evidence and not contrary to the applicable law.

(b) **Burden of proof.** The party who seeks to alter the status quo has the burden of proof.

(1) The burden of proof is on a resource family to show that adoption assistance or foster care payments should be granted or increased.

(2) The burden of proof is on DHS to show that:

- (A) a foster care home should be closed;
- (B) a foster child should not be returned to the foster home after the conclusion of an investigation; or
- (C) there has been an overpayment of adoption assistance or foster care payments.

[Source: Added at 19 Ok Reg 2199, eff 6-27-02]

### **340:2-5-101. Hearing procedures**

(a) **Hearings.** All hearings scheduled by the Appeals Unit are conducted by an administrative hearing officer (AHO), who:

- (1) designates the hearing location;
- (2) administers oaths;
- (3) conducts the hearing in an orderly manner;
- (4) ensures all relevant evidence is considered; and
- (5) rules on the admissibility of evidence.

(b) **Hearings are not open to the public.**

- (1) In order to protect the confidential nature of case material and the relationship between the resource family and the Department of Human Services (DHS) and in order to protect the identity of children and their privacy, hearings are not open to the public.
- (2) No one other than the resource family, the authorized representative, and the DHS representative are permitted to attend the hearing, without permission of the AHO.

(c) **Pre-hearing conference.**

- (1) A conference may be conducted by the AHO prior to the hearing. The purpose of the pre-hearing conference is to reduce the actual amount of time spent in the hearing. In the pre-hearing conference the AHO identifies all:
  - (A) witnesses;
  - (B) exhibits; and
  - (C) issues to be covered in the hearing.
- (2) The AHO determines if the pre-hearing conference is to be recorded. The conference may be conducted by phone.

(d) **Recording the hearing.**

- (1) The AHO is responsible for arranging for the hearing to be recorded. The hearing may be recorded electronically or by a certified court reporter.
- (2) The AHO's recording of the hearing is the official recording. However, the resource family or authorized representative may provide his or her own recording device for use during the hearing unless such recording is disruptive. In no case is the hearing videotaped.
- (3) Upon written request to the Appeals Unit, DHS provides the resource family or authorized representative a copy of the:
  - (A) tape recording of the hearing. A transcript of the recording is provided only when required by federal or state law; or
  - (B) court reporter's transcript.

(e) **Order of presentation.**

- (1) The AHO directs the order of presentation of evidence.
- (2) When presentation of the evidence is complete, the AHO allows closing statements.

[Source: Added at 19 Ok Reg 2199, eff 6-27-02]

### **340:2-5-102. Evidence**

#### **(a) In general.**

- (1) The Rules of Evidence are not observed.
- (2) Evidence is admitted if it is the kind of evidence upon which reasonable persons are accustomed to rely on in the conduct of serious affairs.
- (3) Evidence which may reasonably be construed as relevant and which is not otherwise unduly repetitious is admitted.

#### **(b) Specific evidentiary issues.**

- (1) Documentary evidence may be received in the form of copies or excerpts if the original is not readily available. Upon request, all parties are given an opportunity to compare the copy with the original.
- (2) Evidence normally stored in electronic form may be printed and introduced as if the printed page was the original. Electronic evidence includes, but is not limited to:

- (A) Department of Human Services (DHS) records;
- (B) e-mail; and
- (C) Internet pages.

- (3) When all parties stipulate to a fact, the administrative hearing officer (AHO) may make a finding of fact on the basis of the stipulation.

#### **(4) Judicial notice.**

- (A) Law. Judicial notice is taken by the AHO of the common law, constitutions, statutes, and administrative regulations in force in every state, territory, and jurisdiction of the United States.

#### **(B) Facts.**

- (i) A judicially noticed adjudicative fact is not subject to reasonable dispute. It is either:

- (I) generally known within the state; or
- (II) capable of accurate and ready determination by reference to sources whose accuracy cannot reasonably be questioned.

- (ii) An AHO may take judicial notice of a fact:

- (I) if requested by a party and supplied with the necessary information; or
- (II) on his or her own motion.

- (C) Propriety. In determining the propriety of taking judicial notice of a matter:

- (i) the AHO may consult and use any source of pertinent information, whether or not furnished by a party;

- (ii) a party is entitled, upon timely request, to have an opportunity to be heard as to the propriety of taking judicial notice and the scope of the matter noticed. In the absence of prior notification, the request may be made after judicial notice has been taken; and
- (iii) judicial notice may be taken at any stage of the proceeding.

(5) Hearsay.

- (A) Hearsay is evidence regarding a statement made outside of the hearing by a person not present at the hearing and which is offered to prove the truth of the statement.
- (B) Hearsay evidence is not excluded because of its hearsay nature but is admitted or excluded based upon the standards listed in (C) and (D) of this paragraph.
- (C) Admissibility and weight of hearsay evidence is explained in (i) - (iii) of this subparagraph.
  - (i) Generally, evidence is admissible if it is the kind of evidence upon which reasonable persons are accustomed to rely on in the conduct of serious affairs.
  - (ii) Unlike judicial proceedings in which certain classes of hearsay evidence are automatically excluded due to concerns over the hearsay's reliability, no class of hearsay evidence is automatically excluded in administrative proceedings.
  - (iii) Once hearsay evidence has been admitted, it is still necessary for the AHO to decide what weight should be given to the evidence.
- (D) Even if hearsay evidence is admitted and accorded great weight, an administrative decision may not be based solely on hearsay.

[Source: Added at 19 Ok Reg 2199, eff 6-27-02]

**340:2-5-103. Hearing decision**

**(a) The Appeals Committee.**

- (1) The Appeals Committee makes the hearing decision.
- (2) Unless otherwise designated by the Director of the Department of Human Services (DHS), the Appeals Committee consists of the:
  - (A) administrative hearing officer (AHO) who presided over the hearing;
  - (B) director of the DHS division which administers the program which was the subject of the hearing. The division director may delegate this responsibility to someone in the division at the level of program administrator; and

(C) Appeals Unit supervisor.

(3) No member of the Appeals Committee may obtain information about the case from outside the hearing record.

(4) Any member of the Appeals Committee who was involved in making the decision which is the subject of appeal disqualifies himself or herself from participation.

(A) The division director or program administrator appoints an appropriate substitute from within the division or, if an appropriate substitute is not available within the division, a substitute is appointed by the Appeals Unit supervisor.

(B) The Appeals Unit supervisor appoints a substitute for himself or herself from the Legal Division.

**(b) Legal and factual basis of the decision.**

(1) The factual basis of the decision is the information that was available to DHS on the date of the decision and, if DHS failed to follow its own rules regarding the gathering of information, the information that would have been available to DHS at the time of the decision had the rules been followed. This information is obtained through:

(A) hearing testimony;

(B) exhibits introduced at the hearing; and

(C) facts or law of which the AHO has taken judicial notice.

(2) The law applied to the case is described in (A) - (C) of this paragraph.

(A) The relevant sections of the Oklahoma Administrative Code (OAC).

(B) Where the OAC is ambiguous or silent on a point critical to the decision, reference to other sources, including state and federal statutes, federal regulations, sub-regulatory material, and case law is appropriate.

(C) No section of the OAC shall be declared invalid.

However, if the validity of any section of the OAC is raised as an issue, the AHO permits arguments concerning that issue so that the issue is preserved for subsequent review.

**(c) Making the decision.**

(1) Following the hearing, the AHO reviews the evidence and applicable law.

(2) If the AHO concludes that DHS acted correctly, the AHO issues a hearing decision letter on behalf of the Appeals Committee.

(3) If the AHO concludes that DHS acted incorrectly, the AHO refers the case to the Appeals Committee.

(A) The AHO prepares a:

(i) summary of the hearing, which includes the AHO's findings of fact. The findings of fact are binding on each member of the Appeals Committee; and

(ii) vote sheet, which contains the AHO's vote and the reasoning supporting the vote.

(B) The AHO sends the summary, vote sheet, and Appeals Unit file to the member of the Appeals Committee from the division, who reviews the summary and Appeals Unit file prior to voting.

(C) If the vote from the division member is:

(i) favorable to the client, the file is returned to the AHO to issue a decision; or

(ii) unfavorable to the client, the file is sent to the Appeals Unit supervisor to review and vote.

(D) Following the vote by the Appeals Unit supervisor, the file is returned to the AHO to issue a decision in accord with the majority vote of the Appeals Committee.

**(d) The Appeals Committee may make a decision:**

(1) completely favorable to the client;

(2) partially favorable to the client;

(3) completely unfavorable to the client;

(4) dismissing the hearing request because of client withdrawal or abandonment; or

(5) dismissing the hearing request because the hearing request does not relate to an appealable issue.

**(e) The Appeals Committee decision must contain:**

(1) a sufficient explanation of the issues, evidence, findings of fact, and law which are sufficient to inform the parties of the basis for the decision; and

(2) appeal rights, the action required to appeal, and the time within which such action must be taken.

**(f) The Appeals Committee decision is sent to:**

(1) the client;

(2) the authorized representative, if any;

(3) the local office;

(4) the DHS State Office programs manager of the program most affected by the decision;

(5) any other component of DHS which is necessary for implementation of the decision; and

(6) any other component of DHS which the AHO chooses to notify.

[Source: Added at 19 Ok Reg 2199, eff 6-27-02]

**340:2-5-104. Action by local office following receipt of decision**

Upon receipt of the Appeals Committee decision, the local office takes, within ten days, any action necessary to implement the decision. If the action necessary to implement the decision takes more than ten days to complete, the reason(s) is documented in the case record by the county director.

[Source: Added at 19 Ok Reg 2199, eff 6-27-02]

**340:2-5-105. Director review of administrative hearing officer (AHO) decision**



The decision of the Appeals Committee is subject to review by the Director of the Department of Human Services (DHS). Requests for review of an Appeals Committee decision may be made by a client or authorized representative if a written request for review is received by DHS within 30 days from the date of the hearing decision letter. The decision of the Appeals Committee is not stayed pending the DHS Director's review.

[Source: Added at 19 Ok Reg 2199, eff 6-27-02]

## **PART 11. CHILD CARE FACILITY LICENSING**

### **340:2-5-110. Legal basis**

Sections 405.3, 407, and 408 of Title 10 of the Oklahoma Statutes provide for administrative hearings when the Oklahoma Department of Human Services (DHS):

- (1) denies an application for a license to operate a child care facility;
- (2) revokes a license to operate a child care facility;
- (3) issues an Emergency Order to a child care facility; and
- (4) records an individual on the Child Care Restricted Registry.

[Source: Added at 19 Ok Reg 2199, eff 6-27-02 ; Amended at 33 Ok Reg 1587, eff 9-15-16]

### **340:2-5-111. Hearings conducted by the Oklahoma Department of Human Services (DHS) Legal Services Appeals Unit**

The DHS Legal Services Appeals Unit presides over hearings when an appealing party requests a hearing regarding:

- (1) denial of an application for a child care facility license;
- (2) revocation of a child care facility license;
- (3) an Emergency Order relating to a child care facility; and
- (4) recording an individual on the Child Care Restricted Registry.

[Source: Added at 19 Ok Reg 2199, eff 6-27-02 ; Amended at 33 Ok Reg 1587, eff 9-15-16]

### **340:2-5-112. Definitions**

The following words and terms, when used in this Part, shall have the following meanings, unless the context clearly indicates otherwise:

**"Access to the case file"** means the appealing party has the right to review any information used by the Oklahoma Department of Human Services (DHS) in the hearing.

(A) The review may be made at a reasonable time before the date of the hearing.

(B) Access to the case file means access to the appealing party file but does not include the Child Welfare Services records and any report to the district attorney unless ordered released by the administrative hearing officer (AHO). The order is based on a request by the appealing party and, after an in camera review by the AHO, a

determination that a compelling reason exists and that disclosure is necessary for the protection of a public or private interest. Any child's name and the reporter's name are removed prior to submitting the information to the AHO.

(C) When a request for file access is made, the local office makes arrangements for the appealing party to review the case file with as much privacy as possible. A supervisory staff member observes the review of the case file to ensure contents of the case file are not removed from the record.

(D) The appealing party is free to make written notes from the record or obtain copies of available documents. An appealing party is not charged for copies of documents made for the purpose of hearing preparation or presentation.

**"Administrative hearing officer (AHO)"** means:

(A) the professional staff member of the DHS Legal Services Appeals Unit who is designated by the Appeals Unit supervisor to conduct an administrative hearing and issue a decision; or

(B) a lawyer who has a contract with DHS to preside over administrative hearings and issue decisions.

**"Appealing party"** means an applicant, licensee, potential registrant, and the authorized representative.

**"Appeals Unit"** means the unit established within DHS Legal Services, that is responsible for conducting administrative hearings.

**"Appeals Unit supervisor"** means the person designated by the DHS general counsel to supervise the Appeals Unit.

**"Applicant or licensee"** means:

(A) an applicant for a license to operate a child care facility; or

(B) the holder of a license to operate a child care facility that was revoked.

**"Authorized representative"** means a person authorized by the applicant or licensee to represent them in the hearing process.

(A) Any party may be represented by a lawyer or legal intern licensed to practice by the Supreme Court of Oklahoma.

(B) A party may be represented by a non-lawyer.

(C) If the representative is not a lawyer, DHS verifies the authority of the person to represent the appealing party through verbal or written authorization of the appealing party.

**"Child Care Services (CCS)"** means any office in any division or unit within CCS that is responsible for the act, or failure to act, which is the subject of the hearing request.

**"Clear and convincing evidence"** means the degree of proof that produced in the AHO a firm belief as to the truth of the allegation sought to be established.

**"DHS"** means the Oklahoma Department of Human Services.

**"Hearing"** means the process by which evidence is obtained and a decision is made regarding the DHS action protested.

**"Hearings on licensing actions related to child care facilities and child -placing agencies"** means:

- (A) the process to review a DHS decision on denial or revocation of a license for a child care facility or child-placing agency; or
- (B) hearings on Emergency Orders to cease operation of a child care facility.

**"Hearing request"** means a written expression by an appealing party of the desire to contest an action by DHS through the hearing process.

**"OAC"** means the Oklahoma Administrative Code, which contains the regulations promulgated by each state agency.

**"Official record"** means:

- (A) all evidence admitted as evidence at the hearing;
- (B) an electronic recording of the hearing, or a transcription of the hearing; and
- (C) the hearing decision.

**"Registrant"** means an individual recorded on the Child Care Restricted Registry.

[Source: Added at 19 Ok Reg 2199, eff 6-27-02 ; Amended at 25 Ok Reg 12, eff 8-3-07 (emergency); Amended at 25 Ok Reg 885, eff 5-11-08 ; Amended at 33 Ok Reg 1587, eff 9-15-16]

### **340:2-5-113. Time**

In computing any period of time prescribed or allowed by this Part, the day of the act, or event, from which the designated period of time begins to run is not included. The last day of the period so computed is included, unless it is a weekend, or a legal holiday as defined by the Oklahoma Statutes.

[Source: Added at 19 Ok Reg 2199, eff 6-27-02]

### **340:2-5-114. Hearing request**

(a) A hearing request must be in writing and signed by the appealing party.

(b) To be considered timely, a hearing request must be received by the Oklahoma Department of Human Services within:

- (1) 30-calendar days of receipt of the notice of denial or revocation;
- (2) 10-calendar days of receipt of an Emergency Order; or
- (3) 30-calendar days of receipt of the notice of recording on the Child Care Restricted Registry.

[Source: Added at 19 Ok Reg 2199, eff 6-27-02 ; Amended at 33 Ok Reg 1587, eff 9-15-16]

### **340:2-5-115. Appeals Unit action following receipt of a hearing request**

(a) Upon receipt of a hearing request, a hearing number is assigned.

- (b) The Appeals Unit supervisor assigns the case to an administrative hearing officer (AHO). The AHO determines if the hearing request:
- (1) was made timely; and
  - (2) involves an appealable issue. An issue is appealable only if the Oklahoma Department of Human Services notified the appealing party in writing that:
    - (A) an application for a child care facility license is denied;
    - (B) a child care facility license is revoked;
    - (C) an Emergency Order was issued; or
    - (D) an individual received notice of his or her name being recorded on the Child Care Restricted Registry.
- (c) When a hearing request is both timely and relates to an appealable issue the:
- (1) AHO sets a hearing date. In appeals of Emergency Orders, the hearing must be held within 10-calendar days of receipt of the appealing party's request for a hearing;
  - (2) Appeals Unit supervisor designates an AHO; and
  - (3) Appeals Unit mails the notice of hearing to the appealing party. Copies of this notification are sent to Child Care Services, appropriate supervisory staff, and the authorized representative, if any. The notice of hearing is mailed in cases involving:
    - (A) license denial or revocation, by certified mail not less than 14 calendar days prior to the hearing date, unless waived by the appealing party;
    - (B) appeals of Emergency Orders, notice is given as far in advance of the hearing date as possible; and
    - (C) recording on the Child Care Restricted Registry, by certified mail not less than 14 calendar days prior to the hearing date, unless waived by the registrant.

[Source: Added at 19 Ok Reg 2199, eff 6-27-02 ; Amended at 33 Ok Reg 1587, eff 9-15-16]

#### **340:2-5-116. Communications with the administrative hearing officer (AHO)**

Following a hearing request, there is no direct or indirect contact regarding the merits of the case between the AHO and a person with a direct or indirect interest in the case, unless there is notice to all parties and an opportunity to participate in the communication, except the AHO may:

- (1) be contacted on matters of an informational or procedural nature; or
- (2) contact Child Care Services in order to obtain information regarding:
  - (A) timeliness of the hearing request; or
  - (B) if an appealable issue exists.

[Source: Added at 19 Ok Reg 2199, eff 6-27-02 ; Amended at 33 Ok Reg 1587, eff 9-15-16]

#### **340:2-5-117. Hearing continuance, withdrawal, and dismissal**

- (a) **Continuance of hearing.**

(1) **Additional evidence.** At the conclusion of a hearing, the administrative hearing officer (AHO) may determine that additional evidence is needed before a final decision can be made. If so, the AHO may continue the hearing and direct the parties to submit any additional evidence deemed necessary. The AHO may set time limits for the submission.

(2) **Scheduling.** If the AHO is informed, in advance of a hearing, that the appealing party or the Oklahoma Department of Human Services needs a continuance, the AHO continues the hearing when good cause is shown.

(b) **Withdrawal of request for hearing.** An appealing party may withdraw a hearing request in writing, signed by the appealing party.

(c) **Dismissal of hearing request.** When the appealing party fails to appear for the scheduled hearing and fails to submit sufficient evidence to establish good cause for failure to appear at the appointed time, the AHO issues a letter of decision. The letter advises the appealing party that the request for the hearing has been dismissed and Child Care Services will take action to implement the decision.

[Source: Added at 19 Ok Reg 2199, eff 6-27-02 ; Amended at 33 Ok Reg 1587, eff 9-15-16]

### **340:2-5-118. Presence of Oklahoma Department of Human Services (DHS) employees or DHS records at hearings**

An administrative hearing officer (AHO) does not have the authority to issue subpoenas for the presence of people or production of evidence at hearings.

(1) An AHO, at the request of an appealing party or on his or her own motion, may require the presence at a hearing of:

- (A) a particular DHS employee;
- (B) DHS records; and
- (C) other DHS evidence.

(2) An appealing party request for the presence of a DHS employee, DHS documents, or other evidence, is granted by the AHO only when the appealing party shows that the presence of the DHS employee or evidence is:

- (A) relevant to the issues involved in the hearing;
- (B) necessary for determination of the issue;
- (C) not otherwise obtainable by the appealing party; and
- (D) not confidential pursuant to state or federal law.

(3) When the AHO determines that a DHS employee needs to be present, or the records or evidence in DHS possession are to be produced at the hearing, the AHO gives notice to the DHS employee or office where the evidence is located of the date, time, and location of the hearing.

[Source: Added at 19 Ok Reg 2199, eff 6-27-02 ; Amended at 33 Ok Reg 1587, eff 9-15-16]

### **340:2-5-119. Standard of review and burden of proof**

(a) **Standard of review.** The administrative hearing officer (AHO) determines whether the Oklahoma Department of Human Services (DHS)

action is supported by clear and convincing evidence and not contrary to the applicable law.

(b) **Burden of proof.** The party who seeks to alter the status quo has the burden of proof. The burden of proof is on:

- (1) an applicant to show that the applicant is eligible to receive a child care facility license;
- (2) DHS to show that a child care facility license should be revoked;
- (3) DHS to show that the issuance of an Emergency Order was necessary to protect the health, safety, or welfare of a child receiving child care; and
- (4) DHS to show that the person should be recorded on the Child Care Restricted Registry.

[Source: Added at 19 Ok Reg 2199, eff 6-27-02 ; Amended at 25 Ok Reg 12, eff 8-3-07 (emergency); Amended at 25 Ok Reg 885, eff 5-11-08 ; Amended at 33 Ok Reg 1587, eff 9-15-16]

### **340:2-5-120. Hearing procedures**

(a) **Hearings.** All hearings scheduled by the Appeals Unit are conducted by an administrative hearing officer (AHO), who:

- (1) designates the hearing location;
- (2) administers oaths;
- (3) conducts the hearing in an orderly manner;
- (4) rules on the admissibility of evidence; and
- (5) takes such action as the AHO deems necessary to reach a proper disposition of the case.

(b) **Hearings are not open to the public.**

(1) In order that the confidential nature of case material and the relationship between the appealing party and the Oklahoma Department of Human Services (DHS) is maintained, hearings are not open to the public.

(2) With approval of the AHO, in addition to the appealing party and the local office representative, persons permitted to attend the hearing are:

- (A) persons invited by the appealing party;
- (B) witnesses, subject to the AHO's direction that witnesses are excluded from the hearing prior to their testimony; and
- (C) any member of the Child Care Advisory Committee who wants to attend the hearing.

(c) **Pre-hearing conference.** A conference may be conducted by the AHO prior to the formal beginning of a hearing. The pre-hearing conference is not recorded.

(d) **Recording the hearing.**

- (1) The AHO is responsible for arranging for the hearing to be recorded. The hearing may be recorded electronically or by a certified court reporter.
- (2) The AHO's recording of the hearing is the official recording. The appealing party may provide his or her own recording device for use during the hearing if such recording is not disruptive. Videotaping is not allowed.

(3) Upon written request to the Appeals Unit, DHS provides the appealing party a copy of the:

(A) tape recording of the hearing. A transcript of the recording is provided only when required by federal or state law; or

(B) court reporter's transcript.

(e) **Sequestration of witnesses.** The AHO may require that any witness, other than the appealing party or the Child Care Services representative, absent himself or herself from the hearing room except when the witness is testifying.

(f) **Presentation of the case.**

(1) The AHO directs the order of presentation of the case.

(2) When presentation of the evidence is complete, the AHO allows closing statements.

(3) The AHO renders a decision immediately following closing statement.

[Source: Added at 19 Ok Reg 2199, eff 6-27-02 ; Amended at 33 Ok Reg 1587, eff 9-15-16]

### **340:2-5-121. Evidence**

(a) **In general.**

(1) Formal rules of evidence are not observed.

(2) Evidence is admitted if it is the kind of evidence upon which reasonable persons are accustomed to rely on in the conduct of serious affairs.

(3) Evidence which may reasonably be construed as relevant and which is not otherwise unduly repetitious is admitted. Evidence which is irrelevant or unduly repetitious may be excluded.

(b) **Specific evidentiary issues.**

(1) Documentary evidence may be received in the form of copies or excerpts if the original is not readily available. Upon request all parties are given an opportunity to compare the copy with the original.

(2) Evidence normally stored in electronic form may be printed and introduced as if the printed page was the original. Electronic evidence includes, but is not limited to:

(A) Department of Human Services (DHS) records;

(B) e-mail; and

(C) Internet pages.

(3) When all parties stipulate to a fact, the administrative hearing officer (AHO) may make a finding of fact on the basis of the stipulation.

(4) Judicial notice.

(A) Law. Judicial notice is taken by the AHO of the common law, constitutions, statutes, and administrative regulations in force in every state, territory, and jurisdiction of the United States.

(B) Facts.

(i) A judicially noticed fact is not subject to reasonable dispute. It is either:

- (I) generally known within the state; or
      - (II) capable of accurate and ready determination by reference to sources whose accuracy cannot reasonably be questioned.
    - (ii) An AHO may take judicial notice of a fact:
      - (I) if requested by a party and supplied with the necessary information; or
      - (II) on his or her own motion.
  - (C) Propriety. In determining the propriety of taking judicial notice of a matter:
    - (i) the AHO may consult and use any source of pertinent information, whether or not furnished by a party;
    - (ii) a party is entitled, upon timely request, to an opportunity to be heard as to the propriety of taking judicial notice and the scope of the matter noticed; and
    - (iii) judicial notice may be taken at any stage of the proceeding.
- (5) Hearsay.
- (A) Hearsay is evidence regarding a statement made outside of the hearing by a person not present at the hearing and which is offered to prove the truth of the statement.
  - (B) Hearsay evidence is not excluded because of its hearsay nature but is admitted or excluded based upon the standards set forth below.
  - (C) Admissibility and weight of hearsay evidence is explained in (i) - (iii) of this subparagraph.
    - (i) Generally, evidence is admissible if it is the kind of evidence upon which reasonable persons are accustomed to rely on in the conduct of serious affairs.
    - (ii) Unlike judicial proceedings in which certain classes of hearsay evidence are automatically excluded due to concerns over the hearsay's reliability, no class of hearsay evidence is automatically excluded in administrative proceedings.
    - (iii) Once hearsay evidence has been admitted, it is still necessary for the decision maker to decide what weight should be given to the evidence.
  - (D) Even if hearsay evidence is admitted and accorded great weight, an administrative decision may not be based solely on hearsay.

[Source: Added at 19 Ok Reg 2199, eff 6-27-02]

### **340:2-5-122. Hearing decision**



- (a) The factual basis of the decision is information that was available to the Oklahoma Department of Human Services (DHS) on the date of the decision and, if DHS failed to follow its own rules regarding the gathering of information, the information that would have been available to DHS at the time of the decision had the rules been followed. This information is obtained through:
- (1) hearing testimony;
  - (2) exhibits admitted as evidence at the hearing; or
  - (3) facts or law of which the administrative hearing officer (AHO) has taken judicial notice.
- (b) The law applied to the case is described in (1) - (3) of this subsection.
- (1) The relevant sections of the Oklahoma Administrative Code (OAC) are applied.
  - (2) Where the OAC is ambiguous or silent on a point critical to the decision, reference to other sources, including state and federal statutes; federal regulations, sub-regulatory material, and case law is appropriate.
  - (3) The AHO does not declare any Section of the OAC invalid. However, if the validity of any Section of the OAC is raised as an issue, the AHO permits arguments concerning that issue so the issue is preserved for subsequent review.
- (c) The AHO renders a decision at the conclusion of the presentation of the case and indicates the decision on the date of the hearing on a form that includes a statement of the applicant's, licensee's, or registrant's appeal rights.
- (d) Immediately after pronouncing the decision, the AHO:
- (1) requests the appealing party sign the statement on the decision form to acknowledge receipt of the decision; and
  - (2) provides a copy of the decision to:
    - (A) the applicant, licensee, or registrant;
    - (B) the authorized representative, if any;
    - (C) Child Care Services; and
    - (D) any other component of DHS that is necessary for implementation of the decision.

[Source: Added at 19 Ok Reg 2199, eff 6-27-02 ; Amended at 33 Ok Reg 1587, eff 9-15-16]

### **340:2-5-123. Action by local office following receipt of decision**

The Division of Child Care takes action necessary to implement the decision of the administrative hearing officer. If the action necessary to implement the decision takes more than ten days to complete, the reason(s) is documented in the case record.

[Source: Added at 19 Ok Reg 2199, eff 6-27-02]

### **340:2-5-124. Appeals to district court**

(a) **Revocation or denial.** When the decision of the Oklahoma Department of Human Services (DHS) to revoke or deny a license to operate a child care facility is upheld, the administrative hearing officer (AHO) informs the appealing party that an appeal to district court may be

filed within 10-calendar days after the decision is rendered.

(b) **Emergency orders.** When the DHS decision is upheld, the AHO informs the appealing party that an appeal may be filed in the district court within 10-calendar days after the decision is rendered.

(c) **Recording on Child Care Restricted Registry.** When the DHS decision is to record an individual on the Child Care Restricted Registry, the AHO informs the registrant that an appeal to district court may be filed within 10-calendar days after the decision is rendered.

[Source: Added at 19 Ok Reg 2199, eff 6-27-02 ; Amended at 33 Ok Reg 1587, eff 9-15-16]

## **SUBCHAPTER 7. OFFICE OF INSPECTOR GENERAL**

### **PART 1. RESPONSIBILITIES AND FUNCTIONS**

#### **340:2-7-1. Purpose, scope, and authority**

(a) **Purpose and scope.** The purpose of this Subchapter is to outline the responsibilities and functions of the Office of Inspector General (OIG). OIG is charged with oversight and preservation of the integrity of Oklahoma Department of Human Services (OKDHS) programs and services through prevention, investigation, and detection of waste, fraud, and abuse. OIG also investigates other criminal activity against OKDHS or its programs that is not defined as fraud. OIG is responsible for auditing grant recipients and vendors, as well as OKDHS divisions and units for program compliance and performance.

(b) **Authority.** OIG was established in 1979 and functions under:

- (1) Part 235.100 of Title 45 of the Code of Federal Regulations (45 CFR 235.110);
- (2) 7 CFR 273.16;
- (3) 42 CFR 455.12-23; and
- (4) Section 162.4 of Title 56 of the Oklahoma Statutes (56 O.S. § 162.4).

[Source: Amended at 12 Ok Reg 3520, eff 6-16-95 (emergency); Amended at 13 Ok Reg 2597, eff 6-28-96 ; Amended at 28 Ok Reg 1695, eff 7-1-11]

#### **340:2-7-2. Definitions**

The following words and terms, when used in this Subchapter, shall have the following meanings, unless the text clearly indicates otherwise:

**"Abuse"** means to make excessive or improper use of a thing, or to employ it in a manner contrary to the material or legal rules for its use; to make an extravagant or excessive use, as to abuse one's authority. Abuse may also occur through expressive carelessness in following written instructions or policy or in failing to take proper action that results in improper payments for public assistance, food benefits, vendor payments, or claims processing. Abuse through expressive carelessness may occur in eligibility determination, supervision review, data processing, claims processing, or program interpretation.

**"Fraud"** means the willful use of a deceitful practice or willful device with the intent to deprive another of his or her rights or to do the individual injury in some manner. As distinguished from negligence, fraud is always intentional. Fraud applied to contracts is the cause of an error on a material part of the contract designed to obtain some unjust advantage to one party or cause an inconvenience or loss to the other. Fraud, in the sense of a court of equity, properly includes all acts, omissions, and concealments that involve a breach of legal or equitable duty, trust, or confidence justly reposed, and are injurious to another, or by which an undue and unscrupulous advantage is taken of another.

[Source: Amended at 12 Ok Reg 3520, eff 6-16-95 (emergency); Amended at 13 Ok Reg 931, eff 1-24-96 ; Amended at 13 Ok Reg 2597, eff 6-28-96 ; Amended at 28 Ok Reg 1695, eff 7-1-11]

### **340:2-7-3. Supervision [REVOKED]**

[Source: Revoked at 12 Ok Reg 3520, eff 6-16-95 (emergency); Revoked at 12 Ok Reg 2597, eff 6-28-96]

### **340:2-7-4. Source of referrals [REVOKED]**

[Source: Revoked at 12 Ok Reg 3520, eff 6-16-95 (emergency); Revoked at 12 Ok Reg 2597, eff 6-28-96]

#### **340:2-7-4.1. Responsibilities of the Internal Audit Unit [REVOKED]**

[Source: Amended at 12 Ok Reg 3520, eff 6-16-95 (emergency); Amended at 13 Ok Reg 2597, eff 6-28-96 ; Revoked at 28 Ok Reg 1695, eff 7-1-11]

### **340:2-7-5. Responsibilities of the Investigations Unit [REVOKED]**

[Source: Amended at 12 Ok Reg 3520, eff 6-16-95 (emergency); Amended at 13 Ok Reg 931, eff 1-24-96 (emergency); Amended at 13 Ok Reg 2597, eff 6-28-96 ; Amended at 15 Ok Reg 2102, eff 5-5-98 (emergency); Amended at 16 Ok Reg 1008, eff 4-26-99 ; Revoked at 28 Ok Reg 1695, eff 7-1-11]

### **340:2-7-6. Responsibility of Department staff [REVOKED]**

[Source: Revoked at 12 Ok Reg 3520, eff 6-16-95 (emergency); Revoked at 12 Ok Reg 2597, eff 6-28-96]

### **340:2-7-7. Methods used in investigating instances of suspected fraud, abuse or error [REVOKED]**

[Source: Revoked at 12 Ok Reg 3520, eff 6-16-95 (emergency); Revoked at 13 Ok Reg 2597, eff 6-28-96]

### **340:2-7-8. On-going program monitoring [REVOKED]**

[Source: Revoked at 12 Ok Reg 3520, eff 6-16-95 (emergency); Revoked at 12 Ok Reg 2597, eff 6-28-96]

### **340:2-7-9. Commissioned agents [REVOKED]**

[Source: Added at 12 Ok Reg 3520, eff 6-16-95 (emergency); Added at 13 Ok Reg 2597, eff 6-28-96 ; Amended at 18 Ok Reg 664, eff 1-10-01 (emergency); Amended at 18 Ok Reg 1184, eff 5-11-01 ;

Amended at 28 Ok Reg 1695, eff 7-1-11 ; Revoked at 39 Ok Reg 1678, eff 9-15-22]

## **PART 2. USE OF FORCE [REVOKED]**

### **340:2-7-14. Training and firearms recertification requirements [REVOKED]**

[Source: Added at 12 Ok Reg 3520, eff 6-16-95 (emergency); Added at 13 Ok Reg 2597, eff 6-28-96 ; Amended at 18 Ok Reg 664, eff 1-10-01 (emergency); Amended at 18 Ok Reg 1184, eff 5-11-01 ; Revoked at 28 Ok Reg 1695, eff 7-1-11]

### **340:2-7-15. Restrictions on the possession of firearms by commissioned agents [REVOKED]**

[Source: Added at 12 Ok Reg 3520, eff 6-16-95 (emergency); Added at 13 Ok Reg 2597, eff 6-28-96 ; Amended at 18 Ok Reg 664, eff 1-10-01 (emergency); Amended at 18 Ok Reg 1184, eff 5-11-01 ; Revoked at 28 Ok Reg 1695, eff 7-1-11]

### **340:2-7-16. Firearms safety and responsibilities [REVOKED]**

[Source: Added at 12 Ok Reg 3520, eff 6-16-95 (emergency); Added at 13 Ok Reg 2597, eff 6-28-96 ; Amended at 18 Ok Reg 664, eff 1-10-01 (emergency); Amended at 18 Ok Reg 1184, eff 5-11-01 ; Revoked at 28 Ok Reg 1695, eff 7-1-11]

### **340:2-7-17. Use of force [REVOKED]**

[Source: Added at 12 Ok Reg 3520, eff 6-16-95 (emergency); Added at 13 Ok Reg 2597, eff 6-28-96 ; Amended at 18 Ok Reg 664, eff 1-10-01 (emergency); Amended at 18 Ok Reg 1184, eff 5-11-01 ; Amended at 28 Ok Reg 1695, eff 7-1-11 ; Revoked at 39 Ok Reg 1678, eff 9-15-22]

## **PART 3. AUDITS OF GRANT RECIPIENTS AND SUBRECIPIENTS**

### **340:2-7-25. Purpose**

The purpose of this Part is to describe the rules governing required audits of grant recipients and subrecipients contracted by the Oklahoma Department of Human Services (OKDHS) to perform services for OKDHS and its clients.

[Source: Added at 12 Ok Reg 3520, eff 6-16-95 (emergency); Added at 13 Ok Reg 2597, eff 6-28-96 ; Amended at 30 Ok Reg 620, eff 7-1-13]

### **340:2-7-26. Selection of auditors**

When a grant recipient or subrecipient contracted by the Oklahoma Department of Human Services selects an independent auditor to perform a required audit, the auditor is required to be a certified public accountant, a registered municipal accountant, or a licensed public accountant licensed prior to December 31, 1970.

[Source: Added at 12 Ok Reg 3520, eff 6-16-95 (emergency); Added at 13 Ok Reg 2597, eff 6-28-96 ; Amended at 30 Ok Reg 620, eff 7-1-13]

### **340:2-7-27. Audit scope**

(a) **Audit work requirements.** Required audits of grant recipients and subrecipients contracted by the Oklahoma Department of Human Services (OKDHS) must be organization-wide audits. Each OKDHS program area must ensure compliance with audit requirements and include audit requirements in its standard contract agreements. Audit work must meet:

- (1) applicable Government Auditing Standards established by the United States Government Accountability Office;
- (2) auditing directives specified in circulars issued by the United States Office of Management and Budget;
- (3) standards issued by the Financial Accounting Standards Board; and
- (4) standards issued by the American Institute of Certified Public Accountants.

(b) **Audit completion.** All audit work and report requirements must be completed no later than nine months from the fiscal year end of the recipient or subrecipient. An OKDHS division may require audit work and reporting requirements to be completed in a shorter time frame when stipulated by contract.

(c) **Audit working papers.** All audit working papers:

- (1) must be kept on file for three years or until all questioned items have been resolved;
- (2) must be available for inspection by the audited organization, the federal and state funding agency, and other authorized individuals; and
- (3) may be reviewed by the OKDHS Audit Oversight Committee.

[Source: Added at 12 Ok Reg 3520, eff 6-16-95 (emergency); Added at 13 Ok Reg 2597, eff 6-28-96 ; Amended at 30 Ok Reg 620, eff 7-1-13]

### **340:2-7-28. Audit report (report) content**

The audit report includes all reports required by the standards listed in Oklahoma Administrative Code 340:2-7-27(a) and any contractually specified requirements. The grant recipient or subrecipient submits the completed audit report to the Office of Inspector General within 30-calendar days of the report's issuance. The report may be emailed or sent by paper copy to the Internal Audit Administrator. When the grant recipient or subrecipient submits the report by paper copy, two copies of the report are sent to Internal Audit Administrator, Oklahoma Department of Human Services, Office of Inspector General, P.O. Box 25352, Oklahoma City, Oklahoma 73125. When noncompliance with grant agreement terms and conditions or with state and federal laws and regulations is reported, a plan for corrective action accompanies the audit report. The plan ensures corrective measures are completed within six months.

[Source: Added at 12 Ok Reg 3520, eff 6-16-95 (emergency); Added at 12 Ok Reg 2597, eff 6-28-96 ; Amended at 30 Ok Reg 620, eff 7-1-13 ; Amended at 39 Ok Reg 1678, eff 9-15-22]

### **340:2-7-29. Audit report distribution [REVOKED]**

[Source: Added at 12 Ok Reg 3520, eff 6-16-95 (emergency); Added at 12 Ok Reg 2597, eff 6-28-96 ; Amended at 30 Ok Reg 620, eff 7-1-13 ; Revoked at 39 Ok Reg 1678, eff 9-15-22]

### **340:2-7-30. Resolution of audit findings [REVOKED]**

[Source: Added at 12 Ok Reg 3520, eff 6-16-95 (emergency); Added at 12 Ok Reg 2597, eff 6-28-96 ; Amended at 30 Ok Reg 620, eff 7-1-13 ; Revoked at 39 Ok Reg 1678, eff 9-15-22]

## **SUBCHAPTER 8. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) PRIVACY RULE**

### **340:2-8-1. Legal basis, purpose, and hybrid designation**

(a) Part 160, Sections 160.101 through 160.552, and Subparts A, Sections 164.102 through 164.106, and E, Sections 164.500 through 164.534 of Part 164 of Title 45 of the Code of Federal Regulations (C.F.R.) constitute the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule that provides protection for the privacy of health information.

(b) The purpose of this Subchapter is to describe the Oklahoma Department of Human Services (DHS) privacy policies contained in the HIPAA Privacy Rule. DHS privacy policies are intended to:

- (1) protect clients' medical records and other personal health information;
- (2) give clients more control over their protected health information (PHI);
- (3) set boundaries on the use and disclosure of PHI; and
- (4) hold violators accountable.

(c) Employees who violate DHS privacy policies are disciplined, per DHS:2-1-7(i)(2)(A) and may be subject to sanctions set forth by the Department of Health and Human Services.

(d) DHS is designated as a HIPAA hybrid entity.

(1) DHS is a single legal entity comprised of several components, some of which provide HIPAA-covered functions. Therefore, DHS is a hybrid entity that provides both HIPAA-covered and non-covered functions as part of its business operations.

(2) DHS Developmental Disabilities Services, the ADvantage Administration Unit, Office of Inspector General, and Adult and Family Services are designated by DHS as covered components of the hybrid entity, per Section 164.105(a)(2)(iii)(C) of Title 45 of the C.F.R. All other DHS components are not HIPAA-covered.

[Source: Added at 20 Ok Reg 2907, eff 8-21-03 (emergency); Added at 21 Ok Reg 784, eff 4-26-04 ; Amended at 36 Ok Reg 1777, eff 9-16-19]

### **340:2-8-2. Definitions**

The following words and terms, when used in this Subchapter shall have the following meanings, unless the context clearly indicates otherwise:

**"Authorization"** means, per Section 164.508(c) of Title 45 of the Code of Federal Regulations (45 C.F.R. § 164.508(c)), a document that contains:

(A) a description of the information to be used or disclosed that identifies the information in a specific and meaningful fashion;

(B) the name or other specific identification of the person(s) or class of persons authorized to make the requested use or disclosure;

(C) the name or other specific identification of the person(s) or class of persons to whom the Oklahoma Department of Human Services DHS may make the requested use or disclosure;

(D) a description of each purpose of the requested use or disclosure. The statement "at the request of the individual" is a sufficient description of the purpose when an individual initiates the authorization and does not or, elects not to provide, a statement of the purpose;

(E) an expiration date or an expiration event that relates to the individual or the purpose of the use or disclosure.

The statement "end of the research study," "none," or similar language is sufficient when the authorization is for a use or disclosure of protected health information (PHI) for research, including the creation and maintenance of a research database or research repository;

(F) the individual's signature and date. When the authorization is signed by the individual's personal representative, a description of the representative's authority to act for the individual must be provided; and

(G) the individual's right to revoke the authorization in writing.

**"Covered function"** means, per 45 C.F.R. § 164.103, a covered entity function of which the performance makes the entity a health plan, health care provider, or health care clearinghouse. Determination of SoonerCare (Medicaid) eligibility and coverage are DHS-covered functions.

**"Disclosure"** means, per 45 C.F.R. § 160.103, the PHI release to another entity or individual.

**"Health care component"** means, per 45 C.F.R. § 164.103, a component or combination of components of a hybrid entity designated by a hybrid entity, per 45 C.F.R. § 164.105(a)(2)(iii)(D).

**"Health care operations"** means, per 45 C.F.R. § 164.501, certain administrative, financial, legal, and quality improvement activities that are necessary to run and support an organization's core treatment and payment functions. Some common activities include quality assessment activities, case management, care coordination, and fraud and abuse investigations.

**"Health information"** means, per 45 C.F.R. § 160.103, any information including genetic information, whether verbalized or recorded in any form or medium that:

- (A) is created or received by a health care plan, health care provider, health care clearinghouse, public health authority, employer, life insurer, or school or university; and
- (B) relates to the past, present, or future:
  - (i) physical or mental health or condition of an individual;
  - (ii) provision of health care to an individual; or
  - (iii) payment for the provision of health care to an individual.

**"Hybrid entity"** means, per 45 C.F.R. § 164.103, a single legal entity:

- (A) that is a covered entity;
- (B) whose business activities include both covered- and non-covered functions; and
- (C) that designates health care components, per 45 C.F.R. § 164.105(a)(2)(iii)(D).

**"Individually identifiable health information"** means, per 45 C.F.R. § 160.103, information that is a subset of health information, including demographic information collected from an individual, and:

- (A) is created or received by a health plan, health care provider, health care clearinghouse, or employer;
- (B) relates to the past, present, or future:
  - (i) physical or mental health or condition of an individual;
  - (ii) provision of health care to an individual; or
  - (iii) payment for the provision of health care to an individual; and
- (C) identifies the individual or there is a reasonable basis to believe the information can be used to identify him or her.

**"Payment"** means, per 45 C.F.R. § 164.501, the activities undertaken by a:

- (A) health plan or health care provider to obtain or provide reimbursement for the provision of health care; or
- (B) health plan to obtain premiums or to determine or fulfill its responsibility for coverage and provision of benefits under the health plan, except as prohibited, per 45 C.F.R. § 164.502(a)(5)(i).

**"Personal representative"** means, per 45 C.F.R. § 164.502, an individual, who:

- (A) is a parent, legal guardian, or legal custodian appointed by a court;
- (B) has the authority to act on behalf of a deceased individual or his or her estate;
- (C) is given authority to act on behalf of an individual with regard to health care through a power of attorney, medical directive, or guardianship; or



(D) is designated by an adult as his or her personal representative with regard to health care. A personal representative is treated the same as the client is treated.

**"Privacy notice"** means, per 45 C.F.R. § 164.520(b), a form that notifies an individual:

- (A) how DHS handles his or her health information; and
- (B) what his or her rights are regarding protected health information.

**"Protected health information (PHI)"** means, per 45 C.F.R. § 160.103, any health-related information that is used to individually identify a person by virtue of its containing one or more individual identifiers, such as name, Social Security number, phone number, case number, or postal Zip code, and applies to information transmitted or maintained in any form or medium, including electronic, paper, or verbal.

**"Treatment"** means, per 45 C.F.R. § 164.501, the provision, coordination, or management of health care and related services. This includes consultation between health care providers regarding a client or the referral of a client from one health care provider to another.

**"Use"** means with respect to PHI, per 45 C.F.R. § 160.103, the sharing, employment, application, utilization, examination, or analysis of information within an entity that maintains such information.

[Source: Added at 20 Ok Reg 2907, eff 8-21-03 (emergency); Added at 21 Ok Reg 784, eff 4-26-04 ; Amended at 36 Ok Reg 1777, eff 9-16-19]

### **340:2-8-3. Training**

Oklahoma Department of Human Services (DHS) offers online training modules regarding the Health Insurance Portability and Accountability (HIPAA) Privacy Rule and how the regulations relate to specific job functions. Every DHS employee whose job function is affected by the Privacy Rule is required to complete an available training course.

[Source: Amended at 36 Ok Reg 1777, eff 9-16-19]

### **340:2-8-4. Client rights to access personal health information (PHI)**

(a) Oklahoma Department of Human Services (DHS) clients, per Section 164.524 of Title 45 of the Code of Federal Regulations (45 C.F.R. § 164.524), have the right to:

- (1) access, inspect, and obtain a copy of their own PHI in DHS files or records consistent with federal and state law, except for:

- (A) psychotherapy notes that are not specifically released by the originator of the notes; and
- (B) information compiled for use in civil, criminal, or administrative proceedings;

- (2) rebut a denial of access to their PHI by requesting a review in writing to the DHS privacy officer. When a client requests a review, the DHS privacy officer promptly acts on his or her request and arranges for the review;

(3) receive an accounting of disclosures DHS made of their PHI for up to six years prior to the requesting date by completing Form 13HI004E, Request for Accounting of Disclosures. This does not include disclosures made for the purposes of treatment, payment, or health care operations activities or of PHI previously authorized by the client for use or disclosure. After receiving Form 13HI004E, DHS staff completes and sends Form 13HI005E, Accounting of Disclosures, to the client within 60-calendar days of receiving the request; and

(4) submit complaints if they believe or suspect that DHS improperly used or disclosed their PHI. When a client or his or her personal representative submits a complaint, per Oklahoma Administrative Code 340:2-8-9, DHS staff gives the client the DHS privacy officer's name and phone number. The privacy officer:

(A) reviews the complaint;

(B) makes a decision regarding the complaint;

(C) documents the decision; and

(D) informs the client of the decision in writing.

(b) Clients may ask DHS to take specific actions regarding the use or disclosure of their PHI, per 45 C.F.R. § 164.522, and DHS may approve or deny the request. Specifically, clients have the right to request that DHS:

(1) restrict uses and disclosures of their PHI for treatment, payment, and operations;

(2) provide information by alternative means, such as email, fax, mail, or phone, or at alternative locations by completing Form 13HI006E, Request for Alternative Means of Communication. DHS terminates the agreement to communicate by alternative means, when:

(A) the client agrees to or requests termination; or

(B) DHS is unable to contact the client by the method requested or at the designated location; and

(3) amend their PHI, per 45 C.F.R. § 164.526 by completing Form 13HI007E, Request for Amendment of Protected Health Information.

(A) When DHS grants the amendment, DHS staff:

(i) makes the appropriate amendment to the client's PHI;

(ii) provides timely notice to the client that the amendment was accepted; and

(iii) seeks the client's agreement to notify other relevant persons or agencies with whom DHS has cause to share the amended information.

(B) DHS denies the client's request for amendment, when the information:

(i) did not originate from DHS, unless the client provides a reasonable basis to believe that the originator of such information is no longer available to act on the requested amendment; or

(ii) is accurate and complete.

(C) When DHS staff denies the amendment, a written denial is sent to the client explaining the reason for the

denial within 60-calendar days of the request for an amendment. The denial explains the client's right to submit a written statement disagreeing with the denial and how to file the statement. When the client files a statement disagreeing with the denial, DHS staff has the right to complete a written rebuttal to the client's statement and sends a copy of the rebuttal to the client.

(c) Clients have the right to receive Form 13HI001E, Privacy Notice.

[Source: Added at 20 Ok Reg 2907, eff 8-21-03 (emergency); Added at 21 Ok Reg 784, eff 4-26-04 ; Amended at 36 Ok Reg 1777, eff 9-16-19]

#### **340:2-8-5. Privacy officer**

(a) The Oklahoma Department of Human Services (DHS) designated a privacy officer to perform the required functions, per Section 164.530 of Title 45 of the Code of Federal Regulations. The contact information is: Oklahoma Department of Human Services, Privacy Officer, PO Box 25352, Oklahoma City, Oklahoma 73125.

(b) The privacy officer is responsible for:

(1) developing and implementing DHS privacy policy;

(2) making decisions regarding the use and or disclosure of protected health information (PHI) when requested for the purpose of:

(A) judicial and administrative proceedings;

(B) law enforcement investigations;

(C) research; and

(D) marketing;

(3) reviewing a denial for a client's access to his or her own PHI for reasons indicated in Oklahoma Administrative Code 340:2-8-4(a)(1)(C), and taking appropriate action following the review;

(4) receiving complaints regarding the use or disclosure of PHI from external and internal sources, and taking the appropriate action following the review;

(5) ensuring proper business associate agreements contain the appropriate language and provisions as required by the Privacy Rule; and

(6) receiving complaints regarding business associate activities or practices, and taking appropriate action following the review.

[Source: Added at 20 Ok Reg 2907, eff 8-21-03 (emergency); Added at 21 Ok Reg 784, eff 4-26-04 ; Amended at 36 Ok Reg 1777, eff 9-16-19]

#### **340:2-8-6. Uses and disclosures without authorization**

Unless prohibited or limited by federal or state laws, per Section 164.512 of Title 45 of the Code of Federal Regulations, Oklahoma Department of Human Services (DHS) staff may use or disclose protected health information (PHI) without written authorization, per (1) through (11) of this Section.

(1) **Individual access.** DHS staff may disclose information to individuals who request disclosure of their own PHI, per Oklahoma Administrative Code 340:2-8-4(a)(1).

(2) **Required by law.** DHS staff may use or disclose PHI without authorization when the law requires such disclosure and the use or disclosure complies with, and is limited to, the relevant requirements of such law.

(3) **Treatment, payment, or health care operations.** DHS staff may use or disclose PHI without authorization:

(A) for its own treatment, payment, or health care operations; or

(B) to another covered entity or health care provider for the payment activities of the entity that receives the PHI

(4) **Psychotherapy notes.** DHS staff may use or disclose psychotherapy notes generated by DHS:

(A) in training programs where students, trainees, or practitioners in mental health services learn, under supervision, to practice or improve their skills;

(B) when a health oversight agency uses or discloses in connection with oversight of the originator of the notes; or

(C) to the extent authorized under state law to defend DHS in a legal action or other proceeding brought by an individual.

(5) **Public health activities.** DHS staff may disclose an individual's PHI to appropriate entities or persons for governmental public health activities and purposes including, but not limited to, a:

(A) governmental, public-health authority authorized by law to collect or receive the PHI for the purpose of preventing or controlling disease, injury, or disability. This includes reporting vital events, such as:

(i) births and deaths; or

(ii) abuse or neglect of a vulnerable adult;

(B) governmental, public health authority or other appropriate government authority authorized by law to receive child abuse or neglect reports; or

(C) person who may have been exposed to a communicable disease or may be at risk of contracting or spreading a disease or condition, when DHS is authorized by law to notify such person as necessary in conducting a public health intervention or investigation.

(6) **Health oversight activities.** DHS staff may disclose PHI for health oversight activities authorized by law, including audits; civil, criminal, or administrative investigations, prosecutions, or actions; licensing or disciplinary actions; SoonerCare (Medicaid) fraud; or other activities necessary for oversight.

(7) **Judicial and administrative proceedings.** Unless prohibited by applicable federal and state law, DHS staff may disclose PHI for judicial or administrative proceedings as required by law, in response to a court order, a subpoena, a discovery request, or other lawful process.

(8) **Law enforcement purposes.** DHS staff discloses PHI only when required by federal or state laws.

- (9) **Deceased persons.** DHS staff discloses PHI to a coroner or medical examiner only when required by federal or state laws.
- (10) **Organ or tissue donation.** When a client is an organ donor, DHS staff may disclose PHI to an entity that participates in transplantation activities.
- (11) **To avert a serious threat to health or safety.** DHS staff discloses PHI, when:
- (A) he or she believes in good faith that the PHI is necessary to prevent or lessen a serious or imminent threat to the health or safety of a person or the public; and
  - (B) the report is disclosed to a person(s) reasonably able to prevent or lessen a serious or imminent threat to the health or safety of a person or the public, including the target of the threat.

[Source: Added at 20 Ok Reg 2907, eff 8-21-03 (emergency); Added at 21 Ok Reg 784, eff 4-26-04 ; Amended at 36 Ok Reg 1777, eff 9-16-19]

#### **340:2-8-7. Authorization**

- (a) A valid authorization is required to disclose protected health information (PHI) unless it is:
- (1) for the purposes of treatment, payment, or health care operations; or
  - (2) listed in Oklahoma Administrative Code (OAC) 340:2-8-6.
- (b) An authorization is considered valid, when:
- (1) it contains the elements described, per Section 164.508(c) of Title 45 of the Code of Federal Regulations and OAC 340:2-8-2;
  - (2) the expiration date has not passed; and
  - (3) the authorization is signed by the client, parent, guardian, or client's personal representative.
- (c) A client may only revoke an authorization in writing.

[Source: Added at 20 Ok Reg 2907, eff 8-21-03 (emergency); Added at 21 Ok Reg 784, eff 4-26-04 ; Amended at 36 Ok Reg 1777, eff 9-16-19]

#### **340:2-8-8. Disclosures to friends and relatives**

- (a) When the client is informed in advance and given the opportunity to agree or to refuse or restrict the disclosure of protected health information (PHI), Oklahoma Department of Human Services (DHS) staff may disclose PHI to the client's friends and relatives to the extent the client allows. The disclosure must only reveal PHI that directly relates to such person's involvement with the client's care or payment for such care.
- (b) When the client is not present, or the opportunity to object to the disclosure cannot practicably be provided due to the client's incapacity or an emergency situation DHS staff determines, using professional judgment, if the disclosure is in the client's best interest. When disclosure is in the client's best interest, the minimum necessary disclosure may be made. When disclosure is not in the client's best interest, no disclosure is made.

(c) Verbal permission to disclose PHI to friends and relatives is not sufficient when the client is referred to or receiving substance abuse treatment, mental health, or vocational rehabilitation services. Written authorization is required under those circumstances.

[Source: Added at 20 Ok Reg 2907, eff 8-21-03 (emergency); Added at 21 Ok Reg 784, eff 4-26-04 ; Amended at 36 Ok Reg 1777, eff 9-16-19]

### **340:2-8-9. Personal representative**

(a) A personal representative must be authorized under state law or by the client to act in the client's behalf with respect to use or disclosure of protected health information (PHI).

(1) Personal representatives may include:

- (A) an individual granted durable power of attorney for health care;
- (B) an individual appointed as a health care proxy;
- (C) a court appointed guardian who has authority over the care and management of the person, estate, or both;
- (D) a court appointed executor or administrator of a deceased individual's estate;
- (E) an Oklahoma Department of Human Services (DHS) Adult Protective Services employee investigating the abuse or neglect of an alleged vulnerable adult;
- (F) a DHS Child Welfare Services employee who is responsible for a child in DHS custody; or
- (G) a DHS Office of Client Advocacy employee.

(2) A parent, legal guardian, or legal custodian appointed by a court may act as a minor's personal representative except when the minor acts on his or her behalf, per (A) through (G) of this paragraph. A minor acts on his or her own behalf when he or she:

- (A) is married;
- (B) has a dependent child;
- (C) is emancipated;
- (D) is separated from his or her parents or legal guardian and is not supported by them;
- (E) is or was pregnant; or
- (F) is seeking confidential treatment, diagnosis, or prevention services for a communicable disease or drug or alcohol use or abuse.

(b) DHS treats a personal representative the same as the client is treated, unless:

- (1) there is reasonable belief that the client was or may be subjected to domestic violence, abuse, or neglect by the personal representative; or
- (2) by using professional judgment, it is determined that it is not in the client's best interest to treat the person as a personal representative.

[Source: Added at 20 Ok Reg 2907, eff 8-21-03 (emergency); Added at 21 Ok Reg 784, eff 4-26-04 ; Amended at 36 Ok Reg 1777, eff 9-16-19]

### **340:2-8-10. Minimum necessary standards**

The Oklahoma Department of Human Services (DHS) limits requests for, use of, and disclosure of protected health information (PHI) to that which is reasonably necessary to accomplish the intended purpose of the use, disclosure, or request, per Section 164.502(b) of Title 45 of the Code of Federal Regulations (45 C.F.R. § 164.502(b)). This minimum necessary standard is not used to impede the essential activities of treatment, payment, or health care operations.

(1) The minimum necessary standard applies to:

(A) the use of PHI within DHS. Employees who:

(i) do not need PHI to perform their job duties must not access PHI; and

(ii) need PHI to perform their job duties must access PHI to the least extent necessary;

(B) disclosure of PHI to a third party in response to a request; and

(C) the request of PHI from another covered entity.

(2) The minimum necessary standard does not apply to disclosures made:

(A) to or requests by a health care provider for treatment;

(B) to the individual;

(C) with a valid authorization, per 45 C.F.R. § 164.508(c);

(D) to the United States Secretary of Health and Human Services for the purposes of compliance with the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule; or

(E) for uses required by law.

[Source: Added at 20 Ok Reg 2907, eff 8-21-03 (emergency); Added at 21 Ok Reg 784, eff 4-26-04 ; Amended at 36 Ok Reg 1777, eff 9-16-19]

### **340:2-8-11. Safeguarding protected health information**

(a) When Oklahoma Department of Human Services (DHS) staff is familiar with the person or entity requesting protected health information (PHI), DHS verifies the authority of the person or entity to receive the information. When DHS staff is not familiar with the person or entity requesting PHI, DHS staff verifies the identity and authority of the person or entity to receive the information, per Section 164.514(h) of Title 45 of the Code of Federal Regulations.

(b) DHS staff must exercise care to avoid incidental disclosures of PHI through verbal communications.

(c) Appointment reminders may be left on answering machines and voice mail systems, unless the client completes Form 13HI006E, Request for Alternative Means of Communication, or provides a written statement requesting an alternate means of communication.

(d) DHS staff may fax PHI when the PHI is sent with Form 13HI008E, Health Information Coversheet, and:

(1) only the minimum necessary PHI is sent;

(2) the information is not sensitive or, when sensitive, it is an emergency situation; and

- (3) staff makes reasonable efforts to ensure the fax transmission is sent to the correct destination.
- (e) PHI is only photocopied when necessary for treatment, payment, or health care operations when authorized by the client or the client's personal representative or when required by law.
- (f) PHI placed in case records or other records must be filed and kept safe from unauthorized access.
- (g) Clients and visitors must be appropriately escorted in a secured area to ensure unauthorized PHI access does not occur.
- (h) Computer monitors must be positioned to prevent unauthorized PHI observation or access and unattended computers must be returned to a password protected screen saver.
- (i) Correspondence, including email and fax that includes PHI is allowed when limited to the minimum necessary standard, per Oklahoma Administrative Code 340:2-8-10.

[Source: Added at 20 Ok Reg 2907, eff 8-21-03 (emergency); Added at 21 Ok Reg 784, eff 4-26-04 ; Amended at 36 Ok Reg 1777, eff 9-16-19]

#### **340:2-8-12. Business associate**

- (a) A business associate, per Section 160.103 of Title 45 of the Code of Federal Regulations (45 C.F.R. § 160.103), is defined as an individual or entity who:
  - (1) performs on behalf of the Oklahoma Department of Human Services (DHS), any function or activity involving the use or disclosure of protected health information (PHI); and
  - (2) is not a member of the DHS workforce.
- (b) The definition of "function or activity" includes:
  - (1) claims processing or administration;
  - (2) data analysis and data processing;
  - (3) utilization review;
  - (4) quality assurance; and
  - (5) billing, actuarial accounting, and other financial services.
- (c) DHS discloses a client's PHI to a business associate, and allows a business associate to create or receive PHI on behalf of DHS.
- (d) DHS enters into a contractual agreement with a business associate, per 45 C.F.R. § 164.504(e). The contract includes the appropriate language and provisions required by the federal Health Insurance Portability and Accountability Act Privacy Rule regarding the proper use and disclosure of PHI.

[Source: Added at 20 Ok Reg 2907, eff 8-21-03 (emergency); Added at 21 Ok Reg 784, eff 4-26-04 ; Amended at 36 Ok Reg 1777, eff 9-16-19]

#### **340:2-8-13. Uses and disclosures for research or marketing purposes**

Per Section 164.508(a) of Title 45 of the Code of Federal Regulations, the Oklahoma Department of Human Services must obtain a valid authorization for any use or disclosure of protected health information (PHI) to outside entities for: research or marketing purposes.



[Source: Added at 20 Ok Reg 2907, eff 8-21-03 (emergency); Added at 21 Ok Reg 784, eff 4-26-04 ; Amended at 36 Ok Reg 1777, eff 9-16-19]

#### **340:2-8-14. Privacy complaints**

(a) A client or employee wishing to file a complaint regarding the use or disclosure of protected health information (PHI) is instructed to contact the Oklahoma Department of Human Services (DHS) privacy officer.

(b) A client or employee who requests an alternative means of filing a complaint regarding the use or disclosure of PHI is instructed to contact the United States Department of Health and Human Services.

(c) Per Section 160.316 of Title 45 of the Code of Federal Regulations, DHS must not intimidate, threaten, coerce, discriminate against, or take other retaliatory action against any individual for:

- (1) filing a privacy violation complaint;
- (2) testifying, assisting, or participating in an investigation, compliance review, proceeding, or hearing conducted by a government enforcement agency; or
- (3) opposing any act or practice made unlawful by the Health Insurance Portability and Accountability Act Privacy Rule, provided the manner of opposition does not involve a PHI disclosure.

[Source: Added at 20 Ok Reg 2907, eff 8-21-03 (emergency); Added at 21 Ok Reg 784, eff 4-26-04 ; Amended at 36 Ok Reg 1777, eff 9-16-19]

## **SUBCHAPTER 9. OVERPAYMENTS [REVOKED]**

### **340:2-9-1. Purpose [REVOKED]**

[Source: Revoked at 17 Ok Reg 1240, eff 6-1-00]

### **340:2-9-2. Payments and Services Unit [REVOKED]**

[Source: Revoked at 17 Ok Reg 1240, eff 6-1-00]

### **340:2-9-3. Referrals [REVOKED]**

[Source: Revoked at 17 Ok Reg 1240, eff 6-1-00]

### **340:2-9-4. Decision [REVOKED]**

[Source: Revoked at 17 Ok Reg 1240, eff 6-1-00]

### **340:2-9-5. Controls [REVOKED]**

[Source: Revoked at 17 Ok Reg 1240, eff 6-1-00]

**340:2-9-6. Procedures for cases suspected of willful misrepresentation or Fraud [REVOKED]**

[Source: Revoked at 17 Ok Reg 1240, eff 6-1-00]

**340:2-9-7. Determination of amount of overpayment [REVOKED]**

[Source: Revoked at 17 Ok Reg 1240, eff 6-1-00]

**340:2-9-8. Payments [REVOKED]**

[Source: Revoked at 17 Ok Reg 1240, eff 6-1-00]

**340:2-9-9. Legal Division [REVOKED]**

[Source: Revoked at 17 Ok Reg 1240, eff 6-1-00]

**340:2-9-10. Restitution case status [REVOKED]**

[Source: Revoked at 17 Ok Reg 1240, eff 6-1-00]

**340:2-9-11. Social services - notification [REVOKED]**

[Source: Revoked at 17 Ok Reg 1240, eff 6-1-00]

**340:2-9-12. Client notification [REVOKED]**

[Source: Revoked at 17 Ok Reg 1240, eff 6-1-00]

**340:2-9-13. Vendor notification [REVOKED]**

[Source: Revoked at 17 Ok Reg 1240, eff 6-1-00]

**340:2-9-14. Collections [REVOKED]**

[Source: Revoked at 17 Ok Reg 1240, eff 6-1-00]

**340:2-9-15. Children's Services Unit [REVOKED]**

[Source: Revoked at 17 Ok Reg 1240, eff 6-1-00]

**SUBCHAPTER 11. FINANCIAL SERVICES**

**PART 1. AGENCY FUNDS [REVOKED]**

### **340:2-11-1. Purpose [REVOKED]**

[Source: Revoked at 10 Ok Reg 1349, eff 3-22-93 (emergency); Revoked at 10 Ok Reg 2785, eff 6-25-93]

### **340:2-11-2. Funds and accounts [REVOKED]**

[Source: Revoked at 10 Ok Reg 1349, eff 3-22-93 (emergency); Revoked at 10 Ok Reg 2785, eff 6-25-93]

### **340:2-11-3. Disbursing Funds [REVOKED]**

[Source: Revoked at 10 Ok Reg 1349, eff 3-22-93 (emergency); Revoked at 10 Ok Reg 2785, eff 6-25-93]

### **340:2-11-4. Federal funding of Department programs [REVOKED]**

[Source: Revoked at 10 Ok Reg 1349, eff 3-22-93 (emergency); Revoked at 10 Ok Reg 2785, eff 6-25-93]

## **PART 3. APPROPRIATION OF FUNDS [REVOKED]**

### **340:2-11-25. Appropriation of the Human Services Fund [REVOKED]**

[Source: Revoked at 10 Ok Reg 1349, eff 3-22-93 (emergency); Revoked at 10 Ok Reg 2785, eff 6-25-93]

### **340:2-11-26. Appropriation of juvenile detention improvement fund [REVOKED]**

[Source: Revoked at 10 Ok Reg 1349, eff 3-22-93 (emergency); Revoked at 10 Ok Reg 2785, eff 6-25-93]

### **340:2-11-27. Appropriations of federal funds [REVOKED]**

[Source: Revoked at 10 Ok Reg 1349, eff 3-22-93 (emergency); Revoked at 10 Ok Reg 2785, eff 6-25-93]

## **PART 5. FISCAL OPERATIONS [REVOKED]**

### **340:2-11-45. Authorization and disbursement of payments [REVOKED]**

[Source: Revoked at 10 Ok Reg 1349, eff 3-22-93 (emergency); Revoked at 10 Ok Reg 2785, eff 6-25-93]

### **340:2-11-46. Assistance payments [REVOKED]**

[Source: Revoked at 10 Ok Reg 1349, eff 3-22-93 (emergency); Revoked at 10 Ok Reg 2785, eff 6-25-93]

### **340:2-11-47. Medical assistance [REVOKED]**

[Source: Revoked at 10 Ok Reg 1349, eff 3-22-93 (emergency); Revoked at 10 Ok Reg 2785, eff 6-25-93]

**340:2-11-48. Rehabilitation assistance [REVOKED]**

[Source: Revoked at 10 Ok Reg 1349, eff 3-22-93 (emergency); Revoked at 10 Ok Reg 2785, eff 6-25-93]

**340:2-11-49. Food stamp program [REVOKED]**

[Source: Revoked at 10 Ok Reg 1349, eff 3-22-93 (emergency); Revoked at 10 Ok Reg 2785, eff 6-25-93]

**340:2-11-50. Processing and payment of miscellaneous administrative and provider claims [REVOKED]**

[Source: Revoked at 10 Ok Reg 1349, eff 3-22-93 (emergency); Revoked at 10 Ok Reg 2785, eff 6-25-93]

**340:2-11-51. Department payroll [REVOKED]**

[Source: Revoked at 10 Ok Reg 1349, eff 3-22-93 (emergency); Revoked at 10 Ok Reg 2785, eff 6-25-93]

**340:2-11-52. Warrants [REVOKED]**

[Source: Revoked at 10 Ok Reg 1349, eff 3-22-93 (emergency); Revoked at 10 Ok Reg 2785, eff 6-25-93]

**340:2-11-53. Overpayments [REVOKED]**

[Source: Revoked at 10 Ok Reg 1349, eff 3-22-93 (emergency); Revoked at 10 Ok Reg 2785, eff 6-25-93]

**340:2-11-54. Maintenance and retention of records [REVOKED]**

[Source: Revoked at 10 Ok Reg 1349, eff 3-22-93 (emergency); Revoked at 10 Ok Reg 2785, eff 6-25-93]

**340:2-11-55. Audit of finance records [REVOKED]**

[Source: Revoked at 10 Ok Reg 1349, eff 3-22-93 (emergency); Revoked at 10 Ok Reg 2785, eff 6-25-93]

**PART 7. PREPARATION OF COST ALLOCATION PLAN  
[REVOKED]**

**340:2-11-75. Cost Allocation Plan [REVOKED]**

[Source: Revoked at 10 Ok Reg 1349, eff 3-22-93 (emergency); Revoked at 10 Ok Reg 2785, eff 6-25-93]

**340:2-11-76. Cost Allocation responsibilities [REVOKED]**

[Source: Revoked at 10 Ok Reg 1349, eff 3-22-93 (emergency); Revoked at 10 Ok Reg 2785, eff 6-25-93]

### **340:2-11-77. Contents of Cost Allocation Plan [REVOKED]**

[Source: Revoked at 10 Ok Reg 1349, eff 3-22-93 (emergency); Revoked at 10 Ok Reg 2785, eff 6-25-93]

### **340:2-11-78. Submission and approval [REVOKED]**

[Source: Revoked at 10 Ok Reg 1349, eff 3-22-93 (emergency); Revoked at 10 Ok Reg 2785, eff 6-25-93]

## **PART 8. GENERAL PROVISIONS**

### **340:2-11-79. Purpose [REVOKED]**

[Source: Revoked at 10 Ok Reg 1349, eff 3-22-93 (emergency); Revoked at 10 Ok Reg 2785, eff 6-25-93 ; Amended at 23 Ok Reg 1808, eff 7-1-06 ; Revoked at 38 Ok Reg 2143, eff 9-15-21]

#### **340:2-11-79.1. Legal base and purpose**

(a) Financial Services (FS) performs centralized accounting, fiscal reporting, claims auditing, payroll, and budgeting functions for Oklahoma Human Services (OKDHS).

(b) OKDHS operates its financial responsibilities in accordance with federal and state statutes and regulations listed in (1) through (10) of this subsection.

(1) Title 31 of the United States Code (U.S.C.) as amended sets forth federal cash management requirements.

(2) Title 62 of the Oklahoma Statutes as interpreted by the Procedures Manual of the Office of State Comptroller located in the Oklahoma Office of State Finance describes fiscal procedures.

(A) Section 41.21, paragraph B describes the pre-audit system and claim settlement procedures.

(B) Section 89.2 sets forth collateralization procedures.

(C) Section 203 establishes the Federal Disallowance Fund.

(3) The United States Office of Management and Budget (OMB) Circular A-87 sets forth requirements for a schedule of federal financial assistance.

(4) Sections 2011 and 2025 of Title 7 of U.S.C., interpreted by Sections 271 through 282 and 3015 of Title 7 of the Code of Federal Regulations provides for financial Supplemental Nutrition Assistance Program (SNAP) management.

(5) Section 24 of Title 56 of the Oklahoma Statutes (56 O.S. § 24) sets forth state SNAP requirements.

(6) 74 O.S. §§ 85 et seq., the Oklahoma Central Purchasing Act, describes procedures for procurement of supplies, services, and property.

(7) OMB Circular A-128 outlines the Single Audit Act requirements.

(8) 74 O.S. §§ 500.1 through 500.20 provide statutory authorization and limitations for travel reimbursement.

(9) Section 218 of Title II of the Federal Social Security Act provides for Social Security coverage for state and local employees.

(10) 74 O.S. § 840, the Oklahoma Personnel Act, describes procedures regarding staff pay.

[Source: Added at 23 Ok Reg 1808, eff 7-1-06 ; Amended at 38 Ok Reg 2143, eff 9-15-21]

### **340:2-11-80. Funds and accounts [REVOKED]**

[Source: Added at 10 Ok Reg 1349, eff 3-22-93 (emergency); Added at 10 Ok Reg 2785, eff 6-25-93 ; Amended at 15 Ok Reg 868, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Revoked at 23 Ok Reg 1808, eff 7-1-06]

### **340:2-11-81. Appropriations [REVOKED]**

[Source: Added at 10 Ok Reg 1349, eff 3-22-93 (emergency); Added at 10 Ok Reg 2785, eff 6-25-93 ; Amended at 15 Ok Reg 868, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Revoked at 23 Ok Reg 1808, eff 7-1-06]

### **340:2-11-82. Agency budget [REVOKED]**

[Source: Added at 10 Ok Reg 1349, eff 3-22-93 (emergency); Added at 10 Ok Reg 2785, eff 6-25-93 ; Amended at 15 Ok Reg 868, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Revoked at 23 Ok Reg 1808, eff 7-1-06]

### **340:2-11-83. Budget Unit [REVOKED]**

[Source: Added at 10 Ok Reg 1349, eff 3-22-93 (emergency); Added at 10 Ok Reg 2785, eff 6-25-93 ; Amended at 15 Ok Reg 868, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Revoked at 23 Ok Reg 1808, eff 7-1-06]

### **340:2-11-84. Authorized signatures [REVOKED]**

[Source: Added at 10 Ok Reg 1349, eff 3-22-93 (emergency); Added at 10 Ok Reg 2785, eff 6-25-93 ; Amended at 15 Ok Reg 868, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Revoked at 23 Ok Reg 1808, eff 7-1-06]

### **340:2-11-85. Collecting funds**

(a) **Central collection point.** Financial Services (FS) is responsible for collecting and initially disposing remittances from all sources received by Oklahoma Human Services (OKDHS). All OKDHS remittances are directed to OKDHS, Attn: FS Revenue Processing, PO Box 53306, Oklahoma City, Oklahoma 73152.

(1) An employee may not endorse any remittance document on behalf of OKDHS without authorization from the chief financial officer (CFO).

(2) Each non-collectible remittance document, such as a check returned for insufficient funds, is held by FS until final disposition.

(b) **Client trust deposits.** Deposits typically arise from Social Security benefits, child support payments, and OKDHS-provided spending allowances. Client trust accounts are maintained, pursuant to Section

757 of Title 62 of the Oklahoma Statutes, to manage and account for financial deposits of clients who are in OKDHS custody.

(c) **Donated funds.** The CFO is authorized to accept gifts and bequests on behalf of OKDHS. OKDHS makes every effort to utilize gifts and bequests in accordance with donors' specific intents and makes the contents of donated fund accounts available for public inspection.

(d) **Accounts receivable.** FS manages and collects OKDHS accounts receivable.

(1) **Payments.** Payments to OKDHS are directed to FS. Payments must identify the OKDHS-issued applicable billing or invoice identification information. Failure to supply billing or invoice identification information may result in a debtor not being properly credited for payment.

(2) **Statements.** Monthly statements are generated and sent to each OKDHS debtor.

(A) Each statement indicates the previous balance, current charges, payments received, and current balance due.

(B) Payments are due within 90-calendar days of the invoice date on the statement.

(C) Each debtor who has not made payment or has not made other satisfactory payment arrangements within 90-calendar days is notified in writing that the account may be referred for legal resolution, when full payment is not made within five-calendar days of receipt of the notice.

[Source: Added at 10 Ok Reg 1349, eff 3-22-93 (emergency); Added at 10 Ok Reg 2785, eff 6-25-93 ; Amended at 11 Ok Reg 1537, eff 4-12-94 (emergency); Amended at 12 Ok Reg 1701, eff 6-12-95 ; Amended at 15 Ok Reg 868, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Amended at 23 Ok Reg 1808, eff 7-1-06 ; Amended at 38 Ok Reg 2143, eff 9-15-21]

### **340:2-11-86. State Treasury Revolving Funds 700 Series**

(a) **Operations.** Financial Services (FS) processes deposits and provides accounting and claims processing functions for State Treasury Revolving Funds 700 Series in accordance with the Office of Management and Enterprise Services (OMES) Statewide Accounting Manual. State Treasury Revolving Funds 700 Series are primarily used to maintain, account for, and manage funds belonging to clients in the custody of Oklahoma Human Services (OKDHS) or residents in OKDHS-administered facilities. This account is also used to finance auxiliary activities at OKDHS facilities. A separate accounting is maintained for each client and each auxiliary activity.

(b) **Unexpended cash.** Unexpended cash from client trust fund withdrawals for shopping, meals, recreation, and other similar activities, are re-deposited to the respective client trust accounts within State Treasury Revolving Funds 700 Series. Each facility is responsible for the safety of, and accounting for, all client trust fund cash handled by staff, and for maintaining detailed documentation.

[Source: Added at 10 Ok Reg 1349, eff 3-22-93 (emergency); Added at 10 Ok Reg 2785, eff 6-25-93 ; Amended at 13 Ok Reg 1529, eff 4-2-96 ; Amended at 14 Ok Reg 1298, eff 5-12-97 ; Amended at 15 Ok Reg 868, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Amended at 23 Ok Reg 1808, eff 7-1-06 ; Amended at 38 Ok Reg 2143, eff 9-15-21]

### **340:2-11-87. Investments**

(a) **Scope.** All investments are:

- (1) made through, and with the approval of the State Treasurer; and
- (2) transacted to yield the highest return in the safest manner.

(b) **Authority.** Oklahoma Human Services (OKDHS) is directed to engage in investing activity through legislation, federal regulations, or as may be instructed by a donation or bequest.

- (1) A donation or bequest received by OKDHS is invested to achieve compliance with the benefactor's intent.
- (2) Section 203 of Title 62 of the Oklahoma Statutes establishes the Federal Disallowance Fund to pay potential federal disallowances and interest penalties.
- (3) Child Support Services funds are invested, with the federal government sharing in the interest earned, pursuant to Part 304.50 of Title 45 of the Code of Federal Regulations.

(c) **Investment objectives.** Investment objectives are:

- (1) principal safety;
- (2) a reasonable rate of return, as compared to current market conditions, with consideration of the prudent investor rule; and
- (3) sufficient liquidity to meet specific fund objectives.

(d) **Investment instruments.** Investment instruments authorized for purchase by OKDHS are:

- (1) obligations of the United States Government, known as Treasury Bills and Treasury Notes;
- (2) collateralized or insured certificates of deposit at Oklahoma banks, savings banks, savings and loan associations, and credit union;
- (3) overnight repurchase and reverse repurchase agreements; or
- (4) as instructed by a donation or bequest.

[Source: Added at 10 Ok Reg 1349, eff 3-22-93 (emergency); Added at 10 Ok Reg 2785, eff 6-25-93 ; Amended at 13 Ok Reg 2609, eff 6-28-95 ; Amended at 12 Ok Reg 3532, eff 7-6-95 (emergency); Amended at 15 Ok Reg 868, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Amended at 23 Ok Reg 1808, eff 7-1-06 ; Amended at 38 Ok Reg 2143, eff 9-15-21]

### **340:2-11-88. Cost accounting and revenue enhancement [REVOKED]**

[Source: Added at 10 Ok Reg 1349, eff 3-22-93 (emergency); Added at 10 Ok Reg 2785, eff 6-25-93 ; Amended at 15 Ok Reg 868, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Revoked at 23 Ok Reg 1808, eff 7-1-06]

### **340:2-11-89. Authorization and disbursement of payments [REVOKED]**

[Source: Added at 10 Ok Reg 1349, eff 3-22-93 (emergency); Added at 10 Ok Reg 2785, eff 6-25-93 ; Amended at 15 Ok Reg 868, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Revoked at 23 Ok Reg 1808, eff 7-1-06]



### **340:2-11-90. Food stamp issuance [REVOKED]**

[Source: Added at 10 Ok Reg 1349, eff 3-22-93 (emergency); Added at 10 Ok Reg 2785, eff 6-25-93 ; Amended at 15 Ok Reg 868, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Revoked at 23 Ok Reg 1808, eff 7-1-06]

### **340:2-11-91. Claims audit**

Oklahoma Human Services (OKDHS), Financial Services (FS) pre-audits and prepares all claims paid from administrative funds for payment, as pursuant to 62 O.S. §34.71, and clarified by the Office of Management and Enterprise Services Statewide Accounting Manual.

#### **(1) Required information.**

(A) Each claim or invoice submitted for payment must bear the vendor name, address, and the address to which payment is mailed. The vendor's federal identification number (FIN) must be on file before a claim is processed for payment.

(B) Before an invoice is paid, information regarding the purchase must be submitted to FS, including:

- (i) the invoice date;
- (ii) the service or delivery date; and
- (iii) an itemized list of:
  - (I) goods or services;
  - (II) quantities;
  - (III) descriptions;
  - (IV) prices; and
  - (V) contract numbers, when applicable.

(2) **Timely claim submissions.** Claims against appropriated funds, including vendor claims for goods or services, are submitted within 90-calendar days of service and cannot be paid after 30 months from the effective appropriation date of the fiscal appropriation to which the goods or services are charged.

(3) **Precluded payments.** OKDHS does not pay Oklahoma state sales tax, interest, or late charges except as pursuant to Section 41.4 of Title 62 of the Oklahoma Statutes.

[Source: Added at 10 Ok Reg 1349, eff 3-22-93 (emergency); Added at 10 Ok Reg 2785, eff 6-25-93 ; Amended at 11 Ok Reg 143, eff 10-10-93 (emergency); Amended at 11 Ok Reg 1625, eff 5-12-94 ; Amended at 15 Ok Reg 868, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Amended at 18 Ok Reg 389, eff 12-8-00 (emergency); Amended at 18 Ok Reg 1184, eff 5-11-01 ; Amended at 22 Ok Reg 1943, eff 7-1-05 ; Amended at 23 Ok Reg 1808, eff 7-1-06 ; Amended at 38 Ok Reg 2143, eff 9-15-21]

### **340:2-11-92. Warrant control**

(a) Oklahoma Human Services (OKDHS), Financial Services (FS):

- (1) oversees the mailing of all OKDHS-generated warrants as pursuant to Section 34.66 of Title 62 of the Oklahoma Statutes;
- (2) makes proper disposition of returned warrants; and
- (3) processes the issuance of replacement warrants.

(b) OKDHS warrants are automatically canceled if they are not presented to the State Treasurer's Office for redemption within 90-calendar days of the issue date. Warrants canceled are reissued upon receipt of the

canceled warrants and request for replacement.

[Source: Added at 10 Ok Reg 1349, eff 3-22-93 (emergency); Added at 10 Ok Reg 2785, eff 6-25-93 ; Amended at 15 Ok Reg 868, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Amended at 23 Ok Reg 1808, eff 7-1-06 ; Amended at 38 Ok Reg 2143, eff 9-15-21]

### **340:2-11-93. Cashbook [REVOKED]**

[Source: Added at 10 Ok Reg 1349, eff 3-22-93 (emergency); Added at 10 Ok Reg 2785, eff 6-25-93 ; Amended at 15 Ok Reg 868, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Revoked at 23 Ok Reg 1808, eff 7-1-06]

### **340:2-11-94. Financial reporting [REVOKED]**

[Source: Added at 10 Ok Reg 1349, eff 3-22-93 (emergency); Added at 10 Ok Reg 2785, eff 6-25-93 ; Revoked at 23 Ok Reg 1808, eff 7-1-06]

### **340:2-11-95. Audit of financial records [REVOKED]**

[Source: Added at 10 Ok Reg 1349, eff 3-22-93 (emergency); Added at 10 Ok Reg 2785, eff 6-25-93 ; Revoked at 23 Ok Reg 1808, eff 7-1-06]

### **340:2-11-96. Maintenance and retention of records [REVOKED]**

[Source: Added at 10 Ok Reg 1349, eff 3-22-93 (emergency); Added at 10 Ok Reg 2785, eff 6-25-93 ; Revoked at 23 Ok Reg 1808, eff 7-1-06]

### **340:2-11-97. Cost allocation**

Oklahoma Human Services maintains a Public Assistance Cost Allocation Plan (PACAP) on file with the Cost Allocation Services division of the U.S. Department of Health and Human Services. Amendments to the PACAP are submitted and approved in accordance with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Section 2 of the Code of Federal Regulations.

[Source: Added at 10 Ok Reg 1349, eff 3-22-93 (emergency); Added at 10 Ok Reg 2785, eff 6-25-93 ; Amended at 15 Ok Reg 868, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Amended at 23 Ok Reg 1808, eff 7-1-06 ; Amended at 38 Ok Reg 2143, eff 9-15-21]

### **340:2-11-98. Information system [REVOKED]**

[Source: Added at 10 Ok Reg 1349, eff 3-22-93 (emergency); Added at 10 Ok Reg 2785, eff 6-25-93 ; Amended at 21 Ok Reg 2366, eff 6-25-04 ; Amended at 23 Ok Reg 1808, eff 7-1-06 ; Revoked at 38 Ok Reg 2143, eff 9-15-21]

### **340:2-11-99. Finance Information Systems Unit Disaster Recovery Plan [REVOKED]**

[Source: Added at 10 Ok Reg 1349, eff 3-22-93 (emergency); Added at 10 Ok Reg 2785, eff 6-25-93 ; Amended at 21 Ok Reg 2366, eff 6-25-04 ; Revoked at 23 Ok Reg 1808, eff 7-1-06]

### **340:2-11-100. State Bureau of Social Security, Old Age Survivors Insurance**

The Oklahoma Department of Human Services is authorized to administer procedures that enable the employees of the State and its governmental sub-divisions to take advantage of Social Security coverage. This coverage is available on a group basis and is accomplished by an agreement between the State and the Federal Commissioner of Social Security.

[Source: Added at 16 Ok Reg 2914, eff 7-12-99 ; Amended at 23 Ok Reg 1808, eff 7-1-06]

## **PART 9. TRAVEL REIMBURSEMENT**

### **340:2-11-115. Purpose and authority**

When traveling on Oklahoma Human Services (OKDHS) -authorized business, OKDHS pays travel reimbursement to employees and non-employees. Travel reimbursement is authorized by Sections 500.1 through 500.37 of Title 74 of the Oklahoma Statutes and is clarified for implementation by the Office of Management and Enterprise Services Statewide Accounting Manual.

[Source: Added at 10 Ok Reg 983, eff 2-4-93 (emergency); Added at 10 Ok Reg 2779, eff 6-25-93 ; Amended at 15 Ok Reg 746, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Amended at 23 Ok Reg 1808, eff 7-1-06 ; Amended at 38 Ok Reg 2143, eff 9-15-21]

### **340:2-11-116. Definitions [REVOKED]**

[Source: Added at 10 Ok Reg 983, eff 2-4-93 (emergency); Added at 10 Ok Reg 2779, eff 6-25-93 ; Amended at 11 Ok Reg 817, eff 12-14-93 (emergency); Amended at 11 Ok Reg 1625, eff 5-12-94 ; Amended at 15 Ok Reg 746, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Amended at 23 Ok Reg 1808, eff 7-1-06 ; Revoked at 38 Ok Reg 2143, eff 9-15-21]

### **340:2-11-117. Travel authorization**

(a) Oklahoma Human Services (OKDHS) divisions establish appropriate lines of authority for approving employee and non-employee travel.  
(b) An employee or non-employee, authorized to travel, is responsible for planning so travel expenses are minimized including, but not limited to, sharing rooms and carpooling.  
(c) Pre-approval is required for out-of-state travel.  
(d) Pre-approval is required when requesting travel expense reimbursement incurred while volunteering for OKDHS-related events.  
(e) An employee or non-employee may be reimbursed, without pre-approval, for actual and necessary travel and lodging expenses under circumstances described in (1) through (4) of this subsection, per Section 500.9 of Title 74 of the Oklahoma Statutes.

- (1) Employees or non-employees required to attend hearings or meetings of any congressional committee or subcommittee or of any federal agency, board, or commission on behalf of OKDHS are reimbursed for actual and necessary travel and lodging expenses.
- (2) Legal Services (LS) staff, while representing OKDHS, it's officials, employees, institutions, or hospitals, at any proceeding including depositions, are reimbursed actual and necessary

expenses of travel, and lodging. The LS general counsel and the OKDHS Director must approve the reimbursement request.

(3) OKDHS employees are reimbursed for actual and necessary travel and lodging expenses incurred in the performance of duties for the purpose of escorting and transporting children or adults in the care or custody of OKDHS, as described, for out-of-state:

(A) visitation, care, treatment, and placement of a child receiving Child Welfare services;

(B) treatment for, or placement of, a client receiving Adult Protective Services;

(C) treatment for, or placement of, a resident of a state resource center; or

(D) treatment for, or placement of, an individual with a developmental disability who is living in the community in community residential services.

(4) OKDHS employees and non-employees may be reimbursed for travel that requires crossing a state line when the distance traveled in the other state is 150 miles or less one way, and the trip is deemed in the best interest of the client and OKDHS.

**[Source:** Added at 10 Ok Reg 983, eff 2-4-93 (emergency); Added at 10 Ok Reg 2779, eff 6-25-93 ; Amended at 15 Ok Reg 746, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Amended at 23 Ok Reg 1808, eff 7-1-06 ; Amended at 38 Ok Reg 2143, eff 9-15-21]

### **340:2-11-118. Travel reimbursement requests**

- (a) Employees and non-employees incurring travel expenses are liable under possible penalty of law for any falsified expense or misstatements on travel reimbursement requests.
- (b) Oklahoma Human Services (OKDHS) related travel expenses may be reimbursed.
- (c) Applicants seeking employment with OKDHS are not reimbursed for travel expenses, unless requested by OKDHS.
- (d) Travel reimbursement requests must be filed within 90-calendar days of the first date in travel status. Exceptions may be made by the approving authority.
- (e) Details, including the destination name and address and business activity description must be included with reimbursement requests.
- (f) Reimbursement requests for approved travel expenses must be accompanied by paid receipts.
  - (1) Lodging receipts must be detailed and include the lodging facility name, itemized costs, amount paid, employee's or non-employee's name, number of persons occupying the room, time-period covered, and indicate a zero balance.
  - (2) Public transportation expenses of less than \$25.00 do not require a receipt for reimbursement.
- (g) A travel reimbursement request may not include travel status dates for more than one state fiscal year.
- (h) Non-employees must file in-state and out-of-state travel reimbursement requests separately.
- (i) Non-employee travel reimbursement requests may not exceed 31-calendar days in travel status.

[Source: Added at 10 Ok Reg 983, eff 2-4-93 (emergency); Amended at 10 Ok Reg 2779, eff 6-25-93 ; Amended at 15 Ok Reg 746, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Amended at 19 Ok Reg 187, eff 10-30-01 (emergency); Amended at 19 Ok Reg 2199, eff 6-27-02 ; Revoked at 23 Ok Reg 1808, eff 7-1-06 ; Added at 38 Ok Reg 2143, eff 9-15-21 ; Amended at 40 Ok Reg 939, eff 9-15-23]

### **340:2-11-119. Vehicle travel reimbursement**

- (a) **Vehicle selection.** Oklahoma Human Services (OKDHS) employees seek the least expensive travel option when planning work-related travel, per Section 85.451 of Title 74 of the Oklahoma Statutes. OKDHS employees are required to seek the use of OKDHS vehicles as a cost-saving measure when feasible.
- (b) **Privately-owned vehicles.**
  - (1) An employee or non-employee is reimbursed for the use of a privately-owned vehicle at the authorized rate regardless of the number of persons transported.
  - (2) Privately-owned vehicle travel reimbursement must not exceed the Global Positioning System (GPS) mileage for work-related travel.
    - (A) Vicinity travel claimed on official business is based on actual odometer readings.
    - (B) Any non-business mileage is deducted prior to reimbursement.

(3) An employee or non-employee traveling on official business using a privately-owned vehicle is reimbursed for the actual number of miles traveled, from the official duty station to the first official call, subsequent official calls, and return to the official duty station.

(A) An employee or non-employee may claim reimbursement for transportation from his or her home to the first official call, subsequent official calls, and back to his or her home, based on actual miles traveled, not to exceed the mileage as calculated from his or her official duty station.

(B) An employee or non-employee returning to a destination, other than the original starting point, must have supervisory approval and provide justification.

(C) On-call staff may claim travel reimbursement from home, as his or her official duty station, to any official call and return home on weekends, holidays, or when an occurrence is other than his or her regularly scheduled work hours.

[Source: Added at 10 Ok Reg 983, eff 2-4-93 (emergency); Added at 10 Ok Reg 2779, eff 6-25-93 ; Amended at 11 Ok Reg 817, eff 12-14-93 (emergency); Amended at 11 Ok Reg 1625, eff 5-12-94 ; Amended at 15 Ok Reg 746, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1241, eff 2-9-98 ; Amended at 19 Ok Reg 187, eff 10-30-01 (emergency); Amended at 19 Ok Reg 2199, eff 6-27-02 ; Amended at 23 Ok Reg 1808, eff 7-1-06 ; Amended at 38 Ok Reg 2143, eff 9-15-21 ; Amended at 39 Ok Reg 706, eff 4-28-22 (emergency); Amended at 39 Ok Reg 1683, eff 9-15-22 ; Amended at 40 Ok Reg 939, eff 9-15-23]

### **340:2-11-119.1. Lodging reimbursement**

Reimbursement is made for lodging when an employee or non-employee, authorized to travel, is in overnight travel status. Reimbursement for lodging is limited to the current authorized rate. Reimbursement of the actual cost of lodging, is not limited to the current authorized rate, when the stay occurs at a pre-designated lodging facility.

(1) Overnight travel reimbursement requests when the distance traveled is less than 61-Global Positioning System (GPS) miles, but more than 30-GPS miles one way from the claimant's official duty station, must be approved by the appropriate chief officer. Claims for overnight travel, when distance is under 31-GPS miles, one way, from his or her official duty station must have prior approval from the Director.

(2) Reimbursement for lodging on approved out-of-state trips may not extend more than 24 hours before or after the work-related event, unless additional pre- or post-travel time is beneficial to Oklahoma Human Services (OKDHS), as clarified by the Office of Management and Enterprise Services, Statewide Accounting Manual.

(3) Reimbursement for lodging at one of Oklahoma's state lodges may be billed directly to OKDHS, or an employee or non-employee may pay for the lodging and request reimbursement.

(4) An employee or non-employee staying with relatives or others while in overnight travel status may be reimbursed \$10 per night in lieu of lodging expenses.

[Source: Added at 23 Ok Reg 1808, eff 7-1-06 ; Amended at 38 Ok Reg 2143, eff 9-15-21 ; Amended at 39 Ok Reg 1683, eff 9-15-22]

### **340:2-11-119.2. Public transportation reimbursement**

(a) Public transportation expenses, such as taxicab or rideshare charges, are reimbursed only upon justification regarding the necessity of use. Public transportation expenses less than twenty-five dollars do not require a receipt.

(b) Reimbursement for leased or rented vehicles used in-state may not exceed the current mileage rate.

(c) An employee or non-employee may be approved to lease or rent a vehicle to use on official business during out-of-state travel; with the Oklahoma Human Services (OKDHS) Director's or his or her designee's approval. An employee or non-employee who is approved to lease or rent a vehicle must maintain a mileage log to itemize official and unofficial travel. Reimbursement for leasing or renting a vehicle outside of Oklahoma is authorized at actual cost, plus a prorated fuel cost, based on the actual miles driven for official business, compared to the total miles driven.

(1) Employees or non-employees must obtain the lowest cost lease or rental vehicle available.

(2) Each reimbursement request for the official use of a leased or rented vehicle must be supported by a receipt indicating the number of miles traveled.

- (3) Any supplemental or special insurance, such as collision or comprehensive, purchased by an employee or non-employee is at his or her expense.
- (d) All air travel is arranged and coordinated through the Support Services, Departmental Services Unit (DSU), travel coordinator. Out-of-state travel other than by a airline:
- (1) must have prior approval and be necessary to meet an OKDHS need; and
  - (2) may be approved when there is a need due to personal reasons.
    - (A) Total time in travel status may not exceed the expected travel time based on air travel.
    - (B) The total mileage reimbursement cannot exceed the maximum mileage rate for the total trip, for all employees or non-employees traveling together, or exceed the total projected cost if air travel was used.
    - (C) Travel expenses incurred, above the expected travel expenses for air travel, such as overnight lodging, are the employee's or non-employee's responsibility.

[Source: Added at 38 Ok Reg 2143, eff 9-15-21]

#### **340:2-11-120. Attendance at previously arranged meetings [REVOKED]**

[Source: Added at 10 Ok Reg 983, eff 2-4-93 (emergency); Added at 10 Ok Reg 2779, eff 6-25-93 ; Amended at 15 Ok Reg 746, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Amended at 19 Ok Reg 187, eff 10-30-01 (emergency); Amended at 19 Ok Reg 2199, eff 6-27-02 ; Revoked at 23 Ok Reg 1808, eff 7-1-06]

#### **340:2-11-121. Per diem**

Per diem expenses are reimbursed per the State Travel Reimbursement Act, Section 500.8 and 500.9 of Title 74 of the Oklahoma Statutes.

[Source: Added at 10 Ok Reg 983, eff 2-4-93 (emergency); Added at 10 Ok Reg 2779, eff 6-25-93 ; Amended at 15 Ok Reg 746, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Amended at 19 Ok Reg 187, eff 10-30-01 (emergency); Amended at 19 Ok Reg 2199, eff 6-27-02 ; Amended at 23 Ok Reg 1808, eff 7-1-06 ; Amended at 38 Ok Reg 2143, eff 9-15-21 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

#### **340:2-11-122. Per diem in lieu of subsistence [REVOKED]**

[Source: Added at 10 Ok Reg 983, eff 2-4-93 (emergency); Added at 10 Ok Reg 2779, eff 6-25-93 ; Amended at 15 Ok Reg 746, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Amended at 19 Ok Reg 187, eff 10-30-01 (emergency); Amended at 19 Ok Reg 2199, eff 6-27-02 ; Revoked at 23 Ok Reg 1808, eff 7-1-06]

#### **340:2-11-123. Miscellaneous expenses [REVOKED]**

[Source: Added at 10 Ok Reg 983, eff 4-2-93 (emergency); Added at 10 Ok Reg 2785, eff 6-25-93 ; Revoked at 23 Ok Reg 1808, eff 7-1-06]



## **340:2-11-124. Completion of Form ADM-6-B, Actual and Necessary Travel Voucher [REVOKED]**

[Source: Added at 19 Ok Reg 187, eff 10-30-01 (emergency); Added at 19 Ok Reg 2199, eff 6-27-02 ; Revoked at 23 Ok Reg 1808, eff 7-1-06]

## **PART 11. PLANNING AND RESEARCH [REVOKED]**

### **340:2-11-140. Planning and Research Unit [REVOKED]**

[Source: Added at 15 Ok Reg 868, eff 1-1-98 (emergency); Added at 15 Ok Reg 1595, eff 5-11-98 ; Revoked at 19 Ok Reg 2662, eff 7-11-02]

## **PART 13. ELECTRONIC BENEFIT DISBURSEMENT**

### **340:2-11-150. Child care payments**

(a) **Payments.** Payments are made on behalf of Oklahoma Human Services (OKDHS) clients to providers of child care services, per Oklahoma Administrative Code (OAC) 340:40-13-5. The services and payments are supported by provider contracts on file with the Adult and Family Services (AFS).

(b) **Overpayments.** Provider overpayments that occur as a result of agency or provider error are described in OAC 340:40-15-1. Any overpayment over \$500, when the child was not in care may result in felony fraud charges against the provider.

(c) **Collection of overpayments.** Financial Services Electronic Payment Systems (EPS) recoups all funds associated with overpayments in weekly installments, not less than 10 percent of the provider's gross payment, per week until the overpayment is satisfied, except when the viability of the child care facility is in question.

(1) Child care facilities whose continued viability is at risk due to overpayment collection is reviewed by Financial Services Electronic Payment Systems (EPS) for other repayment plans.

(2) Repayment plans do not exceed 12 months, except when the viability of the child care provider is in question.

(3) A child care provider whose contract is subsequently cancelled due to an OKDHS Office of Inspector General (OIG) investigation has all available funds withheld to satisfy any remaining overpayments.

(d) **Liquidated damages.**

(1) OKDHS may impose liquidated damages when certain rules in the contract are violated. Specifically, when the child care provider:

(A) is in possession of a client's Access Oklahoma electronic benefit transfer (EBT) card;

(B) swipes the EBT card through the point of service (POS) device; or

- (C) knows the client's EBT personal identification number (PIN).
- (2) The percentage of liquidated damages increases with each violation assessed, per Section 2-718 of Title 12A of the Oklahoma Statutes.
- (3) When OIG determines an EBT card was in the possession of or swiped through the POS device by a child care provider, the:
  - (A) first violation results in liquidated damages of 10 percent of the total payment(s) during the month the violation occurred;
  - (B) second violation results in liquidated damages of 20 percent of the total payment(s) during the month the violation occurred; and
  - (C) third violation results in liquidated damages of 30 percent of the total payment(s) during the month the violation occurred; and recommendation to AFS for cancellation of the provider's contract.
- (e) **Collection of liquidated damages.** EPS recoups all funds associated with liquidated damages as described in (1) and (2) of this subsection.
  - (1) The full amount of liquidated damages is applied against the first available payment and any sequent payments until the amount is collected.
  - (2) When the contract is subsequently cancelled due to an OIG investigation, all available funds are withheld to satisfy any remaining overpayments.

[Source: Added at 22 Ok Reg 1943, eff 7-1-05 ; Amended at 38 Ok Reg 2143, eff 9-15-21]

#### **340:2-11-151. Retailer adjustments for food benefits**

- (a) Retailers may request an adjustment to debit a recipient's Electronic Benefit Transfer (EBT) account due to a system outage at the time of purchase. An adjustment is made within 15-calendar days of notice to Oklahoma Human Services and the recipient. Payment can be taken from future benefits when the recipient's account does not have enough credit to process the complete transaction, per Part 274.20(g)(2)(ii) of Title 7 of the Code of Federal Regulations.
- (b) The recipient has the right to a fair hearing when the retailer adjustment is questioned.

[Source: Added at 25 Ok Reg 887, eff 6-1-08 ; Amended at 38 Ok Reg 2143, eff 9-15-21]

## **SUBCHAPTER 13. CONTRACTS AND PURCHASING UNIT [REVOKED]**

### **PART 1. CONTRACTS AND PURCHASING UNIT [REVOKED]**

### **340:2-13-1. Purpose [REVOKED]**

[Source: Revoked at 9 Ok Reg 3791, eff 8-7-92 (emergency); Revoked at 10 Ok Reg 2395, eff 6-11-93]

### **340:2-13-2. Legal base [REVOKED]**

[Source: Revoked at 9 Ok Reg 3791, eff 8-7-92 (emergency); Revoked at 10 Ok Reg 2395, eff 6-11-93]

### **340:2-13-3. Procedures [REVOKED]**

[Source: Revoked at 9 Ok Reg 3791, eff 8-7-92 (emergency); Revoked at 10 Ok Reg 2395, eff 6-11-93]

### **340:2-13-4. Contracts for product procurement method [REVOKED]**

[Source: Revoked at 9 Ok Reg 3791, eff 8-7-92 (emergency); Revoked at 10 Ok Reg 2395, eff 6-11-93]

### **340:2-13-5. Services procurement method [REVOKED]**

[Source: Revoked at 9 Ok Reg 3791, eff 8-7-92 (emergency); Revoked at 10 Ok Reg 2395, eff 6-11-93]

### **340:2-13-6. Contract clauses [REVOKED]**

[Source: Revoked at 9 Ok Reg 3791, eff 8-7-92 (emergency); Revoked at 10 Ok Reg 2395, eff 6-11-93]

### **340:2-13-7. Contract requirements [REVOKED]**

[Source: Revoked at 9 Ok Reg 3791, eff 8-7-92 (emergency); Revoked at 10 Ok Reg 2395, eff 6-11-93]

### **340:2-13-8. Procedures to secure a fixed rate [REVOKED]**

[Source: Revoked at 9 Ok Reg 3791, eff 8-7-92 (emergency); Revoked at 10 Ok Reg 2395, eff 6-11-93]

### **340:2-13-9. Local projects [REVOKED]**

[Source: Revoked at 9 Ok Reg 3791, eff 8-7-92 (emergency); Revoked at 10 Ok Reg 2395, eff 6-11-93]

### **340:2-13-10. Purpose [REVOKED]**

[Source: Added at 9 Ok Reg 3791, eff 8-7-92 (emergency); Added at 10 Ok Reg 2395, eff 6-11-93 ;  
Amended at 14 Ok Reg 3400, eff 7-2-97 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ;  
Amended at 17 Ok Reg 3308, eff 7-28-00 (emergency); Amended at 18 Ok Reg 1184, eff 5-11-01 ; Added  
at 26 Ok Reg 1369, eff 4-24-09 (emergency); Revoked at 27 Ok Reg 1835, eff 7-1-10]

### **340:2-13-11. Definitions [REVOKED]**

[Source: Added at 9 Ok Reg 3791, eff 8-7-92 (emergency); Added at 10 Ok Reg 2395, eff 6-11-93 ;  
Amended at 14 Ok Reg 3400, eff 7-2-97 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ;  
Amended at 17 Ok Reg 3308, eff 7-28-00 (emergency); Amended at 18 Ok Reg 1184, eff 5-11-01 ;  
Revoked at 27 Ok Reg 1835, eff 7-1-10]

## **340:2-13-12. Legal base [REVOKED]**

[Source: Added at 9 Ok Reg 3791, eff 8-7-92 (emergency); Added at 10 Ok Reg 2395, eff 6-11-93 ; Amended at 17 Ok Reg 3308, eff 7-28-00 (emergency); Amended at 18 Ok Reg 1184, eff 5-11-01 ; Revoked at 27 Ok Reg 1835, eff 7-1-10]

## **340:2-13-13. General contracting procedures as pertains to professional service requirements [REVOKED]**

[Source: Added at 9 Ok Reg 3791, eff 8-7-92 (emergency); Added at 10 Ok Reg 2395, eff 6-11-93 ; Amended at 10 Ok Reg 4315, eff 7-27-93 (emergency); Amended at 11 Ok Reg 1625, eff 5-12-94 ; Amended at 12 Ok Reg 189, eff 10-27-94 (emergency); Amended at 12 Ok Reg 1707, eff 6-12-95 ; Amended at 13 Ok Reg 2611, eff 6-28-96 ; Amended at 14 Ok Reg 3400, eff 7-2-97 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Amended at 17 Ok Reg 3308, eff 7-28-00 (emergency); Amended at 18 Ok Reg 1184, eff 5-11-01 ; Revoked at 27 Ok Reg 1835, eff 7-1-10]

## **340:2-13-14. Methods of contracting for professional services [REVOKED]**

[Source: Added at 9 Ok Reg 3791, eff 8-7-92 (emergency); Added at 10 Ok Reg 2395, eff 6-11-93 ; Amended at 10 Ok Reg 4315, eff 7-27-93 (emergency); Amended at 11 Ok Reg 1625, eff 5-12-94 ; Amended at 14 Ok Reg 3400, eff 7-2-97 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Amended at 17 Ok Reg 3308, eff 7-28-00 (emergency); Amended at 18 Ok Reg 1184, eff 5-11-01 ; Revoked at 27 Ok Reg 1835, eff 7-1-10]

### **340:2-13-14.1. Competitive bid procedures utilized for acquisitions of professional services requirements exceeding \$25,000 [REVOKED]**

[Source: Added at 9 Ok Reg 3791, eff 8-7-92 (emergency)<sup>1</sup>; Added at 10 Ok Reg 2395, eff 6-11-93 ; Amended at 10 Ok Reg 4315, eff 7-27-93 (emergency); Amended at 11 Ok Reg 1625, eff 5-12-94 ; Amended at 14 Ok Reg 3400, eff 7-2-97 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Amended at 17 Ok Reg 3308, eff 7-28-00 (emergency); Amended at 18 Ok Reg 1184, eff 5-11-01 ; Revoked at 27 Ok Reg 1835, eff 7-1-10]

**Editor's Note:** <sup>1</sup>*The section added by this emergency action was assigned the number 340:2-13-15, which had already been assigned to another rule. The emergency rule was later superseded by a permanent rule at this number (340:2-13-14.1).*

### **340:2-13-14.10. Contract clauses [REVOKED]**

[Source: Added at 9 Ok Reg 3791, eff 8-7-92 (emergency)<sup>1</sup>; Added at 10 Ok Reg 2395, eff 6-11-93 ; Amended at 10 Ok Reg 4315, eff 7-27-93 (emergency); Amended at 11 Ok Reg 1625, eff 5-12-94 ; Amended at 11 Ok Reg 3975, eff 6-17-94 (emergency); Amended at 12 Ok Reg 1707, eff 6-12-95 ; Amended at 13 Ok Reg 1271, eff 3-9-96 (emergency); Amended at 13 Ok Reg 2611, eff 6-28-96 ; Amended at 14 Ok Reg 3400, eff 7-2-97 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Amended at 17 Ok Reg 3308, eff 7-28-00 (emergency); Amended at 18 Ok Reg 1184, eff 5-11-01 ; Revoked at 27 Ok Reg 1835, eff 7-1-10]

**Editor's Note:** <sup>1</sup>*The section added by this emergency action was assigned the number 340:2-13-24, but was later superseded by a permanent rule at this number (340:2-13-14.10).*

### **340:2-13-14.11. Contract addenda pertaining to professional services contracts [REVOKED]**

[**Source:** Added at 9 Ok Reg 3791, eff 8-7-92 (emergency)<sup>1</sup>; Added at 10 Ok Reg 2395, eff 6-11-93 ; Amended at 10 Ok Reg 4315, eff 7-27-93 (emergency); Amended at 11 Ok Reg 1625, eff 5-12-94 ; Amended at 11 Ok Reg 3975, eff 6-17-94 (emergency); Amended at 12 Ok Reg 1707, eff 6-12-95 ; Amended at 14 Ok Reg 3400, eff 7-2-97 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Amended at 17 Ok Reg 3308, eff 7-28-00 (emergency); Amended at 18 Ok Reg 1184, eff 5-11-01 ; Revoked at 27 Ok Reg 1835, eff 7-1-10]

**Editor's Note:** <sup>1</sup>*The section added by this emergency action was assigned the number 340:2-13-25, but was later superseded by a permanent rule at this number (340:2-13-14.11).*

### **340:2-13-14.12. Requisition tracking [REVOKED]**

[**Source:** Added at 9 Ok Reg 3791, eff 8-7-92 (emergency)<sup>1</sup>; Added at 10 Ok Reg 2395, eff 6-11-93 ; Revoked at 97 Ok Reg 3400, eff 7-2-97 (emergency); Revoked at 15 Ok Reg 1595, eff 5-11-98 ; Revoked at 27 Ok Reg 1835, eff 7-1-10]

**Editor's Note:** <sup>1</sup>*The section added by this emergency action was assigned the number 340:2-13-26, but was later superseded by a permanent rule at this number (340:2-13-14.12).*

### **340:2-13-14.13. Initiation of services [REVOKED]**

[**Source:** Added at 9 Ok Reg 3791, eff 8-7-92 (emergency)<sup>1</sup>; Added at 10 Ok Reg 2395, eff 6-11-93 ; Amended at 10 Ok Reg 4315, eff 7-27-93 (emergency); Amended at 11 Ok Reg 1625, eff 5-12-94 ; Amended at 14 Ok Reg 3400, eff 7-2-97 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Amended at 17 Ok Reg 3308, eff 7-28-00 (emergency); Amended at 18 Ok Reg 1184, eff 5-11-01 ; Revoked at 27 Ok Reg 1835, eff 7-1-10]

**Editor's Note:** <sup>1</sup>*The section added by this emergency action was assigned the number 340:2-13-27, but was later superseded by a permanent rule at this number (340:2-13-14.13).*

### **340:2-13-14.14. Contract monitoring [REVOKED]**

[**Source:** Added at 9 Ok Reg 3791, eff 8-7-92 (emergency)<sup>1</sup>; Added at 10 Ok Reg 2395, eff 6-11-93 ; Amended at 14 Ok Reg 3400, eff 7-2-97 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Revoked at 27 Ok Reg 1835, eff 7-1-10]

**Editor's Note:** <sup>1</sup>*The section added by this emergency action was assigned the number 340:2-13-28, but was later superseded by a permanent rule at this number (340:2-13-14.14).*

### **340:2-13-14.15. Conflict of interest [REVOKED]**

[Source: Added at 9 Ok Reg 3791, eff 8-7-92 (emergency)<sup>1</sup>; Added at 10 Ok Reg 2395, eff 6-11-93 ; Amended at 14 Ok Reg 3400, eff 7-2-97 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Revoked at 27 Ok Reg 1835, eff 7-1-10]

**Editor's Note:** <sup>1</sup>*The section added by this emergency action was assigned the number 340:2-13-29, but was later superseded by a permanent rule at this number (340:2-13-14.15).*

### **340:2-13-14.16. State Officials Code of Conduct [REVOKED]**

[Source: Added at 9 Ok Reg 3791, eff 8-7-92 (emergency)<sup>1</sup>; Added at 10 Ok Reg 2395, eff 6-11-93 ; Revoked at 97 Ok Reg 3400, eff 7-2-97 (emergency); Revoked at 15 Ok Reg 1595, eff 5-11-98 ; Revoked at 27 Ok Reg 1835, eff 7-1-10]

**Editor's Note:** <sup>1</sup>*The section added by this emergency action was assigned the number 340:2-13-30, but was later superseded by a permanent rule at this number (340:2-13-14.16).*

### **340:2-13-14.17. Prohibited acts - state employees, agencies, and elected officials [REVOKED]**

[Source: Added at 10 Ok Reg 4315, eff 7-27-93 (emergency); Added at 11 Ok Reg 1625, eff 5-12-94 ; Amended at 17 Ok Reg 3308, eff 7-28-00 (emergency); Amended at 18 Ok Reg 1184, eff 5-11-01 ; Revoked at 27 Ok Reg 1835, eff 7-1-10]

### **340:2-13-14.18. Cancellation of contracts [REVOKED]**

[Source: Added at 14 Ok Reg 3400, eff 7-2-97 (emergency); Added at 15 Ok Reg 1595, eff 5-11-98 ; Amended at 17 Ok Reg 3308, eff 7-28-00 (emergency); Amended at 18 Ok Reg 1184, eff 5-11-01 ; Revoked at 27 Ok Reg 1835, eff 7-1-10]

### **340:2-13-14.2. Sole source or sole brand contracts [REVOKED]**

[Source: Added at 9 Ok Reg 3791, eff 8-7-92 (emergency)<sup>1</sup>; Added at 10 Ok Reg 2395, eff 6-11-93 ; Amended at 10 Ok Reg 4315, eff 7-27-93 (emergency); Amended at 11 Ok Reg 1625, eff 5-12-94 ; Amended at 14 Ok Reg 3400, eff 7-2-97 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Amended at 17 Ok Reg 3308, eff 7-28-00 (emergency); Amended at 18 Ok Reg 1184, eff 5-11-01 ; Revoked at 27 Ok Reg 1835, eff 7-1-10]

**Editor's Note:** <sup>1</sup>*The section added by this emergency action was assigned the number 340:2-13-16, which had already been assigned to another rule. The emergency rule was later superseded by a permanent rule at this number (340:2-13-14.2).*

### **340:2-13-14.3. Professional services method [REVOKED]**

[Source: Added at 9 Ok Reg 3791, eff 8-7-92 (emergency)<sup>1</sup>; Added at 10 Ok Reg 2395, eff 6-11-93 ; Amended at 10 Ok Reg 4315, eff 7-27-93 (emergency); Amended at 11 Ok Reg 1625, eff 5-12-94 ; Amended at 14 Ok Reg 3400, eff 7-2-97 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ;

Amended at 17 Ok Reg 3308, eff 7-28-00 (emergency); Amended at 18 Ok Reg 1184, eff 5-11-01 ;  
Revoked at 27 Ok Reg 1835, eff 7-1-10]

**Editor's Note:** <sup>1</sup>*The section added by this emergency action was assigned the number 340:2-13-17, which had already been assigned to another rule. The emergency rule was later superseded by a permanent rule at this number (340:2-13-14.3).*

#### **340:2-13-14.4. Professional services contracts non-exempt in excess of \$25,000 [REVOKED]**

[**Source:** Added at 9 Ok Reg 3791, eff 8-7-92 (emergency)<sup>1</sup>; Added at 10 Ok Reg 2395, eff 6-11-93 ;  
Amended at 17 Ok Reg 3308, eff 7-28-00 (emergency); Amended at 18 Ok Reg 1184, eff 5-11-01 ;  
Revoked at 27 Ok Reg 1835, eff 7-1-10]

**Editor's Note:** <sup>1</sup>*The section added by this emergency action was assigned the number 340:2-13-18, which had already been assigned to another rule. The emergency rule was later superseded by a permanent rule at this number (340:2-13-14.4).*

#### **340:2-13-14.5. Contracts or agreements with other governmental entities [REVOKED]**

[**Source:** Added at 9 Ok Reg 3791, eff 8-7-92 (emergency)<sup>1</sup>; Added at 10 Ok Reg 2395, eff 6-11-93 ;  
Amended at 10 Ok Reg 4315, eff 7-27-93 (emergency); Amended at 11 Ok Reg 1625, eff 5-12-94 ;  
Amended at 11 Ok Reg 3975, eff 6-17-94 (emergency); Amended at 12 Ok Reg 1707, eff 6-12-95 ;  
Amended at 14 Ok Reg 3400, eff 7-2-97 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ;  
Amended at 17 Ok Reg 3308, eff 7-28-00 (emergency); Amended at 18 Ok Reg 1184, eff 5-11-01 ;  
Revoked at 27 Ok Reg 1835, eff 7-1-10]

**Editor's Note:** <sup>1</sup>*The section added by this emergency action was assigned the number 340:2-13-19, which had already been assigned to another rule. The emergency rule was later superseded by a permanent rule at this number (340:2-13-14.5).*

#### **340:2-13-14.6. Contracts under \$25,000 [REVOKED]**

[**Source:** Added at 9 Ok Reg 3791, eff 8-7-92 (emergency)<sup>1</sup>; Added at 10 Ok Reg 2395, eff 6-11-93 ;  
Amended at 10 Ok Reg 4315, eff 7-27-93 (emergency); Amended at 11 Ok Reg 1625, eff 5-12-94 ;  
Amended at 14 Ok Reg 3400, eff 7-2-97 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ;  
Amended at 17 Ok Reg 3308, eff 7-28-00 (emergency); Amended at 18 Ok Reg 1184, eff 5-11-01 ;  
Revoked at 27 Ok Reg 1835, eff 7-1-10]

**Editor's Note:** <sup>1</sup>*The section added by this emergency action was assigned the number 340:2-13-20, which had already been assigned to another rule. The emergency rule was later superseded by a permanent rule at this number (340:2-13-14.6).*

#### **340:2-13-14.7. Fixed rate contracts [REVOKED]**

[Source: Added at 9 Ok Reg 3791, eff 8-7-92 (emergency)<sup>1</sup>; Added at 10 Ok Reg 2395, eff 6-11-93 ; Amended at 14 Ok Reg 3400, eff 7-2-97 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Amended at 17 Ok Reg 3308, eff 7-28-00 (emergency); Amended at 18 Ok Reg 1184, eff 5-11-01 ; Revoked at 27 Ok Reg 1835, eff 7-1-10]

**Editor's Note:** <sup>1</sup>*The section added by this emergency action was assigned the number 340:2-13-21, which had already been assigned to another rule. The emergency rule was later superseded by a permanent rule at this number (340:2-13-14.7).*

#### **340:2-13-14.8. Master fixed rate contracts [REVOKED]**

[Source: Added at 9 Ok Reg 3791, eff 8-7-92 (emergency)<sup>1</sup>; Added at 10 Ok Reg 2395, eff 6-11-93 ; Amended at 14 Ok Reg 3400, eff 7-2-97 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Amended at 17 Ok Reg 3308, eff 7-28-00 (emergency); Amended at 18 Ok Reg 1184, eff 5-11-01 ; Revoked at 27 Ok Reg 1835, eff 7-1-10]

**Editor's Note:** <sup>1</sup>*The section added by this emergency action was assigned the number 340:2-13-22, which had already been assigned to another rule. The emergency rule was later superseded by a permanent rule at this number (340:2-13-14.8).*

#### **340:2-13-14.9. Local projects [REVOKED]**

[Source: Added at 9 Ok Reg 3791, eff 8-7-92 (emergency)<sup>1</sup>; Added at 10 Ok Reg 2395, eff 6-11-93 ; Amended at 14 Ok Reg 3400, eff 7-2-97 (emergency); Amended at 15 Ok Reg 1595, eff 5-11-98 ; Amended at 17 Ok Reg 3308, eff 7-28-00 (emergency); Amended at 18 Ok Reg 1184, eff 5-11-01 ; Revoked at 27 Ok Reg 1835, eff 7-1-10]

**Editor's Note:** <sup>1</sup>*The section added by this emergency action was assigned the number 340:2-13-23, but was later superseded by a permanent rule at this number (340:2-13-14.9).*

### **PART 3. LEASING AND SPACE STANDARDS [REVOKED]**

#### **340:2-13-15. Property Management Unit [REVOKED]**

#### **340:2-13-15.<sup>1</sup> Property Management Unit [REVOKED]**

[Source: Added at 9 Ok Reg 105, eff 10-17-91 (emergency); Added at 9 Ok Reg 2047, eff 6-11-92 ; Revoked at 25 Ok Reg 887, eff 5-11-08]

**Editor's Note:** <sup>1</sup>*On 8-7-92, another rule called " Competitive bid procedures" was added by emergency action at this number (340:2-13-15), creating a duplication in numbering. The emergency rule was later superseded on 6-11-93 by a permanent rule numbered at 340:2-13-14.1.*



**340:2-13-16. Definitions [REVOKED]**  
**340:2-13-16.<sup>1</sup> Definitions [REVOKED]**

[Source: Added at 9 Ok Reg 105, eff 10-17-91 (emergency); Added at 9 Ok Reg 2047, eff 6-11-92 ;  
Revoked at 25 Ok Reg 887, eff 5-11-08]

**Editor's Note:** <sup>1</sup>*On 8-7-92, another rule called "Sole source contracts" was added by emergency action at this number (340:2-13-16), creating a duplication in numbering. The emergency rule was later superseded on 6-11-93 by a permanent rule numbered at 340:2-13-14.2.*

**340:2-13-17. Legal base [REVOKED]**  
**340:2-13-17.<sup>1</sup> Legal base [REVOKED]**

[Source: Added at 9 Ok Reg 105, eff 10-17-91 (emergency); Added at 9 Ok Reg 2047, eff 6-11-92 ;  
Revoked at 25 Ok Reg 887, eff 5-11-08]

**Editor's Note:** <sup>1</sup>*On 8-7-92, another rule called "Professional services method" was added by emergency action at this number (340:2-13-17), creating a duplication in numbering. The emergency rule was later superseded on 6-11-93 by a permanent rule numbered at 340:2-13-14.3.*

**340:2-13-18. General provisions [REVOKED]**  
**340:2-13-18.<sup>1</sup> General provisions [REVOKED]**

[Source: Added at 9 Ok Reg 105, eff 10-17-91 (emergency); Added at 9 Ok Reg 2047, eff 6-11-92 ;  
Revoked at 25 Ok Reg 887, eff 5-11-08]

**Editor's Note:** <sup>1</sup>*On 8-7-92, another rule called "Professional services contracts: non-exempt" was added by emergency action at this number (340:2-13-18), creating a duplication in numbering. The emergency rule was later superseded on 6-11-93 by a permanent rule numbered at 340:2-13-14.4.*

**340:2-13-19. Space allocation standards [REVOKED]**  
**340:2-13-19.<sup>1</sup> Space allocation standards [REVOKED]**

[Source: Added at 9 Ok Reg 105, eff 10-17-91 (emergency); Added at 9 Ok Reg 2047, eff 6-11-92 ;  
Revoked at 25 Ok Reg 887, eff 5-11-08]

**Editor's Note:** <sup>1</sup>*On 8-7-92, another rule called " Contracts/agreements with other governmental entities" was added by emergency action at this number (340:2-13-19), creating a duplication in numbering. The emergency rule was later superseded on 6-11-93 by a permanent rule numbered at 340:2-13-14.5.*

**340:2-13-20. Leasing [REVOKED]**  
**340:2-13-20.<sup>1</sup> Leasing [REVOKED]**

[Source: Added at 9 Ok Reg 105, eff 10-17-91 (emergency); Added at 9 Ok Reg 2047, eff 6-11-92 ;  
Revoked at 25 Ok Reg 887, eff 5-11-08]

**Editor's Note:** <sup>1</sup>*On 8-7-92, another rule called "Contracts under \$750" was added by emergency action at this number (340:2-13-20), creating a duplication in numbering. The emergency rule was later superseded on 6-11-93 by a permanent rule numbered at 340:2-13-14.6.*

**340:2-13-21. Lease documents [REVOKED]**  
**340:2-13-21.<sup>1</sup> Lease documents [REVOKED]**

[Source: Added at 9 Ok Reg 105, eff 10-17-91 (emergency); Added at 9 Ok Reg 2047, eff 6-11-92 ;  
Revoked at 25 Ok Reg 887, eff 5-11-08]

**Editor's Note:** <sup>1</sup>*On 8-7-92, another rule called "Fixed rate contracts" was added by emergency action at this number (340:2-13-21), creating a duplication in numbering. The emergency rule was later superseded on 6-6-93 by a permanent rule numbered at 340:2-13-14.7.*

**340:2-13-22. Lease renewal [REVOKED]**  
**340:2-13-22.<sup>1</sup> Lease renewal [REVOKED]**

[Source: Added at 9 Ok Reg 105, eff 10-17-91 (emergency); Added at 9 Ok Reg 2047, eff 6-11-92 ;  
Revoked at 25 Ok Reg 887, eff 5-11-08]

**Editor's Note:** <sup>1</sup>*On 8-7-92, another rule called "Master fixed rate contracts" was added by emergency action at this number (340:2-13-22), creating a duplication in numbering. The emergency rule was later superseded on 6-11-93 by a permanent rule numbered at 340:2-13-14.8.*

**340:2-13-23. Local projects [SUPERSEDED]**

[Source: Added at 9 Ok Reg 3791, eff 8-7-92 through 6-10-93 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency rule was later superseded by a permanent rule numbered as 340:2-13-14.9.*

**340:2-13-24. Contract requirement clauses [SUPERSEDED]**

[Source: Added at 9 Ok Reg 3791, eff 8-7-92 through 6-10-93 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency rule was later superseded by a permanent rule numbered as 340:2-13-14.10.*

### **340:2-13-25. Contract addenda [SUPERSEDED]**

[Source: Added at 9 Ok Reg 3791, eff 8-7-92 through 6-10-93 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency rule was later superseded by a permanent rule numbered as 340:2-13-14.11.*

### **340:2-13-26. Requisition tracking [SUPERSEDED]**

[Source: Added at 9 Ok Reg 3791, eff 8-7-92 through 6-10-93 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency rule was later superseded by a permanent rule numbered as 340:2-13-14.12.*

### **340:2-13-27. Initiation of services [SUPERSEDED]**

[Source: Added at 9 Ok Reg 3791, eff 8-7-92 through 6-10-93 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency rule was later superseded by a permanent rule numbered as 340:2-13-14.13.*

### **340:2-13-28. Contract Monitoring [SUPERSEDED]**

[Source: Added at 9 Ok Reg 3791, eff 8-7-92 through 6-10-93 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency rule was later superseded by a permanent rule numbered as 340:2-13-14.14.*

### **340:2-13-29. Conflict of interest [SUPERSEDED]**

[Source: Added at 9 Ok Reg 3791, eff 8-7-92 through 6-10-93 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency rule was later superseded by a permanent rule numbered as 340:2-13-14.15.*

### **340:2-13-30. State Officials Code of Conduct [SUPERSEDED]**

[Source: Added at 9 Ok Reg 3791, eff 8-7-92 through 6-10-93 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency rule was later superseded by a permanent rule numbered as 340:2-13-14.16.*

## **PART 5. PRODUCTS AND NONPROFESSIONAL SERVICES [REVOKED]**

### **340:2-13-45. Purpose [REVOKED]**

[Source: Added at 9 Ok Reg 3791, eff 8-7-92 (emergency); Added at 10 Ok Reg 2395, eff 6-11-93 ; Revoked at 17 Ok Reg 3308, eff 7-28-00 (emergency); Revoked at 18 Ok Reg 1184, eff 5-11-01]

### **340:2-13-46. Legal base [REVOKED]**

[Source: Added at 9 Ok Reg 3791, eff 8-7-92 (emergency); Added at 10 Ok Reg 2395, eff 6-11-93 ; Revoked at 17 Ok Reg 3308, eff 7-28-00 (emergency); Revoked at 18 Ok Reg 1184, eff 5-11-01]

### **340:2-13-47. Procedures for processing requisitions for other than professional services to the Contracts and Purchasing Unit [REVOKED]**

[Source: Added at 9 Ok Reg 3791, eff 8-7-92 (emergency); Added at 10 Ok Reg 2395, eff 6-11-93 ; Amended at 17 Ok Reg 3308, eff 7-28-00 (emergency); Amended at 18 Ok Reg 1184, eff 5-11-01 ; Revoked at 27 Ok Reg 1835, eff 7-1-10]

### **340:2-13-48. Methods [REVOKED]**

[Source: Added at 9 Ok Reg 3791, eff 8-7-92 (emergency); Added at 10 Ok Reg 2395, eff 6-11-93 ; Amended at 17 Ok Reg 3308, eff 7-28-00 (emergency); Amended at 18 Ok Reg 1184, eff 5-11-01 ; Revoked at 27 Ok Reg 1835, eff 7-1-10]

### **340:2-13-49. Telecommunication requirements [REVOKED]**

[Source: Added at 9 Ok Reg 3791, eff 8-7-92 (emergency); Added at 10 Ok Reg 2395, eff 6-11-93 ; Revoked at 17 Ok Reg 3308, eff 7-28-00 (emergency); Revoked at 18 Ok Reg 1184, eff 5-11-01]

### **340:2-13-50. Telephone calling cards [REVOKED]**

[Source: Added at 9 Ok Reg 3791, eff 8-7-92 (emergency); Added at 10 Ok Reg 2395, eff 6-11-93 ; Amended at 17 Ok Reg 3308, eff 7-28-00 (emergency); Amended at 18 Ok Reg 1184, eff 5-11-01 ; Revoked at 27 Ok Reg 1835, eff 7-1-10]

### **340:2-13-51. Telephone system repairs [REVOKED]**

[Source: Added at 9 Ok Reg 3791, eff 8-7-92 (emergency); Added at 10 Ok Reg 2395, eff 6-11-93 ; Revoked at 17 Ok Reg 3308, eff 7-28-00 (emergency); Revoked at 18 Ok Reg 1184, eff 5-11-01]

### **340:2-13-52. Telephone calling (credit) card procedures [REVOKED]**

[Source: Added at 9 Ok Reg 3791, eff 8-7-92 (emergency); Added at 10 Ok Reg 2395, eff 6-11-93 ; Revoked at 11 Ok Reg 3643, eff 6-14-94 (emergency); Amended at 12 Ok Reg 1707, eff 6-12-95]

### **340:2-13-53. Emergency purchases [REVOKED]**

[Source: Added at 9 Ok Reg 3791, eff 8-7-92 (emergency); Added at 10 Ok Reg 2395, eff 6-11-93 ; Amended at 17 Ok Reg 3308, eff 7-28-00 (emergency); Amended at 18 Ok Reg 1184, eff 5-11-01 ; Revoked at 27 Ok Reg 1835, eff 7-1-10]

### **340:2-13-53.1. Purchase of client clothing [REVOKED]**

[Source: Added at 11 Ok Reg 463, eff 10-10-93 (emergency); Added at 11 Ok Reg 1625, eff 5-12-94 ; Amended at 17 Ok Reg 3308, eff 7-28-00 (emergency); Amended at 18 Ok Reg 1184, eff 5-11-01 ; Revoked at 27 Ok Reg 1835, eff 7-1-10]

### **340:2-13-53.2. Purchase of food by DHS group homes [REVOKED]**

[Source: Added at 11 Ok Reg 463, eff 10-10-93 (emergency); Added at 11 Ok Reg 1625, eff 5-12-94 ; Revoked at 27 Ok Reg 1835, eff 7-1-10]

### **340:2-13-54. Additional coordinations, reviews, and approvals [REVOKED]**

[Source: Added at 9 Ok Reg 3791, eff 8-7-92 (emergency); Added at 10 Ok Reg 2395, eff 6-11-93 ; Amended at 17 Ok Reg 3308, eff 7-28-00 (emergency); Amended at 18 Ok Reg 1184, eff 5-11-01 ; Revoked at 27 Ok Reg 1835, eff 7-1-10]

### **340:2-13-55. Inspection and rejection [REVOKED]**

[Source: Added at 9 Ok Reg 3791, eff 8-7-92 (emergency); Added at 10 Ok Reg 2395, eff 6-11-93 ; Amended at 17 Ok Reg 3308, eff 7-28-00 (emergency); Amended at 18 Ok Reg 1184, eff 5-11-01 ; Revoked at 27 Ok Reg 1835, eff 7-1-10]

### **340:2-13-56. Change orders [REVOKED]**

[Source: Added at 9 Ok Reg 3791, eff 8-7-92 (emergency); Added at 10 Ok Reg 2395, eff 6-11-93 ; Amended at 17 Ok Reg 3308, eff 7-28-00 (emergency); Amended at 18 Ok Reg 1184, eff 5-11-01 ; Revoked at 27 Ok Reg 1835, eff 7-1-10]

### **340:2-13-57. Department of Central Services contact [REVOKED]**

[Source: Added at 9 Ok Reg 3791, eff 8-7-92 (emergency); Added at 10 Ok Reg 2395, eff 6-11-93 ; Amended at 17 Ok Reg 3308, eff 7-28-00 (emergency); Amended at 18 Ok Reg 1184, eff 5-11-01 ; Revoked at 27 Ok Reg 1835, eff 7-1-10]

### **340:2-13-58. Payment against purchase orders or contracts [REVOKED]**

[Source: Added at 9 Ok Reg 3791, eff 8-7-92 (emergency); Added at 10 Ok Reg 2395, eff 6-11-93 ; Amended at 17 Ok Reg 3308, eff 7-28-00 (emergency); Amended at 18 Ok Reg 1184, eff 5-11-01 ; Revoked at 27 Ok Reg 1835, eff 7-1-10]

### **340:2-13-59. Equipment furnished to the vendor [REVOKED]**

[Source: Added at 9 Ok Reg 3791, eff 8-7-92 (emergency); Added at 10 Ok Reg 2395, eff 6-11-93 ; Revoked at 27 Ok Reg 1835, eff 7-1-10]

## **PART 7. CONTRACTS AND PURCHASING [REVOKED]**

### **340:2-13-75. Purpose and legal base [REVOKED]**

[Source: Added at 27 Ok Reg 1835, eff 7-1-10 ; Revoked at 38 Ok Reg 2143, eff 9-15-21]

### **340:2-13-76. Delegation of OKDHS [REVOKED]**

[Source: Added at 27 Ok Reg 1835, eff 7-1-10 ; Revoked at 38 Ok Reg 2143, eff 9-15-21]

### **340:2-13-77. Funding [REVOKED]**

[Source: Added at 27 Ok Reg 1835, eff 7-1-10 ; Revoked at 38 Ok Reg 2143, eff 9-15-21]

### **340:2-13-78. Records retention [REVOKED]**

[Source: Added at 27 Ok Reg 1835, eff 7-1-10 ; Revoked at 38 Ok Reg 2143, eff 9-15-21]

### **340:2-13-79. OKDHS audit responsibilities [REVOKED]**

[Source: Added at 27 Ok Reg 1835, eff 7-1-10 ; Revoked at 38 Ok Reg 2143, eff 9-15-21]

### **340:2-13-80. Penalties for noncompliance of purchasing procedures [REVOKED]**

[Source: Added at 27 Ok Reg 1835, eff 7-1-10 ; Revoked at 38 Ok Reg 2143, eff 9-15-21]

### **340:2-13-81. Definitions [REVOKED]**

[Source: Added at 27 Ok Reg 1835, eff 7-1-10 ; Revoked at 38 Ok Reg 2143, eff 9-15-21]

### **340:2-13-82. General contracting and purchasing provisions [REVOKED]**

[Source: Added at 27 Ok Reg 1835, eff 7-1-10 ; Revoked at 38 Ok Reg 2143, eff 9-15-21]

### **340:2-13-83. Supplier registration [REVOKED]**

[Source: Added at 27 Ok Reg 1835, eff 7-1-10 ; Revoked at 38 Ok Reg 2143, eff 9-15-21]

### **340:2-13-84. Reports of supplier non-compliance to DCS [REVOKED]**

[Source: Added at 27 Ok Reg 1835, eff 7-1-10 ; Revoked at 38 Ok Reg 2143, eff 9-15-21]

### **340:2-13-85. Contact with suppliers [REVOKED]**

[Source: Added at 27 Ok Reg 1835, eff 7-1-10 ; Revoked at 38 Ok Reg 2143, eff 9-15-21]

### **340:2-13-86. Internal solicitation [REVOKED]**

[Source: Added at 27 Ok Reg 1835, eff 7-1-10 ; Revoked at 38 Ok Reg 2143, eff 9-15-21]

### **340:2-13-87. Solicitation response submission [REVOKED]**

[Source: Added at 27 Ok Reg 1835, eff 7-1-10 ; Revoked at 38 Ok Reg 2143, eff 9-15-21]

### **340:2-13-88. Award of contract [REVOKED]**

[Source: Added at 27 Ok Reg 1835, eff 7-1-10 ; Revoked at 38 Ok Reg 2143, eff 9-15-21]

### **340:2-13-89. Terms and conditions for acceptable responses [REVOKED]**

[Source: Added at 27 Ok Reg 1835, eff 7-1-10 ; Revoked at 38 Ok Reg 2143, eff 9-15-21]

### **340:2-13-90. Protest of award [REVOKED]**

[Source: Added at 27 Ok Reg 1835, eff 7-1-10 ; Revoked at 38 Ok Reg 2143, eff 9-15-21]

### **340:2-13-91. State Use Committee [REVOKED]**

[Source: Added at 27 Ok Reg 1835, eff 7-1-10 ; Revoked at 38 Ok Reg 2143, eff 9-15-21]

### **340:2-13-92. Statewide contracts [REVOKED]**

[Source: Added at 27 Ok Reg 1835, eff 7-1-10 ; Revoked at 38 Ok Reg 2143, eff 9-15-21]

### **340:2-13-93. Oklahoma Correctional Industries [REVOKED]**

[Source: Added at 27 Ok Reg 1835, eff 7-1-10 ; Revoked at 38 Ok Reg 2143, eff 9-15-21]

### **340:2-13-94. Exempt professional service contracts [REVOKED]**

[Source: Added at 27 Ok Reg 1835, eff 7-1-10 ; Revoked at 38 Ok Reg 2143, eff 9-15-21]

### **340:2-13-95. Sole source or sole brand acquisitions exceeding \$5,000 and not exceeding \$50,000 [REVOKED]**

[Source: Added at 27 Ok Reg 1835, eff 7-1-10 ; Revoked at 38 Ok Reg 2143, eff 9-15-21]

### **340:2-13-96. Acquisitions of \$5,000 or less [REVOKED]**

[Source: Added at 27 Ok Reg 1835, eff 7-1-10 ; Revoked at 38 Ok Reg 2143, eff 9-15-21]

**340:2-13-97. Acquisitions in excess of \$5,000 and not exceeding \$10,000 [REVOKED]**

[Source: Added at 27 Ok Reg 1835, eff 7-1-10 ; Revoked at 38 Ok Reg 2143, eff 9-15-21]

**340:2-13-98. Acquisitions in excess of \$10,000 and not exceeding \$25,000 [REVOKED]**

[Source: Added at 27 Ok Reg 1835, eff 7-1-10 ; Revoked at 38 Ok Reg 2143, eff 9-15-21]

**340:2-13-99. Acquisitions in excess of \$25,000 and not exceeding \$50,000 [REVOKED]**

[Source: Added at 27 Ok Reg 1835, eff 7-1-10 ; Revoked at 38 Ok Reg 2143, eff 9-15-21]

**340:2-13-100. Acquisitions in excess of \$50,000 [REVOKED]**

[Source: Added at 27 Ok Reg 1835, eff 7-1-10 ; Revoked at 38 Ok Reg 2143, eff 9-15-21]

**340:2-13-101. Emergency purchases not exceeding \$100,000 [REVOKED]**

[Source: Added at 27 Ok Reg 1835, eff 7-1-10 ; Revoked at 38 Ok Reg 2143, eff 9-15-21]

**340:2-13-102. Contract monitoring and evaluation [REVOKED]**

[Source: Revoked at 38 Ok Reg 2143, eff 9-15-21]

**340:2-13-103. Purchase card [REVOKED]**

[Source: Added at 27 Ok Reg 1835, eff 7-1-10 ; Revoked at 38 Ok Reg 2143, eff 9-15-21]

**340:2-13-104. Trade-in of equipment [REVOKED]**

[Source: Added at 27 Ok Reg 1835, eff 7-1-10 ; Revoked at 38 Ok Reg 2143, eff 9-15-21]

**SUBCHAPTER 15. RISK AND SAFETY MANAGEMENT  
[REVOKED]**

**PART 1. RISK MANAGEMENT PROGRAM [REVOKED]**

**340:2-15-1. Purpose [REVOKED]**

[Source: Amended at 23 Ok Reg 2648, eff 8-1-06 ; Revoked at 38 Ok Reg 2095, eff 9-15-21]



### **340:2-15-2. Definitions [REVOKED]**

[Source: Amended at 23 Ok Reg 2648, eff 8-1-06 ; Revoked at 38 Ok Reg 2095, eff 9-15-21]

### **340:2-15-3. The DHS Risk Management program [REVOKED]**

[Source: Revoked at 23 Ok Reg 2648, eff 8-1-06]

### **340:2-15-4. Risk and safety management functions [REVOKED]**

[Source: Amended at 23 Ok Reg 2648, eff 8-1-06 ; Revoked at 38 Ok Reg 2095, eff 9-15-21]

### **340:2-15-5. Incident reporting responsibilities [REVOKED]**

[Source: Amended at 23 Ok Reg 2648, eff 8-1-06 ; Revoked at 38 Ok Reg 2095, eff 9-15-21]

### **340:2-15-6. Forms [REVOKED]**

[Source: Revoked at 23 Ok Reg 2648, eff 8-1-06]

### **340:2-15-7. Driver and motor vehicle safety and liability [REVOKED]**

[Source: Added at 23 Ok Reg 2648, eff 8-1-06 ; Revoked at 38 Ok Reg 2095, eff 9-15-21]

## **PART 3. HAZARD COMMUNICATION PROGRAM [REVOKED]**

### **340:2-15-25. Purpose [REVOKED]**

[Source: Amended at 23 Ok Reg 2648, eff 8-1-06 ; Revoked at 38 Ok Reg 2095, eff 9-15-21]

### **340:2-15-26. Policy [REVOKED]**

[Source: Revoked at 23 Ok Reg 2648, eff 8-1-06]

### **340:2-15-27. Scope [REVOKED]**

[Source: Amended at 23 Ok Reg 2648, eff 8-1-06 ; Revoked at 38 Ok Reg 2095, eff 9-15-21]

#### **340:2-15-27.1. Definitions [REVOKED]**

[Source: Added at 23 Ok Reg 2648, eff 8-1-06 ; Revoked at 38 Ok Reg 2095, eff 9-15-21]

### **340:2-15-28. Elements of compliance [REVOKED]**

[Source: Amended at 23 Ok Reg 2648, eff 8-1-06 ; Revoked at 38 Ok Reg 2095, eff 9-15-21]

### **340:2-15-29. Responsibility [REVOKED]**

[Source: Revoked at 23 Ok Reg 2648, eff 8-1-06]

### **340:2-15-30. Unit supervisor/administrator responsibility [REVOKED]**

[Source: Revoked at 23 Ok Reg 2648, eff 8-1-06]

### **340:2-15-31. Employee responsibility [REVOKED]**

[Source: Revoked at 23 Ok Reg 2648, eff 8-1-06]

### **340:2-15-32. Material safety data sheets [REVOKED]**

[Source: Revoked at 23 Ok Reg 2648, eff 8-1-06]

### **340:2-15-33. Work place labeling [REVOKED]**

[Source: Revoked at 23 Ok Reg 2648, eff 8-1-06]

## **PART 5. ALCOHOL AND DRUG TESTING FOR DRIVERS OF COMMERCIAL VEHICLES [REVOKED]**

### **340:2-15-40. Purpose [REVOKED]**

[Source: Added at 13 Ok Reg 1533, eff 3-7-96 (emergency); Added at 14 Ok Reg 1301, eff 5-12-97 ; Amended at 19 Ok Reg 2182, eff 6-27-02 ; Revoked at 38 Ok Reg 2095, eff 9-15-21]

#### **340:2-15-40.1. Adoption by reference [REVOKED]**

[Source: Added at 19 Ok Reg 2182, eff 6-27-02 ; Revoked at 38 Ok Reg 2095, eff 9-15-21]

### **340:2-15-41. Definitions [REVOKED]**

[Source: Added at 13 Ok Reg 1533, eff 3-7-96 (emergency); Added at 14 Ok Reg 1301, eff 5-12-97 ; Amended at 19 Ok Reg 2182, eff 6-27-02 ; Revoked at 38 Ok Reg 2095, eff 9-15-21]

### **340:2-15-42. Implementation of alcohol and drug testing of affected OKDHS employees, applicants, and volunteers [REVOKED]**

[Source: Added at 13 Ok Reg 1533, eff 3-7-96 (emergency); Added at 14 Ok Reg 1301, eff 5-12-97 ; Amended at 19 Ok Reg 2182, eff 6-27-02 ; Amended at 24 Ok Reg 2172, eff 6-25-07 ; Revoked at 38 Ok Reg 2095, eff 9-15-21]

### **340:2-15-43. Disciplinary action [REVOKED]**

[Source: Added at 13 Ok Reg 1533, eff 3-7-96 (emergency); Added at 14 Ok Reg 1301, eff 5-12-97 ; Amended at 19 Ok Reg 2182, eff 6-27-02 ; Revoked at 38 Ok Reg 2095, eff 9-15-21]

### **340:2-15-44. Use of prescribed medications [REVOKED]**

[Source: Added at 13 Ok Reg 1533, eff 3-7-96 (emergency); Added at 14 Ok Reg 1301, eff 5-12-97 ; Amended at 19 Ok Reg 2182, eff 6-27-02 ; Revoked at 38 Ok Reg 2095, eff 9-15-21]

### **340:2-15-45. Employee Assistance Program referral [REVOKED]**

[Source: Added at 13 Ok Reg 1533, eff 3-7-96 (emergency); Added at 14 Ok Reg 1301, eff 5-12-97 ; Amended at 19 Ok Reg 2182, eff 6-27-02 ; Revoked at 38 Ok Reg 2095, eff 9-15-21]

### **340:2-15-46. Confidentiality [REVOKED]**

[Source: Added at 13 Ok Reg 1533, eff 3-7-96 (emergency); Added at 14 Ok Reg 1301, eff 5-12-97 ; Amended at 19 Ok Reg 2182, eff 6-27-02 ; Revoked at 38 Ok Reg 2095, eff 9-15-21]

### **340:2-15-47. Traffic violations [REVOKED]**

[Source: Added at 19 Ok Reg 2182, eff 6-27-02 ; Revoked at 38 Ok Reg 2095, eff 9-15-21]

### **340:2-15-48. Individual driver's licenses [REVOKED]**

[Source: Added at 19 Ok Reg 2182, eff 6-27-02 ; Revoked at 38 Ok Reg 2095, eff 9-15-21]

### **340:2-15-49. Training [REVOKED]**

[Source: Added at 19 Ok Reg 2182, eff 6-27-02 ; Revoked at 38 Ok Reg 2095, eff 9-15-21]

## **SUBCHAPTER 17. STAFF DEVELOPMENT UNIT**

### **340:2-17-1. Purpose**

The purpose of this Subchapter is to describe the function and responsibilities of the Staff Development Unit.

### **340:2-17-2. Legal base and function**

(a) **Legal base.** In accordance with 56 O.S. 1971, Section 177, and related statutes, the Human Services Commission has the authority to accept grants and to conform with requirements of any Federal agency or agencies which provide Federal monies to states. Many of the programs funded under the Federal Social Security Act and elsewhere require training and educational opportunities for employees of the Department, and the Staff Development Unit was established to assume this function.

(b) **Function.** An essential function of the Department is a continuing program of staff development for all employees without regard to race,

sex, age, physical handicap, color, national origin or ancestry, creed, or political or religious opinions or affiliations. Staff Development Unit (SDU) personnel are assigned full-time responsibilities for staff training. Personnel in other units also have clearly identified and assigned responsibilities for on-going training and development of staff within their units.

### **340:2-17-3. Practicum placements**

The Department recognizes the value of practicum placements in furthering the education of graduate and undergraduate students interested in human services careers. Students selected for DHS practicum placements are supplied office space, stenographic staff, and travel reimbursement for visits from the office to assigned caseloads. College and universities with accredited human services curriculum and approved practicum plans may request practicum placement for qualified students. The school/student locates a practicum site and makes the initial contact with the DHS office and identifies a practicum instructor.

(1) When the DHS office and the school/student formulate agreed upon roles and responsibilities, a Practicum Request/Agreement, Form SD-4, will be completed. The school will submit the Practicum Request/Agreement form to the Staff Development Unit for approval from the appropriate division administrator.

(2) SDU should be contacted if the DHS office and the school/student are unable to formulate an agreement or if the school needs assistance with the availability of student practicum placement.

### **340:2-17-4. Occupational Therapy/Physical Therapy Educational Assistance program [REVOKED]**

[Source: Added at 9 Ok Reg 2209, eff 5-18-92 (emergency); Added at 10 Ok Reg 1423, eff 4-26-93 ; Revoked at 21 Ok Reg 788, eff 4-26-04]

## **SUBCHAPTER 19. CORRESPONDENCE [REVOKED]**

### **340:2-19-1. Purpose [REVOKED]**

[Source: Revoked at 22 Ok Reg 763, eff 5-12-05]

### **340:2-19-2. Letters going outside the Department [REVOKED]**

[Source: Revoked at 22 Ok Reg 763, eff 5-12-05]

### **340:2-19-3. Out-of-town-inquiries [REVOKED]**

[Source: Revoked at 22 Ok Reg 763, eff 5-12-05]

## **SUBCHAPTER 21. DEPARTMENTAL SERVICES UNIT**

## PART 1. OPEN RECORDS

### **340:2-21-12. Open records program purpose and authority**

(a) **Purpose.** The Oklahoma Department of Human Services (OKDHS) maintains an open records program to:

- (1) meet public requests for accessible records with some uniformity;
- (2) provide assistance to OKDHS offices asked to supply records;
- (3) initiate requests for legal assistance in determining whether certain disputed records may be accessible to the public;
- (4) prepare responses to requests for access in cases where the record or portions of the record are considered confidential by OKDHS; and
- (5) determine whether the request warrants charging a fee, and ensure the fees are collected before release of the information.

(b) **Authority.** The authority for the open records program is the Open Records Act that ensures and assists the public's right to access, review, and copy governmental records, except where specifically required by federal or state law and regulation to be kept confidential. [51 O.S. § 24A.1 - 24A.26]

[Source: Added at 15 Ok Reg 1444, eff 4-1-98 (emergency); Added at 16 Ok Reg 1008, eff 4-26-99 ; Amended at 23 Ok Reg 1834, eff 7-1-06]

### **340:2-21-13. Release of information**

(a) **Information subject to release.** Information available for release includes:

- (1) personnel information including:
  - (A) the application of a person who becomes a public official;
  - (B) gross receipt of public funds;
  - (C) dates of employment, title, or position; and
  - (D) any final disciplinary action resulting in loss of pay, suspension, demotion, or termination;
- (2) vendor and provider information not excluded by subsection (b)(4) through (6) of this Section and public funds paid to vendors and providers; and
- (3) subject to OAC 340:65-1-2, copies of documents from a client's public assistance record, upon request of that specific client, whether an applicant, recipient, or former recipient.

(b) **Information not subject to release.** Records kept confidential by federal and state law are not subject to release. Oklahoma Department of Human Services (OKDHS) rules provide confidentiality for specific program areas per OAC 340:1-1-20. Records kept confidential include, but are not limited to:

- (1) all applications, information, payments received, and records concerning any applicant or recipient of OKDHS programs or services;

- (2) records subject to confidential privilege such as attorney-client or physician-patient;
- (3) personal notes prepared for one's own use in making a decision or recommendation, except material related to budget requests prior to taking action;
- (4) position papers prepared to assist in OKDHS decision-making. Documents regarding fiscal or policy matters presented to the Oklahoma Commission for Human Services (Commission) prior to any public action may be released if the Commission takes public action regarding these matters;
- (5) information from personnel records which is a clear invasion of personal privacy such as:

- (A) employee evaluations;
- (B) payroll deductions;
- (C) employment applications submitted by persons not hired by OKDHS;
- (D) internal personnel investigations including examination and selection material for employment, hiring, appointment, promotion, demotion, discipline, or resignation;
- (E) employees' home addresses, telephone numbers, and Social Security numbers; and
- (F) medical and employee assistance records;

- (6) information that may give an unfair advantage to competitors or bidders;
- (7) proprietary computer programs and software;
- (8) adoption, foster care, and child welfare records;
- (9) documents provided OKDHS by other governmental agencies deemed confidential by the sending agency. Requests for information or documents provided by another agency are referred to the sending agency; and
- (10) records concerning child abuse.

(A) Disclosure of certain information may be provided regarding circumstances of a child's death due to abuse, neglect, or abandonment. [10 O.S. § 7005-1.4]

(B) Information released does not identify anyone filing a complaint or reporting child abuse or neglect, the child victim's siblings, parent(s), or other person responsible for the child, or any other member of the household except for the person criminally charged.

(c) **Access to records.** Access to records is not denied because another OKDHS division or public official is using or has taken possession of the records for investigatory purposes or has placed the records in a litigation or investigation file. When an employee's personnel file is requested, under the Open Records Act, the OKDHS Human Resources Management Division (HRMD) notifies the employee that the file has been requested and who requested it.

(d) **Penalties and appeals.** Any person denied access to a record may file an appeal in accordance with Section 24A.17 of Title 51 of the Oklahoma Statutes. The appeal must be filed within ten days of the denial. The appeal is requested by submitting a letter to the Director,

Oklahoma Department of Human Services, Open Records Act Appeal, PO Box 25352, Oklahoma City, Oklahoma 73125.

(e) **Anonymity of persons requesting access to records.** A person requesting access to OKDHS records may request to have his or her identity kept anonymous. OKDHS cannot guarantee anonymity of the requestor, as it is not a condition of the law.

[Source: Added at 15 Ok Reg 1444, eff 4-1-98 (emergency); Added at 16 Ok Reg 1008, eff 4-26-99 ; Amended at 18 Ok Reg 1215, eff 5-11-01 ; Amended at 23 Ok Reg 1834, eff 7-1-06]

### **340:2-21-14. Designated Public Records Officer (PRO) [REVOKED]**

[Source: Added at 15 Ok Reg 1444, eff 4-1-98 (emergency); Added at 16 Ok Reg 1008, eff 4-26-99 ; Revoked at 23 Ok Reg 1834, eff 7-1-06]

### **340:2-21-15. Requests for records**

The Oklahoma Department of Human Services (OKDHS) maintains public records and makes them available for inspection.

(1) **Requirements for persons requesting records.** A person requesting information completes 23RM023E, Request to Review and/or Copy Records, to review, search, or copy OKDHS records. Use of any information concerning any public assistance applicant or recipient, for publication, commercial, or political purpose constitutes a felony. [56 O.S. §183]

(2) **Requests by attorneys.** Attorneys in formal litigation involving OKDHS must go through the OKDHS Legal Division for information. Prior to any official legal action involving OKDHS, an attorney may obtain records through the Open Records Act in the same manner as any other request.

(3) **Requests for employee income information.** All requests for employee income verification are referred to the OKDHS Finance Division, Payroll Unit.

(4) **Requests for OKDHS vendor or provider payment information.** All requests for OKDHS vendor or provider payment information are referred to the OKDHS Finance Division, Claims Auditing Unit.

[Source: Added at 15 Ok Reg 1444, eff 4-1-98 (emergency); Added at 16 Ok Reg 1008, eff 4-26-99 ; Amended at 18 Ok Reg 1215, eff 5-11-01 ; Amended at 23 Ok Reg 1834, eff 7-1-06]

### **340:2-21-16. Fees**

(a) Fees for open records requests are not used to discourage requests for information or as obstacles to disclosure of requested information. A search fee is never charged for release of documents that are in the public interest, including, but not limited to, requests by news media, scholars, authors, and taxpayers determining whether government is competently performing their duties as public servants.

(1) Fees are outlined in (A) through (E) of this paragraph.

(A) There is no charge for 100 pages or less in a calendar year.

- (B) For requests exceeding 100 pages in a calendar year, the fee is \$.25 per page.
- (C) For certified documents, the fee is \$1 per page.
- (D) Commercial requests, or those which would cause excessive disruption of office function, are charged \$25 per hour for staff time.
- (E) For requests requiring computer programming, the fee is equal to labor costs and computer processing time.
- (2) For a request by commercial users for computer runs, microfilming, or reproduction, other than photocopying, the requester pays the Oklahoma Department of Human Services (OKDHS) cost for duplicating the information involved. If computer programming is necessary to isolate requested or confidential information, the fee equals the labor costs plus cost of computer processing time necessary to produce the record. The OKDHS Finance Division establishes the cost for computer processing at the time the work is performed.
- (b) All fees are paid prior to delivering the copies. If the request is for search only, the fee is paid before the person is allowed to review the material. All fees are paid by check or money order payable to OKDHS. Cash is not accepted.

[Source: Added at 15 Ok Reg 1444, eff 4-1-98 (emergency); Added at 16 Ok Reg 1008, eff 4-26-99 ; Amended at 23 Ok Reg 1834, eff 7-1-06]

## **PART 3. RECORDS MANAGEMENT [REVOKED]**

### **340:2-21-20. Scope of Records Management [ REVOKED]**

[Source: Added at 15 Ok Reg 1438, eff 4-1-98 (emergency); Added at 16 Ok Reg 1008, eff 4-26-99 ; Revoked at 23 Ok Reg 1834, eff 7-1-06]

### **340:2-21-21. Legal references [REVOKED]**

[Source: Added at 15 Ok Reg 1438, eff 4-1-98 (emergency); Added at 16 Ok Reg 1008, eff 4-26-99 ; Revoked at 23 Ok Reg 1834, eff 7-1-06]

### **340:2-21-22. Definitions [REVOKED]**

[Source: Added at 15 Ok Reg 1438, eff 4-1-98 (emergency); Added at 16 Ok Reg 1008, eff 4-26-99 ; Revoked at 23 Ok Reg 1834, eff 7-1-06]

### **340:2-21-23. State records [REVOKED]**

[Source: Added at 15 Ok Reg 1438, eff 4-1-98 (emergency); Added at 16 Ok Reg 1008, eff 4-26-99 ; Revoked at 23 Ok Reg 1834, eff 7-1-06]

### **340:2-21-24. Archival storage [REVOKED]**



[Source: Added at 15 Ok Reg 1438, eff 4-1-98 (emergency); Added at 16 Ok Reg 1008, eff 4-26-99 ; Revoked at 23 Ok Reg 1834, eff 7-1-06]

### **340:2-21-25. Records Management Coordinator and Records Custodians [REVOKED]**

[Source: Added at 15 Ok Reg 1438, eff 4-1-98 (emergency); Added at 16 Ok Reg 1008, eff 4-26-99 ; Revoked at 23 Ok Reg 1834, eff 7-1-06]

### **340:2-21-26. Records scheduling [REVOKED]**

[Source: Added at 15 Ok Reg 1438, eff 4-1-98 (emergency); Added at 16 Ok Reg 1008, eff 4-26-99 ; Revoked at 23 Ok Reg 1834, eff 7-1-06]

### **340:2-21-27. General Records Disposition Schedules [REVOKED]**

[Source: Added at 15 Ok Reg 1438, eff 4-1-98 (emergency); Added at 16 Ok Reg 1008, eff 4-26-99 ; Revoked at 23 Ok Reg 1834, eff 7-1-06]

### **340:2-21-28. Consolidated Records Disposition Schedule [REVOKED]**

[Source: Added at 15 Ok Reg 1438, eff 4-1-98 (emergency); Added at 16 Ok Reg 1008, eff 4-26-99 ; Revoked at 23 Ok Reg 1834, eff 7-1-06]

### **340:2-21-29. Records inventory [REVOKED]**

[Source: Added at 15 Ok Reg 1438, eff 4-1-98 (emergency); Added at 16 Ok Reg 1008, eff 4-26-99 ; Revoked at 23 Ok Reg 1834, eff 7-1-06]

### **340:2-21-30. Deletion of records [REVOKED]**

[Source: Added at 15 Ok Reg 1438, eff 4-1-98 (emergency); Added at 16 Ok Reg 1008, eff 4-26-99 ; Revoked at 23 Ok Reg 1834, eff 7-1-06]

### **340:2-21-31. Records disasters [REVOKED]**

[Source: Added at 15 Ok Reg 1438, eff 4-1-98 (emergency); Added at 16 Ok Reg 1008, eff 4-26-99 ; Revoked at 23 Ok Reg 1834, eff 7-1-06]

### **340:2-21-32. Confidentiality of records [REVOKED]**

[Source: Added at 15 Ok Reg 1438, eff 4-1-98 (emergency); Added at 16 Ok Reg 1008, eff 4-26-99 ; Revoked at 23 Ok Reg 1834, eff 7-1-06]

### **340:2-21-33. E-Mail records [REVOKED]**

[Source: Added at 15 Ok Reg 1438, eff 4-1-98 (emergency); Added at 16 Ok Reg 1008, eff 4-26-99 ; Revoked at 23 Ok Reg 1834, eff 7-1-06]

## **340:2-21-34. Computer generated records [REVOKED]**

[Source: Added at 15 Ok Reg 1438, eff 4-1-98 (emergency); Added at 16 Ok Reg 1008, eff 4-26-99 ; Revoked at 23 Ok Reg 1834, eff 7-1-06]

## **340:2-21-35. Security destruction of confidential materials [REVOKED]**

[Source: Added at 16 Ok Reg 1008, eff 4-26-99 ; Revoked at 23 Ok Reg 1834, eff 7-1-06]

## **340:2-21-1. Purpose [REVOKED]**

[Source: Amended at 9 Ok Reg 3237, eff 6-11-92 (emergency); Amended at 10 Ok Reg 1419, eff 4-26-93 ; Revoked at 16 Ok Reg 1008, eff 4-26-99]

## **340:2-21-2. Equipment maintenance and repairs [REVOKED]**

[Source: Revoked at 16 Ok Reg 1008, eff 4-26-99]

## **340:2-21-3. Records management [REVOKED]**

[Source: Amended at 9 Ok Reg 81, eff 10-17-91 (emergency); Amended at 9 Ok Reg 3237, eff 6-11-92 (emergency); Amended at 9 Ok Reg 4097, eff 10-26-92 ; Amended at 10 Ok Reg 1419, eff 4-26-93 ; Revoked at 15 Ok Reg 1438, eff 4-1-98 (emergency); Revoked at 16 Ok Reg 1008, eff 4-26-99]

## **340:2-21-4. Central Records and Archives [REVOKED]**

[Source: Amended at 9 Ok Reg 3237, eff 6-11-92 (emergency); Amended at 10 Ok Reg 1419, eff 4-26-93 ; Revoked at 16 Ok Reg 1008, eff 4-26-99]

## **340:2-21-5. Commodities: warehousing and distribution [REVOKED]**

[Source: Amended at 9 Ok Reg 3237, eff 6-11-92 (emergency); Amended at 10 Ok Reg 1419, eff 4-26-93 ; Revoked at 16 Ok Reg 1008, eff 4-26-99]

## **340:2-21-6. State Bureau of Social Security (O.A.S.I.) [REVOKED]**

[Source: Revoked at 16 Ok Reg 1008, eff 4-26-99]

## **340:2-21-7. Other services provided to agency [REVOKED]**

[Source: Amended at 9 Ok Reg 3237, eff 6-11-92 (emergency); Amended at 10 Ok Reg 1419, eff 4-26-93 ; Revoked at 16 Ok Reg 1008, eff 4-26-99]

## **340:2-21-8. Security destruction of confidential materials [REVOKED]**

[Source: Amended at 9 Ok Reg 81, eff 10-17-91 (emergency); Amended at 9 Ok Reg 3237, eff 6-11-92 (emergency); Amended at 9 Ok Reg 2861, eff 7-13-92 ; Amended at 10 Ok Reg 1419, eff 4-26-93 ; Revoked at 16 Ok Reg 1008, eff 4-26-99]

## **SUBCHAPTER 22. COMMODITIES**

### **340:2-22-1. United States Department of Agriculture (USDA) donated foods**

USDA donated foods are available to eligible outlets statewide. These foods are referred to as commodities and are delivered to specified receiving points statewide. Guidelines and eligibility requirements for the USDA donated foods program are located in the Code of Federal Regulations (CFR) Chapter 7 Parts 210, 220, 215, 235, and 250.

[Source: Added at 16 Ok Reg 1008, eff 4-26-99]

## **SUBCHAPTER 23. ADMINISTRATIVE REVIEWS**

### **340:2-23-1. Purpose [REVOKED]**

[Source: Revoked at 15 Ok Reg 1271, eff 4-1-98 (emergency); Revoked at 16 Ok Reg 1008, eff 4-26-99]

### **340:2-23-2. Legal base [REVOKED]**

[Source: Revoked at 15 Ok Reg 1271, eff 4-1-98 (emergency); Revoked at 16 Ok Reg 1008, eff 4-26-99]

### **340:2-23-3. The Administrative Review Unit [REVOKED]**

[Source: Revoked at 15 Ok Reg 1271, eff 4-1-98 (emergency); Revoked at 16 Ok Reg 1008, eff 4-26-99]

### **340:2-23-4. Case reviews [REVOKED]**

[Source: Revoked at 15 Ok Reg 1271, eff 4-1-98 (emergency); Revoked at 16 Ok Reg 1008, eff 4-26-99]

### **340:2-23-5. Sampling [REVOKED]**

[Source: Revoked at 15 Ok Reg 1271, eff 4-1-98 (emergency); Revoked at 16 Ok Reg 1008, eff 4-26-99]

### **340:2-23-6. Reports [REVOKED]**

[Source: Revoked at 15 Ok Reg 1271, eff 4-1-98 (emergency); Revoked at 16 Ok Reg 1008, eff 4-26-99]

### **340:2-23-7. Federal reports [REVOKED]**

[Source: Revoked at 15 Ok Reg 1271, eff 4-1-98 (emergency); Revoked at 16 Ok Reg 1008, eff 4-26-99]

### **340:2-23-8. State reports [REVOKED]**

[Source: Revoked at 15 Ok Reg 1271, eff 4-1-98 (emergency); Revoked at 16 Ok Reg 1008, eff 4-26-99]

### **340:2-23-9. Federal reviews [REVOKED]**

[Source: Revoked at 15 Ok Reg 1271, eff 4-1-98 (emergency); Revoked at 16 Ok Reg 1008, eff 4-26-99]

### **340:2-23-13. Purpose and legal basis**

(a) **Purpose.** The purpose of this Subchapter is to describe the functions, procedures, and practices of the Office of Inspector General (OIG) Administrative Review Unit (ARU).

(b) **Legal basis.** Oklahoma Human Services (OKDHS) federal and state legal authority for providing a systematic quality control (QC) process and administrative operation to assure state accountability is found in Title 56 of the Oklahoma Statutes for the Child Care program and the federal Child Care Development Fund defines program requirements.

(c) **QC reviews for other OKDHS administered programs.** The OIG ARU is mandated to help assure OKDHS accountability for Child Care program funds. ARU reviews a prescribed number of providers and cases annually to help assure statewide conformity to OKDHS rules.

(d) **Datamatch reporting system.** Through a federal and state partnership administered by the United States Department of Health and Human Services and the Administration for Children and Families, OIG ARU reviews data matches semi-annually to improve program integrity and to detect or deter improper payments in administering public assistance programs. State enrollment data for Temporary Assistance for Needy Families, Supplemental Nutrition Assistance Program, child care, and health care coverage programs is matched with data from other participating states and from a selected group of federal databases.

(e) **Error reduction program participation.** ARU coordinates with OKDHS Adults and Family Services division for error reduction.

(f) **Survey and project participation.** ARU staff conducts surveys and study projects when requested.

[Source: Added at 15 Ok Reg 1271, eff 4-1-98 (emergency); Added at 16 Ok Reg 1008, eff 4-26-99 ; Amended at 39 Ok Reg 1678, eff 9-15-22]

### **340:2-23-14. Definitions [REVOKED]**

[Source: Added at 15 Ok Reg 1271, eff 4-1-98 (emergency); Added at 16 Ok Reg 1008, eff 4-26-99 ; Revoked at 39 Ok Reg 1678, eff 9-15-22]

### **340:2-23-15. Legal base [REVOKED]**

[Source: Added at 15 Ok Reg 1271, eff 4-1-98 (emergency); Added at 16 Ok Reg 1008, eff 4-26-99 ; Revoked at 39 Ok Reg 1678, eff 9-15-22]

### **340:2-23-16. Administrative Review Unit [REVOKED]**

[Source: Added at 15 Ok Reg 1271, eff 4-1-98 (emergency); Added at 16 Ok Reg 1008, eff 4-26-99 ; Revoked at 39 Ok Reg 1678, eff 9-15-22]

### **340:2-23-17. Scope of quality control case reviews [REVOKED]**

[Source: Added at 15 Ok Reg 1271, eff 4-1-98 (emergency); Added at 16 Ok Reg 1008, eff 4-26-99 ; Revoked at 39 Ok Reg 1678, eff 9-15-22]

### **340:2-23-18. Sampling [REVOKED]**

[Source: Added at 15 Ok Reg 1271, eff 4-1-98 (emergency); Added at 16 Ok Reg 1008, eff 4-26-99 ; Revoked at 39 Ok Reg 1678, eff 9-15-22]

### **340:2-23-19. Quality control (QC) review process**

- (a) **Case Selection.** The QC process begins when a case is selected from the random sample for review and ends when that case finding and data is transmitted, subjected to federal sub-sampling, and federally accepted.
- (b) **QC review findings.** ARU records all verification obtained on the sampled person or household in the QC file. After thorough analysis of the information collected during the QC process, ARU makes a preliminary finding about the eligibility and payment..

[Source: Added at 15 Ok Reg 1271, eff 4-1-98 (emergency); Added at 16 Ok Reg 1008, eff 4-26-99 ; Amended at 39 Ok Reg 1678, eff 9-15-22]

### **340:2-23-20. ARU participation in Department error reduction activities [REVOKED]**

[Source: Added at 15 Ok Reg 1271, eff 4-1-98 (emergency); Added at 16 Ok Reg 1008, eff 4-26-99 ; Revoked at 39 Ok Reg 1678, eff 9-15-22]

### **340:2-23-21. Reports**

- (a) **Federal reports.** Child care reports are filed with Child Care related federal agencies. A Quality Control review findings report and summary is submitted to Adult Family Services Child Care section which then submits a final report to the Child Care Development Fund.
- (b)

**Other State reports.** The Administrative Review Unit provides reports for non-federally mandated reviews, audits, or program evaluation and monitoring projects assigned by the Office of Inspector General.

[Source: Added at 15 Ok Reg 1271, eff 4-1-98 (emergency); Added at 16 Ok Reg 1008, eff 4-26-99 ; Amended at 39 Ok Reg 1678, eff 9-15-22]

### **340:2-23-22. Federal reviews**

For Child Care programs, the Child Care Development Fund is mandated to subsample the reviewed and submitted Administrative Review Unit cases from Oklahoma Human Services' random sample. When a difference is noted by a federal agency, the agency is notified in writing and has the opportunity to present more information or to contest the finding.

[Source: Added at 15 Ok Reg 1271, eff 4-1-98 (emergency); Added at 16 Ok Reg 1008, eff 4-26-99 ; Amended at 39 Ok Reg 1678, eff 9-15-22]

## **SUBCHAPTER 25. LEGAL SERVICES**

### **340:2-25-1. Purpose and legal authority**

(a) The constitutional and statutory authority of the Oklahoma Department of Human Services (DHS) Director for hiring attorneys and establishing Legal Services (LS) is included in the Oklahoma Constitution Article 25, and Section 236 of Title 56 of the Oklahoma Statutes (O.S. 56 § 236) and O.S. 74 §§ 18c and 20f(A).

(b) LS is composed of the General Counsel, deputy general counsel and assistant general counsels, legal assistants and secretaries, and support staff.

(c) LS provides consultation, legal opinions, representation, and other legal services to DHS, the DHS Director, and DHS employees.

(d) LS may represent present and former employees sued in their individual capacities in legal actions arising from conduct while in the scope of their DHS employment.

(e) LS may review legislation drafted by a program or division or draft legislation requested by a program or division.

[Source: Amended at 11 Ok Reg 2663, eff 6-13-94 ; Amended at 36 Ok Reg 1783, eff 9-16-19]

### **340:2-25-2. Legal authority [REVOKED]**

[Source: Amended at 11 Ok Reg 2663, eff 6-13-94 ; Revoked at 36 Ok Reg 1783, eff 9-16-19]

### **340:2-25-3. Reports, executive clearance, opinions and legislative review [REVOKED]**

[Source: Revoked at 11 Ok Reg 2663, eff 6-13-94]

### **340:2-25-4. Procedures relating to collection of money due the department [REVOKED]**

[Source: Revoked at 11 Ok Reg 2663, eff 6-13-94]

### **340:2-25-5. Procedures relating to matters other than collections [REVOKED]**

[Source: Revoked at 11 Ok Reg 2663, eff 6-13-94]

### **340:2-25-6. Approval procedure for settlement of claims under the Governmental Tort Claims Act [51 O.S. Supp. 1985 Sec. 151 et. seq] [REVOKED]**

### **340:2-25-11. Rulemaking**

(a) **Legal authority.** Oklahoma Department of Human Services (DHS) rules are promulgated, per the Oklahoma Administrative Procedures Act (APA), Sections 250 through 323 of Title 75 of the Oklahoma Statutes (75 O.S. §§ 250 through 323) and O.S. 56 § 162.

(b) **Rulemaking petition.**

(1) **Submission.** Any individual may petition DHS in writing to request rule promulgation, amendment, or repeal. The rulemaking petition is submitted to DHS Legal Services (LS) Policy by:

(A) mail, to PO Box 25352, Oklahoma City, Oklahoma 73125, Attention: Legal Services Policy; or

(B) delivery, to the Sequoyah Memorial Office Building, 2400 North Lincoln Boulevard, Oklahoma City, Oklahoma.

(2) **Form and content.** The rulemaking petition must, at a minimum, contain:

(A) a clear statement of the requested action and the petitioner's proposed desired relief or solution;

(B) the Title, Chapter, Subchapter, and Section, when known, or a copy of the existing rule proposed for promulgation, amendment, or repeal;

(C) a statement of supporting facts; including legal grounds including, but not limited to, federal or state statutes, and House of Representatives or Senate bills; and other relevant information or views on which the petitioner relies.

(i) A copy of references or sources cited in the statement is submitted with the rulemaking petition.

(ii) When a petition requests more than one rule revision, a single statement that supports and justifies each proposal meets the requirements of this paragraph;

(D) a description of the class or classes of persons, when known, who will most likely be affected by the proposed revision; and

(E) the petitioner's or authorized representative's printed name, address, phone numbers, and signature.

(c) **Consideration and disposition of rulemaking petition.**

(1) **Rulemaking petition denial.** A rulemaking petition is considered denied when DHS does not initiate rulemaking proceedings within 30-calendar days after the petition is submitted, per 75 O.S. § 305. The rulemaking petition is denied, in whole or in part, when the petition:

(A) requests promulgation of a rule that DHS is clearly without authority to promulgate;

(B) requests a promulgation, amendment, or revocation inconsistent with, or in violation of, any applicable constitutional or statutory authority;  
(C) requests promulgation, amendment, or revocation of a rule that does not constitute a rule, per 75 O.S. § 250.3(17);  
(D) is frivolous or not proposed in good faith; or  
(E) proposes a new or amended rule that is not feasible based on available or anticipated DHS resources. When denial is based on feasibility, LS Policy notifies the petitioner of the denial.

(2) **Rulemaking petition approval.** DHS rulemaking proceedings are initiated when LS Policy submits the approved rulemaking petition to the leadership of any division that may be impacted or affected by the proposed rule promulgation, amendment, or repeal.

(d) **Rulemaking petitioner notification.**

(1) **Rulemaking petition receipt.** LS Policy provides written notification of the petition receipt to the petitioner.

(2) **Rulemaking petition action.** After any action is taken related to the petition, LS Policy provides written notification to the petitioner of:

- (A) rulemaking petition denial, in whole or in part; or
- (B) initiation of DHS rulemaking proceedings including, but not limited to:
  - (i) the substance of comments received and any revisions made, including a copy of the revisions; and
  - (ii) any actions taken.

[Source: Added at 37 Ok Reg 1744, eff 9-15-20]

## **SUBCHAPTER 27. CHILD SUPPORT ADMINISTRATIVE HEARINGS [REVOKED]**

### **340:2-27-1. Purpose [REVOKED]**

[Source: Revoked at 9 Ok Reg 113, eff 10-17-91 (emergency); Revoked at 9 Ok Reg 2761, eff 7-13-92]

### **340:2-27-2. Jurisdiction and issues [REVOKED]**

[Source: Revoked at 9 Ok Reg 113, eff 10-17-91 (emergency); Revoked at 9 Ok Reg 2761, eff 7-13-92]

### **340:2-27-3. Standard of review [REVOKED]**

[Source: Revoked at 9 Ok Reg 113, eff 10-17-91 (emergency); Revoked at 9 Ok Reg 2761, eff 7-13-92]



#### **340:2-27-4. Hearing procedure [REVOKED]**

[Source: Revoked at 9 Ok Reg 113, eff 10-17-91 (emergency); Revoked at 9 Ok Reg 2761, eff 7-13-92]

### **SUBCHAPTER 28. OFFICE OF ADMINISTRATIVE HEARINGS: CHILD SUPPORT**

#### **340:2-28-1. Purpose**

The purpose of this Subchapter is to provide rules for all administrative hearings of child support and other matters under the jurisdiction of the Office of Administrative Hearings: Child Support, as defined in this Subchapter. This Subchapter complies with Section 237 of Title 56 of the Oklahoma Statutes to administer the Oklahoma Department of Human Services statewide plan for child support enforcement under Title IV, Part D, of the Social Security Act, Sections 651 through 669B, of Title 42 of the United States Code, Chapter III of Title 45 of the Code of Federal Regulations, Sections 237 through 240.23 of Title 56 of the Oklahoma Statutes, applicable provisions of Titles 10, 43, and 68 of the Oklahoma Statutes, and all other relevant state and federal laws. Nothing in this Subchapter shall be construed to limit the rights of persons who are not represented by counsel to submit pleadings on their own behalf.

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Amended at 20 Ok Reg 2033, eff 7-1-03 ; Amended at 24 Ok Reg 2176, eff 7-1-07]

#### **340:2-28-2. Definitions**

The following words and terms, when used in this Subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

**"ALJ"** means an administrative law judge in the Office of Administrative Hearings: Child Support.

**"Authorized representative"** means a person designated under law to act for another person or an entity, such as a guardian of a child or an executor of an estate.

**"Child Support Enforcement Division"** or **"CSED"** means the Child Support Enforcement Division of the Oklahoma Department of Human Services (OKDHS). District offices of CSED may be administered by OKDHS or through contract or cooperative agreements with district attorneys, Community Action Program (CAP) agencies, Native American tribal organizations, and others. As used in this Subchapter, CSED includes all of these district offices and their employees and agents.

**"Custodian"** means the person who has primary physical custody of the child(ren).

**"Electronic filing"** means the submission of documents to the Office of Administrative Hearings: Child Support through an electronic medium rather than the use of a paper document.

**"In camera"** means before the ALJ without spectators.

**"In forma pauperis affidavit"** means a sworn declaration or statement of facts made by an indigent person seeking waiver of transcription costs and fees.

**"IV-D"** means Title IV, Part D, of the Social Security Act generally relating to child support. Title IV appears in the United States Code as Sections 601 through 687, Subchapter IV, Chapter 7, Title 42.

**"IV-D case"** means a child support case receiving IV-D services.

**"Natural person"** means a human being as opposed to an entity created by law.

**"Noncustodial parent"** means a parent who does not have primary physical custody of the child(ren).

**"OAH"** means the Office of Administrative Hearings: Child Support within OKDHS Legal Services. [56 O.S. § 237.7]

**"Obligor"** means the person required to make payments under an order for support. [12 O.S. § 1170 and 56 O.S. § 237.7]

**"Pleading"** means a formal document that contains statements or allegations that constitute a cause of action or defense.

**"Pro se"** means without a lawyer.

**"Writ of mandamus"** means a written order issued by a court to compel a lower court or government officer to perform mandatory or ministerial duties correctly.

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Amended at 20 Ok Reg 2033, eff 7-1-03 ; Amended at 24 Ok Reg 2176, eff 7-1-07 ; Amended at 39 Ok Reg 1684, eff 9-15-22]

### **340:2-28-3. Scope of rules**

The rules of procedure govern the practice for all matters presented to an administrative law judge (ALJ) in the Office of Administrative Hearings: Child Support (OAH). All matters presented to an ALJ are conducted in accordance with applicable law and the rules in this Subchapter.

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Amended at 20 Ok Reg 2033, eff 7-1-03]

#### **340:2-28-3.1. Waiver**

Upon a finding by the Office of Administrative Hearings: Child Support (OAH) that any rule in this Subchapter works a manifest injustice, the same rule may be waived for that particular instance. An express finding of manifest injustice on the record is not required for such waiver. All parties and attorneys will be given notice and an opportunity to respond before a decision is made.

[Source: Added at 37 Ok Reg 1747, eff 9-15-20]

#### **340:2-28-4. Office of Administrative Hearings: Child Support**

The Office of Administrative Hearings: Child Support (OAH), conducts child support enforcement hearings pursuant to Section 237.7(3) of Title 56 of the Oklahoma Statutes. All hearings are conducted by administrative law judges assigned to OAH.

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Amended at 20 Ok Reg 2033, eff 7-1-03]

##### **340:2-28-4.1. Districts**

The chief administrative law judge (ALJ) assigns ALJs to various child support districts within the state. Unless the assigned ALJ recuses or is otherwise unavailable, the assigned ALJ determines all actions in cases docketed by the child support districts to which that ALJ is assigned. However, if the assigned ALJ is not available for a docket or for an action in a case on the docket, the chief ALJ may assign another ALJ to the docket or to an action in a case, within the discretion of the chief ALJ, provided appropriate consideration is given to maintaining the ALJ's continuity in individual actions that he or she heard or partially-heard on the record. If an action was heard or partially-heard on the record by an ALJ who is later not immediately available, the chief ALJ or another ALJ, as designated by the chief ALJ, may continue the matter without hearing to a date when the assigned ALJ is available. The chief ALJ may delegate to the court clerks, as appropriate, the ability to secure an available ALJ to conduct a hearing, when the assigned ALJ is unavailable and no part of the individual action in a case has been previously heard on the record.

[Source: Amended and renumbered from 340:2-28-13 at 20 Ok Reg 2033, eff 7-1-03 ; Amended at 35 Ok Reg 1588, eff 9-17-18]

##### **340:2-28-4.2. Terms and location of Office of Administrative Hearings: Child Support**

(a) The Office of Administrative Hearings: Child Support (OAH) is in session whenever there is a regularly- or specially-scheduled docket with participating district child support offices on days designated for administrative hearings. Pleadings, other documents, and orders may be filed on any business day at OAH located in the Sequoyah Building, 2400 North Lincoln Boulevard, Oklahoma City, Oklahoma. Filing may be accomplished through hand-delivery, postal or parcel delivery, and electronic transmission, if the available means are secure and compatible with OAH docketing and case management software. A document filed through email is a portable digital file or is a \*.pdf formatted file and is submitted to: Legal.OAH.Staff@okdhs.org. The use of email to submit documents for filing is limited to parties and attorneys external to Oklahoma Human Services. Electronic transmission, in this context, does not include text messaging. The OAH mailing address is Oklahoma Department of Human Services, Attn: OAH, P.O. Box 25352, Oklahoma City, Oklahoma 73125-0352.

(b) Proceedings may not commence unless and until an administrative case is opened through Oklahoma Department of Human Services Child

Support Services.

[Source: Amended and renumbered from 340:2-28-14 at 20 Ok Reg 2033, eff 7-1-03 ; Amended at 24 Ok Reg 2176, eff 7-1-07 ; Amended at 33 Ok Reg 1587, eff 9-15-16 ; Amended at 35 Ok Reg 1588, eff 9-17-18 ; Amended at 38 Ok Reg 2157, eff 9-15-21 ; Amended at 39 Ok Reg 175, eff 10-20-21 (emergency); Amended at 39 Ok Reg 1684, eff 9-15-22 ; Amended at 40 Ok Reg 940, eff 9-15-23]

#### **340:2-28-4.3. Clerk of Office of Administrative Hearings: Child Support**

The docketing clerks of the Office of Administrative Hearings: Child Support (OAH), are authorized to perform all non-judicial support duties, including but not limited to, maintaining case records, dockets, and calendar; filing and certifying documents; facilitating hearing arrangements; arranging for transcripts and payment; and preparing, certifying, and transmitting the record in appeals.

[Source: Amended and renumbered from 340:2-28-15 at 20 Ok Reg 2033, eff 7-1-03 ; Amended at 24 Ok Reg 2176, eff 7-1-07 ; Amended at 35 Ok Reg 1588, eff 9-17-18 ; Amended at 38 Ok Reg 2157, eff 9-15-21]

#### **340:2-28-4.4. Electronic filing [REVOKED]**

[Source: Added at 24 Ok Reg 2176, eff 7-1-07 ; Revoked at 38 Ok Reg 2157, eff 9-15-21]

#### **340:2-28-5. Seal [REVOKED]**

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Revoked at 20 Ok Reg 2033, eff 7-1-03]

#### **340:2-28-6. Public records [REVOKED]**

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Revoked at 20 Ok Reg 2033, eff 7-1-03]

#### **340:2-28-7. The Administrative Law Judge (ALJ) [REVOKED]**

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Revoked at 20 Ok Reg 2033, eff 7-1-03]

#### **340:2-28-8. Qualifications and power of administrative law judge**

(a) An administrative law judge (ALJ) must be admitted to the practice of law by the State of Oklahoma and be a member in good standing of the Oklahoma Bar Association. An ALJ must meet any other requirements prescribed by the Legal Division, Oklahoma Department of Human Services.

(b) All OAH ALJs, whether full-time or part-time, are subject to the requirements of the Code of Judicial Conduct.

(c) All OAH ALJs are authorized pursuant to state and federal laws referenced in OAC 340:2-28-1 and the rules in this Subchapter. The duties of the ALJ are to conduct fair hearings, avoid delays, maintain order, and make a record of all proceedings arising under the ALJ's jurisdiction. The ALJ has all powers necessary to accomplish these ends,

which fall within the scope of judicial functions. The chief administrative law judge has all additional powers necessary to oversee OAH functions.

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Amended at 20 Ok Reg 2033, eff 7-1-03 ; Amended at 38 Ok Reg 2157, eff 9-15-21]

### **340:2-28-9. Power of the administrative law judge [REVOKED]**

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Amended at 20 Ok Reg 2033, eff 7-1-03 ; Revoked at 38 Ok Reg 2157, eff 9-15-21]

### **340:2-28-10. Empowered duties of the Administrative Law Judge [REVOKED]**

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Revoked at 20 Ok Reg 2033, eff 7-1-03]

### **340:2-28-11. Disqualification or recusal of an administrative law judge (ALJ)**

When an ALJ disqualifies or recuses from a case, the chief ALJ assigns a different ALJ. If the chief ALJ disqualifies or recuses from a case, a different ALJ is assigned by random lot, drawn by a docketing clerk.

- (1) Any ALJ may disqualify or recuse on their own motion.
- (2) A motion to disqualify an ALJ from a case may be filed with the Office of Administrative Hearings: Child Support (OAH), stating the basis for the request. The ALJ may recuse on their own motion; grant the motion without setting for hearing; or, in the ALJ's discretion, determine the motion after a hearing.
  - (A) When a motion to disqualify is denied, the Chief ALJ will reconsider the motion, upon the filing of a request for review. The request for review will be determined after hearing and when the Chief ALJ disqualifies the subject ALJ, the Chief ALJ assigns a different ALJ.
  - (B) When the subject of a motion to disqualify is the Chief ALJ, the request for review will be decided by a different ALJ assigned by random lot, drawn by a docketing clerk. The request for review will be determined after hearing and when the reviewing ALJ disqualifies the Chief ALJ, the reviewing judge will assign a different ALJ by random lot, not to include the reviewing ALJ.
- (3) No further review is available within OAH or the agency.

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Amended at 20 Ok Reg 2033, eff 7-1-03 ; Amended at 38 Ok Reg 2157, eff 9-15-21]

#### **340:2-28-11.1. Ex parte communication**

Ex parte communications are governed by Rule 2.9, Appendix 4 of Title 5 of the Oklahoma Statutes. Communication with the Office of Administrative Hearings: Child Support (OAH) regarding scheduling and procedural matters is permitted and includes physical and/or technical

requirements, preferences, or requested accommodations regarding the hearing setting and/or arrangement, per Rule 2.9. Child Support Services (CSS) and OAH are permitted to communicate regarding the creation/existence of a CSS family violence indicator in a particular case, per Rule 2.9.

[Source: Added at 37 Ok Reg 1747, eff 9-15-20]

#### **340:2-28-12. Judges' conferences [REVOKED]**

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Amended at 20 Ok Reg 2033, eff 7-1-03 ; Revoked at 38 Ok Reg 2157, eff 9-15-21]

#### **340:2-28-13. Districts [AMENDED AND RENUMBERED TO 340:2-28-4.1]**

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Amended and renumbered to 340:2-28-4.1 at 20 Ok Reg 2033, eff 7-1-03]

#### **340:2-28-14. Terms and location of Court [AMENDED AND RENUMBERED TO 340:2-28-4.2]**

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Amended and renumbered to 340:2-28-4.2 at 20 Ok Reg 2033, eff 7-1-03]

#### **340:2-28-15. Clerk of Office of Administrative Hearings [AMENDED AND RENUMBERED TO 340:2-28-4.3]**

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Amended and renumbered to 340:2-28-4.3 at 20 Ok Reg 2033, eff 7-1-03]

#### **340:2-28-16. Rights of parties [REVOKED]**

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Revoked at 20 Ok Reg 2033, eff 7-1-03]

##### **340:2-28-16.1. Docketing cases**

District child support offices docket their hearing notices and continuances through an approved Office of Administrative Hearings: Child Support (OAH) docketing system available to child support enforcement. Hearing notices and continuances must be docketed a minimum of 14 days prior to the docket date. Cases not approved for the docket may be heard at the discretion of the assigned administrative law judge. The second Friday of each month is reserved for Office of Administrative Hearings: Child Support staff meetings; there are no dockets or hearings set on that date.

[Source: Added at 20 Ok Reg 2033, eff 7-1-03 ; Amended at 24 Ok Reg 2176, eff 7-1-07 ; Amended at 38 Ok Reg 2157, eff 9-15-21]

##### **340:2-28-16.2. Service of orders**

- (a) Orders prepared by the administrative law judge (ALJ), in a specific case, must be mailed or hand-delivered to the parties within three business days, from the filing of the order, by the ALJ, unless the ALJ directs the mailing or delivering of an order by one party upon another. Copies of all orders must be mailed or hand-delivered to opposing parties by the preparer within three business days from the filing of the order.
- (b) Providing copies of the filed order, in a specific case, through an electronic means available to parties is an acceptable form of delivery. Electronic delivery of orders must be accomplished within three days of filing the order.
- (c) Administration orders concerning court operations authorized by the Chief ALJ are not required to be filed in individual cases; electronic copies of any administration order will be provided upon request.

[Source: Added at 20 Ok Reg 2033, eff 7-1-03 ; Amended at 24 Ok Reg 2176, eff 7-1-07 ; Amended at 38 Ok Reg 2157, eff 9-15-21]

### **340:2-28-17. Local Child Support Office [REVOKED]**

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Revoked at 20 Ok Reg 2033, eff 7-1-03]

#### **340:2-28-17.1. Hearing room**

- (a) Unless all participants in a hearing are instructed to appear by video and/or telephonic means, each district child support officeor the designated Oklahoma Human Services building hub for a district child support office must provide the administrative law judge (ALJ) with a hearing room designated for the exclusive use by the ALJ for the hearing. The room provided must be large enough to accommodate the ALJ and required computer equipment as well as a minimum of six additional people during the hearing.
- (b) No person shall carry a firearm or other weapon into the hearing room, except for law enforcement officers or security personnel in their official capacity for the purpose of providing security in the hearing room or law enforcement officers having a prisoner in custody.
- (c) Other than those items belonging to the ALJ, briefcases, boxes, bags, purses, and any and all containers of any type are not permitted in the hearing room without permission of the ALJ. The owners of those items are solely responsible for providing for the safekeeping of the items during the hearing.
- (d) If all participants are instructed to appear for hearing by video and/or telephonic means, the district child support office may utilize a hearing room in compliance with those instructions but is not required to provide access to external participants.

[Source: Added at 20 Ok Reg 2033, eff 7-1-03 ; Amended at 38 Ok Reg 2157, eff 9-15-21]

#### **340:2-28-17.2. Pleadings and motion practice**

##### **(a) Document signatures.**

- (1) **Signing pleadings.** Every pleading and motion filed with the Office of Administrative Hearings: Child Support (OAH) must be

signed by an attorney of record, whose Oklahoma Bar Association (OBA) identification number must be stated, or when the party is not represented by an attorney, must be signed by the party. A pleading is any document that contains statements or allegations that constitute a cause of action or defense. Each pleading and motion must include the signer's address and phone number, if any. Pleadings need not be supported by affidavit except as provided for by rule or statute.

(2) **Signing other documents.** Other documents, such as legally-mandated administrative notices issued by Child Support Services (CSS) to notify obligors of proposed enforcement actions, do not require an attorney's signature.

(3) **Signatures submitted through electronic means.**

Electronic mediums that attach an electronic signature are acceptable to meet signature requirements. In addition to electronic transmittals of documents and electronic signatures, signatures on any document transmitted by electronic means including, but not limited to, scan or email have the same force and effect as an original, physical signature, per Section 237.9a of Title 56 of the Oklahoma Statutes. This provision does not authorize filing documents through text.

**(b) Practice.**

(1) **Form, filing, and service.**

(A) All documents, other than exhibits, are filed in the case prior to consideration by an administrative law judge (ALJ). OAH retains all originals filed in paper form and maintains electronic submissions per state record requirements. A pleading or motion is filed prior to any administrative proceeding.

(B) Paper form documents filed in OAH must be typewritten or legibly hand-written on white paper, size 8½ by 11 inches. All documents, other than exhibits, must contain a case style, which is a document heading containing the name of this administrative court, the parties' names, appropriate roles, and assigned case numbers. The party filing the initial request for action by OAH is generally designated as the petitioner or petitioner/plaintiff. The opposing party is usually named as the respondent or respondent/defendant. The custodian(s) must be listed, when not already included in the style as a party, under the case numbers. The case numbers listed in the style must include the OAH number and the Title IV-D, family group number (FGN), or CSS number. The associated district court case number is included, when available. Both conventional and "in re" styles are permitted. Parties are encouraged to maintain a consistent style, similar to one that may have been used in prior child support-related actions, between the same parties, provided the information is complete and accurate.

(i) When filed by an attorney, the name, OBA number, address, and preferred phone numbers



must be shown on the document's signature page.

(ii) When filed by a party not represented by a lawyer, the party is considered a pro se party and must sign his or her name and type or legibly print his or her name, mailing address, Zip code, and preferred phone numbers on the signature page of the document.

(C) All documents in a proceeding, other than exhibits, must be served on all other parties. Proof of service must be filed with OAH and establish that requirements for service are satisfied. A notice or order setting hearing provides recipients with the hearing date and time and when persons are instructed to appear:

(i) at a hearing's physical location, the street address will be included; or

(ii) by video or telephone, contact information and options are included.

(D) OAH may limit participation in hearings to video or telephone in any notice or order setting hearing. OAH may also limit participation in hearings to video or telephone through an order containing instructions in specific cases or through an administration order authorized by the Chief ALJ.

(E) A copy of all documents, other than exhibits, filed in OAH must be provided to all other pro se parties and attorneys of record. A certificate of mailing, delivery, or service must be filed with OAH.

(F) Upon failure to comply with the requirements in this Section, the ALJ may, among other sanctions, continue the cause of action until satisfactory compliance or deny the requested relief.

(G) Requests that do not comply with the requirements of (A) through (E) of this paragraph are considered only at the ALJ's discretion.

(H) Documents submitted through secure electronic means approved by OAH meet the requirement of original documents.

**(2) Motions.**

(A) This paragraph does not prohibit oral motions; however, written motions are preferred.

(B) All motions must state the legal basis supporting the relief or action requested, and whether the opposing party objects, when known.

(C) The ALJ determines if a hearing or oral argument is necessary on a motion and, if so, provides pro se parties and all attorneys of record with notice of the specific hearing date, time, and means.

(D) Initial and response briefs or responses that do not comply with this paragraph are considered only at the ALJ's discretion.

**(3) Briefs.**

(A) Reply and response briefs must be filed three-business days prior to any hearing. Each brief must be clearly styled to show:

- (i) if it is in support of a motion, in opposition of a motion, or a reply brief;
- (ii) the particular application or proceeding to which it relates; and
- (iii) the party or parties on whose behalf it is presented.

(B) Initial and response briefs, when required, must not exceed 20 pages in length without prior ALJ permission.

(C) Reply briefs must be limited to five pages in length without prior ALJ permission.

(D) No further briefs may be filed without ALJ permission.

(E) Briefs and responses that do not comply with this paragraph are considered only at the ALJ's discretion.

(4) **Time extensions.** Except at the ALJ's discretion, all requests for extensions of time must contain:

- (A) the original due date for the response;
- (B) the amount of additional time requested;
- (C) the reason for the request;
- (D) the current status of the case, including the next hearing date, when a hearing is scheduled; and
- (E) a statement that a good faith effort was made to contact the opposing pro se party or the opposing party's counsel regarding the extension to which:
  - (i) opposing party consents;
  - (ii) opposing party objects; or
  - (iii) opposing party was unavailable.

(5) **Counsel withdrawal.** When submitting an application to withdraw and a proposed order allowing withdrawal, counsel must comply with the following:

- (A) Every application to withdraw as counsel must contain:
  - (i) a statement of grounds for withdrawal;
  - (ii) the current case status, including the next hearing date, when a hearing is scheduled;
  - (iii) if new or substitute counsel was obtained by the client and entered an appearance; and
  - (iv) a certificate of mailing, delivery, or service to the client and to all other pro se parties and attorneys of record.

(B) Every proposed order allowing withdrawal must contain a statement of the case's current status, including the next hearing date, when a hearing is scheduled, and a certificate of mailing, delivery, or service to the movant's client, all other pro se parties, and attorneys of record.

(c) **Rejection for Non-Compliance.** The docketing clerks may reject documents for filing when this Section's requirements are not met or when there is no administrative case open through Oklahoma Human Services Child Support Services.

[Source: Amended and renumbered from 340:2-28-27 at 20 Ok Reg 2033, eff 7-1-03 ; Amended at 24 Ok Reg 2176, eff 7-1-07 ; Amended at 37 Ok Reg 1747, eff 9-15-20 ; Amended at 38 Ok Reg 2157, eff 9-15-21 ; Amended at 39 Ok Reg 1684, eff 9-15-22]

### **340:2-28-18. Discovery**

(a) **Right to discovery.** Parties to an action before an administrative law judge (ALJ) of the Office of Administrative Hearings: Child Support, have the right to conduct discovery under the Oklahoma Discovery Code, Chapter 41 of Title 12 of the Oklahoma Statutes. ALJs may enter orders for discovery as necessary.

(b) **Discovery not filed.** Requests for the purpose of discovery must not be filed with OAH, unless the discovery document accompanies a pleading, motion, a response to a motion, or is ordered by the ALJ. Motions to compel discovery and/or for protective orders are permitted.

(1) It is the responsibility of the party submitting the documents to redact any sensitive material.

(2) Any discovery that contains personal identifiers, such as bank account, routing, taxpayer identification, or Social Security numbers, may be redacted by the party submitting the documents. When the numbers are relevant to the case, redacting all numbers except for the last four digits is acceptable. The party submitting the redacted documents must not redact the originals; the redaction is made on copies of the originals, with the redacted copies submitted in substitution for the originals.

(c) **Disputed discovery motions.** A hearing on a discovery dispute may not be set unless the moving party advises the ALJ in the motion that the party has conferred or has attempted to confer, in good faith, about the dispute, with the non-movant and was unable to resolve the dispute.

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Amended at 20 Ok Reg 2033, eff 7-1-03 ; Amended at 38 Ok Reg 2157, eff 9-15-21]

### **340:2-28-19. Evidentiary purpose**

(a) The hearing includes argument, factual evidence, including testimony, stipulations, and exhibits; and judicial notice of the law and of adjudicative facts, pursuant to the Oklahoma Evidence Code, 12 O.S. Section 2101 et seq; however, the technical rules of evidence do not apply to the hearing. Rules and principles designed to ensure production of the most credible evidence available and to subject testimony to test by cross-examination are applied by the ALJ where reasonably necessary. All documents and other evidence offered or taken for the record are open to examination by the parties, unless limited by redaction or a protection order.

(b) Exhibits intended to be offered must be exchanged prior to the hearing, except for exhibits to be offered in rebuttal and except for exhibits for which the opposing parties waive their right to inspect on the record. The ALJ may recess the hearing to allow for exchange of exhibits offered in rebuttal, as necessary and reasonable, or the exchange of exhibits initially offered at hearing, based upon an anticipated waiver of inspection which then does not occur on the record. The ALJ may require

a proffer to determine the reasonableness and necessity of a recess for these purposes. All exhibits offered in electronic format are considered a substitution for the original. All exhibits submitted are pre-marked for identification. Any exhibit submitted to the court in anticipation of being offered, but which is not offered at the close of the record, will not be considered part of the court record and will not be maintained.

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Amended at 20 Ok Reg 2033, eff 7-1-03 ; Amended at 24 Ok Reg 2176, eff 7-1-07 ; Amended at 38 Ok Reg 2157, eff 9-15-21]

#### **340:2-28-20. Entry of appearance**

(a) All attorneys must execute an entry of appearance by filing, either on paper or through a secured electronic means approved by the Office of Administrative Hearings: Child Support (OAH), a:

- (1) formal entry of appearance with the OAH; or
- (2) signed pleading or motion with OAH that contains the attorney's name, Oklahoma Bar Association number, address, and telephone number.

(b) Every attorney of record must continue representation in the matter until final disposition by the administrative law judge (ALJ), unless permitted by the ALJ to withdraw for good cause shown. However, attorneys representing the Child Support Enforcement Division (CSED) who enter appearances on behalf of the State of Oklahoma may be replaced as attorneys of record by other attorneys representing the CSED without permission of the ALJ.

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Amended at 20 Ok Reg 2033, eff 7-1-03 ; Amended at 24 Ok Reg 2176, eff 7-1-07]

#### **340:2-28-21. Exclusion from hearing for misconduct**

Disrespectful or disorderly conduct, disrespectful or offensive language, refusal to comply with directions, or continued use of delay tactics by any person at the hearing before an administrative law judge (ALJ) constitutes grounds for immediate exclusion of the person from the hearing by the ALJ.

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Amended at 20 Ok Reg 2033, eff 7-1-03]

#### **340:2-28-22. Professional conduct and dress requirements**

(a) Attorneys practicing before the Office of Administrative Hearings: Child Support (OAH) are expected to conduct themselves in accordance with the Model Rules of Professional Conduct of the American Bar Association, as adopted by the Oklahoma Supreme Court as the standard of conduct of all members of the Oklahoma Bar Association.

(b) Appropriate dress is required for all persons attending an OAH hearing or prehearing conference. Professional attire is required for all attorneys and the State's witnesses appearing before an administrative law judge.

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Amended at 20 Ok Reg 2033, eff 7-1-03]

#### **340:2-28-22.1. Use of devices at hearings**

- (a) Audio or video recordings including photography, not made by an administrative law judge (ALJ) or court clerk, and broadcasting, of any type or means, during hearings is prohibited.
- (b) The ALJ may:
  - (1) allow the use of personal phones, wireless laptops, or other electronic communication devices at his or her discretion;
  - (2) allow limited use of devices for a particular purpose;
  - (3) allow the devices to remain within the hearing room only when turned off; or
  - (4) prohibit such devices being physically present during a hearing.
- (c) Persons violating this rule may be excused from the hearing or denied further participation in proceedings.

[Source: Added at 37 Ok Reg 1747, eff 9-15-20]

#### **340:2-28-23. Official transcript**

- (a) The Office of Administrative Hearings: Child Support (OAH), prepares or directs the preparation of the official transcript by a licensed court reporter. The party seeking a copy of the transcript of the hearing must pay a reasonable deposit or adequate indemnity prior to the preparation of the transcript and prepay all costs of transcription. The transcript is not furnished prior to:
  - (1) full payment of all transcription costs; or
  - (2) issuance of an order from OAH finding that OAH is to bear the transcription costs.
- (b) Upon application by means of an affidavit, for "in forma pauperis" status, the administrative law judge (ALJ) must determine whether to grant the application. Upon granting the application, OAH provides a transcript, at its own expense, to the applicant for the purpose of appeal.
- (c) Upon notice to all parties, the ALJ may authorize corrections to the transcript. The official transcript of testimony must be filed in OAH.
- (d) The official transcript is certified by the ALJ presiding at the hearing, the chief ALJ of OAH, or the clerk of OAH.

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Amended at 20 Ok Reg 2033, eff 7-1-03]

#### **340:2-28-24. Case Record Management**

- (a) Audio or video recordings of hearings are the property of the Office of Administrative Hearings: Child Support (OAH) and are not available for copying, review, or transcription except as described in Oklahoma Administrative Code 340:2-28-23 or as otherwise authorized by law. OAH is not required to make or maintain video recordings of hearings even if hearings are conducted by electronic/digital video conferencing.

(b) OAH manages and disposes of case records according to the Oklahoma Statutes and all applicable Oklahoma Department of Human Services and Archives and Records Commission administrative rules and policy.

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Amended at 20 Ok Reg 2033, eff 7-1-03 ; Amended at 24 Ok Reg 2176, eff 7-1-07 ; Amended at 35 Ok Reg 1588, eff 9-17-18 ; Amended at 39 Ok Reg 1684, eff 9-15-22]

### **340:2-28-25. Record for appeal**

The record for appeal prepared and sent by Office of Administrative Hearings: Child Support (OAH) to the appellate court is those documents included in the designation(s) and counter- designation(s) of record.

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Amended at 20 Ok Reg 2033, eff 7-1-03 ; Amended at 24 Ok Reg 2176, eff 7-1-07 ; Amended at 37 Ok Reg 1747, eff 9-15-20]

### **340:2-28-25.1. Privacy and confidentiality**

(a) **Filings under seal.** Although the Office of Administrative Hearings: Child Support (OAH) court records are public records, per Section 32.1 of Title 12 of the Oklahoma Statutes (12 O.S. § 32.1) and 51 O.S. § 24A.30, OAH may order any material in the record sealed, per 12 O.S. § 3226(C)(2) and 51 O.S. § 24A.29.

(1) Materials are not sealed when the administrative law judge (ALJ) determines that a reasonable redaction resolves the issue or that the request is overbroad, such as an attempt to seal a general category of materials. When the motion to seal is denied, OAH directs that the materials are stricken or unsealed, with or without redaction as directed by the ALJ.

(2) Any protective order that authorizes materials to be filed or admitted under seal identifies those materials. The protective order is accessible to the same extent as any other document in the OAH court record.

(3) When the motion to seal is granted, OAH retains authority to unseal the material or order the person who initially submitted the material to OAH to submit a redacted version into the record. This authority may be exercised either upon the court's own motion or pursuant to a party's written motion, served upon all non-moving pro se parties and attorneys of record, and subsequently approved after an ALJ hearing.

(b) **Redaction.** It is solely the responsibility of counsel and the parties to ensure that all filed pleadings, papers, exhibits, or other documents are redacted as permitted by these rules or the assigned ALJ. The party submitting the redacted documents must not redact the originals; the redaction is made on copies of the originals, with the redacted copies submitted in substitution for the originals. OAH personnel, including clerks and administrative law judges, do not review any document to verify redaction and have no duty to do so.

(1) The parties may refrain from including or may redact all but the last four digits, when inclusion is necessary, of the personal

identifiers from any submission, such as Social Security, taxpayer identification, routing, or financial account numbers.

(2) When a filer includes personal information, such as Social Security numbers, tax identification numbers, routing numbers, financial account numbers, driver license numbers, dates of birth, addresses, or other sensitive information, in any document filed with OAH, electronically or otherwise, the document becomes a public record as filed.

**(c) Filing errors.**

(1) Filers make every effort to ensure they do not file a document other than the one intended to be filed, that it is filed in the correct case, and the document does not contain information that must be filed under seal or with redaction.

(2) When a document is filed into the wrong case, the OAH clerk is notified by submitting a "Notice of Erroneous Filing" in paper form into the correct case. The OAH clerk is authorized to move the document after inspection, without alteration; however, the OAH clerk may impose the correct OAH case number on the document in the upper right hand corner when necessary. The OAH clerk may move the document through electronic, mechanical, or a combination of the two means. The filer does not refile the document unless directed to do so. Alternatively, the OAH clerk, after inspection of the document, may decline to move the document when the "Notice of Erroneous Filing," itself, is in error. The "Notice of Erroneous Filing" may be obtained from the OAH clerk or found on the Oklahoma Department of Human Services website. The filer is required to provide copies of the "Notice of Erroneous Filing" to all other parties and attorneys and to file a certificate of mailing, delivery, or service in OAH.

(3) When the OAH clerk determines the requesting party's "Notice of Erroneous Filing" is in error and declines to move the document, he or she notifies the requesting party by correspondence, with a copy of the correspondence filed in the same case as the "Notice of Erroneous Filing." The requesting party may be required to provide copies of such correspondence to the other pro se parties and attorneys of record and file a certificate of mailing, delivery, or service in OAH.

(4) When OAH discovers a filing error, the OAH clerk may enter a "Notice of Erroneous Filing," move the document, notify the original filer, and file a certificate of mailing, delivery, or service. The original filer may be required to provide copies to the other pro se parties and attorneys of record and file a certificate of mailing, delivery, or service in OAH.

**(d) Confidentiality.** Nothing in this rule impacts the confidentiality of juvenile records or any other records the Legislature determined are confidential.

[Source: Added at 37 Ok Reg 1747, eff 9-15-20]

### **340:2-28-25.2. Redaction of original paper documents**

Any original paper document maintained in the Office of Administrative Hearings: Child Support redacted by nontransparent tape, ink, or other media or means is deemed permanently redacted.

[Source: Added at 37 Ok Reg 1747, eff 9-15-20]

#### **340:2-28-26. Case numbering**

(a) Every case heard or addressed by an administrative law judge (ALJ) with the Office of Administrative Hearings: Child Support (OAH) must be assigned an OAH case number prior to the case being placed on the docket. OAH numbers are generally assigned within one-business day after the request is submitted to OAH by the district child support office. The case is assigned a number starting with the year the case is opened with OAH and a chronological number of the case for that year within OAH.

(b) Documents are not accepted for filing by OAH unless the OAH number is clearly written on the document and the case number corresponds to the named parties assigned to the case according to OAH records.

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Amended at 20 Ok Reg 2033, eff 7-1-03 ; Amended at 24 Ok Reg 2176, eff 7-1-07 ; Amended at 39 Ok Reg 1684, eff 9-15-22]

#### **340:2-28-27. Pleadings [AMENDED AND RENUMBERED TO 340:2-28-17.2]**

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Amended and renumbered to 340:2-28-17.2 at 20 Ok Reg 2033, eff 7-1-03]

#### **340:2-28-28. Forms [REVOKED]**

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Revoked at 20 Ok Reg 2033, eff 7-1-03]

#### **340:2-28-29. Dismissals [REVOKED]**

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Amended at 20 Ok Reg 2033, eff 7-1-03 ; Amended at 24 Ok Reg 2176, eff 7-1-07 ; Revoked at 39 Ok Reg 1684, eff 9-15-22]

#### **340:2-28-30. Continuances**

(a) A party seeking a continuance must request a continuance from the assigned administrative law judge (ALJ) and give notice to the non-movants. If the assigned ALJ is not available, the chief ALJ may decide the motion and/or the entire action or assign another ALJ to determine the motion and/or the entire action. If an action was heard or partially-heard on the record by an ALJ, who is later unavailable, the chief ALJ or another ALJ, as designated by the chief ALJ, may continue the matter without hearing.

(b) A party does not have the authority to continue a matter set on an ALJ's regularly- or specially-scheduled docket. Parties may agree to



continue a docketed matter with the assigned ALJ's approval. Without an agreement, the motion is heard by the assigned ALJ.

(c) When an assigned ALJ is unavailable for a docket or for an action in a case, the chief ALJ may assign another ALJ or may direct that the unresolved matters be continued without a hearing.

(d) After one continuance is granted for each party, further motions for continuances, unless agreed by all parties, are heard by an ALJ assigned to the case and are not granted, except for good cause. If the assigned ALJ is not available, the chief ALJ may decide the motion and/or the entire action or assign another ALJ to determine the motion and/or the entire action. If an action was heard or partially-heard on the record by an ALJ, who is later unavailable, the chief ALJ or another ALJ, as designated by the chief ALJ, may continue the matter without hearing.

(e) All orders for continuance must set forth the basis for the continuance.

(f) In emergency situations including, but not limited to, severe weather threats and/or impact, the chief ALJ or the assigned ALJ, with the chief ALJ's approval, may continue all cases on a docket without a hearing.

(g) An assigned ALJ or the chief ALJ may continue any case on a docket *sua sponte* without a hearing.

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Amended at 20 Ok Reg 2033, eff 7-1-03 ; Amended at 24 Ok Reg 2176, eff 7-1-07 ; Amended at 35 Ok Reg 1588, eff 9-17-18]

### **340:2-28-31. Objections to service and venue**

Objections to jurisdiction over a person, the issuance of service of notice, or the venue of the action are waived if a party submits to a scheduled hearing or pretrial conference without written objection. The objection may be filed either on paper or through electronic means approved by the Office of Administrative Hearings: Child Support.

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Amended at 20 Ok Reg 2033, eff 7-1-03 ; Amended at 24 Ok Reg 2176, eff 7-1-07]

### **340:2-28-32. Prehearing conference [REVOKED]**

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Revoked at 20 Ok Reg 2033, eff 7-1-03]

### **340:2-28-33. Default and agreed judgments**

(a) A default judgment or administrative order may be entered, without formal motion or notice of taking of default, when:

(1) after statutory requirements for service have been met, a party fails to:

(A) appear for a set hearing date;

(B) file a responsive pleading; or

(C) request a hearing within the statutory time allotted; or

(2) having requested a hearing, the obligor fails to make an appearance at the hearing.

(b) Documents filed in support of the proposed default judgment are:

- (1) proof of service;
  - (2) Servicemember's affidavit in accordance with the Servicemember's Civil Relief Act of 2003 and Department of Defense Status Report;
  - (3) Proof of breach of payment, when basis of claim;
  - (4) Copy of underlying order(s), when basis of claim;
  - (5) Amount of debt, including principle and interest;
  - (6) proof of paternity/maternity, when available and when basis of claim; and
  - (7) any other item specifically requested by the assigned judge.
- (c) An agreed judgment or administrative order may be entered upon the basis of mutual intent of all parties in accord with the law, as evidenced by their signatures or by an authorized representation, on the document or in open court, that one or more parties has waived signature. The following documents are filed in support of the proposed agreed judgment:
- (1) Copy of underlying order(s), when basis of claim;
  - (2) proof of paternity/maternity, when available and when basis of claim; and
  - (3) any other item specifically requested by the assigned judge.

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Amended at 20 Ok Reg 2033, eff 7-1-03 ; Amended at 24 Ok Reg 2176, eff 7-1-07 ; Amended at 38 Ok Reg 2157, eff 9-15-21]

#### **340:2-28-34. Matters taken under advisement**

A decision must be rendered within 20 days after the date the hearing is concluded. [56 O.S. § 237.8] In the event the record is left open by order of the administrative law judge (ALJ) after a hearing is concluded, a decision must be rendered 20 days after the last evidence, brief, or memorandum of law is received into the record or the ALJ determines that the record is closed. If the decision is not rendered within this time, the chief ALJ may be advised by either party so that appropriate measures may be taken by the chief ALJ.

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Amended at 20 Ok Reg 2033, eff 7-1-03]

#### **340:2-28-35. Uniformity of rulings [REVOKED]**

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Revoked at 20 Ok Reg 2033, eff 7-1-03]

#### **340:2-28-36. Determining the amount of payments [REVOKED]**

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Revoked at 20 Ok Reg 2033, eff 7-1-03]

#### **340:2-28-37. Fraud [REVOKED]**

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Revoked at 20 Ok Reg 2033, eff 7-1-03]

### **340:2-28-38. Notice of support debt [REVOKED]**

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Revoked at 20 Ok Reg 2033, eff 7-1-03]

### **340:2-28-39. Notice of delinquency [REVOKED]**

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Revoked at 20 Ok Reg 2033, eff 7-1-03]

### **340:2-28-40. Notice of Job Finding and Training Programs [REVOKED]**

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Revoked at 20 Ok Reg 2033, eff 7-1-03]

### **340:2-28-41. Voluntary acknowledgement of debt [REVOKED]**

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Revoked at 20 Ok Reg 2033, eff 7-1-03]

### **340:2-28-42. Visitation [REVOKED]**

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Revoked at 20 Ok Reg 2033, eff 7-1-03]

### **340:2-28-43. Modification [REVOKED]**

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Revoked at 20 Ok Reg 2033, eff 7-1-03]

### **340:2-28-44. Hearings [REVOKED]**

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Revoked at 20 Ok Reg 2033, eff 7-1-03]

### **340:2-28-45. Notice of the hearing [REVOKED]**

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Revoked at 20 Ok Reg 2033, eff 7-1-03]

### **340:2-28-46. Issues [REVOKED]**

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Revoked at 20 Ok Reg 2033, eff 7-1-03]

### **340:2-28-47. Administrative orders [REVOKED]**

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Revoked at 20 Ok Reg 2033, eff 7-1-03]

### **340:2-28-48. Temporary orders**

If, during the hearing, the administrative law judge (ALJ) finds the issues presented require further disposition, either administratively or through the district court, the ALJ may enter a temporary order for child support, pending resolution of the reserved issues during a subsequent administrative or district court hearing. The temporary order must be docketed and enforced as a final order until superseded by a final administrative or district court order.

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Amended at 20 Ok Reg 2033, eff 7-1-03]

### **340:2-28-49. District Court [REVOKED]**

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Revoked at 20 Ok Reg 2033, eff 7-1-03]

### **340:2-28-50. Effect of administrative order**

If an administrative order of the Office of Administrative Hearings: Child Support, is not appealed under OAC 340:2-28-55, the administrative order is final unless stayed by the district court pending appeal. An administrative order is docketed with the district court in the county of residence of the custodian of the child. If neither the custodian or the child reside in Oklahoma, the administrative order must be docketed with the district court in the county of residence of the noncustodial parent. [56 O.S. § 237.10] The order must be enforced in the same manner as an order of the district court.

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Amended at 20 Ok Reg 2033, eff 7-1-03]

### **340:2-28-51. Child support guidelines [REVOKED]**

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Revoked at 20 Ok Reg 2033, eff 7-1-03]

### **340:2-28-52. Income assignment [REVOKED]**

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Revoked at 20 Ok Reg 2033, eff 7-1-03]

### **340:2-28-53. Modification [REVOKED]**

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Revoked at 20 Ok Reg 2033, eff 7-1-03]

### **340:2-28-54. Reconsideration, re-examination, rehearing or vacation of a judgment or final order [REVOKED]**

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Revoked at 20 Ok Reg 2033, eff 7-1-03]

**340:2-28-55. Appeal from administrative order**

(a) Appeals from an administrative order are in accordance with Section 240.3 of Title 56 of the Oklahoma Statutes (56 O.S. § 240.3).

(b) Only final orders of the Office of Administrative Hearings: Child Support (OAH) may be appealed to the district court. OAH final orders are not stayed pending an appeal except by district court order.

(c) A copy of appellant's petition in error and designation of record, identical to the originals filed in district court to commence the appeal, is mailed by regular mail to OAH for filing. A copy of the appellee's counter-designation of record, identical to the original filed in district court, is mailed by regular mail to OAH for filing. No other form of service for a petition in error, a designation of record, counter-designation of record, or request for a transcript upon OAH is permitted, including hand-delivery or digital means.

(d) OAH prepares or directs preparation of the official transcript by a licensed court reporter, when a transcript is requested. A transcript may be obtained when the requesting party submits a written request to OAH by regular mail for the transcript(s) and pays the deposit. OAH responds by letter to the requesting party, specifying the amount of the required deposit and acceptable forms of payment.

(e) After OAH receives the request and deposit, OAH prepares or directs preparation of the official transcript by a licensed court reporter.

(f) OAH notifies the requesting party when the transcript is complete and of the balance due that must be paid in full before the certified copy is mailed to the district court or to the parties.

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Amended at 20 Ok Reg 2033, eff 7-1-03 ; Amended at 37 Ok Reg 1747, eff 9-15-20]

**340:2-28-56. Appeal from an order for income assignment  
[REVOKED]**

[Source: Added at 9 Ok Reg 113, eff 10-17-91 (emergency); Added at 9 Ok Reg 2761, eff 7-13-92 ; Revoked at 20 Ok Reg 2033, eff 7-1-03]

**340:2-28-57. Certification of copies of administrative orders**

(a) An administrative order or other document filed within the administrative court record may be certified as a true and correct copy of the original, whether the original is in paper, electronic, or digital format by:

(1) the physical or electronic application of language to each copy, which states, in effect, that the copy to be certified is a true and correct copy of the original as it appears in the record of the administrative court; and

(2) an administrative law judge (ALJ) or a clerk of the administrative court completes the certification by means of the respective physical or electronic/digital signature and date; and

(3) the application of the administrative court seal by the clerk of the administrative court, an ALJ, or other individual as directed by an ALJ.

(b) In the alternative, an administrative order, that bears an ALJ's electronic/digital signature, is deemed certified.  
(c) The use of electronic/digital signatures is authorized per Section 237.9a of Title 56 of the Oklahoma Statutes.

[Source: Added at 34 Ok Reg 1440, eff 9-15-17]

## **SUBCHAPTER 29. PAROLE, REVIEW AND HEARING BOARD [REVOKED]**

### **340:2-29-1. Purpose [REVOKED]**

[Source: Revoked at 15 Ok Reg 1595, eff 5-11-98]

### **340:2-29-2. Definitions [REVOKED]**

[Source: Revoked at 15 Ok Reg 1595, eff 5-11-98]

### **340:2-29-3. Mission and legal base [REVOKED]**

[Source: Revoked at 15 Ok Reg 1595, eff 5-11-98]

### **340:2-29-4. Paroling authority; purpose and procedures [REVOKED]**

[Source: Revoked at 15 Ok Reg 1595, eff 5-11-98]

### **340:2-29-5. Administration [REVOKED]**

[Source: Revoked at 15 Ok Reg 1595, eff 5-11-98]

### **340:2-29-6. Management [REVOKED]**

[Source: Revoked at 15 Ok Reg 1595, eff 5-11-98]

### **340:2-29-7. Tentative release hearings [REVOKED]**

[Source: Revoked at 15 Ok Reg 1595, eff 5-11-98]

### **340:2-29-8. Parole hearings [REVOKED]**

[Source: Revoked at 15 Ok Reg 1595, eff 5-11-98]

### **340:2-29-9. Parole revocation hearings [REVOKED]**

[Source: Revoked at 15 Ok Reg 1595, eff 5-11-98]

## **340:2-29-10. Due process hearings [REVOKED]**

[Source: Revoked at 15 Ok Reg 1595, eff 5-11-98]

# **SUBCHAPTER 31. INTERGOVERNMENTAL RELATIONS AND POLICY [REVOKED]**

## **PART 1. GENERAL PROVISIONS [REVOKED]**

### **340:2-31-1. Purpose [REVOKED]**

[Source: Amended at 9 Ok Reg 1143, eff 1-24-92 (emergency); Amended at 9 Ok Reg 1013, eff 7-13-92 ; Revoked at 15 Ok Reg 1444, eff 4-1-98 (emergency); Revoked at 16 Ok Reg 1008, eff 4-26-99]

### **340:2-31-2. Legal basis [REVOKED]**

[Source: Amended at 9 Ok Reg 1143, eff 1-24-92 (emergency); Amended at 9 Ok Reg 1013, eff 7-13-92 ; Amended at 10 Ok Reg 4325, eff 7-21-93 (emergency); Amended at 11 Ok Reg 2233, eff 5-26-94 ; Revoked at 15 Ok Reg 1444, eff 4-1-98 (emergency); Revoked at 16 Ok Reg 1008, eff 4-26-99]

## **PART 3. RESEARCH, EVALUATION AND STATISTICS UNIT [REVOKED]**

### **340:2-31-3. Research, Evaluation and Statistics Unit [REVOKED]**

[Source: Amended at 9 Ok Reg 1143, eff 1-24-92 (emergency); Amended at 9 Ok Reg 1013, eff 7-13-92 ; Amended at 10 Ok Reg 4325, eff 7-21-93 (emergency); Amended at 11 Ok Reg 2233, eff 5-26-94 ; Revoked at 15 Ok Reg 868, eff 1-1-98 (emergency); Revoked at 15 Ok Reg 1597, eff 5-11-98]

#### **340:2-31-3.1. Relationship between the Research, Evaluation and Statistics Unit and other divisions and units of the Department [REVOKED]**

[Source: Added at 10 Ok Reg 4325, eff 7-21-93 (emergency); Added at 11 Ok Reg 2233, eff 5-26-94 ; Revoked at 15 Ok Reg 868, eff 1-1-98 (emergency); Revoked at 15 Ok Reg 1597, eff 5-11-98]

#### **340:2-31-4. Scheduled reports submitted to or by the Research, Evaluation and Statistics Unit [REVOKED]**

[Source: Amended at 9 Ok Reg 1143, eff 1-24-92 (emergency); Amended at 9 Ok Reg 1013, eff 7-13-92 ; Revoked at 10 Ok Reg 4325, eff 7-21-93 (emergency); Revoked at 11 Ok Reg 2233, eff 5-26-94]

#### **340:2-31-5. Uses of statistical data [REVOKED]**

[Source: Amended at 9 Ok Reg 1143, eff 1-24-92 (emergency); Amended at 9 Ok Reg 1013, eff 7-13-92 ; Amended at 10 Ok Reg 4325, eff 7-21-93 (emergency); Amended at 11 Ok Reg 2233, eff 5-26-94 ; Revoked at 15 Ok Reg 868, eff 1-1-98 (emergency); Revoked at 15 Ok Reg 1597, eff 5-11-98]

### **340:2-31-6. Policy Development Unit [REVOKED]**

[Source: Revoked at 9 Ok Reg 1143, eff 1-24-92 (emergency); Revoked at 9 Ok Reg 1013, eff 7-13-92]

## **PART 4. INTERGOVERNMENTAL RELATIONS AND POLICY [REVOKED]**

### **340:2-31-10. Intergovernmental relations and policy [REVOKED]**

[Source: Added at 19 Ok Reg 2662, eff 7-11-02 ; Amended at 24 Ok Reg 1012, eff 5-11-07 ; Amended at 30 Ok Reg 1343, eff 7-1-13 ; Revoked at 37 Ok Reg 1744, eff 9-15-20]

## **PART 5. RULEMAKING PETITION [REVOKED]**

### **340:2-31-31. Rulemaking petition [REVOKED]**

[Source: Added at 9 Ok Reg 877, eff 1-17-92 (emergency); Added at 9 Ok Reg 1013, eff 7-13-92 ; Amended at 14 Ok Reg 556, eff 12-12-96 (emergency); Amended at 14 Ok Reg 1304, eff 5-12-97 ; Amended at 19 Ok Reg 2662, eff 7-11-02 ; Amended at 24 Ok Reg 1012, eff 5-11-07 ; Amended at 30 Ok Reg 1343, eff 7-1-13 ; Revoked at 37 Ok Reg 1744, eff 9-15-20]

### **340:2-31-32. Consideration and disposition of rulemaking petition [REVOKED]**

[Source: Added at 14 Ok Reg 556, eff 12-12-96 (emergency); Added at 14 Ok Reg 1304, eff 5-12-97 ; Amended at 19 Ok Reg 2662, eff 7-11-02 ; Amended at 24 Ok Reg 1012, eff 5-11-07 ; Amended at 30 Ok Reg 1343, eff 7-1-13 ; Revoked at 37 Ok Reg 1744, eff 9-15-20]

### **340:2-31-33. Rulemaking petitioner notification [REVOKED]**

[Source: Added at 14 Ok Reg 556, eff 12-12-96 (emergency); Added at 14 Ok Reg 1304, eff 5-12-97 ; Amended at 19 Ok Reg 2662, eff 7-11-02 ; Amended at 24 Ok Reg 1012, eff 5-11-07 ; Amended at 30 Ok Reg 1343, eff 7-1-13 ; Revoked at 37 Ok Reg 1744, eff 9-15-20]

## **PART 7. ACCESS TO DHS RECORDS [REVOKED]**

### **340:2-31-50. Purpose and authority [REVOKED]**

[Source: Added at 14 Ok Reg 556, eff 12-12-96 (emergency); Added at 14 Ok Reg 1304, eff 5-12-97 ; Revoked at 15 Ok Reg 1444, eff 4-1-98 (emergency); Revoked at 16 Ok Reg 1008, eff 4-26-99]

### **340:2-31-51. Definitions [REVOKED]**

[Source: Added at 14 Ok Reg 556, eff 12-12-96 (emergency); Added at 14 Ok Reg 1304, eff 5-12-97 ; Revoked at 15 Ok Reg 1444, eff 4-1-98 (emergency); Revoked at 16 Ok Reg 1008, eff 4-26-99]



### **340:2-31-52. Release of information [REVOKED]**

[Source: Added at 14 Ok Reg 556, eff 12-12-96 (emergency); Added at 14 Ok Reg 1304, eff 5-12-97 ; Revoked at 15 Ok Reg 1444, eff 4-1-98 (emergency); Revoked at 16 Ok Reg 1008, eff 4-26-99]

### **340:2-31-53. Designated Public Records Officer (PRO) [REVOKED]**

[Source: Added at 14 Ok Reg 556, eff 12-12-96 (emergency); Added at 14 Ok Reg 1304, eff 5-12-97 ; Revoked at 15 Ok Reg 1444, eff 4-1-98 (emergency); Revoked at 16 Ok Reg 1008, eff 4-26-99]

### **340:2-31-54. Requests for records [REVOKED]**

[Source: Added at 14 Ok Reg 556, eff 12-12-96 (emergency); Added at 14 Ok Reg 1304, eff 5-12-97 ; Revoked at 15 Ok Reg 1444, eff 4-1-98 (emergency); Revoked at 16 Ok Reg 1008, eff 4-26-99]

### **340:2-31-55. Fees and fee exclusions [REVOKED]**

[Source: Added at 14 Ok Reg 556, eff 12-12-96 (emergency); Added at 14 Ok Reg 1304, eff 5-12-97 ; Revoked at 15 Ok Reg 1444, eff 4-1-98 (emergency); Revoked at 16 Ok Reg 1008, eff 4-26-99]

## **SUBCHAPTER 33. RATES AND STANDARDS**

### **340:2-33-1. Rates and standards**

(a) **Legal basis.** Section 85.1 et seq. of Title 74 of the Oklahoma Statutes (74 O.S. §§ 85.1 et seq.) is the legal basis for establishing fixed and uniform rates.

(1) 74 O.S. § 85.7 requires agencies desiring to have a service qualified for a fixed and uniform rate, or an established rate modified, submit a written request and all supporting documentation to the Office of Management and Enterprise Services Division of Capital Assets Management (OMES DCAM). When OMES DCAM qualifies such service for a fixed and uniform rate, the rate must be approved in a public hearing, before the Oklahoma Department of Human Services (DHS) can enter into a legal contract.

(2) Within two weeks after the Legislature convenes, each state agency provides the Speaker of the House of Representatives and the President Pro Tempore of the Senate a complete list of all services paid for by fixed and uniform rates and, the number of contracts in existence for each type of service.

(b) **Rate approval or disapproval.** The DHS Rates and Standards Committee (Committee) is comprised of DHS executive-level staff designated by the Director of Human Services (Director). The Committee conducts public hearings where the public, vendors, and DHS staff are afforded the opportunity to provide testimony and documented evidence regarding the rate recommendation. The Committee approves or disapproves the rate and makes a recommendation to the Director. The Director sets the rates for OKDHS administered programs.

[Source: Added at 16 Ok Reg 266, eff 11-3-98 (emergency); Added at 16 Ok Reg 1008, eff 4-26-99 ; Amended at 24 Ok Reg 1012, eff 5-11-07 ; Amended at 30 Ok Reg 1343, eff 7-1-13 ; Amended at 37 Ok Reg 1751, eff 9-15-20]

### **340:2-33-2. Legal basis and role of the Department of Central Services [REVOKED]**

[Source: Added at 16 Ok Reg 266, eff 11-3-98 (emergency); Added at 16 Ok Reg 1008, eff 4-26-99 ; Amended at 24 Ok Reg 1012, eff 5-11-07 ; Amended at 30 Ok Reg 1343, eff 7-1-13 ; Revoked at 37 Ok Reg 1751, eff 9-15-20]

### **340:2-33-3. Committee on Rates and Standards [REVOKED]**

[Source: Added at 16 Ok Reg 266, eff 11-3-98 (emergency); Added at 16 Ok Reg 1008, eff 4-26-99 ; Amended at 24 Ok Reg 1012, eff 5-11-07 ; Amended at 30 Ok Reg 1343, eff 7-1-13 ; Revoked at 37 Ok Reg 1751, eff 9-15-20]

### **340:2-33-4. Responsibilities of the rate requesting division [REVOKED]**

[Source: Added at 16 Ok Reg 266, eff 11-3-98 (emergency); Added at 16 Ok Reg 1008, eff 4-26-99 ; Revoked at 24 Ok Reg 1012, eff 5-11-07]

### **340:2-33-5. Policy Management and Analysis' responsibilities in the rate setting process [REVOKED]**

[Source: Added at 16 Ok Reg 266, eff 11-3-98 (emergency); Added at 16 Ok Reg 1008, eff 4-26-99 ; Revoked at 24 Ok Reg 1012, eff 5-11-07]

## **SUBCHAPTER 35. VOLUNTEER SERVICES**

### **340:2-35-1. Volunteer services**

The Department of Human Services (DHS) utilizes volunteers to augment and enrich DHS programs in several divisions of the Agency. The material in this Subchapter provides basic guidelines for work with volunteers throughout DHS. Volunteers are a very useful resource for meeting a variety of client needs.

[Source: Added at 18 Ok Reg 2052, eff 6-11-01]

### **340:2-35-2. Volunteer job design**

A number of specific areas in which individual volunteers may provide services are described in (1)-(9) of this subsection.

(1) **Visitor or companion.** Visitor or companion activities include:

- (A) visiting on a regular basis an elderly or homebound person, such as a person with multi-handicapping conditions;
- (B) providing companionship and social stimulation;
- (C) writing letters;

- (D) helping with errands;
- (E) accompanying clients to medical appointments;
- (F) sharing interests and being a friend; and
- (G) spending time at holidays, birthdays, and other important times, such as during illness, surgery or personal crisis.

(2) **Mom-to-mom.** Mom-to-mom activities include helping, motivating, and befriending a mother in various ways such as:

- (A) modeling parenting skills and encouraging young mothers in home management tasks;
- (B) budgeting and shopping; or
- (C) offering friendship, support, and acceptance.

(3) **Mentor or special friend.** Volunteer mentor or special friend activities include establishing a one-to-one ongoing friendship with a child, teenager, or an adult with special needs by:

- (A) sharing recreational outings, leisure activities, meals out;
- (B) serving as a role model;
- (C) helping a client prepare for independent living, or
- (D) being a dependable friend.

(4) **Tutoring.** Tutoring activities include:

- (A) helping a child to attain his or her education potential;
- (B) teaching an adult to read; or
- (C) helping an adult or child build confidence.

(5) **Transportation.** Volunteer transportation activities may include driving clients to:

- (A) medical or therapy appointments;
- (B) court appearances;
- (C) the grocery store; and
- (D) the pharmacy.

(6) **Share-a-trip.** Volunteers may provide opportunities for personal or educational enlightenment for children or persons with developmental disabilities or disabling conditions. Volunteers may plan activities such as outings to:

- (A) the zoo;
- (B) sporting events; or
- (C) concerts;

(7) **Share-a-skill.** A volunteer may share skills, such as:

- (A) sewing;
- (B) budgeting;
- (C) playing a musical instrument;
- (D) gardening; or
- (E) basic house-cleaning.

(8) **Resource development.** An individual or group of volunteers may sponsor a project to raise funds, develop resources, or solicit donations of needed goods. Volunteers may participate in a speakers' bureau to expand public awareness, influence legislation, or recruit other volunteers.

(9) **Administrative.** Trained volunteers may perform many tasks of DHS employees. Administrative volunteer activities may include:

- (A) gathering information to help determine eligibility for Agency programs;
- (B) typing;
- (C) processing claims; and
- (D) filing.

[Source: Added at 18 Ok Reg 2052, eff 6-11-01]

### **340:2-35-3. Specialized volunteer placement**

Certain volunteer placements require specialized training or certification.

- (1) **Respite care.** Respite care volunteers assist parents or primary care givers with the care or supervision of a child or a person with developmental disabilities by providing brief periods of respite so that care givers can attend to personal or family business.
- (2) **Legal assistant.** Legal assistant volunteers:
  - (A) research legal data;
  - (B) assist in the preparation of legal briefs and arguments and in the filing of court or administrative functions; and
  - (C) check court records to obtain information for legal or administrative action.

[Source: Added at 18 Ok Reg 2052, eff 6-11-01]

### **340:2-35-4. Requirements for volunteers**

(a) **General.** To protect the rights of clients and volunteers and to properly integrate volunteers into the Oklahoma Department of Human Services (OKDHS) service systems, volunteers are required to:

- (1) be at least 18 years of age and demonstrate an interest in and a concern for the needs of others;
- (2) attend an orientation and training session outlining the various OKDHS programs and services;
- (3) agree to the confidentiality requirement on all cases and agree to follow OKDHS rules;
- (4) carry Form VOL-1, Volunteer Identification Card, while on duty; and
- (5) have adequate automobile liability insurance and valid driver's license if transporting clients.

(b) **Individual volunteers.** An extensive screening process is required for prospective volunteers recruited for direct care services to OKDHS clients.

- (1) This process includes entrance and placement interviews and the completion of Forms:
  - (A) VOL-3, Volunteer Agreement;
  - (B) VOL-5, Application for Volunteer Service;
  - (C) VOL-7, Volunteer Reference Letter, as required; and
  - (D) VOL-9, Volunteer Interview Report.
- (2) Before placement, volunteers in direct care service must have a background check through the Child Abuse and Neglect

Information System (CANIS), Oklahoma State Bureau of Investigation (OSBI), Department of Public Safety, and other applicable background checks.

(3) Screening requirements are less restrictive for volunteers who will not be placed in one-on-one relationships with OKDHS clients.

(4) Form VOL-1 is issued to the volunteer at the time of certification by the local office.

(c) **Volunteer groups.** In situations where a group of individuals volunteer their services for a group project such as Boy Scouts, a high school class, or military group, the minimum age requirement may be waived.

(1) The person responsible for supervising the group must be an approved volunteer.

(2) It is not necessary for each individual member of a volunteer group to complete Form VOL-5. The person responsible for the group signs Form VOL-2, Volunteer Group Agreement, and attests for all the group members who participate.

(3) The group must be approved as a OKDHS volunteer group by the volunteer coordinator.

[Source: Added at 18 Ok Reg 2052, eff 6-11-01 ; Amended at 23 Ok Reg 2661, eff 7-13-06]

### **340:2-35-5. Administrative staff roles and responsibilities**

(a) **Overview.** The volunteer program requires cooperation and commitment from paid staff at all levels. Volunteers are a vital part of the service network and are provided adequate training and supervision. Their work is evaluated with constructive feedback given on their performance. Volunteers who provide ongoing, direct care service to clients have access to the social worker with time scheduled for planning and goal setting.

(b) **Volunteer director.** The volunteer director in the Executive Office, State Office, is responsible for assisting the county offices to develop and implement volunteer programs to fit the needs and requirements of each county. The volunteer director is responsible for:

(1) coordinating Agency-wide volunteer concerns;

(2) overseeing the DHS Volunteer Budget;

(3) providing technical and administrative support for DHS volunteer recognition activities; and

(4) chairing the state DHS Volunteer Council (Council).

(c) **Council.** The Council is the governing board for volunteer rules and planning. Each participating program is represented on the Council. The Council includes volunteer program administrators and other volunteer management personnel. The Council:

(1) plans and carries out promotional activities and fund raising projects to support recognition activities;

(2) oversees the nomination process for area and state volunteer awards events; and

(3) plans and hosts the annual state DHS Volunteer Award Ceremony.

(d) **Volunteer program administrators.** Volunteer program activities are directed and supervised on a statewide basis by administrators in Child Welfare, Developmental Disabilities Services Division, Child Support Enforcement Division, Office of Field Operations, and Family Support Services Division. The volunteer program administrators:

- (1) provide technical and administrative assistance to local volunteer managers;
- (2) monitor program activities;
- (3) make recommendations for service improvements;
- (4) offer training and educational opportunities in volunteer management for local staff and volunteers; and
- (5) develop training packets, posters, and handouts for use in promoting the volunteer program and recruiting volunteers.

(e) **Volunteer coordinator.** The volunteer coordinator is appointed by the district supervisor or county director to coordinate the local volunteer program. Activities of the volunteer coordinator include:

- (1) recruiting new volunteers;
- (2) screening volunteers;
- (3) assigning volunteers specific tasks;
- (4) ensuring that volunteer mileage claims are processed; and
- (5) updating the active volunteer files.

[Source: Added at 18 Ok Reg 2052, eff 6-11-01]

#### **340:2-35-6. Reimbursement for mileage and necessary expenses**

Reimbursement for mileage and necessary expenses may be made to volunteers who provide transportation to clients. Volunteers may not be a relative of the client. The SoonerRide transportation services through the Oklahoma Health Care Authority provides the majority of transportation needs for DHS clients. Clients not eligible for SoonerRide services, may be eligible for transportation by DHS volunteers.

[Source: Added at 18 Ok Reg 2052, eff 6-11-01]

#### **340:2-35-7. Documentation of volunteer services**

The volunteer services coordinator assists volunteers and social workers in recording and documenting volunteer services, service hours, and other voluntary contributions. Volunteer services are documented by completing Form VOL-4, Volunteer Report of Contact.

[Source: Added at 18 Ok Reg 2052, eff 6-11-01]

#### **340:2-35-8. Recognition of volunteers**

(a) **Certificates of appreciation.** Certificates of appreciation used for special recognition and local award ceremonies are available upon request to the State Office, Executive Office, volunteer director.

(b) **DHS volunteer awards ceremonies.** Each year DHS hosts area volunteer awards ceremonies to formally thank individuals and organizations whose voluntary efforts have had a positive impact on DHS clients. A statewide ceremony concludes the annual DHS volunteer

recognition events.

[Source: Added at 18 Ok Reg 2052, eff 6-11-01]

## SUBCHAPTER 37. COMMUNICATIONS

### 340:2-37-1. Purpose, authority, and scope

(a) **Purpose.** The Office of Communications coordinates the dissemination of information about the Oklahoma Human Services (OKDHS).

(b) **Authority.** The Office of Communications operates under the authority of the Director of Human Services.

(c) **Scope.** The Office of Communications:

- (1) communicates a clear vision of OKDHS;
- (2) conveys to large and varied audiences information about programs, services, operations, and actions undertaken by OKDHS and its agents;
- (3) monitors health and human services issues as reported by the media on state and national levels;
- (4) acts in an advisory role supporting all OKDHS programs, other state agencies, county and local governments, advocacy groups, community organizations, and trade and professional organizations;
- (5) provides support and leadership for OKDHS celebrations and employee quality recognition events;
- (6) monitors OKDHS communications-related activities and contracts;
- (7) coordinates and monitors OKDHS public service campaigns and provides support for public service and education projects;
- (8) serves as the central point of media contact and responds or arranges for a response to all inquiries from newspaper, magazine, radio, online and television media;
- (9) develops and disseminates OKDHS media releases;
- (10) provides communications training to OKDHS staff on media interviews, public relations, public speaking, and other communications matters;
- (11) publishes information and produces videos for internal employee communication;
- (12) oversees Internet, Intranet, and other technology-driven communications content to ensure the delivery of clear and accurate messages;
- (13) serves as a point of clearance on communication materials and tools;
- (14) monitors and ensures the appropriate use of OKDHS brands, logos, and other images uniquely associated with the OKDHS image; and
- (15) complies with the Open Records Act through rules governing the receipt and processing of open records requests from members of the media per Oklahoma Administrative Code 340:2-

21-12 through 340:2-21-16.

[Source: Added at 21 Ok Reg 1342, eff 5-27-04 ; Amended at 32 Ok Reg 1826, eff 9-15-15 ; Amended at 38 Ok Reg 2163, eff 9-15-21]

### **340:2-37-2. Definitions**

The words and terms in this Subchapter shall have the following meanings unless the context clearly indicates otherwise:

**"Agent"** means a person, group, partner, or entity not employed by the Oklahoma Human Services (OKDHS) that works with, or has a paying contract with OKDHS.

**"Brand"** means a name and, a visual or non-visual image, reflective of the OKDHS mission, vision, and values that:

- (A) creates a positive perception in the public mind;
- (B) establishes a market position; and
- (C) is used to carry any message relevant to OKDHS through any medium.

**"Technology-driven communications"** means electronic communication tools, including email, audio and video programming, Internet and Intranet content, and public education and service announcements.

[Source: Added at 21 Ok Reg 1342, eff 5-27-04 ; Amended at 32 Ok Reg 1826, eff 9-15-15 ; Amended at 38 Ok Reg 2163, eff 9-15-21]

### **340:2-37-3. Confidentiality**

(a) The Office of Communications complies with federal and state statutes and Oklahoma Human Services (OKDHS) rules regarding confidentiality of persons applying for or receiving services from OKDHS and their records, per Section 1-6-102 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-6-102); 43A O.S. § 10-110; 51 O.S. § 24A.1 et seq.; 56 O.S. § 183; Oklahoma Administrative Code (OAC) 340:65-1-2; and OAC 340:2-21-13.

(b) Form 16AD013E, News Media and Media Production Release of Information, is completed when information about, or the likeness of, an OKDHS employee, applicant or recipient of OKDHS services, or person(s) volunteering to support the OKDHS mission are used to increase public awareness of OKDHS services, train OKDHS employees or volunteers, or educate persons with an interest in Oklahoma health and human services issues. The person does not receive a royalty or compensation for the use of the information.

[Source: Added at 21 Ok Reg 1342, eff 5-27-04 ; Amended at 32 Ok Reg 1826, eff 9-15-15 ; Amended at 38 Ok Reg 2163, eff 9-15-21]

### **340:2-37-4. Oklahoma Human Services (OKDHS) spokespersons**

**Local media contacts.** The Director of Human Services, Chief of Strategic Engagement, Office of Communications staff, and other designees are OKDHS spokespersons, on all issues, programs, services, and operations.



[Source: Added at 21 Ok Reg 1342, eff 5-27-04 ; Amended at 32 Ok Reg 1826, eff 9-15-15 ; Amended at 38 Ok Reg 2163, eff 9-15-21]

### **340:2-37-5. Internet and Intranet communications**

(a) **Purpose.** Oklahoma Human Services (OKDHS) is committed to using electronic technology efficiently and effectively to:

- (1) provide Oklahoma citizens and OKDHS employees, clients, and partners with current, accurate, and accessible information about OKDHS programs and services;
- (2) communicate with contracted service providers in a more efficient and cost-effective manner;
- (3) distribute information electronically to save money and production time; and
- (4) promote partnerships with organizations that share OKDHS interests.

(b) **Applicability.** This rule applies to all:

- (1) OKDHS programs, and offices; and
- (2) contractors and consultants, including those who operate or maintain websites for OKDHS entities.

(c) **Scope.** The Office of Communications serves as the OKDHS web content manager.

[Source: Added at 21 Ok Reg 1342, eff 5-27-04 ; Amended at 32 Ok Reg 1826, eff 9-15-15 ; Amended at 38 Ok Reg 2163, eff 9-15-21]

## **SUBCHAPTER 39. INNOVATION SERVICES**

### **PART 1. INNOVATION SERVICES**

#### **340:2-39-1. Innovation Services (IS)**

(a) **Purpose.** IS:

- (1) conducts data-driven research and statistical analysis of Oklahoma Department of Human Services (DHS) programs and services, including grant evaluation;
- (2) collaborates with (DHS) divisions to communicate and disseminate information regarding (DHS) research, programs, and services;
- (3) provides technical assistance in the design, development, implementation, and evaluation of projects, programs, and grants conducted or supported by DHS;
- (4) serves as the official DHS clearinghouse for language translation, forms, and appendices;
- (5) provides technical assistance in designing, developing, and implementing DHS strategic planning for;
- (6) provides leadership for developing and implementing quality and performance improvement strategies and initiatives; and
- (7) works to build a culture of continuous improvement.

(b) **Reports.** IS assists with the preparation of the DHS:

- (1) Annual Report, required by Section 162 of Title 56 of the Oklahoma Statutes (56 O.S. § 162), each year to the Governor on or before November 1; and
- (2) Strategic Plan, required by 62 O.S. § 45.3, every two years, per Oklahoma Administrative Code 340:1-1-18.

[Source: Added at 24 Ok Reg 1016, eff 5-11-07 ; Amended at 26 Ok Reg 813, eff 4-25-09 ; Amended at 37 Ok Reg 1752, eff 9-15-20]

## **PART 3. OKLAHOMA DEPARTMENT OF HUMAN SERVICES INSTITUTIONAL REVIEW BOARD (DHSIRB)**

### **340:2-39-5. Purpose, scope, and authority**

(a) **Purpose.** The purpose of the Oklahoma Department of Human Services (DHS) Institutional Review Board (DHSIRB) is to:

- (1) protect the rights and welfare of DHS employees and DHS clients and/or patients, including individuals receiving DHS benefits or services provided at DHS- operated facilities, who participate in a research activity as a "research subject" or "human subject" as defined in this Part; and
- (2) assist the investigator and DHS in their mutual obligation to comply with all applicable federal, state, and local laws, rules, and regulations, including DHS internal policies, with respect to the research participants and investigators.

(b) **Scope.** DHSIRB operates, per Part 46 of Title 45 of the Code of Federal Regulations and applicable state laws. Unless the research meets the criteria for review exemption, per Oklahoma Administrative Code (OAC) 340:2-39-11(d), DHSIRB reviews research projects including program evaluation projects with a human subjects research component that involve:

- (1) direct interaction between the investigator and the research subject, including:
  - (A) experimentation, such as experimental medication or treatment, involving the research subject;
  - (B) surveys or interviews with research subjects;
  - (C) interaction with research subjects beyond normal service delivery; and
  - (D) performance of any procedures not performed for the sole benefit of the person involved, and any procedures in which either a primary or secondary purpose or objective is the collection of data for research analysis;
- (2) any research intended to contribute to generalized knowledge; and
- (3) the collection of protected information about research subjects from third parties for research analysis.
  - (A) Research involving human subjects is not limited to deliberate experimentation with human subjects. It also includes the performance of any procedures not performed for the sole benefit of the person involved and

any procedures in which either a primary or secondary purpose or objective is the collection of data for research analysis.

(B) The scope of research involving human subjects covered by this Part not only involves physical, chemical, electrical, or psychological stimulation of responses within the human body, but also includes:

- (i) interviews;
- (ii) observation of behavior in which an investigator interacts with human subjects;
- (iii) test administration; or
- (iv) other measurement techniques.

(C) Some research involving human subjects may be exempt from on-going DHSIRB review. Authority for the decision on whether a research or evaluation project is exempt resides with DHSIRB. Research involving human subjects is not intended to cover data obtained as part of the teaching or training of individuals in which the performance of therapeutic procedures is for the direct and sole benefit of the person involved, or for any area of investigation of individuals as part of the performance of professional services.

(D) All activities related to human subject research, regardless of funding source, is guided by the ethical principles in The Belmont Report.

**(c) Authority.**

(1) DHSIRB receives its authority from the DHS Director. DHSIRB is registered with the federal Department of Health and Human Services (DHHS) and has approved the Federalwide Assurance of Protection for Human Subjects submitted to DHHS.

(2) DHSIRB has the authority to review any research funded through DHS or that focuses on DHS staff or individuals receiving DHS benefits or services. In addition, DHSIRB has the authority to:

- (A) approve, disapprove, or order research modification based upon consideration of the risks and benefits to the human subjects;
- (B) oversee the conduct of the research and require periodic progress reports from research investigators;
- (C) suspend or terminate prior approval of a research project;
- (D) place restrictions on a research project;
- (E) require research investigators to report breaches of confidentiality, within five-business days; and
- (F) require research investigators to report within five-calendar days of discovery when any researcher or research participant is endangered physically or psychologically during the data collection period of the study.

### **340:2-39-6. Definitions**

The following words and terms, when used in this Part, shall have the following meanings, unless the context clearly indicates otherwise:

**"The Belmont Report"** means a statement of basic ethical principles governing research involving human subjects issued by the National Commission for the Protection of Human Subjects in 1978.

**"Child"** means an individual, who has not attained the legal age for consent to treatments or procedures involved in the research, under the applicable law of the jurisdiction in which the research is conducted. For research conducted in Oklahoma, where federal regulations and Oklahoma law both apply, an unmarried or unemancipated individual younger than 18 years of age meets the definition of "child." For research conducted outside of Oklahoma or in a jurisdiction where Oklahoma law does not apply, individuals who meet the definition of a child are those individuals described under the applicable jurisdiction law where the research is conducted.

**"Clinical trial"** means a research study in which one or more human subjects are prospectively assigned to one or more interventions, which may include placebo or other control, to evaluate the effects of the interventions on biomedical or behavioral health-related outcomes, per Section 46.102(b) of Title 45 of the Code of Federal Regulations (45 C.F.R. § 46.102(b)).

**"Confidentiality"** means the treatment of information an individual discloses in a relationship of trust with the expectation that it is not divulged to others or in ways inconsistent with the understanding of the original disclosure without his or her permission.

**"Demonstration project"** means a project, deliberately small in scale and limited in scope, usually with a short project cycle.

**"Department of Human Services Institutional Review Board (DHSIRB)"** means a specially constituted review body established or designated by the Oklahoma Department of Human Services (DHS) to protect the welfare of human subjects recruited to participate in research, per 45 C.F.R §§46.102(g), 46.108, and 46.109.

**"Director"** means the DHS Director, per Chapter 1 of this Title.

**"Federalwide Assurance (FWA)"** means a formal, written, binding commitment an institution submits to the United States (U.S.) Department of Health and Human Services (DHHS), U.S. Office for Human Research Protections (OHRP), in which it commits to DHHS compliance with the requirements set forth in the regulations for the protection of human subjects, per 45 C.F.R. § 46.

**"Generalizable knowledge"** means information where the intended use of the research findings can be applied to populations or situations beyond those being studied. In practice, generalizable knowledge refers to research results that are:

- (A) published, including research papers published as a thesis or dissertation;
- (B) presented to the public; or
- (C) developed for others to build upon. Generalizable knowledge may include theses, dissertations, and some

oral histories.

**"Human protections administrator (HPA)"** means the person designated by the DHS Innovation Services director, who provides administrative support to the DHSIRB, serves as the OHRP primary institutional contact, and has the administrative responsibility for the program. The HPA:

- (A) has comprehensive knowledge of all aspects of the DHS system of protections for human subjects;
- (B) is familiar with the institution's commitments under FWA; and
- (C) plays a key role in ensuring the institution fulfills its responsibilities under FWA.

**"Human subject"** means a living individual about whom an investigator, whether professional or student, conducting research:

- (A) obtains information or biospecimens through intervention or interaction with the individual, and uses, studies, or analyzes the information or biospecimens; or
- (B) uses, studies, analyzes, or generates identifiable, private information or identifiable biospecimens.

**"Identifiable biospecimen"** means a biospecimen for which the identity of the subject is, or may readily be, ascertained by the investigator or associated with the biospecimen.

**"Identifiable private information"** means private information for which the identity of the subject is, or may readily be, ascertained by the investigator or associated with the information.

**"Individual with impaired decision-making capacity"** means an individual with a compromised ability to make decisions in his or her own best interest, such as individuals:

- (A) under the influence of, or dependent on, drugs or alcohol;
- (B) suffering from degenerative diseases affecting the brain;
- (C) terminally ill patients;
- (D) with severely disabling physical handicaps including, but not limited to:
  - (i) a psychiatric disorder, such as psychosis, neurosis, or personality or behavior disorders;
  - (ii) dementia; or
  - (iii) a developmental disorder, such as an intellectual disability affecting cognitive or emotional functions to the extent that capacity for judgment and reasoning is significantly diminished.

**"Informed consent"** means a person's voluntary agreement, based upon adequate knowledge and understanding of relevant information, to participate in research or to undergo a diagnostic, therapeutic, or preventive procedure. In giving informed consent, subjects may not waive or appear to waive any of their legal rights, or release or appear to release the investigator, the sponsor, the institution, or agents thereof from liability for negligence, per 45 C.F.R. § 46.116 and 21 C.F.R. §§ 50.20 and 50.25.

**"Innovation Services (IS)"** means the DHS office that provides technical assistance in the design, development, implementation, and evaluation of projects, programs, and grants conducted or supported by DHS. IS conducts data-driven research and statistical analysis of programs and services, and disseminates information and results.

**"Institution"** means DHS unless the context clearly indicates otherwise.

**"Interaction"** means communication or interpersonal contact between investigator and subject.

**"Intervention"** means physical procedures by which information or biospecimens are gathered, such as venipuncture because it is a physical procedure to gather a biospecimen, as well as manipulations of the subject or his or her environment that are performed for research purposes.

**"Investigator"** means a scientist or scholar, who may be a professional or a student, with primary responsibility for the design and conduct of research.

**"Legally-authorized representative"** means an individual, judicial entity, or other body authorized under applicable law to consent on behalf of a prospective subject to his or her participation in the procedure(s) involved in the research. When there is no applicable law addressing this issue, legally-authorized representative means an individual recognized by DHS policy as acceptable to provide consent in the non-research context on behalf of the prospective subject to his or her participation in the procedure(s) involved in the research.

**"Minimal risk"** means the probability and magnitude of harm or discomfort anticipated in the proposed research are not greater, in and of themselves, than those ordinarily encountered in daily life or during the performance of routine physical or psychological examinations or tests, per 45 C.F.R. § 46.102(j). For example, the risk of drawing a small amount of blood from a healthy individual for research purposes is no greater than the risk of doing so as part of routine physical examination.

**"Office of Human Research Protection (OHRP)"** means a federal agency that provides leadership in the protection of the rights, welfare, and well-being of subjects involved in research conducted or supported by DHHS. OHRP ensures this by:

- (A) providing clarification and guidance;
- (B) developing educational programs and materials;
- (C) maintaining regulatory oversight; and
- (D) providing advice on ethical and regulatory issues in biomedical and social-behavioral research.

**"Principal investigator (PI)"** means the research investigator who is ultimately responsible for ensuring compliance with applicable federal, state, and local laws, rules, and regulations, and the conduct of the research.

**"Privacy"** means having control over the extent, timing, and circumstances of sharing one's self physically, behaviorally, or intellectually with others.

**"Private information"** means information, such as medical records, about behavior that occurs in a context in which an individual can reasonably expect that no observation or recording is taking place.

Information is provided for specific purposes, and he or she can reasonably expect the information is not made public.

**"Research"** means a systematic investigation, including research development, testing, and evaluation, designed to develop or contribute to generalizable knowledge, per 45 C.F.R. § 46.102(l).

**"Research subject"** means a DHS employee, client, and/or patient:

(A) who is voluntarily participating as a human subject in a research project;

(B) who is voluntarily participating in a survey or interview conducted as part of a research or program evaluation project; and/or

(C) whose protected information is disclosed to, and used by, an investigator during a research or program evaluation project. The words "subject" and "participant" are used interchangeably.

**"Risk"** means the probability of harm or injury whether physical, psychological, social, or economic occurring as a result of participation in research. Both the probability and magnitude of possible harm may vary from minimal to significant.

**"Systematic investigation"** means an activity that involves a prospective plan incorporating data collection, either quantitative or qualitative, and data analysis to answer a question, such as systematic investigations that include surveys and questionnaires, interviews and focus groups, analyses of existing data or biological specimens, epidemiological studies, evaluations of social or educational programs, cognitive and perceptual experiments, and medical chart review studies.

[Source: Added at 32 Ok Reg 1828, eff 9-15-15 ; Amended at 37 Ok Reg 1752, eff 9-15-20]

### **340:2-39-7. Principles and policies**

(a) **Ethical principles.** The Oklahoma Department of Human Services Institutional Review Board (DHSIRB) is guided by the ethical principles regarding research involving human subjects set forth in the report of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research entitled, "Ethical Principles and Guidelines for the Protection of Human Subjects of Research" or "The Belmont Report." The DHSIRB recognizes the principles of respect for persons; beneficence, including minimization of harms and maximization of benefits; and justice as stated in The Belmont Report and strives to apply these principles in all research covered by this Part. In addition, DHSIRB makes all reasonable efforts to comply with the requirements in Part 46 of Title 45 of the Code of Federal Regulations (45 C.F.R. Part 46) for all research subject to its review.

(b) **Institutional policies.**

(1) DHSIRB acknowledges and accepts its responsibility for protecting the rights and welfare of human research subjects.

(2) DHSIRB acknowledges that it, and its investigators, accept those responsibilities necessary for the performance of all research covered by this Part including compliance with

applicable federal, state, and local laws.

(3) DHSIRB works to ensure that, before subjects are involved in research, the requirements in (A) - (G) are met.

(A) Risks to participants are minimized by:

- (i) using procedures consistent with sound research design that do not unnecessarily expose participants to risks; and
- (ii) employing procedures already being performed on the participants for prevention, diagnostic, or treatment purposes, when appropriate.

(B) Risks to human subjects are reasonable relative to anticipated benefits, if any, to human subjects, and the importance of the knowledge that may reasonably be expected to result.

(C) Selection of human subjects is equitable.

(D) Human subjects, or their legally authorized representatives, provide voluntary informed consent for participating in research, unless otherwise exempted by state or federal law, per Oklahoma Administrative Code 340:2-39-11.1.

(E) There are adequate provisions for ensuring human subjects' safety.

(F) There are adequate provisions to protect human subjects' privacy and maintain data confidentiality.

(G) When necessary, appropriate additional safeguards are included in research involving subjects who are likely to be vulnerable to coercion or undue influence, such as children, including those who are wards of the state or any other agency, prisoners, individuals with impaired decision-making capacities, or economically or educationally disadvantaged persons.

(4) DHSIRB encourages and promotes constructive communication among its administrators, research supervisors, research investigators, and all other relevant parties as a means of maintaining a high level of awareness to safeguard the rights and welfare of research subjects.

(5) DHSIRB exercises appropriate administrative oversight to ensure its practices and procedures designed for the protection of the rights and welfare of human subjects are effectively applied.

(6) DHSIRB serves in a collaborative relationship with research investigators to ensure that research with human subjects is conducted in accordance with legal requirements and ethical principles of respect for persons, beneficence, and justice.

(7) DHSIRB provides each individual conducting or reviewing human subject research, such as research investigators, research supervisors, research reviewers, and division directors with a copy of this Section.

(8) Per 45 C.F.R. § 46.108(a)(3), DHSIRB is responsible for:

- (A) conducting its initial and continuing review of research and for reporting its findings and actions to the investigator and to appropriate Oklahoma Department of



Human Services (DHS) managers, supervisors, and directors;

(B) determining which projects require review more often than annually and which projects need verification from sources other than the investigators when no material changes occurred since the previous DHSIRB review; and  
(C) ensuring prompt reporting by investigators to DHSIRB of proposed changes in a research activity; and ensuring investigators conduct the research activity in accordance with DHSIRB terms of approval until any proposed changes are reviewed and approved by DHSIRB, except when necessary to eliminate apparent immediate hazards to the subject.

(9) DHSIRB is responsible for ensuring prompt reporting by investigators to DHSIRB; appropriate DHS officials; the department or agency head; and the Office for Human Research Protections, the Department of Health and Human Services (DHHS), or any successor office, or the equivalent office within the appropriate federal department or agency of any:

(A) unanticipated problems involving risks to subjects or others or any serious or continuing noncompliance with this policy or the DHSIRB requirements or determinations; and  
(B) DHSIRB suspension or termination of approval.

**(c) Support for DHSIRB functions and operations.**

(1) In order to ensure that DHSIRB has the necessary resources to carry out its duties, DHS provides sufficient:

(A) staff support, which includes at a minimum, the human protections administrator (HPA). The HPA provides administrative support to DHSIRB, serves as the Office of Human Research Protection's primary DHS contact, and has the administrative responsibility for DHSIRB functions and operations; and  
(B) meeting space for the Board to convene.

(2) Additional necessary resources, such as filing space, reproduction equipment, and computers for DHSIRB are provided by DHS through the Innovation Services (IS) division.

[Source: Added at 32 Ok Reg 1828, eff 9-15-15 ; Amended at 37 Ok Reg 1752, eff 9-15-20]

**340:2-39-8. Membership**

**(a) Oklahoma Department of Human Services Institutional Review Board (DHSIRB) membership requirements.**

(1) The DHSIRB is comprised of at least seven members. Membership criteria includes, but is not limited to, consideration of earned degrees, representative capacity, and indications of experience, such as board certifications or licenses sufficient to describe each member's chief anticipated contributions to DHSIRB deliberations.

(2) Prior to serving on the DHSIRB, all members submit certificates of completed Human Subject Assurance Training offered by the federal Office for Human Research Protections (OHRP).

(3) Prior to serving on the DHSIRB, all members must sign an Acknowledgment of Receipt stating they have received and reviewed the DHSIRB rules.

(4) To the greatest extent reasonably possible, the DHSIRB members have varying academic, professional, and personal backgrounds to promote complete and adequate review of research activities commonly conducted by the Oklahoma Department of Human Services (DHS) or at state-operated facilities. In addition to possessing the experience and expertise necessary to review specific research activities, the members are expected to ascertain the acceptability of proposed research in terms of DHS commitments and rules and regulations, applicable law, and standards of professional conduct and practice.

(5) The DHSIRB similarly strives, through member experience, expertise, and diversity, including race, gender, cultural backgrounds, and sensitivity to issues, such as community attitudes, to promote respect for its advice and counsel in safeguarding the rights and welfare of human subjects.

(A) **Scientific background.** The DHSIRB includes at least one member whose primary concerns are in scientific areas and at least one member whose primary concerns are in nonscientific areas.

(B) **A member not affiliated with DHS.** The DHSIRB includes at least one member who is not otherwise affiliated with DHS and who is not an immediate family of a person who is affiliated with DHS.

(C) **Ad hoc members with special competence.** The DHSIRB may, in its discretion, invite individuals with competence in special areas to assist in the review of issues that require expertise beyond, or in addition to, that normally available to DHSIRB members. These individuals may not vote on any DHSIRB matter.

(6) DHSIRB membership consists of at least a member of DHS:

(A) Office of Client Advocacy (OCA);

(B) Legal Services;

(C) Child Welfare Services;

(D) Children's Services;

(E) Adult and Family Services;

(F) Adult Services;

(G) Information Security; and

(H) Innovation Services. The Innovation Services member serves on the DHSIRB representing scientific areas.

(7) The DHS Director approves the selection of DHSIRB members, including the Chair, Vice-Chair, and alternates, and is notified by the Chair of any studies that are disapproved by the DHSIRB.

(b) **Alternate members.**

(1) Primary DHSIRB members may designate an alternate member from his or her respective programs or divisions, who subject to Director approval, serves as a voting member in the event the primary member is not available to attend any regularly scheduled meeting. Alternate members complete any primary DHSIRB member required training, and may then vote on any new submission, when needed. Alternate members receive meeting documents, such as agendas, minutes, and protocols for review and are encouraged to attend all meetings.

(2) An alternate member-at-large is designated and approved by the Director to serve when both a voting member and his or her alternate are not available to attend a regularly scheduled meeting. The alternate member-at-large is approved based on the same criteria per (a)(5), of this Section.

**(c) Ad hoc members.**

(1) When the DHSIRB reviews research applications involving prospective research subjects who have impaired decision-making capacity or who otherwise are considered vulnerable to coercion or undue influence, consideration is given to including one or more individuals who are knowledgeable about, and experienced in, working with these prospective subjects.

(2) DHSIRB may, at its discretion, invite individuals with competence in specific areas to assist in the review of issues that require expertise beyond or in addition to that available on the DHSIRB.

(3) Ad hoc members are non-voting members.

(4) No person outside of the DHSIRB may override a not-approved vote.

**(d) Roles and responsibilities.**

(1) DHSIRB Chair:

(A) is appointed by the DHS Director;

(B) serves for a minimum of one year, with the possibility of reappointment;

(C) does not resign when the majority of the DHSIRB membership consists of new members who have served for less than one year;

(D) serves as a member of the DHSIRB in addition to his or her authority as Chair;

(E) prepares for, and convenes meetings with, the assistance of the human protections administrator (HPA);

(F) ensures meeting coverage by the Vice-Chair when not able to serve as chair;

(G) ensures a quorum is present for all meetings;

(H) carries out an initial assessment of submissions with the Vice-Chair and the OCA member;

(I) carries out an expedited review of submissions that qualify under such conditions by convening a DHSIRB subcommittee to complete the expedited review, per Oklahoma Administrative Code 340:2-39-12(d);

(J) distributes copies of the submissions to the appropriate DHSIRB members with HPA assistance;

- (K) ensures adequate expertise for review and determinations;
- (L) consults with investigators as necessary;
- (M) assists the reviewers and other members with any concerns in preparing for the meeting;
- (N) ensures assigned reviewers present a clear and concise review of research materials;
- (O) votes on each DHSIRB action;
- (P) is temporarily removed in the event of a conflict of interest;
- (Q) is permanently removed in the event of termination of employment or at the Director's discretion; and
- (R) notifies the Director of any disapproval.

(2) DHSIRB Vice-Chair:

- (A) is appointed by the Director;
- (B) serves for a minimum of one year, with the possibility of reappointment;
- (C) serves as a member of the DHSIRB in addition to his or her DHSIRB authority as Vice-Chair;
- (D) assists or acts on behalf of the Chair in particular DHSIRB matters and at DHSIRB meetings;
- (E) carries out an initial assessment of submissions with the Chair and the OCA member;
- (F) carries out an expedited review of submissions that qualify under such conditions by participating on a DHSIRB subcommittee to complete the expedited review, per OAC 340:2-39-12(d);
- (G) is temporarily removed in the event of a conflict of interest;
- (H) is permanently removed in the event of termination of employment or at the Director's discretion.

(3) DHSIRB members:

- (A) are approved by the Director;
- (B) serve at least one year with the option of rotating with designated alternate;
- (C) do not resign from the DHSIRB, without good cause, when the majority of the members are in their first year of serving;
- (D) are responsible for reviewing research protocols submitted for full DHSIRB review;
- (E) are responsible for attending all scheduled meetings;
- (F) are removed from the DHSIRB when more than two consecutive meetings are missed without having the designated alternate attend;
- (G) are temporarily removed in the event of a conflict of interest; and
- (H) are permanently removed in the event of termination of employment or at the Director's discretion.

(4) DHSIRB Chair, Vice-Chair, and members:

- (A) ensure any required IRB training is completed and sufficient IRB training certification is submitted as

necessary;

(B) annually ensure DHSIRB primary members and designates submit signed acknowledgments affirming the DHSIRB procedures and that supporting documents were reviewed and submitted as necessary;

(C) have access to the reference materials available through the DHSIRB HPA-maintained library;

(D) receive no compensation for serving as members of the DHSIRB;

(E) conduct reviews of submitted research proposals as delegated, mandated, or requested;

(F) provide written responses to the research investigator and organization containing DHSIRB findings;

(G) determine which research requires review more often than annually;

(H) determine which research needs verification that material changes have not occurred since previous DHSIRB review, from sources other than the investigators;

(I) advise research investigators to report changes to the approved research activities;

(J) advise research investigators that changes in approved research are not initiated without DHSIRB review and approval, except when necessary to eliminate apparent immediate hazards; and

(K) advise research investigators to promptly, within five-business days, report to DHSIRB and appropriate DHS officials of:

(i) unanticipated problems involving risks to research participants, interviewers, or others;

(ii) serious or continuing noncompliance with DHSIRB requirements;

(iii) suspension or termination of DHSIRB approval; or

(iv) disapproval of other DHSIRB submissions.

(5) Consultants may be invited to review submissions and attend meetings when a proposal contains information outside of the scope of DHSIRB members' collective knowledge. No individual with an interest or involvement in the research study application under DHSIRB consideration is utilized in any consultative capacity.

(e) **Conflict of Interest.** No DHSIRB member votes on a submission when there is an actual or potential conflict of interest with regard to member's professional or personal interests, including financial interests. Every DHSIRB member recuses himself or herself from consideration of any research study application in which that member or the member's immediate family has any involvement or interest in the study or its outcome.

(1) Based on a DHSIRB majority vote, any DHSIRB member may be excluded from participating in an initial or continuing review of any project in which the member has an actual, apparent, or potential conflicting interest.

(2) A conflict of interest exists when any DHSIRB member, including alternate members and ad hoc members, has an interest sufficient to influence, or appear to influence, the objective exercise of his or her official duties. A conflicting interest may:

- (A) be personal in nature or may result from divergent professional responsibilities;
- (B) arise when a DHSIRB member is involved with a research project as an investigator, a researcher, a director, an assistant, an advisor, or as another type of stakeholder;
- (C) arise when any DHSIRB member or the member's immediate family has a financial interest in the outcome of the research. Immediate family includes spouses/domestic partners, siblings, parents, and dependent minors and adult children; and
- (D) be recognized for any other reason that is considered to be an unacceptable conflict of interest by the member or by DHSIRB.

(3) When a DHSIRB member has a conflict of interest, the member:

- (A) discloses his or her conflict of interest; and
- (B) recuses himself or herself from participation in the meeting while the submission is reviewed or discussed, and
- (C) abstains from voting on the submission.

(4) Recusal means the member with a conflict of interest:

- (A) refrains from discussing any research project in which he or she has a conflict of interest;
- (B) does not seek to influence other DHSIRB members prior to a vote; and
- (C) removes himself/herself from the meeting room while the discussion and DHSIRB vote takes place, except to provide DHSIRB-requested information.

(5) It is each DHSIRB member's duty to ensure participant protection, DHSIRB review integrity, and that research projects conducted are not jeopardized by an undisclosed, unidentified, or unmanaged conflict of interest.

[Source: Added at 32 Ok Reg 1828, eff 9-15-15 ; Amended at 37 Ok Reg 1752, eff 9-15-20 ; Amended at 42 Ok Reg, Number 5, effective 10-10-24 (emergency)]

### **340:2-39-9. Meetings**

#### **(a) Oklahoma Department of Human Services Institutional Review Board (DHSIRB) meetings general rules.**

(1) DHSIRB meetings are scheduled monthly.

(2) A DHSIB meeting can be held when there is a quorum of voting members and sufficient business to conduct a meeting. The decision to conduct a meeting is left to the discretion of a majority determination by the DHSIRB Chair, Vice-Chair, and an OCA member. A DHSIRB meeting may be cancelled when there is insufficient business, when a quorum is not available, or for other

unforeseen reasons.

(3) DHSIRB meetings require a quorum of the voting members.

(b) **Quorum.** A quorum is 50 percent plus one of all DHSIRB voting members, including at least one member whose primary concerns are in nonscientific areas.

(1) DHSIRB member refers to the primary members and alternate members who are approved by the Director and are eligible to vote.

(2) If at any time during a meeting the members who are eligible to vote on a matter fail to constitute a quorum, then the matter is tabled for consideration until the next meeting.

(A) Ad hoc members do not count toward the quorum requirement because they are not eligible to vote.

(B) A member who is recused from discussion and voting on any item is not counted toward the quorum requirement while the item is under consideration.

(3) The determination of a quorum sufficient to convene and conduct a meeting of the DHSIRB is left to the sole discretion of the DHSIRB Chair.

(c) **Majority vote required.** For approval of a motion, a majority vote of those present and eligible to vote is required.

(1) A member who is eligible to vote has a right to abstain and cannot be compelled to vote. An abstention does not count toward the majority required to approve a motion.

(2) DHSIRB does not recognize voting by proxy. All voting occurs in person at the time of the meeting by the member or his or her designated alternate.

(d) **Prior to the meeting.** One week prior to the meeting, DHSIRB members and alternates receive:

(1) a reminder of the upcoming meeting, including the date, location, and time;

(2) minutes from the previous meeting;

(3) an agenda for the upcoming meeting; and

(4) all new submissions for review at the upcoming meeting including:

(A) survey instruments;

(B) consent, assent, and permission forms, when applicable;

(C) letters from other Institutional Review Boards and agency directors, when applicable; and

(D) the assigned unique identifier DHSIRB number.

(e) **Other requirements.** At a minimum:

(1) the Chair convenes and conducts the meetings;

(2) the minutes of the prior meeting are approved by an open, recorded vote of the members;

(3) all actions taken require an open, recorded vote of the members following discussion and the making and seconding of a motion; and

(4) meeting minutes are recorded by the Human Protections Administrator or a designated individual.

[Source: Added at 32 Ok Reg 1828, eff 9-15-15 ; Amended at 37 Ok Reg 1752, eff 9-15-20]

**340:2-39-10. Record requirements**

(a) The Oklahoma Department of Human Services Institutional Review Board (DHSIRB) prepares and maintains documentation of its activities, per Section 46.115 of Title 45 of the Code of Federal Regulations (45 C.F.R. § 46.115) and 21 C.F.R. § 56.115, including:

- (1) a list of the DHSIRB members identified by:
  - (A) name;
  - (B) earned degrees;
  - (C) representative capacity, including a brief statement of competence, scientific concerns, and affiliation;
  - (D) indications of experience, such as board certifications and licenses, sufficient to describe each member's anticipated contributions to DHSIRB deliberations; and
  - (E) any employment or other relationship between each member and the Oklahoma Department of Human Services (DHS), including whether the member is a full-time or part-time employee, member of a governing panel or board, or a paid or unpaid consultant;
- (2) copies of:
  - (A) all research proposals reviewed;
  - (B) scientific evaluations, if any, that accompany the proposals;
  - (C) approved sample consent documents;
  - (D) progress reports submitted by investigators; and
  - (E) reports of injuries to subjects;
- (3) DHSIRB meeting minutes to document:
  - (A) attendance;
  - (B) actions taken by the DHSIRB;
  - (C) the vote on actions including the number of members voting for, against, and abstaining;
  - (D) declarations of any DHSIRB member's conflict of interest with regard to any research projects;
  - (E) any recusal of a member with a brief explanation why recusal was necessary;
  - (F) the basis for requiring changes in or disapproving research; and
  - (G) a written summary of the discussion of controverted issues and their resolution;
- (4) records of continuing review activities, including the rationale for conducting continuing review of research that otherwise would not require continuing review, per 45 C.F.R. § 46.109(f)(1);
- (5) copies of all correspondence between the DHSIRB and investigators; and
- (6) records documenting DHSIRB activities, per Oklahoma Administrative Code 340:2-39-7(b)(8).

(b) Records are retained:



- (1) for at least three years from the date of creation for general administrative record; and
- (2) for at least three years after research completion.
- (c) All records are accessible for inspection and copying by authorized representatives of the United States Department of Health and Human Services (DHHS) or the Office of Human Research Protection (OHRP) at reasonable times and in a reasonable manner, per 45 C.F.R. § 46.115(b).
- (d) DHS or the DHSIRB may maintain the records in printed form or electronically.

[Source: Added at 32 Ok Reg 1828, eff 9-15-15 ; Amended at 37 Ok Reg 1752, eff 9-15-20]

### **340:2-39-11. Application procedures**

#### **(a) General requirements.**

- (1) Investigators or researchers wanting to conduct research focused on Oklahoma Department of Human Services (DHS) employees or DHS clients must first secure written approval from the Department of Human Services Institutional Review Board (DHSIRB).
- (2) Investigators submit an application to the DHSIRB before initiating any part of a research project, including subject recruitment.
- (3) Permission requests may be made through the application procedures described in this rule.

#### **(b) New research proposals.**

- (1) The DHSIRB provides DHS Form 20AD085E, Application and Instructions, for investigators who want to submit a research proposal to DHSIRB.
- (2) The application and all required attachments must be submitted to DHSIRB. When received 14 or more calendar days prior to the next meeting, the application is reviewed at the next regularly scheduled DHSIRB meeting. When received 13 or fewer calendar days prior to the next meeting, the application is reviewed at the following regularly scheduled DHSIRB meeting. No application is considered for approval until it is fully completed and submitted along with any required attachments.
- (3) Information provided to the DHSIRB in Form 20AD085E includes, at a minimum:
  - (A) the professional qualifications of the principal investigator as well as co-investigators;
  - (B) a description of necessary support services and facilities;
  - (C) a description of the research protocol, including and addressing the:
    - (i) research title;
    - (ii) research purpose, including identifying any expected benefits as a consequence of doing the research;
    - (iii) research sponsor;
    - (iv) results of previous, related research;

- (v) research participant inclusion or exclusion criteria;
- (vi) justification for the use of special or vulnerable participant populations;
- (vii) research design including appropriateness of research methods discussion;
- (viii) description of procedures to be performed;
- (ix) potential risks and a discussion of their relationship to potential participant benefits;
- (x) circumstances surrounding consent procedure, including the:

- (I) setting;
- (II) participant autonomy concerns;
- (III) language difficulties;
- (IV) reading level; and
- (V) particularly vulnerable subjects;

- (xi) procedures for documentation of informed consent, including any procedures for obtaining assent from minors, using witnesses, translators, and document storage;
- (xii) compensation to participants for their involvement;
- (xiii) compensation for injured research participants;
- (xiv) provisions for protection of subjects' privacy;
- (xv) extra costs to participants for their involvement in the research; and
- (xvi) extra costs to third-party payers because of participant's involvement;

- (D) investigator's brochure, when one exists;

- (E) informed consent document; and

- (F) each application must include a description of how the investigator obtains human subject consent, including a copy of the investigator's proposed consent document. For further guidance, refer to Oklahoma Administrative Code (OAC) 340:2-39-11.1.

(4) The DHSIRB makes a determination on the request using procedures, per OAC 340:2-39-12.

**(c) Requesting a determination that a proposed research project is not human subject research.**

(1) The principal investigator is responsible for obtaining the DHSIRB determination on whether a proposed project does or does not qualify as human subject research. A determination includes, whether human subjects, as defined in OAC 340:2-39-6, are involved.

(2) To receive a determination that a research project does not constitute human subject research, the investigator must submit a request in writing to DHSIRB. The request must include:

- (A) a completed Form 20AD085E, as described in (b) of this Section; and

(B) the proposed justification for determining the research does not constitute human subjects research.

(3) The DHSIRB makes a determination on the request using procedures, per OAC 340:2-39-12(b).

**(d) Requesting a determination that a proposed research project is exempt from review.**

(1) In some limited circumstances, per this Section and in federal regulations, per Title 45 of the Code of Federal Regulations, an investigator may request that DHSIRB recognizes his or her proposed research project as a project exempt from DHSIRB review and oversight.

(2) To receive a determination that a research project is exempt from review, the investigator must submit a request in writing to DHSIRB. The request must include a completed Form 20AD085E, per (b) of this Section, and written justification why the investigator is seeking an exemption determination.

(3) The DHSIRB makes a determination on the request using the procedures, per OAC 340:2-39-12(c).

**(e) Requesting an expedited review.**

(1) An expedited review may be requested if the principal investigator submits to the DHSIRB that the proposed research project involves no more than minimal risk and:

(A) the proposed research falls within a category of research, as determined by the U.S. Secretary of Health and Human Services and is specifically identified in the DHSIRB application, that it is eligible for expedited review by the DHSIRB;

(B) minor changes in previously approved research during the period for which approval is authorized; or

(C) the proposed research for which limited DHSIRB review is sought qualifies as a condition of exemption, per Title 45 C.F.R. 46.104(d)(2)(iii), (d)(3)(i)(C), and (d)(7) and (8).

(2) The investigator must submit a request in writing to the DHSIRB to ask for an expedited review of his or her proposed research project. The request must include a completed Form 20AD085E, per (b) of this Section, and written justification why the investigator is seeking an expedited review.

(3) The DHSIRB makes a determination on the request, per OAC 340:2-39-12(d).

**(f) Cooperative research projects.**

(1) A cooperative research project is a research project that involves DHS and at least one other institutional review board, per 45 C.F.R. § 46.114.

(2) An investigator, in limited circumstances, may request the DHSIRB recognize his or her proposed research project as a cooperative research project, per 45 C.F.R. § 46.114.

(3) In the conduct of cooperative research projects, each institutional review board including the DHSIRB, is responsible for safeguarding the rights and welfare of human subjects.

(4) To receive recognition that a research project is a cooperative research project, the investigator must submit a request in writing to the DHSIRB. The request must include:

(A) a completed Form 20AD085E, per OAC 340-2-39-11(b)(1);

(B) identifying information about the other institution, including a reliable point of contact; and

(C) a description of the other institution's proposed role in the cooperative research project.

(5) The DHSIRB makes a determination on the request, per OAC 340:2-39-12(f).

[Source: Added at 32 Ok Reg 1828, eff 9-15-15 ; Amended at 37 Ok Reg 1752, eff 9-15-20]

### **340:2-39-11.1. Informed consent standards**

#### **(a) Informed consent general requirements.**

(1) Research studies submitted for Oklahoma Department of Human Services Institutional Review Board (DHSIRB) consideration must adhere to those requirements necessary to obtain informed consent, per 45 C.F.R. § 46.116. Requirements include, but are not limited to:

(A) obtaining consent prior to involving a human subject in any research study;

(B) providing sufficient time that allows a human subject the opportunity to consider and discuss whether to participate;

(C) presenting sufficient information about the research study in an understandable and comprehensible format; and

(D) information that must begin with a concise and focused presentation of the key information that is most likely to assist a prospective subject or legally authorized representative in understanding the reasons why one might or might not want to participate in the research.

(i) The manner in which the key information is described and presented is reasonably determined by the complexity of the research project. Key information elements may include:

(I) a statement that the project is research and participation is voluntary;

(II) a summary of the purpose of the research, procedures, and duration of participation;

(III) reasonable, foreseeable risks or discomforts;

(IV) reasonable, expected benefits; and

(V) alternative procedures or course of treatment, if any.

(ii) The key information elements of the informed consent must be organized and presented in a way

that facilitates comprehension.

(iii) Informed consent must present information in sufficient detail relating to the research, and must be organized and presented in a way that does not merely provide lists of isolated facts, but rather facilitates the prospective subject's or legally authorized representative's understanding of the reasons why one might or might not want to participate.

(2) Informed consent may not include any exculpatory language through which the subject or the legally authorized representative is made to waive or appear to waive the subject's legal rights or releases or appears to release the investigator or other party associated with the research study from liability for negligence.

(3) Basic elements of informed consent include:

(A) a statement that the study involves research, an explanation of the research purposes and the expected duration of the subject's participation; a description of the procedures to be followed; and identification of any procedures that are experimental;

(B) a description of any reasonably foreseeable risks of discomforts to the subject;

(C) a description of any benefits to the subject or to others that may reasonably be expected from the research;

(D) a disclosure of appropriate alternative procedures or courses of treatment, if any, that might be advantageous to the subject;

(E) a statement describing the extent, if any, to which confidentiality of records identifying the subject are maintained;

(F) an explanation for research involving more than minimal risk, whether any compensation and an explanation as to whether any medical treatments are available if injury occurs and, if so, what they consist of or where further information may be obtained;

(G) an explanation of whom to contact for answers to pertinent questions about the research and research subjects' rights and in the event of a research-related injury to the subject;

(H) a statement that participation is voluntary, refusal to participate involves no penalty or loss of benefits to which the subject is otherwise entitled, and the subject may discontinue participation at any time without penalty or loss of benefits to which the subject is otherwise entitled; and

(I) one of the following statements about any research that involves the collection of identifiable private information or identifiable biospecimens:

(i) a statement that identifiers might be removed from the identifiable private information or identifiable biospecimens and that, after such

removal, the information or biospecimens could be used for future research studies or distributed to another investigator for future research studies without additional informed consent from the subject or the legally authorized representative, if this might be a possibility; or  
(ii) a statement that the subject's information or biospecimens collected as part of the research, even when identifiers are removed, is not used or distributed for future research studies.

(4) DHSIRB enforces the general requirements for informed consent, per 45 C.F.R. § 46.116.

(5) Except as described in (b) and (c) of this Section, before involving a human subject in research covered by this Part, an investigator obtains the subject's or the subject's legally authorized representative's legally effective informed consent. The minimum requirements of legally effective informed consent are given in the federal regulations at 45 C.F.R. § 46.116(a) through 45 C.F.R. § 46.116(d).

(A) Informed consent must begin with a concise and focused presentation of the key information that is most likely to assist a prospective subject or legally authorized representative in understanding the reasons why one might or might not want to participate in the research. This part of the informed consent must be organized and presented in a way that facilitates comprehension.

(B) Informed consent must present information in sufficient detail relating to the research, and must be organized and presented in a way that does not merely provide lists of isolated facts, but rather facilitates the prospective subject's or legally authorized representative's understanding of the reasons why one might or might not want to participate.

(C) An investigator seeks informed consent only under circumstances that provide the prospective subject or the legally authorized representative sufficient opportunity to discuss and consider whether to participate and that minimize the possibility of coercion or undue influence.

(D) The information that is given to the subject or the legally authorized representative is in language understandable to the subject or the legally authorized representative.

(E) The prospective subject or the legally authorized representative must be provided with the information that a reasonable person would want to have in order to make an informed decision about whether to participate, and an opportunity to discuss that information.

(6) On a case-by-case basis, the DHSIRB may determine that other information, in addition to that specifically mentioned in the federal regulation at 45 C.F.R. § 46.116, is given to the subjects when in the DHSIRB's judgment the additional information would

meaningfully add to the subjects' protection of the rights and welfare.

(A) The DHSIRB makes this determination based on the nature of the research as well as the local research context.

(B) If the DHSIRB determines that additional elements are appropriate, this additional information is considered as essential as the basic elements of informed consent described in the federal Department of Health and Human Services (HHS) regulations at 45 C.F.R. § 46.116(b).

(b) **Broad consent in lieu of informed consent.** The DHSIRB may permit broad consent for the storage, maintenance, and secondary research use of identifiable private information or identifiable biospecimens, collected for either research studies other than the proposed research or nonresearch purposes, when the:

(1) application specifically declares it is seeking broad consent and contains an adequate description of the broad consent process; and

(2) proposed research project satisfies the requirements of Title 45 C.F.R. § 46.116(d).

(c) **Waiver or alteration of consent.** When appropriate, an application for a proposed research study may seek a waiver from the requirements to obtain informed consent or it may seek permission to alter the informed consent requirements. Such a waiver or alteration may be permitted by the DHSIRB when the requirements of 45 C.F.R. § 46.116(e) & (f) are met.

(d) **Informed consent documentation.**

(1) **Use of a written informed consent form.** Except as provided in (3) of this subsection, informed consent is documented by the use of a written informed consent form, approved by the DHSIRB and signed, including in an electronic format, by the subject or the subject's legally authorized representative. A written copy is given to the person signing the informed consent form.

(2) **Written consent form options.** Except as provided in (3) of this subsection, the informed consent form may be either (A) or (B).

(A) A written informed consent form that meets the requirements of this Section. The investigator gives the subject or the subject's legally authorized representative adequate opportunity to read the informed consent form before it is signed; alternatively, this form may be read to the subject or the subject's legally authorized representative.

(B) A short written consent form stating the elements of informed consent required by this Section were presented orally to the subject or the subject's legally authorized representative, and that the key information required by 45 C.F.R. § 46.116(a)(5)(i) was presented first to the subject, before other information, if any, was provided.

(i) Informed consent must begin with a concise, organized, and focused presentation of the key information most likely to assist a prospective subject or legally authorized representative understand the reasons why one might, or might not, want to participate in the research. This portion of the informed consent process must be organized and presented in a way that facilitates comprehension.

(ii) The DHSIRB approves a written summary of what is said to the subject or the legally authorized representative. When the short form method is used, there must be a witness to the verbal presentation. Only the short form itself is signed by the subject or the subject's legally authorized representative. The witness signs the short form and a copy of the summary, and the person obtaining consent signs a summary copy.

(iii) Summary and short form copies are given to the subject or the subject's legally authorized representative.

**(3) Documentation waiver requirement.**

(A) In certain defined circumstances, the DHSIRB may waive the requirement for the investigator to obtain a signed informed consent form for some or all subjects.

(i) The requirement may be waived if the DHSIRB makes a determination that the only record linking the subject and the research would be the informed consent form, and the principal risk would be potential harm resulting from a breach of confidentiality. Each subject or legally authorized representative is asked if the subject wants documentation linking the subject with the research. The subject makes the decision.

(ii) The requirement may be waived if the DHSIRB makes a determination that the research presents no more than minimal risk of harm to subjects and involves no procedures for which written consent is normally required outside of the research context.

(iii) The requirement may be waived if the DHSIRB makes a determination that the subjects or legally authorized representatives are members of a distinct cultural group or community in which signing forms is not the norm. The DHSIRB must also determine that the research presents no more than minimal risk of harm to subjects, and there is an appropriate alternative mechanism for documenting that informed consent was obtained.

(B) In cases in which the documentation requirement is waived, the DHSIRB may require the investigator to provide subjects or legally authorized representatives with



a written statement regarding the research.

[Source: Added at 37 Ok Reg 1752, eff 9-15-20]

### **340:2-39-12. Review and approval process**

#### **(a) Preliminary review and assessment.**

(1) Upon receipt of a completed application for a proposed research project, a preliminary assessment of the application is performed by the Oklahoma Department of Human Services Institution Review Board (DHSIRB).

(2) The preliminary assessment is completed by the chair or the Chair's designee. The assessment determines if the applicant is seeking a full review, an expedited review, or an exemption from review and ensures the provided documentation complies with the pertinent application, per Oklahoma Administrative Code (OAC) 340:2-39-11.

(3) When the application is incomplete in any way, the Chair or the Chair's designee notifies the applicant and explains any deficiencies. The applicant is invited to re-submit the application with deficiencies corrected.

(4) When the application is determined to be complete, the Chair or the Chair's designee assigns a unique identifier number to the proposed research project. This number is used in all future correspondence with the applicant and/or investigator.

(5) When the chair determines the application satisfactorily seeks an expedited review or exemption review, the application and its materials are presented to the Vice-Chair and the DHSIRB Office of Client Advocacy member for review.

(6) When the chair determines the application requires a full review, the application and its materials are presented to all DHSIRB members for review and consideration at the next DHSIRB meeting.

(7) When it is determined that additional information and/or clarification is needed for an application's review, the Chair or the Chair's designee notifies the applicant. The applicant has 90-calendar days to respond.

(A) When the applicant does not respond in a satisfactory manner to the request for additional information and/or clarification within 90-calendar days, the DHSIRB notifies the applicant that the application was administratively closed.

(B) An application that is administratively closed may not be re-opened; however, a new application may be submitted.

#### **(b) Determination that a proposed research project is not human subjects research.**

(1) When an investigator or researcher submits an application with a request for a determination of not human subjects research, the DHSIRB chair follows the procedures described in

(A) and (B) of this paragraph.

(A) The Chair convenes a subcommittee consisting of the Chair, the Vice-Chair, and the Office of Client Advocacy member.

(B) The subcommittee reviews completed Form 0AD085E and the principal investigator's justification why the proposed research does not qualify as human subjects research.

(i) Based on this review, if the subcommittee determines the proposed research project does not constitute human subjects research, the Chair or the Chair's designee informs the applicant, in writing, of the DHSIRB decision.

(ii) When the subcommittee determines that the proposed research project does constitute human subjects research, the Chair or the Chair's designee informs the applicant, in writing, of the DHSIRB subcommittee decision. The applicant is directed to re-submit the application with a request for an exempt, expedited, or full board review.

(2) DHSIRB members are notified each time a research proposal is determined to not constitute human subjects research. The information is presented electronically or in hard copy format at the earliest possible DHSIRB regular meeting.

(3) If the investigator or researcher disagrees with the DHSIRB decision, a request for reconsideration may be submitted, per OAC 340:2-39-13(c).

**(c) Applications with an exemption request.**

(1) When an investigator or researcher submits an application with a request for recognition that his or her project is exempt from review, the DHSIRB chair follows the procedures in (A) and (B) in this paragraph.

(A) The chair convenes a subcommittee consisting of the Chair, the Vice-Chair, and the Office of Client Advocacy member.

(B) The subcommittee reviews the completed application and materials supporting the justification why the research project is exempt from review.

(i) Based on this review, if the subcommittee determines that the proposed research project is properly exempt from any review, the Chair or the Chair's designee informs the applicant, in writing, of the DHSIRB decision.

(ii) If the subcommittee determines that the proposed research project is conditionally exempt from DHSIRB review, the subcommittee must also conduct a limited review, per (g) of this Section.

(I) The subcommittee conducts a limited review when the proposed research is of a type described in the federal regulations at Title 45 C.F.R. § 46.104(d)(2)(iii), (d)(3)(i)(C), (d)(7) or (8).

(II) The subcommittee may conduct a limited review when the subcommittee believes a limited review is necessary in order to protect the privacy of subjects or to maintain the confidentiality of data or to ensure broad consent was properly obtained and documented.

(iii) If the subcommittee determines that the proposed research project is not exempt from a review, the subcommittee proceeds with an expedited review of the project using the procedures in (e) of this Section.

(2) Within 14-calendar days after the DHSIRB action on the exemption request, the Chair or Chair's designee sends a written notification informing the applicant of the determination. The written notification includes:

(A) the unique identifier DHSIRB number;

(B) research name; and

(C) reason(s) the exemption request was approved or denied.

(3) If the investigator or researcher disagrees with the DHSIRB decision, a request for reconsideration may be submitted, per OAC 340:2-39-13(c).

(4) The DHSIRB members are notified each time a research proposal is approved through exemption. The information is presented electronically or in hard copy format at the earliest possible DHSIRB regular meeting.

**(d) Applications with a request for an expedited review.**

(1) When an investigator or researcher submits an application with a request for an expedited review, the DHSIRB Chair follows the procedures described in this paragraph.

(A) The chair convenes a subcommittee consisting of the Chair, Vice-Chair, and Office of Client Advocacy member. The subcommittee reviews the completed application and assesses the proposed research project based upon the criteria for an expedited review, per OAC 340:2-39-11(e).

(i) Based on this review, if the subcommittee determines that the proposed research project satisfies the criteria for an expedited review, the subcommittee carries out the proposed project initial review.

(I) The subcommittee may exercise all DHSIRB authorities except disapproving research.

(II) When the subcommittee fails to accept the research project for an expedited review, then the proposed research project is reviewed in accordance with the non-expedited procedures described in (e) of this Section.

(III) A research project may be disapproved only after review in accordance with the non-expedited procedure.

(ii) If the subcommittee determines that the proposed research project does not meet the criteria for an expedited review, the Chair presents the application to the DHSIRB for a non-expedited review at the next scheduled meeting.

(B) The Director may restrict, suspend, terminate, or choose not to authorize the DHSIRB's use of this expedited review procedure.

(2) The DHSIRB members are notified each time a research proposal is approved through the use of this expedited process. Information about each expedited approval is given to the DHSIRB members in a written report of expedited actions. The report is presented in written or electronic form and disseminated to all board members or at the earliest possible DHSIRB regular meeting. DHSIRB members are given an opportunity to review the report of expedited actions. The review must include an opportunity for members to ask questions or raise concerns about any expedited action. A motion to accept or approve the report may be entertained.

**(e) Full review of new research projects, non-exempt, non-expedited.**

(1) **Review at a convened meeting.** Except when an expedited review procedure is used, per (d), the DHSIRB performs an initial review of proposed new research projects at a convened meeting when a quorum is present. In order for the research to be approved, it must receive the approval of a majority of those members present at the meeting.

(2) **Reliance on the written application.** To complete its review, the DHSIRB may choose to rely solely on the written application, including attachments submitted by the applicant.

(3) **Optional review of other information.** In addition to its review of the written application, including attachments, the DHSIRB may also choose to invite:

(A) the primary investigator to provide additional information;

(B) subject matter experts to assist in the review; or

(C) experts and guests to attend the meeting when the review takes place.

(4) **Review criteria.** In order to approve new research covered by this subsection, the DHSIRB determines, per 45 C.F.R. § 46.111 that the requirements in (A) through (G) are satisfied.

(A) Risks to subjects are minimized by using procedures:

(i) consistent with sound research design and that do not unnecessarily expose subjects to risk; and

(ii) already performed on the subjects for diagnostic or treatment purposes, whenever appropriate.

(B) Risks are reasonable in relation to anticipated benefits to subjects, if any, and the importance of the knowledge that may be expected to be gained. In evaluating risks and benefits, DHSIRB considers only those risks and benefits that may result from the research as distinguished from risks and benefits of therapies subjects would receive even if not participating in the research. Per 45 C.F.R. § 46.111(a)(2), DHSIRB does not consider possible long-range effects of applying the knowledge gained in the research.

(C) Selection of subjects is equitable. In making this assessment the DHSIRB takes into account the research purposes and the setting in which the research is conducted. Additionally, the DHSIRB is particularly cognizant of the special problems of research involving subjects who are likely to be vulnerable to coercion or undue influence, such as children, prisoners, economically or educationally disadvantaged persons, or individuals with impaired decision-making capacities.

(D) The proposed research includes a plan to seek informed consent from each prospective participant or the subject's legally authorized representative, per OAC 340:2-39-11.1.

(E) Informed consent is appropriately documented or appropriately waived, per OAC 340:2-39-11.1.

(F) When appropriate, the research plan makes adequate provision for monitoring the data collected to ensure the subjects' safety.

(G) When appropriate, there are adequate provisions to protect the subjects' privacy and maintain the confidentiality of data.

(5) **Additional requirements.** In order to approve new research projects covered by this subsection the DHSIRB reviews the investigator's qualifications to conduct and supervise the proposed research. This process may include:

(A) reviewing the investigators', sub-investigators', and other necessary research staffs' resumes, verifying professional associations and licenses and may include a review of the investigators' previous specific experience as demonstrated by recent presentations or publications;

(B) using previous DHSIRB experience with the investigators; and

(C) requesting additional information confirming the investigators' qualifications from an administrator of the investigators' institutions.

**(f) Review and approval of cooperative research projects.**

(1) Cooperative research projects are those projects that involve the Oklahoma Department of Human Services (DHS) as well as one or more additional institutions.

(A) In the conduct of cooperative research projects, DHSIRB and the other institution(s) are responsible for

safeguarding the rights and welfare of human subjects.

(B) DHSIRB makes arrangements with the other institution(s) to avoid duplication of efforts.

(C) When a cooperative research project is sponsored by a federal department or agency that is supporting or conducting the research, DHSIRB relies on the federal department or agency to identify the reviewing Institution Review Board (IRB).

(D) Consistent with the federal regulations, per Title 45 C.F.R. § 46.114(b), DHSIRB recognizes that any institution located in the United States (U.S.) engaged in cooperative research must generally rely upon approval by a single IRB for the portion of the research conducted in the U.S., unless:

- (i) more than a single IRB review is required by law, including tribal law passed by the official governing body of an American Indian or Alaska Native tribe;
- (ii) a federal department or agency supporting or conducting the research determines and documents that the use of a single IRB is not appropriate for the particular context; or
- (iii) the cooperative research project does not have a federal sponsor.

(2) When DHSIRB participates with another institution in a cooperative research project that does not have a federal sponsor, DHSIRB seeks to avoid duplication of effort by:

- (A) entering into a joint review agreement with the other institution;
- (B) relying on the review of the other institution's IRB; or
- (C) making similar arrangements for avoiding duplication of effort.

**(g) Limited reviews.**

(1) If the DHSIRB affirms that a research proposal meets the criteria for a conditional exemption from review, per OAC 340:2-39-12(c), the DHSIRB performs a limited review of the proposal.

(2) The scope of the limited review depends on the type of research proposal. The four types of research are in (A) through (D).

(A) Mildly obtrusive interactions research, per 45 C.F.R. § 46.104(d)(2)(iii), is defined as research with features in (i) and (ii) of this subparagraph.

- (i) Mildly obtrusive interactions research only includes interactions involving:
  - (I) educational tests, such as cognitive, diagnostic, aptitude, and achievement tests;
  - (II) survey procedures;
  - (III) interview procedures; or
  - (IV) observation of public behavior, including visual or auditory recording; and

(ii) the information obtained is recorded by the investigator so the human subjects' identity can readily be ascertained, directly or through identifiers linked to the subjects.

(B) Benign behavioral interventions, per 45 C.F.R. § 46.104(d)(3)(i)(C), is defined as research with features in (i) and (ii) of this subparagraph.

(i) Benign behavioral interventions involves interventions in conjunction with the collection of information from an adult subject through verbal or written responses, including data entry, or audiovisual recording if the subject prospectively agrees to the intervention and information collection.

(ii) The information obtained is recorded by the investigator so the identity of the human subjects can readily be ascertained, directly or through identifiers linked to the subjects.

(C) Storage or maintenance for secondary research for which broad consent is required, per 45 C.F.R. § 46.104(d)(7), is defined as research involving the storage or maintenance of identifiable private information or identifiable biospecimens for potential secondary research use.

(D) Secondary research for which broad consent is required, per 45 C.F.R. § 46.104(d)(8), is defined as research involving the use of identifiable private information or identifiable biospecimens for secondary research use, when the conditions in (i) through (iii) are present.

(i) Broad consent for the storage, maintenance, and secondary research use of the identifiable private information or identifiable biospecimens was obtained.

(ii) Documentation of informed consent or waiver of documentation of consent was obtained, per OAC 340:2-39-11.1.

(iii) The investigator does not include returning individual research results to subjects as part of the study plan.

(3) For mildly obtrusive interactions research and for benign behavioral interventions, the DHSIRB review is limited to determining that there are adequate provisions to protect the privacy of subjects and to maintain the confidentiality of data.

(4) For storage or maintenance for secondary research for which broad consent is required, and for secondary research for which broad consent is required, the DHSIRB review is limited to determining that:

(A) broad consent for storage, maintenance, and secondary research use of identifiable private information or identifiable biospecimens is obtained, per OAC 340:2-

39-11.1(b);

(B) broad consent is appropriately documented or waiver of documentation is appropriate, per OAC 340:2-39-11.1(d); and

(C) if there is a change made for research purposes in the way the identifiable private information or identifiable biospecimens are stored or maintained, there are adequate provisions to protect the privacy of subjects and to maintain the confidentiality of data.

(h) **Review and approval notification.**

(1) **Approval categories.** As a result of the DHSIRB review, each research proposal is assigned to one of the categories in (A) through (E) of this paragraph.

(A) **Not human subjects research.** Proposal determined to not constitute human subjects research. Investigators whose proposals receive this determination may begin work immediately.

(B) **Approved.** Research is approved as submitted. Investigators whose proposals are approved may begin work immediately.

(C) **Conditionally approved.** Research is conditionally approved, but research may not begin until investigators comply with items identified by the DHSIRB for final approval.

(D) **Deferred.** DHSIRB does not have enough information to make a determination. Investigators whose proposals receive a deferral must resubmit the entire application to address the required changes.

(E) **Not approved.** The magnitude and/or number of concerns are such that conditional approval is not appropriate. Investigators whose work is disapproved may not conduct the research or resubmit their proposals.

(2) **Notification required.** The DHSIRB notifies investigators and appropriate managers, supervisors, and directors within DHS in writing of its decision regarding the proposed research activity, including any modifications or conditions required to secure DHSIRB approval of the research activity.

(A) **Approved applications.**

(i) At a minimum, the approval letter contains:

(I) the unique identifier DHSIRB number;

(II) the research name;

(III) the date of approval;

(IV) all reviewed and approved DHSIRB documents;

(V) the duration of the approval; and

(VI) circumstances, such as adverse events or closure of the research, for which DHSIRB must be contacted.

(ii) The approval date is the date when the application is approved.



(iii) Continuing review is not required except when there is a good reason for doing so, per OAC 340:2-39-12.2(c).

**(B) Conditionally approved applications.**

(i) A letter describing the concerns of the DHSIRB is sent to the investigator. The letter makes it clear the research may not begin until DHSIRB issues a letter of approval.

(ii) Investigators have 90-calendar days from the day they are notified about the conditionally approved research to respond. If a response is not received during this period, investigators must resubmit the entire application.

(iii) To review the investigator's response, the chair convenes a subcommittee consisting of the Chair, the Vice-Chair, and the Office of Client Advocacy member. The subcommittee reviews the investigator's response for appropriateness.

(iv) The subcommittee makes a determination as to whether the response adequately addresses the DHSIRB concerns.

(v) A DHSIRB final approval letter is sent to the investigator when the response is approved. At that time, the research may begin. The approval date is the date the investigator's response is approved. Continuing review is not required except when there is a good reason for doing so, per OAC 340:2-39-12.2(c).

**(C) Deferred.** A letter describing the determination is sent to the investigator.

**(D) Not approved.** A designation of not approved indicates the magnitude and/or number of concerns is such that conditional approval is not appropriate, as determined by the DHSIRB.

(i) A letter describing the DHSIRB decision and concerns is sent to the investigator. The investigator is notified of the opportunity to respond to the DHSIRB, in writing or in person, regarding the determination, per OAC 340:2-39-13.

(ii) The DHSIRB accomplishes any reconsideration in the same manner as the preliminary review and assessment described in (a) of this Section.

(iii) The investigator is not advised to resubmit disapproved research without consulting the DHSIRB.

(iv) In the event of a resubmission, the DHSIRB submission is given a new number and addressed as a completely new submission.

(3) In general, action on all proposals is taken within two months after submission. Investigators are notified, in writing, of the DHSIRB decisions within two weeks of board action.

(i) **Further reviews by DHS.** Research covered by this Part approved by the DHSIRB may be subject to further appropriate review and approval or disapproval by DHS officials. However, DHS officials may not approve the research if it was not approved by the DHSIRB.

[Source: Added at 32 Ok Reg 1828, eff 9-15-15 ; Amended at 37 Ok Reg 1752, eff 9-15-20 ; Amended at 42 Ok Reg, Number 5, effective 10-10-24 (emergency)]

**340:2-39-12.1. Research project changes after Oklahoma Department of Human Services Institution Review Board (DHSIRB) approval**

(a) After initial approval of a research project by the DHSIRB, the investigator conducts the research activity in accordance within the terms of the DHSIRB approval.

(b) The investigator may not make changes in an approved research activity until the proposed changes are submitted to the DHSIRB for review and approval, except when necessary to eliminate apparent immediate hazards to the subject.

(c) When the investigator encounters any unanticipated problems involving risks to subjects or others or any serious or continuing noncompliance with this Part or with DHSIRB requirements or determinations, those problems and difficulties must be immediately reported to the human protections administrator.

(d) An investigator may ask the DHSIRB to review and approve a proposed change by submitting a completed DHS Form 20AD085E, Oklahoma Department of Human Services Institutional Review Board (DHSIRB) Application and Instructions, per OAC 340:2-39-11(b).

(1) Form 20AD085E and all required attachments must be received by the DHSIRB. When Form 20AD085E and all required attachments are received 14 or more calendar days prior to the next meeting, the application is reviewed at the next regularly scheduled DHSIRB meeting. When Form 20AD085E and attachments are received 13 or fewer calendar days prior to the next meeting, the application is reviewed at the following regularly scheduled DHSIRB meeting.

(2) The investigator may request an expedited review for minor changes in a research activity.

[Source: Added at 37 Ok Reg 1752, eff 9-15-20]

**340:2-39-12.2. Continuing review requirements**

(a) Except as provided for in (b) of this Section, the DHSIRB conducts continuing review of any research study it approved at intervals appropriate to the degree of risk, but not less than once per year. Principal Investigators are responsible for submitting a continuing review application at annual intervals unless directed by the DHSIRB to submit more frequently.

(b) Unless the DHSIRB determines otherwise, continuing review of research is not required in the circumstances in (1) through (3). The:

(1) research was eligible for expedited review, per Oklahoma Administrative Code (OAC) 340:2-39-12(c);

(2) proposed research was reviewed by the DHSIRB using one of the limited review procedures, per OAC 340:2-39-12(g); or

(3) research progressed to the point that it involves only:

(A) data analysis, including analysis of identifiable private information or identifiable biospecimens; or

(B) accessing follow-up clinical data from procedures that subjects would undergo as part of clinical care.

(c) Notwithstanding the provisions of (b) of this Section, the DHSIRB may require a continuing review of any research when it determines there is a good reason for doing so. A determination to conduct a continuing review must be made in a DHSIRB-convened meeting, and a rationale for conducting continuing review of research must be stated. DHSIRB requires the investigator to submit a continuation request that must include a:

(1) specific request to continue the research project;

(2) copy of all currently approved informed consent forms when subjects are still involved; and

(3) brief status report on the research project including:

(A) the protocol's progress to date;

(B) the reasons for continuing the research;

(C) plans for the next approval period;

(D) a description of any adverse events or unanticipated problems involving risks to participants or others;

(E) a discussion of the number of refusals, withdrawal of participants from the research, or complaints about the research;

(F) a summary of any recent literature;

(G) findings obtained thus far; and

(H) modifications to the research.

(d) The continuing review by the convened DHSIRB may be supplemented by other review activities, as determined appropriate by the DHSIRB, such as:

(1) progress report(s) submitted by the principal investigator; or

(2) compliance report(s), if any, prepared by the human protections administrator or others, including:

(A) reports on observations of the consent process, per 45 C.F.R. § 46.109(g);

(B) reports on observations of the research, per 45 C.F.R. § 46.109(g);

(C) reports on any material changes that occurred in the research project since the previous DHSIRB review; per 45 C.F.R. § 46.108(a)(3)(ii);

(D) any complaints received from human subjects, legally authorized representatives, or others; and

(E) any findings of serious or continuing noncompliance with this Part or the DHSIRB requirements or determinations, per 45 C.F.R. § 46.108(a)(4)(i).

(e) As a result of its continuing review, the DHSIRB may suspend or terminate approval of research that is not conducted in accordance with the DHSIRB's requirements or that was associated with unexpected serious harm to subjects. Any suspension or termination of approval

includes a statement of the reasons for the DHSIRB action and is reported promptly to the investigator, appropriate DHS officials, and others as appropriate, per 45 C.F.R. § 46.113.

(f) When the DHSIRB decides to suspend or terminate research activity approval, it includes, in its written notification, a statement of the reasons for its decision and gives the investigator an opportunity to respond in person or in writing, per 45 C.F.R. § 46.109(d).

[Source: Added at 37 Ok Reg 1752, eff 9-15-20]

### **340:2-39-13. Appeal process**

(a) Oklahoma Department of Human Services officials may not approve research disapproved by the Oklahoma Department of Human Services Institutional Review Board (DHSIRB), per Section 46.112 of Title 45 of the Code of Federal Regulations.

(b) There is no mechanism for an appeal of DHSIRB decisions to other departmental components. DHSIRB is an autonomous entity and its decisions are binding.

(c) Principal investigators may request reconsideration of a DHSIRB decision regarding a research protocol. The request must be submitted in writing and must include any pertinent information relevant to the decision. The reconsideration is accomplished in the manner described for preliminary review and assessment, per Oklahoma Administrative Code 340:2-39-12(a). Upon reexamination and reconsideration of its actions, the subsequent DHSIRB decision is final.

[Source: Added at 32 Ok Reg 1828, eff 9-15-15 ; Amended at 37 Ok Reg 1752, eff 9-15-20]

## **SUBCHAPTER 46. OFFICE OF BACKGROUND INVESTIGATIONS**

### **PART 1. GENERAL PROVISIONS**

#### **340:2-46-1. Purpose and legal basis**

The purpose of the Oklahoma Human Services (OKDHS) Office of Background Investigations (OBI) is to conduct background checks and searches related to programs and services administered by OKDHS. The OKDHS OBI performs background checks for Child Care Services, per:

- (1) Section 901 et seq. of Chapter IX of Title 28 of the Code of Federal Regulations; and
- (2) the National Child Protection Act of 1993, Public Law (P.L.) 103-209, as amended by the Volunteers for Children Act, P.L. 105-251.

[Source: Added at 35 Ok Reg 449, eff 1-31-18 (emergency); Amended at 35 Ok Reg 1590, eff 9-17-18 ; Amended at 39 Ok Reg 1678, eff 9-15-22]

### **PART 2. CHILD CARE SERVICES**

## **340:2-46-2. Authority [REVOKED]**

[Source: Added at 35 Ok Reg 449, eff 1-31-18 (emergency); Amended at 35 Ok Reg 1590, eff 9-17-18 ; Revoked at 39 Ok Reg 1678, eff 9-15-22]

## **340:2-46-3. Definitions**

The following words and terms when used in this Part shall have the following meaning unless the context clearly indicates otherwise:

**"Background check"** means a review of state and/or national criminal history records that may include fingerprint submissions, public docket searches, public registry searches, national sex offender registry searches, and child abuse and neglect searches.

**"General administrative office"** or **"GAO"** means an entity that receives background check results, including fingerprint results, and makes hiring decisions on behalf of one or more child care programs.

**"Qualified entity"** or **"QE"** means an entity that meets the criteria and complies with federal and state laws and policies. QE standards govern the security and confidentiality of national fingerprint results.

**"Temporary hiring agency"** or **"THA"** means an entity that employs temporary staff who may be utilized as substitutes in a child care program.

[Source: Added at 35 Ok Reg 449, eff 1-31-18 (emergency); Amended at 35 Ok Reg 1590, eff 9-17-18]

## **340:2-46-4. Confidentiality and dissemination of national criminal history records checks**

(a) National criminal history records check reports:

(1) are confidential, per Section 50.12 of Title 28 of the Code of Federal Regulations; and

(2) may not be disseminated outside of the Oklahoma Department of Human Services or authorized entities.

(b) The security, confidentiality, and dissemination of national criminal history records checks for child care programs are governed by qualified entity standards.

[Source: Added at 35 Ok Reg 449, eff 1-31-18 (emergency); Amended at 35 Ok Reg 1590, eff 9-17-18]

## **340:2-46-5. Background investigations process for child care programs**

(a) **Fingerprint process.**

(1) **Background check review packet.** Oklahoma Human Services (OKDHS) makes background check review packets available to individuals and child care programs.

(2) **Fingerprint rejections.** When low quality fingerprints, as determined by the Oklahoma State Bureau of Investigation (OSBI) , the Federal Bureau of Investigation (FBI), or both make it impossible for the national crime information databases to provide results, a national name-based search may be authorized.

(3) **Fingerprint exceptions.** When OKDHS Office of Background Investigations (OBI) receives a written request for a fingerprint

exception from an individual, who has a severe physical condition precluding the individual from being fingerprinted, a state name-based search may be authorized. Individuals that resided outside of Oklahoma within the past five years must provide a name-based search from the state where they resided.

**(b) Background check process.**

**(1) Background check review requests.**

(A) Upon receipt of completed Form 19MP006E, Background Check Review Request, or an electronic background check request, OBI conducts a background check review.

(B) Upon receipt of an incomplete Form 19MP006E, or an electronic background check request, OBI sends the program notification of an incomplete request.

**(2) Background check review results.**

(A) OBI processes background check requests :

- (i) within the time allowed under federal regulations; or
- (ii) next OKDHS-business day for new programs in application status.

(B) OBI disseminates the:

- (i) background check results;
- (ii) criminal history record information (CHRI), when applicable; and
- (iii) dispute resolution documents, when applicable.

**(c) Criminal history records dispute process.**

(1) **Dispute rights.** When state and national CHRI are disseminated, OBI notifies individuals of the right to dispute the completeness and accuracy of the CHRI.

(2) **Reasonable time.** Individuals are given a reasonable time to dispute CHRI, prior to a final employment determination.

**(d) Five-year reassessment.** Programs must obtain a background check on required individuals every five years, per applicable Child Care Services (CCS) Licensing requirements.

**(e) Record of Arrest and Prosecution (RAP) RAP Back process.**

(1) **RAP Back notifications.** RAP Back is a notification from OSBI or FBI of subsequent arrests or prosecutions of individuals who have had the CCS fingerprint-based national criminal history checks. OBI submits a request to the state repository to stop sending RAP Back on individuals, who:

- (A) are ineligible to be associated with any program; and
- (B) have not been associated with a program for two or more years.

(2) **RAP Back criminal history review results.** Upon receipt of RAP Back, OBI reviews the notification to determine if the record reflects arrests or prosecutions. OBI simultaneously disseminates RAP Back results to the:

- (A) programs with which the individual was last associated; and
- (B) CCS, when criminal history restrictions and prohibitions are involved.

(3) **Public record information.** When OBI becomes aware of additional arrests, charges, or convictions, OBI validates the information through public records and processes a new background check result.

(f) **Qualified entity (QE) standards.**

(1) **Agreement compliance.** OBI maintains QE standards for OKDHS according to the user agreement with OSBI.

(2) **QE status.** QE status may be achieved by a:

- (A) program;
- (B) general administrative office (GAO) on behalf of one or more programs; and
- (C) temporary hiring agency (THA) used for child care substitutes.

(3) **Dissemination to a QE.** OBI only disseminates national CHRI to a program, GAO, or THA identified as a QE that has written consent from the fingerprinted individual.

(4) **Audits.** OBI periodically audits QEs to verify compliance with standards.

(5) **Violations.** When QE standards violations are:

- (A) identified during an audit, OBI follows the audit process; or
- (B) reported by individuals, OBI conducts an investigation.

(6) **QE status termination.** The QE status may be terminated, when the QE:

- (A) no longer meets QE criteria including following the QE agreement;
- (B) does not cooperate with the audit process or an investigation; or
- (C) does not correct QE standards violations within an agreed upon time and manner.

(g) **Restricted Registry referrals.** When OBI determines an individual meets criteria for the Restricted Registry, per Oklahoma Administrative Code 340:110-1-10.1(b)(1) through (5), the information is forwarded to Restricted Registry staff.

(h) **Out-of-state inquiries.** OBI coordinates background check inquiries when requested by an out-of-state agency.

[Source: Added at 35 Ok Reg 449, eff 1-31-18 (emergency); Amended at 35 Ok Reg 1590, eff 9-17-18 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

## **APPENDIX A. APPLICATION FOR EMPLOYMENT [REVOKED]**

**[Source:** Revoked and reenacted at 9 Ok Reg 275, eff 11-12-91 (emergency); Revoked and reenacted at 9 Ok Reg 2061, eff 6-11-92 ; Revoked at 21 Ok Reg 788, eff 4-26-04]



## **APPENDIX B. EMPLOYMENT SUPPLEMENT [REVOKED]**

[**Source:** Revoked and reenacted at 11 Ok Reg 465, eff 11-10-93 (emergency); Revoked and reenacted at 11 Ok Reg 1607, eff 5-12-94 ; Revoked at 19 Ok Reg 2182, eff 6-27-02]

## **APPENDIX C. EMPLOYMENT ELIGIBILITY HANDOUT [REVOKED]**

[Source: Revoked at 21 Ok Reg 788, eff 4-26-04]

## **APPENDIX D. APPLICANT AVAILABILITY LETTER [REVOKED]**

[Source: Revoked at 21 Ok Reg 788, eff 4-26-04]

## **APPENDIX E. STATEMENT OF GRIEVANCE AND RESOLUTION [REVOKED]**

[Source: Revoked at 21 Ok Reg 801, eff 4-26-04]

## **APPENDIX F. STUDENT GRIEVANCE [REVOKED]**

[Source: Revoked at 21 Ok Reg 801, eff 4-26-04]

## **APPENDIX G. REQUEST FOR A FAIR HEARING [REVOKED]**

[Source: Revoked at 19 Ok Reg 2199, eff 6-27-02]

**APPENDIX H. REQUEST FOR REVIEWS OF DECISION ON  
APPEAL BEFORE THE OKLAHOMA COMMISSION FOR  
HUMAN SERVICES [REVOKED]**

[Source: Revoked at 19 Ok Reg 2199, eff 6-27-02]

## **APPENDIX I. WITHDRAWAL OF REQUEST FOR HEARING [REVOKED]**

[Source: Revoked at 19 Ok Reg 2199, eff 6-27-02]



## **APPENDIX J. CLAIM FORM [REVOKED]**

[Source: Revoked at 21 Ok Reg 801, eff 4-26-04]

## **APPENDIX K. PROFESSIONAL SERVICE CONTRACT AFFIDAVIT FORM [REVOKED]**

[Source: Revoked at 27 Ok Reg 1835, eff 7-1-10]

## **APPENDIX L. ACCESS CLAUSE FOR PURCHASE CONTRACT [REVOKED]**

[Source: Revoked at 23 Ok Reg 2648, eff 8-1-06]

## **APPENDIX M. MATERIAL SAFETY DATA SHEET SURROGATE STATEMENT [REVOKED]**

[Source: Revoked at 23 Ok Reg 2648, eff 8-1-06]

**APPENDIX N. APPLICATION FOR OCCUPATIONAL  
THERAPY/PHYSICAL THERAPY SCHOLARSHIP  
[REVOKED]**

[Source: Added at 9 Ok Reg 2209, eff 5-18-92 (emergency); Added at 10 Ok Reg 1423, eff 4-26-93 ;  
Revoked at 21 Ok Reg 788, eff 4-26-04]

## **APPENDIX O. [RESERVED]**

## **APPENDIX P. AFFIDAVIT OF LOST OR DESTROYED WARRANT [REVOKED]**

[**Source:** Added at 11 Ok Reg 4463, eff 8-5-93 (emergency); Added at 11 Ok Reg 3223, eff 6-27-94 ;  
Revoked at 15 Ok Reg 752, eff 1-1-98 (emergency); Revoked at 15 Ok Reg 1595, eff 5-11-98]

## **APPENDIX Q. [RESERVED]**

[Source: Reserved at 11 Ok Reg 3223, eff 6-27-94]



## **APPENDIX R. RELEASE OF INFORMATION REGARDING JUVENILES [REVOKED]**

[**Source:** Added at 11 Ok Reg 4463, eff 8-5-93 (emergency); Added at 11 Ok Reg 3223, eff 6-27-94 ;  
Revoked at 21 Ok Reg 801, eff 4-26-04]

## **CHAPTER 5. ADULT PROTECTIVE SERVICES**

[**Authority:** 43A O.S., §§ 10-101 through 10-111 and 56 O.S., §§ 162 and 230.52]

[**Source:** Codified 6-1-03]

### **SUBCHAPTER 1. ADULT PROTECTIVE SERVICES REPORTS**

### **340:5-1-1. Adult Protective Services (APS) authority, core principles, and mission**

- (a) APS was created to meet the requirements of the Protective Services for Vulnerable Adults Act, per Sections 10-101 et seq. of Title 43A of the Oklahoma Statutes.
- (b) APS assists vulnerable adults who are unable to meet their own needs, or who are reported to be suffering from physical or verbal abuse, neglect, self-neglect, personal degradation, or exploitation.
- (c) The vulnerable adult is the APS client. APS respects the client's right to self-determination and approaches service planning and intervention with sensitivity to the client's perception of his or her situation and needs. An objective assessment of the circumstances and need for involvement is made.
- (d) APS intervention and service planning are client-centered. The vulnerable adult alleged to need protective services, is an Oklahoma Human Services client. While outcomes desired by the reporter, family members, or other caretakers are considered, APS intervention and service planning are client-centered.
- (e) The APS specialist maintains professional objectivity when providing for or arranging services for vulnerable adults, whether services are paid for by the client or from private or public funds.
- (f) Protective service plans are developed with the knowledge and approval of the client, when possible. When involuntary services are necessary to protect the life or estate of a client, guardianship is pursued with careful consideration of the effect on the client's psychological and emotional needs. Service planning focuses on services that meet the vulnerable adult's needs in the least intrusive and least restrictive manner possible.
- (g) APS program goals are, to:
- (1) reestablish and maintain a stable level of functioning approaching the client's maximum potential;
  - (2) reestablish and maintain the client's family and community relationships;
  - (3) assist the client to remain in the community as long as possible;
  - (4) ensure that the client who lacks capacity to consent, receives involuntary court-ordered services; and
  - (5) assist the client in obtaining appropriate institutional care, when less restrictive services are not available.
- (h) APS is responsible for program planning, staff training, technical assistance, quality assurance, and policy development. APS district directors assist in this process by providing local support for APS staff.

[Source: Added at 20 Ok Reg 840, eff 6-1-03 ; Amended at 27 Ok Reg 990, eff 6-1-10 ; Amended at 35 Ok Reg 1592, eff 9-17-18 ; Amended at 38 Ok Reg 2165, eff 9-15-21 ; Amended at 40 Ok Reg 941, eff 9-15-23]

### **340:5-1-2. Principles of APS [REVOKED]**

[Source: Added at 20 Ok Reg 840, eff 6-1-03 ; Amended at 27 Ok Reg 990, eff 6-1-10 ; Revoked at 35 Ok Reg 1592, eff 9-17-18]

### **340:5-1-3. Program coordination [REVOKED]**

[Source: Added at 20 Ok Reg 840, eff 6-1-03 ; Amended at 27 Ok Reg 990, eff 6-1-10 ; Amended at 30 Ok Reg 624, eff 6-1-13 ; Revoked at 35 Ok Reg 1592, eff 9-17-18]

### **340:5-1-4. Adult Protective Services (APS) ethical considerations**

#### **(a) Ethical principles guide all client-related contact.**

(1) The APS specialist must obtain prior approval from the district director, program field representative, APS specialist IV, or designee to:

(A) handle the vulnerable adult's personal resources, such as bank accounts, cash, checks, notes, mortgages, trusts, deeds, sales contracts, stocks, bonds, certificates, or any other assets;

(B) obtain or initiate repairs, personal services, and other necessary actions to provide health care, food, or shelter for a vulnerable adult. Verbal approval is authorized in emergency situations where immediate action is required to protect the vulnerable adult from imminent harm or significant loss of property. The APS specialist must document all plans and the approval in the case record as soon as possible; and

(C) re-enter a client's residence that was secured, and may only enter when another person from outside of Oklahoma Human Service, such as law enforcement, is present. When a third party is unable to accompany APS staff, the district director may approve entry when another specialist is present.

(2) The APS specialist must not:

(A) solicit, charge, request, or accept a fee, gift, reward, or payment of any kind from individuals or staff for services rendered as a volunteer, intern, or employee;

(B) use contact with the vulnerable adult or any member of the vulnerable adult's support system for personal gain or personal relationships;

(C) after termination of any assignment, make personal contact with a former client or any member of the client's support system or use former contact with a client for personal gain;

(D) buy items from a vulnerable adult;

(E) engage in any employment or business interest that would constitute a conflict of interest or impair the APS specialist's ability to carry out duties in an impartial manner;

(F) give diagnostic medical or legal opinions;

(G) refer the vulnerable adult to just one physician, attorney, counselor, or other professional for services;

(H) have sexual contact with vulnerable adults, his or her relatives, next of kin, or support system members; and

- (I) make after hours home visits unless specifically approved by the APS specialist IV or designee.
- (b) **Response to aggression in the field.** If at any time, the APS specialist feels unsafe in the field or in a home, he or she has the authority to stop an interview and leave. The APS specialist contacts the APS specialist IV or designee immediately when the vulnerable adult or the APS specialist leaves the home or is threatened or injured in the course of the investigation.

[Source: Added at 20 Ok Reg 840, eff 6-1-03 ; Amended at 25 Ok Reg 892, eff 6-1-08 ; Amended at 27 Ok Reg 990, eff 6-1-10 ; Amended at 35 Ok Reg 1592, eff 9-17-18 ; Amended at 38 Ok Reg 2165, eff 9-15-21]

### **340:5-1-5. Confidentiality**

- (a) All records related to Adult Protective Services (APS) cases are confidential, per Sections 10-110 and 10-110.1 of Title 43A of the Oklahoma Statutes (43A O.S. §§ 10-110 and 10-110.1), and may be disclosed only by court order except under the circumstances described in (b) through (h) of this Section. Representatives of the general public, news media, or agencies not meeting one of the exceptions in (c) of this Section who request details on a specific case are referred to APS Oklahoma Human Services (OKDHS) State Office staff or to the OKDHS Office of Communications for a detailed explanation of OKDHS confidentiality rules.
- (b) When making contacts as part of the investigation or service planning process, the APS specialist may disclose information necessary to ensure that the vulnerable adult is protected and the vulnerable adult's needs are met.
- (c) Certain persons acting in an official capacity with regard to the vulnerable adult may review or receive information from the entire case record, including the:
- (1) district attorney or district attorney staff;
  - (2) attorney representing the person who is the subject of an involuntary services action;
  - (3) attorney representing the vulnerable adult, who is not the subject of involuntary services;
  - (4) staff from:
    - (A) an Oklahoma law enforcement agency;
    - (B) a law enforcement agency of another state;
    - (C) a state Medical Examiner's Office;
    - (D) a law enforcement agency of a federally recognized tribe in Oklahoma; or
    - (E) a federal law enforcement agency;
  - (5) staff of another state's APS program;
  - (6) physical or mental health care professionals involved in the evaluation or treatment of the vulnerable adult; and
  - (7) OKDHS staff who use the information to provide services to the client.
- (d) Any agency or person authorized by OKDHS to provide services to a vulnerable adult may receive a summary of information necessary to secure or provide appropriate care for the vulnerable adult.

- (e) The vulnerable adult's caretaker, legal guardian, and next of kin may receive summaries of information from an APS case record.
- (f) Some information from APS records may be released to employees or contractors of the State for research purposes, upon application to and approval by the OKDHS Institutional Research Board. While OKDHS offices may release statistical information, no specific case information is released for research purposes unless approval is received from APS State Office.
- (g) When the person responsible for the care of a vulnerable adult has been charged by information or was indicted with committing a crime resulting in the death or near death of a vulnerable adult, there is a presumption that it is in the best interest of the public to disclose relevant information, per 43A O.S. § 10-110.1.
- (h) When federal law specifically prohibits the disclosure of any of the information required by this subsection, that information is excluded from the disclosed information.

[Source: Added at 20 Ok Reg 840, eff 6-1-03 ; Amended at 25 Ok Reg 892, eff 6-1-08 ; Amended at 27 Ok Reg 990, eff 6-1-10 ; Amended at 28 Ok Reg 274, eff 11-3-10 (emergency); Amended at 28 Ok Reg 778, eff 5-26-11 ; Amended at 35 Ok Reg 1592, eff 9-17-18 ; Amended at 38 Ok Reg 2165, eff 9-15-21]

#### **340:5-1-6. Definitions**

The following words and terms, when used in this Subchapter shall have the following meaning, unless the context clearly indicates otherwise.

**"Abandonment"** means the withdrawal of support or the act of deserting a vulnerable adult by a caretaker or other person responsible for the vulnerable adult's care.

**"Abuse"** means causing or permitting the:

- (A) infliction of physical pain, injury, sexual abuse, sexual exploitation, unreasonable restraint or confinement, mental anguish, personal degradation; or
- (B) deprivation of nutrition, clothing, shelter, health care, or other care or services without which serious physical or mental injury is likely to occur to a vulnerable adult by a caretaker or other person providing services to a vulnerable adult.

**"Activities of daily living (ADLs)"** means basic self-care activities such as toileting, transferring, feeding, bathing, and dressing.

**"Adult"** means a person 18 years of age and older.

**"Alleged victim"** means a vulnerable adult who is suspected of being a victim of maltreatment or in need of services that are necessary to aid the individual to meet essential requirements for mental or physical health and safety.

**"APS"** means Adult Protective Services.

**"APS specialist"** means an Oklahoma Human Services (OKDHS) worker who successfully completed the Adult Protective Services (APS) New Worker Academy or is working under the oversight of an experienced APS specialist.

**"APS specialist III"** means the lead APS specialist who coaches and may be designated to act for the APS specialist IV.

**"APS specialist IV"** means OKDHS staff assigned or designated to act in an APS supervisory capacity.

**"Caretaker"** means a person who is responsible for the care of or financial management for a vulnerable adult as a result of family relationship or has assumed responsibility for care of a vulnerable adult voluntarily, by contract, or by friendship; or who serves as a legally appointed guardian, limited guardian, or conservator.

**"Client"** means a vulnerable adult in need of services.

**"Conclusion"** means a brief summary of the case including presenting issue, risk, need, and resolution that is completed in cases of self-neglect for which investigatory findings are not required to be sent to the district attorney. The conclusion is specific enough to distinguish the case, but does not reiterate the case record.

**"Emergency"** means a situation in which a vulnerable adult is likely to suffer death or serious physical harm without immediate intervention.

**"Evidence"** means all documentation, photographs, interviews, observations, objects, and other information collected, observed, or otherwise obtained during the course of an investigation.

**"Executive function"** means the brain's ability to absorb information, interpret this information, and make decisions based upon this information.

**"Exploitation"** means unjust or improper use of the person or resources of a vulnerable adult for the profit or advantage of another person through undue influence, coercion, harassment, duress, deception, false representation, or false pretense.

**"Financial neglect"** means repeated instances by a caretaker or other person who has assumed the role of financial management of failure to use the resources available to restore or maintain the health and physical well-being of a vulnerable adult, including but not limited to:

- (A) squandering or negligently mismanaging the money, property, or accounts of a vulnerable adult;
- (B) refusing to pay for necessities or utilities timely; or
- (C) providing substandard care to a vulnerable adult despite the availability of adequate financial resources.

**"Finding"** means substantiation, unsubstantiation, or an inconclusive finding of an allegation following an investigation of abuse, neglect, or exploitation that is sent to local district attorney for a decision whether to prosecute.

**"Guardian"** means one of the types of guardianship specified in the Oklahoma Guardianship and Conservatorship Act, Title 30 of the Oklahoma Statutes.

(A) **General guardian.** A general guardian is a person appointed by the court to serve as the guardian of an incapacitated person to ensure that the essential requirements for the health and safety of the person are met, to manage the estate of the person, or both.

(B) **Limited guardian.** A limited guardian is a person appointed by the court to serve as the guardian of a partially incapacitated person and is authorized by the

court to exercise only certain powers of a guardian over the person, or estate or financial resources of the person, or both.

(C) **Special guardian.** A special guardian is a person appointed by the court to exercise certain specified powers to alleviate a situation in which there is a threat of serious impairment to the health or safety of an incapacitated or partially incapacitated person, or a situation in which the financial resources of the person will be seriously damaged or dissipated unless immediate action is taken.

**"Incapacitated adult"** means a vulnerable adult whose ability to receive and evaluate information effectively or to make and to communicate responsible decisions is impaired to such an extent that the person lacks the capacity to manage his or her financial resources or to meet essential requirements for the person's mental or physical health or safety without assistance.

**"Inconclusive"** means there is insufficient information to either support or not support the allegation of maltreatment, but there is a reason to suspect maltreatment.

**"Indecent exposure"** means forcing or requiring a vulnerable adult to:

(A) look upon the body or private parts of another person or upon sexual acts performed in the presence of the vulnerable adult; or

(B) touch or feel the body or private parts of another person.

**"Information and Referral (I & R)"** means a referral that is referred to an appropriate responder because it does not contain an alleged vulnerable adult and at least one allegation of maltreatment, or a more appropriate responder is better suited to meet the client's needs and provide services.

**"Instrumental activities of daily living (IADLs)"** means abilities necessary for an adult to function independently in the community, such as preparing meals, using the phone, driving or arranging for transportation, shopping, and handling finances.

**"Investigation"** means a prompt and thorough fact-finding to determine if a vulnerable adult is the victim of maltreatment.

**"Mandatory reporter"** means any person who has reasonable cause to believe someone is suffering from abuse, neglect, or exploitation.

**"Maltreatment"** means abuse, neglect, self-neglect, financial exploitation, sexual exploitation, financial neglect, abandonment, verbal abuse, or personal degradation.

**"Near death"** means the vulnerable adult is in serious or critical condition, as certified by a physician, as a result of abuse or neglect.

**"Neglect"** means:

(A) failure to provide protection for a vulnerable adult who is unable to protect his or her own interest;

(B) failure to provide adequate shelter, nutrition, health care, or clothing for a vulnerable adult; or



(C) negligent acts or omissions that result in harm or unreasonable risk of harm to a vulnerable adult, or lack of supervision by a caretaker providing direct services.

**"Next of kin"** means the closest living relative by blood or marriage and includes any relative active in care or service planning.

**"Personal degradation"** means a willful act by a caretaker intended to shame, degrade, humiliate, or otherwise harm the personal dignity of a vulnerable adult, or where the caretaker knew or reasonably should have known the act would cause shame, degradation, humiliation, or harm to the personal dignity of a reasonable person. Personal degradation includes the taking, transmitting, or display of an electronic image of a vulnerable adult by a caretaker, where the caretaker's actions constitute a willful act intended to shame, degrade, humiliate, or otherwise harm the personal dignity of the dependent adult, or where the caretaker knew or reasonably should have known the act would cause shame, degradation, humiliation, or harm to the personal dignity of a reasonable person. Personal degradation does not include, the taking, transmission, or display of an electronic image of a vulnerable adult:

- (A) for the purpose of reporting vulnerable adult abuse to law enforcement, OKDHS, or other regulatory agency that oversees caretakers or enforces abuse or neglect laws or rules;
- (B) for the purpose of treatment or diagnosis; or
- (C) as part of an ongoing investigation.

**"Power of attorney"** means authority granted by a legal document authorizing a person or other entity to act for the principal, subject to the extent of the power authorized. The affidavit may be durable. When it is durable, the power of attorney becomes effective when the principal loses decision making abilities as defined by the document and instructions of the principal. The power is revoked upon:

- (A) written revocation of the principal;
- (B) incapacity of the principal unless it is a durable power of attorney;
- (C) death of the principal;
- (D) a termination date if specified in the document;
- (E) order of the court; or
- (F) the appointment of a guardian, in most cases.

**"Referral"** means any allegation of maltreatment received by APS.

**"Report"** means a referral that is assigned for investigation.

**"Response type"** means the assignment of an APS referral for investigation, service case, or information and referral.

**"Self-neglect"** means neglect brought about by a vulnerable adult's own actions or inactions that causes the vulnerable adult to fail to meet the essential requirements for physical or mental health and safety due to the vulnerable adult's lack of awareness, incompetence, or incapacity.

**"Service Case"** means a referral is assigned for prompt and thorough determination of risk, needs, a capacity decision, and service planning.

**"Services that are necessary to aid an individual to meet essential requirements for mental or physical health and safety"**

means services that include, but are not limited to, the:

- (A) identification of adults in need of protective services;
- (B) provision of medical care for physical or mental health needs; or
- (C) provision of assistance in personal hygiene, food, clothing, adequately heated and ventilated shelter, protection from health and safety hazards, protection from physical maltreatment, guardianship referral, outreach, and transportation necessary to secure any of such needs. This excludes taking the adult into physical custody without the adult's consent except through proper procedures for the provision of involuntary services.

**"Sexual abuse"** means:

- (A) oral, anal, or vaginal penetration of a vulnerable adult by, or through the union with, the sexual organ of a caretaker or other person providing services to the vulnerable adult, or the anal or vaginal penetration of a vulnerable adult with any other object by a caretaker or other person providing services to the vulnerable adult;
- (B) for the purpose of sexual gratification, the touching, feeling, or observation of the body or private parts of a vulnerable adult by a caretaker or other person providing services to the vulnerable adult; or
- (C) indecent exposure by a caretaker or other person providing services to the vulnerable adult.

**"Sexual exploitation"** means and includes, but is not limited to, a caretaker causing, allowing, permitting, or encouraging a vulnerable adult to engage in prostitution or in lewd, obscene, or pornographic photographing, filming, or depiction of the vulnerable adult as those acts are defined by Oklahoma law.

**"Substantiated"** means the greater weight of the evidence collected during an APS investigation determines that maltreatment occurred and the alleged victim meets the definition of a vulnerable adult.

**"Temporary guardian"** means a person or other entity appointed by the court under Title 43A of the Oklahoma Statutes with authority only to consent on behalf of an incapacitated adult to the provision of protective services determined necessary to remove conditions creating an emergency need and other services approved by the court. A temporary guardian serves in that capacity only until the guardianship is dismissed by the appointing court.

**"Undue influence"** means the substitution of one person's will for the true desires of another.

**"Unsubstantiated"** means evidence found during an APS investigation was insufficient to show that more likely than not maltreatment occurred.

**"Verbal abuse"** means the use of words, sounds, or other communication including, but not limited to, gestures, actions, or behaviors, by a caretaker or other person providing services to a vulnerable adult that are likely to cause a reasonable person to experience humiliation, intimidation, fear, shame, or degradation.

**"Vulnerable adult"** means an adult who, because of physical or mental disability or other impairment, may be subject to maltreatment and is substantially impaired in his or her ability to independently:

- (A) provide adequately for his or her own care or custody;
- (B) manage his or her property and financial affairs effectively;
- (C) meet essential requirements for mental or physical health or safety; or
- (D) protect himself or herself from maltreatment without assistance. This determination is not made based on a person's eligibility for disability benefits from any source or on the impairment being permanent, but solely on the adult's reported physical or mental condition at the time an APS referral is received and the APS specialist's assessment of that condition is made during service planning or investigation.

[Source: Added at 20 Ok Reg 840, eff 6-1-03 ; Amended at 21 Ok Reg 3082, eff 6-7-04 (emergency); Amended at 22 Ok Reg 1211, eff 5-26-05 ; Amended at 25 Ok Reg 256, eff 11-1-17 (emergency); Amended at 25 Ok Reg 892, eff 6-1-08 ; Amended at 27 Ok Reg 990, eff 6-1-10 ; Amended at 28 Ok Reg 274, eff 11-3-10 (emergency); Amended at 28 Ok Reg 778, eff 5-26-11 ; Amended at 35 Ok Reg 1592, eff 9-17-18 ; Amended at 38 Ok Reg 2165, eff 9-15-21 ; Amended at 40 Ok Reg 941, eff 9-15-23]

#### **340:5-1-7. Legal base [REVOKED]**

[Source: Added at 20 Ok Reg 840, eff 6-1-03 ; Revoked at 35 Ok Reg 1592, eff 9-17-18]

#### **340:5-1-8. Complaints and concerns regarding Adult Protective Services (APS) or Long-Term Care investigations**

Complaints regarding the provision of services or an investigation may be submitted to Oklahoma Human Services (OKDHS) by phone, email, or in written form. Complaints regarding:

- (1) APS policy and procedure are referred to the district director, or program supervisor, who performs a case review. The district director, or program supervisor, sends a written response to the complainant within 45-calendar days, stating the review's general findings. Confidential information is not included in the report. If the complainant is not satisfied with the findings, the complainant may within 30-calendar days of the date of the letter, submit a written appeal to APS State Office, at PO Box 25352, Oklahoma City, Oklahoma 73125. A committee composed of OKDHS staff reviews the appeal and sends the complainant the decision within 30-calendar days;
- (2) alleged misconduct by an APS specialist, or social service inspector is referred to the supervisor or designee in the specialist's chain of command;
- (3) alleged misconduct by an APS specialist IV is referred to the appropriate district director for action; and
- (4) involuntary services are brought before the district court that granted the temporary guardianship at issue.

[Source: Added at 20 Ok Reg 840, eff 6-1-03 ; Amended at 24 Ok Reg 1017, eff 6-1-07 ; Amended at 27 Ok Reg 990, eff 6-1-10 ; Amended at 30 Ok Reg 624, eff 6-1-13 ; Amended at 35 Ok Reg 1592, eff 9-17-18 ; Amended at 38 Ok Reg 2165, eff 9-15-21]

## **SUBCHAPTER 3. MALTREATMENT ALLEGATIONS**

### **340:5-3-1. Receiving maltreatment allegations**

(a) **Mandatory reporters.** Any person having reasonable cause to believe that a vulnerable adult is suffering from abuse, neglect, or exploitation is mandated by law, per Section 10-104(A) of Title 43A of Oklahoma Statutes (43A O.S. § 10-104(A)), to notify Oklahoma Human Services (OKDHS) or law enforcement.

(1) State law provides that any person who knowingly and willfully fails to promptly report any abuse, neglect, or exploitation is, upon conviction, guilty of a misdemeanor.

(2) Any person who willfully or recklessly makes a false report or a report without a reasonable basis is liable in a civil suit for any actual damages suffered by any person named in the report and any punitive damages set by the court or jury.

(3) Any person exercising good faith and due care in making a report of alleged abuse, neglect, or exploitation has immunity from any civil or criminal liability that might otherwise be incurred.

(4) Every person in Oklahoma is a mandatory reporter and select groups who routinely have contact with vulnerable adults are specifically named in 43A O.S. § 10-104(A), including:

- (A) social workers;
- (B) physicians;
- (C) emergency response vehicle operators;
- (D) mental health professionals;
- (E) law enforcement;
- (F) domestic violence programs staff;
- (G) long-term care facility personnel, including staff of:
  - (i) nursing facilities;
  - (ii) intermediate care facilities for persons with intellectual disabilities;
  - (iii) assisted living facilities;
  - (iv) residential care facilities; and
  - (v) Oklahoma veterans' centers;
- (H) persons entering into transactions with a caretaker or other person who assumed the role of financial management for a vulnerable adult;
- (I) staff of:
  - (i) residential care facilities;
  - (ii) group homes; and
  - (iii) employment settings for individuals with developmental disabilities;
- (J) job coaches;
- (K) community service workers;

- (L) personal care assistants;
- (M) other medical professionals; and
- (N) municipal employees.

(b) **Referral content.** A referral of alleged abuse, neglect, or exploitation of a vulnerable adult includes:

- (1) the vulnerable adult's name, address, or location;
- (2) the caretaker's name or address, when any; and
- (3) a description of the vulnerable adult's situation.

(c) **Obtaining the reporter's name.** The reporter's name, phone number, or address is not required, however such information is always helpful.

(d) **Submission of referrals for screening.** OKDHS staff immediately submits all referrals for screening. Abuse and Neglect Hotline staff enters the referral into the Adult Protective Services Computer System Intake Section.

[Source: Added at 20 Ok Reg 840, eff 6-1-03 ; Amended at 25 Ok Reg 256, eff 11-1-07 (emergency); Amended at 25 Ok Reg 892, eff 6-1-08 ; Amended at 27 Ok Reg 990, eff 6-1-10 ; Amended at 35 Ok Reg 1592, eff 9-17-18 ; Amended at 38 Ok Reg 2165, eff 9-15-21]

#### **340:5-3-2. Abuse and Neglect Hotline (Hotline)**

Oklahoma Human Services maintains a statewide, toll-free Hotline to report abuse, neglect, or exploitation of children and adults. The Hotline, 1-800-522-3511, operates 24 hours a day, seven days a week, 365 days a year, and is staffed by personnel who are trained in Adult Protective Services procedures.

[Source: Added at 20 Ok Reg 840, eff 6-1-03 ; Amended at 35 Ok Reg 1592, eff 9-17-18 ; Amended at 38 Ok Reg 2165, eff 9-15-21]

#### **340:5-3-3. Reports received by the local human services center (HSC) [REVOKED]**

[Source: Added at 20 Ok Reg 840, eff 6-1-03 ; Amended at 25 Ok Reg 892, eff 6-1-08 ; Revoked at 35 Ok Reg 1592, eff 9-17-18]

#### **340:5-3-4. Referrals under the jurisdiction of entities other than Adult Protective Services (APS)**

Some referrals of alleged maltreatment of vulnerable adults are not investigated by APS staff.

(1) **Robert M. Greer Center (Greer) resident or former Hissom Memorial Center resident referrals.** When the alleged victim is a current Greer resident, or a former Hissom Memorial Center resident, who suffered maltreatment by a facility employee or by a current caretaker, the referral is sent to Office of Client Advocacy (OCA).

(2) **Reports of maltreatment by persons providing services to alleged victims receiving services from a community services worker, community services provider, SoonerCare (Medicaid) personal care services provider, or Medicaid personal care assistant (MPCA).** When the alleged victim

receives services from a community services worker, community services provider, SoonerCare (Medicaid) personal care services provider, or MPCA, as those terms are defined in Section 1025.1 of Title 56 of the Oklahoma Statutes, the referral is sent to Office of Client Advocacy (OCA).

(3) **Alleged maltreatment in hospital settings.** APS staff refers allegations of maltreatment of vulnerable adults who are receiving services in medical hospitals, rehabilitation facilities, or private psychiatric hospitals, by facility staff to the Oklahoma State Department of Health (OSDH), Protective Health Services, Medical Facilities Service.

(4) **Alleged maltreatment by Oklahoma Department of Mental Health and Substance Abuse Services (ODMHSAS) staff and contracted providers.** APS staff refers allegations of maltreatment of vulnerable adults by public or private community mental health agency staff to the ODMHSAS Advocacy Division. Certain residential care facilities may also be under the jurisdiction of ODMHSAS and receiving a stipend.

(5) **Alleged maltreatment of residents by nursing facility staff.** APS staff refers allegations of maltreatment of nursing facility residents by facility staff to APS Long-Term Care Investigations and to OSDH, Protective Health Services, Medical Facilities Service.

(6) **Alleged maltreatment of incarcerated individuals in federal or state custody.** APS staff refers allegations of maltreatment of incarcerated individuals by federal or state public hospitals, jails, prisons, or similar facilities staff to the facility's regulatory department for investigation and to the local district attorney.

(7) **Alleged maltreatment of individuals who are deceased at the time of referral.** Maltreatment allegations of persons who are deceased are not accepted by APS. Reporters are referred to the state Office of the Medical Examiner, law enforcement, or when the death occurred in a nursing facility, to the Office of the Attorney General, Medicaid Fraud Control Unit.

(8) **Alleged impaired driving.** Reporters with concerns about impaired driving are referred to the Oklahoma Department of Public Safety. APS does not investigate impaired driving, but may address related issues.

[Source: Added at 20 Ok Reg 840, eff 6-1-03 ; Amended at 21 Ok Reg 3082, eff 6-7-04 (emergency); Amended at 22 Ok Reg 1211, eff 5-26-05 ; Amended at 29 Ok Reg 742, eff 7-1-12 ; Amended at 30 Ok Reg 624, eff 6-1-13 ; Amended at 35 Ok Reg 1592, eff 9-17-18 ; Amended at 38 Ok Reg 2165, eff 9-15-21 ; Amended at 42 Ok Reg, Number 5, effective 10-10-24 (emergency)]

### **340:5-3-5. Concurrent jurisdiction with other entities**

Some referrals that are appropriate for Adult Protective Services (APS) intervention must also be sent to other entities.

(1) **Concurrent jurisdiction with Oklahoma State Department of Health (OSDH).**

(A) Referrals alleging maltreatment of vulnerable adults are accepted and screened by APS and sent to OSDH, Protective Health Services, Medical Facilities Service, for residents of:

- (i) residential care facilities;
- (ii) assisted living facilities;
- (iii) adult day care facilities; and
- (iv) nursing facilities when the referral is self-neglect or maltreatment by a person the facility does not employ.

(B) The APS specialist sends a copy of the final investigative report to OSDH. Upon completion of an investigation involving an administrator named as the alleged perpetrator and, when findings are substantiated, the APS specialist IV or designee notifies the Oklahoma State Board of Examiners for Long-Term Care Administrators.

(2) **Concurrent jurisdiction with law enforcement.** Referrals alleging illegal activity or situations determined too dangerous for an APS response are referred to law enforcement.

(3) **Joint response by APS and law enforcement.** Law enforcement assistance is requested for home visits when warranted by safety protocol.

(4) **Referrals involving substance use or abuse and persons with mental illness.** Oklahoma law gives the Oklahoma Department of Mental Health and Substance Abuse Services (ODMHSAS) primary responsibility for persons with mental illness and substance use or abuse dependency. ODMHSAS treats persons with mental illness on a voluntary basis. Community mental health centers administered by, or under contract to, ODMHSAS provide recommended aftercare services to patients who are discharged from state mental hospitals and who voluntarily request and accept mental health services.

(A) The APS specialist may assist law enforcement, when requested, by facilitating or completing a third party affidavit.

(B) When the vulnerable adult's primary problem is determined to be mental illness or substance use or abuse dependency, the Review, Evaluate, and Decide (RED) Unit specialist or designee determines if other issues exist within APS jurisdiction. When no other issues exist, the case is assigned as Information and Referral. The RED Unit specialist or designee directs the vulnerable adult or reporter to 988 for services.

(C) When other issues of alleged abuse, neglect, or exploitation exist, the case is assigned in the usual way.

(D) The APS specialist IV or designee contacts law enforcement or 988 to secure emergency detention when the person is a danger to self or others.

[Source: Added at 20 Ok Reg 840, eff 6-1-03 ; Amended at 27 Ok Reg 990, eff 6-1-10 ; Amended at 35 Ok Reg 1592, eff 9-17-18 ; Amended at 38 Ok Reg 2165, eff 9-15-21 ; Amended at 40 Ok Reg 941, eff 9-15-23 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:5-3-6. Screening and assigning referrals**

#### **(a) Time frame for screening Adult Protective Services (APS)**

**referrals.** The Review, Evaluate, and Decide (RED) Unit specialists or designees are responsible for screening new referrals on the APS Computer System on a regular basis throughout the day to identify emergency situations and to ensure assignment to the correct county office. Emergencies are reported to 911.

**(b) Responsibility for screening and assigning referrals.** Abuse and Neglect Hotline (Hotline) specialists determine if an urgent response is indicated. The RED Unit specialists or designees :

- (1) screen referrals to facilitate the timely initiation of the investigation, per Oklahoma Administrative Code (OAC) 340:5-5-2;
- (2) assign the response type RED Unit specialists or designees ;
- and
- (3) determine which APS specialist is assigned the referral.

**(c) Referrals involving domestic violence.** When referrals allege maltreatment of a vulnerable adult by a spouse, other family, or household member, domestic violence resources are considered in service planning.

#### **(d) Referrals involving Oklahoma Human Services (OKDHS)**

**employees or their families.** Specific procedures are followed when a referral of maltreatment is received that involves OKDHS employees.

**(e) Service case assignments.** Service case assignments allow staff to determine the need for services and offer or create a service plan to assist clients. Service case conclusions are written in a manner that documents and supports stability of the service plan, with or without follow-up, before case closure.

#### **(f) Referrals involving Soonercare (Medicaid) paid caregiver.**

Referrals involving paid, unlicensed caregivers, whose services are funded through Soonercare (Medicaid), are sent to Office of Client Advocacy . These workers are subject to the Community Services Worker Registry guidelines. The programs in (A) through (G) of this subsection contract with agencies using workers who are in this category.

- (A) ADvantage Waiver Services, including Consumer Directed Personal Assistance Services and Supports (CD-Pass).
- (B) State Plan Personal Care Program.
- (C) Developmental Disability Services.
- (D) Adult Day Services.
- (E) Program of All-inclusive Care for the Elderly (PACE).
- (F) Living Choice.
- (G) Medical Fragile (Med Frag).

[Source: Added at 20 Ok Reg 840, eff 6-1-03 ; Amended at 21 Ok Reg 3082, eff 6-7-04 (emergency); Amended at 22 Ok Reg 1211, eff 5-26-05 ; Amended at 27 Ok Reg 990, eff 6-1-10 ; Amended at 30 Ok Reg 624, eff 6-1-13 ; Amended at 35 Ok Reg 1592, eff 9-17-18 ; Amended at 38 Ok Reg 2165, eff 9-15-21 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]



## **SUBCHAPTER 5. INESTIGATION OF ADULT PROTECTIVE SERVICES REPORTS**

### **340:5-5-1. Statutory authority**

Section 10-105(A) of Title 43A of the Oklahoma Statutes mandates the Oklahoma Department of Human Services to complete a prompt and thorough investigation of Adult Protective Services reports.

[Source: Added at 20 Ok Reg 840, eff 6-1-03 ; Amended at 35 Ok Reg 1592, eff 9-17-18]

### **340:5-5-2. Initiating investigations**

An Adult Protective Services (APS) specialist initiates an investigation by a visit to the vulnerable adult who is the alleged victim (AV) at the adult's location or residence.

#### **(1) Time frame for initiating investigations.**

(A) The APS specialist initiates the maltreatment investigation as soon as possible within five-business days, not to exceed 120 hours from the time APS received the report, excluding weekends and official state holidays.

(B) In an urgent situation, when prompt action may be required, the APS specialist initiates the investigation within 24 hours of receipt.

(2) **Denial of access to the AV.** When the APS specialist is denied entry into the AV's residence or is denied a private interview with the AV, Oklahoma Human Services petitions the court for an order allowing entry or access.

[Source: Added at 20 Ok Reg 840, eff 6-1-03 ; Amended at 21 Ok Reg 3082, eff 6-7-04 (emergency); Amended at 22 Ok Reg 1211, eff 5-26-05 ; Amended at 25 Ok Reg 892, eff 6-1-08 ; Amended at 27 Ok Reg 990, eff 6-1-10 ; Amended at 35 Ok Reg 79, eff 9-29-17 (emergency); Amended at 35 Ok Reg 1592, eff 9-17-18 ; Amended at 38 Ok Reg 2165, eff 9-15-21]

### **340:5-5-3. Elements of an investigation**

(a) Although the investigation process may vary depending on the initial allegations and other factors, all Adult Protective Services (APS) investigations include (1) through (10) of this subsection.

(1) **Law enforcement notification.** Law enforcement is notified of all APS investigations.

(2) **Efforts to locate and notify others.** APS specialists must make every reasonable effort to locate and notify the alleged victim's (AV) caretaker, guardian, and next of kin.

(3) **Visits and interviews with the vulnerable adult.** Per Section 10-105(C)(1)(a) of Title 43A of the Oklahoma Statutes (43A O.S. § 10-105(C)(1)(a)), each APS investigation includes at least one visit and private interview with the vulnerable adult.

(4) **Consultation with others.** The APS specialist interviews other people who have, or can reasonably be expected to have, pertinent knowledge about the AV's circumstances during the investigation, including any alleged perpetrator (AP) of

maltreatment. The AV's permission is not required for these contacts.

(5) **Photographs.** The APS specialist may take photographs or video recordings to document injuries to the vulnerable adult or conditions in the adult's residential environment that resulted in, or may result in, an injury or serious harm.

(6) **Other relevant data.** The APS specialist collects data relevant to the situation being investigated including records to arrive at a finding. When the APS specialist is denied access to pertinent records, documentation, or other information relevant to the investigation, Oklahoma Human Services (OKDHS) may petition the court for an order allowing access.

(7) **Determining decision-making capacity.** OKDHS is mandated by 43A O.S. § 10-106(C) to determine a vulnerable adult's risk and needs and the vulnerable adult's capacity to consent to receive services, especially with regard to the need for involuntary services. Each investigation includes an evaluation of the vulnerable adult's decision-making capabilities in personal, medical, and financial management.

(A) The APS specialist's assessment of a vulnerable adult's mental capacity to consent to protective services takes into account the vulnerable adult's awareness of the:

- (i) limitations and deficiencies in the physical environment;
- (ii) vulnerable adult's own physical or mental limitations;
- (iii) resources available to assist in meeting the vulnerable adult's needs; and
- (iv) consequences to the vulnerable adult if nothing is done to improve the situation.

(B) When a vulnerable adult lacks capacity and an imminent risk to health or estate exists, legal intervention may be appropriate.

(8) **Evaluation to determine the need for protective services.** The evaluation consists of the APS specialist's analysis and consultation with the APS specialist IV, or designee, of all evidence gathered during the initial phases of the investigation. The evaluation includes consideration of whether the:

- (A) vulnerable adult needs protective services. When so, the need for protective services is documented to include the least restrictive services to meet the person's needs;
- (B) services that are identified as needed are available through OKDHS or in the community, and the sources and manner in which they can be provided. Options are explored with the vulnerable adult;
- (C) vulnerable adult is capable and willing to obtain services for himself or herself;
- (D) vulnerable adult can pay for needed services or is eligible for public assistance programs;
- (E) caretaker or guardian is willing to provide or agree to the provision of needed services; and

(F) vulnerable adult wants the services.

(9) **Completion of investigative report.** From the date an APS referral is received, the APS specialist completes the investigative report within 60-calendar days. To complete the investigation, the APS specialist:

- (A) completes necessary interviews and assessments including identification of any immediate service needs;
- (B) completes all final documentation;
- (C) submits a report to the local district attorney;
- (D) submits a report to the court of jurisdiction, when the alleged victim is currently under guardianship or conservatorship; and
- (E) makes a determination of substantiated, unsubstantiated, or inconclusive based on the definitions of terms in Oklahoma Administrative Code (OAC) 340:5-1-6.

(10) **Findings.** The APS specialist, in conjunction with the APS specialist IV or designee, makes a final determination of the investigative process on each allegation contained in the APS report. Each allegation is determined to be substantiated, unsubstantiated, or inconclusive and the investigation is documented, per OAC 340:5-5-5.

(11) **Follow-up.** The APS specialist, in consultation with the APS specialist IV or designee, determines needed follow-up in each case.

- (A) On cases not requiring court-ordered involuntary services, follow-up needs are determined on a case-by-case basis.
- (B) For reports that result in a vulnerable adult receiving involuntary services, OKDHS ensures basic needs for safety and security are met as required by the court. The APS specialist monitors the delivery of court-ordered protective services and continues to assess the need for additional services determined by the vulnerable adult's changing needs.

[Source: Added at 20 Ok Reg 840, eff 6-1-03 ; Amended at 21 Ok Reg 3082, eff 6-7-04 (emergency); Amended at 22 Ok Reg 1211, eff 5-26-05 ; Amended at 23 Ok Reg 2662, eff 8-1-06 ; Amended at 25 Ok Reg 892, eff 6-1-08 ; Amended at 27 Ok Reg 990, eff 6-1-10 ; Amended at 30 Ok Reg 624, eff 6-1-13 ; Amended at 35 Ok Reg 1592, eff 9-17-18 ; Amended at 38 Ok Reg 2165, eff 9-15-21]

#### **340:5-5-4. Special referral considerations**

##### **(a) Referrals regarding Indian tribal members.**

- (1) When a Memorandum of Understanding (MOU) exists between the State of Oklahoma and a sovereign Indian Nation the procedures outlined in the MOU are followed.
- (2) When an MOU does not exist prior to entry on tribal land, the Indian Nation or United States Marshall Service is notified of the Adult Protective Services (APS) referral and APS procedures are followed in collaboration with the Indian Nation whenever possible.

(b) **Referrals involving two or more counties.** When a referral involves two or more counties, such as when the alleged victim (AV) lives in one county and the alleged perpetrator (AP) lives in another county or when the AV moves, temporarily or permanently to another county before the investigation is completed, APS staff from both county offices are involved in the investigation.

(c) **Referrals involving Soonercare (Medicaid) fraud.** When an APS investigation indicates fraud by a provider receiving Medicaid funds, APS staff immediately notifies the Office of the Oklahoma Attorney General Medicaid Fraud Control Unit (MFCU). APS cooperates with any MFCU investigation. When MFCU declines to investigate, APS staff completes the investigation and sends a summary report to MFCU.

(d) **Referrals involving provider agencies.** Providers subject to APS investigations include, but are not limited to, home health providers, adult day care centers, independent living centers, residential care facilities, and assisted living centers. These investigations include all elements of an APS investigation.

(e) **Referrals involving other licensed or certified persons.** APS staff sends findings to any state agency with concurrent jurisdiction over persons or issues identified in the investigation including, where appropriate, the Oklahoma State Department of Health (OSDH), the Oklahoma Board of Nursing, and other appropriate state licensure or certification boards, agencies, or registries.

(f) **Referrals alleging exploitation.** When referrals involve large amounts of funds, resources, or the need to access complex records regarding financial transactions, the APS specialist is authorized to request assistance from the OKDHS Office of Inspector General (OIG). When OIG declines to investigate, the APS specialist completes the investigation.

(g) **Persons referred to OKDHS by the courts.** Courts are not authorized to remand criminal defendants to OKDHS based on a finding of lack of competency to stand trial. Courts are authorized to refer the alleged incompetent defendant to OKDHS for consideration of voluntary assistance or conditionally release the incompetent defendant, per Section 1175.6 of Title 22 of the Oklahoma Statutes. In order to qualify for such disposition, the court must make findings described in (1) or (2) of this subsection.

(1) Referral for voluntary services or conditional release occurs when the court finds the person is incompetent for reasons other than the AV is a person requiring treatment, per 43A O.S., and is found not to be dangerous.

(2) When a court, the district attorney, or the attorney for a criminal defendant notifies the APS specialist that a referral for voluntary OKDHS services or conditional release is made, the APS specialist obtains a copy of the order from the person making the referral. When, after evaluation, it appears to the APS specialist that the AV may also have a developmental disability, the APS specialist immediately contacts the Developmental Disabilities Services (DDS) Area Intake office and requests their involvement in the process of determining, in consultation with OKDHS Legal Services if voluntary services are available and adequate, or

whether to propose a plan of services for conditional release. This is a joint effort between the APS specialist and the DDS case manager.

(h) **AV receiving services from DDS.** When an AV is receiving, or may be eligible for, services from DDS, the APS specialist contacts the appropriate DDS Area Intake office to coordinate activities to enhance the AV's safety.

[Source: Added at 20 Ok Reg 840, eff 6-1-03 ; Amended at 21 Ok Reg 3082, eff 6-7-04 (emergency); Amended at 22 Ok Reg 1211, eff 5-26-05 ; Amended at 24 Ok Reg 2181, eff 7-1-07 ; Amended at 25 Ok Reg 892, eff 6-1-08 ; Amended at 27 Ok Reg 990, eff 6-1-10 ; Amended at 29 Ok Reg 742, eff 7-1-12 ; Amended at 30 Ok Reg 624, eff 6-1-13 ; Amended at 35 Ok Reg 1592, eff 9-17-18 ; Amended at 38 Ok Reg 2165, eff 9-15-21]

#### **340:5-5-5. Documentation of Adult Protective Services (APS) cases**

The APS specialist documents the report or referral, interviews, record reviews, other evidence, and investigation findings, or conclusions in the APS case.

- (1) When an investigation is completed, the vulnerable adult's identified caretaker, legal guardian, and next of kin receive a letter from Oklahoma Human Services, per Section 10-105.1(C)(6) of Title 43A of the Oklahoma Statutes (43A O.S. § 10-105.1(C)(6)).
- (2) When the vulnerable adult has a court-appointed guardian, the APS specialist files a notice of the findings in the guardianship case and sends a copy of the findings to the court of jurisdiction, per 43A O.S. § 10-105.1(C)(6).

[Source: Added at 20 Ok Reg 840, eff 6-1-03 ; Amended at 27 Ok Reg 990, eff 6-1-10 ; Amended at 35 Ok Reg 1592, eff 9-17-18 ; Amended at 40 Ok Reg 941, eff 9-15-23]

#### **340:5-5-6. Provision of protective services to vulnerable adults**

(a) **Voluntary protective services.** Voluntary services are arranged when a vulnerable adult consents to provision of services, requests services, and is willing to allow the Adult Protective Services (APS) specialist to provide or arrange for services, per Section 10-106 of Title 43A of the Oklahoma Statutes (43A O.S. § 10-106).

- (1) Payment for voluntary protective services. The cost of providing voluntary protective services is borne by the vulnerable adult when the APS specialist determines the person is financially able to make payment or by any private or public programs for which the vulnerable adult is eligible.
- (2) When a caretaker controls the person's funds and refuses to pay for necessary services, caretaker interference may be construed and is addressed in (c) of this subsection. An allegation of financial neglect may be considered, along with asset management remedies available through temporary guardianship, or an Order to Enjoin Caretaker.
- (3) When voluntary services are required to meet an urgent need and no other payment source is available, the APS specialist follows procedures in (b) of this subsection. In cases where the services do not meet an urgent need, the APS specialist arranges for voluntary services, that:

- (A) can be provided free of charge;
- (B) the vulnerable adult is able to, and agrees to pay for;
- or
- (C) can be paid for by a public or private assistance program.

(b) **Payment for emergency protective services.** Oklahoma Human Services (OKDHS) maintains a limited APS Emergency Fund that may be accessed only when specific criteria are met. This fund is used as a short-term measure for crisis situations until other arrangements are made.

(c) **Non-cooperation of caretaker.** When a vulnerable adult consents to receive protective services, but the caretaker refuses to allow the provision of services, OKDHS may petition the court for an injunction prohibiting caretaker interference with the provision of protective services.

(d) **Refusal to consent to protective services.** When a vulnerable adult does not consent to the provision of needed services or withdraws consent after it is given, the APS specialist documents the vulnerable adult's refusal in the service plan and on Adult Protective Services Report of Investigation. Service Case refusals are documented in the service plan and case conclusion. Services are terminated unless OKDHS determines the vulnerable adult lacks capacity to consent. In that case, the APS specialist considers action, per Oklahoma Administrative Code 340:5-1-4.

(e) **Religious beliefs.** A vulnerable adult has the right to depend on spiritual means for healing through prayer, within the practices of a recognized religious method in accordance with the tenets and practices of said place of worship, per 43A O.S. § 10-103(B).

(f) **Involuntary protective services.** Involuntary protective services are authorized, per 43A O.S. § 10-107. When a vulnerable adult is suffering from abuse, neglect, or exploitation that presents a substantial risk of death or immediate and serious physical harm to self; or significant and unexplained depletion of the adult's estate, but lacks the capacity to consent to receive protective services and consent cannot be obtained from anyone acting as caretaker, the services may be ordered by the court on an involuntary basis.

(1) **Authority.** Per 43A O.S. § 10-107(B)(1), the court authorizes provision of specific services the court finds least restrictive of rights and liberty while consistent with the welfare and safety of the vulnerable adult.

(2) **Payment for involuntary services.** Vulnerable adults are expected to pay for services. Payment for involuntary protective services is made from the vulnerable adult's funds upon court order.

(g) **Responsibilities for out-of-home placements.** When the service plan recommends out-of-home placement for safety, health, and care needs, the APS specialist discusses the plan with the vulnerable adult.

The vulnerable adult is provided with all of the information necessary to make an informed decision. This may include visits to a variety of placement options the APS specialist arranges or maintains. The vulnerable adult's family, when appropriate and approved by the

vulnerable adult, is included in planning. The vulnerable adult or his or her family is provided with all of the information available to the APS specialist regarding the quality of care provided by the identified and selected placement.

(h) **Continuation of involuntary services.** Continuation of services is authorized, per 43A O.S. § 10-108(L). The APS specialist obtains the required information and submits it to the court of jurisdiction. When the alleged victim's mental state is in question, the APS specialist may request that the court order a psychological or psychiatric evaluation.

(i) **APS specialist responsibilities as temporary guardian of the person, estate, or person and estate.** The APS specialist, as temporary guardian, ensures to the extent possible, protection of the vulnerable adult's residence, resources, and belongings.

(j) **Additional APS specialist responsibilities as temporary guardian of the estate.** The APS specialist, as temporary guardian of the estate:

- (1) opens a guardianship account in a local financial institution and regularly collects and deposits monies due to the vulnerable adult;
- (2) freezes existing accounts as necessary; and
- (3) works with the court, the vulnerable adult's attorney, the district attorney (DA), and OKDHS Legal Services to obtain a professional accountant to manage the estate.

(k) **Additional APS specialist responsibilities as temporary guardian of the person.** In cases where temporary guardianship of the person is granted to OKDHS, the APS specialist arranges or facilitates the protective services ordered by the court. This may include, but is not limited to:

- (1) placement in a medical facility for treatment of health related problems;
- (2) placement in a safe and anonymous location;
- (3) placement in a facility for short- or long-term care needs.

Long-term care facilities include:

- (A) residential care facilities;
  - (B) group homes;
  - (C) nursing homes;
  - (D) intermediate care facilities for persons with intellectual disabilities;
  - (E) assisted living centers;
  - (F) skilled nursing facilities; or
  - (G) other types of facilities licensed to provide 24-hour care or services for vulnerable adults;
- (4) making application or completing reviews for federal or state programs on behalf of the vulnerable adult for which he or she is or may be eligible to receive; or
  - (5) making arrangements for facilities to be paid from the vulnerable adult's funds or resources.

(l) **Dismissal of court orders for involuntary services.** When services are in place and the vulnerable adult is stable, or guardianship is no longer necessary to ensure the safety of the vulnerable adult, APS prepares and submits a motion to dismiss to OKDHS Legal Services or the local district attorney according to county practice.

[Source: Added at 20 Ok Reg 840, eff 6-1-03 ; Amended at 21 Ok Reg 3082, eff 6-7-04 (emergency); Amended at 22 Ok Reg 1211, eff 5-26-05 ; Amended at 25 Ok Reg 892, eff 6-1-08 ; Amended at 27 Ok Reg 990, eff 6-1-10 ; Amended at 29 Ok Reg 104, eff 10-28-11 (emergency); Amended at 29 Ok Reg 742, eff 7-1-12 ; Amended at 30 Ok Reg 624, eff 6-1-13 ; Amended at 35 Ok Reg 1592, eff 9-17-18 ; Amended at 38 Ok Reg 2165, eff 9-15-21 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

#### **340:5-5-7. Termination of adult protective services**

Adult protective services are terminated when the situation that prompted the referral is remedied, the vulnerable adult's circumstances are stable, or the vulnerable adult refuses to accept services. Cases for vulnerable adults for whom Oklahoma Human Services has a current guardianship or remand are terminated only when the court order dismissing the temporary guardianship is filed. These cases remain active and follow-up activities are documented as required by Oklahoma Administrative Code 340:5-5-3(11), as long as the court order is in effect.

[Source: Added at 20 Ok Reg 840, eff 6-1-03 ; Amended at 27 Ok Reg 990, eff 6-1-10 ; Amended at 35 Ok Reg 1592, eff 9-17-18 ; Amended at 38 Ok Reg 2165, eff 9-15-21]

#### **340:5-5-8. Case destruction**

(a) The destruction of Adult Protective Services paper files is done, per the Oklahoma Department of Human Services Consolidated Records Disposition Schedule.

(b) Records of investigations conducted, per The Protective Services for Vulnerable Adults Act, Section 10-110 of Title 43A of the Oklahoma Statutes are not expunged except by court order.

[Source: Added at 27 Ok Reg 990, eff 6-1-10 ; Amended at 28 Ok Reg 274, eff 11-3-10 (emergency); Amended at 28 Ok Reg 778, eff 5-26-11 ; Amended at 35 Ok Reg 1592, eff 9-17-18]

### **SUBCHAPTER 7. LONG-TERM CARE INVESTIGATIONS**

#### **340:5-7-1. Referrals submitted to Long-Term Care Investigations**

(a) Screening protocols, per Oklahoma Administrative Code 340:5-3-5, are followed for referrals submitted to Long-Term Care Investigations (LTCI).

(b) The Review, Evaluate, and Decide (RED) Unit specialist or designee screens referrals. Referrals are accepted for investigation, screened out when Adult Protective Services (APS) criteria is not met, or are referred to another entity. The RED Unit specialist or designee determines which Long-Term Care social service inspector is assigned the referral.

(c) All APS rules apply to LTCI, except those noted in this Subchapter.

[Source: Added at 20 Ok Reg 840, eff 6-1-03 ; Amended at 35 Ok Reg 1592, eff 9-17-18 ; Amended at 38 Ok Reg 2165, eff 9-15-21 ; Amended at 40 Ok Reg 941, eff 9-15-23 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

#### **340:5-7-2. Program coordination [REVOKED]**



[Source: Added at 21 Ok Reg 3082, eff 6-7-04 (emergency); Added at 22 Ok Reg 1211, eff 5-26-05 ; Revoked at 35 Ok Reg 1592, eff 9-17-18]

### **340:5-7-3. Complaints concerning Long-Term Care investigators [REVOKED]**

[Source: Added at 21 Ok Reg 3082, eff 6-7-04 (emergency); Added at 22 Ok Reg 1211, eff 5-26-05 ; Amended at 35 Ok Reg 1592, eff 9-17-18 ; Revoked at 38 Ok Reg 2165, eff 9-15-21]

### **340:5-7-4. Screening of LTCI reports [REVOKED]**

[Source: Added at 21 Ok Reg 3082, eff 6-7-04 (emergency); Added at 22 Ok Reg 1211, eff 5-26-05 ; Revoked at 35 Ok Reg 1592, eff 9-17-18]

### **340:5-7-5. Initiating Long-Term Care Investigations**

A Long Term Care Investigation is initiated by visiting the vulnerable adult in the nursing facility.

(1) **Long-Term Care Investigation timeframes.** Maltreatment reports are initiated within 20-business days or sooner when circumstances indicate immediate action is needed.

(2) **Long-Term Care investigative report completion.**

(A) The long-term care investigator determines within 60-business days of the receipt of the report, if the evidence indicates the report is substantiated, unsubstantiated, or inconclusive, per Oklahoma Administrative Code (OAC) 340:5-1-6. The program manager may extend the case closure date when necessary.

(B) The findings are sent to state entities with concurrent jurisdiction over the persons or issues identified in the investigation, such as the Oklahoma State Department of Health, local district attorney, Long-Term Care Ombudsman in Aging Services, and appropriate state licensure or certification boards, agencies, or registries. The special considerations in OAC 340:5-5-4(d) and (e) apply to Long-Term Care Investigations.

[Source: Added at 21 Ok Reg 3082, eff 6-7-04 (emergency); Added at 22 Ok Reg 1211, eff 5-26-05 ; Amended at 35 Ok Reg 1592, eff 9-17-18 ; Amended at 38 Ok Reg 2165, eff 9-15-21 ; Amended at 42 Ok Reg, Number 5, effective 10-10-24 (emergency)]

### **340:5-7-6. Long-Term Care Investigation elements**

A Long-Term Care Investigation includes the elements set forth in Oklahoma Administrative Code 340:5-5-3 (1) through (6) and (9) through (10).

[Source: Added at 21 Ok Reg 3082, eff 6-7-04 (emergency); Added at 22 Ok Reg 1211, eff 5-26-05 ; Amended at 35 Ok Reg 1592, eff 9-17-18]

**340:5-7-7. Information available to Oklahoma Department of Human Services (DHS) offices [REVOKED]**

[Source: Added at 22 Ok Reg 1211, eff 5-26-05 ; Amended at 35 Ok Reg 1592, eff 9-17-18 ; Revoked at 38 Ok Reg 2165, eff 9-15-21]

## CHAPTER 10. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF)

[**Authority:** Revenue Act of 1978; Federal Social Security Act; Federal Indian Child Welfare Act; 42 U.S.C.; 45 CFR; P.L. 95-600; P.L. 97-34; P.L. 97-248; P.L. 100-239; P.L. 100-647; P.L. 104-19; P.L. 104-132; P.L. 104-193; P.L. 107-56; P.L. 109-163; P.L. 109-171; P.L. 110-161; P.L. 110-181; P.L. 111-08; P.L. 111-118; P.L. 111-312; Immigration and Nationality Act; Title 6 of Federal Civil Rights Act; 56 O.S., §§ 161 et seq., 230.52, 230.56, 230.65, and 230.66; 68 O. S., § 2357.43; Oklahoma Community Workfare Experience Act (1982); Oklahoma Indian Child Welfare Act; State Social Security Act]  
[**Source:** Codified 12-31-91]

### SUBCHAPTER 1. GENERAL PROVISIONS

#### 340:10-1-1. Purpose and legal basis

(a) **Purpose.** The purpose of this Chapter is to describe the rules governing Oklahoma Human Services (OKDHS) Temporary Assistance for Needy Families (TANF) Program and how the TANF Program interacts with other OKDHS programs.

(b) **Legal base.** The TANF Program legal basis is vested in Article XXV of the Constitution of the State of Oklahoma, Title IV, Part A of the federal Social Security Act, Sections 261.1 through 261.80 of Title 45 of the Code of Federal Regulations, and Sections 230.50 through 230.78 of Title 56 of the Oklahoma Statutes.

[**Source:** Amended at 17 Ok Reg 444, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2075, eff 7-1-00 ; Amended at 38 Ok Reg 2179, eff 9-15-21]

#### 340:10-1-2. Legal base [REVOKED]

[**Source:** Amended at 10 Ok Reg 527, eff 12-8-92 (emergency); Amended at 10 Ok Reg 2813, eff 6-25-93 ; Amended at 17 Ok Reg 444, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2075, eff 7-1-00 ; Revoked at 38 Ok Reg 2179, eff 9-15-21]

#### 340:10-1-3. General provisions

(a) **Right to apply.** A person has the right to:

- (1) apply for Temporary Assistance for Needy Families (TANF);
- (2) expect an eligibility investigation; and
- (3) receive a prompt decision regarding his or her application.

(b) **Appeal rights.** Persons who apply for, or receive, TANF cash assistance have the right to appeal any action taken that was related to receipt of TANF benefits. An applicant may also appeal a delay in processing an application timely, per Oklahoma Administrative Code (OAC) 340:65-3-5. Refer to OAC 340:2-5 for fair hearing procedures.

(c) **Safeguarding information.** Federal and state laws and Oklahoma Human Services (OKDHS) rules restrict the use or disclosure of information concerning TANF applicants or recipients to purposes directly connected with TANF program administration. Refer to OAC 340:65-3-2 rules regarding safeguarding case information and information that may be disclosed.

(d) **Assistance under only one program.** An eligible person must only be included in one cash assistance program; the State Supplemental Payment (SSP) or TANF.

(e) **Standards for determining eligibility and amount of payment.**

To promote uniformity and accuracy in determining eligibility, refer to rules included in this Chapter and OAC 340:65. OKDHS uses a flat grant, per OKDHS Appendix C-1, Maximum Income, Resource, and Payment Standards, Schedule IX, to meet families' basic needs for food, clothing, medications, personal items, shelter, utilities, and household equipment.

(f) **60-calendar month time limit.** Effective October 1, 1996, TANF cash assistance receipt is restricted to a lifetime limit of 60-calendar months, whether consecutive or not. The time limit may be extended when Adult and Family Services TANF Unit staff approves a hardship extension, per OAC 340:10-3-56(a)(2)(E).

(g) **Civil rights.** The TANF program is administered, per the provisions of Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1975, as amended; the Age Discrimination Act of 1975; the Americans with Disabilities Act of 1990; and Title IX of the Education Amendments of 1972, as amended.

(h) **Electronic benefit transfer (EBT) restrictions.** States are required to maintain policies and practices as necessary to prevent TANF cash assistance from being used in any EBT transaction in certain prohibited businesses, per Section 4004 of the Middle Class Tax Relief and Job Creation Act of 2012, Section 608(a)(12) of Title 42 of the United States Code (42 U.S.C. § 608(a)(12)). 56 O.S. § 241.4 also restricts the use of EBT transactions in these businesses and adds one additional prohibited business.

(1) Prohibited businesses include any:

(A) liquor store. The term liquor store means any establishment that sells exclusively or primarily intoxicating liquor. The term does not include a grocery store that sells both intoxicating liquor and groceries, including staple foods, per 7 U.S.C. § 2012;

(B) casino, gambling casino, or gaming establishment except for:

(i) a grocery store that sells groceries, including staple foods, per 7 U.S.C. § 2012, and also offers, or is located within the same building or complex as an establishment offering casino, gambling, or gaming activities; or

(ii) any other establishment offering casino, gambling, or gaming activities incidental to the principal purpose of the business;

(C) retail establishment that provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment; or

(D) retail establishment whose principal business is that of selling cigarettes, cigars, or tobacco products. This type of retail establishment is prohibited, per 56 O.S. § 241.4, but not by federal law.

(2) EBT transaction means the use of a credit or debit card service, automated teller machine, point-of-sale terminal, or access to an online system for the withdrawal of funds or the processing of a payment for merchandise or service.

- (3) OKDHS informs applicants and recipients of this prohibition by including information about the prohibition in:
- (A) Form 08MP003E, Rights, Responsibilities, and Signature for Benefits, of the application;
  - (B) posters displayed in county office lobbies;
  - (C) the certification notice; and
  - (D) a sign sent to identified prohibited businesses to educate staff and customers that the OKDHS-issued debit card is not accepted at their businesses.
- (4) Refer to OAC 340:10-3-57(h) for recipient benefit reduction penalties when OKDHS determines a recipient used his or her debit card in a prohibited business.
- (5) Refer to OAC 340:65-3-6 for debit card and direct deposit procedures, including information about accessing benefits, free services, and fees.

(i) **TANF State Plan.** The TANF State Plan is a separate document completed and submitted to the Administration for Children and Families every two years.

[Source: Amended at 10 Ok Reg 527, eff 12-8-92 (emergency); Amended at 10 Ok Reg 2813, eff 6-25-93 ; Amended at 13 Ok Reg 281, eff 5-18-95 (emergency); Amended at 13 Ok Reg 279, eff 7-1-95 (emergency); Amended at 13 Ok Reg 2967, eff 7-11-96 ; Amended at 15 Ok Reg 373, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1602, eff 5-11-98 ; Amended at 17 Ok Reg 2271, eff 5-1-00 ; Amended at 21 Ok Reg 814, eff 5-1-04 ; Amended at 31 Ok Reg 635, eff 7-1-14 (emergency); Amended at 32 Ok Reg 1839, eff 9-15-15 ; Amended at 37 Ok Reg 1776, eff 9-15-20 ; Amended at 38 Ok Reg 585, eff 2-1-21 (emergency); Amended at 39 Ok Reg 1688, eff 9-15-22]

#### **340:10-1-4. Conditions of eligibility [REVOKED]**

[Source: Amended at 10 Ok Reg 527, eff 12-8-92 (emergency); Amended at 10 Ok Reg 2813, eff 6-25-93 ; Amended at 15 Ok Reg 145, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1602, eff 5-11-98 ; Amended at 17 Ok Reg 2271, eff 5-1-00 ; Amended at 18 Ok Reg 3635, eff 10-1-01 (emergency); Amended at 19 Ok Reg 1118, eff 5-13-02 ; Revoked at 39 Ok Reg 1688, eff 9-15-22]

#### **340:10-1-5. Non-assistance programs**

(a) **Non-assistance programs.** Programs that do not constitute assistance programs, per Section 260.31(b) of Title 45 of the Code of Federal Regulations may be available to Temporary Assistance for Needy Families (TANF) recipients and other eligible Oklahoma families with minor child(ren) within a specified degree of relationship, per Oklahoma Administrative Code (OAC) 340:10-9-1. When eligibility for a program is based on the family's income, the maximum income level is specified, per (b) of this Section. Programs may vary due to geographic location and funding availability. Non-assistance programs may include:

- (1) non-recurring short-term (NRST) benefits that:
  - (A) are designed to deal with a specific crisis situation or episode of need;
  - (B) are not intended to meet recurrent or ongoing needs; and
  - (C) do not extend beyond four months;
- (2) payments to employers or third parties to help cover the cost of employee wages, benefits, supervision, or training;

- (3) supportive services, such as child care or transportation, provided to families who are employed;
- (4) refundable earned income tax credits;
- (5) contributions to, and distributions from Individual Development Accounts;
- (6) services that do not provide basic income support, such as:
  - (A) counseling;
  - (B) case management;
  - (C) peer support;
  - (D) child care information and referral;
  - (E) transitional services;
  - (F) job retention;
  - (G) job advancement; and
  - (H) other employment-related services; and
- (7) transportation benefits provided under a Job Access or Reverse Commute project, per Section 404(k) of the Social Security Act to a person who is not otherwise receiving assistance.

(b) **Program types.** Program types that may be available in Oklahoma are described in (1) through (5) of this subsection.

(1) **Family Violence Emergency Assistance (FVEA).** FVEA is intended to stabilize low-income families while addressing family violence issues and homelessness. FVEA provides one-time assistance up to \$3,000 for rent, utilities, deposits, and moving expenses to allow domestic violence victims to transition to safe and stable housing. FVEA may only be provided once in the applicant's lifetime. To qualify for the program, the applicant must:

- (A) submit an application and be interviewed, per OAC 340:65-3-1. FVEA applications cannot be submitted online;
- (B) be residing in a shelter operated by a domestic violence/sexual assault program certified by the Oklahoma Office of the Attorney General due to a domestic violence situation;
- (C) have a minor child(ren) within the specified degree of relationship, per OAC 340:10-9-1, living with him or her;
- (D) have income at or below 300 percent of federal poverty guidelines, per Appendix C-1, Maximum Income, Resource, and Payment Standards, Schedule XVIII;
- (E) have resources at or below the maximum standard, per OKDHS Appendix C-1, Schedule XVIII. Refer to OAC 340:10-3-4 through 340:10-3-5 for countable resource information;
- (F) meet citizenship and alienage requirements, per OAC 340:10-15-1;
- (G) provide a Social Security number (SSN) or proof of a pending SSN application for every assistance unit member, per OAC 340:10-12-1;
- (H) have explored and exhausted all other means of outside funding prior to utilizing FVEA;

- (I) provide documentation that he or she has or is pursuing a victim protective order against the perpetrator when it is safe to do so. When it is not safe to do so, provide a statement from the domestic violence counselor working with the family about the safety issues; and
- (J) agree to attend a required Within My Reach Prevention and Relationship Education Program (PREP) workshop or comparable approved curriculum after approval.

(2) **Family Strengthening Program (FSP).** FSP includes programs that are not means-tested, such as but not limited to:

- (A) relationship education;
- (B) parenting classes;
- (C) financial literacy; and
- (D) an intensive service program for child safety, per OAC 340:10-19-9;

(3) **Home-based services.** Home-based services may be provided to families by Oklahoma Human Services (OKDHS) Child Welfare Services or the Office of Juvenile Affairs when immediate action is required to avoid placement of a child in an out-of-home placement or to assist in reuniting a child with his or her family when in an out-of-home placement, per OAC 340:10-19-9. Families' incomes may not exceed 300 percent of federal poverty guidelines, per OKDHS Appendix C-1, Schedule XVIII.

(4) **Subsidized Employment Program (SEP) for non-TANF participants.** When funding is available, SEP placements may be made available, per OAC 340:10-2-4(c)(1) to non-TANF participants who:

- (A) are unemployed;
- (B) reside in a county authorized by Adult and Family Services (AFS) TANF Unit staff for expanded SEP eligibility; and
- (C) have a biological child receiving TANF, Supplemental Nutrition Assistance Program, Child Care Subsidy, or SoonerCare (Medicaid) benefits.

(5) **National or state emergency.** When a national or state emergency is declared by the President of United States or Governor of the State of Oklahoma that causes a hardship to TANF recipients and non-recipient families, refer to OAC 340:10-23-1 for information regarding NRST benefits and economic impact payments.

[Source: Added at 38 Ok Reg 2179, eff 9-15-21]

## **SUBCHAPTER 2. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) WORK PROGRAM**

### **340:10-2-1. Work requirements**

All parents or needy caretakers who apply for or receive Temporary Assistance for Needy Families (TANF) cash assistance from Oklahoma

are required to be engaged in a work activity. The parent(s) or needy caretaker must participate in work activities for at least the minimum number of hours necessary to move that person into employment and self-sufficiency, per (2) of this Section.

(1) **Work-eligible person.** A work-eligible person is defined as an adult or minor head-of-household included in the TANF assistance unit. Excluded from this definition is a parent providing care for a disabled family member living in the home, who does not attend school on a full-time basis, provided the need for such care is supported by medical documentation.

(2) **Minimum hours of TANF Work activities.**

(A) All parents or needy caretakers who meet the definition of a work-eligible person are required to participate in the minimum hours of work activities.

(i) A work-eligible person must participate in work activities an average of 30 hours per week, unless the person is a single custodial parent with a child under 6 years of age, who must participate in work activities an average of 20 hours per week.

(ii) In a two-parent family, when deprivation is based on incapacity, the non-incapacitated adult must participate in work activities an average of 30 hours per week unless he or she is:

(I) required in the home to provide care for the incapacitated work-eligible parent; or

(II) a custodial parent with a child under 6 years of age. In this instance the non-incapacitated adult must participate in work activities an average of 20 hours per week.

(iii) In a two-parent family, when deprivation is based on unemployment, one adult must participate in work activities an average of 35 hours per week and the other adult must participate an average of 30 hours per week. When one parent is an ineligible alien, the other parent must participate in work activities an average of 35 hours per week. When both parents are ineligible aliens, the family does not qualify as a two-parent family as the work requirement cannot be met.

(iv) To determine the average weekly countable work hours for a work-eligible person who is self-employed, the Adult and Family Services (AFS) worker:

(I) determines the person's monthly countable earned self-employment income per Oklahoma Administrative Code (OAC) 340:10-3-32;

(II) divides the income by the federal minimum wage; and



(III) divides that figure by 4.3 that equals weekly countable work hours.

(B) Hours missed due to holidays and excused absences count as hours of participation for any unpaid scheduled work activity per criteria in (i) through (iii) of this subparagraph.

(i) Federal law establishes public holidays and the Governor orders state holidays. When the facility the participant attends is open on a designated holiday, the day is not considered a holiday for participation purposes.

(ii) Excused absences are reasonable, short-term hours missed from a scheduled work activity. The participant may be granted a maximum of 80 hours of excused absences in any 12-month period with no more than 16 hours of excused absences per month counted as TANF Work participation hours. All excused absences must be approved by the AFS worker. An excused absence is defined as:

(I) unavailability of appropriate child care;

(II) illness or injury of the participant or a family member who lives in the household.

The family member must meet the definition of a relative per OAC 340:10-9-1;

(III) scheduled doctor appointments for the participant or a family member who lives in the household;

(IV) the participant's court-required appearance;

(V) the participant's required attendance at parent and teacher conferences;

(VI) the temporary unavailability of planned transportation when needed or inability to arrange for transportation;

(VII) an inclement weather occurrence that prevented the participant, and other persons similarly situated, from traveling to, or participating in, the prescribed activity;

(VIII) crisis intervention needed due to domestic violence issues;

(IX) a family crisis; or

(X) the participant's required attendance for a specific appointment by another governmental entity.

(iii) To count an excused absence or holiday as participation hours, the participant must have been scheduled to participate in an allowable work activity for the period of the absence. Participation allowances are paid for approved holidays and excused absences for a maximum of 16 hours per

month.

(3) **TANF Work activities.** TANF Work activities are defined as core and non-core and must be scheduled, structured, and supervised. TANF Work participants are placed in core work activities when appropriate.

(A) Core work activities are:

(i) full- or part-time unsubsidized employment in the public or private sector that is not subsidized by TANF or any other public program;

(ii) subsidized private sector employment in the private sector for which the employer receives a subsidy from TANF or other public funds to offset some or all of the wages and costs of employing a recipient;

(iii) subsidized public sector employment for which the employer receives a subsidy from TANF or other public funds to offset some or all of the wages and costs of employing a recipient;

(iv) Work Experience Program (WEP) placement that provides a participant with an opportunity to acquire general skills, training, knowledge, and work habits necessary to obtain employment;

(v) paid on-the-job training in the public or private sector a participant receives while engaged in productive work that provides knowledge and skills essential to the full and adequate performance of the job;

(vi) job search and job readiness activities. Job readiness activities prepare the participant to seek and obtain employment and includes life skills training, substance abuse treatment, mental health treatment, or rehabilitation activities for those who are otherwise employable;

(vii) vocational training, not to exceed 12 months, that is organized educational programs directly related to preparing participants for employment in current or emerging occupations requiring training. Countable vocational training may include up to 12 months toward a two year vocational training certificate, an associate's degree, a bachelor's degree, or an advanced degree program that qualifies a participant to obtain immediate employment in a specific field.

(I) When the institution of higher education has a TANF-funded contract, the participant must attend through the contracted provider.

(II) The participant is required to participate in a TANF Work activity the minimum number of hours per (2) of this Section or as mandated by the TANF-

contracted provider.

(III) The participant must maintain satisfactory academic progress with a minimum grade point average of 2.0 and verify progress at mid-term, when possible, and at the end of the semester. Progress may be verified by a grade report, transcript, or a statement from the contracted provider or other school official.

(IV) When satisfactory progress is not met, the AFS worker submits Form 08TW008E, Higher Education Probationary Approval Request, to AFS TANF program field representative staff to request a probationary approval period. When the probationary approval period is not approved, the participant is placed in another TANF Work activity; and

(viii) Community Partnership (CP) is a structured work activity in which TANF participants perform work for the direct benefit of the community that improves the employability of recipients not otherwise able to obtain employment.

(B) Non-core work activities are:

(i) job skills training directly related to employment that is training or education for job skills required by an employer that provides a participant with the ability to obtain employment or to advance or adapt to the changing demands of the workplace. Time spent in vocational training in excess of 12 months may be counted as job skills training, when the participant also participates in a different approved core activity for a minimum of 20 hours per week;

(ii) education directly related to employment when a participant has not received a high school equivalency, that is related to a specific occupation, job, or job offer; and

(iii) satisfactory school attendance at a secondary school or in a course of study leading to a high school equivalency certificate when a participant has not completed secondary school or received such a certificate.

**(4) Limitations and special rules.**

(A) A single custodial parent younger than 20 years of age, who has not completed high school is determined to be in a work activity when the participant maintains satisfactory attendance at a secondary school or equivalent during the month.

(B) A single custodial parent or the non-incapacitated adult in a family where deprivation is based on incapacity

who has a child under the age of 4 months is not required to participate in a work activity. The participant may use this rule for a lifetime limit not to exceed 12 months.

[Source: Added at 15 Ok Reg 145, eff 11-1-97 (emergency); Added at 15 Ok Reg 1277, eff 3-1-98 (emergency); Added at 15 Ok Reg 2616, eff 6-25-98 ; Amended at 17 Ok Reg 2271, eff 5-1-00 ; Amended at 20 Ok Reg 850, eff 6-1-03 ; Amended at 24 Ok Reg 343, eff 11-1-06 (emergency); Amended at 24 Ok Reg 1017, eff 6-1-07 ; Amended at 25 Ok Reg 14, eff 8-3-07 (emergency); Amended at 25 Ok Reg 903, eff 6-1-08 ; Amended at 26 Ok Reg 168, eff 11-1-08 (emergency); Amended at 26 Ok Reg 1223, eff 6-1-09 ; Amended at 27 Ok Reg 1173, eff 6-1-10 ; Amended at 27 Ok Reg 2788, eff 8-1-10 (emergency); Amended at 28 Ok Reg 781, eff 6-1-11 ; Amended at 35 Ok Reg 1609, eff 9-17-18]

### **340:10-2-2. Sanction process**

(a) **Applicability.** The sanction process provides for the determination of good cause and the use of penalties for individuals who refuse or fail to participate in assigned work activities.

(b) **Failure or refusal to participate.** It is the responsibility of the worker to make the determination that an individual has refused or failed to participate without good cause in an assigned work activity.

(1) Refusal to participate occurs when an applicant or recipient states orally or in writing that he or she will not participate or continue to participate in work activities. Refusal also occurs when an individual's action or inaction indicates the individual, without good cause for refusing, will not participate in the program.

(2) Failure to participate in the program includes failure to:

- (A) assist in the assessment and development of employability plans that includes screening for substance abuse and literacy;
- (B) attend orientation, scheduled meetings, or assessments;
- (C) maintain a minimum of required hours in scheduled activities;
- (D) accept or maintain appropriate employment;
- (E) report absences from the work activity to the worker, facility coordinator, or employer;
- (F) comply with a substance abuse treatment plan; or
- (G) follow the rules of the facility or employer.

(c) **Failure to participate without good cause.** The worker must contact the individual to determine good cause. If it is determined at this contact that good cause does exist, the worker assists the individual with either updating the employability plan or helping the individual resume the activity as soon as possible. If it is determined there is not good cause for failure to participate or no contact was completed, the worker closes or denies the cash assistance.

(d) **Determination of good cause.** All good cause situations are temporary in nature. An individual may have good cause for refusing or failing to participate in Temporary Assistance for Needy Families (TANF) Work. The worker determines whether or not good cause exists.

(e) **Procedure following denial of cash assistance.** When an application for cash assistance is denied for failure to participate in the work activity without good cause, a new application must be completed.

**(f) Procedures following termination of cash assistance.**

(1) When there has been no contact with the individual 30 calendar days after the effective date of closure, the worker makes a home visit to determine the family's circumstances and offers appropriate services, unless the worker's personal safety is in question.

(2) Individuals who agree to participate within 60 calendar days of the date of the benefit termination may have their benefit reopened on reconsideration of the administrative action after the individual participates in an agreed upon appropriate activity for a specified length of time. If an appropriate activity is not available due to the client's previous behavior, the case remains closed. The effective date of the reopen action is dependent upon the successful participation of the individual in an assigned work activity and the circumstances of the case.

**(g) TANF hearing.** An individual who responds to a written notice of denial or termination of cash assistance as a result of failure or refusal to participate in work activities, and the matter cannot be resolved locally, is assisted in requesting a hearing before a hearing officer in accordance with OAC 340:2-5.

**(h) Grievances and appeals by employees of Work Experience Program (WEP), Subsidized Employment Program (SEP), and On-the-Job Training (OJT) facilities.** Grievances may be filed by employees of facilities where TANF work participants are assigned to WEP, SEP, or OJT, when they believe they have been harmed by the violation of one of the assurances in paragraph (1) of this subsection.

(1) WEP, SEP, or OJT assignments must not result in the filling of any established vacancy which:

(A) results in the displacement of any currently employed worker or position, including partial displacement, such as a reduction in hours or non-overtime work, wages, or employment benefits;

(B) impairs existing contracts for services;

(C) results in the employment or assignment of a participant, or the filling of a position, when any other person is on lay-off from the same organizational unit, or when an employer has terminated any employee or otherwise reduced its work force with the effect of filling the vacancy created by hiring a participant whose wages are subsidized under this program; or

(D) infringes in any way upon promotional opportunities of any currently employed individual.

(2) If an employee or authorized representative wishes to file a grievance for any of the reasons stated in paragraph (1) of this subsection, the request is submitted in writing to the attention of the county director of the county in which the alleged violation occurred. The request:

(A) contains the date of the request, the date of the alleged violation, and a description of the alleged violation including the effect on the employee;

- (B) is signed by the employee or authorized representative; and
  - (C) includes the mailing address and telephone number of the person signing the request.
- (3) The worker contacts the individual making the request within ten calendar days from the date of receipt of the request in the local office, and attempts to resolve the grievance on an informal basis.
- (A) When the grievance cannot be resolved on an informal basis within the ten calendar days, the case is referred to the county director for review and assistance in resolving the grievance.
  - (B) If the grievance is not resolved within ten calendar days from the date of referral to the county director, the worker notifies the employee in writing of the:
    - (i) point(s) still at issue in the grievance; and
    - (ii) right to request a fair hearing within 30 calendar days of the date of this decision.
  - (C) The 20-day period allowed for resolution of the grievance is part of the 90-day period allowed for disposition of the appeal if the employee appeals.

[Source: Added at 15 Ok Reg 145, eff 11-1-97 (emergency); Added at 15 Ok Reg 897, eff 2-1-98 (emergency); Added at 15 Ok Reg 1277, eff 3-1-98 (emergency); Added at 15 Ok Reg 2616, eff 6-25-98 ; Amended at 16 Ok Reg 2076, eff 6-1-99 (emergency); Amended at 17 Ok Reg 2271, eff 5-1-00 ; Amended at 23 Ok Reg 980, eff 6-1-06 ; Amended at 27 Ok Reg 1173, eff 6-1-10 ; Amended at 28 Ok Reg 781, eff 6-1-11]

### **340:10-2-3. Employability planning**

(a) **Scope and applicability.** The employability planning process begins at intake and continues as long as there are employment barriers or family circumstances that interfere with the participant obtaining and retaining employment. The worker and the participant initiate Form 08TW002E, TANF Work/Personal Responsibility Agreement. While completing Form 08TW002E, the participant provides information regarding his or her work history, education and training, employment interests, child care plan, and transportation and support services needs to help the worker develop an employability plan that addresses the participant's strengths and employment barriers.

(1) Literacy screening is mandatory and must be included as a required Temporary Assistance for Needy Families (TANF) Work activity for participants who have not obtained a high school diploma or high school equivalency certificate and demonstrate a lack of literacy skills.

(2) Per Section 250.52 of Title 56 of the Oklahoma Statutes (56 O.S. § 250.62) and Oklahoma Administrative Code (OAC) 340:10-4-1, TANF recipients undergo substance abuse screening. When a recipient tests positive for an illegal controlled substance, the employment plan includes substance abuse treatment or mental health counseling. The worker includes treatment or counseling until a substance abuse, mental health, or medical professional indicates these supports are no longer necessary.

(3) The participant's identified employment barriers must be addressed on Form 08TW002E. Barriers may include, but are not limited to:

- (A) English as a second language;
- (B) learning disabilities;
- (C) physical or mental health ;
- (D) domestic violence ;
- (E) lack of transportation;
- (F) literacy; or
- (G) substance abuse.

(b) **Interest and ability assessments.** Assessments determine the participant's skills, abilities, and barriers per Section 261.11 of Title 45 of the Code of Federal Regulations (45 C.F.R. § 261.11). The worker includes completion of required interest and ability assessments as a required work activity on the participant's initial employability plan unless the client has a good cause reason not to participate in TANF Work activities.

(1) The use of assessments provides the worker, participant, assessment specialist, and/or community partners with:

- (A) an indication of learning disabilities and vision problems;
- (B) a measurement of the participant's skills, abilities, interests, and aptitude;
- (C) the participant's current academic achievement level; and
- (D) meaningful information to create a valid employability plan.

(2) Participants referred for testing are informed how test results are used. Test scores are confidential but may be shared with community partners. To refer the participant for testing, the worker completes and sends Form 08TW003E, Interagency Referral and Information, to the community partner. Participants referred for formal assessments are eligible for participant allowances and child care.

(c) **Employability planning.** The worker and the participant use the information from the assessment and other relevant information to develop a plan for securing employment per 45 C.F.R. § 261.12 and 56 O.S. § 230.52.

(1) The employability plan:

- (A) is a part of the social services plan for the entire family and includes establishing short and long term goals, including specific occupational goals, activities, and services necessary to achieve the goals;
- (B) must be realistic and within the participant's ability to achieve;
- (C) may include staffing with other community partners for assignment to specific work activities, collaboration with other agencies for services, such as job placement, training, and education, and the provision of social services;

(D) must identify specific needs and activities required to reach the occupational goal and estimated achievement dates; and

(E) may include more than one activity at a time based on the participant's specific needs and available hours.

(2) The worker informs the participant that the employability plan is updated as necessary to account for situational changes.

(3) The worker reviews the employability plan with the participant:

(A) at least every six months;

(B) as changes are made to the employability plan; and

(C) at the completion of any work activity.

(4) Employment plans for employed participants with income insufficient to close the TANF benefit must have a plan designed to upgrade employment. These plans must not interfere with current employment.

(d) **Work activities.** Participants are assigned to one or more activities and scheduled the required minimum number of hours. The participant signs Form 08TW002E, when a work activity is agreed upon and assigned.

(1) Assignments must be within the scope of the participant's employability plan.

(2) The assignment must be related to the participant's capability to perform the task on a regular basis.

(3) The daily commuting time to and from home to the assigned education, employment, or training site is normally less than two hours. Commuting time does not include the time required to transport a child to and from a child care facility. When longer travel time is normal in the community, the round trip commuting time may not exceed the general community standards.

(4) When the participant needs child care in order to participate in work activities:

(A) the participant chooses the child care provider;

(B) child care must be available during the hours the participant is engaged in any work activity, plus any additional commuting time; and

(C) the participant completes a Child Care Subsidy application and must meet child care eligibility rules per Oklahoma Administrative Code (OAC) 340:40 when subsidized child care is needed.

(5) Assignments that are discriminatory in terms of age, sex, race, color, national origin, disability, and in some cases religion or political beliefs are not permitted.

(6) The assignment site must not be in violation of established and applicable health and safety standards.

(7) The worker does not refer a participant to a work activity unless supportive services necessary for participation are available. The cessation or withdrawal of such services constitutes good cause for refusal to participate.

(8) When the agreed upon employability plan requires hours in excess of the minimum requirement, the participant must



participate the agreed upon number of hours.

[Source: Added at 15 Ok Reg 145, eff 11-1-97 (emergency); Added at 15 Ok Reg 897, eff 2-1-98 (emergency); Added at 15 Ok Reg 2616, eff 6-25-98 ; Amended at 16 Ok Reg 2076, eff 6-1-99 (emergency); Amended at 17 Ok Reg 2271, eff 5-1-00 ; Amended at 18 Ok Reg 2055, eff 7-1-01 ; Amended at 20 Ok Reg 850, eff 6-1-03 ; Amended at 21 Ok Reg 814, eff 5-1-04 ; Amended at 24 Ok Reg 1020, eff 6-1-07 ; Amended at 27 Ok Reg 156, eff 12-1-09 (emergency); Amended at 27 Ok Reg 1173, eff 6-1-10 ; Amended at 30 Ok Reg 338, eff 12-5-12 (emergency); Amended at 30 Ok Reg 633, eff 6-1-13 ; Amended at 34 Ok Reg 1441, eff 9-15-17 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:10-2-4. Employment**

(a) **Applicability.** Temporary Assistance for Needy Families (TANF) Work activities are designed to help participants obtain employment to achieve economic self-sufficiency, per Sections 261.2, 261.10, and 261.30 of Title 45 of the Code of Federal Regulations (45 C.F.R. §§ 261.2, 261.10, and 261.30). Work allows participants to enhance their self-esteem and to become more independent. Every effort is made to assist participants in securing jobs that provide financial security and opportunities for advancement. The appropriate employment criteria for subsidized and unsubsidized employment are included in (1) through (5) of this subsection.

(1) Appropriate employment may be temporary, permanent, full-time, part-time, or seasonal work, as long as the daily and weekly hours of employment do not exceed those customary to the occupation.

(2) The wage must meet or exceed the federal or state minimum wage laws or the prevailing rate for similar employment, whichever is applicable. The state law applies when federal law does not cover the job.

(3) A participant is not required to accept employment when the position offered is vacant due to a strike, lockout, or other bona fide labor dispute.

(4) A participant is not required to work for an employer when it is contrary to the conditions of membership in the union governing that occupation. Employment not governed by the rules of the union to which the participant belongs may be appropriate.

(5) A participant is not required to accept employment that results in the net loss of income.

(b) **Unsubsidized employment.** The State Work Incentive Program and any employment for which the employer does not receive reimbursement for any portion of the wages paid are examples of unsubsidized employment.

(1) **State Work Incentive Program.** The State Work Incentive Program is designed to assist in employing TANF participants into entry level positions in all branches of state government. Oklahoma Human Services (OKDHS), in cooperation with other state agencies and the Office of Management and Enterprise Services Human Capital Management, coordinates job placements for TANF participants referred to the program on Form 08TW023E, State Work Incentive Referral.

(A) Employment of eligible participants may be considered for positions of unclassified status for a two-year period in

a full-time or part-time capacity. These positions are not included within any limitation on full-time equivalent employee positions for any agency.

(B) Participants hired under this program are eligible for leave and other benefits available to other state employees, subject to other eligibility requirements, and may be reassigned or promoted while in the program.

(C) Participants hired are exempt from probationary hiring procedures. They may be considered for conversion to permanent, classified status after two years of continuous program participation.

(D) Requirements for placing employees in permanent status include:

- (i) completing satisfactory performance ratings conducted during employment; and
- (ii) possessing the minimum requirements stated in the job specifications.

(2) **Other unsubsidized employment.** Unsubsidized employment includes any employment in which a participant is hired by a private or public employer and there is no reimbursement of any portion of the wages paid to the recipient.

(c) **Subsidized employment.** The Subsidized Employment Program (SEP) and on-the-job training (OJT) are examples of subsidized employment. The employment criteria in (a) of this Section apply.

(1) **SEP.** SEP is a subsidized employment program through which OKDHS reimburses employers hiring TANF participants and certain non-TANF participants into full-time employment for a portion of their wages for up to four months. Public agencies, nonprofit, private agencies, and private employers are eligible to participate. When a state agency expresses an interest in participating in the program, OKDHS staff informs agency personnel that the subsidized employment reimbursement must not be used by the state agency to claim matching federal funds. When, for any reason in any given month, a SEP participant is paid less than the amount of the cash assistance at the time of entry into the program, the SEP participant receives a supplemental TANF benefit. SEP participants are entitled to all benefits the employer makes available to other employees. Participants are assigned based on their employability plan and the availability of appropriate and willing employers.

(A) **Participant requirements.** TANF participants are:

- (i) included in the cash assistance unit; and
- (ii) available for immediate employment.

(B) **Non-TANF participant requirements.** When funding is available, SEP placements may be made available to non-TANF participants who:

- (i) are unemployed;
- (ii) reside in a county authorized by Adult and Family Services (AFS) TANF Unit staff for expanded SEP eligibility; and

(iii) have a biological child receiving TANF, Supplemental Nutrition Assistance Program (SNAP), Child Care Subsidy, or SoonerCare (Medicaid) benefits.

(C) **Position requirements.** Position requirements must include:

- (i) full-time employment for a minimum of 35 hours per week;
- (ii) the same wages, benefits, and working conditions as provided to other employees performing a substantially equivalent job;
- (iii) an employer agreement to conform to the Equal Employment Opportunity Commission and fair employment practices, such as nondiscrimination regarding age, race, sex, color, national origin, disability, and in some cases religious or political beliefs; and
- (iv) employer assurance the position does not:
  - (I) displace the employer's current employees, including any involved in a strike, lockout, or other labor dispute involving a work stoppage;
  - (II) involve commission sales when at least \$10 per hour is not guaranteed; or
  - (III) is not for casual, intermittent, or seasonal labor.

(D) **Employer recruitment.** Designated field staff or the career development specialist (CDS) recruits employers interested in SEP. The employer is asked to notify designated field staff or the CDS of potential positions with job specifications and qualifications to match the employer with an appropriate TANF participant referral. Designated field staff or the CDS give Form 08TW011E, Subsidized Employment Program (SEP) Referral, to the TANF participant to take to the employer specified on the form.

- (i) When explaining SEP to employers, designated field staff or the CDS emphasizes that employers are expected to retain the SEP participant in full-time employment unless there is good cause for the dismissal. Employers who fail to continue the successful SEP participant's employment without good cause are not granted subsequent contracts. Good cause reasons for dismissal occur, when:
  - (I) there is a lay-off due to economic reasons that results in a reduction-in-force;
  - (II) the employee is frequently absent from work or engages in disruptive or inappropriate behavior; or
  - (III) the employee is unable to perform at an acceptable skill level.

(ii) Before designated field staff or the CDS writes new or additional contracts with an employer, SEP employees or other employees in lay-off status must be recalled.

(iii) Designated field staff or the CDS has the responsibility for ensuring the employer is complying with the contract.

(E) **SEP placements.** Designated field staff or the CDS arranges interviews between participants and potential employers. SEP participants may begin employment any time during the month. The employer is informed that reimbursement begins after the participant completes the first 30-calendar days of employment.

(i) Following the employer's agreement to participate and selection of a TANF participant, designated field staff or the CDS negotiates the contract, Form 08TW017E, Subsidized Employment Program (SEP) Contract, with the employer. Negotiation includes the employee's beginning employment date, salary, and the planned number of employment hours per week.

(ii) Upon receipt of the contract, designated field staff or the CDS reviews it for completeness and, when approved, signs and dates the contract. Designated field staff or the CDS delivers the employer's copy of the contract and Form 08TW018E, Subsidized Employment Program (SEP) Invoice, to the employer. The employer uses Form 08TW018E to request reimbursement from OKDHS.

(iii) Designated field staff or the CDS contacts the participant to complete and sign Form 08TW006E, Subsidized Employment Program (SEP) Temporary Assistance for Needy Families (TANF) Participant Agreement.

(iv) When a contract is not approved, designated field staff or the CDS mails a letter to the employer explaining the disapproval reason. Designated field staff or the CDS notifies the participant by phone, email, or letter that the contract was not approved.

(F) **Program procedures.** The procedures for programs listed in (i) through (iv) of this subparagraph are used for TANF participants.

(i) **TANF cash assistance.** Under SEP, eligibility for TANF cash assistance is frozen and is not changed or determined ineligible during the participation period. The earned income disregard period runs concurrently with SEP, per Oklahoma Administrative Code (OAC) 340:10-3-31.1.

(ii) **Medical benefits.** SEP participants whose TANF cash assistance is frozen, continue to be

eligible for SoonerCare (Medicaid) benefits unless found ineligible for a reason other than earned income.

(iii) **Food benefits.** SEP participants whose TANF cash assistance is frozen and who are receiving Simplified Supplemental Nutrition Assistance Program (SSNAP) benefits, per OAC 340:50-11-20 continue to receive SSNAP benefits without consideration of the SEP income during the participation period as long as the household composition remains the same. When the SEP participation period ends and the TANF benefit closes, the household may be eligible for transitional food benefits, per OAC 340:50-11-27.

(iv) **Child care.** During the SEP participation period while the TANF cash assistance is frozen, the child remains predetermined eligible for child care subsidy benefits with a zero family share copayment, per OAC 340:40-7-1. When the SEP participation period ends and the TANF benefit closes, the worker determines if the participant's child care renewal is due, per OAC 340:40-9-1. When the child care renewal is due, the worker considers the participant's earnings and computes the family share copayment, per OKDHS Appendix C-4, Child Care Eligibility/Copayment Chart. When the child care renewal is not due, the participant's family share copayment does not increase until the renewal is due, per OAC 340:40-5-1(9).

(G) **Employer payment.** Employers are eligible for:

(i) 100 percent reimbursement of the employee's gross wages, capped at a maximum of 40 hours per week, at \$12 per hour, for the first 30-calendar days of employment:

(I) employers are eligible to apply for reimbursement 30-calendar days following the date of hire;

(II) employers file for reimbursement by submitting Form 08TW018E, with proof of the participant's earnings for the last six months attached, directly to AFS TANF Unit staff;

(III) when a business changes ownership, the SEP contract transfers with the business. When change of ownership occurs mid-month, the original owner maintains the right to file a claim for reimbursement for the transfer month. The new owner may claim for subsidized wages for the remaining months of the original SEP agreement; and

(ii) 50 percent reimbursement of the employee's gross wages, for the following three months, provided the employee remains employed a minimum of 35 hours per week and earning at least \$10 per hour. The reimbursement is capped at a maximum of 40 hours per week, at \$12 per hour; and  
(iii) a bonus equal to 100 percent of the unsubsidized portion of wages up to 40 hours per week for the four month subsidized period, provided the SEP employee:

(I) remains employed a minimum of 35 hours per week;

(II) earns a minimum of \$10 per hour; and

(III) is retained for a minimum period of six months after the subsidized agreement ends.

(H) **Supplemental payments to SEP participants.** For TANF participants, AFS automatically issues supplemental payments for months in which income shown on Form 08TW018E is less than the amount of the SEP participant's cash assistance prior to entering the program.

(I) **SEP contract period completions.** At the end of the fourth month of subsidized employment, the worker reviews the participant's continued TANF eligibility.

(J) **SEP contract terminations.** If the SEP placement ends during the four months of subsidized employment, the worker reviews the participant's continued TANF eligibility.

(2) **OJT.** OJT is subsidized employment in which a private or public employer hires the participant and the participant, while engaged in productive work, receives training that provides knowledge or skills essential to the full performance of the job. During the OJT period, the employer receives reimbursement for a portion of the wages paid to the participating employee.

(A) Participants who successfully complete the Work Experience Program (WEP), have a recent history of employment, or complete a job readiness activity are the primary candidates for OJT referral.

(B) Income from OJT is considered as any other earned income.

(C) At the time of OJT entry, the worker explains to the participant the availability of transitional child care, per OAC 340:40-7-1, and continued medical benefits, per OAC 340:10-3-75.

(d) **Work Opportunity Tax Credit (WOTC).** The WOTC law permits for-profit employers to take a federal income tax credit when workers from certain target groups are hired. Workers in these target groups have faced significant barriers to employment. The WOTC is equal to between 25 percent and 40 percent of the first year wages, up to \$9,600, depending on the number of hours the employee works, and the

applicable target group for the person. The main objective of this program is to enable targeted employees to gradually move from economic dependency into self-sufficiency while earning a steady income and becoming contributing taxpayers, while the participating employers are compensated by reducing their federal income tax liability.

(1) WOTC is available to employers for workers hired from targeted groups. The targeted groups are:

(A) TANF recipients who received assistance for at least nine of the 18 months prior to the hiring date;

(B) qualified veterans. Qualified veterans are veterans who:

(i) received food benefits for at least three months during the first year of employment;

(ii) are unemployed for a period totaling at least four weeks but less than six months in the one-year period ending on the veteran's hiring date. The weeks unemployed do not have to be consecutive;

(iii) are unemployed for a period totaling at least six months in the one-year period ending on the veteran's hiring date. The months unemployed do not have to be consecutive;

(iv) are entitled to compensation for a service-connected disability and are unemployed for a period totaling at least six months in the one-year period ending on the hiring date. The months unemployed do not have to be consecutive; or

(v) are disabled veterans entitled to compensation for a service-connected disability hired not more than one year after being discharged or released from active duty in the United States (U.S.) Armed Forces;

(C) qualified ex-felons. Qualified ex-felons are persons hired within one year of being convicted of a felony or being released from prison for a felony;

(D) designated community residents. Designated community residents are persons who are at least 18 years of age, but not 40 years of age, on the hiring date, reside in a federally designated Empowerment Zone, Enterprise Community, or a Renewal Community, and continue to reside at the location after employment;

(E) vocational rehabilitation referral recipients. Vocational rehabilitation referral recipients are persons who have a physical or mental disability and were referred to the employer while receiving or upon completion of vocational rehabilitation from:

(i) a state plan approved under the Rehabilitation Act of 1973;

(ii) an Employment Network Plan under the Ticket to Work Program; or

(iii) a program carried out under the U.S. Department of Veteran Affairs;

(F) qualified summer youth employees. Qualified summer youth employees are persons who:

- (i) are at least 16 years of age, but not 18 years of age, on the hiring date or on May 1st, whichever is later;
- (ii) reside in an Empowerment Zone, Enterprise Community, or Renewal Community; and
- (iii) are only employed between May 1 and September 15;

(G) qualified food benefit recipients. Qualified food benefit recipients are persons, who, prior to their hiring date, are:

- (i) at least 18 years of age and under 40 years of age; and
- (ii) members of a household that received food benefits for:

- (I) the last six-consecutive months; or
- (II) at least three of the last five months;

(H) qualified recipients of Supplemental Security Income (SSI). Qualified recipients of SSI are persons who received SSI within 60-calendar days of their hire date;

(I) long-term TANF recipients. Long-term TANF recipients are members of families who:

- (i) received TANF assistance for at least the previous 18-consecutive months ending on the hiring date;
- (ii) received TANF assistance for any 18 months, whether consecutive or not, beginning after August 5, 1997, when hired within two years after the date the 18-month total is reached; or
- (iii) stopped being eligible for TANF assistance during the past two years because federal or state law limited the maximum time they could receive assistance; and

(J) qualified long-term unemployment recipients. Qualified long-term unemployment recipients are persons who have been unemployed for not less than 27-consecutive weeks at the hiring time and received unemployment compensation during some or all of the unemployment period.

(2) Through an agreement with the Oklahoma Employment Security Commission, OKDHS issues U.S. Department of Labor Form ETA-9062, Conditional Certification Work Opportunity Tax Credit, to TANF and food benefit recipients.

(3) The worker gives the participant Form ETA-9062 and a letter from the worker stating the number of months the participant received TANF, food benefits, or both to present to the employer, on or before, the first day of employment. The worker informs the participant about the purpose of the form and how the tax credit may help the participant get a job.

(e) **WEP.** The purpose of WEP is to provide job skills and work enhancement to TANF participants enabling them to move toward self-



sufficiency and obtain unsubsidized employment following completion of the placement.

(1) **Benefits.** Program benefits for participants include an opportunity to establish a work history and earn a recommendation from an employer. Participants also learn to balance the demands of home and work, gain confidence by performing in a job setting, enhance current job skills, learn marketable skills on-the-job, and determine interest and aptitude for a particular type of work by doing the job.

(2) **WEP assignments.** WEP assignments are approved for an initial period of 90- calendar days.

(A) No salary is paid.

(B) With respect to injuries incurred during WEP working hours, federal law requires medical coverage be offered under state workers' compensation law or by OKDHS. Oklahoma workers' compensation law does not cover WEP participants. Medical coverage is provided by the SoonerCare (Medicaid) Program.

(3) **WEP referrals.** Participants are referred to WEP slots based on the employability plan. The worker coordinates assignment to a WEP position with the participant. Based on the employability plan, the worker:

(A) determines which facility best meets the participant's needs;

(B) arranges an interview between the facility and the participant; and

(C) notifies the participant of the place, time, and interviewer's name.

(4) **WEP facilities.** Facilities selected for WEP placements must be capable of providing employment and have an apparent intent to hire, or be able to provide quality job skills enhancement. WEP facilities are solicited by designated field staff, the CDS, or a contracted entity who agreed to assist with job development and placement, including WEP. Local job market conditions, opportunities for employment following completion of WEP participation, and the facility's ability to provide the necessary supervision and skills enhancement are criteria used when soliciting a facility.

(A) WEP slots are developed to meet participant employment needs as determined by the employability plan. When a facility agrees to participate in WEP, the facility representative is requested to provide:

(i) a written description of the type of activities in which the participant will be involved;

(ii) the number of participants the facility can accept;

(iii) the hours of participation; and

(iv) any special requirements, such as uniforms or special equipment.

(B) There are two types of WEP facilities, WEP Non-profit (WEP-NP) and WEP-For-Profit (WEP-FP).

(i) WEP-NP placement is approved for public and private non-profit organizations or businesses. When a participant requires additional skills enhancement, the worker may approve a 60-calendar day extension. Extensions are not granted when the primary purpose is to provide additional help to the facility. The criteria listed in (I) through (VII) of this unit are used as a guide in determining the appropriateness of requesting an extension beyond the initial three-month period.

(I) The participant needs additional time to acquire skills to meet minimum hiring requirements.

(II) The participant demonstrates a willingness to learn, but needs additional time to develop new skills, to compete in the labor market.

(III) The facility agrees to hire the participant, but does not have funds available or a job opening until a specific date.

(IV) The facility has an opening in a different area from where the participant was working and agrees to hire the participant when additional time is granted for additional development of job skills.

(V) The participant showed improvement in all areas, but needs additional socialization skills and improved behavior patterns in a work setting.

(VI) The participant missed more than two weeks due to illness or the illness of a household member.

(VII) There are extenuating circumstances that prevented the participant from receiving full benefit of the job skills enhancement.

(ii) WEP-FP is approved for businesses or entities that operate for profit. Only one WEP-FP placement is allowed per 25 full-time employees in a for-profit business or entity. The criteria in (I) through (II) of this unit must be in effect prior to a WEP-FP placement.

(I) The placement matches the participant's employability plan and the participant's chosen career path.

(II) The employer committed to hire the participant, on or before, the completion of the three-month placement.

(5) **WEP procedures.** Upon approval by the field manager, designated field staff, or the CDS, the worker contacts the WEP

facility to complete Form 08TW015E, Work Experience Program - Non-profit Training Agreement, or Form 08TW115E, Work Experience Program - For-Profit Training Agreement.

(A) The worker instructs the facility representative or supervisor on the purpose and use of Form 08TW013E, Time and Progress Report.

(B) It is the participant's responsibility to complete Form 08TW013E and submit it to the worker by the day of the month shown on the form.

(C) Approved WEP slots not used within a six-month period are reviewed for appropriateness. When the position is no longer feasible, designated field staff or the CDS sends a letter to the facility stating the WEP slot is no longer active and may be re-evaluated at the facility's request.

(6) **Non-cooperation by WEP facility.** When the worker obtains information the facility is violating the terms and conditions of Forms 08TW015E or 08TW115E, or participants are treated unfairly, the field manager is informed immediately. The nature of the allegations guides the necessary action that may include:

(A) suspension of subsequent assignments at the facility;

(B) immediate removal of current participants; or

(C) termination of the agreement.

(7) **Notification to participant and facility.** 10-calendar days prior to the anticipated WEP completion date, or at any time the participant becomes ineligible for WEP, the worker notifies the participant by letter, email, or phone call. The worker notifies the facility by letter or phone call five-calendar days prior to the termination.

(8) **Changes in placements and subsequent placements.**

When the facility, worker, and participant determine placement in a different facility is more beneficial, the worker locates a new facility and arranges an interview for the participant. When the participant fails to secure employment following successful completion of WEP, a conference is held with the participant, worker, and supervisor to determine if a second WEP placement might be beneficial. The worker reviews the employability plan prior to allowing a participant to re-enter WEP. Consideration is given to reassignment to job search or another appropriate work activity. In making this decision, consideration must be given to the:

(A) participant's ability to secure and maintain full-time employment;

(B) opportunities for employment in the new field and in the area in which the participant received job skills enhancement;

(C) participant's efforts to secure employment; and

(D) length of time between assignments.

(f) **Community Partnership (CP).** CP is unpaid employment in which TANF recipients perform work for the direct benefit of the community. A CP may be approved for both public and non-profit agencies and

organizations. A CP assignment is limited to projects that serve a useful community purpose and are designed to improve the employability of recipients not otherwise able to obtain employment. All CPs must be approved by AFS TANF Unit staff. Placements in CP require daily supervision. A recipient's training, experience, and skills are considered in making an appropriate CP assignment.

(1) **Benefits.** Participant program benefits include an opportunity to establish the basic skills necessary to obtain employment, such as daily attendance, appropriate attire, and proper behavior in a work environment. Participants also learn to balance the demands of home and work and gain confidence by performing in a job setting.

(2) **CP facilities.** CP facilities are solicited by designated field staff or the CDS. The ability of the CP to provide the necessary supervision and basic skills training are criteria used when soliciting a partnership.

(A) Training slots are developed to meet the participant's employment needs as determined by the employability plan.

(B) The worker emails the completed Form 08TW019E, Community Partnership (CP) Approval Request, to the worker's supervisor, and the supervisor emails AFS TANF Unit staff for training facility approval.

(C) When a CP agrees to participate, the facility representative is requested to provide:

- (i) a written description of the type of activities in which the participants will be involved;
- (ii) the number of participants the CP can accept;
- (iii) the hours of participation; and
- (iv) any special requirements, such as uniforms or special equipment.

(D) No salary is paid.

(E) When injuries occur during working hours in CP, federal law requires medical coverage be offered under either state workers' compensation law or by OKDHS. Oklahoma workers' compensation law does not cover CP participants. Medical coverage is provided by the SoonerCare (Medicaid) Program.

(3) **CP assignments.** CP assignments are approved for an initial period of no more than 60-calendar days. When a participant requires additional training, the worker may approve a 30-calendar day extension. Approval of extension requests made beyond the initial 60-calendar day period is determined by criteria listed in (A) through (F) of this paragraph. Criteria includes, but is not limited to whether the:

(A) participant needs additional time to acquire skills to meet minimum hiring requirements;

(B) participant demonstrates a willingness to learn, but needs additional time to develop basic job skills necessary to compete in the labor market;

- (C) CP has an opening in a different area from the one in which the participant was trained;
- (D) participant shows improvement in all areas, but needs additional socialization skills and improved behavior patterns in a work setting;
- (E) participant missed more than two weeks of training due to illness or the illness of a household member; or
- (F) extenuating circumstances prevented the participant from receiving the full benefit of the training.

(4) **CP referrals.** Participants are referred to CP slots based on their employability plan and the availability of CP positions. Assignment to a CP position is coordinated between the participant, worker, and the CP. Based on the employability plan, the participant and worker determine:

- (A) which CP best meets the participant's needs; and
- (B) the location, date, and time to report to the CP.

(5) **Procedures.** When AFS TANF Unit staff approves CP, the worker contacts the CP facility to complete Form 08TW020E, Community Partnership (CP) Agreement.

- (A) The worker instructs the facility representative or the training supervisor regarding the purpose and use of Form 08TW013E.
- (B) It is the participant's responsibility to complete Form 08TW013E and submit it to the worker by the day of the month shown on the form.

(6) **Non-cooperation by CP.** When the worker obtains information that the CP is violating the terms and conditions of Form 08TW020E or participants are treated unfairly, the worker informs the field manager, designated field staff, or the CDS immediately. The nature of the allegations guides the necessary action that may include:

- (A) suspension of subsequent CP assignments;
- (B) immediate removal of the current participants; or
- (C) termination of the agreement.

(7) **Changes in placements and subsequent placements.** Following successful completion of CP training, the worker and participant meet to determine if a second CP placement or other work activity might be beneficial. The worker reviews the employability plan prior to allowing a participant to enter the next work activity. When making this decision, consideration is given to:

- (A) the participant's ability to secure and maintain employment;
- (B) whether the participant needs additional training or placement opportunities to enhance employment skills; or
- (C) whether the participant needs any educational opportunities to enhance employment skills.

Amended at 26 Ok Reg 1223, eff 6-1-09 ; Amended at 27 Ok Reg 156, eff 12-1-09 (emergency); Amended at 27 Ok Reg 1173, eff 6-1-10 ; Amended at 28 Ok Reg 781, eff 6-1-11 ; Amended at 32 Ok Reg 1839, eff 9-15-15 ; Amended at 34 Ok Reg 1441, eff 9-15-17 ; Amended at 35 Ok Reg 29, eff 10-1-17 (emergency); Amended at 35 Ok Reg 1609, eff 9-17-18 ; Amended at 38 Ok Reg 2179, eff 9-15-21 ; Amended at 40 Ok Reg 945, eff 9-15-23]

### **340:10-2-5. Job search activities**

The primary objective of all job search activities is for applicants and recipients of Temporary Assistance for Needy Families (TANF) to obtain employment through personal contacts with employers. The worker and the participant jointly determine the number of employer contacts based on availability of child care, financial resources, jobs in the community, skills and abilities, and any other factors which affect or influence the participant's ability to obtain employment.

(1) An employer contact is defined as a face-to-face interview with an employer, the completion and return of any application to an employer, including an on-line application, or the completion of tests required for employment with the state, local, or federal government. The participant records employer contacts on Form 08TW010E, Employer Contact List.

(2) Job search is defined as the participant's job seeking efforts. Persons in job search activities are eligible for participant allowances and may be eligible for child care for the time they are actively looking for a job or in a group activity.

(A) The participant is given Form 08TW013E, TANF Time and Progress Report, to complete and return to the worker by the time frame shown on the form.

(i) Additional job search may be required as a part of another work activity when it would improve the participant's employment prospects.

(ii) The number of employer contacts to be made each week is included in the employability plan.

(B) When the participant has not obtained a job after a reasonable amount of time, the worker and the participant review the employability plan to determine if another activity is more appropriate.

(C) The maximum amount of time spent in job search activities cannot exceed 240 hours at 20 hours per week or 360 hours at 30 hours per week for the preceding 12-month period for any person.

[Source: Added at 15 Ok Reg 145, eff 11-1-97 (emergency); Added at 15 Ok Reg 2616, eff 6-25-98 ; Amended at 17 Ok Reg 444, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2075, eff 7-1-00 ; Amended at 24 Ok Reg 1020, eff 6-1-07 ; Amended at 25 Ok Reg 14, eff 8-3-07 (emergency); Amended at 25 Ok Reg 903, eff 6-1-08 ; Amended at 26 Ok Reg 168, eff 11-1-08 (emergency); Amended at 26 Ok Reg 1223, eff 6-1-09 ; Amended at 28 Ok Reg 781, eff 6-1-11 ; Amended at 37 Ok Reg 1776, eff 9-15-20]

### **340:10-2-6. Job readiness**

Job readiness activities help prepare participants for work by ensuring that participants are familiar with general workplace expectations and exhibit work behavior and attitudes necessary to compete successfully in the labor market. The maximum amount of time spent in job readiness activities cannot exceed 240 hours at 20 hours per

week or 360 hours at 30 hours per week for the preceding 12-month period for any person.

(1) **Orientation.** Participants are referred to orientation as the need is identified on Form 08TW002E, TANF Work/Personal Responsibility Agreement. Orientation consists of individual or group meetings designed to present information about:

- (A) building self-esteem;
- (B) activities and services available through the Temporary Assistance for Needy Families (TANF) Program;
- (C) Oklahoma Human Service (OKDHS) policies; and
- (D) the employment process, including job applications, interviewing, goal-setting, and managing home and work.

(2) **Counseling or Substance abuse or mental health treatment.** The worker assists TANF applicants and participants by referring them for mental health or substance abuse treatment for alcohol or prescription drug abuse when these issues prevent them from obtaining or retaining a job. The worker meets with the participant and appropriate local partners to determine available resources to overcome those barriers. Treatment is a mandatory part of the participant's TANF Work plan when a provider recommends treatment and screening and assessment indicate a positive test for an illegal controlled substance, per Oklahoma Administrative Code 340:10-4-1.

[Source: Added at 15 Ok Reg 145, eff 11-1-97 (emergency); Added at 15 Ok Reg 2616, eff 6-25-98 ; Amended at 16 Ok Reg 2076, eff 6-1-99 (emergency); Amended at 17 Ok Reg 444, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2075, eff 7-1-00 ; Amended at 20 Ok Reg 850, eff 6-1-03 ; Amended at 24 Ok Reg 1020, eff 6-1-07 ; Amended at 25 Ok Reg 14, eff 8-3-07 (emergency); Amended at 25 Ok Reg 903, eff 6-1-08 ; Amended at 26 Ok Reg 168, eff 11-1-08 (emergency); Amended at 26 Ok Reg 1223, eff 6-1-09 ; Amended at 30 Ok Reg 338, eff 12-5-12 (emergency); Amended at 30 Ok Reg 633, eff 6-1-13 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:10-2-6.1. Educational services**

Educational services are made available to enhance the participant's potential for employment. Assignment is based on the criteria listed in (1) through (6) of this Section.

(1) Custodial parent participants under 20 years of age without a high school diploma are required to participate in educational activities directed toward the attainment of a high school diploma or its equivalent. Participants may be excused from high school attendance or courses designed to lead to a high school equivalency certificate when the employability plan includes an alternative, such as basic education or English as a second language (ESL).

(2) Participants 20 years of age and older that have not completed high school may participate in a basic or remedial education program.

(3) Assignment to remedial education services is appropriate for participants who read and write below high school level, even when they have a high school diploma or high school equivalency certificate. Basic and remedial education includes:

- (A) Adult Basic Education (ABE) classes;

- (B) high school equivalency classes;
  - (C) literacy classes;
  - (D) tutoring; or
  - (E) remedial reading classes.
- (4) Participants lacking proficiency in understanding, speaking, reading, or writing the English language are assigned to ESL classes.
- (5) Participants already in attendance at an institution of higher education are considered appropriately assigned when the participant cooperates in the assessment process and development of an appropriate employability plan.
- (A) When the institution of higher education has a Temporary Assistance for Needy Families (TANF)-funded contract, the participant must attend through the contracted provider.
  - (B) The participant is required to participate the minimum number of hours in an activity per Oklahoma Administrative Code (OAC) 340:10-2-1(2) or as mandated by the TANF-contracted provider.
  - (C) The participant must maintain satisfactory academic progress with a minimum grade point average of 2.0 and verify progress at mid-term, when possible, and at the end of the semester. Progress may be verified by a grade report, transcript, or a statement from the contracted provider or other school official.
  - (D) When satisfactory progress is not met, the worker submits Form 08TW008E, Higher Education Probationary Approval Request, to Adult and Family Services TANF program field representative staff to request a probationary approval period. When the probationary approval period is not approved, the participant is placed in another TANF Work activity.

[Source: Added at 25 Ok Reg 903, eff 6-1-08 ; Amended at 26 Ok Reg 168, eff 11-1-08 (emergency); Amended at 26 Ok Reg 1223, eff 6-1-09 ; Amended at 35 Ok Reg 1609, eff 9-17-18]

### **340:10-2-7. Training**

(a) **Scope.** Job skills training activities include vocational training and hands-on work experience to develop technical skills, knowledge, and abilities in specific occupational areas. All training programs must include qualitative measures, such as competency gains or proficiency levels, to evaluate a participant's progress and reasonable time limits for completion. Referrals are made to appropriate training facilities on Form 08TW003E, Interagency Referral and Information.

(b) **Assignments.** Any training to which the participant is assigned must meet the criteria in (1) through (4) of this subsection.

(1) The hours of any training activity are governed by the training facility but must not exceed 40 hours per week.

(2) The training is preparation for a job that meets the criteria for appropriate employment.



(3) The quality and type of training must meet local employers' requirements so participants are in a competitive position with the local labor market.

(4) Training is related to in-demand occupations that are likely to become available in Oklahoma, such as health care, geriatric care, and other career paths found at <https://oklahomaworks.gov/>.

**(c) Job Corps non-resident training program (Job Corps II).**

Oklahoma's four Job Corps centers provide a nonresident Job Corps program to Temporary Assistance for Needy Families (TANF) participants who can commute to their sites. Participants referred must be between 16 and 24 years of age. The Adult and Family Services (AFS) worker completes Form 08MP013E, Referral for Services to refer the TANF participant to Job Corp. It is the AFS worker's responsibility to coordinate with the Job Corps center to arrange for child care.

(1) By special agreement with the Job Corps centers, Job Corps II students are provided Job Corps participant training allowances designed to meet training costs not covered by the TANF cash assistance. These allowances are not considered as income.

(2) The worker coordinates with the centers and other designated agencies, such as the Oklahoma Employment Security Commission (OESC) and Workforce Innovation and Opportunity Act (WIOA) partners, to ensure Job Corps II students leaving the center are placed in an appropriate work activity. When a Job Corps II student leaves the center, the worker meets with the Job Corps II student to make immediate plans for further implementation of the employability plan.

**(d) Vocational training.** Up to 12 months of participation in a vocational certificate, associate's degree, bachelor's degree, or advanced degree program may count as vocational training when it qualifies a participant to obtain immediate employment in a specific field.

(1) When the institution of higher education has a TANF-funded contract, the participant must attend through the contracted provider.

(2) The participant is required to participate the minimum number of hours in a TANF activity, per Oklahoma Administrative Code 340:10-2-1(2) or as mandated by the TANF-contracted provider.

(3) The participant must maintain satisfactory academic progress with a minimum grade point average of 2.0 and verify progress at mid-term, when possible, and at the end of the semester. Progress may be verified by a grade report, transcript, or a statement from the contracted provider or other school official.

(4) When satisfactory progress is not met, the AFS worker submits Form 08TW008E, Higher Education Probationary Approval Request, to AFS TANF staff to request a probationary approval period. When the probationary approval period is not approved, the participant is placed in another TANF Work activity.

(5) Participants participating in a vocational certificate, associate's degree, bachelor's degree, or advanced degree program as part of the employability plan may count homework or study time up to one hour for each class hour, when the

participant provides, at the beginning of each new class or semester; a class syllabus or a statement from the instructor, professor, or advisor that states the additional time is:

- (A) a class requirement;
- (B) above and beyond work normally completed during class hours; and
- (C) not used to make up missed class hours.

(e) **Special programs and demonstration efforts with other agencies.** The Oklahoma Department of Human Services (DHS) may enter into special education, training, or employment efforts with federal, state, and local governments and with private for-profit and private not-for-profit organizations and agencies. When this occurs, involved county office staff is expected to comply with the terms of those agreements.

(f) **Job skills training.** Training directly related to job skills required by an employer or that provides a participant with the ability to obtain employment or to advance or adapt to the changing demands of the workplace.

(1) Time spent in vocational training in excess of 12 months that is an approved part of the participant's employability plan may be counted toward the required work activity hours, when the participant also participates in a different approved core activity for a minimum of 20 hours per week.

(2) Homework or study time may count up to one hour for each class hour, when the participant provides, at the beginning of each new class or semester; a class syllabus or a statement from the instructor, professor, or advisor that states the additional time is:

- (A) a class requirement;
- (B) above and beyond the work normally completed during class hours; and
- (C) not used to make up missed class hours

[Source: Added at 15 Ok Reg 145, eff 11-1-97 (emergency); Added at 15 Ok Reg 1277, eff 3-1-98 (emergency); Added at 15 Ok Reg 2616, eff 6-25-98 ; Amended at 17 Ok Reg 2271, eff 5-1-00 ; Amended at 18 Ok Reg 2055, eff 7-1-01 ; Amended at 20 Ok Reg 850, eff 6-1-03 ; Amended at 21 Ok Reg 814, eff 5-1-04 ; Amended at 23 Ok Reg 980, eff 6-1-06 ; Amended at 24 Ok Reg 1020, eff 6-1-07 ; Amended at 25 Ok Reg 14, eff 8-3-07 (emergency); Amended at 25 Ok Reg 903, eff 6-1-08 ; Amended at 26 Ok Reg 168, eff 11-1-08 (emergency); Amended at 26 Ok Reg 1223, eff 6-1-09 ; Amended at 27 Ok Reg 2788, eff 8-1-10 (emergency); Amended at 28 Ok Reg 781, eff 6-1-11 ; Amended at 35 Ok Reg 1609, eff 9-17-18 ; Amended at 37 Ok Reg 1776, eff 9-15-20]

#### **340:10-2-8. Temporary Assistance for Needy Families (TANF) Work support services**

(a) **Scope.** The worker provides or arranges payments and services for the participant to ensure successful completion of the participant's employability plan to become self-supporting.

(1) Payments are authorized for items or services directly related to employment as an outcome.

(2) When support services are available and part of the employability plan, the participant's failure to cooperate in obtaining the support services constitutes a failure to participate in the TANF Work program.

(3) Items and services covered by the participant's medical card are not paid for by the support service fund.

(4) The only support services available to an applicant are the participant allowance and work activity payment.

(5) Payments are not authorized for reimbursement of expenses already paid by client or others.

(b) **Flexible funds.** The intent of flexible funds is to provide a participant with the necessary support services needed to accomplish his or her employment goals. Refer to Oklahoma Human Services (OKDHS) Appendix H-4, Flexible Accounts, for the list of flexible fund services.

(1) Flexible funds are not available to the applicant.

(2) To be eligible for flexible funds, the participant must:

(A) otherwise be ready to participate in a required work activity for the minimum number of hours;

(B) have a guaranteed offer of employment; or

(C) be employed.

(3) Payments for the services through flexible funds are not an automatic entitlement to the participant.

(4) Flexible funds are not used for fines, including traffic fines or any cost related to a criminal offense, such as legal fees or court costs.

(5) Designated county staff or the career development specialist has final authority to determine authorizations.

(6) One-time payments of specific services are not approved for reimbursement of expenses already paid by the participant or others.

(7) Ongoing maintenance payments are not allowed.

(8) The client's relatives are not eligible for payment. Refer to Oklahoma Administrative Code (OAC) 340:10-9-1 for degree of relationship.

(c) **Other support services.**

(1) **Work activity payments.** Work activity payments are issued to purchase specific items, such as a tank of gas, clothing, or personal items, when needed to participate in assigned work activities. Refer to OKDHS Appendix H-4-C, Support Service Payments, for the maximum amount that may be approved.

(2) **Participant allowances.** Daily cash allowances are made to participants in assigned scheduled, structured, and supervised work activities based on the number of activity hours. Refer to OKDHS Appendix H-4-C for the maximum payment amounts.

(A) Lunch hours and travel time are not included as actual attendance hours.

(B) For persons in Job Search, travel time between job interviews and job applications is included as actual attendance hours.

(C) The participant makes appropriate daily entries on Form 08TW013E, Time and Progress Report, to document actual attendance hours and submits it to the worker by the time frame shown on the form.

(D) TANF Work participant allowances are not paid for part-time or full-time employment or on-the-job training.

**(3) Oklahoma State Bureau of Investigations (OSBI)**

**background checks.** OSBI background checks may be requested for a participant who is placed in job skills training that requires an OSBI background check as a prerequisite for employment. The job skills training may include vocational training, hands-on work experience, or public or private sector work experience.

**(4) Child care.** Child care arrangements are made for each child in the home younger than 13 years of age or younger than 19 years of age when the child is mentally or physically incapable of self-care or under court supervision, per Oklahoma Administrative Code (OAC) 340:40-7-3. The worker includes the child care plan on Form 08TW002E, TANF Work/Personal Responsibility Agreement. When the person begins active participation in TANF Work activities, the worker and client complete a child care application based on the TANF Work plan, per OAC 340:40-3-1 and 340:40-7-8.

**(5) Transportation contracts.** Transportation contracts are initiated to provide transportation for TANF recipients who have no means of transportation to access required TANF Work training activities. To initiate a transportation contract, designated county office staff contact Adult and Family Services (AFS) TANF Unit staff.

**(6) Disability Advocacy Program (DAP).** DAP is available to assist a TANF Work participant or a child(ren) receiving a TANF benefit, who has an application for disability pending with the Social Security Administration (SSA) or who OKDHS determines has a potentially meritorious claim for such benefits.

(A) The worker makes a referral to the OKDHS-contracted law firm to assist the recipient(s) with the:

- (i) application;
- (ii) reconsideration;
- (iii) Administrative Law Judge hearing; and
- (iv) review by the SSA Appeals Council.

(B) The evaluation of merit determines if the appropriate SSA test for disability would be met if evidence was available to prove all conditions claimed by the TANF recipient. When the evaluation of merit determines there is:

(i) sufficient evidence, the law firm represents the TANF recipient.

(I) Statewide representation consists of assisting the recipient with the application through an unfavorable SSA Appeals Council decision.

(II) In counties in which representation by a lawyer or experienced non-lawyer advocate is not available without advance payment, the contracted law firm assists with the pending application for disability through an unfavorable decision by the SSA Appeals Council; or

(ii) insufficient evidence to prove conditions claimed by the TANF recipient, no further services are provided by DAP. Representation by the law firm ceases at any time the law firm determines there is insufficient evidence to support the TANF recipient's claim for disability benefits.

(7) **Achievement bonuses.** TANF recipients participating in TANF Work are eligible for bonuses related to achievement of certain goals when funding is available. TANF recipients may receive one bonus payment per achievement.

(A) Achievements are completion of a:

(i) high school diploma; or

(ii) high school equivalency certificate.

(B) Refer to OKDHS Appendix H-4-C for bonus payment amounts.

[Source: Added at 15 Ok Reg 147, eff 10-9-97 (emergency); Added at 15 Ok Reg 897, eff 2-1-98 (emergency); Added at 15 Ok Reg 1277, eff 3-1-98 (emergency); Added at 15 Ok Reg 2616, eff 6-25-98 ; Amended at 15 Ok Reg 3736, eff 8-1-98 (emergency); Amended at 16 Ok Reg 1010, eff 4-26-99 ; Amended at 17 Ok Reg 444, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2075, eff 7-1-00 ; Amended at 18 Ok Reg 1217, eff 6-1-01 ; Amended at 19 Ok Reg 1737, eff 6-14-02 ; Amended at 20 Ok Reg 88, eff 12-1-02 (emergency); Amended at 20 Ok Reg 850, eff 6-1-03 ; Amended at 21 Ok Reg 814, eff 5-1-04 ; Amended at 22 Ok Reg 764, eff 5-12-05 ; Amended at 23 Ok Reg 980, eff 6-1-06 ; Amended at 25 Ok Reg 14, eff 8-3-07 (emergency); Amended at 25 Ok Reg 903, eff 6-1-08 ; Amended at 26 Ok Reg 767, eff 4-1-09 (emergency); Amended at 26 Ok Reg 2219, eff 6-25-09 ; Amended at 27 Ok Reg 1173, eff 6-1-10 ; Amended at 32 Ok Reg 1839, eff 9-15-15 ; Amended at 37 Ok Reg 1776, eff 9-15-20 ; Amended at 38 Ok Reg 2179, eff 9-15-21]

### **340:10-2-9. Welfare to Work (WtW) [REVOKED]**

[Source: Added at 16 Ok Reg 268, eff 12-1-98 (emergency); Added Ok Reg 965, eff 3-1-99 (emergency); Added at 16 Ok Reg 1943, eff 6-11-99 ; Amended at 17 Ok Reg 2271, eff 5-1-00 ; Amended at 18 Ok Reg 2055, eff 7-1-01 ; Revoked at 21 Ok Reg 814, eff 5-1-04]

## **SUBCHAPTER 3. CONDITIONS OF ELIGIBILITY - NEED**

### **PART 1. RESOURCES**

#### **340:10-3-1. Resources defined [REVOKED]**

[Source: Amended at 10 Ok Reg 527, eff 12-8-92 (emergency); Amended at 10 Ok Reg 2813, eff 6-25-93 ; Amended at 17 Ok Reg 2271, eff 5-1-00 ; Amended at 37 Ok Reg 1776, eff 9-15-20 ; Revoked at 39 Ok Reg 1688, eff 9-15-22]

#### **340:10-3-2. Resource general provisions**

(a) **Resources defined.** For the purposes of the Temporary Assistance for Needy Families Program (TANF), resources means any form of real and personal property that has an available monetary value. All available resources, except those required to be disregarded by federal law or rules, per Oklahoma Administrative Code (OAC) 340:10-3-2 through 340:10-3-9 are considered.

(b) **Resource evaluation.** The worker evaluates and verifies the value of the assistance unit's countable available resources at application and

renewal.

(1) In determining eligibility based on resources, only resources available for current use or resources that the client or another assistance unit member owns, wholly or in part, are considered.

(2) A resource is considered unavailable when there is a legal impediment to overcome. When there is a legal impediment, the client must agree to pursue all reasonable steps to overcome the impediment and initiate legal action within 30-calendar days. While the legal action is in process, the resource is considered unavailable. When the cost of making a resource available exceeds the gain, the client is not required to pursue action to make it available.

(3) The assistance unit may change the form of resources as long as the resources do not exceed the maximum resource standard.

(4) When an adult or child receives Supplemental Security Income (SSI), his or her resources are not considered in determining TANF eligibility.

(5) When both parents are in the home and one parent receives SSI and a State Supplemental Payment (SSP) benefit and the other parent is included in the TANF benefit with the children, both parents' resources are not considered for TANF as they are considered in determining SSI eligibility.

(6) When a natural or adoptive parent or dependent child is not included in the assistance unit because of alien status, the worker considers his or her resources in determining resource eligibility for the TANF cash assistance members.

(c) **Maximum resource standard.** Refer to Oklahoma Human Services (OKDHS) Appendix C-1, Maximum Income, Resource, and Payment Standards, Schedule IX.C for the maximum resources the assistance unit may hold in one or more countable resources and still be considered eligible for TANF based on need. The assistance unit is ineligible for TANF for any month its resources exceed the maximum resource standard. When the assistance unit's resources exceed the resource standard, the worker closes the TANF cash assistance for the next advance notice effective date, per OKDHS Appendix B-2, Deadlines for Case Actions.

(d) **Relative-payee resources.** A relative-payee may only be included in the TANF cash assistance benefit when the natural or adoptive parent is not in the home, the relative-payee meets the definition of a needy caretaker, per OAC 340:10-3-30, and inclusion of his or her resources does not exceed the maximum resource standard. A stepparent may be included in the cash assistance benefit when the natural or adoptive parent is incapacitated or not in the home.

(1) When a relative-payee is not eligible to be included in the TANF assistance unit, or is eligible but does not want to be included, the worker does not consider the relative-payee or his or her spouse's resources in determining a child's eligibility.

(2) Only one needy caretaker may be included in the TANF assistance unit when the child's parent(s) is not in the home. When the needy caretaker has a spouse who is not an SSI recipient, one-half of their combined resources are considered as

the needy caretaker's resources. When the needy caretaker's spouse is an SSI recipient, his or her resources are not considered.

**[Source:** Amended at 10 Ok Reg 527, eff 12-8-92 (emergency); Amended at 10 Ok Reg 2813, eff 6-25-93 ; Amended at 11 Ok Reg 157, eff 11-1-93 (emergency); Amended at 11 Ok Reg 1639, eff 5-12-94 ; Amended at 17 Ok Reg 444, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2075, eff 7-1-00 ; Amended at 21 Ok Reg 814, eff 5-1-04 ; Amended at 37 Ok Reg 1776, eff 9-15-20 ; Amended at 39 Ok Reg 1688, eff 9-15-22]

### **340:10-3-3. Home property**

The home and surrounding property necessary for the operation of the home is exempt regardless of the value. For purposes of the home resource exclusion, a home is defined as any shelter in which the individual has an ownership interest and which is used by the individual as his or her principal place of residence. The home may be either real or personal property, fixed or mobile.

(1) The home as described in this Section may be retained without affecting eligibility during periods when it is necessary to be absent for illness or other reason. The Oklahoma Department of Human Services (OKDHS) has not set a definite time limit to the individual's absence from the home.

(2) When it is determined the individual does not have a feasible plan for and is not expected to return to the home, the current market value of the property is considered in relation to the maximum resource standard. Once the property is determined a resource, the individual is responsible for converting it for use in meeting current needs. If the individual fails or is unwilling to take steps necessary to convert the resource, continuing eligibility cannot be established. The individual is advised as to the effective date of denial or closure and his or her right to receive cash assistance when the resources are within the maximum resource standard provided other conditions of eligibility continue to be met.

(3) When a recipient sells his or her home with the intention of purchasing another home or when an insurance payment for damage to the home is received, a reasonable period of time is given to use the money for the intended purpose. A reasonable period of time is 90 calendar days.

(4) At the point a recipient decides not to use the funds from the sale of his or her home to purchase another home, an evaluation is made in accordance with OKDHS Appendix C-1, Maximum Income, Resource, and Payment Standards, Schedule IX C. The amount considered available is the total payment received from the sale of the home. At the point a recipient decides not to use an insurance payment received to repair damage to the home, the lump sum rule applies.

(5) A home traded for another home of equal value does not affect the recipient's eligibility status. If the home is traded for a home of lesser value, the difference may be invested in improvement of the new home.

[Source: Amended at 10 Ok Reg 527, eff 12-8-92 (emergency); Amended at 10 Ok Reg 2813, eff 6-25-93 ; Amended at 17 Ok Reg 2271, eff 5-1-00 ; Amended at 21 Ok Reg 814, eff 5-1-04 ; Amended at 22 Ok Reg 764, eff 5-12-05]

### **340:10-3-4. Real property other than home property**

(a) **Scope and applicability.** Real property other than home property is defined as real estate which is not maintained for home residence, mineral rights, life estates, or any other property which is not personal



property. Real property owned by a client is considered exempt as a resource for up to six calendar months only if a good faith effort to sell is being made and Form C-6, Agreement to Repay, is signed by the client. A good faith effort is defined as any recognized listing, posting, or advertising for sale at a reasonable, market price appropriate to comparable property values and a reasonable offer has not been refused. Once a resource has been exempted based on good faith effort, further exemption is not allowed.

(1) The exemption period is terminated when the property is sold, at the end of six months, or at any point in the six-month period when it is determined that a good faith effort to sell is not being made. At the end of the six-month exemption period, either the net proceeds from the sale of the property or the equity value of the property is considered as a resource.

(2) The market value of real estate other than the home owned by the client is established on the basis of oral or written information which the client has at hand and counsel with persons who have specialized knowledge about this kind of resource.

(b) **Mineral rights.** Mineral rights not associated with the home property are considered a resource. Since evaluation and salability of mineral rights fluctuate, the establishment of the value of mineral rights must be based on actual offers of purchase rather than on the opinion of collateral sources alone. The feasibility of listing the mineral rights for sale must be considered. The value of mineral rights on the total home property is considered along with surface rights.

(c) **Land held by a member of an Indian tribe.** Land which is held by an enrolled member of an Indian tribe is excluded from resources if it cannot be sold or transferred without the permission of other individuals, the tribe, or a federal agency.

(d) **Life estates and homestead rights.**

(1) **Life estates.** A life estate conveys upon an individual(s) for his or her lifetime, certain rights in property. Its duration is measured by the lifetime of the tenant or of another person, or by the occurrence of some specific event, such as remarriage of the tenant. The owner of a life estate has the right of possession, the right to use the property, the right to obtain profits from the property, and the right to sell his or her life estate interest. The contract establishing the life estate may restrain one or more rights of the individual. The individual does not have title to the property nor the right to sell the property. He or she may not usually pass it on to his or her heirs in the form of an inheritance. When a life estate in property is not used as the client's home, it is necessary to establish the value.

(2) **Homestead rights.** Homestead rights held by a client in real estate provides shelter and income as long as the client resides on the property. If the client moves from the property, abandoning homestead rights, the property becomes subject to adjudication. Since a homestead right cannot be sold, it has no value.

### **340:10-3-5. Personal property**

(a) This subsection describes personal property and how it is considered in determining eligibility for Temporary Assistance for Needy Families (TANF).

(1) **Household goods and equipment.** Items essential to day-to-day living, such as clothing, furniture, and other similarly essential items of limited value, are excluded as resources.

(2) **Livestock and equipment used in a business enterprise.**

A person's equity in livestock, equipment, or merchandise in a business enterprise is considered as a resource only when the person is not actively engaged in the business enterprise. Equity is not counted when the person actively participates in the business or is only temporarily inactive, such as when the person becomes incapacitated and reasonably expects and plans to resume the business enterprise upon recovery. Equity is established based on verbal or written information that the person has or by obtaining information from persons with specialized knowledge about the particular resources.

(3) **Livestock and home produce used for home consumption.** Any livestock or produce grown and used by the assistance unit for home consumption is excluded.

(4) **Cash savings and bank accounts.** Available cash and money in a financial institution is considered as a resource. The person's statement that he or she does not have cash on hand or in a financial institution is sufficient unless there are indications to the contrary. When there is information to the contrary or when the person does not have records to verify the amount on deposit, verification is obtained from bank records. Section 167.1 of Title 56 of the Oklahoma Statutes (O.S. 56 § 167.1) provides that financial records obtained for the purpose of establishing eligibility for assistance or services must be furnished without cost to the person or Oklahoma Human Services OKDHS.

(A) Checking accounts may or may not represent savings. Current bank statements are evaluated with the person to establish what, if any, portion of the account represents savings. Any income deposited during the current month is not considered savings.

(B) Jointly-owned accounts are considered available to the person unless it can be established what part of the account belongs to each of the owners, the money is separated, and the joint account is dissolved.

(C) Per Section 529A of Title 26 of the United States Code (26 U.S.C. § 529A) and 56 O.S. §§ 4001.1 through 4001.5, contributions deposited into or distributions withdrawn from an Oklahoma Achieving a Better Life Experience (ABLE) individual savings or trust account or an ABLE account in any other state owned by the designated beneficiary of the account and established to pay qualified disability expenses (QDE) is excluded from income or

resource consideration when determining the person's eligibility to receive, or the amount of, any assistance or benefits from local or state means-tested programs. A person may have only one ABLE account. The client must provide documents to verify that the account meets exemption criteria before the funds are excluded. Once the client verifies that the savings or trust account is a valid ABLE account, no further account information is required.

(i) A contribution to an ABLE account by another individual is excluded unless the contribution exceeds the annual federal gift tax exclusion, per 26 U.S.C. § 2503(b). Any money deposited in the account in a calendar year that is in excess of the annual federal gift tax exclusion is considered a countable resource in the month deposited.

(ii) A distribution from an ABLE account that is retained after the month of receipt is excluded in any month when spent on a QDE. Money withdrawn for reasons other than to pay a QDE is considered as a countable resource for the month of withdrawal.

(iii) A QDE is any expense related to the blindness or disability of the individual and made for the benefit of the individual. QDE's include, but are not limited to:

- (I) education;
- (II) housing;
- (III) transportation;
- (IV) employment, training, and support;
- (V) assistive technology;
- (VI) health;
- (VII) prevention and wellness;
- (VIII) financial management and administrative services;
- (IX) legal fees;
- (X) ABLE account oversight and monitoring;
- (XI) funeral and burial; and
- (XII) basic living.

(D) In certain instances, a client may receive and access funds from a charitable account in a TANF assistance unit member's name or in a third party's name.

(i) Charitable accounts are typically set up for a specific purpose, such as to help pay for medical expenses not covered by SoonerCare (Medicaid) or the person's insurance, funeral expenses, or living expenses while a person is unable to work. Medical expenses may include travel expenses to obtain treatment, such as fuel, meals, lodging, and incidentals.

(ii) The worker must verify:

- (I) the purpose of the account;
- (II) the name(s) on the account;
- (III) the person(s) who is authorized to withdraw funds from the account;
- (IV) the dates and amounts of any deposits into or withdrawals from the account within the most recent 12-month period; and
- (V) any limitations or restrictions placed on the access to account funds.

(iii) When the account is in the name of a TANF assistance unit member and there are no restrictions on accessing funds, the funds in the account are considered as a countable resource. When funds are periodically withdrawn from the account, the amount withdrawn is considered as unearned income in the month withdrawn.

(iv) When the account is in the name of an assistance unit member and funds are restricted for non-elective medical expenses or funeral expenses, the funds in the account are excluded from resource and income consideration. When the restricted funds can be released to the client for other purposes, such as living expenses, the funds are considered as unearned income in the month released.

(v) When the account is held and managed by a third party on the client's behalf and the client does not have direct access to the funds, the account is not considered as an available resource to the client. When the third party disburses funds from the account to:

- (I) vendors on the client's behalf, the released funds are not considered as countable income; or
- (II) the client for purposes other than non-elective medical bills or funeral expenses, the funds are considered as unearned income in the month received.

(vi) When charitable funds are collected and released to the client in a one-time payment for non-elective medical expenses or funeral expenses, the funds are excluded. When released for other purposes, the one-time payment is considered as a nonrecurring lump sum payment, per Oklahoma Administrative Code (OAC) 340:10-3-28.

(E) Economic impact payments received as a result of a national or state emergency are considered as a rebate or advance payment of a credit and are excluded as income; and from resource consideration for a period of 12 months from receipt date for the purpose of determining eligibility for benefits or assistance under any federal, state, or local

program financed, in whole or in part, with federal funds, per Section 103(d) of the American Taxpayer Relief Act, as amended, 26 U.S.C. § 6409.

(5) **Insurance policies and prepaid funeral benefits.**

(A) **Life insurance policies.** The cash surrender value (CSV) less any loans or unpaid interest of life insurance policies owned by members included in the TANF cash assistance is counted as a resource. Dividends that accrue and remain with the insurance company increase the amount of the resource. Dividends paid to a person are considered as income. Assignment of the face value of a life insurance policy to fund a prepaid burial contract is not counted as a resource. In this instance, the amount of the face value of the life insurance is evaluated according to (C) or, when applicable, (D) of this paragraph.

(B) **Burial spaces.** The value of a burial space for each family member whose needs are included in the cash assistance or whose income and resources are considered when computing the cash assistance is excluded from resources.

(C) **Burial funds.** Revocable burial funds not in excess of \$1500 for each person included in the assistance unit are excluded as a resource when the funds are specifically set aside for the burial arrangements of the person, per 56 O.S. § 165. Any amount in excess of \$1500 for each person included in the assistance unit is considered as a resource. Burial policies that require premium payments and do not accumulate cash value are not considered prepaid burial policies.

(i) The term burial funds means a prepaid burial contract or trust with a funeral home or burial association that is set aside to pay for the person's burial expenses.

(ii) The face value of a life insurance policy, when properly assigned by the owner to a funeral home or burial association, may be used for purchasing burial funds as described in (i) of this subparagraph.

(iii) The burial fund exclusion must be reduced by the face value of life insurance policies owned by the person and by the amounts in an irrevocable trust or other irrevocable arrangement.

(iv) Interest earned or appreciation on the value of any excluded burial funds is excluded when left to accumulate and become a part of the burial fund.

(v) When the person did not purchase the prepaid burial contract or trust, even when the person's money was used for the purchase, the person is not the owner and the prepaid burial funds are not considered a resource to the person.

(D) **Irrevocable burial contract.** Oklahoma law provides that a purchaser of a prepaid burial contract may elect to make the contract irrevocable. Irrevocability becomes effective 30-calendar days after the contract is signed.

(i) When the irrevocable election was made prior to July 1, 1986, and the person received assistance on July 1, 1986, the full amount of the irrevocable contract is excluded as a countable resource. This exclusion applies only when the person does not add to the amount of the contract. Interest accrued on the contract is not considered as adding to the contract. Any break in assistance requires that the contract be reevaluated at reapplication.

(ii) When the effective date for the irrevocable election or application for assistance is July 1, 1986, or later, the amount in any combination of an irrevocable contract, revocable prepaid burial contract or trust, and the cash value of unassigned life insurance policies cannot exceed \$10,000, per 56 O.S. § 165. Any amount in excess of \$10,000 is considered a countable resource. Accrued interest is not counted as a part of the \$10,000 limit, regardless of when it is accrued.

(iii) For an irrevocable contract to be valid, the election to make it irrevocable must be made by the purchaser or the purchaser's guardian or a person with power of attorney for the purchaser.

(E) **Medical insurance.** When a person has medical insurance, payments made to the medical provider or directly to the person and the payments are applied to the cost of medical services, they are excluded from resource consideration. Any amount remaining after payment for medical services is considered a resource.

(6) **Stocks, bonds, mortgages, and notes.** The person's equity in stocks, bonds, including United States Savings Bonds Series A through EE, mortgages, and notes are considered as resources.

(A) The current market value less encumbrances is the equity of stocks or bonds.

(B) The amount that can be realized from notes, mortgages, and similar instruments, when offered for immediate sale, constitutes a resource.

(7) **Non-negotiable resources.** Installment payments received on a note, mortgage, and similar instruments, for which a buyer cannot be found, are considered as monthly income.

(8) **Vehicles.** The market value of each vehicle owned by the person is established based on the average trade-in value listed in the National Automobile Dealers Association (NADA) books, other blue books, or one of the Internet websites that provide data on the market value of used vehicles at no cost to the user. When the person states the vehicle is worth less than the average trade-in value, the person secures written appraisals from two persons

familiar with current values. The appraisals must state the appraised value of the vehicle and why it is worth less than the average trade-in value. When there is a substantial unexplained difference between the appraisals or between the blue book value and one or more of the appraisals, the worker and the person jointly arrange for a third party familiar with current values and acceptable to both, to establish the true market value of the vehicle.

(A) **Exempt vehicles.** The equity value of up to \$5,000 in one vehicle is exempt from resource consideration. The amount of the equity in excess of \$5,000 is considered against the resource limit.

(B) **Other vehicles and personal property.** The equity in other vehicles and personal property including boats, travel trailers, motorcycles, motor homes, and campers is considered against the resource limit. The current market value less encumbrances is the equity. Only encumbrances that are verified are considered in computing equity.

(9) **Lump sum payments.** A lump sum settlement that compensates for the loss of a resource, such as an automobile, may be disregarded in the amount used to replace the loss.

(A) The person has up to 30-calendar days to replace the loss. Extension beyond 30-calendar days may be granted when completion of the transaction is beyond the person's control.

(B) Any amount remaining after the replacement of the loss is considered as income.

(C) Income tax refunds, except for the portion representing an earned income tax credit (EITC), must be treated as a resource and considered available to the person upon receipt. Per the Tax Relief, Unemployment Insurance Authorization, and Job Creation Act of 2010 Public Law 111-312, EITC payments received after December 31, 2009, as a result of filing a federal or state tax return are exempt as a resource for 12 months following receipt.

(D) Retirement benefits received as a lump sum payment at employment termination are considered a resource. These benefits are not treated as income because the retirement contribution was regarded as income in the month earned and withheld by the employer.

(10) **Individual Development Accounts (IDA).** IDAs are dedicated savings accounts that are used for a qualified purpose, such as purchasing a first home, education or job training expenses, capitalizing a small business, or other purposes designated by the IDA administrative entity.

(A) IDAs are managed by community organizations and accounts are held at local financial institutions.

(B) Cash deposits and interest accrued from the deposits made by a person in an IDA up to \$2,000 are not considered as income or resources in determining TANF

eligibility, per 56 O.S. § 230.54.

(C) The account deposits must be made from earned income, EITCs, or tax refunds.

**(11) Saving For Education, Entrepreneurship, and Downpayment (SEED) Initiative accounts.** SEED accounts are dedicated savings accounts for persons 13 through 18 years of age that are used for a qualified purpose, such as purchasing a first home, education or job training expenses, capitalizing a small business, or other purposes designated by the administrative entity. SEED accounts are managed by community organizations and accounts are held at local financial institutions. Cash deposits and interest accrued from the deposits made by a person in a SEED account up to \$2,000 are not considered as income or resources in determining TANF eligibility.

(b) Resources disregarded in determining need include:

- (1) income disregarded, per OAC 340:10-3-40;
- (2) trusts of a child(ren) included in a TANF benefit when the funds are used for educational purposes for a child(ren). Any court established trust must be examined to determine if the court restricted the trust for other purposes. The client must verify at application and renewal if funds were withdrawn. Withdrawn funds are treated as lump sum unearned income unless documentation shows the funds were used for the child(ren)'s educational purposes;
- (3) any accounts, stocks, bonds, or other resources held under the control of a third party when the funds are:
  - (A) designated for educational purposes for a child(ren) receiving TANF, even when a child(ren)'s name is on the account and the third party holder is required to access the funds; or
  - (B) established to pay for non-elective medical expenses or funeral expenses for an assistance unit member;
- (4) a migrant farm worker's out-of-state home property when the farm worker intends to return to the home after the temporary absence;
- (5) a retroactive, nonrecurring lump sum Supplemental Security Income (SSI) payment, made to a TANF recipient, in the month paid and the next month. The amount remaining after the second month is a countable resource;
- (6) funds in education accounts established, per Sections 529 and 530 of the Internal Revenue Code or exempted by O.S. 56 § 4000; and
- (7) child support collected from a child support tax intercept for the month received. The amount remaining in the second month after the month of receipt is a countable resource.

[Source: Amended at 9 Ok Reg 73, eff 10-17-91 (emergency); Amended at 9 Ok Reg 2447, eff 6-25-92 ; Amended at 10 Ok Reg 527, eff 12-8-92 (emergency); Amended at 10 Ok Reg 2813, eff 6-25-93 ; Amended at 11 Ok Reg 1023, eff 1-1-94 ; Amended at 12 Ok Reg 193, eff 12-1-94 (emergency); Amended at 12 Ok Reg 1159, eff 5-11-95 ; Amended at 15 Ok Reg 145, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1602, eff 5-11-98 ; Amended at 15 Ok Reg 3736, eff 8-1-98 (emergency); Amended at 16 Ok Reg 268, eff 12-1-98 (emergency); Amended at 16 Ok Reg 1010, eff 4-26-99 ; Amended at 17 Ok Reg 2271, eff 5-1-00 ; Amended at 18 Ok Reg 2055, eff 7-1-01 ; Amended at 20 Ok Reg 850, eff 6-1-03 ; Amended at 21 Ok



Reg 814, eff 5-1-04 ; Amended at 23 Ok Reg 980, eff 6-1-06 ; Amended at 26 Ok Reg 168, eff 11-1-08 (emergency); Amended at 26 Ok Reg 1223, eff 6-1-09 ; Amended at 27 Ok Reg 1173, eff 6-1-10 ; Amended at 27 Ok Reg 2788, eff 8-1-10 (emergency); Amended at 28 Ok Reg 781, eff 6-1-11 ; Amended at 29 Ok Reg 748, eff 7-1-12 ; Amended at 34 Ok Reg 491, eff 3-1-17 (emergency); Amended at 34 Ok Reg 1441, eff 9-15-17 ; Amended at 37 Ok Reg 1776, eff 9-15-20 ; Amended at 38 Ok Reg 2179, eff 9-15-21]

### **340:10-3-6. Trust accounts**

When a person applying for or receiving Temporary Assistance for Needy Families (TANF) has monies held in trust, a decision regarding the availability of the funds must be made. Funds held in trust are considered available when the applicant or recipient has a legal interest in a liquidated sum and has the legal ability to make such sum available for support and maintenance. Funds may also be held in trust and under the control of someone other than the TANF parent or caretaker relative, such as the courts, agencies, other individuals, or the Bureau of Indian Affairs (BIA). The availability of these funds is determined by using the procedures described in (1) through (3) of this Section.

(1) **Funds held in trust by courts, agencies, or other individuals.** The applicant or recipient must provide trust documents at application or when the worker becomes aware of the existence of a trust. Documents include a copy of the trust instrument, and a copy of all relevant court documents that may include a Journal Entry, Order, Settlement Agreement, and documentation as to date, amount, and purpose of any prior disbursements.

(A) **Release of trust by written petition or written request.** The availability of the trust can only be determined after the TANF payee sends a written petition to the court or a written request to the trustee when the trust is not in a court supervised account for the release of the total funds.

- (i) The worker sends a written notice to the TANF payee informing him or her to:
  - (I) file the written petition with the court or submit a written request to the trustee within 30-calendar days from the date of the notice;
  - (II) provide a copy to the worker; and
  - (III) failure to do so results in case denial or closure as benefit eligibility cannot be determined.
- (ii) Upon receipt of a copy of the petition or request, the trust account at issue is considered unavailable. The worker instructs the TANF payee to provide the worker with a copy of the court or trustee's response when received.
- (iii) When the TANF payee submits the petition or request timely but does not get a response from the court or trustee, the worker offers with the client's permission, to write a letter to the court or trustee.

(iv) When the court or trustee's response to the petition or request is explicit as to the availability of funds, the worker takes appropriate action. When the response is not explicit, the worker asks Adult and Family Services TANF staff to make a decision regarding the availability of funds. When necessary, AFS TANF Unit staff obtains a decision from Legal Services about the availability of the funds held in trust.

(v) A decision regarding trust availability is rendered in one of two ways. The trust monies are considered:

- (I) unavailable to the child(ren) and further review is not needed unless the trust instrument is amended; or
- (II) available as a resource in determining eligibility.

(B) **Periodic renewal.** Funds determined to be unavailable to the person are excluded until the next renewal or reapplication. At renewal, the worker obtains information from the court or trustee regarding any modification to the trust instrument and any disbursements. Disbursements are considered as income the month received. When modification or disbursements did not occur, the funds continue to be considered as unavailable until the next renewal is due.

(2) **Funds held in trust by BIA.** Interests of individual Indians in trust or restricted lands are not considered a resource in determining eligibility for assistance under the Social Security Act or any other federal or federally-assisted program.

(3) **Funds held in trust in an Achieving a Better Life Experience (ABLE) Program account.** Funds held in a trust account owned by the designated beneficiary of the account and established to pay qualified disability expenses (QDE) under the Oklahoma Achieving a Better Life Experience (ABLE) Program or an ABLE program in any other state are excluded for the purpose of determining eligibility to receive, or the amount of, any assistance or benefits from local or state means-tested programs, per Sections 4001.1 through 4001.5 of Title 56 of the Oklahoma Statutes and the Achieving a Better Life Experience Act of 2014, Section 529A of Title 26 of the United States Code (26 U.S.C. § 529A). The applicant or recipient must provide documents to verify that the trust account meets exemption criteria before the funds in the trust account are excluded from resource and income consideration. Once the client verifies that the savings or trust account is a valid ABLE account, no further account information is required.

(A) A contribution to an ABLE account by another individual is excluded unless the contribution exceeds the annual federal gift tax exclusion, per 26 U.S.C. § 2503(b). Any money deposited in the account in a calendar year in

excess of the annual federal gift tax exclusion is considered a countable resource in the month deposited;  
or

(B) A distribution from an ABLE account that is retained after the month of receipt is excluded in any month when spent on a QDE. Money withdrawn for reasons other than to pay QDE is considered as a countable resource for the month of withdrawal.

(C) A QDE is any expense related to the blindness or disability of the individual and made for the benefit of the individual. QDE's include, but are not limited to:

- (i) education;
- (ii) housing;
- (iii) transportation;
- (iv) employment, training, and support;
- (v) assistive technology;
- (vi) health;
- (vii) prevention and wellness;
- (viii) financial management and administrative services;
- (ix) legal fees;
- (x) ABLE account oversight and monitoring;
- (xi) funeral and burial; and
- (xii) basic living.

[Source: Amended at 10 Ok Reg 527, eff 12-8-92 (emergency); Amended at 10 Ok Reg 2813, eff 6-25-93 ; Amended at 11 Ok Reg 323, eff 10-15-93 (emergency); Amended at 11 Ok Reg 1639, eff 5-12-94 ; Amended at 12 Ok Reg 199, eff 12-1-94 (emergency); Amended at 12 Ok Reg 1159, eff 5-11-95 ; Amended at 15 Ok Reg 145, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1602, eff 5-11-98 ; Amended at 17 Ok Reg 2271, eff 5-1-00 ; Amended at 27 Ok Reg 1173, eff 6-1-10 ; Amended at 34 Ok Reg 491, eff 3-1-17 (emergency); Amended at 34 Ok Reg 1441, eff 9-15-17 ; Amended at 38 Ok Reg 2179, eff 9-15-21]

### **340:10-3-7. Transfer or disposal of capital resources [REVOKED]**

[Source: Amended at 10 Ok Reg 527, eff 12-8-92 (emergency); Amended at 10 Ok Reg 2813, eff 6-25-93 ; Amended at 13 Ok Reg 281, eff 5-18-95 (emergency); Amended at 13 Ok Reg 2167, eff 6-14-96 ; Revoked at 17 Ok Reg 2271, eff 5-1-00]

### **340:10-3-8. Resources acquired while receiving assistance [REVOKED]**

[Source: Amended at 10 Ok Reg 527, eff 12-8-92 (emergency); Amended at 10 Ok Reg 2813, eff 6-25-93 ; Amended at 13 Ok Reg 281, eff 5-18-95 (emergency); Amended at 13 Ok Reg 2167, eff 6-14-96 ; Revoked at 17 Ok Reg 2271, eff 5-1-00]

### **340:10-3-9. Family relations as a resource**

State law is specific on the mutual responsibility of spouses for each other and of a parent for his or her child(ren). When two persons are married and live together, income or resources available to one spouse is considered available to the other. When there is a break in the family relationship, and the spouses separate, but are not divorced or legally separated, they constitute a possible resource to each other and

must be explored to determine what, if any, income or resources may be made available.

(1) It is the legal responsibility of the natural or adoptive parent(s) to support his or her minor child(ren) to the extent that he or she is able to do so. For Temporary Assistance for Needy Families (TANF), a minor is defined as a child younger than 18 years of age, regardless of his or her marital status. A minor may also be considered a person younger than 19 years of age when he or she attends high school and is scheduled to graduate before his or her 19th birthday.

(2) This responsibility is not affected by any action of either parent affecting the marriage relationship of the parents or by a change in legal custody of the child(ren). A natural or adoptive parent living in the home is responsible for the support of his or her minor child(ren) even though the parent has remarried and the stepparent is in the home.

(3) When a minor with a child(ren) applies for TANF and lives in the same home with the minor's natural or adoptive parent(s), the income of the minor's parent(s) is considered available and computed the same as stepparent liability, per Oklahoma Administrative Code 340:10-3-57(e). When the minor parent's stepparent lives in the home, the stepparent's income is not considered.

(4) When a minor child(ren) lives in a relative's home separated from his or her parent(s), the parent(s) continues to be responsible for the minor child's support. The worker only considers financial support as income when it becomes available to the child(ren). When the parent(s) offers support only when the child(ren) moves back to the parent(s)' home, it is considered available only when such a move is in the child(ren)'s best interest.

(5) An adult child(ren) has a moral, but not a legal, obligation to support his or her parent(s) to the extent of his or her ability. The person's statement that he or she does not receive contributions from an adult child(ren) or other relatives not living with him or her is sufficient when it is consistent with other known facts. When the person states that he or she receives contributions, verbal or written statements from the persons providing the contributions regarding the frequency and amount of such contributions are required.

[Source: Amended at 10 Ok Reg 527, eff 12-8-92 (emergency); Amended at 10 Ok Reg 2813, eff 6-25-93 ; Amended at 13 Ok Reg 281, eff 5-18-95 (emergency); Amended at 13 Ok Reg 2167, eff 6-14-96 ; Amended at 16 Ok Reg 3371, eff 7-1-99 (emergency); Amended at 17 Ok Reg 2271, eff 5-1-00 ; Amended at 37 Ok Reg 1776, eff 9-15-20]

### **340:10-3-10. Maximum resources [REVOKED]**

[Source: Amended at 10 Ok Reg 527, eff 12-8-92 (emergency); Amended at 10 Ok Reg 2813, eff 6-25-93 ; Amended at 13 Ok Reg 281, eff 5-18-95 (emergency); Amended at 13 Ok Reg 2167, eff 6-14-96 ; Amended at 17 Ok Reg 444, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2075, eff 7-1-00 ; Amended at 20 Ok Reg 850, eff 6-1-03 ; Amended at 21 Ok Reg 814, eff 5-1-04 ; Amended at 22 Ok Reg 764, eff 5-12-05 ; Amended at 37 Ok Reg 1776, eff 9-15-20 ; Revoked at 39 Ok Reg 1688, eff 9-15-22]

## **PART 3. INCOME**

### **340:10-3-25. Income defined [REVOKED]**

[Source: Amended at 10 Ok Reg 527, eff 12-8-92 (emergency); Amended at 10 Ok Reg 2813, eff 6-25-93 ; Revoked at 17 Ok Reg 2271, eff 5-1-00]

### **340:10-3-26. General provisions regarding income**

Income is defined as gain, payment, or proceeds from labor, business, property, retirement, and other benefits. All available income, except that required to be disregarded by law or the Oklahoma Department of Human Services (DHS) policy, is taken into consideration in determining eligibility for Temporary Assistance for Needy Families (TANF) cash assistance. Income is considered available when actually received. When an individual's income is reduced due to recoupment of an overpayment or a garnishment, the gross amount before the recoupment or garnishment is counted as income. The individual is responsible for reporting all income, the source, amount, and regularity of receipt.

(1) Income received on behalf of a member of the assistance unit by another individual, such as, but not limited to, a guardian or conservator, is considered available to the assistance unit.

(2) Money received and used for the care and maintenance of a third party not included in the assistance unit is not counted as income when it is identified and verified as intended for third party use. The income of a stepparent or a person acting in the role of a spouse is considered per Oklahoma Administrative Code (OAC) 340:10-3-57(e).

(3) If it appears any member of the TANF assistance unit or an individual whose income and resources are considered per OAC 340:10-3-57(e) is eligible for any type of income or benefits, the worker uses Form 08AD092E, Client Contact and Information Request, to notify the assistance unit in writing. Form 08AD092E contains the information that failure to apply for and take all appropriate steps to obtain such benefits within 30-calendar days from the date of the notice results in a determination of ineligibility. Supplemental Security Income (SSI) does not fall under these types of benefits.

(4) When spouses live together or live apart, but there has not been a clear break in the family relationship, income received by either spouse and income received jointly is considered as family income.

(5) Income received by a member of the TANF cash assistance unit cannot be diverted to members receiving State Supplemental Payments or to meet the needs of a stepparent.

(6) Any family member receiving SSI is not included in a TANF benefit and the SSI income is not considered in computing the TANF benefit.

(7) When an applicant's net income, after applying applicable earned income exemptions per OAC 340:10-3-33, meets or exceeds the payment standard for that month, the application is denied.

(8) Refer to OAC 340:10-3-31.1 to determine whether the recipient is eligible for an earned income disregard prior to closing the TANF cash assistance payment because of earnings..

[Source: Amended at 10 Ok Reg 527, eff 12-8-92 (emergency); Amended at 10 Ok Reg 2813, eff 6-25-93 ; Amended at 11 Ok Reg 157, eff 11-1-93 (emergency); Amended at 11 Ok Reg 1639, eff 5-12-94 ; Amended at 13 Ok Reg 281, eff 5-18-95 (emergency); Amended at 13 Ok Reg 2167, eff 6-14-96 ; Amended at 14 Ok Reg 562, eff 12-12-96 (emergency); Amended at 14 Ok Reg 947, eff 2-1-97 (emergency); Amended at 14 Ok Reg 1310, eff 5-12-97 ; Amended at 15 Ok Reg 145, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1602, eff 5-11-98 ; Amended at 16 Ok Reg 3371, eff 7-1-99 (emergency); Amended at 17 Ok Reg 2271, eff 5-1-00 ; Amended at 20 Ok Reg 850, eff 6-1-03 ; Amended at 32 Ok Reg 1839, eff 9-15-15]

### **340:10-3-27. Monthly maximum gross income**

The monthly maximum gross income for Temporary Assistance for Needy Families (TANF) eligibility is 185% of the State Standard of Need. The "monthly gross income" is the total earned and unearned income of all members whose income is considered in determining the TANF benefit prior to application of the exemptions. Any child support payments received in the State Office must be considered as part of the family income in determining the monthly maximum gross income. When the family's gross income meets or exceeds the monthly maximum gross income, the application is denied or the case is closed.

[Source: Amended at 10 Ok Reg 527, eff 12-8-92 (emergency); Amended at 10 Ok Reg 2813, eff 6-25-93 ; Amended at 15 Ok Reg 145, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1602, eff 5-11-98 ; Amended at 17 Ok Reg 2271, eff 5-1-00]

### **340:10-3-28. Lump sum payments**

Lump sum payments received from any source are considered as income. Changing a resource from one form to another is not considered a lump sum payment.

(1) **Recurring lump sum payment.** A recurring lump sum payment is a payment received from any source on a regular basis. A recurring lump sum payment, including income from earnings, is averaged over the period it is intended to cover beginning with the month received.

(A) Examples of recurring lump sum payments include income from surface or mineral rights, oil and gas production, or cash winnings resulting from an established pattern of gambling.

(B) When, after averaging, the monthly income from the lump sum payment is in excess of the Temporary Assistance for Needy Families (TANF) cash assistance benefit, per Oklahoma Department of Human Services (DHS) Appendix C-1, Maximum Income, Resource, and Payment Standards, Schedule IX, the worker denies the application or closes the TANF benefit for the next effective month, per DHS Appendix B-2, Deadlines for

Case Actions. The income is considered available for the period of time it is intended to cover, even when it is depleted in less time.

(C) When an applicant receives a recurring lump sum payment before applying for TANF, any amount remaining at application after income averaging is considered as a resource.

(2) **Nonrecurring lump sum payment.** A nonrecurring lump sum payment is any money the client receives one time or that he or she does not expect to receive regularly from that source. Retirement benefits received at time of retirement in a lump sum are considered as a resource in the month received. The worker calculates how receipt of a nonrecurring lump sum affects the recipient's continued eligibility for TANF per the lump sum rule at (5) of this Section.

(A) Examples of nonrecurring lump sum payments considered as income include, but are not limited to:

- (i) retroactive Veterans' (VA) or Social Security benefits or worker's compensation payments;
- (ii) insurance settlements or death benefits;
- (iii) personal injury awards or settlements;
- (iv) monetary inheritances or gifts;
- (v) cash winnings from gambling or the lottery that are not the result of an established pattern of gambling; and
- (vi) wage bonuses or one-time earnings.

(B) When a TANF recipient is approved for Supplemental Security Income (SSI) and receives a retroactive, lump sum SSI payment, it is not counted as income or a resource for the month received and the following month. The amount remaining in the second month after the month received is a countable resource.

(C) When a nonrecurring lump sum payment is from a disregarded income source per OAC 340:10-3-40, it is not counted as income.

(D) Refer to OAC 340:10-3-5(a)(9) for lump sum payments considered as resources.

(E) Refer to OAC 340:10-10-7 when DHS Child Support Services receives a lump sum child support payment.

(3) **Worker responsibilities.** The worker explains the information contained on Form 08TA006E, Important Notice About the Effect of Lump Sum Payments on TANF Benefits, to ensure he or she has knowledge of the effect of lump sum receipt on eligibility, asks the client to sign the form, and provides a copy to the client. When the worker:

- (A) learns from a client or a third party that the assistance unit received or expects to receive a lump sum payment, the worker is responsible for informing the recipient of the lump sum rule per (5) of this Section within five-calendar days; and

(B) has sufficient information to compute the ineligibility period, the worker provides the client with Form 08TA007E, Lump Sum Termination or Denial Notice.

(4) **Allowable deductions.** Allowable deductions are expenses earmarked in the settlement or award to be used for a specific purpose. Examples include payment of a court judgment, including attorney fees and costs directly related to the lump sum settlement or paying medical or funeral expenses for an immediate family member. For earned income received in a lump sum, work related expenses and one-half of the remainder are allowed as deductions for each month the earned income accumulated per OAC 340:10-3-33.

(5) **Lump Sum Rule.** When a member of the TANF cash assistance unit receives a nonrecurring lump sum payment, it may cause the assistance unit to become ineligible for TANF for a number of future months. This is called the Lump Sum Rule. The effect the lump sum payment on the assistance unit's eligibility for TANF is calculated by:

(A) subtracting allowable deductions from the lump sum payment, per (4) of this Section;

(B) adding the remaining lump sum payment to all other countable monthly income. This includes any non-excluded child support payments received by Child Support Services per OAC 340:10-10-7(b)(2). It does not include the TANF benefit; and

(C) dividing the income by the monthly TANF need standard for the assistance unit's family size to determine the number of months the assistance unit is ineligible for TANF. Refer to Oklahoma Department of Human Services Appendix C-1, Schedule IX for the TANF need standard per family size.

(6) **When the Lump Sum Rule does not apply.** The Lump Sum Rule does not apply:

(A) to an applicant when the applicant:

(i) receives the lump sum payment prior to the application date. In this instance, any amount remaining on the application date is considered a resource; or

(ii) reports receipt of the lump sum payment within 10-calendar days of receipt and requests the TANF application be denied;

(B) to a recipient when:

(i) he or she anticipates receipt of the lump sum and requests the TANF benefit be closed prior to the anticipated lump sum receipt month;

(ii) he or she reports receiving the lump sum payment within 10-calendar days of receipt and repays the TANF cash assistance payment for the receipt month within 10-calendar days of timely reporting receipt of the lump sum payment;



- (iii) the lump sum payment is less than the TANF cash assistance payment. In this instance, the lump sum payment is considered as income in the receipt month. The worker completes an overpayment referral per 340:65-9 unless the recipient repays the TANF payment in the amount received; or
- (iv) the person who expects to receive a lump sum payment is not required to be included in the assistance unit per OAC 340:10-3-56 and has his or her needs removed prior to receiving the lump sum payment;

(C) when the lump sum was received and the ineligibility period was determined by another state prior to the person establishing residence in Oklahoma; or

(D) when the lump sum payment is received by a stepparent not included in the TANF cash assistance unit. When this occurs, the stepparent's countable income including the lump sum is computed per OAC 340:10-3-57(e)(1) for the receipt month. Any portion of the lump sum income retained after the receipt month represents a resource to the stepparent per OAC 340:10-3-57(e)(2).

(7) **Ineligibility period.** The worker closes the TANF benefit and starts the ineligibility period for the next advance notice effective date per DHS Appendix B-2, Deadlines for Case Actions, and sends the client Form 08TA007E. The ineligibility period applies to all persons included in the assistance unit at the time the lump sum is received. This includes those required to be included and those that may be included per OAC 340:10-3-56. The lump sum payment is considered whether depleted or not until the ineligibility period expires or is shortened per (8) of this Section. Any income remaining is treated as other income received in the first month following the ineligibility period.

(8) **Shortening the ineligibility period.** The ineligibility period may be recalculated and shortened when a member of the assistance unit verifies and informs the worker that one or more circumstances described in (A) through (D) of this subsection occurred. Circumstances may include when:

- (A) the cash assistance unit's family size increases;
- (B) the lump sum becomes unavailable due to circumstances beyond the person's control. Examples may include when:

- (i) someone steals all or part of the lump sum;
- (ii) a natural disaster occurs and the assistance unit uses all or part of the lump sum to replace items lost in the disaster;
- (iii) the assistance unit uses the lump sum to pay overdue rent or late mortgage payments owed at the time the lump sum is received; or
- (iv) the assistance unit uses the lump sum to pay overdue utility bills owed at the time the lump sum

is received;  
(C) a member of the TANF assistance unit owes or becomes responsible for and pays for an immediate family member's medical or funeral expenses; or  
(D) the person uses the lump sum to enhance employment.

Examples include:

- (i) buying or repairing a car to keep or look for employment;
- (ii) paying moving expenses to relocate for better job opportunities; or
- (iii) buying necessary clothing for job search or employment.

[Source: Amended at 10 Ok Reg 1163, eff 3-9-93 (emergency); Amended at 10 Ok Reg 2741, eff 6-11-93 ; Amended at 10 Ok Reg 4331, eff 7-19-93 (emergency); Amended at 11 Ok Reg 1639, eff 5-12-94 ; Amended at 13 Ok Reg 281, eff 5-18-95 (emergency); Amended at 13 Ok Reg 2167, eff 6-14-96 ; Amended at 14 Ok Reg 562, eff 12-12-96 (emergency); Amended at 14 Ok Reg 947, eff 2-1-97 (emergency); Amended at 14 Ok Reg 1310, eff 5-12-97 ; Amended at 15 Ok Reg 145, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1602, eff 5-11-98 ; Amended at 17 Ok Reg 2271, eff 5-1-00 ; Amended at 18 Ok Reg 2055, eff 7-1-01 ; Amended at 25 Ok Reg 903, eff 6-1-08 ; Amended at 37 Ok Reg 1776, eff 9-15-20]

### **340:10-3-29. Irregular income [REVOKED]**

[Source: Amended at 10 Ok Reg 527, eff 12-8-92 (emergency); Amended at 10 Ok Reg 2813, eff 6-25-93 ; Amended at 13 Ok Reg 281, eff 5-18-95 (emergency); Amended at 13 Ok Reg 2167, eff 6-14-96 ; Revoked at 17 Ok Reg 2271, eff 5-1-00]

### **340:10-3-30. When to consider the income of a relative-payee**

(a) **Relative-payee definition.** A relative-payee is a relative who lives with the child(ren) and takes responsibility for their needs. A relative may only be considered the payee for the assistance unit when the:

- (1) natural or adoptive parent or stepparent is not in the home; and
- (2) relative meets the specified degree of relationship, per Oklahoma Administrative Code (OAC) 340:10-9-1.

(b) **Stepparent inclusion.** A stepparent may only be considered as the payee for the assistance unit when the natural or adoptive parent is not in the home. When the natural or adoptive parent is in the home, the stepparent may only be included in the Temporary Assistance for Needy Families (TANF) assistance unit payment when the natural or adoptive parent is considered incapacitated, per OAC 340:10-10-2.

(c) **Needy caretaker definition.** When a relative-payee requests to be included in the TANF assistance unit, he or she must meet the needy caretaker definition. Only one needy caretaker is eligible to be included in the TANF assistance unit.

- (1) A relative-payee without a spouse meets the needy caretaker definition when, per Oklahoma Human Services Appendix C-1, Schedule IX the assistance unit's:
  - (A) gross monthly income does not exceed the monthly maximum gross income; and
  - (B) net income does not exceed the payment standard.

(2) When the relative payee is married and living with the spouse who is:

- (A) an Supplemental Security Income (SSI) or State Supplemental Payment (SSP) recipient, the spouse's income is not considered in determining if the relative-payee meets the needy caretaker definition; or
- (B) not an SSI or SSP recipient, the relative-payee meets the needy caretaker definition when the gross monthly income of the couple does not exceed the monthly maximum gross income for two persons.

(d) **Income consideration.** When the:

- (1) stepparent is included in the TANF cash assistance benefit because the natural or adoptive parent is not in the home, his or her income is considered the same way as the natural or adoptive parent's income is considered. When the stepparent is not included in the TANF cash assistance benefit because the natural or adoptive parent is in the home, his or her income is considered, per OAC 340:10-3-57(e).
- (2) relative-payee is not included in assistance payment, neither the relative-payee or his or her spouse's income is considered in determining the child(ren)'s TANF eligibility;
- (3) relative-payee without a spouse meets the needy caretaker definition, per (c)(1) of this Section, he or she may be included in the assistance unit benefit. The relative-payee's income is considered the same way as a natural or adoptive parent. When the relative-payee has income, the relative-payee and the worker determine if including the relative-payee increases or decreases the TANF assistance benefit for the child(ren); or
- (4) relative-payee with a spouse meets the needy caretaker definition, per (c)(2) of this Section and the spouse does not receive SSI or SSP, the spouse's income is computed the same as stepparent income, per OAC 340:10-3-57(e). The needy caretaker and the worker determine if including the needy caretaker and the spouse's income increases or decreases the TANF assistance benefit for the child(ren).

[Source: Amended at 10 Ok Reg 527, eff 12-8-92 (emergency); Amended at 10 Ok Reg 2813, eff 6-25-93 ; Amended at 13 Ok Reg 2167, eff 6-14-96 ; Amended at 16 Ok Reg 3371, eff 7-1-99 (emergency); Amended at 17 Ok Reg 2271, eff 5-1-00 ; Amended at 38 Ok Reg 2179, eff 9-15-21]

### **340:10-3-31. Earned income**

(a) The term earned income refers to monies earned by an individual through the receipt of wages, salary, commission, or profit from activities in which the individual is engaged as self-employed or as an employee. A person is considered self-employed when:

- (1) he or she declares himself or herself to be self-employed;
- (2) there is an employer/employee relationship and the employer does not withhold income taxes or Federal Insurance Contributions Act (FICA), even if required by law to do so; or
- (3) the employer withholds taxes and the person provides proof he or she files taxes as self-employed.

(b) Payments made for accumulated annual leave, vacation leave, sick leave, or as severance pay are considered as earned income whether paid during employment or at termination of employment. Temporary disability insurance payment(s) and temporary worker's compensation payments are considered as earned income if payments are employer funded and the individual remains employed.

(c) Earned income received as a one-time nonrecurring payment is considered as a lump sum payment per OAC 340:10-3-28.

(d) Earned income includes in-kind benefits received by an employee from an employer in lieu of wages or in conjunction with wages. An exchange of labor or services, for example, barter, is considered as an in-kind benefit. Such benefits received in-kind are considered as earned income only when the employee and employer relationship has been established.

(1) The cash value of the in-kind benefits must be verified by the employer.

(2) Income from self-employment also includes in-kind benefits for a work activity or service for which the self-employed person ordinarily receives payment in the business enterprise.

(3) Medical insurance secured through the employer, whether purchased or as a benefit, is not considered in-kind income.

(e) Gross earned income is used to determine eligibility for assistance. Gross earned income is defined as the "true wage" prior to payroll deductions and withholdings. Income that is based on the number of hours worked as opposed to income based on regular monthly wages must be computed as irregular income.

(f) Countable earned income excludes income from:

(1) capital investments with respect to which the individual is not actively engaged. Dividends and interest on rental properties in the hands of a rental agent with the check forwarded to the recipient is excluded from "earned income;" and

(2) benefits not in the nature of wages, salary, or profit accruing as compensation or reward for services, or as compensation for lack of employment.

(g) The worker verifies income by the best available information such as pay stubs presented by the individual or an interview with the employer. The worker verifies medical insurance which may be available to the employed Temporary Assistance for Needy Families (TANF) recipient and any dependents at the same time that income is verified.

(1) Pay stubs may only be used for verification if they have the individual's name or social security number indicating that the pay stubs are in fact the individual's wages. The stubs must include the date(s) of the pay period and the amount of income before deductions. If this information is not included, employer verification is required.

(2) With new employment, it is necessary to verify the beginning date.

(3) When a member of the assistance unit accepts employment and has not received any wages, verification of the amount of income to be considered and the anticipated date of receipt must be obtained from the employer.

(4) Verified income expected to be received during a future month is considered available to the assistance unit and is counted in determining eligibility for that month.

[Source: Amended at 9 Ok Reg 73, eff 10-17-91 (emergency); Amended at 9 Ok Reg 2447, eff 6-25-92 ; Amended at 10 Ok Reg 527, eff 12-8-92 (emergency); Amended at 10 Ok Reg 2813, eff 6-25-93 ; Amended at 12 Ok Reg 53, eff 10-7-94 (emergency); Amended at 12 Ok Reg 1159, eff 5-11-95 ; Amended at 12 Ok Reg 3446, eff 6-16-95 (emergency); Amended at 13 Ok Reg 2167, eff 6-14-96 ; Amended at 15 Ok Reg 145, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1602, eff 5-11-98 ; Amended at 17 Ok Reg 2271, eff 5-1-00 ; Amended at 27 Ok Reg 1173, eff 6-1-10 ; Amended at 29 Ok Reg 748, eff 7-1-12]

### **340:10-3-31.1. Earned income disregard**

(a) A Temporary Assistance for Needy Families (TANF) recipient may be eligible to receive an earned income disregard (EID) when conditions described in (1) through (3) of this subsection are met. When applied, the EID excludes all earned income from consideration against the cash assistance payment for up to three consecutive months. The recipient is eligible for one EID period per rolling 12-month period.

(1) Applicants and individuals not included in the cash assistance unit are not eligible for an EID.

(2) The combined monthly earned income of all TANF cash assistance unit members must not exceed \$2,064.

(3) Before applying the EID, the worker first subtracts all applicable earned income exemptions per Oklahoma Administrative Code (OAC) 340:10-3-33 from the payment standard to determine if the individual remains eligible for TANF.

(A) Refer to Schedule IX on the Oklahoma Department of Human Services (DHS) Appendix C-1, Schedule of Maximum Income, Resource, and Payment Standards for the TANF payment standard.

(B) When the recipient remains eligible, the assistance unit is not eligible for an EID period.

(C) When the client is eligible for an EID period, the worker and client update and sign Form 08TW002E, TANF Work/Personal Responsibility Agreement, to include the client's place of employment and scheduled hours.

(b) When child care is needed during the EID period, the child remains predetermined eligible with a zero family share copayment per OAC 340:40-7-1.

(c) When the client loses his or her job during the EID period, the worker removes the earned income and the EID for the next non-advance notice effective date per Appendix B-2, Deadlines for Case Actions.

(1) Unless the client begins new employment within 10-business days of losing the first job, he or she is not eligible for the remainder of the EID period.

(2) The worker and client update and sign Form 08TW002E indicating the client's agreed upon TANF work activities.

(3) When child care is open and the client begins participating in a TANF Work activity, the worker adjusts the child care plan hours to meet the needs of the new activity when increased plan hours are needed. Per OAC 340:40-5-1(3)(D), child care plan hours are not decreased until the child care renewal is due.

- (4) When child care is open and the client does not begin participating in a TANF Work activity, child care is extended for 90-calendar days per OAC 340:40-7-8 and 340:40-9-2(f)(4).
- (d) When the client remains employed for the entire EID period, an automated process closes the TANF benefit for the next negative action effective date per Appendix B-2.
- (1) When Supplemental Nutrition Assistance Program food benefits are open, refer to OAC 340:50-11-27 and DHS Appendix C-3, Maximum Food Benefit Allotments and Standards for Income and Deductions, to determine continued eligibility.
- (2) The client remains eligible for SoonerCare (Medicaid) per OAC 340:10-3-75.
- (3) When child care subsidy benefits are open the worker determines if the participant's child care renewal is due per OAC 340:40-9-1. When the child care renewal is:
- (A) due, the worker considers the participant's earnings in determining continued eligibility and family share copayment amount per DHS Appendix C-4, Child Care Eligibility/Copayment Chart; or
- (B) not due, the participant's family share copayment does not increase until the renewal is due per OAC 340:40-5-1(9).

[Source: Added at 32 Ok Reg 1839, eff 9-15-15 ; Amended at 35 Ok Reg 1609, eff 9-17-18]

### **340:10-3-32. Earned income determination**

(a) **Self-employment income determination.** Self-employment income received by an assistance unit member from a self-employment business enterprise he or she owns solely or in part; or from an employer when the assistance unit member is considered self-employed, per Oklahoma Administrative Code (OAC) 340:10-3-31(a), is considered per the procedures listed in (b) of this Section. Other types of self-employment income are listed in (1) through (4) of this subsection.

(1) **Room or board.** When a person:

(A) rents a room in the client's home, the worker subtracts 25 percent of the gross earned income amount received as a business expense; or

(B) pays for room and board in the client's home, the worker subtracts 50 percent of the gross earned income as a business expense.

(2) **Rental property.** Income from rental property is considered earned self-employment income when an outside person or agency does not conduct any of the activities associated with renting the property. When the client does not manage the rental property, it is considered unearned self-employment income. When the client incurs business expenses, such as a mortgage payment, the worker subtracts 50 percent of the client's rental property income as a business expense.

(3) **Profit sharing.** Households who operate S corporations, general or limited partnerships, or limited liability companies

(LLC), may receive profit sharing that is reported on the household's personal income tax return.

(A) S corporation profit sharing is considered unearned profit-sharing income. Refer to (c)(3) of this Section and OAC 340:10-3-39(o) for information regarding S corporations.

(B) Partnerships are unincorporated businesses with two or more partners. When an assistance unit member is a partner in a business, he or she is considered self-employed and not an employee of the business. Each partner receives a profit share from the business. When a business is considered a:

- (i) general partnership or LLC with a member-manager, each partner's share of the business income is shown as self-employment income on his or her federal income tax form; or
- (ii) limited partnership or other LLC member, each partner's share of the business income is shown as self-employment income or unearned profit-sharing income on his or her federal income tax form.

(4) **Home produce.** Any home produce from garden, livestock, and poultry utilized by the client and his or her household for their consumption is not considered in determining the Temporary Assistance for Needy Families (TANF) benefit amount. Any home produce sold to others is considered as self-employment income.

(b) **Self-employment income procedures.** Self-employment income that represents the assistance unit member's annual support is prorated over a 12-month period, even when the income is received in a shorter time period. The worker uses the gross self-employment shown on the person's most recent federal tax return, when filed, or computes the member's gross self-employment income from the member's business or employer records. When the member claimed business expenses, the worker subtracts 50 percent of the member's gross self-employment income as business expenses and divides the remaining income by the number of months to be averaged to arrive at the member's net monthly self-employment income.

(1) **New income source.** When self-employment income is received for less than a year, the income must be averaged over the time period received and the monthly income projected for the coming year.

(2) **Averaged over time period received.** When there is insufficient data to make a reasonable income projection from this income source, the worker does not consider income from this source until the six-month renewal. At renewal, the worker averages the income over the number of months received until a full year's data information is available.

(3) **Substantial increase or decrease in income.** When the assistance unit member experiences a substantial increase or decrease in income, the worker does not use prior self-employment income, such as income tax returns, to calculate

anticipated self-employment income. Instead, the worker only uses the self-employment income that can reasonably be anticipated to project future earnings.

(c) **Earned income from sources other than self-employment.**

(1) **Earned income from wages, salary, or commission.** When the income is from wages, salary, commission, or contract employment, the earned income is the gross income prior to payroll deductions and withholdings. Money from the sale of whole blood or blood plasma is also considered as earned income.

(2) **Earned income from work and training programs.**

(A) **Workforce Innovation and Opportunity Act (WIOA) of 2014.** Per Section 181 of WIOA, earned income from WIOA is exempt.

(B) **On-the-job training (OJT).** Earned income from OJT is considered as any other earned income.

(3) **S corporations.** When an assistance unit member is a shareholder in an S corporation, he or she may receive profits from the business in three ways; as a salary, as a profit share of the business, or as salary and a profit share of the business. Salaries and profit share of the business are reported on the household member's personal income tax return. Salary income is considered as earned income and profit share income is considered as unearned income.

(d) **Earned income determination.** TANF cash assistance benefit amount is determined based on actual gross income received in the current or past month, when known, and the best estimate of anticipated gross income for future months.

(1) **Income verification.** When income verification is needed, the worker gives or sends Form 08AD092E, Client Contact and Information Request, to the client specifying the income verification needed and gives the client at least 10-calendar days to provide the verification.

(A) When an application includes a past month, the worker obtains actual income, when available, to determine income eligibility for the application month.

(B) Once the client provides acceptable verification, no further information is required unless a change occurs or the renewal is due.

(C) When the client reports new employment and has not received representative pay yet, the worker determines the best estimate from information provided by the client and the employer.

(2) **Varying income.** When the assistance unit member receives income in varying amounts, the worker averages the most recent 30-calendar days of income to anticipate income for future months unless the:

(A) member starts new employment and paystubs are not available. When pay stubs are not available, the worker contacts the employer to obtain the member's hourly wage, anticipated weekly hours, and pay frequency;



(B) hourly wage changes. The worker obtains a paystub(s) that shows the member's new hourly rate, uses the past 30-calendar days of paystubs to average the member's weekly hours, and multiplies the hours by the new pay rate to anticipate income. When a paystub showing the new hourly rate is not available, the worker contacts the employer to verify the new hourly rate;

(C) member's work hours change. When paystubs are not available, the worker contacts the employer to verify the increase or decrease in hours. The worker multiplies the new hours by the hourly wage to anticipate the member's new earnings;

(D) member obtains a second job. The worker averages the client's first 30-calendar days of paystubs from the second job, when available, or contacts the employer to obtain the member's hourly wage, anticipated weekly hours, and frequency of pay. The worker computes the monthly earnings from each job separately and then adds the earnings together for the total month's gross earnings;

or

(E) paystubs are not representative of the normal circumstances. In this instance, the worker only uses the representative paystubs to anticipate future income.

(3) **Income conversion to monthly amount.** When the assistance unit member receives income more often than monthly, the worker converts the income to a monthly amount as described in (A) - (D) of this paragraph. Income received:

(A) on a daily basis is converted to a weekly amount, then multiplied by 4.3;

(B) weekly is multiplied by 4.3;

(C) twice a month is multiplied by 2; or

(D) every two weeks is multiplied by 2.15.

(e) **Benefit changes.** The client is responsible for reporting income changes within 10-calendar days of when the change takes place. The worker is responsible for taking timely action within 10-calendar days of the date the client reports the change. All client notices must include the timely reporting requirement.

(1) The TANF cash assistance benefit may be closed based on actual or anticipated earnings when the assistance unit's net income is over the payment standard, per Oklahoma Human Services Appendix C-1, Schedule IX. To determine net income, the worker subtracts the earned income disregard, when applicable, per OAC 340:10-3-31.1 and the earned income exemptions, per OAC 340:10-3-33, from gross earned income.

(2) The TANF benefit may be reopened due to administrative error, per OAC 340:65-5-6, when the client reports within 30-calendar days of the effective closure date that the anticipated income was not received or was less than expected and did not cause ineligibility.

[Source: Amended at 10 Ok Reg 527, eff 12-8-92 (emergency); Amended at 10 Ok Reg 2813, eff 6-25-93 ; Amended at 12 Ok Reg 3446, eff 6-16-95 (emergency); Amended at 13 Ok Reg 2167, eff 6-14-96 ; Amended at 14 Ok Reg 947, eff 2-1-97 (emergency); Amended at 14 Ok Reg 1310, eff 5-12-97 ; Amended at 15 Ok Reg 145, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1602, eff 5-11-98 ; Amended at 17 Ok Reg 2271, eff 5-1-00 ; Amended at 18 Ok Reg 2055, eff 7-1-01 ; Amended at 20 Ok Reg 850, eff 6-1-03 ; Amended at 21 Ok Reg 814, eff 5-1-04 ; Amended at 23 Ok Reg 980, eff 6-1-06 ; Amended at 24 Ok Reg 2183, eff 7-1-07 ; Amended at 27 Ok Reg 2788, eff 8-1-10 (emergency); Amended at 28 Ok Reg 781, eff 6-1-11 ; Amended at 29 Ok Reg 748, eff 7-1-12 ; Amended at 34 Ok Reg 1441, eff 9-15-17 ; Amended at 37 Ok Reg 1776, eff 9-15-20 ; Amended at 39 Ok Reg 1688, eff 9-15-22]

### **340:10-3-33. Individual earned income exemptions**

Exemptions from each individual's earned income include a monthly standard work related expense and one-half of the remaining earned income. Exemptions are also allowed for child and adult dependent care expenses the individual is responsible for paying if expenses are not paid through other state and federal funds and the dependent care is in a licensed facility or home. Exempt income is income that by law is not considered in determining need for financial assistance in the Temporary Assistance for Needy Families (TANF) category. Income exempt for one individual is not taken into consideration in determining the need of any other individual for assistance in the State Supplemental Payment (SSP) for the aged, blind, and disabled and TANF.

(1) **Work related expenses.** The standard deduction for work related expenses such as income tax payment, Social Security taxes, and transportation to and from work, is automatically determined monthly for each full-time or part-time employed member of the assistance unit. The standard deduction for work related expenses is:

- (A) \$240 for an applicant or recipient employed a minimum of 30 hours per week;
- (B) \$120 for an applicant or recipient employed less than 30 hours per week; and
- (C) \$120 for an individual whose income is considered in determining the amount of the TANF cash assistance.

(2) **One-half remainder.** For all countable income earned by each member included in the assistance unit, as well as a stepparent who is not included in the assistance unit, one-half of the remaining earned income is exempted per OAC 340:10-3-57(e)(1). The one-half remainder exemption is not applied to earnings received by participants while in the Subsidized Employment Program (SEP).

(3) **Dependent care expenses.** Dependent care expenses are applied after all other earned income exemptions.

- (A) Dependent care expenses are not deducted from earnings of participants while in SEP. Dependent care expenses may be deducted when:
  - (i) suitable care for a child or incapacitated adult included in the TANF assistance unit is not available from responsible individuals living in the home or through other sources;

(ii) the employed TANF assistance unit member whose income is considered in computing the amount of the benefit must purchase care;  
(iii) the gross earned income equals or exceeds the work related and dependent care expenses combined;  
(iv) the child or incapacitated adult receives care in a properly licensed facility or from an approved in-home provider as required by Oklahoma law; and  
(v) the stepparent of the child(ren) for whom TANF is requested is living in the home and has dependents not included in the assistance unit who are also living in the home per OAC 340:10-3-57(e) (1).

(B) Dependent care expenses must be verified. The actual amount paid per month is deducted up to a maximum of \$200 for a dependent under the age of two years or \$175 for a dependent two years of age and older or for an incapacitated adult. When considering the dependent care expense, only actual work hours and travel time between work and the care facility is allowed. Payment for dependent care is the individual's responsibility. The individual must immediately report any changes in the plan of care.

(C) Dependent care provided by another individual in the household who is not a member of the assistance unit may be considered an expense as long as the caregiver meets applicable state, local, or tribal laws.

[Source: Amended at 10 Ok Reg 527, eff 12-8-92 (emergency); Amended at 10 Ok Reg 2813, eff 6-25-93 ; Amended at 12 Ok Reg 3446, eff 6-16-95 (emergency); Amended at 13 Ok Reg 2167, eff 6-14-96 ; Amended at 14 Ok Reg 947, eff 2-1-97 (emergency); Amended at 14 Ok Reg 1310, eff 5-12-97 ; Amended at 16 Ok Reg 3371, eff 7-1-99 (emergency); Amended at 17 Ok Reg 2271, eff 5-1-00 ; Amended at 22 Ok Reg 764, eff 5-12-05 ; Amended at 24 Ok Reg 28, eff 10-1-06 (emergency); Amended at 24 Ok Reg 1017, eff 6-1-07 ; Amended at 27 Ok Reg 156, eff 12-1-09 (emergency); Amended at 27 Ok Reg 1173, eff 6-1-10 ; Amended at 30 Ok Reg 633, eff 6-1-13]

### **340:10-3-34. Dependent care expenses [REVOKED]**

[Source: Amended at 10 Ok Reg 527, eff 12-8-92 (emergency); Amended at 10 Ok Reg 2813, eff 6-25-93 ; Amended at 12 Ok Reg 1565, eff 4-10-95 (emergency); Revoked at 12 Ok Reg 3446, eff 6-16-95 (emergency); Amended at 12 Ok Reg 2435, eff 6-26-95 ; Revoked at 13 Ok Reg 2167, eff 6-14-96]

### **340:10-3-35. Conditions under which exemptions are not allowed [REVOKED]**

[Source: Amended at 10 Ok Reg 527, eff 12-8-92 (emergency); Amended at 10 Ok Reg 2813, eff 6-25-93 ; Amended at 12 Ok Reg 3446, eff 6-16-95 (emergency); Amended at 13 Ok Reg 2167, eff 6-14-96 ; Amended at 14 Ok Reg 947, eff 2-1-97 (emergency); Amended at 14 Ok Reg 1310, eff 5-12-97 ; Revoked at 17 Ok Reg 2271, eff 5-1-00]

### **340:10-3-36. Use of months of untimely reported earned income [REVOKED]**

[Source: Amended at 10 Ok Reg 527, eff 12-8-92 (emergency); Amended at 10 Ok Reg 2813, eff 6-25-93 ; Amended at 12 Ok Reg 3446, eff 6-16-95 (emergency); Amended at 13 Ok Reg 2167, eff 6-14-96 ; Revoked at 14 Ok Reg 947, eff 2-1-97 (emergency); Revoked at 14 Ok Reg 1310, eff 5-12-97]

### **340:10-3-37. Client's statements [REVOKED]**

[Source: Amended at 10 Ok Reg 527, eff 12-8-92 (emergency); Amended at 10 Ok Reg 2813, eff 6-25-93 ; Amended at 12 Ok Reg 3446, eff 6-16-95 (emergency); Amended at 13 Ok Reg 2167, eff 6-14-96 ; Revoked at 17 Ok Reg 2271, eff 5-1-00]

### **340:10-3-38. Formula for determining the individual's net earned income [REVOKED]**

[Source: Amended at 10 Ok Reg 527, eff 12-8-92 (emergency); Amended at 10 Ok Reg 2813, eff 6-25-93 ; Revoked at 14 Ok Reg 947, eff 2-1-97 (emergency); Revoked at 14 Ok Reg 1310, eff 5-12-97]

### **340:10-3-39. Unearned income determination**

(a) **Unearned income.** When the client has income from one or more of the income sources listed in (1) through (14) of this subsection, the income source and amount is verified and considered as unearned income.

(1) **Capital investments.** Proceeds from interest or dividends from capital investments that include savings accounts, bonds, other than United States (U.S.) Savings Bonds, notes, and mortgages received after certification constitute unearned income.

(2) **Real property held as a resource.** When the client has income from property held as a resource, the worker deducts actual business expenses before considering the remainder as unearned income.

(3) **Life estate and homestead rights.** When the client receives income from a life estate and homestead rights, it is counted as unearned income, per Oklahoma Administrative Code (OAC) 340:10-3-4(d).

(4) **Minerals.** When the client owns minerals, but not the surface rights, only actual income from minerals, delayed rentals, and production is considered. When the client does not have documentary evidence of the income amount, the worker or client obtains income verification from the firm or person who is making the payment.

(5) **Contributions.** Contributions the client recurrently receives are considered unearned income. Payments made to a vendor on the client's behalf are not considered countable contributions.

(6) **Child support.** Child support assigned and retained by Oklahoma Human Services (OKDHS) Child Support Services (CSS) is not considered as income to the client, per OAC 340:10-10-7.

(A) Child support payments an applicant receives prior to certification are considered unearned income for the month received.

(B) When CSS sends the client child support after certification because more is collected than is owed to OKDHS, it is considered as unearned income.

(C) When the Temporary Assistance for Needy Families (TANF) payee is a minor parent and lives with an adult relative who receives child support for the minor parent, the child support is considered as unearned income for the minor parent as CSS does not assign or retain it.

**(7) Retirement, disability, and unemployment benefits.**

Income received monthly from annuities, pensions, retirement, veterans' or disability benefits, workers' or unemployment compensation, survivors' or Social Security benefits are considered unearned income. When the client receives retirement income as a lump sum payment upon retirement, it is considered as a resource instead of income, per OAC 340:10-3-5(a)(9)(D). Supplemental Security Income (SSI) is not considered because the SSI recipient is not part of the TANF cash assistance unit, per OAC 340:10-3-57(b).

**(8) Military benefits.** Military benefits such as pensions, compensation, dependents' allowances, and similar benefits are considered as countable unearned income. When the client states that any member of the assistance unit, former spouse, or a non-custodial parent is or was in the military, the worker checks with state and federal veterans' agencies to determine if any benefits are available to the assistance unit.

**(9) Financial aid from any agency or organization.** Financial aid provided to students or financial aid provided by agencies or organizations that base their payment on the financial need of the household is only considered as countable unearned income when the purpose of the assistance duplicates the purpose of the TANF cash assistance.

(A) Financial aid given by other agencies or organizations because of a household's financial need does not constitute duplication when the financial aid is given for goods and services that are not included in the TANF need standard.

(B) TANF cash assistance's purpose is to provide for the assistance unit's basic needs; such as food, clothing, basic medications, personal items, shelter, utilities, and household equipment, per OAC 340:10-1-3(e).

(C) When educational assistance serves the same purpose as TANF cash assistance, such as when the client receives a stipend for living expenses, the stipend is countable income.

(D) When the assistance an agency or organization provides duplicates the purpose of TANF and:

(i) does not exceed the difference between the TANF payment and need standard by family size,

per OKDHS Appendix C-1, Maximum Income Resource, and Payment Standards, Schedule IX, it is not considered as income; or  
(ii) exceeds the difference between the payment and need standard, it is considered as unearned income.

(10) **Casual and inconsequential gifts.** Monetary gifts, such as Christmas, birthday, or graduation gifts is counted as unearned income when the gift amounts per person exceed \$30 per calendar quarter.

(A) When a single gift exceeds \$30, the entire amount is counted as unearned lump sum income, per OAC 340:10-3-28.

(B) When the recipient claims the gift is intended for more than one person in the assistance unit, it can be divided among these persons. Gifts between assistance unit members are not counted.

(11) **Grants.** Grants that are not based on financial need are considered income to the extent the grant is available for current maintenance.

(A) Any portion of the grant that is expended, designated, or intended for items not included in current maintenance is excluded provided documentation is provided to justify the exclusion.

(B) The countable amount of a grant received for a period covering more than one month is prorated over the period it is intended to cover.

(12) **Funds held in trust by Bureau of Indian Affairs (BIA).** The BIA frequently puts a person's trust funds in an Individual Indian Money (IIM) account.

(A) When the BIA states that the funds are unavailable and are not disbursed, the funds are not considered in determining eligibility. When the BIA disburses any portion of the funds to the client, guardian, or conservator, such funds are considered as available unearned income unless the income is disregarded, per OAC 340:10-3-40.

When countable funds are disbursed:

- (i) on a monthly basis, the income is treated as unearned income in the month received;
- (ii) on a regular basis, less often than monthly, the income is averaged over the number of months it is intended to cover, per OAC 340:10-3-28(1); or
- (iii) in a one-time payment, the income is considered a nonrecurring lump sum payment in the month received, per OAC 340:10-3-28(2).

(B) When the BIA states the account is unavailable and does not have a monthly disbursement plan, but an account review reveals a recent disbursement history to the client, guardian, or conservator, this may indicate that all or a portion of the account is available. When this occurs, the funds are considered as unavailable because of

a legal impediment until the situation is resolved with the BIA.

(C) When the BIA makes disbursements to a third-party vendor in payment for goods or services, the disbursements are not considered as countable income.

(13) **Profit sharing.** When a household member is a shareholder in an S corporation or a partner in a limited partnership or limited liability company, he or she may receive a distribution or profit share of the business. This is considered unearned income.

(b) **Unearned income determination.** Unearned income is determined based on actual income received in the current or past month, when known, and the best estimate of anticipated income for future months. When the client receives unearned income in varying amounts, the worker may average the income over a six-month period to determine anticipated income when averaging income over a longer time period is more representative. The worker only uses representative income amounts.

(1) **Income conversion to monthly amount.** When the client receives income more often than monthly, the worker converts the income to a monthly amount as described in (A) - (D) of this paragraph. Income received:

(A) on a daily basis is converted to a weekly amount, then multiplied by 4.3;

(B) weekly is multiplied by 4.3;

(C) twice a month is multiplied by 2; or

(D) every two weeks is multiplied by 2.15.

(2) **Benefit changes.** The client is responsible for reporting income changes within 10-calendar days of when the change takes place. The worker is responsible for taking timely action within 10-calendar days of the date the client reports the change.

(A) When the anticipated unearned income change is over the payment standard, per OKDHS Appendix C-1, Schedule IX, the worker closes the TANF cash assistance benefit effective the next advanced notice date, per OKDHS Appendix B-2, Deadlines for Case Actions.

(B) The TANF benefit may be reopened due to administrative error, per OAC 340:65-5-6, when the client reports within 30-calendar days of the effective closure date that the anticipated income was not received or was less than expected and did not cause ineligibility.

[Source: Amended at 9 Ok Reg 73, eff 10-17-91 (emergency); Amended at 9 Ok Reg 2447, eff 6-25-92 ; Amended at 10 Ok Reg 527, eff 12-8-92 (emergency); Amended at 10 Ok Reg 2813, eff 6-25-93 ; Amended at 11 Ok Reg 323, eff 10-15-93 (emergency); Amended at 11 Ok Reg 1639, eff 5-12-94 ; Amended at 15 Ok Reg 145, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1602, eff 5-11-98 ; Amended at 17 Ok Reg 2271, eff 5-1-00 ; Amended at 21 Ok Reg 814, eff 5-1-04 ; Amended at 22 Ok Reg 764, eff 5-12-05 ; Amended at 28 Ok Reg 781, eff 6-1-11 ; Amended at 37 Ok Reg 1776, eff 9-15-20 ; Amended at 39 Ok Reg 1688, eff 9-15-22]

### **340:10-3-40. Income disregards**

Income that is disregarded in determining eligibility for Temporary Assistance for Needy Families (TANF) includes:

(1) the food benefit allotment under the Food and Nutrition Act of 2008;

(2) any payment received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(3) educational assistance, such as grants, work study, scholarships, fellowships, educational loans with deferred payment, and veterans education benefits. When the educational assistance is serving the same purpose as TANF cash assistance, such as when the client receives a stipend for living expenses, the stipend is countable income. The student's classification as a graduate or undergraduate is not a factor;

(4) loans, regardless of use, when a bona fide debt or obligation to pay can be established.

(A) Criteria to establish a loan as bona fide includes an acknowledgment of obligation to repay or evidence that the loan was from a person or financial institution in the loan business.

(B) When the loan was from a person(s) not in the loan business, the client's acknowledgment of obligation to repay, with or without interest, is required to indicate that the loan is bona fide.

(C) When the loan agreement is not written, the client and lender must complete and sign Form 08AD103E, Loan Verification, or a written statement, attesting that the loan is bona fide and verifying the date and amount of loan.

(D) When the client receives loans on a recurrent or regular basis from the same source to meet expenses, the client and lender must sign an affidavit that states the payments are loans that must be repaid or that payments will be made in accordance with an established repayment schedule;

(5) Indian payments, including judgment funds or funds held in trust, distributed per capita by the Secretary of the Interior, Bureau of Indian Affairs (BIA) or distributed by the tribe subject to the Secretary of the Interior's approval. For this paragraph's purposes, per capita is defined as each tribal member receiving an equal amount.

(A) Any interest or investment income accrued on such funds while held in trust or any purchases made with judgment funds, trust funds, interest, or investment income accrued on such funds is disregarded.

(B) Any income from mineral leases or from tribal business investments is disregarded as long as the payments are paid per capita.

(C) Any interest or income derived from the principal or produced by purchases made with the funds after distribution is considered as any other income;

(6) special allowance(s) from the student's trust funds for school expenses made available upon petition in writing;

(7) income from trusts of a child(ren) included in a TANF benefit when the worker determines that funds are to be used for



educational purposes for a child(ren). Any court established trust must be examined to determine if the court restricted the trust for other purposes. The worker must verify at application and renewal if funds were withdrawn. Any funds withdrawn are treated as lump sum unearned income unless it is documented the funds were used for a child(ren)'s educational purposes;

(8) income from accounts, stocks, and bonds held under the control of a third party when the funds are:

(A) designated for educational purposes for a child(ren) in a TANF benefit even when a child(ren)'s name is on the account and the third-party holder is required to access the funds; or

(B) established to pay for non-elective medical expenses or funeral expenses for an assistance unit member, per OAC 340:10-3-5(a)(4)(D);

(9) benefits from state and community programs on aging, per Title III and Title V of the Older Americans Act of 1965 as amended by Public Law (P.L.) 100-175, Older Americans Act Amendments of 1987, and P.L. 114-144, Older Americans Reauthorization Act of 2016. Each state and various organizations receive Title V funds. These organizations include:

(A) Experience Works;

(B) National Council on Aging;

(C) National Council of Senior Citizens;

(D) American Association of Retired Persons Foundation;

(E) United States (U.S.) Forest Service;

(F) National Association for Spanish Speaking Elderly;

(G) National Urban League;

(H) National Council on Black Aging;

(I) National Council on Indian Aging;

(J) Asociacio'n Nacional Pro Personas Mayores;

(K) Associates for Training and Development, Inc.;

(L) American Samoa;

(M) Easter Seals Inc.;

(N) Goodwill Industries International, Inc.;

(O) Institute for Indian Development;

(P) National Able Network;

(Q) National Asian Pacific Center on Aging;

(R) National Caucus and Center on Black Aged, Inc.;

(S) National Older Worker Career Center;

(T) Operation A.B.L.E. of Greater Boston, Inc.;

(U) Senior Service America, Inc.;

(V) SER-Jobs for Progress National, Inc.;

(W) Workplace, Inc.; and

(X) VANTAGE Aging;

(10) unearned income received by a child(ren) in a TANF benefit, such as a needs based payment, cash assistance, compensation in lieu of wages, or allowance from a program funded by the Workforce Innovation and Opportunity Act (WIOA) of 2014, including Job Corps income and earned income received as wages;

(11) payments for supportive services or reimbursement for out-of-pocket expenses made to individual volunteers serving as foster grandparents, senior health aides, or senior companions, and to persons serving in the Service Corps of Retired Executives and Active Corps of Executives;

(12) payments, allowances, or earnings to persons participating in the AmeriCorps State and National program or the AmeriCorps National Civilian Community Corps authorized by the National and Community Service Act of 1990, 42 U.S.C. § 12637(d); and other payments to volunteers authorized by the National and Community Service Trust Act of 1993, P. L. 103-82, 42 U.S.C. §§ 12571, et seq. and administered by the Corporation for National and Community Service;

(13) the value of supplemental food assistance received under the Child Nutrition Act or the special food service program for children under the National School Lunch Act;

(14) any portion of payments made under the Alaska Native Claims Settlement Act to an Alaska Native that are exempt from taxation under the Settlement Act;

(15) any income of an adult or a child(ren) in the family group living in the home and receiving Supplemental Security Income (SSI) is not considered in determining the TANF benefit. The Social Security Administration considers the individual's income in determining eligibility for SSI and includes any payment made by Developmental Disabilities Services through the Family Support Assistance Payment Program on behalf of a child(ren) receiving SSI and any other earned or unearned income of the person;

(16) Experimental Housing Allowance Program payments made under Annual Contributions Contracts entered into prior to January 1, 1975, under Section 23 of the US Housing Act of 1937, as amended;

(17) earnings of a child(ren) in a TANF benefit who is a full-time student;

(18) government rental or housing subsidies by governmental agencies, such as Housing and Urban Development received in-kind or in cash for rent, mortgage payments, or utilities;

(19) reimbursements from an employer, the Department of Labor, or the BIA, for out-of-pocket expenditures and allowances for travel, training, meals, or supplies including uniforms, to the extent the funds are used for expenses directly related to such travel, training, meals, or supplies;

(20) Low Income Home Energy Assistance Program payments for energy assistance and payments for emergency situations under Emergency Assistance to Needy Families with Children;

(21) federal or state Earned Income Tax Credit refunds received after December 31, 2009, as a result of filing a federal or state tax return are exempt as income for 12 months following receipt, per the Tax Relief, Unemployment Insurance Authorization, and Job Creation Act of 2010, P.L. 111-312;

(22) payments made from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In Re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.);

(23) payments made from the Radiation Exposure Compensation Trust Fund as compensation for injuries or deaths resulting from the exposure to radiation from nuclear testing and uranium mining;

(24) federal major disaster and emergency assistance provided, per the Robert T. Stafford Disaster Relief and Emergency Assistance Act, P.L. 93-288 as amended, 42 U.S.C. § 5155(d) and comparable disaster assistance provided by states, local governments, and disaster assistance organizations;

(25) interests of individual Indians in trust or restricted lands;

(26) individual Indians' income up to \$2,000 per calendar year derived from leases or other uses of individually-owned trust or restricted lands. Any remaining disbursements from the trust or the restricted lands are considered unearned income;

(27) payments received under the Civil Liberties Act of 1988. These payments are made to persons of Japanese ancestry who were detained in internment camps during World War II;

(28) payments made to persons because of their status as victims of Nazi persecution;

(29) interest accrued from deposits made by a person into an Individual Development Account up to \$2,000;

(30) stipends paid to students participating in the Indian Vocational Education Program through the Carl D. Perkins Vocational and Applied Technology Education Act;

(31) payments made from the crime victims compensation program as amended in Section 1403 of the Victims of Crime Act of 1984, 42 U.S.C. § 10602;

(32) reimbursements made to a foster care parent(s) or a potential foster care parent(s);

(33) payments as described in 38 U.S.C. § 1823(c) provided to certain persons who are children of Vietnam War veterans;

(34) allowances, stipends, earnings, compensation in lieu of wages, or other payments made for participation in WIOA or other federally-funded grants and workforce training programs paid to persons of all ages and student status;

(35) child support judgments or arrearage payments received for a child(ren) no longer age-eligible for the TANF cash benefit;

(36) money deposited into or withdrawn from a qualified Oklahoma Achieving a Better Life Experience (ABLE) Program account, or an ABLE account in any other state, owned by the designated account beneficiary to pay for qualified disability expenses (QDE), is excluded from income or resource consideration, per Sections 4001.1 through 4001.5 of Title 56 of the Oklahoma Statutes and the ABLE Act of 2014, 26 U.S.C. § 529A. A person may have only one ABLE account.

(A) The client must provide documents to verify the account meets exemption criteria before the funds are

excluded. Once the client verifies that the savings or trust account is a valid ABLE account, no further account information is required.

(B) A contribution to an ABLE account by another individual is excluded unless the contribution exceeds the annual federal gift tax exclusion amount, per 26 U.S.C. § 2503(b). Any money deposited in the account in the calendar year that exceeds the annual federal gift tax exclusion amount is considered as a countable resource in the amount deposited.

(C) A distribution from an ABLE account that is retained after the month of receipt is excluded in any month when spent on a QDE. Money withdrawn for reasons other than to pay a QDE is considered as a countable resource for the month of withdrawal.

(D) A QDE is any expense related to the blindness or disability of the individual and made for the benefit of the individual. QDE's include, but are not limited to:

- (i) education;
- (ii) housing;
- (iii) transportation;
- (iv) employment, training, and support;
- (v) assistive technology;
- (vi) health;
- (vii) prevention and wellness;
- (viii) financial management and administrative services;
- (ix) legal fees;
- (x) ABLE account oversight and monitoring;
- (xi) funeral and burial; and
- (xii) basic living;

(37) income received by a member of the U.S. Armed Forces, per 37 U.S.C. Chapter 5 and Section 273.9(c)(20) of Title 7 of the Code of Federal Regulations that is:

- (A) received in addition to the service member's basic pay during combat deployment;
- (B) received as a result of the service member's deployment or service in an area designated as a combat zone as determined, per Executive Order or P.L.; and
- (C) not received by the service member prior to the service member's deployment to or service in a federally designated combat zone;

(38) economic impact payments received as a result of a national or state emergency are considered as a rebate or advance payment of a credit and are excluded as income and from resource consideration for a period of 12 months from receipt date when determining eligibility for benefits or assistance under any federal program or under any state or local program financed in whole or in part with federal funds, per Section 103(d) of the American Taxpayer Relief Act, as amended, 26 U.S.C. § 6409;

(39) casual and inconsequential gifts, such as Christmas, birthday, or graduation gifts that do not exceed \$30 per calendar quarter for each person in the cash assistance unit. When the recipient claims that the gift is intended for more than one person in the assistance unit, it can be divided among these persons;

(40) financial aid provided to persons by agencies or organizations when the purpose of the assistance does not duplicate the purpose of the TANF assistance, per OAC 340:10-3-39(9);

(41) income received from the Oklahoma Department of Rehabilitation Services that is allocated for items not covered in the TANF standards, per OAC 340:10-1-3(e). Examples of disregarded assistance or services are car fare to a rehabilitation center, extra clothing, lunches, grooming needed for a training program, and any other such complementary payments.

[Source: Amended at 10 Ok Reg 527, eff 12-8-92 (emergency); Amended at 10 Ok Reg 2313, eff 6-25-93 ; Amended at 11 Ok Reg 1031, eff 1-1-94 ; Amended at 15 Ok Reg 145, eff 11-1-97 (emergency); Amended at 15 Ok Reg 374, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1602, eff 5-11-98 ; Amended at 15 Ok Reg 3736, eff 8-1-98 (emergency); Amended at 16 Ok Reg 1943, eff 6-11-99 ; Amended at 17 Ok Reg 2271, eff 5-1-00 ; Amended at 18 Ok Reg 2055, eff 7-1-01 ; Amended at 20 Ok Reg 850, eff 6-1-03 ; Amended at 21 Ok Reg 814, eff 5-1-04 ; Amended at 23 Ok Reg 980, eff 6-1-06 ; Amended at 26 Ok Reg 1223, eff 6-1-09 ; Amended at 27 Ok Reg 1860, eff 7-1-10 ; Amended at 27 Ok Reg 2788, eff 8-1-10 (emergency); Amended at 28 Ok Reg 781, eff 6-1-11 ; Amended at 29 Ok Reg 748, eff 7-1-12 ; Amended at 30 Ok Reg 633, eff 6-1-13 ; Amended at 34 Ok Reg 491, eff 3-1-17 (emergency); Amended at 34 Ok Reg 1441, eff 9-15-17 ; Amended at 37 Ok Reg 1776, eff 9-15-20 ; Amended at 38 Ok Reg 2179, eff 9-15-21 ; Amended at 39 Ok Reg 1688, eff 9-15-22]

## **PART 5. ASSISTANCE PAYMENTS**

### **340:10-3-55. Budgeting [REVOKED]**

[Source: Amended at 8 Ok Reg 3443, eff 7-31-91 (emergency); Amended at 9 Ok Reg 2817, eff 7-13-92 ; Amended at 10 Ok Reg 829, eff 1-1-93 ; Amended at 11 Ok Reg 991, eff 2-1-94 (emergency); Amended at 11 Ok Reg 3227, eff 6-27-94 ; Amended at 13 Ok Reg 281, eff 5-18-95 (emergency); Amended at 13 Ok Reg 2167, eff 6-14-96 ; Revoked at 17 Ok Reg 2271, eff 5-1-00]

### **340:10-3-56. Household composition**

(a) **Household composition.** Household members who must be, may be, and must not be included in the Temporary Assistance for Needy Families (TANF) assistance unit are defined in this Section.

(1) Persons who must be included in the assistance unit, unless otherwise excluded per (3) of this subsection, are:

- (A) at least one TANF eligible child or a pregnant applicant or recipient who has no other children in the home;
- (B) the natural or adoptive parent(s); and
- (C) all blood-related minor siblings living in the home with the TANF eligible child(ren), including half-brothers and half-sisters, unless:
  - (i) eligibility for the half-brothers and half-sisters does not exist;

- (ii) a minor parent is the adult in the assistance unit and the minor parent's siblings live in the same home;
- (iii) a blood-related minor sibling receives Supplemental Security Income (SSI); or
- (iv) a blood-related minor sibling is an ineligible alien, per Oklahoma Administrative Code (OAC) 340:10-15-1.

(2) Persons whose needs may be included are:

- (A) the stepparent when the natural or adoptive parent is incapacitated, per OAC 340:10-10-2 or absent, per OAC 340:10-10-4;
- (B) a caretaker relative-payee meeting the definition of needy, per OAC 340:10-3-30(c), who lives with the child(ren), takes responsibility for their needs because the natural or adoptive parent is absent from the home, and is of the specified degree of relationship, per OAC 340:10-9-1.;
- (C) the natural or adoptive parent or a caretaker relative when the only dependent child(ren) residing in the home:
  - (i) receives SSI; or
  - (ii) was removed from the home by a child protection action and the plan for the child(ren) is impending reunification, per OAC 340:10-3-57(i);
- (D) the caretaker relative when the only child(ren) in the home receives federal or state foster care maintenance payments;
- (E) the adoptive parent(s) when the only dependent child(ren) receives a Title IV-E or state adoption subsidy;
- (F) a family that includes any head of household or a spouse of the head of household who received TANF benefits for a total of 60-cumulative months nationwide, whether consecutive or not, and a hardship extension is approved. All other TANF eligibility conditions must be met. The hardship extensions are:
  - (i) under-employment. This occurs when the parent or needy caretaker regularly works 30 hours or more per week, earns at least minimum wage or its equivalent, and the assistance unit's income is insufficient to close the TANF cash assistance;
  - (ii) chronically under-employed. This occurs when the parent or needy caretaker is under-employed over an extended time period because of documented barriers;
  - (iii) pending SSI or Social Security Administration (SSA) disability application. This extension is granted only when Adult and Family Services (AFS) TANF Unit staff determines the disability application has merit and the participant pursues all appeals through a decision by the SSA Appeals

Council. When the SSA Appeals Council issues an unfavorable decision after the parent or needy caretaker is approved for a hardship extension, the worker notifies AFS TANF Unit staff, and closes the TANF benefit for the next advance notice effective date, per Oklahoma Human Services Appendix B-2, Deadlines for Case Actions;

(iv) care of a disabled child(ren) or spouse. This extension is granted only when verification is provided to show the participant is needed in the home to care for this disabled person and alternative care is unavailable;

(v) a clinical diagnosis of mental illness. The participant is diagnosed with, and receiving treatment for, a mental disorder listed at Part 404, Subpart P, Appendix 1 of Title 20 of the Code of Federal Regulations. This mental illness must interfere with the participant maintaining or obtaining gainful employment. When appropriate, the participant participates in other work activities in conjunction with receiving treatment;

(vi) a substance abuse treatment plan, per OAC 340:10-2-6. The participant has a treatment plan requiring:

(I) intensive aftercare treatment for nine hours or more per week in conjunction with other appropriate work activities;

(II) outpatient treatment for nine hours or more per week in conjunction with other appropriate work activities; or

(III) is in full-time inpatient treatment;

(vii) a continuing training or educational activity. The participant, during the 60th month, is regularly attending an approved training or educational activity that will be completed in less than 12 months;

(G) a child(ren) of a minor in foster care when the minor's child is not included in a foster care payment; or

(H) a child(ren) living with a parent permanently deemed ineligible due to a fourth violation of using the TANF cash assistance in a prohibited location, per OAC 340:10-3-57(h)(2).

(3) Persons whose needs may not be included are:

(A) a person who received a State Supplemental Payment (SSP) for the same month;

(B) a person who received or is included in an SSI payment for the same month;

(C) the payee's spouse when the payee is not the natural or adoptive parent;

(D) a child(ren) included in a foster care payment;

(E) an adopted child(ren) receiving an adoption subsidy;

(F) an alien who is not legally admitted to the United States for permanent residence or does not meet alienage requirements;

(G) a caretaker other than a stepparent when the natural or adoptive parent is in the home;

(H) a person whose period of ineligibility due to receipt of a lump sum payment has not expired;

(I) a stepparent when the natural or adoptive parent is in the home and not incapacitated;

(J) a person in a household that is eligible to receive benefits under a tribal TANF program;

(K) a fugitive felon;

(L) a probation or parole violator;

(M) a person convicted of having fraudulently misrepresented residence in order to obtain assistance in more than one state. The person is ineligible for a 10-year period that begins on the conviction date;

(N) child(ren) in a family that includes any head of household or a spouse of the head of household who received TANF benefits for a total of 60-cumulative months, whether or not consecutive, and a hardship extension is not approved;

(O) a minor unmarried payee who has a dependent child(ren) in the minor's care and does not reside with a parent(s), legal guardian, or other adult relative 18 years of age or older.

(i) For the minor payee to be eligible for TANF benefits, the minor must live:

- (I) with the minor's natural or adoptive parent(s);
- (II) with a stepparent;
- (III) with a legal guardian;
- (IV) with another adult relative 18 years of age or older; or
- (V) in a foster home, maternity home, or other adult supervised supportive living arrangement. A supportive living arrangement is a privately maintained family setting and an adult assumes the responsibility for the care and control of the minor and the minor's dependent child(ren) or provides supportive services, such as counseling and guidance.

(ii) The minor payee may reside elsewhere and be eligible for TANF if good cause is established because the:

- (I) minor has no living parent or legal guardian whose whereabouts are known;
- (II) parent(s), legal guardian, or other adult relative does not allow the minor to live in the home;



(III) physical or emotional health or safety of the minor or the minor's dependent child(ren) is jeopardized when the minor or the minor's dependent child(ren) lives in the home with the parent(s), legal guardian, or other adult relative 18 years of age or older;

(IV) minor parent has lived apart from his or her parent(s), legal guardian, or other adult relative 18 years of age or older for at least one year before the birth of the child or before the minor applies for benefits; or

(V) minor parent is legally emancipated, per Chapter 4, Title 10 of the Oklahoma Statutes. A minor is legally emancipated when the district court granted the minor authority to act on his or her own behalf;

(P) an adult parent or needy caretaker permanently deemed ineligible due to a fourth violation of using TANF cash assistance in a prohibited location, per OAC 340:10-3-57(h)(1)(D).

**(b) Temporary absence.** In general, when a person included in a TANF assistance unit is temporarily absent from the home, he or she continues to be included for at least three months unless circumstances unrelated to the temporary absence occurs or a longer period of absence is permitted as indicated in this subsection. Persons temporarily absent from the home and included in the assistance unit are a:

(1) person receiving training or education for employment during the time the training or educational activities take place;

(2) child(ren), during the school term, attending:

(A) boarding school;

(B) the School for the Blind or the School for the Deaf;

(C) school, other than boarding school, when:

(i) the parent or needy caretaker maintains normal ties with the child;

(ii) the child(ren) continues under the payee's control and guidance during the absence; and

(iii) the payee is responsible for meeting the child(ren)'s expenses;

(3) child(ren) absent from the home to visit the non-custodial parent for a maximum of three months. This consideration applies only to visitation and does not apply if the non-custodial parent has physical and legal custody of the child(ren) during these three months;

(4) person absent from the home because of entrance into a private facility for treatment, rehabilitation, behavioral problems, or special training for up to four months. When an assessment indicates the person is expected to be absent more than four months, the person's needs are not included in the assistance unit;

- (5) person absent from the home for medical services, other than institutionalization for mental illness treatment, intellectual disability, or tuberculosis, for up to six months. Six-month extensions may be allowed when verification indicates the person may return to the home within the next six months;
- (6) person absent from the home to receive substance abuse treatment for up to four months when not subject to requirements, per OAC 340:10-4-1. A four-month extension may be allowed when verification indicates the person will return to the home within the next four months; or
- (7) person absent from the home to receive nursing care approved by the Oklahoma Health Care Authority, Level of Care Evaluation Unit. When it appears the person is disabled, an SSP application is taken, and a referral made to the SSA district office for an SSI application.

[Source: Amended at 8 Ok Reg 1225, eff 4-15-91 (emergency); Amended at 9 Ok Reg 1543, eff 4-27-92 ; Amended at 10 Ok Reg 527, eff 12-8-92 (emergency); Amended at 10 Ok Reg 2813, eff 6-25-93 ; Amended at 11 Ok Reg 3995, eff 6-17-94 ; Amended at 11 Ok Reg 4475, eff 8-1-94 (emergency); Amended at 12 Ok Reg 1159, eff 5-11-95 ; Amended at 13 Ok Reg 619, eff 9-1-95 (emergency); Amended at 13 Ok Reg 2167, eff 6-14-96 ; Amended at 15 Ok Reg 145, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1602, eff 5-11-98 ; Amended at 17 Ok Reg 2075, eff 7-1-00 ; Amended at 17 Ok Reg 3225, eff 8-1-00 ; Amended at 18 Ok Reg 149, eff 12-1-00 (emergency); Amended at 18 Ok Reg 2055, eff 7-1-01 ; Amended at 18 Ok Reg 3635, eff 10-1-01 (emergency); Amended at 19 Ok Reg 1737, eff 6-14-02 ; Amended at 20 Ok Reg 850, eff 6-1-03 ; Amended at 21 Ok Reg 814, eff 5-1-04 ; Amended at 23 Ok Reg 980, eff 6-1-06 ; Amended at 26 Ok Reg 1223, eff 6-1-09 ; Amended at 27 Ok Reg 17, eff 11-1-09 (emergency); Amended at 27 Ok Reg 1173, eff 6-1-10 ; Amended at 29 Ok Reg 748, eff 7-1-12 ; Amended at 30 Ok Reg 338, eff 12-5-12 (emergency); Amended at 30 Ok Reg 633, eff 6-1-13 ; Amended at 32 Ok Reg 1839, eff 9-15-15 ; Amended at 39 Ok Reg 1688, eff 9-15-22 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:10-3-57. Special considerations**

**(a) Parent receiving or applying for State Supplemental Payment (SSP) for the aged, blind, or disabled.** A person must not concurrently be included in a Temporary Assistance for Needy Families (TANF) assistance unit and SSP for the same month. The person may be included in the TANF assistance unit while an application is pending for SSP or Supplemental Security Income (SSI) when all eligibility requirements are met.

(1) When a parent lives in the home, receives SSP, and is not included in the TANF benefit , the worker does not consider the parent's income or resources as available to the TANF assistance unit.

(2) When a parent becomes ineligible for SSP and does not receive SSI, the worker considers the parent's income, resources, and deprivation status in determining TANF eligibility for the assistance unit and the parent.

(A) When adding the parent and his or her income causes the TANF assistance unit to be over income per Oklahoma Human Services (OKDHS) Appendix C-1, Maximum Income, Resource, and Payment Standards, Schedule IX, the worker closes the TANF and medical benefit.

(B) When the parent's SSP benefit closed because of an overall Social Security increase and the parent cannot be added to the TANF benefit, the worker places the SSP

benefit in Special Medical Status.

(3) When a parent becomes ineligible to receive SSP but continues to receive SSI, the worker does not consider the parent's income or resources as available to the TANF assistance unit. The parent must complete a separate SoonerCare (Medicaid) application to continue receiving medical benefits.

**(b) Concurrent receipt of TANF and SSI.** A person must not concurrently be included in a TANF benefit and receive an SSI payment for the same month. When a person included in a TANF application or an active TANF benefit meets the eligibility conditions for TANF and SSI, the person may choose to have eligibility determined for TANF or SSI benefits. The payee must inform OKDHS Adult and Family Services (AFS) worker when any member of the assistance unit makes application for, or becomes eligible to receive, SSI. When the payee or a member of the assistance unit makes an application for SSI, the payee must inform the Social Security Administration (SSA) of TANF receipt.

(1) When the only dependent child(ren) receives SSI, the natural or adoptive parent(s) or needy caretaker relative may receive an adult-only TANF benefit when all other eligibility factors are met.

(2) When a TANF applicant is also an SSI applicant, he or she may be included in the TANF benefit, when eligible, until notified of SSI eligibility.

(3) When a TANF recipient is an SSI applicant, SSA notifies OKDHS of SSI eligibility to coordinate closure of the person's TANF benefit and approval of SSI and requests the amount of TANF benefits paid for each month of SSI eligibility. When the actual closure date is later than the date given orally to SSA, TANF payments to SSI recipients are TANF overpayments and must be recouped per Oklahoma Administrative Code (OAC) 340:65-9.

(4) When a TANF recipient is determined ineligible for SSI, the person may continue to be included in the TANF assistance unit when all other conditions of eligibility are met.

(5) When a TANF recipient is determined ineligible for SSI for reasons other than a disability determination, the person may be included in a SSP cash assistance benefit instead of TANF, when determined disabled by the Oklahoma Health Care Authority (OHCA) Level of Care Evaluation Unit (LOCEU) per OAC 317:35-5-4(1)(D).

**(c) Concurrent receipt of state and tribal TANF.** A person must not be concurrently included in a tribal TANF payment and a state approved TANF benefit in the same month. When the person meets the criteria of a tribal TANF service area and population, the entire assistance unit must be served by tribal TANF. When the household moves out of the tribe's service area, the worker coordinates certification of state TANF benefits.

**(d) Concurrent receipt of TANF in more than one state.** A person must not be included in a TANF benefit in Oklahoma and another state for the same month.

**(e) Stepparent, needy caretaker's spouse, person acting in the role of a spouse, or parent(s) of a minor parent.** The natural or adoptive

parent's income is available to the TANF assistance unit, and the worker does not divert income to meet the needs of the stepparent or other dependents in the home. The worker does not count any income when the stepparent, needy caretaker's spouse, person acting in the role of a spouse, parent(s) of a minor parent, or his or her dependent is an SSI recipient.

(1) **Stepparent or spouse of needy caretaker income.** When a stepparent or the needy caretaker's spouse lives in the home with the child(ren) applying for or receiving TANF, the worker counts a portion of his or her verified gross earned and unearned income, after all applicable TANF income disregards and work-related expenses are subtracted, as income available to the assistance unit. To determine the amount to consider, the worker:

(A) subtracts the work-related expense, one-half of the remaining gross earned income, and any dependent care expense from the stepparent's or spouse of a needy caretaker's earned income per OAC 340:10-3-33;

(B) adds the net earned income to the gross unearned income of the stepparent or the spouse of a needy caretaker;

(C) subtracts the need standard for the appropriate number of persons per OKDHS Appendix C-1, Maximum Income, Resource, and Payment Standards, Schedule IX.A. The need standard includes:

(i) the stepparent or needy caretaker's spouse ; and

(ii) any dependents not included in the assistance unit but who:

(I) live in the home; and

(II) can be claimed on the personal income taxes of the stepparent or needy caretaker's spouse ; and

(D) subtracts the verified alimony and child support payments to persons outside of the household to arrive at the stepparent's contribution to the assistance unit; and

(E) adds the contribution of the stepparent or spouse of a needy caretaker's to all other gross income of persons included in the TANF assistance unit to determine eligibility.

(2) **Stepparent or spouse of a needy caretaker resources.**

The worker does not consider resources owned exclusively by the stepparent or spouse of a needy caretaker to determine the assistance unit's resource eligibility but does consider the assistance unit's share of resources owned jointly with the stepparent or spouse of a needy caretaker.

(3) **Person acting in the role of a spouse.** The worker must count the income of a person acting in the role of a spouse who lives in the home with the natural or adoptive parent who does not receive a TANF benefit on another case.

(A) For the purpose of this rule, a person is acting in the role of a spouse when one or both of these factors exist:

(i) the parent and the person represent themselves to be a couple; or

(ii) have a physical relationship with each other.

(B) When the client states the conditions in (A) of this paragraph do not exist, factors that may indicate the person is acting in the role of a spouse include, when he or she:

(i) assists in parenting the child(ren), such as exercising responsibility for the child(ren), providing day-to-day care, physical care, and guidance for the child(ren);

(ii) provides financial support for the family beyond his or her own pro rata share of the household expenses;

(iii) shares joint bank accounts or real property ownership with the parent; or

(iv) files a joint tax return with the parent.

(C) The worker computes the income of this person the same as stepparent income, per (1) of this Subsection. The person acting in the role of spouse is not eligible to receive the exemption of one-half of the remainder or a dependent care expense deduction in determining this person's countable earned income.

(D) When the parent or the person acting in the role of a spouse fails to provide information necessary to determine income eligibility, the worker denies the application or closes the cash assistance. The income of non-relative adults may be excluded when the adults have separate living quarters and demonstrate no characteristics of a person acting in the role of spouse.

**(4) Parent(s) of a minor parent.** When a minor parent lives with his or her natural or adoptive parent(s) and the needs of the parent(s) are not included in the assistance unit, the:

(A) parent's income is available to the assistance unit and computed the same as stepparent income, per (1) of this Subsection. The parent of the minor parent may or may not be designated as the substitute payee for the assistance unit; and

(B) income of a minor parent's stepparent is not considered.

**(f) Allocating or diverting income.** When family members are not included in the assistance unit, the worker follows these rules to determine the income available to the assistance unit.

(1) Income received by a person included in the assistance unit is not allocated or diverted to persons who are not in the assistance unit. All countable unearned and earned income of the person is considered available to the assistance unit.

(2) The net income of an alien parent excluded from the benefit because the citizenship or alienage requirement is not met is considered the same as stepparent income, per (e)(1) of this Section. The income of disqualified alien siblings is not

considered when determining eligibility of an otherwise eligible child(ren).

(3) The net income of a fugitive felon excluded from the benefit is considered the same as stepparent income, per (e)(1) of this Section.

(g) **Benefit reduction as a result of program violation.** The TANF benefit is reduced by 25 percent of the payment standard when a determination of program violation is made. The 25 percent penalty is removed the next effective date when compliance is documented or the penalty time period ends. When multiple types of program violations occur, a 25 percent penalty of the payment standard is imposed for each type of violation. When the benefit reduction causes existing income to be in excess of the benefit amount, the case is closed using the reason for the benefit reduction. The amount of the payment standard reduction applies as Food Stamp Penalty Income (FSPI) in the Supplemental Nutrition Assistance Program (SNAP) per OAC 340:50-7-29(c)(1)(A). Reasons for benefit reduction are:

- (1) refusal to cooperate in an effort to obtain child support per OAC 340:10-10-5(c);
- (2) failure to apply for or provide a Social Security number per OAC 340:10-12-1;
- (3) failure of a child(ren) in kindergarten to 18 years of age to attend school per OAC 340:10-13-1;
- (4) failure to provide verification of child(ren) immunizations per OAC 340:10-14-1; and
- (5) intentional program violations determined as fraud by court action or an administrative disqualification hearing or administrative hearing waiver per OAC 340:65-9-2(d) and 340:65-9-4.

(h) **Benefit reduction penalty resulting from use of the TANF benefit in a prohibited business.** Per Section 608(a)(12) of Title 42 of the United States Code and Section 241.4 of Title 56 of Oklahoma Statutes, TANF recipients must not use a debit or electronic benefit transfer (EBT) card containing TANF cash assistance in prohibited businesses. Refer to OAC 340:10-1-3(13) for a list of prohibited businesses and the definition of an EBT transaction.

(1) When the parent or caretaker has violated provisions per OAC 340:10-1-3(13), the worker reduces the TANF cash assistance payment standard by:

- (A) 25 percent for three months for the first violation;
- (B) 35 percent for six months for the second violation;
- (C) 50 percent for 12 months for the third violation; and
- (D) permanently by deeming the parent or needy caretaker ineligible for TANF benefits for subsequent violations.

(2) When the parent or needy caretaker is permanently deemed ineligible to receive TANF cash assistance for this reason and all other factors of eligibility are met, he or she may receive child-only benefits. The ineligible parent's earned and unearned income is considered in its entirety.

(3) The amount of the penalty reduction applies as FSPI for SNAP per OAC 340:50-7-29(c)(1)(A).

(i) **TANF eligibility when the child(ren) is placed in out-of-home care.** When Child Welfare Services (CWS) staff removes the child(ren) from the home and reasonably anticipates the child(ren) will return home within four months, the natural or adoptive parent or needy caretaker relative may continue to be eligible to receive an adult-only TANF benefit per OAC 340:10-3-56(a)(2)(B)(ii). The adult remains eligible when all other conditions of eligibility are met unless the child(ren) is placed with a relative requesting needy caretaker benefits. The child(ren) must be removed from the TANF benefit effective the next advance notice deadline date per Appendix B-2, Deadlines for Case Actions.

(1) A team consisting of the worker, CWS specialist, natural or adoptive parent or needy caretaker relative, and any other appropriate partner must meet to develop a mutually agreed upon plan of action. The plan must include the parent or needy caretaker's employability plan and strategies to correct the conditions that caused the child(ren) to be removed from the home.

(2) At the end of the four-month period when the child(ren) is not returned to the home, the adult-only TANF benefit is closed.

(j) **Strikers.** The assistance unit is not eligible for TANF for any month the natural or adoptive parent living in the home participates in a strike on the last day of that month. A caretaker relative is not included in the benefit for any month when that person is participating in a strike on the last day of the month.

[Source: Amended at 8 Ok Reg 1225, eff 4-15-91 (emergency); Amended at 9 Ok Reg 1543, eff 4-27-92 ; Amended at 10 Ok Reg 527, eff 12-8-92 (emergency); Amended at 10 Ok Reg 2813, eff 6-25-93 ; Amended at 11 Ok Reg 1023, eff 1-1-94 ; Amended at 12 Ok Reg 373, eff 12-1-94 (emergency); Amended at 12 Ok Reg 1159, eff 5-11-95 ; Amended at 13 Ok Reg 281, eff 5-18-95 (emergency); Amended at 13 Ok Reg 619, eff 9-1-95 (emergency); Amended at 13 Ok Reg 2167, eff 6-14-96 ; Amended at 14 Ok Reg 947, eff 2-1-97 (emergency); Amended at 14 Ok Reg 1310, eff 5-12-97 ; Amended at 15 Ok Reg 145, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1602, eff 5-11-98 ; Amended at 16 Ok Reg 3371, eff 7-1-99 (emergency); Amended at 17 Ok Reg 2271, eff 5-1-00 ; Amended at 18 Ok Reg 149, eff 12-1-00 (emergency); Amended at 18 Ok Reg 1222, eff 5-11-01 ; Amended at 22 Ok Reg 764, eff 5-12-05 ; Amended at 23 Ok Reg 980, eff 6-1-06 ; Amended at 25 Ok Reg 903, eff 6-1-08 ; Amended at 26 Ok Reg 1223, eff 6-1-09 ; Amended at 28 Ok Reg 781, eff 6-1-11 ; Amended at 29 Ok Reg 748, eff 7-1-12 ; Amended at 30 Ok Reg 338, eff 12-5-12 (emergency); Amended at 30 Ok Reg 1346, eff 7-1-13 ; Amended at 31 Ok Reg 635, eff 7-1-14 (emergency); Amended at 32 Ok Reg 1839, eff 9-15-15 ; Amended at 34 Ok Reg 1441, eff 9-15-17 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:10-3-58. Income determination procedures [REVOKED]**

[Source: Amended at 10 Ok Reg 527, eff 12-8-92 (emergency); Amended at 10 Ok Reg 2813, eff 6-25-93 ; Amended at 10 Ok Reg 4337, eff 7-19-93 (emergency); Amended at 11 Ok Reg 1639, eff 5-12-94 ; Amended at 17 Ok Reg 2271, eff 5-1-00 ; Amended at 27 Ok Reg 1173, eff 6-1-10 ; Amended at 37 Ok Reg 1776, eff 9-15-20 ; Revoked at 39 Ok Reg 1688, eff 9-15-22]

### **340:10-3-59. Assistance benefits**

(a) **Availability of funds.** The Oklahoma Human Services (OKDHS) Temporary Assistance for Needy Families (TANF) Cash Assistance Program is funded by a federal TANF block grant. In the event of insufficient block grant funds, the program may be terminated or benefits not paid during the insufficiency period.

(b) **Maximum benefits.** The maximum benefit a TANF assistance unit is eligible to receive cannot exceed a nine-person payment standard, per OKDHS Appendix C-1, Maximum Income, Resource, and Payment Standards, Schedule IX. A TANF eligible child(ren) who is not a blood-related sibling to the other TANF eligible child(ren) must receive benefits in a separate case, per Oklahoma Administrative Code (OAC) 340:10-3-56(a).

(c) **Minimum payments.** The minimum TANF benefit paid to a recipient is \$10 unless the payment is reduced to recoup an overpayment, per OAC 340:65-9-6. When the TANF cash assistance benefit would be less than \$10, a benefit does not issue. The TANF benefit remains in open status and, when applicable, per OAC 340:10-2, the parent or needy caretaker is subject to TANF Work participation rules. The assistance unit remains eligible for SoonerCare (Medicaid) and may continue to receive food benefits in this case, when eligible.

(d) **Payment to minors.** Minors may be the adult payee for TANF on behalf of others when the minor assumes the responsibilities of an adult and meets all conditions of eligibility for TANF. For rules regarding when a minor parent may not be considered part of the assistance unit, refer to OAC 340:10-3-56(a)(3)(O).

(e) **Pregnant recipients.** A pregnant TANF recipient who does not have any other children in the assistance unit qualifies as a one-person household, per Appendix C-1, Schedule IX.A, until the child's birth. After the birth, the worker adds the child to the assistance unit.

(f) **Overpayments.** When the recipient received assistance but did not meet all conditions of eligibility, refer to OAC 340:65-9 for overpayment procedures.

(g) **Flat grant system and use of benefits.** The flat grant system of budgeting was developed to determine the extent of need based on the number of eligible persons.

(1) A flat grant precludes any agreement on the part of OKDHS to pay or guarantee payment for goods or services provided to recipients by vendors in lieu of a monetary payment.

(2) OKDHS issues TANF cash assistance by debit card or direct deposit, per OAC 340:65-3-6.

(3) OKDHS does not restrict where the recipient uses the TANF benefit, except per OAC 340:10-1-3(13).

[Source: Amended at 10 Ok Reg 527, eff 12-8-92 (emergency); Amended at 10 Ok Reg 2813, eff 6-25-93 ; Amended at 13 Ok Reg 281, eff 5-18-95 (emergency); Amended at 13 Ok Reg 2167, eff 6-14-96 ; Amended at 14 Ok Reg 947, eff 2-1-97 (emergency); Amended at 14 Ok Reg 1310, eff 5-12-97 ; Amended at 17 Ok Reg 2271, eff 5-1-00 ; Amended at 20 Ok Reg 850, eff 6-1-03 ; Amended at 25 Ok Reg 14, eff 8-3-07 (emergency); Amended at 25 Ok Reg 903, eff 6-1-08 ; Amended at 31 Ok Reg 635, eff 7-1-14 (emergency); Amended at 32 Ok Reg 1839, eff 9-15-15 ; Amended at 37 Ok Reg 1776, eff 9-15-20 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

## **PART 7. TRANSITIONAL BENEFITS**

### **340:10-3-75. Continued medical benefits (CMB)**

(a) **Conditions for CMB.** The Temporary Assistance for Needy Families (TANF) assistance unit is eligible to receive CMB for the time period



described in (b) or (c) of this Section following TANF benefit closure due to child or spousal support receipt or new or increased earnings of the TANF payee provided the payee is included in the benefit, per Section 408 of the Social Security Act, Section 608 of Title 42 of the United States Code. The medical coverage for CMB recipients is the same as for TANF recipients. CMB eligibility begins effective the TANF benefit closure date or the effective date of closure had the income been reported timely. Only persons included in the assistance unit when the TANF benefit is closed are eligible for CMB. To be eligible for CMB the assistance unit must meet all of the requirements listed in (1) - (5) of this subsection.

(1) At least one member received TANF in at least three of the six months immediately preceding the month the TANF benefit closed.

(2) The payee must be included in the TANF benefit in the month of closure and remain as payee during CMB receipt.

(3) The assistance unit did not fraudulently receive TANF benefits in the six months preceding TANF closure. Refer to Oklahoma Administrative Code (OAC) 340:65-9-4 for fraudulent receipt rules.

(4) The assistance unit must include an eligible child.

(A) An eligible child is a child who is included in the TANF cash assistance benefit in the closure month and continues to meet age requirements, per OAC 340:10-5-1 and relationship requirements, per OAC 340:10-9-1 while receiving CMB.

(B) A child who is not included in the TANF cash assistance benefit because of Supplemental Security Income receipt is also considered an eligible child when he or she is the only child in the home meeting age and relationship requirements.

(C) The eligible child must have met deprivation requirements, per OAC 340:10-10-1 prior to TANF benefit closure but is not subject to deprivation requirements during the CMB eligibility period.

(5) The payee must comply with Soonercare (Medicaid) citizenship and identity verification rules, per OAC 317:35-5-25.

**(b) Closure due to child support or spousal support.** Medical benefits are continued for up to four months when the TANF closure is due to the receipt of new or increased child support or spousal support in the form of alimony.

**(c) Closure due to new or increased earnings of payee.** Medical benefits may be continued for up to 12 months when the closure is due to the payee's new or increased earnings. When the payee is the natural or adoptive parent and deprivation is due to the other parent's absence, he or she is required to cooperate with Oklahoma Child Support Services (CSS) while receiving CMB.

(1) **Eligibility.** The CMB eligibility period is divided into two, six-month periods with eligibility requirements and procedures for each period.

(A) **Initial six-month period.** The assistance unit is eligible for CMB when:

- (i) an eligible child remains in the home per (a)(4) of this Section;
- (ii) the payee remains the same; and
- (iii) the assistance unit remains in Oklahoma.

(B) **Additional six-month period.** Medical benefits are continued for the additional six month period when:

- (i) an eligible child remains in the home per (a)(4) of this Section;
- (ii) the payee remains the same;
- (iii) the assistance unit remains in Oklahoma;
- (iv) the assistance unit was eligible for and received CMB for each month of the initial six month period;
- (v) the assistance unit complied with reporting requirements in (4) of this subsection;
- (vi) the assistance unit's average monthly earned income does not exceed the income standard, per the Oklahoma Department of Human Services (DHS) Appendix C-1, Maximum Income, Resource, and Payment Standards, Schedule I. The income standard is based on 185 percent of the federal poverty level; and
- (vii) the payee had earnings in each month of the three-month reporting period, unless the lack of earnings was due to an involuntary loss of employment, illness, or other good cause.

(C) **Income eligibility for additional six-month period.**

The worker determines income eligibility for the additional six-month period per rules in (i) through (iii) of this subparagraph.

- (i) The worker disregards the assistance unit's:
  - (I) unearned income;
  - (II) a child's earned income when the child is a full time student; and
  - (III) resources.
- (ii) The gross earnings of all assistance unit members minus the payee's child care expenses incurred for employment purposes must not exceed the income standard per household size on DHS Appendix C-1, Schedule I. To determine income eligibility over the three-month reporting period, the worker averages the:
  - (I) entire assistance unit's gross monthly earnings;
  - (II) family size when changes occurred per (D) of this subsection; and
  - (III) child care expenses. There is no maximum amount for this deduction.

(iii) The earnings of an additional family member are considered only when the member is a natural or adoptive parent. When the additional family member's earnings are considered, he or she is included in the household size for the income test.

(D) **Additional members.** After the CMB begins, the worker:

(i) does not add family members who move into the home to the CMB coverage. This includes siblings and a natural or adoptive parent(s). When the additional member needs medical services, the worker refers the payee to the Oklahoma Health Care Authority (OHCA) online enrollment system at [www.mysoonercare.org](http://www.mysoonercare.org) to complete an application for the additional member. The payee may also complete an application at the local health department, Indian clinic, participating health care provider, or county office; and

(ii) adds a child younger than one year of age to the CMB coverage when the child is deprived of parental support, per OAC 340:10-10-1 and the child's mother is included in the CMB coverage.

(E) **Assistance unit member leaves home and returns.** When an assistance unit member included in the CMB leaves the home and then returns, he or she may be added back to the CMB coverage when all conditions of eligibility are met, provided the member is not the payee.

(F) **Third party liability.** The assistance unit remains eligible for CMB when it obtains health insurance coverage. However, the assistance unit is responsible for reporting all insurance coverage and any changes in the coverage as third party liability must be considered. The worker is responsible for explaining third-party liability and the necessity for filing medical claims with the private insurance before filing with OHCA.

(G) **CMB closure.** The worker closes the CMB any time the assistance unit fails to meet the eligibility requirements included in this Section. When the worker closes the CMB for the assistance unit or any member of the assistance unit, the worker informs the payee that the assistance unit or the member may complete an application for medical benefits under the regular SoonerCare (Medicaid) Program by accessing OHCA's online enrollment system at [www.mysoonercare.org](http://www.mysoonercare.org) or completing an application at the local health department, Indian clinic, participating health care provider, or county office.

(2) **Notification.** DHS sends notices to the assistance unit when CMB is approved and throughout the CMB period. The notices are sent at specific times and inform the assistance unit of its rights and responsibilities. When a TANF benefit closes and the

assistance unit is eligible for CMB, the computer-generated closure notice includes notification of the continuation of medical benefits. DHS sends another computer-generated notice at the same time to inform the assistance unit of the reporting requirements and under what circumstances the medical benefits may be discontinued. Each notice listed in (A) through (C) of this paragraph includes specific information about the assistance unit's reporting responsibilities and serves as the required advance notification in the event benefits are closed because of the information furnished in response to these notices or because the payee does not respond to the notices.

(A) **Notice # 1.** PSNCM1 issues in the third month of the initial continued medical eligibility period. This notice informs the assistance unit of the additional six-month period of CMB, the eligibility conditions, reporting requirements, and appeal rights.

(B) **Notice # 2.** PSNCM2 issues in the sixth month of the continued medical eligibility period only when the assistance unit is eligible for the additional six-month period. This notice informs the assistance unit of the eligibility conditions, reporting requirements, and appeal rights.

(C) **Notice # 3.** PSNCM3 issues in the ninth month of the continued medical eligibility period, which is the third month of the additional six-month period. This notice informs the assistance unit of the eligibility conditions, the reporting requirements, appeal rights, and the expiration of CMB coverage.

(3) **Notices not received.** When the assistance unit does not receive all of the notices listed in (2)(A) through (C) of this subsection, the notices and report forms are not issued retroactively. When the payee notifies the worker he or she did not receive a notice or report form, the worker obtains required information necessary to establish the assistance unit's continued eligibility from the payee and informs him or her to provide earned income proof for the appropriate reporting period.

(4) **Reporting.** The assistance unit is required to periodically report specific information necessary to determine the assistance unit's continued eligibility for CMB. To assist the unit, computer-generated Form 08TA018E, Continued Medical Benefit Reply Form, is sent to the assistance unit with the notices generated during the CMB period. Though preferred, it is not mandatory that Form 08TA018E be returned. The payee may report the information by phone, in an office interview, or by letter. The payee must provide proof of all gross earnings for the three-month reporting period.

(A) The assistance unit must report:

- (i) the gross earned income of the entire assistance unit for the appropriate three-month period;
- (ii) employment-related child care expenses paid by the payee for the appropriate three-month period;

- (iii) any changes in the members of the assistance unit;
- (iv) any residency changes; and
- (v) insurance coverage information.

(B) The reporting requirement time frames are explained in this subparagraph.

(i) The payee must report required information in the third month and return earned income proof by the 12th day of the fourth month. The worker evaluates the information provided to determine the assistance unit's eligibility for the additional six-month period. Even though the payee is required to report required information in the fourth month, no negative action occurs during the initial six-month period for failure to report. When the:

(I) assistance unit returns required information and no longer meets eligibility conditions per (1) of this subsection, the worker closes CMB effective the first day of the seventh month; or

(II) payee fails to report required information and submit earned income proof, CMB automatically suspend effective the first day of the seventh month. When the worker does not reinstate CMB by the advance notice deadline of the suspension month, per DHS Appendix B-2, Deadlines for Case Actions, CMB automatically closes effective the next month.

(ii) The payee must report required information requested in the sixth month and return required earned income proof by the 12th day of the seventh month. When the:

(I) assistance unit returns required information and no longer meets eligibility conditions per (1) of this subsection, the worker closes CMB effective the first day of the eighth month; or

(II) payee fails to report required information and submit earned income proof, CMB automatically suspends effective the first day of the eighth month. When the worker does not reinstate CMB by advance notice deadline of the suspension month, per DHS Appendix B-2 CMB automatically closes effective the next month.

(iii) The payee must report required information requested in the ninth month and return required earned income proof by the 12th day of the tenth

month. When the:

(I) assistance unit returns required information and no longer meets eligibility conditions per (1) of this subsection, the worker closes CMB effective the first day of the eleventh month; or

(II) payee fails to report required information and return required earned income proof by the 12th day of the tenth month, CMB automatically suspends effective the first day of the eleventh month. When the worker does not reinstate CMB by advance notice deadline of the suspension month, per DHS Appendix B-2, CMB automatically closes effective the next month.

(5) **CMB reinstatement.** When the assistance unit subsequently reports the necessary information following suspension, the worker determines eligibility. When all eligibility factors are met during and after the suspension period, the worker reinstates the medical benefits effective the date of the suspension so the assistance unit has continuous medical coverage until the CMB period ends.

(d) **Receipt of medical benefits after CMB ends.** A computer-generated expiration notice is mailed to the assistance unit the month before the CMB period ends to explain how to apply for continued medical benefits. When the assistance unit applies and is determined eligible, medical benefits continue as regular SoonerCare (Medicaid) benefits, not CMB.

[Source: Amended at 10 Ok Reg 829, eff 1-1-93 ; Amended at 11 Ok Reg 323, eff 10-15-93 (emergency); Amended at 11 Ok Reg 1639, eff 5-12-94 ; Amended at 14 Ok Reg 947, eff 2-1-97 (emergency); Amended at 14 Ok Reg 1310, eff 5-12-97 ; Amended at 15 Ok Reg 145, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1602, eff 5-11-98 ; Amended at 17 Ok Reg 2271, eff 5-1-00 ; Amended at 18 Ok Reg 1217, eff 6-1-01 ; Amended at 25 Ok Reg 14, eff 8-3-07 (emergency); Amended at 25 Ok Reg 903, eff 6-1-08 ; Amended at 26 Ok Reg 1223, eff 6-1-09 ; Amended at 34 Ok Reg 1441, eff 9-15-17 ; Amended at 37 Ok Reg 1776, eff 9-15-20]

### **340:10-3-76. Closure due to child support or spousal support [REVOKED]**

[Source: Revoked at 10 Ok Reg 527, eff 12-8-92 (emergency); Revoked at 10 Ok Reg 2813, eff 6-25-93]

### **340:10-3-77. Closure due to loss or reduction of earned income exemption [REVOKED]**

[Source: Revoked at 10 Ok Reg 527, eff 12-8-92 (emergency); Revoked at 10 Ok Reg 2813, eff 6-25-93]

### **340:10-3-78. Closure due to new or increased earnings of caretaker relative [REVOKED]**

[Source: Revoked at 10 Ok Reg 527, eff 12-8-92 (emergency); Revoked at 10 Ok Reg 2813, eff 6-25-93]

### **340:10-3-79. Reporting [REVOKED]**

[Source: Revoked at 10 Ok Reg 527, eff 12-8-92 (emergency); Revoked at 10 Ok Reg 2813, eff 6-25-93]

### **340:10-3-80. Procedures - continued medical benefits at Temporary Assistance for Needy Families (TANF) case closure [REVOKED]**

[Source: Amended at 10 Ok Reg 527, eff 12-8-92 (emergency); Amended at 10 Ok Reg 2813, eff 6-25-93 ; Amended at 14 Ok Reg 947, eff 2-1-97 (emergency); Amended at 14 Ok Reg 1310, eff 5-12-97 ; Revoked at 17 Ok Reg 2271, eff 5-1-00]

### **340:10-3-81. Adjustment period**

(a) **Scope.** In an effort to promote marriage and provide a more secure and stable family situation, an adjustment period up to three months of the existing Temporary Assistance for Needy Families (TANF) benefit may be approved by the worker. The intent of the adjustment period is to assist the family in the payment of outstanding bills and to allow for the gradual assumption of financial responsibilities.

(1) When a TANF recipient marries and the income of the spouse will close the case, an adjustment period may be made available to the family.

(2) If deprivation ends for the child(ren) when the spouse returns home and he or she is not incapacitated or does not meet the unemployed parent policy, an adjustment period may be made available to the family.

(3) At the time the recipient reports his or her marriage or the return of the spouse, it is the responsibility of the worker to discuss the adjustment period with the family to determine possible eligibility.

(4) The marriage of the recipient or return of the spouse must be reported timely. If the TANF recipient fails to report the marriage or return of the absent spouse, the number of months of benefits approved is adjusted accordingly.

(5) The TANF recipient must be made aware the receipt of an adjustment period counts towards the 60-month lifetime limit of receipt of TANF.

(b) **Benefits.** The maximum adjustment period approved is three months. The benefit issued is the same as the existing TANF benefit issued prior to the recipient's marriage or the return of the spouse.

[Source: Added at 17 Ok Reg 444, eff 11-1-99 (emergency); Added at 17 Ok Reg 2075, eff 7-1-00 ; Amended at 20 Ok Reg 850, eff 6-1-03 ; Amended at 22 Ok Reg 764, eff 5-12-05 ; Amended at 26 Ok Reg 1223, eff 6-1-09]

## **SUBCHAPTER 4. CONDITIONS OF ELIGIBILITY - MANDATORY DRUG SCREENING**

### **340:10-4-1. Mandatory Drug Screening**

(a) Per Section 230.52 of Title 56 of the Oklahoma Statutes, adult parents, or needy caretakers who apply for Temporary Assistance for Needy Families (TANF) cash assistance are screened for illegal use of a controlled substance . This screening is necessary to ensure that children are safe in their own homes by ensuring their adult parent(s) or needy caretaker is not using or is not under the influence of illegal substances. Minor parents under 18 years of age are exempt from the provisions in this Section.

(b) The minimum drug screening includes a Substance Abuse Subtle Screening Inventory (SASSI). Additional screening methods may be used based on the person's history with Oklahoma Human Services (OKDHS).

When the SASSI screening results high probability, high defense, or invalid, or the client self-declares a substance abuse problem, the client completes a chemical drug screen.

(1) When drug screening results indicate low probability or are negative for the illegal use of a controlled substance, the worker does not include substance abuse treatment or mental health counseling as a part of the adult parent's or needy caretaker's employability plan.

(2) When the chemical drug screen shows a positive result for an illegal substance, the:

(A) adult parent or needy caretaker must participate in substance abuse treatment or mental health counseling as a part of the employability plan, per Oklahoma Administrative Code 340:10-2-3; and

(B) worker considers whether a referral to the Child Abuse and Neglect Hotline at 1-800-522-3511 is appropriate given the circumstances surrounding the positive result and the statutory requirements in Section 1-2-101 of Title 10A of the Oklahoma Statutes (10A O.S. §1-2-101), 10A O.S. § 1-1-105(23), and 10A § 1-1-105(49).

(c) When all other eligibility factors have been met, the OKDHS worker certifies the adult parent or needy caretaker's needs.

(d) At any point OKDHS has reasonable cause to believe the adult parent or needy caretaker currently receiving TANF cash assistance is engaged in the illegal use of a controlled substance , the adult parent or needy caretaker is required to be screened. OKDHS requests a chemical drug screen. Behaviors OKDHS or community resource partners observe and report that might indicate illegal use of a controlled substance include, but are not limited to:

- (1) slurred speech;
- (2) unsteady gait;
- (3) inability to focus;
- (4) lethargy;
- (5) excessive nervousness or agitation;
- (6) showing flat affect or no emotion;
- (7) inappropriate responses to questions;
- (8) inappropriate anger or hostility;
- (9) excessive worry;
- (10) facial tics or muscle spasms;
- (11) erratic attendance in TANF Work activities;



- (12) lack of follow through with agreed upon plans; or
  - (13) government or law enforcement documents indicating the person was engaged in the illegal possession or use of a controlled substance within the last 30-calendar days.
- (e) The TANF benefits are closed when the adult parent or needy caretaker refuses to comply or fails to follow through with the screening or employability plan.

[Source: Added at 30 Ok Reg 338, eff 12-5-12 (emergency); Added at 30 Ok Reg 1346, eff 7-1-13 ; Amended at 37 Ok Reg 1776, eff 9-15-20 ; Amended at 39 Ok Reg 1688, eff 9-15-22 ; Amended at 40 Ok Reg 945, eff 9-15-23 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

## SUBCHAPTER 5. CONDITIONS OF ELIGIBILITY - AGE

### 340:10-5-1. Age

(a) **Age requirement.** A child meets the age requirement to receive Temporary Assistance for Needy Families (TANF) from birth through the month he or she turns:

- (1) 18 years of age; or
- (2) 19 years of age when he or she attends school full time, per Oklahoma Administrative Code (OAC) 340:10-13-1 and expects to graduate during or before the month he or she turns 19 years of age.

(b) **Age verification.** The worker accepts the parent or guardian's statement to establish the child's age unless the information is inconsistent with other facts or there are observations that cause the worker to question the parent or guardian's statement. When questions exist, the parent or guardian must verify the information. Acceptable documents are listed in (1) through (2) of this subsection.

(1) An original or certified birth certificate, acceptable hospital certificate, or Form 08MA015E, Reporting of Newborn Child of SoonerCare Member, is conclusive evidence of birthdate, and the worker uses it as verification, when available. A hospital birth certificate is considered acceptable when it includes the:

- (A) child's name and birthdate;
- (B) name of the institution or geographical location of the birth;
- (C) name of the parent(s); and
- (D) signature of the attending physician or responsible hospital staff member such as the administrator, nurse, or records supervisor.

(2) When the parent or guardian provides other birth information from hospital records other than an acceptable hospital birth certificate, birth scrolls, and similar records, he or she must provide two other documents that show the same birthdate for the child, with no evidence to the contrary. Documents include:

- (A) baptismal, confirmation, or other church and parish records. These records may be in the possession of the family or on record at the church;

- (B) passports. Persons with visas may have documents in their possession showing the child's birthdate at the time the visa was issued;
- (C) court records;
- (D) insurance and burial policies when the date of birth at the time the policy was issued, is entered on the insurance policy;
- (E) any social agency records including Oklahoma Human Services records;
- (F) records from a public or private hospital, other type of institution, or home, giving the child's birthdate at the time of admission;
- (G) family records, such as an entry of a child's birthdate in a family Bible or other similar document when no changes were made to the entry by erasure or overwriting;
- (H) records from the child's school or school district office. These records are made from information given by the parent or guardian; or
- (I) United States Census records. When possible, data given for more than one year is reviewed for purposes of corroboration.

[Source: Amended at 11 Ok Reg 153, eff 10-10-93 (emergency); Amended at 11 Ok Reg 1639, eff 5-12-94 ; Amended at 13 Ok Reg 435, eff 9-1-95 (emergency); Amended at 13 Ok Reg 2167, eff 6-14-96 ; Amended at 15 Ok Reg 3884, eff 9-1-98 (emergency); Amended at 16 Ok Reg 1010, eff 4-26-99 ; Amended at 17 Ok Reg 2271, eff 5-1-00 ; Amended at 28 Ok Reg 781, eff 6-1-11 ; Amended at 38 Ok Reg 2179, eff 9-15-21 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

## SUBCHAPTER 7. CONDITIONS OF ELIGIBILITY - RESIDENCE

### **340:10-7-1. Residence**

(a) **Residency requirement.** A person must be an Oklahoma resident to receive Temporary Assistance for Needy Families (TANF). A person's statement that he or she is an Oklahoma resident and is not residing in Oklahoma for a temporary purpose is sufficient when consistent with other known facts. When the statement is inconsistent with other known facts, further substantiation is necessary.

(1) Once residency is established, a person does not lose Oklahoma residency status when he or she:

(A) is removed from Oklahoma against his or her will and held in another state, for example, when the person is sent to a federal prison; or

(B) goes out-of-state to look for a job or to attend school.

(2) When an applicant lived in another state or states at any time before applying for TANF in Oklahoma, the worker must contact the other state(s) to determine how many months, if any, the applicant received TANF and if cash assistance is currently open.

(A) When TANF is open in the other state, the closure date is coordinated between states to ensure the applicant does

not receive TANF cash assistance in Oklahoma and the other state for the same month.

(B) When the applicant already received 60 months of TANF cash assistance, TANF is not approved in Oklahoma unless a hardship extension is approved, per Oklahoma Administrative Code (OAC) 340:10-3-56(a)(2)(E).

(b) **Homeless persons.** A TANF applicant or recipient is not required to have a fixed address to be eligible for TANF. A TANF applicant or recipient who lacks a fixed or regular residence or lives in temporary accommodations is considered homeless. When a person is homeless and does not have a mailing address and cannot receive mail at another person's address, the county office address may be used.

(c) **Continuous residence.** Continuous residence is established when the case record and contact with the person show no evidence of absence from Oklahoma.

(d) **Temporary residence.** For TANF eligibility purposes, a person is considered an Oklahoma resident when he or she plans to reside in Oklahoma temporarily because of a job commitment or to seek employment, as long as the person does not receive cash assistance from another state. This includes migrant and itinerant workers who maintain a homestead in another state. A person traveling through the state or visiting relatives in this state is not considered a resident.

(e) **Out-of-state visits.** When a TANF assistance unit member(s) temporarily leaves the state for a purpose described in OAC 340:10-3-56(b) and intends to return to Oklahoma when the purpose of the absence is accomplished, it does not interrupt Oklahoma residence. The recipient is responsible for informing the worker which assistance unit member(s) plans to visit out-of-state, for what purpose, and the planned departure and return dates.

(1) When a TANF assistance unit member(s) is temporarily absent from the state, he or she may continue to be included in the assistance unit for at least three months unless circumstances unrelated to the temporary absence occur, the purpose of the absence is accomplished, or a longer period of absence is permitted, per OAC 340:10-3-56(b). The person is considered an Oklahoma resident until there is substantial factual evidence he or she chose to establish residence in another state.

(2) When the TANF Work participant is the person that temporarily leaves the state and does not participate in TANF Work activities during the absence, he or she may be sanctioned, per OAC 340:10-2-2, unless a good cause reason exists.

(3) When a recipient applies for cash assistance in another state and is determined eligible by that state, the closure effective date in Oklahoma is coordinated with the effective certification date in the other state, to ensure there is no interruption in the assistance payment or duplication of benefits.

### **340:10-7-2. Homeless individuals [REVOKED]**

[Source: Amended at 11 Ok Reg 153, eff 10-10-93 (emergency); Amended at 11 Ok Reg 1639, eff 5-12-94 ; Amended at 17 Ok Reg 2271, eff 5-1-00 ; Revoked at 39 Ok Reg 1688, eff 9-15-22]

### **340:10-7-3. Institutional residence [REVOKED]**

[Source: Amended at 11 Ok Reg 153, eff 10-10-93 (emergency); Amended at 11 Ok Reg 1639, eff 5-12-94 ; Amended at 15 Ok Reg 145, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1602, eff 5-11-98 ; Revoked at 17 Ok Reg 2271, eff 5-1-00]

## **SUBCHAPTER 9. CONDITIONS OF ELIGIBILITY - RELATIONSHIP OF PAYEE TO CHILD**

### **340:10-9-1. Relationship of payee to child**

(a) **Specified degree of relationship.** To be eligible to receive Temporary Assistance for Needy Families (TANF), in addition to other qualifications, a child must be living with a person having a specified degree of relationship in a place of residence maintained by one or more of such relatives as his or her own home. An otherwise eligible person is not denied assistance solely because the home is not a fixed address or does not have a mailing address. An individual is recognized as meeting the specified degree of relationship if the individual is related within the fifth degree of kinship. It is only when the child is living with a person of one of these degrees of relationship that there is an eligible payee for the TANF benefit.

(1) **Related by blood.** Blood lines remain intact in terms of legal responsibility except when parental rights are terminated or the child is legally adopted by someone else. Blood relatives, including half blood, are:

(A) parent(s) including a natural parent even if the child is legally adopted and deprivation is based on the absence of the adoptive parent(s);

(B) siblings;

(C) grandparent(s) including those denoted by prefixes of great, great-great, and great-great-great;

(D) aunt(s) and uncle(s) including those denoted by the prefixes of great and great-great;

(E) niece(s) and nephew(s) including those denoted by prefixes of grand and great-grand; and

(F) first cousin(s) and first cousin(s) once removed.

(2) **Related by marriage.** Use kinship as denoted under (1) of this Section, whether the marriage is common-law or ceremonial. Included are step-relations. Kinship by marriage is included even after the marriage is terminated by death or divorce.

(3) **Related by adoption.** Use kinship as denoted under (1) and (2) of this subsection.

(b) **Verification of relationship.** If the individual making the application for TANF is the child's mother, no further verification is required unless

the information is inconsistent with known facts or observations. If the individual making the application claims to be the natural father, no further verification is required unless information provided is inconsistent with known facts or observations. If the child's mother has alleged this person to be the natural father, relationship is not questionable. If the natural father's name is not on the birth certificate, the natural father is requested to sign a statement acknowledging paternity or provide medical evidence that substantiates the relationship. If the individual who claims to be the natural father refuses, relationship cannot be determined. If the individual making the application is someone other than the parent, the relationship to the child's parent must also be established as outlined in (a) of this Section. The individual's statement as to the relationship to the child's parent is accepted unless the information is inconsistent with known facts or observations.

[Source: Amended at 10 Ok Reg 527, eff 12-8-92 (emergency); Amended at 10 Ok Reg 2813, eff 6-25-93 ; Amended at 17 Ok Reg 444, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2075, eff 7-1-00 ; Amended at 22 Ok Reg 764, eff 5-12-05 ; Amended at 27 Ok Reg 1173, eff 6-1-10 ; Amended at 28 Ok Reg 781, eff 6-1-11]

### **340:10-9-2. Definition of "living with a relative" [REVOKED]**

[Source: Amended at 10 Ok Reg 527, eff 12-8-92 (emergency); Amended at 10 Ok Reg 2813, eff 6-25-93 ; Amended at 10 Ok Reg 4337, eff 7-19-93 (emergency); Amended at 11 Ok Reg 1639, eff 5-12-94 ; Amended at 13 Ok Reg 281, eff 5-18-95 (emergency); Amended at 13 Ok Reg 2167, eff 6-14-96 ; Revoked at 17 Ok Reg 2271, eff 5-1-00]

### **340:10-9-3. Verification of relationship [REVOKED]**

[Source: Amended at 10 Ok Reg 527, eff 12-8-92 (emergency); Amended at 10 Ok Reg 2813, eff 6-25-93 ; Amended at 11 Ok Reg 153, eff 10-10-93 (emergency); Amended at 11 Ok Reg 1023, eff 1-1-94 ; Amended at 11 Ok Reg 1639, eff 5-12-94 ; Amended at 12 Ok Reg 373, eff 11-17-94 (emergency); Amended at 12 Ok Reg 1159, eff 5-11-95 ; Amended at 13 Ok Reg 435, eff 9-1-95 (emergency); Amended at 13 Ok Reg 2167, eff 6-14-96 ; Revoked at 17 Ok Reg 2271, eff 5-1-00]

## **SUBCHAPTER 10. CONDITIONS OF ELIGIBILITY - DEPRIVATION**

### **340:10-10-1. Deprivation of parental support or care by a natural or adoptive parent**

(a) A child is eligible for Temporary Assistance for Needy Families (TANF) if, in addition to meeting other conditions of eligibility, he or she is deprived of parental support or care of at least one natural or adoptive parent(s). The deprivation of parental support or care does not apply before the child's birth.

(1) When there is one parent in the home, deprivation of parental support is based on the:

- (A) death of the other parent; or
- (B) continued absence from the home and failure to provide maintenance, physical care, or guidance of the other parent.

- (2) When both parents are in the home, deprivation of parental support is based on the:
  - (A) physical or mental incapacity of at least one of the parents; or
  - (B) unemployment of the principal wage earner.
- (b) For the purpose of TANF eligibility a parent is defined as the:
  - (1) legal father or mother;
  - (2) legal adoptive father or mother; or
  - (3) natural father of a child born out of wedlock who acknowledges paternity or, whose paternity has been determined by court action, or established by documentation, or who is alleged by the mother to be the father of the children.

[Source: Added at 17 Ok Reg 444, eff 11-1-99 (emergency); Added at 17 Ok Reg 2075, eff 7-1-00 ; Amended at 27 Ok Reg 1173, eff 6-1-10 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

#### **340:10-10-2. Physical or mental incapacity of the natural or adoptive parent**

(a) **Scope and applicability.** The physical or mental incapacity of a natural or adoptive parent exists when one parent has a physical or mental illness or impairment that substantially reduces or eliminates the parent's ability to support or care for his or her child(ren). To be considered incapacitated, the parent's illness or impairment must be expected to last for at least a 30-calendar day period. The physical or mental incapacity must be supported by competent medical and social evidence.

(1) Both parents may be included in the assistance unit when either parent is incapacitated regardless of whether the parent who is not incapacitated is employed or the incapacitated parent's usual function as a homemaker or wage earner.

(2) The reduction of the ability to provide support to an eligible child is not the same as the inability to perform work. A parent may be working or capable of work but still be incapacitated for the purposes of establishing eligibility for Temporary Assistance for Needy Families (TANF). The criterion is the reduced ability of the parent to provide support or care, not the parent's employability.

(b) **Determination of substantial reduction or elimination of ability to provide support or care.** The factors in (1) - (8) of this subsection are considered evidence of a substantial reduction or elimination of a parent's ability to provide support or care. One factor by itself does not automatically determine that a parent is incapacitated. These factors are indicators to the Oklahoma Health Care Authority, Level of Care Evaluation Unit (LOCEU) of the various ways a physical or mental impairment affects a parent's ability and the extent that such ability is affected. Any factor considered must exist as a result of the parent's physical or mental impairment and must be supported by specific medical information or social facts. Factors include the:

- (1) parent's inability to perform any type of gainful employment;
- (2) parent's ability to provide care for the child(ren) is substantially impaired without help from others;

- (3) parent qualifies for placement in a job that is rehabilitative or therapeutic, or for work in a sheltered workshop that is not considered to be a competitive full-time job;
- (4) number of hours the parent is able to work is substantially reduced;
- (5) wages the parent is able to earn are substantially reduced;
- (6) parent is unable to work in his or her customary occupation, but is able to work at employment that he or she is equipped by education, training, and experience to perform, but that pays substantially less than his or her customary employment;
- (7) parent is incapable of accomplishing as much on the job as an unimpaired worker and is or would be paid on a reduced basis even though able to work full- time; or
- (8) employer's refusal to hire the parent due to of the nature of the parent's physical or mental impairment. This includes behavioral disorders and disabling conditions.

(c) **Determination of incapacity at the time of application.** When deprivation at application for TANF is based on the incapacity of a parent who receives Social Security Administration (SSA) disability benefits, Supplemental Security Income (SSI) due to disability or blindness, or State Supplemental Payment (SSP) for the blind or disabled, the determination of disability or blindness that established SSA, SSI, or SSP eligibility establishes incapacity for TANF. When disability or blindness was not predetermined by the previous criteria, a referral is sent to LOCEU to make an incapacity decision for TANF eligibility.

(1) The worker obtains medical information from the client or, with the client's permission, from the relevant health professional and sends the medical information and a completed Form 08MA022E, Medical Social Summary, to LOCEU for use in determining incapacity. The medical information must be less than 90-calendar days old in order for LOCEU to make an incapacity decision, per OAC 317:35-5-4(2)(C).

(2) When existing medical information cannot be obtained without cost to the client, payment may be authorized for existing medical information or one general physical examination by a medical or osteopathic physician of the parent's choice. The physician cannot be in an intern, residency, or fellowship program of the medical facility, or in the full-time employment of the Veterans Administration, Public Health Service, or other agency. Refer to OAC 317:35-3-2 for information regarding transportation and subsistence assistance.

(3) Form 08MA022E, completed with the client, along with medical documentation provides sufficient medical and social information to enable LOCEU staff to make a prompt and proper decision. Upon receipt of the medical documentation and Form 08MA022E, a medical review team within LOCEU is responsible for:

- (A) making an incapacity decision;
- (B) setting the incapacity eligibility effective date;
- (C) requesting additional medical and social information when it is necessary for a decision;

(D) setting the date when a re-examination and medical social summary is needed or stating no further medical social summary is needed; and

(E) recommending a training plan, when advisable.

(d) **Incapacity not established.** LOCEU determines if incapacity is established based on the medical and social information provided. When incapacity cannot be established, LOCEU describes the specific factors relied on to make the decision. The worker denies the application or closes the TANF benefit as incapacity was not established.

(e) **Incapacity determination at renewal or other specified times after certification.** When the parent's initial incapacity was based on an SSA determination of blindness or disability or by LOCEU the steps outlined in (1) - (6) of this subsection are followed. When SSA or LOCEU no longer consider the parent incapacitated, the worker closes the TANF benefit.

(1) No further incapacity determination is required when the parent continues to receive SSI based on disability or blindness or SSA disability benefits.

(2) When the parent stops receiving SSA or SSI because SSA determines the parent no longer meets the disability or blindness definition and the parent states he or she is still incapacitated, an incapacity decision must be made by LOCEU. Form 08MA022E is completed and submitted to LOCEU for a determination of continuing incapacity for TANF, per (c) of this Section.

(3) When SSA discontinues disability benefits or SSI benefits for a reason other than failure to meet the definition of disability or blindness and the assistance unit meets all other conditions of TANF eligibility, continuing incapacity is determined by LOCEU per (c) of this Section.

(4) When the parent continues to receive SSP on the basis of an LOCEU decision, no further determination of incapacity is made as long as the parent continues to be eligible for SSP because of disability or blindness.

(5) When LOCEU determines the person no longer meets the definition of disability or blindness but the assistance unit meets all other conditions of TANF eligibility, the worker requests that LOCEU determine incapacity, per (c) of this Section.

(6) When LOCEU staff determined initial incapacity and includes a date when a new Form 08MA022E is due, the worker completes Form 08MA022E with the client and begins gathering new medical information per (c) of this Section the month before a new incapacity decision is due.

(f) **Incapacity determination at reapplication.** An incapacity determination is not needed at reapplication when TANF was previously denied or closed for reasons other than incapacity, the :

(1) parent's incapacity was established prior to denial or closure, and the incapacity approval date extends beyond the reapplication date; or

(2) parent receives SSP or SSI benefits based on disability or blindness or SSA disability benefits.



[Source: Added at 17 Ok Reg 444, eff 11-1-99 (emergency); Added at 17 Ok Reg 2075, eff 7-1-00 ; Amended at 19 Ok Reg 1737, eff 6-14-02 ; Amended at 37 Ok Reg 1776, eff 9-15-20]

### **340:10-10-3. Unemployed parent**

(a) **Applicability.** Deprivation for the child(ren) may be established when both natural or adoptive parents reside with the child(ren) and the parent determined to be the principal wage earner (PWE), per (b) of this Section, meets the conditions to qualify as unemployed, per (c) of this Section.

(b) **PWE designation.** The PWE is defined as the parent who earned the most gross income during the 24-month period ending with the month prior to the Temporary Assistance for Needy Families (TANF) application. The PWE designation is made regardless of when the parent's relationship began or when the parent(s) began residing with the child(ren). The employment or receipt of unemployment insurance benefits (UIB) of the parent not designated as the PWE is not a factor in determining deprivation.

(1) **Earnings documentation.** The assistance unit is responsible for verifying the source and gross amount of each parent's earnings and dates received for the prior 24-month period to the best of its ability. Acceptable documentation includes:

- (A) previously verified earnings documented in Oklahoma Human Services (OKDHS) case records;
- (B) employer verbal or written statements;
- (C) pay stubs;
- (D) Income Eligibility Verification System (IEVS), also referred to as data exchange information, Oklahoma Wage Link (OWL) or Oklahoma Wage (OWG);
- (E) federal or state tax returns;
- (F) employee W-2 forms; or
- (G) when self-employed, gross and net earnings from tax returns or business records.

(2) **PWE designation when earnings are equal.** When both parents' earnings are equal in the 24-month period, the PWE is the parent who earned the most income in the last six months of the 24-month period. When both parents' earnings are equal in the six-month period, the parents may choose which parent to designate as the PWE.

(3) **Permanent PWE designation.** Once the PWE is determined, the PWE designation is permanent and remains effective as long as deprivation is based on unemployment and the assistance unit remains eligible for and continues to receive TANF benefits. When the TANF benefit closes and a new application is filed at a later date, the PWE designation must be redetermined, per (b) of this Section.

(c) **Conditions the PWE must meet prior to certification.** The PWE must meet the conditions described in (1) - (6) of this subsection for deprivation to be established based on unemployment.

(1) **Mandatory drug screening.** Both parents are required to be screened for illegal use of a controlled substance or substances,

per OAC 340:10-4-1. When one or both parents refuse to comply or fails to follow through with the screening, the worker denies the TANF application.

(2) **TANF Work requirements.** Both parents are required to participate in TANF Work activities unless one of the parents is not eligible to be included in the TANF benefit because he or she is an ineligible alien . When both parents are ineligible to be included in the TANF cash assistance unit, deprivation cannot be based on unemployment because the parents cannot meet the work requirement .

(A) One parent participates in TANF Work activities an average of 35 hours per week, and the other parent participates an average of 30 hours per week. When one parent is not eligible to be included in the TANF benefit, the other parent must participate in TANF Work activities an average of 35 hours per week, per OAC 340:10-2-1(2)(A)(iii).

(B) Unless the PWE is not eligible to be included in the TANF benefit, he or she must participate in and comply with TANF Work activities. When the worker determines the PWE is unavailable to participate or is not complying with TANF Work requirements, the worker denies the application .

(C) The parent who is not the PWE may be exempted from the TANF Work requirement when he or she provides care for a child with disabilities who does not attend school on a full-time basis and requires 24/7 care or another relative who lives in the home and requires 24/7 care. The parent must provide a statement from a doctor or other health professional stating the person needs 24/7 care and the type of care needed before a good cause exemption is approved.

(3) **Qualifies as unemployed.** To qualify as unemployed, the PWE must not be employed, or when employed, the countable net earnings plus any other countable income must be less than the payment standard for the family size, per OKDHS Appendix C-1, Maximum Income, Resources, and Payment Standards, Schedule IX. The PWE's gross earnings are calculated and the applicable earned income exemptions are subtracted, per OAC 340:10-3-31 through 340:10-3-33. The PWE must qualify as unemployed during the application process and prior to the certification date.

(A) To qualify , the PWE must be unemployed for at least 30-calendar days prior to the TANF certification date. The assistance unit may be certified beginning the 31st day after employment ends when all other eligibility requirements are met.

(B) The PWE does not qualify as unemployed when he or she refuses a bona fide employment offer or quits a job, without good cause, within 30-calendar days of the date TANF benefits can be certified.

(i) A bona fide offer is an employment offer made directly by an employer or through a public or private employment agency to the PWE. The employment offer must be substantiated by a written or verbal statement from the potential employer or public employment agency that specifies the date the offer was made, the job duties, and the specified wage.

(ii) The worker must give the PWE the opportunity to explain why he or she did not accept a job or quit a job in order to determine if good cause exists. Acceptable good cause reasons include when the:

(I) wages offered or received are less than

the minimum wage requirement or less than customary for the community;

(II) employment is available because of a strike, lockout, or other labor dispute;

(III) PWE is unqualified or physically unable to perform the work;

(IV) work involves health or safety risks; or

(V) job lacks worker's compensation protection.

**(4) Work history requirement.** The PWE must have a verified work history. Undocumented employment cannot be used to establish quarters of work. The PWE meets the work history requirement when he or she meets one of the conditions in (A) through (C) of this paragraph.

(A) The PWE was employed for six or more calendar-quarters within a 13 consecutive calendar-quarter period. The 13 consecutive calendar-quarter period must end within 12 months prior to the TANF application date.

(i) Calendar-quarter means a period of three consecutive calendar months ending on March 31, June 30, September 30, or December 31.

(ii) To be considered employed, the PWE must have received gross earnings of at least \$50 in each calendar-quarter. When the PWE did not earn at least \$50 in each calendar-quarter but earned enough in another quarter of the same year to qualify for more than one covered quarter as defined by the Social Security Administration (SSA), he or she may be considered employed for the quarter he or she did not earn \$50.

(I) The SSA states a person qualifies for a quarter of coverage for any quarter the person earns the designated amount for that calendar year, per OKDHS Appendix C-1, Schedule XII.B.

(II) When the PWE has enough earnings in one quarter to equal or exceed a full year's

coverage, he or she is credited with four quarters of coverage for the year. Earnings received in the quarter the application is made are not considered.

(B) The PWE receives or received UIB within the 12-calendar months prior to the TANF application date.

When the PWE has a pending UIB application, the work history requirement is not met until the worker verifies the PWE meets the work history requirement, per (A) or (C) of this paragraph or the PWE is approved for UIB.

(C) The PWE would have qualified for UIB for one week or more during the 12-calendar month period prior to the TANF application date had the PWE made a UIB application based on earned wages, both covered and uncovered. Covered employment generally includes employment in construction, plants, stores, restaurants, offices, or other places of business that employ one or more persons. Uncovered employment generally includes employment from farm labor, odd jobs, and non-profit organizations.

(i) A PWE who had sufficient earnings to meet the UIB earnings requirement is deemed eligible for UIB even though all or a portion of the PWE's earnings were from uncovered employment. To be eligible or deemed eligible for UIB, the PWE must have earned at least the qualifying wages during the base period, per OKDHS Appendix C-1, Schedule XII.A. The base period consists of the first four of the last five completed quarters immediately preceding the quarter of the UIB application quarter.

(ii) The PWE must have earnings in more than one quarter or earn an amount equal to the total taxable wage in one quarter.

(I) When more than one quarter of earnings is required; the quarter with the highest earnings is the high quarter. The total gross earnings of the remaining three quarters must equal at least one-half of the high quarter earnings. When the earnings do not meet this test, the PWE is ineligible for UIB.

(II) When the PWE earned an amount equal to the total taxable wage base in one quarter of the base period, the PWE is deemed eligible for UIB based on that quarter alone.

(5) **UIB eligibility.** The PWE is required to apply for and accept UIB when the PWE is eligible or potentially eligible to receive the benefits unless he or she is an ineligible alien. After certification, the worker gives the PWE 30-calendar days to provide proof of a

UIB application.

(6) **Striker status.** The assistance unit is not eligible for TANF for any month in which the natural or adoptive parent is participating in a strike on the last day of the month.

(d) **Changes after certification.** After initial eligibility is determined, the two-parent family must continue to meet the conditions listed in (1) through (3) of this subsection to remain eligible as unemployed.

(1) **Drug screening.** The parents must not engage in the illegal use of a controlled substance or substances. When OKDHS has reasonable cause to believe either parent is engaged in the illegal use of a controlled substance or substances, the parent may be required to be screened, per OAC 340:10-4-1. When this occurs and the parent refuses to comply or fails to follow through with the screening or screens positive for the illegal use of a controlled substance or substances, the worker closes the TANF benefit.

(2) **TANF Work requirements.** Both parents must participate in TANF Work related activities, per (c)(2) of this Section. When either parent, unless exempt, fails to participate without good cause for the required number of hours, the worker closes the TANF benefit.

(A) When the PWE becomes unavailable for TANF Work due to illness or injury, good cause may be granted if the condition is expected to last less than 30-calendar days.

(B) When the PWE's condition is expected to last more than 30-calendar days, deprivation based on incapacity must be pursued and established, per OAC 340:10-10-2.

(3) **Income.** The assistance unit must continue to meet income standards, per OKDHS Appendix C-1. When the assistance unit's countable earned income plus any other income exceeds the payment standard for the family size, the worker closes the TANF benefit. Continued medical benefits are authorized for the assistance unit when all other factors of eligibility are met, per OAC 340:10-3-75.

[Source: Added at 17 Ok Reg 444, eff 11-1-99 (emergency); Added at 17 Ok Reg 2075, eff 7-1-00 ; Amended at 23 Ok Reg 980, eff 6-1-06 ; Amended at 27 Ok Reg 1173, eff 6-1-10 ; Amended at 30 Ok Reg 338, eff 12-5-12 (emergency); Amended at 30 Ok Reg 633, eff 6-1-13 ; Amended at 38 Ok Reg 2179, eff 9-15-21 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

#### **340:10-10-4. Continued absence of the natural or adoptive parent(s) from the home**

(a) **Determining absence.** Continued absence of the natural or adoptive parent(s) from the home constitutes a reason for deprivation of parental care.

(1) The applicant or recipient must be the primary caretaker of the child(ren) to be eligible due to the absence of the other parent. A single parent of an unborn child does meet this requirement.

(2) When both parents exercise responsibility for the child(ren), provide day-to-day care, share maintenance, physical care, and guidance for the child(ren), deprivation does not exist. When one

of these conditions is not met, the child(ren) is deprived of parental care.

(3) The absence of the parent must interrupt or stop the parent's functioning as a provider of maintenance, physical care, or guidance for the child(ren). The amount of time the parent has been absent is not considered when determining deprivation based on absence.

(4) A child is not considered deprived due to absence when the parent is out of the home due solely to employment, looking for employment, education, or active duty in the United States uniformed services.

(5) A parent(s) who is a convicted offender but is permitted to live at home while serving a court-imposed sentence by performing unpaid public work or unpaid community service during the workday is considered absent from the home.

**(b) Identifying information.** A TANF applicant or recipient must provide the name of the person(s) alleged as responsible for the support of a child(ren), including the legal and natural father when they are not the same, and provide identifying information, such as name, address, and the employer of the person(s), when known. The applicant or recipient completes and signs Form 08TA001E, Absent Parent (AP) Information Sheet.

(1) Absence is verified through an evaluation of the information recorded.

(2) When contact information is available, the worker interviews or attempt to interview the absent parent to determine whether deprivation exists and child support is being paid at application and subsequent renewals.

**(c) Establishing need.** To establish the need for TANF, the worker must determine whether child support is currently paid and, when paid, the amount, how often it is paid, and the method of payment.

(1) Parents have a legal obligation to provide financial support for their child(ren), whether or not they were married to each other.

(2) An unmarried mother is legally the sole parent until paternity is established.

(3) The termination of parental rights does not stop the obligation of either parent to provide financial support for his or her minor child(ren) unless the child(ren) has been subsequently adopted.

(4) An adoptive parent's legal obligation continues even when a child(ren) is returned to the care of the natural parent.

**(d) Acknowledgment of paternity.** When the worker is able to contact the alleged father, the worker asks whether he is willing to acknowledge paternity. When the alleged father agrees to acknowledge paternity, the worker gives or sends him Form 03PA209E, Acknowledgement of Paternity, to review. The worker advises him to contact Child Support Services at the telephone number on the back of the form if he is willing to sign the form.

(1) When the alleged father lives in the home and acknowledges paternity orally, deprivation does not exist.

(2) When the alleged father in the home denies paternity, but the mother continues to maintain he is the father, deprivation does

not exist pending legal establishment of paternity.

[Source: Added at 17 Ok Reg 444, eff 11-1-99 (emergency); Added at 17 Ok Reg 2075, eff 7-1-00 ; Amended at 20 Ok Reg 866, eff 6-1-03 ; Amended at 24 Ok Reg 1020, eff 6-1-07 ; Amended at 28 Ok Reg 781, eff 6-1-11 ; Amended at 32 Ok Reg 1839, eff 9-15-15 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:10-10-5. Requirement for assignment of support rights and cooperation**

(a) **Assignment of support rights.** When the reason for deprivation is absence, each applicant or recipient of Temporary Assistance for Needy Families (TANF) must assign to Oklahoma Human Services (OKDHS) any support rights, including cash medical, that is pending or continuing for any family member included in the assistance unit as a condition of eligibility. This assignment **excludes** amounts ordered for past due or judgment amounts for persons who never received TANF prior to this application. For persons who previously received TANF, the assignment **includes** past due or judgment amounts previously assigned to OKDHS for the time period the applicant received TANF. Failure to assign support rights makes the assistance unit ineligible for TANF.

(b) **Cooperation in obtaining support.** As a condition of TANF eligibility, each applicant or recipient, who is the natural or adoptive parent of the child(ren) included in the assistance unit, must cooperate with OKDHS in obtaining support for each child, per Section 608 of Title 42 of the United States Code (42 U.S.C. § 608). Failure of the applicant or recipient to cooperate without good cause may be indicated during the application interview or at any time further action by the recipient is necessary.

(c) **Non-cooperation indicators.** Oklahoma Child Support Services (CSS) determines when an applicant or recipient is not cooperating in establishing paternity or in establishing, modifying, or enforcing a support order, per 42 U.S.C. § 654 and Section 264.30 of Title 45 of the Code of Federal Regulations. Per Oklahoma Administrative Code 340:25-5-114, non-cooperation is indicated when the applicant or recipient:

- (1) fails to participate in a scheduled CSS conference or meeting;
- (2) refuses to complete and sign documents necessary to take legal action against the non-custodial parent(s) when requested to do so by CSS;
- (3) fails to comply with an order to submit oneself or the child(ren) to genetic testing to determine paternity;
- (4) fails to appear as a witness at an administrative or district court hearing or other proceeding;
- (5) fails to provide information, or attest to lack of information, under penalty of perjury;
- (6) fails to forward to CSS all child support payments received from the non-custodial parent(s) or other entities other than the Centralized Support Registry after receiving the initial TANF benefit;
- (7)  
( ) pursues private legal action affecting paternity, child support, medical support, or child care or authorizes payments made other

than through the Centralized Support Registry without giving CSS notice, and fails to keep CSS informed of the case status; and (8) engages in ongoing conduct detrimental to CSS enforcement efforts.

(d) **Penalty for failure to cooperate.** When the applicant or recipient is the natural or adoptive parent and fails or refuses to cooperate with OKDHS without good cause, the TANF benefit is reduced by 25 percent of the payment standard shown on OKDHS Appendix C-1, Maximum Income, Resource and Payment Standards, Schedule IX, per 42 U.S.C. § 608(a)(2), for the next advance notice effective date, per OKDHS Appendix B-2, Deadlines for Case Actions.

(e) **Penalty removal.** When CSS determines the recipient is cooperating, Adult and Family Services is notified and the 25 percent penalty is removed for the next effective date.

[Source: Added at 17 Ok Reg 444, eff 11-1-99 (emergency); Added at 17 Ok Reg 2075, eff 7-1-00 ; Amended at 20 Ok Reg 850, eff 6-1-03 ; Amended at 22 Ok Reg 764, eff 5-12-05 ; Amended at 27 Ok Reg 1860, eff 7-1-10 ; Amended at 38 Ok Reg 2179, eff 9-15-21]

#### **340:10-10-6. Good cause**

(a) **Cooperation.** When deprivation is based on absence, the custodial parent is required to cooperate in pursuing child support, per Oklahoma Administrative Code (OAC) 340:10-10-5, unless there is a good cause reason not to cooperate. When the client claims good cause, it is expected that a good cause determination be made with the same degree of promptness as the determination of Temporary Assistance for Needy Families (TANF) eligibility unless there are difficulties in gathering needed information.

(b) **Basis for client to claim good cause.** To claim good cause for not cooperating with child support, the client must provide or Oklahoma Human Services (OKDHS) must obtain documentary evidence when available, per (d) of this Section that shows it is not in the best interest of the child or the applicant or recipient to pursue support.

(1) It is clear that the physical safety and well-being of the custodial parent or caretaker relative are relevant to the child's best interest determination when an adverse impact on the custodial parent or caretaker relative will have an adverse impact upon the child. When cooperation by the mother in establishing paternity or securing support could subject her to physical or emotional harm, such cooperation is against the child's best interest when harm to the mother is sufficiently severe to affect her ability to care for the child adequately.

(2) OKDHS determines that the client has good cause for refusing to cooperate only when:

- (A) there is possible physical or emotional harm to the child;
- (B) or the parent or caretaker relative-payee;
- (C) the child was conceived as a result of incest or forcible rape;
- (D) legal proceedings for adoption of the child are pending before a court; or



(E) the client is currently being assisted by an attorney or a public or licensed private social agency to decide whether to keep the child or relinquish the child for adoption.

(c) **Assignment and degree of promptness.** The good cause exception applies only to excuse the cooperation requirement. The requirement that the applicant or recipient assign support rights to OKDHS as a condition for TANF eligibility is independent from the cooperation requirement and cannot be waived or excused based on a good cause determination per OAC 340:10-10-5.

(d) **Notice of right to request a decision.** The client has the right to claim good cause for failure to cooperate in obtaining child support.

(1) When deprivation is based on absence, the applicant for or recipient of TANF must sign Form 08TA012E, Cooperation Agreement and Request for Good Cause, to acknowledge he or she understands the good cause information on the form and indicate his or her cooperation decision:

(A) at application;

(B) at each benefit renewal;

(C) when an additional child request is made; or

(D) when the recipient wants to request for good cause after certification.

(2) The worker does not deny, delay, or discontinue assistance pending a good cause determination for refusal to cooperate when the client furnishes evidence or information supporting the good cause claim.

(e) **Client responsibility.** When the client makes a good cause claim, he or she must complete and sign Form 08TA009E, Good Cause Report, indicating the basis for the good cause claim and supply evidence to establish the claim or to furnish sufficient information to permit OKDHS to investigate the good cause circumstances.

(1) When available, acceptable documentary evidence may include:

(A) birth certificate or medical or law enforcement records that indicate the child was conceived as a result of incest or forcible rape;

(B) court documents or other records that indicate legal adoption proceedings are pending before a court of competent jurisdiction;

(C) court, medical, child protective services, social services, psychological, or law enforcement records that indicate the alleged or non-custodial parent might inflict physical or emotional harm on the child or caretaker relative;

(D)

a written statement from an attorney or a public or licensed private social agency that states the applicant or recipient is being assisted by OKDHS to resolve the issue of deciding whether to keep the child or place the child for adoption; and

- (E) statements from persons other than the client with knowledge of the circumstances that provide the basis for the good cause claim, except in the case of adoption.
- (2) Upon request, the worker assists the client in obtaining evidence that is not reasonably obtainable. This requirement is limited to the specific documentary evidence listed in (1)(A) through (E) of this subsection. The client must specify the type of document or record needed, as well as provide sufficient identifying information to make it possible to be obtained.
- (f) **Good cause decision.** Based on the documentary evidence and information provided, Adult and Family Services (AFS) TANF Unit staff makes the good cause decision.
- (1) When AFS approves good cause, the applicant or recipient is not required to cooperate in pursuing child support unless circumstances change.
- (2) When all other eligibility requirements are met at application, but the applicant fails to provide information to support his or her good cause claim, the worker informs the client that he or she must sign a new Form 08TA012E agreeing to cooperate in pursuing child support or the application will be denied.
- (3) When the client provides good cause information and AFS TANF Unit staff determines good cause does not exist after certification, the worker informs the client that good cause was not approved and he or she is expected to cooperate in pursuing child support unless more documentary evidence can be provided.
- When the client:
- (A) agrees to cooperate, he or she signs a new Form 08TA012E agreeing to cooperate and provides all known information about the non-custodial parent; or
- (B) continues to refuse to cooperate after certification, the non-cooperation penalty is applied.

[Source: Added at 17 Ok Reg 444, eff 11-1-99 (emergency); Added at 17 Ok Reg 2075, eff 7-1-00 ; Amended at 20 Ok Reg 850, eff 6-1-03 ; Amended at 24 Ok Reg 1020, eff 6-1-07 ; Amended at 38 Ok Reg 2179, eff 9-15-21]

### **340:10-10-7. Oklahoma Department of Human Services (DHS) responsibilities in relation to support payments**

- (a) **Referral to Child Support Services (CSS).** Federal regulations require Adult and Family Services (AFS) staff to send referrals based on absence to CSS within two business days of Temporary Assistance for Needy Families (TANF) benefit issuance. The AFS referral is computer-generated upon TANF approval. At any time AFS staff receives additional information regarding the absent parent, AFS staff sends the additional information to CSS.
- (b) **Receipt of child or spousal support.** For purposes of this Subchapter, child or spousal support is defined as voluntary monetary contributions or court-ordered obligations. When a child support order contains an order for spousal support, which may be referred to as alimony or support alimony in Oklahoma, the obligation for spousal support is also assigned to DHS. At the application or renewal interview,

the applicant or recipient is informed of the responsibility to forward to the Oklahoma Centralized Support Registry (OCSR) any child or spousal support payments received from the absent parent(s) after TANF certification.

(1) **Payments received during application period.** All child and spousal support payments reported by an applicant prior to certification are considered income. Support anticipated to be received after certification is not considered as the client agreed by signing the application to submit any future payments to OCSR.

(2) **Payments received after certification.** AFS staff forwards any support payments brought to the county office by the client after certification to OCSR. Payments are not sent in the form of cash. CSS may send child support in excess of the monthly court ordered amount to the client. When the client receives excess child support from CSS, it is considered as unearned income.

(3) **Retained support payments.** The worker informs CSS when he or she becomes aware the client retained assigned support payments.

(A) When the CSS district office determines the client is not cooperating, the TANF cash assistance payment is reduced by 25 percent of the TANF payment standard. The worker considers the retained support as income unless the client forwards the child support to OCSR.

(B) When CSS determines the client has resumed cooperation, the 25 percent penalty is removed and the worker no longer considers the support as income. The cash assistance is increased the next effective date.

(4) **Child support and other income exceeds cash assistance.**

When CSS receives a support payment that is greater than, or equal to, that month's TANF cash assistance, the worker receives notification the month following receipt.

(A) The worker evaluates the support payment history to determine whether the support is intended for members of the assistance unit and if it is current support that is expected to continue.

(B) The worker closes the TANF cash assistance the next effective date and continues medical benefits per OAC 340:10-3-75 when, after review, the current support is intended for members of the cash assistance unit and expected to continue.

(C) When the TANF cash assistance is not closed timely, CSS retains any child support payment received during that month or subsequent months for reimbursement of TANF payments made for those months or any preceding months.

(5) **Federal and/or state tax intercept payments.** CSS uses federal and/or state tax intercept to collect current and past due child support payments, including interest owed.

(A) Joint tax intercept payments collected prior to the client's current receipt of TANF may be held for six

months. When CSS distributes all or part of the tax intercept payment to the client, the worker considers the payment as a resource the month following the month of receipt.

(B) Tax intercept payments collected for interest owed on past due child support may be forwarded to the client when the principle amount of past due child support is paid in full.

(c) **Child support services after TANF closure.** At the time the TANF benefit closes, the closure notice informs the client child support services will continue unless the client notifies CSS in writing that he or she no longer wants the service or the client becomes ineligible for the service.

[Source: Added at 17 Ok Reg 444, eff 11-1-99 (emergency); Added at 17 Ok Reg 2075, eff 7-1-00 ; Amended at 20 Ok Reg 850, eff 6-1-03 ; Amended at 22 Ok Reg 764, eff 5-12-05 ; Amended at 25 Ok Reg 14, eff 8-3-07 (emergency); Amended at 25 Ok Reg 903, eff 6-1-08 ; Amended at 27 Ok Reg 1860, eff 7-1-10 ; Amended at 32 Ok Reg 1839, eff 9-15-15]

## **SUBCHAPTER 11. CONDITIONS OF ELIGIBILITY - DEPRIVATION OF PARENTAL SUPPORT OR CARE BY A NATURAL OR ADOPTIVE PARENT [REVOKED]**

### **340:10-11-1. Deprivation of parental support or care by a natural or adoptive parent [REVOKED]**

[Source: Amended at 9 Ok Reg 3587, eff 7-24-92 (emergency); Amended at 10 Ok Reg 3601, eff 7-12-93 ; Revoked at 17 Ok Reg 444, eff 11-1-99 (emergency); Revoked at 17 Ok Reg 2075, eff 7-1-00]

### **340:10-11-2. Procedures for determining continued absence [REVOKED]**

[Source: Amended at 9 Ok Reg 3587, eff 7-24-92 (emergency); Amended at 10 Ok Reg 3601, eff 7-12-93 ; Amended at 12 Ok Reg 3564, eff 8-3-95 (emergency); Amended at 13 Ok Reg 439, eff 11-14-95 (emergency); Amended at 13 Ok Reg 2167, eff 6-14-96 ; Revoked at 17 Ok Reg 444, eff 11-1-99 (emergency); Revoked at 17 Ok Reg 2075, eff 7-1-00]

### **340:10-11-3. Requirement for assignment of support rights and cooperation [REVOKED]**

[Source: Amended at 9 Ok Reg 3587, eff 7-24-92 (emergency); Amended at 10 Ok Reg 3601, eff 7-12-93 ; Amended at 15 Ok Reg 145, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1602, eff 5-11-98 ; Revoked at 17 Ok Reg 444, eff 11-1-99 (emergency); Revoked at 17 Ok Reg 2075, eff 7-1-00]

### **340:10-11-4. Good cause [REVOKED]**

[Source: Amended at 9 Ok Reg 3587, eff 7-24-92 (emergency); Amended at 10 Ok Reg 3601, eff 7-12-93 ; Amended at 12 Ok Reg 3564, eff 8-3-95 (emergency); Amended at 13 Ok Reg 2167, eff 6-14-96 ; Amended at 15 Ok Reg 145, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1602, eff 5-11-98 ; Revoked at 17 Ok Reg 444, eff 11-1-99 (emergency); Revoked at 17 Ok Reg 2075, eff 7-1-00]

### **340:10-11-5. Protective payments [REVOKED]**

[Source: Revoked at 15 Ok Reg 145, eff 11-1-97 (emergency); Revoked at 15 Ok Reg 1602, eff 5-11-98]

### **340:10-11-6. Department responsibilities in relation to support payments [REVOKED]**

[Source: Amended at 9 Ok Reg 3587, eff 7-24-92 (emergency); Amended at 10 Ok Reg 3601, eff 7-12-93 ; Amended at 13 Ok Reg 439, eff 11-14-95 (emergency); Amended at 13 Ok Reg 2167, eff 6-14-96 ; Amended at 15 Ok Reg 145, eff 11-1-97 (emergency); Amended at 15 Ok Reg 374, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1602, eff 5-11-98 ; Revoked at 17 Ok Reg 444, eff 11-1-99 (emergency); Revoked at 17 Ok Reg 2075, eff 7-1-00]

### **340:10-11-7. Physical or mental incapacity of natural or adoptive parent [REVOKED]**

[Source: Amended at 9 Ok Reg 3587, eff 7-24-92 (emergency); Amended at 10 Ok Reg 3601, eff 7-12-93 ; Revoked at 17 Ok Reg 444, eff 11-1-99 (emergency); Revoked at 17 Ok Reg 2075, eff 7-1-00]

### **340:10-11-8. Transportation and subsistence necessary to determine incapacity [REVOKED]**

[Source: Amended at 9 Ok Reg 3587, eff 7-24-92 (emergency); Amended at 10 Ok Reg 3601, eff 7-12-93 ; Revoked at 17 Ok Reg 444, eff 11-1-99 (emergency); Revoked at 17 Ok Reg 2075, eff 7-1-00]

### **340:10-11-9. Determination of incapacity at specified times other than at time of application [REVOKED]**

[Source: Amended at 9 Ok Reg 3587, eff 7-24-92 (emergency); Amended at 10 Ok Reg 3601, eff 7-12-93 ; Revoked at 17 Ok Reg 444, eff 11-1-99 (emergency); Revoked at 17 Ok Reg 2075, eff 7-1-00]

### **340:10-11-10. Need for physical restoration and/or training [REVOKED]**

[Source: Amended at 9 Ok Reg 3587, eff 7-24-92 (emergency); Amended at 10 Ok Reg 3601, eff 7-12-93 ; Revoked at 17 Ok Reg 444, eff 11-1-99 (emergency); Revoked at 17 Ok Reg 2075, eff 7-1-00]

### **340:10-11-11. Notification of denial or closure [REVOKED]**

[Source: Amended at 9 Ok Reg 3587, eff 7-24-92 (emergency); Amended at 10 Ok Reg 3601, eff 7-12-93 ; Revoked at 17 Ok Reg 444, eff 11-1-99 (emergency); Revoked at 17 Ok Reg 2075, eff 7-1-00]

### **340:10-11-12. Unemployed parent [REVOKED]**

[Source: Amended at 9 Ok Reg 3587, eff 7-24-92 (emergency); Amended at 10 Ok Reg 3601, eff 7-12-93 ; Amended at 11 Ok Reg 1023, eff 1-1-94 ; Amended at 13 Ok Reg 935, eff 1-24-95 (emergency); Amended at 13 Ok Reg 281, eff 5-18-95 (emergency); Amended at 12 Ok Reg 3536, eff 6-16-95 (emergency); Amended at 13 Ok Reg 2167, eff 6-14-96 ; Amended at 15 Ok Reg 145, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1602, eff 5-11-98 ; Revoked at 17 Ok Reg 444, eff 11-1-99 (emergency); Revoked at 17 Ok Reg 2075, eff 7-1-00]

## **SUBCHAPTER 12. CONDITIONS OF ELIGIBILITY - SOCIAL SECURITY NUMBERS**

### **340:10-12-1. Social Security number (SSN)**

Federal regulations require a SSN or application for a SSN for each individual determined eligible for Temporary Assistance for Needy Families (TANF). The individual's needs are included in the TANF benefit with a 25% penalty reduction of the payment standard until a SSN is applied for or provided for that individual(s). The 25% penalty is removed effective the date the SSN is applied for or provided.

[Source: Added at 15 Ok Reg 145, eff 11-1-97 (emergency); Added at 15 Ok Reg 1602, eff 5-11-98 ; Amended at 21 Ok Reg 814, eff 5-1-04]

## **SUBCHAPTER 13. CONDITIONS OF ELIGIBILITY - SCHOOL ATTENDANCE**

### **340:10-13-1. School attendance**

(a) **School attendance requirement.** Regular school attendance is a Temporary Assistance for Needy Families (TANF) eligibility condition for each child eligible for kindergarten through 18 years of age unless the child is home educated, per the Oklahoma constitution and Section 230.66 of Title 56 of the Oklahoma State Statutes (56 O.S. § 230.66). High school equivalency (HSE), alternative high schools, or virtual schools meet this requirement.

(1) When the worker determines that a school age child receiving TANF is not attending school regularly, the TANF cash assistance must be reduced by 25 percent of the payment standard, per Section 604(i) of Title 42 of the United States Code, 56 O.S. § 230.52(c)(3), and Oklahoma Administrative Code 340:10-3-57(g).

(2) The 25 percent penalty is removed the next effective date after the parent or caretaker relative provides verification the child is attending school. At application and at each renewal, the worker verifies regular school attendance for each child in the family.

#### **(b) Requirement for children who are 18 years of age.**

(1) An otherwise eligible child who is 18 years of age is included in the assistance unit if he or she is a full time secondary school student, attending HSE classes, an alternative high school, or a virtual school and expects to graduate before or during the month he or she turns 19 years of age.

(2) A child turning 18 years of age who is not expected to graduate during, or before the month the child turns 19 years of age, is eligible only through the month he or she reaches 18 years of age.

[Source: Amended at 11 Ok Reg 153, eff 10-10-93 (emergency); Amended at 11 Ok Reg 1639, eff 5-12-94 ; Amended at 15 Ok Reg 145, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1602, eff 5-11-98 ; Amended at 15 Ok Reg 3884, eff 9-1-98 (emergency); Amended at 16 Ok Reg 1010, eff 4-26-99 ;

## **SUBCHAPTER 14. CONDITIONS OF ELIGIBILITY - IMMUNIZATIONS**

### **340:10-14-1. Immunizations**

(a) **Scope.** Sections 230.52, 230.56, and 230.65 of Title 56 of the Oklahoma Statutes and Section 608 of Title 42 of the United States Code address Temporary Assistance for Needy Families (TANF) recipients' responsibility to immunize their children. Immunization of minor children two months of age and older is a variable condition of eligibility that must be addressed before certification and at renewal. The parent or caretaker relative must provide proof that each child is current on age-appropriate immunizations within 90-calendar days of certification and when additional immunizations become due in the future unless he or she requests and, is approved for a good cause exemption, per (b) of this Section. Refer to the Oklahoma State Department of Health (OSDH) website at [www.ok.gov/health/](http://www.ok.gov/health/) for current immunization schedules and vaccination information. Proof of immunization includes providing a copy of the vaccination record issued by the local health official or a licensed physician.

(1) When the minor child attends a licensed child care center or home or a parochial, private, or public school, proof of current immunization is not required as each of these entities require proof of immunization or a signed OSDH Form 216-A, Certificate of Exemption, on file with OSDH as a condition of attendance.

(2) When the child does not attend a facility, per (a)(1) of this Section and the client fails to provide proof of current immunization within 90-calendar days without good cause, the worker reduces the TANF cash assistance by 25 percent of the payment standard, per Oklahoma Administrative Code 340:10-3-57(g). The worker removes the 25 percent penalty the next effective date after the client provides proof of current immunization.

(b) **Good cause.** The client may claim a good cause exemption because of the child's medical condition, the immunizations are contrary to the child's religion, or the client's personal objection. To claim a good cause exemption, the client must return a completed Form 08TA017E, Immunization Certificate of Exemption, signed by:

- (1) a physician, certifying that there is a medical contraindication;
- (2) a religious leader, parent, or caretaker relative, certifying that immunizations are contrary to the teachings of the child's religion; or
- (3) the parent or caretaker relative, certifying that immunizations are contrary to the parent's or care relative's beliefs.

## **SUBCHAPTER 15. CONDITIONS OF ELIGIBILITY - CITIZENSHIP AND ALIENAGE**

### **340:10-15-1. Citizenship and alien status**

(a) A person eligible to be included in a Temporary Assistance for Needy Families (TANF) benefit, must be:

(1) a citizen or a national of the United States (U.S.), including the 50 states, District of Columbia, commonwealth of Puerto Rico, Virgin Islands, Guam, American Samoa, and Northern Mariana Islands. A person may be a citizen of the U.S. by being born in the U.S. or by being born in some other country but moving to the U.S. and being granted U.S. citizenship through the U.S.

Citizenship and Immigration Services (USCIS) a bureau of the U.S. Department of Homeland Security; or

(2) a qualified alien described as:

(A) an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act (INA);

(B) an alien who is paroled into the U.S., per Section 212(d)(5) of INA for a period of at least one year;

(C) an alien who is granted conditional entry, per Section 203(a)(7) of INA as in effect prior to April 1, 1980;

(D) an alien who is granted asylum, per Section 208 of INA;

(E) a refugee who is admitted to the U.S., per Section 207 of INA;

(F) an alien whose deportation is withheld, per Section 241(b)(3) of INA;

(G) an alien who is a Cuban or Haitian entrant as defined, per Section 501(e) of the Refugee Education Assistance Act of 1980;

(H) battered aliens and their children or parents as defined, per Section 431(c) of the Personal Responsibility and Work Opportunity Reconciliation Act as amended, Section 1641(c) of Title 8 of the United States Code (8 U.S.C. § 1641(c));

(I) an alien and his or her eligible relatives who are victims of a severe form of trafficking, per Section 107(b) of the Trafficking Victims Protection Act of 2000 that was reauthorized and amended by the Trafficking Victims Protection Reauthorization Act of 2013;

(J) an Iraqi admitted in special immigrant status as defined in Section 101(a)(27) of the INA, 8 U.S.C. § 1101(a)(27), and Section 1059, Public Law (P.L.) 109-163, the National Defense Authorization Act for Fiscal Year 2006, and Section 1244 of P.L. 110-181, the National Defense Authorization Act for Fiscal Year 2008, per Section 525 of



Division G of P.L. 110-161, the Consolidated Appropriations Act of 2008, Section 1244 of P.L. 110-181, the National Defense Authorization Act for Fiscal Year 2008, and Section 8120 of P.L. 111-118. The person must be treated as a refugee;

(K) an Afghan admitted in special immigrant status as defined, per Section 101(a)(27) of the INA, 8 U.S.C. § 1101(a)(27) and Section 1059, P.L. 109-163, the National Defense Authorization Act for Fiscal Year 2006, Section 602, Division F, P.L. 111-08, the Omnibus Appropriations Act, 2009, pursuant to Section 525 of Division G of P.L. 110-161 of the Consolidated Appropriations Act, 2009, and Section 8120 of P.L. 111-118. The person must be treated as a refugee;

(L) an Afghan non-special immigrant parolee, known as a humanitarian parolee, per the Afghanistan Supplemental Appropriations Act 2022 enacted on September 30, 2021, Section 2502 of P.L. 117-43, as modified by the Section 106(3) and 149(a) of the Continuing Appropriations and Ukraine Supplemental Appropriations Act, 2023, P. L. 117-180, paroled into the U.S. between July 31, 2021 and December 16, 2022, who meets all other factors of eligibility from October 1, 2021 until March 31, 2023, or the term of parole, whichever is longer; or

(M) a Ukrainian citizen or national or person who last habitually resided in Ukraine and received parole per Section 401 of the Additional Ukraine Supplemental Appropriations Act of 2022, P.L. 117-128. The parole must occur between February 24, 2022, and September 30, 2023; if after September 30, 2023, the parolee must be the child, spouse, parent, legal guardian, or primary caretaker of a Ukrainian parolee who was paroled between February 24, 2022 and September 30, 2023.

(b) A qualified alien who enters the U.S. on or after August 22, 1996, is not eligible for TANF benefits for a five year period beginning on the date of the alien's entry into the U.S. with a qualified alien status unless the alien is:

- (1) admitted to the U.S. as a refugee, per (a)(2)(E) of this Section;
- (2) granted asylum, per (a)(2)(D) of this Section;
- (3) one whose deportation is being withheld, per (a)(2)(F) of this Section;
- (4) a Cuban or Haitian entrant, per (a)(2)(G) of this Section;
- (5) admitted to the U.S. as an Amerasian immigrant;
- (6) lawfully residing in the state and is a veteran of the U.S. armed forces, on active duty, or is that person's spouse or unmarried dependent child;
- (7) a victim of a severe form of trafficking, per (a)(2)(I) of this Section;
- (8) an Afghan citizen or national paroled into the U.S. as a humanitarian parolee between July 31, 2021 and September 30, 2022; or

- (9) a Ukrainian citizen, national, or person who last habitually resided in Ukraine paroled, per (a)(2)(M) of this Section.
- (c) The applicant or recipient must declare the citizenship or alien status for all adults and children included in the TANF assistance unit when completing and signing the application or renewal. Refer to Oklahoma Administrative Code 340:65-3-1(g) for additional citizenship requirements for persons 14 years of age and older, per Section 71 of Title 56 and Section 20j of Title 74 of the Oklahoma Statutes.
- (d) Declaration on behalf of a newborn child may be delayed provided the delay does not exceed the date of the assistance unit's next eligibility renewal.
- (e) Persons declaring qualified alien status must provide documentation of their alien status and have their status verified through the Systematic Alien Verification for Entitlements (SAVE) program's Alien Status Verification Index. When secondary verification must be pursued through USCIS, the worker must not delay, deny, close, or reduce benefits to an alien pending a response from USCIS.
- (f) All persons born in the U.S. are, with rare exceptions, U.S. citizens. Documents of citizenship or national status of persons from certain U.S. territories or possessions listed in (a)(1) of this Section may not be in their possession nor available. Their status may usually be determined by a birth certificate, passport, or other official document.

[Source: Amended at 10 Ok Reg 527, eff 12-8-92 (emergency); Amended at 10 Ok Reg 2813, eff 6-25-93 ; Amended at 13 Ok Reg 941, eff 10-5-95 (emergency); Amended at 13 Ok Reg 439, eff 11-14-95 (emergency); Amended at 13 Ok Reg 2167, eff 6-14-96 ; Amended at 15 Ok Reg 150, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1602, eff 5-11-98 ; Amended at 17 Ok Reg 2271, eff 5-1-00 ; Amended at 19 Ok Reg 1737, eff 6-14-02 ; Amended at 20 Ok Reg 2640, eff 7-1-03 (emergency); Amended at 21 Ok Reg 814, eff 5-1-04 ; Amended at 22 Ok Reg 764, eff 5-12-05 ; Amended at 25 Ok Reg 14, eff 8-3-07 (emergency); Amended at 25 Ok Reg 903, eff 6-1-08 ; Amended at 26 Ok Reg 168, eff 11-1-08 (emergency); Amended at 26 Ok Reg 1223, eff 6-1-09 ; Amended at 27 Ok Reg 1860, eff 7-1-10 ; Amended at 38 Ok Reg 2179, eff 9-15-21 ; Amended at 39 Ok Reg 461, eff 12-21-21 (emergency); Amended at 39 Ok Reg 1688, eff 9-15-22 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24; Amended at 42 Ok Reg, Number 7, effective 11-18-24 (emergency)]

### **340:10-15-2. Citizenship [REVOKED]**

[Source: Amended at 10 Ok Reg 527, eff 12-8-92 (emergency); Amended at 10 Ok Reg 2813, eff 6-25-93 ; Revoked at 17 Ok Reg 2271, eff 5-1-00]

### **340:10-15-3. Sponsored aliens**

Certain aliens, unless specifically exempted or covered by one of two exceptions as identified at Section 1631(e)(f) of Chapter 14 of United States Code (USC) 8, whose entry into the U.S. required sponsorship, must have the income and resources of the sponsor considered in determining eligibility and benefit amount for Temporary Assistance for Needy Families (TANF). Aliens who are exempted from this requirement are parolees, political asylees, Cuban or Haitian entrants, and refugees admitted under Section 207(a)(7) and Section 207(c) of the Immigration and Nationality Act. The deeming rules do not apply to a sponsored immigrant and his or her child(ren) who are victims of domestic violence or extreme cruelty. If a sponsored immigrant is unable to obtain food and shelter without government assistance, then only the amount of income and resources actually provided by the sponsor or the sponsor's spouse is

deemed to the immigrant. A sponsor is defined as an individual(s) or an organization who executed an affidavit of support or similar agreement on behalf of the alien, who is not an individual sponsor's child. Such affidavit or agreement must be verified before application of this rule.

(1) **Organizational sponsor.** Aliens who have a support affidavit from an organizational sponsor are ineligible for a period of three years from the date of entry into the U.S. unless the sponsoring agency has ceased to exist or is unable to meet the alien's financial need. The case record must contain documentation of the reason the organization is not meeting the need.

(2) **Individual sponsor.** To determine eligibility and benefit amount, an alien who was sponsored must provide any information and documentation necessary to determine the income and resources of the sponsor and obtain the necessary sponsor's cooperation. The income and resources of a sponsor and his or her spouse, if living with the sponsor, are considered as the unearned income and resources of an alien unless the sponsor is receiving TANF or Supplemental Security Income (SSI).

(A) The amount of the sponsor's income considered is determined:

- (i) as total monthly gross earned income minus 20%, not to exceed \$175, plus total monthly unearned income;
- (ii) by subtracting the need standard for the sponsor and his or her dependents living in the home shown on Oklahoma Department of Human Services (OKDHS) Appendix C-1, Maximum Income, Resource, and Payment Standards, Schedule IX.A;
- (iii) by subtracting amounts actually paid by the sponsor to dependents outside of the home who are claimed by the sponsor as dependents, to determine his or her federal personal income tax liability; and
- (iv) by subtracting actual payments of alimony or child support to individuals not living in the household.

(B) Resources considered available to the alien from the sponsor are the total amount of the resources of the sponsor determined as if he or she were applying for TANF, less \$1,500.

(C) When the person is the sponsor of two or more aliens in the same home, the income and resources of the sponsor and his or her spouse, if living with the sponsor, are divided equally among the aliens.

(D) Income and resources considered available to a sponsored alien are not considered in determining the need of unsponsored members of the alien's family unless actually available.

(E) The sponsor and the alien are held jointly liable for any overpayment of benefits due to failure to provide correct

information.

(F) The income and resources of the sponsors of aliens who have United States Citizenship and Immigration Services (USCIS) Form I-864, Affidavit of Support, continue to be deemed to the alien until:

- (i) the alien achieves U.S. citizenship through naturalization pursuant to Chapter 2 of Title III of the Immigration and Nationality Act;
- (ii) the alien has worked 40 qualifying quarters of coverage as defined under Title II of the Social Security Act or can be credited with 40 qualifying quarters as provided under Section 435 of this Title; and in the case of any qualifying quarter credited for any period beginning after December 31, 1996, the alien did not receive any federal means-tested public benefit, as provided under Section 403, during such period; or
- (iii) the sponsor dies.

(G) The income and resources of the sponsors of aliens who have affidavits of support other than USCIS Form I-864 continues to be deemed to the alien for a period of three years from the date of entry of the alien into the U.S.**Subchapter 17. Foster Care in Aid to Families with Dependent Children [REVOKED]**

[Source: Amended at 10 Ok Reg 527, eff 12-8-92 (emergency); Amended at 10 Ok Reg 2813, eff 6-25-93 ; Amended at 13 Ok Reg 281, eff 5-18-95 (emergency); Amended at 13 Ok Reg 2167, eff 6-14-96 ; Amended at 17 Ok Reg 444, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2075, eff 7-1-00 ; Amended at 18 Ok Reg 2055, eff 7-1-01 ; Amended at 20 Ok Reg 2640, eff 7-1-03 (emergency); Amended at 21 Ok Reg 814, eff 5-1-04 ; Amended at 22 Ok Reg 764, eff 5-12-05]

#### **340:10-15-4. Immigrants [REVOKED]**

[Source: Amended at 10 Ok Reg 527, eff 12-8-92 (emergency); Amended at 10 Ok Reg 2813, eff 6-25-93 ; Revoked at 17 Ok Reg 444, eff 11-1-99 (emergency); Revoked at 17 Ok Reg 2075, eff 7-1-00]

#### **340:10-15-5. Permanent residence under color of law (PRUCOL) [REVOKED]**

[Source: Amended at 10 Ok Reg 527, eff 12-8-92 (emergency); Amended at 10 Ok Reg 2813, eff 6-25-93 ; Revoked at 20 Ok Reg 2640, eff 7-1-03 (emergency); Revoked at 21 Ok Reg 814, eff 5-1-04]

#### **340:10-15-6. Parolees [REVOKED]**

[Source: Amended at 10 Ok Reg 527, eff 12-8-92 (emergency); Amended at 10 Ok Reg 2813, eff 6-25-93 ; Revoked at 17 Ok Reg 444, eff 11-1-99 (emergency); Revoked at 17 Ok Reg 2075, eff 7-1-00]

#### **340:10-15-7. Refugees [REVOKED]**

[Source: Amended at 10 Ok Reg 527, eff 12-8-92 (emergency); Amended at 10 Ok Reg 2813, eff 6-25-93 ; Revoked at 17 Ok Reg 444, eff 11-1-99 (emergency); Revoked at 17 Ok Reg 2075, eff 7-1-00]

**340:10-15-8. Conditioned entries of aliens made available by the Attorney General of the United States for emergent reasons or for reasons deemed strictly in the public interest [REVOKED]**

[Source: Amended at 10 Ok Reg 527, eff 12-8-92 (emergency); Amended at 10 Ok Reg 2813, eff 6-25-93 ; Revoked at 17 Ok Reg 2271, eff 5-1-00]

**340:10-15-9. Special provisions relating to Kickapoo Indians [REVOKED]**

[Source: Amended at 10 Ok Reg 527, eff 12-8-92 (emergency); Amended at 10 Ok Reg 2813, eff 6-25-93 ; Amended at 17 Ok Reg 2271, eff 5-1-00 ; Revoked at 20 Ok Reg 2640, eff 7-1-03 (emergency); Revoked at 21 Ok Reg 814, eff 5-1-04]

**SUBCHAPTER 17. FOSTER CARE IN AID TO FAMILIES WITH DEPENDENT CHILDREN [REVOKED]**

**340:10-17-1. Legal base [REVOKED]**

[Source: Revoked at 22 Ok Reg 764, eff 5-12-05]

**340:10-17-2. Referral to family support services (FSS) [REVOKED]**

[Source: Revoked at 22 Ok Reg 764, eff 5-12-05]

**340:10-17-3. Initial eligibility [REVOKED]**

[Source: Revoked at 22 Ok Reg 764, eff 5-12-05]

**340:10-17-4. Redetermination of eligibility [REVOKED]**

[Source: Revoked at 22 Ok Reg 764, eff 5-12-05]

**340:10-17-5. Case changes [REVOKED]**

[Source: Revoked at 22 Ok Reg 764, eff 5-12-05]

**SUBCHAPTER 18. CONDITIONS OF ELIGIBILITY FOR CHILDREN'S SUPPORT SERVICE FUNDS**

**340:10-18-1. Conditions of eligibility for children's support service funds**

(a) **Scope.** Support service funds may be provided to families receiving Temporary Assistance for Needy Families to promote family stability and assist in the prevention of Child Welfare Services involvement when funds are not available through other sources. Refer to Oklahoma Human

Services (OKDHS) Appendix H-4-A, Support Services Funds, and Appendix H-4-C, Child Incentives, for a list of services and the maximum amount that may be spent per service.

(b) **Support service funds.** Payments for the services through support service funds are not an automatic entitlement to the child(ren). The worker determines on a case-by-case basis, whether to authorize payments and services. The field manager or designee is responsible for periodically monitoring expenditures from the support service account.

(1) The worker does not approve support service funds for:

- (A) fines, including traffic fines or any cost related to a criminal offense, such as legal fees or court costs;
- (B) items and services covered by SoonerCare (Medicaid);
- (C) ongoing household expenses, such as, but not limited to, rent, utilities, and car payments; or
- (D) payments to reimburse the client or another person for the cost of services already paid.

(2) Before authorizing payment for support service funds, the worker:

- (A) determines if the service is available through any other resource. Resources may include other OKDHS programs, local churches, and civic groups; and
- (B) negotiates for goods and services for the child(ren) for the least possible cost. The negotiated amounts must not include state or local sales taxes.

(3) Payments of specific services are allowed only after the service is rendered.

(c) **Child incentive funds.** Child incentives are available for children pre-K through grade 12 based on funding availability. Payments for the child incentives are not an automatic entitlement to the child(ren). The worker determines on a case-by-case basis whether to authorize payments. The field manager or designee is responsible for periodically monitoring expenditures from the child incentive account.

[Source: Added at 18 Ok Reg 149, eff 12-1-00 (emergency); Added at 18 Ok Reg 1222, eff 5-11-01 ; Amended at 22 Ok Reg 764, eff 5-12-05 ; Amended at 34 Ok Reg 1441, eff 9-15-17 ; Amended at 38 Ok Reg 2179, eff 9-15-21 ; Amended at 40 Ok Reg 945, eff 9-15-23]

## **SUBCHAPTER 19. ELIGIBILITY REQUIREMENTS FOR EMERGENCY ASSISTANCE TO NEEDY FAMILIES WITH CHILDREN**

### **340:10-19-1. Legal base**

The legal base for the Emergency Assistance to Needy Families with Children program is vested under Title IV, Part A, of the Social Security Act. It is financed from federal and state funds.

[Source: Amended at 10 Ok Reg 3961, eff 6-25-93 (emergency); Amended at 11 Ok Reg 1639, eff 5-12-94]

### **340:10-19-2. Emergency assistance to needy families with children**

The Emergency Assistance Program consists of Emergency Family Services (EFS) administered by the Children and Family Services Division (CFSD), Office of Juvenile Affairs (OJA), and Temporary Assistance for Needy Families (TANF) Emergency Assistance (TANF-EA) administered by the Family Support Services Division (FSSD).

(1) **EFS.** EFS are services to families in which immediate action is necessary to avoid placement of a child(ren) in out-of-home care or to assist in reuniting a child(ren) with the family when in out-of-home placement and thereby prevent destitution of a child(ren) or family.

(2) **TANF-EA.** TANF-EA is administered by FSSD. TANF-EA is available to or on behalf of a needy child(ren) if the assistance is necessary to avoid destitution of the child(ren). TANF-EA payments are state disaster relief funds to families for food, medicine, shelter, utilities, clothing, and personal items. These payments are authorized **only** after all other resources such as emergency funds from the Social Security Administration (SSA), Bureau of Indian Affairs (BIA), Veterans' Administration (VA), other federal, or state, county, city agencies, and community organizations have been determined unavailable.

(A) **Persons who might be eligible for TANF-EA.** The assistance unit for TANF-EA is defined as containing the natural or adoptive parent(s) if residing with the child(ren) or if the parent(s) is absent from the home, the applicant who is of the specified degree of relationship, the applicant's spouse and any dependent child(ren) in the home who meet the age and relationship requirements. The applicant must be responsible for meeting the emergency need(s) of the child(ren) and unable to meet such need(s). The assistance unit must have suffered a major loss to their home as a result of a natural disaster and whose interest was not protected by insurance. In this instance, income and resources may be disregarded if they are not available or are insufficient to meet the emergency need. Partial insurance coverage must be considered when determining the amount to be disregarded.

(B) **TANF-EA emergency benefits.** Emergency benefits for persons eligible for TANF-EA are:

(i) food which is not available through the Supplemental Nutrition Assistance Program (SNAP) Program;

(ii) medicines or medical supplies not otherwise covered under the SoonerCare (Medicaid) Program;

(iii) shelter or emergency repairs on the home. If the client owns the home or is responsible for repairs, benefits can be provided for emergency repairs required to make the home livable.

Verification of the repair cost must be documented

in the case record. If the request is for new shelter, the worker contacts the prospective landlord, either in person or by telephone, to document details regarding the new shelter plan;

(iv) utilities when services have been discontinued. A written notice is required from the supplier that services or fuel cannot be provided or utilities turned on until a payment is received. The notice must be other than routinely printed on the regular bill and must include client's name, address, amount of bill, and account number; and

(v) clothing and personal items lost or destroyed.

[**Source:** Amended at 9 Ok Reg 3941, eff 7-9-92 ; Amended at 10 Ok Reg 3961, eff 6-25-93 (emergency); Amended at 11 Ok Reg 1033, eff 1-1-94 ; Amended at 11 Ok Reg 1639, eff 5-12-94 ; Amended at 11 Ok Reg 3997, eff 6-28-94 (emergency); Amended at 12 Ok Reg 661, eff 12-27-94 (emergency); Amended at 12 Ok Reg 2439, eff 6-26-95 ; Amended at 17 Ok Reg 444, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2075, eff 7-1-00 ; Amended at 26 Ok Reg 1223, eff 6-1-09]

### **340:10-19-3. Eligibility conditions for Temporary Assistance for Needy Families-Emergency Assistance (TANF-EA)**

(a) **Need.** The household's income and resources must be evaluated in determining the availability of liquid resources to meet the emergency need. The evaluation must include a determination that:

- (1) other resources are not available through the Bureau of Indian Affairs, Social Security Administration, Veterans' Administration, other federal, state, county, city agencies, and community organizations, to meet an acute need; and
- (2) the household does not have sufficient cash resources or insurance to cover loss sustained to the home.

(b) **Limitations.** Recipients of Supplemental Security Income (SSI) are not included in the assistance unit. Persons who are residing in an institution are not eligible for TANF-EA.

(c) **Capital resources.** The liquid and non-liquid resources, exclusive of the home, owned by all non-SSI household members including those members who are not included in the assistance unit, are evaluated in determining availability of resources to meet the emergency need. Resources of an SSI recipient are not considered available to meet the emergency need of the assistance unit. If the total liquid resources exceed the emergency need, the assistance unit is ineligible because an emergency does not exist.

(d) **Income.** The income of all non-SSI household members including those members who are not included in the assistance unit is evaluated in determining availability of income to meet the emergency need. Income of an SSI recipient is not considered in determining whether an emergency situation exists. Income of household members who are not included in the assistance unit is not included in the monthly income standard test. In order to be eligible for TANF-EA, the income of all non-SSI household members must be unavailable to meet the emergency need.

(e) **Age.** Only families with a dependent child(ren) under the age of 19 living with the assistance unit are eligible for TANF-EA. An otherwise



eligible child(ren) 18 years of age is included in the assistance plan if he or she is a full-time secondary school student or equivalent level of vocational or technical training and is expected to complete school before reaching age 19. If the child(ren) completes school in the month age 19 is attained, the child(ren) is eligible for assistance that month even if the date of completing school is after the child's birthdate. This refers to the "completion of program" of the secondary school, not the formal graduation. Any other child(ren) who is going to be age 18 but is not expected to complete school before turning age 19 is eligible for the month during which age 18 is reached.

(f) **Residence.** Applicants for TANF-EA must be residing in the State of Oklahoma at the time of request for TANF-EA. There is no durational residence requirement.

(g) **Relationship.** The child(ren) must either be currently living with or must, within six months preceding the date of the request for assistance, have been living with a relative of the specified degree of relationship. The specified degree of relationship includes persons who are related by blood, marriage, or adoption in accordance with the TANF rules on relationship.

(h) **Citizenship and alienage.** The TANF rules on citizenship and alienage must be met.

[Source: Amended at 10 Ok Reg 3961, eff 6-25-93 (emergency); Amended at 11 eff 1-1-94 ; Amended at 11 Ok Reg 1639, eff 5-12-94 ; Amended at 11 Ok Reg 3997, eff 6-28-94 (emergency); Amended at 12 Ok Reg 661, eff 12-27-94 (emergency); Amended at 12 Ok Reg 2439, eff 6-26-95 ; Amended at 13 Ok Reg 943, eff 10-5-95 (emergency); Amended at 13 Ok Reg 735, eff 11-28-95 (emergency); Amended at 13 Ok Reg 2167, eff 6-14-96 ; Amended at 17 Ok Reg 444, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2075, eff 7-1-00]

#### **340:10-19-4. Substantiation of eligibility for Temporary Assistance for Needy Families-Emergency Assistance (TANF-EA)**

The statements of the applicant, or person acting in behalf of the client, are recorded on the application and signed by the applicant. When this information is complete, consistent, and required verification is provided, eligibility can be established. When the applicant, or person acting in behalf of the client, is unable to give information or when such information is incomplete, contradictory, or inconclusive, facts to substantiate eligibility are established immediately by collateral contacts, home visits, or other verification procedures.

[Source: Amended at 11 Ok Reg 1033, eff 1-1-94 ; Amended at 11 Ok Reg 3997, eff 6-29-94 (emergency); Amended at 12 Ok Reg 1159, eff 5-11-95 ; Amended at 17 Ok Reg 444, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2075, eff 7-1-00]

#### **340:10-19-5. Application and disposition of Temporary Assistance for Needy Families-Emergency Assistance (TANF-EA)**

When a natural disaster occurs, the county office telephones Office Support Services (OSSD) Risk Management Unit with pertinent information as to the type and location of the disaster and the approximate number of families who may require TANF-EA. Applications are taken but not processed until Family Support Services Division (FSSD) is notified that the emergency funds have been approved. The

FSSD notifies the local office when applications are to be processed. Form FSS-1, Comprehensive Application and Review, is completed for every request for TANF-EA. Processing of the application must be completed as soon as possible, but cannot exceed 15 working days. The applicant is notified of certification or denial by computer-generated notices.

[Source: Amended at 10 Ok Reg 3961, eff 6-25-93 (emergency); Amended at 11 Ok Reg 1639, eff 5-12-94 ; Amended at 11 Ok Reg 3997, eff 6-28-94 (emergency); Amended at 12 Ok Reg 661, eff 12-27-94 (emergency); Amended at 12 Ok Reg 2439, eff 6-26-95 ; Amended at 17 Ok Reg 444, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2075, eff 7-1-00 ; Amended at 22 Ok Reg 764, eff 5-12-05]

#### **340:10-19-6. Payments for Temporary Assistance for Needy Families-Emergency Assistance (TANF-EA)**

(a) **Method of payment.** Payment is made in the form of a warrant(s) issued by the Office of Finance. The warrant(s) is made payable to the client in the event that a specific vendor is unknown or if payment is for food and similar items. When the vendor is known, the warrant(s) is made payable to either both client and vendor, such as a landlord, utility company, or vendor only. The two-party warrant(s) is mailed to either the client's or vendor's address, based on which method best meets the emergency need of the family. When more than one vendor is approved, separate warrants are issued with each vendor's name and information.

(b) **Amount and period of payment.** Payment(s) to meet emergency needs covers a period of no more than 30 days within 12 consecutive months. If one or more payments are authorized, the 30-day period is counted from the day the computer input form is signed authorizing the first payment. If an additional payment is authorized during this 30-day period, a new application is not required. Only one period of approval can be authorized within a 12-month period. The amount of payment is the amount required to meet the emergency need but may not exceed the monthly maximum Emergency Assistance, "Z" payment standard for the number of eligible persons in the family according to DHS Appendix C-1, Schedule of Maximum Income, Resource and Payment Standards, Schedule IX. Applicants and recipients have a right to request and obtain a fair hearing.

[Source: Amended at 11 Ok Reg 1033, eff 1-1-94 ; Amended at 12 Ok Reg 661, eff 12-27-94 (emergency); Amended at 13 Ok Reg 281, eff 5-18-95 (emergency); Amended at 12 Ok Reg 2439, eff 6-26-95 ; Amended at 13 Ok Reg 2167, eff 6-14-96 ; Amended at 17 Ok Reg 444, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2075, eff 7-1-00]

#### **340:10-19-7. AFDC-EA Fair hearings [REVOKED]**

[Source: Amended at 10 Ok Reg 3961, eff 6-25-93 (emergency); Amended at 11 Ok Reg 1639, eff 5-12-94 ; Amended at 12 Ok Reg 661, eff 12-27-94 (emergency); Amended at 12 Ok Reg 2439, eff 6-26-95 ; Revoked at 17 Ok Reg 444, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2075, eff 7-1-00]

#### **340:10-19-8. Temporary Assistance for Needy Families-Emergency Assistance (TANF-EA) non-conditioning of payments**

The DHS does not restrict in any way the use which the client makes of an assistance payment which is not designated for a vendor. This also precludes any agreement on the part of the Department to pay

or guarantee payment for goods or services provided to clients by vendors in lieu of money payment.

[Source: Amended at 10 Ok Reg 3961, eff 6-25-93 (emergency); Amended at 11 Ok Reg 1639, eff 5-12-94 ; Amended at 11 Ok Reg 3997, eff 6-29-94 (emergency); Amended at 12 Ok Reg 1159, eff 5-11-95 ; Amended at 17 Ok Reg 444, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2075, eff 7-1-00]

#### **340:10-19-9. Title IV-A/EA Emergency Family Services (EFS)**

(a) EFS are services to families provided by the Division of Children and Family Services or the Office of Juvenile Affairs in which immediate action is necessary to avoid placement of a child in out-of-home care or to assist in reuniting a child with his or her family when in an out-of-home placement. These services are allowed under prior law in Section 404(a) (2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193). Situations which can determine a need for emergency assistance are:

- (1) abuse, neglect, or abandonment of a child(ren);
- (2) parents' inability to provide adequate care;
- (3) delinquent or In Need of Supervision referral;
- (4) a juvenile petition; or
- (5) reunification. The child(ren) is currently in custody with a case plan to return home within six months.

(b) EFS include:

- (1) home-based services;
- (2) day treatment;
- (3) wrap-around services;
- (4) substance abuse services;
- (5) education and vocational services;
- (6) independent living services;
- (7) information and referral;
- (8) counseling;
- (9) foster care;
- (10) emergency shelter;
- (11) child care;
- (12) legal services;
- (13) parenting education and training, in-home or out-of-home;
- (14) medical services;
- (15) respite care;
- (16) clothing;
- (17) diagnostic and evaluation services; or
- (18) cash assistance necessary to meet or prevent the emergency crisis.

[Source: Added at 13 Ok Reg 943, eff 10-5-95 (emergency); Added at 13 Ok Reg 2167, eff 6-14-96 ; Amended at 17 Ok Reg 2271, eff 5-1-00 ; Amended at 39 Ok Reg 1688, eff 9-15-22]

#### **340:10-19-10. Eligibility requirements for Emergency Family Services (EFS)**

(a) **Presumptive eligibility.** When the Office of Field Operations, child welfare services case manager determines that the child(ren) is at imminent risk of removal from the home, the social services specialist

presumes the child(ren) and family to be eligible pending approval of eligibility and may authorize EFS as determined appropriate and necessary. Title IV-A funding is contingent upon a subsequent approval of eligibility.

(b) **Eligibility criteria.** The social services specialist determines eligibility based on verification and documentation that:

- (1) an emergency exists involving a child(ren) because of:
  - (A) abuse;
  - (B) neglect;
  - (C) abandonment;
  - (D) delinquency or the need for supervised behavior;
  - (E) the need to remove a child(ren) from the child's home;
  - (F) the imminent threat of (A) - (E); or
  - (G) the lack of a proper caretaker which deprives or would deprive a child(ren) of proper living arrangements or cause destitution.
- (2) the family has not received authorization for Title IV-A Temporary Assistance for Needy Families-Emergency Assistance (TANF-EA) or EFS within the last 12 months;
- (3) the child(ren) has resided with one or both parents or a specified relative within the last six months prior to the emergency;
- (4) the child(ren) is without resources immediately accessible to meet the needs; and
- (5) an adult family member's refusal without good cause of a job or training did not cause the emergency.

[Source: Added at 13 Ok Reg 943, eff 10-5-95 (emergency); Added at 13 Ok Reg 2167, eff 6-14-96 ; Amended at 17 Ok Reg 444, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2075, eff 7-1-00]

## **SUBCHAPTER 20. DIVERSION ASSISTANCE**

### **340:10-20-1. Diversion Assistance (DA)**

(a) **Scope.** Applicants with a minor child(ren) may apply for a onetime DA payment instead of Temporary Assistance for Needy Families (TANF). There must be an immediate crisis need prohibiting the parent(s) or caretaker(s) from accepting a valid employment offer or endangering the parent's or caretaker's current employment. DA is based on funding availability.

- (1) DA does not pay fines, traffic fines, or any cost related to a criminal offense, such as legal fees, court costs, or reinstatement of a driver license due to driving under the influence or other criminal traffic violations.
- (2) DA is not to reimburse expenses already paid by the family or others.
- (3) Before approving DA, the worker must determine if a DA payment will allow the family to be self-sufficient for the next 12 months. An applicant may only receive DA once in the applicant's lifetime after February 1, 2022, and when approved, the family

may not receive a TANF cash assistance payment for 12 months.

(A) A DA payment does not count toward the family's 60-month time limit for receiving a TANF cash assistance benefit.

(B) Any family that includes an adult who already reached the 60-month time limit is not eligible for DA.

(4) Regardless of a change in caretaker, a child may only receive DA once during their childhood. If a child begins living with another caretaker after receiving DA, the child is excluded from DA eligibility with any other caretaker.

(5) OKDHS does not include families approved for DA in the number of persons reported for TANF federal participation rates.

(b) **Application filing.** Applicants must sign and submit an application and be interviewed, per Oklahoma Administrative Code (OAC) 340:65-3-1(b) through (d) to apply for DA. .

(1) In signing the application, an applicant agrees to not apply for TANF for at least one year from the DA application date. In two-parent families, both parents must sign the application.

(2) A stepparent may be included in the benefit when the couple is legally married.

(3) To be timely, the worker must process a DA application within seven-business days.

(c) **Eligibility criteria.** The family must meet the eligibility criteria described in (1) through (7) of this subsection to qualify for DA.

(1) The applicant must verify that the applicant is employed or has a bona fide offer of employment.

(2) There must be a financial need that, if not met, could cause the applicant to lose employment or not be able to accept an employment offer.

(3) An adult(s) must be included in the DA application and must meet the specified degree of relationship to the minor child(ren) included in the application, per OAC 340:10-9-1.

(4) The family's monthly gross income may not exceed the gross income maximum, per Oklahoma Human Services (OKDHS) Appendix C-1, Maximum Income, Resource, and Payments Standards, Schedule XVI, for the appropriate family size.

(5) The family's resources may not exceed the resource limits, per OKDHS Appendix C-1, Schedule XVI.

(6) The applicant must furnish or apply for a Social Security number, per OAC 340:65-3-1(f).

(7) The family must meet citizenship and alienage requirements, per OAC 340:10-15 and OAC 340:65-3-1(g).

(d) **DA payment amount.** The maximum DA payment is equal to four months of the payment standard, per OKDHS Appendix C-1, Schedule XVI, for the appropriate family size based on the family's financial need. DA payments may be issued in more than one authorization to purchase or other approved method when the request for additional funds is made within 120-calendar days of the initial application date, and the total payments do not exceed four times the monthly payment standard for the family size.

[Source: Added at 17 Ok Reg 444, eff 11-1-99 (emergency); Added at 17 Ok Reg 2075, eff 7-1-00 ; Amended at 18 Ok Reg 2055, eff 7-1-01 ; Amended at 20 Ok Reg 850, eff 6-1-03 ; Amended at 20 Ok Reg 2640, eff 7-1-03 (emergency); Amended at 21 Ok Reg 241, eff 11-7-03 (emergency); Amended at 21 Ok Reg 814, eff 5-1-04 ; Amended at 22 Ok Reg 764, eff 5-12-05 ; Amended at 25 Ok Reg 14, eff 8-3-07 (emergency); Amended at 25 Ok Reg 903, eff 6-1-08 ; Amended at 27 Ok Reg 1173, eff 6-1-10 ; Revoked at 29 Ok Reg 748, eff 7-1-12 ; Added at 38 Ok Reg 2179, eff 9-15-21 ; Amended at 40 Ok Reg 945, eff 9-15-23]

## **SUBCHAPTER 21. EDUCATION, TRAINING AND EMPLOYMENT PROGRAM (ET&E) [REVOKED]**

### **340:10-21-1. Education, training and employment program (ET&E) [REVOKED]**

[Source: Amended at 11 Ok Reg 327, eff 10-15-93 (emergency); Amended at 11 Ok Reg 1639, eff 5-12-94 ; Revoked at 15 Ok Reg 145, eff 11-1-97 (emergency); Revoked at 15 Ok Reg 1602, eff 5-11-98]

### **340:10-21-2. Legal base and authority [REVOKED]**

[Source: Amended at 11 Ok Reg 327, eff 10-15-93 ; Amended at 11 Ok Reg 1333, eff 4-1-94 (emergency); Amended at 12 Ok Reg 1159, eff 5-11-95 ; Revoked at 15 Ok Reg 145, eff 1-11-97 (emergency); Revoked at 15 Ok Reg 1602, eff 5-11-98]

### **340:10-21-3. Education, training and employment participants [REVOKED]**

[Source: Amended at 11 Ok Reg 327, eff 10-15-93 (emergency); Amended at 11 Ok Reg 1333, eff 4-1-94 (emergency); Amended at 12 Ok Reg 1159, eff 5-11-95 ; Amended at 13 Ok Reg 453, eff 9-1-95 (emergency); Amended at 13 Ok Reg 625, eff 11-14-95 (emergency); Amended at 13 Ok Reg 2167, eff 6-14-96 ; Amended at 13 Ok Reg 3191, eff 7-1-96 (emergency); Revoked at 14 Ok Reg 960, eff 2-1-97 (emergency); Revoked at 14 Ok Reg 1310, eff 5-12-97]

#### **340:10-21-3.1. Work requirements [REVOKED]**

[Source: Added at 14 Ok Reg 960, eff 2-1-97 (emergency); Added at 14 Ok Reg 1310, eff 5-12-97 ; Revoked at 15 Ok Reg 145, eff 11-1-97 (emergency); Revoked at 15 Ok Reg 1602, eff 5-11-98]

#### **340:10-21-4. Work adjudication [REVOKED]**

[Source: Amended at 8 Ok Reg 3005, eff 6-14-91 (emergency); Amended at 9 Ok Reg 2817, eff 7-13-92 ; Amended at 11 Ok Reg 327, eff 10-15-93 (emergency); Amended at 11 Ok Reg 1333, eff 4-1-94 (emergency); Amended at 12 Ok Reg 1571, eff 4-10-95 (emergency); Amended at 13 Ok Reg 625, eff 11-14-95 (emergency); Amended at 13 Ok Reg 2167, eff 6-14-96 ; Amended at 14 Ok Reg 570, eff 1-1-97 (emergency); Amended at 14 Ok Reg 1310, eff 5-12-97 ; Revoked at 15 Ok Reg 145, eff 11-1-97 (emergency); Revoked at 15 Ok Reg 1602, eff 5-11-98]

#### **340:10-21-5. Assessment and employability planning [REVOKED]**

[Source: Amended at 11 Ok Reg 327, eff 10-15-93 (emergency); Amended at 11 Ok Reg 1333, eff 4-1-94 (emergency); Amended at 12 Ok Reg 1159, eff 5-11-95 ; Amended at 13 Ok Reg 453, eff 9-1-95 (emergency); Amended at 13 Ok Reg 2167, eff 6-14-96 ; Revoked at 15 Ok Reg 145, eff 11-1-97 (emergency); Revoked at 15 Ok Reg 1602, eff 5-11-98]

### **340:10-21-5.1. Mutual Agreement/Employability Plan [REVOKED]**

[Source: Added at 13 Ok Reg 453, eff 9-1-95 (emergency); Added at 13 Ok Reg 2167, eff 6-14-96 ; Revoked at 15 Ok Reg 145, eff 11-1-97 (emergency); Revoked at 15 Ok Reg 1602, eff 5-11-98]

### **340:10-21-6. Job developer responsibilities [REVOKED]**

[Source: Amended at 11 Ok Reg 327, eff 10-15-93 (emergency); Amended at 11 Ok Reg 1333, eff 4-1-94 (emergency); Amended at 12 Ok Reg 1159, eff 5-11-95 ; Amended at 13 Ok Reg 625, eff 11-14-95 (emergency); Amended at 13 Ok Reg 2167, eff 6-14-96 ; Revoked at 15 Ok Reg 145, eff 11-1-97 (emergency); Revoked at 15 Ok Reg 1602, eff 5-11-98]

### **340:10-21-7. Job Readiness/Job Search Activities [REVOKED]**

[Source: Amended at 11 Ok Reg 327, eff 10-15-93 (emergency); Amended at 11 Ok Reg 1639, eff 5-12-94 ; Revoked at 15 Ok Reg 145, eff 11-1-97 (emergency); Revoked at 15 Ok Reg 1602, eff 5-11-98]

### **340:10-21-8. Educational services [REVOKED]**

[Source: Amended at 11 Ok Reg 327, eff 10-15-93 (emergency); Amended at 11 Ok Reg 1333, eff 4-1-94 (emergency); Amended at 12 Ok Reg 1159, eff 5-11-95 ; Revoked at 15 Ok Reg 145, eff 11-1-97 (emergency); Revoked at 15 Ok Reg 1602, eff 5-11-98]

### **340:10-21-9. Training [REVOKED]**

[Source: Amended at 11 Ok Reg 327, eff 10-15-93 (emergency); Amended at 11 Ok Reg 1639, eff 5-12-94 ; Amended at 13 Ok Reg 625, eff 11-14-95 (emergency); Amended at 13 Ok Reg 2167, eff 6-14-96 ; Revoked at 15 Ok Reg 145, eff 11-1-97 (emergency); Revoked at 15 Ok Reg 1602, eff 5-11-98]

### **340:10-21-10. Employment [REVOKED]**

[Source: Amended at 11 Ok Reg 327, eff 10-15-93 (emergency); Amended at 11 Ok Reg 1333, eff 4-1-94 (emergency); Amended at 12 Ok Reg 1159, eff 5-11-95 ; Amended at 14 Ok Reg 570, eff 1-1-97 (emergency); Amended at 14 Ok Reg 1310, eff 5-12-97 ; Revoked at 15 Ok Reg 145, eff 11-1-97 (emergency); Revoked at 15 Ok Reg 1602, eff 5-11-98]

### **340:10-21-11. ET&E support services [REVOKED]**

[Source: Amended at 11 Ok Reg 327, eff 10-15-93 (emergency); Amended at 11 Ok Reg 1333, eff 4-1-94 (emergency); Amended at 12 Ok Reg 205, eff 10-14-94 (emergency); Amended at 12 Ok Reg 1159, eff 5-11-95 ; Amended at 13 Ok Reg 3191, eff 7-1-96 (emergency); Amended at 14 Ok Reg 1310, eff 5-12-97 ; Revoked at 15 Ok Reg 145, eff 11-1-97 (emergency); Revoked at 15 Ok Reg 1602, eff 5-11-98]

### **340:10-21-12. Learnfare [REVOKED]**

[Source: Added at 13 Ok Reg 947, eff 4-10-95 (emergency); Added at 13 Ok Reg 2167, eff 6-14-96 ; Amended at 13 Ok Reg 3483, eff 9-1-96 (emergency); Amended at 14 Ok Reg 1310, eff 5-12-97 ; Revoked at 15 Ok Reg 145, eff 11-1-97 (emergency); Revoked at 15 Ok Reg 1602, eff 5-11-98]

## **SUBCHAPTER 22. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) SUPPORTED PERMANENCY PROGRAM**

**340:10-22-1. Temporary Assistance for Needy Families (TANF) Supported Permanency Program (SPP)**

(a) **Scope.** The TANF SPP was developed to promote permanency for a child(ren) who is in the custody of the Oklahoma Department of Human Services (DHS) and placed with a relative(s) residing in Oklahoma, who is a paid kinship relative foster home. The SPP is considered appropriate when the:

- (1) child meets age requirements described on Schedule XVII of DHS Appendix C-1, Maximum Income, Resource, and Payment Standards, or has a sibling residing in the same relative foster home who meets age requirements;
- (2) child(ren) in DHS custody is placed in a paid kinship foster home with a relative(s), who resides in Oklahoma and meets the specified degree of relationship, per Oklahoma Administrative Code (OAC) 340:10-9-1;
- (3) court finds that guardianship is the permanency plan for the child(ren);
- (4) child(ren) currently resides with the relative(s) in Oklahoma and resided with the relative(s) four of the last six months;
- (5) relative(s) completed all requirements to be approved as a DHS foster care home;
- (6) relative(s) is willing to assume legal responsibility for the child(ren); and
- (7) court and, when appropriate, the child(ren), are in agreement with the plan for the relative(s) to obtain legal responsibility for the child(ren).

(b) **Eligibility.** Once the Child Welfare Services (CWS) specialist determines that a referral to the TANF SPP is appropriate, per (a)(1) of this Section and the transfer of legal responsibility is approved by the court, the CWS specialist refers the relative to apply for TANF SPP at the local county office within five-business days of the relative obtaining legal responsibility for the child(ren) using Form 04PP006E, Supported Permanency Referral. When the child(ren) is approved for the TANF SPP benefit, he or she is eligible for SoonerCare (Medicaid) and child care benefits, when appropriate.

- (1) The child(ren)'s income is considered the same as it is for any other TANF eligible child.
- (2) Food benefit eligibility is dependent on the eligibility of the household.
- (3) The Adult and Family Services (AFS) worker reduces the TANF SPP benefit when the child(ren) fails to meet the school attendance requirement, per OAC 340:10-13-1 or the immunization requirement, per OAC 340:10-14-1.
- (4) When the child(ren) leaves the home to reside elsewhere, the AFS worker closes the TANF SPP benefit for the child(ren).
- (5) When, following closure, the child(ren) returns to the relative's home, the child(ren) may be eligible for TANF cash assistance but not for the TANF SPP benefit.



[Source: Added at 18 Ok Reg 149, eff 12-1-00 (emergency); Added at 18 Ok Reg 1222, eff 5-11-01 ; Amended at 20 Ok Reg 2640, eff 7-1-03 (emergency); Amended at 21 Ok Reg 814, eff 5-1-04 ; Amended at 22 Ok Reg 764, eff 5-12-05 ; Amended at 26 Ok Reg 1223, eff 6-1-09 ; Amended at 26 Ok Reg 2808, eff 7-1-09 (emergency); Amended at 27 Ok Reg 1173, eff 6-1-10 ; Amended at 37 Ok Reg 1776, eff 9-15-20]

## **SUBCHAPTER 23. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) NATIONAL OR STATE EMERGENCY**

### **340:10-23-1. National or state emergency**

(a) **National or state emergency.** In the event of a national or state emergency declaration by The President of United States or Governor of the State of Oklahoma resulting in a hardship for Temporary Assistance for Needy Families (TANF) recipients, the State may opt to provide additional services using non-recurring short term benefits (NRST). The State may, at its discretion, implement one or more of the NRST benefits, per (b) of this Section. The Oklahoma Human Services Director issues, by memo, activation of this policy and lists the approved NRST benefits to be implemented during the designated emergency. The approved NRST benefits may not exceed four months and are based on availability of funding.

(b) **NRST benefits.** NRST benefits may include:

- (1) TANF Child Care eligibility rules relaxed to an amount up to, but not exceeding, 300 percent of the federal poverty level \$0 copay to allow families not receiving cash assistance four months of child care at no cost.
- (2) providing an additional Emergency TANF (ETANF) cash assistance payment to current TANF recipients to offset disaster or emergency expenses in an amount to be determined per emergency;
- (3) housing search and placement services;
- (4) clothing allowances;
- (5) short-term rental or mortgage assistance;
- (6) utility or energy assistance;
- (7) legal services for TANF recipients who are pursuing Supplemental Security benefits from pre-filing through the administrative appeals process or to help resolve personal or family legal problems when such problems are a threat to family stability or undermine employment;
- (8) family support services to deal with stressful events;
- (9) financial and credit counseling; or
- (10) Diversion Assistance.

(c) **TANF application process.** TANF applications may be submitted online or, with applicant permission, the worker may submit the online application by proxy for the applicant. The in-person face-to-face interview requirement may be waived and the interview may be conducted by phone or video conferencing technology. The TANF cash assistance benefit may be certified after all eligibility factors are determined to be met during the emergency.

**(d) TANF eligibility requirements waived during emergency declaration.** Depending on the nature of the national or state emergency, certain TANF eligibility requirements may be waived.

(1) The substance abuse screening requirement, per Oklahoma Administrative Code (OAC) 340:10-4-1 and education assessments, per OAC 340:10-2-3, may be waived when assessment providers are unable to provide assessment testing due to the emergency. TANF recipients are required to complete all required assessments when testing resumes. If the TANF recipient tests positive for the illegal use of a controlled substance or substances, the worker follows normal procedures, per OAC 340:10-4-1.

(2) When TANF recipients are unable to participate in assigned TANF Work activities, per OAC 340:10-2-1, due to no fault of their own, such as when a medical pandemic occurs or another disaster causes all businesses and school campuses to close or residents to receive shelter in place orders, the recipient is granted good cause.

(3) When a person's TANF cash assistance benefit closed for non-compliance with his or her assigned TANF Work activity within 30-calendar days of the date an emergency was declared, and he or she was unable to participate in a TANF Work activity due to the emergency, the worker may reopen the TANF cash assistance benefit during the crisis. When this occurs, the TANF recipient is expected to resume TANF Work participation when the national or state emergency ends.

**(e) TANF supplement.** When TANF recipients experience a job loss or reduction in wages and incur an income loss due to the national or state emergency, the worker supplements the TANF cash assistance benefit up to the maximum payment standard for the household's size, per Oklahoma Human Services Appendix C-1, Maximum Income, Resource, and Payment Standards, Schedule IX, effective the month the emergency is declared.

**(f) Economic impact payments.** Economic impact payments received as a result of a national or state emergency are:

- (1) considered as a rebate or advance payment of a credit; and
- (2) excluded as income and from resource consideration for a period of 12 months from the receipt date for the purpose of determining eligibility for benefits or assistance under any federal program or under any state or local program, financed in whole or in part with federal funds, per Section 103(d) of the American Taxpayer Relief Act, as amended in Section 6409 of Title 26 of the United States Code.

## **APPENDIX A. AFFIDAVIT OF ACKNOWLEDGEMENT OF INDEBTEDNESS [REVOKED]**

[Source: Revoked at 17 Ok Reg 2271, eff 5-1-00]

## **APPENDIX B. AUTHORIZATION FOR EXAMINATION AND BILLING [REVOKED]**

[Source: Revoked at 17 Ok Reg 2271, eff 5-1-00]

## **APPENDIX C. REQUEST TO INSURANCE COMPANY [REVOKED]**

[Source: Revoked at 17 Ok Reg 2271, eff 5-1-00]

## **APPENDIX D. REPORT OF PHYSICIAN'S EXAMINATION [REVOKED]**

**[Source:** Revoked at 17 Ok Reg 2271, eff 5-1-00]

## **APPENDIX E. MEDICAL SOCIAL SUMMARY [REVOKED]**

[Source: Revoked at 17 Ok Reg 2271, eff 5-1-00]

## **APPENDIX F. ROOM AND BOARD ORDER [REVOKED]**

[Source: Revoked at 17 Ok Reg 2271, eff 5-1-00]



## **APPENDIX G. NOTICE TO CLIENT [REVOKED]**

[Source: Revoked at 17 Ok Reg 2271, eff 5-1-00]

## **APPENDIX H. NOTICE TO CLIENT OF ACTION TAKEN [REVOKED]**

[Source: Revoked at 17 Ok Reg 2271, eff 5-1-00]

## **APPENDIX I. COUNTY CLIENT CONTRACT FORM/VERIFICATION LIST [REVOKED]**

[**Source:** Revoked at 17 Ok Reg 444, eff 11-1-99 (emergency); Revoked at 17 Ok Reg 2075, eff 7-1-00]

## **APPENDIX J. ABSENT PARENT LETTER [REVOKED]**

[Source: Revoked at 17 Ok Reg 2271, eff 5-1-00]

## **APPENDIX K. FINANCIAL MANAGEMENT [REVOKED]**

[**Source:** Revoked and reenacted at 9 Ok Reg 3555, eff 7-20-92 (emergency); Revoked and reenacted at 10 Ok Reg 2425, eff 6-11-93 ; Revoked at 17 Ok Reg 2271, eff 5-1-00]

## **APPENDIX L. APPLICATION FOR AID TO FAMILIES WITH DEPENDENT CHILDREN [REVOKED]**

**[Source:** Revoked at 13 Ok Reg 439, eff 11-14-95 (emergency); Revoked at 13 Ok Reg 2167, eff 6-14-96]

## **APPENDIX M. WRITTEN STATEMENT OF CONTRIBUTIONS [REVOKED]**

[Source: Revoked at 17 Ok Reg 2271, eff 5-1-00]

## **APPENDIX N. MONTHLY REPORTING FORM [REVOKED]**

[Source: Revoked at 17 Ok Reg 2271, eff 5-1-00]



## **APPENDIX O. NOTICE CONCERNING GOOD CAUSE FOR REFUSUAL TO COOPERATE [REVOKED]**

[Source: Revoked at 17 Ok Reg 2271, eff 5-1-00]

**APPENDIX P. LEGAL/COURT ORDERED  
RESPONSIBILITY FOR AFDC CHILD SUPPORT  
[REVOKED]**

[Source: Revoked at 17 Ok Reg 2271, eff 5-1-00]

**APPENDIX Q. PATERNITY NOT LEGALLY  
ESTABLISHED FOR AFDC CHILD SUPPORT  
[REVOKED]**

[Source: Revoked at 17 Ok Reg 2271, eff 5-1-00]

## **APPENDIX R. AGREEMENT REGARDING PROTECTIVE PAYMENT [REVOKED]**

[Source: Revoked at 17 Ok Reg 2271, eff 5-1-00]

## **APPENDIX S. REQUEST FOR SERVICES [REVOKED]**

[Source: Revoked at 22 Ok Reg 764, eff 5-12-05]

## **APPENDIX T. SCHEDULE OF MAXIMUM INCOME AND STANDARD MONEY PAYMENTS ASSISTANCE [REVOKED]**

**[Source:** Revoked and reenacted at 10 Ok Reg 1337, eff 3-21-93 (emergency); Revoked and reenacted at 10 Ok Reg 2843, eff 6-25-93 ; Revoked and reenacted at 11 Ok Reg 1033, eff 1-1-94 ; Revoked and reenacted at 11 Ok Reg 991, eff 2-1-94 (emergency); Revoked and reenacted at 11 Ok Reg 3227, eff 6-27-94 ; Revoked and reenacted at 12 Ok Reg 55, eff 10-6-94 (emergency); Revoked and reenacted at 12 Ok Reg 777, eff 1-1-95 ; Revoked and reenacted at 12 Ok Reg 1033, eff 3-1-95 ; Revoked at 13 Ok Reg 281, eff 5-18-95 (emergency); Revoked at 13 Ok Reg 2167, eff 6-14-96]

## **APPENDIX U. EMERGENCY ASSISTANCE TO NEEDY FAMILIES WITH CHILDREN [REVOKED]**

**[Source:** Revoked at 10 Ok Reg 3961, eff 6-25-93 (emergency); Revoked at 11 Ok Reg 1639, eff 5-12-94]

## **APPENDIX V. PERIODIC DETERMINATION OF ELIGIBILITY FOR AFDC [REVOKED]**

[**Source:** Revoked at 13 Ok Reg 439, eff 11-14-95 (emergency); Revoked at 13 Ok Reg 2167, eff 6-14-96]



**APPENDIX W. EDUCATION, TRAINING AND  
EMPLOYMENT PROGRAM PARTICIPATION  
AGREEMENT [REVOKED]**

[Source: Revoked at 13 Ok Reg 625, eff 11-14-95 (emergency); Revoked at 13 Ok Reg 2167, eff 6-14-96]

## **APPENDIX X. WORK SUPPLEMENTATION PROGRAM [REVOKED]**

**[Source:** Revoked and reenacted at 11 Ok Reg 471, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 1639, eff 5-12-94 ; Revoked at 15 Ok Reg 145, eff 11-1-97 (emergency); Revoked at 15 Ok Reg 1602, eff 5-11-98]

## **APPENDIX Y. WORK EXPERIENCE PROGRAM PARTICIPANT AGREEMENT [REVOKED]**

[**Source:** Revoked and reenacted at 11 Ok Reg 471, eff 11-15-93 (emergency); Revoked and reenacted at 11 Ok Reg 1639, eff 5-12-94 ; Revoked at 13 Ok Reg 625, eff 11-14-95 (emergency); Revoked at 13 Ok Reg 2167, eff 6-14-96]

## **APPENDIX Z. WORK EXPERIENCE PROGRAM TRAINING AGREEMENT [REVOKED]**

**[Source:** Revoked and reenacted at 11 Ok Reg 471, eff 11-15-93 (emergency); Revoked and reenacted at 11 Ok Reg 1639, eff 5-12-94 ; Revoked at 13 Ok Reg 625, eff 11-14-95 (emergency); Revoked at 13 Ok Reg 2167, eff 6-14-96]

## **APPENDIX AA. WORK SUPPLEMENTATION PROGRAM CONTRACT [REVOKED]**

[Source: Revoked at 17 Ok Reg 2271, eff 5-1-00]

## **APPENDIX BB. AUTHORIZATION FOR GED EXAMINATION FEE [REVOKED]**

**[Source:** Added at 9 Ok Reg 3555, eff 7-20-92 (emergency); Added at 10 Ok Reg 2425, eff 6-11-93 ;  
Revoked at 15 Ok Reg 145, eff 11-1-97 (emergency); Revoked at 15 Ok Reg 1602, eff 5-11-98]

## **APPENDIX CC. ASSIGNMENT TO FAMILY ENHANCEMENT PROGRAM [REVOKED]**

**[Source:** Added at 9 Ok Reg 3555, eff 7-20-92 (emergency); Added at 10 Ok Reg 2425, eff 6-11-93 ;  
Revoked at 11 Ok Reg 471, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 1639, eff 5-12-94]

## **APPENDIX DD. ABSENT PARENT (AP) INFORMATION SHEET [REVOKED]**

[**Source:** Added at 9 Ok Reg 3555, eff 7-20-92 (emergency); Added at 10 Ok Reg 2425, eff 6-11-93 ;  
Revoked at 12 Ok Reg 3564, eff 8-3-95 (emergency); Revoked at 13 Ok Reg 625, eff 11-14-95  
(emergency); Revoked at 13 Ok Reg 2167, eff 6-14-96]



## **APPENDIX EE. ET&E PROGRAM ATTENDANCE AND TRAVEL EXPENSE REPORT [REVOKED]**

**[Source:** Added at 10 Ok Reg 527, eff 12-8-92 (emergency); Added at 10 Ok Reg 2813, eff 6-25-93 ; Revoked and reenacted at 12 Ok Reg 205, eff 10-14-94 (emergency); Revoked and reenacted at 12 Ok Reg 1159, eff 5-11-95 ; Revoked at 15 Ok Reg 145, eff 11-1-97 (emergency); Revoked at 15 Ok Reg 1602, eff 5-11-98]

**APPENDIX FF. APPLICATION FOR EMERGENCY  
ASSISTANCE FAMILY PRESERVATION SERVICE  
[REVOKED]**

[Source: Added at 9 Ok Reg 3941, eff 7-9-92 ; Revoked and reenacted at 11 Ok Reg 3997, eff 6-29-94 (emergency); Revoked and reenacted at 12 Ok Reg 1159, eff 5-11-95 ; Revoked at 17 Ok Reg 3225, eff 8-1-00]

## **APPENDIX GG. INTERAGENCY REFERRAL AND INFORMATION [REVOKED]**

**[Source:** Added at 10 Ok Reg 99, eff 10-13-92 (emergency); Added at 10 Ok Reg 2257, eff 6-11-93 ;  
Revoked at 15 Ok Reg 145, eff 11-1-97 (emergency); Revoked at 15 Ok Reg 1602, eff 5-11-98]

## **APPENDIX II. APPLICATION FOR EMERGENCY ASSISTANCE [REVOKED]**

[**Source:** Added at 10 Ok Reg 3961, eff 6-25-93 ; Added at 11 Ok Reg 1033, eff 1-1-94 ; Revoked at 22 Ok Reg 764, eff 5-12-05]

**APPENDIX JJ. IMPORTANT NOTICE ABOUT THE  
EFFECT OF LUMP SUM PAYMENTS ON AFDC  
BENEFITS [REVOKED]**

[Source: Added at 10 Ok Reg 4331, eff 7-19-93 (emergency); Added at 11 Ok Reg 1639, eff 5-12-94 ;  
Revoked at 12 Ok Reg 1565, eff 4-10-95 (emergency); Revoked at 12 Ok Reg 2435, eff 6-26-95]

## **APPENDIX KK. LUMP SUM TERMINATION/DENIAL NOTICE [REVOKED]**

[Source: Added at 10 Ok Reg 4331, eff 7-19-93 (emergency); Added at 11 Ok Reg 1639, eff 5-12-94 ; Revoked and reenacted at 12 Ok Reg 3536, eff 6-16-95 (emergency); Revoked and reenacted at 13 Ok Reg 2167, eff 6-14-96 ; Revoked at 14 Ok Reg 562, eff 12-12-96 (emergency); Revoked at 14 Ok Reg 1310, eff 5-12-97]

## **APPENDIX LL. EDUCATION, TRAINING AND EMPLOYMENT (ET&E) PROGRAM MEDICAL EXEMPTION REQUEST [REVOKED]**

**[Source:** Added at 11 Ok Reg 327, eff 10-14-93 (emergency); Added at 11 Ok Reg 1639, eff 5-12-94 ;  
Revoked at 15 Ok Reg 145, eff 11-1-97 (emergency); Revoked at 15 Ok Reg 1602, eff 5-11-98]

## **APPENDIX MM. EDUCATION, TRAINING AND EMPLOYMENT (ET&E) PROGRAM VOLUNTEER CHILD CARE PLAN [REVOKED]**

[**Source:** Added at 11 Ok Reg 471, eff 11-15-93 (emergency); Added at 11 Ok Reg 1639, eff 5-12-94 ;  
Revoked at 15 Ok Reg 145, eff 11-1-97 (emergency); Revoked at 15 Ok Reg 1602, eff 5-11-98]



## **APPENDIX NN. EMPLOYER CONTACT LIST [REVOKED]**

[**Source:** Added at 11 Ok Reg 471, eff 11-15-93 (emergency); Added at 11 Ok Reg 1639, eff 5-12-94 ;  
Revoked at 15 Ok Reg 145, eff 11-1-97 (emergency); Revoked at 15 Ok Reg 1602, eff 5-11-98]

## CHAPTER 15. STATE SUPPLEMENTAL PAYMENT AND THE SUPPLEMENTAL SECURITY INCOME-DISABLED CHILDREN'S PROGRAM

[**Authority:** Federal Social Security Act; OKLA. CONST. art XXV; Oklahoma Social Security Act; 7 O.S., § 15; 56 O.S., §§ 161 et seq.]

[**Source:** Codified 12-31-91]

### SUBCHAPTER 1. STATE SUPPLEMENTAL PAYMENT

#### **340:15-1-1. Purpose and legal basis**

(a) **Purpose.** The purpose of the Oklahoma Human Services State Supplemental Payment (SSP) Program is to supplement the income of persons with disabilities, who are blind, or who are 65 years of age and older based on the eligibility rules contained in this Chapter.

(b) **Legal basis.** The legal basis for the SSP Program is vested in Article XXV of the State of Oklahoma Constitution and Section 161 et seq. of Title 56 of the Oklahoma Statutes.

[**Source:** Amended at 21 Ok Reg 2370, eff 7-1-04 ; Amended at 39 Ok Reg 1704, eff 9-15-22]

#### **340:15-1-2. Definitions**

The following words and terms, when used in this Chapter, have the following meanings, unless the context clearly indicates otherwise.

**"Countable income"** means the total unearned income plus the net earned income. The net earned income is gross earned income minus the \$20 general income exclusion, \$65 work exclusion, and one-half of the remainder. For individuals who are blind, refer to Oklahoma Administrative Code (OAC) 317:35-5-42(g)(3)(5), (9), and (10), for additional exemptions.

**"Disabled individual"** means a person who meets the same definition, per Section 1382c(a)(3) of Title 42 of the United States Code that the Social Security Administration uses in determining eligibility for Supplemental Security Income disability benefits.

**"Earned income"** means income the person receives from wages, salaries, commissions, or profits from activities he or she is engaged in, as a self-employed individual or as an employee.

**"Eligible couple"** means two persons married to each other who are both 65 years of age and older, blind, or disabled and meet the income and resource standard for a money payment, per Oklahoma Human Services (OKDHS) Appendix C-1, Maximum Income, Resource, and Payment Standards, Schedules VIII.A and D.

**"Eligible individual"** means a person who is 65 years of age and older, blind, or disabled and meets the income and resource standard for SSP, per OKDHS Appendix C-1, Schedules VIII.A and D.

**"Eligible individual with essential spouse"** means an eligible individual living with a spouse who is not 65 years of age and older, blind, or disabled but has been continuously included in the case prior to 1974. The couple must meet the income and resource standards, per OKDHS

Appendix C-1, Schedule VIII.A and D.

**"Eligible individual with ineligible spouse"** means an eligible individual living with a spouse who is not 65 years of age and older, blind, or disabled and does not meet the definition of an essential spouse. The couple must meet the income and resource standard, per OKDHS Appendix C-1, Schedule VIII.A and D.

**"Eligible individual with ineligible spouse and dependent child(ren)"** means a married couple who meets the definition of an eligible individual with an ineligible spouse that have a child(ren) younger than 18 years of age with the proper degree of relationship residing in the home full-time. The couple must meet the income and resources standard, per OKDHS Appendix C-1, Schedule VIII.A and D.

**"Ineligible child"** means a child younger than 18 years of age who is not blind or disabled.

**"Minor eligible child who is blind or disabled"** means a child younger than 18 years of age, who is blind or disabled and meets the income and resource standards for SSP, per OKDHS Appendix C-1, Schedules VIII.A and D.

[Source: Amended at 10 Ok Reg 1331, eff 3-21-93 (emergency); Amended at 10 Ok Reg 2847, eff 6-25-93 ; Amended at 13 Ok Reg 297, eff 5-18-95 (emergency); Amended at 13 Ok Reg 2617, eff 6-28-96 ; Amended at 21 Ok Reg 2370, eff 7-1-04 ; Amended at 36 Ok Reg 1785, eff 9-16-19 ; Amended at 39 Ok Reg 1704, eff 9-15-22]

### **340:15-1-3. Legal basis for State Supplemental Payment Program [REVOKED]**

[Source: Amended at 21 Ok Reg 2370, eff 7-1-04 ; Revoked at 39 Ok Reg 1704, eff 9-15-22]

### **340:15-1-4. State Supplemental Payment (SSP) plan**

The SSP plan encompasses the requirements listed in (1) through (11) of this Section.

(1) **State-wide operation.** The SSP plan is a state-administered program in effect in all Oklahoma counties.

(2) **Financing.** The State of Oklahoma provides all funding for the SSP Program.

(3) **Single-state agency.** The SSP Program is administered by Oklahoma Human Services (OKDHS) Adult and Family Services, in offices throughout the state.

(4) **Fair hearings.** An SSP applicant or recipient adversely affected by an OKDHS decision is provided an opportunity for a fair hearing, per Section 168 of Title 56 of the Oklahoma Statutes (56 O.S § 168). Adverse effects may include, when the applicant or recipient:

- (A) is denied benefits or the application is not acted upon within 30-calendar days for persons categorically related to Aid to the Aged, or 60-calendar days for persons categorically related to Aid to the Blind or Disabled;
- (B) disagrees with the approved payment amount; or
- (C) disagrees with any action taken regarding his or her payment.

(5) **Proper and efficient administration.** OKDHS operates under the State Merit System that establishes and maintains personnel standards on a merit basis for certain state agencies, including OKDHS, per 56 O.S § 26.17.

(6) **Safeguarding information.** Per 56 O.S § 183 and Oklahoma Administrative Code (OAC) 340:1-1-20 and 340:65-1-2, OKDHS restricts the use or disclosure of information concerning SSP applicants and recipients to purposes directly connected with SSP program administration.

(7) **Right to apply.** A person has the right to:

- (A) apply for SSP and any other benefit he or she chooses;
- (B) expect an eligibility investigation; and
- (C) expect a decision regarding the SSP application within 30-calendar days for persons categorically related to Aid to the Aged or 60-calendar days for persons categorically related to Aid to the Blind or Disabled.

(8) **Assistance under only one program.** An eligible person's needs may be included in only one cash assistance benefit, either SSP or Temporary Assistance for Needy Families.

(9) **Standards for determining eligibility and payment amount.** Refer to OAC 340 Chapters 15 and 65 for SSP eligibility determination rules and OKDHS Appendix C-1, Maximum Income, Resource, and Payment Standards for SSP payment amounts.

(A) SSP standards are based on the mandatory "Pass-Along Provision" of Section 1618 of the Social Security Act (Section 1382g of Title 42 of the United States Code) that requires states to pass along cost of living adjustments (COLA) in Supplemental Security Income (SSI) benefits. OKDHS adjusts payment amounts during the calendar year, as needed, to maintain total SSP expenditures for SSP in a calendar year at the same level as the total expenditures in the previous year.

(B) Maximum income and resource standards for persons who are 65 years of age and older, blind, or disabled are based on the federal benefit rates (FBR), per OKDHS Appendix C-1, Schedule VIII.

(i) Countable income for SSP must be less than 100 percent of the FBR, plus the maximum SSP amount.

(ii) Countable income must be equal to, or less than 300 percent of the FBR for certain persons who, since December, 1973:

(I) were approved for care and continuously living in a licensed Title XIX nursing care facility, intermediate care facility (ICF), or ICF for individuals with intellectual disabilities (ICF-IID);

(II) have continuously received Home and Community-Based Waiver Services for the intellectually disabled; or

(III) were 65 years of age and older and have continuously resided in a mental hospital.

(iii) Countable deemed income to a minor child with disabilities or who is blind must be less than 100 percent of the FBR.

(iv) Maximum resources must be equal to, or less than 100 percent, of the SSI resource standards.

(10) **Income and resources.** When determining need foran SSP, OKDHS considers the person's countable income and resources, per OAC 317:35-5-41 and 317:35-5-42, and federal and state law.

(A) To determine income eligibility at application, the worker calculates the person's actual earned and unearned income received or expected to be received during the application month and compares it to the maximum income standard, per OKDHS Appendix C-1, Schedule VIII.A.

(B) The worker only verifies an SSI recipient's income and resources when the recipient reports a change or the worker receives information indicating the person has income or resources not considered by the Social Security Administration at SSI approval or the most recent SSI review.

(C) As an SSI Criteria state, Oklahoma is required to passively or auto renew the SSP and SoonerCare (Medicaid) eligibility of SSI recipients every 12 months without requiring them to provide any information when their case records contain reliable information or more current information is available to OKDHS, per Section 435.916 of Title 42 of the Code of Federal Regulations.

(11) **Civil rights.** The SSP Program is administered,per provisions of Title VI of the Civil Rights Act.

[Source: Amended at 9 Ok Reg 3247, eff 7-15-92 (emergency); Amended at 10 Ok Reg 2849, eff 6-25-93 ; Amended at 13 Ok Reg 297, eff 5-18-95 (emergency); Amended at 13 Ok Reg 2617, eff 6-28-96 ; Amended at 13 Ok Reg 3231, eff 7-1-96 ; Amended at 21 Ok Reg 2370, eff 7-1-04 ; Amended at 23 Ok Reg 1834, eff 7-1-06 ; Amended at 26 Ok Reg 814, eff 6-1-09 ; Amended at 27 Ok Reg 1004, eff 6-1-10 ; Amended at 36 Ok Reg 1785, eff 9-16-19 ; Amended at 39 Ok Reg 1704, eff 9-15-22]

### **340:15-1-5. State Supplemental Payment (SSP)**

(a) **Eligibility for payment.** Per Section 164 of Title 56 of the Oklahoma Statutes (O.S. 56 § 164), an individual is eligible for a SSP when he or she is, or would be, eligible for Supplemental Security Income (SSI) because of age or disability, is not ineligible per (b) of this Section, and meets all other eligibility conditions.

(1) Required eligibility conditions include:

(A) having countable income, including SSI, that is less than the SSP need standard,per Oklahoma Human Services (OKDHS) Appendix C-1, Maximum Income, Resource, and Payment Standards, Schedule VIII.A;

(B) meeting resource standards, per OKDHS Appendix C-1, Schedule D; and

(C) taking all appropriate steps to obtain other benefits within 30-calendar days after he or she is notified of his or her potential eligibility.

(2) The individual may:

(A) be ineligible for SSI based on income; but have income less than the SSP maximum, per OKDHS Appendix C-1, Schedule VIII.A;

(B) remain approved for care in a licensed Title XIX nursing care facility since December, 1973, and retain eligibility for a mandatory SSP. Refer to Appendix C-1, Schedule VIII.B., for the mandatory supplement standard; or

(C) be a resident in the Oklahoma School for the Blind or the Oklahoma School for the Deaf.

(b) **Ineligible for payment.** An individual is not eligible for SSP when he or she:

(1) is a resident of a public facility operated by a government entity, such as a correctional, mental health, nursing care, or juvenile facility;

(2) is a patient in a psychiatric facility or a psychiatric unit of an acute care hospital for more than 30-calendar days;

(3) has countable income in excess of the SSP need standard, per OKDHS Appendix C-1, Schedule VIII.A;

(4) has countable resources in excess of the SSP resource standard, per OKDHS Appendix C-1, Schedule VIII.D;

(5) does not receive SSI because the applicant or the spouse disposed of resources for less than fair market value within 36 months of the application date, per Section 1382b(c) of Title 42 of the United States Code;

(6) is not an Oklahoma resident;

(7) does not meet citizenship or alien status requirements, per Oklahoma Administrative Code (OAC) 317:35-5-25 and 56 O.S. §71;

(8) does not take all appropriate steps to obtain other benefits with 30-calendar days after being notified of his or her potential eligibility; or

(9) is a child in OKDHS custody placed in out-of-home care paid for by OKDHS.

(c) **SSP payment amount.** The SSP payment amount varies depending on the amount of other income the individual(s) receives. The maximum payment must not exceed the maximum payment shown on OKDHS Appendix C-1, Schedule VIII.A. for an individual. Payment may be authorized retroactively based on an appeal decision or to correct an administrative error. Payment may not be authorized retroactively when the client fails to report information affecting eligibility within 10-calendar days of the date the change occurs. Refer to OAC 340:65-3-6 for payment methods and issuance dates.

(1) **Eligible couple.** Income eligibility is determined by comparing the couple's total countable income with the SSP standard for an eligible couple. When the couple's income is:

(A) equal to or greater than the standard, the worker denies the application or closes the SSP benefit; or  
(B) less than the standard, the worker deducts the couple's income from the standard to compute the payment amount. The SSP for each member of the couple is one-half of the remainder. When the SSP cannot be divided equally, one member of the couple receives a higher SSP, subject to the maximum payment, per OKDHS Appendix C-1, Schedule VIII.A.

(2) **Eligible individual.** The worker determines an individual's income eligibility by comparing his or her total countable income with the SSP standard for an eligible individual. When the individual's countable income is:

(A) equal to or greater than the SSP standard, the worker denies the application or closes the SSP benefit; or  
(B) less than the SSP standard, the worker deducts the individual's total countable income from the standard to compute the payment amount, subject to the maximum payment, per OKDHS Appendix C-1, Schedule VIII.A.

(3) **Eligible individual with essential spouse.** The worker determines the income eligibility for an individual with an essential spouse by comparing the total countable income of the couple with the SSP standard for the eligible individual with an essential or ineligible spouse. When the couple's countable income is:

(A) equal to or greater than the standard, the worker denies the application or closes the SSP benefit; or  
(B) less than the standard, the worker deducts the couple's total countable income from the standard to compute the payment amount, subject to the maximum payment, per OKDHS Appendix C-1, Schedule VIII.A.

(4) **Eligible individual with ineligible spouse.** The worker determines income eligibility for an individual with an ineligible spouse by comparing the total countable income of the individual with the SSP standard for the eligible individual. When the individual's countable income is:

(A) equal to or greater than the SSP standard for the eligible individual, the worker denies the application or closes the SSP benefit; or  
(B) less than the SSP standard for the individual, the worker compares the total countable income of the couple with the SSP standard for an eligible individual with an essential or ineligible spouse. When the couple's total countable income is:

(i) equal to or greater than the standard, the worker denies the application or closes the SSP benefit; or  
(ii) less than the standard, the worker deducts the total countable income of the couple from the SSP standard for an eligible individual with an essential or ineligible spouse to compute the payment

amount, subject to the maximum payment, per OKDHS Appendix C-1, Schedule VIII.A. Exception: When the ineligible spouse is included in a Temporary Assistance for Needy Families (TANF) benefit, the worker deducts the individual's countable income from the SSP standard for the eligible individual and does not consider the spouse's income.

**(5) Eligible individual with ineligible spouse and dependent child(ren).** The worker determines income eligibility for an individual with an ineligible spouse and dependent child(ren) by comparing the individual's total countable income with the SSP standard for an eligible individual.

(A) When the individual's countable income is equal to or greater than the standard, the worker denies the application or closes the SSP benefit.

(B) When the individual's countable income is less than the SSP standard for an eligible individual, the worker determines the spouse's countable income by following (i) through (v) of this paragraph.

(i) When the spouse and dependent child(ren) are included in a TANF benefit, their income is considered for the TANF benefit and none is deemed to the eligible individual. The worker deducts the individual's total countable income from the SSP standard to compute the SSP benefit amount, subject to the maximum payment, per OKDHS Appendix C-1, Schedule VIII.A.

(ii) When the spouse's needs are not included in the TANF benefit with the child(ren), the portion of the spouse's income considered in determining the child(ren)'s TANF benefit is not considered for the SSP benefit.

(iii) When the dependent child(ren) does not receive TANF, the worker deducts the child(ren)'s allocation, minus the child(ren)'s income, from the spouse's income before determining the amount of the spouse's income to consider for the SSP benefit. Refer to OKDHS Appendix C-1, Schedule VIII.C for the child(ren)'s allocation amount.

(iv) The individual's total countable income and the spouse's countable income after subtracting the amount considered for the dependent child(ren), is compared with the SSP standard for an eligible individual with an essential or ineligible spouse, per OKDHS Appendix C-1, Schedule VIII.A. When the countable income is:

(I) equal to or greater than the SSP standard, the worker denies the application or closes the SSP benefit; or



(II) less than the SSP standard, the worker deducts the countable income from the standard to compute the payment amount, subject to the maximum payment, per (OKDHS) Appendix C-1, Schedule VIII.A.

(v) The dependent child(ren)'s income is never deemed to the adult.

(6) **Minor who is blind or disabled.** The worker determines a minor's income eligibility by adding the child's income to the amount deemed from the child's parents and compares the total to the SSP standard for an eligible individual. When the countable income is:

(A) equal to or greater than the standard, the worker denies the application or closes the SSP benefit; or

(B) less than the standard, the worker deducts the total countable income from the SSP standard to compute the payment amount, subject to the maximum payment, per OKDHS Appendix C-1, Schedule VIII.A.

(d) **Concurrent receipt of more than one cash assistance payment.**

An individual must not be included in more than one SSP or TANF benefit for the same time period.

(1) An individual meeting SSP eligibility requirements may receive SSP and be the payee for a TANF benefit when his or her needs are not included in the TANF cash assistance.

(2) When a TANF recipient is transferred from TANF to SSP or an SSP recipient is transferred from Aid to the Disabled to Aid to the Aged or Blind, the effective date must be the same for the removal from one category and the beginning of payment from the other category.

(e) **Non-conditioning of payment.** OKDHS does not restrict in any way how the client uses the assistance payment.

(f) **Application and renewal processing.** Refer to OAC 340:65-3-1 for application processing rules and OAC 340:65-3-8 for renewal processing rules.

[Source: Amended at 9 Ok Reg 3247, eff 7-15-92 (emergency); Amended at 10 Ok Reg 2849, eff 6-25-93 ; Amended at 13 Ok Reg 297, eff 5-18-95 (emergency); Amended at 13 Ok Reg 2617, eff 6-28-96 ; Amended at 21 Ok Reg 2370, eff 7-1-04 ; Amended at 36 Ok Reg 1785, eff 9-16-19 ; Amended at 39 Ok Reg 1704, eff 9-15-22]

### **340:15-1-6. Special requirements**

(a) **Alms solicitation.** Per Section 164 of Title 56 of the Oklahoma Statutes, a recipient of a State Supplemental Payment (SSP) for the blind must not solicit alms while receiving SSP. Soliciting alms means collecting donations for one's personal benefit, selling minor articles when selling is merely a subterfuge for collecting donations, and any similar activities. It does not include house-to-house sale of articles carried on as a regular established occupation. The client's statement regarding alms solicitation is sufficient verification when there are no facts to the contrary.

(b) **Minor child who is blind or disabled.** To determine SSP eligibility for a child who is blind or disabled, the income and resources of the parent(s) with whom the child is living is considered unless the parent(s) is included in a SSP or Temporary Assistance for Needy Families (TANF) application or benefit.

(1) **Income deeming.** When determining SSP eligibility for a child younger than 18 years of age who is blind or disabled, a natural or adoptive parent(s)', or step-parent's income must be deemed to the child. An ineligible child's income is not deemed to the eligible child who is blind or disabled. The parent(s)' income is not deemed when the eligible child resides in a nursing care facility. Refer to Oklahoma Administrative Code (OAC) 317:35-5-42(n) and (o) for deeming computation procedures.

(2) **Resource deeming.** When a minor child, who is blind or disabled lives with his or her parent(s), the parent(s)' resources in excess of the resource standard, per Oklahoma Human Services OKDHS Appendix C-1, Schedule VIII.D, are deemed to the child unless the parent(s) receives Supplemental Security Income (SSI), SSP, or is included in a TANF cash assistance payment or the child resides in a nursing care facility. When there is more than one eligible child in the home, the parent(s)' excess resource amount is prorated between the eligible children.

(3) **When the child is ineligible for SSP.** When a child with intellectual disabilities is ineligible for SSP due to deeming his or her parent(s)' income and/or resources, the child may be approved for SoonerCare (Medicaid) benefits under the Home and Community-Based Waiver (HCBW) Services, per OAC 317:35-9. When the child is not eligible for HCBW, the child may be eligible for SoonerCare (Medicaid) benefits under the Tax Equity and Fiscal Responsibility Act of 1982 (Public Law 97-248), known as TEFRA, per OAC 317:35-5-4 and 317:35-7-36.

(c) **Age.**

(1) **SSP age requirement for the aged.** A person must be 65 years of age and older to meet the age requirement for SSP for Aid to the Aged. Eligibility is verified by the Social Security Administration or other records, such as a birth certificate, insurance policies, family records, or census records.

(2) **SSP age requirement for the blind.** There is no age requirement to receive SSP for the blind. When a child who is blind is younger than 16 years of age, his or her age must be verified in order to establish the need for designating a parent or guardian as payee.

(3) **SSP age requirement for persons with disabilities.** To be eligible for a SSP for the disabled, an applicant or recipient must be younger than 65 years of age. A parent or guardian must be designated as payee when a child who is disabled is younger than 16 years of age.

(d) **Fleeing felon.** A fleeing felon is not eligible for a SSP. Per Section 1382(e)(4) of Title 42 of the United States Code, a fleeing felon is defined as a person who:

- (1) is fleeing to avoid prosecution, custody, or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or in jurisdictions that do not define crimes as felonies, is punishable by death or imprisonment for a term exceeding one year regardless of the actual sentence imposed;
- (2) is violating a condition of probation or parole imposed under federal or state law; or
- (3) lost SSI benefits due to being a fleeing felon.

(e) **Overpayments.** A client may incur an SSP overpayment for any month in which he or she receives an SSP after SSI benefits close and the client's income is above the SSP standard, per OKDHS Appendix C-1, Schedule VIII.A, or the client received a larger SSP than he or she was eligible to receive. The overpayment amount includes any premiums for Health Insurance Benefits paid by the Oklahoma Health Care Authority on behalf of an ineligible client. The Adult and Family Services Benefit Integrity and Recovery Unit establishes and collects overpayment claims, per OAC 340:65-9.

[Source: Amended at 21 Ok Reg 2370, eff 7-1-04 ; Amended at 26 Ok Reg 814, eff 6-1-09 ; Amended at 36 Ok Reg 1785, eff 9-16-19 ; Amended at 39 Ok Reg 1704, eff 9-15-22]

#### **340:15-1-7. Non-conditioning of assistance payments [REVOKED]**

[Source: Amended at 21 Ok Reg 2370, eff 7-1-04 ; Revoked at 39 Ok Reg 1704, eff 9-15-22]

### **SUBCHAPTER 3. SUPPLEMENTAL SECURITY INCOME-DISABLED CHILDREN'S PROGRAM**

#### **340:15-3-1. Eligibility and available services**

(a) **Supplemental Security Income-Disabled Children's Program (SSI-DCP).** SSI-DCP is established, per Sections 504 and 1615 of the Social Security Act, Sections 704 and 1382d of Title 42 of the United States Code. SSI-DCP is a federally-funded social services program for children with special health care needs, and is supported by the Maternal and Child Health Services Title V Block Grant. Pursuant to Section 175.5 of Title 10 of the Oklahoma Statutes, Oklahoma Human Services (OKDHS) administers the Children with Special Health Care Needs Program, and Adult and Family Services (AFS) oversees SSI-DCP.

(1) AFS Health Related and Medical Services (HR&MS) staff pre-approves SSI-DCP services and equipment except supplemental formula. AFS HR&MS staff considers many factors in deciding which services or equipment to approve including, but not limited to:

- (A) the child's needs;
- (B) the availability of other resources;
- (C) whether the child is in a stable or temporary living situation;

(D) the cost of the service or equipment; and

(E) the availability of funding.

(2) A third party service provider accepts the service request, determines eligibility, and provides supplemental formula. AFS HR&MS oversees this provider through the contracting process.

(b) **Eligibility.** Any child from birth to 18 years of age may be eligible for SSI-DCP services when the child receives an SSI payment. SSA establishes financial and medical eligibility for the SSI disability payment. When the child becomes 18 years of age, he or she is no longer eligible for SSI-DCP services.

(c) **Child in OKDHS custody.** When a child is in OKDHS custody and OKDHS retains the child's SSI, the child's SSI is used to pay for needed services and equipment prior to accessing SSI-DCP funds.

(d) **Service plan.** Except for supplemental formula and when the child does not have a current service plan with another program within OKDHS or another agency, the AFS worker completes a service plan prior to providing SSI-DCP services to the child.

(1) The AFS worker interviews the parent, guardian, or caretaker by phone, in the office, or during a scheduled home visit to complete Form 08MA017E, SSI-DCP Service Plan. The service plan is reviewed yearly. When the child receives State Supplemental Payment, the AFS worker completes Form 08MA017E in conjunction with the eligibility renewal.

(2) When the child receives services from another agency that requires a current social service plan, such as early intervention services through SoonerStart or special education services through the local public school, the SSI-DCP service plan is not necessary.

(3) Within OKDHS, the child may receive services from Child Welfare Services (CWS), Developmental Disabilities Services (DDS), or Aging Services (AS) for State Plan Personal Care. When applicable, the AFS worker collaborates with CWS or DDS to:

(A) address the child's current and future social service needs; and

(B) avoid duplication in providing services.

(e) **Services.** SSI-DCP provides funding for the services described in (1) and (2) of this subsection. The parent, guardian, or caretaker requests interaction and integration services through an AFS worker. A third party service provider handles supplemental formula requests. When a service provider is responsible for providing the service and the parent, guardian, or caretaker contacts an AFS worker, the worker provides the provider's contact information.

(1) **Formula.** A health care professional provides a prescription naming the brand of formula the child needs for oral consumption. The parent, guardian, or caretaker must provide an updated prescription each year.

(2) **Interaction and integration services.** Non-medical services aimed at strengthening the child physically or mentally; providing opportunities for social interaction; or assisting with mobility may be approved when recommended by an education or health care professional and the recommendation clearly defines the goals

and objectives for the child. Examples of such services include, but are not limited to, swimming or horseback riding lessons, sports activities, or a health club membership. Due to budget constraints, services are available as a temporary supplement on a short-term basis.

(f) **Equipment.** Equipment approved through SSI-DCP is used to aid the child in accessibility or mobility. Equipment available through SSI-DCP is pre-approved by AFS HR&MS staff. Available equipment that may be approved is described in (1) and (2) of this subsection. The parent, guardian, or caretaker provides a written recommendation from an education or health care professional with knowledge concerning the child's equipment needs. HR&MS staff does not approve requests for equipment the child can obtain through other sources, such as SoonerCare (Medicaid) or through the child's school.

(1) **Developmental aid.** A developmental aid is any device or equipment adapted to meet the needs of a child with disabilities. An education or healthcare professional provides a written explanation concerning the goals and objectives this developmental aid meets before it is approved. Educational or classroom devices, equipment, or supplies not adapted for the child's needs are not in the scope of the program.

(2) **Van lifts.** Van lifts are devices used for vehicular transportation of wheelchairs. Van lifts may be approved when needed to transport a child in a wheelchair. A van lift is not approved for a child in OKDHS or tribal custody or in the DDS Home and Community-Based Waiver Program. Modifications to the van are not approved.

(A) The parent, guardian, or caretaker must own the van as verified by title registration and license verification, and the van must be in operating condition.

(B) The family provides estimates from two van lift dealers who employ certified van lift installation technicians.

(C) When the request is approved, HR&MS staff contacts the family and approved vendor to arrange van lift installation.

(D) Only a certified van lift specialist is approved to install the van lift and the van lift must have factory and dealership warranties equal to the private purchase warranty.

(E) HR&MS staff does not approve replacement of a van lift within 10 years of the purchase date.

(F) SSI-DCP staff does not pay for van or van lift repairs not purchased with SSI-DCP funds.

(g) **Exclusions.** Items or supplies not in the scope of SSI-DCP are not approved. Examples of excluded items or supplies include, but are not limited to:

- (1) learning programs;
- (2) psychological programs;
- (3) books;
- (4) video or audio tapes;
- (5) paper, pencils, or art supplies;

- (6) computers, tablet computers, or computer software;
- (7) televisions; and
- (8) video games.

(h) **Purchasing procedures.** SSI-DCP orders are processed through AFS HR&MS. Purchased equipment is shipped to the local OKDHS office.

(i) **SSI-DCP notices.** When an SSI-DCP request is denied, AFS HR&MS staff sends Form 08MP038E, Client Notice of Action Taken, to inform the child's parent, guardian, or caretaker the item is not approved for purchase through SSI-DCP funding. The family may request a fair hearing by completing Form 13MP001E, Request for a Fair Hearing, within 30-calendar days from the issuance date of Form 08MP038E.

(j) **Respite Voucher Program.** The Respite Voucher Program provides financial assistance in the form of vouchers to families to pay for respite care. When the family appears eligible for the Respite Voucher Program, the worker gives the client Form 08RV001E, Respite Voucher Application for Children With Special Health Care Needs, to complete. When funding is not available through HR&MS, the worker advises the family to call a designated number to request a respite voucher application from Sooner SUCCESS for the Lifespan Respite Grant Voucher Program. SSI-DCP, other OKDHS programs, and certain public and private agencies provide funding to the Respite Voucher Program.

(1) The caregiver is the person who provides ongoing care for the child. He or she may be a parent, grandparent, other relative, or non-relative.

(2) When respite care is approved the respite provider must be at least 18 years of age. Respite care is not:

- (A) designed to pay for ongoing care, such as child care, therapy, in-home assistance, housekeeping, or home health services; and
- (B) provided by a member of the child's household.

[Source: Added at 32 Ok Reg 1858, eff 9-15-15 ; Amended at 36 Ok Reg 1785, eff 9-16-19 ; Amended at 38 Ok Reg 2206, eff 9-15-21 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

## **CHAPTER 20. LOW INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP)**

[**Authority:** Title XXVI, P.L. 97-35; P.L. 99-603; P.L. 102-550; P.L. 103-185; P.L. 109-58; 45 CFR; 26 U.S.C. 529A and 2503; 42 U.S.C; OKLA. CONST. art XXV; 56 O.S., §§ 162, 4001.1 through 4001.5]  
[**Source:** Codified 5-27-96]

### **SUBCHAPTER 1. LOW INCOME HOME ENERGY ASSISTANCE PROGRAM**

#### **340:20-1-1. Purpose, legal basis, and nondiscrimination provisions**

(a) **Purpose.** The purpose of this Chapter is to outline the rules governing Oklahoma Human Services (OKDHS) Low Income Home Energy Assistance Program (LIHEAP). The program provides assistance to low-income households, particularly those with the lowest incomes, that pay a high proportion of their household income to meet their home energy needs. The households most affected by high energy costs are the elderly, disabled, homebound, children 5 years of age and younger, migrants, and those who are isolated from service programs by geographical conditions or language barriers.

(b) **Legal basis.** The legal base for LIHEAP is vested in Title XXVI of Public Law 97-35, Section 8621 through 8629 of Title 42 of the United States Code (42 U.S.C. §§ 8621 through 8629), and the Omnibus Budget Reconciliation Act. The program is financed from federal funds.

(c) **Non-discrimination provisions.** LIHEAP does not subject persons to discrimination or exclude them from participating in, or deny the benefits of any program or activity funded in whole or in part with LIHEAP funds on the basis of race, color, national origin, or sex, per 42 U.S.C. § 8625. Persons are not subjected to discrimination based on age, per the Age Discrimination Act of 1975 (42 U.S.C. § 6101 et seq.) or based on a disability, per 29 U.S.C. § 794.

[**Source:** Amended at 12 Ok Reg 377, eff 11-17-94 (emergency); Amended at 12 Ok Reg 1713, eff 6-12-95 ; Amended at 27 Ok Reg 1195, eff 6-1-10 ; Amended at 35 Ok Reg 1620, eff 9-17-18 ; Amended at 39 Ok Reg 1709, eff 9-15-22]

#### **340:20-1-2. Legal base [REVOKED]**

[**Source:** Amended at 10 Ok Reg 637, eff 12-14-92 (emergency); Amended at 10 Ok Reg 2259, eff 6-11-93 ; Revoked at 39 Ok Reg 1709, eff 9-15-22]

#### **340:20-1-2.1. Non-discrimination provisions [REVOKED]**

[**Source:** Added at 35 Ok Reg 1620, eff 9-17-18 ; Revoked at 39 Ok Reg 1709, eff 9-15-22]

#### **340:20-1-3. Program operation, components, and priorities**

(a) **Program operation.** The operation of the Low Income Home Energy Assistance Program (LIHEAP) is contingent upon the receipt of federal funds. Delay in federal funding may cause changes in planned time frames for the program.

(b) **Components.** LIHEAP consists of four components each year federal funds are issued, per Section 8624 of Title 42 of the United States Code (42 U.S.C. § 8624):

- (1) winter heating assistance, during the winter heating application period;
- (2) Energy Crisis Assistance Program (ECAP), which has intermittent application periods each year and any time there is a medical crisis;
- (3) summer cooling assistance during the summer cooling application period; and
- (4) weatherization assistance administered year round by the Oklahoma Department of Commerce (ODOC) with LIHEAP funds allocated to them by Oklahoma Human Services (OKDHS) from federal LIHEAP funding. ODOC distributes weatherization funds to local Community Action agencies to provide weatherization services.

(c) **Priorities.** OKDHS prioritizes facilitating the LIHEAP application process for persons who are 60 years of age and older or disabled, per 42 U.S.C. § 8624. During the open enrollment period, persons may complete LIHEAP applications online at [www.okdhslive.org](http://www.okdhslive.org) or by calling an OKDHS county office for assistance in submitting an online application. When a household lacks transportation, is physically or mentally unable to come to an OKDHS office, or does not have phone or Internet access, staff mails Form 08LH002E, Low Income Home Energy Assistance Program (LIHEAP) Application to the home. A spouse, natural guardian, legal guardian, or another person may complete a LIHEAP application on behalf of the household.

[Source: Amended at 9 Ok Reg 191, eff 10-17-91 (emergency); Amended at 9 Ok Reg 2455, eff 6-25-92 ; Amended at 10 Ok Reg 637, eff 12-14-92 (emergency); Amended at 10 Ok Reg 2259, eff 6-11-93 ; Amended at 11 Ok Reg 483, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1671, eff 5-12-94 ; Amended at 12 Ok Reg 377, eff 11-17-94 (emergency); Amended at 12 Ok Reg 1713, eff 6-12-95 ; Amended at 14 Ok Reg 577, eff 12-12-96 (emergency); Amended at 14 Ok Reg 1336, eff 5-12-97 ; Amended at 15 Ok Reg 152, eff 12-1-97 (emergency); Amended at 15 Ok Reg 1604, eff 5-11-98 ; Amended at 25 Ok Reg 1301, eff 6-1-08 ; Amended at 27 Ok Reg 1195, eff 6-1-10 ; Amended at 35 Ok Reg 1620, eff 9-17-18 ; Amended at 39 Ok Reg 1709, eff 9-15-22]

#### **340:20-1-4. Coordination and outreach**

(a) **Coordination with Indian tribes.** Some, but not all, Oklahoma Indian tribes receive federal funds to operate their own Low Income Home Energy Assistance Program (LIHEAP), per Section 8623 of Title 42 of the United States Code (42 U.S.C. § 8623). Tribes may choose to use their funds for one assistance payment per household or through multiple application periods throughout the federal fiscal year that runs from October through September each year.

- (1) Oklahoma Human Services (OKDHS) and participating tribes share information regarding tribal member's receipt of LIHEAP to prevent assistance duplication.
- (2) Tribal members are not eligible to receive energy assistance from their tribe and OKDHS for the same federal fiscal year.
- (3) When a tribal member applies for LIHEAP through OKDHS, LIHEAP staff treats the person's eligibility in the same manner as any other household when the person is a member of a tribe that:



- (A) does not operate its own LIHEAP; or
  - (B) operates its own LIHEAP, but the person has not applied to the tribe for energy assistance.
- (4) When a tribal member applies for OKDHS LIHEAP and it is determined that a household member received energy assistance from a tribal LIHEAP program for the same federal fiscal year, LIHEAP staff denies the application.
- (5) When a tribal member approved for OKDHS LIHEAP later applies for tribal LIHEAP for the same federal fiscal year, the tribe denies its application unless the tribal member requests that OKDHS cancel its certification before payment is made.
- (b) **Coordination with utility suppliers.** OKDHS LIHEAP Unit staff are responsible for familiarizing utility suppliers with LIHEAP regulations, per 42 U.S.C. § 8624. During the Energy Crisis Assistance Program, centralized LIHEAP staff must coordinate with utility suppliers to pledge payment and ensure fuel is delivered in a timely manner to settle the energy crisis.
- (c) **Coordination with other OKDHS programs.** LIHEAP payments are disregarded in all OKDHS programs. LIHEAP coordinates with other Adult and Family Services income support programs, such as Temporary Assistance for Needy Families (TANF), TANF flex funds, and State Supplemental Payment. When the household's need is for primary home energy, it is met through LIHEAP when LIHEAP funds are available. TANF flex funds are used for emergency needs that LIHEAP does not cover.
- (d) **Outreach.** OKDHS provides information and presentations regarding LIHEAP to interested persons and community agencies, per 42 U.S.C. § 8624. OKDHS collaborates with local Community Action agencies to offer energy efficient workshops and coordinate energy assessments on LIHEAP households' homes to evaluate what may be done to lower energy costs. Some utility suppliers enroll LIHEAP clients in discount rates for their main heating and cooling energy sources.

[Source: Amended at 10 Ok Reg 637, eff 12-14-92 (emergency); Amended at 10 Ok Reg 2259, eff 6-11-93 ; Amended at 11 Ok Reg 483, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1671, eff 5-12-94 ; Amended at 15 Ok Reg 152, eff 12-1-97 (emergency); Amended at 15 Ok Reg 1604, eff 5-11-98 ; Amended at 25 Ok Reg 1301, eff 6-1-08 ; Amended at 29 Ok Reg 760, eff 7-1-12 ; Amended at 35 Ok Reg 1620, eff 9-17-18 ; Amended at 39 Ok Reg 1709, eff 9-15-22]

#### **340:20-1-5. Coordination with Adult and Family Services (AFS) income support programs [REVOKED]**

[Source: Amended at 10 Ok Reg 637, eff 12-14-92 (emergency); Amended at 10 Ok Reg 2259, eff 6-11-93 ; Amended at 11 Ok Reg 483, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1671, eff 5-12-94 ; Amended at 12 Ok Reg 377, eff 11-17-94 (emergency); Amended at 12 Ok Reg 1713, eff 6-12-95 ; Amended at 26 Ok Reg 816, eff 6-1-09 ; Amended at 35 Ok Reg 1620, eff 9-17-18 ; Revoked at 39 Ok Reg 1709, eff 9-15-22]

#### **340:20-1-6. Coordination with utility suppliers [REVOKED]**

[Source: Amended at 10 Ok Reg 637, eff 12-14-92 (emergency); Amended at 10 Ok Reg 2259, eff 6-11-93 ; Amended at 11 Ok Reg 483, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1671, eff 5-12-94 ; Amended at 35 Ok Reg 1620, eff 9-17-18 ; Revoked at 39 Ok Reg 1709, eff 9-15-22]

### **340:20-1-7. Outreach [REVOKED]**

[Source: Amended at 10 Ok Reg 637, eff 12-14-92 (emergency); Amended at 10 Ok Reg 2259, eff 6-11-93 ; Amended at 25 Ok Reg 1301, eff 6-1-08 ; Amended at 35 Ok Reg 1620, eff 9-17-18 ; Revoked at 39 Ok Reg 1709, eff 9-15-22]

### **340:20-1-8. Citizenship and alien status [REVOKED]**

[Source: Amended at 10 Ok Reg 637, eff 12-14-92 (emergency); Amended at 10 Ok Reg 2259, eff 6-11-93 ; Amended at 11 Ok Reg 483, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1671, eff 5-12-94 ; Amended at 12 Ok Reg 377, eff 11-17-94 (emergency); Amended at 12 Ok Reg 1713, eff 6-12-95 ; Amended at 14 Ok Reg 577, eff 12-12-96 (emergency); Amended at 14 Ok Reg 1336, eff 5-12-97 ; Amended at 25 Ok Reg 263, eff 11-1-07 (emergency); Amended at 25 Ok Reg 1301, eff 6-1-08 ; Revoked at 39 Ok Reg 1709, eff 9-15-22]

### **340:20-1-9. Priorities [REVOKED]**

[Source: Amended at 10 Ok Reg 637, eff 12-14-92 (emergency); Amended at 10 Ok Reg 2259, eff 6-11-93 ; Amended at 11 Ok Reg 483, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1671, eff 5-12-94 ; Amended at 35 Ok Reg 1620, eff 9-17-18 ; Amended at 38 Ok Reg 2208, eff 9-15-21 ; Revoked at 39 Ok Reg 1709, eff 9-15-22]

### **340:20-1-10. Program factors**

(a) **Home energy.** For the Low Income Home Energy Assistance Program (LIHEAP), home energy means a household's source of energy used to heat or cool a residential dwelling, per Section 8622(6) of Title 42 of the United States Code (42 U.S.C. § 8622(6)).

(b) **Main energy source.**

(1) The main energy source used to heat the home is approved during the winter heating application period. The main energy source may be electricity, natural gas, propane, kerosene, firewood, coal, butane, or heating oil. When the household uses a generator to heat the home, the generator may use natural gas, propane, or gasoline.

(2) The main energy source used to cool the home is approved during the summer cooling application period. In most instances, the main cooling source is electricity. When the household uses a generator to cool the home, the generator may use natural gas, propane, or gasoline.

(3) During an Energy Crisis Assistance Program (ECAP) application period, the household must choose the heating or cooling energy source that resolves the energy crisis.

(c) **Household.** Household means any person or group of persons who are living together as one economic unit and for whom residential energy is customarily purchased in common, or who make undesignated payments for energy in the form of rent, per 42 U.S.C. § 8622(5).

(1) The income and resources of all household members is considered, per Oklahoma Administrative Code (OAC) 340:20-1-11 procedures, even when one or more household members is not eligible to be included in the benefit, per (d) or (h)(5) of this Section.

(2) Refer to OAC 340:20-1-4 when one or more household members is a member of a tribe operating its own LIHEAP.

(3) A roomer is a person who rents a room in another person's house. A boarder is a person who lives in temporary housing, such as halfway house or group home, a commercial boarding house, or with another household who furnishes lodging and meals to the person in exchange for a reasonable monthly payment for board. When the household states there is a roomer or boarder living in the home, the person may be considered as a separate household only when:

(A) he or she is not related to the household; and

(B) there is a written lease or roommate agreement that contains a clause stating he or she is responsible for a specific portion of the utility bills.

(4) There is one authorization per household for each heating or cooling application assistance period.

(d) **Citizenship and alien status.** Per Section 71 of Title 56 and Section 20j of Title 74 of the Oklahoma Statutes, all persons 14 years of age and older must declare if they are residing in the United States (U.S.) lawfully and may be required to sign Form 08MP005E, Citizenship Affidavit, per OAC 340:65-3-1(g). To be eligible for LIHEAP benefits, a person must be:

(1) a U.S. citizen;

(2) a U.S. non-citizen national;

(3) an alien who is both qualified and eligible, per OAC 340:50-67; or

(4) an alien not required to meet qualified alien status.

(e) **Vulnerability.** A household is vulnerable when it is totally or partially responsible for home energy costs. A household whose primary energy source is temporarily discontinued is also considered vulnerable. A roomer or boarder may be considered vulnerable when:

(1) he or she is not related to a household member with whom he or she lives; and

(2) there is a written lease or roommate agreement that contains a clause stating he or she is responsible for a specific portion of the utility bills.

(f) **Non-vulnerability.** Non-vulnerable households are those that do not bear any home energy expense. Examples of non-vulnerable living arrangements include:

(1) congregate or domiciliary facilities, such as a nursing facility, assisted living or long term care facility when utilities are paid through a corporate or business account, college or university dormitory, or fraternity or sorority housing;

(2) households whose primary energy source is totally paid by someone other than a household member; or

(3) subsidized households whose heating or cooling costs are included in the rent. Subsidized households assessed an energy surcharge during the operation of LIHEAP may be eligible for assistance when they provide verification of the surcharge.

Acceptable surcharge verification may be established by an itemized statement from the landlord, a legally-binding lease agreement showing the surcharge, or a rent receipt designating

the fuel cost is separate from the total shelter payment.

(g) **Subsidized household.** Subsidized households are households that receive a utility allowance to cover all or part of their energy cost or receive assistance in paying their rent or house payment on a regular basis. Subsidized households are not vulnerable when an agency or person pays the entire utility bill every month, even when the utility bill is in the name of a household member or the payment is a loan.

(1) Assistance may be from a government agency, such as a local housing authority, or a private person, usually a relative or friend, who helps the household pay their utility bills, rent or house payment, or allows the household to live rent free.

(2) When apartment rental rates in college or university-owned apartment complexes are set lower than other apartments in the community to help the student, the household is considered a subsidized household.

(3) Eligible subsidized households with out-of-pocket utility expenses receive the same assistance benefit as unsubsidized households.

(h) **Eligible household criteria.** All eligible households must verify that they meet criteria in (1) through (5) of this subsection, per OAC 340:20-1-13, or the application is denied.

(1) Households must be totally or partially responsible for the cost of home energy and provide accurate utility information.

(2) Households must not exceed the gross income and resource standards, per Oklahoma Human Services (OKDHS) Appendix C-7, Low Income Home Energy Assistance Program Income and Resource Level by Household Size.

(3) Households must include at least one U.S. citizen or eligible alien. An undocumented or ineligible alien may be present in the home, but is not included in household size when determining the household's financial eligibility or the benefit amount. The undocumented or ineligible alien's income is considered, per OAC 340:20-1-11(a)(4).

(4) The applicant must provide proof of his or her identity, per OAC 340:20-1-13(4).

(5) Each household member included in household size for income and benefit determination must provide his or her Social Security number (SSN), per OAC 340:20-1-13(3) and 340:65-3-1(f). When the household does not provide a SSN for a household member, the person's income is counted but he or she is not included in household size when determining the household's financial eligibility, per OKDHS Appendix C-7, or benefit amount, per OKDHS Appendix C-7-A, Estimated Low Income Home Energy Assistance Program (LIHEAP) Benefit Level for all Households.

(i) **Benefit amount.** LIHEAP funding is contingent on the receipt of federal funds and authorized amounts vary from year-to-year. Benefit amounts are estimated and reserved for winter heating, summer cooling, and ECAP on a yearly basis after the funding amount for the federal fiscal year is known. OKDHS Appendix C-7-A provides estimated benefit amounts for each program component. Adjustments may be made to the estimated benefit amount during the federal fiscal year because of

changes in available funding or anticipated need. The household benefit amount for:

- (1) winter heating is based upon household size, net income, primary energy source, and if the household pays the energy supplier or the utility cost is included in the rent payment;
- (2) summer cooling is based upon household size and net income; and
- (3) ECAP is based on the amount needed to resolve the energy crisis up to the maximum amount shown, per OKDHS Appendix C-7-A.

[Source: Amended at 9 Ok Reg 191, eff 10-17-91 (emergency); Amended at 9 Ok Reg 2455, eff 6-25-92 ; Amended at 10 Ok Reg 637, eff 12-14-92 (emergency); Amended at 10 Ok Reg 2259, eff 6-11-93 ; Amended at 11 Ok Reg 483, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1671, eff 5-12-94 ; Amended at 12 Ok Reg 377, eff 11-17-94 (emergency); Amended at 12 Ok Reg 1713, eff 6-12-95 ; Amended at 14 Ok Reg 577, eff 12-12-96 (emergency); Amended at 14 Ok Reg 1336, eff 5-12-97 ; Amended at 15 Ok Reg 152, eff 12-1-97 (emergency); Amended at 15 Ok Reg 1604, eff 5-11-98 ; Amended at 20 Ok Reg 2912, eff 10-1-03 (emergency); Amended at 21 Ok Reg 837, eff 4-26-04 ; Amended at 26 Ok Reg 816, eff 6-1-09 ; Amended at 27 Ok Reg 1195, eff 6-1-10 ; Amended at 28 Ok Reg 805, eff 6-1-11 ; Amended at 29 Ok Reg 760, eff 7-1-12 ; Amended at 35 Ok Reg 1620, eff 9-17-18 ; Amended at 38 Ok Reg 2208, eff 9-15-21 ; Amended at 39 Ok Reg 1709, eff 9-15-22]

### **340:20-1-11. Income and liquid resources**

(a) **Income.** All gross earned and unearned income that the household receives, except for income exclusions per (b) of this Section, is considered in determining financial eligibility, per Section 8624 of Title 42 of the United States Code (42 U.S.C. § 8624). Income received more than once per month from the same source is converted to a monthly amount and rounded to the nearest dollar. When a household member's income is reduced due to an overpayment recoupment or a garnishment, the gross amount before the recoupment or garnishment is considered.

(1) **Gross income standard.** Eligible households' income must not exceed the gross income standard, per Oklahoma Human Services (OKDHS) Appendix C-7, Low Income Home Energy Assistance Program Income and Resource Level by Household Size.

(A) When the household includes one or more ineligible alien(s), part of the ineligible alien(s)' income is considered in determining gross income for the other household members. Refer to (4) of this subsection to determine the ineligible alien(s)' countable income portion. The ineligible alien(s) is not considered in household size when determining the gross income standard for the other household members.

(B) When all household members and their income are included in Supplemental Nutrition Assistance Program (SNAP) food benefits, Temporary Assistance for Needy Families (TANF), State Supplemental Payment (SSP) cash assistance, or Child Care Subsidy benefits, the gross income used to establish eligibility for the other program is used to determine eligibility for Low Income Home Energy Assistance Program (LIHEAP) benefits unless the household reports new or terminated income. When the

household reports income from a new source, or does not report income currently considered for another benefit on the LIHEAP application, the household must verify the income from the new source or verify that previous income is terminated, per (2) and (3) of this subsection.

(C) When some, but not all, household members are included in other benefits, the gross income of the household member(s) whose income was not verified must be determined for the application month, per (2) and (3) of this subsection.

(D) When the household does not receive other benefits, the household's gross income for the application month is verified and calculated to determine income eligibility, per (2) and (3) of this subsection.

(2) **Earned income.** Earned income is income a household member receives in the form of wages, commission, self-employment, or training allowances, and for which he or she puts forth labor. When all household members' earned income is not established for another program, and a household member works for an employer, gross earned income is calculated for the application month. When a household member is self-employed or a contract employee, the household member's income is averaged over 12 months to determine the average gross monthly income.

(A) When the household member receives an hourly wage, has not received all earned income for the month by the application date, and his or her income fluctuates, the last 30-calendar days of income is used to anticipate income for the pay periods not yet received. When the household member:

- (i) receives an extra paycheck in the application month due to a third or fifth week and the income is ongoing, the last 30-calendar days of income is used to determine countable monthly income instead of counting the extra paycheck; or
- (ii) starts a new job and the amount of the first paycheck is not known, the earnings are not considered.

(B) When the household member's income does not fluctuate, income received during the month prior to the application month may be used.

(C) When the household member derives his or her annual income by contract or self-employment in a time period shorter than one year or receives an annual salary, the income is divided over a 12-month period to determine countable monthly income.

(D) To arrive at the monthly gross earned income when the household member is self-employed and:

- (i) filed an income tax return on the self-employment income for the most recent tax year, the gross self-employment income, including capital gains, shown on the income tax return is

divided by 12. When the business operated less than 12 months, the self-employment income is divided by the number of months the business operated; or

(ii) did not file an income tax return for the most recent tax year, the gross self-employment income, including capital gains, shown on the household member's business records is divided by 12 or the number of months the business was in operation when the business operated less than 12 months.

(3) **Unearned income.** Unearned income is income a household receives that is not in the form of wages, self-employment, or training allowances, and for which a person does not put forth labor. Unearned income received or expected to be received during the month of application is considered unless it is excluded per (b) of this Section.

(4) **Income calculation for an ineligible alien.** An ineligible alien is a person who does not meet the eligibility criteria, per Oklahoma Administrative Code (OAC) 340:20-1-10(d). When an ineligible alien is part of an eligible household, the ineligible alien's earned and unearned gross income and that of his or her ineligible dependents is calculated in the same manner as it is for other household members. The ineligible alien's countable income portion is computed per (A) through (E) of this paragraph and added to household income for the eligible members before determining if the household meets the gross income standard per OKDHS Appendix C-7.

(A) Subtract the earned income deduction, per OKDHS Appendix C-7 for each employed ineligible alien.

(B) Add the ineligible alien's unearned income.

(C) Subtract the need standard, per OKDHS Appendix C-1, Maximum Income, Resource, and Payment Standards Schedule IX, for the ineligible alien and his or her ineligible alien dependents who:

(i) are claimable for federal personal income taxes;

(ii) live in the same household; and

(iii) are not included in the household size when determining the gross income standard or the LIHEAP benefit level for the eligible household members.

(D) Subtract all applicable deductions per (c) of this Section for the ineligible alien(s).

(E) The remaining amount is added to the countable income of the household members eligible for LIHEAP.

(b) **Income exclusions.** Exclude from countable income any income that is excluded by SNAP, TANF, SSP, or Child Care Subsidy rules that include, but may not be limited to:

(1) the food benefit amount under the Food and Nutrition Act of 2008;

(2) any payment received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(3) educational assistance including grants, work study, scholarships, fellowships, educational loans on which payment is deferred, veteran's education benefits, and the like;

(4) loans, regardless of use, when a bona fide debt or obligation to pay can be established.

(A) Criteria to establish a loan as bona fide includes an acknowledgment of obligation to repay or evidence that the loan is from a person or financial institution in the loan business.

(B) When the loan is from a person(s) not in the loan business, the borrower's acknowledgment of obligation to repay, with or without interest, is required to indicate the loan is bona fide;

(5) Indian per capita payments distributed from judgment awards or trust funds made, per Section 2 of Public Law (P.L.) 98-64, (25 U.S.C. § 117b) and 25 U.S.C. § 1407.

(A) Exclude any interest or investment income accrued on such funds while held in trust or any purchases made with judgment funds, trust funds, interest, or investment income accrued on such funds.

(B) Exclude per capita payments, such as Osage tribe headrights, income from mineral leases, or other tribal business ventures, when they meet the distribution requirements stated in this paragraph.

(C) Consider interest, income derived from the principal, or income produced by purchases made with the funds after distribution as countable income.

(D) The per capita exclusion applies per person rather than per family;

(6) special allowance for school expenses made available upon written petition from trust funds of the student;

(7) benefits from state and community programs on aging from Title III and Title V. Title III and Title V are under the Older Americans Act (OAA) of 1965, amended by P.L. 100-175 to become the OAA, as amended in 2000. Each state and various organizations receive Title V funds. These organizations include:

(A) Experience Works;

(B) National Council on Aging;

(C) National Council of Senior Citizens;

(D) American Association of Retired Persons (AARP);

(E) United States (U.S.) Forest Service;

(F) National Association for Spanish Speaking Elderly;

(G) National Urban League;

(H) National Council on Black Aging; and

(I) National Council on Indian Aging;

(8) allowances, stipends, earnings, compensation in lieu of wages, grants, and other payments made for participation in a Workforce Innovation and Opportunity Act program or other federally-funded workforce training program, with the exception of income paid to persons 19 years of age and older for on-the-job training. This income is treated as any other earned income;



(9) payments for supportive services or reimbursement for out-of-pocket expenses made to individual volunteers serving as foster grandparents, senior health aides, or senior companions, and to persons serving in the Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE);

(10) payments, allowances, or earnings made to persons participating in programs under Titles I and II of the Domestic Volunteer Services Act of 1973, Section 404 of P.L. 93-113 as amended (42 U.S.C. §§ 5044(f)(1) and 5058), such as the:

(A) Senior Companion Program;

(B) AmeriCorps Volunteers in Service to America (VISTA);

(C) Special Volunteer Programs;

(D) Foster Grandparent Program; and

(E) Retired and Senior Volunteer Program;

(11) the value of supplemental food assistance received under the Child Nutrition Act or the special food service program for children under the National School Lunch Act;

(12) any portion of payments, made under the Alaska Native Claims Settlement Act, Section 21(a) of P.L. 92-203, to an Alaska native, which are exempt from taxation under the Settlement Act;

(13) Experimental Housing Allowance Program payments made under Annual Contributions Contracts entered into prior to January 1, 1975, under Section 23 of the U.S. Housing Act of 1937, as amended;

(14) a minor dependent child's earnings when he or she is a full-time student;

(15) rental or housing subsidies by governmental agencies, such as the U.S. Department of Housing and Urban Development (HUD), received in-kind or in cash for rent, mortgage payments, or utilities;

(16) reimbursements from an employer for out-of-pocket expenditures and allowances for travel or training to the extent the funds are used for expenses directly related to such travel or training.

(A) Uniform allowances are excluded when the uniform is uniquely identified with the company name or logo.

(B) Any amount the employer adds to the employee's gross income as a benefit allowance to pay for a reimbursable expense, such as insurance or dependent care, is excluded.

(C) When the monthly benefit allowance exceeds the monthly expense and the employer includes the excess in the employee's pay each month, the worker counts the excess benefit allowance as earned income;

(17) advance payments of Earned Income Tax Credit (EITC) received as part of a paycheck or EITC refunds as a result of filing a federal income tax return, per P.L. 100-435;

(18) state EITC refunds as a result of filing a state income tax return;

(19) payments made from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In Re

Agent Orange Product Liability Litigation, M.D.L. No. 381 (E.D.N.Y.);

(20) TANF Work support services payments, such as flexible funds and participant allowances, per OAC 340:10-2-8;

(21) payments made directly to the household's creditors, or to a person or organization providing a service on the household's behalf, when the payment is made by a person or organization outside of the household. When funds owed to the household are diverted to pay a third party for a household expense, they are counted as income;

(22) in-kind benefits that are not in the form of money directly payable to the household. This includes meals, clothing, housing, or benefits that an employee receives from an employer in lieu of wages or in conjunction with wages;

(23) payments made under the Radiation Exposure Compensation Act (P.L. 101-426) enacted October 15, 1990;

(24) funds distributed by Federal Emergency Management Assistance (FEMA) due to a disaster or emergency and to persons directly affected by the event, per the Robert T. Stafford Disaster Relief and Emergency Assistance Act, P.L. 93-288, as amended (42 U.S.C. § 5155(d)). This exclusion also applies to all federally-funded disaster assistance and comparable disaster assistance provided by states, local governments, and disaster assistance organizations. For payments to be excluded, the disaster or emergency must be declared by the U.S. President;

(25) interests of individual Native Americans in trust or restricted lands;

(26) income up to \$2,000 per calendar year received by individual Native Americans that is derived from leases or other uses of an individually-owned trust or restricted lands. Any remaining disbursements from the trust or the restricted lands are considered as unearned income;

(27) payments made to persons because of their status as victims of Nazi persecution;

(28) monetary allowances, per 38 U.S.C. § 1823(c) provided to certain persons who are children of Vietnam War veterans;

(29) Family Support Assistance Payment Program payments paid to persons by OKDHS Developmental Disabilities Services;

(30) money deposited into or withdrawn from a qualified Oklahoma Achieving a Better Life Experience (ABLE) Program account, or an ABLE account in any other state, owned by the account's designated beneficiary and established to pay for qualified disability expenses (QDE) is excluded from income or resource consideration, per Sections 4001.1 through 4001.5 of Title 56 of the Oklahoma Statutes and the ABLE Act of 2014, 26 U.S.C. § 529A. A person may have only one ABLE account. The client must provide documents to verify the account meets exemption criteria before the funds are excluded. Once the client verifies that the savings or trust account is a valid ABLE account, no further account information is required.

(A) Another individual's contribution to an ABLE account is excluded unless the contribution exceeds the annual federal gift tax exclusion amount, per 26 U.S.C. § 2503(b). Any money deposited in the account in the calendar year that is in excess of the annual federal gift tax exclusion amount is considered as a countable resource in the amount deposited.

(B) A distribution from an ABLE account that is retained after the month of receipt is excluded in any month when spent on a QDE. Money withdrawn for reasons other than to pay a QDE is considered as a countable resource for the withdrawal month.

(C) A QDE is any expense related to the blindness or disability of the individual and made for the benefit of the individual. QDE's include, but are not limited to:

- (i) education;
- (ii) housing;
- (iii) transportation;
- (iv) employment, training, and support;
- (v) assistive technology and personal support services;
- (vi) health;
- (vii) prevention and wellness;
- (viii) financial management and administrative services;
- (ix) legal fees;
- (x) ABLE account oversight and monitoring;
- (xi) funeral and burial; and
- (xii) basic living;

(31) income received by a member of the U.S. Armed Forces, per 37 U.S.C. Chapter 5 and Section 273.9(c)(20) of Title 7 of the Code of Federal Regulations that is:

(A) received in addition to the service member's basic pay during combat deployment;

(B) received as a result of the service member's deployment or service in an area designated as a combat zone as determined pursuant to an Executive Order or P.L.; and

(C) not received by the service member prior to the service member's deployment to or service in a federally-designated combat zone;

(32) payments, allowances, or earnings to persons participating in the AmeriCorps State and National program or the AmeriCorps National Civilian Community Corps authorized by the National and Community Service Act of 1990 (42 U.S.C. § 12637(d)) and other payments to volunteers authorized by the National and Community Service Trust Act of 1993, P. L. 103-82 (42 U.S.C. §§ 12571, et seq.) and administered by the Corporation for National and Community Service;

(33) payments received under the Civil Liberties Act of 1988. These payments are made to persons of Japanese ancestry whose

ancestors were detained in internment camps during World War II;

(34) payments received by a Supplemental Security Income recipient necessary for the fulfillment of a Plan for Achieving Self-Support approved under Title XVI Section 1612(b)(4)(A)(iii) or 1612(b)(4)(B)(iv) of the Social Security Act;

(35) money the household receives and uses for the care and maintenance of a third-party beneficiary who is not a household member;

(36) income that is received too infrequently or irregularly to be reasonably anticipated when it is \$30 or less per quarter;

(37) non-recurring lump sum payments including, but not limited to:

(A) income tax refunds, rebates, or credits;

(B) retroactive lump sums from Social Security, SSI, public assistance, Railroad Retirement pensions benefits, or other payments;

(C) retroactive lump sum insurance settlements; or

(D) refunds of security deposits on rental property or utilities; and

(38) up to \$2,000 in cash deposited and interest accrued in an individual development account operated under the Assets for Independence Act.

(c) **Income deductions.** The household must meet the gross income standard for its household size, per OKDHS Appendix C-7 before allowing applicable income deductions, per (1) through (5) of this subsection except for self-employment business expenses. After allowing income deductions, the net income is used to determine the benefit amount, per (d) of this Section. Deductible expenses may include:

(1) verified non-reimbursed medical expenses paid by persons 60 years of age and older or persons considered disabled, per OAC 340:50-5-4;

(2) legally binding child support paid by a household member to, or for a non-household member when verified, including payments made to a third party on behalf of the non-household member;

(3) the earned income deduction, per OKDHS Appendix C-7 for each employed household member;

(4) when self-employed, 50 percent of the household member's gross self-employment income for incurred business expenses. Self-employed business expenses are subtracted before determining if the household meets gross income standards, per OKDHS Appendix C-7. When the household member did not incur business expenses, he or she is not eligible for a business expense deduction. The household member is also eligible for the earned income deduction per (3) of this subsection when he or she does not take out a salary from the business; and

(5) child care copayment when the household receives Child Care Subsidy benefits through OKDHS.

(d) **Benefit amount.** Refer to OKDHS Appendix C-7-A, Estimated Low Income Home Energy Assistance Program (LIHEAP) Benefit Level for all Households, to determine the LIHEAP benefit amount. The LIHEAP

benefit amount is based on household size, excluding ineligible aliens, the household's net income after applicable deductions are subtracted per (c) of this Section, and the main energy source.

(e) **Resources.** Liquid resources, such as, but not limited to, cash on hand, checking or savings accounts, certificates of deposits, stocks or bonds, bitcoin, or other cryptocurrency, cannot exceed the allowable resource level, per OKDHS Appendix C-7. The applicant's statement is accepted as verification unless the information is inconsistent or questionable.

[Source: Amended at 9 Ok Reg 191, eff 10-17-91 (emergency); Amended at 9 Ok Reg 2455, eff 6-25-92 ; Amended at 10 Ok Reg 637, eff 12-14-92 (emergency); Amended at 10 Ok Reg 2259, eff 6-11-93 ; Amended at 11 Ok Reg 483, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1671, eff 5-12-94 ; Amended at 12 Ok Reg 377, eff 11-17-94 (emergency); Amended at 12 Ok Reg 1713, eff 6-12-95 ; Amended at 14 Ok Reg 577, eff 12-12-96 (emergency); Amended at 14 Ok Reg 1336, eff 5-12-97 ; Amended at 15 Ok Reg 152, eff 12-1-97 (emergency); Amended at 15 Ok Reg 378, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1604, eff 5-11-98 ; Amended at 20 Ok Reg 2912, eff 10-1-03 (emergency); Amended at 21 Ok Reg 837, eff 4-26-04 ; Amended at 25 Ok Reg 1301, eff 6-1-08 ; Amended at 26 Ok Reg 816, eff 6-1-09 ; Amended at 27 Ok Reg 1195, eff 6-1-10 ; Amended at 28 Ok Reg 805, eff 6-1-11 ; Amended at 29 Ok Reg 760, eff 7-1-12 ; Amended at 34 Ok Reg 498, eff 3-7-17 (emergency); Amended at 35 Ok Reg 1620, eff 9-17-18 ; Amended at 38 Ok Reg 2208, eff 9-15-21 ; Amended at 39 Ok Reg 1709, eff 9-15-22]

### **340:20-1-12. Applications**

Households apply for the Low Income Home Energy Assistance Program (LIHEAP) by submitting an online application at [www.okdhslive.org](http://www.okdhslive.org), calling an Oklahoma Human Services (OKDHS) county office to assist with submitting the online application, or calling the phone number on the [www.okdhslive.org](http://www.okdhslive.org) website to request Form 08LH002E, Low Income Home Energy Assistance Program (LIHEAP) Application, be mailed to them. When Form 08LH002E is mailed to the household with a postage paid envelope, the application is completed and returned by email, faxed to the number on the form, or mailed to the return address.

(1) Households may be pre-authorized for the LIHEAP winter heating or summer cooling component without filing an application, but are not pre-authorized for both in the same federal fiscal year, October through September. Households pre-authorized for LIHEAP are households that received Child Care Subsidy, State Supplemental Payment (SSP), Temporary Assistance for Needy Families (TANF), or Supplemental Nutrition Assistance Program (SNAP) benefits all 12 months of the previous federal fiscal year and met criteria in (A) through (D) of this paragraph. The household:

- (A) received LIHEAP winter heating or summer cooling the previous federal fiscal year;
- (B) address remains the same;
- (C) income did not change or exceed eligibility guidelines for household size during the previous federal fiscal year; and
- (D) members remain the same from the previous federal fiscal year.

(2) A computer-generated notice is normally mailed the month before the winter heating or summer cooling application period

starts. The notice is sent to households not selected for preauthorization that receive SNAP benefits, TANF, and or SSP. The notice informs the household how to apply for LIHEAP.

(3) When an application is denied, households may request a fair hearing when they do not agree with the decision or submit a new application to reapply.

(4) When a household moves after applying for LIHEAP, a new application is not necessary. However, the household must report the change of "service" address to an OKDHS county office within 10-calendar days of moving.

(5) When submitting an application, the household must provide the correct account name, account number, and energy supplier to ensure payments are made to the correct energy supplier. All households applying for the Energy Crisis Assistance Program must have a verified energy crisis, per Oklahoma Administrative Code 340:20-1-17(f)(2).

[Source: Amended at 10 Ok Reg 637, eff 12-14-92 (emergency); Amended at 10 Ok Reg 2259, eff 6-11-93 ; Amended at 11 Ok Reg 483, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1671, eff 5-12-94 ; Amended at 14 Ok Reg 577, eff 12-12-96 (emergency); Amended at 14 Ok Reg 1336, eff 5-12-97 ; Amended at 15 Ok Reg 152, eff 12-1-97 (emergency); Amended at 15 Ok Reg 1604, eff 5-11-98 ; Amended at 20 Ok Reg 870, eff 6-1-03 ; Amended at 27 Ok Reg 1195, eff 6-1-10 ; Amended at 28 Ok Reg 805, eff 6-1-11 ; Amended at 35 Ok Reg 1620, eff 9-17-18 ; Amended at 36 Ok Reg 1792, eff 9-16-19 ; Amended at 38 Ok Reg 2208, eff 9-15-21 ; Amended at 39 Ok Reg 462, eff 11-30-21 (emergency); Amended at 39 Ok Reg 1709, eff 9-15-22]

### **340:20-1-13. Verification**

Prior to approving a household for the Low Income Home Energy Assistance Program (LIHEAP), program factors in (1) through (5) of this Section must be verified. When the applicant does not submit the verification with the application, the household is sent Form 08AD092E, Client Contact and Information Request, listing required verification, and is given 10-calendar days to provide it. When the household fails to provide all or part of the required verification, the application is denied.

(1) **Income and resources eligibility.** Income and liquid resources are verified using the procedures, per Oklahoma Administrative Code (OAC) 340:20-1-11.

(A) When all household members are included in Temporary Assistance for Needy Families, State Supplemental Payment, Child Care Subsidy benefits, SoonerCare (Medicaid) for the aged, blind, or disabled, or Supplemental Nutrition Assistance Payment food benefits, the most recent income and resource verification included in the case record for each household member is used unless the household reports new or terminated income. Reported income sources that are different than those verified at the last benefit renewal must be verified and considered for the LIHEAP application.

(B) When some, but not all household members are included in other benefits, the household member(s) not included in other benefits must provide current verification of gross income and liquid resources.

(C) All other households must verify the current month's income and liquid resources for all household members.

(D) Acceptable income verification may include, but is not limited to:

- (i) income verification available in an active case record;
- (ii) pay stubs or employer statements;
- (iii) the most recent federal income tax form or business records when self-employed;
- (iv) data exchange screens, per OAC 340:65-3-4;
- (v) award letters; and
- (vi) court orders.

(2) **Vulnerability determination.** To determine vulnerability, a household must verify it is subject to home energy expenses.

When a:

- (A) household pays energy costs directly to suppliers, vulnerability is established by billing information on the utility statement;
- (B) household's energy cost is included in the shelter payment and the household pays a surcharge for the utilities, vulnerability may be established by an itemized statement from the landlord, a legally-binding lease agreement showing the surcharge, or a rent receipt designating that the fuel cost is separate from the total shelter payment;
- (C) subsidized household's heating or cooling costs are included in the shelter payment, the household is considered partially vulnerable when the household is assessed an energy surcharge and provides documentation of the assessed surcharge; or
- (D) roomer or boarder states he or she is responsible for a specific portion of the utility bills, he or she may be considered partially vulnerable when:
  - (i) the person or household with whom the roomer or boarder lives is not related to him or her; and
  - (ii) there is a written lease or roommate agreement that contains a clause stating he or she is responsible for a specific portion of utility bill.

(3) **Social Security numbers (SSN).** Each household member included in the benefit must provide a SSN or provide verification of a pending SSN application from the Social Security Administration (SSA) office for SSN enumeration, per OAC 340:65-3-1(f). Household members who do not provide a SSN are not included in household size when determining the household's financial eligibility and benefit amount, but their gross income and resources are considered.

(4) **Identity.** The identity of the person making application must be verified. Identity may be verified through readily available documentary evidence or when evidence is unavailable, through a collateral contact. Any documents that reasonably establish the applicant's identity must be accepted and no requirement for a

specific type of document, such as a birth certificate, may be imposed. Examples of acceptable documentary evidence the applicant may provide include, but are not limited to:

- (A) a driver license;
- (B) a work or school identification (ID);
- (C) an ID for health benefits, other assistance, or social service program;
- (D) a voter registration card;
- (E) pay checks; or
- (F) a birth certificate.

(5) **Energy supplier information.** The household must designate its main heating or cooling source and provide the name of its energy supplier and utility information on the application or note that utilities are included in the household's rent. Oklahoma Human Services pays the energy supplier instead of the household unless the energy supplier is a non-LIHEAP participant supplier.

[Source: Amended at 10 Ok Reg 637, eff 12-14-92 (emergency); Amended at 10 Ok Reg 2259, eff 6-11-93 ; Amended at 11 Ok Reg 483, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1671, eff 5-12-94 ; Amended at 15 Ok Reg 152, eff 12-1-97 (emergency); Amended at 15 Ok Reg 1604, eff 5-11-98 ; Amended at 16 Ok Reg 543, eff 1-1-99 through 7-14-99 (emergency); Amended at 25 Ok Reg 1301, eff 6-1-08 ; Amended at 28 Ok Reg 805, eff 6-1-11 ; Amended at 35 Ok Reg 1620, eff 9-17-18 ; Amended at 38 Ok Reg 2208, eff 9-15-21]

### **340:20-1-14. Actions, method of payment, and notifications**

Contingent upon the receipt of federal funding, submitted Low Income Home Energy Assistance Program (LIHEAP) applications are approved or denied, payments are issued, and households are notified of their eligibility during winter heating, summer cooling, and Energy Crisis Assistance Program (ECAP) application periods.

(1) **Households pre-authorized for LIHEAP.** Selected households may be pre-authorized for winter heating or summer cooling and sent a pre-authorization notice prior to an open application period.

(A) Households are pre-approved for LIHEAP per criteria in Oklahoma Administrative Code (OAC) 340:20-1-19 for winter heating and OAC 340:20-1-20 for summer cooling.

(B) The pre-authorization notice informs the household:

- (i) of the utility supplier and the account name and number Oklahoma Human Services (OKDHS) intends to pay based on the prior year's certification; and
- (ii) to report correct information to OKDHS within 10-calendar days of the pre-authorization notice date, when the utility supplier or account name or number is different. When the household reports correct information after this date, the household must apply during the open enrollment period as pre-authorization information may no longer be corrected.



(C) When the household reports that the pre-authorization information on the notice is incorrect within 10-calendar days of the pre-authorization notice date, the household provides correct information to determine if the household meets preauthorization criteria.

(i) When the household reports that the utility supplier changed to a supplier that does not participate in LIHEAP, staff explains that OKDHS may not pay the supplier based on pre-authorization information and encourages the household to file an application during the open enrollment period.

(ii) When the household reports a different account number with the same utility provider, staff asks for the address and the account name and number on the utility bill.

(I) When the address is the same as the OKDHS address of record and the account holder is a household member, pre-authorization information is updated.

(II) When the address is different, the household must provide a document that verifies the household lives at the new address, such as a lease agreement or other document showing a household member's name and the new address, within 10-calendar days of the date on the notice.

(III) When the account number changed because the account name changed to another household member who is included in another Adult and Family Services (AFS) benefit using the same case number, the preauthorization information is updated.

(IV) When the account name is different and the person is not included as a household member in another AFS benefit using the same case number, the household must verify the account holder has a separate address or provide income or resource information for the account holder before preauthorization information is changed. When the person lives in the home, the pre-authorization is closed and the household must apply during the open enrollment period.

(D) Households are not pre-authorized for ECAP.

(E) If there are unencumbered funds after meeting the LIHEAP and ECAP requirements, OKDHS may obligate these funds by issuing a supplemental payment as necessary. OKDHS directs supplements to energy providers and does not directly pay households with these

funds. If the energy provider invalidates and returns the payment, OKDHS does not reissue the payment to the household. In selecting households for a supplement, OKDHS prioritizes households that include household members who are aged, blind, or disabled or children younger than five years of age. Households do not submit applications for these funds. To qualify for a supplement, the household must:

- (i) have received at least one LIHEAP program benefit in the current fiscal year;
- (ii) receive State Supplemental Payment, Temporary Assistance for Needy Families, or Supplemental Nutrition Assistance Program; and
- (iii) meet any additional criteria required for a specific supplement.

(2) **Changes that occur after application submission.** When changes occur in the household's circumstances prior to certification, such as, but not limited to, moving or income changes, the household reports the change within 10-calendar days of the change occurring. When a change is reported, new utility information or income verification may need to be provided prior to the application being processed.

(3) **Approvals.** Households may be approved for LIHEAP during each of the threedesignated application periods per fiscal year.

(A) Certain households may be approved for ECAP outside of a designated application period when there is a life-threatening emergency, per OAC 340:20-1-17(g).

(B) Households are approved for LIHEAP when they:

- (i) submit a signed and completed application during the designated application period, per OAC 340:20-1-12;
- (ii) provide required verification, per OAC 340:20-1-13; and
- (iii) meet program factors, per OAC 340:20-1-10.

(4) **Denials.** An application is denied when the household:

(A) submits the application outside of a designated application period;

(B) submits an incomplete application. Reasons an application is considered incomplete include submitting an unsigned application or not providing utility information. When the household does not sign the application or fails to provide utility information, the application is immediately denied and the household must reapply;

(C) fails to verify program factors, per OAC 340:20-1-10.

Prior to application denial, the household must be given or sent Form 08AD092E, Client Contact and Information Request, indicating what verification must be provided and given at least 10-calendar days to provide the needed verification; or

(D) does not meet program factors, per OAC 340:20-1-10.

(5) **Timeliness.** Applications are considered timely processed when approved or denied within:

- (A) 60-calendar days of the application date for winter heating and summer cooling; or
- (B) no later than 18 hours from the application date for an ECAP application involving a life-threatening medical situation or 48 hours for all other ECAP applications.

(6) **LIHEAP payments.** LIHEAP payment amounts are estimated and reserved for each application period based on available funding and may be adjusted as needed. Refer to OKDHS Appendix C-7-A, Estimated Low Income Home Energy Assistance Program (LIHEAP) Benefit Level for all Households, for maximum payment amounts.

- (A) Payment amounts are determined based on the household's size, income, and primary energy source.
- (B) One payment is made per approved application directly to:

- (i) designated energy suppliers on behalf of approved households responsible for their utilities; or
- (ii) the household when the:
  - (I) utilities are included in the rent; or
  - (II) energy supplier is not designated to receive direct payments from OKDHS.

(C) When payment is made to the household instead of an energy supplier, approved payment may be made directly to the household on a debit card or, when the household receives Temporary Assistance for Needy Families or State Supplemental Payment cash assistance by direct deposit, payment may be made through direct deposit in the same bank account, per OAC 340:65-3-6.

(D) Payments are made weekly as applications are approved.

(7) **Closures.** The LIHEAP authorization automatically closes after the LIHEAP payment issues. Authorizations are closed when it is discovered that an ineligible household was certified in error before a LIHEAP payment is made.

(8) **Refunds.** The household has 30-calendar days from the date on the PSNEN37D, Heating Notice of Payment, PSNEN37M, Energy Crisis Assistance Program Notice of Payment, and PSNEN37O, Cooling Notice of Payment, to report errors and receive a refund. OKDHS does not reissue payments unless the:

- (A) household reports the error to OKDHS or the Energy Assistance Contact Center within 30-calendar days of the Notice of Payment;
- (B) reported information indicates the household remains qualified for the payment;
- (C) energy supplier returns the payment; and
- (D) funds are made available for OKDHS to make a correction.

(9) **Computer-generated notices.** Computer-generated notices are mailed to the applicant or recipient showing actions taken.

(A) PSNEN37D is mailed to the household as notification that payment was made to the utility supplier on his or her behalf for winter heating.

(B) PSNEN37E, Notice of Denial, is mailed to the household when an application is denied.

(C) PSNEN37F, Notice of Closure, is mailed to the household when the utility supplier reports the recipient's account is inactive, no longer in service, incorrect, or final with no amount due.

(D) PSNEN37K, Utility Account Verification and Pre-Approval Notice, is mailed to households pre-authorized for LIHEAP winter heating.

(E) PSNEN37M is mailed to the recipient as notification that payment was made to the supplier for ECAP.

(F) PSNEN37O is mailed to the recipient as notification that payment was made to the energy supplier on his or her behalf for summer cooling.

(G) PSNEN37P, Notice of Direct Payment for Heating, is mailed to the recipient as notification that payment was made directly to the household for winter heating.

(H) PSNEN37Q, Notice of Direct Payment for Cooling, is mailed to the recipient as notification that payment was made directly to the household for summer cooling.

(I) PSNEN37R, Notice of Direct Payment for ECAP, is mailed to the recipient as notification that payment was made directly to the household for ECAP.

(J) PSNEN37T, Utility Account Verification and Pre-Approval Notice, is mailed to households pre-authorized for LIHEAP summer cooling.

(10) **Employee-generated notice.** Form 08LH003E, Notice of Eligibility for Energy Assistance, is sent to the energy supplier or given to the recipient to take to the energy supplier as notification that the household meets eligibility requirements for crisis assistance, per OAC 340:20-1-17. Issuance of Form 08LH003E is not necessary when the supplier's business system is set up to receive a daily OKDHS approval file.

[Source: Amended at 9 Ok Reg 191, eff 10-17-91 (emergency); Amended at 9 Ok Reg 2455, eff 6-25-92 ; Amended at 10 Ok Reg 637, eff 12-14-92 (emergency); Amended at 10 Ok Reg 2259, eff 6-11-93 ; Amended at 11 Ok Reg 483, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1671, eff 5-12-94 ; Amended at 12 Ok Reg 377, eff 11-17-94 (emergency); Amended at 12 Ok Reg 1713, eff 6-12-95 ; Amended at 14 Ok Reg 577, eff 12-12-96 (emergency); Amended at 14 Ok Reg 1336, eff 5-12-97 ; Amended at 15 Ok Reg 152, eff 12-1-97 (emergency); Amended at 15 Ok Reg 1604, eff 5-11-98 ; Amended at 20 Ok Reg 870, eff 6-1-03 ; Amended at 26 Ok Reg 816, eff 6-1-09 ; Amended at 28 Ok Reg 805, eff 6-1-11 ; Amended at 34 Ok Reg 1463, eff 9-15-17 ; Amended at 38 Ok Reg 2208, eff 9-15-21 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:20-1-15. Weatherization assistance and other procedures**

(a) **Referral for low income weatherization assistance.** Homeowner households who are eligible for Low Income Home Energy Assistance Program (LIHEAP) may be eligible for low income weatherization

assistance through funds the Oklahoma Department of Human Services (DHS) allocates to the Oklahoma Department of Commerce (ODOC) for the weatherization assistance program per Section 8623 of Title 42 of the United States Code. Weatherization services are provided locally through Community Action Agencies per ODOC approval. Renters are not eligible for LIHEAP weatherization services.

(1) DHS Adult and Family Services LIHEAP program field representative staff provides ODOC with a list of clients approved for LIHEAP. ODOC staff transmit the list to local Community Action Agencies for use in identifying homeowner households eligible for LIHEAP weatherization assistance.

(2) Local AFS county office staff responds to direct inquiries from the local Community Action Agency or local weatherization contractor concerning the LIHEAP eligibility of households not appearing on the list.

(b) **Fair hearing.** Fair hearing rules per Oklahoma Administrative Code (OAC) 340:2-5 that apply to the Temporary Assistance for Needy Families (TANF) Program also apply to LIHEAP, except that immediate adverse action may be taken on open LIHEAP benefits without an advance notice. Because of the emergency situation that may exist, a LIHEAP fair hearing request is expedited.

(c) **Overpayments.** When an overpayment occurs, centralized AFS LIHEAP staff submits a memo to AFS LIHEAP program field representative staff explaining the overpayment circumstances, including the date, amount, and reason the overpayment occurred.

(d) **Referral for vendor fraud.** When centralized AFS LIHEAP or county staff becomes aware that a vendor accepted DHS payment on behalf of a household, but failed to provide service, either wholly or in part, as legally required, staff informs AFS LIHEAP program field representative staff. AFS LIHEAP program field representative staff determines whether to make a referral to the DHS Office of Inspector General for investigation.

(e) **Transfers.** Transferred cases do not normally need to be closed.

[Source: Amended at 9 Ok Reg 191, eff 10-17-91 (emergency); Amended at 9 Ok Reg 2455, eff 6-25-92 ; Amended at 10 Ok Reg 637, eff 12-14-92 (emergency); Amended at 10 Ok Reg 2259, eff 6-11-93 ; Amended at 11 Ok Reg 483, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1671, eff 5-12-94 ; Amended at 12 Ok Reg 377, eff 11-17-94 (emergency); Amended at 12 Ok Reg 1713, eff 6-12-95 ; Amended at 14 Ok Reg 577, eff 12-12-96 (emergency); Amended at 14 Ok Reg 1336, eff 5-12-97 ; Amended at 15 Ok Reg 152, eff 12-1-97 (emergency); Amended at 15 Ok Reg 1604, eff 5-11-98 ; Amended at 25 Ok Reg 1301, eff 6-1-08 ; Amended at 35 Ok Reg 1620, eff 9-17-18]

### **340:20-1-16. Energy Crisis Assistance [REVOKED]**

[Source: Amended at 9 Ok Reg 191, eff 10-17-91 (emergency); Amended at 9 Ok Reg 2455, eff 6-25-92 ; Revoked at 10 Ok Reg 637, eff 12-14-92 (emergency); Revoked at 10 Ok Reg 2259, eff 6-11-93]

### **340:20-1-17. Energy Crisis Assistance Program (ECAP)**

(a) **ECAP funds.** Based upon previous years' program experience, Oklahoma Human Services (OKDHS) reserves reasonable funds each year for ECAP to resolve energy crisis situations, per Section 8623(c) of Title 42 of the United States Code (42 U.S.C. § 8623(c)), to:

- (1) prevent disconnect of service when the household has a verified, active cut-off order;
- (2) restore or start service; or
- (3) provide a minimum delivery of propane or other heating fuel.

(b) **ECAP components.** ECAP consists of three components:

- (1) a regularly scheduled application period in March each year;
- (2) year round assistance available to households experiencing an energy crisis that involves a life-threatening medical situation on a case-by-case basis; and
- (3) disaster Low Income Home Energy Assistance Program (LIHEAP) when a federally declared disaster occurs and disaster LIHEAP is authorized by the Administration for Children and Families (ACF) Office of Community Services (OCS). When this occurs OKDHS follows ACF OCS program instructions issued for the disaster. The instructions may differ from ECAP requirements contained in this Section.

(c) **Maximum benefit amount.** When the household applies for ECAP more than once in the same fiscal year, the maximum benefit amount approved for all applications combined cannot exceed the amount allowed per fiscal year for ECAP on OKDHS Appendix C-7-A, Estimated Low Income Home Energy Assistance Program (LIHEAP) Benefit Level For All Households. An additional benefit amount may be approved when additional funds are authorized during a federally-declared disaster.

(d) **ECAP application methods.** Households apply for ECAP by submitting an online application at [www.okdhslive.org](http://www.okdhslive.org), calling an OKDHS county office to request assistance in submitting an online application, or calling the phone number on the [www.okdhslive.org](http://www.okdhslive.org) website to request Form 08LH002E, Low Income Home Energy Assistance Program (LIHEAP) Application, be mailed to them. Centralized LIHEAP staff includes a postage paid envelope with a mailed Form 08LH002E.

(1) When there is a life-threatening medical situation, centralized LIHEAP staff gathers eligibility information by phone and an application is not required.

(2) When the household chooses to complete Form 08LH002E, they must complete and return the application by email, by fax to the number on the form, or by mail to the return address shown on Form 08LH002E and the postage paid envelope.

(3) Centralized LIHEAP staff approve or deny ECAP applications.

(e) **Main energy source.** Households may choose heating or cooling as the main energy source for ECAP when the household's main energy source meets criteria per (f)(2) of this Section. When a life-threatening medical situation is involved, the household must choose the energy source that resolves the energy crisis and prevents a life-threatening medical situation. When the household chooses:

- (1) heating, the main heating energy source used to heat the home is approved. This may be electricity, natural gas, propane, kerosene, firewood, coal, butane, or heating oil. When the household uses a generator to heat the home, the generator may use natural gas, propane, or gasoline; or
- (2) cooling, the main cooling energy source used to cool the home is approved. In most instances, the main cooling source is

electricity. When the household uses a generator to cool the home, the generator may use natural gas, propane, or gasoline.

(f) **Eligibility criteria.** ECAP eligibility criteria are detailed in (1) through (5) of this subsection.

(1) Households with an energy crisis must not exceed the income and liquid resource standards, per OKDHS Appendix C-7, Low Income Home Energy Assistance Program Income and Resource Level by Household Size. Households must meet the same income and resource criteria for ECAP as for heating and cooling assistance, per Oklahoma Administrative Code (OAC) 340:20-1-11.

(2) Households must have a verified energy crisis. An energy crisis exists when the household:

- (A) service is disconnected by the energy supplier;
- (B) has a verified, active cut-off order. In the event of limited funding, centralized LIHEAP staff prioritizes applications with cut-off notices scheduled within 72 hours and applications that contain at least one household member who is 60 years of age and older, blind, disabled, or a child under five years of age;
- (C) receives a refusal notice to provide additional energy needs from the energy supplier and the household's fuel tank indicator is at or below 10 percent during the regularly-scheduled ECAP period, or at 25 percent or less for households with a life-threatening medical situation;
- (D) provides information regarding a new connection fee;
- (E) has a cash only, cash advance, or pre-paid account and has less than a \$25 minimum balance in the account. The household's utility bill shows that it is a cash only, cash advance, or pre-paid account and the balance amount; or
- (F) enters into a payment plan with the energy supplier to prevent a service cut-off. When the household enters into a payment plan to prevent service cut-off, centralized LIHEAP staff verifies the payment plan and the minimum amount needed to resolve the energy crisis for at least one month with the energy supplier.

(3) The household must have experienced a precipitating factor that caused the household to choose between paying the energy bill and another vital household need.

(A) Acceptable factors include, but are not limited to, temporary or short-term situations that caused the household to make a choice between paying the energy bill and:

- (i) purchasing sufficient food for the household;
- (ii) paying for emergency situations, such as medical expenses or disaster recovery; or
- (iii) providing clothing for children in the household.

(B) When the household was approved for the maximum ECAP payment during the most recent fiscal year, no further ECAP payments are made during the same fiscal

year unless additional funds are authorized during a federally-declared disaster.

(C) Households approved for less than the maximum ECAP payment may be approved for another ECAP payment during the same fiscal year, provided the total approved for all payments does not exceed the maximum ECAP payment, per OKDHS Appendix C-7-A. Per 42 U.S.C. § 8624(b)(16), an additional ECAP payment is not approved for the same fiscal year when the household:

- (i) refuses to participate in budget counseling and home energy conservation workshops provided by Community Action agencies;
- (ii) does not show any progress in improving its situation; or
- (iii) does not make an effort to maintain current utility bills.

(4) The household must explain why the energy crisis need cannot be met by available income and liquid resources, even when income and liquid resources are equal to or below the standard, per OKDHS Appendix C-7.

(5) When the ECAP benefit amount is insufficient to establish, restore, or prevent the cut-off of the household's energy source, ECAP is authorized only when other resources can be combined with the ECAP payment to resolve the energy crisis. When other resources cannot be developed to help resolve the energy crisis, the ECAP application is denied.

(g) **ECAP payment requirements.** ECAP payment requirements are included in (1) through (4) of this subsection.

(1) The authorized ECAP benefit is limited to the minimum amount necessary to connect, restore, or maintain energy service to the household, up to the established maximum for the program year, per OKDHS Appendix C-7-A. The payment must resolve the energy crisis for at least one month. ECAP funds are not used to pay utility charges carried over from a previous utility account or that is in debt collection, unless the client moved to a new location because of a domestic violence situation and provides proof of the domestic violence, such as a police report.

(2) OKDHS makes payments for crisis assistance directly to energy suppliers unless the energy supplier is not designated to receive direct payments from OKDHS. When direct payment cannot be made to the energy supplier, OKDHS makes the payment to the household by debit card or direct deposit, per OAC 340:65-3-6.

(3) The authorized benefit cannot include the propane or butane tank delivery cost.

(4) When other utilities are included with the heating or cooling bill, such as water, sewer, or trash, the authorized benefit cannot include the other utility charges. In this situation, the client must provide a utility bill that itemizes the charges for each utility, or this information is obtained from the energy supplier. When the client is unable to pay the other utility costs and the energy



supplier is unwilling to continue heating or cooling service, the application is denied until the client provides verification that the other utilities were or can be paid.

(h) **Timeliness requirement.** Per 42 U.S.C. § 8623(c), an ECAP application is considered timely processed when it is approved or denied within:

(1) 18 hours of the household requesting ECAP when the energy crisis involves a life-threatening medical situation.

(A) To be considered a life-threatening medical situation, the energy crisis must involve the energy source required:

(i) for life-saving medical equipment to be operational. The medical equipment must be prescribed by a licensed health care professional and require electricity to operate. When the medical equipment has an available battery backup in case of an electricity outage, the medical situation is not considered life-threatening. The client must provide a licensed health care professional's statement dated within the last 60-calendar day period or the most recent six months of medical records verifying that the medical equipment is prescribed and a battery backup is not available. Examples of life-saving medical equipment include, but are not limited to:

(I) a kidney dialysis machine;

(II) an iron lung;

(III) an oxygen concentrator or other type of oxygen machine; or

(IV) a cardiac monitor; or

(ii) power heating or air conditioning equipment when the temperature is predicted to be hot or cold enough to create a life-threatening medical situation for a person with a pre-existing medical condition if the energy source is not functioning. To be considered a life-threatening medical situation, the temperature on the disconnection date must be predicted to be:

(I) a heat index of at least 101 degrees in summer months; or

(II) 32 degrees or lower during day-time hours, 20 degrees or lower during night time hours in winter months, or both.

(B) Authority for designating a medical situation as life-threatening is limited to a:

(i) licensed health care professional; or

(ii) public health official; and

(2) 48 hours of receipt of a complete application when the energy crisis does not involve a life-threatening medical situation. A complete application means the application is signed and submitted and all verification is provided.

[Source: Added at 9 Ok Reg 191, eff 10-17-91 (emergency); Added at 9 Ok Reg 2455, eff 6-25-92 ; Amended at 10 Ok Reg 637, eff 12-14-92 (emergency); Amended at 10 Ok Reg 2259, eff 6-11-93 ; Amended at 11 Ok Reg 483, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1671, eff 5-12-94 ; Amended at 12 Ok Reg 377, eff 11-17-94 (emergency); Amended at 12 Ok Reg 1713, eff 6-12-95 ; Amended at 14 Ok Reg 577, eff 12-12-96 (emergency); Amended at 14 Ok Reg 1336, eff 5-12-97 ; Amended at 15 Ok Reg 152, eff 12-1-97 (emergency); Amended at 15 Ok Reg 1604, eff 5-11-98 ; Amended at 20 Ok Reg 870, eff 6-1-03 ; Amended at 20 Ok Reg 2912, eff 10-1-03 (emergency); Amended at 21 Ok Reg 837, eff 4-26-04 ; Amended at 25 Ok Reg 1301, eff 6-1-08 ; Amended at 27 Ok Reg 1195, eff 6-1-10 ; Amended at 28 Ok Reg 805, eff 6-1-11 ; Amended at 29 Ok Reg 760, eff 7-1-12 ; Amended at 35 Ok Reg 1620, eff 9-17-18 ; Amended at 36 Ok Reg 1792, eff 9-16-19 ; Amended at 38 Ok Reg 2208, eff 9-15-21 ; Amended at 39 Ok Reg 462, eff 11-30-21 (emergency); Amended at 39 Ok Reg 1709, eff 9-15-22]

### **340:20-1-18. Expedited services during regular heating assistance program [REVOKED]**

[Source: Added at 9 Ok Reg 191, eff 10-17-91 (emergency); Added at 9 Ok Reg 2455, eff 6-25-92 ; Revoked at 10 Ok Reg 637, eff 12-14-92 (emergency); Revoked at 10 Ok Reg 2259, eff 6-11-93]

### **340:20-1-19. Winter heating**

(a) Selected households approved for other benefits administered by Oklahoma Human Services (OKDHS) Adult and Family Services are normally pre-authorized for winter heating each year without filing an application. Households pre-approved for the Low Income Home Energy Assistance Program (LIHEAP) are those who received Child Care Subsidy, State Supplemental Payment (SSP), Temporary Assistance for Needy Families (TANF), or Supplemental Nutrition Assistance Program (SNAP) benefits all 12 months of the previous federal fiscal year and met all the criteria in (1) through (4) of this subsection. The household:

- (1) received LIHEAP winter heating the previous federal fiscal year;
- (2) address remains the same;
- (3) income did not exceed the gross income standard for its household size during the previous federal fiscal year, per OKDHS Appendix C-7, Low Income Home Energy Assistance Program Income and Resource Level by Household Size; and
- (4) members remain the same from the previous federal fiscal year.

(b) Households are not pre-authorized for winter heating and summer cooling in the same federal fiscal year; October through September. When households were pre-authorized for summer cooling for the same federal fiscal year, they must complete an application for winter heating and be approved, per Oklahoma Administrative Code (OAC) 340:20-1-12.

(c) A designated LIHEAP winter heating application period is opened each year federal LIHEAP funds are issued. Applications are taken until allocated funds are expended, per Section 8624 of Title 42 of the United States Code.

(d) Refer to OKDHS Appendix C-7-A, Estimated Low Income Home Energy Assistance Program, for estimated benefit amounts. The benefit amount is based on the household's net income, household size, heating source, and if the heating bill is included in the rent amount or paid separately.

- (1) Payments for unsubsidized renters, roomers, and boarders who pay a surcharge for utilities included in their rent are made

directly to approved households, per (g) of this Section.

(2) Acceptable verification of the surcharge may be established by an itemized statement from the landlord, a legally-binding lease agreement showing the surcharge, or a rent receipt designating that the fuel cost is separate from the total shelter payment.

When a roomer or boarder lives with another household, he or she may only qualify as a separate household when he or she:

(A) is not related to the household; and

(B) provides a written lease or roommate agreement that contains a clause stating he or she is responsible for a specific portion of utility bills.

(e) Main home energy sources for heating include natural gas, electricity, propane, firewood, kerosene, coal, or butane. When the household uses a generator to heat the home, the generator may use natural gas, propane, or gasoline.

(1) LIHEAP payments are made for utility expenses, deposits, and reconnect charges applicable to the household's main source of home energy. When the utility supplier receives payment from the household and OKDHS for reconnect charges or deposits, the utility supplier must reimburse the client for those charges.

(2) When other utilities, such as water, sewer, or trash, are included with the fuel bill, the authorized benefit cannot include the other utility charges. In this situation, the applicant must provide a utility bill that itemizes the charges for each utility or this information must be obtained from the energy supplier.

(f) Payments are not made for:

(1) blankets;

(2) emergency home repair;

(3) new or additional heating equipment or heating appliances;

(4) propane tank rental, hook-up, inspection, delivery, or other service charges; or

(5) utility charges carried over from a previous utility account or that is in debt collection due to non-payment, unless the client moved to a new location because of a domestic violence situation and provides proof of the domestic violence, such as a police report.

(g) Refer to OAC 340:20-1-14(5) for ways LIHEAP payments are made. When direct payment is made to the household instead of an energy supplier, it is made on a debit card or by direct deposit, per OAC 340:65-3-6 procedures.

[Source: Added at 27 Ok Reg 1195, eff 6-1-10 ; Amended at 35 Ok Reg 1620, eff 9-17-18 ; Amended at 38 Ok Reg 2208, eff 9-15-21 ; Amended at 39 Ok Reg 1709, eff 9-15-22]

### **340:20-1-20. Summer cooling**

(a) Selected households already approved for other benefits administered by Oklahoma Human Services (OKDHS) Adult and Family Services are normally pre-authorized for summer cooling each year without filling out an application. Households pre-approved for the Low Income Home Energy Assistance Program (LIHEAP) are those who received Child Care Subsidy, Supplemental Payment (SSP), Temporary Assistance for Needy

Families (TANF), or Supplemental Nutrition Assistance Program (SNAP) benefits all 12 months of the previous federal fiscal year and met all the criteria in (1) through (4) of this subsection. The household:

- (1) received LIHEAP summer cooling the previous federal fiscal year;
- (2) address remains the same;
- (3) income did not exceed the gross income standard for its household size during the previous federal fiscal year, per OKDHS Appendix C-7, Low Income Home Energy Assistance Program Income and Resource Level by Household Size; and
- (4) members remain the same from the previous federal fiscal year.

(b) Households are not pre-authorized for summer cooling and winter heating in the same federal fiscal year; October through September. When households were pre-authorized for winter heating for the same fiscal year, they must complete an application for summer cooling and be approved, per Oklahoma Administrative Code (OAC) 340:20-1-12.

(c) A designated LIHEAP summer cooling application period is opened each year federal LIHEAP funds are issued. Applications are taken until allocated funds are expended, per Section 8624 of Title 42 of the United States Code.

(d) Refer to OKDHS Appendix C-7-A, Estimated Low Income Home Energy Assistance Program, for estimated benefit amounts. The benefit amount is based on the household's net income and household size.

(1) The same benefit amount is approved for unsubsidized renters, roomers, and boarders with utilities included in their rent as for households that pay their cooling costs to an energy supplier. Payments for unsubsidized renters, roomers, and boarders who pay a utility surcharge included in the rent are made directly to approved households, per (g) of this Section.

(2) Acceptable verification of the surcharge may be established by an itemized statement from the landlord, a legally-binding lease agreement showing the surcharge, or a rent receipt designating that the fuel cost is separate from the total shelter payment.

When a roomer or boarder lives with another household, he or she may only qualify as a separate household when he or she:

- (A) is not related to the household; and
- (B) provides a written lease or roommate agreement that contains a clause stating he or she is responsible for a specific portion of utility bills.

(e) In most instances, the main home energy source for cooling is electricity. When the household uses a generator to cool the home, the generator may use natural gas, propane, or gasoline.

(1) LIHEAP payments are made for utility expenses, deposits, and reconnect charges applicable to the household's primary home energy source. When the utility supplier receives payment from the client and OKDHS for reconnect charges or deposits, the utility supplier must reimburse the client for those charges.

(2) When other utilities are included with the fuel bill, such as water, sewer, or trash, the authorized benefit cannot include the other utility charges. In this situation, the applicant must provide

a utility bill that itemizes the charges for each utility or this information must be obtained from the energy supplier.

(f) Payments may be made to the household to reimburse it for purchasing cooling equipment, such as fans and window air conditioning units, or to repair existing cooling equipment up to the maximum payment allowed, per Appendix C-7-A, Estimated Low Income Home Energy Assistance Program (LIHEAP) Benefit Level for all Households, when the household provides proof that the purchase or repair was made within 30-calendar days of the start of the cooling application period. When the household chooses this option, it is not eligible to receive help paying its energy bill.

(g) Refer to OAC 340:20-1-14(5) for ways LIHEAP payments are made. When direct payment is made to the household instead of an energy supplier, it is made on a debit card or by direct deposit, per OAC 340:65-3-6 procedures.

**[Source:** Added at 27 Ok Reg 1195, eff 6-1-10 ; Amended at 29 Ok Reg 760, eff 7-1-12 ; Amended at 35 Ok Reg 1620, eff 9-17-18 ; Amended at 38 Ok Reg 2208, eff 9-15-21 ; Amended at 39 Ok Reg 1709, eff 9-15-22]

## **APPENDIX A. APPLICATION FOR LOW INCOME HOME ENERGY ASSISTANCE (HEATING) [REVOKED]**

[**Source:** Revoked and reenacted at 10 Ok Reg 637, eff 12-14-92 (emergency); Revoked and reenacted at 10 Ok Reg 2259, eff 6-11-93 ; Revoked and reenacted at 12 Ok Reg 377, eff 11-17-94 (emergency); Revoked and reenacted at 12 Ok Reg 1713, eff 6-12-95 ; Revoked and reenacted at 13 Ok Reg 737, eff 12-1-95 (emergency); Revoked and reenacted at 13 Ok Reg 2621, eff 6-28-96 ; Revoked at 14 Ok Reg 577, eff 12-12-96 (emergency); Revoked at 14 Ok Reg 1336, eff 5-12-97]

## **APPENDIX B. DECLARATION OF INCOME ELIGIBILITY [REVOKED]**

[Source: Revoked at 23 Ok Reg 996, eff 5-11-06]

## **APPENDIX C. AUTHORIZATION/AGREEMENT/CLAIM FORM [REVOKED]**

[Source: Revoked at 23 Ok Reg 996, eff 5-11-06]



## **APPENDIX D. NOTICE OF ELIGIBILITY FOR ENERGY CRISIS ASSISTANCE [REVOKED]**

[**Source:** Revoked and reenacted at 10 Ok Reg 637, eff 12-14-92 (emergency); Revoked and reenacted at 10 Ok Reg 2259, eff 6-11-93 ; Revoked and reenacted at 11 Ok Reg 483, eff 11-15-93 (emergency); Revoked and reenacted at 11 Ok Reg 1671, eff 5-12-94 ; Revoked and reenacted at 15 Ok Reg 152, eff 12-1-97 (emergency); Revoked at 15 Ok Reg 1604, eff 5-11-98]

## **APPENDIX E. LOW INCOME HOME ENERGY ASSISTANCE PROGRAM INCOME AND RESOURCE LEVEL BY HOUSEHOLD SIZE [REVOKED]**

[Source: Revoked and reenacted at 10 Ok Reg 637, eff 12-14-92 (emergency); Revoked and reenacted at 10 Ok Reg 2259, eff 6-11-93 ; Revoked and reenacted at 11 Ok Reg 483, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 1671, eff 5-12-94]

## **APPENDIX F. BENEFIT LEVELS (UNSUBSIDIZED) [REVOKED]**

[Source: Revoked at 23 Ok Reg 996, eff 5-11-06]

## CHAPTER 25. CHILD SUPPORT SERVICES

[**Authority:** 15 U.S.C. 1681(b) and 1681(f); 25 U.S.C. 1603, 26 U.S.C. 6305 and 6402(c); 28 U.S.C. 1738B; 42 USC Ch. 7; 50 U.S.C. 3901 through 4043; 31 CFR 285.3; 45 CFR 302, 302.31, 302.32, 302.33, 302.38, 302.51, 302.56, 303.6, 303.7, 303.31, 303.60, 303.72, 307.11, 307.13, Part 310 and Part 453 et seq; 3A O.S. §§ 724.1; 10 O.S., §§ 7700-508 and 509; 10A O.S., § 1-4-702, 7700-204, and 7700-636; 12 O.S., §§ 204, 1031, 1038, and 1170 through 1196, and 2004; 21 O.S., §§ 566, 567, and 852; 36 O.S., § 6058A; 43 O.S.; 47 O.S., §§ 1-153, 6-201, 6-201.1, 6-211 and 6-212; 56 O.S., §§ 162 through 240.23, and 240.10; 63 O.S., §§ 1-311, 1-311.2, 1-311.3 and 1-321; 68 O.S., § 205.2; 70 O.S., §§ 3970.1 through 3970.12]  
[**Source:** Codified 12-31-91]

### SUBCHAPTER 1. SCOPE AND APPLICABILITY

#### **340:25-1-1. Purpose and legal basis**

(a) The purpose of the rules in this Chapter is to explain the Oklahoma Human Services (OKDHS) Child Support Services (CSS) program as it pertains to the public it serves. Unless the context clearly indicates otherwise, the rules in this Chapter only pertain to IV-D programs and services.

(b) All entities and personnel of the CSS program of OKDHS and all entities and personnel of entities that contract with OKDHS to administer and operate any portion of the child support program are bound by the provisions of this Chapter.

(c) **Federal law.** Sections 651 through 669b of Title 42 of the United States Code (42 U.S.C. §§ 651 through 669b) are the primary basis in federal law for Oklahoma's child support program. The program is also governed by Chapter III of Title 45 of the Code of Federal Regulations. The Servicemembers Civil Relief Act, codified in 50 U.S.C. §§ 3901 through 4043, applies to servicemembers. Other federal laws and regulations are followed to the extent they apply to Oklahoma's child support program.

(d) **State law.** Oklahoma Statutes covering child support issues include, but are not limited to:

- (1) Sections 80, 83, 90.4, 90.5, and 7700-101 through 7800 of Title 10 (10 O.S. §§ 80, 83, 90.4, 90.5, and 7700-101 through 7800);
- (2) 12 O.S. §§ 1170 and 1171.2 through 1171.4;
- (3) 21 O.S. §§ 566, 567, and 852;
- (4) 43 O.S. §§ 109.2 through 110, 112, 112A, 114 through 120, 135 through 139.1, 410 through 413, and 601-100 through 601-903;
- (5) 56 O.S. §§ 166.1, 183, 230.60, and 231 through 240.24;
- (6) 63 O.S. §§ 1-311.2 and 1-311.3; and
- (7) 68 O.S. § 205.2.

(e) **Applicability.** CSS uses federal or state statutes, as appropriate, in specific situations to establish paternity and child support and enforce child support orders. CSS follows applicable federal and state laws in carrying out its responsibilities and providing services regardless of whether a statute, regulation, final order, or other legal obligation is specifically referenced in this Chapter.

[Source: Amended at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 26 Ok Reg 1245, eff 7-1-09 ; Amended at 40 Ok Reg 954, eff 9-15-23]

### **340:25-1-1.1. Definitions**

The following words and terms, when used in this Chapter, shall have the following meanings unless the context clearly indicates otherwise:

**"Address of record"** or **"AOR"** means an address for a party or a custodial person (CP) in the Central Case Registry of Child Support Services (CSS) used for service of process in support, custody, and visitation actions. An AOR may be different from the party's or CP's physical address.

**"Alleged father"** means *a man who alleges himself to be, or is alleged to be, the genetic father or a possible genetic father of a child, but whose paternity has not been determined* per Section 7700-102 of Title 10 of the Oklahoma Statutes (10 O.S. § 7700-102).

**"Alternative health coverage"** means health care services other than health insurance including, but not limited to, Indian Health Services (IHS) or Defense Eligibility Enrollment Reporting System (DEERS) available to either parent under which medical services could be provided to the dependent child(ren).

**"Annual notice"** means the yearly notice provided for in 56 O.S. § 237A to notify the noncustodial parent (NCP) and CP of the amount due, actions that may be taken to enforce the child support obligation, actions required of the NCP and CP, and other related information and instructions.

**"Applicant"** means the individual who requests child support services or is referred by another agency or program for child support services.

**"Arrears," "arrearage,"** or **"past-due support"** means the total amount of unpaid support obligations accrued under a support order. Refer to "delinquency" in this Section.

**"Assignment"** means any transfer of rights to support to the state of Oklahoma under Sections 608 and 671 of Title 42 of the United States Code (42 U.S.C. §§ 608 and 671) or any transfer of rights to medical support and to payment of medical care from any third party under Section 433.146 of Title 42 of the Code of Federal Regulations (42 C.F.R. § 433.146).

**"Authorized representative"** means a person designated by a CP, NCP, or biological parent per Oklahoma Administrative Code (OAC) 340:25-1-3.1.

**"Biological parent"** means the natural parent of a child.

**"Case"** means the relationship of a particular group of people bound by legal rights and duties for the support of a child(ren) who is receiving or received child support services and all records and actions associated with the group.

**"Cash medical support"** means *an amount ordered to be paid toward the cost of health coverage provided by a public entity or by a person other than the parents through employment or otherwise* per 43 O.S. § 118F.

**"Central Case Registry" or "CCR"** means Oklahoma's repository for Part D of Subchapter IV of Chapter 7 of Title 42 of the United States Code (Title IV-D) cases and child support orders established or modified in Oklahoma after October 1, 1998. It includes, but is not limited to, information required to be transmitted to the Federal Case Registry per 42 U.S.C. § 654a. CSS maintains the CCR per 43 O.S. § 112A.

**"Centralized Support Registry"** means a repository CSS maintains to receive, allocate, and distribute support payments, including child support, spousal support when paid in conjunction with child support, and related support payments per 43 O.S. § 413. It serves as Oklahoma's State Disbursement Unit per 42 U.S.C. § 654b. The Centralized Support Registry processes payments per 43 O.S. § 413:

(A) *in all cases in which child support services are being provided under the state child support plan as provided under Section 237 of Title 56 of the Oklahoma Statutes* until all monies owed for child support are no longer owed;

(B) *in all other cases in which support is being paid by income withholding*; and

(C) when a court orders payments to be made through the Centralized Support Registry.

**"Child support order"** means an obligation addressing monetary support, cash medical support, medical support for the child(ren), and support arrearage and arrearage payments, when any.

**"CSED"** means Oklahoma Human Services (OKDHS) Child Support Services and was replaced by Child Support Services.

**"CSS"** means Child Support Services. CSS includes a central state office, district offices, and other offices that may be administered through contract or cooperative agreements with district attorneys, community action program agencies, and others. CSS includes all these offices, employees, and agents. CSS was formerly known as CSED and Oklahoma Child Support Services (OCSS).

**"Current child support"** means the base child support obligation and the proportional share of health insurance costs, fixed medical costs, transportation expenses, and annualized child care costs. Current child support does not include cash medical support.

**"Custodial person," "custodian," or "CP"** means the person who has primary physical custody of the child(ren).

**"Delinquency"** means *any payment under an order for support which becomes due and remains unpaid* per 12 O.S. §1170 and 56 O.S. § 237.7.

**"DHS"** means Oklahoma Human Services, also known as OKDHS, which is the state agency designated to administer the state of Oklahoma child support program.

**"District office"** means a child support services office or duty station OKDHS operates or through contract or agreement with OKDHS to serve a specific area of the state.

**"Family violence"** means domestic abuse or child abuse, including physical or emotional harm.

**"Fixed medical"** means fixed periodic payments for ongoing medical costs not paid or reimbursed by insurance, or included in a cash

medical support order.

**"Full-service case"** means a child support case for which CSS provides all appropriate Title IV-D services per OAC 340:25-1-1.2.

**"Health insurance"** means insurance coverage that provides routine and major medical expenses including, but not limited to: preventive care, office visits, hospitalization, and medication coverage that may be provided through a fee for service, health maintenance organization, preferred provider organization, or other private or public organization, other than SoonerCare (Medicaid).

**"High-volume administrative enforcement cases in interstate actions"** means the request of another state, the identification of by a state, through automated data matches with financial institutions and other entities where assets may be found, of assets owned by persons who owe child support in other states, and the seizure of such assets by the state through levy or other appropriate processes per 42 U.S.C. § 666.

**"Intergovernmental"** means a case referred by an initiating agency to a responding agency for services when the dependent child(ren) and the NCP lives or works in different jurisdictions.

**"Income assignment"** means an assignment, by operation of law or by court or administrative order of a portion of the monies, income, or periodic earnings due and owing by the NCP to the person entitled to the support or to another person designated by the support order or assignment, per 12 O.S. § 1170 and 56 O.S. § 237.7. An income assignment may be for payment of current support, arrearages, or both. The terms "income assignment" and "income withholding" may be used interchangeably.

**"Interstate case"** means a case in which at least one party resides in another state or country or a support order was entered in another state or country.

**"Intrastate case"** means a case existing or occurring within the boundaries of a single state.

**"IV-A"** means Title IV, Part A, of the Social Security Act, codified in 42 U.S.C. Part A of Subchapter IV of Chapter 7, covering the federal-state Temporary Assistance for Needy Families (TANF) Program.

**"IV-B"** means Title IV, Part B, of the Social Security Act, codified in 42 U.S.C. Part B of Subchapter IV of Chapter 7, covering child welfare services.

**"IV-D"** means Title IV, Part D, of the Social Security Act, codified in 42 U.S.C. Part D of Subchapter IV of Chapter 7, generally relating to child support.

**"IV-D case"** means a child support case receiving Title IV-D services.

**"IV-D programs and services"** means programs and services under Title IV, Part D, of the Social Security Act, codified in 42 U.S.C. Part D of Subchapter IV of Chapter 7.

**"IV-E"** means Title IV, Part E, of the Social Security Act, codified in 42 U.S.C. Part E of Subchapter IV of Chapter 7, covering foster care.

**"IV-E foster care"** means federal and state funded placement of a child(ren) removed from a home whose family members meet the eligibility criteria for federal participation for Title IV-E foster care.

**"Medicaid"** means medical assistance provided under a state plan approved under Title XIX of the Social Security Act, codified in 42 U.S.C. Subchapter XIX of Chapter 7 including SoonerCare, State Children's Health Insurance Program (S-CHIP), and Insure Oklahoma. In Oklahoma, the Oklahoma Health Care Authority (OHCA) provides Medicaid services for eligible adults and children.

**"Medical enforcement only case"** or **"MEO case"** means a child support case for which CSS provides only Title IV-D services related to securing and enforcing medical support to non-TANF SoonerCare (Medicaid) recipients.

**"Medical support"** means health insurance, alternative health coverage, cash medical support, or a combination of these for the benefit of a minor child(ren).

**"Member of military service"** or **"servicemember"** means any member of the uniformed service on active duty including the Army, Navy, Air Force, Marine Corps, and Coast Guard. Also included are members of the National Guard called to active service, certain members of the Public Health Service, National Oceanic and Atmospheric Administration, Reserves when ordered to report for active military duty, and United States citizens serving with the military of other countries when that service is similar to military service per 50 U.S.C. §§ 3911, 3914, and 3917. A servicemember may be an NCP or a CP.

**"Non-cash support"** means support given to a family in the nature of goods or services that can be assigned a specific dollar value in lieu of monetary payment.

**"Noncustodial parent"** or **"NCP"** means a parent who does not have primary physical custody of the child(ren).

**"Non-IV-D case"** means a private child support case not receiving Title IV-D services.

**"Non-IV-E foster care"** means state funded placement of a child(ren) removed from a home where the child(ren) does not meet federal Title IV-E participation requirements.

**"Non-TANF SoonerCare (Medicaid)"** means a case in which a parent or CP receives Title XIX Medicaid services for the minor child(ren).

**"Notice of Income Assignment"** means the tool used to affect the income withholding process. This document is used to notify employers and other withholders to deduct child support payments from an NCP's income and to send the payments to Oklahoma's Centralized Support Registry for distribution. The terms "income withholding" and "income assignment" may be used interchangeably.

**"OAH"** means the OKDHS Legal Office of Administrative Hearings: Child Support (OAH) that employs and assigns administrative law judges to conduct child support administrative hearings.

**"Obligee"** or **"person entitled"** means, per 56 O.S. § 237.7:

(A) *a person to whom a support debt or support obligation is owed;*

(B) *the Department of Human Services or a public agency of another state that has the right to receive current or accrued support payments or that is providing support enforcement services; or*



*(C) a person designated in a support order or as otherwise specified by the court.*

**"Obligor"** means the person who is required to make payments under an order for support per 12 O.S. § 1170 and 56 O.S. § 237.7.

**"OCSS"** means CSS.

**"Offset"** means an amount of money intercepted from an NCP's state or federal tax refund or from an administrative payment, such as federal retirement benefits to satisfy a child support debt.

**"OKDHS"** means Oklahoma Human Services. OKDHS is the state agency designated to administer the child support program for the state of Oklahoma.

**"Oklahoma Health Care Authority (OHCA)"** means the Oklahoma agency that administers the Medicaid and SoonerCare programs for adults and children who meet eligibility requirements. OHCA operates under the authority of Title XIX of the Social Security Act and 63 O.S. §§ 5003 et seq.

**"Overpayment"** means a CSS payment to a CP, NCP, or other entity to which the entity or person is not entitled.

**"Participant in a case"** means a child, parent, alleged father, or CP associated with a child support services case.

**"Past support"** means past-due support or support for a prior period. Refer to "arrears" in this Section.

**"Payment plan"** means and includes but is not limited to, a plan approved by the court or the support enforcement entity provides sufficient security to ensure compliance with a support order, incorporates voluntary or involuntary income assignment, or a similar plan for periodic payment of past-due support and, when applicable, current and future support per 43 O.S. § 139.1 and 56 O.S. § 237.7. A payment plan is intended to incrementally reduce arrears.

**"Payor"** means *any person or entity paying monies, income, or earnings to an obligor. In the case of a self-employed person, the "payor" and "obligor" may be the same person* per 12 O.S. § 1170 and 56 O.S. § 237.7.

**"Presumed father"** means *a man who, by operation of law per 10 O.S. § 7700-204, is recognized as the father of a child until that status is rebutted or confirmed in a judicial proceeding.*

**"Record"** means a written document or image stored in electronic or physical form.

**"Social Security Act"** means Public Law 74-271, codified in 42 U.S.C. Chapter 7 that established the Title IV-D program and other social services programs.

**"State's attorney"** means a lawyer employed in the child support program to represent the state in rendering services per the Social Security Act, codified in Title 42 U.S.C. Part D of Subchapter IV of Chapter 7.

**"Support"** means, per 56 O.S. § 237.7, all payments or other obligations due and owing to the CP or person entitled by the NCP under a support order, and may include, but is not limited to, child support, medical insurance or other health benefit plan premiums or payments, child care obligations, support alimony payments, and other obligations as specified in 43 O.S. §§ 118A through 119.

**"Support for a prior period"** means the amount of child support ordered under the child support guidelines in 43 O.S. §§ 118 through 119 in paternity orders and in TANF notice of support debt orders for past months when no child support order was in effect.

**"Support order"** means, per 43 O.S. § 601-101, a *judgment, decree, order or directive, whether temporary, final, or subject to modification, issued by a tribunal for the benefit of a child, a spouse, or a former spouse, which provides for monetary support, health care, arrearages, or reimbursement, and may include related costs and fees, interest, income withholding, attorney's fees, and other relief.*

**"TANF"** means Temporary Assistance for Needy Families. TANF replaces Aid to Families with Dependent Children (AFDC).

**"Tribunal"** means, per 43 O.S. § 601-101, a court or administrative agency authorized to establish, enforce, modify support orders, or determine parentage.

**"UIFSA"** means the Uniform Interstate Family Support Act. In Oklahoma, UIFSA is codified at 43 O.S. §§ 601-100 through 601-903.

**"Unreimbursed public assistance"** means money paid as cash assistance from Title IV-A and Title IV-E programs that has not been recovered.

**"UPA"** means the Uniform Parentage Act. In Oklahoma, UPA is codified in 10 O.S. §§ 7700-101 through 7700-902.

[Source: Added at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 18 Ok Reg 1226, eff 7-1-01 ; Amended at 19 Ok Reg 1746, eff 7-1-02 ; Amended at 20 Ok Reg 1240, eff 7-1-03 ; Amended at 21 Ok Reg 1344, eff 7-1-04 ; Amended at 22 Ok Reg 1221, eff 7-1-05 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 24 Ok Reg 1301, eff 7-1-07 ; Amended at 25 Ok Reg 1307, eff 7-1-08 ; Amended at 26 Ok Reg 1245, eff 7-1-09 ; Amended at 26 Ok Reg 3036, eff 7-21-09 (emergency); Amended at 27 Ok Reg 1201, eff 7-1-10 ; Amended at 28 Ok Reg 812, eff 7-1-11 ; Amended at 34 Ok Reg 1465, eff 9-15-17 ; Amended at 35 Ok Reg 1632, eff 9-17-18 ; Amended at 36 Ok Reg 1794, eff 9-16-19 ; Amended at 38 Ok Reg 2222, eff 9-15-21 ; Amended at 40 Ok Reg 954, eff 9-15-23]

### **340:25-1-1.2. Structure and service**

#### **(a) Structure.**

(1) Under Part A of Subchapter IV of Chapter 7 of Title 42 of the United States Code, every state must designate a single state agency to administer a statewide plan for child support services. Oklahoma Human Services is the designated agency in Oklahoma. Oklahoma Child Support Services (CSS) administers the plan.

(2) CSS provides services through a state office and offices throughout the state that may be administered through service agreements or contracts with district attorneys and other entities, such as Community Action Program agencies to provide legal child support services.

(3) The primary function of CSS is to provide child support services in all Title IV-A Temporary Assistance for Needy Families (TANF), Title IV-E foster care, and non-TANF SoonerCare (Medicaid) cases where eligibility is due to the absence of one or both parents, and in other cases for persons who have applied for services. CSS also provides these services in cases forwarded by:

- (A) Title IV-D agencies of other states;
- (B) Native American tribes; and
- (C) foreign jurisdictions, as appropriate.

(4) CSS is committed to the right of all parties to have access to the justice system for the purpose of enhancing understanding and ownership of the case. In addition to the child support services CSS provides as described in this Chapter, when parties want to be heard on child support issues, regardless of whether the party's positions are contrary to the state's position and may be subject to legal defenses. CSS:

(A) provides available pro se self-help forms to request a hearing before either the Office of Administrative Hearings: Child Support (OAH) under Oklahoma Administrative Code 340:228-17.2 or the district court. OAH or the district court determine whether a hearing is granted;

(B) assists pro se customers in completing available CSS self-help forms upon request; and

(C) refers parties to community resources including, but not limited to:

(i) lawyer referral services;

(ii) community legal services;

(iii) other available self-help legal forms; and

(iv) other available informational and community resource materials.

(5) CSS complies with the standards for an effective program and the organization and staffing requirements, per Part 303 of Title 45 of the Code of Federal Regulations (45 C.F.R. Part 303).

(b) **Services.** CSS services include, but are not limited to:

(1) establishment of paternity, child support obligations, ongoing medical support, and ongoing child care obligations through administrative and court actions;

(2) enforcement of:

(A) child support;

(B) health insurance;

(C) fixed sums and judgments for medical support including birthing costs;

(D) fixed ongoing child care costs and judgments for child care costs; and

(E) certain spousal support obligations when due in conjunction with child support;

(3) location of noncustodial parents and their assets by establishing intrastate and interstate links with local, state, and federal agencies, private sources, and international central authorities;

(4) case reviews for modification of support orders as appropriate;

(5) collection and distribution of support payments per federal and state law; and

(6) establishment and maintenance of accounting and other records per federal and state law.

(c) **Excluded services.** CSS services do not include:

(1) establishment or modification of spousal support, visitation, or custody;

- (2) establishment of judgment for unreimbursed medical expenses or child care costs that are not included in the fixed monthly child support obligation;
- (3) enforcement of alimony in lieu of property division; and
- (4) enforcement or collection of private attorney fee judgments.

(d) **Limited services.** CSS provides limited services :

- (1) at the request of an initiating interstate Title IV-D agency or an international central authority, per Sections 601101 through 901 of Title 43 of the Oklahoma Statutes and 45 C.F.R. § 303.7. CSS provides limited services, when appropriate, even when the noncustodial parent or custodial person does not reside in Oklahoma. The CSS director or appointed designee approves requests for intergovernmental limited services not listed in 45 C.F.R. 303.7 ; or
- (2) upon application for the establishment of paternity when the noncustodial parent is deceased.

[Source: Added at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 22 Ok Reg 1221, eff 7-1-05 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 24 Ok Reg 1301, eff 7-1-07 ; Amended at 25 Ok Reg 1307, eff 7-1-08 ; Amended at 26 Ok Reg 1245, eff 7-1-09 ; Amended at 29 Ok Reg 765, eff 7-1-12 ; Amended at 37 Ok Reg 1802, eff 9-15-20 ; Amended at 40 Ok Reg 954, eff 9-15-23]

## **340:25-1-2. Legal base [REVOKED]**

[Source: Amended at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 18 Ok Reg 1226, eff 7-1-01 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 24 Ok Reg 1301, eff 7-1-07 ; Amended at 25 Ok Reg 1307, eff 7-1-08 ; Amended at 27 Ok Reg 1201, eff 7-1-10 ; Amended at 34 Ok Reg 1465, eff 9-15-17 ; Amended at 36 Ok Reg 1794, eff 9-16-19 ; Revoked at 40 Ok Reg 954, eff 9-15-23]

### **340:25-1-2.1. Location for information**

- (a) **Mailing address.** The Oklahoma Child Support Services (OCSS) state office mailing address is: Oklahoma Child Support Services, Capitol Station Box 248822, Oklahoma City, Oklahoma 73124-8822.
- (b) **OCSS telephone information.** District child support office addresses throughout Oklahoma and other information may be requested by telephoning 405-522-2273 in the Oklahoma City calling area, 918-295-3500 in the Tulsa calling area, or toll-free at 1-800-522-2922. The Relay Oklahoma Teletypewriter (TTY) number for the hearing impaired is 711, or 1-800-722-0353 toll-free.
- (c) **Interpreter services.** The Oklahoma Department of Human Services (OKDHS) provides at no cost, oral or sign language or foreign language interpretation services.
- (d) **Oklahoma Employer Services Center.** The Oklahoma Employer Services Center (OKESC) processes incoming employer questionnaires regarding employment verification and insurance availability, and answers employer questions regarding new hire reporting, income withholding, and medical support. Employer and insurance plan administrator inquiries regarding child support cases may be made by telephoning 405-325-9190 in the Oklahoma City calling area, or toll-free at 1-866-553-2368. The OKESC fax number is 405-325-8210 and the mailing address is: Oklahoma Employer Services Center, PO Box 248805, Oklahoma City, Oklahoma 73124-8805.

(e) **Internet access.** Information about OCSS is available from the OCSS Internet page at <http://www.okdhs.org>.

(1) A customer who has an active child support case(s) and OKDHS customer identification number may use the Internet to access information about the customer's case(s).

(2) A customer may contact OCSS as described in this Section to request a child support customer personal identification number (PIN) and instructions for accessing case information on the Internet.

[Source: Added at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 20 Ok Reg 1240, eff 7-1-03 ; Amended at 21 Ok Reg 1344, eff 7-1-04 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 24 Ok Reg 1301, eff 7-1-07 ; Amended at 25 Ok Reg 1307, eff 7-1-08 ; Amended at 26 Ok Reg 1245, eff 7-1-09 ; Amended at 29 Ok Reg 765, eff 7-1-12 ; Amended at 30 Ok Reg 641, eff 7-1-13]

### **340:25-1-3. Scope of responsibilities [REVOKED]**

[Source: Amended at 9 Ok Reg 1129, eff 1-24-92 (emergency); Amended at 9 Ok Reg 2443, eff 6-25-92 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

#### **340:25-1-3.1. Designation of an authorized representative**

(a) A custodial person, noncustodial parent, or biological parent may designate a person as an authorized representative to:

- (1) obtain child support case information and documents from Oklahoma Department of Human Services (DHS) Child Support Services (CSS) on his or her behalf; or
- (2) provide information and documents to CSS on his or her behalf.

(b) CSS does not honor requests to designate a person who has a conflict of interest that would result in the release of information he or she is otherwise not entitled to receive as an authorized representative.

(c) An authorized representative may obtain information and documents limited to those items the person represented may obtain per Oklahoma Administrative Code 340:25-5-67.

(d) This Section does not allow an authorized representative to appear before the DHS Office of Administrative Hearings: Child Support or the district court on behalf of the person represented unless specifically allowed by law. Further, nothing in this Section prevents CSS from requesting the court to enter a default order based on the person's failure to appear, even when the person's authorized representative is present.

(e) The authorized representative does not have to be an attorney.

(f) A person must complete and submit Form 03EN010E, Authorized Representative Designation, to CSS before the representative may act or receive information orally or in writing on behalf of the person represented. A person may have only one authorized representative at any time.

(g) When CSS receives Form 03EN010E, CSS verifies the identity of the individual completing Form 03EN010E. CSS considers the designation in effect until CSS receives:

- (1) a new Form 03EN010E designating another person as the authorized representative;
  - (2) written notice that the designation of an authorized representative is revoked; or
  - (3) written notice that the designator is deceased.
- (h) CSS reserves the right to refuse to honor a designation of authorized representative.

[Source: Added at 19 Ok Reg 1746, eff 7-1-02 ; Amended at 21 Ok Reg 1344, eff 7-1-04 ; Amended at 24 Ok Reg 1301, eff 7-1-07 ; Amended at 30 Ok Reg 641, eff 7-1-13 ; Amended at 32 Ok Reg 1860, eff 9-15-15 ; Amended at 34 Ok Reg 1465, eff 9-15-17]

#### **340:25-1-4. Specific responsibilities [REVOKED]**

[Source: Amended at 8 Ok Reg 2235, eff 5-20-91 (emergency); Amended at 9 Ok Reg 2055, eff 6-11-92 ; Amended at 10 Ok Reg 225, eff 10-26-92 (emergency); Amended at 10 Ok Reg 1793, eff 5-13-93 ; Amended at 17 Ok Reg 549, eff 10-1-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

#### **340:25-1-5. Referrals to CSED/contract office [REVOKED]**

[Source: Amended at 8 Ok Reg 3003, eff 6-24-91 (emergency); Amended at 9 Ok Reg 2055, eff 6-11-92 ; Amended at 9 Ok Reg 863, eff 1-6-92 (emergency); Amended at 9 Ok Reg 1129, eff 1-24-92 (emergency); Amended at 9 Ok Reg 2443, eff 6-25-92 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

#### **340:25-1-5.1. Administrative complaint procedure**

##### **(a) Purpose and scope.**

- (1) The administrative complaint procedure is for Oklahoma Department of Human Services (OKDHS), Oklahoma Child Support Services (OCSS) IV-D customers. OCSS:
  - (A) represents the state's economic interest in children;
  - (B) does not represent parents, custodial persons, or children. Parents and custodial persons may apply for OCSS services, and OCSS enforces the duties of parents to support their children; and
  - (C) considers parents and custodial persons as customers, and treats them with dignity and respect.
- (2) The administrative complaint procedure is established under Section 303.35 of Title 45 of the Code of Federal Regulations and is available to Oklahoma customers and those from other states. The purpose is to provide:
  - (A) OCSS customers an opportunity to raise concerns about services or treatment received, request an administrative review, and take appropriate action when there is evidence that an error occurred, or an action should have been taken on their case;
  - (B) customers a fast and effective procedure for reviewing issues that have no other review process. The intent of the complaint procedure is to provide customers a process to have their cases reviewed and not to require formal administrative hearing processes or adjudication of complaints; and

(C) an informal rather than a formal hearing process. It does not replace or extend other child support enforcement processes, such as court processes, that are established by federal or state statutes, rules, or regulations. The complaint process is intended to remedy errors, not to allow individuals to dictate action in a case.

**(b) Procedure.**

(1) **Step 1.** OCSS encourages any customer with a complaint about an OCSS district office or state office center to address the complaint orally or by letter, fax, or email to the OCSS district or state office for resolution. Interstate customers express their concerns to the IV-D agency in the state where they applied or were referred for services.

(2) **Step 2.**

(A) If the customer receives no response or is dissatisfied with the response from the OCSS district or state office, the customer may contact Oklahoma Child Support Services, Attention: Center for Customer Services (CCS), P.O. Box 248822, Oklahoma City, Oklahoma 73124-8822 by mail, fax to 405-522-3685, email [OCSS.Contact.CustomerOutreach@okdhs.org](mailto:OCSS.Contact.CustomerOutreach@okdhs.org), or telephone 405-522-5871. The customer may describe the complaint on Form 03EN012E, Child Support Comments, available upon request by telephone, at a district office, or on the OKDHS website, that elicits the information listed in (i) through (ix), or by letter, fax, or email, including:

- (i) first and last name;
- (ii) standing of the person submitting the complaint, for example, the noncustodial parent, custodial person, biological parent, or an attorney of record or authorized representative on behalf of the noncustodial parent, custodial person, or biological parent;
- (iii) the first and last names, mailing address, and telephone number of the attorney of record or authorized representative, if any;
- (iv) Social Security number;
- (v) child support case number;
- (vi) mailing address;
- (vii) telephone number;
- (viii) an explanation, including names of people and locations, dates, and times of incidents; and
- (ix) a description of the desired action to resolve the complaint.

(B) The CCS refers complaints about cases to the OCSS district office or state office center for administrative review. The district office or state office center conducts the administrative review and notifies the customer of the review's results and any actions taken within five days after CCS sends the written complaint. The method of notification is requested by the customer. If contact in the

manner requested by the customer is unsuccessful,  
written notification is mailed.

(3) **Step 3.** If the customer is dissatisfied with the response, the customer may ask for further review by submitting a request to the CCS. This request for review may be made by telephone, letter, fax, or email.

(A) The division director or a designee reviews the complaint, the administrative review of the complaint, and any action taken.

(B) Within five days after CCS receives the written request for further review, OCSS notifies the customer and the district office or state office center of the results and any actions taken. The method of notification is requested by the customer. If contact in the manner requested by the customer is unsuccessful, written notification is mailed. The result of this review is the final decision of OCSS.

[Source: Added at 18 Ok Reg 3609, eff 10-1-01 ; Amended at 19 Ok Reg 1746, eff 7-1-02 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 26 Ok Reg 1245, eff 7-1-09 ; Amended at 28 Ok Reg 812, eff 7-1-11 ; Amended at 29 Ok Reg 765, eff 7-1-12]

#### **340:25-1-6. Appropriate action [REVOKED]**

[Source: Revoked at 17 Ok Reg 2426, eff 7-1-00]

#### **340:25-1-7. Location of absent parent [REVOKED]**

[Source: Revoked at 17 Ok Reg 2426, eff 7-1-00]

#### **340:25-1-8. Establishing support obligations [REVOKED]**

[Source: Amended at 8 Ok Reg 3003, eff 6-24-91 (emergency); Amended at 9 Ok Reg 2055, eff 6-11-92 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

#### **340:25-1-9. Cooperation with other entities [REVOKED]**

[Source: Revoked at 17 Ok Reg 2426, eff 7-1-00]

#### **340:25-1-10. Garnishment [REVOKED]**

[Source: Revoked at 17 Ok Reg 2426, eff 7-1-00]

#### **340:25-1-11. Collection of payments [REVOKED]**

[Source: Amended at 9 Ok Reg 1129, eff 1-24-92 (emergency); Amended at 9 Ok Reg 2443, eff 6-25-92 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

#### **340:25-1-12. Distribution of payments [REVOKED]**

[Source: Revoked at 16 Ok Reg 3463, eff 10-1-99]



**340:25-1-13. Collections under reciprocal agreements with other states [REVOKED]**

[Source: Revoked at 17 Ok Reg 2426, eff 7-1-00]

**340:25-1-14. Incentive payments to states and political subdivisions [REVOKED]**

[Source: Revoked at 17 Ok Reg 2426, eff 7-1-00]

**340:25-1-15. Fiscal policies and accountability [REVOKED]**

[Source: Revoked at 17 Ok Reg 2426, eff 7-1-00]

**340:25-1-16. Computer system [REVOKED]**

[Source: Revoked at 17 Ok Reg 2426, eff 7-1-00]

**340:25-1-17. Arrearage computations [REVOKED]**

[Source: Revoked at 17 Ok Reg 2426, eff 7-1-00]

**340:25-1-18. Child support training unit [REVOKED]**

[Source: Revoked at 17 Ok Reg 2426, eff 7-1-00]

**340:25-1-19. Legal section [REVOKED]**

[Source: Revoked at 17 Ok Reg 2426, eff 7-1-00]

**340:25-1-20. Safeguarding information [REVOKED]**

[Source: Revoked at 17 Ok Reg 2426, eff 7-1-00]

**340:25-1-21. Nondiscrimination [REVOKED]**

[Source: Revoked at 17 Ok Reg 2426, eff 7-1-00]

**340:25-1-22. Volunteer program [REVOKED]**

[Source: Revoked at 17 Ok Reg 2426, eff 7-1-00]

**SUBCHAPTER 3. COMMISSIONED PEACE OFFICERS**

**340:25-3-1. Authority and scope [REVOKED]**

[Source: Added at 9 Ok Reg 1413, eff 3-23-92 (emergency); Added at 10 Ok Reg 1809, eff 5-13-93 ; Amended at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 26 Ok Reg 1245, eff 7-1-09 ; Revoked at 39 Ok Reg 1721, eff 9-15-22]

### **340:25-3-1.1. Definitions [REVOKED]**

[Source: Added at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 26 Ok Reg 1245, eff 7-1-09 ; Revoked at 39 Ok Reg 1721, eff 9-15-22]

### **340:25-3-2. Qualifications of investigators [REVOKED]**

[Source: Added at 9 Ok Reg 1413, eff 3-23-92 (emergency); Added at 10 Ok Reg 1809, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-3-3. Service of process [REVOKED]**

[Source: Added at 9 Ok Reg 1413, eff 3-23-92 (emergency); Added at 10 Ok Reg 1809, eff 5-13-93 ; Amended at 18 Ok Reg 1226, eff 7-1-01 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 24 Ok Reg 1301, eff 7-1-07 ; Amended at 26 Ok Reg 1245, eff 7-1-09 ; Amended at 30 Ok Reg 641, eff 7-1-13 ; Amended at 34 Ok Reg 1465, eff 9-15-17 ; Amended at 38 Ok Reg 2222, eff 9-15-21 ; Revoked at 39 Ok Reg 1721, eff 9-15-22]

### **340:25-3-4. Execution of bench warrants [REVOKED]**

[Source: Added at 9 Ok Reg 1413, eff 3-23-92 (emergency); Added at 10 Ok Reg 1809, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-3-5. Use of force [REVOKED]**

[Source: Added at 9 Ok Reg 1413, eff 3-23-92 (emergency); Added at 10 Ok Reg 1809, eff 5-13-93 ; Amended at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 26 Ok Reg 1245, eff 7-1-09 ; Revoked at 39 Ok Reg 1721, eff 9-15-22]

### **340:25-3-6. Transport [REVOKED]**

[Source: Added at 9 Ok Reg 1413, eff 3-23-92 (emergency); Added at 10 Ok Reg 1809, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-3-7. Use of deadly force with a firearm [REVOKED]**

[Source: Added at 9 Ok Reg 1413, eff 3-23-92 (emergency); Added at 10 Ok Reg 1809, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-3-8. Firearms safety rules and responsibilities [REVOKED]**

[Source: Added at 9 Ok Reg 1413, eff 3-23-92 (emergency); Added at 10 Ok Reg 1809, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-3-9. Weapons qualifications and standards [REVOKED]**

[Source: Added at 9 Ok Reg 1413, eff 3-23-92 (emergency); Added at 10 Ok Reg 1809, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-3-10. Carrying of firearms [REVOKED]**

[Source: Added at 9 Ok Reg 1413, eff 3-23-92 (emergency); Added at 10 Ok Reg 1809, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-3-11. Responsibilities of supervisors [REVOKED]**

[Source: Added at 9 Ok Reg 1413, eff 3-23-92 (emergency); Added at 10 Ok Reg 1809, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

## **SUBCHAPTER 5. OPERATIONAL POLICIES**

### **PART 1. MISSION, STRUCTURE AND LEGAL BASES [REVOKED]**

#### **340:25-5-1. Purpose [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

#### **340:25-5-2. Definitions [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

#### **340:25-5-3. Mission of program [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

#### **340:25-5-4. Structure of program [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

#### **340:25-5-5. Legal base [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

#### **340:25-5-6. Statewide operations [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **PART 3. PATERNITY AND SUPPORT SERVICES [REVOKED]**

### **340:25-5-15. Establishing paternity and securing support [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-16. Support obligations [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-17. Formula for determining the amount of the support obligation [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-18. Collection and distribution of support payments [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 16 Ok Reg 3463, eff 10-1-99]

### **340:25-5-19. Individuals not otherwise eligible for paternity and support services [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-20. Provision of services in interstate IV-D cases [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-21. Cooperation with other states [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-22. Parent locator services [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-23. Medical support enforcement activities [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-24. Federal tax refund offset [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-25. Withholding of unemployment compensation [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-26. Procedures to improve program effectiveness [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-27. Incentive payments to states and political subdivisions [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

## **PART 5. GENERAL AND FINANCIAL PROGRAM ADMINISTRATION [REVOKED]**

### **340:25-5-35. Cooperative arrangements [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-36. Reports and maintenance of records [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-37. Standards for an effective program [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-38. Non-discrimination [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-39. Bonding of employees [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-40. Separation of cash handling and accounting functions [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-41. Safeguarding information [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-42. Computerized support enforcement system [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-43. Publicizing the availability of support enforcement services [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-44. Notice of collection of assigned support [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-45. Guidelines for setting child support obligations within the state [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-46. Payment of support through the IV-D agency or other entity [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-47. Financial administration [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-48. General plan provisions [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

## **PART 7. THE CASE RECORD - COMPUTER FILE RECORDS AND CASE FOLDERS**

### **340:25-5-55. Case records**

(a) Oklahoma Human Services (OKDHS) Child Support Services (CSS) establishes, maintains, and closes case records per:

- (1) Sections 652, 653, 654a, and 666 of Title 42 of the United States Code; and
- (2) Sections 302.15, 303.2, 303.11, and 307.11 of Title 45 of the Code of Federal Regulations (45 C.F.R. §§ 75.361 302.15, 303.2, 303.11, and 307.11).

(b) CSS manages and disposes of records according to Oklahoma Statutes as interpreted in OKDHS:2-21-50 through OKDHS:2-21-66. CSS maintains all records for cases closed per 45 C.F.R. §§ 75.361 and 303.11 for a minimum of three years.

(c) CSS maintains information in case records through a combined use of the statewide automated data processing , information retrieval system and paper documents. The information in case records includes, but is not limited to:

- (1) names and addresses of custodial persons (CP), biological parents (BP), alleged fathers, noncustodial parents (NCP), and children;
- (2) names and addresses of employers of CPs, BPs, alleged fathers, and NCPs;
- (3) Social Security numbers of CPs, BPs, alleged fathers, NCPs, and children;
- (4) paternity records and related information;
- (5) records of legal and collection actions on cases;
- (6) records of accruals, payments, distribution and disbursement of payments;
- (7) location, asset, employment, insurance, and financial information for CPs, BPs, NCPs and children; and
- (8) case log, correspondence, personal notes, work products, records of contacts, communications, and other actions and information concerning the case.

(d) When a case participant requests a name change, CSS staff updates an existing, open CSS case record when the participant submits Form 03GN543E, Name Change Request, with documentation of the participant's new legal name.

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Amended at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 19 Ok Reg 1746, eff 7-1-02 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 24 Ok Reg 1301, eff 7-1-07 ; Amended at 33 Ok Reg 1592, eff 9-15-16 ; Amended at 40 Ok Reg 954, eff 9-15-23]

### **340:25-5-56. Structure of child support case records [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

**340:25-5-57. Legal documents to be kept in the case file folder  
[REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

**340:25-5-58. Other materials to be kept in the case file folder  
[REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

## **PART 9. DISCLOSURE OF INFORMATION**

**340:25-5-65. Scope and applicability [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

**340:25-5-66. Legal basis for release of information [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Amended at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 19 Ok Reg 1746, eff 7-1-02 ; Amended at 20 Ok Reg 1240, eff 7-1-03 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 26 Ok Reg 1245, eff 7-1-09 ; Amended at 27 Ok Reg 1201, eff 7-1-10 ; Amended at 29 Ok Reg 765, eff 7-1-12 ; Revoked at 40 Ok Reg 954, eff 9-15-23]

**340:25-5-67. Information disclosure**

(a) **Legal authority.** Federal and state laws and the rules adopted by Oklahoma Human Services (OKDHS) restrict the use and disclosure of information. Information from child support program records is released per:

- (1) Oklahoma Administrative Code (OAC) 340:2-21-12 through 340:2-21-16, 340:25-5-340.1 and 340:75-1-44;
- (2) Section 112A and 413 of Title 43 of the Oklahoma Statutes (43 O.S. §§ 112A and 413), 51 O.S. §§ 24A.1 through 24A.26, and 56 O.S. §§ 183 and 231 through 240.23;
- (3) Section 285.3 of Title 31 of the Code of Federal Regulations (31 C.F.R. § 285.3) 45 C.F.R. §§ 303.15, 303.21, 303.70, and 307.13; and
- (4) Sections 653, 654, 654a, and 663 of Title 42 of the United States Code (42 U.S.C. §§ 653, 654, 654a, and 663).

(b) **Confidentiality.** *All applications, information and records concerning any applicant or recipient obtained pursuant to law or as authorized by law by the Department of Human Services or any other public or private entity shall be confidential per 56 O.S. § 183.*

- (1) All files and records concerning the assistance or services provided under the child support program or concerning an alleged father of a child born out of wedlock are confidential per 56 O.S. § 237, except as otherwise authorized by law.



(2) Any information OKDHS Child Support Services (CSS) obtains from federal or state agencies is subject to limitations on disclosure imposed by laws governing the information received from those agencies. CSS complies with the limitations imposed by federal laws and regulations per 42 U.S.C. § 653, 31 C.F.R. § 285.3, and Internal Revenue Service Publication 1075.

(3) Nothing in this Section authorizes disclosure of the location or information that may lead to discovery of the location of a case participant with a Family Violence Indicator per OAC 340:25-5-67.1.

(4) CSS redacts personal information, including Social Security and driver license numbers, from court documents prior to filing them, pursuant to Rule 31 of the Rules for District Courts of Oklahoma.

**(c) Authorized disclosure.**

(1) Information requested may be shared with:

(A) persons duly authorized by the United States in connection with the performance of their official duties per 56 O.S. § 183 including, but not limited to:

(i) exchange of information to the extent necessary to carry out the state agency Title IV-D program responsibilities directly and through statewide automated data processing and information retrieval networks within OKDHS, with authorized representatives of OKDHS programs and other state agencies, other states and countries, and federal and tribal agencies;

(ii) exchange of information directly and through statewide automated data processing and information retrieval networks with OKDHS representatives and other state agencies administering programs under Titles IV-A through IV-E, XIX, and XXI of Chapter 7 of Title 42 of the U.S.C., and the Supplemental Nutrition Assistance Program (SNAP) to the extent necessary to carry out the responsibilities of those agencies;

(iii) release of information received from the Federal Parent Locator Service, through the State Parent Locator Service, to an authorized person for an authorized purpose, per 42 U.S.C. § 663 representing:

(I) agencies administering or enforcing programs under Titles IV-B and IV-E of Subchapter IV of Chapter 7 of Title 42 of the U.S.C. to the extent necessary to carry out state agency Titles IV-B and IV-E responsibilities; and

(II) the United States or Oklahoma for purposes of enforcing or prosecuting any federal or state law with respect to the unlawful taking or restraint of a child, or

any court or agent of such court having jurisdiction to make or enforce a child custody or visitation determination; and  
(iv) release of Social Security numbers for child support purposes, such as:  
(I) locating the parents;  
(II) submitting cases for federal administrative and income tax refund offset;  
(III) state income tax refund offset;  
(IV) financial institution data match;  
(V) enrolling children as beneficiaries of health insurance coverage; and  
(VI) processing interstate child support services; and

(B) parties to a child support case, their attorneys, interpreters, and authorized representatives, who may only access:

- (i) income information, records of payment, and balances;
- (ii) documents, exhibits, worksheets, and supporting documents filed with the court and any administrative documents that are part of the order, such as guideline worksheets and financial affidavits;
- (iii) specific case activity in the course of providing child support enforcement services, such as the number and dates of locate attempts, and establishment and enforcement of child support or medical support orders;
- (iv) information required by 43 O.S. § 56 disclosed for the purpose of enforcing, reviewing, establishing, or modifying a support order or judgment;
- (v) information necessary to enroll children as beneficiaries of court-ordered health insurance coverage;
- (vi) information necessary to access court-ordered health care coverage and obtain health care for the children; and
- (vii) address of record for service of process per 43 O.S. § 112A. The address of record must only be released per OAC 340:25-5-340.1;

(C) employers and plan administrators, who may only access information necessary to enroll children as beneficiaries of court-ordered health insurance coverage;

(D) persons as directed by court order or by a subpoena approved by a CSS state's attorney; and

(E) persons with written authorization from a child support case member to release information.

(2) Any person requesting case information must specify the information needed and for what purpose the information is being

requested. The person must verify his or her identity. CSS determines:

- (A) when the person requesting the case information is authorized to receive per paragraph (1) of this subsection;
- (B) when the requested information may be released; and
- (C) the appropriate method of release.

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Amended at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 19 Ok Reg 192, eff 10-30-01 (emergency); Amended at 19 Ok Reg 1746, eff 7-1-02 ; Amended at 20 Ok Reg 1240, eff 7-1-03 ; Amended at 21 Ok Reg 1344, eff 7-1-04 ; Amended at 22 Ok Reg 1221, eff 7-1-05 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 24 Ok Reg 1301, eff 7-1-07 ; Amended at 26 Ok Reg 3036, eff 7-21-09 (emergency); Amended at 27 Ok Reg 1201, eff 7-1-10 ; Amended at 28 Ok Reg 812, eff 7-1-11 ; Amended at 29 Ok Reg 765, eff 7-1-12 ; Amended at 30 Ok Reg 641, eff 7-1-13 ; Amended at 31 Ok Reg 1833, eff 9-15-14 ; Amended at 32 Ok Reg 1860, eff 9-15-15 ; Amended at 33 Ok Reg 1592, eff 9-15-16 ; Amended at 40 Ok Reg 954, eff 9-15-23]

### **340:25-5-67.1. Family violence**

- (a) Oklahoma Department of Human Services (DHS) Child Support Services (CSS) establishes and maintains records regarding family violence per Sections 303.21 and 307.11 of Title 45 of the Code of Federal Regulations and Sections 653 and 654 of Title 42 of the United States Code (42 U.S.C. §§ 653 and 654).
- (b) CSS is committed to promoting the safety and well-being of its customers and staff.
- (c) A family violence indicator is a designation placed on a participant in a Title IV-D or non-Title IV-D case by CSS indicating the risk of child abuse or domestic violence. The family violence indicator is used to restrict disclosure of the location of a participant who is reported to CSS as being at risk of family violence.
- (d) CSS considers as reasonable evidence of family violence and enters a family violence indicator on appropriate individuals, when:
  - (1) a parent or custodian states that he or she or the child(ren) is at risk of emotional or physical harm from another individual in the same child support case; or
  - (2) DHS has knowledge of a court-ordered protective order or other information that family violence exists.
- (e) CSS makes available to custodial persons (CP) and noncustodial parents (NCP) Form 03EN008E, Family Violence - Address of Record Statement, to collect address of record (AOR) information and explain how the information is used. The CP or noncustodial parent NCP may use Form 03EN008E to:
  - (1) request that his or her home address or location information not be released to another parent or party in a child support case because release could result in family violence to the requesting individual or his or her children; or
  - (2) designate an AOR per OAC 340:25-5-340. CSS may release the AOR per OAC 340:25-5-340.1.
- (f) The presence or absence of a family violence indicator on a case does not guarantee anyone's safety. CSS is not liable for harm arising from the use or non-use of a family violence indicator.
- (g) CSS may remove a family violence indicator from a case participant when CSS receives:

- (1) a written request from the participant;
  - (2) information that the family violence indicator was entered in error; or
  - (3) a court order to remove the family violence indicator.
- (h) Upon order of a court having the authority to make or enforce child custody or visitation determinations per 42 U.S.C. § 663, CSS may:
  - (1) request the federal Office of Child Support Enforcement to override a family violence indicator in a single instance; and
  - (2) authorize release of the person's home address or location to the court.
- (i) Interstate cases follow OAC 340:25-5-270.
- (j) When an NCP submits an application for Title IV-D services in a case previously closed for good cause, CSS follows OAC 340:25-5-117.

[Source: Added at 19 Ok Reg 192, eff 10-30-01 (emergency); Added at 19 Ok Reg 1746, eff 7-1-02 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 24 Ok Reg 1301, eff 7-1-07 ; Amended at 28 Ok Reg 812, eff 7-1-11 ; Amended at 30 Ok Reg 641, eff 7-1-13 ; Amended at 34 Ok Reg 1465, eff 9-15-17]

### **340:25-5-68. Procedure for requesting case information from CS&D [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Amended at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 19 Ok Reg 1746, eff 7-1-02 ; Revoked at 40 Ok Reg 954, eff 9-15-23]

### **340:25-5-69. Telephone request for copies of pay records [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-70. Fees [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-71. Specific situations regarding disclosure [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

## **PART 11. CSS SYSTEM SECURITY**

### **340:25-5-75. Computer system authority and responsibility**

(a) **Scope and Legal Authority.** Oklahoma Human Services (OKDHS) Child Support Services (CSS) operates a single statewide automated data processing and information retrieval system that meets the requirements of:

- (1) Sections 652, 654, 654a, and 655 of Title 42 of the United States Code (42 U.S.C. §§ 652, 654, 654a & 655), 26 U.S.C. §

6103 ;

(2) Section 302.85 and Part 307 of Title 45 of the Code of Federal Regulations;

(3) Section 150.9 and 150.9.1 of Title 74 of the Oklahoma Statutes (74 O.S. §150.9 & 150.9.1); and

(4) Internal Revenue Service (IRS) Publication 1075.

**(b) Background Investigations.**

(1) National criminal history background checks are completed for all employees, contractors, and subcontractors prior to and during employment as required in IRS Publication 1075 and 26 U.S.C. § 6103. An individual seeking employment with CSS, CSS employees, contractors and sub-contractors complete a national criminal history background check, including fingerprinting, per 74 O.S. § 150.9.1. The national criminal history background check is required in order to have access to the OKDHS and CSS networks, that results in having access to federal tax information and data, as defined in IRS Publication 1075 and 26 U.S.C. § 6103.

(2) Applicants for positions requiring national criminal history background checks are advised any employment offer is conditional upon completion of a background check that reveals no disqualifying history as outlined in the CSS Favorability Standards.

(3) All employees authorized to access and review national criminal history records check information submit to a national criminal history background check including fingerprinting to obtain access and review status.

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Amended at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 25 Ok Reg 1307, eff 7-1-08 ; Amended at 26 Ok Reg 1245, eff 7-1-09 ; Amended at 39 Ok Reg 1721, eff 9-15-22]

**340:25-5-76. User authorization and responsibilities [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

**340:25-5-77. Physical security [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

**340:25-5-78. Data security [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

**340:25-5-79. Data file security [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-80. Security violations [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-81. Changes to data files/authorization [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-82. Change control [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-83. Back-up and recovery [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-84. Emergency procedures [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-85. Deactivation of records [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-86. Procedure to request deactivation [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-87. Required case information [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

## **PART 13. RETENTION AND DESTRUCTION OF RECORDS**

### **340:25-5-95. Scope and applicability [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Amended at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 26 Ok Reg 1245, eff 7-1-09 ; Revoked at 40 Ok Reg 954, eff 9-15-23]

### **340:25-5-96. Archives and Records Commission procedures [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-97. Record storage during retention - Central Records [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-98. Types of records maintained [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-99. Record requests or inquiry [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-100. Retrieval of case folders [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-101. Record storage during retention - Archives [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-102. Record storage requests or inquiry [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-103. Retrieval from archives storage [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-104. Procedure for microfilming records [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-105. Conversion to microfilm/microfiche [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-106. Request for microfilming [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

## **PART 15. CASE INITIATION, CASE MANAGEMENT, AND CASE CLOSURE**

### **340:25-5-110. Scope and applicability**

The Oklahoma Department of Human Services, through its Child Support Enforcement Division (CSED), opens, or initiates, and closes child support enforcement cases to provide appropriate IV-D services. In initiating and closing cases, CSED is governed by Sections 302.33, 303.2, and 303.11 of Title 45 of the Code of Federal Regulations; Title IV, Part D, of Subchapter IV of Chapter 7 of Title 42 of the United States Code; and Section 237 of Title 56 of the Oklahoma Statutes.

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Amended at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 22 Ok Reg 1221, eff 7-1-05 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 24 Ok Reg 1301, eff 7-1-07]

#### **340:25-5-110.1. Applications**

(a) The Oklahoma Department of Human Services (DHS) Child Support Services (CSS) initiates child support cases, per Title IV, Part D, of Subchapter IV of Chapter 7 of Title 42 of the United States Code, Sections 302.33 and 303.2 of Title 45 of the Code of Federal Regulations (45 C.F.R. §§ 302.33 and 303.2), and Section 237 of Title 56 of the Oklahoma Statutes (56 O.S. § 237).

(b) To apply for child support services, a person must submit a completed and signed application form to the address on the form. A one cent application fee is paid by CSS for each application received. An application for child support services is submitted in every circumstance, including applications from:

- (1) former Temporary Assistance for Needy Families (TANF), Aid to Families with Dependent Children (AFDC), or non-TANF SoonerCare (Medicaid) DHS recipients;
- (2) former participants in Title IV-D cases;
- (3) noncustodial parents (NCP) listed on existing medical enforcement only cases, when the NCP is requesting a review and adjustment, or to open a new case, per Oklahoma Administrative Code (OAC) 340:25-5-198.1; or
- (4) persons receiving child support payments from the Centralized Support Registry, who are not currently receiving CSS child support services.

(c) Application forms are obtained at any child support or other DHS office or by writing or phoning CSS at the address and phone numbers



provided in OAC 340:25-1-2.1. Printable application forms are available from the CSS website at <http://www.okdhs.org>.

(d) An applicant who is a custodial person (CP) must give DHS authority to endorse and negotiate payments related to child support and to spousal support on behalf of the CP and child(ren).

(e) CSS accepts an application from a CP, parent, or person alleging his or her parentage and opens a case when:

(1) the child is a minor or is still entitled to current support, per 43 O.S. § 112;

(2) the application is to enforce a child support order for an adult with disabilities, per 43 O.S. § 112.1A;

(3) parentage must be established for a minor child against a deceased NCP, per OAC 340:25-5-176; or

(4) the former CP's parental rights were terminated, then the child was adopted, and the application to collect past-due support owed to the former CP was received before the adoption.

(f) CSS does not accept applications for collection of past-due support when:

(1) all children on the application have reached the age of majority and none is an adult with disabilities, with an established child support order;

(2) the child is deceased; or

(3) the child is a minor, who no longer resides with the CP.

(g) CSS accepts applications for locate only services, per OAC 340:25-5-155.

(h) CSS does not accept an application and does not open a case when the case was previously closed and the circumstances that led to the closure have not changed.

[Source: Added at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 18 Ok Reg 1226, eff 7-1-01 ; Amended at 20 Ok Reg 1240, eff 7-1-03 ; Amended at 21 Ok Reg 1344, eff 7-1-04 ; Amended at 21 Ok Reg 3155, eff 7-22-04 (emergency); Amended at 22 Ok Reg 1221, eff 7-1-05 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 24 Ok Reg 1301, eff 7-1-07 ; Amended at 25 Ok Reg 1307, eff 7-1-08 ; Amended at 27 Ok Reg 1201, eff 7-1-10 ; Amended at 29 Ok Reg 765, eff 7-1-12 ; Amended at 36 Ok Reg 1794, eff 9-16-19 ; Amended at 37 Ok Reg 1802, eff 9-15-20]

### **340:25-5-111. Time frame for case initiation [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-112. Initiation of child support cases (IV-D) [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-113. Assignment of child support rights in cash assistance and medical assistance cases [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Amended at 15 Ok Reg 159, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1614, eff 5-11-98 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

**340:25-5-114. Procedures for determining and processing noncooperation**

(a) **Authority for cooperation of custodial persons (CP).** The CP must cooperate with the Oklahoma Human Services (OKDHS) Child Support Services (CSS) program in establishing paternity or in establishing, modifying, or enforcing a support order per Section 654 of Title 42 of the United States Code (42 U.S.C. § 654) and Sections 264.30 and 303.11 of Title 45 of the Code of Federal Regulations (45 C.F.R. §§ 264.30 and 303.11). A CP:

- (1) receiving Temporary Assistance for Needy Families (TANF) must assign rights to support to OKDHS per 42 U.S.C. § 608;
- (2) receiving non-TANF SoonerCare (Medicaid) benefits for minor child(ren) must assign medical support rights to the Oklahoma Health Care Authority (OHCA) per 42 C.F.R. § 433.146; or
- (3) not receiving public assistance is subject to case closure

(b) **Noncooperation of CP.** When a CP fails to cooperate, CSS reviews the case to determine noncooperation. When CSS determines noncooperation in a TANF case, CSS notifies Adult and Family Services (AFS) staff in the appropriate OKDHS county office. AFS staff updates the computer document for noncooperation with CSS and a computer-generated notice per Oklahoma Administrative Code (OAC) 340:65-5-1 is sent advising the recipient of any decrease in benefits due to noncooperation.

(1) For CSS to make a noncooperation determination the cooperation must be essential for the next step in providing child support services.

(2) Noncooperation is indicated when the CP:

- (A) fails to participate in a scheduled CSS conference or meeting.;
- (B) refuses to complete and sign documents necessary to take legal action against the noncustodial parent(s) (NCP) when requested to do so by CSS;
- (C) fails to comply with an order to submit oneself or the child(ren) to genetic testing to determine paternity;
- (D) fails to appear as a witness at an administrative, district court hearing, or other proceeding;
- (E) fails to provide information or attest to lack of information under penalty of perjury;
- (F) fails to forward to CSS all child support payments received from the NCPs or those received from entities other than the Centralized Support Registry;
- (G) pursues private legal action affecting paternity, child support, medical support, or child care or authorizes payments made other than through the Centralized Support Registry without giving CSS notice, and fails to keep CSS informed of the case status; or
- (H) engages in ongoing conduct detrimental to CSS enforcement efforts.

(3) OKDHS AFS staff determines in TANF cases when good cause for noncooperation with CSS exists per OAC 340:10-10-6.

**(c) Noncooperation of CP on non-TANF SoonerCare (Medicaid) cases.** When CSS receives an OHCA referral on a non-TANF or existing case update with a pending good cause indicator, CSS centralized good cause staff determines when good cause exists for noncooperation per OAC 317:35-5-7.

**(d) Noncooperation in private cases.** When CSS determines noncooperation in a non-TANF case, CSS closes the case per 45 C.F.R. § 303.11.

**(e) Services after noncooperation closure.** CSS requires a new application to reopen a case closed for noncooperation. The applicant for services must agree to cooperate with CSS.

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Amended at 15 Ok Reg 159, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1614, eff 5-11-98 ; Amended at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 20 Ok Reg 1240, eff 7-1-03 ; Amended at 22 Ok Reg 1221, eff 7-1-05 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 24 Ok Reg 1301, eff 7-1-07 ; Amended at 25 Ok Reg 1307, eff 7-1-08 ; Amended at 28 Ok Reg 812, eff 7-1-11 ; Amended at 30 Ok Reg 641, eff 7-1-13 ; Amended at 34 Ok Reg 1465, eff 9-15-17 ; Amended at 38 Ok Reg 2222, eff 9-15-21 ; Amended at 39 Ok Reg 1721, eff 9-15-22 ; Amended at 40 Ok Reg 954, eff 9-15-23]

### **340:25-5-115. Good cause claims for refusal to cooperate in AFDC, foster care, and Medicaid cases [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-116. Initiation of IV-E cases (foster care) [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-117. Initiation of Title IV-D cases**

#### **(a) Title IV-A, Title IV-E foster care, and non-Temporary Assistance for Needy Families (TANF) SoonerCare (Medicaid).**

(1) Oklahoma Human Services Child Support Services (CSS) automatically initiates child support cases without additional application for certified Title IV-A, Title IV-E foster care, and TANF SoonerCare (Medicaid).

(2) A referral from the assistance programs listed in (1) of this subsection, means receipt of data that includes verified information with no errors or duplications, sufficient and appropriate for CSS to initiate a child support case.

(3) When either the custodial person (CP) or non-custodial parent (NCP) applies for non-TANF SoonerCare (Medicaid) for themselves and their child(ren), he or she must assign medical support rights to the state, per Section 1396k of Title 42 of the United States Code (42 U.S.C. § 1396k).

(A) These CPs must cooperate in establishing paternity and obtaining medical support unless an exception exists, per 42 U.S.C. §§ 1396a(l)(1)(A), 1396k, or 1396r-6.

(B) CSS must open a Title IV-D medical enforcement only case, per Oklahoma Administrative Code (OAC) 340:25-5-

169. CSS may open a full-service case to provide all appropriate Title IV-D services, per OAC 340:25-1-1.2, at the CP's request.

(4) When CSS receives a non-TANF SoonerCare (Medicaid) referral from the Oklahoma Health Care Authority (OHCA) in which the CP has assigned court-ordered child support or cash medical support, CSS determines when it is appropriate to open a full-service case, per OAC 340:25-5-169.

(5) CPs who apply for non-TANF SoonerCare (Medicaid) on behalf of their child(ren) only are not required to cooperate in establishing paternity and obtaining medical support. Therefore, except when (4) of this subsection applies, CSS does not provide child support services unless the CP made a request for a full-service case or the case is for medical enforcement only.

(b) **Termination of Title IV-A, Title IV-E foster care, and non-TANF SoonerCare (Medicaid) benefits.** When a family is no longer eligible for assistance under Titles IV-A, Title IV-E foster care, or non-TANF SoonerCare (Medicaid) programs, all appropriate Title IV-D services continue without application, per Section 302.33 of Title 45 of the Code of Federal Regulations. Non-TANF SoonerCare (Medicaid) cases previously limited to medical support continue as full-service cases. When a CP refuses continued Title IV-D services and subsequently requests services, the CP must submit a completed and signed Form 03EN001E, Application for Child Support Services, even when CSS has an active case because of unreimbursed assistance owed to the state.

(c) **Referrals from other jurisdictions.** CSS accepts cases referred:

- (1) by any state or tribal Title IV-D agency and from other countries when the NCP resides in Oklahoma. CSS does not require an application for cases referred from another Title IV-D agency;
- (2) by interstate referrals for judgment only collections when the case was opened in the initiating state during the minority of any child on the case; or
- (3) when Oklahoma is an appropriate jurisdiction to establish, enforce, modify, or determine the controlling order, per the Uniform Interstate Family Support Act in Sections 601-101 through 601-903 of Title 43 of the Oklahoma Statutes, whether or not the NCP resides in Oklahoma.

(d) **Responses from NCPs who sign an acknowledgment of paternity form.** CSS opens full-service cases for NCPs who filed Form 03PA209E, Acknowledgment of Paternity, with the Oklahoma State Department of Health, Division of Vital Records and requested child support services by completing and signing Form 03EN001E, Application for Child Support Services.

(e) **Other Title IV-D cases.** Except as provided in (a), (c), and (d) of this Section, an applicant must submit a completed and signed Form 03EN001E to receive all appropriate child support services or locate only services.

(f) **Building case balances.**

- (1) CSS builds case balances on new and reopened cases, per OAC 340:25-5-140.

(2) When CSS opens a case and has information the NCP made payments in excess of the court-ordered child support order, CSS only collects the excess payment when a court has determined the amount of the excess payment and ordered that it be satisfied by offset against the monthly current child support obligation.

(g) **Good cause.** When the NCP submits an application for child support services in a case previously closed for good cause for noncooperation, CSS:

- (1) opens the case when good cause no longer exists;
- (2) opens the case when family violence may still exist and the CP gives permission; or
- (3) declines to reopen when good cause still exists.

(h) CSS does not open a case when the case was previously closed and the circumstances that led to the closure have not changed.

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Amended at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 21 Ok Reg 1344, eff 7-1-04 ; Amended at 21 Ok Reg 3155, eff 7-22-04 (emergency); Amended at 22 Ok Reg 1221, eff 7-1-05 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 24 Ok Reg 1301, eff 7-1-07 ; Amended at 25 Ok Reg 1307, eff 7-1-08 ; Amended at 26 Ok Reg 1245, eff 7-1-09 ; Amended at 28 Ok Reg 812, eff 7-1-11 ; Amended at 29 Ok Reg 765, eff 7-1-12 ; Amended at 34 Ok Reg 1465, eff 9-15-17 ; Amended at 35 Ok Reg 1632, eff 9-17-18 ; Amended at 37 Ok Reg 1802, eff 9-15-20 ; Amended at 38 Ok Reg 2222, eff 9-15-21]

#### **340:25-5-118. Noncooperation on non-Temporary Assistance for Needy Families (TANF) cases [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Amended at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 20 Ok Reg 1240, eff 7-1-03 ; Amended at 21 Ok Reg 3155, eff 7-22-04 (emergency); Amended at 22 Ok Reg 1221, eff 7-1-05 ; Amended at 34 Ok Reg 1465, eff 9-15-17 ; Amended at 38 Ok Reg 2222, eff 9-15-21 ; Revoked at 40 Ok Reg 954, eff 9-15-23]

#### **340:25-5-119. Initiation of interstate cases [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

#### **340:25-5-120. Initiation of locate only cases [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

#### **340:25-5-121. Prioritization and categories of cases [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

#### **340:25-5-122. Repriortization [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

#### **340:25-5-123. Case closure system**

- (a) Oklahoma Human Services OKDHS Child Support Services (CSS) closes cases eligible for closure per Section 303.11 of Title 45 of the Code of Federal Regulations (45 C.F.R. § 303.11).
- (b) A child support case may not be closed when there is a pending paternity, establishment, or modification action CSS filed with the court and the non-applicant has been served, unless the pending action is withdrawn or dismissed at the discretion of the CSS state's attorney.
- (c) A child support case may be closed when any of the criteria in (1) and (2) of this subsection applies.
- (1) There is no current support order and arrears are unenforceable. Arrears are determined to be unenforceable when:
    - (A) there has been no collection during the past year; and
    - (B) the noncustodial parent (NCP) has no known or prospective income or assets.
  - (2) The NCP's sole income is from Supplemental Security Income (SSI) or a combination of SSI and Social Security Disability Insurance, or Social Security Retirement.
- (d) A child support case may be closed when the:
- (1) case was referred to CSS by an assistance program, per Oklahoma Administrative Code (OAC) 340:25-5-117 and the:
    - (A) referral is inappropriate to establish or enforce a child support order; and
    - (B) custodial person (CP) or NCP has not applied for services with CSS;
  - (2) CP receives non-TANF Sooner Care (Medicaid) child only benefits and the case is received from the Oklahoma Health Care Authority as a referral, but CSS learns the CP desires to decline child support services and no service of process is initiated on a legal action filed by CSS to establish or enforce the child support order, including the medical support portion; or
  - (3) CP:
    - (A) cannot be located per 45 C.F.R. § 303.11(b)(15); or
    - (B) fails to cooperate and an action by the CP is essential for the next step in providing child support services per 45 C.F.R. § 303.11(b)(16).
- (e) The case applicant requests that a child support case be closed by submitting CSS Form 03GN542E, Case Closure Application - Child Support Services. When a case closure application is received, CSS staff determines if the case meets federal case closure criteria per 45 C.F.R. § 303.11.
- (f) When CSS staff closes a case, CSS:
- (1) terminates the Order/Notice to Withhold Income for Child Support with the employer per OAC 340:25-5-201.1;
  - (2) resolves enforcement actions filed and CSS processes that are specific to the case being closed;
  - (3) reviews the Family Violence Indicator per OAC 340:25-5-67.1;
  - (4) removes case balances; and
  - (5) documents the date and amounts removed on the Oklahoma Support Information System Case Log (CSLOG) screen.
- (g) Per 45 C.F.R. § 302.33 when Title IV-A Temporary Assistance for Needy Families (TANF), Title IV-E foster care, and non-TANF SoonerCare

(Medicaid) services are discontinued, CSS notifies the recipient that CSS maintains a full-service child support case, unless the CP declines services in writing. When the CP declines services in writing, CSS closes the case. When the CP fails to respond, CSS maintains a full-service child support case.

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Amended at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 20 Ok Reg 1240, eff 7-1-03 ; Amended at 22 Ok Reg 1221, eff 7-1-05 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 24 Ok Reg 1301, eff 7-1-07 ; Amended at 25 Ok Reg 1307, eff 7-1-08 ; Amended at 26 Ok Reg 411, eff 12-15-08 (emergency); Amended at 26 Ok Reg 1245, eff 7-1-09 ; Amended at 28 Ok Reg 812, eff 7-1-11 ; Amended at 29 Ok Reg 765, eff 7-1-12 ; Amended at 30 Ok Reg 641, eff 7-1-13 ; Amended at 32 Ok Reg 1860, eff 9-15-15 ; Amended at 35 Ok Reg 1632, eff 9-17-18 ; Amended at 38 Ok Reg 2222, eff 9-15-21 ; Amended at 40 Ok Reg 954, eff 9-15-23]

#### **340:25-5-124. Assignment and transfer of cases to child support offices**

(a) **General assignment and transfer.** In assigning cases to child support offices, Oklahoma Human Services Child Support Services (CSS) considers whether the case is eligible for assignment to one of the tribal programs, per Oklahoma Administrative Code (OAC) 340:25-5-286. CSS treats an order registered in Oklahoma, per Sections 601-601 through 601-614 of Title 43 of the Oklahoma Statutes (43 O.S. §§ 601-601 through 601-614) as an Oklahoma order for purposes of OAC 340:25-5-124(1) and (2). If the case is not assigned to one of the tribal programs, CSS assigns cases under this Section.

(1) Oklahoma child support cases are assigned to a district office serving the county where a prior Family and Domestic district court case exists involving the parents and child, regardless of the case style of the order or whether or not a child support order was entered as to either parent.

(2) When a guardianship order is in effect, the case is assigned to the district office serving the county in which the guardianship action was filed. The district office proceeds to petition the guardianship court to:

(A) defer jurisdiction of child support to CSS. The case then follows regular case assignment rules;

(B) defer jurisdiction of child support to a pre-existing Family and Domestic court case involving the parents and child to enforce an existing child support order or establish a child support order. The case is then assigned to the district office serving the county with the existing Family and Domestic court order; or

(C) establish or modify a child support order. The case remains assigned to the district office serving the county of the guardianship.

(3) Cases with intergovernmental child support orders are assigned to a district office serving the county in which the order is registered per 43 O.S. §§ 601-601 through 601-614.

(A) When there are multiple Oklahoma support orders, cases are assigned to a district office serving the county where the presumed controlling order for current child support was entered or docketed in district court.

(B) When there is an Oklahoma support order and an intergovernmental support order, the case is assigned to the district office serving the county where the Oklahoma support order is entered or filed.

(4) Cases are assigned to a district office serving the county where the custodial person (CP) resides when there is:

- (A) no Oklahoma child support order and there is no prior Family and Domestic district court case on file;
- (B) a federal or tribal child support order; or
- (C) a child support order from another state.

(5) When the applicant for child support services is the noncustodial parent (NCP), the location of the CP and child is unknown, and there is no prior paternity or child support order established, cases are assigned to the office responsible for the county in which the NCP resides until the CP and child are located.

(6) Except in cases where a child support order is registered in Oklahoma, when the CP does not reside in Oklahoma, cases are assigned to the district office serving the county where the NCP or alleged father resides.

(7) When there is no Oklahoma order and no party resides in Oklahoma, cases are assigned to the district office serving the county with significant contacts with the case. When more than one county has significant contacts with the case, the case is assigned to the district office having the most recent significant contact.

(8) CSS does not transfer cases docketed or registered, per 43 O.S. §§ 601-601 through 601-614 in district court because the CP or NCP moves to a county outside of the original district office's service area.

(9) CSS does not transfer cases because the CP files a contempt action in a county outside of the original district office's service area.

(10) CSS reassigns a case to another district office to avoid a conflict of interest, per OAC 340:2-1-8.

(11) When there is an existing Office of Administrative hearings: Child Support (OAH) order that was not docketed in the appropriate district court per 340:25-5-185.1, the case is assigned to the district office that obtained the OAH order.

**(b) Administrative establishment case transfer.**

(1) A district office transfers an administrative establishment case to another office according to (2) of this Section if the:

- (A) case is assigned to the wrong child support office; or
- (B) CP moves to a county outside the original office's service area.

(2) The original office immediately transfers, rather than dismisses, an administrative establishment court action to the new district office if the original office has not obtained service of process on the NCP. When service has been obtained, the original office completes any administrative case litigation before transferring the case to the new district office.



[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Amended at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 18 Ok Reg 1226, eff 7-1-01 ; Amended at 19 Ok Reg 1746, eff 7-1-02 ; Amended at 20 Ok Reg 528, eff 1-21-03 (emergency); Amended at 20 Ok Reg 1240, eff 7-1-03 ; Amended at 21 Ok Reg 1344, eff 7-1-04 ; Amended at 22 Ok Reg 1221, eff 7-1-05 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 24 Ok Reg 1301, eff 7-1-07 ; Amended at 25 Ok Reg 1307, eff 7-1-08 ; Amended at 26 Ok Reg 1245, eff 7-1-09 ; Amended at 29 Ok Reg 765, eff 7-1-12 ; Amended at 36 Ok Reg 1794, eff 9-16-19 ; Amended at 38 Ok Reg 2222, eff 9-15-21 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:25-5-124.1. Transfer of administrative establishment case to another district child support office [REVOKED]**

[Source: Added at 19 Ok Reg 1746, eff 7-1-02 ; Amended at 20 Ok Reg 1240, eff 7-1-03 ; Revoked at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:25-5-124.2. Tribal case referral of cases to an Oklahoma tribal child support office [AMENDED AND RENUMBERED TO 340:25-5-286]**

[Source: Added at 20 Ok Reg 528, eff 1-21-03 (emergency); Added at 20 Ok Reg 1240, eff 7-1-03 ; Amended at 21 Ok Reg 1344, eff 7-1-04 ; Amended at 22 Ok Reg 1221, eff 7-1-05 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 24 Ok Reg 1301, eff 7-1-07 ; Amended at 25 Ok Reg 1307, eff 7-1-08 ; Amended at 26 Ok Reg 1245, eff 7-1-09 ; Amended at 28 Ok Reg 812, eff 7-1-11 ; Amended and renumbered to 340:25-5-286 at 33 Ok Reg 1592, eff 9-15-16]

### **340:25-5-124.3. Assignment and management of deprived cases**

(a) When a case includes a child(ren) in a deprived court action, Oklahoma Human Services Child Support Services (CSS) assigns cases per this Section.

(1) **No existing child support order.** When there is no existing child support order and an open Family Group Number, the district office serving the deprived action coordinates with the assigned district office to determine which office establishes the paternity and child support order. When there is no deferral, the case is assigned to a district office serving the county in which the district court has jurisdiction over the deprived action.

(2) **Existing district court case.** When there is a prior Family and Domestic district court case involving the parent(s) and child(ren), the case is assigned to a district office serving the county of the deprived action.

(3) **Split jurisdiction.** When the case involves multiple deprived actions in different counties for different children of the same parents, the district offices coordinate paternity and child support order establishment and child support order enforcement procedures with the district courts.

(b) Per Section 1-4-702 of Title 10A of the Oklahoma Statutes, CSS requests the deprived court establish a paternity and child support order or requests the deprived court defer jurisdiction. When jurisdiction is deferred, CSS enforces the existing child support order or establishes a paternity and child support order in district court or Office of Administrative Hearings: Child Support.

[Source: Added at 24 Ok Reg 1301, eff 7-1-07 ; Amended at 25 Ok Reg 1307, eff 7-1-08 ; Amended at 26 Ok Reg 1245, eff 7-1-09 ; Amended at 33 Ok Reg 1592, eff 9-15-16 ; Amended at 38 Ok Reg 2222, eff 9-15-21 ; Amended at 40 Ok Reg 954, eff 9-15-23]

#### **340:25-5-124.4. Multiple case processing**

(a) **Definitions.** The following words and terms when used in this Section shall have the following meanings unless the context clearly indicates otherwise:

(1) **"Multiple case action"** means a noncustodial parent (NCP) has multiple cases that are worked together for the primary purpose of right-sizing the NCP's child support orders. A multiple case action includes either an establishment action, modification action, or both. Child Support Services (CSS) presents multiple case actions to the Office of Administrative Hearings: Child Support (OAH) or district court as appropriate. When appropriate, CSS may pursue enforcement action in addition to completing the other action(s). CSS follows Oklahoma Administrative Code (OAC) 340:25-5-200.3 when multiple case processing involves enforcement actions only.

(2) **"Right-sizing"** means establishing and modifying child support orders and setting judgment payments that reflect current circumstances and actual income, unless the evidence supports imputing, to encourage NCP compliance and consistent, reliable support collections for the child(ren) involved.

(b) **Determination of multiple case actions.** CSS determines whether there is evidence to justify a modification per OAC 340:25-5-198.2 and Section 237 of Title 56 of the Oklahoma Statutes (56 O.S. § 237). When determining whether it is appropriate to conduct a multiple case action, CSS considers:

- (1) the NCP's income;
- (2) the NCP's ability to pay all child support orders each month, in full;
- (3) if the NCP is paying on all cases; and
- (4) the monthly child support amount per 43 O.S. §§ 118-118I.

(c) **Interstate multiple case actions.** Multiple case actions involving non-Oklahoma orders are worked per this subsection.

(1) When Oklahoma has continuing exclusive jurisdiction, a case is included in a multiple case action.

(2) When Oklahoma does not have continuing exclusive jurisdiction and:

(A) current support is still due, a case may be included in a multiple case action when all necessary parties consent for Oklahoma to exercise jurisdiction to modify the support order per 43 O.S. § 601-611; or

(B) consent is not received for Oklahoma to exercise jurisdiction to modify, the interstate case is included only for determination of the judgment payment plan.

(d) **Initial transfer of cases.** When CSS initiates a multiple case action, CSS transfers cases as necessary to the office completing the multiple case action.

(e) **Initial notice.** CSS provides notice to the custodial persons and the NCP, explaining their case:

- (1) is involved in a multiple case action;
- (2) was temporarily transferred, as appropriate, to another office for the multiple case action; and
- (3) will be returned to its original office after completion of the multiple case action.

(f) **Child support computation preparation.** In multiple case actions, CSS prepares:

- (1) individual child support computation forms for each case, including medical support and child care costs for the family group; and
- (2) one combination child support computation form that treats the NCP's children as one family, allowing a child support amount based on a pro rata share. The combined child support computation form uses the NCP's income and an average of all the cases' biological parents' (BP) income and does not include medical support or child care costs.

(g) **Filing.** CSS files multiple case actions in OAH or district court and requests the court:

- (1) consider all of the NCP's cases at the same time;
- (2) deviate from the individual guidelines child support amount due to extreme economic hardship and to more equitably distribute the resources available, as supported by 43 O.S. § 118H and OAC 340:25-5-178;
- (3) order a pro rata child support amount calculated by averaging the BPs' incomes and dividing the NCP's total child support amount evenly among all children; and
- (4) add medical support and child care costs from the individual child support computation form to the pro rata child support amount.

(h) **Conclusion of multiple case action.** After a multiple case action is concluded, the multiple case processing office transfers each case back to the original office.

[Source: Added at 33 Ok Reg 1592, eff 9-15-16]

### **340:25-5-125. Department client numbers [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-126. Assignment of case numbers [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-127. Computer transactions for AFDC and foster care cases [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

**340:25-5-128. Computer transactions for non-AFDC cases  
[REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

**340:25-5-129. Computer transactions for interstate cases  
[REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

**340:25-5-130. Computer transactions for locate only cases  
[REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

**340:25-5-131. Pending cases [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

**340:25-5-132. Updating pending cases [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

**340:25-5-133. Current child support follows the child when  
physical custody changes**

(a) When the legal custodial person (CP) relinquishes physical custody of a child(ren) to another CP, Oklahoma Department of Human Services (OKDHS), Oklahoma Child Support Services (OCSS) redirects current child support payments to the new CP per Sections 109.5 of Title 43 and 237 of Title 56 of the Oklahoma Statutes.

(1) A CP who relinquishes physical custody of a child(ren) to another CP must notify OCSS of the change. The new CP must submit an application for child support services if an application is required per OAC 340:25-5-117.

(2) The person with physical custody on the first day of the month is entitled to the support obligation for that month.

(b) When the legal CP of a child(ren) dies and another CP, who is not the obligor, assumes custody of the child(ren), OCSS establishes a new support order with the new CP as the obligee.

(1) The new CP must submit an application for child support services when an application is required per OAC 340:25-5-117.

(2) OCSS redirects current child support payments to the new CP pending receipt of an application if required and establishment of the new support order. OCSS distributes any past support payments already collected prior to the CP's death per OAC 340:25-5-140.

(c) When a new CP assumes custody of a child(ren), OCSS directs past-due support payments per OAC 340:25-5-140.

[Source: Amended at 20 Ok Reg 1240, eff 7-1-03 ; Amended at 22 Ok Reg 1221, eff 7-1-05 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 27 Ok Reg 1201, eff 7-1-10 ; Amended at 30 Ok Reg 641, eff 7-1-13]

#### **340:25-5-134. Default orders**

(a) **Legal basis.** The Oklahoma Department of Human Services, Child Support Services (CSS) requests default orders and processes requests for vacation or modification of default orders, per Sections 1031, 1031.1, 1038, and 2004 of Title 12 of the Oklahoma Statutes.

(b) **Service of process.** Before a default order is requested, CSS ensures all parties whose rights will be affected are served, in accordance with Section 2004 of Title 12 of the Oklahoma Statutes, unless there are statutorily recognized substitutes for service.

(c) **Entry of default orders.** CSS reviews service of the pleadings and files a proper return of service prior to requesting entry of a default.

(d) **Default order reviews.** When a default order is entered and either party contacts CSS in writing within 30-calendar days of entry of the default order, CSS treats the request as a motion to rehear, vacate, or modify. CSS takes necessary steps to bring the action before the court for resolution.

(e) **Default orders in parentage action.** When any party whose rights will be affected has been served and is non-cooperative in establishing parentage, CSS may request a default order of parentage, unless the non-defaulting party objects. When the non-defaulting party objects, CSS determines whether to set the case for hearing or dismiss without prejudice.

[Source: Added at 35 Ok Reg 1632, eff 9-17-18 ; Amended at 37 Ok Reg 1802, eff 9-15-20]

## **PART 17. PAST SUPPORT**

#### **340:25-5-140. Past support**

(a) **Legal authority.** Oklahoma Human Services, Child Support Services (CSS) takes appropriate action to collect support and secure compliance with support orders.

(1) When a support order does not specify an effective date, a payment is due on the first day of the month following the child support order's entry and on the first day of each month thereafter except when another state's law governs the due date.

(2) Current monthly child support is due for the entire month when the effective date is later than the first of the month. CSS

does not pro rate the monthly amount based on the effective or ending date, unless the court orders otherwise.

(3) CSS determines past-due support and support for a prior period based on information in available records from courts, Title IV-D and other public and private agencies, the custodial persons (CPs), the noncustodial parents (NCPs), and others.

(4) CSS may require sworn written statements and supporting documents from CPs, NCPs, and others pertaining to support payments. The primary legal foundations for determination and collection of past-due support and support for a prior period are applicable provisions of:

(A) Part D of Subchapter IV of Chapter 7 of Title 42 of the United States Code;

(B) Section 1738B of Title 28 of the United States Code (28 U.S.C. § 1738B);

(C) Chapters 302 and 303 of Title 45 of the Code of Federal Regulations; and

(D) Sections 83 and 7700-636 of Title 10 of the Oklahoma Statutes (10 O.S. §§ 83 and 7700-636), Chapters 3 and 21 of Title 12, Title 43, and 56 O.S. §§ 231 through 240.23.

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

(1) "**Abate**" means, per 43 O.S. Section 118I, an NCP does not owe the child support obligation when incarcerated for 180-consecutive days. Upon eligibility, child support is no longer owed effective the first day of the month following the entry date into the correctional facility or jail and does not accrue for the duration of the incarceration.

(2) "**Incarceration**" means, per 43 O.S. Section 118I, *an obligor is in custody on a fulltime basis in a local, state or federal correctional facility. Incarceration shall not include probation, parole, work release or any other detention alternative program that allows the obligor to be gainfully employed.*

(c) **Judgment payment.** Per 43 O.S. § 137, the monthly payment schedule on past support may not exceed three years unless specific findings of fact supporting the action are made. CSS considers a three-year payment schedule to be unjust, unreasonable, inequitable, or inappropriate when CSS has evidence that the NCP cannot comply with a three-year payment plan. CSS requests a monthly payment schedule that may exceed three years in accordance with the best evidence available, including the NCP's earning records, past job history, earning ability based on education and training, and mental or physical incapacities. CSS also considers an NCP's other child support obligations and total arrears. The payment plan applies to the judgment determined in the order and any subsequent judgments by operation of law unless the payment plan has been modified by administrative or district court action.

(d) **Enforcement.**

(1) CSS takes action to enforce past-due support and support for a prior period, per Oklahoma Administrative Code (OAC) 340:25-5,

Part 23.

(2) CSS collects amounts from the original child support order date, including any judgments for support for a prior period, and does not limit collection of past-due child support to amounts accruing from the time a case is opened or reopened.

(3) When CSS receives a new case with an existing order, or when a previously closed case reopens and has an existing order, CSS does not calculate a past-due support balance, or take action to enforce past-due support, until 30-calendar days from the mailing date of the notice of case letter and affidavit of payments document to the NCP. This does not preclude initiating an income assignment to collect current support.

(4) Past-due child support remains due to the CP with whom a child resided during the month the past support was due.

(5) When CSS takes action to enforce past-due support and support for a prior period for a Servicemember's child, CSS applies the provisions of the Servicemembers Civil Relief Act, codified in 50 U.S.C. §§ 3901 through 4043.

**(e) Settlement of past support.**

(1) Settlements of past support may include:

- (A) an NCPs lump sum partial payment or a series of payments made toward the total amount of past support;
- (B) an agreement for the NCP to pay a specified number of current child support payments in the future; or
- (C) acceptance of in-kind goods or services in exchange for waiving a certain amount of past child support.

(2) Settlements of past support must be memorialized in a court order and the CP must sign the court order when the past support is owed to the CP.

(3) Per 43 O.S. § 112, CSS:

- (A) acknowledges the rights of the CP and NCP to mutually agree to waive with approval of the court, all or a portion of the past child support due to the CP; or
- (B) may negotiate the right to collect all or part of past support owed to Oklahoma.

**(f) Annual notice.** CSS uses the annual notice to the NCP parent, per 56 O.S. § 237A to confirm the amount of past-due support and remaining balances on previously confirmed judgments. Past-due support and remaining balances on judgments for support for a prior period may also be confirmed during other enforcement actions, per OAC 340:25-5, Part 23.

**(g) Death of CP.**

(1) When the CP dies, CSS issues child support payments for past due support to:

- (A) the decedent's estate, when the estate's administrator notifies CSS in writing; or
- (B) any state owed past due support, per OAC 340:25-5-351.

(2) Except as provided in (1) of this subsection, CSS refunds payments to the:

- (A) payor, when the payor's address is known; or

- (B) NCP when the payor's address is unknown, or payments are returned due to the inability to distribute.
- (3) CSS does not file a forced probate court action to determine heirs and distribute past support to heirs.
- (h) **Jurisdiction.** When an Oklahoma tribunal has personal and subject matter jurisdiction and can obtain service of process on the NCP, CSS uses the annual notice, notice of support debt, contempt, or other appropriate proceedings to determine past support and interest before requesting another state's tribunal to enforce the child support orders.
- (i) **Incarcerated NCP.** Per 43 O.S. § 118I, beginning November 1, 2021, there is a rebuttable presumption that an NCP who is incarcerated for a period of 180-consecutive days is unable to pay child support. When a payment is made during incarceration, the presumed ability to pay child support may be rebutted for that payment period. CSS makes a final determination whether the order is abated. 2021, there is a rebuttable presumption that an NCP who is incarcerated for a period of 180-consecutive days is unable to pay child support. When a payment is made during incarceration, the presumed ability to pay child support may be rebutted for that payment period. CSS makes a final determination whether the order is abated.

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Amended at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 18 Ok Reg 1226, eff 7-1-01 ; Amended at 19 Ok Reg 1746, eff 7-1-02 ; Amended at 22 Ok Reg 1221, eff 7-1-05 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 24 Ok Reg 1301, eff 7-1-07 ; Amended at 25 Ok Reg 1307, eff 7-1-08 ; Amended at 26 Ok Reg 1245, eff 7-1-09 ; Amended at 27 Ok Reg 1201, eff 7-1-10 ; Amended at 29 Ok Reg 765, eff 7-1-12 ; Amended at 30 Ok Reg 641, eff 7-1-13 ; Amended at 36 Ok Reg 1794, eff 9-16-19 ; Amended at 39 Ok Reg 176, eff 10-20-21 (emergency); Amended at 39 Ok Reg 1721, eff 9-15-22 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:25-5-140.1. Interest**

- (a) **Legal authority.** Oklahoma Human Services Child Support Services (CSS) collects and enforces interest on past-due Oklahoma court-ordered child support payments, per Section 114 of Title 43 of the Oklahoma Statutes (43 O.S. § 114).
- (b) **Support for a prior period.** CSS collects interest on support for a prior period, per Oklahoma Administrative Code (OAC) 340:25-5-179.1, and is calculated at a rate, per 43 O.S. § 114.
- (c) **Accrual date.**
- (1) Interest accrues on any unpaid portion of the monthly current child support obligation on the first day of the month following the:
    - (A) due date specified in the court order; or
    - (B) entry date of the child support order when a support order does not specify a due date.
  - (2) Interest accrues on a lump sum judgment for support for a prior period, accrued child care costs, or accrued fixed medical, from the first day of the month after the judgment is entered, per 43 O.S. § 114.
- (d) **Grace period and accrual.** CSS has a grace period when interest is not charged. Interest begins to accrue from the first day of the month following the date the arrears are in excess of one month's current support.



(e) **Interest on cash medical support.** CSS does not calculate or collect interest on unpaid cash medical support.

(f) **Servicemember relief.**

(1) Upon a servicemember's written request, an interest rate cap of six percent applies to child support arrearages of members of the military service incurred prior to the start of military service, per Section 3937 of Title 50 of the United States Code.

(2) The servicemember must provide a written request for reduced interest and a copy of the military orders calling the servicemember to service and any orders further extending military service to CSS no later than 180-calendar days after the date of the servicemember's termination or release from military service.

(3) Upon receipt of these documents, CSS applies the six percent interest rate to child support arrearages existing as of the date when the servicemember is called to military service and throughout the active military service.

(4) CSS may initiate a court action to challenge the claim that the servicemember's military duty materially affected his ability to pay an interest rate over six percent.

(g) **Interest rate.**

(1) CSS calculates simple interest, per 43 O.S. § 114.

(2) For orders established in other states, the law of the state entering the order determines the amount and rate of interest due until a determination of controlling order is made.

(3) For orders established in Oklahoma, Oklahoma law determines the amount and rate of interest due.

(4) When there are multiple child support orders and Oklahoma is determining the controlling order, CSS determines the rate of interest charged, per 43 O.S. § 601-604.

(h) **Order silent as to interest.** When an order that settles or determines a past-due child support amount is silent as to interest, the party with the right to collect has not waived the interest.

(i) **Enforcement.** Accrued interest is considered child support. Interest is included in enforcement remedies.

(j) **Incoming interstate cases.** In the absence of an Oklahoma order, CSS collects interest on incoming interstate cases when an initiating state calculates the interest owed and requests that CSS collect it.

(k) **Outgoing interstate cases.** Before requesting a responding state to enforce a child support order(s) entered in a state other than the responding state, CSS calculates the arrears including the accrued interest claimed.

(l) **Application of payments to interest.** CSS applies payments to interest, per OAC 340:25-5-351.

(m) **Waiver of interest.** CSS acknowledges the rights of the custodial person (CP) and noncustodial parent (NCP) to mutually waive, with approval of the court, all or a portion of the interest due to the CP.

(1) CSS may negotiate the right to collect all or part of the interest owed to Oklahoma.

(2) Settlements of interest must be memorialized in a court order and may include:

- (A) an NCP's lump sum partial payment or a series of payments; or
- (B) an agreement for the NCP to pay:
  - (i) a specified number of current child support payments in the future; or
  - (ii) non-cash support.
- (n) **Reopening closed cases.** CSS does not reopen closed child support cases at the request of a customer for the purpose of collecting interest.
- (o) **Interest on spousal support.** CSS does not calculate or collect interest on spousal support.

[Source: Added at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 18 Ok Reg 1226, eff 7-1-01 ; Amended at 19 Ok Reg 1746, eff 7-1-02 ; Amended at 20 Ok Reg 1240, eff 7-1-03 ; Amended at 21 Ok Reg 1344, eff 7-1-04 ; Amended at 22 Ok Reg 1221, eff 7-1-05 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 28 Ok Reg 812, eff 7-1-11 ; Amended at 29 Ok Reg 765, eff 7-1-12 ; Amended at 30 Ok Reg 641, eff 7-1-13 ; Amended at 36 Ok Reg 1794, eff 9-16-19 ; Amended at 38 Ok Reg 2222, eff 9-15-21]

## **340:25-5-140.2. Child Support College Savings Incentive Program [REVOKED]**

[Source: Added at 32 Ok Reg 1860, eff 9-15-15 ; Revoked at 34 Ok Reg 1465, eff 9-15-17]

## **340:25-5-141. Calculation of account debt [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

## **340:25-5-142. Assignment of responsibility [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

## **340:25-5-143. Conditions which affect calculations [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

## **340:25-5-144. Reasons for returning a request to the local office - AFDC [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

## **340:25-5-145. Information required for calculation [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

## **340:25-5-146. When to request a calculation [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

**340:25-5-147. Procedure to initiate a request for calculation  
[REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

**340:25-5-148. Arrearage computation supplements [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

**340:25-5-149. Method of calculation [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Amended at 15 Ok Reg 159, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1614, eff 5-11-98 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

**340:25-5-150. Calculation time frame [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

## **PART 19. LOCATE SERVICES**

**340:25-5-155. Locate services**

(a) **Scope of Services.** Oklahoma Department of Human Services (DHS) Child Support Services (CSS) follows the provisions of Sections 653, 654, 654a, 663, and 666 of Title 42 of the United States Code (42 U.S.C. §§ 653, 654, 654a, 663, and 666) and Sections 302.35, 303.3, 303.7, and 303.15 of Title 45 of the Code of Federal Regulations (45 C.F.R. §§ 302.35, 303.3, 303.7, and 303.15) in locating parents and their assets for the purposes of:

- (1) establishing paternity;
- (2) establishing, setting the amount of, modifying, or enforcing child support obligations;
- (3) making or enforcing a child custody determination; or
- (4) assisting in cases of parental kidnapping.

(b) **Locate only services.** When authorized persons apply for locate only services, Form 03EN007E, Locate Only Rights and Responsibilities, must be completed and submitted with an application for child support services.

(c) **Most Wanted Missing Parent program (MWMP).**

- (1) Per Section 240.24 of Title 56 of the Oklahoma Statutes, CSS maintains publicly accessible lists of Oklahoma's CSS most wanted and missing parents to find parents, who:
  - (A) are in arrears in court-ordered child support obligations;
  - (B) are sought for the purpose of establishing a child support order; or

- (C) have a valid child support arrest warrant issued at the time of the MWMP listing.
- (2) At CSS's discretion the list may include the names of parents who were referred for inclusion according to CSS established criteria.

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Amended at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 27 Ok Reg 1201, eff 7-1-10 ; Amended at 34 Ok Reg 1465, eff 9-15-17]

### **340:25-5-156. Reasonable probability [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-157. Relocate procedures [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-158. Central locate section [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-159. Oklahoma and interstate cases [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-160. Interstate and the Federal Parent Locator Service (FPLS) [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-161. System display and selection process of locate cases [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-162. Initiating display of individual case locate data [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-163. Search procedures for instate locate resources (online responses) [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

**340:25-5-164. Search procedures for automated locate resources  
[REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

**340:25-5-165. Search procedures for out of state request  
[REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

**340:25-5-166. Encoding/updating locate searches and results to  
the file [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

**340:25-5-167. Locate services for parental kidnapping cases  
[REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

## **PART 20. MEDICAL SUPPORT**

**340:25-5-168. Establishment of medical support**

(a) **Scope and applicability.** Oklahoma Human Services (OKDHS) Child Support Services (CSS) refers to federal and state law for establishment of a medical support order, per:

- (1) Section 666 of Title 42 of the United States Code (42 U.S.C. § 666) and 25 U.S.C. § 1603(12);
- (2) Sections 302.33, 302.56, 303.7, 303.30, and 303.31 of Title 45 of the Code of Federal Regulations (45 C.F.R. §§ 302.33, 302.56, 303.7, 303.30 & 303.31); and 42 C.F.R. § 433.152; and
- (3) Section 6058A of Title 36 of the Oklahoma Statutes (36 O.S. § 6058A), and 43 O.S. §§ 112, 118-118I, 118.2 and 119, and 56 O.S. § 237.

(b) **Medical support provision of child support order.** A child support order CSS requests the court to establish must contain a medical support provision.

(c) **Calculating the cost of medical support.** To calculate the actual premium cost of health insurance, CSS:

- (1) deducts from the total insurance premium, the cost of coverage for the parent;

- (2) deducts from the total insurance premium, the cost of coverage for any other adults in the household, when that cost information is available;
- (3) divides the remainder by the number of dependent children covered; and
- (4) multiplies the amount per child by the number of children in the child support case under consideration.

(d) **Standards for medical support provision.** When choosing a medical support provision, CSS requests the court to apply the standards in (1) through (3) of this subsection.

- (1) Health insurance must be reasonable in cost, meaning that the pro rata share of the actual out-of-pocket premium cost paid for the child(ren) by the insured does not exceed five percent of the gross income of the parent ordered to provide health insurance.
- (2) Health insurance must be accessible, meaning the health care providers must be available to meet the child(ren)'s individual health care needs, and must be located no more than 60 miles one-way from the primary residence of the child(ren).
- (3) Health insurance must provide coverage for both routine and major medical expenses including, but not limited to: preventive care, office visits, hospitalization, and medication coverage in compliance with the Oklahoma Insurance Department, per Oklahoma Administrative Code (OAC) 365:10-5-3(14) and OAC 365:10-5-5(f). Limited Insurance Coverage, per OAC 365:10-5-5(k) does not satisfy this requirement. Annual deductibles must be reasonable and relate to the medical circumstances of the child(ren).

(e) **Exceptions to standards for medical support provision.** When the parents agree or it is otherwise appropriate, CSS requests the court make an exception to the standards for health coverage when the:

- (1) reasonable cost of health insurance exceeds five percent of the gross income of the parent ordered to provide health insurance;
- or
- (2) closest insurance provider exceeds 60 miles one-way from the primary residence of the child(ren).

(f) **Selection of health care coverage.** CSS requests the court consider the cost, quality, and accessibility of health care coverage available to the parties when entering a medical support order.

(g) **Health coverage preference.** When health coverage meeting standards in (d) of this Section is available to both parents, CSS requests the court give priority to the preference of the custodial person (CP).

(h) **Applicability of cash medical support.** CSS requests a cash medical order by the obligor, when:

- (1) the court determines an order for health insurance is inappropriate due to family violence concerns;
- (2) the only health care plan available for the child is a governmental medical assistance program or health plan, such as SoonerCare (Medicaid); or
- (3) there is no health care plan available for the child(ren).

(i) **Cash medical support.**

(1) When cash medical support is applicable, CSS requests the court order the obligor to pay cash medical support , until the obligor enrolls the child(ren) in accessible insurance coverage and provides proof of enrollment to CSS and the CP.

(2) CSS refers to the Cash Medical Income Guidelines Table as found in the child support computation form prescribed by CSS and published by the Administrative Office of the Courts on the Oklahoma State Courts Network site, per 43 O.S. § 120 to determine the cash medical support amount.

(3) CSS computes a cash medical order by applying the Cash Medical Income Guidelines Table, using the gross income for the noncustodial (NCP) of the child in the case under consideration and the number of children in the instant case.

(A) When the NCP's gross income is at or below the income amount for the number of children in the case, CSS requests the court order a cash medical order at \$0 per month.

(B) When the NCP's gross income exceeds the income amount for the number of children in the case, CSS computes the requested cash medical order by:

- (i) multiplying the amount of \$115, representing the average monthly cost of health care for an uninsured child(ren), by the number of children in the case not covered by insurance; and
- (ii) prorating the result by the percentage of income for each parent.

(C) The NCP's share of the cash medical amount is added to the child support obligation.

(D) CSS does not request the court set cash medical support against a parent who has at least 182 overnights.

(4) Unless the parties agree or the court orders a greater amount, the prorated cash medical support amount must not exceed five percent of the gross income of the parent who is ordered to pay cash medical support.

(5) CSS seeks cash medical support only as part of a prospective order for child support. CSS does not include a cash medical support amount in a judgment for support for a prior period, per OAC 340:25-5-179.1.

(6) In a child support modification action, CSS requests a cash medical support order be effective the first day of the month following the entry of the order.

(7) In a multiple case action, when the monthly child support amount in the combination child support computation form exceeds 20 percent of the NCP's gross income, CSS may request a deviation to set cash medical support at \$0 per month in the individual computation forms as applicable.

(j) **Medical support for OKDHS adopted children.** CSS does not request health insurance or cash medical support for children who are adopted through OKDHS Adoption Services. CSS requests a medical support order reflecting that the child(ren) receive SoonerCare (Medicaid) through the adoption plan. The parties may agree to cover

the child(ren) on health insurance.

**(k) Termination of cash medical support.**

(1) When CSS receives notice the parent ordered to pay cash medical support enrolled the child(ren) in health insurance, CSS sends a Notice of Proposed Termination of Cash Medical Support to all parties in the case by regular mail. When a party believes the child(ren) is not covered by accessible health insurance, a party may request a review of the termination of cash medical support within 10-calendar days from the date of mailing of the notice.

(2) When a party requests a review to contest the Notice of Proposed Termination of Cash Medical Support, CSS reviews the case within 10-calendar days of receipt of the request and determines if termination of cash medical support is proper based on information the contesting party provides. CSS notifies the parties of the review decision.

(3) When the parties disagree with the review decision, the parties have 15-calendar days from the date of mailing the review decision to request a hearing on the termination of cash medical support.

(4) CSS files a Notice of Termination of Cash Medical Support with the proper court when no party requests a:

(A) review within the 10-calendar day time period; or

(B) hearing after CSS notifies them of the review decision.

(5) CSS does not proceed with a separate termination of cash medical support when the child support and medical support order is modified within 30-calendar days of notification that the child(ren) is enrolled in health insurance.

(6) When a cash medical support order is terminated within a modification action, CSS requests the termination become effective the date of filing of the Motion to Modify or the date, if later when the child was actually enrolled in the insurance.

**(l) Reinstatement of cash medical support.**

(1) CSS seeks reinstatement of the cash medical order when:

(A) a child support court order previously ordered the NCP to pay cash medical support until insurance was available;

(B) insurance became available;

(C) the cash medical support was terminated; and

(D) the insurance subsequently lapsed.

(2) CSS uses one of the processes listed in (A) or (B) of this paragraph to seek reinstatement of the cash medical order.

(A) **Modification.** CSS seeks modification of the child support order and reinstatement of cash medical support, per OAC 340:25-5-198.1 and OAC 340:25-5-198.2 when:

(i) the child support order that provided for cash medical support was modified to include credit for insurance premium costs; or

(ii) there is another material change of circumstance in addition to the lapse of health coverage.



(B) **Expedited Process.** When (A) of this paragraph does not apply, CSS uses an expedited process to reinstate the cash medical support. CSS uses the expedited process when there is an address of record for the obligor.

(3) CSS initiates a reinstatement of cash medical support when it receives notice the parent whose cash medical support was terminated due to the enrollment of the child(ren) in health insurance has allowed the coverage to lapse. CSS sends a Notice of Proposed Reinstatement of Cash Medical Support to all parties in the case by regular mail. When a party believes the child(ren) is covered by health insurance, a party may request a review of the reinstatement within 10-calendar days of the date the notice was mailed.

(4) A party may file a written objection to the reinstatement of cash medical support and submit it to CSS with supporting health care coverage documentation. CSS reviews the case within 10-calendar days of receipt of the objection and determines if reinstatement of cash medical support is proper based on the information the contesting party provides. CSS provides the CP and the NCP with written notice of the review decision.

(5) When the parties disagree with the review decision, they have 15-calendar days from the date of the review decision to request a hearing.

(6) CSS files a Notice of Reinstatement of Cash Medical Support with the proper court when no party requests a:

(A) review within the 10-calendar day time period; or

(B) hearing after CSS notifies them of the review decision.

(m) **Fixed medical costs.** When the parties agree or the court orders, CSS includes the total monthly fixed medical costs in the child support guidelines computation. When the obligor's share of fixed medical costs exceeds five percent of the obligor's gross income and the parties do not agree to exceed the five percent standard, CSS requests the court determine the monthly amount of fixed medical costs included in the current child support order.

(n) **Indian Health Services (IHS).**

(1) When a child support order that provides for the enrollment of a child(ren) in IHS does not meet the standards in (d) of this Section, CSS seeks an order for either or both parents to secure another type of health care coverage besides IHS for the minor child(ren)

(2) CSS does not request cash medical support when a child(ren) is receiving IHS.

(o) **Notification requirements.** The NCP and the CP must notify CSS in writing within 30-calendar days after:

(1) health insurance becomes available;

(2) the cost of existing health insurance changes; or

(3) other provisions of existing health insurance change.

(p) **Modification request.** When a child support order exists, CSS considers a request to establish a medical support order as a request for modification of the order, per 43 O.S. § 118.1. CSS seeks a medical support order in a tribunal that has jurisdiction to modify the child

support order.

[Source: Reserved at 21 Ok Reg 242, eff 11-7-03 (emergency); Amended and renumbered from 340:25-5-183 at 21 Ok Reg 1344, eff 7-1-04 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 24 Ok Reg 1301, eff 7-1-07 ; Amended at 25 Ok Reg 1307, eff 7-1-08 ; Amended at 26 Ok Reg 1245, eff 7-1-09 ; Amended at 26 Ok Reg 3036, eff 7-21-09 (emergency); Amended at 27 Ok Reg 1201, eff 7-1-10 ; Amended at 28 Ok Reg 812, eff 7-1-11 ; Amended at 29 Ok Reg 765, eff 7-1-12 ; Amended at 32 Ok Reg 1860, eff 9-15-15 ; Amended at 33 Ok Reg 1592, eff 9-15-16 ; Amended at 36 Ok Reg 97, eff 11-15-18 (emergency); Amended at 36 Ok Reg 1794, eff 9-16-19 ; Amended at 37 Ok Reg 1802, eff 9-15-20 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:25-5-169. Medical enforcement only cases**

(a) **Legal authority.** Oklahoma Human Services Child Support Services (CSS) follows Sections 302.33, 302.56, 303.30, and 303.31 of Title 45 of the Code of Federal Regulations (45 C.F.R. §§ 302.33, 302.56, 303.30, and 303.31); Section 6058A of Title 36 of the Oklahoma Statutes (36 O.S. § 6058A); 43 O.S. §§ 112, 118F, 118.2, and 119; and 56 O.S. § 237.

(b) **Medical enforcement only (MEO) status.** When a person receiving non-Temporary Assistance for Needy Families (TANF) SoonerCare (Medicaid) notifies CSS that only Title IV-D services related to securing medical support are requested, CSS updates the case as an MEO case and does not provide full child support services per Oklahoma Administrative Code (OAC) 340:25-1-1.2.

(c) **Services provided on MEO cases.**

(1) CSS establishes paternity, when necessary, and a child support order. The child support order must include a provision for:

(A) current child support per OAC 340:25-5-178;

(B) support for a prior period per OAC 340:25-5-179.1, when appropriate; and

(C) medical support per OAC 340:25-5-168.

(2) CSS conducts a review of the order per OAC 340:25-5-198.1 and seeks a modified order including a provision for medical support when:

(A) the existing child support order does not include a medical support provision;

(B) insurance is not available for the child(ren); or

(C) a parent or custodial person (CP) claims the available health insurance is not accessible or reasonable in cost.

(d) **Exception to MEO status.** CSS opens a full-service case on all the CP's child support cases when CSS receives a non-TANF SoonerCare (Medicaid) referral per OAC 340:25-5-117 from the Oklahoma Health Care Authority and:

(1) assigned court-ordered child support is owed per OAC 340:25-5-117;

(2) the child(ren) is in a deprived or delinquent juvenile court action; or

(3) assigned cash medical support is owed per OAC 340:25-5-117.

(e) **Enforcement of MEO cases.** When a person receiving non-TANF Medicaid requests MEO services, CSS enforces only the health insurance portion of the child support order through the use of the National Medical Support Notice per OAC 340:25-5-171. CSS does not enforce the payment of child support or fixed medical support through the Order/Notice to Withhold Income for Child Support or any other

enforcement remedy in an MEO case.

[Source: Reserved at 21 Ok Reg 242, eff 11-7-03 (emergency); Amended and renumbered from 340:25-5-184 at 21 Ok Reg 1344, eff 7-1-04 ; Amended at 21 Ok Reg 3155, eff 7-22-04 (emergency); Amended at 22 Ok Reg 1221, eff 7-1-05 ; Amended at 26 Ok Reg 3036, eff 7-21-09 (emergency); Amended at 27 Ok Reg 1201, eff 7-1-10 ; Amended at 28 Ok Reg 812, eff 7-1-11 ; Amended at 34 Ok Reg 1465, eff 9-15-17 ; Amended at 38 Ok Reg 2222, eff 9-15-21 ; Amended at 40 Ok Reg 954, eff 9-15-23]

### **340:25-5-170. Enforcement of medical enforcement only cases [REVOKED]**

[Source: Reserved at 21 Ok Reg 242, eff 11-7-03 (emergency); Added at 21 Ok Reg 1344, eff 7-1-04 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 26 Ok Reg 3036, eff 7-21-09 (emergency); Amended at 27 Ok Reg 1201, eff 7-1-10 ; Revoked at 40 Ok Reg 954, eff 9-15-23]

### **340:25-5-171. Enforcement of a medical support order**

(a) When a parent has been ordered to provide health insurance for the child(ren) and has failed to voluntarily enroll the child(ren), Oklahoma Child Support Services (OCSS), uses the National Medical Support Notice (NMSN) to aid in enrolling the child(ren) in the group health plans for which a parent is eligible. OCSS sends the NMSN to the parent's employer as required by Section 666 of Title 42 of the United States Code, Section 609 of the Employee Retirement Income Security Act of 1974, Section 303.32 of Title 45 of the Code of Federal Regulations, and Section 6058A of Title 36 and Section 118.2 of Title 43 of the Oklahoma Statutes.

(b) In addition to issuing a NMSN, when a parent is ordered to provide medical support for the minor child(ren) and is not complying with the order, OCSS may either:

(1) enforce the medical support order by a license revocation action under Section 139.1 of Title 43 of the Oklahoma Statutes, or by an indirect contempt of court action under Section 566.1 of Title 21 of the Oklahoma Statutes; or

(2) seek a modification of the order under OAC 340:25-5-198.2.

(c) When a child is eligible for enrollment in the United States Department of Defense's managed health care program, TRICARE, (a) of this Section does not apply. OCSS notifies the custodial person to contact the Defense Manpower Data Center Support Office at 1-800-538-9552 to enroll the child, using the Defense Enrollment Eligibility Reporting System registration process.

(d) If the employer response to the NMSN indicates that enrollment cannot be completed because the cost of coverage exceeds the limits of earnings subject to income assignment under Section 1171.2 of Title 12 of the Oklahoma Statutes, OCSS applies OAC 340:25-5-168 to determine if other coverage is available at reasonable cost or if a cash medical order is appropriate. OCSS conducts a review of the order under OAC 340:25-5-198.1 and seeks a modified order if the review indicates that modification would result in an enforceable medical support order or that the child support order should be adjusted.

(e) OCSS issues a non-compliance letter to the employer when the employer:

(1) has not returned the NMSN within 20 business days after the date of the NMSN notifying OCSS that:

- (A) the employer does not offer group dependent health coverage;
- (B) the employee is among a class of employees that is not eligible for family coverage under the employer's plans;
- (C) the employee is not employed by the employer; or
- (D) state or federal withholding limitations or prioritization of withholding prevent the required employee contribution to obtain coverage;

(2) has not forwarded the NMSN to the insurer within 20 business days after the date of the NMSN; or

(3) is the insurer and has not returned the NMSN within 20 business days after the date of the NMSN indicating that either the child(ren) has been enrolled in the plan and the effective date of coverage or there is more than one option available and one must be selected.

(f) OCSS issues a non-compliance letter to the insurer when the insurer has not returned the NMSN within 40 business days after the date of the NMSN indicating that either the child(ren) has been enrolled in the plan and the effective date of coverage or there is more than one option available and one must be selected.

(g) OCSS may initiate legal proceedings to request the court fine employers and insurers when there is no response indicating full compliance with the requirements of the NMSN within 10 business days after the date of the non-compliance letter. Fines may be imposed by the court for up to \$200 a month per child for each failure to comply with the requirements of the NMSN under Section 6058A of Title 36 and Section 118.2 of Title 43 of the Oklahoma Statutes.

(h) If the employer or insurer complies with the requirements of the NMSN, OCSS may dismiss the case against the employer or insurer.

(i) Employers and insurers must send any fine(s) imposed by the court, under Section 235 of Title 56 of the Oklahoma Statutes, by check or money order to OCSS, Attention: Finance, P.O. Box 248822, Oklahoma City, Oklahoma 73124-8822.

(j) When a parent has been ordered to provide health insurance for the child(ren) and the other parent or custodial person has failed or refused to provide information necessary to enroll the child(ren) in the health insurance plan, OCSS:

(1) releases the information as appropriate per OAC 340:25-5-67 when family violence is not an issue;

(2) determines noncooperation and begins the case closure process per OAC 340:25-5-114, 340:25-5-118, and 340:25-5-123 when the parent refusing to provide the information is the applicant for services;

(3) obtains the necessary information from the parent by a license revocation action per Section 139.1 of Title 43 of the Oklahoma Statutes, or by an indirect contempt of court action per Section 566.1 of Title 21 of the Oklahoma Statutes; or

(4) seeks a modification of the order per OAC 340:25-5-198.2.

[Source: Added at 21 Ok Reg 242, eff 11-7-03 (emergency); Added at 21 Ok Reg 1344, eff 7-1-04 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 24 Ok Reg 1301, eff 7-1-07 ; Amended at 25 Ok Reg 1307, eff 7-1-08 ; Amended at 26 Ok Reg 411, eff 12-15-08 (emergency); Amended at 26 Ok Reg 1245, eff 7-1-09 ; Amended at 26 Ok Reg 3036, eff 7-21-09 (emergency); Amended at 27 Ok Reg 1201, eff 7-1-10 ; Amended at 29 Ok Reg 765, eff 7-1-12]

## **PART 21. ESTABLISHMENT**

### **340:25-5-175. General [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-176. Establishment of parentage**

(a) **Legal authorities.** Oklahoma Department of Human Services Child Support Services (CSS) establishes parentage and provides genetic testing when appropriate based on the facts of the case, per:

- (1) Sections 653, 654, and 666 of Title 42 of the United States Code (42 U.S.C. §§ 653, 654, & 666);
- (2) Parts 302 and 303 of Title 45 of the Code of Federal Regulations; and
- (3) Sections 83, 90.4, and 7700-101 - 7700-902 of Title 10 of the Oklahoma Statutes (10 O.S. §§ 83, 90.4, and 7700-101 - 7700-902), 43 O.S. §§ 601-201, 601-401, & 601-701, 56 O.S. §§ 230.60, 231 - 240.23, and 63 O.S. §§ 1-311 and 1-321.

(b) **Legal parents.** CSS applies the presumptions in 10 O.S. § 7700-204(A)(1) through (4) to an individual when the individual and the woman who gave birth to the child are married. CSS applies the presumption in 10 O.S. § 7700-204(A)(5) to an individual regardless of gender. CSS requests the court confirm parentage in cases where the individual is a presumed parent.

(c) **Acknowledgment of Paternity.** Form 03PA209E, Acknowledgment of Paternity, can only be completed by the biological mother and biological father of the child, per 10 O.S. § 7700-301. CSS provides Form 03PA209E for voluntary acknowledgment of paternity, per 10 O.S. § 7700-312 and 63 O.S. §§ 1-311 and 1-311.3. CSS also provides companion forms that include instructions for completion, described (1) through (4) of this subsection. Signed and witnessed forms must be filed with the Oklahoma State Department of Health (OSDH), Division of Vital Records.

(1) When parents of an adult child, 18 years of age and older, complete Form 03PA209E, the adult child must give consent to add the natural father's name to the birth certificate. The child indicates consent by signing Form 03PA212E, Adult Child's (18 Years or Older) Consent.

(2) Form 03PA210E, Denial of Parentage, must accompany Form 03PA209E when the mother of a child is married to someone other than the natural father and the child is born within 300-calendar days after the marriage is terminated, per 10 O.S. § 7700-204.

(3) CSS provides Form 03PA211E, Rescission of Acknowledgment of Paternity, to rescind the legal finding of parentage created by having previously signed Form 03PA209E, per 10 O.S. §§ 7700-307 and 7700-312. This form must be completed, signed, and filed with the OSDH Division of Vital Records within 60-calendar days after the date of the last signature on Form 03PA209E.

(A) When a person submits Form 03PA211E within 60-calendar days after the date of the last signature on Form 03PA209E, CSS sends notice of the rescission to all other signatories on Forms 03PA209E and 03PA210E. Notice is given by mailing a copy of the rescission to the address of the signatories as shown on Forms 03PA209E and 03PA210E and to the last-known address of the signatories, if different.

(B) When rescissions are submitted to CSS past the 60-calendar day time period, CSS sends a letter to the person who submitted Form 03PA211E informing him or her that the rescission is invalid because it was not timely submitted.

(4) CSS provides Form 03PA213E, Rescission of Denial of Parentage, to rescind the legal finding of parentage created by having previously signed Form 03PA210E, per 10 O.S. §§ 7700-307 and 7700-312. Form 03PA213E must be completed, signed, and filed with the OSDH Division of Vital Records within 60-calendar days after the date of the last signature on Forms 03PA209E and 03PA210E.

(A) When a person submits Form 03PA213E to CSS within 60-calendar days after the date of the last signatures on Forms 03PA209E and 03PA210E, CSS sends notice to all other signatories of Forms 03PA209E and 03PA210E.

Notice is given by mailing a copy of Form 03PA213E, to the address of the signatories as shown on Forms 03PA209E and 03PA210E and to the last known addresses of the signatories, if different.

(B) When Form 03PA213E is submitted to CSS past the 60-calendar day time period, CSS sends a letter to the person who submitted Form 03PA213E informing him or her that the rescission of denial of parentage is invalid because it was not timely submitted.

(d) **Servicemembers.** When CSS establishes parentage and either parent is a servicemember, CSS applies the provisions of the Servicemembers Civil Relief Act, codified in 50 U.S.C. §§ 3901 through 4043.

(e) **Genetic testing of relatives.** When CSS has the cooperation of a deceased alleged biological father's relatives, CSS establishes parentage of the child(ren) through genetic testing of the relatives as necessary according to the standards and provisions of the Uniform Parentage Act, 10 O. S. §§ 7700-501-7700-511.

(f) **Supplemental Security Income (SSI).** CSS establishes parentage against a parent who is disabled and receiving monthly SSI before reviewing the case for possible closure, per Oklahoma Administrative

Code (OAC) 340:25-5-123.

(g) **Defaults.**

(1) CSS pursues all alleged **biological** fathers before requesting the court enter a default parentage order.

(A) CSS requests a default order when genetic testing shows one alleged father is the biological father or all other alleged fathers are excluded by genetic testing. CSS uses other legal processes to compel genetic testing, such as license revocation or contempt of court proceedings.

(B) CSS requests the court determine parentage when unable to obtain genetic testing on two or more alleged biological fathers.

(2) CSS does not request a default parentage order when the alleged biological father is the case applicant and the CP objects to the alleged biological father being found the father without genetic testing. When a default parentage order is entered and either party contacts CSS in writing within 30-calendar days of entry of the default order, CSS treats the request as a motion to rehear, vacate, or modify, per 12 O.S. § 1031.1. CSS takes necessary steps to bring the action before the court for resolution.

(3) When requesting a default parentage order CSS follows OAC 340:25-5-134.

(h) **Genetic testing costs.** Costs incurred in parentage establishment cases are paid per (1) through (4) of this subsection.

(1) CSS advances the costs for genetic testing and recovers the genetic test costs from the noncustodial parent or as ordered by the court.

(2) When CSS genetic test results are contested, CSS requests payment in advance of a second genetic test by the requesting party.

(3) When a court orders CSS to provide genetic testing and CSS does not have a case open for services, CSS requires a party to complete an application for services.

(4) In interstate cases, CSS follows OAC 340:25-5-270.

(i) **Genetic testing services.**

(1) When parentage is not established, CSS performs genetic testing when appropriate before establishing parentage and child support orders. CSS only performs genetic testing in open, full-service cases.

(2) The case applicant may apply for case closure, per OAC 340:25-5-123 after parentage and child support are established.

(3) CSS does not provide genetic testing only services.

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Amended at 12 Ok Reg 61, eff 10-6-94 (emergency); Amended at 12 Ok Reg 1421, eff 5-26-95 ; Amended at 16 Ok Reg 3468, eff 9-1-99 ; Amended at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 19 Ok Reg 1746, eff 7-1-02 ; Amended at 21 Ok Reg 1344, eff 7-1-04 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 24 Ok Reg 1301, eff 7-1-07 ; Amended at 25 Ok Reg 1307, eff 7-1-08 ; Amended at 26 Ok Reg 1245, eff 7-1-09 ; Amended at 27 Ok Reg 1201, eff 7-1-10 ; Amended at 29 Ok Reg 765, eff 7-1-12 ; Amended at 32 Ok Reg 1860, eff 9-15-15 ; Amended at 35 Ok Reg 1632, eff 9-17-18 ; Amended at 36 Ok Reg 1794, eff 9-16-19 ; Amended at 37 Ok Reg 1802, eff 9-15-20]

**340:25-5-176.1. Challenges to establishment of parentage**

(a) Oklahoma Department of Human Services Child Support Services (CSS) objects to a parentage challenge proceeding, when:

- (1) a party challenges an acknowledgment of paternity (AOP) outside of the rescission time periods per Section 7700-307 of Title 10 of the Oklahoma Statutes (10 O.S. § 7700-307), unless the challenge is filed within the two-year time limit for challenges per 10 O.S. § 7700-308. When a party challenges an AOP within the statutory time limit, the state's attorney reviews the facts of the case to determine whether an objection is appropriate under the circumstances. CSS may object to the proceedings and request the court require the challenging party to prove fraud, duress, or material mistake of fact by clear and convincing evidence;
- (2) the child has a presumed parent and a party initiates a challenge more than two years after the child's birth, unless the parties meet the jurisdictional requirements per 10 O.S. § 7700-607(B) or 7700-607(C); or
- (3) parentage was established by a district or administrative court order per 10 O.S. § 7700-636 and the challenging party is filing outside the 30-calendar day time period to vacate a judgment per 12 O.S. § 1031.1(A).

(b) CSS does not object to a parentage challenge proceeding when the:

- (1) time requirement to rescind an acknowledgment of paternity has not passed;
- (2) parties neither cohabited nor engaged in sexual intercourse and the spouse never held out the child as his or her own, per 10 O.S. § 7700-607(B); or
- (3) mother, legal parent, and biological father agree to adjudicate parentage, per 10 O.S. § 7700-607(C).

(c) When a parentage challenge proceeding is brought by a child per 10 O.S. § 7700-637, the state's attorney reviews the facts of the case and determines whether an objection is appropriate under the circumstances.

(d) When one or both parties timely objects, orally or in writing, to the entry of an order for a child with a presumed parent or alleged father, CSS takes necessary steps to bring the parentage challenge before the appropriate court for resolution.

(e) CSS may initiate a parentage challenge when appropriate.

(f) In any parentage proceeding, CSS requests the court comply with the applicable provisions of the Uniform Parentage Act, including:

- (1) the appointment of a guardian ad litem, when appropriate, per 10 O.S. § 7700-608(C);
- (2) a best interest of the child hearing, per 10 O.S. § 7700-608(A) and (B); and
- (3) genetic testing under 10 O.S. §§ 7700-631 and 621.

[Source: Added at 24 Ok Reg 1301, eff 7-1-07 ; Amended at 26 Ok Reg 1245, eff 7-1-09 ; Amended at 30 Ok Reg 641, eff 7-1-13 ; Amended at 32 Ok Reg 1860, eff 9-15-15 ; Amended at 33 Ok Reg 1592, eff 9-15-16 ; Amended at 35 Ok Reg 1632, eff 9-17-18 ; Amended at 36 Ok Reg 1794, eff 9-16-19]



### **340:25-5-177. Jurisdiction in paternity cases [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Amended at 12 Ok Reg 61, eff 10-6-94 (emergency); Amended at 12 Ok Reg 1421, eff 5-26-95 ; Revoked at 16 Ok Reg 3468, eff 9-1-99]

### **340:25-5-178. Calculating new and modified child support obligations**

(a) **Legal authority.** Oklahoma Human Services Child Support Services (CSS) establishes current child support, per:

- (1) Sections 654, 656, and 666 of Title 42 of the United States Code (42 U.S.C. §§ 654, 656, and 666);
- (2) Parts 302 and 303 of Title 45 of the Code of Federal Regulations; and
- (3) Section 83 of Title 10 of the Oklahoma Statutes (10 O.S. § 83); Title 43; and 56 O.S. §§ 231 through 240.23.

(b) **Child support guidelines.** CSS uses the child support guidelines in 43 O.S. §§ 118-118I and 119 to:

- (1) establish current child support amount; and
- (2) prepare a child support computation form CSS prescribes and the Administrative Office of the Courts publishes on the Oklahoma State Courts Network website, per 43 O.S. § 120.

(c) **Child support computation.** CSS uses the best evidence available to determine a parent's monthly gross income for the child support computation form, including written earning records, past job history, and earning ability based on education and training, with a continued emphasis on setting fair and equitable child support orders, per 43 O.S. §§ 118-118I. When requesting the court enter or modify child support orders in a noncustodial parent's (NCP) multiple cases, CSS may request the court deviate from the child support guidelines amounts, per 43 O.S. § 118H.

(d) **Gross income.** When determining gross income for the child support computation, CSS follows 43 O.S. § 118B.

(e) **Child care.** To establish the current child support amount, CSS considers "actual" child care expenses to be the amount the parent(s) or custodial person (CP) pays to the child care provider. CSS considers a child care subsidy recipient's copay to be the actual child care expenses. CSS determines prospective annual child care costs and allocates this amount between the parents in the same proportion as their adjusted gross income. The amount allocated to the NCP becomes part of the fixed monthly child support obligation.

(f) **Juvenile Court cases.**

(1) **Deprived cases.** When a case is referred, CSS establishes child support orders in deprived court actions, per 10A O.S. § 1-4-702, and prepares the child support order on the standard child support order form CSS prescribes and the Administrative Office of the Courts publishes on the Oklahoma State Courts Network website.

(2) **Delinquent cases.** When a case is referred, CSS establishes a child support order against each parent of a child in the custody

of the Oklahoma Office of Juvenile Affairs, per 43 O.S. §§ 118 through 118I.

(g) **Intergovernmental majority age.** CSS establishes child support orders for a child(ren) for whom child support is impossible under applicable law.

(h) **Minor parents.** When a parent is a minor, CSS establishes paternity, per Oklahoma Administrative Code 340:25-5-176, when necessary, and establishes a child support order.

(1) When a minor NCP or a CP is younger than 16 years of age, CSS does not impute gross income for the minor parent in the child support computation and only uses actual income.

(2) When a minor NCP or CP is between 16 and 18 years of age and regularly and continuously attending high school, unless otherwise inappropriate, CSS uses either the minor parent(s) imputed gross income based on minimum wage at 20 hours per week or actual income.

(i) **Adult disabled child.** CSS enforces child support orders for adults with disabilities, per 43 O.S. § 112.1A. CSS establishes or modifies child support orders to continue after the child reaches the age of majority, per 43 O.S. § 112.1A, when the application or referral for Title IV-D services is received during the period when child support is due, per 43 O.S. § 112.

(j) **Incarcerated NCP.**

(1) Per 43 O.S. §§ 118B and 118I, when an NCP is incarcerated for more than 180 consecutive days, CSS requests the court enter a child support and medical support order using actual income of \$0, unless:

(A) there is evidence of income or assets independent of incarceration;

(B) incarceration is a result of indirect contempt of court for failure to pay child support;

(C) incarceration is a result of a crime of omission to provide child support; or

(D) the incarceration is a result of an offense in which the CP dependent child or the CP was a victim.

(2) When an NCP is released from incarceration, and:

(A) an existing child support order is abated, the monthly child support obligation reverts back to the pre-incarceration order amount beginning the first day of the month following a lapse of 90-calendar days upon release from incarceration, per 43 O.S. §§ 118B and 118I; or

(B) there is no existing child support order, CSS requests the court order state that upon release from incarceration, the monthly child support amount is set based on 43 O.S. §§ 118B and 118I.

(k) **Military.** When CSS establishes a child support order for a Servicemember's child, CSS applies the provisions of the Servicemembers Civil Relief Act, codified in 50 U.S.C. §§ 3901 through 4043.

(l) **Disability benefits.** CSS does not impute gross income to a person the Social Security Administration determines disabled.

(m) **Default orders.** When a default order for child support is ordered and either party contacts CSS in writing within 30-calendar days of the entry of the default order and provides information to calculate an accurate child support obligation, CSS treats the request as a motion to vacate or modify, and requests the court enter a new order consistent with the evidence presented.

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Amended at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 18 Ok Reg 1226, eff 7-1-01 ; Amended at 19 Ok Reg 1746, eff 7-1-02 ; Amended at 20 Ok Reg 1240, eff 7-1-03 ; Amended at 21 Ok Reg 1344, eff 7-1-04 ; Amended at 21 Ok Reg 3155, eff 7-22-04 (emergency); Amended at 22 Ok Reg 1221, eff 7-1-05 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 24 Ok Reg 1301, eff 7-1-07 ; Amended at 25 Ok Reg 1307, eff 7-1-08 ; Amended at 26 Ok Reg 1245, eff 7-1-09 ; Amended at 27 Ok Reg 1201, eff 7-1-10 ; Amended at 28 Ok Reg 812, eff 7-1-11 ; Amended at 29 Ok Reg 765, eff 7-1-12 ; Amended at 31 Ok Reg 1833, eff 9-15-14 ; Amended at 32 Ok Reg 1860, eff 9-15-15 ; Amended at 33 Ok Reg 1592, eff 9-15-16 ; Amended at 35 Ok Reg 1632, eff 9-17-18 ; Amended at 36 Ok Reg 1794, eff 9-16-19 ; Amended at 37 Ok Reg 1802, eff 9-15-20 ; Amended at 39 Ok Reg 176, eff 10-20-21 (emergency); Amended at 39 Ok Reg 1721, eff 9-15-22 ; Amended at 40 Ok Reg 954, eff 9-15-23 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:25-5-179. Duration of support [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Amended at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Revoked at 41 Ok Reg, Number 23, effective 9-16-24]

#### **340:25-5-179.1. Establishment of support for a prior period**

(a) In parentage cases, Oklahoma Human Services Child Support Services (CSS) establishes current support and support for a prior period per Sections 83 and 7700-636 of Title 10 of the Oklahoma Statutes (10 O.S. §§ 83 and 7700-636), 43 O.S. §§ 118-118I and 119, and 56 O.S. §238.6B. CSS seeks a zero dollar support amount for prior periods the noncustodial parent (NCP) resided with the custodial person and provided support for the child. When establishing support for a prior period CSS goes back to the lesser of:

- (1) two years prior to the filing of the petition; or
- (2) the birth month of the child.

(b) When a child support order is entered against a minor NCP, CSS establishes support for a prior period under the criteria for establishing current child support, per Oklahoma Administrative Code (OAC) 340:25-5-178.

(c) CSS does not establish an order for support for a prior period on an incarcerated NCP.

(d) When CSS establishes an order for support for a prior period for a child of an NCP or a custodial person who is a servicemember, CSS applies the provisions of the Servicemembers Civil Relief Act, codified in Sections 3901 through 4043 of Title 50 of the United States Code.

(e) When the NCP is a current Temporary Assistance for Needy Families (TANF) or Supplemental Security Income (SSI) recipient and CSS:

- (1) has information that the NCP had no obligation based on the child support guidelines for the prior period, CSS requests the court set the judgment at \$0; or
- (2) determines a debt may be owed for a prior period, CSS requests the court reserve the issue of support for a prior period

until the NCP is no longer receiving TANF or SSI.  
(f) CSS sets a monthly payment schedule per OAC 340:25-5-140.

[Source: Added at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 20 Ok Reg 1240, eff 7-1-03 ; Amended at 21 Ok Reg 1344, eff 7-1-04 ; Amended at 22 Ok Reg 1221, eff 7-1-05 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 24 Ok Reg 1301, eff 7-1-07 ; Amended at 25 Ok Reg 1307, eff 7-1-08 ; Amended at 28 Ok Reg 812, eff 7-1-11 ; Amended at 29 Ok Reg 765, eff 7-1-12 ; Amended at 30 Ok Reg 1350, eff 7-1-13 ; Amended at 32 Ok Reg 1860, eff 9-15-15 ; Amended at 36 Ok Reg 1794, eff 9-16-19 ; Amended at 37 Ok Reg 1802, eff 9-15-20 ; Amended at 38 Ok Reg 2222, eff 9-15-21 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:25-5-180. Non-child specific orders versus child specific orders [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-181. Requests for modification [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-182. Review and adjustment [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Amended at 11 Ok Reg 4351, eff 7-8-94 (emergency); Amended at 12 Ok Reg 387, eff 11-17-94 (emergency); Amended at 12 Ok Reg 1421, eff 5-26-95 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-183. Establishment of medical support [AMENDED AND RENUMBERED TO 340:25-5-168]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Amended at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 19 Ok Reg 1746, eff 7-1-02 ; Amended at 20 Ok Reg 1240, eff 7-1-03 ; Amended and renumbered to 340:25-5-168 at 21 Ok Reg 1344, eff 7-1-04]

### **340:25-5-184. Establishment of medical support only [AMENDED AND RENUMBERED TO 340:25-5-169]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Amended at 17 Ok Reg 2426, eff 7-1-00 ; Amended and renumbered to 340:25-5-169 at 21 Ok Reg 1344, eff 7-1-04]

### **340:25-5-185. Establishment of spousal support [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

#### **340:25-5-185.1. Docketing**

The Child Support Enforcement Division promptly docket child support orders entered by the Oklahoma Department of Human Services Office of Administrative Hearings: Child Support within 30 days with the appropriate district court under Sections 238.1, 238.6B, and 240.2 of Title 56 of the Oklahoma Statutes. Prompt docketing gives notice of the existence of the administrative order so other issues will be filed in the

same district court case number.

[Source: Added at 19 Ok Reg 1746, eff 7-1-02 ; Amended at 20 Ok Reg 1240, eff 7-1-03 ; Amended at 22 Ok Reg 1221, eff 7-1-05]

### **340:25-5-186. Temporary child support [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-187. General procedures in establishing support [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-188. Procedures for establishment of support through District Court [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-189. Procedures for establishing support [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-190. Service of process**

(a) **Authority.** Oklahoma Human Services Child Support Services (CSS) follows the provisions of Section 2004 of Title 12 of the Oklahoma Statutes (12 O.S. § 2004) for service of process. CSS uses the most cost effective and efficient method of service of process depending on what is most appropriate under the facts of the case.

(b) **Service by regular mail to address of record (AOR).** Service to the AOR by regular mail may be appropriate when an AOR is on file with the Central Case Registry for a party in the case per Oklahoma Administrative Code 340:25-5-340. When the party has provided to CSS an email address, CSS sends the pleadings and acknowledgement and waiver of service documents to that email address at the same time as mailing to the AOR by regular mail. Service to the AOR is not appropriate when the:

- (1) remedy sought may result in the obligor's incarceration including, but not limited to, indirect civil contempt actions; or
- (2) court may require a higher level of notice to the affected party including, but not limited to, actions to determine paternity.

(c) **Service by acknowledgment.** CSS delivers the documents directly to a party and requests the party accepts and acknowledges service, as appropriate. The Acknowledgment of Service is filed in the court case.

(d) **Service by certified mail.** Service by mail is made by certified mail, return receipt requested, and delivery restricted to the addressee. CSS uses service by certified mail when service to the AOR or by

Acknowledgment of Service is not appropriate or successful. CSS staff is not required to attempt service by certified mail before attempting personal service when the case history indicates a low probability of acceptance or the court requires personal service.

(e) **Service by personal delivery.** Service by personal delivery is completed by a sheriff, deputy sheriff, individual licensed to make service of process in civil cases, or an individual specially appointed for that purpose per 12 O.S. § 2004. CSS uses service by personal delivery when:

- (1) an individual has not accepted service by certified mail;
- (2) service to the AOR or by acknowledgment is not available or appropriate;
- (3) case history indicates a low probability of acceptance of service by certified mail; or
- (4) the court requires service by personal delivery.

(f) **Service by electronic means.**

(1) After service of the initial pleadings, CSS serves subsequent documents to the party electronically when the party or party's attorney:

- (A) consents in writing to receive service in a particular case by electronic means and
- (B) designates an email address for sending the electronic service.

(2) The required written consent and electronic service instructions may be made in:

- (A) the entry of appearance filed by the party or party's attorney per 12 O.S. § 2005.2; or
- (B) another document filed by the party or party's attorney in the court case.

(3) CSS may consent to electronic service per 12 O.S. § 2005.2 at the discretion of the state's attorney.

(g) **Diligent efforts.** When CSS contracts with vendors for service of process, the vendor must make diligent efforts to complete service and provide timely documentation to CSS. Diligent efforts means at least three-repeated attempts to serve the individual at different times of day or on different days of the week, before declaring inability to serve. CSS:

- (1) attempts to serve process in the manner, at the time, and place most reasonably calculated to complete service of process in the most efficient and cost effective manner;
- (2) makes diligent efforts to serve process utilizing all information:

- (A) CSS staff provides;
- (B) documented in the case record; or
- (C) gathered from other locate resources;

(3) provides address and employer information to the process server;

(4) attempts to serve the person at:

- (A) work;
- (B) home; or
- (C) other locations based on information gathered on his or her lifestyle; and

(5) documents all facts about attempts to serve process in the case record.

(h) **Minor parent.** CSS serves a minor parent who is:

(1) 15 years of age and older per 12 O.S. § 2004; or

(2) younger than 15 years of age, through a parent, guardian, or other appropriate adult as the next friend of the minor parent.

(i) **Subsequent Electronic Service.** A party or party's attorney completes a Notice of Consent to Electronic Service or recognized substitute must be completed by a party or party's attorney and filed with the court in accordance with 12 O.S. § 2005(B) and applies to an individual court action. Pleadings asserting new or additional claims require a new consent of electronic service.

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00 ; Added at 39 Ok Reg 1721, eff 9-15-22 ; Amended at 40 Ok Reg 954, eff 9-15-23]

### **340:25-5-191. Diligent efforts to serve process [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-192. Establishment of support debts/judgments [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Amended at 11 Ok Reg 4355, eff 7-8-94 (emergency); Amended at 11 Ok Reg 1421, eff 5-26-95 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-193. Administrative process [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-194. Judicial process [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-195. Calculation of support debt when non-custodial parent has made unrecorded payments [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-196. Calculation of child support judgements not covered by court order in non-public assistance cases [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

## PART 22. REVIEW AND MODIFICATION

### **340:25-5-198. Review and modification of support orders**

In reviewing and modifying support orders as described in this Part, the Oklahoma Department of Human Services Child Support Services follows applicable provisions of:

- (1) Title 43 and Sections 231 through 240.23 of Title 56 of the Oklahoma Statutes;
- (2) Section 303.8 of Title 45 of the Code of Federal Regulations;
- and
- (3) Section 666 of Title 42, Sections 3901 through 4043 of Title 50, and Section 1738B of Title 28 of the United States Code.

[Source: Added at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 19 Ok Reg 1746, eff 7-1-02 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 36 Ok Reg 1794, eff 9-16-19]

#### **340:25-5-198.1. Review of a child support order**

(a) **Purpose.** The purpose of the review process is to determine whether a child support order should be modified to ensure substantial compliance with the child support guidelines in Sections 118-118I through 119 of Title 43 of the Oklahoma Statutes (43 O.S. §§ 118-118I & 119) and Oklahoma Administrative Code (OAC) 340:25-5-178.

(b) **Notification requirements.** At least once every three years after a child support order is established, reviewed, or modified, Oklahoma Human Services (OKDHS) Child Support Services (CSS) notifies all parties in a full-service case of the right to request a review of the child support order and the process for requesting a review.

(c) **Authority for review.** CSS conducts a review every three years in cases with a Temporary Assistance for Needy Families (TANF) assignment. CSS determines the tribunal with jurisdiction under subsection (e) of the Full Faith and Credit for Child Support Orders Act, codified in Section 1738B(e) of Title 28 of the United State Code (28 U.S.C. § 1738B(e)) and the Uniform Interstate Family Support Act (UIFSA) in 43 O.S. §§ 601-101 through 601-903 to modify the order. When another tribunal has jurisdiction to modify the child support order, CSS follows the provisions in (j) of this Section. When Oklahoma has jurisdiction to modify the child support order, CSS follows the provisions of this subsection. CSS completes the review and modification process within 180-calendar days after a request is received or the non-requesting party is located, whichever is later.

(d) **Initiation of review.**

(1) CSS reviews an order upon written request by a customer or on its own initiative:

(A) when there is a material change in circumstances per 43 O.S. § 118I;

(B) per 56 O.S. § 237 when the evidence in the case justifies a modification , per OAC 340:25-5-198.2, regardless of whether there is a change of circumstances; or



(C) per Section 303.8 of Title 45 of the Code of Federal Regulations and OAC 340:25-5-178(k), when the noncustodial parent (NCP) is incarcerated.

(2) CSS notifies the parties of the review with instructions for submitting financial and other information required for the review.

(3) CSS does not initiate a review upon customer request when:

(A) the non-initiating party is not located;

(B) it has been less than 12 months since the child support order was established, reviewed, or modified unless there is a material change of circumstances;

(C) the preliminary information indicates the change of circumstances does not significantly impact the child support amount or the change of circumstances is temporary; or

(D) there is evidence the monthly child support amount or judgment payment is based on a NCP's ability to pay and the NCP is working in a job consistent with the NCP's education and training.

(4) When CSS determines the customer review request does not meet the provisions in (1) of this subsection, CSS provides available pro se self-help modification forms to the customer.

(5) CSS does not seek an upward modification of a child support order or a judgment payment upon request when an NCP is:

(A) employed full-time in an occupation consistent with the NCP's education and training;

(B) ordered to pay more than 20 percent of the NCP's gross income; and

(C) is not paying the full court-ordered monthly child support amount.

(e) **Medical enforcement only (MEO) cases.**

(1) When either the custodial person or the noncustodial parent requests a review, CSS changes the services offered from an MEO to a full-service case. CSS notifies the parties of the change in services provided.

(2) When the non-applicant requests the review, the non-applicant must complete Form 03EN001E, Application for Child Support Services, per OAC 340:25-5-110.

(f) **Initial review.** Within 15-calendar days after receiving a request for a review, CSS determines if the criteria described in (d)(1) of this Section are met. CSS notifies the requesting person when the criteria for review are not met. If the criteria are met, CSS may:

(1) request further information as necessary from the parties; or

(2) proceed with the review process when CSS considers it has information sufficient to complete the process.

(g) **Final review.** Within 30-calendar days after the deadline for the parties to submit requested financial and other information to CSS, per (d) of this Section, CSS completes the review process and notifies parties of its determination as to whether the support order should be modified.

(h) **Modification after review.** CSS staff follows OAC 340:25-5-198.2 to determine if the child support order is modified after the review process

is complete.

**(i) Termination of the review process.**

(1) The person requesting a review may withdraw the request after the review process begins, upon CSS approval. CSS does not accept requests to withdraw the review after making a determination that the child support order be modified.

(2) When the requesting person fails to supply information requested by CSS as instructed, CSS may terminate the review process, unless CSS or the non-requesting party requests the process continue.

(3) When CSS initiates the review, failure of the parties to return requested information does not stop the review process. CSS proceeds, using the best information available.

**(j) Interstate cases.**

(1) When a tribunal other than an Oklahoma district or administrative court has jurisdiction under UIFSA to modify an order, CSS obtains the information necessary for the review.

(A) CSS transmits the documents to the Title IV-D agency in the other state within 20-calendar days after receipt of the request to modify the order and of the completed documents from the person requesting the modification.

(B) CSS issues and enforces a subpoena to compel compliance with the request for documents if the non-requesting party fails to return the required documents or CSS is unable to obtain the necessary information to proceed and an Oklahoma tribunal has personal jurisdiction over the non-requesting party.

(C) CSS may terminate the review process in an interstate case per (i) of this Section and 43 O.S. §§ 601-611 and 601-615.

(2) When Oklahoma has jurisdiction to modify the order of another state or foreign country per 43 O.S. § 601-102, the order is registered in Oklahoma for modification per 28 U.S.C. § 1738B(i) and 43 O.S. §§ 601-609 through 601-616.

[Source: Added at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 20 Ok Reg 1240, eff 7-1-03 ; Amended at 21 Ok Reg 1344, eff 7-1-04 ; Amended at 21 Ok Reg 3155, eff 7-22-04 (emergency); Amended at 22 Ok Reg 1221, eff 7-1-05 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 24 Ok Reg 1301, eff 7-1-07 ; Amended at 26 Ok Reg 3036, eff 7-21-09 (emergency); Amended at 27 Ok Reg 1201, eff 7-1-10 ; Amended at 28 Ok Reg 812, eff 7-1-11 ; Amended at 31 Ok Reg 1833, eff 9-15-14 ; Amended at 33 Ok Reg 1592, eff 9-15-16 ; Amended at 35 Ok Reg 1632, eff 9-17-18 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

**340:25-5-198.2. Modification**

**(a) Authority for modification.** Oklahoma Human Services Child Support Services (CSS) may initiate modification of a child support order per Section 303.8 of Title 45 of the Code of Federal Regulations (45 C.F.R. §303.8), Sections 112, 118-118I, 118.1, 119, 601-611, 601-613, and 601-615 of Title 43 of the Oklahoma Statutes (43 O.S. §§ 112, 118-118I, 118.1, 119, 601-611, 601-613, and 601-615), and 56 O.S. § 237. CSS initiates a modification in the appropriate tribunal when facts indicate modification is warranted under applicable state or federal law or

regulation.

(b) **Modification of child support order.** CSS seeks a modification when:

(1) there is a material change in circumstances per 43 O.S. § 118I. For this purpose, a material change in circumstances occurs when the child support obligation would increase or decrease by 20 percent but not less than \$30. Changes in circumstances include but are not limited to:

- (A) a change in either parent's gross income ;
- (B) a change in child care ;
- (C) a change in medical;
- (D) a child reaching the age of majority per 43 O.S. § 112;
- (E) when there is a change in physical custody verified, per Oklahoma Administrative Code (OAC) 340:25-5-201.1;
- (F) when the noncustodial parent (NCP) is incarcerated for more than 180-consecutive days per 45 C.F.R. § 303.8 and OAC 340:25-5-178(k); or
- (G) when the Social Security Administration determines one of the parents is disabled and the parent is receiving Supplemental Security Income or Social Security Disability Income; or

(2) per 56 O.S. § 237 , the evidence in the case justifies a modification regardless of whether there has been a change of circumstances including, but not limited to, when:

- (A) the original order fails to set child support according to the guidelines;
- (B) an adjustment is needed to maximize a NCP's available income to meet the current child support obligation in each of the NCP's cases; or
- (C) a parent provides proof the child support obligation is being satisfied in full or in part by an apportionment of the veteran's disability compensation.

(c) **Modification of medical support order.**

(1) CSS seeks a modification of a medical support order, when:

- (A) there is no existing order for either parent to provide dependent health care coverage. CSS initiates a modification of a support order to require either or both parents to provide dependent health care coverage when CSS obtains information the child(ren) is not covered under an existing health care plan, regardless if coverage is currently available to either parent;
- (B) the availability of medical insurance changes;
- (C) there is an order for the custodial person to provide medical support for the minor child(ren) and enforcement of the order is not appropriate per 43 O.S. § 139.1 or 21 O.S. § 566;
- (D) an order for the NCP to provide medical insurance and the release of information necessary for enrollment of the child is inappropriate due to family violence and a cash medical order is appropriate per OAC 340:25-5-198; or

(E) there is an order for a parent to provide medical insurance, the applicant for child support services did not request services against that parent, and the ordered parent is not actually providing medical insurance for the child.

(2) When CSS participates in the modification of a child support order filed by a party, CSS requests the court order contain a provision for medical support consistent with OAC 340:25-5-168.

(3) When a child support order exists, CSS considers a request to establish a medical support order as a request for modification of the order per 43 O.S. § 118.1. CSS seeks a medical support order in a tribunal with jurisdiction to modify the child support order and follows procedures per OAC 340:25-5-198.1.

(4) When cash medical support is ordered as part of a modification action, CSS requests a cash medical support order be effective the first day of the month following the entry of the order.

[Source: Added at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 18 Ok Reg 1226, eff 7-1-01 ; Amended at 20 Ok Reg 1240, eff 7-1-03 ; Amended at 21 Ok Reg 1344, eff 7-1-04 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 24 Ok Reg 1301, eff 7-1-07 ; Amended at 25 Ok Reg 1307, eff 7-1-08 ; Amended at 27 Ok Reg 1201, eff 7-1-10 ; Amended at 28 Ok Reg 812, eff 7-1-11 ; Amended at 31 Ok Reg 1833, eff 9-15-14 ; Amended at 32 Ok Reg 1860, eff 9-15-15 ; Amended at 34 Ok Reg 1465, eff 9-15-17 ; Amended at 35 Ok Reg 1632, eff 9-17-18 ; Amended at 39 Ok Reg 176, eff 10-20-21 (emergency); Amended at 39 Ok Reg 1721, eff 9-15-22 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

## **PART 23. ENFORCEMENT**

### **340:25-5-200. Enforcement**

(a) **Scope and applicability.** Oklahoma Human Services Child Support Services (CSS) follows Part D of Subchapter IV of Chapter 7 of Title 42 and Section 1738B of Title 28 of the United States Code (28 U.S.C. § 1738B) Section 303.6 of Title 45 of the Code of Federal Regulations (45 C.F.R. § 303.6), and Section 240.1 of Title 56 of the Oklahoma Statutes (56 O.S. § 240.1) in initiating enforcement proceedings.

(1) Orders for current and past child and spousal support, health care coverage, fixed amounts of medical support, judgments, and delinquencies may be enforced through expedited and judicial processes, or through other collection efforts.

(2) Past-due child support is a judgment by operation of law and may be enforced in the same manner as any other money judgment, per 43 O.S. § 137.

(3) Post-judgment remedies do not require an adjudicated judgment by a district or administrative court.

(4) Each missed support payment is a judgment; thus, a judgment increases with each missed payment. This total judgment becomes a lien on the noncustodial parent's (NCP) real and personal property.

(b) **Non-Oklahoma support order.** CSS registers a support order from another state, Native American tribe, territory, or foreign country, per subsection (b) of the Full Faith and Credit for Child Support Orders Act

codified in 28 U.S.C. § 1738B(b) and 43 O.S. § 601-101(21) when enforcement of the order is sought.

(c) **Multiple support orders.** When multiple child support orders are entered in the same or different tribunals involving the same NCP and child, CSS seeks a determination of controlling order, per 43 O.S. §§ 601-207, 601-307, and 601-601 through 601-603 and Oklahoma Administrative Code (OAC) 340:25-5-270.

(d) **Legal remedies.** CSS determines appropriate enforcement actions and may use any legal remedy to enforce support obligations. CSS chooses remedies designed to obtain compliance with an obligor's support obligations and does not use any remedy for the purpose of punishment. When an NCP is participating in the CSS problem-solving court program or complying with a seek work order, CSS considers the NCP's participation and compliance, per OAC 340:25-5-200.3, when choosing enforcement remedies. Remedies CSS may use include, but are not limited to:

- (1) annual notice to NCP, per 56 O.S. § 237A and OAC 340:25-5-213;
- (2) income assignment, garnishment, and levy, per Chapter 21 of Title 12 Oklahoma Statutes, 43 O.S. §§ 115 and 601-501 through 601-507, 56 O.S. §§ 237, 240.2, and 240.23, and 42 U.S.C. § 666;
- (3) hearing on assets, per 12 O.S. § 842;
- (4) intercept of federal tax refunds, per 42 U.S.C. § 664, 31 C.F.R. § 285.3, and 45 C.F.R. § 303.72, OAC 340:25-5, Part 25;
- (5) Intercept of state tax refunds, per 45 C.F.R. § 303.102, 68 O.S. § 205.2, and OAC 340:25-5, Part 27;
- (6) administrative offsets per 31 U.S.C. § 3716, 31 C.F.R. § 285.1, and Executive Order 13019;
- (7) denial, revocation, or suspension of United States passports, per 56 O.S. § 240.1 and 42 U.S.C. §§ 652 and 654;
- (8) revocation, suspension, non-renewal, and non-issuance of various licenses,, per, 47 O.S. §§ 1-153, 6-201, and 6-211, and 56 O.S. §§ 237.1 and 240.15 through 240.21A;
- (9) imposing liens and executing and levying on personal and real property, including, but not limited to, workers' compensation benefits, personal injury, wrongful death, and probate actions, per 43 O.S. § 135, 56 O.S. §§ 237B and 240.23, and Titles 12 and 58 of the Oklahoma Statutes;
- (10) registration of foreign support orders and judgments, per the Uniform Interstate Family Support Act per 43 O.S. §§ 601-100 through 601-903 and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. §§ 719 through 726;
- (11) credit bureau referrals, per 42 U.S.C. § 666 and 15 U.S.C. § 1681b, 56 O.S. § 240.7, and OAC 340:25-5, Part 31;
- (12) financial institution data match, per 42 U.S.C. §§ 666 and 669A, 56 O.S. §§ 240.22 through 240.22G, and OAC 340:25-5-212;
- (13) seek work orders, per 56 O.S. § 240.10;
- (14) indirect civil contempt of court, per 21 O.S. §§ 566 and 567, 43 O.S. § 137, and 56 O.S. § 234. CSS does not use contempt as a penal sanction and does not recommend incarceration to the district court at sentencing in an indirect civil contempt

proceeding unless there is evidence or information available that the can purge the contempt. CSS asks the court to set a reasonable purge fee, per Rule 8.3 of the Rules of the District Court;

(15) when a debtor transfers income or property to avoid child support payments, action to void the transfer or obtain favorable settlement per the Uniform Fraudulent Transfer Act, 24 O.S. §§ 112 through 123 and 42 U.S.C. § 666;

(16) criminal actions brought per 21 O.S. § 852;

(17) civil actions brought per 42 U.S.C. § 660;

(18) transfer of child support obligation to another custodian, per 56 O.S. § 237;

(19) referral to the United States Attorney for federal prosecution, per 18 U.S.C. § 228;

(20) full collection services by the Secretary of the Treasury, per 6305 of the Internal Revenue Code of 1954; and

(21) attachment of lottery prize winnings from the Oklahoma Lottery Commission, per 3A O.S. § 724.1.

(e) **Servicemember.** When CSS initiates proceedings to enforce a child support order for a child of an NCP or a custodial person who is a servicemember, CSS applies the provisions of the Servicemembers Civil Relief Act, per 50 U.S.C. §§ 3901 through 4043.

(f) **Incarcerated NCP.** When an NCP is incarcerated for 180-consecutive days, CSS follows 43 O.S. §118I and OAC 340:25-5-140 regarding abatement of child support orders.

(g) **Spousal Support.** CSS enforces a spousal support obligation for a spouse or former spouse per 42 U.S.C. § 654 and 45 C.F.R. § 302.31 when CSS is enforcing that spouse's or former spouse's current child support obligation.

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Amended at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 18 Ok Reg 1226, eff 7-1-01 ; Amended at 19 Ok Reg 1746, eff 7-1-02 ; Amended at 23 Ok Reg 627, eff 1-11-06 (emergency); Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 24 Ok Reg 1301, eff 7-1-07 ; Amended at 25 Ok Reg 1307, eff 7-1-08 ; Amended at 29 Ok Reg 765, eff 7-1-12 ; Amended at 33 Ok Reg 1592, eff 9-15-16 ; Amended at 34 Ok Reg 1465, eff 9-15-17 ; Amended at 35 Ok Reg 1632, eff 9-17-18 ; Amended at 36 Ok Reg 1794, eff 9-16-19 ; Amended at 38 Ok Reg 2222, eff 9-15-21 ; Amended at 39 Ok Reg 176, eff 10-20-21 (emergency); Amended at 39 Ok Reg 1721, eff 9-15-22 ; Amended at 40 Ok Reg 954, eff 9-15-23]

### **340:25-5-200.1. Administrative review process**

(a) When the opportunity for administrative review is specifically provided by statute, federal regulation, or administrative rule, and a procedure for administrative review is not otherwise prescribed, Child Support Services (CSS) uses the procedure described in this Section.

(b) CSS notifies parties of the opportunity to request an administrative review of the action by regular mail. Notices include the date of mailing, a description of the grounds for requesting administrative review, and instructions for the time and manner to request the review in writing.

(c) Upon timely receipt of a written request for an administrative review, the CSS office conducts a review within 30-calendar days or within a shorter period when otherwise required. Reviews are usually desk reviews completed by CSS staff using available information from the parties and electronic resources. When a meeting or phone conference is

necessary, CSS notifies the parties.

(d) The review is conducted by a CSS representative. The representative may contact any of the parties when additional information or clarification is required.

(e) After completion of the review, the CSS office issues a notice of administrative review decision regarding the disputed action. CSS mails the notice of the administrative review decision to the parties by regular mail.

(f) When the parties disagree with the notice of administrative review decision, the parties have 20-calendar days from the date of mailing the review decision to request a hearing.

[Source: Added at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 29 Ok Reg 765, eff 7-1-12 ; Amended at 33 Ok Reg 1592, eff 9-15-16]

### **340:25-5-200.2. Enforcement of spousal support [REVOKED]**

[Source: Added at 20 Ok Reg 1240, eff 7-1-03 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Revoked at 40 Ok Reg 954, eff 9-15-23]

### **340:25-5-200.3. Problem-Solving Court Program [REVOKED]**

[Source: Added at 33 Ok Reg 1592, eff 9-15-16 ; Amended at 34 Ok Reg 1465, eff 9-15-17 ; Revoked at 40 Ok Reg 954, eff 9-15-23]

### **340:25-5-201. Income assignment [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-201.1. Termination or amendment of income withholding**

Oklahoma Child Support Services (OCSS) amends or terminates the Order/Notice to Withhold Income for Child Support, as appropriate, to stop:

- (1) withholding only current support when a noncustodial parent obtains physical custody of all children who are the subject of the support order, or when the parties to the case reunite. OCSS does not amend the Order/Notice to Withhold Income for Child Support if there is any indication of parental kidnapping or involuntary relinquishment;
- (2) all withholding when the applicant for services requests closure of a non-public assistance case; or
- (3) all withholding when the case is updated as medical enforcement only.

[Source: Added at 20 Ok Reg 1240, eff 7-1-03 ; Amended at 22 Ok Reg 1221, eff 7-1-05 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 26 Ok Reg 1245, eff 7-1-09 ; Amended at 29 Ok Reg 765, eff 7-1-12]

### **340:25-5-202. Immediate wage withholding [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-203. Intercepts**

(a) **Unemployment compensation intercept.** Oklahoma Human Services, Child Support Services (CSS) withholds past-due and current child support from unemployment insurance benefit amounts , per Section 654 of Title 42 of the United States Code, Section 302.65 of Title 45 of the Code of Federal Regulations, and Section 2-801 of Title 40 of the Oklahoma Statutes (40 O.S. § 2-801).

(b) **Lottery winnings intercept.**

- (1) CSS files claims with the Oklahoma Lottery Commission against lottery prize winnings, per 3A O.S. § 724.1, to collect:
  - (A) child support arrearages, child support judgments and interest thereon, past-due alimony, and judgments for child care costs and medical expenses; and
  - (B) overpayments CSS establishes, per Oklahoma Administrative Code (OAC) 340:25-5-305 and 340:25-5-312.
- (2) CSS files a claim for cases in which at least \$150 in past-due support or overpayment is owed.
- (3) Within five-business days after filing a claim with the Oklahoma Lottery Commission, CSS sends a notice by regular mail to the noncustodial parent (NCP). The notice includes:
  - (A) that a claim has been filed with the Oklahoma Lottery Commission;
  - (B) the basis for the claim;
  - (C) that the NCP has the right to contest the claim by requesting an administrative review in writing within ten-business days of the date on the notice from CSS; and
  - (D) that the administrative review is granted only when:
    - (i) there is a mistake of identity; or
    - (ii) the amount of arrearage or judgment is incorrect.
- (4) After the administrative review, CSS issues a notice of administrative review decision and information about requesting an administrative hearing. The NCP may request a hearing in writing within 20-calendar days after the date of the administrative review decision.
- (5) Upon timely receipt of a written request for an administrative hearing, CSS schedules the matter for an administrative hearing before the Office of Administrative Hearings: Child Support (OAH). OAH conducts a hearing and enters an order determining the contested issues.
- (6) If the NCP settles the arrearage or judgment with CSS before expiration of the 30-calendar day administrative review period, as per OAC 340:25-5-200.1, CSS notifies the Oklahoma Lottery Commission in writing or by electronic media that the claim has been released.

(c) **Insurance Intercepts.**



(1) CSS maintains an insurance intercept match process to identify NCP assets and issue liens and levies on claims against NCPs who are in noncompliance with an order for support, per 56 O.S. § 237B.

(2) The following words and terms, when used in this Section, shall have the following meanings:

(A) **"Claimant"** means *either a first party claimant, a third party claimant, or both, and includes such claimant's designated legal representatives and includes a member of the claimant's immediate family designated by the claimant.* (36 O.S. §1250.2)

(B) **"Third party claimant"** means *any individual, corporation, association, partnership, or other legal entity asserting a claim against any individual, corporation, association, partnership, or other legal entity insured under an insurance policy or insurance contract.* (36 O.S. §1250.2)

(3) Insurance companies subject to the requirements of 56 O.S. § 237B are not required to check for matches of any claimant's claims where the claimant is 13 years of age or younger.

(4) CSS accepts either a claimant's Social Security number or name and date of birth as match verification criteria for compliance with 56 O.S. § 237B.

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Amended at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:25-5-203.1. Collection from lottery prize winnings [REVOKED]**

[Source: Added at 23 Ok Reg 627, eff 1-11-06 (emergency); Added at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 28 Ok Reg 812, eff 7-1-11 ; Revoked at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:25-5-203.2. Insurance intercept [REVOKED]**

[Source: Added at 26 Ok Reg 1245, eff 7-1-09 ; Revoked at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:25-5-204. Workers compensation [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-205. Contempt [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-206. Contempt procedures [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-207. Liens against real and personal property [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ;  
Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-208. Attachment, levy, and execution [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ;  
Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-209. Garnishment [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ;  
Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-210. Hearing on assets [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ;  
Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-211. License revocation [REVOKED]**

[Source: Added at 13 Ok Reg 951, eff 1-2-96 (emergency); Added at 13 Ok Reg 2173, eff 6-14-96 ;  
Revoked at 17 Ok Reg 2426, eff 7-1-00]

#### **340:25-5-211.1. License revocation and reinstatement for failure to comply with child support order**

(a) **Legal basis.** Oklahoma Department of Human Services Child Support Services (CSS) follows Sections 139 and 139.1 of Title 43 of the Oklahoma Statutes (43 O.S. §§ 139 and 139.1), 47 O.S. §§ 1-153, 6-201, 6-201.1, and 6-211, and 56 O.S. §§ 237.1, 240.15 through 240.17, and 240.19 through 240.21A in processing enforcement actions to order the revocation, suspension, non-issuance, nonrenewal, or probation of a license for a noncustodial parent (NCP) who is not in compliance with an order for child support.

#### **(b) License Reinstatement Process.**

(1) **Request for license reinstatement; desk review.** When CSS receives a written request to reinstate a license, CSS conducts a desk review of the case file within 15-calendar days after receipt of a written request for reinstatement.

(2) **Compliance with payment plan.** When CSS determines an NCP is complying with a court-ordered payment plan and other terms of a support order, and the reinstatement provisions of 43 O.S. § 139.1 or 56 O.S. § 240.17, CSS requests a reinstatement of the license from the tribunal that revoked the license.

(3) **Alternative compliance.** CSS may request a reinstatement of the license when:

(A) the NCP is actively participating in the CSS problem-solving court program per Oklahoma Administrative Code 340:25-5-200.3 and 43 O.S. § 140 or complying with a seek

work order per 56 O.S. § 240.10; and  
(B) a CSS state's attorney determines reinstating the NCP's license will increase the NCP's likelihood to pay support.

**(4) Noncompliance with payment plan.**

(A) When CSS determines an NCP is not complying with a court-ordered payment plan, other terms of a support order, or the reinstatement provisions per 43 O.S. § 139.1, CSS sends a notice to the NCP that the request for reinstatement of a license is denied. The notice advises the NCP that he or she has 15-calendar days to request a reinstatement hearing in writing. Upon timely receipt of a written request for a hearing, CSS schedules the matter for a hearing before the tribunal that ordered the license revocation.

(B) CSS provides notice of the hearing to the custodial person per 12 O.S. § 2005 or 43 O.S. § 112A.

(C) When a license was reinstated per (b) of this Section and the NCP subsequently is in noncompliance with a payment plan, CSS requests the court immediately revoke the NCP's license(s).

[Source: Added at 21 Ok Reg 352, eff 12-10-03 (emergency); Added at 21 Ok Reg 1344, eff 7-1-04 ; Amended at 22 Ok Reg 1221, eff 7-1-05 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 27 Ok Reg 1201, eff 7-1-10 ; Amended at 33 Ok Reg 1592, eff 9-15-16 ; Amended at 34 Ok Reg 1465, eff 9-15-17]

**340:25-5-212. Financial institution data match reporting system**

(a) **Legal basis.** Oklahoma Department of Human Services Child Support Services (CSS) maintains a financial institution data match reporting system to identify noncustodial parents' (NCP) assets and issue levies on accounts of NCPs who are in noncompliance with an order for support. In maintaining the system, CSS follows Part A of Subchapter IV of Chapter 7 of Title 42 of the United States Code, associated federal regulations, and state statutes. This Section establishes provisions necessary to implement Sections 666(a)(17) and 669A of Title 42 of the United States Code, Section 307.11 of Title 45 of the Code of Federal Regulations, and Sections 240.22 through 240.22G of Title 56 of the Oklahoma Statutes (56 O.S. §§ 240.22-240.22G). The definitions in 56 O.S. § 240.22A apply to the terms used in this Section.

**(b) Financial institutions.**

(1) All data supplied to CSS by financial institutions doing business in Oklahoma must be in accordance with the Financial Institution Data Match Specifications Handbook published by the federal Office of Child Support Enforcement.

(2) A financial institution may charge an account levied on by CSS a fee of \$20, per 56 O.S. § 240.22E(E), which is deducted from the account before the financial institution remits funds to CSS. If the levied funds are subsequently refunded by CSS because there is a mistake of identity or the obligor did not owe three months of child support at the time of the levy, CSS refunds any fee charged

to the appropriate account holder.

(c) **Levies.** Levies are for the total amount of past-due support per 56 O.S. § 237.7. Per 56 O.S. § 240.22G, CSS automatically issues a levy for each matched account unless the NCP has made voluntary payments of at least 75 percent of the court-ordered payment plan payments due over the last three full calendar months prior to the date of the levy. CSS considers a manual levy appropriate when there is evidence the NCP has funds subject to levy not previously considered by CSS in establishing the monthly court-ordered payment plan. CSS requests the financial institution not remit funds in an amount less than \$50, unless otherwise ordered by the court.

(d) **Notice of levy and administrative review.**

(1) CSS sends a notice of levy to an NCP within three calendar days after sending the levy to the financial institution per 56 O.S. § 240.22G. The notice of levy includes:

- (A) instructions for the NCP or a non-obligated joint account holder to request an administrative review in writing;
- (B) a description of the grounds for requesting an administrative review;
- (C) a description of the review process; and
- (D) notice that failure to submit a timely request for review in writing means the levy is final.

(2) It is the responsibility of the NCP to notify any joint account holder(s) of the levy.

(3) Either the NCP or a non-obligated joint account holder may request an administrative review of the levy in writing after the date on the notice of levy per 56 O.S. § 240.22G.

(4) A non-obligated joint account holder may request an administrative review in writing when the levied funds are not owned by the NCP.

(5) Upon receipt of a request for an administrative review, CSS:

- (A) contacts the requesting party within three business days to:
  - (i) notify the party the review has begun; and
  - (ii) request further information as necessary;
- (B) completes the review as soon as possible, not to exceed three business days from receiving all necessary information; and
- (C) completes the review using the best information available when the party requesting a review does not provide the information requested by CSS within five business days of the request.

(6) The purpose of the administrative review is to quickly resolve any obvious factual errors.

(7) After the administrative review, CSS issues a notice of administrative review decision and information about requesting an administrative hearing.

(e) **Administrative hearing.** Either the NCP or a non-obligated joint account holder may request a hearing before the Oklahoma Department of Human Services Office of Administrative Hearings: Child Support

(OAH), by the date specified in the notice of administrative review decision. A request for an OAH hearing must be submitted in writing to the district office.

**(f) Release of funds from levy.**

(1) CSS releases funds from levy when the person requesting review of the levy submits sufficient and credible evidence at the administrative review that the source of the funds is:

(A) Supplemental Security Income (SSI) or concurrent SSI and Social Security Disability Insurance (SSDI) benefits;

(B) State Supplemental Payments (SSP) for Aged, Blind and the Disabled;

(C) Temporary Assistance for Needy Families (TANF) benefits;

(D) child support payments, when the obligor is the custodial person of a minor child(ren) and is receiving the payments as required by a court order; or

(E) the property of the non-obligated account holder.

(2) When the account contains funds from sources listed in (1) of this subsection as well as funds from other sources, CSS can levy the funds that are not from a source included in the list in (1) of this subsection.

(3) Funds from a levy may be released, in full or in part, at the discretion of the state's attorney.

[Source: Added at 17 Ok Reg 685, eff 12-16-99 ; Amended at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 22 Ok Reg 1221, eff 7-1-05 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 25 Ok Reg 1307, eff 7-1-08 ; Amended at 26 Ok Reg 1245, eff 7-1-09 ; Amended at 27 Ok Reg 1201, eff 7-1-10 ; Amended at 32 Ok Reg 1860, eff 9-15-15 ; Amended at 35 Ok Reg 1632, eff 9-17-18 ; Amended at 36 Ok Reg 1794, eff 9-16-19]

**340:25-5-213. Annual notice**

(a) Oklahoma Department of Human Services Child Support Services (CSS) sends a notice, referred to as the Notice and Order of Child Support Lien or annual notice, per Section 237A of Title 56 of the Oklahoma Statutes (56 O.S. § 237A) to noncustodial parents (NCP) and custodial persons (CP) in Title IV-D cases at least once every 12 months, *unless the amount of past due support has been determined in a court proceeding within the past twelve months.*

(b) The annual notice includes directions for the NCP to make specified monthly payments to satisfy past-due support. The annual notice requests two separate monthly payments on past due support: one temporary payment and one permanent payment.

(1) The temporary monthly payment on past due support is a payment that is effective when the annual notice is issued and is included on an Income Withholding Order (IWO).

(2) The permanent monthly payment on past due support is a payment that is effective after the time period for administrative review has passed. After the time period for administrative review has passed, CSS issues an amended IWO that includes the permanent monthly payment on past due support.

(3) To promote healthy families, CSS sets a temporary and permanent monthly payment on past due support appropriate to

the obligor's circumstances, according to the best evidence available per Oklahoma Administrative Code 340:25-5-140. The temporary monthly payment on past due support does not exceed 25 percent of the last order addressing current support.

(c) The initial notice is served on the NCP per 12 O.S. § 2005. When there is an address of record (AOR) on file with the Central Case Registry per 43 O.S. § 112A, the notice may be served by regular mail at the AOR. Subsequent notices may be served by regular mail with a certificate of mailing to the last AOR. The initial notice and subsequent annual notices are sent to the CP by regular mail with a certificate of mailing.

(d) The annual notice sent to the NCP must not include the CP's address or employer's name and address. The annual notice sent to the CP must not include the NCP's address or employer's name and address.

(e) The NCP or CP may timely request in writing, an administrative review of the annual notice per 56 O.S. § 237A. When all disputed issues are not settled at the administrative review, CSS sets the matter for hearing.

[Source: Added at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 19 Ok Reg 192, eff 10-30-01 (emergency); Amended at 19 Ok Reg 1746, eff 7-1-02 ; Amended at 21 Ok Reg 1344, eff 7-1-04 ; Amended at 22 Ok Reg 1221, eff 7-1-05 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 30 Ok Reg 641, eff 7-1-13 ; Amended at 33 Ok Reg 1592, eff 9-15-16 ; Amended at 34 Ok Reg 1465, eff 9-15-17]

#### **340:25-5-214. Passport denial, revocation, restriction, or limitation**

(a) Section 652 of Title 42 of the United States Code (42 U.S.C. 652) provides for the United States Secretary of State to refuse to issue a passport to a person certified as owing child support debt. It also provides for action to revoke, restrict, or limit a passport already issued. If the amount of arrears owed by a person exceeds the threshold amount for certification set by federal law or regulation, Oklahoma Department of Human Services, Child Support Services (CSS) may certify the person under 42 U.S.C. 654 and Section 240.1 of Title 56 of the Oklahoma Statutes (56 O.S. 240.1).

(b) Before issuing a certification as described in (a) of this Section, CSS provides notice to the noncustodial parent (NCP) of CSS determination that the NCP owes child support debt, the consequences of the determination, and the opportunity to contest the determination through either:

- (1) the annual notice process as established in 56 O.S. § 237A and Oklahoma Administrative Code (OAC) 340:25-5-213; or
- (2) notice of federal offset under Section 303.72 of Title 45 of the Code of Federal Regulations and OAC 340:25-5, Part 25.

(c) If CSS finds a request for certification was submitted in error, or in a life or death situation, CSS requests immediate release of an NCP's passport from the process described in (a) of this Section.

(d) CSS may request release of an NCP's passport from the process described in (a) of this Section if the NCP pays the entire child support debt or:

- (1) pays the entire child support debt down to the threshold amount;

- (2) enters into a repayment agreement or order to retire the remaining child support debt in not more than 36 equal monthly payments; and
  - (3) provides CSS with a verified source of future income for which an income assignment may be issued for payment of all current support and arrears.
- (e) A passport may be released from the passport referral process at the discretion of the CSS director. The district office may request a director's exception when it is determined the passport denial, revocation, restriction, or limitation negatively impacts a reliable source of child support.
- (f) After requesting release of a case from the passport referral process, CSS may at any time recertify the case as described in (a) of this Section.

[Source: Added at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 18 Ok Reg 1226, eff 7-1-01 ; Amended at 19 Ok Reg 1746, eff 7-1-02 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 24 Ok Reg 1301, eff 7-1-07 ; Amended at 26 Ok Reg 1245, eff 7-1-09 ; Amended at 36 Ok Reg 1794, eff 9-16-19]

## **PART 25. FEDERAL OFFSET PROGRAMS**

### **340:25-5-215. Collection of past-due support from federal tax offset**

(a) Oklahoma Child Support Services (OCSS), requests collection of child support debts from federal income tax refunds. This program is governed by:

- (1) Section 664 of Title 42 of the United States Code; and
- (2) Section 285.3 of Title 31, and Sections 302.60 and 303.72 of Title 45 of the Code of Federal Regulations.

(b) A custodial person receiving a payment under this program must return the payment if the Internal Revenue Service (IRS) makes an adjustment within six years following the end of the tax year for which the refund was paid. Any adjusted amount not returned by the custodial person is an overpayment and subject to recovery under Part 37 of this Subchapter.

(c) If an offset is made to satisfy non-TANF past-due support from a refund based on a joint return, OCSS delays issuance of the funds for a period of time not to exceed six months from the notice of deposit.

(d) Collections received by a IV-D agency as a result of a federal income tax refund intercept must be distributed as past-due support per Section 657 of Title 42 of the United States Code.

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Amended at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 18 Ok Reg 1226, eff 7-1-01 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 25 Ok Reg 1307, eff 7-1-08 ; Amended at 28 Ok Reg 812, eff 7-1-11]

### **340:25-5-215.1. Collection of past-due support from federal administrative offsets**

The Oklahoma Department of Human Services Child Support Enforcement Division may collect child support debts through administrative offsets of federal benefit programs unless a payment is

exempt from offset by federal law or by action of the Secretary of the Treasury. Administrative offsets are governed by:

- (1) the Debt Collection Improvement Act of 1996, Public Law 104-134;
- (2) Executive Order 13019, Supporting Families: Collecting Delinquent Child Support Obligations; and
- (3) Section 285.1 of Title 31 of the Code of Federal Regulations.

[Source: Added at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 24 Ok Reg 1301, eff 7-1-07]

### **340:25-5-216. Eligible case for federal tax refund offset program [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-217. Criteria for submittal for federal tax refund offset [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-218. Submittal for federal tax refund offset [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-219. Notices for federal tax refund offset [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-220. Updates to cases submitted for federal tax offset [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-221. Collections from federal tax refund offset [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-222. Distribution of federal tax refund offsets [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 16 Ok Reg 3463, eff 10-1-99]



### **340:25-5-223. Refund of federal tax refund offsets [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-224. Federal tax refund offset inquiries [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-225. Formal and informal review procedures for federal offset programs**

(a) Procedures for requesting and conducting formal and informal reviews of federal tax and administrative offsets are governed by the provisions of Section 303.72 of Title 45 of the Code of Federal Regulations. If the initial annual notice process under Section 237A of Title 56 of the Oklahoma Statutes and OAC 340:25-5-213 has been completed, the Child Support Enforcement Division (CSED) refers the noncustodial parent for federal tax offset or administrative offset without additional notice. Subsections (b) through (h) of this Section describe procedures for reviews in Oklahoma when the initial annual notice process has not been completed.

(b) A noncustodial parent whose payments are referred for offset may request a review as instructed in the notice. The review must be requested within the time specified in the notice of offset.

(c) The noncustodial parent may contest the referral for offset based on a mistake of identity or a mistake of fact.

(d) The informal review process is an administrative review conducted under Section OAC 340:25-5-200.1.

(e) The notice of the administrative review decision includes instructions for requesting a formal review, administrative hearing.

(f) Unless CSED receives a request for administrative hearing within 15 days after the date on the notice of administrative review decision, the administrative review decision becomes the final agency decision.

(g) Upon timely receipt of a request for an administrative hearing, CSED schedules the matter for an administrative hearing before the Office of Administrative Hearings: Child Support (OAH). OAH conducts a hearing and enters an order determining the contested issues.

(h) The administrative order may be appealed to the district court within 30 days by any aggrieved party.

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Amended at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 18 Ok Reg 1226, eff 7-1-01 ; Amended at 23 Ok Reg 1842, eff 7-1-06]

### **340:25-5-226. Formal review procedures for cases submitted by Oklahoma or other states [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

## **340:25-5-227. Security [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

## **PART 27. STATE TAX REFUND OFFSET PROGRAM**

### **340:25-5-235. State tax refund offset**

(a) **State tax refund collection legal basis.** Oklahoma Human Services Child Support Services (CSS) requests collection of overpayments and past child support, including interest, and spousal support from state tax refund offset. The state tax offset program is governed by:

- (1) Section 303.102 of Title 45 of the Code of Federal Regulations;
- (2) Section 205.2 of Title 68 of the Oklahoma Statutes; and
- (3) Sections 11-6 through 11-11 of Chapter 50 of Title 710 of the Oklahoma Administrative Code.

(b) **Issuance delays.** When an offset is made to satisfy non-Temporary Assistance for Needy Families past-due support from a state tax refund, CSS delays issuance of the funds for a period of forty-five calendar days from the notice of deposit.

(c) **Review procedures.** CSS follows the provisions of this Section when reviewing state tax offsets.

(1) CSS may release or refund the offset in whole or in part to the custodial person, noncustodial parent (NCP), or debtor if CSS finds there has been a mistake of fact or identity.

(2) A non-obligated spouse may request a refund of the offset within the time specified in the notice of offset. The non-obligated spouse requesting a refund must submit copies of federal and state tax forms and all attachments to CSS. If the non-obligated spouse reports income on the tax return, CSS may release or refund the offset in whole or in part to the non-obligated spouse, prorated based on the income of the NCP and the non-obligated spouse.

(3) CSS sends a notice to the affected taxpayer whenever a state tax refund is offset for past due support or an overpayment. When CSS receives a written request for a hearing within 30-calendar days from the date of mailing of the notice of tax offset, CSS schedules the matter for an administrative hearing before the Office of Administrative Hearings: Child Support (OAH). OAH conducts a hearing and enters an order determining the contested issues.

(4) The administrative order may be appealed to the district court within 30-calendar days by any aggrieved party.

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Amended at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 19 Ok Reg 1746, eff 7-1-02 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 24 Ok Reg 1301, eff 7-1-07 ; Amended at 25 Ok Reg 1307, eff 7-1-08 ; Amended at 28 Ok Reg 812, eff 7-1-11 ; Amended at 32 Ok Reg 1860, eff 9-15-15 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:25-5-236. Eligible cases for state tax refund offset program [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-237. Criteria for submittal for state tax refund offset program [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-238. Submittals for state tax refund offset program [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-239. Notices for state tax refund offset [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-240. Updates to cases submitted for state tax refund offset [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-241. Collections from state tax refund offsets [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-242. Distribution of state tax refund offsets [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 16 Ok Reg 3463, eff 10-1-99]

### **340:25-5-243. Refund of state tax refund offsets [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-244. Review procedures for state tax refund offset program [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Amended at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 18 Ok Reg 1226, eff 7-1-01 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 24 Ok Reg 1301, eff 7-1-07 ; Amended at 25 Ok Reg 264, eff 11-1-07 (emergency); Amended at 25 Ok Reg 1307, eff 7-1-08 ; Amended at 40 Ok Reg 954, eff 9-15-23 ; Revoked

at 41 Ok Reg, Number 23, effective 9-16-24]

## **PART 29. FULL IRS COLLECTION PROGRAM [REVOKED]**

### **340:25-5-250. Purpose [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 13 Ok Reg 955, eff 10-5-95 (emergency); Revoked at 13 Ok Reg 2173, eff 6-14-96]

### **340:25-5-251. Eligible cases for federal full IRS collection program [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 13 Ok Reg 955, eff 10-5-95 (emergency); Revoked at 13 Ok Reg 2173, eff 6-14-96]

### **340:25-5-252. Sources for identifying assets for referral [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 13 Ok Reg 955, eff 10-5-95 (emergency); Revoked at 13 Ok Reg 2173, eff 6-14-96]

### **340:25-5-253. Exempt assets [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 13 Ok Reg 955, eff 10-5-95 (emergency); Revoked at 13 Ok Reg 2173, eff 6-14-96]

### **340:25-5-254. Process [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 13 Ok Reg 955, eff 10-5-95 (emergency); Revoked at 13 Ok Reg 2173, eff 6-14-96]

### **340:25-5-255. Criteria for submittal for full IRS collection [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 13 Ok Reg 955, eff 10-5-95 (emergency); Revoked at 13 Ok Reg 2173, eff 6-14-96]

### **340:25-5-256. Notices on full IRS collection [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 13 Ok Reg 955, eff 10-5-95 (emergency); Revoked at 13 Ok Reg 2173, eff 6-14-96]

### **340:25-5-257. Review Procedures for full IRS collection [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 13 Ok Reg 955, eff 10-5-95 (emergency); Revoked at 13 Ok Reg 2173, eff 6-14-96]

**340:25-5-258. Updates and deletions of full IRS collections  
[REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 13 Ok Reg 955, eff 10-5-95 (emergency); Revoked at 13 Ok Reg 2173, eff 6-14-96]

**340:25-5-259. IRS process after case certified [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 13 Ok Reg 955, eff 10-5-95 (emergency); Revoked at 13 Ok Reg 2173, eff 6-14-96]

**PART 31. CONSUMER REPORTING AGENCIES -  
CREDIT BUREAUS**

**340:25-5-265. Release and access of arrearage information to  
consumer reporting agencies - credit bureaus**

(a) Oklahoma Human Services, Child Support Services (CSS) periodically releases child support arrearage information to certain consumer reporting agencies - credit bureaus. Release of this information is governed by:

(1) Section 240.7 of Title 56 of the Oklahoma Statutes (56 O.S. § 240.7); and

(2) Sections 1681b and 1681f of Title 15 and Section 666 of Title 42 of the United States Code (15 U.S.C. §§ 1681b & 1681f; 42 U.S.C. § 666).

(b) CSS reports to consumer reporting agencies the names and amounts of child support arrearages of noncustodial parents (NCP). CSS applies a:

(1) 15-calendar day grace period to account for payment receipt date discrepancies due to early or late employer reporting if an NCP is making child support payments through income assignment; and

(2) two-month grace period to account for the delays in the start of the income assignment process for an NCP who is a servicemember called to active duty under the provisions of the Servicemembers Civil Relief Act, codified in 50 U.S.C. § 3901 through 4043.

(c) If the annual notice process under 56 O.S. § 237A has been completed, CSS releases arrearage information to credit bureaus without additional notice.

(d) When the initial annual notice process under 56 O.S. § 237A and Oklahoma Administrative Code (OAC) 340:25-5-213 has not been completed, CSS issues a written notice by regular mail to the person obligated to pay the support. The notice includes:

(1) a statement of the information to be released to credit bureaus; and

(2) instructions for disputing the accuracy of the information to be released under OAC 340:25-5-200.1.

(e) CSS periodically accesses credit information available through consumer reporting agencies - credit bureaus. Access of this information

is governed by 15 U.S.C §§ 1681b and 1681f.

(1) Each time CSS requests a full credit bureau report on an NCP for use in establishment or modification of a support order, CSS sends the NCP advance notice to confirm that the report requested belongs to the correct person. The NCP is not required to authorize release of the report.

(2) CSS does not send an NCP advance notice when CSS requests a credit bureau report for locate or enforcement purposes.

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Amended at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 18 Ok Reg 1226, eff 7-1-01 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 36 Ok Reg 1794, eff 9-16-19 ; Amended at 40 Ok Reg 954, eff 9-15-23]

### **340:25-5-265.1. Access of consumer reporting agency - credit bureau - information [REVOKED]**

[Source: Added at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 20 Ok Reg 1240, eff 7-1-03 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 26 Ok Reg 1245, eff 7-1-09 ; Revoked at 40 Ok Reg 954, eff 9-15-23]

### **340:25-5-266. Process [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

## **PART 33. INTERGOVERNMENTAL CASES**

### **340:25-5-270. Intergovernmental cases**

(a) **Legal basis.** When referring and processing intergovernmental Title IV-D cases, the Oklahoma Human Services Child Support Services (CSS) is governed by:

(1) Section 1738B of Title 28 of the United States Code (28 U.S.C. § 1738B) and 42 U.S.C. §§ 654, 659A, and 666;

(2) Sections 302.36 and 303.7 of Title 45 of the Code of Federal Regulations (45 C.F.R. §§ 302.36 and 303.7); and

(3) the Uniform Interstate Family Support Act, per Sections 601-100 through 601-903 of Title 43 of the Oklahoma Statutes (43 O.S. §§ 601-100 through 601-903) and 56 O.S. § 240.9.

(b) **Definition.** For purposes of this Section, forum state means the state where the hearing is held or where the responding court proceeding is filed to establish or enforce a support order.

(c) **Intergovernmental central registry.** CSS operates an intergovernmental central registry, per 45 C.F.R. §§ 302.36 and 303.7.

(d) **Forms.** CSS uses forms issued by the Secretary of the United States Department of Health and Human Services, per 42 U.S.C. § 652 as applicable for processing intergovernmental cases.

(e) **Communication.** When:

(1) Oklahoma is the initiating state, CSS obtains information from the other Title IV-D agency and communicates with the custodial person (CP) in Oklahoma.

(2) Oklahoma is the responding state, CSS communicates to the initiating state with which CSS has established a case.

(3) CSS receives written communication from a party or a party's attorney, CSS sends copies to the appropriate agency or person within two-business days of receipt, per 43 O.S. § 601-307.

(f) **Family violence and nondisclosure.** When Oklahoma is the initiating state and a party claims family violence, CSS does not release the party's physical address without a court order. CSS:

(1) enters the address of record, when designated, or the district office's address instead of the physical address of the party requesting nondisclosure on the Child Support Enforcement Transmittal # 1, Initial Request, Nondisclosure Finding Affidavit, and on the General Testimony, when applicable;

(2) does not file the interstate transmittal forms with the tribunal;

(3) does not release a copy of the interstate transmittal form to the other party, per Oklahoma Administrative Code (OAC) 340:25-5-67; and

(4) seeks an order from the appropriate tribunal regarding release of the information when the initiating state, responding state, or a party requests release of specific identifying information, per 43 O.S. § 601-312.

(g) **Services provided.** Except as provided in (1) through (4) of this subsection, CSS processes intergovernmental cases in the same manner as intrastate cases, per OAC 340:25-1-1.2.

(1) **Evidence.** If one of the parties is a nonresident of the forum state, CSS arranges for testimony over the phone at the request of the nonresident party or a Title IV-D agency, and requests the court to admit evidence, per 43 O.S. § 601-316.

(2) **One-state processing.** In the absence of an order to establish paternity or support, CSS uses a one-state process to establish an order if personal and subject matter jurisdiction may be exercised over a nonresident party, per 45 C.F.R. § 303.7 and 43 O.S. § 601-201.

(3) **Determination of controlling order.** When there are multiple orders for current support for the same child, CSS seeks a determination of controlling order (DCO) or a new order from the appropriate tribunal, per 43 O.S. § 601-207 and 43 O.S. §§ 601-602 through 601-615.

(A) When making the arrears calculation for the DCO proceeding, CSS applies the law of the respective issuing states in determining the arrears under each order.

(B) Once the court issues a DCO, CSS applies the law of the controlling order state to the consolidated arrears, even when the support orders of other states contributed a portion to those arrears.

(4) **Redirection of payments.** Per 43 O.S. §§ 601-307 and 601-319:

(A) CSS issues a notice to redirect payments to the Title IV-D agency in the state where the CP resides and issues an Order/Notice to Withhold Income for Child Support to implement the order when:

- (i) Oklahoma is the state that issued the child support or income assignment order;
  - (ii) neither the noncustodial parent (NCP), CP, or any child lives in Oklahoma; and
  - (iii) CSS or another Title IV-D agency makes the request.
- (B) CSS issues a notice to redirect payments to the Title IV-D agency in the state of residence of the CP when:
  - (i) a child support or income assignment order was issued;
  - (ii) neither the NCP, CP, or any child lives in the issuing state; and
  - (iii) Oklahoma provides child support services.
- (C) CSS furnishes a certified record of payments to a requesting party or tribunal when CSS receives redirected payments, per 43 O.S. § 601-319.
- (5) **Limited services.** CSS provides limited services only at the request of an initiating interstate Title IV-D agency or an international central authority, per 43 O.S. §§ 601-101 through 901 and 45 C.F.R. § 303.7. CSS provides limited services, when appropriate, even when an individual NCP or CP does not reside in Oklahoma. The CSS director or appointed designee approves requests for limited services not listed in 45 C.F.R. § 303.7.
- (h) **Determination of arrears.** When Oklahoma has personal and subject matter jurisdiction and can obtain service of process on the NCP, CSS uses the annual notice, notice of support debt, contempt, or other appropriate proceedings to determine past support and interest before requesting a tribunal of another state to enforce.
- (i) **Choice of law.** The applicable law for support duration determination and other choice of law issues is controlled by subsection (h) of the Full Faith and Credit for Child Support Orders Act, per 28 U.S.C. § 1738B(h) and 43 O.S. §§ 601-604 through 601-611. The law of the initial controlling order state governs the support duration even after another state modifies the order.
- (j) **Genetic testing.** When genetic testing is required in intergovernmental cases, the responding state is responsible for paying the cost of testing, per 45 C.F.R. § 303.7 and OAC 340:25-5-176.

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Amended at 12 Ok Reg 1121, eff 3-20-95 (emergency); Amended at 13 Ok Reg 2173, eff 6-14-96 ; Amended at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 19 Ok Reg 1746, eff 7-1-02 ; Amended at 22 Ok Reg 1221, eff 7-1-05 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 25 Ok Reg 1307, eff 7-1-08 ; Amended at 28 Ok Reg 812, eff 7-1-11 ; Amended at 29 Ok Reg 765, eff 7-1-12 ; Amended at 33 Ok Reg 1592, eff 9-15-16 ; Amended at 37 Ok Reg 1802, eff 9-15-20 ; Amended at 39 Ok Reg 1721, eff 9-15-22]

### **340:25-5-270.1. Definitions [REVOKED]**

[Source: Added at 12 Ok Reg 1121, eff 3-20-95 (emergency); Added at 13 Ok Reg 2173, eff 6-14-96 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]



### **340:25-5-270.10. Establishment and/or enforcement activities [REVOKED]**

[Source: Added at 12 Ok Reg 1121, eff 3-20-95 (emergency); Added at 13 Ok Reg 2173, eff 6-14-96 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-270.11. UIFSA time frames [REVOKED]**

[Source: Added at 12 Ok Reg 1121, eff 3-20-95 (emergency); Added at 13 Ok Reg 2173, eff 6-14-96 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-270.12. Choice and application of law/limitation of actions [REVOKED]**

[Source: Added at 12 Ok Reg 1121, eff 3-20-95 (emergency); Added at 13 Ok Reg 2173, eff 6-14-96 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-270.13. Evidence and discovery [REVOKED]**

[Source: Added at 12 Ok Reg 1121, eff 3-20-95 (emergency); Added at 13 Ok Reg 2173, eff 6-14-96 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-270.14. Responsibility for reporting case action/information [REVOKED]**

[Source: Added at 12 Ok Reg 1121, eff 3-20-95 (emergency); Added at 13 Ok Reg 2173, eff 6-14-96 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-270.15. Collections and distribution [REVOKED]**

[Source: Added at 12 Ok Reg 1121, eff 3-20-95 (emergency); Added at 13 Ok Reg 2173, eff 6-14-96 ; Revoked at 16 Ok Reg 3463, eff 10-1-99]

### **340:25-5-270.16. Monitoring [REVOKED]**

[Source: Added at 12 Ok Reg 1121, eff 3-20-95 (emergency); Added at 13 Ok Reg 2173, eff 6-14-96 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-270.2. Uniform Interstate Family Support Act (UIFSA)/Uniform Reciprocal Enforcement of Support (URES) split [REVOKED]**

[Source: Added at 12 Ok Reg 1121, eff 3-20-95 (emergency); Added at 13 Ok Reg 2173, eff 6-14-96 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-270.3. Central registry [REVOKED]**

[Source: Added at 12 Ok Reg 1121, eff 3-20-95 (emergency); Added at 13 Ok Reg 2173, eff 6-14-96 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

#### **340:25-5-270.4. Data/documentation [REVOKED]**

[Source: Added at 12 Ok Reg 1121, eff 3-20-95 (emergency); Added at 13 Ok Reg 2173, eff 6-14-96 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

#### **340:25-5-270.5. Establishment of a case in the IV-D system [REVOKED]**

[Source: Added at 12 Ok Reg 1121, eff 3-20-95 (emergency); Added at 13 Ok Reg 2173, eff 6-14-96 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

#### **340:25-5-270.6. Assignment of case to local office [REVOKED]**

[Source: Added at 12 Ok Reg 1121, eff 3-20-95 (emergency); Added at 13 Ok Reg 2173, eff 6-14-96 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

#### **340:25-5-270.7. Locate activities by local child support office [REVOKED]**

[Source: Added at 12 Ok Reg 1121, eff 3-20-95 (emergency); Added at 13 Ok Reg 2173, eff 6-14-96 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

#### **340:25-5-270.8. Interstate forms/National Child Support Enforcement Association (NCSEA) Roster and Referral Guide [REVOKED]**

[Source: Added at 12 Ok Reg 1121, eff 3-20-95 (emergency); Added at 13 Ok Reg 2173, eff 6-14-96 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

#### **340:25-5-270.9. Concept of continuing, exclusive jurisdiction (CEJ) [REVOKED]**

[Source: Added at 12 Ok Reg 1121, eff 3-20-95 (emergency); Added at 13 Ok Reg 2173, eff 6-14-96 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

#### **340:25-5-271. General procedures [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 12 Ok Reg 1121, eff 3-20-95 (emergency); Revoked at 13 Ok Reg 2969, eff 7-11-96]

#### **340:25-5-272. Central registry review process [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 12 Ok Reg 1121, eff 3-20-95 (emergency); Revoked at 13 Ok Reg 2173, eff 6-14-96]

#### **340:25-5-273. Data items [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 12 Ok Reg 1121, eff 3-20-95 (emergency); Revoked at 13 Ok Reg 2173, eff 6-14-96]

**340:25-5-274. Data/documents required for establishment or enforcement activities [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 12 Ok Reg 1121, eff 3-20-95 (emergency); Revoked at 13 Ok Reg 2173, eff 6-14-96]

**340:25-5-275. Establishment of case in IV-D system [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 12 Ok Reg 1121, eff 3-20-95 (emergency); Revoked at 13 Ok Reg 2173, eff 6-14-96]

**340:25-5-276. Assignment of case to local office [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 12 Ok Reg 1121, eff 3-20-95 (emergency); Revoked at 13 Ok Reg 2173, eff 6-14-96]

**340:25-5-277. Location activities by local child support office [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 12 Ok Reg 1121, eff 3-20-95 (emergency); Revoked at 13 Ok Reg 2173, eff 6-14-96]

**340:25-5-278. Establishment and/or enforcement activities [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 12 Ok Reg 1121, eff 3-20-95 (emergency); Revoked at 13 Ok Reg 2173, eff 6-14-96]

**340:25-5-279. Responsibility for reporting case action/information [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 12 Ok Reg 1121, eff 3-20-95 (emergency); Revoked at 13 Ok Reg 2173, eff 6-14-96]

**340:25-5-280. Collections and distribution [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 12 Ok Reg 1121, eff 3-20-95 (emergency); Revoked at 13 Ok Reg 2173, eff 6-14-96]

**340:25-5-281. Monitoring [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 12 Ok Reg 1121, eff 3-20-95 (emergency); Revoked at 13 Ok Reg 2173, eff 6-14-96]

**340:25-5-282. Other required interstate activities [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 12 Ok Reg 1121, eff 3-20-95 (emergency); Revoked at 13 Ok Reg 2173, eff 6-14-96]

### **340:25-5-283. Cooperation with other states when using long-arm [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 12 Ok Reg 1121, eff 3-20-95 (emergency); Revoked at 13 Ok Reg 2173, eff 6-14-96]

### **340:25-5-284. Other services [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 12 Ok Reg 1121, eff 3-20-95 (emergency); Revoked at 13 Ok Reg 2173, eff 6-14-96]

### **340:25-5-285. International cases**

(a) **Legal basis.** Oklahoma Department of Human Services Child Support Services (CSS) follows the provisions of Oklahoma Administrative Code (OAC) 340:25-5-270 when Oklahoma is providing child support services on international cases, except for time frames specified per Section 303.7 of Title 45 of the Code of Federal Regulations.

(b) **Foreign reciprocating countries.** CSS initiates or responds to proceedings with foreign reciprocating countries per Section 659A of Title 42 of the United States Code.

(c) **Conversion of child support orders to foreign currency.**

(1) Upon request of a foreign responding tribunal, CSS converts the child support order amount into foreign currency and prepares certificates or other documents to be issued by the Oklahoma tribunal per Section 601-304 of Title 43 of the Oklahoma Statutes (43 O.S. § 601-304).

(2) Upon request of a foreign initiating tribunal to enforce an order specified in foreign currency, CSS converts the child support order amount into United States dollars and requests an Oklahoma tribunal to make a finding of the converted child support amount.

(d) **Modification of international orders.**

(1) When modification of an order of a foreign country is requested and that country cannot or will not modify its order, CSS seeks a modification of the foreign order in an Oklahoma tribunal when Oklahoma has personal jurisdiction over both parties, as provided per 43 O.S. § 601-616.

(2) When CSS determines another state has jurisdiction over both parties, CSS forwards a Child Support Enforcement Transmittal # 1 to the state with jurisdiction over the parties requesting that state to register and modify the foreign order.

[Source: Added at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 33 Ok Reg 1592, eff 9-15-16]

### **340:25-5-286. Tribal case referrals and transfers**

(a) **Legal basis.** When referring to or processing cases from a comprehensive tribal Title IV-D agency (tribal program), Oklahoma Department of Human Services Child Support Services (CSS) is governed by:

- (1) Section 1738B of Title 28 of the United State Code (28 U.S.C. § 1738B) and 42 U.S.C. §§ 654, 659A, and 666;
- (2) Part 302.36 of Title 45 of the Code of Federal Regulations (45 C.F.R. § 302.36) and 45 C.F.R. § 303.7;
- (3) the Uniform Interstate Family Support Act per Sections 601-101 through 601-903 of Title 43 of the Oklahoma Statutes (43 O.S. §§ 601-101 through 601-903); and
- (4) 56 O.S. § 240.9.

(b) **Scope.** Tribal programs provide child support services under applicable federal law and are governed by relevant tribal law as to their administrative processes and the jurisdiction of the tribal courts.

(c) **Intergovernmental case referrals.** CSS and tribal programs request assistance from each other by referring cases for full or limited services.

(1) **Outgoing referrals.** CSS may initiate an outgoing intergovernmental referral to a tribal program when CSS determines the noncustodial parent is within the tribal program's jurisdiction and it is not appropriate for CSS to use its one-state remedies to establish paternity or establish, modify, or enforce a support order in accordance with 45 C.F.R. 303.7 (c)(3 & 4). A separate case is maintained by CSS when an outgoing intergovernmental referral is sent to a tribal program.

(2) **Incoming referrals.** CSS accepts a referral from a tribal program in accordance with 45 C.F.R. § 303.7.

(d) **Program of choice and case transfer.** When an applicant on an existing CSS case completes a tribal program application that includes a request that CSS close its case, CSS may accept that as a request for transfer of its case to the tribal program and for closure of the CSS case. CSS refers the case for limited services and does not close its case, when:

- (1) state services are being provided or if there is unpaid assigned support;
- (2) there is an active deprived or delinquent state juvenile court case; or
- (3) there is a pending paternity, establishment, or modification action filed with the court by CSS and the non-applicant was served, unless the pending action is withdrawn or dismissed.

(e) **Registration of tribal child support orders.** CSS registers tribal child support orders in state courts per 28 U.S.C. § 1738B.

[Source: Amended and renumbered from 340:25-5-124.2 at 33 Ok Reg 1592, eff 9-15-16]

## **PART 35. OUTGOING INTERSTATE CASES [REVOKED]**

### **340:25-5-290. Purpose [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 12 Ok Reg 1121, eff 3-20-95 (emergency); Revoked at 13 Ok Reg 2173, eff 6-14-96]

### **340:25-5-291. General procedures [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 12 Ok Reg 1121, eff 3-20-95 (emergency); Revoked at 13 Ok Reg 2173, eff 6-14-96]

### **340:25-5-292. Use of "long-arm" [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 12 Ok Reg 1121, eff 3-20-95 (emergency); Revoked at 13 Ok Reg 2173, eff 6-14-96]

### **340:25-5-293. Use of reference guides and standardized forms for interstate actions [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 12 Ok Reg 1121, eff 3-20-95 (emergency); Revoked at 13 Ok Reg 2173, eff 6-14-96]

### **340:25-5-294. General identifying data [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 12 Ok Reg 1121, eff 3-20-95 (emergency); Revoked at 13 Ok Reg 2173, eff 6-14-96]

### **340:25-5-295. Required data items/documents [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 12 Ok Reg 1121, eff 3-20-95 (emergency); Revoked at 13 Ok Reg 2173, eff 6-14-96]

### **340:25-5-296. Acknowledgment/review activities [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 12 Ok Reg 1121, eff 3-20-95 (emergency); Revoked at 13 Ok Reg 2173, eff 6-14-96]

### **340:25-5-297. Establishment and/or enforcement activities [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 12 Ok Reg 1121, eff 3-20-95 (emergency); Revoked at 13 Ok Reg 2173, eff 6-14-96]

### **340:25-5-298. Reporting case action/information [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 12 Ok Reg 1121, eff 3-20-95 (emergency); Revoked at 13 Ok Reg 2173, eff 6-14-96]

### **340:25-5-299. Collections and distributions [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 12 Ok Reg 1121, eff 3-20-95 (emergency); Revoked at 13 Ok Reg 2173, eff 6-14-96]

### **340:25-5-300. Monitoring [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 12 Ok Reg 1121, eff 3-20-95 (emergency); Revoked at 13 Ok Reg 2173, eff 6-14-96]

**340:25-5-301. Assignment of rights/pay records and copies of out-of-state orders [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 12 Ok Reg 1121, eff 3-20-95 (emergency); Revoked at 13 Ok Reg 2173, eff 6-14-96]

**PART 37. RECOVERY**

**340:25-5-305. Overpayment and recovery policies**

(a) **Legal authority.** Oklahoma Human Services (OKDHS), Child Support Services (CSS) recovers CSS overpayments per Title IV, Part A of Subchapter IV of Chapter 7 of Title 42 of the United States Code; Section 109.5 of Title 43 of the Oklahoma Statutes (43 O.S. § 109.5); and 56 O.S. §§ 171, 185, and 231 through 244.

(b) **Purpose.** The rules in this Part:

- (1) establish CSS policies and procedures used to recover CSS overpayments to custodial persons (CP), noncustodial parents (NCP), and other entities; and
- (2) resolve payment disputes arising from overpayments.

(c) **Overpayment recipient and categories.** An overpayment means a CSS payment to a CP, NCP, or other entity to which the entity or person is not entitled. The recipient of the overpayment owes the amount to CSS, acting on behalf of the state of Oklahoma. Categories of overpayments are described in (1) through (3) of this subsection.

(1) Retained support occurs when the CP kept support payment(s) in violation of the assignment of support rights.

(2) Erroneous payment occurs when CSS incorrectly paid money to a CP, NCP, or other entity, or failed to retain money assigned to Oklahoma because of an administrative error.

(3) Bad debt occurs when:

- (A) the funding for a payment CSS makes to a CP or NCP is subsequently withdrawn when a tax intercept or other collection is revoked;
- (B) a check or other payment instrument CSS receives from an NCP or other payor on behalf of the NCP is dishonored after a payment is made to the CP; or
- (C) CSS issues a payment to a CP based on an incorrect arrearage balance or an incorrect allocation of a payment.

(d) **Overpayment recovery.**

(1) CSS may use any legal remedy to recover overpayments including, but not limited to:

- (A) voluntary payments;
- (B) state income tax refund intercepts per 68 O.S. § 205.2; and
- (C) lottery prize claims, per 3A O.S. § 724.1.

(2) When an overpayment resulted in whole or in part from false or misleading statements, concealed information, willful misrepresentation, or when fraud is otherwise suspected, CSS reports the information to the OKDHS Office of Inspector General

for appropriate action. Action may include, but is not limited to, investigation and criminal prosecution.

(3) In active Temporary Assistance for Needy Families (TANF) cases, when a TANF recipient retains child support receipts, CSS may make a noncooperation referral to Title IV-A staff. CSS recovers overpayments from TANF customers through voluntary payments, state income tax refund intercepts, and lottery prize claims.

**(e) Recovery amount.**

(1) To recover child support overpayments, CSS retains 25 percent of monthly current support payments collected for the recipient and retains the total amount of any arrearage payments collected at any time until the overpayment is recovered in full. The percent retained can be changed:

(A) at the CSS director's discretion; or

(B) when the CSS Center for Finance and Budget determines the overpayment is a result of CP fraud.

(2) When the CP receives his or her full monthly support payment in the same month as an overpayment, CSS retains the full amount of any subsequent payments for that month up to the overpayment amount. CSS satisfies any remaining overpayment as set forth in (1) of this subsection.

**(f) Notice and administrative review.**

(1) CSS sends an overpayment and recovery notice to the overpayment recipient. The notice includes the overpayment amount, payment withholding and collection remedies, and instructions for requesting an administrative review and hearing, per Oklahoma Administrative Code 340:25-5-200.1.

(2) The administrative review provides an opportunity for the overpayment recipient to offer new or additional information regarding the overpayment amount. After the review, CSS issues a notice of administrative review decision.

(3) When an agency, agent, or entity of the state of Oklahoma or another state owes the overpayment, CSS may collect the amount of overpayment without notice or providing the opportunity to object.

**(g) Limits to overpayment recovery.**

(1) CSS Center for Finance and Budget completes a case review on the balances owed to a CP prior to disbursing an overpayment.

(2) CSS is not responsible for creating or recovering overpayments for:

(A) non-Title IV-D time periods when non-Title IV-D cases convert to Title IV-D cases;

(B) time periods when:

(i) CSS collects under a court order that was later vacated or after the case is dismissed;

(ii) the parties fail to provide CSS with verification of a change in the child's physical custody;

(iii) CSS collects under a court order that is later modified; or



(iv) CSS collects under a court order and the child is adopted;

(C) time periods when cash medical support is distributed to a CP and the Oklahoma Health Care Authority retroactively certifies medical assistance; or

(D) ongoing regular payments during the period an NCP incarcerated.

(3) When a child support modification order is effective back to the date the motion to modify was filed and the modified support amount is less than the amount previously ordered and paid, CSS satisfies the amount due when the NCP owes past-due child support by offsetting the arrears amount, up to the balances currently owed.

(4) CSS does not charge, collect, or pay interest on overpayments.

(h) **Issuing refunded amounts.** When an NCP makes an overpayment, amounts less than \$3 are not refunded unless issued on an Electronic Benefits Transfer (EBT) card. Amounts less than \$3 and not issued on an EBT card are remitted to the OKDHS General Revenue Fund Treasury.

(i) **Returning excess support amounts.** When CSS receives a payment that exceeds the NCP's total arrears balance, CSS returns the excess amount to the payor within 45-calendar days after discovering the over collection.

(j) **Payments made in error.** When CSS receives an erroneous payment from the payor that is not disbursed, CSS returns it to the payor within 45-calendar days after discovery. CSS is not required to correct, redirect, or recover the payment unless it is retained;

(k) **Payments that cannot be disbursed to a party.**

(1) CSS applies support collections to other applicable balances associated with the NCP, such as assigned state balances or balances owed to another CP, when the:

(A) CP's address is unknown;

(B) CP fails to activate the debit card; or

(C) debit card is returned to the vendor.

(2) CSS remits a payment to the OKDHS General Revenue Fund Treasury, when the payment cannot be:

(A) disbursed to a CP;

(B) applied to assigned state balances associated with an NCP;

(C) disbursed to the NCP, when the:

(i) address is unknown;

(ii) debit card is not activated; or

(iii) debit card is returned to the vendor; or

(D) returned to the payor.

(l) **Inactive status and closure of overpayment recovery cases.**

(1) CSS may place an overpayment recovery case in inactive status when the whereabouts of the recipient of the overpayment are unknown. When the recipient is located, CSS returns the case to active status.

(2) CSS may close an overpayment recovery case when:

(A) the overpayment has been satisfied by payment in full;

- (B) the recipient dies and leaves no resources from which the overpayment may be paid; or
- (C) CSS determines that the overpayment is uncollectible.

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Amended at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 20 Ok Reg 1240, eff 7-1-03 ; Amended at 21 Ok Reg 1344, eff 7-1-04 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 24 Ok Reg 1301, eff 7-1-07 ; Amended at 27 Ok Reg 1201, eff 7-1-10 ; Amended at 32 Ok Reg 1860, eff 9-15-15 ; Amended at 36 Ok Reg 1794, eff 9-16-19 ; Amended at 38 Ok Reg 2222, eff 9-15-21 ; Amended at 39 Ok Reg 176, eff 10-20-21 (emergency); Amended at 39 Ok Reg 1721, eff 9-15-22 ; Amended at 40 Ok Reg 954, eff 9-15-23]

### **340:25-5-306. Treatment of assigned support payments received directly and retained by AFDC recipients [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-307. Recovery of direct payments [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Amended at 15 Ok Reg 380, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1614, eff 5-11-98 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-308. Overpayments due to inadvertent client or agency error [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-309. Overpayments classified as willful misrepresentation [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-310. Cases referred for willful misrepresentation [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-311. Recovery of overpayments due to inadvertent client or agency error [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-312. Overpayment rules and procedures [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Amended at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 18 Ok Reg 1226, eff 7-1-01 ; Amended at 20 Ok Reg 1240, eff 7-1-03 ; Amended at 21 Ok Reg 1344, eff 7-1-04 ; Amended at 23 Ok Reg 627, eff 1-11-06 (emergency); Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 28 Ok Reg 812, eff 7-1-11 ; Amended at 34 Ok Reg 1465, eff 9-15-17 ; Revoked at 36 Ok Reg 1794, eff 9-16-19]

### **340:25-5-313. Monthly repayment amount [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-314. Repayment agreement - retained support [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Amended at 15 Ok Reg 159, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1614, eff 5-11-98 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-315. Non-cooperation of former AFDC recipient [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-316. Informal meeting - notice of overpayment [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-317. Telephone conference [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-318. Agenda for informal meeting [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-319. Determination of the arrearages [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-320. Disagreement between non-custodial parent and custodial parent regarding amount of retained support [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-321. AFDC sanctions for non-cooperation [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-322. Notification to IV-A [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-323. Money received as a result of recovery action counts as a IV-D AFDC collection [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-324. Recovery of erroneous payments made to custodial persons (AFDC and non-AFDC) [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-325. Credit for \$50.00 disregards [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Amended at 15 Ok Reg 380, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1614, eff 5-11-98 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-326. Monthly repayment amount [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-327. Repayment agreement - administrative error [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Amended at 15 Ok Reg 159, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1614, eff 5-11-98 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-328. Recovery of overpayments from other entities [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Amended at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Revoked at 40 Ok Reg 954, eff 9-15-23]

### **340:25-5-329. Informal meeting [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-330. Non-cooperation by the non-AFDC custodial person [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

**340:25-5-331. CSED Overpayment Unit responsibilities  
[REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

**340:25-5-332. Processing of payments received pursuant to  
repayment agreements [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

**340:25-5-333. Withholding of money from support collected by  
CSED - non-AFDC cases only [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

**340:25-5-334. Referral for state tax offset [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

**340:25-5-335. Status of recovery cases [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

**340:25-5-336. Inactive status and closure of overpayment recovery  
cases [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Amended at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 20 Ok Reg 1240, eff 7-1-03 ; Revoked at 40 Ok Reg 954, eff 9-15-23]

**340:25-5-337. Other types of overpayments [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

**PART 38. TITLE IV-D AND NON-TITLE IV-D CENTRAL  
CASE REGISTRY INFORMATION**

**340:25-5-338. Purpose [REVOKED]**

[Source: Added at 19 Ok Reg 192, eff 10-30-01 (emergency); Added at 19 Ok Reg 1746, eff 7-1-02 ; Revoked at 40 Ok Reg 954, eff 9-15-23]

**340:25-5-339. Central Case Registry**

(a) Oklahoma Human Services, Child Support Services (CSS) maintains a Central Case Registry (CCR) under Section 112A of Title 43 of the Oklahoma Statutes (43 O.S. § 112A). The mailing address of the CCR is: Oklahoma Child Support Services, Central Case Registry, P.O. Box 248843, Oklahoma City, Oklahoma 73124-8843. These rules apply to both IV-D and non-IV-D child support cases unless the context indicates otherwise.

(b) In a non-IV-D child support case, per 43 O.S. § 120, the attorney of record, the noncustodial parent (NCP), or custodial person (CP) who is not represented by an attorney, must prepare a Summary of Support Order, present it to the judge with the support order, and mail it to the CCR.

(c) CCR staff records the support order amount and other information on the statewide automated data processing and information retrieval system so that Oklahoma's Centralized Support Registry can issue support payments to the correct CP.

(1) Per 43 O.S. § 413, non-IV-D payments are properly identified and distributed to the CP via Oklahoma's Centralized Support Registry.

(2) Non-IV-D payments are distributed per Oklahoma Administrative Code (OAC) 340:25-5-350.3.

(d) CSS refers non-IV-D support payment inquiries from NCPs, attorneys, employers, and payors to the Customer Assistance Response Effort (CARE) at the telephone numbers provided in OAC 340:25-1-2.1.

[Source: Reserved at 19 Ok Reg 192, eff 10-30-01 (emergency); Reserved at 19 Ok Reg 1746, eff 7-1-02 ; Added at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 24 Ok Reg 1301, eff 7-1-07 ; Amended at 29 Ok Reg 765, eff 7-1-12 ; Amended at 40 Ok Reg 954, eff 9-15-23]

### **340:25-5-340. Collection and maintenance of addresses of record**

(a) **Scope and authority.** Section 112A of Title 43 of the Oklahoma Statutes (43 O.S. § 112A) provides the basis for Oklahoma Human Services (OKDHS) Child Support Services (CSS) to collect and maintain an address of record (AOR) for:

(1) parties and custodial persons (CP) subject to paternity orders or child support orders entered in Oklahoma;

(2) noncustodial parents (NCP) per 56 O.S. § 237A and Oklahoma Administrative Code 340:25-5-213 (OAC 340:25-5-213);

(3) parties and CPs subject to paternity orders or child support orders entered in other jurisdictions; and

(4) parties and CPs when voluntarily submitted.

(b) **Establishment of AOR.**

(1) CPs and NCPs establish the initial AOR through:

(A) completion of Form 03EN008E, Child Support Services - Address of Record and/or Family Violence Statement;

(B) designation in Form 03EN001E, Application for Child Support Services;

(C) a court order; or

(D) a support order summary form when services are not provided under the OKDHS state Title IV-D plan per 56

O.S. § 237.

(2) When an AOR is established, it remains in effect until it is updated per (c) of this Section.

**(c) Updating an AOR.**

(1) A person responsible for maintaining an AOR, on file with CSS per 43 O.S. § 112A or 56 O.S. § 237A must notify CSS of any change in the AOR within 30-calendar days. The person may send changes to CSS, Central Case Registry, PO Box 248843, Oklahoma City, Oklahoma 73124-8843 or to a district child support office. CSS may require proof of a person's identity before establishing or changing a person's name or the AOR and may attempt to verify or confirm the correctness of the AOR.

(2) A CP updates an AOR:

(A) by submitting a new AOR in writing;

(B) by calling CSS customer service at 405-522-2273 in the Oklahoma City calling area, 918-295-3500 in the Tulsa calling area, or toll-free at 1-800-522-2922. CSS updates the mailing address by phone. CSS sends Form 03EN008E, Address of Record and/or Family Violence Statement, in confirmation of the mailing address update and for the CP to complete and return an updated AOR or claim family violence; or

(C) through a court order.

(3) An NCP updates an AOR:

(A) by submitting a new AOR in writing; or

(B) through a court order.

**(d) Disclosure of an AOR.**

(1) A CP seeking disclosure of another party's or CP's AOR from CSS CCR must submit Form 03EN009E, Request for Address of Record, that:

(A) elicits information about the requester and the reasons for the request; and

(B) includes information about statutory limitations on the AOR release.

(2) CSS may:

(A) refuse to release an AOR per 43 O.S. §§ 112A & 413, OAC 340:25-5-67.1, or other applicable law; and

(B) release an AOR per OAC 340:25-5, Part 9.

(3) When the AOR is not included in a public record document, the AOR of a party or CP may be released by CCR staff or a CSS state's attorney after verifying that the sole purpose of providing the AOR is for service of process in support, visitation, or custody actions. The AOR release by a state's attorney is at the state's attorney's discretion per OAC 340:25-5-67.1 and 43 O.S. § 112A.

(4) When an AOR is established per OAC 340:25-5-340, CSS staff lists the AOR in the certificate of service for all court documents.

[Source: Added at 19 Ok Reg 192, eff 10-30-01 (emergency); Added at 19 Ok Reg 1746, eff 7-1-02 ; Amended at 22 Ok Reg 1221, eff 7-1-05 ; Amended at 24 Ok Reg 1301, eff 7-1-07 ; Amended at 27 Ok Reg 1201, eff 7-1-10 ; Amended at 29 Ok Reg 765, eff 7-1-12 ; Amended at 32 Ok Reg 1860, eff 9-15-15 ; Amended at 34 Ok Reg 1465, eff 9-15-17 ; Amended at 35 Ok Reg 1632, eff 9-17-18 ; Amended at 40 Ok Reg 954, eff 9-15-23]

## **340:25-5-340.1. Disclosure of address of record [REVOKED]**

[Source: Added at 19 Ok Reg 192, eff 10-30-01 (emergency); Added at 19 Ok Reg 1746, eff 7-1-02 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 24 Ok Reg 1301, eff 7-1-07 ; Amended at 27 Ok Reg 1201, eff 7-1-10 ; Amended at 34 Ok Reg 1465, eff 9-15-17 ; Revoked at 40 Ok Reg 954, eff 9-15-23]

## **PART 39. ACCOUNTING AND DISTRIBUTION**

### **340:25-5-345. Advice of deposit [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

#### **340:25-5-345.1. Accounting and fiscal policies and procedures**

(a) In its accounting and fiscal policies and procedures related to collections, distribution, and reporting, Oklahoma Department of Human Services Child Support Services (CSS) follows standard accounting procedures and the applicable provisions of:

- (1) Section 1396k and Part A of Subchapter IV of Chapter 7 of Title 42 of the United States Code;
- (2) Parts 302 and 303 of Title 45 of the Code of Federal Regulations;
- (3) Sections 235 and 237 of Title 56, and Title 62 of the Oklahoma Statutes;
- (4) Oklahoma Administrative Code 340:2-11; and
- (5) directions and instructions from the Office of Management and Enterprise Services.

(b) CSS maintains an accounting system and supporting records adequate to ensure claims for federal funds meet applicable federal requirements per Part 75 of Title 45 of the Code of Federal Regulations.

(c) CSS maintains methods of administration designed to ensure separation of cash handling and accounting functions per (per 45 C.F.R. § 302.20).

(d) Employees and agents within the program are bonded against loss to meet the requirements in 45 C.F.R. § 302.19.

[Source: Added at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 18 Ok Reg 1226, eff 7-1-01 ; Amended at 19 Ok Reg 1746, eff 7-1-02 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 33 Ok Reg 1592, eff 9-15-16]

#### **340:25-5-345.2. Definitions**

The following words and terms, when used in this Part, shall have the following meanings unless the context clearly indicates otherwise:

**"Allocation"** is the process used to divide receipts among the eligible obligations of an obligor. Eligible refers to active and enforceable obligations that meet the criteria to be paid by the collection being allocated.

**"Case type"** means a payee, including, but not limited to:

- (A) custodial person (CP);



(B) support owed to another state; or

(C) reimbursement for:

(i) Temporary Assistance for Needy Families program;

(ii) Foster Care program; or

(iii) Office of Juvenile Affairs program.

**"Cashier's check"** means *a draft with respect to which the drawer and drawee are the same bank or branches of the same bank* per Section 3-104 of Title 12A of the Oklahoma Statutes (12A O.S. § 3-104).

**"Certified check"** means *a check accepted by the bank on which it is drawn* per 12A O.S. § 3-409.

**"Check"** means a draft payable on demand and drawn on a bank. A negotiable instrument may be a check even though it is described on its face by another term such as "money order" per 12A O.S. § 3-104.

**"Disbursement"** means when funds have been issued to the CP, another entity, or refunded to a noncustodial parent.

**"Distributed payments"** means funds have been logged to the case and the resulting issuance, if any, occurred.

**"Distribution"** is the federally mandated process for applying receipts after they are allocated.

**"Forgery"** means a fraudulently endorsed and subsequently cashed warrant.

**"Monthly payment plan"** means the plan approved by the court or a voluntary income assignment or acknowledgment executed by the obligor to ensure compliance with a support order, including current child support, cash medical, spousal support, and monthly payment on past-due support.

**"Negotiable instrument"** means *an unconditional promise or order to pay a fixed amount of money, with or without interest or other charges described in the promise or order*, if it meets the criteria outlined in 12A O.S. § 3-104.

**"Obligation"** means the monthly amount due for current support, past-due support, or both, along with total arrears for an obligor.

**"Payee"** means the person or entity to whom the check is written.

**"Pended payments"** means funds that are distributed to case balances but the payee has not yet received the money. Pended payments include, but are not limited to, cancelled by statute and stop pay issuances.

(A) **"Cancelled by statute"** means a warrant was issued but was not cashed by the payee within 90 calendar days.

(B) **"Stop pay"** means an Oklahoma Child Support Services (OCSS) warrant was issued but the payee requested the check not be approved for payment. The payee must complete Form 10AD044E, Affidavit of Lost or Destroyed Warrant, in order to initiate the stop payment process. Upon receipt of Form 10AD044E, OCSS notifies the Oklahoma State Treasurer and issues a replacement warrant.

**"Unauthorized signature"** means *a signature made without actual, implied or apparent authority. The term includes a forgery* per 12A O.S. § 1-201.

**"Undistributed payments"** means funds received but not yet distributed to a case balance.

**"Warrant"** means an unconditional written order by which one person or entity authorizes another person or entity to pay a sum certain of money to a third person or entity. A warrant is also known as a check or bank draft.

[Source: Added at 26 Ok Reg 1245, eff 7-1-09 ; Amended at 29 Ok Reg 765, eff 7-1-12 ; Amended at 30 Ok Reg 641, eff 7-1-13]

### **340:25-5-346. Deposits by district and contract offices into local bank accounts [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-347. Cash payments [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-348. Insufficient checks [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-349. Payments not logged [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-350. Collections [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-350.1. Return of overcollected support amounts [REVOKED]**

[Source: Added at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 20 Ok Reg 1240, eff 7-1-03 ; Amended at 22 Ok Reg 1221, eff 7-1-05 ; Amended at 28 Ok Reg 812, eff 7-1-11 ; Amended at 29 Ok Reg 765, eff 7-1-12 ; Amended at 30 Ok Reg 641, eff 7-1-13 ; Amended at 32 Ok Reg 1860, eff 9-15-15 ; Amended at 34 Ok Reg 1465, eff 9-15-17 ; Revoked at 36 Ok Reg 1794, eff 9-16-19]

### **340:25-5-350.2. Unreimbursed public assistance**

(a) Support rights assigned to the State constitute an obligation owed to the State by the person responsible for providing such support under Section 302.50 of Title 45 of the Code of Federal Regulations.

(b) In collecting unreimbursed public assistance, the Oklahoma Department of Human Services Child Support Enforcement Division (CSED) is governed by:

(1) Sections 608 and 657 of Title 42 of the United States Code;

- (2) Parts 302 and 303 of Title 45 of the Code of Federal Regulations; and
- (3) Section 238 of Title 56 of the Oklahoma Statutes.

[Source: Added at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 23 Ok Reg 1842, eff 7-1-06]

### **340:25-5-350.3. Payment of support through Centralized Support Registry**

(a) **Centralized Support Registry.** Oklahoma Department of Human Services (DHS) Child Support Services (CSS) operates a Centralized Support Registry (Registry), also known as the State Disbursement Unit, for the receipt, recording, allocation, distribution, and disbursement of support payments. CSS operates the Registry, per Sections 410 and 413 of Title 43 of the Oklahoma Statutes (43 O.S. §§ 410 and 413), Sections 302.51 and 303.100 of Title 45 of the Code of Federal Regulations (45 C.F.R. §§ 302.51 and 303.100), and Sections 654b and 657 of Title 42 of the United States Code (42 U.S.C. §§ 654b and 657).

(1) This Section applies to both Title IV-D and non-Title IV-D cases, unless the context clearly indicates otherwise.

(2) When a non-Title IV-D child support case has an income assignment in place, the Registry processes child support payments received from unemployment compensation benefits as income assignments per federal and state law.

(b) **Support payments.**

(1) Support payments must be paid as instructed in writing by CSS to the Registry.

(2) CSS offices may accept support payments when a payment is made:

(A) in connection with a court action; or

(B) as part of a settlement agreement on a lien or levy.

(c) **Method of payment.** CSS may require payors and persons to provide information needed to identify and properly allocate and distribute payments and to submit payments to the Registry, per 43 O.S. § 413.

(1) Support payment amounts are converted from a foreign country's order amount to a United States (U.S.) dollar amount at the time of the referral or application and that exchange rate remains in place until the child support order is modified or the arrears are confirmed.

(2) CSS:

(A) allocates and distributes support payments, per Oklahoma Administrative Code (OAC) 340:25-5-351;

(B) modifies or enforces international orders, per OAC 340:25-5-285;

(C) safeguards case information and records received from payors and persons. Information and records concerning Title IV-D and non-Title IV-D recipients of services through the Registry are confidential, per 56 O.S. § 183 except as provided in OAC 340:25-5-67;

(D) sends custodial persons (CPs) a quarterly written notice of the amount of current support, arrears, and

interest collected, and the amount of collections paid to the CP. CPs may also obtain this information over the Internet or by phoning CSS, per OAC 340:25-1-2.1; (E) reserves the right to refuse to accept a personal or business check or direct debit after receiving a dishonored personal or business check, direct debit, electronic funds transfer (EFT), or other negotiable instrument from the same payor or on the same case; and (F) considers the date of collection to be the date payments are received by the Registry and applies payments to existing case balances as of that date. When a payment collected represents the current support amount for future months, the amount is applied to such future months when there are no past due balances on any of the noncustodial parent's (NCP's) cases, per 45 C.F.R. § 302.51.

(3) When CSS refuses to accept a personal or business check, direct debit, EFT, or other negotiable instrument from a payor per

(2)(E) of this subsection, the payor:

(A) must submit the payment by cashier's check, certified check, money order, or cash at a CSS verified payment location as identified on the CSS page at <http://www.okdhs.org>;

(B) is added to the CSS Returned Payments List;

(C) remains on the Returned Payments List until CSS receives the equivalent of 12 months of payments unless:

(i) the payment is returned due to missing endorsement;

(ii) the payor provides prior notification that payment will be returned and remits a replacement payment within 10-calendar days of notification in the manner required by CSS;

(iii) the returned payment is insufficient funds caused by a CSS Financial Institution Data Match levy; or

(iv) CSS deems the reason for returned payment is out of payor's control; or

(D) must request removal from the Returned Payments List by contacting CSS, per OAC 340:25-1-2.1.

(4) CSS notifies the payor by mail:

(A) of the reason for the returned payment;

(B) that the payor was placed on the Returned Payments List;

(C) that the payor must submit payments as outlined in (3) (A) of this subsection; and

(D) how the payor can be removed from the Returned Payments List.

(5) When CSS removes the payor from the Returned Payments List and subsequently has another payment returned, the payor is added back to the Returned Payments List and remains there indefinitely.

(d) **EFT support payments.** NCPs, employers, and other payors may register to make electronic payments through the CSS online child support payment system (e-Pay), available through <http://www.okdhs.org/services/ocss/pages/paymentoptions.aspx>.

(1) To transfer child support payments electronically, NCPs, employers, and other payors must:

- (A) call CSS at the phone numbers provided in OAC 340:25-1-2.1 to set up the EFT process;
- (B) have a valid email account;
- (C) have Internet access;
- (D) be a legal owner of a:
  - (i) bank account held at a financial institution within the U.S.; or
  - (ii) VISA or MasterCard credit or debit card held at a financial institution within the U.S.; and
- (E) register to use e-Pay.

(2) E-Pay payments do not replace federally mandated income withholding and will not stop or cancel income-withholding orders for NCPs.

(3) CSS may adjust and release payroll deductions that were electronically transferred from an NCP's wages. When an adjustment cannot be processed in time to effect the change on the next scheduled electronic funds transfer, employers do not refund money to the employee, make adjustments to subsequent EFT payments, or take other action to correct the amount deducted.

(4) CSS reserves the right to:

- (A) close an e-Pay account and impose fees and charges when a scheduled payment transaction is returned for any reason;
- (B) add the payor to Returned Payments List, per (c)(3) of this Section; and
- (C) specify what payment formats are used to conduct the electronic funds transfer between businesses to state child support entities.

(e) **Payment issuance.**

(1) Per 42 U.S.C. § 654 and 45 C.F.R. § 302.38, CSS issues payments to the CP only by transferring funds electronically, also known as direct deposit, or through debit cards.

(2) In interstate cases, CSS issues payments to the initiating state Title IV-D agency by electronic funds transfer and only issues payments by paper warrant to initiating states that do not have an electronic funds transfer system.

(3) Payments issued by debit card.

(A) When a DHS customer has a debit card, at the point of CSS initial child support payment issuance for a CP, a letter is mailed explaining that child support funds are added to the existing debit card account.

(B) When a DHS customer was not issued an Oklahoma debit card at the point of CSS initial child support payment issuance, a letter is mailed explaining the debit card

activation process and that the debit card should be expected within 10- business days. The CP must activate the debit card within 90-calendar days of issuance.

(i) When a card is not activated, CSS mails a second letter to the CP after 45- calendar days and a third letter after 90-calendar days. The letters explain the importance of activating the debit card and that when the card is not activated within 90-calendar days the payment is no longer available on the debit card.

(ii) Payments issued to a CP who has not activated the debit card are returned to CSS after 90-calendar days. When payments are returned to CSS, payments are applied, per OAC 340:25-5-350.4. When the payments were distributed to other case balances or returned to the NCP, the payments are not redistributed to the CP.

(4) Payments issued by direct deposit. After receiving a debit card, the CP may enroll in direct deposit by calling the toll-free customer service phone number located on the back of the debit card. There are no charges or fees for receiving child support payments by direct deposit. A CP must have a bank account held at a financial institution within the U.S. to receive direct deposit child support payments and normal banking charges may apply.

**(f) Forged endorsement on warrants.**

(1) When a CP reports that a warrant has been fraudulently cashed, CSS compares the payee's signature against the endorsement on the warrant and verifies that the signatures do not match.

(2) CSS sends the following completed and signed documentation by the payee to the Oklahoma State Treasurer's Office (OST):

(A) Form 10AD044E, Affidavit of Lost or Destroyed Warrant;

(B) Form 10AD045E, Affidavit of Forged Endorsement; and

(C) Form 10AD046E, Investigation Questionnaire.

(3) CSS issues a replacement warrant to the payee after CSS receives the return of funds from OST and the OST mandatory 60-calendar day holding period closes.

**(g) Overcollected support amounts.** CSS returns overcollected support amounts, per OAC 340:25-5-350.1.

**(h) Payment errors.** When payments were disbursed, CSS manages payment errors as described in this subsection.

(1) When a payor makes a payment error, CSS is not required to correct, redirect, or recover the distributed payment, unless it was retained by DHS.

(2) When CSS errs, CSS recovers overpayments to parties or CPs in Title IV-D and non-Title IV-D cases, per OAC 340:25-5, Part 37.

**(i) Suspicious payment activity.** CSS restricts use of payment methods by imposing limits, hold times, or other measures when CSS believes that suspicious activity occurred or may occur on a payor's account.

[Source: Added at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 19 Ok Reg 192, eff 10-30-01 (emergency); Amended at 19 Ok Reg 1746, eff 7-1-02 ; Amended at 20 Ok Reg 1240, eff 7-1-03 ; Amended at 21 Ok Reg 1344, eff 7-1-04 ; Amended at 22 Ok Reg 1221, eff 7-1-05 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 24 Ok Reg 1301, eff 7-1-07 ; Amended at 25 Ok Reg 1307, eff 7-1-08 ; Amended at 26 Ok Reg 1245, eff 7-1-09 ; Amended at 29 Ok Reg 765, eff 7-1-12 ; Amended at 30 Ok Reg 641, eff 7-1-13 ; Amended at 32 Ok Reg 1860, eff 9-15-15 ; Amended at 35 Ok Reg 1632, eff 9-17-18 ; Amended at 36 Ok Reg 1794, eff 9-16-19]

#### **340:25-5-350.4. Undistributed and pended issuance payments**

(a) **Undistributed payments.** When a payment cannot be distributed to a case balance, Oklahoma Child Support Services (OCSS) temporarily suspends the application of the payment.

(b) **Pended payments.** A payment is pended when it is distributed to a case balance but the issuance of the payment is temporarily suspended. Reasons why a payment has not been issued may include, but are not limited to:

- (1) federal income tax refund intercept under OAC 340:25-5-215;
- (2) forgery under OAC 340:25-5-350.3;
- (3) inactivated debit card;
- (4) warrant cancelled by statute; and
- (5) warrant with a stop pay.

(c) **Payment resolution.** OCSS researches the reason for the undistributed or pended status in the automated Oklahoma Support Information System (OSIS), resolves and processes the payment by:

- (1) adjusting the case balance to distribute to the custodial person or other balances;
- (2) applying to balances on other cases; or
- (3) refunding to the payor.

[Source: Added at 26 Ok Reg 1245, eff 7-1-09]

#### **340:25-5-351. Allocation and distribution of collections**

(a) **Authority.** Oklahoma Human Services Child Support Services (CSS) allocates and distributes support collections, per Section 657 of Title 42 of the United States Code (42 U.S.C. § 657) and Sections 302.32, 302.51, and 302.52 of Title 45 of the Code of Federal Regulations (45 C.F.R. §§ 302.32, 302.51, and 302.52). CSS collects fees, per 42 U.S.C. § 654, 45 C.F.R. § 302.33, and Section 237 of Title 56 of the Oklahoma Statutes (56 O.S. § 237).

(b) **Fees.** CSS collects fees, per 42 U.S.C. § 654, 45 C.F.R. § 302.33, and 56 O.S. § 237. A case is exempt from fees when the custodial person (CP) is currently receiving Temporary Assistance for Needy Families (TANF). Fees are withheld prior to child support distribution to the CP. CSS collects:

- (1) an annual fee on eligible cases, per 45 C.F.R. § 302.33. When there is more than one Title IV-D child support program involved, CSS collects the annual fee on cases when Oklahoma is the initiating state; and
- (2) a three percent service fee for each payment distributed to the CP, up to a \$10.00 per month maximum except when the CP is currently receiving SoonerCare (Medicaid).

(c) **Allocation.**

(1) **General allocation.** Allocation refers to how a payment is divided among eligible obligations. Some obligors have more than one child support case and the allocation rules determine which case receives all or a portion of the collection received. A collection is allocated based on the source of the collection and the type of legal action resulting in a collection.

(2) **Allocation models.** CSS divides collections among the obligor's eligible obligations based on the following models.

(A) **Standard.** All payments not made by income withholding order or federal income tax refund offset are allocated to eligible obligations in (i) through (iii):

- (i) prorated to the current child support, cash medical support, and spousal support;
- (ii) prorated to the monthly payment plan on past support; and
- (iii) amounts remaining from the initial collection or additional collections received during the same month will allocate based on a prorated share of total arrears owed on all eligible obligations. The allocated amounts cannot exceed the total arrears due on the cases.

(B) **Income Withholding Order (IWO).** Periodic payments from an IWO are allocated to eligible obligations in (i) through (iii):

- (i) prorated to the current child support, cash medical support, and spousal support;
- (ii) prorated to the monthly payment plan on past support and other judgment(s), such as judgments for genetic testing costs; and
- (iii) the steps in (1) and (2) of this subsection are repeated for amounts remaining from the initial collection or additional collections received during the same month, until the entire collection is allocated.

(C) **Internal Revenue Service (IRS).** Collections received from the offset of federal income tax refunds are allocated according to the existing federal hierarchy, per 42 U.S.C. § 657 and 45 C.F.R. § 303.72. CSS allocates only to balances certified to the IRS. CSS applies these collections to each eligible obligation:

- (i) first to balances certified to the IRS as public assistance; and
- (ii) then to any CP's certified balances.

(3) **Specific enforcement actions.** Collections received from case-specific enforcement actions are not allocated across all cases, but are allocated to the case(s) in which the action is taken.

(4) **Non-Title IV-D cases.** In non-Title IV-D cases, CSS allocates payments as follows:

(A) payments received from an IWO are allocated using the IWO model. Collections are allocated to non-Title IV-D



cases based on the amounts listed in the non-Title IV-D IWO; and

(B) all other payments are allocated using the Standard model. When CSS receives information on processing a specific payment, CSS may allocate the payment based on that information.

**(5) Intergovernmental cases.**

(A) **Incoming.** In cases where CSS is collecting support for a CP who is receiving services from another jurisdiction's child support agency, past-due payments are allocated based on information the initiating state provides.

(B) **Outgoing.** Collections received from other jurisdictions resulting from an outgoing referral are allocated to that case.

**(d) Distribution.**

(1) CSS distributes collections based on the federal distribution hierarchy, per 42 U.S.C. § 657 and 45 C.F.R. §§ 302.32 and 302.51.

(2) CSS initially distributes collections to current support and current cash medical support obligations due each month. When collections are less than the amount of all current support and current cash medical support due, CSS distributes collections between the current child support and the current cash medical support obligations in proportionate shares.

(3) After the current child support and current cash medical support obligations are met, CSS distributes collections to current spousal support due.

(4) After current child support, current cash medical support, and current spousal support obligations are satisfied, remaining collections for the month are distributed to past-due balances.

(5) CSS distributes payments to interest owed after current child support and principal arrears balances are paid in full to each obligation.

(6) When a payment collected represents current support for future months, the amount is applied to such. When past support balances exist on any of the noncustodial parent's cases, payments are not applied to the next month's current support, per 45 C.F.R. § 302.51.

**(e) Distributed payment adjustments.** When CSS determines a payment adjustment is required, CSS makes the necessary corrections to the statewide automated data processing and information retrieval system.

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Amended at 15 Ok Reg 159, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1614, eff 5-11-98 ; Amended at 16 Ok Reg 3463, eff 10-1-99 ; Amended at 17 Ok Reg 2426, eff 7-1-00 ; Amended at 18 Ok Reg 1226, eff 7-1-01 ; Amended at 20 Ok Reg 1240, eff 7-1-03 ; Amended at 21 Ok Reg 1344, eff 7-1-04 ; Amended at 23 Ok Reg 1842, eff 7-1-06 ; Amended at 25 Ok Reg 1307, eff 7-1-08 ; Amended at 26 Ok Reg 3036, eff 7-21-09 (emergency); Amended at 27 Ok Reg 161, eff 10-8-09 (emergency); Amended at 27 Ok Reg 1201, eff 7-1-10 ; Amended at 28 Ok Reg 812, eff 7-1-11 ; Amended at 30 Ok Reg 641, eff 7-1-13 ; Amended at 34 Ok Reg 1465, eff 9-15-17 ; Amended at 36 Ok Reg 1794, eff 9-16-19 ; Amended at 37 Ok Reg 1802, eff 9-15-20 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:25-5-352. Distributed payment adjustments [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00 ; Added at 26 Ok Reg 1245, eff 7-1-09 ; Amended at 30 Ok Reg 641, eff 7-1-13 ; Revoked at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:25-5-353. Monthly/Quarterly reports [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-354. Warrants [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

## **PART 41. CLAIMS, PURCHASING, CONTRACTS AND BUDGET [REVOKED]**

### **340:25-5-360. Claims processing [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-361. Purchasing and Inventory [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-362. Contracts [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

### **340:25-5-363. Budget [REVOKED]**

[Source: Added at 9 Ok Reg 3275, eff 6-26-92 (emergency); Added at 10 Ok Reg 1813, eff 5-13-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

## **APPENDIX A. APPLICATION FOR NON-AFDC SUPPORT SERVICES [REVOKED]**

[**Source:** Revoked and reenacted at 9 Ok Reg 1945, eff 11-5-92 (emergency); Revoked and reenacted at 10 Ok Reg 1427, eff 4-26-93 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

**APPENDIX B. APPLICATION FOR PARENTAL  
KIDNAPPING FEDERAL LOCATOR SERVICES  
[REVOKED]**

[Source: Revoked at 17 Ok Reg 2426, eff 7-1-00]

## **APPENDIX C. NOTICE OF NON-COOPERATION [REVOKED]**

[**Source:** Revoked and reenacted at 9 Ok Reg 863, eff 1-6-92 (emergency); Revoked and reenacted at 9 Ok Reg 2443, eff 6-25-92 ; Revoked at 17 Ok Reg 2426, eff 7-1-00]

## **APPENDIX D. AFFIDAVIT OF CHILD SUPPORT PAYMENTS RECEIVED [REVOKED]**

[**Source:** Added at 9 Ok Reg 1945, eff 5-11-92 (emergency); Added at 10 Ok Reg 1427, eff 4-26-93 ;  
Revoked at 17 Ok Reg 2426, eff 7-1-00]

## **APPENDIX E. MOTHER'S AFFIDAVIT OF PATERNITY [REVOKED]**

[**Source:** Added at 9 Ok Reg 1945, eff 5-11-92 (emergency); Added at 10 Ok Reg 1427, eff 4-26-93 ;  
Revoked at 16 Ok Reg 3468, eff 9-1-99]

**APPENDIX F. STATEMENT OF UNDERSTANDING OF  
FULL CHILD SUPPORT SERVICES - MEDICAID  
[REVOKED]**

[Source: Added at 9 Ok Reg 1945, eff 5-11-92 (emergency); Added at 10 Ok Reg 1427, eff 4-26-93 ;  
Revoked at 17 Ok Reg 2426, eff 7-1-00]



**APPENDIX G. STATEMENT OF UNDERSTANDING,  
COOPERATION AND ASSIGNMENT - AID TO FAMILIES  
WITH DEPENDENT CHILDREN (AFDC) [REVOKED]**

[Source: Added at 9 Ok Reg 1945, eff 5-11-92 (emergency); Added at 10 Ok Reg 1427, eff 4-26-93 ;  
Revoked at 17 Ok Reg 2426, eff 7-1-00]

**APPENDIX H. STATEMENT OF UNDERSTANDING, FOR  
SECURING MEDICAL SUPPORT ONLY - MEDICAID  
[REVOKED]**

[Source: Added at 9 Ok Reg 1945, eff 5-11-92 (emergency); Added at 10 Ok Reg 1427, eff 4-26-93 ;  
Revoked at 17 Ok Reg 2426, eff 7-1-00]

## **APPENDIX I. STATE INCOME TAX INTERCEPT PROGRAM [REVOKED]**

[**Source:** Added at 10 Ok Reg 981, eff 2-4-93 (emergency); Added at 10 Ok Reg 2075, eff 5-27-93 ;  
Revoked at 17 Ok Reg 2426, eff 7-1-00]

## **CHAPTER 30. MEDICAL SERVICES FOR PERSONS UNDER 21 YEARS OF AGE [REVOKED]**

[**Authority:** Federal Social Security Act; OKLA. CONST. art XXV; 10 O.S.]  
[**Source:** Codified 12-31-91]

### **340:30-1-1. Purpose [REVOKED]**

[**Source:** Revoked at 18 Ok Reg 2071, eff 7-1-01]

### **340:30-1-2. Legal Basis [REVOKED]**

[**Source:** Revoked at 18 Ok Reg 2071, eff 7-1-01]

### **340:30-1-3. Crippled Children's Program (CCP) [REVOKED]**

[**Source:** Revoked at 18 Ok Reg 2071, eff 7-1-01]

### **340:30-1-4. Scope of the Crippled Children's Program [REVOKED]**

[**Source:** Amended at 8 Ok Reg 3265, eff 7-15-91 (emergency); Amended at 9 Ok Reg 2441, eff 6-25-92 ; Revoked at 18 Ok Reg 2071, eff 7-1-01]

### **340:30-1-5. Special medical services [REVOKED]**

[**Source:** Revoked at 18 Ok Reg 2071, eff 7-1-01]

### **340:30-1-6. Regional treatment clinics [REVOKED]**

[**Source:** Revoked at 18 Ok Reg 2071, eff 7-1-01]

### **340:30-1-7. Eligibility [REVOKED]**

[**Source:** Amended at 8 Ok Reg 3265, eff 7-15-91 (emergency); Amended at 9 Ok Reg 2441, eff 6-25-92 ; Revoked at 18 Ok Reg 2071, eff 7-1-01]

### **340:30-1-8. Social Security numbers [REVOKED]**

[**Source:** Revoked at 18 Ok Reg 2071, eff 7-1-01]

### **340:30-1-9. Potential payment from third party sources [REVOKED]**

[**Source:** Revoked at 18 Ok Reg 2071, eff 7-1-01]

### **340:30-1-10. Insurance and third party liability [REVOKED]**

[**Source:** Revoked at 18 Ok Reg 2071, eff 7-1-01]

### **340:30-1-11. Applications [REVOKED]**

[Source: Revoked at 18 Ok Reg 2071, eff 7-1-01]

### **340:30-1-12. Responsibility of local office [REVOKED]**

[Source: Revoked at 18 Ok Reg 2071, eff 7-1-01]

### **340:30-1-13. Responsibility of Crippled Children's Unit, State Office [REVOKED]**

[Source: Revoked at 18 Ok Reg 2071, eff 7-1-01]

### **340:30-1-14. Claims [REVOKED]**

[Source: Revoked at 18 Ok Reg 2071, eff 7-1-01]

### **340:30-1-15. Use of medical information, client's rights, fair hearings and overpayments [REVOKED]**

[Source: Revoked at 18 Ok Reg 2071, eff 7-1-01]

### **340:30-1-16. Fair hearings [REVOKED]**

[Source: Revoked at 18 Ok Reg 2071, eff 7-1-01]

### **340:30-1-17. Overpayments [REVOKED]**

[Source: Revoked at 18 Ok Reg 2071, eff 7-1-01]

### **340:30-1-18. Administrative reviews [REVOKED]**

[Source: Revoked at 18 Ok Reg 2071, eff 7-1-01]

## **APPENDIX A. CRIPPLED CHILDREN'S PROGRAM MAINTENANCE STANDARDS [REVOKED]**

[Source: Revoked at 9 Ok Reg 3723, eff 5-18-92 ; Revoked at 13 Ok Reg 301, eff 5-18-95 (emergency); Revoked at 13 Ok Reg 2625, eff 6-28-96 ; Revoked at 13 Ok Reg 3197, eff 7-1-96 (emergency); Revoked and reenacted at 14 Ok Reg 1348, eff 5-12-97 ; Revoked and reenacted at 14 Ok Reg 3109, eff 7-1-97 (emergency); Revoked and reenacted at 15 Ok Reg 1621, eff 5-11-98 ; Revoked at 18 Ok Reg 2071, eff 7-1-01]

## **CHAPTER 35. MEDICAL ASSISTANCE FOR ADULTS AND CHILDREN [REVOKED]**

[**Authority:** Federal Social Security Act, Title XIX; OKLA. CONST. art XXV; Immigration and Reform Act of 1986; 10 O.S., §§ 175.1, 1415, and 1417; 56 O.S., §§ 28.1 et seq., 161 et seq., 162, 164, 175, and 177; 63 O.S., § 1-818.5]

[**Source:** Codified 12-31-91]

### **SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]**

#### **340:35-1-1. Purpose [REVOKED]**

[**Source:** Revoked at 13 Ok Reg 2193, eff 6-14-96]

#### **340:35-1-2. Definitions [REVOKED]**

[**Source:** Amended at 9 Ok Reg 2775, eff 7-13-92 ; Amended at 10 Ok Reg 2851, eff 6-25-93 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]

#### **340:35-1-3. Legal bases [REVOKED]**

[**Source:** Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **SUBCHAPTER 3. COVERAGE AND EXCLUSIONS [REVOKED]**

#### **340:35-3-1. Payment for medical services [REVOKED]**

[**Source:** Amended at 9 Ok Reg 2775, eff 7-13-92 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]

#### **340:35-3-2. Amount, duration and scope of coverage for medical services [REVOKED]**

[**Source:** Amended at 9 Ok Reg 2775, eff 7-13-92 ; Amended at 10 Ok Reg 1085, eff 2-23-93 (emergency); Amended at 10 Ok Reg 3971, eff 6-22-93 (emergency); Amended at 10 Ok Reg 2869, eff 6-25-93 ; Amended at 11 Ok Reg 2239, eff 5-26-94 ; Amended at 11 Ok Reg 4357, eff 7-8-94 (emergency); Amended at 11 Ok Reg 4479, eff 8-1-94 (emergency); Amended at 12 Ok Reg 65, eff 10-5-94 through 7-14-95 (emergency); Revoked at 13 Ok Reg 2193, eff 6-14-96]

#### **340:35-3-3. Prior authorization requirements [REVOKED]**

[**Source:** Amended at 9 Ok Reg 2775, eff 7-13-92 ; Amended at 9 Ok Reg 463, eff 11-30-92 (emergency); Amended at 10 Ok Reg 2055, eff 5-27-93 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **SUBCHAPTER 5. ELIGIBILITY AND COUNTABLE INCOME [REVOKED]**

## **PART 1. DETERMINATION OF QUALIFYING CATEGORICAL RELATIONSHIPS [REVOKED]**

### **340:35-5-1. Scope and applicability [REVOKED]**

[Source: Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **340:35-5-2. Categorically related programs [REVOKED]**

[Source: Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **340:35-5-3. Determining categorical relationship to the aged [REVOKED]**

[Source: Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **340:35-5-4. Determining categorical relationship to the disabled [REVOKED]**

[Source: Amended at 11 Ok Reg 629, eff 11-29-93 (emergency); Amended at 11 Ok Reg 2239, eff 5-26-94 ; Amended at 11 Ok Reg 4479, eff 8-1-94 through 7-14-95 (emergency); Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **340:35-5-5. Determining categorical relationship to the blind [REVOKED]**

[Source: Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **340:35-5-6. Determining categorical relationship to pregnancy- related services [REVOKED]**

[Source: Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **340:35-5-7. Determining categorical relationship to AFDC [REVOKED]**

[Source: Revoked at 13 Ok Reg 2193, eff 6-14-96]

## **PART 3. NON-MEDICAL ELIGIBILITY REQUIREMENTS [REVOKED]**

### **340:35-5-25. Citizenship requirements [REVOKED]**

[Source: Revoked at 13 Ok Reg 2193, eff 6-14-96]



**340:35-5-26. Residence requirements; homeless persons  
[REVOKED]**

[Source: Revoked at 13 Ok Reg 2193, eff 6-14-96]

**340:35-5-27. Social Security number [REVOKED]**

[Source: Revoked at 13 Ok Reg 2193, eff 6-14-96]

**PART 5. COUNTABLE INCOME AND RESOURCES  
[REVOKED]**

**340:35-5-40. Scope and applicability [REVOKED]**

[Source: Revoked at 13 Ok Reg 2193, eff 6-14-96]

**340:35-5-41. Determination of capital resources for individuals  
categorically related to aged, blind and disabled [REVOKED]**

[Source: Amended at 9 Ok Reg 1733, eff 4-20-92 (emergency); Amended at 9 Ok Reg 2783, eff 7-13-92 ; Amended at 9 Ok Reg 3661, eff 7-23-92 (emergency); Amended at 10 Ok Reg 1781, eff 5-13-93 ; Amended at 11 Ok Reg 629, eff 11-29-93 (emergency); Amended at 11 Ok Reg 1119, eff 1-25-94 (emergency); Amended at 11 Ok Reg 3233, eff 6-27-94 ; Amended at 11 Ok Reg 4009, eff 7-1-94 (emergency); Amended at 12 Ok Reg 211, eff 10-14-94 through 7-14-95 (emergency); Revoked at 13 Ok Reg 2193, eff 6-14-96]

**340:35-5-42. Determination of countable income for individuals  
categorically related to aged, blind and disabled [REVOKED]**

[Source: Amended at 9 Ok Reg 1733, eff 4-20-92 (emergency); Amended at 9 Ok Reg 2783, eff 7-13-92 ; Amended at 9 Ok Reg 3661, eff 7-23-92 (emergency); Amended at 10 Ok Reg 1781, eff 5-13-93 ; Amended at 11 Ok Reg 629, eff 11-29-93 (emergency); Amended at 11 Ok Reg 2239, eff 5-26-94 ; Amended at 11 Ok Reg 4009, eff 7-1-94 (emergency); Amended at 12 Ok Reg 211, eff 10-14-94 through 7-14-95 (emergency); Revoked at 13 Ok Reg 2193, eff 6-14-96]

**340:35-5-43. Third party resources; insurance, workers'  
compensation; and Medicare [REVOKED]**

[Source: Revoked at 13 Ok Reg 2193, eff 6-14-96]

**340:35-5-44. Child/spousal support [REVOKED]**

[Source: Revoked at 13 Ok Reg 2193, eff 6-14-96]

**340:35-5-45. Determination of income and resources for  
categorical relationship to AFDC [REVOKED]**

[Source: Amended at 10 Ok Reg 3467, eff 6-14-93 (emergency); Amended at 11 Ok Reg 2251, eff 5-26-94 ; Amended at 11 Ok Reg 4009, eff 7-1-94 through 7-14-95 (emergency); Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **340:35-5-46. Determination of income and resources for categorical relationship to pregnancyrelated services [REVOKED]**

[Source: Amended at 10 Ok Reg 3467, eff 6-14-93 (emergency); Amended at 11 Ok Reg 2251, eff 5-26-94 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **340:35-5-47. Determination of income and resources for categorical relationship to Disability for TB Infected Individuals [EXPIRED]**

[Source: Added at 11 Ok Reg 4479, eff 8-1-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-5-47 was no longer effective. For the official text of the emergency rule that was in effect from 8-1-94 through 7-14-95, see 11 Ok Reg 4479.*

## **SUBCHAPTER 7. SHORT-TERM MEDICAL SERVICES [REVOKED]**

### **PART 1. GENERAL [REVOKED]**

#### **340:35-7-1. Scope and applicability [REVOKED]**

[Source: Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **PART 3. APPLICATION PROCEDURES [REVOKED]**

#### **340:35-7-15. Application for short-term medical care; forms [REVOKED]**

[Source: Amended at 9 Ok Reg 513, eff 12-13-91 (emergency); Amended at 9 Ok Reg 2863, eff 7-13-92 ; Amended at 9 Ok Reg 4027, eff 9-21-92 (emergency); Amended at 10 Ok Reg 2875, eff 6-25-93 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]

#### **340:35-7-16. Special application procedures for children in Department custody [REVOKED]**

[Source: Amended at 9 Ok Reg 513, eff 12-13-91 (emergency); Amended at 9 Ok Reg 2863, eff 7-13-92 ; Amended at 9 Ok Reg 4027, eff 9-21-92 (emergency); Amended at 10 Ok Reg 2875, eff 6-25-93 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **340:35-7-17. Special application procedures for children in emergency shelter [REVOKED]**

[Source: Amended at 9 Ok Reg 513, eff 12-13-91 (emergency); Amended at 9 Ok Reg 2863, eff 7-13-92 ; Amended at 9 Ok Reg 4027, eff 9-21-92 (emergency); Amended at 10 Ok Reg 2875, eff 6-25-93 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **340:35-7-18. Special application procedures for a child in Children's Hospital of Oklahoma (CHO) [REVOKED]**

[Source: Amended at 9 Ok Reg 513, eff 12-13-91 (emergency); Amended at 9 Ok Reg 2863, eff 7-13-92 ; Amended at 9 Ok Reg 4027, eff 9-21-92 (emergency); Amended at 10 Ok Reg 2875, eff 6-25-93 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **340:35-7-19. Special application procedures for categorically needy pregnant women and young children [REVOKED]**

[Source: Amended at 9 Ok Reg 513, eff 12-13-91 (emergency); Amended at 9 Ok Reg 2863, eff 7-13-92 ; Amended at 9 Ok Reg 4027, eff 9-21-92 (emergency); Revoked at 10 Ok Reg 3467, eff 6-14-93 (emergency); Amended at 10 Ok Reg 2875, eff 6-25-93 ; Revoked at 11 Ok Reg 2251, eff 5-26-94]

## **PART 5. DETERMINATION OF ELIGIBILITY FOR SHORT-TERM MEDICAL SERVICES [REVOKED]**

### **340:35-7-35. General eligibility consideration; categorically related family members [REVOKED]**

[Source: Amended at 9 Ok Reg 4027, eff 9-21-92 (emergency); Amended at 10 Ok Reg 2875, eff 6-25-93 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **340:35-7-36. Financial eligibility of individuals categorically related to ABD [REVOKED]**

[Source: Amended at 9 Ok Reg 513, eff 12-13-91 (emergency); Amended at 9 Ok Reg 2863, eff 7-13-92 ; Amended at 9 Ok Reg 4027, eff 9-21-92 (emergency); Amended at 10 Ok Reg 2875, eff 6-25-93 ; Amended at 12 Ok Reg 211, eff 10-14-94 through 7-14-95 (emergency); Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **340:35-7-37. Financial eligibility of individuals categorically related to AFDC or pregnancyrelated services [REVOKED]**

[Source: Amended at 9 Ok Reg 513, eff 12-13-91 (emergency); Amended at 9 Ok Reg 2863, eff 7-13-92 ; Amended at 9 Ok Reg 4027, eff 9-21-92 (emergency); Amended at 10 Ok Reg 2875, eff 6-25-93 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **340:35-7-38. Financial eligibility of categorically needy individuals [REVOKED]**

[Source: Amended at 9 Ok Reg 513, eff 12-13-91 (emergency); Amended at 9 Ok Reg 2863, eff 7-13-92 ; Amended at 9 Ok Reg 4027, eff 9-21-92 (emergency); Amended at 10 Ok Reg 2875, eff 6-25-93 ; Amended at 11 Ok Reg 3073, eff 5-12-94 (emergency); Amended at 11 Ok Reg 2251, eff 5-26-94 ; Amended at 12 Ok Reg 211, eff 10-14-94 through 7-14-95 (emergency); Revoked at 13 Ok Reg 2193, eff 6-14-96]

6-14-96]

**340:35-7-39. Financial eligibility of medically needy individuals  
[REVOKED]**

[Source: Amended at 9 Ok Reg 4027, eff 9-21-92 (emergency); Amended at 10 Ok Reg 2875, eff 6-25-93 ; Amended at 11 Ok Reg 629, eff 11-29-93 (emergency); Amended at 11 Ok Reg 2239, eff 5-26-94 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]

**340:35-7-40. Eligibility as Qualified Medicare Beneficiary  
[REVOKED]**

[Source: Amended at 9 Ok Reg 4027, eff 9-21-92 (emergency); Amended at 10 Ok Reg 2875, eff 6-25-93 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]

**340:35-7-41. Eligibility as Qualified Disabled and Working  
Individual [REVOKED]**

[Source: Amended at 9 Ok Reg 4027, eff 9-21-92 (emergency); Amended at 10 Ok Reg 2875, eff 6-25-93 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]

**340:35-7-42. Presumptive eligibility for pregnant women  
[REVOKED]**

[Source: Amended at 9 Ok Reg 513, eff 12-13-91 (emergency); Amended at 9 Ok Reg 2863, eff 7-13-92 ; Amended at 10 Ok Reg 793, eff 1-6-93 (emergency); Amended at 10 Ok Reg 3467, eff 6-14-93 (emergency); Amended at 10 Ok Reg 2851, eff 6-25-93 ; Amended at 11 Ok Reg 2251, eff 5-26-94 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]

**340:35-7-43. Eligibility as Specified Low-Income Medicare  
Beneficiaries [REVOKED]**

[Source: Added at 10 Ok Reg 793, eff 1-6-93 (emergency); Added at 10 Ok Reg 2851, eff 6-25-93 ; Amended at 12 Ok Reg 763, eff 1-1-95 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]

**340:35-7-44. Eligibility for TB related services [EXPIRED]**

[Source: Added at 11 Ok Reg 4479, eff 8-1-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-7-44 was no longer effective. For the official text of the emergency rule that was in effect from 8-1-94 through 7-14-95, see 11 Ok Reg 4479.*

**PART 7. CERTIFICATION, REDETERMINATION AND  
NOTIFICATION [REVOKED]**

### **340:35-7-60. Certification for short-term medical care [REVOKED]**

[Source: Amended at 9 Ok Reg 513, eff 12-13-91 (emergency); Amended at 9 Ok Reg 2775, eff 7-13-92 ; Amended at 9 Ok Reg 2863, eff 7-13-92 ; Amended at 9 Ok Reg 4027, eff 9-21-92 (emergency); Amended at 10 Ok Reg 2875, eff 6-25-93 ; Amended at 11 Ok Reg 4479, eff 8-1-94 through 7-14-95 (emergency); Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **340:35-7-61. Redetermination of eligibility for persons receiving ABD or AFDC [REVOKED]**

[Source: Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **340:35-7-62. Special redetermination procedures for children in DHS custody [REVOKED]**

[Source: Amended at 9 Ok Reg 513, eff 12-13-91 (emergency); Amended at 9 Ok Reg 2775, eff 7-13-92 ; Amended at 9 Ok Reg 2863, eff 7-13-92 ; Amended at 9 Ok Reg 4027, eff 9-21-92 (emergency); Amended at 10 Ok Reg 2875, eff 6-25-93 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **340:35-7-63. Notification of eligibility [REVOKED]**

[Source: Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **340:35-7-64. Denials [REVOKED]**

[Source: Amended at 9 Ok Reg 4027, eff 9-21-92 (emergency); Amended at 10 Ok Reg 2875, eff 6-25-93 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **340:35-7-65. Closures [REVOKED]**

[Source: Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **340:35-7-66. Transfer of case records between counties [REVOKED]**

[Source: Revoked at 13 Ok Reg 2193, eff 6-14-96]

## **SUBCHAPTER 9. LONG-TERM MEDICAL CARE [REVOKED]**

### **PART 1. SERVICES [REVOKED]**

#### **340:35-9-1. Overview of long-term medical care services; relationship to short-term care and QMB eligibility and spenddown calculation [REVOKED]**

[Source: Amended at 9 Ok Reg 513, eff 12-13-91 (emergency); Amended at 9 Ok Reg 2863, eff 7-13-92 ; Amended at 9 Ok Reg 4027, eff 9-21-92 (emergency); Amended at 10 Ok Reg 2875, eff 6-25-93 ; Amended at 11 Ok Reg 171, eff 10-11-93 (emergency); Amended at 11 Ok Reg 2251, eff 5-26-94 ; Amended at 11 Ok Reg 4009, eff 7-1-94 through 7-14-95 (emergency); Revoked at 13 Ok Reg 2193, eff 6-

14-96]

### **340:35-9-2. Services in a Nursing Facility (NF) [REVOKED]**

[Source: Amended at 9 Ok Reg 513, eff 12-13-91 (emergency); Amended at 9 Ok Reg 2863, eff 7-13-92 ; Amended at 9 Ok Reg 4027, eff 9-21-92 (emergency); Amended at 10 Ok Reg 2875, eff 6-25-93 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]

#### **340:35-9-2.1. Home and Community Based Waiver Services for the ADvantage program [REVOKED]**

[Source: Added at 11 Ok Reg 171, eff 10-11-93 (emergency); Added at 11 Ok Reg 2251, eff 5-26-94 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **340:35-9-3. Services in Intermediate Care Facility (ICF) [REVOKED]**

[Source: Revoked at 8 Ok Reg 2219, eff 5-20-91 (emergency); Revoked at 9 Ok Reg 2863, eff 7-13-92]

#### **340:35-9-4. Services in Intermediate Care Facility for Mentally Retarded (public and private) [REVOKED]**

[Source: Amended at 9 Ok Reg 513, eff 12-13-91 (emergency); Amended at 9 Ok Reg 2863, eff 7-13-92 ; Amended at 9 Ok Reg 4027, eff 9-21-92 (emergency); Amended at 10 Ok Reg 2875, eff 6-25-93 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]

#### **340:35-9-4.1. Home and Community Based Waiver Services for the Mentally Retarded [REVOKED]**

[Source: Added at 9 Ok Reg 513, eff 12-13-91 (emergency); Added at 9 Ok Reg 2863, eff 7-13-92 ; Amended at 9 Ok Reg 4027, eff 9-21-92 (emergency); Amended at 10 Ok Reg 2875, eff 6-25-93 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **340:35-9-5. Non-Technical Medical Care in own home [REVOKED]**

[Source: Amended at 9 Ok Reg 513, eff 12-13-91 (emergency); Amended at 9 Ok Reg 2863, eff 7-13-92 ; Amended at 9 Ok Reg 4027, eff 9-21-92 (emergency); Amended at 10 Ok Reg 2875, eff 6-25-93 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **340:35-9-6. Home and Community Based Waivered (HCBW) services for mentally retarded [REVOKED]**

[Source: Revoked at 9 Ok Reg 513, eff 12-13-91 (emergency); Revoked at 9 Ok Reg 2863, eff 7-13-92]

### **340:35-9-7. Services for persons age 65 or older in mental health hospitals [REVOKED]**

[Source: Amended at 10 Ok Reg 793, eff 1-6-93 (emergency); Amended at 10 Ok Reg 2851, eff 6-25-93 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]

## **PART 2. MEDICAID RECOVERY PROGRAM [EXPIRED]**

### **340:35-9-15. Medicaid recovery [EXPIRED]**

[Source: Added at 11 Ok Reg 4009, eff 6-29-94 (emergency); Added at 12 Ok Reg 211, eff 10-14-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-9-15 was no longer effective. For the official text of the emergency rule that was in effect from 10-14-94 through 7-14-95, see 12 Ok Reg 211.*

## **PART 3. APPLICATION PROCEDURES [REVOKED]**

### **340:35-9-25. Application for long-term medical care; forms [REVOKED]**

[Source: Amended at 9 Ok Reg 513, eff 12-13-91 (emergency); Amended at 9 Ok Reg 2863, eff 7-13-92 ; Amended at 9 Ok Reg 4027, eff 9-21-92 (emergency); Amended at 10 Ok Reg 2875, eff 6-25-93 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **340:35-9-26. Application procedures for NF, ICF/MR, private ICF/MR and NTMC [REVOKED]**

[Source: Amended at 9 Ok Reg 513, eff 12-13-91 (emergency); Amended at 9 Ok Reg 2863, eff 7-13-92 ; Amended at 9 Ok Reg 4027, eff 9-21-92 (emergency); Amended at 10 Ok Reg 2875, eff 6-25-93 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **340:35-9-27. Application procedures for public ICF/MR [REVOKED]**

[Source: Amended at 9 Ok Reg 4027, eff 9-21-92 (emergency); Amended at 10 Ok Reg 2875, eff 6-25-93 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **340:35-9-28. Application procedures for HCBWS/MR [REVOKED]**

[Source: Amended at 9 Ok Reg 513, eff 12-13-91 (emergency); Amended at 9 Ok Reg 2863, eff 7-13-92 ; Amended at 9 Ok Reg 4027, eff 9-21-92 (emergency); Amended at 10 Ok Reg 2875, eff 6-25-93 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **340:35-9-29. Application procedures for persons age 65 or older in mental health hospitals [REVOKED]**

[Source: Amended at 9 Ok Reg 513, eff 12-13-91 (emergency); Amended at 9 Ok Reg 2863, eff 7-13-92 ; Amended at 9 Ok Reg 4027, eff 9-21-92 (emergency); Amended at 10 Ok Reg 2875, eff 6-25-93 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **340:35-9-30. Special application procedures for children in Department custody [REVOKED]**

[Source: Amended at 9 Ok Reg 513, eff 12-13-91 (emergency); Amended at 9 Ok Reg 2863, eff 7-13-92 ; Amended at 9 Ok Reg 4027, eff 9-21-92 (emergency); Amended at 10 Ok Reg 2875, eff 6-25-93 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]

## **PART 5. DETERMINATION OF MEDICAL ELIGIBILITY FOR LONG TERM-CARE [REVOKED]**

### **340:35-9-45. Determination of medical eligibility for care in NF, private ICF/MR and NTMC [REVOKED]**

[Source: Amended at 9 Ok Reg 513, eff 12-13-91 (emergency); Amended at 9 Ok Reg 2863, eff 7-13-92 ; Amended at 9 Ok Reg 4027, eff 9-21-92 (emergency); Amended at 10 Ok Reg 2875, eff 6-25-93 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **340:35-9-46. Determination of continued medical eligibility for care in NF and private ICF/MR [REVOKED]**

[Source: Amended at 9 Ok Reg 513, eff 12-13-91 (emergency); Amended at 9 Ok Reg 2863, eff 7-13-92 ; Amended at 9 Ok Reg 4027, eff 9-21-92 (emergency); Amended at 10 Ok Reg 2875, eff 6-25-93 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **340:35-9-47. Determination of continued medical eligibility for NTMC [REVOKED]**

[Source: Amended at 9 Ok Reg 513, eff 12-13-91 (emergency); Amended at 9 Ok Reg 2863, eff 7-13-92 ; Amended at 9 Ok Reg 4027, eff 9-21-92 (emergency); Amended at 10 Ok Reg 2875, eff 6-25-93 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **340:35-9-48. Determination of medical eligibility for care in public ICF/MR [REVOKED]**

[Source: Amended at 9 Ok Reg 513, eff 12-13-91 (emergency); Amended at 9 Ok Reg 2863, eff 7-13-92 ; Amended at 9 Ok Reg 4027, eff 9-21-92 (emergency); Amended at 10 Ok Reg 2875, eff 6-25-93 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **340:35-9-49. Determination of medical eligibility for Home and Community Based Waiver Services for the Mentally Retarded [REVOKED]**

[Source: Amended at 9 Ok Reg 513, eff 12-13-91 (emergency); Amended at 9 Ok Reg 2863, eff 7-13-92 ; Amended at 9 Ok Reg 4027, eff 9-21-92 (emergency); Amended at 10 Ok Reg 2875, eff 6-25-93 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **340:35-9-50. Determination of medical eligibility for persons age 65 or older in mental health hospitals [REVOKED]**

[Source: Amended at 9 Ok Reg 4027, eff 9-21-92 (emergency); Amended at 10 Ok Reg 2875, eff 6-25-93 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]



### **340:35-9-51. Change in level of long-term medical care [REVOKED]**

[Source: Amended at 9 Ok Reg 513, eff 12-13-91 (emergency); Amended at 9 Ok Reg 2863, eff 7-13-92 ; Amended at 9 Ok Reg 4027, eff 9-21-92 (emergency); Amended at 10 Ok Reg 2875, eff 6-25-93 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **340:35-9-52. Determination of medical eligibility for the ADvantage waiver [REVOKED]**

[Source: Added at 11 Ok Reg 171, eff 10-11-93 (emergency); Added at 11 Ok Reg 2251, eff 5-26-94 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]

## **PART 7. DETERMINATION OF FINANCIAL ELIGIBILITY [REVOKED]**

### **340:35-9-65. General financial eligibility requirements for long- term medical care [REVOKED]**

[Source: Amended at 9 Ok Reg 513, eff 12-13-91 (emergency); Amended at 9 Ok Reg 2863, eff 7-13-92 ; Amended at 9 Ok Reg 4027, eff 9-21-92 (emergency); Amended at 10 Ok Reg 2875, eff 6-25-93 ; Amended at 11 Ok Reg 171, eff 10-11-93 (emergency); Amended at 11 Ok Reg 2251, eff 5-26-94 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]

#### **340:35-9-65.1. Determining financial eligibility for ADvantage waiver [REVOKED]**

[Source: Added at 11 Ok Reg 171, eff 10-11-93 (emergency); Added at 11 Ok Reg 2251, eff 5-26-94 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]

#### **340:35-9-66. Determining financial eligibility of categorically needy individuals [REVOKED]**

[Source: Amended at 9 Ok Reg 513, eff 12-13-91 (emergency); Amended at 9 Ok Reg 2863, eff 7-13-92 ; Amended at 10 Ok Reg 977, eff 2-4-93 (emergency); Amended at 10 Ok Reg 2043, eff 5-27-93 ; Amended at 11 Ok Reg 171, eff 10-11-93 (emergency); Amended at 11 Ok Reg 1119, eff 1-25-94 (emergency); Amended at 11 Ok Reg 3233, eff 6-27-94 ; Amended at 11 Ok Reg 4009, eff 7-1-94 through 7-14-95 (emergency); Revoked at 13 Ok Reg 2193, eff 6-14-96]

#### **340:35-9-67. Determining financial eligibility for care in NF or ICF/MR (public and private), or receiving NTMC, ADvantage waiver services or HCBWS/MR, and for persons age 65 or older in mental health hospitals and children in Department custody [REVOKED]**

[Source: Amended at 9 Ok Reg 513, eff 12-13-91 (emergency); Amended at 9 Ok Reg 2863, eff 7-13-92 ; Amended at 9 Ok Reg 4027, eff 9-21-92 (emergency); Amended at 10 Ok Reg 2875, eff 6-25-93 ; Amended at 11 Ok Reg 171, eff 10-11-93 (emergency); Amended at 11 Ok Reg 2251, eff 5-26-94 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]

## **PART 9. CERTIFICATION, REDETERMINATION AND NOTIFICATION [REVOKED]**

### **340:35-9-75. Certification for long-term medical care [REVOKED]**

[Source: Amended at 9 Ok Reg 513, eff 12-13-91 (emergency); Amended at 9 Ok Reg 2863, eff 7-13-92 ; Amended at 9 Ok Reg 4027, eff 9-21-92 (emergency); Amended at 10 Ok Reg 2875, eff 6-25-93 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **340:35-9-76. Redetermination of eligibility for long-term medical care [REVOKED]**

[Source: Amended at 9 Ok Reg 4027, eff 9-21-92 (emergency); Amended at 10 Ok Reg 2875, eff 6-25-93 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **340:35-9-77. Special procedure for redetermination of eligibility for children in Department custody [REVOKED]**

[Source: Revoked at 9 Ok Reg 4027, eff 9-21-92 (emergency); Revoked at 10 Ok Reg 2875, eff 6-25-93]

### **340:35-9-78. Case transfer between categories [REVOKED]**

[Source: Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **340:35-9-79. Case changes [REVOKED]**

[Source: Revoked at 13 Ok Reg 2193, eff 6-14-96]

## **PART 11. PAYMENT, BILLING, AND OTHER ADMINISTRATIVE PROCEDURES [REVOKED]**

### **340:35-9-95. Payment to NF or ICF/MR (public and private) [REVOKED]**

[Source: Amended at 9 Ok Reg 4027, eff 9-21-92 (emergency); Amended at 10 Ok Reg 2875, eff 6-25-93 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **340:35-9-96. Non-Technical Medical Care providers; billing, training, and program administration [REVOKED]**

[Source: Amended at 9 Ok Reg 2219, eff 5-20-91 (emergency); Amended at 9 Ok Reg 2863, eff 7-13-92 ; Amended at 10 Ok Reg 2193, eff 4-30-93 (emergency); Amended at 11 Ok Reg 2251, eff 5-26-94 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **340:35-9-97. Payment for Home and Community Based Waiver Services for the Mentally Retarded (HCBWS/MR) [REVOKED]**

[Source: Amended at 9 Ok Reg 513, eff 12-13-91 (emergency); Amended at 9 Ok Reg 2863, eff 7-13-92 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **340:35-9-98. Payment to mental health hospitals [REVOKED]**

[Source: Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **340:35-9-99. Billing procedures for long-term medical care [REVOKED]**

[Source: Amended at 9 Ok Reg 513, eff 12-13-91 (emergency); Amended at 9 Ok Reg 2863, eff 7-13-92 ; Amended at 9 Ok Reg 4027, eff 9-21-92 (emergency); Amended at 10 Ok Reg 2875, eff 6-25-93 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **340:35-9-100. Management of client's funds while receiving care in NF, ICF/MR (public and private) or for persons age 65 or older in mental health hospitals [REVOKED]**

[Source: Amended at 9 Ok Reg 513, eff 12-13-91 (emergency); Amended at 9 Ok Reg 2863, eff 7-13-92 ; Amended at 9 Ok Reg 4027, eff 9-21-92 (emergency); Amended at 10 Ok Reg 2875, eff 6-25-93 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **340:35-9-101. Disclosure of information on health care providers and contractors [REVOKED]**

[Source: Amended at 9 Ok Reg 513, eff 12-13-91 (emergency); Amended at 9 Ok Reg 2863, eff 7-13-92 ; Amended at 9 Ok Reg 4027, eff 9-21-92 (emergency); Amended at 10 Ok Reg 2875, eff 6-25-93 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **340:35-9-102. Referral for social services [REVOKED]**

[Source: Amended at 9 Ok Reg 4027, eff 9-21-92 (emergency); Amended at 10 Ok Reg 2875, eff 6-25-93 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **340:35-9-103. Special procedures for release of adults in mental health hospitals to long-term care facilities [REVOKED]**

[Source: Amended at 9 Ok Reg 4027, eff 9-21-92 (emergency); Amended at 10 Ok Reg 2875, eff 6-25-93 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]

## **SUBCHAPTER 11. PROJECTS [REVOKED]**

### **340:35-11-1. Grants and local projects [REVOKED]**

[Source: Amended at 9 Ok Reg 2467, eff 6-25-92 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **340:35-11-2. Indigent Health Care Clinic (IHCC) [REVOKED]**

[Source: Amended at 9 Ok Reg 3607, eff 7-24-92 (emergency); Amended at 10 Ok Reg 1725, eff 5-13-93 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **340:35-11-3. HIV/AIDS drug program [REVOKED]**

[Source: Added at 9 Ok Reg 2467, eff 6-25-92 ; Amended at 9 Ok Reg 3607, eff 7-24-92 (emergency); Amended at 10 Ok Reg 1725, eff 5-13-93 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **340:35-11-4. Home and Community Based HIV Health Services Grant [REVOKED]**

[Source: Added at 9 Ok Reg 2467, eff 6-25-92 ; Amended at 9 Ok Reg 3607, eff 7-24-92 (emergency); Amended at 10 Ok Reg 1725, eff 5-13-93 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **340:35-11-5. Ryan White Title II, Home and Community Based Health Services [REVOKED]**

[Source: Added at 9 Ok Reg 2467, eff 6-25-92 ; Amended at 9 Ok Reg 3607, eff 7-24-92 (emergency); Amended at 10 Ok Reg 1725, eff 5-13-93 ; Revoked at 13 Ok Reg 2193, eff 6-14-96]

## **SUBCHAPTER 13. CLIENT RIGHTS AND RESPONSIBILITIES [REVOKED]**

### **340:35-13-1. Civil rights [REVOKED]**

[Source: Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **340:35-13-2. Courteous and prompt action [REVOKED]**

[Source: Amended at 11 Ok Reg 3077, eff 5-12-94 through 7-14-95 (emergency); Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **340:35-13-3. Choice of providers [REVOKED]**

[Source: Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **340:35-13-4. Release of medical information [REVOKED]**

[Source: Amended at 11 Ok Reg 3077, eff 5-12-94 through 7-14-95 (emergency); Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **340:35-13-5. Overpayments [REVOKED]**

[Source: Amended at 11 Ok Reg 3077, eff 5-12-94 through 7-14-95 (emergency); Revoked at 13 Ok Reg 2193, eff 6-14-96]

### **340:35-13-6. Fraud [REVOKED]**

[Source: Amended at 11 Ok Reg 3077, eff 5-12-94 through 7-14-95 (emergency); Revoked at 13 Ok Reg 2193, eff 6-14-96]

## **SUBCHAPTER 15. PERSONAL CARE SERVICES [EXPIRED]**

### **340:35-15-1. Overview of long-term medical care services; relationship to short-term care and QMB eligibility and spenddown calculation [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-15-1 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

### **340:35-15-2. Personal Care in own home [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-15-2 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

### **340:35-15-3. Application for Personal Care; forms [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-15-3 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

#### **340:35-15-4. Determination of medical eligibility for Personal Care [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-15-4 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

#### **340:35-15-5. General financial eligibility requirements for Personal Care [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-15-5 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

#### **340:35-15-6. Determining financial eligibility of categorically needy individuals [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-15-6 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

#### **340:35-15-7. Certification for Personal Care [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective.*

*Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-15-7 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

#### **340:35-15-8. Personal Care service management [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-15-8 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

#### **340:35-15-9. Redetermination of eligibility for Personal Care [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-15-9 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

#### **340:35-15-10. Redetermination of Personal Care service plan [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-15-10 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

#### **340:35-15-11. Case transfer between categories [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup> *This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-15-11 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

### **340:35-15-12. Case changes [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup> *This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-15-12 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

### **340:35-15-13. Personal care providers; billing, training, and program administration [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup> *This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-15-13 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

### **340:35-15-14. Billing procedures for Personal Care [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup> *This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-15-14 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*



### **340:35-15-15. Referral for social services [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-15-15 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

## **SUBCHAPTER 17. ADVANTAGE WAIVER SERVICES [EXPIRED]**

### **340:35-17-1. Overview of long-term medical care services; relationship to short-term care and QMB eligibility and spenddown calculation [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-17-1 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

### **340:35-17-2. Long Term Care gatekeeping for phase-in geographic areas [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-17-2 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

### **340:35-17-3. ADvantage program services [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-17-3 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

### **340:35-17-4. Application for ADvantage services; forms [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-17-4 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

### **340:35-17-5. ADvantage and NF program medical eligibility determination [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-17-5 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

### **340:35-17-6. Pre-admission screening [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-17-6 was no longer effective. For the official text*

*of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

### **340:35-17-7. Level I screen [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-17-7 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

### **340:35-17-8. Level II screen for PAS [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-17-8 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

### **340:35-17-9. General financial eligibility requirements for the ADvantage program [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-17-9 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

### **340:35-17-10. Determining financial eligibility/categorical relationship for the ADvantage program [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency*

*action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-17-10 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

#### **340:35-17-11. Determining financial eligibility for ADvantage program services [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-17-11 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

#### **340:35-17-12. Financial certification for ADvantage program services [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-17-12 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

#### **340:35-17-13. Case Management services [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-17-13 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

#### **340:35-17-14. Redetermination of eligibility for ADvantage services [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-17-14 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

#### **340:35-17-15. Client annual level of care re-evaluation and annual re-certification of service plan [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-17-15 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

#### **340:35-17-16. Emergency status criteria [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-17-16 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

#### **340:35-17-17. Suspension of ADvantage services during hospitalization or NF placement [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-17-17 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95,*

see 11 Ok Reg 4041.

### **340:35-17-18. Closure or termination of ADvantage services [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-17-18 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

### **340:35-17-19. Case transfer between categories [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-17-19 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

### **340:35-17-20. Case changes [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-17-20 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

### **340:35-17-21. Payment to the Administrative Agent [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency*

*action), Section 340:35-17-21 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

**340:35-17-22. Billing procedures for ADvantage services  
[EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-17-22 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

**340:35-17-23. Disclosure of information on health care providers and contractors [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-17-23 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

**340:35-17-24. Referral for social services [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-17-24 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

**SUBCHAPTER 19. NURSING FACILITY SERVICES  
[EXPIRED]**

**340:35-19-1. Overview of long-term medical care services; relationship to short-term care and QMB eligibility and spenddown [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-19-1 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

**340:35-19-2. Services in a Nursing Facility (NF) [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-19-2 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

**340:35-19-3. Medicaid recovery [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-19-3 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

**340:35-19-4. Application for nursing facility care; forms [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective.*



*Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-19-4 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

#### **340:35-19-5. Application procedures for NF [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-19-5 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

#### **340:35-19-6. Determination of medical eligibility for care in NF [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-19-6 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

#### **340:35-19-7. Pre-admission screening [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-19-7 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

#### **340:35-19-8. Level I screen [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup> *This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-19-8 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

#### **340:35-19-9. Level II screen for PAS [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup> *This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-19-9 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

#### **340:35-19-10. Annual Resident Review (ARR) [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup> *This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-19-10 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

#### **340:35-19-11. Level I screen for ARR [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup> *This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-19-11 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

#### **340:35-19-12. Level II screen for ARR [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-19-12 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

### **340:35-19-13. New admissions, readmissions, and interfacility transfers [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-19-13 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

### **340:35-19-14. PASARR tracking system [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-19-14 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

### **340:35-19-15. PASARR appeals process [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-19-15 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

**340:35-19-16. Determination of continued medical eligibility for care in a nursing facility [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-19-16 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

**340:35-19-17. Change in level of long-term medical care [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-19-17 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

**340:35-19-18. General financial eligibility requirements for NF [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-19-18 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

**340:35-19-19. Determining financial eligibility of categorically needy individuals [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency*

*action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-19-19 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

**340:35-19-20. Determining financial eligibility for care in NF [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-19-20 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

**340:35-19-21. Certification for NF [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-19-21 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

**340:35-19-22. Redetermination of eligibility for NF care [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-19-22 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

### **340:35-19-23. Case transfer between categories [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-19-23 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

### **340:35-19-24. Case changes [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-19-24 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

### **340:35-19-25. Payment to NF [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-19-25 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

### **340:35-19-26. Billing procedures for NF [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-19-26 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95,*

see 11 Ok Reg 4041.

**340:35-19-27. Management of client's funds while receiving care in NF [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-19-27 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

**340:35-19-28. Disclosure of information on health care providers and contractors [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-19-28 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

**340:35-19-29. Referral for social services [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-19-29 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*

**340:35-19-30. Special procedures for release of adults in mental health hospitals to Nursing Facilities [EXPIRED]**

[Source: Added at 11 Ok Reg 4041, eff 6-21-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency*

*action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:35-19-30 was no longer effective. For the official text of the emergency rule that was in effect from 6-21-94 through 7-14-95, see 11 Ok Reg 4041.*



## **APPENDIX A. NOTICE TO CLIENT REGARDING LONG-TERM MEDICAL CARE [REVOKED]**

[**Source:** Revoked and reenacted at 11 Ok Reg 643, eff 11-15-93 (emergency); Revoked and reenacted at 11 Ok Reg 2251, eff 5-26-94 ; Revoked at 13 Ok Reg 2971, eff 7-11-96]

## **APPENDIX B. NOTICE TO NURSING CARE FACILITY [REVOKED]**

**[Source:** Revoked and reenacted at 9 Ok Reg 393, eff 11-18-92 (emergency); Revoked and reenacted at 10 Ok Reg 2067, eff 5-27-93 ; Revoked and reenacted at 11 Ok Reg 1469, eff 3-21-94 through 7-14-95 (emergency); Revoked at 13 Ok Reg 2971, eff 7-11-96]

**APPENDIX C. NOTIFICATION REGARDING PATIENT IN  
SKILLED NURSING FACILITY OR INTERMEDIATE  
CARE FACILITY [REVOKED]**

[Source: Revoked at 13 Ok Reg 2971, eff 7-11-96]

## **APPENDIX D. MANAGEMENT OF RECIPIENT'S FUNDS [REVOKED]**

[Source: Revoked at 13 Ok Reg 2971, eff 7-11-96]

## **APPENDIX E. ACCOUNTING - RECIPIENT'S PERSONAL FUNDS AND PROPERTY [REVOKED]**

[Source: Revoked at 13 Ok Reg 2971, eff 7-11-96]

## **APPENDIX F. STATEMENT OF COMPENSABLE THERAPEUTIC LEAVE ONLY [REVOKED]**

[Source: Revoked at 13 Ok Reg 2971, eff 7-11-96]

## **APPENDIX G. DENTAL CLAIM [REVOKED]**

**[Source:** Revoked and reenacted at 10 Ok Reg 793, eff 1-6-93 (emergency); Revoked and reenacted at 10 Ok Reg 2851, eff 6-25-93 ; Revoked at 13 Ok Reg 2971, eff 7-11-96]

## **APPENDIX H. PHYSICIAN'S REPORT AND CLAIM FOR EPSDT AND RELATED PROCEDURES [REVOKED]**

[Source: Revoked at 13 Ok Reg 2971, eff 7-11-96]



## **APPENDIX I. PHARMACY CLAIM [REVOKED]**

**[Source:** Revoked and reenacted at 10 Ok Reg 793, eff 1-6-93 (emergency); Revoked and reenacted at 10 Ok Reg 2851, eff 6-25-93 ; Revoked at 13 Ok Reg 2971, eff 7-11-96]

## **APPENDIX J. CONSENT FORM [REVOKED]**

[Source: Revoked at 13 Ok Reg 2971, eff 7-11-96]

## **APPENDIX K. HOSPITAL TAPE TRANSMITTAL [REVOKED]**

[Source: Revoked at 13 Ok Reg 2971, eff 7-11-96]

## **APPENDIX L. TRANSPORTATION CLAIM [REVOKED]**

[Source: Revoked at 13 Ok Reg 2971, eff 7-11-96]

## **APPENDIX M. OPTOMETRIST CLAIM [REVOKED]**

[Source: Revoked at 13 Ok Reg 2971, eff 7-11-96]

## **APPENDIX N. PHYSICIAN'S PRESCRIPTION AND AUTHORIZATION [REVOKED]**

[Source: Revoked at 13 Ok Reg 2971, eff 7-11-96]

## **APPENDIX O. HEARING APPLIANCE PRESCRIPTION AND AUTHORIZATION [REVOKED]**

[Source: Revoked at 13 Ok Reg 2971, eff 7-11-96]

## **APPENDIX P. REQUEST FOR PRIOR AUTHORIZATION DENTAL SERVICES [REVOKED]**

[Source: Revoked at 13 Ok Reg 2971, eff 7-11-96]



**APPENDIX Q. MEDICAL ASSISTANCE  
REDETERMINATION OF ELIGIBILITY STATEMENT  
[REVOKED]**

[Source: Revoked at 13 Ok Reg 2971, eff 7-11-96]

## **APPENDIX R. REDETERMINATION OF ELIGIBILITY FOR RECIPIENT'S RECEIVING SSI [REVOKED]**

[Source: Revoked at 13 Ok Reg 2971, eff 7-11-96]

## **APPENDIX S. NOTIFICATION OF ELIGIBILITY STATUS FOR MEDICAL ASSISTANCE [REVOKED]**

[Source: Revoked at 13 Ok Reg 2971, eff 7-11-96]

## **APPENDIX T. MEDICAL ASSISTANCE APPLICATION [REVOKED]**

[**Source:** Revoked and reenacted at 9 Ok Reg 2863, eff 7-13-92 ; Revoked and reenacted at 10 Ok Reg 793, eff 1-6-93 (emergency); Revoked and reenacted at 10 Ok Reg 2851, eff 6-25-93 ; Revoked at 13 Ok Reg 2971, eff 7-11-96]

## **APPENDIX U. MEDICAL ASSISTANCE STANDARDS - MEDICALLY NEEDY [REVOKED]**

[**Source:** Revoked and reenacted at 9 Ok Reg 3243, eff 6-11-92 (emergency); Revoked and reenacted at 10 Ok Reg 2083, eff 5-27-93 ; Revoked and reenacted at 11 Ok Reg 997, eff 1-13-94 (emergency); Revoked and reenacted at 11 Ok Reg 3247, eff 6-27-94 ; Revoked at 13 Ok Reg 2971, eff 7-11-96]

## **APPENDIX V. FEE SCHEDULE FOR NF AND ICF/MR SERVICES [REVOKED]**

[**Source:** Revoked and reenacted at 10 Ok Reg 455, eff 11-30-92 (emergency); Revoked and reenacted at 10 Ok Reg 2043, eff 5-27-93 ; Revoked at 13 Ok Reg 2971, eff 7-11-96]

## **APPENDIX W. ACKNOWLEDGEMENT OF TEMPORARY ABSENCE/HOME PROPERTY POLICY [REVOKED]**

[**Source:** Added at 9 Ok Reg 2687, eff 6-1-92 (emergency); Added at 10 Ok Reg 1795, eff 5-13-93 ;  
Revoked at 13 Ok Reg 2971, eff 7-11-96]

## **APPENDIX X. LONG TERM CARE ASSESSMENT [REVOKED]**

[Source: Added at 9 Ok Reg 2863, eff 7-13-92 ; Revoked at 13 Ok Reg 2971, eff 7-11-96]



## **APPENDIX Y. LONG-TERM CARE PREADMISSION SCREEN [REVOKED]**

**[Source:** Added at 9 Ok Reg 2863, eff 7-13-92 ; Revoked and reenacted at 10 Ok Reg 793, eff 1-6-93 (emergency); Revoked and reenacted at 10 Ok Reg 2851, eff 6-25-93 ; Revoked at 13 Ok Reg 2971, eff 7-11-96]

## **APPENDIX AA. CAPITAL RESOURCES INFORMATION [REVOKED]**

[**Source:** Added at 10 Ok Reg 793, eff 1-6-93 (emergency); Added at 10 Ok Reg 2851, eff 6-25-93 ;  
Revoked at 13 Ok Reg 2971, eff 7-11-96]

**APPENDIX BB. ACKNOWLEDGEMENT OF INTENT TO  
RETURN HOME\MEDICAID RECOVERY PROGRAM  
[REVOKED]**

[**Source:** Added at 11 Ok Reg 4009, eff 6-29-94 (emergency); Added at 12 Ok Reg 763, eff 1-1-95 ;  
Revoked at 13 Ok Reg 2971, eff 7-11-96]

## CHAPTER 40. CHILD CARE SUBSIDY PROGRAM

[**Authority:** Federal Social Security Act § 403(c); P.L. 104-193; P.L. 105-33; P.L. 113-186 and Child Care Development Block Grant of 2014; 45 CFR Parts 98 and 99; 56 O. S., §§ 162 and 230.65]  
[**Source:** Codified 6-1-00]

### SUBCHAPTER 1. GENERAL PROVISIONS

#### **340:40-1-1. Purpose, legal basis, and State Plan**

(a) **Purpose.** The purpose of this Chapter is to describe the rules governing the Oklahoma Human Services (OKDHS) Child Care Subsidy Program.

(b) **Legal basis.** The legal basis for the Child Care Subsidy Program is granted under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law (P.L.) 104-193, the Child Care and Development Block Grant Act of 2014, P.L. 113-186, the Balanced Budget Act of 1997, P. L. 105-33, and Parts 98 and 99 of Title 45 of the Code of Federal Regulations. The Child Care Subsidy Program also receives funding from Title XX of the Social Security Act.

(c) **State Plan.** OKDHS administers the Child Care Subsidy State Plan. OKDHS Child Care Services is responsible for directly administering and implementing all programs funded by the Child Care and Development Fund in collaboration with Adult and Family Services, Financial Services, and the Office of the Inspector General.

[**Source:** Added at 17 Ok Reg 25, eff 10-1-99 (emergency); Added at 17 Ok Reg 1244, eff 6-1-00 ; Amended at 17 Ok Reg 3583, eff 10-1-00 (emergency); Amended at 18 Ok Reg 1236, eff 5-11-01 ; Amended at 39 Ok Reg 1733, eff 9-15-22]

#### **340:40-1-2. Legal basis and authority [REVOKED]**

[**Source:** Added at 17 Ok Reg 25, eff 10-1-99 (emergency); Added at 17 Ok Reg 1244, eff 6-1-00 ; Amended at 17 Ok Reg 3583, eff 10-1-00 (emergency); Amended at 18 Ok Reg 1236, eff 5-11-01 ; Amended at 34 Ok Reg 58, eff 10-1-16 (emergency); Amended at 34 Ok Reg 1481, eff 10-1-17 ; Revoked at 39 Ok Reg 1733, eff 9-15-22]

#### **340:40-1-3. State Plan for the Child Care Subsidy Program [REVOKED]**

[**Source:** Added at 17 Ok Reg 25, eff 10-1-99 (emergency); Added at 17 Ok Reg 1244, eff 6-1-00 ; Amended at 17 Ok Reg 3583, eff 10-1-00 (emergency); Amended at 18 Ok Reg 1236, eff 5-11-01 ; Amended at 21 Ok Reg 1358, eff 7-1-04 ; Amended at 34 Ok Reg 1481, eff 10-1-17 ; Revoked at 39 Ok Reg 1733, eff 9-15-22]

#### **340:40-1-4. Complaints and information disclosure**

(a) **Complaints.** All household complaints or complaints made by others on a household's behalf about program rules application are handled, per Oklahoma Administrative Code (OAC) 340:2-5, which describes hearing procedures. The Oklahoma Human Services (OKDHS) Office of the Inspector General, Investigations Unit investigates alleged program abuses using procedures, per OAC 340:2-7. Complaints alleging lack of adequate child care by a child care provider are referred to the local

licensing representative responsible for the facility in question.

(b) **Information disclosure.** The use or disclosure of information concerning applicants or recipients of Child Care Subsidy program benefits is restricted to purposes directly connected with program administration, per federal and state laws and OKDHS rules and regulations.

[Source: Added at 17 Ok Reg 25, eff 10-1-99 (emergency); Added at 17 Ok Reg 1244, eff 6-1-00 ; Amended at 17 Ok Reg 3583, eff 10-1-00 (emergency); Amended at 18 Ok Reg 1236, eff 5-11-01 ; Amended at 39 Ok Reg 1733, eff 9-15-22]

#### **340:40-1-5. Disclosure of information [REVOKED]**

[Source: Added at 17 Ok Reg 25, eff 10-1-99 (emergency); Added at 17 Ok Reg 1244, eff 6-1-00 ; Amended at 17 Ok Reg 3583, eff 10-1-00 (emergency); Amended at 18 Ok Reg 1236, eff 5-11-01 ; Amended at 34 Ok Reg 1481, eff 10-1-17 ; Revoked at 39 Ok Reg 1733, eff 9-15-22]

#### **340:40-1-6. Philosophy and goals of the child care program**

(a) **Strengthen the family and promote early childhood development.** Subsidized child care is a benefit provided for children as a means to strengthen the family and promote early childhood development. Providing safe and affordable child care benefits for low income families:

- (1) enables parents or caretakers to participate in employment, training, or education-related activities to become more self-supporting;
- (2) promotes early childhood development and school readiness through rules that support continuity of care and stability of child care placement; and
- (3) helps prevent neglect, abuse, or exploitation of children in certain critical situations.

(b) **Promote choice.** Parents or caretakers can choose between a licensed and contracted child care center or family child care home, or a contracted in-home child care provider when deciding on the type of child care that best meets the family's needs.

(c) **Provide consumer education.** The Child Care Subsidy Program encourages parents and caretakers to become educated on choosing a provider that best suits the needs of their families through online resources at [www.okdhs.org](http://www.okdhs.org) and through the local Child Care Resource and Referral agency.

(d) **Achieve independence.** Affordable, quality child care is a necessary work support to help move families receiving Temporary Assistance to Needy Families (TANF) families cash assistance to self-support through employment or TANF Work activities.

(e) **Encourage collaboration.** The Child Care Subsidy Program encourages collaboration with all agencies and programs that help to strengthen families and increase resources available to them.

[Source: Added at 17 Ok Reg 25, eff 10-1-99 (emergency); Added at 17 Ok Reg 1244, eff 6-1-00 ; Amended at 17 Ok Reg 3583, eff 10-1-00 (emergency); Amended at 18 Ok Reg 1236, eff 5-11-01 ; Amended at 37 Ok Reg 1813, eff 9-15-20]

## SUBCHAPTER 3. INITIAL APPLICATION

### **340:40-3-1. Application process**

(a) **Application process.** The application process for subsidized child care benefits begins with a request for benefits and ends with an eligibility determination. Application approval is subject to available funding. Subsidized child care benefits are synchronized with the applicant's food benefits or SoonerCare (Medicaid) benefits, per Oklahoma Administrative Code (OAC) 340:40-9-1(f). Child Welfare Services or Adult and Family Services (AFS) staff processes the application.

(1) **When an application is required.** An application is required when:

- (A) an applicant initially applies for subsidized child care benefits. Refer to (c)(2) of this Section when an application is denied;
- (B) the client's subsidized child care benefits are closed for more than 30-calendar days;
- (C) the payee for the subsidized child care benefits changes; or
- (D) the family income was not considered, per OAC 340:40-7-12(6), and one or more of the affected adopted children turns 6 years of age, unless the child can be added to an open income eligible case, per OAC 340:40-9-2(d).

(2) **Who may apply.** An applicant or the applicant's authorized representative may apply for subsidized child care benefits. When an authorized representative applies on an applicant's behalf, the representative must bring Form 08MP008E, Authorized Representative Request or a statement the applicant signs giving the representative permission to act on the applicant's behalf, unless the applicant designated the person as the authorized representative on the signed application.

- (A) When the natural or adoptive parent or stepparent lives with the child, the parent is the applicant, and Oklahoma Human Services (OKDHS) bases eligibility on the parent's situation regardless of whether the parent has custody of the child.
- (B) When both the natural and adoptive parent of the child live in the same household and the adoption is final, the adoptive parent is the applicant, and OKDHS bases eligibility on the adoptive parent's situation.
- (C) When the natural or adoptive parent or stepparent is not in the home, the person acting in the role of the parent, referred to as the caretaker, is the applicant. The caretaker may or may not be related to the child.
- (D) When the child's parent is a minor, either the minor parent or the responsible adult the minor lives with may be considered the applicant for the subsidized child care

benefits. Eligibility is based on the minor parent's situation.

(E) When the natural or adoptive parent lives in the home but is too incapacitated to apply, another person living in the home may apply on the parent's behalf when the person provides proof of the parent's inability to apply.

(3) **Application.** An applicant or the applicant's authorized representative completes and signs an application to apply for subsidized child care benefits. When the applicant requests child care for a child with disabilities, the worker gives Form 08AD006E, Certification for Special Needs Rate for Licensed Child Care Homes and Centers, to the applicant.

(4) **Request date.** The request date, known as the application date for other AFS programs, is the date the applicant requests subsidized child care benefits verbally or in writing.

(5) **Certification date.** The certification date is the date the applicant or the applicant's authorized representative completes the child care interview and provides all necessary verification to the county office, including the name of the child care provider the client chooses to use.

(A) The provider must have a valid OKDHS child care provider contract.

(B) Refer to OAC 340:40-5-1(7) for reasons an applicant may not choose certain child care providers.

(C) For applicants choosing an in-home provider, refer to OAC 340:40-13-1 and 340:40-13-2.

(6) **Child care interview.** Child care interviews may be completed face-to-face or over the phone with the applicant or authorized representative.

(7) **Explanation of eligibility factors.** At the time of an initial interview, the worker informs the applicant or authorized representative of:

(A) the rights and responsibilities;

(B) all eligibility factors, including the requirement that the chosen child care provider be contracted with OKDHS;

(C) the child care plan and reason child care may be approved based on the applicant's statements at interview;

(D) the applicant's electronic benefit transfer (EBT) responsibilities including viewing the client training video;

(E) the earliest date child care may be approved;

(F) the requirement to cooperate with the OKDHS Office of Inspector General during any audit or investigation of the applicant or the provider the applicant uses for child care; and

(G) the requirement to report within 10-calendar days when household income exceeds the income eligibility threshold per OKDHS Appendix C-4, Child Care Eligibility/Copayment Chart. At certification and renewal, a computer-generated notice issues to inform the client of the current income eligibility threshold for family size.

(8) **Timeliness.** To be timely, the worker must determine eligibility within two-business days of receiving all necessary verification to certify or deny the application.

(A) When the applicant does not provide requested verification, the worker denies the request within 30-calendar days of the request date.

(B) When eligibility is not determined within 30-calendar days, the worker sends Form 08MP038E, Client Notice of Action Taken, explaining the reason for delay.

(9) **Right to appeal.** The applicant has the right to appeal an application processing delay or eligibility decision, per OAC 340:2-5-60 through 340:2-5-81.

(b) **Presumptive eligibility processing.** The worker may presumptively approve a maximum of 30-calendar days of child care prior to making a complete eligibility determination when a reason described in (1) of this subsection applies.

(1) Reasons include when the applicant:

(A) is in danger of losing a job or cannot start a new job unless child care is immediately approved. In this circumstance, it must be out of the applicant's control to provide required verification and the applicant does not have the money to pay toward the cost of child care;

(B) is employed but has not received pay from the job and is not guaranteed a wage because the applicant is self-employed or works on a commission-only basis. Further care is not approved until the applicant provides proof of the applicant's earnings from the job; or

(C) requests protective or preventive child care, per OAC 340:40-7-8(f).

(2) The worker gives or sends the applicant Form 08AD092E, Client Contact and Information Request, to inform the applicant what the applicant needs to provide before further care is approved.

(c) **Eligibility determination.** The worker determines the applicant's eligibility to receive child care subsidy benefits based on eligibility conditions, per OAC 340:40-7. The applicant must meet a need factor within 30-calendar days of the request date. After calculating family income, the worker uses OKDHS Appendix C-4, Child Care Eligibility/Copayment Chart, to determine if the household meets the income eligibility threshold. Refer to OAC 340:40-5-1(8) and 340:40-7-10 through 340:40-7-13 for information regarding income determination.

(1) **Applicant determined eligible.** The earliest date the worker approves subsidized child care benefits is the date the applicant completes the child care interview and provides all necessary verification to determine eligibility. The worker certifies the applicant for a 12-month eligibility period, per Section 98.21 of Title 45 of the Code of Federal Regulations. The applicant is responsible for child care used before the certification date.

(A) The applicant or recipient records attendance with his or her EBT card through a point-of-service machine or through the mobile app at the child care facility.



(B) OKDHS does not pay for care for any day the child attends child care when the client fails to record attendance, unless extenuating circumstances exist beyond the client's or provider's control.

(C) When the applicant or recipient fails to record attendance, the applicant is responsible for any care provided that day and may be responsible for any missed absent-day payment the child care provider would have received if all days the child attended were recorded.

**(2) Applicant determined ineligible.** The worker denies the child care request or application when the applicant completes the application process and is determined ineligible, does not provide needed verification, or fails to cooperate in determining eligibility.

(A) When the applicant is determined ineligible after completing the application process and providing necessary verification, a new application is required regardless of the original request date.

(B) When the worker denies the child care request because the applicant did not provide required verification, including choice of provider, a new application is not needed when the applicant completes the application process and provides necessary verification within 60-calendar days of the original request date.

(C) When the worker denies the child care request because the applicant fails to cooperate in determining eligibility, a new application is not required if the applicant cooperates within 30-calendar days of the original request date.

[Source: Added at 17 Ok Reg 25, eff 10-1-99 (emergency); Added at 17 Ok Reg 1244, eff 6-1-00 ; Amended at 17 Ok Reg 3583, eff 10-1-00 (emergency); Amended at 18 Ok Reg 155, eff 12-1-00 (emergency); Amended at 18 Ok Reg 1236, eff 5-11-01 ; Amended at 19 Ok Reg 1917, eff 4-29-02 (emergency); Amended at 20 Ok Reg 530, eff 1-1-03 (emergency); Amended at 20 Ok Reg 872, eff 6-1-03 ; Amended at 21 Ok Reg 1364, eff 9-1-04 ; Amended at 23 Ok Reg 1872, eff 7-1-06 ; Amended at 24 Ok Reg 1027, eff 6-1-07 ; Amended at 25 Ok Reg 14, eff 8-3-07 (emergency); Amended at 25 Ok Reg 920, eff 6-1-08 ; Amended at 26 Ok Reg 820, eff 6-1-09 ; Amended at 27 Ok Reg 1220, eff 6-1-10 ; Amended at 28 Ok Reg 831, eff 6-1-11 ; Amended at 30 Ok Reg 655, eff 6-1-13 ; Amended at 34 Ok Reg 58, eff 10-1-16 (emergency); Amended at 34 Ok Reg 1481, eff 10-1-17 ; Amended at 35 Ok Reg 36, eff 10-1-17 (emergency); Amended at 35 Ok Reg 1647, eff 9-17-18 ; Amended at 36 Ok Reg 363, eff 3-1-19 (emergency); Amended at 37 Ok Reg 1813, eff 9-15-20 ; Amended at 38 Ok Reg 2234, eff 9-15-21 ; Amended at 39 Ok Reg 1733, eff 9-15-22 ; Amended at 40 Ok Reg 971, eff 9-15-23]

## **SUBCHAPTER 5. CHILD CARE PLAN**

### **340:40-5-1. Child care plan**

Providing child care is part of an overall service plan designed to help eligible parents or caretakers to achieve their maximum self-support potential. Quality child care services ensure that eligible parents or caretakers have access to adequate care that affords their children developmental and learning experiences while they are engaged in self-

support activities. The child care plan consists of many components that link to form a goal-directed child care plan as described in (1) through (11) of this Section.

(1) **Child characteristics.** The worker gathers information about the child who needs child care, including his or her name, age, grade level, and if the child has a disability.

(2) **Need for child care.** The worker determines if the parent or caretaker meets a need factor, per Oklahoma Administrative Code (OAC) 340:40-7-7 and 340:40-7-8.

(3) **Plan hours.** To document the need factor, the worker gathers information from the parent or caretaker about the days and hours he or she qualifies for child care, including travel time.

(A) When there are two parents or caretakers in the home, the worker only approves subsidized child care benefits when both parents or caretakers meet a need factor during the same hours, per OAC 340:40-7-7 and 340:40-7-8.

(B) Based on the days and hours the child requires care, the worker approves a full-time daily, part-time daily, a combination of full-time and part-time daily, weekly, or a blended unit type.

(C) Refer to OAC 340:40-7-7(e) for plan hours concerning a child attending an Early Head Start-Child Care Partnership (EHS-CCP) grant program or an Oklahoma Early Childhood Program (OECPP).

(D) The worker does not decrease the child care plan hours because the client no longer meets a need factor or has a decreased need for child care between renewal periods, per Section 98.21(a) of Title 45 of the Code of Federal Regulations (45 C.F.R. § 98.21) and OAC 340:40-9-2(b).

(4) **Alternative to subsidized child care benefits.** The worker and client explore whether there is an appropriate, feasible alternative to Oklahoma Human Services (OKDHS) subsidized child care benefits.

(A) When the alternative is a spouse or the child's natural or adoptive parent who lives in the home, the client must use the alternative rather than subsidized child care benefits.

(B) When the alternative is someone other than a spouse or the child's parent or caretaker, the client may choose whether to use the alternative.

(5) **Plan to increase income.** At each application or renewal, the client and worker explore ways the client may become more self-supporting by increasing household income. Increasing household income may include pursuing a work promotion, searching for a higher paying job, or increasing job skills. The client is also instructed to pursue any identified potential income, per OAC 340:40-7-9.

(6) **Back up plan.** The worker and client discuss and develop a backup plan for child care when the child cannot go to the usual

provider because of illness, school holidays, or other emergencies. The backup plan includes the name and address of a person the client feels he or she can rely on when the normal child care plan cannot be used.

(7) **Provider Choice.** The worker documents the provider choice on the application or renewal form.

(A) When the client does not choose a provider at the time of request, the worker provides the client with information to help in making the choice.

(B) The client may choose a family child care home regardless of star status.

(C) The client may choose a Community Hope Center that is not subject to the Stars quality rating system.

(D) The client may not choose a child care:

(i) program that does not have a valid contract with OKDHS;

(ii) program in which the client or his or her spouse, including the child's parent or stepparent, has an ownership interest;

(iii) home in which the child resides;

(iv) home in which the client also works during the hours his or her child is in care;

(v) provider who does not allow parental access during the hours the provider is caring for children;

(vi) program receiving state or federal funds, such as Head Start, Early Head Start, or public schools, and not charging all parents for the hours subsidy payment is requested. EHS-CCP grant programs and OECPs are exempt from this rule;

(vii) provider caring for a school-age child during the regular school day when the student could be attending a public or private school during those hours;

(viii) center, when it is a one-star facility, unless there are no centers with a higher star status in the community or special exception criteria are met. Special exception criteria are:

(I) the child was approved for care prior to the provider's star status being reduced to one star. The child may remain at the facility unless the child stops attending there for more than 30-calendar days. The child may be approved at the same facility again when the only reason the child did not attend for more than 30-calendar days was because of a school break or circumstances beyond the family's control, such as the child's illness;

(II) care is requested for a child living in the same home as a child already approved for

care, per (7)(C)(viii)(I) of this subsection for the same one star child care provider; or  
(III) the parent or caretaker demonstrates there is no other child care option that meets the family's needs; or

(ix) in-home provider who is not related to the child. Per OAC 340:40-13-2, related means an aunt, uncle, grandparent, great grandparent, or sibling not living in the home.

(8) **Income determination.** Per OAC 340:40-7, the worker determines who is considered part of the household for income determination and what income is countable or excluded. The household's countable income must not exceed the income eligibility threshold, per OKDHS Appendix C-4, Child Care Eligibility/Copayment Chart.

(9) **Family share copayment.** The worker refers to OKDHS Appendix C-4 to determine the family share copayment for each family. The family share copayment is applied before OKDHS pays a child care subsidy. 17 The family's copayment cost varies based on family size and income.

(A) The family share copayment is determined at approval and may not be increased until renewal, per 45 C.F.R. § 98.21(a)(3). When the worker anticipates changes in household income at approval, such as when the client starts a new job and does not receive a full month's pay for the application month, the worker increases household income and the family share copayment for the next month in the certification action. All family share copayment changes made at certification are included in the approval notice(s).

(B) When household income decreases during the eligibility period, the worker decreases the family share copayment, when applicable, per OAC 340:40-9-2(c). Following a decrease, the copayment is not increased until renewal unless the household income exceeds the income eligibility threshold, per OKDHS Appendix C-4.

(C) At renewal, when the family's income exceeds the income eligibility threshold, per OKDHS Appendix C-4, the worker closes the child care benefits.

(10) **Social services requests.** When a client requests help in meeting the social services needs listed on the application or renewal, the worker provides all available information to aid a client in meeting these needs.

(11) **Client rights and responsibilities.** The worker informs the client of his or her rights and responsibilities per (A) through (G) of this paragraph.

(A) A child care request is only approved back to the request date when the interview is conducted and verification is provided on the request date.

(B) The client has the right to ask for a fair hearing when the client disagrees with an action taken on his or her

case, per OAC 340:2-5.

(C) The provider may charge the client for special fees, such as enrollment or transportation fees, provided these fees are posted and also charged to families attending the facility who do not receive subsidized child care.

(D) The provider may charge the client for care provided in excess of the OKDHS-approved child care plan when the client chooses to leave the child in care longer. When the provider requires all children in the facility to begin care by a certain time of day and the client's child care plan hours start later, the provider must not charge the client for the additional hours. The client records attendance based on the child care plan hours.

(E) The provider may charge the client for any days OKDHS refuses to pay for care because the:

- (i) client did not record attendance for the correct days and times his or her child attended child care;
- (ii) payment for attendance was denied and the client did not resolve the problem within 10-calendar days; or
- (iii) provider lost the absent-day payment for a child approved for a weekly unit type because the client did not record correct attendance for every day the child attended that month.

(F) The provider may not charge the client for days:

- (i) and hours covered in the child care plan when all attendance was correctly recorded, even when the hours are more than customary for a full-time day; and
- (ii) the child is not in attendance.

(G) The client is required to cooperate with the OKDHS Office of Inspector General in any audit or investigation of possible overpayments by the client or the client's chosen provider.

[Source: Added at 17 Ok Reg 25, eff 10-1-99 (emergency); Added at 17 Ok Reg 1244, eff 6-1-00 ; Amended at 17 Ok Reg 3583, eff 10-1-00 (emergency); Amended at 18 Ok Reg 1236, eff 5-11-01 ; Amended at 19 Ok Reg 195, eff 1-01-02 (emergency); Amended at 19 Ok Reg 2205, eff 6-27-02 ; Amended at 20 Ok Reg 530, eff 1-1-03 (emergency); Amended at 20 Ok Reg 872, eff 6-1-03 ; Amended at 20 Ok Reg 2800, eff 8-1-03 (emergency); Amended at 20 Ok Reg 2916, eff 8-1-03 (emergency); Amended at 21 Ok Reg 1377, eff 7-1-04 ; Amended at 21 Ok Reg 1364, eff 9-1-04 ; Amended at 23 Ok Reg 1872, eff 7-1-06 ; Amended at 24 Ok Reg 1027, eff 6-1-07 ; Amended at 25 Ok Reg 920, eff 6-1-08 ; Amended at 26 Ok Reg 820, eff 6-1-09 ; Amended at 28 Ok Reg 831, eff 6-1-11 ; Amended at 32 Ok Reg 1875, eff 10-1-15 ; Amended at 35 Ok Reg 36, eff 10-1-17 (emergency); Amended at 35 Ok Reg 1647, eff 9-17-18 ; Amended at 36 Ok Reg 363, eff 3-1-19 (emergency); Amended at 37 Ok Reg 1813, eff 9-15-20 ; Amended at 39 Ok Reg 1733, eff 9-15-22]

## **SUBCHAPTER 7. ELIGIBILITY**

### **340:40-7-1. Categories of eligibility**

A person may be predetermined eligible for a child care benefit, determined income eligible based on the gross income of the household,

or have dual eligibility with his or her tribe.

(1) **Predetermined eligible.** A person is predetermined eligible for a child care benefit with a zero copayment when he or she is a recipient of public assistance or Supplemental Security Income (SSI). Public assistance is defined as a State Supplemental Payment (SSP), Temporary Assistance for Needy Families (TANF) that includes Supported Permanency, or Refugee Resettlement Program (RRP) cash assistance.

(A) TANF recipients who work and are eligible for a child care benefit may choose to receive a child care benefit through the Oklahoma Department of Human Services (DHS) or pay for the child care themselves. When they choose to pay for the child care cost, it is considered as an earned income exemption for the TANF benefit per Oklahoma Administrative Code 340:10-3-33.

(B) A person receiving public assistance or SSI is not predetermined eligible for a zero copayment when the recipient is a child and the parent or guardian requesting the benefit for the child is not the payee on the public assistance or SSI payment.

(2) **Income eligible.** Households not predetermined eligible for a child care benefit must meet the income eligibility threshold for their family size, per DHS Appendix C-4, Child Care Eligibility/Copayment Chart, to receive assistance with child care costs.

(3) **Transitional child care.** Per Section 230.61 of Title 56 of the Oklahoma Statutes, a TANF recipient who becomes employed is eligible for transitional child care benefits for 24 months following the date of employment as long as he or she meets the income eligibility threshold, per DHS Appendix C-4, for his or her family size unless the:

(A) employer provides child care benefits; or

(B) recipient's gross monthly earned income exceeds the monthly allowance of assistance pursuant to the TANF program plus the cost of child care and medical insurance to which the recipient would be entitled.

(4) **Dual eligibility.** A person may have dual eligibility to receive child care assistance through the DHS Child Care Subsidy Program and his or her tribe. However, the child care provider may not receive payment for the same service from both programs simultaneously.

[Source: Added at 17 Ok Reg 25, eff 10-1-99 (emergency); Added at 17 Ok Reg 1244, eff 6-1-00 ; Amended at 17 Ok Reg 3583, eff 10-1-00 (emergency); Amended at 18 Ok Reg 1236, eff 5-11-01 ; Amended at 20 Ok Reg 2800, eff 8-1-03 (emergency); Amended at 20 Ok Reg 2916, eff 8-1-03 (emergency); Amended at 21 Ok Reg 1377, eff 7-1-04 ; Amended at 21 Ok Reg 1364, eff 9-1-04 ; Amended at 22 Ok Reg 61, eff 9-1-04 (emergency); Amended at 22 Ok Reg 796, eff 5-12-05 ; Amended at 24 Ok Reg 1027, eff 6-1-07 ; Amended at 25 Ok Reg 920, eff 6-1-08 ; Amended at 26 Ok Reg 820, eff 6-1-09 ; Amended at 27 Ok Reg 21, eff 10-1-09 (emergency); Amended at 27 Ok Reg 163, eff 12-1-09 (emergency); Amended at 27 Ok Reg 1220, eff 6-1-10 ; Amended at 32 Ok Reg 1875, eff 10-1-15 ; Amended at 36 Ok Reg 363, eff 3-1-19 (emergency); Amended at 37 Ok Reg 1813, eff 9-15-20]

## **340:40-7-2. Conditions of eligibility [REVOKED]**

[Source: Added at 17 Ok Reg 25, eff 10-1-99 (emergency); Added at 17 Ok Reg 1244, eff 6-1-00 ; Revoked at 37 Ok Reg 1813, eff 9-15-20]

### **340:40-7-3. Age requirements**

(a) A child is eligible for subsidized child care benefits through the day before he or she turns 13 years of age. When a child turns 13 years of age during an eligibility period, the child remains eligible until the next renewal.

(b) A child with disabilities may be eligible to receive subsidized child care benefits through the day before he or she turns 19 years of age. When a child with disabilities turns 19 years of age during an eligibility period, the child remains eligible until the next renewal.

(1) A child with disabilities is defined at Oklahoma Administrative Code (OAC) 340:40-7-3.1.

(2) When a child with disabilities is 13 years of age or older, the client must provide a statement from a licensed health care professional verifying the child is physically or mentally incapable of self-care as age appropriate before care is approved and annually at review. If the licensed health care professional states that the child is capable of self-care as age appropriate, care is not approved.

(c) A child under court supervision may be eligible to receive subsidized child care benefits through the day before the child turns 19 years of age. When a child under court supervision turns 19 years of age during an eligibility period, the child remains eligible until the next renewal. When the child is 13 years of age or older, the client must provide a copy of the court order, a statement from the child welfare specialist, or the Office of Juvenile Affairs (OJA) worker verifying this before care is approved and annually at renewal.

[Source: Added at 17 Ok Reg 25, eff 10-1-99 (emergency); Added at 17 Ok Reg 1244, eff 6-1-00 ; Amended at 18 Ok Reg 155, eff 12-1-00 (emergency); Amended at 18 Ok Reg 1236, eff 5-11-01 ; Amended at 20 Ok Reg 530, eff 1-1-03 (emergency); Amended at 20 Ok Reg 872, eff 6-1-03 ; Amended at 23 Ok Reg 1872, eff 7-1-06 ; Amended at 26 Ok Reg 820, eff 6-1-09 ; Amended at 34 Ok Reg 58, eff 10-1-16 (emergency); Amended at 34 Ok Reg 1481, eff 10-1-17]

#### **340:40-7-3.1. Child with disabilities and special needs rate approval process**

(a) **Child with disabilities.** A child with disabilities is defined as a child who receives Supplemental Security Income (SSI), SoonerStart early intervention services documented on an Individualized Family Service Plan (IFSP), or special education services documented on an Individualized Education Program (IEP), by the child's local school district. This definition also includes a child whose SSI payment stops because of financial reasons, but who still meets the medical definition of disability as determined by the Social Security Administration (SSA).

(1) When a child with disabilities is 13 through 18 years of age, the client must provide a statement from a licensed health care professional verifying the child is physically or mentally incapable of self-care as age appropriate before care is approved and annually thereafter.

(2) When the licensed health care professional states the child is capable of self-care as age appropriate, subsidized child care benefits are not approved.

(b) **Special needs rate approval process.** The special needs rate, if approved, is paid in addition to the rate paid for a typical child. When a child does not meet the definition of a child with disabilities, the child is not approved for a special needs rate. A child with disabilities may be approved for a moderate or severe special needs rate unit type after the special needs rate approval process is completed. When the worker determines the child is eligible for subsidized child care benefits before the special needs rate approval process is completed, the worker approves the child for a typical child unit type. The special needs process includes steps described in (1) through (5) of this subsection.

(1) The parent or caretaker must provide proof the child meets the definition of a child with disabilities and information about the child's care needs. Proof is required prior to approval of the special needs rate and annually thereafter.

(A) For a child under 3 years of age, the parent or caretaker submits the child's current IFSP. The IFSP verifies the child receives SoonerStart services and documents the child's care needs.

(B) For a child over 3 years of age, the parent or caretaker submits the child's current IEP. The IEP verifies the child receives special education services and documents the child's care needs.

(C) When the child receives SSI, the parent or caretaker submits the child's award letter or other proof from SSA that verifies SSI receipt. When the child does not receive SoonerStart or special education services, the parent or caretaker submits a statement from a health professional describing the child's care needs.

(2) The parent or guardian, child care provider, Child Care Services (CCS) licensing staff, and the Adult and Family Services (AFS) Child Care Subsidy staff completes the appropriate sections of Form 08AD006E, Certification for Special Needs Rate for Licensed Child Care Homes and Centers. Determination of special needs certification requirements are made by the:

(A) AFS Child Care Subsidy staff for the child; and

(B) the CCS licensing specialist for the provider.

(3) AFS Child Care Subsidy staff uses Form 08AD007E, Scoring Sheet for Special Needs Rate Determination, to score the 08AD006E. The child's care needs must be within the scoring range shown on Form 08AD007E for moderate or high need to qualify for a special needs rate.

(4) When the child and the provider meet certification requirements for the special needs rate, the rate is effective the first of the month following the month AFS Child Care Subsidy staff signs Form 08AD006E. When the child does not start child care until after the special needs rate is approved, the rate is effective the first date care is approved.



(5) Once the child is approved for one of the special need rates, a new Form 08AD006E is required when:

- (A) the child's needs change;
- (B) the child moves to a different child care facility;
- (C) the child stops attending the facility that was approved for the special needs rate unit type for more than six months; or
- (D) CCS licensing staff withdraws the provider's special needs certification per Oklahoma Administrative Code (OAC) 340:110-1-9.1 and the provider subsequently demonstrates compliance.

**(c) Supplemental Security Income-Disabled Children's Program (SSI-DCP).** A child between birth to 18 years of age receiving SSI may be eligible for additional services per OAC 340:70-8-1 and enrichment child care per OAC 340:40-7-8(f).

[Source: Added at 23 Ok Reg 1872, eff 7-1-06 ; Amended at 26 Ok Reg 820, eff 6-1-09 ; Amended at 28 Ok Reg 831, eff 6-1-11 ; Amended at 30 Ok Reg 655, eff 6-1-13 ; Amended at 32 Ok Reg 1875, eff 10-1-15]

#### **340:40-7-4. Identity and Social Security number**

(a) **Identity.** The identity of the person making application for child care services must be verified. When an authorized representative applies on behalf of a household, the worker verifies the identity of both the authorized representative and the applicant. Identity may be verified through readily available documentary evidence, or if evidence is unavailable, through a collateral contact. Any documents that reasonably establish the applicant's identity must be accepted, and no requirement for a specific type of document, such as a birth certificate, may be imposed. Examples of acceptable documentary evidence that the applicant may provide include, but are not limited to:

- (1) a driver license;
- (2) a work or school identification (ID);
- (3) an ID for health benefits or for other assistance or social service program;
- (4) a voter registration card;
- (5) wage stubs; or
- (6) a birth certificate.

(b) **Social Security number (SSN).** The client is not required to provide a SSN for any member of the household in order to receive subsidized child care benefits.

[Source: Added at 17 Ok Reg 25, eff 10-1-99 (emergency); Added at 17 Ok Reg 1244, eff 6-1-00 ; Amended at 21 Ok Reg 1358, eff 7-1-04 ; Amended at 23 Ok Reg 1872, eff 7-1-06]

#### **340:40-7-5. Resources, residence, and citizenship**

(a) Household resources must not exceed \$1,000,000 for subsidized child care, per Section 658P(4) of the Child Care and Development Block Grant Act of 2014, Public Law 113-186 (P.L. 113-186). Resources include, but are not limited to:

- (1) liquid resources, such as cash;

- (2) financial institution account balances;
- (3) certificates of deposit;
- (4) stocks;
- (5) bonds; and
- (6) real property other than home property.

(b) A parent or caretaker's statement that he or she lives in Oklahoma meets the residence requirement for child care.

(c) Only the child for whom child care is requested must meet the citizenship and alienage requirements.

- (1) A child eligible to be included in a child care benefit must be a:

(A) citizen or a national of the United States (U.S.), including the 50 states, District of Columbia, Commonwealth of Puerto Rico, Virgin Islands, Guam, American Samoa, and Northern Mariana Islands. The child may be a citizen of the U.S. by being born in the U.S. or by being born in some other country but moving to the U.S. and being granted U.S. citizenship through the U.S. Citizenship and Immigration Services (USCIS), a bureau of the Department of Homeland Security; or

(B) qualified alien:

- (i) who is lawfully admitted for permanent residence under the Immigration and Nationality Act (INA);
- (ii) who is paroled into the U.S., per Section 212(d) (5) of INA, 8 United States Code (U.S.C.) 1182, for a period of at least one year;
- (iii) who is granted conditional entry, per Section 203(a)(7) of INA, 8 U.S.C. 1153, as in effect prior to April 1, 1980;
- (iv) who is granted asylum, per Section 208 of INA;
- (v) who is admitted to the U.S. as a refugee, per Section 207 of INA, 8 U.S.C. 1157;
- (vi) whose deportation is withheld, per Section 241(b)(3) of INA;
- (vii) who is a Cuban or Haitian entrant, per Section 501(e) of the Refugee Education Assistance Act of 1980;
- (viii) who was battered or whose parent or caretaker was battered, per Section 431(c) of the Personal Responsibility and Work Opportunity Reconciliation Act as amended, per 8 U.S.C.1641(c);
- (ix) who was a victim or whose parent or caretaker was a victim of a severe form of trafficking, per Section 107(b) of the Trafficking Victims Protection Act of 2000 that was reauthorized and amended, per Trafficking Victim's Protection Reauthorization Act of 2003;
- (x) who is an Afghan non-special immigrant parolee, known as a humanitarian parolee, per the

Afghanistan Supplemental Appropriations Act 2022 enacted on September 30, 2021, Section 2502 of P.L. 117-43, as modified by Section 106(3) and 149(a) of the Continuing Appropriations and

Ukraine Supplemental Appropriations Act, 2023, P. L. 117-180, paroled into the U.S. between July 31, 2021 and December 16, 2022, and meets all other factors of eligibility from October 1, 2021 until March 31, 2023, or the term of parole, whichever is longer; or

(xi) who is a Ukrainian citizen or national or person who last habitually resided in Ukraine and received parole per Section 401 of the Additional Ukraine Supplemental Appropriations Act of 2022, P.L. 117-128. The parole must occur between February 24, 2022, and September 30, 2023; if after September 30, 2023, the parolee must be the child of a Ukrainian parolee who was paroled between February 24, 2022 and September 30, 2023.

(2) A declaration of citizenship and alien status is required for all children included in the child care benefit. This requirement is met when an adult member of the household completes and signs the application or renewal attesting to the citizenship and alien status for all children included in the benefit. Refer to Oklahoma Administrative Code (OAC) 340:65-3-1(g) for additional citizenship requirements for persons 14 years of age and older, per Section 71 of Title 56 and Section 20j of Title 74 of the Oklahoma Statutes.

(3) The worker must verify the alien status of an alien child through the United States Citizenship and Immigration Services (USCIS) Systematic Alien Verification for Entitlements (SAVE). When SAVE indicates that the child's alien status documents must be submitted to the USCIS, the worker must not delay, deny, close, or reduce benefits to an alien pending USCIS verification of submitted documentation.

[Source: Added at 17 Ok Reg 25, eff 10-1-99 (emergency); Added at 17 Ok Reg 1244, eff 6-1-00 ; Amended at 21 Ok Reg 1358, eff 7-1-04 ; Amended at 25 Ok Reg 920, eff 6-1-08 ; Amended at 26 Ok Reg 178, eff 11-1-08 (emergency); Amended at 26 Ok Reg 820, eff 6-1-09 ; Amended at 34 Ok Reg 58, eff 10-1-16 (emergency); Amended at 34 Ok Reg 1481, eff 10-1-17 ; Amended at 39 Ok Reg 465, eff 12-21-21 (emergency); Amended at 39 Ok Reg 1733, eff 9-15-22 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:40-7-6. Household composition and income consideration**

(a) **Definition of household composition terms.** The worker uses the definitions of household composition terms listed in (1) through (8) of this subsection when determining who is part of the household for income consideration.

(1) An adult is an emancipated minor or person 18 years of age and older. A child who is a parent is an adult.

(2) A spouse is a person married by ceremony or common-law to another person. They may live together or separately. When they

live separately, they are not part of the household unless the separation is temporary or involuntary.

(3) A stepparent is a person who is or was a spouse to the child's parent.

(4) A caretaker is an adult who lives with, and acts in the role of a parent to the child applying for or receiving subsidized child care benefits. The caretaker may or may not be:

(A) related to the child by blood, adoption, or marriage; or

(B) legally and financially responsible for the child.

(5) The term legally and financially responsible adult is defined as a parent or stepparent of the child who needs child care. The term also includes other caretaker adults who are court-ordered to be legally and financially responsible for the child. This rule does not apply to permanent guardianships established through Oklahoma Human Services (OKDHS) Child Welfare Services.

(6) A child is any unmarried, non-emancipated, non-parental person younger than 18 years of age.

(7) A child who marries or voluntarily leaves the parental home for any reason other than to attend school or receive medical care, and establishes independent living arrangements is emancipated and treated as an adult. When a child is emancipated, the emancipation is permanent.

(8) A sibling is a minor child who has at least one parent in common with another child in the same household. A sibling may also include a step-brother or step-sister.

(b) **Household composition and income consideration.** To establish a child's eligibility for subsidized child care benefits, it is necessary to define who is part of household composition for income consideration. All persons whose income is counted in determining the income eligibility threshold and family share copayment amount are included in family size on the OKDHS Appendix C-4, Child Care Eligibility/Copayment Chart.

Persons whose income is considered in determining eligibility are the:

(1) natural, adoptive, or stepparent living in the home with the child who needs child care;

(2) caretaker(s) of the minor child needing child care when the caretaker is legally and financially responsible for the child; and

(3) child needing child care and the child's siblings younger than 18 years of age living in the home.

(c) **Temporary absence of a household member.**

(1) When a household member is out of the home due to a temporary absence and intends to return to the home, the person is included in the household composition for income consideration. Any parent or caretaker who remains in the home must meet a need factor, per Oklahoma Administrative Code (OAC) 340:40-7-8. Temporary absences may include, but are not limited to:

(A) hospitalization for physical or mental health reasons;

(B) incarceration;

(C) attending school;

(D) military service;

(E) working or training away from home;

(F) looking for a job away from home; and  
(G) vacation time for a child. When a child goes to stay with:

- (i) someone other than a natural or adoptive parent for a vacation, household composition, income, and need is based on the usual home situation. The person the child is staying with must also meet the need factor for child care; or
- (ii) a non-custodial natural or adoptive parent, the non-custodial parent must apply and qualify for subsidized child care benefits based on the non-custodial parent's own household's eligibility for the visitation time frame.

(2) When a child lives with each parent for part of the month, refer to (d) of this Section.

(3) When a child lives with a parent for part of the month and a caretaker for the rest of the month, the child's eligibility is based on the parent meeting the eligibility factors, per OAC 340:40-7. The caretaker must also meet a need factor during the time the caretaker has physical custody of the child, per OAC 340:40-7-7.

**(d) Joint or shared custody.** When parents separate or divorce and have joint or shared custody of their child and one or both need child care, each parent applies separately for subsidized child care benefits.

(1) Joint or shared custody may be voluntary or court-ordered.

(2) The worker determines each parent's eligibility separately. This includes a separate income and need for child care determination.

(3) When only one parent qualifies for subsidized child care benefits, the worker only approves child care for the days the qualifying parent meets a need factor for child care and has physical custody of the child.

(4) When both parents qualify for subsidized child care benefits, the worker approves each parent only for the days and hours the parent meets a need factor for child care and has physical custody of the child.

[**Source:** Added at 17 Ok Reg 25, eff 10-1-99 (emergency); Added at 17 Ok Reg 1244, eff 6-1-00 ; Amended at 20 Ok Reg 2800, eff 8-1-03 (emergency); Amended at 20 Ok Reg 2916, eff 8-1-03 (emergency); Amended at 21 Ok Reg 1377, eff 7-1-04 ; Amended at 21 Ok Reg 1364, eff 9-1-04 ; Amended at 22 Ok Reg 61, eff 9-1-04 (emergency); Amended at 22 Ok Reg 796, eff 5-12-05 ; Amended at 23 Ok Reg 1872, eff 7-1-06 ; Amended at 26 Ok Reg 820, eff 6-1-09 ; Amended at 27 Ok Reg 1220, eff 6-1-10 ; Amended at 28 Ok Reg 831, eff 6-1-11 ; Amended at 30 Ok Reg 1351, eff 7-1-13 ; Amended at 34 Ok Reg 58, eff 10-1-16 (emergency); Amended at 34 Ok Reg 1481, eff 10-1-17 ; Amended at 37 Ok Reg 1813, eff 9-15-20 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:40-7-7. Establishing the need factor for child care**

**(a) Establishing the need factor.** In order for children to be cared for in a safe environment while the parent or caretaker participates in an approved activity or for protective or preventive reasons, Oklahoma Human Services (OKDHS) provides subsidized child care benefits.

(1) The worker arranges to obtain need factor documentation from the client or collateral sources.

(2) The worker and client negotiate the amount of travel time allowed for an activity based on what is a reasonable length of time.

(3) The worker does not approve child care for the hours the child attends public or private school, Head Start, or an Early Head Start program. An Early Head Start-Child Care Partnership (EHS-CCP) grant program and an Oklahoma Early Childhood Program (OECF) is exempt from this rule.

(b) **Need factor for single parent or caretaker families.** The need for subsidized child care is met when the:

(1) parent or caretaker is employed, per Oklahoma Administrative Code (OAC) 340:40-7-8(a);

(2) parent or caretaker needs sleep time during the day after working night hours when a feasible alternative is used at no cost to OKDHS during the night working hours, per OAC 340:40-7-8(a)(5);

(3) parent or caretaker attends a training or formal education program designed to lead to employment, per OAC 340:40-7-8(b) and (c);

(4) parent or caretaker attends high school, high school equivalency classes, literacy, adult basic education (ABE), or English as a Second Language (ESL) classes, per OAC 340:40-7-8(c);

(5) parent or caretaker participates in Supplemental Nutrition Assistance Program (SNAP) Education and Training (E&T) activities, per OAC 340-7-8(d);

(6) parent or caretaker participates in an approved Temporary Assistance for Needy Families (TANF) Work activity, per OAC 340:10-2-1;

(7) child needs care or supervision for part of the day as a protective or preventive service, per OAC 340:40-7-8(f);

(8) child receives Supplemental Security Income (SSI) and needs care for enrichment purposes, per OAC 340:40-7-8(g); or

(9) parent or caretaker needs child care to search for employment, per OAC 340:40-7-8(a)(6).

(c) **Need factor for two-parent or two-caretaker families.** Two-parent or two-caretaker families include two natural or adoptive parents, the natural parent and a stepparent, two grandparents, other relative married couples, or other non-relative married couples. When an unmarried couple applies, only the natural or adoptive parent must meet a need factor. The need for subsidized child care is met when:

(1) both parents or caretakers work during the same hours they request child care, per OAC 340:40-7-8(a);

(2) one or both parents or caretakers need sleep time during the day after working night hours when a feasible alternative is used at no cost to OKDHS during the night working hours, per OAC 340:40-7-8(a)(5). When both parents do not work night hours, one parent must work during the other parent's sleep time hours;

(3) one parent or caretaker attends a formal education or training program, per OAC 340:40-7-8(b) or (c) during the same hours the other parent or caretaker works, per OAC 340:40-7-8(a);

- (4) both parents or caretakers attend high school, per OAC 340:40-7-8(c);
- (5) one parent or caretaker attends high school during the same hours the other parent or caretaker works or attends a formal education or post high school training program, per OAC 340:40-7-8(a) through (c);
- (6) one parent or caretaker attends high school equivalency classes, literacy, ABE, or ESL classes, per OAC 340:40-7-8(c)(2) or (3) during the same hours the other parent or caretaker works, per OAC 340:40-7-8(a);
- (7) one or both parents or caretakers participates in SNAP E&T activities per OAC 340-7-8(d). When one parent or caretaker is not participating in SNAP E&T activities, he or she must meet a need factor during the same hours, per OAC 340:40-7-8;
- (8) one or both parents or caretakers participate in approved TANF Work activities, per OAC 340:10-2-1. When one parent or caretaker is not participating in TANF Work activities, that parent must meet a need factor, per OAC 340:40-7-8 during the same hours;
- (9) the child needs care or supervision for part of the day as a protective or preventive service, per OAC 340:40-7-8(f);
- (10) the child receives SSI and needs care for enrichment purposes, per OAC 340:40-7-8(g);
- (11) one parent or caretaker is incarcerated and the other parent remains in the home. In this instance, the parent remaining in the home is treated as a single parent; or
- (12) one or both parents or caretakers need child care to search for employment, per OAC 340:40-7-8(a)(6).

(d) **Need factor in joint custody cases.** When parents are separated or divorced and share custody of their child, voluntarily or through a court order, each parent's income and need for child care is considered separately.

(e) **Need factor for a child attending an EHS-CCP grant program or an OECP.** A child attending an EHS-CC Partnership grant program or an OECP may be approved for a weekly unit type when the parent or caretaker qualifies for Child Care Subsidy and meets a need factor, per (b) or (c) of this Section for some of the EHS-CC Partnership grant program or OECP care hours.

(f) **Activities that do not meet the need factor for child care.** The need factor for child care is not met and child care must not be approved for:

- (1) job search for more than one three-month period every 12 months, per OAC 340:40-7-8(a)(6), unless the parent(s) or caretaker(s) is participating in TANF Work activities, per OAC 340:10-2-1;
- (2) online Internet based or televised education or training courses when an instructor is not conducting a live broadcast and attendance is not required while the program is being broadcast, per OAC 340:40-7-8(b) and (c);
- (3) undergraduate classes or other training not expected to lead to a degree or certificate of completion, per OAC 340:40-7-8(b)

- and (c);
- (4) post graduate education, such as master's and doctoral programs;
- (5) two-parent or two-caretaker families when both attend a formal education or training program during the same days and hours;
- (6) transportation only;
- (7) volunteer hours or jury duty;
- (8) hours a school-age child could attend a public or private school, but the parent or caretaker chooses to home school the child at night; and
- (9) children in Child Welfare Services foster care, when one or both foster parents do not meet child care eligibility rules, per OAC 340:75-7-65.

[Source: Added at 17 Ok Reg 25, eff 10-1-99 (emergency); Added at 17 Ok Reg 1244, eff 6-1-00 ; Amended at 17 Ok Reg 3583, eff 10-1-00 (emergency); Amended at 18 Ok Reg 1236, eff 5-11-01 ; Amended at 19 Ok Reg 195, eff 1-01-02 (emergency); Amended at 19 Ok Reg 1757, eff 6-14-02 ; Amended at 21 Ok Reg 1358, eff 7-1-04 ; Amended at 23 Ok Reg 1872, eff 7-1-06 ; Amended at 30 Ok Reg 655, eff 6-1-13 ; Amended at 32 Ok Reg 1875, eff 10-1-15 ; Amended at 34 Ok Reg 58, eff 10-1-16 (emergency); Amended at 34 Ok Reg 1481, eff 10-1-17 ; Amended at 36 Ok Reg 363, eff 3-1-19 (emergency); Amended at 37 Ok Reg 1813, eff 9-15-20 ; Amended at 39 Ok Reg 1733, eff 9-15-22]

### **340:40-7-8. Defining the need factor for child care benefits**

(a) **Employment.** Employment means the parent or caretaker earns wages for work performed or meets criteria, per (5) or (6) of this subsection.

(1) The client must provide proof of his or her work hours. When the client has the flexibility to set his or her own work hours, the client and worker jointly determine if the client can reduce the number of hours the child needs care by rearranging the client's work schedule. This is especially important in two-parent or two-caretaker families.

(2) The worker limits child care approval to the number of days and hours the client is working plus reasonable travel time. In two-parent or two-caretaker working families, the worker limits child care approval to the days and hours they work the same hours plus reasonable travel time.

(3) To meet the employment need factor, the client must make at least minimum wage for the hours he or she works unless the client qualifies for an exception, per (D) or (E) of this paragraph. (A) through (C) of this paragraph specifies the criteria for determining minimum wage.

(A) The federal government determines minimum wage.

(B) The worker reviews the pay information provided by the client to determine whether the client makes at least minimum wage.

(i) When the paycheck or employer statement shows the hourly pay rate, the worker compares it to the federal minimum wage.

(ii) When the pay information provided does not show the client's hourly pay rate, the worker



divides the number of hours the client works by the gross pay per pay period to determine the client's hourly pay rate.

(iii) When the client is considered self-employed, per Oklahoma Administrative Code (OAC) 340:40-7-11(b)(2)(A), the worker divides the number of hours the client works by the net pay, after applicable business expenses, to determine the client's hourly pay rate. When the client and spouse are self-employed in the same business, the worker combines their work hours and divides the work hours by the net pay to determine their hourly pay rate.

(C) When the client works for an employer who pays a set wage that is less than minimum wage, and the employer refuses to begin paying at least minimum wage, the worker denies child care benefits or, when at renewal, does not approve further care.

(D) When the client is self-employed or works for an employer who pays wages based on commission or other performance measures instead of a set wage, does not make at least minimum wage, and the client has performed this work:

(i) less than one year, the worker counsels with the client to develop a plan to increase his or her income to at least minimum wage before the renewal is due. When the client is not making at least minimum wage at renewal, further care is not approved.

(ii) at least one year without any substantial change, the worker denies the child care subsidy benefit.

(E) When the client is an adoptive parent who meets criteria, per OAC 340:40-7-12(6), or is a caretaker who is not legally and financially responsible for the child, per OAC 340:40-7-6(a)(5), he or she is not required to make at least minimum wage for the number of hours worked.

(4) A client employed and working from his or her own home may be approved for subsidized child care benefits in an out-of-home child care home or center when he or she is unable to work while the child is in the home. When the client has flexible work hours and can work while the child is in school, care is not approved. When the client operates a licensed child care home, care is only approved in another licensed child care home or center when the client's own child places him or her over maximum licensed capacity;

(5) Subsidized child care benefits may be approved for sleep time during the day when a parent or caretaker works night hours and a feasible alternative is used during the night working hours at no cost to Oklahoma Human Services. Night working hours are defined as the hours between 11:00 p.m. and 7:00 a.m.

(A) The maximum amount of time the worker may approve child care allows the client eight hours of sleep plus travel time to and from the provider.

(B) In two-parent or two-caretaker families, care may only be approved for this reason when both parents or caretakers have night time jobs or when one parent or caretaker has a night-time job and the other parent or caretaker works during the day while the other parent or caretaker is sleeping.

(6) Subsidized child care benefits may be approved for the parent(s) or caretaker(s) to job search for one three-month period every 12 months, when needed.

(b) **Training.** A training program is defined as a course of study that, when completed, qualifies a person to meet requirements for a job the client could not obtain without the certificate of completion, accreditation, or licensure. Child care may be approved for one parent or caretaker to attend a training program. In two-parent or two-caretaker families, the other parent or caretaker must work during the same hours.

(1) The training program must qualify to receive federal financial aid from the United States Department of Education (USDE) or other federal or state education funds.

(2) Prior to initial approval for child care and at renewal, the client must provide proof of enrollment, the days and hours the client will be attending, and when he or she is expected to complete the program.

(3) The program must require classroom attendance on a school campus with an instructor present. Child care is only approved for an online Internet based course or televised course when it is a live broadcast conducted by an instructor and attendance is required while the program is being broadcast. When the program is self-paced and the client may choose his or her own school hours, care is not approved.

(4) The client must provide proof of progress at renewal. When the client is not making satisfactory progress, the worker does not approve further child care for this reason.

(5) Once the client completes a training program, further child care is not approved for training or education. The client is expected to look for jobs that require his or her training credentials.

(6) In certain circumstances, the worker may approve child care benefits for a client to attend a second training program. The client must have been employed in a job requiring the training credentials he or she has for at least 12 months. Possible circumstances include when:

(A) the client can no longer perform the job he or she is trained to do because of physical or mental health reasons. In this instance, the client must provide a statement from a doctor, mental health professional, or a vocational rehabilitation professional verifying the reason. The professional must also state that after completing the second training program, the client is capable of

performing jobs related to that training program;  
(B) there is no longer a demand for the type of work the client is trained to do. The client must provide a statement from a professional working with the client to obtain employment stating there is no demand. The professional must be employed by the Workforce Oklahoma Center, a Workforce Innovation and Opportunity Act (WIOA) contracted entity, the Oklahoma Employment Security Commission (OESC), or the Oklahoma Department of Rehabilitation Services (DRS); or  
(C) the client can establish receipt of the additional training will increase his or her earning potential. The client must provide proof the training credentials the client wants to obtain will result in a starting salary higher than what he or she currently earns.

(c) **Education program.** An education program may include:

(1) **High school.** Child care may be approved for one or both parents or caretakers to attend high school. It is not approved for a parent or caretaker to receive homebound instruction. Prior to approval, the client must provide proof that he or she is enrolled, the days and hours he or she attends, and when he or she is expected to graduate.

(2) **High school equivalency, literacy, or adult basic education (ABE) classes.** The program must require classroom attendance with an instructor present. Child care may be approved for one parent or caretaker to attend high school equivalency, literacy, or ABE classes. However, in two-parent or two-caretaker families, the other parent or caretaker must be employed during the same hours.

(A) The client must provide proof of enrollment, the days and hours the client is attending, and the end date of the class prior to care approval. When the class has open enrollment and no established end date, the client must provide proof of progress and how it is measured.

(B) The worker reviews the client's progress at renewal prior to approving further child care for this reason. At renewal, the client must provide a statement from the school that includes:

- (i) whether the client attends regularly;
- (ii) whether the client is making satisfactory progress;
- (iii) an estimated end date to complete the program; and
- (iv) the days and hours the client currently attends classes.

(C) When the client is not attending regularly or making satisfactory progress, further child care for this reason is not approved at renewal.

(3) **English as a Second Language (ESL) classes.** The program must require classroom attendance with an instructor present. Child care may be approved for one parent or caretaker to attend

ESL classes when the client lacks proficiency in understanding, speaking, reading, or writing the English language. In two-parent or two-caretaker families, the other parent or caretaker must be employed during the same hours.

(A) The client must provide proof of enrollment, the days and hours the client attends, and the end date of the class prior to care being approved. When the class has open enrollment and no established end date, the client must provide proof of how often progress is measured.

(B) The worker reviews the client's progress at renewal before approving further care for this reason. At renewal, the client must provide a statement from the school that includes:

- (i) whether the client attends regularly;
- (ii) whether the client is making satisfactory progress;
- (iii) an estimated length of time needed to complete the program; and
- (iv) the days and hours the client currently attends.

(C) When the client is not attending regularly or making satisfactory progress at renewal, the worker does not approve further child care for this reason.

(4) **Formal education program.** A formal education program is defined as a course of study that leads to attaining an associate or bachelor's degree. Child care may be approved for one parent or caretaker to attend a formal education program and participate in activities required to maintain a scholarship. Only required scholarship activities for scholarships disbursed through the school's financial aid office qualify for child care. In two-parent or two-caretaker families, the other parent or caretaker must work during the same hours.

(A) The formal education program must qualify to receive federal financial aid from USDE or other federal or state education funds.

(B) Prior to initial approval for child care and at renewal, the client must provide:

- (i) proof of enrollment;
- (ii) the days and hours the client attends school or participates in activities required to maintain a scholarship; and
- (iii) when the client expects to complete the degree.

(C) The degree program must require classroom attendance on the school campus with an instructor present. Child care is only approved for an online Internet based course or a televised course when it is a live broadcast conducted by an instructor and attendance is required while the program is being broadcast. When the program is self-paced and may be completed whenever the client chooses, child care is not approved.

(D) The worker must request proof of progress at renewal when the class schedule does not show the client is progressing from freshman level classes to sophomore, junior, and senior level classes. When the client is not making satisfactory progress at renewal, the worker does not approve further child care for this reason.

(E) Once the client completes a bachelor's degree, further care is not approved for training or education. The client is expected to look for jobs that require a degree.

(F) In certain circumstances, the worker may approve subsidized child care benefits for a client to obtain a different bachelor's degree. The client must first have been employed in a job that required the degree he or she already has for at least 12 months. Possible circumstances include when:

(i) the client can no longer perform the job he or she is trained to do because of physical or mental health reasons. In this instance, the client must provide a statement from a doctor, mental health professional, or a vocational rehabilitation professional that verifies the reason. The professional must also state that after completing the second degree program, the client is capable of performing jobs related to that degree program;

(ii) there is no longer a demand for the type of work the person is trained to do. The client must provide a statement from a professional working with the client to obtain employment stating there is no demand. The professional must be employed by the Workforce Oklahoma Center, a WIOA contracted entity, OESC, or DRS; or

(iii) the client can establish receipt of the second degree will increase his or her earning potential. The client must provide proof that the second degree the client wants to obtain will result in a starting salary higher than what he or she currently earns.

**(d) Oklahoma Supplemental Nutrition Assistance Program Works (OK SNAP Works) related child care.** Subsidized child care benefits may be provided for OK SNAP Works component assignments and activities, per OAC 340:50-5-106.

(1) Prior to approval, the OK SNAP Works coordinator confirms with the contracted service provider the:

(A) component assignment or activity is part of OK SNAP Works;

(B) assigned start date; and

(C) the activity's scheduled days and hours.

(2) When a parent or caretaker stops participating in OK SNAP Works component assignments or activities for reasons other than employment, child care is continued for an additional 90-calendar days from the date the client stops participating.

**(e) Temporary Assistance for Needy Families (TANF) related child care.**

(1) TANF related subsidized child care benefits may be provided for:

(A) any TANF Work activity outlined on the client's Form 08TW002E, TANF Work/Personal Responsibility Agreement, per OAC 340:10-2-1, including when the person is sanctioned, per OAC 340:10-2-2, and participating in TANF Work activities;

(B) substance abuse treatment when the parent of a child receiving TANF is ineligible for TANF due to the illegal use of a controlled substance or substances, per OAC 340:10-4-1. Prior to approval, the parent must provide proof of the substance abuse treatment plan from the treatment provider; or

(C) a child receiving a child only TANF benefit when the parent or caretaker relative meets a need factor included in this Section.

(2) When the parent or caretaker relative receiving TANF-related subsidized child care stops meeting a need factor, the worker continues subsidized child care benefits for 90-calendar days.

**(f) Protective or preventive child care.** Subsidized protective or preventive child care benefits may be used as an early intervention strategy in certain critical situations to help prevent a child's neglect, abuse, or exploitation. The worker may approve child care in these situations to help stabilize the family or enhance family functioning. In most instances, Child Welfare Services (CWS) staff completes protective or preventive child care requests when they are working with the family and recommending protective or preventive child care. Subsidized protective or preventive child care benefits are approved on a temporary basis. The worker helps the family develop a plan to reduce or eliminate the need for such child care beginning with the initial contact.

(1) Reasons protective or preventive child care may be approved include, but are not limited to, when:

(A) an outside agency contracting with CWS to provide Comprehensive Home-Based Services (CHBS) for a non-court involved family recommends child care be provided on a temporary basis;

(B) the parent or caretaker requests child care because of a medical condition that prevents the parent or caretaker from properly caring for the child;

(C) a homeless family requests child care while working to stabilize the family. Homeless means the family lacks a fixed, regular, and adequate night time residence, and includes families who:

(i) temporarily share housing with other persons due to loss of housing, economic hardship, or a similar reason;

(ii) temporarily live in motels, hotels, trailer parks, or camping grounds due to the lack of alternative accommodations;

(iii) live in emergency or transitional shelters; or  
(iv) live in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings not designed for, or ordinarily used, as a regular sleeping accommodation for human beings; or

(D) a family affected by a natural disaster requests child care to deal with the natural disaster's effects, such as home damage or loss following a fire, flood, or tornado.

(2) The worker may approve subsidized protective or preventive child care benefits for a maximum of 30-calendar days.

(3) When the family requests more than 30-calendar days of subsidized protective or preventive child care benefits, the worker must obtain approval from Adult and Family Services Child Care Subsidy Unit staff before authorizing more care. Prior to requesting an extension, the client must provide a written recommendation from a professional working with the family stating:

(A) the names and ages of the children for whom child care is recommended;

(B) the reason child care is recommended;

(C) the days and hours child care is needed;

(D) how placing the child in a child care facility helps to prevent neglect, abuse, or exploitation of the child; and

(E) the length of time the professional expects care to be needed.

(4) A family receiving CHBS services is not responsible for paying a copayment. Depending on other families' unique circumstances, the worker may.

(5) In certain circumstances, families who are financially ineligible for subsidized child care benefits may be approved for protective or preventive child care benefits when the child is in danger of neglect, abuse, or exploitation. The client must provide evidence the family is so burdened by debt the additional financial pressure of paying for child care may result in further deterioration of family stability and functioning. The client must also provide a plan for reducing his or her debt.

(g) **Enrichment.** The purpose of subsidized enrichment child care benefits is to assist a child receiving Supplemental Security Income (SSI) to develop socialization skills and transition into a group setting, such as a classroom. Children who do not receive SSI benefits are not eligible for subsidized enrichment child care benefits.

(1) The need for subsidized enrichment child care benefits is based solely on the child's delay or disability needs instead of the parent's or caretaker's activities.

(2) Enrichment child care is limited to a maximum of two days per week not to exceed 10 full-time or part-time days per month.

(3) The parent or caretaker must provide a written recommendation from a professional working directly with the child that states how child care would be beneficial to the child. The professional could be the child's doctor, occupational

therapist, physical therapist, or special education teacher.

(4) Enrichment child care is only approved for a child who has not started school, Head Start, Early Head Start, or an Oklahoma Early Childhood Program unless, due to the child's disabilities, the child receives teacher instruction in his or her home.

(5) When subsidized enrichment child care benefits are approved, care must be provided outside of the child's home and at least one other child must attend during the same hours.

(6) The worker obtains approval from AFS Child Care Subsidy Unit staff prior to authorizing care for this need factor.

[Source: Added at 17 Ok Reg 25, eff 10-1-99 (emergency); Added at 17 Ok Reg 1244, eff 6-1-00 ; Amended at 17 Ok Reg 3583, eff 10-1-00 (emergency); Amended at 18 Ok Reg 155, eff 12-1-00 (emergency); Amended at 18 Ok Reg 1236, eff 5-11-01 ; Amended at 19 Ok Reg 195, eff 1-01-02 (emergency); Amended at 19 Ok Reg 1757, eff 6-14-02 ; Amended at 20 Ok Reg 530, eff 1-1-03 (emergency); Amended at 20 Ok Reg 872, eff 6-1-03 ; Amended at 20 Ok Reg 2800, eff 8-1-03 (emergency); Amended at 20 Ok Reg 2916, eff 8-1-03 (emergency); Amended at 21 Ok Reg 1377, eff 7-1-04 ; Amended at 21 Ok Reg 1364, eff 9-1-04 ; Amended at 22 Ok Reg 796, eff 5-12-05 ; Amended at 23 Ok Reg 1872, eff 7-1-06 ; Amended at 25 Ok Reg 920, eff 6-1-08 ; Amended at 26 Ok Reg 820, eff 6-1-09 ; Amended at 27 Ok Reg 1220, eff 6-1-10 ; Amended at 28 Ok Reg 831, eff 6-1-11 ; Amended at 29 Ok Reg 787, eff 7-1-12 ; Amended at 30 Ok Reg 346, eff 12-5-12 (emergency); Amended at 30 Ok Reg 655, eff 6-1-13 ; Amended at 32 Ok Reg 1875, eff 10-1-15 ; Amended at 34 Ok Reg 58, eff 10-1-16 (emergency); Amended at 34 Ok Reg 1481, eff 10-1-17 ; Amended at 39 Ok Reg 1733, eff 9-15-22]

#### **340:40-7-9. Exploration and development of potential income**

The worker explores potential sources of income, such as Social Security benefits, Supplemental Security Income (SSI), child support, unemployment benefits, veteran's benefits, and increased wages with the client at the time of application and each renewal for all members of the household whose income must be considered, per Oklahoma Administrative Code (OAC) 340:40-7-6. The client must apply for, or continue to pursue, all potential sources of income for which it appears likely he or she may be eligible, except for SSI and child support, before the next child care renewal is due. The client is encouraged, but not required, to apply for SSI when the client indicates a household member has a disability. Similarly, the client is encouraged, but not required, to pursue child support when a parent is absent from the home.

(1) When the client refuses to pursue available income at the time of request, the worker denies the child care request.

(2) When the client agrees to pursue all potential income and fails to do so within the 12-month eligibility period, further care is not approved at renewal.

(3) When the client is approved for the potential income or offered a pay raise within the 12-month eligibility period and refuses to accept it, further care is not approved at renewal.

(4) When the client's rate of pay or number of hours worked decreases, the worker explores why the decrease occurred. When the client requested the decrease to avoid a family share copayment increase or to maintain eligibility, the worker closes the subsidized child care benefits at renewal.

(5) At each renewal, the worker determines whether the client continues to pursue potential income.

(A) When the client begins receiving previously identified potential income, the worker adds the income to the case



although the system does not decrease the benefit until renewal.

(B) When the client was not approved for the income, the client must verify this. The worker records in the case record the verification provided and stops exploring this potential income with the client.

(C) When the client stops pursuing potential income and was not determined ineligible for the income, further care is not approved at renewal.

(6) When the client's subsidized child care benefits close at renewal because of failure to pursue potential income, the client must verify receipt or pursuit of such income or that such income is no longer potentially available before child care may be approved.

(A) When the client verifies cooperation within 30-calendar days of the closure of subsidized child care benefits, the worker may reopen the benefits back to the date they were closed without imposing a penalty.

(B) When the client does not cooperate or waits to verify cooperation for more than 30-calendar days from the date the subsidized child care benefits close, the client must complete a new application before care is approved. The earliest date subsidized child care benefits may be approved is the date the client completes a child care interview and provides all necessary verification, per OAC 340:40-3-1.

[Source: Added at 17 Ok Reg 25, eff 10-1-99 (emergency); Added at 17 Ok Reg 1244, eff 6-1-00 ; Amended at 20 Ok Reg 2048, eff 7-1-03 ; Amended at 21 Ok Reg 3159, eff 9-1-04 (emergency); Amended at 22 Ok Reg 61, eff 9-1-04 (emergency); Amended at 22 Ok Reg 796, eff 5-12-05 ; Amended at 23 Ok Reg 1872, eff 7-1-06 ; Amended at 25 Ok Reg 920, eff 6-1-08 ; Amended at 26 Ok Reg 820, eff 6-1-09 ; Amended at 27 Ok Reg 1220, eff 6-1-10 ; Amended at 28 Ok Reg 831, eff 6-1-11 ; Amended at 32 Ok Reg 1875, eff 10-1-15 ; Amended at 34 Ok Reg 58, eff 10-1-16 (emergency); Amended at 34 Ok Reg 1481, eff 10-1-17 ; Amended at 37 Ok Reg 1813, eff 9-15-20 ; Amended at 38 Ok Reg 2234, eff 9-15-21]

### **340:40-7-10. General provisions regarding income**

(a) **Income considered.** Available and anticipated income, except that required to be disregarded by law or Oklahoma Department of Human Services (DHS) policy, per Oklahoma Administrative Code (OAC) 340:40-7-12, is considered when determining a client's eligibility for child care subsidy benefits per this Section and OAC 340:40-7-11.

(b) **Reporting requirement.** The client must report all sources of income at application and as changes occur, per (e) of this Section and OAC 340:40-9-2.

(c) **Income from a new source.** Income from a new source is only considered for the approval month when a full check is received on or prior to the certification date. Income is anticipated and considered for the next month when a full check from the new source is expected to be received by the first of the month. When a full check is not received by the first of the next month, it is anticipated and considered for the third month before income is set for the remainder of the eligibility period.

(d) **Past income.** Past income is not used to anticipate future income for any month in which an income change occurred or employment ended.

(e) **Increased income between eligibility determinations.** Between eligibility determinations, per Section 98.21(e)(1) of Title 45 of the Code of Federal Regulations, the client is only required to report income changes within 10-calendar days of the date the change occurs, when the household's gross income exceeds the income eligibility threshold for the family size, per DHS Appendix C-4, Child Care Eligibility/Copayment Chart.

(1) A computer-generated notice issues at certification and renewal informing the client of the current income eligibility threshold for his or her family size and instructs the client to report when the household income exceeds this amount.

(2) When income exceeds the income eligibility threshold, the worker closes the child care benefit for the next advance-notice effective date per OAC 340:40-9-2(f).

(f) **Decreased income after approval.** When income decreases after approval, the worker makes the change for the current month, when appropriate, or by the next non-advance notice effective date per Oklahoma Department of Human Services (DHS) Appendix B-2, Deadlines for Case Actions. Once income decreases, it is not increased until the renewal month per (e) of this Section.

(g) **Garnished income.** When a person's income is reduced due to garnishment, the gross amount before the garnishment is counted as income.

(h) **Withheld or returned payments not considered as income.**

Payments not considered as income are:

(1) monies withheld from any income source to repay a prior overpayment received from that same source;

(2) monies voluntarily or involuntarily returned to repay a prior overpayment received from that same income source; or

(3) child support payments received by Temporary Assistance for Needy Families (TANF) recipients that must be sent to DHS Child Support Services to maintain TANF eligibility.

(i) **Withheld or returned payments considered as income.** Monies withheld or returned to repay overpayments in federal, state, or local means tested assistance programs are not excluded when they are withheld or returned to repay overpayments resulting from intentional program violation as established by the agency administering the program.

[Source: Added at 17 Ok Reg 25, eff 10-1-99 (emergency); Added at 17 Ok Reg 1244, eff 6-1-00 ; Amended at 20 Ok Reg 2048, eff 7-1-03 ; Amended at 25 Ok Reg 920, eff 6-1-08 ; Amended at 26 Ok Reg 820, eff 6-1-09 ; Amended at 35 Ok Reg 36, eff 10-1-17 (emergency); Amended at 35 Ok Reg 1647, eff 9-17-18 ; Amended at 36 Ok Reg 363, eff 3-1-19 (emergency); Amended at 37 Ok Reg 1813, eff 9-15-20]

### **340:40-7-11. Income sources considered**

(a) **Income sources considered.** Income may be received periodically or at irregular intervals. All income, unless specifically excluded, per Oklahoma Administrative Code (OAC) 340:40-7-12, is considered in determining monthly gross income. Income is classified as earned or

unearned income.

(b) **Earned income.** Earned income is the total money a person receives from wages, salary, commission, or profit from activities he or she engages in as a self-employed person or as an employee.

(1) **Wages.** Wages include total money earned for work performed as an employee including armed forces pay, commissions, tips, piece-rate payments, longevity payments, and cash bonuses before deductions, such as taxes, bonds, pensions, union dues, credit union payments, or cafeteria plans are subtracted.

(A) Countable military personnel wages include any allowance included on the earnings statement, except the Basic Allowance for Housing (BAH).

(B) Only the portion of the cafeteria plan the client controls, including any excess benefit allowance payments, is counted as income.

(C) Reimbursements for expenses, such as a uniform allowance or transportation costs, other than daily commuting, are subtracted from the gross income.

(D) Payments made for annual leave, sick leave, or severance pay are considered earned income during the month such income is received, whether paid during employment or at employment termination.

(E) Wages that are garnished or diverted and paid to a third party are also counted as income.

(2) **S corporations.** When a household member is a shareholder in an S corporation, he or she may receive profits from the business in three ways; as a salary, as a profit share of the business, or both. Both types of income are reported on the household member's personal income tax return. Salary income is considered as earned income and profit share income is considered as unearned income, per (c)(11) of this Section.

(3) **Self-employment.** Self-employment income is calculated based on procedures listed in (A) through (H) of this subsection.

(A) **Persons considered self-employed.** A person is considered self-employed when:

(i) he or she declares himself or herself to be self-employed;

(ii) there is an employer/employee relationship and the employer does not withhold income taxes or Federal Insurance Contributions Act, even when required to do so by law; or

(iii) the employer withholds taxes and the person provides proof he or she files taxes as self-employed.

(B) **Records used and income calculation.** The worker uses the records described in (i) through (iii) of this subparagraph to calculate income. When the person reports a loss instead of a profit on the business, the worker does not deduct the loss from other household income.

(i) When the person filed a federal income tax return for self-employment income for the most recent year, whether the person's income is derived from his or her own business or from working for an employer, the worker uses the gross self-employment income shown on the person's federal income tax return. The worker subtracts 50 percent of the income for claimed business expenses, and divides the income by 12 or, when the self-employment income was received for less than the full calendar year, by the number of months the business has existed or the number of months since the person started working for the employer. The worker verifies the person's start date with the employer when the person states he or she has not worked for the employer for at least 12 months.

(ii) When the person did not file an income tax return for the most recent tax year for his or her own business, the worker calculates self-employment income by using the person's business records for the last 12 months or the number of months the business has existed when less than 12 months. When the client declares business expenses, the worker subtracts 50 percent of the gross self-employment income to arrive at the net profit.

(iii) When the person works for an employer, did not file a federal tax return as self-employed, and receives earnings from an employer, the person must provide proof of the last 12 months of income from the employer. The worker divides the gross income by 12 or the number of months the person worked for the employer to determine monthly income. When the person declares business expenses, the worker subtracts 50 percent of the gross self-employment income before dividing the income by the applicable number of months to determine monthly income.

(C) **Profit sharing.** Households who operate S corporations, general or limited partnerships, or limited liability companies (LLC) may receive profit sharing that is reported on the household's personal income tax return.

(i) S corporation profit sharing is considered unearned profit-sharing income. Refer to OAC 340:40-7-11(b)(2) and (c)(11) for information regarding S corporations.

(ii) Partnerships are unincorporated businesses with two or more partners. When a household member is a partner in a business, he or she is considered self-employed and not one of the

business's employees. Each partner receives a profit share from the business. When a business is considered a:

- (I) general partnership or LLC with a member-manager, each partner's share of the business income is shown as self-employment income on his or her federal income tax form; or
- (II) limited partnership or other LLC member, each partner's share of the business income is shown as self-employment income or unearned profit-sharing income on his or her federal income tax form.

(D) **Monthly self-employment income.** Self-employment income received on a monthly basis is normally averaged over a 12-month period. When the averaged amount does not accurately reflect the household's actual monthly circumstances because the household experienced a substantial increase or decrease in income, the worker calculates the self-employment income based on anticipated earnings.

(E) **Seasonal self-employment.** Self-employment income intended to meet the household's needs for only part of the year is averaged over the time period it is intended to cover.

(F) **Annualized self-employment income.** Self-employment income that represents a household's annual support is averaged and annualized over a 12-month period, even when the income is received in a short time period.

(i) When the average annualized amount does not accurately reflect the person's actual monthly circumstances because the person experienced a substantial increase or decrease in income, the worker calculates the self-employment income on anticipated earnings.

(ii) The worker does not calculate self-employment income on the basis of prior earnings, such as income tax returns, when an increase or decrease of business has occurred.

(iii) When the person received the self-employment income for less than 12 months, the worker averages the income over the applicable number of months and projects the monthly amount for the coming year.

(G) **Rental property income.** Rental property is considered self-employment income.

(H) **Room and board income.** Payments from roomers or boarders are considered self-employment when the roomer or boarder pays a reasonable amount.

(4) **On-the-job training (OJT).** OJT income from regular employment is considered earned income. This includes OJT provided, per Section 3(44) of the Workforce Innovation and Opportunity Act (WIOA), for persons 19 years of age and older. This does not include classroom or institutional training or WIOA-sponsored intern assignments, even when an hourly amount is paid for such training, per OAC 340:40-7-12(25)(G).

(5) **Title I payments of Domestic Volunteer Services Act (DVSA).** Payments under Title I of the DVSA of 1973 as amended, per Public Law 93-113, are considered earned income unless excluded, per OAC 340:40-7-12.

(6) **Children's earnings.** A minor parent's earned income is treated as adult earned income. Earnings of other children 17 years of age and younger who are under an adult household member's parental control are excluded, per OAC 340:40-7-12.

(7) **Sale of whole blood or plasma.** The sale of whole blood or blood plasma is considered as earned income.

(8) **Training allowances.** Training allowances from vocational or rehabilitative programs recognized by federal, state, or local governments, such as the work incentive program, are considered as earned income to the extent they are not a reimbursement.

Training allowances received under WIOA are excluded.

(c) **Unearned income.** Unearned income is income a person receives for which the person does not put forth any daily, physical labor. Types of income listed in (1) through (11) of this subsection are considered unearned income.

(1) **Assistance payments.** Assistance payments include state means-tested programs, such as Temporary Assistance for Needy Families (TANF), including Supported Permanency benefits, State Supplemental Payment (SSP) to the aged, blind, or disabled, and Refugee Resettlement Program (RRP) cash assistance.

(2) **Pensions, disability, and Social Security benefits.**

Annuities, pensions, retirement benefits, disability benefits from either government or private sources, or Social Security survivor benefits are considered unearned income.

(A) When a minor child receiving Social Security benefits no longer lives with the payee receiving the Social Security benefits, only the portion of the child's Social Security benefit used to meet the minor child's needs is considered income. This may include cash given directly to the minor child or money paid to a third party for the minor child's room and board.

(B) The parent or caretaker or, when appropriate, the minor child must take action to become the payee within the 12-month eligibility period, per OAC 340:40-7-9(d). When the parent, caretaker, or minor child does not take action by renewal, the worker counts the total Social Security benefit as income.

(3) **Supplemental Security Income (SSI).** SSI is considered unearned income.

(4) **Unemployment and workers' compensation.** Income from unemployment insurance benefits or workers' compensation is counted as unearned income.

(5) **Child support, court-ordered or third party paid child care, and alimony.** Child support, child care payments, and alimony payments, whether court-ordered or voluntary, made directly to the household from non-household members are counted as unearned income.

(A) Child care payments paid directly to the child care provider are not considered countable child support income.

(B) When the non-custodial parent reports he or she pays a portion of the client's family share copayment to the child care provider, it is not considered countable child support income.

(C) When the non-custodial parent or another third party, such as an employer, makes a payment to the child care provider in addition to the client's copayment, it is considered an additional copayment. Oklahoma Human Services (OKDHS) subtracts the additional copayment from the subsidy payment OKDHS owes to the child care provider.

(D) Any other payment made to a third party for a household expense is considered as countable child support income when a court order directs the payment be made to the household. Payments for medical support are excluded.

(6) **Veterans' compensation, pensions, or military allotments.** Disability compensation, military allotments, servicemen dependent allowances, and similar payments are considered unearned income.

(7) **Contributions.** Appreciable cash contributions recurrently received are considered unearned income except when the contribution is not made directly to the client. To be appreciable, a contribution must exceed \$30 per calendar quarter per person.

(8) **Dividends, interest, minerals, and royalties.** Dividends, interest income, income from minerals, royalties, and similar sources are considered unearned income. When income from these sources is received irregularly or in varied amounts, it is averaged over 12 months. Income from royalties is treated as unearned, self-employment income, subject to (b)(2) of this Section.

(9) **Lump sum payments.** Recurring lump sum payments, including income from earnings, are averaged over the period they are intended to cover.

(10) **Irregular income.** Income received irregularly that exceeds \$30 per calendar quarter is considered income unless it is from an excluded income source specifically mentioned at OAC 340:40-7-12. Countable irregular income is averaged over 12 months.

(11) **Profit sharing.** When a household member is a shareholder in an S corporation or a partner in a limited partnership or an

LLC, he or she may receive a distribution or profit share of the business. This is considered as unearned income.

[Source: Added at 17 Ok Reg 25, eff 10-1-99 (emergency); Added at 17 Ok Reg 1244, eff 6-1-00 ; Amended at 17 Ok Reg 3583, eff 10-1-00 (emergency); Amended at 18 Ok Reg 1236, eff 5-11-01 ; Amended at 19 Ok Reg 1757, eff 6-14-02 ; Amended at 20 Ok Reg 530, eff 1-1-03 (emergency); Amended at 20 Ok Reg 2048, eff 7-1-03 ; Amended at 20 Ok Reg 2800, eff 8-1-03 (emergency); Amended at 20 Ok Reg 2916, eff 8-1-03 (emergency); Amended at 21 Ok Reg 1377, eff 7-1-04 ; Amended at 21 Ok Reg 1364, eff 9-1-04 ; Amended at 23 Ok Reg 1872, eff 7-1-06 ; Amended at 24 Ok Reg 2184, eff 7-1-07 ; Amended at 27 Ok Reg 21, eff 10-1-09 (emergency); Amended at 27 Ok Reg 1220, eff 6-1-10 ; Amended at 28 Ok Reg 831, eff 6-1-11 ; Amended at 29 Ok Reg 787, eff 7-1-12 ; Amended at 30 Ok Reg 1351, eff 7-1-13 ; Amended at 32 Ok Reg 1875, eff 10-1-15 ; Amended at 34 Ok Reg 58, eff 10-1-16 (emergency); Amended at 34 Ok Reg 1481, eff 10-1-17 ; Amended at 37 Ok Reg 1813, eff 9-15-20 ; Amended at 38 Ok Reg 2234, eff 9-15-21 ; Amended at 39 Ok Reg 1733, eff 9-15-22]

### **340:40-7-12. Excluded income sources**

Only the income listed in this Section is excluded in determining a household's eligibility for a child care benefit. No other income is excluded.

(1) **Lump sum payments.** One-time lump sum payments are excluded as income. Recurring lump sum payments are excluded as a countable income source unless specifically mentioned, per Oklahoma Administrative Code (OAC) 340:40-7-11.

(2) **In-kind income.** In-kind income is excluded as income. In-kind income is defined as any gain or benefit that is not in the form of money paid directly to the household. This includes non-monetary or in-kind benefits, such as meals, clothing, public housing, or produce from a garden.

(3) **Money received from the sale of property.** Money received from the sale of property, such as stocks, bonds, or a house or car is excluded. This exclusion does not apply when the person is engaged in the business of selling such property.

(4) **Bank or trust account withdrawals.** Money withdrawn from a bank or trust account is excluded as income even when used to meet current living expenses.

(5) **Capital gains.** The proceeds from the sale of capital goods or equipment are excluded.

(6) **Household income for certain children adopted through Oklahoma Human Services (OKDHS).** All household member's income is exempt for the adopted child only when conditions in (A) through (F) are met. The:

(A) parent applying for benefits adopted the child through OKDHS or a federally-recognized Indian tribe, as defined by the Federal and Oklahoma Indian Child Welfare Acts;

(B) adoptive parent applying for benefits must provide:

(i) a fully executed Form 04AN002E, Adoption Assistance Agreement, listing child care as an adoption assistance benefit for the child;

(ii) Form 04AN033E, Post Adoption Child Care Referral;

(iii) the Final Decree of Adoption; and

(iv) a form of identity;

(C) adoptive parent and child are Oklahoma residents;



(D) child is 5 years of age and younger. When a child turns 6 years of age during the 12-month eligibility period, household income remains exempt until the next renewal;

(E) child is 6 years of age and older and meets the definition of a child with disabilities, per OAC 340:40-7.3.1. When the child continues to require child care after he or she turns 13 years of age, the client must provide a statement from a licensed health care professional verifying the child is physically or mentally incapable of self-care, as age appropriate, before further care is approved, per OAC 340:40-7-3. An updated medical statement is required annually at renewal. When a child with disabilities turns 19 years of age during an eligibility period, the child remains eligible until the next renewal date; and

(F) adoptive parent meets an allowable need factor and provides proof, per OAC 340:40-7-7 and OAC 340:40-7-8. In a two-parent family, both parents must meet an allowable need factor.

**(7) Household income when at least one child attends an Early Head Start-Child Care Partnership (EHS-CCP) grant program or an Oklahoma Early Childhood Program (OECF).**

The household income is exempt for all children in child care when at least one child attends an EHS-CCP grant program or an OECF and the household meets the income threshold, per OKDHS Appendix C-4, Child Care Eligibility/Copayment Chart.

**(8) Children's earnings.** The earnings of a person 17 years of age and younger who is considered a child in the case are excluded as long as the child attends school regularly. The exclusion continues to apply during temporary interruptions in school attendance due to semester or vacation breaks, provided the child's enrollment resumes following the break. When the child is a minor parent and the payee, the minor parent's earnings are treated as adult income.

**(9) Irregular income.** Any income received too infrequently or irregularly to be reasonably anticipated is not counted unless it exceeds \$30 per calendar quarter.

**(10) Reimbursements.** Reimbursements for past or future expenses not exceeding actual expenses are excluded.

**(11) Tax refunds.** Exclude federal or state income tax refunds including Earned Income Tax Credit (EITC) payments.

**(12) Money received for third parties.** Money received and used for the care and maintenance of a third party who is not a household member is excluded.

**(13) Loans.** All loans, including loans from private as well as commercial institutions, are excluded as income. When the household states someone is loaning the household money to meet expenses, both parties are required to sign a statement indicating the payment is a loan and must be repaid. When the household states it receives loans on a recurrent or regular basis from the same source, the lender must sign an affidavit stating

the payments are loans that must be repaid or that payments will be made in accordance with an established repayment schedule.

(14) **Grants.** Grants obtained and used under conditions that preclude their use for current living costs are excluded.

(15) **Educational assistance.** Educational assistance is excluded as income and includes, but is not limited to:

- (A) work study;
- (B) scholarships;
- (C) fellowships;
- (D) educational loans when payment is deferred; and
- (E) veterans' education benefits.

(16) **Stipends.** Stipends paid to students participating in the Indian Vocational Education Program through the Carl D. Perkins Vocational and Applied Technology Education Act are excluded as income.

(17) **Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE).** Payment for supportive services or reimbursement for out-of-pocket expenses made to volunteers serving as foster grandparents, senior health aides, senior companions, and to persons serving in SCORE and ACE is excluded as income.

(18) **Government rent or housing subsidies.** Rent or housing subsidies provided by government agencies that are received in-kind or in cash for rent, mortgage payments, or utilities are excluded as income.

(19) **Foster care payments.** Foster care payments received for a foster child in state or tribal custody are excluded as income.

(20) **Title IV E of the Social Security Act or State Adoption Subsidy.** Federal- or state-funded adoption subsidy payments made to adoptive parents are excluded as income.

(21) **Victims of Crime Act of 1984.** Payments made from the crime victims' compensation program as amended in Section 1402 of the Victims of Crime Act of 1984 and Section 10602 of Title 42 of the United States Code (42 U.S.C § 10602) are excluded as income.

(22) **Family Support Assistance Payment Program.** Family Support Assistance Payment Program payments paid to persons by OKDHS Developmental Disabilities Services are excluded as income.

(23) **Vendor payments.** Vendor payments made directly to the household's creditors, a person, or an organization providing a service to the household, are excluded as income unless a court order or other legally binding agreement specifies the money is to be paid directly to the client.

(24) **Money received by another household for a household member.**

- (A) When a child with countable income spends part of the month in two separate households, the worker only considers the portion of the child's income received by the household applying for or receiving a child care benefit as countable income and excludes the remainder.

(B) When a minor parent is the payee and lives with a parent or caretaker, child support received for the minor parent is considered income for the parent or caretaker and not considered for the minor parent's child care benefit.

**(25) Money deposited into or withdrawn from a qualified Oklahoma Achieving a Better Life Experience (ABLE) Program account.** Money deposited into or withdrawn from a qualified ABLE Program account, in Oklahoma or in any other state, owned by the account's designated beneficiary and established to pay for qualified disability expenses (QDE), is excluded from income or resource consideration, per Sections 4001.1 through 4001.5 of Title 56 of the Oklahoma Statutes and the ABLE Act of 2014 (26 U.S.C. § 529A). A person may have only one ABLE account.

(A) The client must provide documents to verify the account meets exemption criteria before the funds are excluded. Once the client verifies that the savings or trust account is a valid ABLE account, no further account information is required.

(B) Another individual's contribution to an ABLE account is excluded unless the contribution exceeds the annual federal gift tax exclusion amount, per 26 U.S.C. § 2503(b). Any money deposited in the account in the calendar year that is in excess of the annual federal gift tax exclusion amount is considered as a countable resource in the amount deposited.

(C) An ABLE account distribution retained after the month of receipt is excluded in any month when spent on a QDE. Money withdrawn for reasons other than to pay a QDE is considered as a countable resource for the withdrawal month.

(D) A QDE is any expense related to the individual's blindness or disability and made for his or her benefit. A QDE includes, but is not limited to:

- (i) education;
- (ii) housing;
- (iii) transportation;
- (iv) employment, training, and support;
- (v) assistive technology;
- (vi) health;
- (vii) prevention and wellness;
- (viii) financial management and administrative services;
- (ix) legal fees;
- (x) ABLE account oversight and monitoring;
- (xi) funeral and burial; and
- (xii) basic living.

**(26) Income excluded by federal law.** Income excluded by federal law is defined as:

(A) payments received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(B) payments received:

- (i) under the Alaska Native Claims Settlement Act, Public Law (P. L.) 92-203, § 21(a);
- (ii) under the Sac and Fox Indian Claims Agreement, P.L. 94-189;
- (iii) from the disposition of funds to the Grand River Band of Ottawa Indians, per P.L. 94-540;
- (iv) from the Indian Claims Commission to the Confederated Tribes and Bands of the Yakima Indian Nation or the Apache Tribe of the Mescalero Reservation, per P.L. 95-433;
- (v) under the Maine Indian Claims Settlement Act of 1980 to members of the Passamaquoddy and the Penobscot Nation, P.L. 96-420;
- (vi) by an individual as a lump sum or a periodic payment via the Cobell Settlement, per the Claims Resolution Act of 2010, P.L. 111-291; or
- (vii) by members of the Navajo and Hopi Tribes for relocation assistance, per P.L. 93-531;

(C) any payment to volunteers under Title II, Retired and Senior Volunteer Program, Foster Grandparents and others, of the Domestic Volunteer Services Act of 1973, P.L. 93-113 as amended. Payments under Title I of that Act, Volunteers in Service To America, University Year for Action, and Urban Crime Prevention Program, to volunteers are excluded only when the monthly amount, converted to an hourly rate, is less than the Oklahoma minimum wage;

(D) income derived from submarginal land of the United States held in trust for certain Indian tribes, per P.L. 94-114, Section 6;

(E) Indian per capita payments distributed from judgment awards and trust funds made, per Section 2 of P.L. 98-64, 25 U.S.C. §§ 117b and 1407. For this paragraph's purposes, per capita is defined as each tribal member receiving an equal amount. Interest or investment income accrued on such funds while held in trust, or any purchases made with judgment funds, trust funds, interest, or investment income accrued on such funds, is excluded. Any per capita payments, headrights of the Osage tribe, income from mineral leases, or other tribal business ventures are excluded as long as the payments are paid per capita. Any interest or income derived from the funds after distribution is considered as any other income. The per capita exclusion applies per person rather than per family;

(F) income individual Indians receive up to \$2,000 per year that is derived from leases or other uses of

individually-owned trust or restricted lands, is not counted as income. The income exclusion applies to calendar years beginning January 1, 1994. Any remaining disbursements from the trust or restricted lands are considered income; (G) allowances, stipends, earnings, compensation in lieu of wages, grants, and other payments made for participation in the Workforce Innovation and Opportunity Act (WIOA) or other federally-funded workforce training program to persons of all ages and student status. On-the-job training income paid to persons 19 years of age and older is considered as countable earned income, per OAC 340:40-7-11(b)(4);

(H) payments, allowances, or earnings to persons participating in the AmeriCorps State and National program, the AmeriCorps National Civilian Community Corps program authorized under the National and Community Service Act, 1990 42 U.S.C. § 12637(d), and other payments to volunteers authorized by the National and Community Service Trust Act of 1993, P. L. 103-82, 42 U.S.C. §§ 12571, et seq., and administered by the Corporation for National and Community Service;

(I) payments or allowances made under any federal law for the purpose of energy assistance, Low Income Home Energy Assistance Program (LIHEAP), and utility payments and reimbursements made by the Department of Housing and Urban Development (HUD) and the Farmers Home Administration (FmHA);

(J) the mandatory salary reduction amount for military service personnel used to fund the G.I. Bill;

(K) benefits from State and Community Programs on Aging, per Title III and Title V of the Older Americans Act of 1965 as amended by P.L. 114-144, Older Americans Act Reauthorization Act of 2016. Each state and various organizations receive Title V funds. These organizations include:

- (i) Experience Works;
- (ii) National Council on Aging;
- (iii) National Council of Senior Citizens;
- (iv) American Association of Retired Persons Foundation;
- (v) United States (U.S.) Forest Service;
- (vi) National Association for Spanish Speaking Elderly;
- (vii) National Urban League;
- (viii) National Council on Black Aging; and
- (ix) National Council on Indian Aging;
- (x) Asociación Nacional Pro Personas Mayores;
- (xi) Associates for Training and Development, Inc.;
- (xii) American Samoa;
- (xiii) Easter Seals, Inc.;
- (xiv) Goodwill Industries International, Inc.;

(xv) Institute for Indian Development;  
(xvi) National Able Network;  
(xvii) National Asian Pacific Center on Aging;  
(xviii) National Caucus and Center on Black Aged, Inc.;  
(xix) National Older Worker Career Center;  
(xx) Operation A.B.L.E. of Greater Boston, Inc.;  
(xxi) Senior Service America, Inc.;  
(xxii) SER-Jobs for Progress National, Inc.;  
(xxiii) Workplace, Inc.; and  
(xxiv) VANTAGE Aging;

(L) payments made from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement In Re Agent Orange Product Liability Litigation, M.D.L. No. 381 (E.D.N.Y.);

(M) payments received under the Civil Liberties Act of 1988. These payments are made to persons of Japanese ancestry who were detained in internment camps during World War II;

(N) payments made from the Radiation Exposure Compensation Trust Fund as compensation for injuries or deaths resulting from exposure to radiation from nuclear testing and uranium mining;

(O) payments a Supplemental Security Income recipient receives that are necessary for the fulfillment of a Plan for Achieving Self-Support approved under Section 1612(b)(4)(A)(iii) or 1612(b)(4)(B)(iv) of the Social Security Act;

(P) payments made to persons because of their status as victims of Nazi persecution under P.L. 103-286;

(Q) payments made for the Experimental Housing Allowance Program under Annual Contributions Contracts entered into prior to January 1, 1975, per Section 23 of the U.S. Housing Act of 1937 as amended;

(R) monetary allowances provided to certain children of Vietnam War veterans, per Chapter 18 of Title 38 of the United States Code;

(S) federal funds distributed by Federal Emergency Management Assistance (FEMA) due to a disaster or emergency to persons directly affected by the event, per the Robert T. Stafford Disaster Relief and Emergency Assistance Act, P.L. 93-288 as amended, 42 U.S.C. § 5155(d). This exclusion also applies to comparable disaster assistance provided by states, local governments, and disaster assistance organizations. For payments to be excluded, the disaster or emergency must be declared by the President of the United States;

(T) the food benefit allotment value under the Food and Nutrition Act of 2008;

(U) the supplemental food assistance value under the Child Nutrition Act of 1966 and the special food services program for children under the National School Lunch Act

of 1970, both as amended, per Omnibus Budget Reconciliation Act of 1981; and  
(V) income a member of the United States Armed Forces receives, per 37 U.S.C. Chapter 5 and, per 273.9(c)(20) of Title 7 of the Code of Federal Regulations that is:

- (i) received in addition to the service member's basic pay during combat deployment;
- (ii) received as a result of the service member's deployment or service in an area designated as a combat zone as determined per Executive Order or P.L.; and
- (iii) not received by the service member prior to the service member's deployment to or service in a federally designated combat zone.

[Source: Added at 17 Ok Reg 25, eff 10-1-99 (emergency); Added at 17 Ok Reg 1244, eff 6-1-00 ; Amended at 19 Ok Reg 1757, eff 6-14-02 ; Amended at 20 Ok Reg 2048, eff 7-1-03 ; Amended at 20 Ok Reg 2800, eff 8-1-03 (emergency); Amended at 20 Ok Reg 2916, eff 8-1-03 (emergency); Amended at 21 Ok Reg 1377, eff 7-1-04 ; Amended at 21 Ok Reg 1364, eff 9-1-04 ; Amended at 22 Ok Reg 61, eff 9-1-04 (emergency); Amended at 22 Ok Reg 796, eff 5-12-05 ; Amended at 26 Ok Reg 820, eff 6-1-09 ; Amended at 27 Ok Reg 21, eff 10-1-09 (emergency); Amended at 27 Ok Reg 1220, eff 6-1-10 ; Amended at 30 Ok Reg 655, eff 6-1-13 ; Amended at 32 Ok Reg 1875, eff 10-1-15 ; Amended at 34 Ok Reg 58, eff 10-1-16 (emergency); Amended at 34 Ok Reg 502, eff 3-1-17 (emergency); Amended at 34 Ok Reg 1481, eff 10-1-17 ; Amended at 36 Ok Reg 363, eff 3-1-19 (emergency); Amended at 37 Ok Reg 1813, eff 9-15-20 ; Amended at 38 Ok Reg 2234, eff 9-15-21 ; Amended at 39 Ok Reg 1733, eff 9-15-22]

### **340:40-7-13. Computation of income**

(a) **Ongoing income.** Income from an ongoing source received regularly but in amounts that vary, or income received irregularly, is averaged over a minimum of 30-calendar days unless the client has not received at least 30-calendar days of representative income. This includes overtime pay, irregular child support, and other occasional increases or decreases in monthly gross income. When income is received more often than once per month, the income is converted to a monthly amount.

(b) **Income verification.** The worker verifies the household's income using the best available information.

(1) When at application or renewal the person received at least 30-calendar days of income, the best available information is normally the person's pay stubs or an employer statement. When neither source is available, the worker uses whatever records are available that best establish the income already received and expected for future months.

(2) When the client's ongoing employment income changed and the last 30-calendar days of income is not indicative of future earnings, the best available information may be an employer statement. When work hours remain the same but the client received a pay raise, the worker averages the person's work hours over the last 30-calendar days and multiplies the averaged hours by the new pay rate.

(3) For earned income, pay stubs are used for verification only when the client's name or Social Security number, date(s) of the pay period, and amount of income before deductions are shown on the pay stub. When this information is not shown on the pay

stub, or pay stubs are not available, phone contact with the employer or an employer statement is required.

(4) When a household member starts a new job, the worker verifies the person's start date, date the first full paycheck is expected to be received, hourly rate, and anticipated number of hours per week.

(c) **Income calculations at initial certification.** For an initial certification, the worker calculates income using procedures in (1) through (4).

(1) When household income is ongoing, the worker uses actual income received for the approval month, except when:

- (A) all income for the month has not been received and verified. When this occurs, the worker uses any full representative paychecks to anticipate income not yet received for the approval month and future months; or
- (B) the person received an additional check in the approval month due to a third or fifth week. When this occurs, the worker averages the last 30-calendar days of income for the approval month and future months.

(2) When income is ongoing and actual income is used for the approval month, the worker averages the last 30-calendar days of representative income and converts it to a monthly amount for the following month.

(3) When income is from a new source and the person did not receive any income as of the approval date, the worker does not consider income for the approval month per Oklahoma Administrative Code (OAC) 340:40-7-10.

(A) Income expected to be received in the month following the approval month is anticipated and considered when a full check is expected to be received on or before the first of the month following the approval month.

(B) When only partial earnings are expected to be received in the month following the approval month, earnings are not considered until the next month.

(4) The worker adds together all countable earned and unearned income to arrive at the household's gross income.

(d) **Income calculation at renewal.** To calculate income at renewal, the worker determines eligibility based on circumstances anticipated for future months using the best information available.

(1) The worker adds together all countable earned and unearned income to arrive at the household's gross income.

(2) When the household reports earned income from a new source at renewal, the worker considers the earned income effective the first month a full check is expected to be received by the first of that month.

(e) **Income deduction.** After computing gross income, the worker subtracts any verified, legally-binding child support payments paid by a household member to or for a non-household member, including child support and child care support payments made to a third party on behalf of the non-household member.



(f) **Income eligibility threshold.** The worker uses Oklahoma Department of Human Services Appendix C-4, Child Care Eligibility/Copayment Chart to determine if the household meets the income threshold, per Section 98.20(a)(2) of Title 45 of the Code of Federal Regulations.

[Source: Added at 17 Ok Reg 25, eff 10-1-99 (emergency); Added at 17 Ok Reg 1244, eff 6-1-00 ; Amended at 20 Ok Reg 2048, eff 7-1-03 ; Amended at 20 Ok Reg 2800, eff 8-1-03 (emergency); Amended at 20 Ok Reg 2916, eff 8-1-03 (emergency); Amended at 21 Ok Reg 1377, eff 7-1-04 ; Amended at 21 Ok Reg 1364, eff 9-1-04 ; Amended at 24 Ok Reg 1027, eff 6-1-07 ; Amended at 25 Ok Reg 920, eff 6-1-08 ; Amended at 26 Ok Reg 820, eff 6-1-09 ; Amended at 27 Ok Reg 1220, eff 6-1-10 ; Amended at 35 Ok Reg 36, eff 10-1-17 (emergency); Amended at 35 Ok Reg 1647, eff 9-17-18 ; Amended at 36 Ok Reg 363, eff 3-1-19 (emergency); Amended at 37 Ok Reg 1813, eff 9-15-20]

## **SUBCHAPTER 9. PROCEDURES RELATING TO CASE CHANGES**

### **340:40-9-1. Renewal of child care eligibility**

(a) **Child care renewal.** The client must complete the child care renewal at the end of the 12-month eligibility period to continue receiving benefits per Section 98.21(a) of Title 45 of the Code of Federal Regulations. Refer to Oklahoma Administrative Code 340:40-9-2(f) for reasons child care is closed prior to the renewal. At renewal, the client is sent a computer-generated notice informing the client:

- (1) the renewal is due;
- (2) the methods the client may use to complete the renewal;
- (3) types of verification that may be required; and
- (4) when benefits close if the renewal is not completed.

(b) **Renewal time frame.** A child care renewal is due no earlier than 12 months from the approval date or the last renewal unless the client receives Supplemental Nutrition Assistance Program food benefits and benefits must be synchronized per (f) of this Section.

(c) **Signature requirement.** The client or the client's authorized representative must sign the renewal.

(d) **Interview requirement.** An interview is not required at renewal for the Child Care Subsidy Program.

(e) **Eligibility determination.** An eligibility determination is made once the renewal is signed and all required verification is provided and evaluated.

- (1) The eligibility determination results in:
  - (A) completing the renewal without changes;
  - (B) completing the renewal with changes; or
  - (C) closing the child care benefits.

- (2) Benefits, when closed, may be reopened when the client provides required information within 30-calendar days of closure.

(f) **Synchronization of benefits.** When the client receives other Adult and Family Services benefits in addition to the subsidized child care benefits, certification and renewal dates must be coordinated with the other programs.

[Source: Added at 17 Ok Reg 25, eff 10-1-99 (emergency); Added at 17 Ok Reg 1244, eff 6-1-00 ; Amended at 19 Ok Reg 195, eff 1-01-02 (emergency); Amended at 19 Ok Reg 1757, eff 6-14-02 ; Amended at 23 Ok Reg 1872, eff 7-1-06 ; Amended at 24 Ok Reg 1027, eff 6-1-07 ; Amended at 25 Ok Reg 920, eff 6-1-08 ; Amended at 27 Ok Reg 1220, eff 6-1-10 ; Amended at 28 Ok Reg 831, eff 6-1-11 ; Amended at 30 Ok Reg 655, eff 6-1-13 ; Amended at 34 Ok Reg 58, eff 10-1-16 (emergency); Amended at 34 Ok Reg 1481, eff 10-1-17 ; Amended at 35 Ok Reg 36, eff 10-1-17 (emergency); Amended at 35 Ok Reg 1647, eff 9-17-18 ; Amended at 36 Ok Reg 363, eff 3-1-19 (emergency); Amended at 37 Ok Reg 1813, eff 9-15-20 ; Amended at 40 Ok Reg 971, eff 9-15-23]

### **340:40-9-2. Case changes**

(a) **Change reporting.** The household reports income changes that exceed the income eligibility threshold for the family size, per Oklahoma Human Services (OKDHS) Appendix C-4, Child Care Eligibility/Copayment Chart, within 10-calendar days of the change occurring, per Section 98.21(e)(1) of Title 45 of the Code of Federal Regulations (45 C.F.R. § 98.21(e)(1)).

(1) A computer-generated notice issues at certification and renewal to inform the client of the current income eligibility threshold for the client's family size and instructs the client to report when the household income exceeds this amount.

(2) When the client fails to report an income increase timely that, if reported, would have resulted in benefit closure, the worker makes an overpayment referral to Adult and Family Services Benefit Integrity and Recovery Unit, per Oklahoma Administrative Code (OAC) 340:40-15-1.

(b) **Action taken on reported changes.** The worker acts on all changes the household reports between renewal periods. Benefits do not decrease unless the client requests a decrease to avoid or reduce an overpayment or the reported change results in the child care benefit closing, per (f) of this Section.

(c) **Changes that increase subsidized child care benefits.** When the client reports a change within 10-calendar days of the change that increases the amount of child care approved or decreases the family share copayment, the client and the worker jointly plan the change's effective date. When the client does not report the change within 10-calendar days of the change, the earliest date the worker increases the subsidized child care benefits is the first day of the month in which the client reports the change.

(d) **Additional child request.** When an additional child requires subsidized child care benefits, the worker completes the request within two-business days of the client providing all necessary verification to determine eligibility. When eligible, the child may be approved for subsidized child care benefits beginning on the request date.

(e) **Change in provider.** When a client reports a change in provider, the change is effective the date the change in provider occurs, regardless of whether the client reports the change timely. The worker completes provider changes within two-business days of the date the client reports the change.

(f) **Child care benefits closure.** When the client is no longer eligible for subsidized child care benefits, the closure date varies depending on circumstances. Refer to OKDHS Appendix B-2, Deadlines for Case Actions, for advance-notice deadline dates.

- (1) The worker closes the subsidized child care benefits effective 10-calendar days from the date action is taken, when the:
  - (A) payee for the child care benefit changes. When this occurs, a new application is needed, per OAC 340:40-3-1(a)(1)(C);
  - (B) only child(ren) approved for subsidized child care leaves the home;
  - (C) client already received income in excess of the income threshold, per OKDHS Appendix C-4;
  - (D) client moves out-of-state; or
  - (E) client was approved for child care in error.
- (2) The worker closes the child care benefit effective the last calendar day of the current calendar month when the client's anticipated income for the next month is expected to exceed the income eligibility threshold, per 45 C.F.R. § 98.21(e)(1) and OKDHS Appendix C-4.
- (3) The worker closes the child care benefit effective the last calendar day of the renewal month when:
  - (A) the client does not meet a need factor;
  - (B) the client is not pursuing potential income, per OAC 340:40-7-9;
  - (C) the child reached the maximum age limit, per OAC 340:40-7-3; or
  - (D) an adopted child turns 6 years of age and the family income must now be considered, per OAC 340:40-7-12. In this circumstance, a new application is required, per OAC 340:40-3-1(a)(1)(D).
- (4) The worker closes the child care benefit effective three months from the approval date for job search child care, per OAC 340:40-7-8(a)(6).
- (5) When the client receives Temporary Assistance for Needy Families related subsidized child care, per OAC 340:40-7-8(e) and stops meeting a need factor, the worker closes the child care benefit effective 90-calendar days from the date the client stops participating.
- (6) When a client stops participating in Oklahoma Supplemental Nutrition Assistance Program Works component assignments and activities, per OAC 340:40-7-8(d) and does not meet another need factor, the worker closes the child care benefit effective 90-calendar days from the date the client stops participating.
- (7) When the client requests the child care benefit be closed, the earliest date the worker closes the child care is the date action is taken.
- (8) When the client does not complete the benefit renewal timely, the system closes the child care benefit effective the last calendar day of the renewal month.

(g) **Reopen action.** When a client's subsidized child care benefits close, benefits may be reopened within 30-calendar days of the closure effective date using current eligibility information unless the client must complete a new application, per OAC 340:40-3-1(a)(1). Child care benefits are not decreased unless the renewal is due, per 45 C.F.R. § 98.21(a).

[Source: Added at 17 Ok Reg 25, eff 10-1-99 (emergency); Added at 17 Ok Reg 1244, eff 6-1-00 ; Amended at 19 Ok Reg 195, eff 1-01-02 (emergency); Amended at 19 Ok Reg 1757, eff 6-14-02 ; Amended at 20 Ok Reg 2048, eff 7-1-03 ; Amended at 21 Ok Reg 1364, eff 9-1-04 ; Amended at 22 Ok Reg 1238, eff 6-1-05 ; Amended at 23 Ok Reg 1872, eff 7-1-06 ; Amended at 24 Ok Reg 1027, eff 6-1-07 ; Amended at 25 Ok Reg 920, eff 6-1-08 ; Amended at 26 Ok Reg 820, eff 6-1-09 ; Amended at 28 Ok Reg 831, eff 6-1-11 ; Amended at 32 Ok Reg 1875, eff 10-1-15 ; Amended at 34 Ok Reg 58, eff 10-1-16 (emergency); Amended at 34 Ok Reg 1481, eff 10-1-17 ; Amended at 35 Ok Reg 36, eff 10-1-17 (emergency); Amended at 35 Ok Reg 1647, eff 9-17-18 ; Amended at 36 Ok Reg 363, eff 3-1-19 (emergency); Amended at 37 Ok Reg 1813, eff 9-15-20 ; Amended at 39 Ok Reg 1733, eff 9-15-22 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:40-9-3. Notices regarding child care eligibility**

(a) **Computer-generated notice required.** A computer-generated notice is sent to inform the client of any:

- (1) initial eligibility decision;
- (2) decision regarding continued eligibility if a change occurs that increases or decreases the level of subsidized child care benefits;
- (3) decision to terminate subsidized child care benefits; and
- (4) decision to reopen subsidized child care benefits.

(b) **Form 08MP038E, Client Notice of Action Taken, required.**

worker must send Form 08MP038E when the system does not provide a notice. The worker also sends Form 08MP038E to notify the client and provider when any additional co-payment is being paid by someone other than the client directly to the provider or is being discounted by the child care provider for an employee.

(c) **Notice not required.** A written notice is not required for information and referral services.

(d) **Returned notices.** When a notice of a proposed case action is returned, the worker makes at least one attempt to locate the client.

(e) **Advanced notice required.** Advanced notice is required on case actions that decrease or terminate the level of child care benefits when such services are still needed by the client.

(f) **Advance notice not required.** Advance notice is not required on case actions that increase the level of child care benefits or when child care benefits are no longer being used.

[Source: Added at 17 Ok Reg 25, eff 10-1-99 (emergency); Added at 17 Ok Reg 1244, eff 6-1-00 ; Amended at 19 Ok Reg 195, eff 1-01-02 (emergency); Amended at 19 Ok Reg 1757, eff 6-14-02 ; Amended at 20 Ok Reg 2048, eff 7-1-03 ; Amended at 24 Ok Reg 1027, eff 6-1-07 ; Amended at 30 Ok Reg 655, eff 6-1-13]

## **SUBCHAPTER 10. ELECTRONIC BENEFIT TRANSFER (EBT) SYSTEM FOR CHILD CARE**

### **340:40-10-1. Electronic benefit transfer (EBT) system for child care**

(a) The EBT system used for child care tracks time and attendance for a child receiving subsidized child care and processes child care provider payments. This system involves a client or authorized representative using an EBT card to document attendance by swiping the card through a point-of-service (POS) machine or recording attendance using the ECC

Connect mobile app at the child care facility. The client or authorized representative records real-time attendance or enters previous in and out times for up to 10-calendar days, the current day and nine previous days. The system works best when the client or authorized representative records attendance real time.

(b) The county EBT specialist issues an EBT card to a child care applicant at the time he or she applies for a child care benefit and views an EBT training video.

(c) Only two EBT cards are issued per Adult and Family Services child care case; one card for the parent or caretaker and one for an authorized representative. The authorized representative can be the other parent or someone else who helps the client take the child to, or pick the child up from, the child care facility. The client is responsible for all attendance by the authorized representative records. The client is prohibited from choosing the child care provider or anyone the child care provider employs as the authorized representative.

(d) Two EBT cards can be issued per child in a Child Welfare case when each child in the case resides with different foster parents.

[Source: Added at 22 Ok Reg 1238, eff 6-1-05 ; Amended at 37 Ok Reg 1813, eff 9-15-20 ; Amended at 39 Ok Reg 1733, eff 9-15-22]

#### **340:40-10-2. Client, worker, and provider electronic benefit transfer (EBT) responsibilities**

(a) **Client EBT responsibilities.** Client EBT responsibilities include:

- (1) viewing the client training video;
- (2) recording correct attendance days and times with his or her EBT card through the provider's point-of-service (POS) machine or using the ECC Connect mobile app within 10-calendar days, current day and previous nine days;
- (3) checking the message on the POS machine or the ECC Connect mobile app after each attendance entry to see if it is approved, denied, pending, or pending different provider. When the message shows denied or pending different provider, the client is responsible for reporting the problem to the worker right away;
- (4) not recording attendance for any day the child does not attend child care;
- (5) not giving the EBT card or personal identification number (PIN) to anyone else, including the child care provider; and
- (6) paying for care Oklahoma Human Services (OKDHS) does not pay because:

- (A) the client did not record attendance timely for days and times his or her child attended child care;
- (B) attendance entries were denied and the client did not correct attendance within 10-calendar days; or
- (C) the provider loses the absent day payment for a weekly authorization because the client did not record correct attendance for every day that the child attended care for a given month.

(b) **Worker EBT responsibilities.** Worker EBT responsibilities include:

- (1) ensuring that clients read and state they understand the EBT responsibilities shown on the application;
- (2) arranging for clients to receive their EBT cards and view the training video as soon as possible after the child care request is submitted;
- (3) arranging for authorized representatives to receive their EBT cards and view the training video as soon as possible;
- (4) acting on attendance errors as soon as the client reports them;
- (5) acting on EBT card misuse reports as soon as they are reported, per Oklahoma Administrative Code 340:40-10-3.

(c) **Child care provider EBT responsibilities.** Child care provider responsibilities include:

- (1) never possessing a client's EBT card or recording a child's attendance using the POS machine or the ECC Connect mobile app;
- (2) never moving the POS machine to another location or submitting electronic child care claims from another location without receiving prior approval from OKDHS Adult and Family Services Child Care Subsidy Unit staff;
- (3) requiring clients to record attendance as child care is used;
- (4) never asking or requiring a client to record attendance for a day the child does not attend; and
- (5) ensuring claimed attendance submitted via the EBT system is correct and voiding any incorrect transactions within the 10-calendar day swipe limit, current day and previous nine days.

[Source: Added at 22 Ok Reg 1238, eff 6-1-05 ; Amended at 28 Ok Reg 831, eff 6-1-11 ; Amended at 37 Ok Reg 1813, eff 9-15-20 ; Amended at 39 Ok Reg 1733, eff 9-15-22]

#### **340:40-10-3. Misuse of the electronic benefit transfer (EBT) card**

- (a) When the worker becomes aware that the client or the authorized representative of the client is misusing his or her EBT card, the worker cancels that EBT card.
- (b) Misuse can occur when the client or authorized representative gives his or her EBT card to another person, such as the child care provider, to record attendance or when the client knowingly records incorrect attendance dates and times.
- (c) Before the EBT specialist issues a new EBT card, the client or authorized representative must view the EBT training video regarding proper use of the EBT card again.

[Source: Added at 22 Ok Reg 1238, eff 6-1-05 ; Amended at 28 Ok Reg 831, eff 6-1-11 ; Amended at 37 Ok Reg 1813, eff 9-15-20 ; Amended at 39 Ok Reg 1733, eff 9-15-22]

#### **340:40-10-4. Child care electronic benefit transfer (EBT) payment process**

- (a) **Child care payments.** Oklahoma Human Services (OKDHS) makes payments for child care services to providers electronically using the electronic benefit transfer (EBT) system unless the provider is an in-home child care provider. In-home child care providers are paid manually via the EBT system after submitting Form 10AD121E, Child Care Claim.

(b) **Point-of-service (POS) machines.** Contracted child care providers are issued a POS machine within 10-calendar days of the date the child care provider notifies the OKDHS contractor that the provider started caring for a child authorized for OKDHS subsidized child care and submits all necessary forms to the contractor.

(c) **Recording attendance.** Clients and authorized representatives use the POS machine or the mobile app to record actual times their child attends child care. Child care providers may charge clients for care provided on days they fail to record attendance or when a denied error message is received. When the client pays for child care that is later approved for that date(s), the child care provider must reimburse the client for any care paid above the family share copayment amount.

(1) Child care providers monitor the POS machine or mobile app to ensure correct attendance times are recorded. When incorrect times are recorded, the provider may void the incorrect transaction and ask the client to start over.

(2) When clients or authorized representatives forget to record attendance for a day their child attends care, record incorrect times that the provider voids, or receive a denied error message, the system allows the client or authorized representative to record previous in and out times for the current day and the previous nine days.

(3) Based on attendance recorded and the level of care authorized, electronic settlements to child care providers are made weekly.

(d) **EBT payment week.** The EBT payment week begins every Sunday at 12:01 a.m. and ends every Saturday at midnight. Electronic settlements are made each week in the child care provider's designated financial institution account on Tuesday morning for services provided two weeks prior to the current week. When the financial institution is closed on Monday or Tuesday, or Monday is a holiday, the electronic settlement is deposited on Wednesday morning.

(e) **Manual claims process.** When the child care provider reports a payment error, the provider may submit Form 10AD121E to the OKDHS Financial Services Electronic Payment Services (EPS) Unit for a manual adjustment. Manual claims must be submitted within 90-calendar days of the error. EPS staff evaluates whether to adjust the payment to the provider based on the reason care was not paid electronically.

(1) When the client or authorized representative does not attempt to record attendance electronically, OKDHS does not pay the child care provider for those days unless extenuating circumstances beyond the client's, authorized representative's, or provider's control exist. These extenuating circumstances must be documented on Form 10AD121E.

(2) EPS staff makes manual adjustments when the:

(A) client records correct attendance times that are denied in error;

(B) EBT system applies an incorrect family share copayment; or

(C) provider is paid the wrong rate because:

(i) the child care plan is incorrectly coded;

- (ii) an incorrect birth date is entered for a child; or
- (iii) an incorrect star status is paid.

(f) **Absent-day payments.** Child care providers may receive an absent-day payment for a child who misses some scheduled attendance days. To be eligible, the child must qualify for a weekly unit type and attend the minimum number of full-time days, per OKDHS Appendix C-4-B, Child Care Provider Rate Schedule, for that month. The provider is not eligible for an absent-day payment when the child did not attend the minimum number of full-time days for that calendar month or attended the maximum days paid, per OKDHS Appendix C-4-B. The EBT system deposits an absent-day payment in the provider's account in their weekly settlement. The provider receives the settlement after the 10th day of the month following the month the child was absent from care.

[Source: Added at 22 Ok Reg 1238, eff 6-1-05 ; Amended at 24 Ok Reg 1027, eff 6-1-07 ; Amended at 25 Ok Reg 920, eff 6-1-08 ; Amended at 26 Ok Reg 820, eff 6-1-09 ; Amended at 28 Ok Reg 831, eff 6-1-11 ; Amended at 37 Ok Reg 1813, eff 9-15-20 ; Amended at 39 Ok Reg 1733, eff 9-15-22 ; Amended at 40 Ok Reg 971, eff 9-15-23]

## **SUBCHAPTER 11. DAY CARE SERVICES FOR NON-GERIATRIC ADULTS [REVOKED]**

### **PART 1. GENERAL PROVISIONS [REVOKED]**

#### **340:40-11-1. Day care services for non-geriatric adults [REVOKED]**

[Source: Added at 17 Ok Reg 25, eff 10-1-99 (emergency); Added at 17 Ok Reg 1244, eff 6-1-00 ; Revoked at 17 Ok Reg 3583, eff 10-1-00 (emergency); Revoked at 18 Ok Reg 1236, eff 5-11-01]

#### **340:40-11-2. The initial application [REVOKED]**

[Source: Added at 17 Ok Reg 25, eff 10-1-99 (emergency); Added at 17 Ok Reg 1244, eff 6-1-00 ; Revoked at 17 Ok Reg 3583, eff 10-1-00 (emergency); Revoked at 18 Ok Reg 1236, eff 5-11-01]

#### **340:40-11-3. Plan of service [REVOKED]**

[Source: Added at 17 Ok Reg 25, eff 10-1-99 (emergency); Added at 17 Ok Reg 1244, eff 6-1-00 ; Revoked at 17 Ok Reg 3583, eff 10-1-00 (emergency); Revoked at 18 Ok Reg 1236, eff 5-11-01]

### **PART 3. ELIGIBILITY [REVOKED]**

#### **340:40-11-14. Categories of eligibility [REVOKED]**

[Source: Added at 17 Ok Reg 25, eff 10-1-99 (emergency); Added at 17 Ok Reg 1244, eff 6-1-00 ; Revoked at 17 Ok Reg 3583, eff 10-1-00 (emergency); Revoked at 18 Ok Reg 1236, eff 5-11-01]



### **340:40-11-15. Conditions of eligibility [REVOKED]**

[Source: Added at 17 Ok Reg 25, eff 10-1-99 (emergency); Added at 17 Ok Reg 1244, eff 6-1-00 ; Revoked at 17 Ok Reg 3583, eff 10-1-00 (emergency); Revoked at 18 Ok Reg 1236, eff 5-11-01]

### **340:40-11-16. Age [REVOKED]**

[Source: Added at 17 Ok Reg 25, eff 10-1-99 (emergency); Added at 17 Ok Reg 1244, eff 6-1-00 ; Revoked at 17 Ok Reg 3583, eff 10-1-00 (emergency); Revoked at 18 Ok Reg 1236, eff 5-11-01]

### **340:40-11-17. Social security number [REVOKED]**

[Source: Added at 17 Ok Reg 25, eff 10-1-99 (emergency); Added at 17 Ok Reg 1244, eff 6-1-00 ; Revoked at 17 Ok Reg 3583, eff 10-1-00 (emergency); Revoked at 18 Ok Reg 1236, eff 5-11-01]

### **340:40-11-18. Resources, residence, and citizenship [REVOKED]**

[Source: Added at 17 Ok Reg 25, eff 10-1-99 (emergency); Added at 17 Ok Reg 1244, eff 6-1-00 ; Revoked at 17 Ok Reg 3583, eff 10-1-00 (emergency); Revoked at 18 Ok Reg 1236, eff 5-11-01]

### **340:40-11-19. Household composition and income considerations [REVOKED]**

[Source: Added at 17 Ok Reg 25, eff 10-1-99 (emergency); Added at 17 Ok Reg 1244, eff 6-1-00 ; Revoked at 17 Ok Reg 3583, eff 10-1-00 (emergency); Revoked at 18 Ok Reg 1236, eff 5-11-01]

### **340:40-11-20. Establishing the need factor [REVOKED]**

[Source: Added at 17 Ok Reg 25, eff 10-1-99 (emergency); Added at 17 Ok Reg 1244, eff 6-1-00 ; Revoked at 17 Ok Reg 3583, eff 10-1-00 (emergency); Revoked at 18 Ok Reg 1236, eff 5-11-01]

### **340:40-11-21. Income [REVOKED]**

[Source: Added at 17 Ok Reg 25, eff 10-1-99 (emergency); Added at 17 Ok Reg 1244, eff 6-1-00 ; Revoked at 17 Ok Reg 3583, eff 10-1-00 (emergency); Revoked at 18 Ok Reg 1236, eff 5-11-01]

## **PART 5. PROVIDER ISSUES [REVOKED]**

### **340:40-11-32. Adult day care facilities [REVOKED]**

[Source: Added at 17 Ok Reg 25, eff 10-1-99 (emergency); Added at 17 Ok Reg 1244, eff 6-1-00 ; Revoked at 17 Ok Reg 3583, eff 10-1-00 (emergency); Revoked at 18 Ok Reg 1236, eff 5-11-01]

### **340:40-11-33. Facility approved [REVOKED]**

[Source: Added at 17 Ok Reg 25, eff 10-1-99 (emergency); Added at 17 Ok Reg 1244, eff 6-1-00 ; Revoked at 17 Ok Reg 3583, eff 10-1-00 (emergency); Revoked at 18 Ok Reg 1236, eff 5-11-01]

### **340:40-11-34. Facility not approved [REVOKED]**

[Source: Added at 17 Ok Reg 25, eff 10-1-99 (emergency); Added at 17 Ok Reg 1244, eff 6-1-00 ; Revoked at 17 Ok Reg 3583, eff 10-1-00 (emergency); Revoked at 18 Ok Reg 1236, eff 5-11-01]

### **340:40-11-35. Annual evaluation [REVOKED]**

[Source: Added at 17 Ok Reg 25, eff 10-1-99 (emergency); Added at 17 Ok Reg 1244, eff 6-1-00 ; Revoked at 17 Ok Reg 3583, eff 10-1-00 (emergency); Revoked at 18 Ok Reg 1236, eff 5-11-01]

### **340:40-11-36. Interim service visits [REVOKED]**

[Source: Added at 17 Ok Reg 25, eff 10-1-99 (emergency); Added at 17 Ok Reg 1244, eff 6-1-00 ; Revoked at 17 Ok Reg 3583, eff 10-1-00 (emergency); Revoked at 18 Ok Reg 1236, eff 5-11-01]

### **340:40-11-37. Termination of approval [REVOKED]**

[Source: Added at 17 Ok Reg 25, eff 10-1-99 (emergency); Added at 17 Ok Reg 1244, eff 6-1-00 ; Revoked at 17 Ok Reg 3583, eff 10-1-00 (emergency); Revoked at 18 Ok Reg 1236, eff 5-11-01]

## **SUBCHAPTER 13. CHILD CARE RATES AND PROVIDER ISSUES**

### **340:40-13-1. Child care arrangements**

(a) **Out-of-home child care arrangements.** Out-of-home child care is provided outside of the child's home for less than 24 hours per day. The Oklahoma Department of Human Services (DHS) purchases out-of-home child care services only from licensed or permitted child care centers and family child care homes. A list of licensed, contracted out-of-home providers is available upon request.

(b) **In-home child care arrangements.** DHS only approves in-home providers related to the child. Related to means an aunt, uncle, grandparent, great grandparent, or sibling not living in the home per Section 98.41(a)(1) of Title 45 of the Code of Federal Regulations. A parent may choose an in-home provider when an out-of home provider is available. In no instance is housekeeping service approved. The approval is for the child care plan and the person providing care. Refer to Oklahoma Administrative Code 340:40-13-2 for guidelines regarding use and approval of in-home child care.

[Source: Added at 17 Ok Reg 25, eff 10-1-99 (emergency); Added at 17 Ok Reg 1244, eff 6-1-00 ; Amended at 17 Ok Reg 3583, eff 10-1-00 (emergency); Amended at 18 Ok Reg 155, eff 12-1-00 (emergency); Amended at 18 Ok Reg 1236, eff 5-11-01 ; Amended at 20 Ok Reg 2048, eff 7-1-03 ; Amended at 24 Ok Reg 1027, eff 6-1-07 ; Amended at 26 Ok Reg 1266, eff 7-1-09 ; Amended at 35 Ok Reg 36, eff 10-1-17 (emergency); Amended at 35 Ok Reg 1647, eff 9-17-18]

### **340:40-13-2. Approving in-home child care**

(a) **Purpose.** In-home child care is care given to a child by a relative coming into the child's own home. A parent may choose an in-home provider even when an out-of-home provider is available. The purpose of

standards for in-home care is to help ensure the safety of children cared for in their own home when the usual, responsible adult is temporarily absent due to employment, training, illness, or other valid reason.

(b) **Qualifications of caregiver.** The caregiver:

- (1) must be related to the child. Related to means an aunt, uncle, grandparent, great grandparent, or sibling not living in the home;
- (2) must be at least 18 years of age;
- (3) demonstrates the vitality and flexibility needed to care for children and the ability to exercise good judgment and appropriate authority;
- (4) may not be a member of the child's household;
- (5) may only care for the child of one family at a time. The provider may provide care to more than one family as long as the hours do not overlap, and the child of each family is cared for in his or her own home; and
- (6) must not be under the effects of alcohol, illegal drugs, or medication that impairs functioning when caring for children.

(c) **Requirements prior to approval of the caregiver for subsidy payment.** After a parent or caretaker selects a caregiver, requirements in (1) through (3) of this subsection must be met before the caregiver may be approved as an in-home provider.

(1) The client and caregiver must complete and sign forms described in (A) through (C) of this paragraph.

(A) Form 08CC003E, In-Home Mutual Agreement and Notification to Provide Child Care Services, notifies the caregiver of the eligibility and child care plan for the child requiring care and the intent of the parent or caretaker to receive care from the caregiver. Once approved, it also serves as the in-home provider's authorization to bill Oklahoma Human Services (OKDHS) for services provided on or after approval.

(B) Form 08CC004E, Mutual Agreement Regarding the Plan of Care, serves as a basis for discussion between the parent or caretaker and the in-home provider of the plan of care for the child, duties of the in-home provider, how to handle emergencies, and the family rules.

(C) Form 08CC005E, In-Home Provider Health and Safety Checklist, serves as a basis for discussion between the parent or caretaker and the in-home provider of adequate safety precautions and possible safety hazards in the child's home. The parent or caretaker is also responsible for informing the provider of known risks of a contagious condition of one or more persons in the household. The disclosure allows for training in the universal precautions against exposure.

(2) The caregiver must provide a copy of the caregiver's photo identification and Social Security card.

(3) The caregiver must provide proof of the results of an Oklahoma State Bureau of Investigation (OSBI) criminal history investigation as described in (A) of this paragraph and not be guilty of crimes or enter a plea of guilty or nolo contendere, no

contest, to crimes described in (B) of this paragraph.

(A) Criminal history investigations:

- (i) are required and must be provided by each caregiver and substitute caregiver prior to caring for children;
- (ii) are not required for persons who have documentation of a criminal history investigation within the last 12 months;
- (iii) must be obtained from:
  - (I) OSBI; and
  - (II) the authorized agency in the previous state of residence when the individual has resided in Oklahoma less than one year;
- (iv) must include a search of the Oklahoma Department of Corrections files maintained by OSBI per the Sex Offenders Registration Act; and
- (v) must include a computer check the worker completes using the potential caregiver's Social Security number. When a Child Welfare Services (CWS) case number appears, the worker consults with CWS staff to determine if concerns exist about the potential in-home provider's ability to care for children.

(B) When a caregiver's criminal history report includes a conviction of fiscal mismanagement, such as embezzlement or fraud, or repeated convictions that indicate a pattern of criminal activity, the in-home provider is not approved. Persons who are convicted of or enter a plea of guilty or nolo contendere, no contest, to certain crimes are not approved to care for children or be substitute caregivers. These crimes include:

- (i) violence against a person;
- (ii) child abuse or neglect;
- (iii) possession, sale, or distribution of illegal drugs;
- (iv) sexual misconduct; or
- (v) gross irresponsibility or disregard for the safety of others.

(4) After requirements described in (1) through (3) of this subsection are met, the worker scans the supporting documentation into imaging and consults a supervisor. The supervisor sends an email to Adult and Family Services (AFS) Child Care Subsidy Unit staff requesting approval.

(A) When the chosen caregiver is approved as an in-home provider, the approval is valid for a maximum of one year from the date AFS Child Care Subsidy Unit staff signs Form 08CC003E. This form must be renewed annually. When approved, AFS Child Care Subsidy Unit staff mails the in-home provider a copy of Form 08CC003E advising the in-home provider of the assigned contract number.

(B) When the chosen caregiver is not approved as an in-home provider, AFS Child Care Subsidy Unit staff sends a letter to the caregiver advising of the denial. The worker sends Form 08MP038E, Client Notice of Action Taken, to inform the client of the denial of benefits and need to choose another caregiver.

(5) The caregiver must be currently certified in first aid and infant and child cardiopulmonary resuscitation (CPR) from an OKDHS-approved source.

(d) **Duties of the caregiver.** The caregiver:

(1) provides adequate care and supervision of children at all times, including frequent observations of children in cribs or playpens. The caregiver must arrange to have a competent adult provide consistent supervision during the caregiver's absence from the home;

(2) is responsible only for children specified on Form 08CC003E;

(3) is aware of adequate safety precautions and takes action to correct hazards to children's safety, both indoors and outdoors;

(4) provides opportunities for learning, indoor and outdoor play, rest periods, and meals. The caregiver ensures the use of television is age-appropriate and suitable for children;

(5) gives understanding, consistent, and loving guidance.

Discipline is constructive, educational in nature, and appropriate to the child's age and circumstances. Loud, profane, and abusive language, corporal punishment, or any technique that is either humiliating or frightening to children is not used. Discipline is not associated with rest, toilet training, or loss of food;

(6) seeks emergency medical attention in case of sudden illness or accident. The parent or guardian stipulates who to call in case of an emergency by entering this information on Form 07LC038E, Child Information. The caregiver has emergency phone numbers readily available at all times. Emergency phone numbers include 911, the fire department, police department, ambulance service, and physician or clinic;

(7) prepares and serves food. The child's family provides the food used to prepare snacks and meals. The caregiver consults with the child's parent(s) or guardian to ensure a balanced diet suitable to the age and physical development of the child is provided; and

(8) ensures the child's school attendance in accordance with the requirements of the Oklahoma State Department of Education.

(e) **In-home provider training requirements.** The in-home provider must read "The Good Health Handbook - A Guide For Those Caring For Children" within 90-calendar days of the approval date of the in-home provider shown on Form 08CC003E. The in-home provider signs and completes Form 08CC008E, In-Home Child Care Provider Training Declaration of Completion, and returns it to the AFS Child Care Subsidy Unit staff. The signature and completion of Form 08CC008E meets the in-home provider training requirement for the first year of approval.

(1) After the first year of approval, the in-home provider must annually receive and declare six clock-hours of training. The

provider may meet the training requirement by attending workshops, formal training programs, viewing videos, or through individual job-related readings. The declaration is valid for one year from the date the provider signs the document.

(2) Training hours earned by the in-home provider may transfer from one family to another during the year the declaration is in force.

(f) **Requirement to renew the in-home provider agreement.** Form 08CC003E is completed annually.

(g) **Requirements prior to approval for a special needs child care rate for a child with disabilities.** When an in-home child care provider cares for a child with disabilities, the provider may be approved for the special needs rate in addition to the applicable daily rate. Prior to receiving this additional rate, the:

(1) client, provider, and worker must complete Form 08CC006E, In-home Child Care Certification for Special Needs, per Oklahoma Administrative Code 340:40-7-3.1;

(2) provider must receive on-site consultation regarding the nature of the child's disability and the development of the child care plan including how to operate equipment the child needs and any specialized training needs. The consultant provides available resource materials that may aid the provider for the child. This consultation may be provided by a:

(A) health care professional;

(B) child guidance specialist;

(C) SoonerStart provider when the child is younger than 3 years of age;

(D) public school teacher who is familiar with the child; or

(E) consultant through the Center for Early Childhood Professional Development; and

(3) provider must agree to obtain six additional hours of training in areas that address the care of children with disabilities within six months of approval. This training is documented on Form 08CC008E.

(A) First aid, CPR, or informal training is not counted to meet the special training requirement.

(B) Countable formal training must be from an OKDHS-approved sponsor.

[Source: Added at 17 Ok Reg 25, eff 10-1-99 (emergency); Added at 17 Ok Reg 1244, eff 6-1-00 ; Amended at 20 Ok Reg 2048, eff 7-1-03 ; Amended at 24 Ok Reg 1027, eff 6-1-07 ; Amended at 26 Ok Reg 1266, eff 7-1-09 ; Amended at 27 Ok Reg 1220, eff 6-1-10 ; Amended at 30 Ok Reg 655, eff 6-1-13 ; Amended at 35 Ok Reg 36, eff 10-1-17 (emergency); Amended at 35 Ok Reg 1647, eff 9-17-18 ; Amended at 40 Ok Reg 971, eff 9-15-23]

### **340:40-13-3. Child care payments and rates**

(a) Oklahoma Human Services (OKDHS) contracts to purchase out-of-home child care services for children only with licensed providers who:

(1) post rates and fees;

(2) sign and comply with all the terms of Form 08CC001E, Child Care Provider Contract;

(3) participated in mandatory contract training; and

- (4) have access to an account at a financial institution for electronic benefit transfer (EBT) purposes.
- (b) Per Section 85.44B of Title 74 of the Oklahoma Statutes, OKDHS may not make advance payments to child care providers.
- (c) The rates OKDHS pays are described on OKDHS Appendix C-4-B, Child Care Provider Rate Schedule, and determined by:
  - (1) the child's age;
  - (2) the settings in which the care is provided that include:
    - (A) the child's own home;
    - (B) a child care center; or
    - (C) a child care home; and
  - (3) whether the child has disabilities and the provider is approved for the special needs rate unit type. The special needs rate is added to the applicable rate a child care provider receives for a typical child of the same age after the Form 08AD006E, Certification for Special Needs Child Care Rate, Certification for Special Needs Child Care Rate for Licensed Child Care Homes and Centers, approval process is followed;
  - (4) whether the care is provided full-time, over four hours per day, or part-time, four hours or fewer per day;
  - (5) whether the worker approves a full-time daily, part-time daily, a combination of full-time and part-time daily, blended, or a weekly unit; and
  - (6) whether the facility qualifies for a quality rate.
- (d) The in-home child care rate is paid for children cared for in their own homes. The in-home rate is shown on OKDHS Appendix C-4-B for the child's age. When a child is eligible for the severe or moderate special needs rate, this additional amount is added to the applicable in-home rate for that child.
- (e) When the child is cared for in an out-of-home child care center or home, the allowable rate is the amount shown on OKDHS Appendix C-4-B.
- (f) Care may only be authorized at one facility per day per child. When the client uses care at two different providers for the same day for the same child, OKDHS staff approves care at only one of the facilities. The parent or caretaker may use care at two different providers for the same child when care is needed on different days of the week.
- (g) Charges are authorized and payment is made only when the care provided is in accordance with the jointly developed child care plan between the client and OKDHS.
- (h) Age-driven rate changes are effective the first of the month following the child's birth date.
- (i) A change to add the higher special needs rate to the applicable daily rate is effective the first of the month following the month eligibility for this rate is determined.
- (j) A child care provider may be approved for a quality rate when the provider meets the required criteria. This rate is approved effective the first of the month following the month Oklahoma Child Care Services licensing staff approves the provider for the rate. The rate is designated on OKDHS Appendix C-4-B by its star status.

[Source: Added at 17 Ok Reg 25, eff 10-1-99 (emergency); Added at 17 Ok Reg 1244, eff 6-1-00 ; Amended at 17 Ok Reg 3583, eff 10-1-00 (emergency); Amended at 18 Ok Reg 155, eff 12-1-00 (emergency); Amended at 18 Ok Reg 1236, eff 5-11-01 ; Amended at 19 Ok Reg 195, eff 1-01-02 (emergency); Amended at 19 Ok Reg 1757, eff 6-14-02 ; Amended at 20 Ok Reg 530, eff 1-1-03 (emergency); Amended at 20 Ok Reg 872, eff 6-1-03 ; Amended at 21 Ok Reg 1364, eff 9-1-04 ; Amended at 23 Ok Reg 1872, eff 7-1-06 ; Amended at 24 Ok Reg 1027, eff 6-1-07 ; Amended at 25 Ok Reg 920, eff 6-1-08 ; Amended at 26 Ok Reg 820, eff 6-1-09 ; Amended at 30 Ok Reg 655, eff 6-1-13 ; Amended at 34 Ok Reg 58, eff 10-1-16 (emergency); Amended at 34 Ok Reg 1481, eff 10-1-17 ; Amended at 37 Ok Reg 1813, eff 9-15-20 ; Amended at 40 Ok Reg 971, eff 9-15-23]

#### **340:40-13-4. Child care payment process [REVOKED]**

[Source: Added at 17 Ok Reg 25, eff 10-1-99 (emergency); Added at 17 Ok Reg 1244, eff 6-1-00 ; Amended at 17 Ok Reg 3583, eff 10-1-00 (emergency); Amended at 18 Ok Reg 1236, eff 5-11-01 ; Amended at 20 Ok Reg 530, eff 1-1-03 (emergency); Amended at 20 Ok Reg 2048, eff 7-1-03 ; Amended at 21 Ok Reg 1358, eff 7-1-04 ; Revoked at 22 Ok Reg 1238, eff 6-1-05]

#### **340:40-13-5. Child care provider contracts**

(a) **Criteria.** A child care program owner and the Oklahoma Human Services (OKDHS) Director or designee signs Form 08CC001E, Child Care Provider Contract, before OKDHS pays for out-of-home child care services. By signing the contract, the child care provider agrees to not take into account a person's race, color, religion, sex, national origin, or disability in deciding which children to accept in the child care program or in how to provide services. Age may be a factor only to the extent that certain services are designed for a particular age group.

(1) Written complaints that a child care provider is not complying with assurances in (a) of this Section are made to the OKDHS Director or to the Secretary of Health and Human Services, Washington, D.C., 20201.

(2) Local Child Care Services (CCS) licensing staff provides initial contract information for child care programs. The child care provider contacts CCS, Child Care Subsidy Unit staff to request a contract.

(3) Child care contracts are valid for a maximum of one year. Contracts may be renewed at the sole option of OKDHS for successive one-year terms per (g) of this Section.

(b) **License and star status for child care centers and homes.**

OKDHS does not contract with out-of-state child care providers. Child care providers only obtain an OKDHS contract after they are licensed or permitted.

(1) A child care center provider requesting a contract is required to have a license or permit and a two-star or higher star status. Community Hope Centers are exempt from participation in the Stars quality rating system.

(2) A child care home provider requesting a contract is required to have a license or a permit.

(A) When licensed, the child care home provider may have a one star or higher status.

(B) When on permit, the child care home provider must have a two-star or higher status.

(c) **Procedure for obtaining child care contracts.** The procedures in

(1) through (5) of this subsection are used to obtain child care contracts.



(1) CSS licensing staff gives the child care provider OKDHS Publication 07-12, "Steps For Child Care Providers Interested In A Subsidy Contract" and instructs the provider to contact CCS Child Care Subsidy Unit staff to obtain an OKDHS child care contract.

(2) When a child care program owner or another person authorized to sign the contract contacts CCS Child Care Subsidy Unit staff, staff explains the owner or responsible person must provide documents listed in (A) through (D) of this paragraph before signing a contract. Documents include a copy of:

- (A) a document that verifies the identity of the owner or responsible person authorized to sign the contract;
- (B) a document from the Internal Revenue Service verifying the employer identification number. A home child care provider who is a sole proprietor may provide a copy of the employer's Social Security card in lieu of an employer identification number;
- (C) the certificate of completion for the required online "Orientation to Child Care Subsidy Contracts" training;
- and
- (D) ownership verification.

(3) When the owner provides the required documents, CCS Child Care Subsidy Unit staff sends Form 08CC001E to the child care provider and explains that the earliest date a contract is valid is the date the OKDHS Director or designee approves the contract.

(4) The owner or person authorized to sign the contract signs and returns the contract to the CCS Child Care Subsidy Unit.

(5) CCS Child Care Subsidy Unit staff processes the contract request for approval or denial.

(A) When approved, CCS Child Care Subsidy Unit staff assigns a contract number and sends a copy of the signed contract to the child care provider.

(B) When denied, CCS Child Care Subsidy Unit staff sends a letter to the child care provider.

(d) **Changes the provider reports.** Form 08CC001E informs child care providers of changes they must report to the CCS Child Care Subsidy Unit no less than 30-calendar days prior to the effective date of any changes. When the provider fails to report the anticipated change timely and a new contract is needed, a gap may occur in the child care subsidy payment to the provider. Changes that are reported include:

- (1) collaborations or agreements;
- (2) ownership change;
- (3) legal business entity change;
- (4) change in facility status;
- (5) legal name change of the business;
- (6) plan to stop caring for children;
- (7) star status reduction;
- (8) changes in the responsible person authorized to sign the contract or in that person's legal name;
- (9) disqualification, suspension, or debarment from the Child and Adult Food Care Program or any other federal program;

(10) when an owner or employee of a child care provider is convicted of a criminal offense; and

(11) provider address change.

(e) **Changes that require a new contract.** A new contract is required when changes listed in (1) through (3) of this subsection occur.

(1) **Change in ownership.** An ownership change occurs when the owner of a child care program changes.

(2) **Change of legal business entity.** A change of legal business entity is a change from one legal business entity type to another. Refer to OKDHS Appendix L-7, Ownership Proof Chart, for a list of legal business entity types.

(3) **Change in facility status.** A change in facility status occurs when a child care home changes to a child care center or a child care center changes to a child care home.

(f) **Providing care at a different site than is authorized.** When the child care provider signs the child care contract, the provider agrees to provide care only at the physical address designated in the contract.

(1) After obtaining prior approval from CCS Child Care Subsidy Unit staff, a child care center provider owning more than one child care center may be authorized to move children receiving subsidized child care benefits to an alternate center for a designated time period. A child care center provider may not move a point-of-service (POS) machine or submit electronic claims for care at another location until the provider receives approval from CCS Child Care Subsidy Unit staff.

(2) CCS Child Care Subsidy Unit staff provides written approval when (A) through (E) of this paragraph are met.

(A) The same owner or legal business entity operates the alternate site.

(B) The alternate site is licensed and contracted at the same star level and the child care provider has adequate licensed capacity at the alternate site.

(C) There is a legitimate business reason for providing care in another location.

(D) The provider advises CCS Child Care Subsidy Unit staff how the provider is ensuring parents are aware their children are being cared for at a different location.

(E) The provider advises CCS Child Care Subsidy Unit staff of the date of expected return to the contracted site.

(g) **Child care contract renewal.** Child care contracts may be renewed at the sole option of OKDHS for successive one-year terms, under the same terms and conditions, unless OKDHS makes changes to Form 08CC001E. The child care contract is not renewed when:

(1) the child care provider or OKDHS gives written notice of its intent not to renew to the other party at least 30-calendar days prior to the previous contract term's expiration; or

(2) during the contract renewal period, the provider fails to:

(A) complete all required contract training; or

(B) provide any other information or documents requested.

(h) **Contract violations.** By signing the child care provider contract, Form 08CC001E, the child care provider agrees to abide by the

contract's terms. When OKDHS staff becomes aware a child care provider is violating contract terms, the staff person emails the circumstances to CCS Child Care Subsidy Unit staff. Staff may also complete Form 19MP001E, Referral Form, to report the violation to the Office of Inspector General. Examples of contract violations include, but are not limited to:

- (1) discriminating against persons seeking services by charging a discriminatory rate or violating a person's rights as listed in the Civil Rights Act of 1964 as amended, the Rehabilitation Act of 1973 as amended, or the Americans with Disabilities Act of 1990, as amended;
- (2) failing to maintain a drug-free workplace;
- (3) operating over licensed capacity;
- (4) possessing a client's electronic benefit transfer (EBT) card or recording attendance for a child using the POS machine or the mobile app;
- (5) knowing a client's EBT personal identification number;
- (6) refusing a parent or caretaker unlimited access to the facility areas used for child care during operation hours;
- (7) failing to ensure the parent or caretaker records accurate time and attendance information using the POS machine or the mobile app. When a child is approved for a blended unit type or part-time care, the parent or caretaker is only required to record attendance one time per day because the number or hours the child attends does not affect the child care provider payment amount;
- (8) charging a client receiving subsidized child care more than the OKDHS rate for days and hours OKDHS authorizes;
- (9) charging a client receiving subsidized child care an allowable fee when not charged to non-OKDHS participants;
- (10) failing to post all the facility's rates and fees;
- (11) charging or requiring a client to record attendance for days and hours outside of client's child care plan when those days and hours are a requirement the care provider imposes and are not the client's choice;
- (12) failing to advise and provide OKDHS a completed copy of any collaboration or agreement the child care provider enters into within 30-calendar days of signing the collaboration or agreement. This includes agreements with Head Start, Early Head Start, public schools, or other programs receiving federal or state funding;
- (13) claiming or receiving payment from OKDHS for any care hours the provider is not charging all parents because the provider receives federal or state funds for those hours. Refer to Oklahoma Administrative Code (OAC) 340:40-5-1(7) regarding collaborations;
- (14) claiming child care payment for care given for any hours in an unlicensed collaborative classroom;
- (15) moving the children from the agreed upon location shown in the contract and claiming for services at the other location without prior approval from CCS Child Care Subsidy Unit staff;

- (16) moving the POS machine or submitting electronic claims without receiving prior approval from CCS Child Care Subsidy Unit staff, per subsection (f) of this Section;
- (17) failing to inform OKDHS of a change in facility status, legal business entity, business ownership, or the responsible person at least 30-calendar days in advance of the change;
- (18) failing to inform OKDHS in writing within 10-calendar days of any person who has an ownership or controlling interest in, or is an agent or managing employee of, the child care business, who was convicted of a criminal offense related to such person's involvement under Titles XVIII, XIX, or XX of the Social Security Act;
- (19) failing to allow full access to the facility's premises and personnel to investigate a complaint;
- (20) failing to report the new child care business income within 10-calendar days of first receipt to the child care provider's Adult and Family Services (AFS) worker when the provider receives OKDHS benefits;
- (21) a home child care provider claiming payment for child care provided for an employee's child. Refer to OAC 340:40-5-1(7);
- (22) a child care provider receiving subsidized child care benefits for a child and claiming payment for that child to attend a child care program in which the provider or the provider's spouse have an ownership interest. Refer to OAC 340:40-5-1(7);
- (23) subcontracting services to another provider; or
- (24) breaching the contract the child care provider signs with the OKDHS EBT contractor.

(i) **Child care provider contract cancellation.** CCS Child Care Subsidy Unit staff issues a notice to the child care provider to initiate child care contract cancellation. When CCS cancels a contract, all open child care authorizations for that provider close automatically. Contracts may be cancelled:

- (1) with cause. The effective cancellation date is 10-calendar after CCS Child Care Subsidy Unit staff sends the notice. The notice contains a reference to the grounds for cancellation including the specific contract provision(s) violated; or
- (2) without cause. The effective cancellation date is 30-calendar days after CCS Child Care Subsidy Unit staff sends the notice.

[Source: Added at 17 Ok Reg 25, eff 10-1-99 (emergency); Added at 17 Ok Reg 1244, eff 6-1-00 ; Amended at 17 Ok Reg 3583, eff 10-1-00 (emergency); Amended at 18 Ok Reg 1236, eff 5-11-01 ; Amended at 19 Ok Reg 195, eff 1-01-02 (emergency); Amended at 19 Ok Reg 1757, eff 6-14-02 ; Amended at 20 Ok Reg 530, eff 1-1-03 (emergency); Amended at 20 Ok Reg 2048, eff 7-1-03 ; Amended at 21 Ok Reg 1358, eff 7-1-04 ; Amended at 22 Ok Reg 1948, eff 7-1-05 ; Amended at 23 Ok Reg 1872, eff 7-1-06 ; Amended at 24 Ok Reg 1027, eff 6-1-07 ; Amended at 25 Ok Reg 920, eff 6-1-08 ; Amended at 26 Ok Reg 820, eff 6-1-09 ; Amended at 27 Ok Reg 1220, eff 6-1-10 ; Amended at 28 Ok Reg 831, eff 6-1-11 ; Amended at 32 Ok Reg 1875, eff 10-1-15 ; Amended at 34 Ok Reg 1481, eff 10-1-17 ; Amended at 37 Ok Reg 1813, eff 9-15-20 ; Amended at 39 Ok Reg 1733, eff 9-15-22 ; Amended at 40 Ok Reg 971, eff 9-15-23 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

## SUBCHAPTER 15. OVERPAYMENTS

### **340:40-15-1. Overpayments**

(a) **Overpayment claim definition.** A client or child care provider overpayment claim may occur as a result of agency, client, or provider error when a household received more child care benefits than it is entitled to receive or a provider was paid in error per (b)(1)(B) or (3) of this Section.

(b) **Overpayment referral.** Oklahoma Department of Human Services (DHS) staff including, but not limited to, Adult and Family Services (AFS) or Child Welfare Services (CWS) staff, Office of Inspector General (OIG) auditors or investigators, or Financial Services (FS) Electronic Payment Systems (EPS) staff may identify a possible overpayment. When DHS staff suspects an overpayment occurred, he or she sends a client overpayment referral to AFS Benefit Integrity and Recovery (BIR) and a provider overpayment referral to FS EPS for an overpayment determination and claim establishment.

(c) **Overpayment determination and claim establishment.** AFS BIR staff determines if a client overpayment occurred, when it occurred, and if it is due to an agency or client error. When the overpayment is due to a client error, AFS BIR staff establishes the overpayment as an inadvertent client error, willful misrepresentation, or fraud. FS EPS staff determine and establish provider overpayments. An overpayment claim is considered established on the date AFS BIR staff sends the overpayment notice to the household or FS EPS staff sends a letter to the child care provider.

(1) **Agency error overpayment claim.** An agency error overpayment claim may be established against the client or the child care provider depending on the circumstances. An agency error overpayment occurs when DHS staff did not exercise due diligence.

(A) When AFS staff incorrectly calculates countable income and/or deductions resulting in an incorrect family share copayment or complete ineligibility, or AFS or CWS staff approves more care than the household is entitled to receive, AFS BIR staff establishes the agency error overpayment against the client.

(B) FS EPS staff establishes agency error overpayments against the provider for child care plan errors when DHS pays an incorrect rate.

(2) **Client error overpayment claim.** AFS BIR staff establishes an overpayment claim against the client when the client:

(A) provides incorrect information at the time of application or renewal;

(B) fails to report any change that affects eligibility per Oklahoma Administrative Code (OAC) 340:40-9-2; or

(C) uses child care for days and hours the client is not eligible for child care.

(3) **Provider error overpayment claim.** FS EPS establishes an overpayment claim against the provider when the provider:

(A) submits incorrect claims;

- (B) fails to timely void inaccurate attendance entered in the point-of-service (POS) machine by the client;
- (C) receives payment for care the provider did not provide and is not entitled to receive. This can occur when the provider has possession of the client's electronic benefit transfer (EBT) card and swipes attendance for a day a child did not attend or facility staff requests that a parent do so;
- (D) receives payment for care from DHS that was provided after the date his or her child care license was revoked or contract was cancelled; or
- (E) moves a POS machine to a different location prior to obtaining written approval from AFS Child Care Subsidy staff and payment was made for care during that period.

(4) **Liquidated damages.** Per OAC 340:2-11-150, FS EPS staff may assess liquidated damages in addition to a provider overpayment when the provider:

- (A) is in possession of the client's EBT card;
- (B) swipes the card through the POS machine; or
- (C) knows the client's personal identification number (PIN).

(d) **Overpayment notice.** Following claim establishment, AFS BIR staff sends the client an overpayment notice and FS EPS staff sends an overpayment notice to the provider.

(e) **Appeal rights.** Only a client has the right to appeal all or part of any overpayment claim established against him or her.

(f) **Repayment of an overpayment claim.** DHS requires repayment of all established overpayments.

(1) AFS BIR staff sends the client Form 08OP011E, Repayment Agreement, with the overpayment notice and begins sending a monthly account statement the following month that reflects all payment and account information.

(2) FS EPS staff sends a letter to the provider that explains the repayment process for vendor overpayments. When the provider:

- (A) receives subsidy payments, a portion of his or her weekly payments are retained to repay the overpayment;
- or
- (B) does not receive subsidy payments, he or she must set up a repayment plan with FS EPS staff.

[Source: Added at 17 Ok Reg 25, eff 10-1-99 (emergency); Added at 17 Ok Reg 1244, eff 6-1-00 ; Amended at 17 Ok Reg 3583, eff 10-1-00 (emergency); Amended at 18 Ok Reg 1236, eff 5-11-01 ; Amended at 22 Ok Reg 1948, eff 7-1-05 ; Amended at 25 Ok Reg 920, eff 6-1-08 ; Amended at 27 Ok Reg 1220, eff 6-1-10 ; Amended at 35 Ok Reg 36, eff 10-1-17 (emergency); Amended at 35 Ok Reg 1647, eff 9-17-18]

## **340:40-15-2. Fraud**

(a) **Fraud definition.** Fraud may be indicated in a client or provider overpayment. Per Section 185 of Title 56 of the Oklahoma Statutes (56 O.S. § 185), fraud in obtaining public assistance occurs when a person:

- (1) obtains or attempts to obtain, or aids, abets, or assists any person to obtain, by means of a false statement or representation,

by false impersonation, by a fictitious transfer, conveyance or encumbrance of property or income, by a knowing and willful failure to report to Oklahoma Human Services (OKDHS) income, personal property, real property, household members, or other material eligibility factors at the time of application or during the receipt of assistance, or by other fraudulent device, assistance to which an applicant is not entitled or assistance greater than that to which an applicant is justly entitled; or

(2) by sale, barter, purchase, theft, acquisition, possession or use of any electronic benefits or debit card, or any other device authorizing participation in the Temporary Assistance for Needy Families (TANF) or other OKDHS program, knowingly obtains, aids, abets, or assists any person to obtain or attempt to obtain assistance to which a person is not entitled.

(b) **Fraud penalty.** The penalty for fraud is set forth in 56 O.S. § 185. Per statutes, only courts can determine guilt and impose a legal penalty for fraud.

[Source: Added at 17 Ok Reg 25, eff 10-1-99 (emergency); Added at 17 Ok Reg 1244, eff 6-1-00 ; Amended at 38 Ok Reg 2234, eff 9-15-21]

## **SUBCHAPTER 16. IMPROPER PAYMENTS ERROR RATE REVIEW PROCESS**

### **340:40-16-1. Improper payments error rate review process**

The improper payments error rate review process is a federally mandated review of randomly selected child care subsidy cases to determine if an error existed on the case during the sample month. The review occurs every three years. The Office of Inspector General Administrative Review Unit conducts the reviews and maintains the files as required by federal law.

[Source: Added at 25 Ok Reg 920, eff 6-1-08 ; Amended at 30 Ok Reg 655, eff 6-1-13 ; Amended at 37 Ok Reg 1813, eff 9-15-20]

## **CHAPTER 45. EMERGENCY WELFARE SERVICES [REVOKED]**

[**Authority:** Oklahoma Civil Defense and Emergency Resources Management Act of 1967; OKLA. CONST. art XXV; Disaster Relief Act of 1974; Presidential Executive Order 11490]  
[**Source:** Codified 12-31-91]

### **SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]**

#### **340:45-1-1. Purpose [REVOKED]**

[**Source:** Amended at 11 Ok Reg 493, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1679, eff 5-12-94 ; Revoked at 23 Ok Reg 1003, eff 5-11-06]

#### **340:45-1-2. Types of emergencies [REVOKED]**

[**Source:** Amended at 11 Ok Reg 493, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1679, eff 5-12-94 ; Revoked at 23 Ok Reg 1003, eff 5-11-06]

#### **340:45-1-3. Legal bases [REVOKED]**

[**Source:** Amended at 11 Ok Reg 493, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1679, eff 5-12-94 ; Revoked at 23 Ok Reg 1003, eff 5-11-06]

#### **340:45-1-4. Local office responsibility [REVOKED]**

[**Source:** Amended at 11 Ok Reg 493, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1679, eff 5-12-94 ; Amended at 12 Ok Reg 3452, eff 6-16-95 (emergency); Amended at 13 Ok Reg 2627, eff 6-28-96 ; Revoked at 23 Ok Reg 1003, eff 5-11-06]

#### **340:45-1-5. Services to be provided [REVOKED]**

[**Source:** Amended at 11 Ok Reg 493, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1679, eff 5-12-94 ; Revoked at 23 Ok Reg 1003, eff 5-11-06]

#### **340:45-1-6. Additional services available at the time of presidential declaration of a disaster [REVOKED]**

[**Source:** Amended at 11 Ok Reg 493, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1679, eff 5-12-94 ; Revoked at 23 Ok Reg 1003, eff 5-11-06]

#### **340:45-1-7. Man-made disasters or an attack upon the United States [REVOKED]**

[**Source:** Amended at 11 Ok Reg 493, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1679, eff 5-12-94 ; Revoked at 23 Ok Reg 1003, eff 5-11-06]

#### **340:45-1-8. County emergency operations plan [REVOKED]**

[**Source:** Amended at 11 Ok Reg 493, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1679, eff 5-12-94 ; Amended at 12 Ok Reg 3452, eff 6-16-95 (emergency); Amended at 13 Ok Reg 2627, eff 6-28-96 ; Revoked at 23 Ok Reg 1003, eff 5-11-06]



## **SUBCHAPTER 3. INDIVIDUAL AND FAMILY GRANT PROGRAM [REVOKED]**

### **340:45-3-1. Definitions [REVOKED]**

[Source: Amended at 11 Ok Reg 493, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1679, eff 5-12-94 ; Revoked at 23 Ok Reg 1003, eff 5-11-06]

### **340:45-3-2. Legal base and availability of benefits [REVOKED]**

[Source: Amended at 11 Ok Reg 493, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1679, eff 5-12-94 ; Amended at 12 Ok Reg 3452, eff 6-16-95 (emergency); Amended at 13 Ok Reg 2627, eff 6-28-96 ; Revoked at 23 Ok Reg 1003, eff 5-11-06]

### **340:45-3-3. Eligible categories [REVOKED]**

[Source: Amended at 11 Ok Reg 493, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1679, eff 5-12-94 ; Revoked at 23 Ok Reg 1003, eff 5-11-06]

### **340:45-3-4. Applications [REVOKED]**

[Source: Revoked at 23 Ok Reg 1003, eff 5-11-06]

### **340:45-3-5. Eligibility determination [REVOKED]**

[Source: Amended at 11 Ok Reg 493, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1679, eff 5-12-94 ; Revoked at 23 Ok Reg 1003, eff 5-11-06]

### **340:45-3-6. Disbursement procedure [REVOKED]**

[Source: Amended at 11 Ok Reg 493, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1679, eff 5-12-94 ; Revoked at 23 Ok Reg 1003, eff 5-11-06]

### **340:45-3-7. Appeal procedures [REVOKED]**

[Source: Amended at 11 Ok Reg 493, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1679, eff 5-12-94 ; Revoked at 23 Ok Reg 1003, eff 5-11-06]

### **340:45-3-8. Administrative procedures [REVOKED]**

[Source: Amended at 11 Ok Reg 493, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1679, eff 5-12-94 ; Revoked at 23 Ok Reg 1003, eff 5-11-06]

## **CHAPTER 50. SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM**

[**Authority:** Federal Social Security Act; P.L. 99-603; P.L. 101-392; P.L. 101-624; P.L. 93-113; Immigration and Nationality Act; National Food Stamp Act of 1977; 7 U.S.C. 20147; 31 U.S.C. 3716; 7 CFR, Food and Nutrition Act of 2008; Federal Social Security Act § 403(c); Informational Memos Regarding Section 4009 of the Agricultural Act of 2014 and Sections 4004 and 4005 of the Agriculture Improvement Act of 2018; 10 O.S., Ch 4; 56 O.S., § 162 and 241]

[**Source:** Codified 12-31-91]

### **SUBCHAPTER 1. GENERAL PROVISIONS**

### **340:50-1-1. Purpose, legal base, and responsibilities**

(a) **Purpose.** The purpose of this Chapter is to describe the operation of Oklahoma Human Services (OKDHS) Supplemental Nutrition Assistance Program (SNAP). The purpose of SNAP is to utilize, as efficiently as possible, the nation's food abundance to raise the nutritional levels and improve the general health of the nation's low-income households.

(b) **Legal basis.** The legal basis for SNAP is vested in the Food and Nutrition Act of 2008 (Public Law 110-246) as amended by the Agriculture Improvement Act of 2018, commonly known as the 2018 Farm Bill and Sections 241 through 244 of Title 56 of the Oklahoma Statutes.

(c) **OKDHS responsibilities.** Per Section 271.4 of Title 7 of the Code of Federal Regulations, OKDHS is responsible for:

- (1) certifying eligible applicant households for SNAP food benefits;
- (2) the issuance, control, and accountability of SNAP food benefits;
- (3) developing and maintaining complaint procedures;
- (4) developing, conducting, and evaluating training;
- (5) conducting performance reporting reviews;
- (6) keeping records necessary to determine that OKDHS is complying with federal regulations in its operation of SNAP; and
- (7) submitting accurate and timely financial and program reports.

(d) **Program informational activities.** DHS has total and direct responsibility for initiating and monitoring program informational activities for SNAP in Oklahoma.

- (1) SNAP informational activities consist of comprehensive and ongoing activities to convey information about the program, including household rights and responsibilities, to applicant and recipient households through such means as publications, media, posters, and face-to-face contacts.
- (2) Nutrition education information is available to instruct and emphasize basic nutritional concepts and consumer practices for SNAP applicants and recipients.

(e) **Nutrition education.** Nutrition education and program informational pamphlets and posters are available to order by local county offices. County staff are responsible for informing applicants and recipients of the availability of these materials at the time of initial application and certification renewal.

[Source: Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 10 Ok Reg 4343, eff 7-27-93 (emergency); Amended at 11 Ok Reg 2667, eff 6-13-94 ; Amended at 26 Ok Reg 840, eff 6-1-09 ; Amended at 36 Ok Reg 1816, eff 9-16-19 ; Amended at 38 Ok Reg 2245, eff 9-15-21]

### **340:50-1-2. Legal basis [REVOKED]**

[Source: Amended at 26 Ok Reg 840, eff 6-1-09 ; Revoked at 38 Ok Reg 2245, eff 9-15-21]

### **340:50-1-3. Utilization of benefits**

(a) **Scope and applicability.** Under the Supplemental Nutrition Assistance Program (SNAP), households receive food benefits based on their level of need. Participating households may use their benefits to purchase eligible food at retail stores that Food and Nutrition Services (FNS) has authorized to accept SNAP food benefits. State or local sales tax cannot be charged on eligible food purchases paid for with benefits. In specified instances, persons may use their benefits to purchase prepared meals. Benefits may be used only by the household, or other persons the household selects to purchase eligible food for the household, per Section 274.7 of Title 7 of the Code of Federal Regulations (7 C.F.R. § 274.7).

(b) **Eligible food.** Per 7 C.F.R. § 271.2, eligible food means:

- (1) any food or food product intended for human consumption except alcoholic beverages, tobacco, hot foods, and hot food products prepared for immediate consumption;
- (2) seeds and plants to grow foods for eligible households' personal consumption;
- (3) meals prepared and delivered by an authorized meal delivery service to households eligible to use SNAP food benefits to purchase delivered meals;
- (4) meals served by an authorized communal dining facility for the elderly or Supplemental Security Income (SSI) recipients to households eligible to use SNAP food benefits for communal dining;
- (5) meals prepared and served by a drug addiction or alcoholic treatment and rehabilitation center to eligible residents and children of residents who live with their parents;
- (6) meals prepared and served by a group living arrangement facility to residents who are blind or disabled, per Oklahoma Administrative Code 340:50-5-4;
- (7) meals prepared and served by a shelter for battered women and children to its eligible residents;
- (8) meals prepared for and served by an authorized public or private, non-profit establishment, such as a soup kitchen or temporary shelter, approved by an appropriate state or local agency that feeds homeless persons; and
- (9) meals prepared by a restaurant that contracts with an appropriate state agency to serve meals to homeless persons at low or reduced prices.

(c) **Prior payment prohibition.** Participating households must not use their SNAP food benefits to pay for any eligible food purchased prior to the time they present their electronic benefit (EBT) cards to authorized retailers or meal services, per 7 C.F.R. § 274.7. Households must also not use their SNAP food benefits to pay for any eligible food before receiving the food, except when prior payment is made to purchase food from a nonprofit cooperative food purchasing venture.

(d) **Container deposit fees.** SNAP food benefits may not be used to pay for deposit fees in excess of the amount of the State fee reimbursement required to purchase any food or food product contained in a returnable bottle or can, regardless of whether the fee is included in the shelf price posted for item, per 7 C.F.R. § 274.7. The returnable container type and

fee must be included in State law in order for participating households to pay for the upfront deposit with their SNAP benefits. When a SNAP eligible product has a State deposit fee associated with it, the product remains eligible for purchase with SNAP benefits, and the State deposit fee may be paid with SNAP as well; however, any fee in excess of the State deposit fee must be paid in cash or other payment form other than with SNAP benefits.

(e) **Communal dining and meal delivery services.** The criteria in (1) through (2) of this subsection is used to determine if household members qualify to use their food benefits at communal dining facilities or for meal delivery services.

(1) **Communal dining facility.** A communal dining facility may accept SNAP food benefits only after FNS approval. Communal dining facility means a:

(A) public or non-profit private establishments that prepare and serve meals for elderly persons, or Supplemental Security Income (SSI) recipients, and their spouses. Elderly persons are persons 60 years of age and older;

(B) public or non-profit establishments that feed elderly persons, SSI recipients, and their spouses;

(C) federally subsidized housing for the elderly where meals are prepared for and serviced to the residents; and

(D) private establishments under contract with a state or local agency to offer meals at low or reduced prices to elderly persons, or SSI recipients, and their spouses.

(2) **Meal delivery service.** A meal delivery service means a political subdivision, a private non-profit organization, or a private establishment that contracts with a state or local agency to prepare and deliver meals at low or reduced prices to elderly persons and their spouses, and to physically, mentally, or otherwise disabled persons, and their spouses to the extent that they are unable to adequately prepare all of their meals.

(f) **Homeless meal providers.** FNS authorizes homeless meal providers as retail food stores after they apply and qualify to accept food benefits from homeless SNAP food benefit recipients, per 7 C.F.R. § 278.1.

(1) Homeless meal providers must:

(A) be public or private, non-profit organizations as defined by the Internal Revenue Service, per Section 501(c)(3) of Title 26 of the United States Code;

(B) serve meals that include food purchased by the provider;

(C) meet requirements, per 7 C.F.R. § 278.1(a) and (b); and

(D) provide evidence to Oklahoma Human Services (OKDHS) that they serve meals to the homeless to obtain OKDHS approval prior to seeking FNS approval.

(2) Homeless meal providers may not act as authorized representatives for homeless SNAP food benefit recipients, per C.F.R. § 272.3(n)(4).

(g) **Homeless restaurant meals.** FNS may approve as retail food stores, restaurants that contract with OKDHS to sell meals to homeless SNAP

households in exchange for SNAP food benefits, per 7 C.F.R. § 272.9 and 7 C.F.R. § 278.1(i). The restaurant must provide a copy of the contract to FNS when it applies for approval to accept SNAP food benefits. The contract requires the restaurant to offer the meals at low or reduced prices and specify the approximate price or the amount and type of price reduction. Examples of reduced prices include, but are not limited to:

- (1) a percentage reduction;
- (2) a set dollar amount reduction;
- (3) a daily special meal; or
- (4) an offer of a free food item or beverage, excluding alcoholic beverages.

(h) **Social services.** The worker is responsible for providing or referring families for social services that the family needs and requests, when available. OKDHS staff are required to make mandatory referrals to OKDHS Child Welfare Services when child abuse is suspected.

(i) **Volunteers.** Volunteers may assist in activities, such as outreach, prescreening, helping clients complete and submit SNAP food benefit applications, and securing needed verification. Only authorized OKDHS staff may interview clients to determine SNAP food benefit eligibility and certify households, per 7 C.F.R. § 272.4.

[Source: Amended at 9 Ok Reg 3405, eff 5-13-92 ; Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 11 Ok Reg 4587, eff 9-1-94 (emergency); Amended at 12 Ok Reg 1723, eff 6-12-95 ; Amended at 20 Ok Reg 872, eff 6-1-03 ; Amended at 26 Ok Reg 840, eff 6-1-09 ; Amended at 39 Ok Reg 1755, eff 9-15-22]

#### **340:50-1-4. Complaints [REVOKED]**

[Source: Revoked at 38 Ok Reg 2245, eff 9-15-21]

#### **340:50-1-5. Program and civil rights complaints and responsibilities**

(a) **Non-discrimination statement.** Oklahoma Human Services (OKDHS) processes Supplemental Nutrition Assistance Program (SNAP) applications, certification renewals, and mid-certification renewals in a non-discriminatory manner without regard to age, race, color, sex, disability, religious creed, political beliefs, national origin, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by the United States Department of Agriculture (USDA) per Section 272.6 of Title 7 of the Code of Federal Regulations.

(b) **Public notification.** OKDHS must have a public notification system to inform potentially eligible persons, applicants, and participants of the availability of SNAP food benefits, program rights and responsibilities, non-discrimination policy, and the procedure for filing a discrimination complaint. This includes, but is not limited to:

- (1) informing applicants and participants during an application or certification renewal interview of the right to file a civil rights complaint, how to file a complaint, and complaint procedures per (c) of this Section;
- (2) displaying the USDA "And Justice for All" poster in a prominent location, such as the lobby, in all OKDHS offices;

- (3) displaying the non-discrimination statement on forms and public notification materials; and
- (4) informing potentially eligible persons, applicants, participants, and grassroots organizations of programs and program changes. This includes information pertaining to eligibility, benefits, services, the location of local county offices or service delivery points, and hours of service.

(c) **Program complaints.** All complaints made by households or others on behalf of households about application of SNAP rules are handled by the OKDHS Legal Services Appeals Unit, per Oklahoma Administrative Code (OAC) 340:2, Subchapter 5. Complaints received alleging program abuse are referred to the OKDHS Office of the Inspector General, Investigations Unit using procedures, per OAC 340:2, Subchapter 7.

(d) **Explanation of civil rights complaint process.** When a person makes a discrimination allegation to an OKDHS employee, the employee to whom the allegation is made is responsible for explaining the civil rights complaint process to the person. The proper procedure includes:

- (1) providing Form 14CR001E, Discrimination Complaint - Client or Vendor, to any person alleging discrimination based on a protected class.

- (A) The employee offers to help the person complete Form 14CR001E and asks if the complainant wants the employee to submit the complaint for the complainant.

- (B) The complainant may choose to submit a written statement instead of using Form 14CR001E. When this occurs, the employee informs the person what information is needed to facilitate the complaint investigation and provides the addresses for USDA and the OKDHS Office for Civil Rights (OCR).

- (C) When a person makes a verbal discrimination allegation and is unable or unwilling to put the allegation in writing, the employee to whom the allegation is made completes Form 14CR001E based on the information provided by the complainant and asks the complainant to sign the form, when available;

- (2) explaining to the complainant that he or she has the right to file the complaint with the OKDHS OCR or with the USDA Office of Civil Rights, or both;

- (3) informing the complainant:

- (A) he or she has the right to file a written complaint within 180-calendar days of the alleged discriminatory action and, if accepted for investigation, the investigation is completed within 90-calendar days of receipt;

- (B) the complaint is confidential and protected by the Privacy Act of 1974;

- (C) the complaint will not affect receipt of benefits; and

- (D) OKDHS is prohibited from retaliating against the person for filing a complaint;

- (4) asking the complainant if he or she would like to talk to a supervisor to try to resolve the matter.

(d) **Alternative means of communication.** Persons with disabilities who require alternative means of communication for program information are advised to contact the USDA's TARGET Center at (202) 720-2600 for voice and telecommunications device for the deaf or TDD.

[Source: Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 20 Ok Reg 872, eff 6-1-03 ; Amended at 26 Ok Reg 840, eff 6-1-09 ; Amended at 34 Ok Reg 1504, eff 9-15-17 ; Amended at 38 Ok Reg 2245, eff 9-15-21]

### **340:50-1-6. Disclosure of household and public information**

(a) **When household information may be disclosed.** Per Section 272.1 of Title 7 of the Code of Federal Regulations (7 C.F.R. § 272.1), use or disclosure of information regarding Supplemental Nutrition Assistance Program (SNAP) applicant households is restricted to:

- (1) persons directly connected with the administration or enforcement of the provisions of the Food and Nutrition Act of 2008, as amended by the Agriculture Improvement Act of 2018, or federal regulations, other federal assistance programs, or federally assisted state programs that provide assistance to low income persons on a means tested basis;
- (2) persons directly connected with the administration or enforcement of programs required to participate in the state income and eligibility verification system (IEVS), per 7 C.F.R. § 272.8(a)(2), to the extent the SNAP information is useful in establishing or verifying eligibility or benefit amounts under those programs;
- (3) persons directly connected with the verification of immigration status of aliens applying for SNAP benefits, through the Systematic Alien Verification for Entitlements (SAVE) Program, to the extent the information is necessary to identify the person for verification purposes;
- (4) persons directly connected with the administration of the Child Support Program under Part D, Title IV of the Social Security Act, in order to assist in the administration of that program, and employees of the Secretary of Health and Human Services as necessary to assist in establishing or verifying eligibility or benefits under Titles II and XVI of the Social Security Act;
- (5) employees of the Comptroller General's Office of the United States for audit examination authorized by any other provisions of law;
- (6) local, state, or federal law enforcement officials, upon their written request, for the purpose of investigating an alleged violation of the Food and Nutrition Act of 2008, or regulation. The written request must include the:
  - (A) identity of the person requesting the information;
  - (B) person's authority to request the information;
  - (C) violation being investigated; and
  - (D) identity of the person for whom the information is requested;



(7) local, state, or federal law enforcement officials acting in their official capacity, upon their written request.

(A) The written request must include:

- (i) the name of the household member being sought;
- (ii) the purpose of the request is to obtain the address, Social Security number (SSN) and, when available, a photograph of the food benefit recipient; and
- (iii) if the member is fleeing to avoid prosecution or custody for a crime, or an attempt to commit a crime, that would be classified as a felony, or a high misdemeanor in New Jersey, or is in violation of a condition of parole or probation imposed under a federal or state law.

(B) Oklahoma Human Services (OKDHS) must accept any document that reasonably establishes the identity of the household member being sought by law enforcement authorities.

(C) With the proper written request, OKDHS staff only discloses enough information to comply with the specific written request, such as the household member's address, SSN, and photograph, when available; and

(8) local educational agencies administering the National School Lunch Program established under the Richard B. Russell National School Lunch Act, or the School Breakfast Program established under the Child Nutrition Act of 1966, for the purpose of directly certifying the eligibility of school-aged children for receipt of free meals under the School Lunch and School Breakfast programs based on their receipt of SNAP benefits.

(b) **Protection of released information.** Recipients of information released under (a) of this Section must adequately protect the information against unauthorized disclosure to persons or for purposes not specified in this Section. In addition, information received through IEVS must be protected from unauthorized disclosure as required by regulations established by the information provider. Information released to OKDHS, per Section 6103(l) of the Internal Revenue Code of 1954, is subject to the safeguards established by the Secretary of the Treasury in Section 6103(l) of the Internal Revenue Code; and implemented by the Internal Revenue Service in its publication, Tax Information and Security Guidelines.

(c) **Case review request by household.** When OKDHS receives a written request to review information contained in the case record by a responsible household member, the currently authorized representative of the household, or a person acting on the household's behalf, the information is then made available for inspection during regular OKDHS business hours. OKDHS withholds confidential information, including the:

- (1) names of persons who disclosed information about the household without the household's knowledge; or
- (2) nature or status of pending criminal prosecutions.

(d) **Availability of public information.** SNAP rules and the Adult and Family Services Handbook are available online at [www.okdhs.org](http://www.okdhs.org) and are made available for inspection upon request by the public during regular business hours in each county office and in the State Office. Federal regulations, federal procedures in Food and Nutrition Service (FNS) notices and policy memos, State Plans of Operation, and corrective action plans are available upon request for inspection by the public during regular business hours at the State Office and at FNS regional and national offices, per 7 C.F.R. § 272.1. County staff ensures that participants and other low-income households have access to information regarding non-discrimination statutes and policies, complaint procedures, and the rights of participants within 10-calendar days of the request date.

[Source: Amended at 8 Ok Reg 3475, eff 7-31-91 (emergency); Amended at 9 Ok Reg 2473, eff 6-25-92 ; Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 14 Ok Reg 220, eff 10-1-96 ; Amended at 26 Ok Reg 840, eff 6-1-09 ; Amended at 38 Ok Reg 2245, eff 9-15-21]

### **340:50-1-7. Availability of public information [REVOKED]**

[Source: Amended at 10 Ok Reg 1821, eff 5-13-93 ; Revoked at 38 Ok Reg 2245, eff 9-15-21]

### **340:50-1-8. Reporting racial/ethnic groups**

The Oklahoma Department of Human Services is required to obtain ethnic and racial data on household members participating in the Supplemental Nutrition Assistance Program in the manner described by the Food and Nutrition Service per Section 272.6(g) of Title 7 of the Code of Federal Regulations.

(1) **Self-identification.** The applicant is asked to self-identify ethnic and racial information regarding all participating household members on the application and, when necessary, during the interview.

(A) The application must clearly indicate that the:

- (i) provision of ethnic and racial data is voluntary and will not affect the eligibility or benefit level of food benefits; and
- (ii) information is needed to ensure that food benefits are distributed without regard to race, color, or national origin.

(B) When the applicant does not self-identify ethnic and racial information on the application prior to the interview, the worker asks the applicant to provide ethnic and racial information during the interview and explains:

- (i) provision of ethnic and racial data is voluntary and will not affect the eligibility or benefit level of food benefits; and
- (ii) information is needed to ensure that food benefits are distributed without regard to race, color, or national origin.

(2) **Worker identification.** When the applicant chooses not to provide ethnic and race information, the applicant is informed

that when possible, the worker makes a visual identification of the applicant's ethnicity and race, and records the data in the system.

(3) **Race and Ethnic Categories.** To provide flexibility and ensure data quality, separate categories are used to collect and report ethnicity and race information.

(A) The applicant is asked to provide ethnicity information first. The ethnicity question is "Are you Hispanic or Latino?" The term "Spanish origin" may be used in addition to "Hispanic" or "Latino." Hispanic or Latino refers to a person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.

(B) The applicant is then offered the option of selecting one or more racial designations. Racial designations include:

(i) American Indian or Alaskan Native referring to a person with origins in the original peoples of North or South America, including Central America, and who maintains tribal affiliation or community attachment;

(ii) Asian referring to a person with origins in the original peoples of the Far East, Southeast Asia, or the Indian subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, or Vietnam;

(iii) Black or African American referring to a person with origins of the black racial groups of Africa. Terms, such as "Haitian" or "Negro" may be used in addition to "Black" or "African American;"

(iv) Native Hawaiian or Other Pacific Islander referring to a person with origins in the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

(v) White, referring to a person with origins in any of the original peoples of Europe, the Middle East, or North Africa.

[Source: Amended at 34 Ok Reg 1504, eff 9-15-17 ; Amended at 42 Ok Reg, Number 7, effective 11-18-24 (emergency)]

### **340:50-1-9. Rights and responsibilities**

(a) An applicant or recipient for the Supplemental Nutrition Assistance Program (SNAP) has the right to:

- (1) make application on the same day he or she initially contacts the Oklahoma Department of Human Services (DHS) in person, by phone, by mail, or through [okdhslive.org](http://okdhslive.org);
- (2) designate an authorized representative;
- (3) be provided information about SNAP;
- (4) a face-to-face interview when requested;

- (5) have access to free interpreter services when the applicant or recipient is limited English proficient and alternative means of communication for persons with disabilities;
- (6) a prompt decision in writing on his or her application and, when eligible, to receive food benefits within 30-calendar days following application;
- (7) retroactive or lost benefits when the application is incorrectly delayed, denied, or closed;
- (8) the correct amount of food benefits based upon current budgetary standards;
- (9) equal treatment. The applicant has the right to be treated the same as all other food benefit recipients. On the basis of race, color, religious creed, national origin, political beliefs, age, sex, or disability, a person applying for SNAP is not:
  - (A) excluded from participation;
  - (B) denied benefits; or
  - (C) subjected to discrimination;
- (10) a fair hearing when dissatisfied with any DHS decision or lack of action in regard to his or her food benefit application. The applicant or recipient also has the right to examine his or her case record and all files and documents to be used at a fair hearing;
- (11) withdraw his or her application at any time prior to the eligibility determination. After eligibility is determined, the applicant or recipient has the right to request closure of his or her food benefits; and
- (12) examine the case record upon written request from a responsible member of the household or its authorized representative. DHS may withhold confidential information per Oklahoma Administrative Code (OAC) 340:50-1-6.

(b) The applicant or recipient has the responsibility to:

- (1) submit an application containing a legible name, address, and signature when he or she wants to participate in SNAP;
- (2) participate in an interview per OAC 340:50-3-2;
- (3) supply information essential to a SNAP eligibility determination;
- (4) be accountable for all information given by the authorized representative that includes any overissuance of benefits resulting from erroneous information given by an authorized representative;
- (5) report certain changes. The applicant has the responsibility to report all changes that occur between the application date and the certification interview. The recipient has the responsibility to report changes in circumstances per OAC 340:50-9-5;
- (6) register for work, unless otherwise exempt, at the time of the initial application and at each certification renewal per OAC 340:50-5-85 and 340:50-5-86; and
- (7) provide a Social Security number (SSN) for each household member that wants to participate in SNAP per OAC 340:50-5-68.

(c) DHS has the responsibility to:

- (1) accept an identifiable application when submitted. An identifiable application is an application containing a legible name, address, and a signature;
- (2) inform the applicant or recipient of his or her rights and responsibilities;
- (3) take prompt action on all applications by approving or denying the application within 30-calendar days from the date the application is submitted;
- (4) take prompt action on all changes to determine if the change affects the household's eligibility or entitlement;
- (5) notify the recipient when mid-certification and certification renewals are due per the time frames specified in OAC 340:50-9-5 and 340:50-9-6;
- (6) renew eligible households timely so there is not a break in the benefits the recipient is eligible to receive;
- (7) restore lost benefits when the food benefits were incorrectly denied, delayed, or closed;
- (8) give adequate and/or timely notice of action when appropriate; and
- (9) provide services. The local county office ensures that operating hours meet the needs of recipients or applicants who work. Each office is annually reviewed to ensure such needs are met. The results of these reviews are retained by Adult and Family Services SNAP staff for review by Food and Nutrition Services.

[Source: Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 20 Ok Reg 872, eff 6-1-03 ; Amended at 26 Ok Reg 840, eff 6-1-09 ; Amended at 34 Ok Reg 1504, eff 9-15-17]

## **SUBCHAPTER 3. APPLICATION PROCESS**

### **340:50-3-1. The application process**

(a) **General.** The Supplemental Nutrition Assistance Program (SNAP) application process begins with a request for benefits and ends when the household's eligibility is determined and the household is notified of the decision.

- (1) The application must be processed no later than 30-calendar days after the signed application is submitted to Oklahoma Human Services (OKDHS).
- (2) Expedited services must be made available to households in immediate need. Refer to Oklahoma Administrative Code (OAC) 340:50-11-1 through 340:50-11-6 for expedited service criteria and procedures.
- (3) Persons having lawful alien status must have their status verified through Systematic Alien Verification for Entitlements (SAVE), per OAC 340:65-3-4.
- (4) Benefits must be provided retroactively to the application date for households who complete the application process and are determined eligible for the application month.

(b) **Filing applications.** Each household wishing to participate in SNAP must file a separate application. Refer to OAC 340:50-5-1 for household definition. The designated head of household is not required to make the food benefit application. Applications may be made by a responsible household member or authorized representative. A responsible household member or authorized representative completes an authorization for release of information at the time of application, when necessary. Applications may be submitted in person, online, or by fax, mail, or email.

(1) **Right to same day filing.** Because the time limit for providing benefits starts on the date OKDHS receives the application in the county office or online, the worker informs the household at first contact of its right to submit an application on the contact date and encourages the household to do so. The worker also informs the household it does not have to be interviewed before filing the application and that the household may file an incomplete application. At a minimum, an incomplete application must contain the applicant's name, address, an adult household member's signature or the household's authorized representative's signature.

(A) Form 08MP001E, Request for Benefits, is made readily accessible to potentially eligible households, groups, and organizations that assist persons in completing applications for food benefits.

(B) When the household requests food benefits:

(i) by phone, the worker first offers to submit an online application on behalf of the household (by proxy). When the household does not have time to submit the application by proxy, the worker informs the household it may submit an application online at [www.okdhslive.org](http://www.okdhslive.org) or [www.okbenefits.org](http://www.okbenefits.org), or the worker can email or mail Form 08MP001E to the household the same day; or

(ii) in writing and provides a phone number, the worker attempts to call the household to proxy the application. When the household did not provide a phone number or the worker is unable to reach the household, he or she mails Form 08MP001E to the household on the same day the written request is received.

(C) To facilitate SNAP participation for households in which all members are applying for a State Supplemental Payment (SSP) or Temporary Assistance for Needy Families (TANF), these households must be allowed to apply for food benefits at the same time they apply for financial assistance. The household's eligibility and benefit level are based on food benefit eligibility criteria and the household is certified per SNAP rules. Refer to OAC 340:50-11-20 through 340:50-11-27 when processing food benefit applications for households approved for SSP and/or TANF.

(D) Immediately upon receipt in an OKDHS office, all applications are screened to determine if the household is entitled to expedited services. All initial applicant households that qualify, per OAC 340:50-11-1 must receive expedited processing when certified for food benefits whether requested by the household or not.

(2) **Head of household.** A household may select, as head of household, an adult parent of children of any age living in the food benefit household, or an adult who has parental control over children 17 years of age and younger living in the food benefit household, provided all adult household members agree to the selection.

(A) Households select their head of household at each certification action or when there is a change in household composition.

(B) When all adult members do not agree to the selection or decline to select an adult head of household, the household may select another head of household or the worker may designate a head of household.

(C) In no event does the failure to select an adult who has parental control of children delay the certification or result in the denial of benefits for an otherwise eligible household.

(3) **Authorized representative.** Per Section 273.2(n)(1) of Title 7 of the Code of Federal Regulations (7 C.F.R. § 273.2(n)(1)), an authorized representative is an adult non-household member who can act on behalf of the SNAP household. The authorized representative may complete the application process, report changes, obtain benefits, and/or purchase food for the household.

(A) The authorized representative designation must be made in writing and be signed by the head of household, spouse, or other responsible household member. The written designation must clearly state what actions the household wants the authorized representative to perform for it. The worker only allows the authorized representative access to the household's food benefits, when the written statement clearly grants such access. A household may allow any SNAP household member or non-household member, when authorized, to purchase food or meals for the SNAP household with the electronic benefits transfer (EBT) card, per 7 C.F.R. § 273.2(n)(3).

(B) A non-household member may be designated as an authorized representative for the application process provided the person is an adult who is knowledgeable of the relevant household circumstances. In the event the only adult member of the household is classified as a non-household member, per OAC 340:50-5-5, he or she may be designated as the authorized representative for minor household members.

(C) When a household member designates an authorized representative in writing to apply for SNAP benefits on the

household's behalf, the worker informs the household it will be held liable for any over-issuance that results from erroneous information given by the authorized representative. When possible, the head of the household or spouse prepares or reviews the application, even though the authorized representative actually files the application and is interviewed.

(4) **Restrictions on authorized representatives.** The worker ensures an authorized representative is properly designated and has not been disqualified for an intentional program violation, per OAC 340:50-5-10.1 and 340:50-15-25 or is not restricted from serving as an authorized representative, per 7 C.F.R. § 273.2(n)(4) and information included in (A) through (E) of this subsection.

(A) Limits are not placed on the number of households an authorized representative may represent. The worker takes care to ensure the household:

- (i) freely requested the authorized representative's assistance;
- (ii) circumstances are correctly reported; and
- (iii) receives the correct amount of benefits.

(B) OKDHS employees involved in certification or issuance processes and retailers authorized to accept food benefits may not act as authorized representatives without the specific written approval of the county director and only after the county director determines no one else is available to serve as the authorized representative.

(C) A person disqualified for an intentional program violation may not act as an authorized representative during the disqualification period unless the person disqualified is the only adult member of the household able to act on its behalf and the worker determines there is no one else available to serve as an authorized representative. The worker must separately determine if the person is needed to apply for or to obtain benefit on behalf of the household.

(D) An authorized representative is disqualified from serving as an authorized representative in SNAP for up to one year when evidence demonstrates he or she misrepresented a household's circumstances, knowingly provided false information pertaining to the household, or made improper use of benefits.

- (i) Information indicating that a person should be disqualified as an authorized representative is forwarded to Adult and Family Services (AFS) SNAP, for a decision. The worker is notified in writing of the decision.
- (ii) When the person is disqualified, appropriate notification is mailed to the household by AFS SNAP staff.
- (iii) This provision does not apply to persons serving as authorized representatives for group



homes or drug and alcoholic treatment centers. However, authorized representatives for group homes or drug and alcohol treatment centers who intentionally misrepresent household circumstances may be prosecuted under applicable federal and state statutes for their acts.

(E) Homeless meal providers, such as soup kitchens, temporary shelters, or contracted restaurants, are known as authorized or private, non-profit establishments. These authorized or private, non-profit establishments may not act as authorized representatives for homeless food benefit recipients.

(c) **Processing initial applications.** The application date for online submissions is the date the household submits the application to the OKDHSLive website at [www.okdhslive.org](http://www.okdhslive.org) or [www.okbenefits.org](http://www.okbenefits.org). When the county office receives an application that contains the applicant's name and address, and is signed by a responsible member of the household or the household's authorized representative, the household's application date is the date it is received and stamped into the county office except as stipulated, per OAC 340:50-9-1(c) and 340:50-9-6(e). When the application is signed by the responsible person or authorized representative for a household also applying for SSP or TANF, the application is processed, per OAC 340:50-11.

(1) **Normal processing standard for initial applications.** The worker must provide eligible households who complete the initial application process with food benefits within 30-calendar days following the date the initial application is submitted.

(2) **Withdrawing application.** A household may voluntarily withdraw its application at any time prior to the eligibility determination.

(d) **Second 30-calendar day period.** A new application is not needed when a household completes the application interview within 30-calendar days, is denied for failing to provide verification, and then provides the required verification within 60-calendar days. When the household waits until the second 30-calendar day period to provide the verification, there is a break in benefits and the worker changes the application and certification dates to the date the verification is provided. Refer to OAC 340:50-11-5 when the verification is postponed for an expedited certification.

[Source: Amended at 10 Ok Reg 3619, eff 7-25-93 ; Amended at 10 Ok Reg 4851, eff 9-8-93 ; Amended at 11 Ok Reg 4587, eff 9-1-94 (emergency); Amended at 13 Ok Reg 305, eff 6-1-95 (emergency); Amended at 12 Ok Reg 1723, eff 6-12-95 ; Amended at 13 Ok Reg 1537, eff 3-7-96 (emergency); Amended at 13 Ok Reg 2631, eff 6-28-96 ; Amended at 14 Ok Reg 220, eff 10-1-96 ; Amended at 15 Ok Reg 165, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1623, eff 5-11-98 ; Amended at 20 Ok Reg 872, eff 6-1-03 ; Amended at 25 Ok Reg 937, eff 6-1-08 ; Amended at 26 Ok Reg 840, eff 6-1-09 ; Amended at 29 Ok Reg 794, eff 7-1-12 ; Amended at 30 Ok Reg 669, eff 6-1-13 ; Amended at 36 Ok Reg 1816, eff 9-16-19 ; Amended at 38 Ok Reg 2245, eff 9-15-21 ; Amended at 42 Ok Reg, Number 7, effective 11-18-24 (emergency)]

### **340:50-3-2. Interview process**

(a) **Interview requirement.** All households initially applying for food benefits or completing a certification renewal must have a face-to-face or

phone interview with a worker prior to certification, per Section 273.2(e) of Title 7 of the Code of Federal Regulations (7 C.F.R. § 273.2(e)) unless the household meets criteria in (a)(2) of this Section. Staff may conduct 100 percent of all Supplemental Nutrition Assistance Program (SNAP) initial and certification renewal application interviews by phone.

(1) A face-to-face interview must be conducted when the household or its authorized representative requests a face-to-face interview.

(2) Certification renewal interviews may be waived for households when all adult members are elderly or disabled and have no earned income.

(b) **Who must be interviewed.** The person interviewed may be the head of the household, spouse, any other responsible member of the household, or an authorized representative who knows the household's circumstances. When the household chooses to be interviewed face-to-face, the person interviewed may bring any person to the interview.

(c) **On-demand interviews.** Oklahoma Human Services (OKDHS) offers all SNAP applicants the right to interview at any time during operating hours. When an interview does not occur during the application process, the household must contact OKDHS via telephone or in person unless the household qualifies for the interview waiver per (a) (2) of this Section.

(1) A worker only schedules an interview when a person who must be interviewed per (b) of this Section declines the immediate interview options and requests a scheduled interview. The worker uses Form 08AD092E, Client Contact and Information Request, to schedule an interview if necessary.

(2) When an interview does not occur during the application process within two-calendar days of the application date, the worker calls the household to conduct an on-demand interview. When the household:

(A) answers, the worker offers to complete the interview;  
or

(B) does not answer, refuses to interview, or does not list a telephone number, OKDHS sends Form 08AD091E, Interview Notice, to inform the household of the interview requirement and schedules the case for follow up 10-calendar days later.

(3) When the household does not interview within 10-calendar days of the application date, the worker calls the household to conduct the on-demand interview. When the household:

(A) answers, the worker offers to complete the interview.

(B) does not answer, refuses to interview, or did not list a telephone number, the worker places case in Fdeny reason "59." This process mails the household a Notice of Missed Interview and denies the application 30-calendar days after the application date, per Oklahoma Administrative Code (OAC) 340:65-3-2.1.

(4) The worker does not deny the household's application prior to the 30th-calendar day. When the household contacts the worker within the 30-day application processing period, the worker offers

to complete the interview.

(d) **Worker responsibilities during the interview.** During the interview, the worker:

- (1) reviews the information on the application with the household and resolves unclear and incomplete information;
- (2) inquires if changes occurred in the household's income, deductions, or other circumstances since the application was filed;
- (3) informs the household of its rights and responsibilities, including:
  - (A) work registration responsibilities, per OAC 340:50-5-85;
  - (B) able-bodied adult without dependents work responsibilities, per OAC 340:50-5-100;
  - (C) reporting requirements, per OAC 340:50-9-5;
  - (D) the appropriate application processing standard, per OAC 340:50-3-1(c) and 340:50-11-4;
  - (E) responsibility to cooperate with SNAP Quality Control (QC) when asked to do so, per (f) of this Section; and
  - (F) an explanation of the civil rights complaint process, per OAC 340:50-1-5; and
- (4) conducts the interview as an official and confidential discussion of household circumstances limited to facts related to food benefit eligibility factors;
- (5) gives Form 08MP006E, Information for Benefit Renewal, to the household and explains benefit renewal procedures;
- (6) ensures the household's right to privacy is protected;
- (7) provides a paper or electronic copy of the completed application in the format the household requests, when requested; and
- (8) attempts to verify any necessary eligibility requirements during the interview. The worker gives or sends the household Form 08AD092E to request any verification that could not be verified during the interview. When the household informs the worker it is unable to furnish the required verification, the worker offers to help the applicant obtain the verification.

(A) The worker's assistance may involve explaining how or where to obtain proof when the applicant is unable to do so.

(B) The worker is not required to obtain proof for an applicant who is unwilling to do so.

(e) **Household cooperation with eligibility determination.** To determine eligibility, the household or authorized representative must complete and sign the application or certification renewal, be interviewed, and provide required information. When the household does not cooperate with the worker in determining:

- (1) initial eligibility, the worker denies the application; or
- (2) continuing eligibility at mid-certification renewal or certification renewal, the worker closes food benefits.

(f) **Household cooperation with a QC review.** When the household is selected for a QC review, the household must cooperate with the QC

reviewer, per 7 C.F.R. § 273.2(d)(2). When the household refuses to cooperate, the SNAP QC administrator informs SNAP program field representative staff of the non-cooperation and SNAP program field representative staff closes the food benefit for refusal to cooperate.

(1) To determine the household refuses to cooperate, the household must be able to cooperate and clearly demonstrate that it will not take the necessary actions required to complete the QC review process.

(2) The household may reapply following food benefit closure, but may not be determined eligible until it cooperates with the QC review unless (3) of this subsection applies.

(3) When food benefits were closed for refusal to cooperate with the QC reviewer and the household waits to reapply until after 125-calendar days from the end of the QC review period, October 1 through September 30, the household must provide verification of eligibility factors for the new application only.

[Source: Amended at 10 Ok Reg 3619, eff 7-25-93 ; Amended at 10 Ok Reg 4851, eff 9-8-93 ; Amended at 11 Ok Reg 4587, eff 9-1-94 (emergency); Amended at 12 Ok Reg 1723, eff 6-12-95 ; Amended at 22 Ok Reg 805, eff 5-12-05 ; Amended at 27 Ok Reg 1241, eff 6-1-10 ; Amended at 28 Ok Reg 850, eff 6-1-11 ; Amended at 29 Ok Reg 794, eff 7-1-12 ; Amended at 30 Ok Reg 669, eff 6-1-13 ; Amended at 34 Ok Reg 1504, eff 9-15-17 ; Amended at 35 Ok Reg 1659, eff 9-17-18 ; Amended at 36 Ok Reg 1816, eff 9-16-19 ; Amended at 38 Ok Reg 2245, eff 9-15-21 ; Amended at 40 Ok Reg 979, eff 9-15-23 ; Amended at 41 Ok Reg, Number 23, effective 9-14-24]

### **340:50-3-3. Verification**

(a) **General verification standards.** Verification is the use of documents or third party information to confirm the accuracy of statements made on the application. Refer to Oklahoma Administrative Code (OAC) 340:50-5, for non-financial verification criteria and OAC 340:50-7 for financial eligibility verification criteria. When the household must provide documentation to verify eligibility before receiving or continuing to receive benefits, the worker provides the household with Form 08AD092E, Client Contact and Information Request, that lists required verification and gives the household at least 10-calendar days to provide the verification.

(b) **Mandatory verification.** The worker must verify the eligibility factors in (1) through (11) of this Subsection before certifying a household initially applying for Supplemental Nutrition Assistance Program (SNAP) food benefits for a normal certification period, per Section 273.2(f)(1) of Title 7 of the Code of Federal Regulations (7 C.F.R. § 273.2(f)(1)). When the household is eligible for expedited service processing, the worker may postpone verifying eligibility factors, other than identity, when they cannot be verified within the seven-calendar day period, per OAC 340:50-11-5.

(1) **Able-bodied adults without dependents (ABAWD) subject to the time limit.** When there is an ABAWD subject to the food benefit time limit living in the home, the household must verify the hours the ABAWD works or participates in a work program and, if there is an indication that the ABAWD received food benefits in another state, the number of countable months received there, per 7 C.F.R. § 273.24 and OAC 340:50-5-100.

(2) **Citizenship and alien status.** The household must verify the citizenship or alien status of household members, per OAC 340:50-5-67.

(3) **Disability.** A household member's disability must be verified, per OAC 340:50-5-4 when it affects SNAP eligibility.

(4) **Gross nonexempt income.** The gross nonexempt income of all household members must be verified, per OAC 340:50-7-29 and OAC 340:50-7-30. However, when attempts by the household and the worker to verify the income are unsuccessful because the person or organization that provided the income fails to cooperate and other sources of verification are unavailable, the worker uses the best available information to determine household income.

(5) **Household composition.** The household must verify household composition, when questionable, per OAC 340:50-5-1 through 340:50-5-3.

(6) **Identity.** The identity of the person submitting the SNAP application must be verified, per OAC 340:50-5-65.

(7) **Legal obligation to pay child support.** Prior to allowing a deduction for legally-binding child support payments, the legal order and payment amounts must be verified, per OAC 340:50-7-31(a)(5).

(8) **Medical expenses.** A medical expense deduction is only allowed for household members meeting the definition of elderly or disabled, per OAC 340:50-5-4. Before allowing a medical expense deduction, the household must verify medical expenses exceeding \$35 per month, per OAC 340:50-7-31(a)(3).

(9) **Residency.** The household is required to verify it resides in Oklahoma, per OAC 340:50-5-66.

(10) **Social Security number (SSN).** Each household member must provide his or her SSN to participate in SNAP, per OAC 340:50-6-68.

(11) **Students.** When a household member claims to be physically or mentally unfit for purposes of the student exemption, per OAC 340:50-5-45, and the unfitness is not evident to the worker, verification may be required. Appropriate verification may consist of receipt of temporary or permanent disability benefits issued by governmental or private sources, or of a statement from a physician or licensed or certified psychologist.

(c) **Sources of verification.** Sources of verification that may be used to establish eligibility include, but are not limited to, (1) through (8) in this subsection, per 7 C.F.R. § 273.2(f)(4).

(1) **Documentary evidence.** The worker uses documents, whenever possible, as the primary source of verification for all items except residency and household size. Documentary evidence consists of a written confirmation of a household's circumstances. Examples of documentary evidence include wage stubs, rent receipts, and utility bills.

(A) Although documentary evidence is the primary source of verification, the worker cannot limit the type of verification to a single document. The verification may be obtained from the household or another source.

(B) When information from another source contradicts statements made by the household, the household is immediately afforded the opportunity to resolve the discrepancy.

(C) When documentary evidence cannot be obtained or is insufficient to make an eligibility determination or benefit level, the worker uses alternate verification sources, such as collateral contacts and home visits.

(2) **Collateral contacts.** The worker has the responsibility to verify all factors of eligibility for food benefits that may require one or more collateral contacts. The client's signature on the food benefit application, mid-certification renewal, or Form 08AD060E, Request for Release of Information, grants the necessary authorization for securing required information or verification.

(A) A collateral contact is a verbal confirmation of a household's circumstances by a person outside the household. The collateral contact may be made in person or by phone.

(B) The acceptability of a collateral contact is not restricted to a particular person, but may be anyone able to provide an accurate third party verification of the household's statement. Examples of acceptable collateral contacts are:

- (i) employers;
- (ii) community action groups;
- (iii) migrant service agencies;
- (iv) neighbors of the household;
- (v) landlords;
- (vi) social services agencies; or
- (vii) other persons outside of the household.

(C) When the collateral source is one that requires written authorization before supplying information to Oklahoma Human Services (OKDHS) and the applicant or recipient's signature on the application or mid-certification renewal does not suffice, the worker obtains the appropriate household member's signature on Form 08AD060E, Request for Release of Information.

(3) **Home visits.** A home visit may be used as verification on a case-by-case basis only when documentary evidence is insufficient or cannot be obtained from other sources and the visit is scheduled in advance with the household.

(4) **Discrepancies.** When the worker receives unverified information from a source other than the household that contradicts the household's statements, the worker gives the household a reasonable opportunity to resolve the discrepancy prior to determining eligibility or benefits. The worker may choose to verify the information directly and contact the household only when verification efforts are unsuccessful.

(5) **Use of State Data Exchange (SDX) and Beneficiary and Earnings Data Exchange (BENDEX).** The worker may verify

Supplemental Security Income benefits (SSI) through SDX and Retirement, Survivors, and Disability Insurance (RSDI) benefits through BENDEX or through verification provided by the household. The worker may also use SDX and BENDEX data to verify other SNAP eligibility criteria except date of death. When the SSI or RSDI income reported by the household differs from the amount shown on SDX or BENDEX or is unavailable, the worker gives the household the opportunity to verify the income from another source.

**(6) Mandatory use of Income and Eligibility Verification System (IEVS).** OKDHS must obtain information through IEVS, per procedures specified in 7 C.F.R. § 272.8 and (A) through (C) of this paragraph to help verify the household's eligibility and benefit level.

(A) OKDHS must obtain:

- (i) wage and unemployment insurance benefits information from the Oklahoma Employment Security Commission;
- (ii) SSI, RSDI, federal retirement, and net earnings from self-employment, wages, and retirement income payments from the Social Security Administration; and
- (iii) unearned income information from the Internal Revenue Service.

(B) OKDHS may exchange information with agencies in other states that administer Temporary Assistance for Needy Families, Medicaid, food benefits, unemployment compensation, or a state program administered under a plan approved under Title I, X, or XIV, or XVI of the Social Security Act.

(C) The worker takes action to close, deny, or reduce benefits based on information obtained through IEVS that is considered verified upon receipt, per (e) of this Section, unless the information is questionable for a particular household. When IEVS information is questionable or not verified upon receipt, the worker obtains additional verification from the household or from the income or benefit source before taking action, per (f) of this Section for applications or OAC 340:50-9-5(i) during the certification period.

**(7) Mandatory use of the Systematic Alien Verification for Entitlement (SAVE).** Households are required to submit documentation for every alien applying for SNAP benefits so OKDHS can verify their immigration status through the Alien Status Verification Index (ASVI). SAVE is maintained by the United States Citizenship and Immigration Services (USCIS).

(A) When immigration status verification is required, the worker gives or sends Form 08AD092E, Client Contact and Information Request, to the household to provide an acceptable document within 10-calendar days. When the worker:

(i) gives the household at least 10-calendar days to provide the documentation before the 30th day of the application period and the household fails to do so, the worker:

(I) denies the application when immigration status documentation is required for all household members; or

(II) certifies SNAP food benefits for all eligible members and denies benefits for the members whose immigration status has not been verified; or

(ii) does not give the household at least 10-calendar days to provide the verification before the 30th day of the application period and the household is otherwise eligible, the worker must certify SNAP food benefits by the 30th day for the household, including the alien whose status is not verified.

(B) When the household provides alien documentation, but SAVE does not confirm the validity of an alien's documents or there is a significant discrepancy between the data provided by SAVE and the information provided by the household, OKDHS submits Form USCIS G-845, Verification Request, and a photocopy of the alien's document to USCIS for further verification. The worker does not delay, deny, reduce or close the alien's food benefits pending a response from USCIS when the alien is otherwise eligible for benefits.

(C) SAVE may also be used to confirm if an alien has a sponsor who signed a legally binding affidavit of support, per OAC 340:50-5-67.

(8) **Food stamp disqualification (FSD).** OKDHS uses the FSD transaction to determine if a household member is disqualified for SNAP food benefits due to fraud at application, certification renewal, and when adding a household member to the SNAP benefit. When a household member is disqualified in Oklahoma or another state, the FSD transaction shows the date the disqualification began and the length of the disqualification.

(d) **Responsibility for providing verification.**

(1) **Household responsibility.** The household has primary responsibility for providing documentary evidence to support statements made on the application or certification renewal and to resolve questionable information. Households may supply documentary evidence in person, by mail, fax, or email, or through an authorized representative.

(2) **Worker responsibility.** The worker assists the household in obtaining this verification provided the household cooperates with the worker. The worker's assistance may range from explaining how or where to obtain proof to obtaining proof when the applicant is unable to do so.



(A) The worker accepts reasonable documentary evidence provided by the household and is primarily concerned with how adequately the verification confirms statements on the application.

(B) The household is not required to provide multiple sources of verification when the household provided information that adequately supports the statements on the application. However, the worker may require the household to provide additional verification when the existing verification is incomplete or questionable.

(C) Whenever documentary evidence is insufficient to make an eligibility decision or cannot be obtained, the worker may phone a collateral contact or make a home visit, per (b)(2) or (3) of this Section.

(D) An application is never denied solely because a person outside of the food benefit household fails to cooperate in providing information, verification, or other help needed to process an application. Disqualified or ineligible persons are considered members of the food benefit household for this provision.

(e) **Information considered verified upon receipt.** Information considered verified upon receipt is information that is not questionable or unclear and the provider is the primary source of the information. For example, RSDI and SSI income verified with the Social Security Administration (SSA) or unemployment benefits verified by the Oklahoma Employment Security Commission (OESC) through data exchange are considered verified upon receipt because SSA and OESC are primary sources.

(f) **Questionable information.** Prior to certification, the worker must verify questionable factors of eligibility, including all factors affecting household composition, only when they affect a household's eligibility and benefit level, per 7 C.F.R. § 273.2(f)(2). For example, the worker may determine that additional verification is required when the household reports its expenses exceed its income prior to deductions.

(1) **Questionable information.** To be considered questionable, the information on the application must be inconsistent with:

- (A) statements made by the applicant;
- (B) other information in the case record; or
- (C) other information received by OKDHS.

(2) **Documentation.** There must be documentation as to:

- (A) the reason the information was considered questionable;
- (B) what documentation was used to resolve the questionable information; and
- (C) the reason an alternate source of documentation, such as a collateral contact or home visit, was made.

(3) **Determination.** When determining if information is questionable, the worker bases the decision on each household's individual circumstances.

(g) **Documentation.** Case records must be documented in detail to support eligibility, ineligibility, and benefit level determinations.

(h) **Verification required during the certification period.** Refer to OAC 340:50-9-5 for information regarding required verification when changes occur during a certification period.

(i) **Verification required at certification renewal.** At certification renewal, the household must verify:

(1) income when the income source changed or the income amount changed by more than \$50. The worker does not verify income when the source or amount of income has not changed or changed by \$50 or less, unless the information provided is incomplete, inaccurate, inconsistent or outdated;

(2) new or previously unreported medical expenses when a household member(s) is eligible for the medical expense deduction, per OAC 340:50-7-31. The worker also verifies recurring medical expenses that changed more than \$25 since certification or the most recent certification renewal. The worker does not verify total medical expenses when the amount claimed by the household has not changed or changed by \$25 or less, unless the information provided is incomplete, inaccurate, inconsistent, or outdated;

(3) any changes in a household member's legal obligation to pay child support, the obligated amount, or the legally-obligated child support amount paid by a household member to or for a non-household member, including payments made to a third party on behalf of the non-household member.

(A) The worker verifies the household's child support obligation and payment information through Child Support Services (CSS) when possible, unless the household disagrees with the amount provided by CSS.

(B) When child support payment information is not available through CSS or the household disagrees with the amount shown, it must provide other verification to verify any changes in the legal obligation to pay child support, the obligated amount, and the amount paid to a non-household member before this deduction may be given.

(C) When the child support obligation and payment amount has not changed, the worker verifies child support information only when the information provided is incomplete, inaccurate, inconsistent or outdated;

(4) newly obtained social security numbers;

(5) a household member's work hours when he or she is subject to work requirements, per 7 C.F.R. § 273.24 and OAC 340:50-5-100; and

(6) any other information that changed since initial certification or the most recent certification renewal when it affects eligibility.

[Source: Amended at 10 Ok Reg 3619, eff 7-25-93 ; Amended at 10 Ok Reg 4343, eff 7-27-93 (emergency); Amended at 11 Ok Reg 2667, eff 6-13-94 ; Amended at 11 Ok Reg 4587, eff 9-1-94 (emergency); Amended at 12 Ok Reg 1723, eff 6-12-95 ; Amended at 20 Ok Reg 872, eff 6-1-03 ; Amended at 25 Ok Reg 937, eff 6-1-08 ; Amended at 27 Ok Reg 1241, eff 6-1-10 ; Amended at 29 Ok Reg 794, eff 7-1-12 ; Amended at 30 Ok Reg 669, eff 6-1-13 ; Amended at 38 Ok Reg 2245, eff 9-15-21]

## SUBCHAPTER 5. NON-FINANCIAL ELIGIBILITY CRITERIA

### PART 1. HOUSEHOLD DEFINITION

#### **340:50-5-1. Food benefit household composition**

(a) **Household definition.** A food benefit household is composed of one of the persons or groups of persons listed in (1) through (3) of this subsection, unless otherwise specified in this Section. Per Section 273.1 of Title 7 of the Code of Federal Regulations, a food benefit household is a:

- (1) person who lives alone;
- (2) person or group of persons who lives with others, but customarily purchases food and prepares meals for home consumption separate and apart from the others; or
- (3) group of persons who lives together and customarily purchases food and prepares meals for home consumption.

(b) **Required household combinations.** Separate food benefit household status may not be granted to persons described in (1) through (4) of this subsection even if they customarily purchase food and prepare meals for home consumption separate and apart from the others. Persons living together that must be included in the food benefit household include:

- (1) a ceremonial or common law spouse of a household member;
- (2) children 21 years of age and younger who live with their natural or adoptive parent(s) or stepparent(s);
- (3) children who are 17 years of age and younger and live with, and are under the parental control of, a household member other than their natural or adoptive parent(s) or stepparent(s).
  - (A) The worker considers a child to be under parental control for purposes of this provision if the child is financially or otherwise dependent on a food benefit household member and is not defined as an adult. A minor is considered emancipated when the district court confers upon the minor the rights of majority, per Chapter 4 of Title 10 of the Oklahoma Statutes.
  - (B) This provision does not apply to foster children or children placed in the home by Developmental Disabilities Services; or
- (4) persons who live together and customarily purchase and prepare meals together except per (c) of this Section.

(c) **Elderly and disabled persons.** An otherwise eligible household member who is 60 years of age and older and is unable to purchase and prepare meals because the member suffers from a disability considered permanent under the Social Security Act, or a non-disease related, severe, permanent disability, may be considered, together with the member's spouse, a separate household from the rest of the household.

(1) Oklahoma Human Services (OKDHS) workers must not grant separate household status when the gross income of the others with whom the member and the member's spouse live exceeds 165 percent of the federal poverty level, per OKDHS Appendix C-3, Maximum Food Benefit Allotments and Standards for Income and Deductions, Table III.

(2) When it is not obvious a member suffers from a non-disease related, severe, permanent disability or the member is unable to purchase and prepare meals, the worker requests a physician's statement explaining the disability or inability to purchase and prepare meals.

(3) Refer to Oklahoma Administrative Code (OAC) 340:50-5-4 to determine if a person is disabled under the Social Security Act when the person does not receive disability payments.

(d) **Periods of absence.** No person may participate as a part of a Supplemental Nutrition Assistance Program (SNAP) household unless the person returns to the home at least one day each month and shares a meal with the household. This rule includes persons who are away for extended periods during the month working, attending school, or similar situations.

(1) A student who attends a boarding school, including the state schools for the deaf and blind, is not institutionalized when the student lives in the home on the weekend and holidays.

(2) A child who lives with a parent at least one day per month and eats with the household may be a part of the parent's food benefit household as long as the child is not included in another active food benefit household. In instances where both the child's parents participate in SNAP during the same month, the parent who has the child the majority of the time includes the child in that parent's SNAP household. When the child lives in each parent's home the same amount of time, the parent who adds the child to SNAP first includes the child.

(3) When a foster family elects not to include a child in OKDHS custody per OAC 340:50-5-5 and the child is in a trial reunification, the child's parent may claim the child as a part of the household. To include the child, the trial reunification must occur at the parent's home, and the child must share a meal with the parent.

(e) **Persons ineligible for SNAP food benefits.** Persons who are ineligible to receive SNAP food benefits as separate households or as a member of any household include:

(1) certain non-household members, per OAC 340:50-5-5;

(2) households or household members participating in a food distribution program operated by Indian tribal organizations, per OAC 340:50-5-7;

(3) residents of institutions, per OAC 340:50-5-7.1; and

(4) persons considered disqualified or ineligible, per OAC 340:50-5-10.1.

Amended at 26 Ok Reg 840, eff 6-1-09 ; Amended at 39 Ok Reg 1755, eff 9-15-22 ; Amended at 40 Ok Reg 979, eff 9-15-23]

### **340:50-5-2. Periods of absence [REVOKED]**

[Source: Amended at 27 Ok Reg 1241, eff 6-1-10 ; Amended at 38 Ok Reg 2245, eff 9-15-21 ; Revoked at 39 Ok Reg 1755, eff 9-15-22]

### **340:50-5-3. Persons who cannot be separate food benefit households [REVOKED]**

[Source: Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 11 Ok Reg 345, eff 10-15-93 (emergency); Amended at 11 Ok Reg 2667, eff 6-13-94 ; Amended at 11 Ok Reg 4587, eff 9-1-94 (emergency); Amended at 12 Ok Reg 1723, eff 6-12-95 ; Amended at 14 Ok Reg 220, eff 10-1-96 ; Amended at 26 Ok Reg 840, eff 6-1-09 ; Amended at 28 Ok Reg 850, eff 6-1-11 ; Amended at 29 Ok Reg 794, eff 7-1-12 ; Revoked at 39 Ok Reg 1755, eff 9-15-22]

### **340:50-5-4. Definition of elderly or disabled household member**

(a) **Definition of elderly or disabled.** Per 271.2 of Title 7 of the Code of Federal Regulations (7 C.F.R. § 271.2), an elderly or disabled household member is defined as a person who:

- (1) is 60 years of age and older;
- (2) receives Supplemental Security Income (SSI) under Title XVI of the Social Security Act or disability or blindness payments under Titles I, II, XIV, or XVI of the Social Security Act;
- (3) receives federal- or state-administered supplemental benefits under Section 1616(a) of the Social Security Act based upon the disability or blindness criteria used under Title XVI of the Social Security Act;
- (4) receives federal- or state-administered supplemental benefits under Section 212(a) of Public Law 93-66;
- (5) receives disability retirement benefits from a government agency because of a disability considered permanent under Section 221(i) of the Social Security Act;
- (6) is a veteran with a service-connected or non-service-connected disability rated by the United States Department of Veteran's Affairs (VA) as total or paid as total by the VA under Title 38 of the United States Code. Benefits may be considered compensation or pension;
- (7) is a veteran considered by the VA to be in need of regular aid and attendance or permanently housebound under Title 38 of the United States Code;
- (8) is a surviving spouse of a veteran who VA considers in need of regular aid and attendance or permanently housebound or is a surviving child of a veteran and considered by the VA to be permanently incapable of self-support under Title 38 of the United States Code (U.S.C.);
- (9) is a surviving spouse or surviving child of a veteran and VA considers to be entitled to compensation for a service-connected death or pension benefits for a non-service-connected death under Title 38 of the U.S.C and has a disability considered permanent under Section 221(i) of the Social Security Act. "Entitled" as used

in this definition refers to those veterans' surviving spouses and children who are receiving VA compensation or pension benefits, or who were approved for the payments but are not receiving them yet;

(10) receives an annuity payment under Section 2(a)(1)(iv) of the Railroad Retirement Act of 1974 and, is determined to be eligible to receive Medicare by the Railroad Retirement Board or Section 2(a)(1)(v) of the Railroad Retirement Act of 1974, and is determined to be disabled based upon the criteria under Title XVI of the Social Security Act; or

(11) receives interim assistance benefits pending the receipt of SSI or is a recipient of disability related medical assistance under Title XIX of the Social Security Act, provided that the eligibility to receive these benefits is based upon disability or blindness criteria that are at least as stringent as those used under Title XVI of the Social Security Act, as set forth at 20 C.F.R. Part 416, Subpart I, Determining Disability and Blindness as defined in Title XVI.

**(b) Required verification.** Per 7 C.F.R. § 273.2(f)(1)(viii), the household must verify that the household member meets one of the disability definitions, per (a)(2) through (11) of this Section before certifying the person as disabled when it affects the eligibility determination. For a household member to meet the disability definition, per:

(1) (a)(2) through (a)(4) of this Section, the household must provide proof that the household member receives benefits under Titles I, II, X, XIV, or XVI of the Social Security Act;

(2) (a)(6) of this Section, the household must provide a statement from the VA that clearly indicates the disabled household member receives VA disability benefits for a service-connected or non-service-connected disability and that the disability is rated as total or paid at the total rate by VA;

(3) (a)(7) and (8) of this Section, proof that the household member receives VA disability benefits is sufficient verification of disability;

(4) (a)(5) and (9) of this Section, the household member must have a condition(s) that keeps him or her from pursuing a substantial, gainful activity for 12 months despite adherence to prescribed treatment. Refer to the Social Security Administration's (SSA) current list of disabilities considered permanent, per 20 C.F.R. § 416.925 and 20 C.F.R. Appendix 1 to Subpart P of Part 404. When it is:

(A) obvious to the worker that the person has one of the listed disabilities, the household is considered to have verified the household member's disability; or

(B) not obvious to the worker, the household must provide a statement from a physician or licensed or certified psychologist certifying that person has one of the nonobvious disabilities listed;

(5) (a)(10) of this Section, the household must provide proof the household member receives a Railroad Retirement disability annuity from the Railroad Retirement Board and was determined

to qualify for Medicare; or

(6) (a)(11) of this Section, the household must provide proof that the individual receives interim assistance benefits pending SSI receipt or SoonerCare (Medicaid) benefits based on categorical relationship to disability.

(c) **Disability related to purchasing and preparing meals.** A household member who is 60 years of age and older and his or her spouse may be considered a separate household, per §273.1(b)(2) and Oklahoma Administrative Code 340:50-5-1 when the person suffers from a disability considered permanent by SSA, per 20 C.F.R. § 416.925 and 20 C.F.R. Appendix 1 to Subpart P of Part 404, or a non-disease-related, severe, permanent disability and is unable to purchase and prepare meals. When it is:

(1) obvious that the person is unable to purchase and prepare meals because he or she suffers from a severe physical or mental disability, the person is considered disabled for this provision even when the disability is not listed on the SSA list; or

(2) not obvious, the household must provide a statement from a physician or licensed or certified psychologist certifying that the person is unable to purchase and prepare meals because he or she suffers from one of the nonobvious disabilities mentioned in the SSA list or some other severe, permanent physical or mental disease or non-disease-related disability.

[Source: Amended at 11 Ok Reg 4587, eff 9-1-94 (emergency); Amended at 12 Ok Reg 1723, eff 6-12-95 ; Amended at 38 Ok Reg 2245, eff 9-15-21]

### **340:50-5-5. Non-household members**

(a) **Non-household members.** Persons residing with a household who cannot be considered members of the food benefit household are non-household members. Oklahoma Human Services (OKDHS) does not consider non-household members when determining the household's eligibility or food benefit allotment. Non-household members are described in (1) through (6) of this subsection. Except for ineligible students, persons who cannot be a separate food benefit household, per Section 273.1(b)(1) of Title 7 of the Code of Federal Regulations (7 C.F.R. § 273.1(b)(1)) and Oklahoma Administrative Code (OAC) 340:50-5-1(b), are not considered non-household members.

(1) **Roomers.** Roomers are persons to whom the household provides lodging for compensation, but not meals. They may participate in the Supplemental Nutrition Assistance Program (SNAP) as separate households.

(2) **Boarders.** Boarders are residents of a commercial boarding house or persons to whom the household provides lodging and meals and who pay a reasonable monthly payment for board, per 7 C.F.R. § 273.1(b)(3).

(A) A commercial boarding house is an establishment that offers meals and lodging for compensation with the intention of making a profit, regardless of the number of residents. Boarders who live in a commercial boarding house are not eligible to participate in SNAP.

(B) All other persons or groups of persons that pay a reasonable amount for meals or meals and lodging are considered boarders and are only eligible to participate in SNAP when included in the same food benefit household that provides the board. The household providing the board has the option of applying and receiving SNAP food benefits, when eligible, independent of the boarder(s), or the household providing the board may choose to include the boarder(s) in its food benefit household.

(C) To be considered a reasonable monthly payment for board, a boarder whose arrangement is for:

- (i) more than two meals per day must pay an amount that equals or exceeds the maximum food benefit allotment amount for the appropriate boarder household size as shown on OKDHS Appendix C-3, Maximum Food Benefit Allotments and Standards for Income and Deductions; or
- (ii) two meals or less per day must pay an amount that equals or exceeds two-thirds of the food benefit allotment for the appropriate boarder household size as shown on (OKDHS) Appendix C-3.

(D) A person(s) paying less than a reasonable monthly payment for board is not considered a boarder and must be included as a member of the household providing the board.

**(3) Children in foster care or children placed by OKDHS Developmental Disabilities Services (DDS).** Children in foster care or children placed by DDS with extended family care providers must be considered boarders unless the household providing foster care services requests the children be included as food benefit household members. The children cannot participate in SNAP independently of the household providing the foster care or DDS services.

(A) Foster care payments and DDS room and board reimbursements are considered as income to the children and are:

- (i) not included as income to the household caring for the children when the children are not included in the food benefit household; and
- (ii) counted as income to the household when the host household chooses to include the children as members of the food benefit household.

(B) The income paid to the extended family care provider by DDS for care rendered is counted as earned income to the provider, per OAC 340:50-7-29(b)(8).

**(4) Live-in attendants.** Live-in attendants are persons who reside in a household to provide medical, housekeeping, child care, or other similar services. They may participate as a separate household in SNAP unless OAC 340:50-5-1(b) applies.



(5) **Students.** Students are persons enrolled in an institution of higher education who are ineligible because they fail to meet the eligibility criteria, per OAC 340:50-5-45(a).

(6) **Others.** Others are persons who share living quarters with the household but who do not customarily purchase food or prepare meals with the household.

(b) **Non-household members' income.** Non-household members' income is not counted in determining the food benefit household's income eligibility, per 7 § C.F.R. 273.11(d). Refer to OAC 340:50-7-29(d) to determine how to consider disqualified or ineligible household members' income. When an eligible household member's earned income and a non-household member's earned income is combined into one wage, the worker determines the income for the eligible household members by:

(1) counting the portion due to eligible household members, when it is possible to identify the household's share; or

(2) prorating the earned income equally among the persons the earnings are intended to cover and counting the prorated portion due to the eligible household members, when it is not possible to identify the household's share.

(c) **Deductible expenses.** When the household shares deductible expenses with a non-household member, except for utility expenses per (1) of this subsection, the worker only deducts the amount the food benefit household actually paid or contributed as a household expense, per 7 § C.F.R. 273.11(d)(1).

(1) When the food benefit household pays part of the utility expenses, the household is allowed the full utility standard deduction that it qualifies for based on criteria, per 7 § C.F.R. 273.9(d)(6)(iii)(F) and OAC 340:50-7-31.

(2) When the payments or contributions cannot be differentiated, the worker prorates the expenses evenly among persons actually paying or contributing to the expenses and deducts only the household's pro rata share.

[Source: Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 15 Ok Reg 165, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1623, eff 5-11-98 ; Amended at 17 Ok Reg 473, eff 10-12-99 ; Amended at 20 Ok Reg 872, eff 6-1-03 ; Amended at 26 Ok Reg 840, eff 6-1-09 ; Amended at 34 Ok Reg 1504, eff 9-15-17 ; Amended at 39 Ok Reg 1755, eff 9-15-22]

### **340:50-5-6. Households with non-household members [REVOKED]**

[Source: Amended at 28 Ok Reg 850, eff 6-1-11 ; Amended at 33 Ok Reg 1607, eff 9-15-16 ; Revoked at 39 Ok Reg 1755, eff 9-15-22]

### **340:50-5-7. Households or household members participating in a food distribution program (FDP) operated by Indian tribal organizations (ITO)**

There are several ITOs operating FDPs in Oklahoma. Households or any member of a household participating in a FDP are not eligible to participate in the Oklahoma Department of Human Services (DHS) Supplemental Nutrition Assistance Program (SNAP) for the same month.

- (1) A household may elect to participate in the FDP instead of SNAP when the household:
  - (A) includes at least one adult household member of any Indian tribe; and
  - (B) lives within the boundaries of an ITO location in a rural area or in a town with a population of less than 10,000 persons.
- (2) A household may switch between the FDP and SNAP as long as there is no dual participation for any member for the same month.
- (3) To ensure dual participation does not occur, exchange of client benefit information between ITO and DHS is needed.
  - (A) The worker is responsible for calling the appropriate ITO when there are indications an applicant or recipient meets FDP eligibility criteria, before approving or renewing food benefits.
    - (i) ITOs in Oklahoma are listed on DHS Appendix D-4-C, Indian Food Distribution Programs.
    - (ii) When calling, the worker verifies if the household currently receives FDP and if the household was certified since the date of the last inquiry.
    - (iii) When an FDP case is open, the worker must verify, by phone call to or written notice from the FDP office, that FDP benefits are closed before certifying a household for food benefits.
  - (B) The FDP office contacts the county office to determine if the household receives food benefits before approving the household for a FDP. The worker provides the ITO with information pertinent to participation in, or eligibility for SNAP food benefits.
- (4) When the worker discovers the household received FDP benefits and SNAP food benefits for the same month or months, the household is responsible for repaying the overpayment to DHS or the ITO. When the household was receiving FDP benefits at the time of SNAP certification, it is a SNAP food benefit overpayment.
- (5) When a client is disqualified from FDP or SNAP, he or she is prohibited from receiving benefits from the other program per Section 273.11(k) of Title 7 of the Code of Federal Regulations (7 C.F.R. § 273.11(k)).

[Source: Amended at 9 Ok Reg 3406, eff 5-13-92 ; Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 4-26-93 ; Amended at 20 Ok Reg 872, eff 6-1-03 ; Amended at 26 Ok Reg 840, eff 6-1-09 ; Amended at 30 Ok Reg 669, eff 6-1-13 ; Amended at 33 Ok Reg 1607, eff 9-15-16 ; Amended at 34 Ok Reg 1504, eff 9-15-17]

### **340:50-5-7.1. Residents of institutions**

Persons are considered residents of an institution when the institution provides them with over 50 percent of three meals daily as part of the institution's normal services. Per Section 273.1(b)(7)(vi) of

Title 7 of the Code of Federal Regulations (7 C.F.R. § 273.1(b)(7)(vi)), residents of institutions are not eligible for participation in the Supplemental Nutrition Assistance Program unless they are:

- (1) residents of federally subsidized housing for the elderly, built either under Section 202 of the Housing Act of 1959 or Section 236 of the National Housing Act;
- (2) residents of a drug addiction or alcoholic treatment and rehabilitation program, meeting criteria per Oklahoma Administrative Code (OAC) 340:50-5-26;
- (3) residents of group homes who are considered blind or disabled per OAC 340:50-5-4 when the group home meets criteria per OAC 340:50-5-27. Group home means a private or public non-profit, residential setting serving no more than 16 residents certified by the Oklahoma State Department of Health per Section 1616(e) of the Social Security Act;
- (4) victims of domestic violence and their children temporarily residing in a domestic violence shelter meeting criteria, per OAC 340:50-5-28. A domestic violence shelter means a public or private non-profit, residential facility serving victims and their children. When the facility also serves other persons, a portion of the facility must be set aside on a long-term basis to serve only victims of domestic violence and their children; or
- (5) residents of public or private non-profit shelters for homeless persons when the shelter meets criteria per OAC 340:50-5-30.

[Source: Added at 34 Ok Reg 1504, eff 9-15-17]

### **340:50-5-8. Ineligible aliens [REVOKED]**

[Source: Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Revoked at 14 Ok Reg 220, eff 10-1-96]

#### **340:50-5-8.1. Ineligible and illegal aliens [REVOKED]**

[Source: Added at 15 Ok Reg 165, eff 11-1-97 (emergency); Added at 15 Ok Reg 1623, eff 5-11-98 ; Amended at 20 Ok Reg 2924, eff 10-1-03 (emergency); Amended at 21 Ok Reg 841, eff 4-26-04 ; Amended at 22 Ok Reg 805, eff 5-12-05 ; Amended at 26 Ok Reg 840, eff 6-1-09 ; Amended at 28 Ok Reg 850, eff 6-1-11 ; Revoked at 38 Ok Reg 2245, eff 9-15-21]

#### **340:50-5-9. Illegal alien [REVOKED]**

[Source: Revoked at 15 Ok Reg 165, eff 11-1-97 (emergency); Revoked at 15 Ok Reg 1623, eff 5-11-98]

#### **340:50-5-10. Disqualified household members [REVOKED]**

[Source: Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 11 Ok Reg 345, eff 10-15-93 (emergency); Amended at 11 Ok Reg 2667, eff 6-13-94 ; Revoked at 14 Ok Reg 587, eff 12-12-96 (emergency); Revoked at 14 Ok Reg 1351, eff 5-12-97]

##### **340:50-5-10.1. Excluded household members**

(a) **Excluded household members.** Excluded household members may not participate as a separate food benefit household. When excluded

members live with the food benefit household, they are excluded from the household's size when determining benefits and comparing the household's monthly income with the income eligibility standards. Depending on the reason they are excluded, all or a portion of their income is included as countable income for the food benefit household and deductible expenses may be prorated, per Section 273.11(c) of Title 7 of the Code of Federal Regulations (7 C.F.R. § 273.11(c)). Refer to Oklahoma Administrative Code (OAC) 340:50-7-29(d), to determine how the income and expenses of excluded household members is counted.

(b) **Disqualified household members.** A household member may be disqualified for Supplemental Nutrition Assistance Program (SNAP) food benefits, per 7 C.F.R. § 273.1(b)(7) for:

(1) committing an intentional program violation or fraud, per OAC 340:50-15-25;

(2) failing to meet work registration requirements, per OAC 340:50-5-85 through OAC 340:50-5-89;

(3) being a fleeing felon. Per 7 C.F.R. § 273.11(n)(1), for a person to be considered a fleeing felon, the worker must verify:

(A) there is an outstanding arrest warrant for the person issued for his or her arrest by a federal, state, or local law enforcement agency or court and, the underlying cause for the warrant is for committing or attempting to commit a crime that is a felony under the law of the place from which the person is fleeing, or a high misdemeanor under the law of New Jersey;

(B) the person is aware of, or should have reasonably expected that a felony warrant was, or would have been, issued;

(C) the person took some action with intent to avoid being arrested or jailed; and

(D) a federal, state, or local law enforcement agency is actively seeking the person. "Actively seeking" is when a federal, state, or local law enforcement agency:

(i) informs Oklahoma Human Services (OKDHS) that it intends to enforce an outstanding felony warrant, as described in (b)(3)(A) of this Section, within 20-calendar days of submitting a request for information about the person to OKDHS;

(ii) presents a felony arrest warrant to OKDHS that conforms to one of the National Crime Information Center uniform offense classification codes, to obtain information on the location of and other information about the person named in the warrant. National Crime Information Center uniform offense classification codes are:

(I) escape, code 4901;

(II) flight to avoid prosecution, confinement, and such, code 4902; or

(III) flight-escape, code 4999; or

(iii) states it intends to enforce an outstanding felony warrant within 30-calendar days of the date

of the request from OKDHS about a specific outstanding felony warrant; or  
(4) being a probation or parole violator meeting criteria of this paragraph. Per 7 C.F.R. § 273.11(n)(2), to be considered a probation or parole violator, the Adult and Family Services director's designee must determine that:  
(A) the person violated a condition of his or her probation or parole imposed under federal or state law; and  
(B) federal, state, or local law enforcement authorities are actively seeking the person to enforce the conditions of the person's probation or parole. "Actively seeking" is when a federal, state, or local law enforcement agency:  
(i) informs OKDHS that it intends to arrest a person for a probation or parole violation within 20-calendar days of submitting an information request about the person to OKDHS; or  
(ii) states that it intends to arrest the person for a probation or parole violation within 30-calendar days of the request date from OKDHS about a specific outstanding felony warrant or parole violation.

(c) **Ineligible household members.** Ineligible household members are persons living in the household that do not meet a program requirement, such as:

- (1) failure to obtain, or refusal to provide a Social Security number, per OAC 340:50-5-68;
- (2) being an ineligible alien, per OAC 340:50-5-67;
- (3) being an able-bodied adult without dependents and not meeting work requirements, per OAC 340:50-5-100; or
- (4) failure to cooperate with providing requested verification when information is unclear, per OAC 340:50-9-5(i)(4).

[Source: Added at 15 Ok Reg 165, eff 11-1-97 (emergency); Added at 15 Ok Reg 1623, eff 5-11-98 ; Amended at 17 Ok Reg 46, eff 9-7-99 (emergency); Amended at 17 Ok Reg 1265, eff 6-1-00 ; Amended at 18 Ok Reg 3639, eff 9-7-01 (emergency); Amended at 19 Ok Reg 1119, eff 5-13-02 ; Amended at 27 Ok Reg 1241, eff 6-1-10 ; Amended at 33 Ok Reg 1607, eff 9-15-16 ; Amended at 34 Ok Reg 1504, eff 9-15-17 ; Amended at 35 Ok Reg 1659, eff 9-17-18 ; Amended at 36 Ok Reg 1816, eff 9-16-19 ; Amended at 38 Ok Reg 2245, eff 9-15-21]

### **340:50-5-11. Ineligible household members [REVOKED]**

[Source: Added at 14 Ok Reg 220, eff 10-1-96 ; Revoked at 15 Ok Reg 165, eff 11-1-97 (emergency); Revoked at 15 Ok Reg 1623, eff 5-11-98]

## **PART 3. SPECIAL HOUSEHOLDS**

### **340:50-5-25. Centers, shelters, and group homes [REVOKED]**

[Source: Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 26 Ok Reg 840, eff 6-1-09 ; Revoked at 38 Ok Reg 2245, eff 9-15-21]

### **340:50-5-26. Drug addiction or alcoholic treatment centers**

Residents of drug addiction or alcoholic treatment centers are certified for program participation through the use of an authorized representative who is an employee of, and designated by the publicly-operated, community mental health center or the private, non-profit organization or institution administering the treatment and rehabilitation program. The organization or institution receives and spends the food benefit allotment for food prepared by or served to a person who is drug or alcohol addicted.

#### **(1) Persons addicted to drugs or alcohol in treatment**

**programs.** Persons addicted to drugs or alcohol who regularly participate in publicly operated or private non-profit drug or alcoholic treatment and rehabilitative programs on a resident basis may voluntarily apply for the Supplemental Nutrition Assistance Program. The child of a resident who lives with his or her parents in the treatment center may also qualify to participate. Residents have eligibility determined as a one person household or, when applicable, as a family unit. They may use all or part of the food benefits issued to them in the treatment center to purchase food prepared for them during the treatment program.

(A) Residents of treatment centers are certified using the same provisions that apply to all other applicant households except certification is completed through use of authorized representatives.

(B) Participants in a drug addict or alcoholic treatment and rehabilitative program are exempt from the work registration requirement. Participation must be verified through the organization or institution operating the program before granting the exemption if the information is inconsistent with other information on the application, previous application, or other documented information.

**(2) Approved centers.** The drug or alcohol treatment and rehabilitative center must be approved by the Oklahoma Department of Mental Health and Substance Abuse Services (ODMHSAS), or by Food and Nutrition Services (FNS) as a retailer.

**(3) Center responsibility.** All treatment and rehabilitative centers must provide the local human services center (HSC) with a list of currently participating residents on a monthly basis. This list must include a statement signed by a responsible center official attesting to the validity of the list.

**(4) When participant leaves the center.** When a participant leaves a treatment center, the center:

(A) notifies the departing resident household they may have food benefits left in their Electronic Benefit Transfer (EBT) account.

(i) The departing household receives its full food benefit if no food benefits have been spent on behalf of that person's household. These

procedures are applicable any time during the month.

(ii) The center accesses only half of the food benefits in the resident's EBT account prior to the 15th of the month.

(iii) If the resident remains in the facility after the 15th day of the month, the remaining food benefits may be accessed on behalf of the resident.

(iv) If the household leaves after the 16th day of the month and the food benefits have already been issued and used, the household does not receive any further food benefits for that month;

(B) is no longer allowed to act as that person's authorized representative;

(C) provides, if possible, the person with Form 08FB038E, Changes in Household Circumstances, and advises the person to complete the form showing his or her new circumstances and to return the form to the local HSC within ten calendar days;

(D) informs the departing household they must go to the local HSC to secure their own Access Oklahoma card;

(E) deactivates immediately the Access Oklahoma card by calling the phone number shown on the back of the card; and

(F) notifies the HSC the participant left the treatment center.

(5) **Reporting changes.** The treatment center must notify the HSC of changes in the household income or other household circumstances required to be reported as outlined in OAC 340:50-9-5.

(6) **Treatment center liability.** The organization or institution is responsible for any misrepresentation or fraud it knowingly commits in the certification of treatment center residents.

(A) As an authorized representative, the organization or institution must be knowledgeable about the households' circumstances and carefully review these circumstances with residents prior to applying on their behalf.

(B) The organization or institution is strictly liable for all losses or misuse of food benefits held on behalf of resident households and for all over issuances which occur while the households are residents of the treatment center.

[Source: Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 11 Ok Reg 4587, eff 9-1-94 (emergency); Amended at 12 Ok Reg 1723, eff 6-12-95 ; Amended at 18 Ok Reg 2079, eff 7-1-01 ; Amended at 22 Ok Reg 805, eff 5-12-05 ; Amended at 25 Ok Reg 937, eff 6-1-08 ; Amended at 26 Ok Reg 840, eff 6-1-09]

### **340:50-5-27. Disabled or blind residents of group homes**

Residents of group homes may be certified for food benefits through the use of an authorized representative who is designated by and is an employee of the group home. The group home may either receive

and spend the food benefits for food prepared by or served to the eligible resident or allow the eligible resident to use all or any portion of the food benefit allotment on his or her own behalf.

**(1) Residents in group homes.**

(A) Residents of group homes who are disabled or blind as defined in OAC 340:50-5-4 may voluntarily apply for food benefits. The resident may apply and be certified:

- (i) through an authorized representative employed and designated by the group home;
- (ii) on his or her own behalf; or
- (iii) through an authorized representative of his or her own choice.

(B) The group home determines what method the resident uses to make application based on the resident's mental and physical ability to handle his or her own affairs. The group home consults with other agencies providing services to the resident in making this determination.

(C) If the resident applies through the use of the group home's authorized representative, eligibility is determined for a single person household. The household must meet all conditions of eligibility.

(D) If the resident applies on his or her own behalf or through an authorized representative of his or her own choice, household size is determined in accordance with the definition in OAC 340:50-5-1.

(i) The food benefits may either be turned over to the facility to be used to purchase food for meals served communally or individually to eligible residents, used by the eligible resident to purchase and prepare his or her own food, or to purchase meals prepared and served by the group.

(ii) The resident is responsible for reporting changes in circumstances.

**(2) Approved group homes.** The group home must be approved by the Developmental Disabilities Services Division (DDSD) or by Food and Nutrition Services (FNS) as a retailer.

**(3) Group home's responsibility.** Each group home must provide the local human services center (HSC) with a list of currently participating residents on a monthly basis. Included on this list is a statement signed by a responsible official of the group home attesting to the validity of the list.

(A) When the group home is acting in the capacity of authorized representative, it is responsible for notifying the HSC of changes in income or other household circumstances required to be reported. [OAC 340:50-9-5]

(B) The group home has no responsibility to report changes for residents certified on their own behalf or through an authorized representative of their own choice.

**(4) When participant leaves the group home.**

(A) When a participant leaves the group home, the group home acting as an authorized representative or retaining



use of the resident's food benefits must:

(i) notify the departing resident there may be benefits remaining in his or her Electronic Benefit Transfer (EBT) account.

(I) The departing household receives its full food benefit if no food benefits have been spent on behalf of that individual household. These procedures are applicable any time during the month.

(II) The group home accesses only half of the food benefits in the resident's EBT account prior to the 15th of the month.

(III) If the resident remains in the facility after the 15th day of the month, the remaining food benefits may be accessed on behalf of the resident.

(IV) When the household leaves after the 16th of the month and the food benefits have already been issued and used, the household does not receive any further food benefits for that month;

(ii) no longer act as authorized representative for that person;

(iii) inform the departing household they must go to the local Oklahoma Department of Human Services (OKDHS) HSC office to secure their own Access Oklahoma card;

(iv) deactivate immediately the Access Oklahoma card by calling the phone number shown on the back of the card when the resident leaves the group home; and

(v) notify the HSC office the person left the group home.

(B) Residents who applied on their own behalf and retained use of their own food benefits are entitled to keep the food benefits when they leave.

(C) The group home, if possible, provides the household leaving the facility with a Form 08FB038E, Changes in Household Circumstances, and advises the person to complete the form showing his or her new circumstances and to return the form to the local OKDHS HSC within ten calendar days.

(5) **Group home liability.** When the group home is acting as an authorized representative, the organization is responsible for any misrepresentation or fraud it knowingly commits in the certification of residents.

(A) As an authorized representative, the organization must be knowledgeable about the household's circumstances and carefully review these circumstances with residents prior to applying on their behalf.

(B) The organization is strictly liable for all losses or misuse of food benefits held on behalf of resident households and for all over issuances which occur while the households are residents of the group home.

(C) The group home is not liable for over issuances for residents certified on their own behalf or through an authorized representative of their own choice.

[Source: Amended at 9 Ok Reg 3405, eff 5-13-92 ; Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 18 Ok Reg 2079, eff 7-1-01 ; Amended at 22 Ok Reg 805, eff 5-12-05 ; Amended at 25 Ok Reg 937, eff 6-1-08]

### **340:50-5-28. Shelter for victims of domestic violence and their children**

Residents of shelters for victims of domestic violence and their children may apply and be certified for food benefits on their own behalf using program requirements applicable to any other household, per Section 271.2 and 273.11(g) of Title 7 of the Code of Federal Regulations. Shelter residents may name a shelter staff member or other person to act as an authorized representative for application and certification purposes; however, the residents are expected to control their own food benefits.

(1) **Verification for shelter status.** Oklahoma Department of Human Services (DHS) staff are responsible for verifying the shelters meet the definition for domestic violence shelters, per Oklahoma Administrative Code (OAC) 340:50-5-7.1(4).

(A) Non-profit status verification is accomplished by seeing Internal Revenue Service (IRS) correspondence, stipulating the organization is tax-exempt as a charitable or educational entity, per Section 501(c)(3) of the IRS code.

(B) When IRS documentation is not available, the worker sends a copy of the shelter's by-laws to Adult and Family Services Supplemental Nutrition Assistance Program (SNAP) to determine non-profit status.

(C) SNAP staff notifies the worker of the non-profit status determination.

(D) The county director is responsible for keeping a list and, the supporting documentation, of domestic violence shelters in the county whose status is verified.

(2) **Separate households.** A shelter resident included in another active household may participate as a separate household when the active household includes the person who abused the resident. The resident may receive an additional allotment as a separate household once a month. The worker takes prompt action to remove shelter residents from the active household's composition and allotment.

(3) **Income and expenses.** The worker certifies a resident applying as a separate household based on the resident's current income and expenses. When the shelter charges a room payment, it is considered a shelter expense for the resident. The worker

excludes the income and expenses of the resident's former household. The worker expedites processing the application when the resident meets expedited services criteria, per OAC 340:50-11-1.

[Source: Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 20 Ok Reg 872, eff 6-1-03 ; Amended at 28 Ok Reg 850, eff 6-1-11 ; Amended at 29 Ok Reg 794, eff 7-1-12 ; Amended at 33 Ok Reg 1607, eff 9-15-16 ; Amended at 36 Ok Reg 1816, eff 9-16-19]

### **340:50-5-29. Homeless households**

- (a) A household is not required to have a fixed residence in order to receive food benefits. A homeless household may include one or more homeless persons.
- (b) Per 271.2 of Title 7 of the Code of Federal Regulations (7 C.F.R. § 271.2), homeless person means a person who lacks a fixed and regular nighttime residence or a person whose primary nighttime residence is a:
- (1) supervised shelter designed to provide temporary accommodations;
  - (2) half-way house or similar institution providing temporary residence for persons intended to be institutionalized;
  - (3) temporary accommodation in the residence of another person of not more than 90-calendar days from the application date. The worker applies the 90-calendar day time frame to each subsequent temporary accommodation in a different household and location; or
  - (4) place not designed for, or ordinarily used, as a regular sleeping accommodation for human beings, such as a hallway, bus station, lobby, car, or similar places.
- (c) Per 7 C.F.R. § 273.2(f)(4)(v) and Oklahoma Administrative Code 340:50-7-31, when a homeless household incurs or expects to incur a shelter cost during the month, the household is eligible for the standard homeless shelter deduction, per Oklahoma Department of Human Services Appendix C-3, Maximum Food Benefit Allotments and Standards for Income and Deductions, or the excess shelter deduction, whichever results in the most food benefits for the household. Homeless shelter costs may include a monthly vehicle payment when the household lives in the vehicle, payments to friends or neighbors for sleeping accommodations, camping fees, or hotel or motel charges.

[Source: Amended at 9 Ok Reg 3405, eff 5-13-92 ; Amended at 14 Ok Reg 220, eff 10-1-96 ; Amended at 17 Ok Reg 473, eff 10-12-99 ; Amended at 26 Ok Reg 840, eff 6-1-09 ; Amended at 33 Ok Reg 1607, eff 9-15-16 ; Amended at 37 Ok Reg 122, eff 10-2-19 (emergency); Amended at 37 Ok Reg 1836, eff 9-15-20]

### **340:50-5-30. Providers of meals for the homeless [REVOKED]**

[Source: Amended at 9 Ok Reg 3405, eff 5-13-92 ; Amended at 27 Ok Reg 1241, eff 6-1-10 ; Revoked at 39 Ok Reg 1755, eff 9-15-22]

## **PART 5. STUDENTS, STRIKERS, MIGRANT HOUSEHOLDS, AND SPONSORED ALIENS**

### **340:50-5-45. Students**

#### **(a) Supplemental Nutrition Assistance Program (SNAP) eligibility.**

A student enrolled in an institution of higher education at least half-time per (b) of this Section may not receive Supplemental Nutrition Assistance Program (SNAP) benefits unless the student meets an exemption per (c). Students who are not enrolled at least half-time in an institution of higher education per (b) of this Section may participate in SNAP when they meet all other eligibility criteria.

**(b) Student classification.** Section 273.5 of Title 7 of the Code of Federal Regulations (7 C.F.R. § 273.5) requires students to meet an exemption when they are enrolled at least half-time in an institution of higher education.

(1) An institution of higher education includes a:

(A) business, technical, trade, or vocational school that normally requires a high school diploma or equivalency certificate to enroll in the curriculum. Schools or courses that do not require a high school diploma or equivalency certificate are not considered an institution of higher education; or

(B) college or university that offers degree programs even when a high school diploma or equivalency certificate is not required to enroll. A college includes a junior, community, two-year, or four-year college, or university.

(i) Students enrolled at least half time in the regular curriculum are enrolled in higher education.

(ii) Students enrolled in a special program at a college or university, such as English as a second language course or other courses that are not part of a regular degree program are not enrolled in higher education.

(2) Student status begins on the first day of the school term for students who have:

(A) not attended an institution of higher education previously; or

(B) had a break of more than a semester since they last attended.

(3) Persons are students during normal periods of class attendance, vacation, and other breaks unless the student:

(A) graduates;

(B) is expelled or suspended;

(C) drops out; or

(D) does not intend to register for the next normal school term, excluding summer school.

**(c) Student exemptions.** The students described in this subsection may participate in SNAP when they meet all other eligibility criteria. The student is either:

(1) younger than 18 years of age or 50 years of age and older;

(2) physically or mentally unfit.

(A) When the student claims mental or physical unfitness and the unfitness is not evident to the worker, verification may be required.

(B) Appropriate verification may consist of:

- (i) receipt of temporary or permanent disability benefits issued by governmental or private sources;
- (ii) participation in a state vocational rehabilitation program; or
- (iii) a statement from a physician or licensed or certified psychologist; or

(3) participating in an on-the-job training (OJT) program. Students are participating in OJT programs only during the period of time the students are being trained by the employer;

(4) employed for an average of 20 hours per week or 80 hours per month and paid for that employment. Earning wages equal to the federal minimum wage times 20 does not qualify the person for this exemption;

(5) self-employed for an average of 20 hours per week or 80 hours per month and receives weekly earnings at least equal to the federal minimum wage times 20;

(6) participating in a state or federally financed work study program during the regular school year.

(A) To qualify under this provision, the student must be approved for work study at the time of application for food benefits.

(i) The work study must be approved for the school term, and the student must anticipate actually working during the school term.

(ii) The exemption begins with the month the school term begins or the month work study is approved, whichever is later.

(iii) Once begun, the exemption continues until the end of the month the school term ends or it becomes known the student refused an assignment.

(B) The exemption does not continue between terms when there is a break of a full month or longer unless the student participates in a work study program during the break; or

(7) responsible for the care of a dependent household member under six years of age. Only one person may be responsible for a dependent child. The caretaker need not be the person providing for the child's support;

(8) responsible for the care of a dependent household member, six through 11 years of age, and the worker determines that adequate child care is not available to enable the student to attend class and work an average of 20 hours per week or participate in a state or federally financed work study program.

(A) The reasons for lack of adequate child care include, but are not limited to, the lack of an available licensed and contracted child care facility within a reasonable distance

from the student's home or school or the availability of funds to pay child care expenses. Determination of availability of adequate child care is made on a case-by-case basis.

(B) Only one person may be responsible for the care of a dependent child. The caretaker need not be the person providing for the child's support; or

(9) a single parent enrolled in an institution of higher education on a full-time basis, as determined by the institution, and responsible for the care of a dependent child younger than 12 years of age, regardless of the availability of child care.

(A) This provision applies in those situations where only one natural, adoptive, or stepparent, regardless of marital status, is in the same food benefit household as the child.

(B) When no natural, adoptive, or stepparent is in the same food benefit household as the child, another full-time student in the same food benefit household as the child may qualify for this exemption when the student has parental control over the child and does not live with the student's spouse;

(10) a Temporary Assistance for Needy Families (TANF) recipient;

(11) assigned to or placed in an institution of higher education through or in compliance with the requirements of one of the employment and training programs identified in (A) through (D) of this paragraph. Employment and training programs include:

(A) the Workforce Innovation and Opportunity Act Program;

(B) a food benefit employment and training program, such as OK SNAP Works, per 7 C.F.R. § 273.7, subject to the condition that the course or program of study, as determined by Adult and Family Services (AFS) SNAP staff, is:

(i) part of a career and technical education program, per Section 3 of the Carl D. Perkins Career and Technical Education Act of 2006; and Section 2302 of Title 20 of the United States Code (20 U.S.C. § 2302), designed to be completed in not more than four years at an institution of higher education, per Section 102 of the 1998 Amendments to the Higher Education Act of 1965, 20 U.S.C. § 1002; or

(ii) limited to remedial courses, basic adult education, literacy, or English as a second language;

(C) a program under Section 236 of the Trade Act of 1974 currently known as The Trade Adjustment Assistance Program and administered by the Oklahoma Employment Security Commission; or

(D) a state or local government-operated employment or training program for low-income households where one or more components of the program is at least equivalent to

an acceptable SNAP employment and training program as specified, per 7 C.F.R. § 273.7(e)(1) and as determined by AFS SNAP staff; or

(12) enrolled as a result of participation in the Job Opportunities and Basic Skills program under Title IV of the Social Security Act or its successor program.

(d) **Income and deductible expenses of an ineligible student.** When the student is not eligible to receive food benefits per this Section, the student is a non-household member, and OKDHS does not count the student's income and prorates the household's expenses, per Oklahoma Administrative Code (OAC) 340:50-5-5.

[Source: Amended at 9 Ok Reg 3405, eff 5-13-92 ; Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 10 Ok Reg 4851, eff 9-8-93 ; Amended at 11 Ok Reg 713, eff 11-10-93 ; Amended at 13 Ok Reg 1799, eff 6-1-96 (emergency); Amended at 14 Ok Reg 1351, eff 5-12-97 ; Amended at 17 Ok Reg 473, eff 10-12-99 ; Amended at 20 Ok Reg 872, eff 6-1-03 ; Amended at 22 Ok Reg 805, eff 5-12-05 ; Amended at 23 Ok Reg 1010, eff 6-1-06 ; Amended at 27 Ok Reg 1241, eff 6-1-10 ; Amended at 29 Ok Reg 794, eff 7-1-12 ; Amended at 37 Ok Reg 122, eff 10-2-19 (emergency); Amended at 37 Ok Reg 1836, eff 9-15-20 ; Amended at 40 Ok Reg 979, eff 9-15-23]

### **340:50-5-46. Strikers**

(a) **Definition.** A striker is defined as anyone involved in a strike or concerted work stoppage by employees, including a stoppage by reason of the expiration of a collective-bargaining agreement, and any concerted slowdown or other concerted interruption of operations by employees, per Section 273.1 of Title 7 of the Code of Federal Regulations.

Households with one or more members on strike are ineligible for Supplemental Nutrition Assistance Program (SNAP) food benefits unless the household received or was eligible to receive SNAP food benefits the day prior to the strike, per (c) of this Section.

(b) **Persons not considered strikers.** Persons who are not considered strikers include employees:

- (1) affected by a lockout. A lockout occurs when an employer closes the workplace or otherwise bars employees from working in order to resist employee demands;
- (2) unable to work as a result of striking employees;
- (3) who are not part of the bargaining unit and do not want to cross a picket line due to fear of personal injury or death; or
- (4) who are exempt from the work registration requirement, per Oklahoma Administrative Code (OAC) 340:50-5-86, the day before the strike for reasons other than employment.

(c) **Income determination.** When a household applies for SNAP food benefits after a household member goes on strike, eligibility at application is determined by comparing the striking member's income the day before the strike to the striker's current income. The worker considers the higher of the two as countable income for the striking member, adds the income to the non-striking members' current income, and allows the usual deductions, per OAC 340:50-7-31, to determine eligibility. When a household receives SNAP food benefits the day prior to the strike and reports a loss of income due to the strike, the worker does not increase the food benefit because of this income loss.

[Source: Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 821, eff 5-13-93 ; Amended at 20 Ok Reg 872, eff 6-1-03 ; Amended at 26 Ok Reg 840, eff 6-1-09 ; Amended at 38 Ok Reg 2245, eff 9-15-21]

### **340:50-5-47. Resident farm laborers [REVOKED]**

[Source: Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Revoked at 38 Ok Reg 2245, eff 9-15-21]

### **340:50-5-48. Migrant farm laborers**

Migrant farm laborers usually have little or no income upon arriving at a work area and must be assessed for expedited services per Section 273.10(e)(3) of Title 7 of the Code of Federal Regulations (7 C.F.R. § 273.10(e)(3)) and Oklahoma Administrative Code (OAC) 340:50-11-1.

(1) **Income.** In addition to income declared by the household, the worker explores the possibility that out-of-state real property is being rented or is producing income. When the household has income producing home or other real property, the worker adds the income to all other household income to determine eligibility and food benefit allotment.

(2) **Exempt income of children in migrant households.** When migrant households receive one payment for work performed by all household members, the worker excludes the earned income of a student 17 years of age and younger. To exclude the income, the worker prorates the income equally among all working household members and subtracts the student's portion.

(3) **Income deductions.** When the migrant household is responsible for deductible expenses per OAC 340:50-7-31, the worker deducts the expenses from the household's income.

(4) **Work registration.** Employable members of migrant households who are not employed at least 30 hours per week or receiving weekly earnings equal to the federal minimum wage times 30 hours must register for and accept suitable employment the same as for other persons. Per 7 C.F.R. § 273.7(b)(vii), migrant and seasonal farm workers under contract or similar agreement with an employer or crew chief to begin employment with 30-calendar days are exempt from work registration due to employment.

[Source: Amended at 27 Ok Reg 1241, eff 6-1-10 ; Amended at 28 Ok Reg 850, eff 6-1-11 ; Amended at 34 Ok Reg 1504, eff 9-15-17 ; Amended at 35 Ok Reg 1659, eff 9-17-18]

### **340:50-5-49. Sponsored aliens**

(a) **Sponsored alien definition.** A sponsored alien is an eligible and qualified alien, per Oklahoma Administrative Code (OAC) 340:50-5-67, whose sponsor executed an affidavit of support, United States Citizenship and Immigration Services (USCIS) Form I-864, Affidavit of Support Under Section 213A of the Immigration and Nationality Act (INA), or Form I-864A, Contract Between Sponsor and Household Member, on



behalf of the alien, per Section 213A of the INA and Section 273.4(c) of Title 7 of the Code of Federal Regulations (7 C.F.R. § 273.4(c)). A sponsored alien is subject to deeming requirements, per (d) of this Section, unless he or she meets an exemption criteria, per (b) of this Section.

**(b) Sponsored aliens exempt from deeming.** Sponsored aliens exempt from income and resource deeming requirements include:

(1) aliens who are a battered spouse, parent of a battered child, or child of a battered person when they live in a separate residence from the person responsible for the battery and, the battering is substantially connected to the need for benefits. The worker grants the exemption for a 12-month period. After the 12-month exemption period expires, Oklahoma Human Services (OKDHS) continues to not deem the batterer's income or resources to the sponsored alien, when:

(A) the battery is recognized by a court or the USCIS;

(B) OKDHS determines that the battery has a substantial connection to the need for benefits; and

(C) the sponsored alien does not live with the batterer;

(2) aliens who are members of their sponsor's Supplemental Nutrition Assistance Program (SNAP) food benefit household as the sponsor's income already counts. When the sponsor receives food benefits in another household, the sponsor's income and resources must be deemed;

(3) aliens who are not required to have a sponsor under the INA, such as refugees, parolees, asylees, and Cuban or Haitian entrants;

(4) sponsored alien children or a sponsored alien's citizen children, who are younger than 18 years of age;

(5) aliens sponsored by an organization or group instead of a person; or

(6) indigent aliens. An indigent alien is an alien that OKDHS determines is unable to obtain food and shelter after taking into account his or her own income plus any cash, food, housing, or other assistance provided by the sponsor or other persons.

(A) The "unable to obtain food and shelter" phrase means that the sum of the sponsored alien's household's own income and the cash and in-kind assistance provided by the sponsor or others does not exceed 130 percent of the poverty level income guidelines by household size, per OKDHS Appendix C-3, Maximum Food Benefit Allotments and Standards for Income and Deductions. When determining indigence, the worker considers the sponsored alien's income and other assistance provided in the month of application.

(B) Before making an indigent determination, the worker must:

(i) explain the purpose of the determination to the sponsored alien or his or her authorized representative, including the requirement to send a written notice of the determination to the United

States (U.S.) Attorney General; and

(ii) give the person the opportunity to refuse the determination.

(C) When the sponsored alien refuses to have an indigence determination made because of the U.S. Attorney General reporting requirement, the worker informs the alien that he or she may:

(i) refuse food benefits for himself or herself without withdrawing the entire household's application. When the alien chooses this option, he or she is considered an ineligible alien and his or her income is prorated among all household members, per OAC 340:50-7-29(d)(2), without consideration of the sponsor's or sponsor's spouse's income; or

(ii) have his or her eligibility and benefits determined based on the deeming formula, per (d) of this Section.

(D) When the alien consents to the indigent determination and reporting requirement and is considered indigent, per (A) of this paragraph, the worker only deems the amount of assistance actually provided, beginning with the determination date and ending 12 months after this date. Each indigence determination may be renewed for additional 12-month periods. OKDHS notifies the U.S. Attorney General of each indigence determination and the sponsor's and sponsored alien's names.

(c) **Eligible sponsored alien responsibilities.** When the sponsored alien is subject to deeming, he or she is responsible for:

(1) providing OKDHS with information and documentation necessary to determine eligibility, per OAC 340:50-3-3, and calculate income and resources, per (d) of this Section at application and certification renewal;

(2) providing documents showing the INA under which the alien was admitted, his or her entry date into the U.S., birthdate, birthplace, and alien registration number;

(3) providing the sponsor's and sponsor's spouse's names, address, phone numbers, and the number of dependents claimed on the sponsored alien's tax return;

(4) providing the names and other identifying factors regarding any other aliens for whom the sponsor signed an affidavit of support, per (a) of this Section; and

(5) reporting required changes that occur during the certification period, per OAC 340:50-9-5, which may include:

(A) information about a new sponsor and the sponsor's spouse when the sponsored alien obtains a new sponsor during the certification period;

(B) a change in income if the sponsor or sponsor's spouse changes or loses employment; or

(C) the death of the sponsor or sponsor's spouse.

(d) **Deeming requirements.** When the sponsored alien is not exempt from deeming requirements, in addition to his or her own income and resources, the worker counts the income and resources of the sponsor and his or her spouse as the unearned income and resources of the sponsored alien. The worker counts the income of the sponsor's spouse even when the marriage occurred after the sponsor signed an agreement to support the sponsored alien.

(1) The total monthly earned and unearned income of the sponsor and the sponsor's spouse must be deemed to the sponsored alien minus:

- (A) income exclusions, per OAC 340:50-7-22;
- (B) the earned income deduction for the earned income portion of the sponsor's and sponsor's spouse's income, per OAC 340:50-7-31(a)(2); and
- (C) an amount equal to the monthly gross income eligibility limit, per OKDHS Appendix C-3, for a household size equal to the sponsor, the sponsor's spouse, and any other person claimed, or who could be claimed as a dependent for federal income tax purposes.

(2) Any money the sponsor pays the sponsored alien is also countable when it exceeds the amount deemed per (1) of this subsection.

(3) When the sponsored alien already reported the gross income and resources of the sponsor and the sponsor's spouse for another Adult and Family Services administered assistance program, that income amount may be used for SNAP food benefit purposes. The only allowable income reductions are those allowed, per (c)(1) of this Section.

(4) The total countable resources of the sponsor and sponsor's spouse less \$1,500 are deemed to the sponsored alien. Refer to OAC 340:50-7-6 to determine the countable and excluded resources for the sponsored alien and his or her sponsor and sponsor's spouse and OKDHS Appendix C-3 for the maximum resource standard.

(5) When the sponsored alien verifies that his or her sponsor is the sponsor of other aliens, the worker divides the income and resources deemed, per (1) and (4) of this subsection by the number of such sponsored aliens. The worker uses this same procedure to determine the amount of deemed income and resources to exclude when a sponsored alien or a sponsored alien's citizen child is exempt from deeming per (b) of this Section.

(e) **Pending verification.** Until the sponsored alien provides necessary information or verification regarding his or her sponsor's income and resources and the number of aliens he or she sponsors, the sponsored alien is not eligible to be included in the SNAP food benefits. The worker must determine the eligibility of any remaining unsponsored household members while the sponsor's information is pending. The sponsored alien's income, minus any consideration of the sponsor's income, is considered available to the rest of the household, per OAC 340:50-7-29(d)(2).

(f) **When deeming stops.** Sponsor-to-alien deeming stops when the sponsored:

- (1) alien becomes a naturalized citizen;
- (2) alien can be credited with 40 quarters of work, per OAC 340:50-5-67; or
- (3) alien's sponsor dies.

[Source: Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 14 Ok Reg 220, eff 10-1-96 ; Amended at 17 Ok Reg 473, eff 10-12-99 ; Amended at 20 Ok Reg 2924, eff 10-1-03 (emergency); Amended at 21 Ok Reg 841, eff 4-26-04 ; Amended at 26 Ok Reg 840, eff 6-1-09 ; Amended at 28 Ok Reg 850, eff 6-1-11 ; Amended at 38 Ok Reg 2245, eff 9-15-21]

### **340:50-5-50. School employees [REVOKED]**

[Source: Revoked at 38 Ok Reg 2245, eff 9-15-21]

## **PART 7. RELATED PROVISIONS**

### **340:50-5-64. Work requirements [REVOKED]**

[Source: Added at 14 Ok Reg 587, eff 12-12-96 (emergency); Added at 14 Ok Reg 1351, eff 5-12-97 ; Amended at 15 Ok Reg 1491, eff 4-1-98 ; Amended at 15 Ok Reg 3545, eff 7-1-98 (emergency); Amended at 16 Ok Reg 1018, eff 4-26-99 ; Amended at 21 Ok Reg 1977, eff 6-1-04 (emergency); Amended at 22 Ok Reg 805, eff 5-12-05 ; Amended at 23 Ok Reg 1010, eff 6-1-06 ; Amended at 26 Ok Reg 840, eff 6-1-09 ; Amended at 33 Ok Reg 1607, eff 9-15-16 ; Amended at 34 Ok Reg 1504, eff 9-15-17 ; Revoked at 35 Ok Reg 1659, eff 9-17-18]

#### **340:50-5-64.1. Work Opportunity Tax Credit (WOTC)**

The Work Opportunity Tax Credit (WOTC) law permits for-profit employers to take a credit on their federal income tax when workers from certain target groups are hired. Workers in these target groups have faced significant barriers to employment. The WOTC is equal to between 25 percent to 40 percent of the first year wages up to \$9,600 depending on the number of hours the employee works and the applicable target group for that person. The main objective of this program is to enable the targeted employees to gradually move from economic dependency into self-sufficiency as they earn a steady income and become contributing taxpayers, while the participating employers are compensated by being able to reduce their federal income tax liability.

- (1) WOTC is available to employers for workers hired from targeted food benefit recipient groups in (A) through (J) of this subsection.

(A) **Qualified veteran.** A qualified veteran is a veteran who is:

- (i) a member of a household receiving Supplemental Nutrition Assistance Program (SNAP) food benefits for at least three months during the first year of employment;
- (ii) unemployed for a period totaling at least four weeks, but less than six months, in the one-year

period ending on the veteran's hiring date. The weeks unemployed do not have to be consecutive;

- (iii) unemployed for a period totaling at least six months in the one-year period ending on the veteran's hiring date. The months unemployed do not have to be consecutive;
- (iv) entitled to compensation for a service-connected disability and is unemployed for a period totaling at least six months in the one-year period ending on the hiring date. The months unemployed do not have to be consecutive; or
- (v) a disabled veteran entitled to compensation for a service-connected disability hired not more than one year after being discharged or released from active duty in the United States (U.S.) Armed Forces.

**(B) Qualified SNAP food benefit recipient.** A qualified food benefit recipient is a person who on the hire date is:

- (i) at least 18 years of age and younger than 40 years of age; and
- (ii) a member of a household that received SNAP food benefits for:
  - (I) the previous six consecutive months; or
  - (II) at least three months of the last five months.

**(C) Qualified Title IV-A recipient.** A qualified Title IV-A recipient is a person who is a member of a family receiving assistance under a state plan approved under Part A of Title IV of the Social Security Act relating to Temporary Assistance for Needy Families (TANF). The person must have received the assistance for any nine-month period during the 18-month period ending on the hiring date.

**(D) Long-term TANF recipient.** A long-term TANF recipient is a person who at the hiring time is a member of a family that:

- (i) received TANF cash assistance for at least the previous 18-consecutive months;
- (ii) received TANF cash assistance for any 18 months beginning after August 5, 1997, and it has not been more than two years since the end of the earliest of such 18-month period; or
- (iii) stopped being eligible for TANF cash assistance during the past two years because federal or state law limited the maximum time cash assistance could be made.

**(E) Designated community resident.** A designated community resident is a person who, on the hiring date:

- (i) is at least 18 years of age and younger than 40 years of age;
- (ii) resides in a federally designated Empowerment Zone (EZ), Enterprise Community (EC), or a

Renewal Community (RC), and  
(iii) continues to reside at the location after employment.

(F) **Qualified Summer Youth employee.** A qualified Summer Youth employee is one who is:

- (i) at least 16 years old, but younger than 18 years of age on the hire date or on May 1st, whichever is later;
- (ii) only employed between May 1 and September 15; and
- (iii) resides in an EZ, EC, or RC.

(G) **Vocational rehabilitation referral.** A vocational rehabilitation referral is a person who has a physical or mental disability and was referred to the employer while receiving, or upon completion of, rehabilitative services from:

- (i) a state plan approved under the Rehabilitation Act of 1973;
- (ii) an Employment Network Plan under the Ticket to Work Program; or
- (iii) a program carried out under the U.S. Department of Veteran Affairs.

(H) **Qualified ex-felon.** A qualified ex-felon is a person hired within one year of being convicted of a felony or being released from prison for a felony.

(I) **Qualified Supplemental Security Income (SSI) recipient.** A qualified SSI recipient is a person who received SSI benefits within 60-calendar days of the person's hire date.

(J) **Qualified long-term unemployment recipient.** A qualified long-term, unemployment recipient is a person who has been unemployed for not less than 27-consecutive weeks at the hiring time and received unemployment compensation during some or all of the unemployment period.

(2) Through an agreement with the Oklahoma Employment Security Commission, Oklahoma Human Services staff issues the U.S. Department of Labor Form ETA-9062, Conditional Certification Work Opportunity Tax Credit, to food benefit and TANF recipients.

(3) The worker gives the person Form ETA-9062 and a letter from the worker stating the number of months he or she received food benefits or TANF cash assistance to present to the employer on, or before, the first day of employment. The worker informs the person about the purpose of the form and that the tax credit may help him or her get a job.

[Source: Added at 15 Ok Reg 165, eff 11-1-97 (emergency); Added at 15 Ok Reg 1623, eff 5-11-98 ; Amended at 27 Ok Reg 1241, eff 6-1-10 ; Amended at 38 Ok Reg 2245, eff 9-15-21]

## **340:50-5-65. Identity**

(a) **Identity.** The identity of the person making the Supplemental Nutrition Assistance Program (SNAP) application must be verified, per Section 273.2(f)(1)(vii) of Title 7 of the Code of Federal Regulations. When an authorized representative applies on behalf of a household, the identity of the authorized representative and the head of household is verified. The household may select as head of household an adult parent of a child of any age living in the SNAP food benefit household or an adult who has parental control over a child who is 17 years of age and younger living in the food benefit household, provided all adult household members agree to the selection, per Oklahoma Administrative Code 340:50-3-1(b)(2).

(b) **Identity verification.** Identity may be verified through readily available documentary evidence, or when unavailable, through a collateral contact. Any documents that reasonably establish the applicant's identity must be accepted and no requirement for a specific type of document, such as a birth certificate, may be imposed. Examples of acceptable documentary evidence include, but are not limited to;

- (1) a driver license;
- (2) a work or school identification card;
- (3) an identification card for health benefits or other assistance or social service program;
- (4) a voter registration card;
- (5) wage stubs; or
- (6) a birth certificate.

[Source: Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 38 Ok Reg 2245, eff 9-15-21]

### **340:50-5-66. Residence**

Residency requirements must be verified, except in unusual cases such as migrant farm worker households newly arrived in an area, where verification of residency cannot reasonably be accomplished. Verification of residency is accomplished to the extent such as, but not limited to, utility expenses or identity. If verification cannot be accomplished in conjunction with the verification of other information, then the worker uses a collateral contact or other readily available documentary evidence. Documents used to verify other factors of eligibility should normally suffice to verify residence as well. Any document or collateral contact which reasonably establishes the applicant's residency must be accepted and no requirement for a specific type of verification may be imposed. No durational residency requirement may be established.

- (1) No individual may participate as a member of more than one household or in more than one county in any month unless an individual is a resident of a shelter for battered women and children and was a member of a household containing the abusive person.
- (2) Residency is not dependent on an intent to permanently reside in the state or county. Moreover, the county cannot impose any durational residency requirements. A fixed residence is not required. For example, migrant camp sites verify the residency requirements; however, persons in a county solely for vacations

will not be considered residents. If it is questionable that the household resides at the address or finding location given on the application, verification must be accomplished in accordance with Subchapter 3 of this Chapter, covering verification of questionable information.

(3) It will not be possible to verify residency for homeless households, however, the case record should contain as much information as possible about the household's situation.

[Source: Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 15 Ok Reg 165, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1623, eff 5-11-98]

### **340:50-5-67. Citizenship and alien status**

(a) Per Section 273.4 of Title 7 of the Code of Federal Regulations (7 § C.F.R. 273.4), to be eligible for food benefits a person must be:

- (1) a United States (U.S.) citizen;
- (2) a U.S. non-citizen national;
- (3) an alien who is both qualified and eligible; or
- (4) an alien not required to meet qualified alien status.

(b) Pursuant to Section 71 of Title 56 and Section 20j of Title 74 of the Oklahoma Statutes, all persons 14 years of age and older must declare whether they are residing in the U.S. lawfully and may be required to sign Form 08MP005E, Citizenship Affidavit, per OAC 340:65-3-1(g).

(c) Ineligible or illegal aliens are not eligible to receive Supplemental Nutrition Assistance Program (SNAP) food benefits. An ineligible alien is an alien who does not meet eligible alien status, per (a)(3) or (4) of this Section or is determined to be an ineligible sponsored alien, per Oklahoma Administrative Code (OAC) 340:50-5-49.

(1) When a household is unwilling or unable to provide alien status documentation for any household member, the alien is considered an ineligible alien and is not eligible for food benefits. No further efforts to obtain documentation are made.

(2) The worker prorates the income of the ineligible or illegal aliens among all household members, per 7 § C.F.R. 273.11(c)(3) and OAC 340:50-7-29(d)(2).

(3) Oklahoma Human Services is responsible for reporting to the U.S. Citizenship and Immigration Services (USCIS) any alien it "knows" is not lawfully present in the U.S., per 7 C.F.R. § 273.4(b). OKDHS only "knows" an alien is not present legally when the alien applies for SNAP benefits and it is determined as a finding of fact or a conclusion of law that the alien is present in violation of the Immigration and Nationality Act. OKDHS must support this determination with a formal determination by USCIS or the Executive Office of Immigration Review, such as a Final Order of Deportation.

[Source: Amended at 8 Ok Reg 3463, eff 7-31-91 (emergency); Amended at 9 Ok Reg 1933, eff 5-1-92 (emergency); Amended at 9 Ok Reg 3405, eff 5-13-92 ; Amended at 9 Ok Reg 2473, eff 6-25-92 ; Amended at 14 Ok Reg 220, eff 10-1-96 ; Amended at 15 Ok Reg 165, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1623, eff 5-11-98 ; Amended at 15 Ok Reg 3744, eff 8-1-98 (emergency); Amended at 16 Ok Reg 293, eff 11-23-98 ; Amended at 19 Ok Reg 1767, eff 6-14-02 ; Amended at 25 Ok Reg 265, eff 11-1-07 (emergency); Amended at 25 Ok Reg 937, eff 6-1-08 ; Amended at 28 Ok Reg 850, eff 6-1-11 ; Amended at 38 Ok Reg 2245, eff 9-15-21]



**340:50-5-68. Social Security numbers**

(a) Each household member must provide his or her Social Security number (SSN) when applying for participation in the Supplemental Nutrition Assistance Program (SNAP). The worker explains to the applicant that refusal to provide SSNs will result in disqualification of the person for whom a SSN is not provided.

(1) If an applicant cannot provide a SSN, proof of application is required prior to certification for each household member except a newborn.

(2) The household must provide the SSN or proof of application for the newborn at its next recertification or within six months following the month the baby is born, whichever is later.

(b) If the worker determines a household member has refused or failed to make all efforts to apply for or provide a SSN for a household member, that person is ineligible to participate in SNAP.

(1) The disqualification applies to the person for whom the SSN is not provided and not to the entire household.

(2) The income of persons disqualified for failure to provide a SSN are considered in determining food benefit eligibility.

(3) Disqualification ends when the SSN is provided or the SSN application is made and verified.

[Source: Amended at 19 Ok Reg 1767, eff 6-14-02 ; Amended at 20 Ok Reg 872, eff 6-1-03 ; Amended at 26 Ok Reg 840, eff 6-1-09 ; Amended at 28 Ok Reg 850, eff 6-1-11]

## **PART 9. WORK REGISTRATION**

**340:50-5-85. Work registration**

(a) Per Section 273.7(a)(1) of Title 7 of the Code of Federal Regulations (7 C.F.R. § 273.7(a)(1)), to be eligible to receive Supplemental Nutrition Assistance Program (SNAP) food benefits, each household member not exempt per Oklahoma Administrative Code (OAC) 340:50-5-86 must comply with applicable work registration requirements included in (1) through (5) of this subsection. It is the worker's responsibility to explain to the applicant the work registration statement and each household member's work registration status and responsibility as stated in (1) through (5) of this subsection. Form 08MP003E, Responsibilities and Signature for Benefits, includes a work registration statement that upon signature, registers all household members 16 through 59 years of age required to comply with work registration.

(1) A required work registrant must register for work or be registered at the time of application and every 12 months after initial registration.

(2) A required work registrant must provide the Oklahoma Department of Human Services with sufficient information regarding his or her employment status or availability for work.

(3) A required work registrant must accept a bona fide offer of suitable employment.

(4) A required work registrant must agree to not voluntarily and, without good cause, quit a job of 30 hours or more per week or reduce his or her work effort to less than 30 hours per week.

(5) When a household member is exempt from work registration because he or she is subject to and complying with unemployment compensation or Temporary Assistance for Needy Families work requirements per OAC 340:50-5-86(3) or (7), he or she must continue to comply or be subject to failure to comply requirements per OAC 340:50-5-87.

**(b) Good cause for failure or refusal to comply with work**

**registration requirements.** Per 7 C.F.R. § 273.7(i), a required work registrant has good cause for failing or refusing to comply with work registration requirements when there are circumstances beyond his or her control, such as, but not limited to:

- (1) illness;
- (2) illness of another household member requiring the presence of the registrant;
- (3) a household emergency;
- (4) unavailability of transportation; or
- (5) lack of adequate child care for children 6 through 11 years of age.

**(c) Suitable work.** Any employment offered is considered suitable:

- (1) when the wage offered is at least the highest of the applicable federal minimum wage, the applicable state minimum wage, or 80 percent of the federal minimum wage, when neither the federal nor state minimum wage applies;
- (2) when the employment offered is on a piece-rate basis and the average hourly wage the employee can reasonably expect is at least equal to the applicable hourly wages specified;
- (3) when the registrant, in order to be hired or to continue working, is not required to join, resign from, or refrain from joining any legitimate labor organization;
- (4) when the work offered is not at a site subject to a strike or lockout at the time of the offer unless the strike has been enjoined under the Labor Management Relations Act (Taft-Hartley) or an injunction has been issued under Section 10 of the Railway Labor Act; or
- (5) unless the registrant demonstrates or the worker determines the:

- (A) risk to health and safety is unreasonable;
- (B) registrant is physically or mentally unfit to perform the employment, as documented by medical evidence or other reliable information;
- (C) employment offered within the first 30-calendar days of registration is not in the registrant's major field of experience;
- (D) distance from the registrant's home to the place of employment is unreasonable based on the expected wage and the time and cost of daily commuting. Commuting time cannot exceed two hours daily; or

(E) working hours or nature of the employment interferes with the registrant's religious observations, convictions, or beliefs.

[Source: Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 18 Ok Reg 2079, eff 7-1-01 ; Amended at 25 Ok Reg 937, eff 6-1-08 ; Amended at 35 Ok Reg 1659, eff 9-17-18]

### **340:50-5-86. Persons exempt from work registration**

Per Section 273.7(b) of Title 7 of the Code of Federal Regulations, work registration exemptions are included in (1) through (9) of this Section.

(1) **Age limit.** A person younger than 16 years of age or a person 60 years of age and older is exempt. When a person:

(A) is 16 or 17 years of age and is not the head of household or is attending school or enrolled in an employment training program on at least a half-time basis, is also exempt; or

(B) turns 16 or 18 years of age during a certification period, the worker must register the person for work as part of the next certification renewal, unless he or she qualifies for an exemption.

(2) **Caretakers.** A caretaker is a parent or other household member responsible for the care of a dependent child younger than 6 years of age or an incapacitated person. When the dependent child reaches 6 years of age within a certification period, the person responsible for the care of the child must register for work at the next certification renewal, unless he or she is otherwise exempt.

(3) **Applicants for or recipients of unemployment compensation.** A person who applied for unemployment insurance benefits (UIB) is exempt from the work registration requirement during the application process. This is verified by seeing the work registration card. Recipients of UIB are exempt from registration while receiving compensation. When the person is disqualified from participation in UIB because he or she refused or failed to meet UIB work requirements without good cause, he or she is subject to failure to comply disqualification requirements per OAC 340:50-5-87.

(4) **Physically or mentally incapacitated.** Persons who are physically or mentally incapable of gainful employment on a permanent or temporary basis and food benefit applicants participating in federal or state programs based on disability are considered exempt. Other persons claiming exemption as unfit for employment must, in the absence of physical evidence, obtain documented evidence from medically qualified sources to substantiate a disability.

(5) **Addicts and alcoholics.** A regular participant in a drug addiction or alcohol treatment and rehabilitative program, on a resident or non-resident basis is exempt. This may be verified through organizations or institutions operating the program.

(6) **Students.** A student is defined as a person enrolled at least half-time in any recognized school, training program, or institution of higher education. Students must meet the criteria per Oklahoma Administrative Code (OAC) 340:50-5-45 to participate in the Supplemental Nutrition Assistance Program (SNAP). This includes refugees participating in a refugee-specific training program approved, funded, or operated by the Office of Refugee Resettlement. Students are exempt from work registration requirements and retain student classification during school vacation or breaks providing they plan to return to school the next term, excluding summer school. Persons who do not qualify as students include, persons:

(A) not enrolled at least half-time or who experience a break in enrollment status due to graduation, expulsion, suspension, or who drop-out or do not intend to return to school; and

(B) enrolled in correspondence courses.

(7) **Temporary Assistance for Needy Families (TANF) Work Program participants.** A TANF recipient who is exempt from, registered for, or participating in the TANF Work Program per OAC 340:10-2-1 through 340:10-2-8 is exempt from SNAP work registration requirements. When the TANF recipient is sanctioned because he or she refused or failed to participate in the TANF Work Program without good cause per OAC 340:10-2-2, he or she is subject to failure to comply disqualification requirements per OAC 340:50-5-87.

(8) **Employed persons.** Persons who are employed and working a minimum of 30 hours weekly or receiving weekly earnings equal to the federal minimum wage multiplied by 30 hours are exempt.

(A) The employment may be paid, in-kind, unpaid, or volunteer work with religious or community organizations.

(B) Migrant and seasonal farm workers who are under contract or similar agreement with an employer or crew chief to begin employment within 30-calendar days are exempt as employed persons.

(9) **Self-employed persons.** Persons who are self-employed working a minimum of 30 hours weekly or receiving weekly earnings equal to federal minimum wage multiplied by 30 hours are exempt.

(A) Verification of the amount of income from self-employment is sufficient to establish this exemption, provided the amount of income appears to be consistent with a conclusion of full-time employment, 30 hours per week.

(B) When the income is not sufficient to conclude full-time employment, the client must cooperate with the worker in establishing the income received is at least sufficient to be considered gainful employment and the volume of work the client is doing justifies a determination the self-employment enterprise is a full-time job for the purpose of this exemption.

[Source: Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 14 Ok Reg 59, eff 10-10-96 (emergency); Amended at 14 Ok Reg 1351, eff 5-12-97 ; Amended at 18 Ok Reg 2079, eff 7-1-01 ; Amended at 26 Ok Reg 840, eff 6-1-09 ; Amended at 35 Ok Reg 1659, eff 9-17-18]

### **340:50-5-87. Work registration procedures**

When changes occur in a person's work registration status after certification, the worker must determine if the person failed or refused to comply with work registration requirements without good cause per Oklahoma Administrative Code (OAC) 340:50-5-85 or meets exemption criteria per OAC 340:50-5-86.

(1) **Exemption status loss.** Per Section 273.7(b)(2) of Title 7 of the Code of Federal Regulations (7 C.F.R. § 273.7(b)(2)):

(A) Persons who lose their work registration exemption due to a change in circumstances that is:

(i) not subject to the reporting requirements, per OAC 340:50-9-5(g), must register for work registration at the next certification renewal; or

(ii) subject to the reporting requirements, per OAC 340:50-9-5(g), must register when the change is reported; and

(B) when a household member is exempt from work registration because he or she is subject to, and in compliance with unemployment compensation or Temporary Assistance for Needy Families work requirements, and stops complying without good cause, the household member is disqualified unless he or she meets another exemption.

(2) **Communication requirement.** Per 7 C.F.R. § 273.7(c)(ii), a written notice is generated by the system and the worker must attempt to contact the household to orally explain the work registration responsibilities, per OAC 340:50-5-85 when:

(A) a new household member joins the household; or

(B) a household member who is exempt from work registration loses the exemption.

(3) **Failure to comply.** A registered household member who fails to comply with work registration requirements without good cause, per OAC 340:50-5-85, is disqualified, per 7 C.F.R. § 273.7(f) and OAC 340:50-5-10.1.

(4) **Disqualification period.** When a household member is disqualified because he or she failed to comply with work registration requirements, the disqualification period is:

(A) one month for the first violation;

(B) three months for the second violation; or

(C) six months for the third or subsequent violation.

(5) **Shortening the disqualification period.** The disqualification period may be shortened when the household member becomes exempt from work registration per 7 C.F.R. § 273.7(g).

[Source: Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 18 Ok Reg 2079, eff 7-1-01 ; Amended at 22 Ok Reg 805, eff 5-12-05 ; Amended at 25 Ok Reg 937, eff 6-1-08 ; Amended at 35 Ok Reg 1659, eff 9-17-18 ; Amended at 39 Ok Reg 95, eff 7-19-21 (emergency); Amended at 39 Ok Reg 1755, eff 9-15-22]

### **340:50-5-88. Supplemental Nutrition Assistance Program (SNAP) Employment and Training (E&T) Program [REVOKED]**

[Source: Amended at 9 Ok Reg 3725, eff 2-12-92 ; Amended at 9 Ok Reg 3955, eff 6-10-92 ; Amended at 10 Ok Reg 3852, eff 9-23-92 ; Amended at 10 Ok Reg 4851, eff 9-8-93 ; Amended at 15 Ok Reg 165, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1623, eff 5-11-98 ; Amended at 18 Ok Reg 2079, eff 7-1-01 ; Amended at 20 Ok Reg 872, eff 6-1-03 ; Amended at 22 Ok Reg 805, eff 5-12-05 ; Amended at 25 Ok Reg 937, eff 6-1-08 ; Amended at 26 Ok Reg 840, eff 6-1-09 ; Amended at 28 Ok Reg 850, eff 6-1-11 ; Amended at 34 Ok Reg 1504, eff 9-15-17 ; Revoked at 35 Ok Reg 1659, eff 9-17-18]

### **340:50-5-89. Voluntary quit and reduction of work effort**

(a) Per Section 273.7(j) of Title 7 of the Code of Federal Regulations, any applicant or participating adult household member who is not exempt from work registration requirements per Oklahoma Administrative Code (OAC) 340:50-5-86 is not eligible to receive Supplemental Nutrition Assistance Program food benefits when, within 60-calendar days of the application or any time thereafter, the person voluntarily and without good cause:

- (1) quits a job of 30 hours or more per week or a job that provided weekly earnings equaling at least the equivalent of the federal minimum wage multiplied by 30; or
- (2) reduces his or her work effort. The reduction in work effort is:
  - (A) considered a voluntary quit when the person worked 30 hours or more per week prior to the reduction; and
  - (B) not considered a voluntary quit when after the reduction, he or she continues to earn weekly wages that exceed the federal minimum wage multiplied by 30 hours.

(b) When a household files an application or a participating household reports loss of income, the worker determines if the voluntary quit sanction applies. When information provided by the household is questionable, the worker may request or obtain verification of the household's statement.

(c) Changes in employment status that result from terminating a self-employment enterprise or resigning from a job at the demand of the employer are not considered as a voluntary quit.

(d) When the household member who voluntarily quit subsequently secures new employment of at least 30 hours per week or weekly earnings equivalent to the federal minimum wage multiplied by 30 hours, the voluntary quit provision does not apply. When the household member is then laid off or through no fault of his or her own loses the new job, the earlier voluntary quit does not form the basis for a disqualification.

(e) A federal, state, or local government employee who participates in a strike against such government and is dismissed from his or her job because of participation in the strike, is considered to have voluntarily quit the job.

[Source: Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 10 Ok Reg 4851, eff 9-8-93 ; Amended at 18 Ok Reg 2079, eff 7-1-01 ; Amended at 35 Ok Reg 1659, eff 9-17-18]

### **340:50-5-90. Determination of the head of household [REVOKED]**

[Source: Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 10 Ok Reg 4851, eff 9-8-93 ; Amended at 18 Ok Reg 2079, eff 7-1-01 ; Amended at 26 Ok Reg 840, eff 6-1-09 ; Revoked at 35 Ok Reg 1659, eff 9-17-18]

### **340:50-5-91. Determination of voluntary quit [REVOKED]**

[Source: Amended at 10 Ok Reg 4851, eff 9-8-93 ; Amended at 18 Ok Reg 2079, eff 7-1-01 ; Amended at 27 Ok Reg 1241, eff 6-1-10 ; Revoked at 35 Ok Reg 1659, eff 9-17-18]

### **340:50-5-92. Good cause determination for voluntary quit or reduction in work effort**

When the worker determines a non-exempt adult household member voluntarily quit his or her employment or reduced his or her work effort, the worker must determine if he or she had good cause for doing so. The worker uses information provided by the household member and the employer to determine if the voluntary quit or reduction in work effort is with good cause. Per Section 273.7(i) of Title 7 of the Code of Federal Regulations (7 C.F.R. § 273.7(i)), good cause for leaving employment or reducing work effort includes:

- (1) discrimination by an employer based on age, race, sex, color, disability, religious beliefs, national origin, or political beliefs;
- (2) work demands or conditions that render continued employment unreasonable, such as working without being paid on schedule;
- (3) an adult household member's acceptance of other employment or enrollment at least half-time in any recognized school, training program, or institution of higher education, that requires the household member to leave employment;
- (4) any other household member's acceptance of other employment or enrollment at least half-time in any recognized school, training program, or institution of higher education in another county or area that requires the household to move and thereby requires another adult household member to leave employment;
- (5) resignations by persons under 60 years of age that are recognized by the employer as retirement;
- (6) employment that becomes unsuitable after the acceptance of such employment because it no longer meets the criteria of suitable employment per 7 C.F.R. § 273.7(h) and Oklahoma Administrative Code 340:50-5-85(c);
- (7) leaving employment after accepting a bona fide employment offer of more than 30 hours a week or in which the weekly earnings are equivalent to the federal minimum wage multiplied by 30 hours because the agreed upon work hours or weekly earnings do not materialize;

(8) leaving a job in connection with employment patterns in which workers frequently move from one employer to another, such as migrant farm labor or construction work. There may be some circumstances where households apply for food benefits between jobs, particularly in cases where work may not yet be available at the new job site. When employment at the new job site has not started, the voluntary quit is considered with good cause when it is part of this employment pattern; or  
(9) circumstances beyond the person's control, such as, but not limited to:

- (A) illness;
- (B) illness of another household member requiring the registrant's presence;
- (C) unavailability of transportation;
- (D) lack of adequate child care for children who are between 6 and 12 years of age; or
- (E) a household emergency.

[Source: Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1851, eff 5-13-93 ; Amended at 10 Ok Reg 4851, eff 9-8-93 ; Amended at 18 Ok Reg 2079, eff 7-1-01 ; Amended at 27 Ok Reg 1241, eff 6-1-10 ; Amended at 35 Ok Reg 1659, eff 9-17-18 ; Amended at 39 Ok Reg 1755, eff 9-15-22]

### **340:50-5-93. Verification [REVOKED]**

[Source: Amended at 18 Ok Reg 2079, eff 7-1-01 ; Amended at 27 Ok Reg 1241, eff 6-1-10 ; Revoked at 35 Ok Reg 1659, eff 9-17-18]

### **340:50-5-94. Penalty for voluntary quit**

When an adult household member quits a job of at least 30 hours a week or the equivalent of the federal minimum wage multiplied by 30 hours or reduces his or her work effort, per Oklahoma Administrative Code (OAC) 340:50-5-89 without good cause, the actions described in this Section are taken, per Section 273.7(j) of Title 7 of the Code of Federal Regulations (7 C.F.R. § 273.7(j)).

(1) **Applicant household.** When a household member of an applicant household is subject to the voluntary quit provision, the worker does not include the person in the food benefits. The person is disqualified from food benefits for a period of 90-calendar days effective from the date the remaining household members are approved for food benefits, per 7 C.F.R. § 273(j)(3)(vi). When the person subject to voluntary quit is the only member of the applicant household, the worker denies the food benefit application. The person's disqualification period starts effective the date the denial notice issues.

(2) **Participating household.** When the worker determines that a member of a participating household voluntarily quit a job or reduced his or her work effort without good cause after certification, the worker removes the household member from the food benefit or closes a one-person household's food benefits effective the first day of the month following the next advance-



notice effective date, per Appendix B-2, Deadlines for Case Actions, and issues a 10-calendar day advance-notice. The disqualification period runs continuously for three months beginning with the month the adverse action is effective unless the household requests a fair hearing, per (4) of this Section or eligibility is reestablished, per (5) of this Section.

**(3) Households with special circumstances.**

**(A) Voluntary quit or reduction in work effort occurs or is discovered in the last month of certification.**

When a voluntary quit or reduction in work effort occurs or is discovered in the last month of a certification period, the household reapplies for food benefits, and the person subject to a voluntary quit penalty is:

- (i) a one-person household, the worker denies the certification renewal. The person is disqualified for three months beginning the day after the last certification period ends or until eligibility is reestablished, per (5) of this Section; or
- (ii) a member of the household containing other household members, the worker disqualifies the person subject to voluntary quit for three months or until eligibility is reestablished, per (5) of this Section.

**(B) Disqualified person changes households.** Persons disqualified for quitting a job or reducing their work effort carry their disqualification with them when they join a new household.

**(C) Application filed in third month of disqualification period.** When a one-person household files an application in the third-calendar month of the 90-calendar day or three-month disqualification period and all eligibility criteria are met, the worker denies food benefits for the application month and certifies the household beginning the first day after the disqualification period ends. When a household containing more than one household member files a certification renewal and the new certification period is effective the first day of the last month of the disqualified person's disqualification period, the worker does not include the disqualified person until the disqualification period ends.

**(4) Fair hearings.** Each household has a right to request a fair hearing to appeal a benefit denial, closure, or reduction in food benefits due to a voluntary quit determination. When the participating household's benefits are continued pending a fair hearing and the hearing decision upholds the voluntary quit determination, the disqualification period begins the first month after the hearing decision is rendered.

**(5) Ending a voluntary quit disqualification.** Eligibility may be reestablished during a disqualification period and the household member, when otherwise eligible, may resume participation when the member, who caused the disqualification becomes exempt

from the work registration requirements, per OAC 340:50-5-86.

[Source: Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 10 Ok Reg 4851, eff 9-8-93 ; Amended at 18 Ok Reg 2079, eff 7-1-01 ; Amended at 27 Ok Reg 1241, eff 6-1-10 ; Amended at 35 Ok Reg 1659, eff 9-17-18 ; Amended at 36 Ok Reg 1816, eff 9-16-19]

#### **340:50-5-95. Ending voluntary quit disqualification [REVOKED]**

[Source: Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 18 Ok Reg 2079, eff 7-1-01 ; Revoked at 35 Ok Reg 1659, eff 9-17-18]

#### **340:50-5-96. Reapplication during the disqualification period [REVOKED]**

[Source: Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 3-13-93 ; Amended at 18 Ok Reg 2079, eff 7-1-01 ; Revoked at 35 Ok Reg 1659, eff 9-17-18]

#### **340:50-5-97. Voucher-authorized child care for Employment and Training (E&T) activities [REVOKED]**

[Source: Added at 22 Ok Reg 805, eff 5-12-05 ; Amended at 26 Ok Reg 840, eff 6-1-09 ; Revoked at 34 Ok Reg 1504, eff 9-15-17]

### **PART 10. ABLE-BODIED ADULTS WITHOUT DEPENDENTS**

#### **340:50-5-100. Able-bodied adult without dependents (ABAWD) work requirements and time limits**

(a) **ABAWD work requirements.** Per Section 273.24(a) of Title 7 of the Code of Federal Regulations (7 C.F.R. § 273.24(a)), an ABAWD meets work requirements when he or she:

(1) works continuously 20 hours or more per week, averaged monthly. Averaged monthly means 80 hours per month. The employment may be paid, in-kind, unpaid, or volunteer work with religious or community organizations;

(2) participates in and complies with the requirements of a work program 20 hours or more per week, averaged monthly. Work programs include:

(A) a program assignment under Title 1 of the Workforce Innovation and Opportunity Act (WIOA), Public Law (P.L.) 113-128;

(B) a program under Section 236 of the Trade Act of 1974, Section 2296 of Title 19 of the United States Code (19 U.S.C. § 2296);

(C) an Oklahoma Supplemental Nutrition Assistance Program Works (OK SNAP Works) assignment, not including job search, supervised job search, or job search training activities. However, job search, supervised job search, or job search training activities, when offered as

part of other program components, are acceptable if those activities comprise less than half the total required time spent in the components; or

(D) any employment and training program that serves veterans operated by the Department of Labor or the Department of Veterans Affairs; or

(3) works and participates in a work program for a total of 20 or more hours per week, averaged monthly; or

(4) meets an exemption from the work requirements per (d) of this Section.

(b) **General rule.** An ABAWD who is a member of an eligible household receiving Supplemental Nutrition Assistance Program (SNAP) food benefits must comply with work requirements per (a) of this Section or be exempt from work requirements per (d) of this Section to be eligible to participate as a member of any food benefit household for more than three countable months, consecutive or otherwise, during any 36-month or three-year period. When the ABAWD meets work requirements per (a) or an exemption per (d) of this Section, he or she is eligible to participate with no time limits. An ABAWD subject to the three-month time limit may also regain eligibility per (e) of this Section.

(1) **Countable months.** Countable months are months when an ABAWD receives SNAP benefits for the full benefit month while not:

(A) exempt from ABAWD work requirements per (d) of this Section;

(B) fulfilling the work requirement per (a) of this Section; or

(C) receiving benefits that are prorated.

(2) **Countable months in another state.** When there is an indication an ABAWD subject to the time limits received SNAP food benefits in another state in the last 12 months, the worker must verify the number of countable months the person used in the other state per 7 C.F.R. § 273.2(f)(1)(xiv)(B).

(3) **Measuring the three-year or 36-month time period.** Per 7 C.F.R. § 273.24(b)(3), Oklahoma Human Services (OKDHS) uses a 'fixed-individual clock' for each ABAWD subject to time limits. This means the ABAWD clock starts at the initial application for SNAP benefits when the person is not meeting ABAWD work requirements per (a) of this Section. When the person meets ABAWD work requirements at initial application, the clock starts the month the person uses the first countable month per (b)(1) of this Section.

(4) **Worker responsibilities.** It is the worker's responsibility to:

(A) determine the ABAWD status of each household member:

(i) at application, mid-certification renewal, and certification renewal;

(ii) when a new person joins the household during the certification period; and (iii) when reported information indicates a household member lost an exemption or no longer meets the work

requirement;

(B) orally explain the ABAWD rights and responsibilities of each household member during the SNAP application and certification renewal interview, when a new person joins the household during the certification period, and when a household member loses an exemption. The system also generates a written notice to the household. The explanation includes:

- (i) ABAWD work requirements, the household members subject to these requirements, and the ways to fulfill these requirements;
  - (ii) exemption and good cause criteria and how to claim an exemption or good cause;
  - (iii) the ABAWD's limited benefit eligibility when he or she does not fulfill work requirements;
  - (iv) how to maintain eligibility under the ABAWD work requirements, including what the household needs to provide at certification and renewal and what happens when an household member loses an exemption or a person joins the household; and
  - (v) how to regain eligibility, per (e) of this Section;
- and

(C) update the ABAWD status of an adult household member any time he or she loses an exemption or no longer meets the work requirements. The worker must 'look-back' to determine when the ABAWD lost the exemption or stopped meeting the work requirement. The worker closes food benefits for the person when he or she already used his or her countable months for the 36-month period or corrects the ABAWD status to start the ABAWD's clock per (3) of this subsection.

(5) **ABAWD responsibilities.** It is the ABAWD's responsibility to:

(A) verify his or her work or participation hours, a combination of work and participation hours, or exemption status at application, mid-certification renewal, and certification renewal per 7 C.F.R. § 273.2(f)(1) and (f)(8); and

(B) report when his or her work or participation hours or a combination of work and participation hours drop below 20 hours per week or 80 hours per month within 10-calendar days of the month the hours dropped.

(i) When the ABAWD reports his or her work or participation hours or a combination of work and participation hours dropped below 20 hours per week, the worker determines if the ABAWD is eligible for three countable months. When the ABAWD is:

(I) eligible for three countable months, the worker tracks the months to determine when to close benefits for the ABAWD if he

or she does not regain eligibility per (e) of this Section; or  
(II) not eligible because he or she received three countable months within the three-year period, the worker closes food benefits for the ABAWD.

(ii) When an ABAWD subject to time limits received SNAP food benefits in error within the most recent three-year period, the benefits are considered as countable months unless the ABAWD pays the benefits back in full per 7 C.F.R. § 273.24(b)(5).

**(c) Good cause for failure to meet the ABAWD work requirement.**

When an ABAWD would have fulfilled the work requirement, per (a) of this Section, but missed some hours for good cause, the ABAWD meets the work requirement if the absence is temporary. Per 7 C.F.R. § 273.24(b)(2), good cause includes circumstances beyond the person's control, such as, but not limited to:

- (1) illness;
- (2) illness of another household member requiring the presence of the ABAWD;
- (3) unavailability of transportation; or
- (4) a household emergency.

**(d) Exemptions from the ABAWD work requirement.** Per 7 C.F.R. § 273.24(c), a person is exempt from ABAWD work requirement and eligible to participate without time limits, when the person is:

- (1) younger than 18 years of age or:
  - (A) 50 years of age and older before September 1, 2023;
  - (B) 51 years of age and older from September 1, 2023, through September 30, 2023;
  - (C) 53 years of age or older on or after October 1, 2023; or
  - (D) 55 years of age or older on or after October 1, 2024.
- (2) medically-certified as physically or mentally unfit for employment. A person is medically-certified as physically or mentally unfit for employment when he or she:
  - (A) receives permanent or temporary disability benefits issued by governmental or private sources;
  - (B) is obviously mentally or physically unfit for employment. When it is not obvious that he or she is unfit, the person must provide documented evidence from medically-qualified sources to substantiate the medical exemption.

(i) Medically-qualified sources may include, but are not limited to, a:

- (I) licensed or certified psychologist, therapist, counselor, or social worker;
- (II) physician or physician's assistant;
- (III) nurse or nurse practitioner; or
- (IV) designated representatives of a physician's office.

(ii) The documented evidence must indicate the person has a physical or mental condition that

limits the person's ability to work.

(iii) When the medical exemption is temporary, the person is required to comply with work requirements when released by a medically qualified source to return to work;

(3) homeless, per 7 C.F.R. § 271.2 and Oklahoma Administrative Code (OAC) 340:50-5-29(b);

(4) pregnant;

(5) a veteran, per Section 5126(f)(13)(F) of the James M. Inhofe National Authorization Act of 2023, P.L. 117-263. This definition includes a person who:

(A) served in the United States Armed Forces, such as Army, Air Force, Coast Guard, Marine Corps, National Guard, and Navy;

(B) served in an active duty or reserve component; and

(C) was discharged or released regardless of the conditions of the discharge or release. The discharge may be honorable, general, other than honorable, bad conduct, dishonorable, office, medical, or entry-level separation; and

(6) a parent, natural, adoptive, or step, of a household member younger than 18 years of age, even when the minor child is not eligible for food benefits;

(7) an adult residing in a household with a household member younger than 18 years of age and included in the food benefit household, even when the minor child is not eligible for food benefits;

(8) a person 24 years of age or younger who was in foster care program run by a state, district, territory, or Indian tribal organization when the person turned 18, or a higher age the state has chosen, per 42 U.S.C. § 675(8)(B)(iii); or

(9) otherwise exempt from work requirements per 7 C.F.R. § 273.7(b) and OAC 340:50-5-86.

(e) **Persons who regain eligibility.** Persons whose food benefits were denied or closed because they received three countable months of food benefits may regain eligibility by meeting work requirements per (a) of this Section for 30-consecutive days.

(1) **Regained eligibility by meeting work requirements.**

When a person regains eligibility, he or she maintains food benefit eligibility without time limits provided he or she continues to meet work requirements per (a) of this Section. Per 7 C.F.R. § 273.24(d)(3), there is no limit to how many times a person may regain eligibility by meeting work requirements. The person's food benefits are prorated from the application date. When the person applies before meeting work requirements for 30-consecutive days, the application is denied.

(2) **Regained eligibility and then stopped meeting work requirements.** When a person regains eligibility and then stops meeting work requirements, he or she is eligible for SNAP food benefits for three-consecutive countable months only. The person may only receive the additional three-countable months once

during the 36-month period. After receiving these three-consecutive months, the person is not eligible for SNAP food benefits in his or her 36-month time period unless he or she regains eligibility by meeting the work rule or becomes exempt per (d) of this Section.

(f) **ABAWD work requirement waiver prohibition.** Per 7 C.F.R. § 273.24(f), states are allowed to request an ABAWD work requirement waiver in certain instances. Effective October 1, 2013, Section 241.3 of Title 56 of the Oklahoma Statutes prohibits OKDHS from requesting an ABAWD work requirement waiver from the United States Department of Agriculture.

[Source: Added at 35 Ok Reg 1659, eff 9-17-18 ; Amended at 39 Ok Reg 63, eff 9-16-21 (emergency); Amended at 39 Ok Reg 1755, eff 9-15-22 ; Amended at 41 Ok Reg, Number 23, effective 9-14-24]

### **340:50-5-101. Exemption to Able-Bodied Adult Without Dependents (ABAWD) Work Requirements**

Per Section 273.24(g) of Title 7 of the Code of Federal Regulations , Oklahoma Human Services (OKDHS) may provide an exemption from the three-countable months during any 36-month period rule for ABAWDs, per Oklahoma Administrative Code (OAC) 340:50-5-100(b), for up to eight percent of eligible ABAWDs per federal fiscal year.

(1) **Eligible ABAWD.** An eligible ABAWD is a food benefit recipient or applicant denied eligibility solely because he or she received three-countable months during the current 36-month period. This includes an ABAWD, who is not:

(A) exempt from ABAWD work requirements, per OAC 340:50-5-100(d);

(B) fulfilling work requirements, per OAC 340:50-5-100(a);  
or

(C) receiving Supplemental Nutrition Assistance Program food benefits because he or she regained eligibility for three-consecutive months, per OAC 340:50-5-100(e)(2).

(2) **Tracking.** OKDHS tracks the number of exemptions used each month and reports the information to the United States Department of Agriculture Food and Nutrition Services regional office on a quarterly basis.

(3) **Eight percent exemption.** OKDHS uses the allowable eight percent exemptions to extend food benefit eligibility to all ABAWDs whose eligibility OKDHS extended more than three-countable months in error. Each exemption covers one month issued in error.

[Source: Added at 35 Ok Reg 1659, eff 9-17-18 ; Amended at 37 Ok Reg 122, eff 10-2-19 (emergency); Amended at 37 Ok Reg 1836, eff 9-15-20 ; Amended at 41 Ok Reg, Number 23, effective 9-14-24]

## **PART 11. OKLAHOMA SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM WORKS (OK SNAP WORKS)**

**340:50-5-106. Oklahoma Supplemental Nutrition Assistance Program Works (OK SNAP WORKS)**

Oklahoma Human Services (OKDHS) operates a voluntary employment and training program, OK SNAP Works, per Section 273.7(e)(5) of Title 7 of the Code of Federal Regulations (7 C.F.R. § 273.7(e)(5)).

OK SNAP Works assists food benefit recipients, especially able-bodied adults without dependents (ABAWD), become involved in meaningful, work-related activities that lead to paid employment and enable them to achieve or maintain economic self-support.

(1) **Participant information.** OK SNAP Works is available to ABAWD and non-ABAWD participants age 16 or older who receive SNAP benefits, do not receive Temporary Assistance for Needy Families, and live in an area served by an OKDHS contracted service provider.

(2) **Worker responsibilities for OK SNAP Works information, screening and referral.** It is the worker's responsibility to:

- (A) inform the applicant or recipient that participation in OK SNAP Works is voluntary;
- (B) ask if any household member age 16 or older wants to voluntarily participate in OK SNAP Works regardless of ABAWD status;
- (C) screen and, if appropriate, refer:
  - (i) non-exempt ABAWDs who are not complying with ABAWD work requirements, per Oklahoma Administrative Code (OAC) 340:50-5-100; and
  - (ii) other SNAP recipients who express an interest in participating in OK SNAP Works.

(3) **Intake and case management services.** The OK SNAP Works coordinator sends a referral to the contracted service provider to initiate the intake process and case management services.

- (A) Case management services and activities must be provided to all participants and must directly support their participation in OK SNAP Works. Case management services may include, but are not limited to:
  - (i) comprehensive intake assessments;
  - (ii) individualized service plans;
  - (iii) progress monitoring; and
  - (iv) coordination with service providers.
- (B) After receiving a referral, the provider's staff schedules referred participants for an orientation and comprehensive assessment.
- (C) Following orientation and assessment, each participant has an assessment interview to explore the participant's:
  - (i) employment and training needs and barriers;
  - (ii) communication and employment-related skills;
  - (iii) education and employment history; and
  - (iv) career interests.
- (D) The provider enrolls each participant in at least one component, per (4) of this Section, and continues to



provide case management services to address employment barriers.

(4) **OK SNAP Works component assignments.** OK SNAP Works components include supervised job search, job search training, educational services, vocational training, Workfare for non-exempt ABAWDs only, work experience, and job retention services.

(A) **Supervised job search component.** Supervised job search is a component that provides structured activities to help participants seek and obtain suitable employment. These activities occur at approved locations where the participant is supervised and timeliness is tracked, per 7 C.F.R. § 273.7(e)(2)(i).

(B) **Job search training component.** Job search training is a component that enhances the participant's job readiness and may include employability assessment, training in techniques to increase employability, job placement services, or other direct training or support activities, per 7 C.F.R. § 273.7(e)(2)(ii).

(C) **Educational services component.** A participant is placed in an educational services component when the participant:

- (i) does not have a high school diploma or equivalency certificate;
- (ii) has literacy issues; or
- (iii) needs to learn or improve English language skills.

(D) **Vocational training component.** Participants may receive vocational training when assessments indicate training is needed to enhance employability or when industry-specific training is needed as part of a job placement program.

(E) **Workfare component.** Workfare is a work component only available to non-exempt ABAWDs. Participants work in a public service or a private, non-profit agency to obtain skills necessary to enhance employability or develop skills required for job placement.

(F) **Work experience.** The work experience component is designed to improve participant employability through actual work experience and training. The goal of work experience is to enable participants to move into regular employment. Work experience is a planned, structured learning experience that takes place in a workplace for a limited time period. A work experience program may include a work activity or a work-based learning program.

- (i) A work activity gives the participant the opportunity to acquire the general skills, knowledge, and work habits necessary to obtain employment.
- (ii) A work-based learning program may include internships, pre-apprenticeships, apprenticeships,

customized training, transitional jobs, incumbent worker training, and on-the job training as defined by the Workforce Innovation and Opportunity Act.

(G) **Job retention component.** The job retention component helps participants who secured employment after or while receiving OK SNAP Works services to achieve satisfactory performance, retain employment, and increase earnings over time. A participant may receive case management, job coaching, dependent care assistance, and transportation assistance, per 7 C.F.R. § 273.7(e)(2)(viii). This component must last for at least 30-calendar days but no more than 90-calendar days. There is no limit to the number of times a person may receive job retention services as long as the person re-engages with OK SNAP Works prior to obtaining new employment.

(5) **Supportive services.** Supportive services are provided to a participant when necessary and directly related to the participant's ability to participate in the assigned OK SNAP Works component. OKDHS authorizes payments for supportive services that may include, but are not limited to, covering the cost of:

(A) child care under special circumstances. When child care is needed after assessment, the contracted service provider assists the client in completing a child care application. The application is sent to the OK SNAP Works coordinator to determine eligibility, per OAC 340:40;

(B) clothing;

(C) uniforms;

(D) tools;

(E) personal safety items;

(F) books or training manuals;

(G) transportation, such as bus tickets, public transportation passes, taxi cabs, sharing rides, or gas vouchers; or

(H) other equipment deemed necessary for participation.

(6) **Contracted service provider responsibility.** The contracted service provider tracks participation and informs the OK SNAP Works coordinator of all potential participants' participation status, outcome performance measures, and when the provider determines that an assigned component is ill-suited for potential participant.

(A) When a potential participant fails to participate in OK SNAP Works following a referral or the provider determines that a potential participant is ill-suited for a component, contracted staff notifies the OK SNAP Works coordinator within 10-calendar days of the non-participation or the provider determination. In a provider determination notification, the contracted provider must include the former participant's name, case number, and reason for the provider determination and may offer input on the most appropriate next step for the participant.

(B) When the contracted provider finds a component is ill-suited for a participant, but determines the participant may be suitable for another component the provider offers, the provider may switch the participant to the suitable component. The provider informs the OK SNAP Works coordinator of the new component without the need for the coordinator to act further on the provider determination.

(7) **OK SNAP Works coordinator responsibilities.** The OK SNAP Works coordinator:

- (A) monitors the contracted service provider's performance in operating the OK SNAP Works Program;
- (B) initiates provider referrals;
- (C) determines participants' child care subsidy eligibility;
- (D) at the household or worker's request, OK SNAP coordinator provides verification of a participant's monthly hours spent in the program ; and
- (E) upon receipt of a provider determination, reviews the reason for, and notifies field staff about, the provider's determination.

(8) **Worker responsibilities for provider determinations.** A provider determination occurs when a service provider concludes the assigned component is ill-suited for a participant.

(A) Within 10-calendar days of when the contracted service provider notifies OKDHS, the worker must inform the former OK SNAP Works participant of (i) through (vii) of this subparagraph and document the exchange in case notes.

- (i) A provider determination concluded the component is ill-suited for the assigned OK SNAP Works participant.
- (ii) The former participant's OK SNAP Works assignment has ended.
- (iii) The former participant may immediately pursue the options in (B) of this paragraph.
- (iv) OKDHS will pursue the steps in (B) of this paragraph at the certification renewal when the former participant declines to pursue these options immediately.
- (v) When the former participant is an ABAWD, per OAC 340:50-5-100, the former participant starts accruing countable months towards the three-month participation time limit. The countable months begin with the next full month following the notification month, unless the participant:
  - (I) fulfills the work requirement, per OAC 340:50-5-100(a);
  - (II) has good cause, per OAC 340:50-5-100(c); or
  - (III) is otherwise exempt from the ABAWD requirements, per OAC 340:50-5-100(d).

- (vi) The worker provides contact information the former participant may use to reach OKDHS.
- (vii) The provider determination does not cause an OK SNAP Works sanction.

(B) In response to a provider determination, the worker takes the most suitable action from options (i) through (iii) of this subparagraph as soon as possible when the former participant requests, but no later than the next certification renewal. The worker:

- (i) reassesses whether the former participant is physically and mentally capable of participating, per OAC 340:50-5-86(4);
- (ii) refers the former participant back to OK SNAP Works, per (C) of paragraph (1) as long as the former participant is physically and mentally capable, per OAC 340:50-5-86(4); or
- (iii) identifies work opportunities or assistance for the participant by coordinating with other federal, state, and local workforce or assistance programs.

[Source: Added at 35 Ok Reg 1659, eff 9-17-18 ; Amended at 36 Ok Reg 1816, eff 9-16-19 ; Amended at 39 Ok Reg 63, eff 9-16-21 (emergency); Amended at 39 Ok Reg 1755, eff 9-15-22 ; Amended at 41 Ok Reg, Number 23, effective 9-14-24]

## **SUBCHAPTER 7. FINANCIAL ELIGIBILITY CRITERIA**

### **PART 1. RESOURCES**

#### **340:50-7-1. Resources considered**

(a) **Resources.** Resources are excluded in determining eligibility for the Supplemental Nutrition Assistance Program (SNAP) for categorically eligible households, per Section 273.2(j)(2) of Title 7 of the Code of Federal Regulations (7 § C.F.R. 273.2(j)(2)) and Oklahoma Administrative Code (OAC) 340:50-11-111 through 340:50-11-115. Resources must be considered in determining SNAP eligibility for households that:

- (1) contain one or more sponsored aliens whose sponsor's resources must be deemed to the sponsored alien, per OAC 340:50-5-49; or
- (2) cannot be classified as a categorically eligible household, per OAC 340:50-7-6 and 340:50-11-111(d). This includes households whose SNAP benefit closed due to substantial lottery or gambling winnings, per (b) of this Section, the first time they reapply.

(b) **Substantial lottery or gambling winners.** Per 7 C.F.R. § 273.11(r), substantial lottery or gambling winnings are defined as a cash prize won in a single game, before taxes or other amounts are withheld, that is equal to, or greater than, the SNAP disqualification resource standard for lottery or gambling winners, per Oklahoma Human Services (OKDHS) Appendix C-3, Maximum Food Benefit Allotments and Standards for Income and Deductions.

(1) When multiple persons shared in the purchase of a ticket, hand, or similar bet, only the portion of the winnings allocated to the SNAP household member is counted in determining resource eligibility.

(2) A household that participates in SNAP in the month it receives substantial lottery or gambling winnings must provide verification of the winnings from the appropriate lottery commission or gaming facility, when available, within 10-calendar days of being given or sent Form 08AD092E, Client Contact and Information Request. When the household fails to provide proof of the amount of the winnings and date received, the worker closes the SNAP food benefit for the next advance notice effective date, per OKDHS Appendix B-2, Deadlines for Case Actions.

(3) When the household's winnings exceed the SNAP disqualification resource standard for lottery or gambling winners, the household is disqualified and the worker closes the SNAP food benefit for the next advance notice effective date, per OKDHS Appendix B-2. Refer to OAC 340:50-9-5(j) for more information on required actions.

(4) To regain resource eligibility, the household must reapply, meet non-categorical resource requirements, per 7 C.F.R. § 273.8 and OAC 340:50-7-6, and verify the winnings are spent down below the appropriate resource standard, per Appendix C-3. Once the household meets non-categorical resource requirements and is certified, it regains categorical eligibility for future applications and renewals unless (a)(1) or (2) of this Section applies.

(c) **Sponsored aliens.** A household containing a sponsored alien must verify the value of liquid and non-liquid resources for their household and the alien's sponsor and sponsor's spouse, per OAC 340:50-5-49 and OAC 340:50-7-6. After subtracting \$1,500 from countable resources, the household's countable resources must not exceed the appropriate resource standard for sponsored aliens, per Appendix C-3.

(d) **Expedited services.** When the household applies for food benefits, it must declare the value of liquid resources available to the household. The worker accepts the household's statement regarding the value of liquid resources to determine expedited services eligibility, per OAC 340:50-11-

1. Liquid resources include:

- (1) cash on hand;
- (2) checking or savings account balances;
- (3) the cash value of savings certificates; and
- (4) the cash value of stocks or bonds.

[Source: Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 20 Ok Reg 117, eff 10-1-02 ; Amended at 26 Ok Reg 840, eff 6-1-09 ; Amended at 28 Ok Reg 850, eff 6-1-11 ; Amended at 37 Ok Reg 122, eff 10-2-19 (emergency); Amended at 37 Ok Reg 1836, eff 9-15-20 ; Amended at 38 Ok Reg 2245, eff 9-15-21]

## **340:50-7-2. Excluded resources [REVOKED]**

[Source: Amended at 9 Ok Reg 3405, eff 5-13-92 ; Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 11 Ok Reg 4587, eff 9-1-94 (emergency); Amended at 12 Ok Reg 541, eff 12-10-94 (emergency); Amended at 12 Ok Reg 1723, eff 6-12-95 ;

Amended at 13 Ok Reg 1799, eff 6-1-96 (emergency); Amended at 14 Ok Reg 59, eff 10-10-96 (emergency); Amended at 14 Ok Reg 1351, eff 5-12-97 ; Amended at 17 Ok Reg 473, eff 10-12-99 ; Amended at 18 Ok Reg 3639, eff 9-7-01 (emergency); Amended at 19 Ok Reg 1119, eff 5-13-02 ; Amended at 20 Ok Reg 872, eff 6-1-03 ; Amended at 20 Ok Reg 2924, eff 10-1-03 (emergency); Amended at 21 Ok Reg 841, eff 4-26-04 ; Amended at 23 Ok Reg 1010, eff 6-1-06 ; Amended at 26 Ok Reg 12, eff 10-1-08 (emergency); Amended at 26 Ok Reg 840, eff 6-1-09 ; Revoked at 28 Ok Reg 850, eff 6-1-11]

### **340:50-7-3. Non-exempt resources [REVOKED]**

[**Source:** Amended at 26 Ok Reg 12, eff 10-1-08 (emergency); Amended at 26 Ok Reg 840, eff 6-1-09 ; Revoked at 28 Ok Reg 850, eff 6-1-11]

### **340:50-7-4. Special resource situations [REVOKED]**

[**Source:** Amended at 9 Ok Reg 3405, eff 5-13-92 ; Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1805, eff 5-13-93 ; Amended at 11 Ok Reg 4587, eff 9-1-94 (emergency); Amended at 11 Ok Reg 4811, eff 9-14-94 ; Amended at 12 Ok Reg 1723, eff 6-12-95 ; Amended at 14 Ok Reg 587, eff 12-12-96 (emergency); Amended at 14 Ok Reg 1351, eff 5-12-97 ; Amended at 17 Ok Reg 473, eff 10-12-99 ; Amended at 18 Ok Reg 3639, eff 9-7-01 (emergency); Amended at 19 Ok Reg 1119, eff 5-13-02 ; Amended at 21 Ok Reg 841, eff 4-26-04 ; Amended at 25 Ok Reg 937, eff 6-1-08 ; Revoked at 28 Ok Reg 850, eff 6-1-11]

### **340:50-7-5. Transfer of resources [REVOKED]**

[**Source:** Amended at 26 Ok Reg 840, eff 6-1-09 ; Revoked at 28 Ok Reg 850, eff 6-1-11]

### **340:50-7-6. Sponsored alien and non-categorically eligible resource requirements**

(a) **Resource consideration.** Resources must be considered in determining Supplemental Nutrition Assistance Program (SNAP) food benefit eligibility for households that:

(1) contain one or more sponsored aliens whose sponsor's resources must be deemed to the sponsored alien, per Section 274.3(c) of Title 7 of the Code of Federal Regulations (7 C.F.R. § 273.4(c)) and Oklahoma Administrative Code (OAC) 340:50-5-49; and

(2) cannot be classified as a categorically eligible household, per 7 C.F.R. § 273.2(j)(2)(vii) and OAC 340:50-11-111(d). Non-categorically eligible households include households:

(A) that reapply for SNAP food benefits the first time following closure due to substantial lottery or gambling winnings, per OAC 340:50-7-1;

(B) that include a member who is disqualified for an intentional program violation, per 7 C.F.R. § 273.16 and OAC 340:50-15-25;

(C) that include a member who is ineligible for being a fleeing felon or probation violator, per 7 C.F.R. § 273.11(n) and OAC 340:50-5-10.1;

(D) that include a household member who is disqualified for being convicted of certain crimes as an adult after February 7, 2014, and is not in compliance with the terms of the sentence or the restrictions under 7 C.F.R. § 273.11(n), per 7 C.F.R. § 273.11(s); or

(E) whose head of household is disqualified for failing to comply with work requirements, per OAC 340:50-5-85 through 340:50-5-89. Refer to OAC 340:50-3-1(b)(2) for head of household information.

(b) **Countable resources.** When a household meets one of the criteria, per (a) of this Section, it must verify the value of non-excluded resources owned by a household member(s) and meet the appropriate non-categorically eligible resource standard, per Oklahoma Department of Human Services (OKDHS) Appendix C-3, Maximum Food Benefit Allotments and Standards for Income and Deductions. Countable resources include liquid and non-liquid resources per (1) and (2) of this subsection.

(1) Liquid resources include, but are not limited to:

- (A) cash on hand;
- (B) money in checking or savings accounts;
- (C) savings certificates;
- (D) stocks or bonds; and
- (E) lump sum payments, such as lottery or gambling winnings.

(2) The equity value of non-liquid resources is considered unless the resource is excluded per (c) of this Section or is a licensed vehicle excluded from the equity test per (E) of this paragraph. The equity value is the fair market value less encumbrances. Non-liquid resources include, but are not limited to:

- (A) personal property;
- (B) boats;
- (C) buildings, land, or other property that are not excluded, per (c) of this Section;
- (D) mobile homes other than home property; and
- (E) licensed and unlicensed vehicles that are not excluded, per (c)(3) of this Section and 7 C.F.R. § 273.8(e)(3) and (f)(2). For non-excluded licensed vehicles, the fair market value over \$4,650, regardless of any encumbrances on the vehicle, counts as a resource.

(i) Vehicles excluded from the equity test but not the fair market value test include one licensed vehicle per adult household member, ineligible alien, or disqualified household member, and any other vehicle used by a household member younger than 18 years of age to drive to work, school, training, or to look for work.

(ii) The worker determines the equity value of non-excluded unlicensed and licensed vehicles, unless exempted from the equity test, per (i) of this paragraph.

(iii) When the vehicle has a fair market value of over \$4,650 and an equity value, the worker counts the greater of the two amounts as a resource.

(c) **Resource exclusions.** Resource exclusions include:

- (1) the home and surrounding property that is not separated from the home by intervening property owned by others;

- (2) household goods, personal effects, the cash value of life insurance policies, one burial plot and the value of one funeral agreement per household member, and the cash value of pension or retirement plans or funds;
- (3) licensed vehicles that:
  - (A) are used for income-producing purposes, such as a taxi, fishing boat, or delivery vehicle or are required by the terms of employment;
  - (B) annually produce income consistent with their fair market value;
  - (C) are needed for long-distance travel for work, other than daily commuting;
  - (D) are used as the household's home;
  - (E) are necessary to transport a physically disabled household member or disqualified member regardless of the transportation's purpose;
  - (F) are needed to carry most of the household's fuel for heating or water for home use; or
  - (G) would sell for less than \$1,500;
- (4) property that annually produces income consistent with its fair market value, such as rental homes or vacation homes;
- (5) property that is essential to the employment or self-employment of a household member, such as farm land or work-related equipment;
- (6) installment contracts for the sale of land or buildings when the contract or agreement produces income consistent with its fair market value;
- (7) government payments designated to restore a home damaged in a disaster;
- (8) resources with a cash value that is not accessible to the household, such as irrevocable trust funds, security deposits on rental property, property in probate, and real property that the household is making a good faith effort to sell;
- (9) resources that are prorated as income, such as for self-employed persons;
- (10) Indian lands held jointly by the tribe or land that can only be sold with the Bureau of Indian Affairs approval;
- (11) resources excluded by federal statute;
- (12) federal, state, or local earned income tax credits received by any household member are excluded for 12 months, provided the household received SNAP benefits at the time of receipt and continuously received SNAP food benefits during the 12-month period. When the household was not receiving SNAP benefits during the month the federal earned income tax credit was received, it is excluded for the month of receipt and the following month;
- (13) where a resource exclusion applies for a household member, it also applies for an ineligible alien or disqualified person whose resources are counted as part of the household's resources;
- (14) energy assistance payments or allowances excluded as income;



- (15) non-liquid assets against which a lien is placed for a business loan when the household is prohibited from selling the assets;
- (16) property, real or personal, to the extent it is directly related to the maintenance or use of a vehicle excluded per (C) of this subsection;
- (17) resources of a household member who receives Supplemental Security Income, State Supplemental Payment, or Temporary Assistance for Needy Families; and
- (18) funds in a qualified tuition program, per Section 529 of the Internal Revenue Code; a Coverdell education savings account, per Section 530 of the Internal Revenue Code; and any other education savings account Food and Nutrition Services determines to be excludable.

(d) **Transfer of resources.** At application, the worker asks the household if a household member, an ineligible alien, or a disqualified person whose resources are considered available to the household transferred non-exempt resources within the three-month period immediately preceding the application date. Households that transfer resources for the purpose of qualifying or attempting to qualify for SNAP food benefits are disqualified from SNAP participation for up to one year from the discovery of the transfer. This includes when the household transfers all or some of its substantial lottery or gambling winnings to a non-household member for this purpose. The length of the disqualification period is determined based on the amount by which the transferred resources, when added to other countable resources, exceeds the allowable non-categorical resource standard per Appendix C-3. When the amount of transferred resources equals:

- (1) \$0 to 249.99, the disqualification period is one month;
- (2) \$250 to 999.99, the disqualification period is three months;
- (3) \$1,000 to 2999.99, the disqualification period is six months;
- (4) \$3,000 to 4,999.99, the disqualification period is nine months;
- or
- (5) \$5,000 or more, the disqualification period is 12 months.

(e) **Substantial lottery and gambling winners.** A household whose SNAP benefits closed due to substantial lottery or gambling winnings is only required to meet the resource requirements of this Section the first time it reapplies for SNAP and is certified. When the household reapplies, it must verify the substantial lottery or gambling winnings are spent down and its countable resources are below the appropriate resource standard, per OKDHS Appendix C-3. Once the household meets non-categorical resource requirements and is certified, it regains categorical eligibility for future applications and renewals unless (a)(1) or (2)(B) through (E) of this Section applies.

(f) **Sponsored alien resources.** When a sponsor's resources must be considered, the worker subtracts \$1,500 from the sponsored alien's countable resources before determining if the countable resources exceed the resource standard for sponsored alien households, per Oklahoma Human Services Appendix C-3.

## PART 3. INCOME

### 340:50-7-20. Income considered [REVOKED]

[Source: Revoked at 21 Ok Reg 841, eff 4-26-04]

### 340:50-7-21. Verification of income [REVOKED]

[Source: Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 19 Ok Reg 1767, eff 6-14-02 ; Revoked at 21 Ok Reg 841, eff 4-26-04]

### 340:50-7-22. Income exclusions

The worker excludes income listed in this Section from the household's countable income, from income of disqualified members whose income is counted, and from the income of ineligible aliens who would otherwise be household members, per Section 273.9 of Title 7 of the Code of Federal Regulations (7 C.F.R. § 273.9). No other income is excluded.

(1) **In-kind income.** In-kind income is any gain or benefit that is not in the form of money payable directly to the household, including meals, clothing, housing, or produce from a garden.

(2) **Vendor payments.** Vendor payments are money payments made on behalf of a household by a person or organization outside of the household directly to the household's creditors or to a person or organization providing a service to the household. When funds owed to the household are diverted to pay to a third party for a household expense, they are counted as income.

(3) **Educational assistance.** Educational assistance including grants, work-study, scholarships, fellowships, educational loans on which payment is deferred, veteran's education benefits, and the like are exempt.

(4) **Family Support Assistance Payment Program.** Family Support Assistance Payment Program payments provided by Oklahoma Human Services (OKDHS) Developmental Disabilities Services (DDS) are excluded.

(5) **Income excluded by law.** Any income that is specifically excluded by law from consideration as income for the purpose of determining Supplemental Nutrition Assistance Program (SNAP) eligibility is excluded. This includes, but may not be limited to:

(A) reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law (P.L.) 91-646, § 216. Such payments are:

- (i) payments to persons displaced due to the acquisition of real property;
- (ii) relocation payments to a displaced home owner toward the purchase of a replacement dwelling when the owner purchased and occupied the dwelling within one year following displacement;

and

(iii) replacement housing payments to displaced persons not eligible for a home owner's payment;

(B) payments received:

(i) under the Alaska Native Claims Settlement Act, P.L. 92-203 § 21(a);

(ii) under the Sac and Fox Indian Claims Agreement, P.L. 94-189;

(iii) from the disposition of funds to the Grand River Band of Ottawa Indians, P.L. 94-540;

(iv) from the Indian Claims Commission to the Confederated Tribes and Bands of the Yakima Indian Nation or the Apache Tribe of the Mescalero Reservation, P.L. 95-433;

(v) under the Maine Indian Claims Settlement Act of 1980 to members of the Passamaquoddy and the Penobscot Nation, P.L. 96-420 § 5;

(vi) by an individual as a lump sum or a periodic payment via the Cobell settlement, per the Claims Resolution Act of 2010, P.L. 111-291 § 101(f)(2); or

(vii) by members of the Navajo and Hopi Tribes for relocation assistance, per P.L. 93-531;

(C) any payment to volunteers under:

(i) Title I of the Domestic Volunteer Services Act (DVSA) of 1973, Section 404 of Public Law 93-113 as amended, (42 U.S.C. § 5044(f)(1)), for participation in programs, such as AmeriCorps Volunteers in Service to America (VISTA) or Special Volunteer Programs when the person receives SNAP or public assistance benefits at the time they join the Title I program. Temporary interruptions in SNAP participation do not alter the exclusion.

When the person joined the Title I program and started receiving volunteer payments before applying for SNAP or public assistance, the volunteer payments are counted as earned income; or

(ii) Title II of the DVSA, 42 U.S.C. § 5058, for participation in programs, such as the Retired and Senior Volunteer Program, the Foster Grandparent Program, and the Senior Companion Program;

(D) income derived from certain submarginal land of the United States (U.S.) held in trust for certain Indian tribes, per P.L. 94-114 § 6;

(E) Indian per capita payments distributed from judgment awards and trust funds made, per Section 2 of P.L. 98-64, 25 U.S.C. § 117b and 25 U.S.C. § 1407. For purposes of this paragraph, per capita is defined as each tribal member receiving an equal amount. Also excluded is any interest or investment income accrued on such funds while held in trust or any purchases made with judgment funds, trust

funds, interest, or investment income accrued on such funds. Any interest or income derived from the funds after distribution is considered as other income. The per capita exclusion applies per person rather than per family;  
(F) income up to \$2,000 per calendar year received by individual Indians, derived from leases or other uses of individually-owned trust or restricted lands. The income exclusion applies to calendar years beginning January 1, 1994. Remaining disbursements from the trust or restricted lands are considered income;

(G) allowances, stipends, earnings, compensation in lieu of wages, grants, and other payments made for participation in the Workforce Innovation and Opportunity Act (WIOA) of 2014, or other federally-funded workforce training program to persons of all ages and student status with the exception of income paid to persons 19 years of age and older for on-the-job training, per Oklahoma Administrative Code (OAC) 340:50-7-29(b)(5). This income is treated as any other earned income;

(H) payments, allowances, or earnings to persons participating in the AmeriCorps State and National program or the AmeriCorps National Civilian Community Corps authorized by the National and Community Service Act of 1990, 42 U.S.C. § 12637(d), and other payments to volunteers authorized by the National and Community Service Trust Act of 1993, P. L. 103-82, Section 12571 et seq. of Title 42 of the United States Code, and administered by the Corporation for National and Community Service;

(I) payments or allowances made under any federal law other than Part A of Title IV of the Social Security Act, 42 U.S.C. §§ 601 et seq., for the purpose of providing energy assistance, including utility reimbursements made by the Department of Housing and Urban Development (HUD) and the Rural Housing Service. Also a one-time payment or allowance made under a federal or state law for the costs of weatherization or emergency repair or replacement of an unsafe or inoperative furnace or other heating or cooling device;

(J) the amount of the mandatory salary reduction of military service personnel used to fund the G.I. Bill;

(K) benefits from State and Community Programs on Aging, per Title III and Title V of the Older Americans Act of 1965, as amended, by P.L. 114-144, Older Americans Act Reauthorization Act of 2016. Each state and various organizations receive Title V funds. These organizations include:

- (i) Experience Works;
- (ii) National Council on Aging;
- (iii) National Council of Senior Citizens;

(iv) American Association of Retired Persons (AARP) Foundation;  
(v) U.S. Forest Service;  
(vi) National Association for Spanish Speaking Elderly;  
(vii) National Urban League;  
(viii) National Council on Black Aging;  
(ix) National Council on Indian Aging;  
(x) Asociación Nacional Pro Personas Mayores;  
(xi) Associates for Training and Development, Inc.;  
(xii) American Samoa;  
(xiii) Easter Seals, Inc.;  
(xiv) Goodwill Industries International, Inc.;  
(xv) Institute for Indian Development;  
(xvi) National Able Network;  
(xvii) National Asian Pacific Center on Aging;  
(xviii) National Caucus and Center on Black Aged, Inc.;  
(xix) National Older Worker Career Center;  
(xx) Operation A.B.L.E. of Greater Boston, Inc.;  
(xxi) Senior Service America, Inc.;  
(xxii) SER-Jobs for Progress National, Inc.;  
(xxiii) Workplace, Inc.; and  
(xxiv) VANTAGE Aging;

(L) Earned Income Tax Credit (EITC) payments received as part of a tax refund and also EITC advance payments received as part of a paycheck, per P.L. 100-435 and refunds of the state EITC as a result of filing a state income tax return;

(M) any payment made to an Oklahoma Supplemental Nutrition Assistance Program Works participant, per OAC 340:50-5-106, in order to participate in the program;

(N) payments made from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In Re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.);

(O) payments received under the Civil Liberties Act of 1988. These payments are made to persons of Japanese ancestry whose ancestors were detained in internment camps during World War II;

(P) payments made from the Radiation Exposure Compensation Trust Fund as compensation for injuries or deaths resulting from the exposure to radiation from nuclear testing and uranium mining under P.L. 101-426;

(Q) payments received by an SSI recipient necessary for the fulfillment of a Plan for Achieving Self-Support (PASS) approved under Section 1612(b)(4)(A)(iii) or 1612(b)(4)(B)(iv) of the Social Security Act;

(R) payments made to persons who were victims of Nazi persecution under P.L. 103-286;

(S) funds distributed by the Federal Emergency Management Agency (FEMA) due to a disaster or an emergency to persons directly affected by the event, per the Robert T. Stafford Disaster Relief and Emergency Assistance Act, P.L. 93-288 as amended, 42 U.S.C. § 5155(d). This exclusion also applies to comparable disaster assistance provided by states, local governments, and disaster assistance organizations. For payments to be excluded, the disaster or emergency must be declared by the U.S. President;

(T) monetary allowances, 38 U.S.C. § 1823(c), provided to certain persons who are children of Vietnam War veterans;

(U) Disaster Unemployment Assistance paid to persons unemployed as a result of a major disaster under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, P.L. 93-288 as amended, 42 U.S.C. § 5177;

(V) benefits paid to certain veterans and the spouses of veterans who served in the military of the Government of the Commonwealth of the Philippines during World War II by the Filipino Veterans Equity Compensation Fund under Section 1002(g) of PL 111-5;

(W) money deposited into or withdrawn from a qualified Oklahoma Achieving a Better Life Experience (ABLE) Program account or an ABLE account in any other state owned by the designated beneficiary of the account and established to pay for qualified disability expenses (QDE) is excluded from income or resource consideration, per Sections 4001.1 through 4001.5 of Title 56 of the Oklahoma Statutes and the ABLE Act of 2014, 26 U.S.C. § 529A. A person may have only one ABLE account.

(i) The client must provide documents to verify the account meets exemption criteria before the funds are excluded. Once the client verifies that the savings or trust account is a valid ABLE account, no further account information is required.

(ii) A contribution to an ABLE account by another individual is excluded unless the contribution exceeds the annual federal gift tax exclusion amount, per 26 U.S.C. § 2503(b). Any money deposited in the account in the calendar year in excess of the annual federal gift tax exclusion amount is considered as a resource in the amount deposited.

(iii) A distribution from an ABLE account that is retained after the month of receipt is excluded in any month when spent on a QDE. Money withdrawn for reasons other than to pay a QDE is considered as a resource for the month of withdrawal.

(iv) A QDE is any expense related to the blindness or disability of the individual and made for the

benefit of the individual. QDE's include, but are not limited to:

- (I) education;
- (II) housing;
- (III) transportation;
- (IV) employment, training, and support;
- (V) assistive technology;
- (VI) health;
- (VII) prevention and wellness;
- (VIII) financial management and administrative services;
- (IX) legal fees;
- (X) expenses for ABLE account oversight and monitoring;
- (XI) funeral and burial; and
- (XII) basic living expenses; and

(X) is income received by a member of the U.S. Armed Forces, per 37 U.S.C. Chapter 5 and, per 7 C.F.R. § 273.9(c)(20), that is:

- (i) received in addition to the service member's basic pay during combat deployment;
- (ii) received as a result of the service member's deployment or service in an area designated as a combat zone as determined pursuant to Executive Order or P.L.; and
- (iii) not received by the service member prior to the service member's deployment to or service in a federally designated combat zone.

**(6) Payments not considered income.**

(A) The payments in (i) through (iii) of this subparagraph are not considered as income.

- (i) Monies withheld from any income source to repay a prior overpayment from that same source.
- (ii) Monies voluntarily or involuntarily returned to repay a prior overpayment received from that same income source.
- (iii) Child support payments received by Temporary Assistance for Needy Families (TANF) recipients and sent to Child Support Services to maintain TANF eligibility.

(B) Monies withheld or returned to repay overpayments in federal, state, or local means-tested assistance programs are counted when they are withheld or returned to repay overpayments resulting from an intentional program violation as established by the agency administering the program.

- (i) SNAP uses the term intentional program violation.
- (ii) The State Supplemental Payment to the Aged, Blind, and Disabled and TANF programs define intentional program violation using the terms

restitution, fraud, and willful misrepresentation.  
(iii) The Social Security Administration (SSA) and Veterans Benefits Administration programs define intentional program violation as fraud.  
Supplemental Security Income (SSI) is a means-tested program within SSA.

**(7) Reimbursements.**

(A) Reimbursements for past or future expenses to the extent they do not exceed actual expenses and do not represent a gain or benefit to the household are not considered. Examples of excluded reimbursements may include:

- (i) job or training-related expenses, such as travel, per diem, uniforms, and transportation to and from job or training sites;
- (ii) out-of-pocket expenses incurred by volunteers in the course of work;
- (iii) medical or dependent care;
- (iv) services provided by Title XX of the Social Security Act;
- (v) an allowance provided by a state agency for children's clothing to enter or return to school when it is provided no more frequently than annually; and
- (vi) expenses necessary to participate in an education program under an employment and training program.

(B) Reimbursements for normal living expenses, such as rent or mortgage, personal clothing, or food eaten at home are a gain or benefit and are not excluded. To be excluded, payments must be provided for an identified expense, other than normal living expenses, and used for the intended purpose.

(C) When a reimbursement including a flat allowance, covers multiple expenses, each expense does not have to be separately identified as long as none of the reimbursement covers normal living expenses. The reimbursement amount that exceeds the actual incurred expenses is counted as income. A reimbursement is not considered to exceed actual expenses unless the provider or household indicates the amount is excessive.

(D) The worker excludes any amount the employer adds to the employee's gross income as a benefit allowance to pay for a reimbursable expense, such as insurance or dependent care. When the monthly benefit allowance exceeds the monthly expense and the employer:

- (i) includes the excess in the employee's pay each month, the worker counts the excess benefit allowance as earned income; or
- (ii) retains any excess until the end of the year and then provides a yearly refund to the employee, the



worker excludes the refund as income as it is considered a non-recurring lump sum payment per (10)(C) of this Section.

(8) **Money received for third parties.** The worker excludes money the household receives and uses for the care and maintenance of a third-party beneficiary who is not a household member.

(A) When the intended beneficiaries of a single payment include household and non-household members, any identifiable portion of the payment intended and used for the care and maintenance of the non-household member is excluded.

(B) When the non-household member's portion cannot be readily identified, as in TANF cash assistance payments, the payment is evenly prorated among intended beneficiaries. The exclusion is applied to the non-household member's pro rata share or the amount actually used for the non-household member's care and maintenance, whichever is less.

(9) **Child's earnings.** When a child is head of his or her own household, his or her earned income is counted. The earned income of an elementary or high school student 17 years of age and younger, under parental control of an adult household member is excluded. This exclusion continues to apply during temporary interruptions in school attendance due to semester or vacation breaks, provided the child's enrollment resumes following the break. When the child's earnings cannot be differentiated from those of other household members, the total earnings are prorated equally among the working members, and the child's prorated share is excluded.

(10) **Other types of excluded income.**

(A) **Loans.** All loans, including loans from private individuals and commercial institutions, are excluded as income. When the household states someone is loaning the household money to meet expenses, a statement signed by both parties is required indicating the payment is a loan and must be repaid. When the household states it receives loans on a recurrent or regular basis from the same source, the lender must sign an affidavit stating the payments are loans that must be repaid or that payments will be made in accordance with an established repayment schedule.

(B) **Irregular Income.** Exclude any income in the certification period that is received too infrequently or irregularly to be reasonably anticipated when it is \$30 or less per quarter.

(C) **Non-recurring lump sum payments.** Exclude money received in the form of non-recurring lump sum payments including, but not limited to:

(i) income tax refunds, rebates, or credits;

- (ii) retroactive lump sums from SSA, SSI, public assistance, Railroad Retirement benefits, or other payments;
- (iii) retroactive lump sum insurance settlements; or
- (iv) refunds of security deposits on rental property or utilities.

(D) **Cost of self-employment.** Exclude the cost of producing self-employment income, per OAC 340:50-7-30.

(E) **Income of non-household members.** The income of non-household members who are not considered disqualified or ineligible household members, per OAC 340:50-5-10.1, is not considered available to the household. Non-household members include roomers, boarders, children in foster care or children placed by DDS with extended family care providers who are not included in the food benefit household, live in attendants, students, and persons who share living quarters with the household but who do not customarily purchase food or prepare meals with the household, per OAC 340:50-5-5.

(F) **Charitable contributions.** Exclude cash contributions based on need to a household from one or more private non-profit charitable organizations, not to exceed \$300 in a federal fiscal year quarter. For the purposes of this provision a quarter includes these specific months:

- (i) October, November, December;
- (ii) January, February, March;
- (iii) April, May, June; and
- (iv) July, August, September.

(G) **Department of Housing and Urban Development's (HUD) Family Self-sufficiency Program (FSS) escrow accounts.** Families participating in the HUD FSS program may withdraw money from escrow accounts prior to completion of the program. This money is excluded as income.

(H) **Individual Development Account (IDA).** Up to \$2,000 in cash deposited and the interest accrued in an IDA operated under the Assets for Independence Act, as amended, per P. L. 106-554, P. L. 107-110 and P. L. 114-95, is excluded as income.

[Source: Amended at 9 Ok Reg 3405, eff 5-13-92 ; Amended at 9 Ok Reg 3842, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1155, eff 3-9-93 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 10 Ok Reg 1255, eff 6-11-93 ; Amended at 11 Ok Reg 345, eff 10-15-93 (emergency); Amended at 11 Ok Reg 2667, eff 6-13-94 ; Amended at 11 Ok Reg 4587, eff 9-1-94 (emergency); Amended at 11 Ok Reg 4811, eff 9-14-94 ; Amended at 12 Ok Reg 541, eff 12-10-94 (emergency); Amended at 12 Ok Reg 1723, eff 6-12-95 ; Amended at 19 Ok Reg 1767, eff 6-14-02 ; Amended at 20 Ok Reg 872, eff 6-1-03 ; Amended at 20 Ok Reg 2924, eff 10-1-03 (emergency); Amended at 21 Ok Reg 841, eff 4-26-04 ; Amended at 23 Ok Reg 1010, eff 6-1-06 ; Amended at 26 Ok Reg 840, eff 6-1-09 ; Amended at 27 Ok Reg 1241, eff 6-1-10 ; Amended at 28 Ok Reg 850, eff 6-1-11 ; Amended at 30 Ok Reg 669, eff 6-1-13 ; Amended at 34 Ok Reg 505, eff 3-1-17 (emergency); Amended at 34 Ok Reg 1504, eff 9-15-17 ; Amended at 36 Ok Reg 1816, eff 9-16-19 ; Amended at 38 Ok Reg 2245, eff 9-15-21]

### **340:50-7-23. Payments which are not considered income [REVOKED]**

[Source: Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 20 Ok Reg 872, eff 6-1-03 ; Revoked at 21 Ok Reg 841, eff 4-26-04]

### **340:50-7-24. Reimbursements [REVOKED]**

[Source: Amended at 9 Ok Reg 3405, eff 5-13-92 ; Amended at 20 Ok Reg 872, eff 6-1-03 ; Revoked at 21 Ok Reg 841, eff 4-26-04]

### **340:50-7-25. Educational assistance [REVOKED]**

[Source: Amended at 9 Ok Reg 3405, eff 5-13-92 ; Amended at 10 Ok Reg 4851, eff 9-8-93 ; Amended at 19 Ok Reg 1767, eff 6-14-02 ; Revoked at 20 Ok Reg 872, eff 6-1-03]

### **340:50-7-26. Money received for third parties [REVOKED]**

[Source: Amended at 20 Ok Reg 872, eff 6-1-03 ; Revoked at 21 Ok Reg 841, eff 4-26-04]

### **340:50-7-27. Earnings of a child [REVOKED]**

[Source: Amended at 10 Ok Reg 1155, eff 3-9-93 (emergency); Amended at 10 Ok Reg 2255, eff 6-11-93 ; Amended at 11 Ok Reg 4587, eff 9-1-94 (emergency); Amended at 12 Ok Reg 1723, eff 6-12-95 ; Amended at 14 Ok Reg 220, eff 10-1-96 ; Amended at 19 Ok Reg 1767, eff 6-14-02 ; Revoked at 21 Ok Reg 841, eff 4-26-04]

### **340:50-7-28. Other types of excluded income [REVOKED]**

[Source: Amended at 9 Ok Reg 3405, eff 5-13-92 ; Amended at 20 Ok Reg 872, eff 6-1-03 ; Revoked at 21 Ok Reg 841, eff 4-26-04]

### **340:50-7-29. Income inclusions**

(a) **Sources of income considered.** The worker considers all household income, unless specifically excluded, per Section 273.9(c) of Title 7 of the Code of Federal Regulations (7 C.F.R. § 273.9(c)) and Oklahoma Administrative Code (OAC) 340:50-7-22, in determining monthly gross income. Income is classified as earned or unearned. When one or more household members are absent from the home, before deciding whether to consider the absent household member's income, the worker determines if the person returns to the home for part of the month.

(1) The worker does not include the absent member in the benefit amount and only counts the portion of his or her income that he or she makes available to the rest of the household when the household member does not return for part of the month, per OAC 340:50-5-2.

(2) When the household member returns for part of each month, the worker includes him or her in the benefit amount and counts all of his or her income unless excluded, per OAC 340:50-7-22.

(b) **Earned income.** Per 7 C.F.R. § 273.9(b)(1), earned income is income a household receives in the form of wages, commission, self-employment,

or training allowances, and for which a person puts forth physical labor.

(1) **Wages.** Wages and salaries include sick pay the employer pays to an employee who plans to return to work when recovered, excess benefit allowance payments, and wages garnished or diverted to pay a third party for a household's expenses. Countable wages for military personnel include any allowance included on the earnings statement, such as the Basic Allowance for Housing (BAH) and the Basic Allowance for Subsistence (BAS).

(2) **S corporations.** When a household member is a shareholder in an S corporation, he or she may receive profits from the business in two ways; as a salary or as a profit share of the business. Both types of income are reported on the household member's personal income tax return. Salary income is considered as earned income and profit share income is considered as unearned income per (c)(8) of this Section.

(3) **Self-employment.** Refer to OAC 340:50-7-30 for self-employment income procedures.

(4) **Title I payments of the Domestic Volunteer Services Act (DVSA).** Volunteer payments made to a household member under Title I of the DVSA of 1973, as amended, per Section 404 of Public Law (P.L.) 93-113, Section 5044(f)(1) of Title 42 of the United States Code and 7 C.F.R. § 273.9(c)(10)(iii), are counted as earned income when the household member started receiving the payments prior to applying for Supplemental Nutrition Assistance Program (SNAP) or public assistance. When the person receives SNAP or public assistance benefits at the time of joining the Title I program, the volunteer payments are not counted. Title I programs include AmeriCorps Volunteers in Service to America (VISTA) and Special Volunteer Programs.

(5) **On-the-job training (OJT).** The worker counts income from OJT positions as earned income. This includes OJT provided, per Section 3(44) of the Workforce Innovation and Opportunity Act (WIOA) of 2014, P.L. 113-128 for persons 19 years of age or older and monies paid by an employer.

(6) **Training allowances.** Training allowances from vocational or rehabilitative programs federal, state, or local governments recognize, such as the work incentive program, to the extent they are not a reimbursement. Training allowances received under WIOA are excluded.

(7) **Sale of whole blood or plasma.** The sale of whole blood or blood plasma is considered as earned income.

(8) **Developmental Disabilities Services (DDS) payment.** When the household receives a DDS payment as an extended family care provider for services provided in addition to the child's room and board payment, it is considered as earned income.

(c) **Unearned income.** In general, unearned income is income a household receives and is not in the form of wages, self-employment, or training allowances, and for which a person does not put forth physical labor. The income listed in (1) through (11) of this subsection, while not

all inclusive, are considered unearned, per 7 C.F.R. § 273.9(b)(2).

(1) **Assistance payments.** The worker counts payments from a federally aided public assistance program, such as Supplemental Security Income (SSI), Temporary Assistance for Needy Families (TANF), or assistance programs based on need, such as State Supplemental Payments, as unearned income. When such payments are received by a third party, they are counted as income for the person to whom it is legally owed.

(A) A household's food benefit amount does not increase when the public assistance benefit the household receives under a federal, state, or local means-tested public assistance program is reduced, suspended, or closed because the public assistance program imposed a penalty due to an intentional program violation determined as fraud or a household member's failure to comply with a requirement of that program.

(i) To impose a food benefit sanction, the person must be certified for SNAP benefits at the time of the failure to comply and receiving regular benefits from the other program at the time fraud occurred or the household failed to comply with a substantive program requirement.

(ii) Examples of means-tested public assistance programs include SSI and TANF.

(iii) Substantive requirements are behavioral requirements of that program designed to improve the well-being of the household. For TANF, this includes:

(I) complying with TANF Work

requirements, per OAC 340:10-2. OAC

340:10-2-2 explains the TANF penalty considered for SNAP when the household fails to comply with TANF Work activities;

(II) cooperating to obtain child support, per OAC 340:10-10-5;

(III) providing a Social Security number, per OAC 340:10-12-1;

(IV) ensuring school-age children regularly attend school, per OAC 340:10-13-1;

(V) verifying children meet immunization requirements, per OAC 340:10-14-1; and

(VI) not using the TANF benefit in a prohibited business, per OAC 340:10-1-3.

(iv) Procedural requirements that do not trigger a penalty include failing to:

(I) provide verification;

(II) complete an interview; or

(III) complete a benefit renewal.

(v) When a worker is not able to obtain the necessary information and cooperation from another federal, state, or local means-tested

welfare, or public assistance program to comply with the provision in (A) of this paragraph, Oklahoma Human Services (OKDHS) is not held responsible. The worker must make a good faith effort to get the needed information and record the details and results of this effort in the case file.

(vi) The worker does not reduce, suspend, or close the household's current food benefit amount when the benefits under another assistance program are decreased.

(vii) When the worker adds eligible members to the food benefit, the benefit must be adjusted regardless of whether the household is prohibited from receiving benefits for the additional member under another federal, state, local welfare, or public assistance means-tested program.

(viii) Changes in household circumstances not related to the penalty imposed by another federal, state, local welfare, or public means-tested assistance program are not affected by the provision in (A) of this paragraph.

(ix) The application of the provision in (A) of this paragraph applies for the duration of the imposed penalty or until OKDHS cannot determine the amount of the penalty.

(x) SNAP sanctions extending beyond one year are reviewed at least annually to determine if the sanction continues to apply.

(B) The provision in (A) of this paragraph does not apply to persons or households subject to disqualification from SNAP for noncompliance with a comparable work requirement, per Title IV of the Social Security Act or an unemployment compensation work requirement.

**(2) Annuity, pension, retirement, and Social Security payments.** Annuities, pensions, retirement, and Social Security benefits are considered as unearned income. When a third party receives Social Security benefits it is counted as income for the person to whom it is legally owed.

**(3) Veterans', disability, worker's or unemployment compensation payments, and striker's benefits.** Veterans', disability, worker's or unemployment compensation payments, and striker's benefits are considered as unearned income.

**(4) Support and alimony.** Support and alimony payments paid directly to the household from non-household members are considered as unearned income. Money deducted or diverted to a third party to pay a household expense is unearned income when the court order directs the payment be made to the household. When the court order states the payment must be paid to a third party, it is not income.

**(5) Grants, dividends, royalty, and interest payments.** Payments from government sponsored programs, such as

Agricultural Stabilization and Conservation Service Programs, grants, dividends, royalties, interest, and all other direct money payments from any source construed to be a gain or profit are considered as unearned income. The household must provide proof of income from these sources, so the worker may average income to determine monthly countable income.

(6) **Monies withdrawn or dividends that are or could be received by a household from trust funds.** Monies withdrawn or dividends from a trust the household has the option of receiving as income or reinvesting in trust funds considered to be excludable resources are considered income in the month they become available to the household unless otherwise exempt, per OAC 340:50-7-22.

(7) **Department of Veteran's Affairs (VA) Aid and Attendance.** When a person receives VA Aid and Attendance income and does not pay someone outside of the food benefit household to care for him or her, this is considered as countable income. Any portion of the VA Aid and Attendance paid to someone outside of the food benefit household for care is excluded.

(8) **Profit sharing.** When a household member is a shareholder in an S corporation or a partner who is not self-employed, per OAC 340:50-7-30(a)(4), the household member may receive a distribution or profit share from the business. This is considered as unearned income.

(9) **Foster care and DDS room and board payments.** The household has the option of including a child receiving a foster care payment that includes a kinship care payment or a DDS room and board payment in the food benefit household. When the household chooses not to include the child, his or her income is not considered, per OAC 340:50-5-5. Foster care payments for children or adults included as household members are considered an unearned income.

(10) **Adoption subsidy and guardianship payments.** When a member of the household receives an adoption subsidy or guardianship payment from OKDHS, it is counted as unearned income. The child for whom the payment is received must be included in the SNAP food benefit.

(11) **Sponsor's income.** When a household contains a sponsored alien, refer to OAC 340:50-5-49 to determine if the income of the sponsor and the sponsor's spouse must be deemed to the sponsored alien.

(d) **Income of excluded household members.** Per OAC 340:50-5-10.1, excluded household members are termed as disqualified or ineligible. The worker does not consider the needs of a disqualified or ineligible household member when determining the household's size for purposes of assigning a benefit level to the household or comparing the household's monthly income with the income eligibility standard, per 7 C.F.R. § 273.11(c)(2)(iv).

(1) **Disqualified household members.** The worker counts the disqualified household member's income in its entirety as

available to the remaining household members, per 7 C.F.R. § 273.11(c)(1)(i). The worker does not prorate utility, medical, dependent care, child support expenses, or excess shelter deductions. Per OAC 340:50-5-10.1, disqualified household members are those excluded for:

- (A) committing an intentional program violation;
- (B) failing to meet work registration requirements;
- (C) meeting fleeing felon criteria; or
- (D) being a probation or parole violator.

(2) **Ineligible household members.** The worker prorates the income of ineligible household members among all household members, per 7 C.F.R. § 273.11(c)(2)(ii) and (3).

(A) Per OAC 340:50-5-10.1, ineligible household members are those excluded because they do not meet a program requirement, such as:

- (i) failure to obtain or refusal to provide a Social Security number;
- (ii) being an ineligible alien;
- (iii) being an able-bodied adult without dependents and not meeting work requirements; or
- (iv) failure to cooperate with providing requested verification regarding unclear information.

(B) The worker counts a pro rata share of the ineligible household member's income as income available to the remaining members by first subtracting the allowable income exclusions, per OAC 340:50-7-22, from the ineligible member's income and dividing the income evenly among the eligible household members and the ineligible member.

(C) The worker counts all but the ineligible member's share as income available to the remaining household members. The earned income deduction, per OAC 340:50-7-31(a)(2), and OKDHS Appendix C-3, Maximum Food Benefit Allotments and Standards for Income and Deductions, applies to the prorated income attributed to the household when it was earned by the ineligible member.

(D) The portion of the household's allowable shelter, child support, and dependent care expenses paid by or billed to the ineligible member is divided evenly among the household members, including the ineligible member. All but the ineligible member's share is considered a deductible shelter expense for the remaining household members, with the exception of utility expenses, per 7 § C.F.R. § 273.9(d)(6)(iii)(F), or the standard homeless shelter deduction, per 7 C.F.R. § 273.9(d)(6)(i). When the:

- (i) household is responsible for utility expenses, the household is allowed the full utility standard for which it qualifies, per OAC 340:50-7-31; or
- (ii) homeless household is responsible for shelter costs, the household is allowed the full standard



homeless shelter deduction, per OKDHS Appendix C-3, Maximum Food Benefit Allotments and Standards for Income and Deductions, or the prorated excess shelter deduction the household incurs, whichever results in the most benefits for the household, per OAC 340:50-7-31(a)(6)(A)(v).

[Source: Amended at 8 Ok Reg 3463, eff 7-31-91 (emergency); Amended at 9 Ok Reg 2473, eff 6-25-92 ; Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 14 Ok Reg 59, eff 10-10-96 (emergency); Amended at 14 Ok Reg 587, eff 12-12-96 (emergency); Amended at 14 Ok Reg 1351, eff 5-12-97 ; Amended at 15 Ok Reg 165, eff 11-1-97 (emergency); Amended at 15 Ok Reg 382, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1623, eff 5-11-98 ; Amended at 17 Ok Reg 473, eff 10-12-99 ; Amended at 19 Ok Reg 1767, eff 6-14-02 ; Amended at 20 Ok Reg 872, eff 6-1-03 ; Amended at 20 Ok Reg 2924, eff 10-1-03 (emergency); Amended at 21 Ok Reg 841, eff 4-26-04 ; Amended at 26 Ok Reg 840, eff 6-1-09 ; Amended at 27 Ok Reg 1241, eff 6-1-10 ; Amended at 28 Ok Reg 850, eff 6-1-11 ; Amended at 29 Ok Reg 794, eff 7-1-12 ; Amended at 33 Ok Reg 1607, eff 9-15-16 ; Amended at 34 Ok Reg 1504, eff 9-15-17 ; Amended at 35 Ok Reg 1659, eff 9-17-18 ; Amended at 36 Ok Reg 1816, eff 9-16-19 ; Amended at 37 Ok Reg 122, eff 10-2-19 (emergency); Amended at 37 Ok Reg 1836, eff 9-15-20 ; Amended at 38 Ok Reg 2245, eff 9-15-21 ; Amended at 41 Ok Reg, Number 23, effective 9-14-24]

### **340:50-7-30. Self-employed households**

(a) **Person considered self-employed.** A person is considered self-employed when:

- (1) he or she claims self-employed status;
- (2) he or she works as a sole proprietor or an independent contractor;
- (3) he or she is in business for oneself, including a part-time business or gig work;
- (4) he or she earns self-employment income from a partnership according to United States Internal Revenue tax forms;
- (5) there is an employer/employee relationship and the employer does not withhold income taxes or Federal Insurance Contributions Act (FICA), even when required by law to do so; or
- (6) the employer withholds taxes and the person provides proof he or she files taxes as self-employed.

(b) **Self-employment income.** Self-employment income received by household members whose income is derived from a self-employment enterprise owned solely or in part by the household member or when the household member works for an employer, but is considered self-employed per (a) of this Section, is treated per (1) through (10) of this subsection.

- (1) **Capital gains.** The worker counts as income the proceeds from the sale of capital goods or equipment and calculates it in the same manner as a capital gain for federal income tax purposes. Even though a percentage of the proceeds from the sale of capital goods or equipment are taxed for federal income tax purposes, the worker counts the full amount of capital gain as income.
- (2) **Profit sharing.** Households who operate S corporations, general or limited partnerships, or limited liability companies (LLC) may receive profit sharing that is reported on the household's personal income tax return.

(A) S corporation profit sharing is considered unearned profit-sharing income. Refer to Oklahoma Administrative Code (OAC) 340: 50-7-29(b)(2) and (c)(7) for information regarding S corporations.

(B) Partnerships are unincorporated businesses with two or more partners. Each partner may receive a profit share from the business. When the partner's Schedule K-1 (Form 1065), Partner's Share of Income, includes self-employment income, the worker considers the partner's profit share as self-employment income.

(3) **Self-employed farm income.** To be considered a self-employed farmer, the farmer must receive or anticipate receiving annual gross proceeds of \$1,000 or more from the farming enterprise.

(A) Farming is defined as cultivating or operating a farm for profit either as owner or tenant.

(B) A farm includes stock, dairy, poultry, fish, fruit, truck farms, or plantations, ranches, ranges, or orchards.

(i) A fish farm is an area where fish are grown or raised, artificially fed, protected, and cared for, and does not include an area where they are only caught or harvested.

(ii) A plant nursery is a farm for purposes of this definition.

(C) Per Section 273.11(a)(2)(ii) of Title 7 of the Code of Federal Regulations (7 C.F.R. § 273.11(a)(2)(ii)), when the cost of producing self-employment farm income exceeds the income received, the worker offsets the losses against other countable household income by:

(i) first offsetting the losses against other self-employment income; and

(ii) then offsetting any remaining farm self-employment losses against the total amount of earned and unearned income received by the household after applying the earned income deduction, per OAC 340:50-7-31(a)(2).

(D) When the household's self-employment farm income exceeds the cost of producing the farm income and there are no losses to offset, the worker calculates the self-employment farm income as regular self-employment income per (b)(7) of this Section.

(4) **Monthly self-employment income.** Self-employment income received on a monthly basis that represents a household's annual support, is normally averaged over a 12-month period. When the averaged amount does not accurately reflect the household's actual monthly circumstances because the household experienced a substantial increase or decrease in business, the worker calculates the self-employment income based on anticipated earnings.

(5) **Seasonal self-employment income.** Self-employment income intended to meet the household's needs for only part of

the year is averaged over the period of time it is intended to cover. For example, the income of self-employed vendors who work only in the summer and supplement their income from other sources during the balance of the year is averaged over the summer months rather than a 12-month period.

(6) **Annualized self-employment income.** Self-employment income that represents a household's annual support is annualized over a 12-month period, even when the income is received in a shorter period of time. For example, self-employment income crop farmers receive is averaged over a 12-month period when the income represents the farmer's annual support.

(A) When the household's self-employment income has been received for less than a year, the income is averaged over the period of time received and the monthly amount projected for the coming year.

(B) When the household's self-employment income has been received for a short time and there is insufficient data to make a reasonable income projection, the worker does not consider income from this source until the benefit renewal or certification renewal month. At benefit renewal or certification renewal, the worker averages the income over the number of months received until a full year's information is available.

(7) **Determining net monthly annualized self-employment income.** When the household has business expenses associated with its self-employment income, the business expenses are deducted before determining if the household meets the maximum gross income standards, per Oklahoma Human Services (OKDHS) Appendix C-3, Maximum Food Benefit Allotments and Standards for Income and Deductions. When the household does not have business expenses, the gross self-employment income is used.

(A) When the household filed an income tax return on its self-employment income for the most recent year, the worker uses the gross self-employment income shown on the income tax return, subtracts 50 percent of the income for claimed business expenses, and divides the net self-employment income by the number of months to be averaged, per 7 C.F.R. § 273.11(b)(3)(iv).

(B) When the household did not file an income tax return on its self-employment income for the most recent year, the worker uses (i) through (iii) of this subparagraph to determine the net monthly self-employment income.

(i) The worker computes gross self-employment income, including capital gains, using the household's self-employment business records or employer records, when applicable.

(ii) When the household declares incurred business expenses, the worker subtracts 50 percent of the gross self-employment income as business

expenses, per 7 C.F.R. § 273.11(b)(3)(iv). When the household did not incur business expenses, a business expense deduction is not given.

(iii) The worker then divides the net self-employment income by the number of months to be averaged.

(C) The worker adds monthly net self-employment income to all other earned income the household receives. When the household reports a loss instead of a profit on the business, the worker does not deduct the loss from other household income.

(i) The worker adds the total monthly earned income, less the earned income deduction per OKDHS Appendix C-3 to all other monthly income the household receives.

(ii) The worker subtracts the standard deduction, dependent care, and shelter costs as for any other household, per OAC 340:50-7-31, to determine the monthly net income of the household.

(8) **Anticipated income.** When a household who would normally have the self-employment income annualized experiences a substantial increase or decrease in income, the worker does not calculate self-employment income on the basis of prior earnings, such as income tax returns. Instead, the worker calculates the self-employment income using only the income that can reasonably be anticipated to project future earnings. The worker uses procedures in (b)(7)(B) and (C) of this Section to determine net monthly self-employment income.

(9) **Household with income from boarders.** A household that operates a commercial boarding house may be considered a food benefit household and self-employed per (7) of this subsection. A household with boarders or roomers that is not a commercial boarding house may receive food benefits per (A) through (C) of this paragraph.

(A) The worker excludes a person paying a reasonable amount for room and board from the household and counts payments from the boarder as self-employment income when determining the household's eligibility and benefit level.

(i) The income from a boarder includes all direct payments to the household for room and meals, including contributions to the household for part of the household shelter expense.

(ii) The worker does not count expenses a boarder pays directly to someone outside the household as income to the household.

(B) The worker excludes 50 percent of the boarder payment as the cost of doing business.

(C) The worker includes the net income from self-employment with other earned income minus the earned income deduction.

(i) The worker computes the shelter cost the household incurs, even when the boarder contributes part of the shelter expense, to determine if the household qualifies for a shelter deduction.

(ii) The shelter and utility cost does not include any expense billed to and directly paid by the boarder to a third party.

(10) **Rental income.** The worker considers income received from rental property as self-employment income.

(A) The worker treats rental income as earned income when a member of the household actively manages the property an average of at least 20 hours per week.

(B) When a household member does not actively manage the property at least 20 hours each week, the worker considers the income as unearned. The person is eligible for business expenses per (7) of this subsection.

[Source: Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 17 Ok Reg 473, eff 10-12-99 ; Amended at 19 Ok Reg 1767, eff 6-14-02 ; Amended at 23 Ok Reg 1896, eff 7-1-06 ; Amended at 24 Ok Reg 2187, eff 7-1-07 ; Amended at 25 Ok Reg 937, eff 6-1-08 ; Amended at 26 Ok Reg 840, eff 6-1-09 ; Amended at 27 Ok Reg 1241, eff 6-1-10 ; Amended at 28 Ok Reg 850, eff 6-1-11 ; Amended at 29 Ok Reg 794, eff 7-1-12 ; Amended at 34 Ok Reg 1504, eff 9-15-17 ; Amended at 36 Ok Reg 1816, eff 9-16-19 ; Amended at 41 Ok Reg, Number 23, effective 9-14-24]

### **340:50-7-31. Deductions**

(a) **Deductible expenses.** Households are allowed certain deductible expenses from income as described in (1) through (6) of this subsection and per Section 273.9(d) of Title 7 of the Code of Federal Regulations (7 C.F.R. § 273.9(d)). The household reports current medical, dependent care, legally-binding child support, and shelter expenses at certification, mid-certification renewal, and certification renewal. The household must also report current shelter costs when the household moves.

(1) **Standard deduction.** All households are allowed a standard deduction, per Oklahoma Department of Human Services (DHS) Appendix C-3, Maximum Food Benefits Allotments and Standards for Income and Deductions.

(2) **Earned income deduction.** Households with earned income are allowed an earned income deduction, per DHS Appendix C-3, to cover the cost of state and local income taxes, pensions, union dues, and work related expenses. Refer to Oklahoma Administrative Code (OAC) 340:50-7-30 for information regarding business expenses for self-employed persons.

(3) **Medical expense deduction.** A medical expense deduction is only allowed for household members meeting the definition of elderly or disabled, per OAC 340:50-5-4. For these household members, medical expenses exceeding \$35 per month are deductible when verified. The \$35 is subtracted from medical expenses once per household, not per person, when the household has more than one elderly or disabled member.

(A) **Allowable medical expenses.** Allowable medical expenses must be prescribed or approved by a state

licensed or qualified practitioner and include:

- (i) medical and dental care, including psychotherapy and rehabilitation services provided by a licensed practitioner or other qualified health professional authorized by state law;
- (ii) hospitalization or outpatient treatment, nursing care, and nursing home care, including payments by the household for a person who was a household member immediately prior to entering a hospital or nursing home provided by a facility recognized by the state;
- (iii) prescription drugs and other over-the-counter medication including insulin, when approved by a licensed practitioner or other qualified health professional authorized by state law. This does not include the cost of a Schedule I controlled substance under the Controlled Substances Act, Section 801 et. seq. of Title 21 of the United States Code, or any expenses associated with its use;
- (iv) costs of medical supplies, sick-room equipment including rentals, or other prescribed equipment;
- (v) health, dental, and hospitalization policy premiums;
- (vi) Medicare premiums and any cost-sharing or spend-down expenses incurred by Medicare or SoonerCare (Medicaid) recipients;
- (vii) dentures, hearing aids, and prosthetics;
- (viii) eye glasses prescribed by a licensed practitioner;
- (ix) reasonable cost of lodging and transportation to obtain medical treatment or services. Lodging costs are allowed when the elderly or disabled member is required to spend the night away from home to receive medical services. Reasonable transportation costs are based on the type of transportation used. When the elderly or disabled member:
  - (I) uses his or her vehicle, the state's current mileage reimbursement is allowed;
  - (II) uses public transportation, the actual cost of the transportation is allowed; or
  - (III) pays a non-household member for transportation, the amount charged by the person is allowed;
- (x) maintaining an attendant, homemaker, home-health aide, child care services, or housekeeper due to age, infirmity, or illness. When this expense also qualifies as a dependent care expense per (4) of this subsection, it is considered a medical expense rather than a dependent care expense. Additionally, when the household furnishes a

majority of the caretaker's meals, an amount equal to one allotment is added to the medical expense for meals provided. The allotment used is the amount in effect at certification; and

(xi) costs associated with all service animals specially trained to serve the needs of elderly or disabled program participants. This includes maintenance costs, such as veterinary bills, food, and other expenses for these service animals.

**(B) Medical expenses not allowed.** Expenses not allowed include:

(i) costs associated with special diets;

(ii) premiums for health and accident insurance policies, such as those payable in lump sum settlements for death or dismemberment;

(iii) premiums for income maintenance policies, such as those that continue mortgage or loan payments while the beneficiary is disabled;

(iv) items that can be purchased with food benefits, such as dietary supplements;

(v) the cost of meals or other incidentals when the person spends the night away from home to receive medical services; and

(vi) medical marijuana or any expenses associated with its use.

**(C) Medical expense verification requirements.**

Households are required to report and verify medical expenses at certification and certification renewal.

Households are not required to report changes in medical expenses during the certification period.

(i) When a household voluntarily reports a reduction in medical expenses that will decrease the food benefit allotment, no verification is needed. However, the change requires notice of adverse action, per OAC 340:50-9-5.

(ii) When a household voluntarily reports additional medical expenses that will increase the food benefit allotment, the household must verify the additional expenses before the worker changes the medical expense deduction.

(iii) When the additional medical expenses are one-time expenses, such as hospital costs, dental expenses, or the purchase of prescription eyeglasses, the expense is only allowed when the person reports and verifies the expense before it becomes past due. When a portion of the expense will be paid by a vendor or insurance payment, the worker does not allow the expense until the amount owed by the person is verified. Once verified, the household may choose to:

- (I) deduct the entire expense in the month incurred or when it becomes due;
- (II) average the expense over the remaining months of the certification period; or
- (III) average the expense over the scheduled length of a payment plan.

(iv) When the worker finds out about a change from a source other than the household, the change is acted on when verified upon receipt, such as when the worker is notified via data exchange of a Medicare premium change. The worker does not contact the household for additional information. When the change requires household contact for additional information or verification, the worker does not make the change.

(v) When a household reports but does not verify an anticipated medical expense, the worker informs the household the expense will be allowed when the household provides verification.

(4) **Dependent care.** Dependent care is payment for the actual cost for the care of a child under 18 years of age or other dependent of any age with disabilities when necessary for a household member to seek, accept, or continue employment or to attend training or education preparatory to employment. Dependent care costs may include activity fees and the cost of transportation to and from the dependent care facility.

(A) The deduction applies regardless of whether the household member is subject to the Supplemental Nutrition Assistance Program Employment and Training requirements.

(B) When the expense also qualifies as a medical expense per (a)(3) of this Section, it is considered a medical expense rather than a dependent care expense.

(C) There is no maximum dependent care deduction. The total reported by the client is an allowable expense as long as it meets the criteria in this Section.

(D) Dependent care is only verified when the expenses claimed actually result in a deduction and other information available to the worker is inconsistent with the household's claim that it incurs a dependent care expense.

(5) **Legally-binding child support.** A deduction is allowed for verified legally-binding child support payments paid by a household member to or for a non-household member, including payments made to a third party on behalf of the non-household member.

(6) **Shelter costs.** A household is allowed a shelter deduction when the monthly shelter cost exceeds 50 percent of the household's income after all other deductions are allowed, per 7 C.F.R. § 273.9(d)(6)(ii). The shelter deduction cannot exceed the maximum amount allowed per DHS Appendix C-3, unless the



household includes an elderly or disabled member. Households with an elderly or disabled member receive an excess shelter deduction for the monthly cost exceeding 50 percent of the household's income after the deductions listed in (1) through (6) of this subsection are allowed. When the household includes a non-household member or disqualified member, refer to (b)(5) and (6) of this Section to determine whether to prorate shelter costs.

(A) **Allowable rent or mortgage costs.** Allowable rent or mortgage costs for the

(i) monthly rent or mortgage payment, or other continuing charges leading to the ownership of the shelter, such as loan repayments for the purchase of a mobile home, including interest on such payments;

(ii) charge for renting or buying the land on which a mobile home is located;

(iii) property taxes, state and local assessments, and insurance on the structure. A mobile home is taxed as part of the property tax when the land is owned or being purchased;

(iv) personal property tax for unregistered mobile homes on rented land; or

(v) standard homeless shelter deduction, per DHS Appendix C-3, or the excess shelter deduction described, per (a)(6) of this Section, whichever results in the most food benefits for the household, when a homeless household incurs or expects to incur a shelter cost.

(B) **Expenses not considered as shelter costs.** The worker does not consider as shelter costs, the cost for:

(i) insuring furniture or personal belongings when paid separately from the insurance on the home;

(ii) vehicle registration or a tag for a mobile or motor home; or

(iii) personal property tax except as allowed, per (6)(A)(iv) of this subsection.

(C) **Allowable utility costs.** When the household incurs utility expenses, it is eligible for one of three standard utility allowances based on criteria in (i) through (iii) of this subparagraph. The applicable utility standard amount is specified, per DHS Appendix C-3.

(i) The standard utility allowance (SUA) is based on annual averages that include costs for heating or cooling; and cooking fuel, electricity, basic phone service, water, sewage, and garbage. This includes households that receive Low Income Heat Energy Assistance Payments (LIHEAP).

(I) The household is eligible for the SUA when the household is billed for heating or cooling during the year. Households billed less often than monthly for heating costs,

such as butane or propane may continue to use the utility standard between billing months.

(II) When a household reports they no longer incur a heating or cooling expense, but still have a utility expense, the standard must be changed to the basic utility allowance (BUA) or telephone standard.

(III) When a household's heating or cooling expenses are partially reimbursed or paid by an excluded payment, such as a vendor payment, Housing and Urban Development (HUD), or Farmers Home Administration (FmHA) payment, the household remains eligible for the SUA.

(ii) The BUA includes utility charges the household incurs other than for heating and/or cooling, such as cooking fuel, water, sewage, garbage collection, and basic phone service.

(iii) The telephone standard is used when the household is not entitled to use the SUA or BUA, but has a phone cost.

**(D) When shelter costs for an unoccupied home are allowed.** Shelter costs for an unoccupied home may be allowable when the household is temporarily away from home because of illness, a disaster or casualty loss to the home, or to attend an employment or training opportunity.

(i) For the cost of a vacated home to be included in shelter costs the:

(I) household must intend to return to the home;

(II) current occupants of the home, if any, must not claim the shelter costs during the household's absence; and

(III) home must not be rented or leased during the household's absence.

(ii) A household that has an occupied home and an unoccupied home is only allowed one standard utility deduction.

**(b) Expense calculation.** The worker calculates a household's expenses based on the expenses the household expects to be billed for during the certification period. The worker anticipates expenses based on the most recent month's bills unless the household is reasonably certain a change will occur.

(1) **Billing fluctuations.** The household may elect to average expenses when the billed amount fluctuates monthly, is billed less often than monthly, or as in the case of some medical expenses, the expense changes throughout the certification period.

(2) **When expenses are owed but not paid.** The household is allowed a deduction in the month the expense is billed or otherwise becomes due, regardless of when the household intends

to pay the expense. A particular expense may be deducted only once.

(3) **Reimbursed expenses.** The portion of an expense paid by an excluded reimbursement or vendor payment is not deductible. The amount left after deducting the excluded payment is deductible and includes HUD and Farmers Home Administration (FmHA) rent and utility payments. Expenses are only deductible when the service is provided by someone outside of the household and the household makes a monetary payment for the service.

(4) **One-time expenses.** The household may choose to average one-time expenses over the entire certification period in which they are billed, per 7 C.F.R. § 273.10(d)(3). When the household reports a one-time expense during the certification period, the household may choose to:

(A) deduct the entire expense for the next effective month; or

(B) average the expense over the remaining months in the certification period beginning with the next effective month. When the household is certified for 24 months and the one-time expense was incurred in the:

(i) first 12 months of the certification period, the household may elect to deduct the expense in one month, average the expense over the remaining months in the first 12 months of the certification period or average the expense over the remaining months in the certification period; or

(ii) the second 12 months of the certification period, the household may elect to have the expense deducted in one month or averaged over the remaining months in the certification period.

(5) **When the household includes a disqualified household member.** When the household includes a disqualified household member, per OAC 340:50-5-10.1, the worker does not prorate allowable deductions because the disqualified member's income is counted in its entirety, per OAC 340:50-7-29(d).

(6) **When the household includes an ineligible household member.** When the household includes an ineligible household member, per OAC 340:50-5-10.1, the worker prorates the allowable deductions evenly between the household members, including the ineligible member, with the exception of (A) and (B) of this subparagraph, because the ineligible member's income is also prorated, per OAC 340:50-7-29(d). When the household is:

(A) responsible for utility expenses, the household is allowed the full utility standard deduction for which it qualifies per (a)(6)(C) of this Section; or

(B) homeless and incurs shelter costs, the household is eligible for the full standard homeless shelter deduction or for a prorated share of excess shelter deduction, whichever results in more food benefits for the household.

(7) **When the household includes a non-household member.** When the household shares deductible expenses with a non-

household member, the worker only deducts the amount the household actually pays or contributes toward household expenses with the exception of the utility expenses. When the household pays part of the utility expenses, the household is allowed the full utility standard deduction for which it qualifies, per (a)(6)(C) of this Section. When the payments or contributions cannot be differentiated, the worker prorates the expenses evenly among persons actually paying or contributing to the expense and deducts only the household's pro rata share with the exception of the utility expenses.

[Source: Amended at 9 Ok Reg 3405, eff 5-13-92 ; Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 11 Ok Reg 345, eff 10-15-93 (emergency); Amended at 11 Ok Reg 2667, eff 6-13-94 ; Amended at 11 Ok Reg 4587, eff 9-1-94 (emergency); Amended at 11 Ok Reg 4811, eff 9-14-94 ; Amended at 13 Ok Reg 185, eff 10-2-95 ; Amended at 14 Ok Reg 220, eff 10-1-96 ; Amended at 17 Ok Reg 473, eff 10-12-99 ; Amended at 19 Ok Reg 1767, eff 6-14-02 ; Amended at 20 Ok Reg 872, eff 6-1-03 ; Amended at 20 Ok Reg 2924, eff 10-1-03 (emergency); Amended at 21 Ok Reg 841, eff 4-26-04 ; Amended at 23 Ok Reg 2665, eff 8-1-06 ; Amended at 26 Ok Reg 840, eff 6-1-09 ; Amended at 27 Ok Reg 1241, eff 6-1-10 ; Amended at 28 Ok Reg 850, eff 6-1-11 ; Amended at 33 Ok Reg 1607, eff 9-15-16 ; Amended at 34 Ok Reg 1504, eff 9-15-17 ; Amended at 36 Ok Reg 1816, eff 9-16-19 ; Amended at 37 Ok Reg 122, eff 10-2-19 (emergency); Amended at 37 Ok Reg 1836, eff 9-15-20]

## PART 5. DETERMINATION OF INCOME

### 340:50-7-45. Income

(a) **Household income.** The worker counts all income the household expects to receive during the certification period except for income sources excluded per Oklahoma Administrative Code (OAC) 340:50-7-22.

(b) **Income verification.** The worker verifies the gross, non-exempt income for all households prior to certification. When all attempts to verify income are unsuccessful because the person or organization providing the income fails to cooperate with the household, the worker calculates income based on the best available information.

(1) **Method of verifying income.** The worker uses documentary evidence as the primary source of verification per Section 273.2(f) of Title 7 of the Code of Federal Regulations. Documentary evidence consists of a written confirmation of a household's circumstances. The household has primary responsibility for providing documentary evidence. The worker must assist the household when requested, when the household is willing, but unable to obtain the documentary evidence.

(A) Documents that verify earned income include, but are not limited to:

- (i) pay stubs;
- (ii) employee W-2 forms;
- (iii) wage tax receipts;
- (iv) state or federal income tax returns;
- (v) self-employed bookkeeping credits;
- (vi) sales or expenditure records;
- (vii) employer wage records;
- (viii) statements from an employer;

(ix) Oklahoma Employment Security Commission statements; or

(x) Oklahoma Tax Commission statements.

(B) Documents that verify unearned income, include, but are not limited to:

(i) award letters;

(ii) benefit payment checks;

(iii) correspondence on benefits;

(iv) income tax records;

(v) support and alimony payments as evidenced by court order;

(vi) divorce or separation papers; or

(vii) contribution checks.

(C) Alternate income verification sources include, but are not limited to:

(i) State Data Exchange (SDX) system screens;

(ii) Beneficiary and Earnings Data Exchange (BENDEX) system screens;

(iii) OESC wage and unemployment compensation screens;

(iv) union records;

(v) workers' compensation records;

(vi) information received from the Department of Veterans Affairs records; or

(vii) tax records.

(2) **Unreported income.** The worker explores the possibility of unreported income when situations described in this subsection occur.

(A) The household may have unreported income when:

(i) the applicant or recipient is employable and does not report earnings;

(ii) the household reports zero income;

(iii) the household reports household expenses, paid or unpaid that exceeds the amount of income reported. Household expenses may include rent or mortgage payments, utility payments, car payment, or other personal expenses;

(iv) it appears a household member may be eligible for other benefits, such as Social Security, Supplemental Security Income (SSI), unemployment compensation, or public assistance; or

(v) other questionable situations occur.

(B) When the household states someone is loaning the household money to meet expenses, a statement signed by both parties indicating the payment is a loan and must be repaid is sufficient verification. When the household states it receives loans on a recurrent or regular basis from the same source, the provider of the loan must sign a notarized affidavit that states the payments are loans that must be repaid or that payments will be made in

accordance with an established repayment schedule.

[Source: Amended at 15 Ok Reg 165, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1623, eff 5-11-98 ; Amended at 21 Ok Reg 841, eff 4-26-04 ; Amended at 27 Ok Reg 1241, eff 6-1-10 ; Amended at 34 Ok Reg 1504, eff 9-15-17]

### **340:50-7-46. Converting to monthly income**

(a) **Converting income.** When the household receives income more often than monthly, the worker converts the income to a monthly amount as indicated in (1) through (5) of this subsection. When the amounts to be converted differ, such as fluctuating daily, weekly, or biweekly amounts, the worker averages the income per (c) of this Section. The worker carries cents through all steps and then rounds the monthly income amount to the nearest dollar with one cent through 49 cents rounded down and 50 cents through 99 cents rounded up.

(1) **Daily.** The worker converts income received on a daily basis to a weekly amount. When there is a consistency in days worked each week and a regularity of pay dates, the worker multiplies the weekly income by 4.3. When there is no consistency, refer to (5) of this subsection for irregular income processing.

(2) **Weekly.** The worker multiplies income received weekly by 4.3.

(3) **Twice a month.** The worker multiplies income received twice a month by 2.

(4) **Biweekly.** The worker multiplies income received every two weeks by 2.15.

(5) **Irregular income.** The worker does not convert income received at irregular intervals by 4.3, 2, or 2.15, when there is no consistency in the work offered or when pay is received. Instead, the worker adds all irregular income received in the calendar month together to arrive at a monthly average. When more than one month of irregular income is available, the worker totals the income and divides it by the number of months used.

(b) **Anticipating income.** For the purpose of determining the household's eligibility and monthly benefit allotment, the worker takes into account the income already received by the household and any anticipated income the household is reasonably certain to receive during the certification period per Section 273.10(c)(1) of Title 7 of the Code of Federal Regulations (7 C.F.R. § 273.10).

(1) **Application month income.** In the application month, the household's anticipated income may be less than a full month's wages. In this case, the worker uses actual or actual anticipated income for the month of application. When the person receives an extra paycheck in the application month due to a third or fifth week and the income is ongoing, the worker converts the income to anticipated income for the application month. For the remaining months of the certification period, the worker averages and converts the income to a monthly amount.

(2) **Uncertain income.** The worker does not count income when the date and amount to be received is uncertain. Examples of uncertain income include, when a household's anticipated income is from a new job and the date and amount of the first paycheck is

not known or when a household member recently applied for public assistance or unemployment benefits and does not know if or when the initial payment may be made.

(A) The worker does not consider the anticipated payment unless there is reasonable certainty concerning the month the payment will be received and the amount of the payment.

(B) When some, but not all, household income is not known, the portion that can be anticipated with reasonable certainty must be considered as income.

(C) When the worker can reasonably anticipate income receipt, but the monthly amount fluctuates, the worker may elect to average the income per (c) of this Section.

(D) Households are advised to report all changes in gross monthly income as required.

(3) **Income received in the past 30-calendar days.** Income received during the past 30-calendar days may be used as an indicator of income anticipated to be available to the household during the next certification period. Past income is not used to anticipate future income for any month in which an income change occurred, can be anticipated, or terminated.

(4) **Regular employment.** When the head of the household or other members of the household have regular employment, income from previous months is a good indicator of the amount of income to anticipate for the application month and subsequent months. When the household or collateral contact supplies information indicating future income will differ substantially from the previous month's income, the worker uses the information to make a reasonable estimate of the anticipated income.

(5) **Withheld wages.** Wages withheld at the request of the employee are considered income to the household in the month the wages would otherwise be paid by the employer. Wages withheld by the employer as a general practice, even when in violation of the law, are not counted as income to the household unless the household anticipates it will ask for and receive an advance, or the household anticipates that it will receive income from previously held wages. Advances on wages are counted as income when they can be reasonably anticipated.

(c) **Averaging income.** Households, except for destitute and migrant or seasonal farm worker households, may have their income averaged per 7 C.F.R. § 27310(c)(3). To determine the household's eligibility, the worker adds all other income to the averaged monthly income and subtracts applicable income exclusions and deductions in the normal manner.

(1) **Fluctuating income.** Households with fluctuating income may elect to have the income averaged.

(A) When the household indicates the most recent 30-calendar day's income is representative of anticipated future earnings, the worker uses this income to compute gross monthly income.

(B) When the household indicates the most recent 30-calendar days of income is not representative of

anticipated future income, the worker averages additional months of income to compute a representative anticipated monthly gross income.

(C) Income received more often than monthly is converted to a monthly income prior to determining a monthly average. The number of months used to arrive at the average income need not be the same as the number of months in the certification period. For example, when fluctuating income for the past 30-calendar days and the month of application are known and, with reasonable certainty, are representative of the income fluctuations anticipated for the coming months, the income for the two months may be averaged and projected over the certification period.

(2) **Employment contract and self-employment.** When households derive their annual income by contract or self-employment in a period of time shorter than one year, the worker annualizes the income over a 12-month period. These households may include school employees, sharecroppers, farmers, and other self-employed households. These provisions do not apply to migrant or seasonal farm workers or to contracted employees who receive income on an hourly or piece work basis.

(d) **Income from the Social Security Administration (SSA).** The Oklahoma Department of Human Services receives income information from SSA regarding SSA and Supplemental Security Income (SSI) benefit recipients through automated data exchange records. When using the:

(1) Beneficiary and Earnings Data Exchange System (BENDEX) to verify SSA benefits, the worker drops any cents from the gross benefit amount; or

(2) State Data Exchange System (SDX) to verify SSI, the worker rounds any cents to the nearest dollar to determine countable gross income.

[Source: Amended at 21 Ok Reg 841, eff 4-26-04 ; Amended at 27 Ok Reg 1241, eff 6-1-10 ; Amended at 34 Ok Reg 1504, eff 9-15-17 ; Amended at 36 Ok Reg 1816, eff 9-16-19]

### **340:50-7-47. Anticipating income [REVOKED]**

[Source: Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 19 Ok Reg 1767, eff 6-14-02 ; Revoked at 21 Ok Reg 841, eff 4-26-04]

### **340:50-7-48. Averaging income [REVOKED]**

[Source: Revoked at 21 Ok Reg 841, eff 4-26-04]

### **340:50-7-49. Limitations of allowable deductions [REVOKED]**

[Source: Revoked at 23 Ok Reg 2665, eff 8-1-06]



**340:50-7-50. Types of expenses not allowed as deductions  
[REVOKED]**

[Source: Amended at 11 Ok Reg 4811, eff 9-14-94 ; Revoked at 23 Ok Reg 2665, eff 8-1-06]

**340:50-7-51. Billed expenses deducted in month due [REVOKED]**

[Source: Revoked at 23 Ok Reg 2665, eff 8-1-06]

**340:50-7-52. Anticipating expenses [REVOKED]**

[Source: Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Revoked at 23 Ok Reg 2665, eff 8-1-06]

**340:50-7-53. Averaging expenses [REVOKED]**

[Source: Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Revoked at 23 Ok Reg 2665, eff 8-1-06]

**SUBCHAPTER 9. ELIGIBILITY AND BENEFIT  
DETERMINATION PROCEDURES**

**340:50-9-1. Determining the food benefit allotment**

**(a) Cases with unverified deductible expenses.**

(1) **Food benefits without deductions.** When a deductible expense that must be verified, per Oklahoma Administrative Code (OAC) 340:50-7-31 cannot be verified within the 30-day processing standard for applications, the worker determines the household's benefit level without giving a deduction for the claimed but unverified expense.

(2) **When the household is ineligible unless deductible expense is allowed.** When a deductible expense cannot be verified before the 30-day processing standard for applications expires and the household is ineligible unless the expense is allowed, the worker:

(A) denies the application on the 30th day when the worker gave the household at least 10-calendar days to verify the expense; or

(B) delays making a decision until the 10-calendar day verification period expires.

(b) **Determining household eligibility.** The worker determines the household's eligibility based on gross or net monthly income standards per (3) or (4) of this subsection unless the household is considered a categorically eligible household, per OAC OAC 340:50-11-111(b) and (2) of this subsection. When changes in household composition or other circumstances occur, households certified under gross income standards may become subject to net income standards during the certification period or vice versa. The worker changes the income standard when

making other changes to the household's eligibility, benefit level, or certification period, or at certification renewal, whichever is earlier.

(1) **Income and expense calculation.** The worker calculates the household's gross income before subtracting deductible expenses to arrive at the net monthly income for the household.

(A) The worker calculates each source of monthly gross income separately for each person, using dollars and cents, and then rounds cents to the nearest dollar. The worker rounds one cent through 49 cents down and 50 cents through 99 cents up.

(B) The worker uses the same rounding method for each deductible expense. Deductible expenses are subtracted from gross income to arrive at the net monthly household income. Deductible expenses may include dependent care, shelter, legally-binding child support payments, or medical expenses.

(2) **Categorically eligible households.** Per Section 273.2(j) of Title 7 of the Code of Federal Regulations and OAC 340:50-11-111(d), categorically eligible households are not subject to the gross or net income standards per (3) or (4) of this subsection.

(3) **Households without elderly or disabled members.** Households that do not include an elderly or disabled member and are not considered categorically eligible per (2) of this subsection are not eligible for food benefits when the household's total gross monthly income exceeds the gross monthly income standard by household size on Table I of the Oklahoma Department of Human Services (OKDHS) Appendix C-3, Maximum Food Benefit Allotments and Standards for Income and Deductions. When the household meets the gross income standard and non-financial conditions of eligibility, per OAC 340:50-5, the worker computes the household's net monthly income to determine eligibility. When the net food benefit income does not exceed the net income by household size on the food benefit allotment chart on the Appendix C-3, the household is determined eligible. The worker follows steps (A) through (H) to determine the household's net food benefit monthly income.

(A) Add gross monthly income earned by all household members, per (1) of this subsection including any net self-employment income, per OAC 340:50-7-30 to determine the household's total gross earned income.

(B) Subtract the appropriate earned income deduction per OKDHS Appendix C-3 to determine the net monthly earned income. The household is not eligible for the earned income deduction on any portion of income earned under a work supplementation or support program that is attributable to public assistance.

(C) Add the net monthly earned income and the total monthly unearned income of all household members, minus income exclusions, per OAC 340:50-7-22.

(D) Subtract the standard deduction, per OKDHS Appendix C-3.

(E) Subtract monthly dependent care expenses. A dependent care deduction is not allowed when dependent care expenses are reimbursed or paid for under an employment and training (E&T) program or other source.

(F) Subtract verified legally binding child support payments made to someone outside the food benefit household.

(G) Add together the allowable shelter expenses, including the appropriate utility standard, to determine the household's total shelter costs. Subtract from the total shelter costs 50 percent of the adjusted income, the household's monthly income after all of the deductions given in (A) through (F) of this paragraph are subtracted. The remaining amount, if any, is the excess shelter costs. When there are no excess shelter costs, the net monthly income is determined. When there are excess shelter costs, proceed to the next step.

(H) When the total shelter costs exceed the maximum shelter cost deduction shown in OKDHS Appendix C-3, only the amount not exceeding the maximum shelter cost deduction or the homeless shelter deduction when appropriate per OAC 340:50-7-31(a)(6)(A)(v) is deducted.

**(4) Households with an elderly or disabled member.** When a household that includes an elderly or disabled member meets the non-financial conditions of eligibility, per OAC 340:50-5, the household's net food benefit monthly income, and household size are the basis for determining eligibility. The worker compares the household's net food benefit monthly income to the Maximum Net Income Standards for the appropriate household size shown on Table II of OKDHS Appendix C-3. When the net food benefit income does not exceed this standard, the household is determined eligible. The worker follows steps (A) through (H) of this paragraph to determine the household's net food benefit income.

(A) Add gross monthly income earned by all household members per (1) of this subsection including any net self-employment income, per procedures at OAC 340:50-7-30, to determine the household's total gross earned income.

(B) Subtract the appropriate earned income deduction, per OKDHS Appendix C-3 to determine the net monthly earned income. The household is not eligible for the earned income deduction on any portion of income earned under a work supplementation or support program that is attributable to public assistance.

(C) Add the net monthly earned income and the total monthly unearned income of all household members, minus income exclusions, per OAC 340:50-7-22.

(D) Subtract the standard deduction as shown in OKDHS Appendix C-3.

(E) Subtract medical expenses that exceed \$35 for elderly or disabled household members only. The worker

subtracts the \$35 only once for the household rather than for each household member.

(F) Subtract monthly dependent care expenses. A dependent care deduction is not allowed when dependent care expenses are reimbursed or paid for under an E&T program or other source.

(G) Subtract verified legally binding child support payments made to someone outside the food benefit household.

(H) Add together the allowable shelter expenses, including the appropriate utility standard, to determine the household's total shelter costs. Subtract from the total shelter costs 50 percent of the adjusted income, the household's monthly income after all of the deductions in (A) through (G) of this paragraph are subtracted. The remaining amount, if any, is the excess shelter costs. When the homeless shelter deduction per OAC 340:50-7-31(a)(6)(A)(v) is greater than the excess shelter costs, the household receives the homeless shelter deduction instead of the excess shelter costs.

(i) When there are no excess shelter costs or homeless shelter deduction, the net monthly income is determined.

(ii) When there are excess shelter costs or a homeless shelter deduction, subtract the larger deduction from the adjusted income to determine the net monthly income.

**(c) Food benefit allotment.**

**(1) Initial month proration.**

(A) Initial month means the first month the household is certified for food benefits following any period the household was not certified. Food benefit allotments for an initial month are prorated from the date of application.

(i) Migrant and seasonal farm worker's food benefits are not prorated when the household received food benefits in the prior month.

(ii) For the initial month, the worker considers the household's circumstances for the entire application month, even though the food benefit allotment is based on the day of the month the household applies for benefits.

(iii) Temporary Assistance for Needy Families (TANF) cash assistance payments are also prorated from the application date, per OAC 340:65-3-5(5). When the worker certifies the household for TANF and food benefits for the same month, the worker uses OKDHS Appendix B, Prorated TANF and Food Benefit Payment, or the formula: (31 minus the application date) x monthly benefit divided by 30 to determine TANF countable income for the initial month.

(B) The prorated benefit is rounded down to the lower dollar. When the prorated food benefit is less than \$10, the worker denies food benefits for the application month and certifies the household for the next month.

(C) When the worker certifies the household for the month following the month of initial application because the household failed to furnish necessary information, the worker:

(i) changes the application date to the date the household furnishes the information to OKDHS; and

(ii) prorates benefits from the new application date.

(2) **Monthly benefit.** The monthly benefit for all months except the initial month is the food benefit allotment listed on OKDHS Appendix C-3 for the appropriate household size and net income.

(A) All one-person and two-person categorically eligible households whose income exceeds gross and net income standards during the certification period must receive the minimum monthly allotment per Appendix C-3.

(B) Categorically eligible households with three or more members are entitled to have the case remain open with no benefits issued when the household's gross or net income exceeds the Appendix C-3 income standards during the certification period.

(d) **Certification periods.** Certification periods are established for each eligible household to receive benefits. When the certification period ends, the household must complete a new application, be interviewed, and provide required verification, per OAC 340:50-3-2 and 340:50-3-3, before the worker determines continuing eligibility. Under no circumstances are benefits continued beyond the end of a certification period without completion of a certification renewal.

(1) **Month of application.** The month of application is the first month in the certification period for initial applicants when eligibility is determined within the 30-day period.

(A) Because of anticipated changes, a household may be eligible for the application month but ineligible for the subsequent month. In this situation, the worker certifies the household for the application month only.

(B) When the worker determines a household is ineligible for the application month, but is eligible for subsequent months, a new application is not needed. The worker denies benefits for the application month and certifies food benefits effective the month following the application month.

(2) **Missed interview.** When a household fails to interview within 10-calendar days of the application date, OKDHS sends the household a Notice of Missed Interview. The household may request an interview through the 30th day following their application date. Refer to OAC 340:50-9-4 to determine the proration date of the food benefit allotment when applications are delayed.

**(3) Information furnished after the application is denied.**

When the worker denies an application because the household did not provide the requested information and the applicant furnishes the required information to determine eligibility within the second 30-calendar day period, a new application is not required. The worker certifies food benefits using the date the household provides required information or verification as the application, certification, and proration date.

**(e) Length of certification periods.** The worker assigns the longest certification period possible based on the predictability of the household's circumstances.

**(1) One month.** The worker assigns a one-month certification to:

- (A) households eligible only for the application month;
- (B) migrant farm worker households in the work stream, who apply before the 16th of the month; and
- (C) households eligible for expedited services per OAC 340:50-11-1(b) who apply before the 16th of the month and verification is postponed.

**(2) Two months.** The worker assigns a two-month certification to:

- (A) households eligible only for the certification month and subsequent month; and
- (B) migrant farm worker households in the work stream, who apply after the 15th of the month; and
- (C) households eligible for expedited services per OAC 340:50-11-1(b) who apply after the 15th of the month and verification is postponed.

**(3) Three or four months.** The worker assigns a three- or four-month certification period to households that include an able-bodied adult without dependents (ABAWD) member who is not meeting the work requirement or is not otherwise exempt, per OAC 340:50-5-100. This occurs when an ABAWD:

- (A) is eligible to receive his or her initial three or four countable months of benefits; or
- (B) regains eligibility for three-consecutive countable months and is not meeting work requirements.

**(4) Twelve months.**

- (A) The worker assigns a 12-month certification period to households at certification unless the household meets criteria in (1), (2), (3), or (5) of this subsection.
- (B) These households complete a mid-certification renewal at six-month intervals and are semi-annual reporting households.

**(5) Twenty-four months.** The worker assigns a 24-month certification period to households when all adult members are elderly or disabled with no earned income. These households complete a mid-certification renewal at 12-month intervals and are annual reporting households.

Amended at 11 Ok Reg 2667, eff 6-13-94 ; Amended at 11 Ok Reg 4587, eff 9-1-94 (emergency); Amended at 12 Ok Reg 1577, eff 1-27-95 (emergency); Amended at 12 Ok Reg 2443, eff 6-26-95 ; Amended at 14 Ok Reg 220, eff 10-1-96 ; Amended at 17 Ok Reg 473, eff 10-12-99 ; Amended at 19 Ok Reg 202, eff 12-1-01 (emergency); Amended at 19 Ok Reg 1767, eff 6-14-02 ; Amended at 20 Ok Reg 2924, eff 10-1-03 (emergency); Amended at 21 Ok Reg 841, eff 4-26-04 ; Amended at 22 Ok Reg 805, eff 5-12-05 ; Amended at 22 Ok Reg 2767, eff 9-1-05 (emergency); Amended at 23 Ok Reg 1896, eff 7-1-06 ; Amended at 25 Ok Reg 937, eff 6-1-08 ; Amended at 26 Ok Reg 840, eff 6-1-09 ; Amended at 27 Ok Reg 1241, eff 6-1-10 ; Amended at 28 Ok Reg 850, eff 6-1-11 ; Amended at 29 Ok Reg 794, eff 7-1-12 ; Amended at 34 Ok Reg 1504, eff 9-15-17 ; Amended at 36 Ok Reg 1816, eff 9-16-19 ; Amended at 41 Ok Reg, Number 23, effective 9-14-24]

## **340:50-9-2. Issuing identification cards [REVOKED]**

[Source: Amended at 10 Ok Reg 155, eff 9-23-92 ; Revoked at 18 Ok Reg 2079, eff 7-1-01]

## **340:50-9-3. Certification and denial notice information**

(a) **Time limit for providing notice.** The applicant household is entitled to receive a certification or denial notice no later than 30 calendar days after the initial application date. Refer to OAC 340:50-9-4 when a processing delay occurs.

(b) **Notices.** A computer-generated notice is sent to applicant households immediately following eligibility determination and worker action to approve or deny benefits.

(1) **Certification notice.** The certification notice informs the household of:

(A) the beginning date and length of the certification period;

(B) the benefit amount of the allotment and any variation in the benefit level based on:

(i) changes anticipated at the time of certification; or

(ii) differences caused because retroactive benefits are calculated using different income or the initial month's benefits are prorated; and

(iii) its right to a fair hearing.

(2) **Expedited certification and expiration notice.**

When the worker approves food benefits on an expedited basis because ongoing eligibility has not been determined, in addition to information contained in (b)(1) of this Section, the notice:

(A) explains that certain information was postponed because the household qualifies for expedited eligibility processing;

(B) includes the expiration date; and

(C) the conditions for making timely reapplication.

(3) **Denial notice.** The denial notice informs the household of:

(A) the reason for the denial; and

(B) its right to request a fair hearing.

[Source: Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 30 Ok Reg 1355, eff 7-1-13]

## **340:50-9-4. Delayed applications**

(a) **Delayed applications.** When applications are not approved or denied by the 30th-calendar day, they are considered delayed applications. On the 30th-calendar day following the application date, every delayed application is assessed to determine whether Oklahoma Human Services (OKDHS) or the household caused the delay. The purpose of this assessment is to determine:

- (1) whether to immediately deny the application or leave it pending in application status; and
- (2) what date to certify benefits if the household is determined eligible at a later date.

(b) **Delay caused by OKDHS.** When OKDHS causes the processing delay, the application remains in pending status. At the end of the first 30-calendar days, the worker sends the household Form 08MP038E, Client Notice of Action Taken, explaining why the application is still pending. If the household is later determined eligible, food benefits are approved back to the date of application. OKDHS caused delays include, but are not limited to, the circumstances in (1) through (6) of this subsection.

- (1) The household did not complete an interview within 30-calendar days of the application date, and OKDHS did not send Form 08AD091E, Interview Notice, and the Notice of Missed Interview to the household on or before the 20th-calendar day following the date of application.
- (2) OKDHS interviewed the household, but the household subsequently failed to provide the required verification. During the interview process, the worker did not provide Form 08AD092E, Client Contact and Information Request, to the household and explain:
  - (A) what factors must be verified;
  - (B) what is considered acceptable verification; and
  - (C) the date verification must be supplied.
- (3) The worker did not offer to assist the household in obtaining the verification or offered assistance but failed to follow through on collateral contacts or release of information.
- (4) The worker discovered that additional information was required after the interview, but the household did not have 10-calendar days between the verification request and the 30th-calendar day of the application to provide the verification.
- (5) OKDHS failed to interview the household when the household requested an interview during business hours.
- (6) The household provided all the required verification on or before the 30th-calendar day and the application was not approved or denied timely.

(c) **Delay caused by the household.** When the household causes the processing delay, the application must be denied by the 30th-calendar day. The household receives a computer-generated denial notice. When the household provides the required verification in the second 30-calendar days, a new application is not required. If the household is determined eligible, the food benefit allotment is prorated from the date the household provided the verification. Household caused delays include, but are not limited to, the circumstances in (1) through



(3) of this subsection.

(1) OKDHS sent Form 08AD091E and the Notice of Missed Interview on or before the 20th-calendar day following the application date . The household was interviewed and subsequently failed to provide the required verification. The worker provided the household with Form 08AD092E showing required verification, offered to assist the household in obtaining the verification, and allowed the household 10-calendar days to provide the verification.

(2) The household received Form 08AD091E and the Notice of Missed Interview on or before the 20th-calendar day, and a worker interviewed the household after the 20th-calendar day but on or before the 30th-calendar day. The household did not provide all the required verification by the 30th-calendar day.

(3) OKDHS sent Form 08AD091E and the Notice of Missed Interview on or before the 20th-calendar day following the application date, but household did not complete an interview over the telephone within 30-calendar days of the application date.

[Source: Amended at 8 Ok Reg 3475, eff 7-31-91 (emergency); Amended at 9 Ok Reg 2473, eff 6-25-92 ; Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 20 Ok Reg 872, eff 6-1-03 ; Amended at 29 Ok Reg 794, eff 7-1-12 ; Amended at 30 Ok Reg 669, eff 6-1-13 ; Amended at 41 Ok Reg, Number 23, effective 9-14-24]

### **340:50-9-5. Changes after application and during the certification period**

(a) **Change reporting requirements.** Section 273.12 of Title 7 of the Code of Federal Regulations (7 C.F.R. § 273.12) contains change reporting requirements after application and during the certification period described in (a) through (j) of this Section.

(b) **Applicant households.** Applicant households must report all changes related to their food benefit eligibility and benefit amount. Households must report changes that occur after the interview but before the date of the notice of eligibility, within 10-calendar days of the date of the notice.

(c) **Annual reporting households.** Annual reporting households are households in which all adult members are elderly or disabled with no earned income.

(1) **Certification period.** A 24-month certification period is automatically assigned to annual reporting households. Annual reporting households must complete a mid-certification renewal between certification periods to report current household circumstances.

(2) **Change reporting between renewal periods.** Between the mid-certification renewal and certification renewal reporting months, the household must report gross income changes when the household's income exceeds the maximum gross income scale for household size shown on Form 08MP006E, Information for Benefit Renewal, and when the household wins substantial lottery or gambling winnings as defined, per 7 C.F.R. § 273.11(r) and

Oklahoma Administrative Code (OAC) 340:50-7-1, within 10-calendar days of receipt of the first payment attributable to the change. The maximum gross income scale is based on 130 percent of the monthly poverty income guidelines.

(3) **Action taken on reported changes.** The worker must act on all changes reported by households.

(A) The computer system determines if the change results in an increase, decrease, or no change in benefits.

(B) Between the mid-certification renewal and certification renewal months, the changes the worker makes do not decrease or close benefits until the mid-certification renewal is due unless the:

- (i) household's income increase exceeds the maximum gross income scale for household size shown on Form 08MP006E;
- (ii) household requested benefit closure;
- (iii) worker has information about the household's circumstances considered verified upon receipt, per (h) of this Section;
- (iv) a household member is identified as a disqualified or ineligible person, per 7 C.F.R. § 273.12(a)(5)(vi) and OAC 340:50-5-10.1; or
- (v) the worker verifies the household won substantial lottery or gambling winnings as defined, per 7 C.F.R. § 273.11(r) and OAC 340:50-7-1(b). When this occurs, refer to (j) of this Section, and OAC 340:50-7-1(b) and 340:50-7-6, for information regarding actions that are taken.

(C) The computer system applies all changes that increase benefits. Before entering a change that increases benefits, verification supporting the change must be provided, when required.

(d) **Mid-certification renewal for annual reporting households.**

Annual reporting households are sent notification in the 11th month of certification that the mid-certification renewal is due. The notice explains methods the household may choose to complete the renewal and required verification needed. An interview is not required.

(1) **When the mid-certification renewal is due.** The household must complete the benefit renewal and provide required verification by the last day of the 12th month of certification.

(2) **Completion of mid-certification renewal.** The worker reviews benefit renewal information and verification provided to determine completeness and continued eligibility.

(A) When the renewal is complete and the household remains eligible, the worker acts on all reported changes and the computer system applies any increase or decrease in benefits.

- (i) When the household fails to provide sufficient information regarding a deductible expense requiring verification, the worker processes the mid-certification renewal without regard to the

deduction.

(ii) When benefits are decreased, an advance notice is sent, per Oklahoma Human Services (OKDHS) Appendix B-2, Deadlines for Case Actions.

(iii) When a categorically eligible household as defined in OAC 340:50-11-11(b)(1) has income that now exceeds the maximum gross income standards for household size per Appendix C-3, Maximum Food Benefit Allotments and Standards for Income and Deductions, the worker uses the procedures in (k) of this Section.

(B) When the household is no longer eligible, the worker closes food benefits effective the next advance-notice deadline date, per (OKDHS) Appendix B-2.

(C) When the renewal is incomplete, the computer system closes food benefits effective the next advance-notice deadline date, per (OKDHS) Appendix B-2.

(3) **When benefits may be reopened.** Food benefits may be reopened following closure when criteria is met per (l) of this Section.

(e) **Semi-annual reporting households.** Food benefit households are considered semi-annual reporting households unless they meet criteria per (b), (c), or (g) of this Section.

(1) **Certification period.** A 12-month certification period is automatically assigned to semi-annual reporting households.

(2) **Change reporting between renewal periods.** Between the mid-certification renewal and certification renewal reporting months, the household must report when:

(A) the household's gross income exceeds the maximum gross income scale for household size shown on Form 08MP006E and when the household wins substantial lottery or gambling winnings as defined, per 7 C.F.R. § 273.11(r) and OAC 340:50-7-1, within 10-calendar days of receiving the first payment attributable to the change.

The maximum gross income scale is based on 130 percent of the monthly poverty income guidelines; and

(B) a decrease in work hours below an average of 20 hours per week or 80 hours per month occurs for any household member meeting the able-bodied adults without dependents (ABAWD) work rules, per OAC 340:50-5-100, by the 10th of the following month.

(3) **Action taken on reported changes.** The worker must act on all changes reported by households.

(A) The computer system determines if the change results in an increase, decrease, or in no change in benefits.

(B) Between mid-certification renewal and certification renewal months, the changes the worker makes do not decrease or close food benefits until the mid-certification renewal is due unless:

(i) the household's income increase exceeds the maximum gross income scale for household size

shown on Form 08MP006E;  
(ii) the household requested benefit closure;  
(iii) the worker has information about the household's circumstances considered verified upon receipt, per (h) of this Section;  
(iv) an ABAWD must be removed from the food benefit household because he or she does not meet the ABAWD work rule, per OAC 340:50-5-100;  
(v) a household member is identified as a disqualified or ineligible person, per 7 C.F.R. § 27312(a)(5)(vi) and OAC 340:50-5-10.1;  
(vi) a household member is identified as failing to meet work registration requirements, per OAC 340:50-5-85 through OAC 340:50-5-87; or  
(vii) the worker verifies the household won substantial lottery or gambling winnings as defined, per 7 C.F.R. § 273.11(r) and OAC 340:50-7-1(b). When this occurs, refer to (j) of this Section, and OAC 340:50-7-1(b) and 340:50-7-6, for information regarding actions that are taken.

(C) The computer system applies all changes that increase benefits. Before entering a change that increases benefits, verification supporting the change must be provided, when required.

**(f) Mid-certification renewal for semi-annual reporting**

**households.** Semi-annual reporting households are sent notification in the fifth month of certification that the mid-certification renewal is due. An interview is not required.

(1) **When the mid-certification renewal is due.** The household must complete the benefit renewal and provide required verification by the last day of the sixth month of certification.

(2) **Completion of mid-certification renewal.** The worker reviews benefit renewal information and verification provided to determine completeness and continued eligibility.

(A) When the renewal is complete and the household remains eligible, the worker acts on all reported changes and the computer system applies any increase or decrease in benefits.

(i) When the household fails to provide sufficient information regarding a deductible expense requiring verification, the worker processes the mid-certification renewal without regard to the deduction.

(ii) When benefits are decreased, the worker sends an advance notice, per OKDHS Appendix B-2, Deadlines for Case Actions, deadline dates.

(iii) When a categorically eligible household as defined in OAC 340:50-11-11(b)(1) has income that now exceeds the maximum gross or net income standards for household size per Appendix C-3, the worker uses the procedures in (k) of this Section.

(B) When the household is no longer eligible, the worker closes food benefits effective the next advance-notice deadline date, per OKDHS Appendix B-2.

(C) When the renewal is incomplete, the computer system closes food benefits effective the next advance-notice deadline date, per OKDHS Appendix B-2.

(3) **When benefits may be reopened.** Food benefits may be reopened following closure when criteria is met, per (l) of this Section.

(g) **Change reporting households.** Change reporting households are assigned a certification period other than 12 or 24 months. These households are required to report changes within 10-calendar days of when the change occurred.

(1) **Household characteristics.** Households not approved for a 12- or 24-month certification period include households approved for:

(A) expedited services for one or two months because verification was postponed, per OAC 340:50-3-2; and

(B) a three- or four-month certification period because the household includes one or more ABAWDs that do not meet the work rule, per OAC 340:50-5-100.

(2) **Required change reporting.** These households must report changes in:

(A) sources of income;

(B) unearned and earned income of the income reporting threshold, per Appendix C-3;

(C) household composition, such as an addition or loss of a household member;

(D) residence and shelter costs;

(E) the legal obligation to pay child support;

(F) the work hours of an ABAWD subject to benefit time limits, per OAC 340:50-5-100 when they fall below 20 hours per week; and

(G) resources when the household wins substantial lottery or gambling winnings as defined, per 7 C.F.R. § 273.11(r) and OAC 340:50-7-1(b). When this occurs, refer to (j) of this Section, and OAC 340:50-7-1(b) and 340:50-7-6, for information regarding actions that are taken.

(3) **Action taken on case changes.** The worker must act on changes reported by the household within 10-calendar days of the date the household reported the change and provided necessary verification.

(A) When the household fails to report a change within the 10-calendar day period and, as a result, receives benefits to which it is not entitled, an overpayment claim is referred to Adult and Family Services (AFS) Benefit Integrity and Recovery, per OAC 340:50-15.

(B) When the worker fails to take timely action on a reported change and benefits are lost, the worker supplements the household's food benefits.

(4) **Changes that increase benefits.** When the household reports a change that increases benefits the household must verify the information before the worker makes the change. The worker gives the household 10-calendar days to verify the information.

(5) **Changes that decrease or close benefits.** When the household reports a change in household circumstances that decreases or closes food benefits, the worker gives or sends the household Form 08AD092E, Client Contact and Information Request, giving the household 10-calendar days to provide verification of the change. When the household provides required verification, the worker reduces or closes food benefits based on the verification provided. When the household does not provide required verification, the worker closes the food benefits based on the household's failure or refusal to provide verification.

(A) When a household's benefit decreases or closes, an advance notice of adverse action is required unless exempt from such notice for a reason listed in (i) or (ii) of this subparagraph. Per 7 C.F.R. § 273.13, advance notice of adverse action is considered timely when the notice is mailed at least 10-calendar days before the action becomes effective. The household retains its right to a fair hearing and continuation of benefits when a fair hearing is requested within 10-calendar days of the change notice. An adverse action notice may be mailed just prior to the date the household receives or would have received benefits when the:

(i) OKDHS receives a clear written statement signed by a responsible household member:

(I) stating the household no longer wishes to receive food benefits; or

(II) giving information that requires closure or reduction of food benefits and stating that the household understands the food benefit will be reduced or closed; or

(ii) worker closes or reduces food benefits per notice requirements at (m)(3)(A) of this Section.

(B) When an advance notice is required, the benefit decrease or closure is effective the next advance notice deadline date, per OKDHS Appendix B-2. When the household reports a change:

(i) 10-calendar days or more before the advance-notice deadline, per OKDHS Appendix B-2, the worker decreases or closes the food benefit effective the first of the following month; or

(ii) less than 10-calendar days before the advance-notice deadline, per OKDHS Appendix B-2, the worker must take action before the advance-notice deadline the following month.

(C) When a reported change increases food benefits, the worker makes the change by the non-advance-notice

deadline date, per OKDHS Appendix B-2.

(h) **Changes considered verified upon receipt.** Verified upon receipt means the information is not questionable and the provider is the primary source of the information. For example, when OKDHS receives Social Security and Supplemental Security Income verification through data exchange with the Social Security Administration (SSA), it is considered verified upon receipt because SSA is the primary source. When the worker receives information considered verified upon receipt, he or she makes the change within 10-calendar days of notification using OKDHS Appendix B-2 deadline dates.

(i) **Required action on unclear information.** During the certification period, the worker may obtain unclear information about a household's circumstances that may affect the household's continued eligibility or benefit amounts. The worker may receive the unclear information from a third party, such as a data exchange discrepancy, an employer, or a person claiming knowledge of the household's circumstances. Unclear information is information that is not verified or is verified but the worker needs additional information before acting on the change.

(1) Per 7 C.F.R. § 273.12(c)(3)(i), when the worker receives unclear information in a non-report month for semi-annual or annual reporting households or any month for change reporters, he or she sends Form 08AD092E to the household to verify its circumstances within 10-calendar days only when the unclear information:

(A) significantly conflicts with the information used at the time of the certification, indicating the household may have failed to report eligibility information at application;  
or

(B) is fewer than 60-calendar days old, relative to the current participation month and, when true, must be reported under the household's reporting responsibilities.

(2) When the household provides the requested verification in a non-report month, the worker determines what action to take per requirements at (c)(3) and (e)(3) of this Section.

(3) When the worker sends Form 08AD092E, per (i)(1)(A) or (B) of this Section, and the household does not respond or responds but refuses to provide sufficient information to clarify its circumstances, the worker closes the household's food benefits effective the next advance-notice deadline date, per OKDHS Appendix B-2;

(4) Per 7 C.F. R. § 273.12(c)(3)(iii), when the worker receives a data match that indicates a household member may have died or may be incarcerated for more than 30-calendar days, the worker sends Form 08AD092E to the household notifying it of the discrepancy and requesting information regarding the household member.

(A) When the household is a change reporting household and:

(i) fails to respond to Form 08AD092E or responds but refuses to provide sufficient information to clarify the person's household status, the worker

closes the household's food benefits;  
(ii) responds and verifies the person is not dead or incarcerated, no action is taken; or  
(iii) responds and confirms the accuracy of the data exchange information, the worker removes the person from the food benefit and determines if an overpayment referral is needed, per OAC 340:50-15.

(B) When the household is an annual or semi-annual reporting household and:

(i) fails to respond to Form 08AD092E or responds but refuses to provide sufficient information to clarify the person's household status, the worker removes the person and his or her income from the household and adjusts the food benefits;  
(ii) responds and verifies that the person did not die or is not incarcerated, no action is taken; or  
(iii) responds and confirms the accuracy of the data exchange information, the worker removes the person and his or her income from the household, adjusts the food benefits, and determines if an overpayment referral is needed, per OAC 340:50-15.

**(j) Required action on substantial lottery or gambling winnings.**

The worker must take prompt action to verify receipt of substantial lottery or gambling winnings and begin closure procedures when the household or a third party reports the household received substantial lottery or gambling winnings, per OAC 340:50-7-1(b), for all types of reporting households.

(1) When the household reports substantial winnings, verification of the winnings is required. The worker closes the SNAP food benefit for the entire household when verification is received even when the household states all of the winnings were spent, per 7 C.F. R. § 273.11(r). The worker also closes the SNAP food benefit when the household fails to provide verification after being given 10-calendar days to do so.

(2) When the worker receives information from a data match or other third party regarding the household's receipt of substantial lottery or gambling winnings, the action required depends on whether the information is unclear, per (i) of this Section.

(A) When the worker receives a direct match from a lottery or gambling entity and there is no question regarding which client received the winnings, the worker closes the SNAP food benefit effective the next advance notice deadline date, per OKDHS Appendix B-2.

(B) When the worker receives the information from a third party data match or another third party, the worker follows unclear information procedures per (i) of this Section.

(3) When the worker closes the SNAP food benefit due to substantial lottery or gambling winnings, the household must



reapply and may not be considered categorically eligible the first time it reapplies, per 7 C.F. R. § 273.11(r), OAC 340:50-7-1(a)(2) and 340:50-11-111(d). To regain eligibility, the household must meet non-categorical resource requirements, per 7 § C.F.R. 273.8 and OAC 340:50-7-6, and verify how the winnings were spent down below the appropriate resource standard, per OKDHS Appendix C-3. This applies to all households, including households receiving Supplemental Security Income or Temporary Assistance for Needy Families. When the household meets non-categorical resource requirements and is certified, it regains categorical eligibility for future applications and renewals unless the household contains a sponsored alien or may not be considered categorically eligible, per OAC 340:50-7-1(a)(2) and 340:50-11-111(d).

**(k) Categorically eligible household changes.** When categorically eligible households, per OAC 340:50-11-111(b), report changes in income, workers do not close the SNAP case due to the household exceeding the gross or net income standards for the household size per Appendix C-3. The worker updates the system with the new income information. When the categorically eligible household exceeds the income standard, the system:

- (1) reduces the monthly allotment to the minimum benefit for one- and two- person households; and
- (2) does not issue a benefit for three or more person households. The SNAP case remains open with no benefit.

**(l) When benefits may be reopened following closure.** The food benefit may be reopened following closure using current eligibility information, when:

- (1) OKDHS did not administer policy and procedures correctly. The food benefit is reopened effective the first day of the month of closure;
- (2) the household fails to complete the mid-certification renewal timely but provides all required verification by the first day of the month of closure. The food benefit is reopened effective the first day of the month of closure; or
- (3) the household fails to complete the mid-certification renewal timely but provides all required verification by the last day of the month of closure. The food benefit is reopened and prorated from the date the household completes the mid-certification renewal and provides all required verification.

**(m) Notice requirements.** OKDHS is required to send a notice to the household when food benefits increase, reduce, or close.

**(1) Advance notice of adverse action required.** Prior to reducing or closing food benefits during the certification period, per 7 C.F.R. § 273.13, the worker must provide timely advance notice unless circumstances described in (m)(2) or (3) of this Section occur.

(A) Advance notice of adverse action is considered timely when the notice is mailed at least 10-calendar days before the action becomes effective. Refer to OKDHS Appendix B-2 for advance notice processing deadlines.

(B) When the household reports a change:

(i) 10-calendar days or more before the advance notice of adverse action deadline, the worker decreases or closes the food benefit effective the first of the following month. For example, when the household reports a change on May 18th, the effective date of the change is June 1st; or

(ii) less than 10-calendar days before the advance notice of adverse action deadline, per OKDHS Appendix B-2, the worker decreases or closes the food benefit effective the first of the month after the following month. For example, when the household reports a change on May 25th, the effective date of the change action is July 1st.

(2) **Notice requirement when benefits increase.** When a reported change increases food benefits, the worker makes the change by the non-advance notice deadline date, per OKDHS Appendix B-2. When the change is reported after the non-advance notice deadline, the worker supplements food benefits.

(3) **Advance notice of adverse action not required.** Advance notice of adverse action is not required for actions (A) through (H) of this paragraph, per 7 C.F.R. § 273.12(e) and 7 C.F.R. § 273.13(b).

(A) **Mass changes.** When OKDHS initiates mass changes because of changes or requirements in federal or state law, the computer system closes benefits by the non-advance-notice deadline, per OKDHS Appendix B-2. In these situations, the individual notification requirement is waived and AFS mails generic notices to the affected households informing them of the changes that are about to be made.

(B) **Deceased household members.** When the worker determines, based on reliable information, that all members of the household are deceased, the worker closes benefits by the non-advance-notice deadline, per OKDHS Appendix B-2.

(C) **Moved out of state.** When the worker determines, based on reliable information, the household moved out of state, the worker closes benefits by the non-advance-notice deadline, per OKDHS Appendix B-2.

(D) **Unfinished issuance certification.** When the unfinished issuance process is used at certification, the worker adjusts the benefit to account for changes anticipated at the time of certification. The certification notice informs the household of all benefit changes included in this process.

(E) **Disqualified household member.** When the only household member is disqualified for an intentional program violation or fraud, per OAC 340:50-15-25, food benefits are closed by the non-advance-notice deadline, per OKDHS Appendix B-2. When there is more than one

person in the household, the remaining household members' benefits are reduced or closed because of that household member's disqualification by the non-advance-notice deadline, per OKDHS Appendix B-2.

**(F) Facility loses approval.** When a household's food benefit closes because the drug or alcohol treatment center or group home facility where the household resides is no longer approved, the worker closes benefits by the non-advance-notice deadline, per OKDHS Appendix B-2.

**(G) Household provides written statement.** The worker closes or reduces benefits by the non-advance-notice deadline, per OKDHS Appendix B-2, when the household provides a written statement:

- (i) stating the household no longer wants to receive food benefits; or
- (ii) requesting closure or reduction in food benefits to avoid or repay an overpayment.

**(H) Case transfer.** When closing and transferring food benefits from one case to another case without a decrease or disruption in benefits, the worker closes food benefits by the non-advance-notice deadline, per OKDHS Appendix B-2.

**(n) Action on changes when fair hearings are requested.** When a household requests a fair hearing within 10-calendar days of the date shown on an adverse action notice, the worker must reopen or restore food benefits to the previous level pending the outcome of the hearing unless the household specifically waives continuation of benefits, per 7 § C.F.R. 273.15(k). Refer to OAC 340:2-5 for fair hearing procedures.

[Source: Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 11 Ok Reg 345, eff 10-15-93 (emergency); Amended at 11 Ok Reg 2667, eff 6-13-94 ; Amended at 11 Ok Reg 4587, eff 9-1-94 (emergency); Amended at 12 Ok Reg 1723, eff 6-12-95 ; Amended at 14 Ok Reg 3416, eff 8-1-97 (emergency); Amended at 15 Ok Reg 1491, eff 4-1-98 ; Amended at 17 Ok Reg 473, eff 10-12-99 ; Amended at 19 Ok Reg 202, eff 12-1-01 (emergency); Amended at 19 Ok Reg 1767, eff 6-14-02 ; Amended at 20 Ok Reg 2924, eff 10-1-03 (emergency); Amended at 21 Ok Reg 244, eff 11-7-03 (emergency); Amended at 21 Ok Reg 841, eff 4-26-04 ; Amended at 21 Ok Reg 3166, eff 9-1-04 (emergency); Amended at 22 Ok Reg 805, eff 5-12-05 ; Amended at 22 Ok Reg 2767, eff 9-1-05 (emergency); Amended at 23 Ok Reg 1896, eff 7-1-06 ; Amended at 24 Ok Reg 1040, eff 6-1-07 ; Amended at 26 Ok Reg 1269, eff 6-1-09 ; Amended at 28 Ok Reg 850, eff 6-1-11 ; Amended at 29 Ok Reg 794, eff 7-1-12 ; Amended at 30 Ok Reg 669, eff 6-1-13 ; Amended at 33 Ok Reg 1607, eff 9-15-16 ; Amended at 34 Ok Reg 1504, eff 9-15-17 ; Amended at 35 Ok Reg 1659, eff 9-17-18 ; Amended at 36 Ok Reg 1816, eff 9-16-19 ; Amended at 37 Ok Reg 122, eff 10-2-19 (emergency); Amended at 37 Ok Reg 1836, eff 9-15-20 ; Amended at 38 Ok Reg 2245, eff 9-15-21 ; Amended at 39 Ok Reg 1755, eff 9-15-22 ; Amended at 41 Ok Reg, Number 23, effective 9-14-24]

### **340:50-9-6. Procedures relating to food benefit certification renewals**

**(a) Worker action.** The worker completes the application process and approves or denies applications for certification renewal in a timely manner, per §273.14 of Title 7 of the Code of Federal Regulations. The worker does not continue Supplemental Nutrition Assistance Program (SNAP) food benefits to the household beyond the certification period until he or she determines continued eligibility and recertifies the household. Refer to Oklahoma Administrative Code 340:50-3-3(i) for information regarding verification required at certification renewal.

**(b) Notice of expiration.**

(1) A computer-generated expiration notice titled, Continue My SNAP Benefit, is sent after deadline the month prior to the last month of the certification period. The notice informs households:

- (A) of the date their certification period ends;
- (B) by what date they must submit their certification renewal and provide required information in order to receive uninterrupted food benefits;
- (C) of methods the household may use to submit the certification renewal information including, but not limited to:

- (i) online at [okdhslive.org](http://okdhslive.org);
- (ii) phoning Oklahoma Human Services (OKDHS) at the phone number listed on the notice;
- (iii) mailing a completed and signed paper renewal form to the address listed on the notice; or
- (iv) faxing or hand delivering a completed and signed paper renewal form to a local OKDHS office;

(D) of their right to request an application and file an incomplete application as long as it includes a signature and a legible name and address;

(E) how to obtain a paper renewal form;

(F) OKDHS staff contacts the household when an interview is required. The notice also advises that when an interview is required, failure to attend the scheduled interview or to reschedule a missed interview may result in a delay or denial of food benefits;

(G) proof of household income must be provided;

(H) proof of certain expenses is required before an expense deduction is given;

(I) they may submit proof of income and expenses by mail, fax, email, or by uploading documents through OKDHSLive; and

(J) of their right to file a fair hearing if they disagree with any action taken on their case.

**(c) Timely certification renewals.**

(1) Timely certification renewals are processed within the periods described in (A) through (B) of this paragraph.

(A) A household with a prior certification period of fewer than three months who applies by the 15th day of the last month of the certification period is provided the opportunity to participate, when eligible, no later than 30-calendar days after the date the household last received its food benefits.

(B) A household with a prior certification period of three or more months, who applies on or before the 15th day of the last month of the certification period are considered timely. When the household meets all requirements, the worker certifies or denies the application prior to the end of the certification period.

(i) Any eligible household who renews SNAP food benefits timely is provided an opportunity to participate by their normal issuance date in the month following the end of the current certification period.

(ii) To retain this right to uninterrupted benefits, the household must complete an interview, when required, and provide required verification due on or after the deadline for filing timely certification renewals.

(iii) Although a household loses its right to uninterrupted benefits, it retains its right to complete the process and receive benefits, when eligible, within 30-calendar days of the application date.

(2) A household that timely renews, but due to worker error, is not timely determined eligible is certified immediately upon being determined eligible. When the delay in certification renewal extends into the following month, the worker certifies the household back to the first day of the month following expiration of the certification period.

(3) A household applying for certification renewal in the last month of its certification period is not entitled to expedited services. When the certification renewal is certified on or before the last day of the previous certification period, the subsequent month's benefit issues on the second working day of the month.

(d) **Untimely certification renewal.** A household that submits an untimely certification renewal, without good cause, loses its right to uninterrupted benefits. When this occurs, the worker has 30-calendar days to certify or deny the application. When a certification renewal is not received until after the certification period expires, the application is considered an initial application and benefits for that month are prorated. When eligible, the household is entitled to expedited service, per OAC 340:50-11-1.

(e) **Good cause for failure to timely renew food benefits.** When the household has a good cause reason for failing to submit a timely certification renewal or completing the certification process timely and does not receive food benefits in the month following benefit expiration, it is entitled to restoration of lost benefits, per OAC 340:50-11-4. Good cause may include reasons, such as failure to receive timely notice of expiration or personal illness.

[Source: Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 22 Ok Reg 805, eff 5-12-05 ; Amended at 25 Ok Reg 937, eff 6-1-08 ; Amended at 29 Ok Reg 794, eff 7-1-12 ; Amended at 30 Ok Reg 669, eff 6-1-13 ; Amended at 31 Ok Reg 1838, eff 9-12-14 ; Amended at 38 Ok Reg 2245, eff 9-15-21]

## **SUBCHAPTER 10. ELECTRONIC BENEFIT TRANSFER (EBT)**

### **340:50-10-1. Scope and applicability**

(a) **Benefit delivery and access.** Oklahoma Human Services (OKDHS) uses an online electronic benefit transfer (EBT) system to deliver Supplemental Nutrition Assistance Program (SNAP) food benefits. SNAP food benefits are stored in a central computer database and electronically accessed by eligible households at the point of sale via plastic EBT cards, called Access Oklahoma, and personal identification numbers (PIN).

(1) Upon initial certification, OKDHS issues a notice to eligible households informing them of the date they can access their SNAP food benefits.

(2) The EBT system credits food benefits to eligible households' food benefit account each month they are certified.

(3) Households use their Access Oklahoma card and enter their PIN to purchase food from a business approved by the United States Department of Agriculture to accept food benefits.

(b) **Benefit expungement.** OKDHS expunges SNAP food benefits after 274-calendar days of inactivity, per Section 274.2(i) of Title 7 of the Code of Federal Regulations. Inactivity occurs when the household does not take an action that affects the balance of the household's SNAP EBT account within this time period, such as making a purchase or a return. OKDHS provides an expungement notice to the household at least 30-calendar days before expunging the benefit.

(c) **Moved to another state.** When a household moves to another state and has food benefits remaining in their account, the household must use the food benefits in Oklahoma prior to leaving the state or find a retailer in another state that accepts the Access Oklahoma card. The Access Oklahoma card can be used in most states as most major retailers accept the Access Oklahoma card.

[Source: Added at 18 Ok Reg 2079, eff 7-1-01 ; Amended at 27 Ok Reg 1241, eff 6-1-10 ; Amended at 36 Ok Reg 1816, eff 9-16-19 ; Amended at 39 Ok Reg 1755, eff 9-15-22]

### **340:50-10-2. [RESERVED]**

[Source: Reserved at 18 Ok Reg 2079, eff 7-1-01]

### **340:50-10-3. Initial issuance of Electronic Benefit Transfer (EBT) card**

An Access Oklahoma electronic benefit transfer (EBT) card is issued to the payee of the eligible household. A second Access Oklahoma EBT card may be issued to an authorized representative designated in writing by the household. When a Supplemental Nutrition Assistance Program (SNAP) and Child Care Subsidy benefits are included in the same case, the household may choose a different authorized representative for each program. Refer to Oklahoma Administrative Code 340:50-3-1 for information regarding SNAP authorized representatives. The payee and authorized representative:

(1) obtain their initial EBT cards in the county office after viewing a training video and providing proof of their identity; and

- (2) select a personal identification number in the county office or by calling the number on the back of the EBT card.
- (b) An EBT card is considered an initial card, when a:
  - (1) client applies for SNAP benefits for the first time;
  - (2) client is given a new case number;
  - (3) change in payee or authorized representative occurs; or
  - (4) payee or authorized representative makes a new application and never had an initial EBT card printed.

[Source: Added at 18 Ok Reg 2079, eff 7-1-01 ; Amended at 36 Ok Reg 1816, eff 9-16-19]

#### **340:50-10-4. [RESERVED]**

[Source: Reserved at 18 Ok Reg 2079, eff 7-1-01]

#### **340:50-10-5. Replacement of lost, stolen, or destroyed Electronic Benefit Transfer (EBT) cards**

When the client or authorized representative requests replacement of a lost, stolen, or destroyed Access Oklahoma electronic benefit transfer (EBT) card, staff advises the person to phone the EBT contractor at 1-888-328-6551 or to go online at [www.connectebt.com/](http://www.connectebt.com/) to cancel the current card and request a replacement.

- (1) Local EBT specialists cannot issue initial or replacement EBT cards containing Supplemental Nutrition Assistance Program (SNAP) food benefits.
- (2) The worker requests the Oklahoma Department of Human Services (DHS) Financial Services Electronic Payment Services (EPS) Unit assistance in issuing a replacement card, when:
  - (A) SNAP expedited services are approved for the month the replacement is requested;
  - (B) an EBT card was previously issued, but the applicant never received benefits or has not received SNAP food benefits for at least 24 months;
  - (C) an EBT card containing SNAP food benefits is returned to the county office because it is demagnetized or in an unusable condition;
  - (D) the EBT card contains food and child care benefits in application or open status; or
  - (E) the county director approves requesting EPS assistance because of special circumstances, such as when a homeless person uses the county office as a mailing address, when a treatment center client leaves the treatment center, or other limited circumstances.
- (3) The EBT contractor mails replacement EBT cards by the next business day after the client requests a replacement card. Replacement cards take seven- to 10-calendar days to receive. EPS staff remotely print EBT cards to the local county office's embosser the date they receive replacement requests.

[Source: Added at 18 Ok Reg 2079, eff 7-1-01 ; Amended at 36 Ok Reg 1816, eff 9-16-19]

### **340:50-10-6. [RESERVED]**

[Source: Reserved at 18 Ok Reg 2079, eff 7-1-01]

### **340:50-10-7. Inactive accounts [REVOKED]**

[Source: Added at 18 Ok Reg 2079, eff 7-1-01 ; Revoked at 25 Ok Reg 937, eff 6-1-08]

### **340:50-10-8. [RESERVED]**

[Source: Reserved at 18 Ok Reg 2079, eff 7-1-01]

### **340:50-10-9. Expungement of benefits**

(a) Oklahoma Human Services (OKDHS) expunges Supplemental Nutrition Assistance Program (SNAP) food benefits after:

- (1) 12 months of inactivity until September 22, 2021; or
- (2) 274-calendar days of inactivity beginning September 22, 2021.

(b) Inactivity occurs when the household does not take action that affects the balance of the household's SNAP electronic benefit transfer account, such as making a purchase or return.

(c) Beginning September 22, 2021, OKDHS must provide an expungement notice to the household at least 30-calendar days before expunging the benefit.

[Source: Added at 18 Ok Reg 2079, eff 7-1-01 ; Amended at 27 Ok Reg 1241, eff 6-1-10 ; Amended at 36 Ok Reg 1816, eff 9-16-19 ; Amended at 39 Ok Reg 63, eff 9-16-21 (emergency); Amended at 39 Ok Reg 1755, eff 9-15-22]

### **340:50-10-10. [RESERVED]**

[Source: Reserved at 18 Ok Reg 2079, eff 7-1-01]

### **340:50-10-11. Food benefit household leaves the state [REVOKED]**

[Source: Added at 18 Ok Reg 2079, eff 7-1-01 ; Amended at 21 Ok Reg 841, eff 4-26-04 ; Amended at 27 Ok Reg 1241, eff 6-1-10 ; Revoked at 39 Ok Reg 1755, eff 9-15-22]

## **SUBCHAPTER 11. SPECIAL PROCEDURES**

### **PART 1. HOUSEHOLDS ENTITLED TO EXPEDITED SERVICE**

#### **340:50-11-1. Expedited service screening, criteria, and time limits**

(a) **Expedited service screening.** Oklahoma Human Services Adult and Family Services staff designated by the county director or field manager must screen every initial Supplemental Nutrition Assistance Program application, including those received from residents of approved drug and alcohol treatment centers and group homes, on the day it is received



in the county office or support center to determine if the household is entitled to expedited services. When an initial application indicates the household is eligible for expedited service, action is taken immediately to begin processing the application.

(1) Applications, other than certification renewals, are considered initial applications. Certification renewals are applications received before the household's certification period expires or on the first day of the month following expiration of the certification period. Certification renewals are not screened for expedited service.

(2) When an application is received on the second day of the month following expiration of the certification period or any day thereafter, it is considered an initial application and is subject to prorated benefits and expedited screening.

(b) **Expedited service criteria.** Per 273.2(i) of Title 7 of the Code of Federal Regulations, households entitled to expedited services include households:

(1) with less than \$150 gross income when liquid resources do not exceed \$100;

(2) with migrant or seasonal farm workers considered destitute when liquid resources do not exceed \$100; and

(3) whose combined monthly gross income and liquid resources are less than the household's monthly rent or mortgage and/or applicable utility standard per Oklahoma Administrative Code 340:50-7-31(a)(6)(C).

(c) **Expedited service time limits.** When a household is eligible for expedited service, food benefit eligibility must be determined and food benefits issued no later than seven calendar days from the application date. Refer to OAC 340:50-3-1(b)(1) for right to same day filing processes. When the seventh-calendar day falls on a non-business day, the application must be processed by the last business day prior to the seventh-calendar day. When a household is determined ineligible for food benefits because it does not meet non-financial eligibility criteria, the worker must deny the application no later than 30-calendar days after the application date.

(d) **Late entitlement determination.** When expedited service screening fails to identify a household as being entitled to expedited service and the worker subsequently discovers the household is entitled to expedited service, the worker provides such service within seven-calendar days of discovery.

[Source: Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 14 Ok Reg 220, eff 10-1-96 ; Amended at 27 Ok Reg 1241, eff 6-1-10 ; Amended at 33 Ok Reg 1607, eff 9-15-16 ; Amended at 34 Ok Reg 1504, eff 9-15-17 ; Amended at 38 Ok Reg 2245, eff 9-15-21 ; Amended at 42 Ok Reg, Number 7, effective 11-18-24 (emergency)]

## **340:50-11-2. Initial application screening [REVOKED]**

[Source: Amended at 14 Ok Reg 59, eff 10-10-96 (emergency); Amended at 14 Ok Reg 1351, eff 5-12-97 ; Amended at 15 Ok Reg 165, eff 11-1-97 (emergency); Amended at 15 Ok Reg 607, eff 11-5-97 ; Revoked at 38 Ok Reg 2245, eff 9-15-21]

### **340:50-11-3. Expedited service for migrant or seasonal farm laborers**

Migrant or seasonal farm laborer households qualify for expedited service when their liquid resources do not exceed \$100 at the time of interview, and their gross monthly income is less than \$150 or they are destitute per Section 273.2(i) of Title 7 of the Code of Federal Regulations (7 C.F.R. § 273.2(i)).

(1) **Definition of destitute migrant or seasonal farm laborers.** This definition may only be applied to migrant or seasonal farm laborer households.

(A) Per 7 C.F.R. § 273.10(e)(3), a destitute household means the household's only income for the application month:

(i) was received prior to application date and was from a terminated source.

(I) Income received on a monthly or more frequent basis is considered as coming from a terminated source when it will not be received again from the same source during the balance of the application month or the following month.

(II) Income received less often than monthly is considered as coming from a terminated source when it will not be received in the month the next payment would normally be received; or

(ii) is from a new source and income of more than \$25 from the new source will not be received by the 10th calendar day after the application date.

(I) Income normally received on a monthly or more frequent basis is considered to be from a new source when income of more than \$25 was not received from the source within 30-calendar days prior to the application date.

(II) Income normally received less often than monthly is considered to be from a new source when income of more than \$25 was not received within the last normal interval between payments.

(B) Households may receive income from a terminated source and income from a new source and be considered destitute when they received no other income in the application month.

(C) When a household's income must be averaged on an annual basis or averaged over the period income is intended to cover, the worker must average and assign the income to the appropriate months of the certification period before determining if the household is destitute. When the averaged income is assigned to the application

month and does not come from a new or terminated source, the household is not considered destitute.

(2) **Calculating income from destitute migrant or seasonal farm laborers.** Destitute households must have their eligibility and benefit level calculated for the application month by considering only income received between the first of the month and the application date. Any income from a new source that is anticipated after the application date is disregarded.

(3) **Proration of benefits.** Migrant and seasonal farm workers are issued a full allotment for the application month when the household received Supplemental Nutrition Assistance Program (SNAP) food benefits within 30-calendar days prior to the application date. When the household has not received SNAP food benefits within the prior 30-calendar days, the allotment is prorated from the application date, the same as any other household.

(4) **Procedures for expedited service for migrant or seasonal farm laborers.** Refer to Oklahoma Administrative Code 340:50-11-5 for expedited service procedures for migrant or seasonal farm laborer households. These households:

(A) must provide required verification for in-state and out-of-state income sources before the worker certifies the household for the third month of benefits; and

(B) are entitled to postpone out-of-state verification only once each season.

[Source: Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 26 Ok Reg 840, eff 6-1-09 ; Amended at 30 Ok Reg 669, eff 6-1-13 ; Amended at 35 Ok Reg 1659, eff 9-17-18]

#### **340:50-11-4. Time limits for providing expedited service [REVOKED]**

[Source: Amended at 9 Ok Reg 3842, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 14 Ok Reg 220, eff 10-1-96 ; Amended at 15 Ok Reg 165, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1623, eff 5-11-98 ; Amended at 26 Ok Reg 840, eff 6-1-09 ; Amended at 30 Ok Reg 669, eff 6-1-13 ; Revoked at 38 Ok Reg 2245, eff 9-15-21]

#### **340:50-11-5. Expedited services procedures and benefit issuance**

To expedite the certification process, the worker must verify the applicant's identity and conduct the household's interview as soon as possible to ensure the household, when eligible, receives timely expedited service.

(1) **Reasonable verification pursuit.** The worker makes reasonable efforts to verify, within the seven-calendar day expedited processing standard, the household's residency, income statement, and all other eligibility factors before certification, per Section 273.2(i) of Title 7 of the Code of Federal Regulations. This effort includes evaluating the household's explanation of how the household meets its needs when declared expenses exceed reported income or when the household reports no household income.

(A) The worker verifies eligibility factors through documentary evidence or, when documentary evidence is not readily available, through a collateral contact.

(B) The worker may postpone verifying eligibility factors other than identity that could not be verified within the expedited service processing time limit. In most instances, it is expected that the applicant verify at least residence and income, within the time limit.

(C) The worker must not delay certification up to, or beyond the time limit, solely because factors other than identity were not verified. When the household is unlikely to be able to provide the required verification within the expedited service timeframe, the worker must postpone verification.

(2) **Postponed verification.** When verification is postponed, the worker gives or sends the household Form 08AD092E, Client Contact and Information Request, to request the postponed verification before further benefits are approved.

(A) When a household member, who is not a newborn, needs to provide a Social Security number (SSN) that was postponed, the household must furnish the SSN or proof that an application was filed with the Social Security Administration before the second full month of participation.

(B) When verification is postponed, the worker certifies the household for a one- or two-month expedited certification period, per (3) of this Section. To avoid a break in benefits, when the household is certified for:

(i) one month, the household must furnish the postponed verification within 30-calendar days of the application date; or

(ii) two months, the household must furnish the postponed verification by the last day of the expedited certification period.

(C) When the household does not provide the verification within 30-calendar days of the application date for a one month certification, or by the last day of the expedited certification period for a two month certification, but does provide it within 60-calendar days of the application date, benefits are prorated from the date the verification is provided. The household must complete a new application to receive further benefits when the verification is not received within 60-calendar days of the application date.

(D) When the household provides postponed verification timely, the worker approves the household, when eligible, for a normal certification period within seven-calendar days of receiving the verification.

(3) **Expedited certification period.** When the household is eligible for expedited services and verification is postponed, the worker certifies the household for a one- or two-month expedited certification period.

- (A) When the household applies between the:
- (i) first and 15th of the month, the worker certifies the household for one month; or
  - (ii) 16th and 31st of the month, the worker certifies the household for two months.
- (B) The worker prorates the initial month's benefits when the household applies later than the first day of the month.
- (C) When proration causes the household to be ineligible for the application month, the worker denies the application for the application month and certifies the household for expedited food benefits for the following month.
- (D) The initial month's food benefits issue immediately. When the household is assigned a two-month certification period, the second month's benefits issue on the first day of the second month.

- (4) **Normal certification period.** When the household is eligible for expedited services and verification is not postponed, the worker certifies the household for a normal certification period.
- (5) **Multiple expedited services certifications.** There is no limit to the number of times a household may be certified using expedited procedures when the household provides the postponed verification before reapplying for food benefits. When the household does not provide the postponed verification, it is not eligible for expedited processing until it is certified using normal processing standards, per Oklahoma Administrative Code 340:50-3-1.

[Source: Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 14 Ok Reg 220, eff 10-1-96 ; Amended at 19 Ok Reg 1767, eff 6-14-02 ; Amended at 25 Ok Reg 937, eff 6-1-08 ; Amended at 28 Ok Reg 850, eff 6-1-11 ; Amended at 30 Ok Reg 669, eff 6-1-13 ; Amended at 36 Ok Reg 1816, eff 9-16-19 ; Amended at 38 Ok Reg 2245, eff 9-15-21 ; Amended at 39 Ok Reg 1755, eff 9-15-22]

#### **340:50-11-6. Issuance for households entitled to expedited services [REVOKED]**

[Source: Amended at 8 Ok Reg 2233, eff 5-20-91 (emergency); Amended at 9 Ok Reg 1547, eff 4-27-92 ; Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 10 Ok Reg 4851, eff 9-8-93 ; Amended at 14 Ok Reg 220, eff 10-1-96 ; Amended at 14 Ok Reg 1351, eff 5-12-97 ; Amended at 18 Ok Reg 2079, eff 7-1-01 ; Amended at 30 Ok Reg 669, eff 6-1-13 ; Amended at 38 Ok Reg 2245, eff 9-15-21 ; Revoked at 39 Ok Reg 1755, eff 9-15-22]

### **PART 3. SIMPLIFIED SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SSNAP) FOR TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) AND COMPANION STATE SUPPLEMENTAL PAYMENT (SSP) RECIPIENT(S)**

#### **340:50-11-20. Scope and application processing**

(a) **Simplified Supplemental Nutrition Assistance Program (SSNAP).** Per Section 273.25 of Title 7 of the Code of Federal Regulations, SSNAP rules in this Subchapter apply when **ALL** food benefit household members are included in:

- (1) Temporary Assistance for Needy Families (TANF) cash assistance; or
- (2) TANF cash assistance and a companion State Supplemental Payment (SSP) case.

(b) **When SSNAP procedures do not apply.** SSNAP procedures do not apply when:

- (1) no household member receives TANF cash assistance;
- (2) all household members receive SSP; or
- (3) any household member is a disqualified or ineligible food benefit household member, per Oklahoma Administrative Code 340:50-5-10.1.

(c) **Household definition.** Food benefit household members are determined using Part 1 of Subchapter 5 of this Chapter.

(d) **TANF applicants.** When the household applies for TANF, the worker determines if the applicant wants to receive or is currently receiving food benefits.

- (1) When the household currently receives non-public assistance (non-PA) food benefits, the food benefits remain non-PA until TANF is certified.
- (2) When the household does not receive food benefits and applies for TANF and food benefits at the same time, SSNAP rules are not used to determine food benefit eligibility when the:
  - (A) household qualifies for expedited service and the TANF application will not be certified within seven-calendar days;
  - (B) TANF application eligibility determination process will take longer than 30-calendar days;
  - (C) TANF application will not be certified for the application month and food benefits must be issued for the initial month; or
  - (D) worker denies the TANF application and the food benefit application is pending.

[Source: Amended at 15 Ok Reg 1491, eff 4-1-98 ; Amended at 22 Ok Reg 2767, eff 9-1-05 (emergency); Amended at 23 Ok Reg 1896, eff 7-1-06 ; Amended at 27 Ok Reg 164, eff 12-1-09 (emergency); Amended at 27 Ok Reg 1241, eff 6-1-10 ; Amended at 36 Ok Reg 1816, eff 9-16-19 ; Amended at 39 Ok Reg 1755, eff 9-15-22]

### **340:50-11-21. Household definition [REVOKED]**

[Source: Amended at 27 Ok Reg 1241, eff 6-1-10 ; Revoked at 39 Ok Reg 1755, eff 9-15-22]

### **340:50-11-22. Application processing [REVOKED]**

[Source: Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 13 Ok Reg 305, eff 6-1-95 (emergency); Amended at 13 Ok Reg 1537, eff 3-7-96 (emergency); Amended at 13 Ok Reg 2631, eff 6-28-96 ; Amended at 14 Ok Reg 220, eff 10-1-96 ; Amended at 22 Ok Reg 2767, eff 9-1-05 (emergency); Amended at 23 Ok Reg 1896, eff 7-1-06 ; Amended

**340:50-11-23. Eligibility determination for households within the Simplified Supplemental Nutrition Assistance Program (SSNAP)**

(a) **SSNAP eligibility determination.** All households within the SSNAP scope meet applicable Supplemental Nutrition Assistance Program (SNAP) eligibility rules, per Sections 273.23 and 273.25 of Title 7 of the Code of Federal Regulations and Oklahoma Administrative Code (OAC) 340:50-11-20.

(1) **Income determination.** SSNAP uses TANF income definitions to determine food benefit income. When there is a TANF case and a companion State Supplemental Payment (SSP) case for the aged, blind, or disabled, income definitions for TANF and SSP apply. Income amounts converted from the TANF and SSP cases to food benefit income are classified as unearned income. Food benefit unearned income is computed for:

(A) **TANF cash assistance only.** The worker subtracts the non-fraud related recoupment from the exempt earned income and adds the remaining exempt earned income to the payment standard for the household size, per Oklahoma Human Services (OKDHS) Appendix C-1, Maximum Income, Resource, and Payment Standards, Schedule IX; or

(B) **TANF with companion SSP case(s).** The companion case's total countable income is added to the primary food benefit case's countable income.

(2) **Resource determination.** SSNAP households are considered resource eligible when they meet resource requirements for TANF and, when applicable, SSP.

(3) **Non-financial eligibility criteria.** SSNAP households must fulfill all applicable SNAP nonfinancial eligibility requirements, per Subchapter 5 of this Chapter.

(4) **Deduction determination.** The allowable deductions for SSNAP, when applicable, are shelter, utilities, medical expenses, and dependent care as determined and verified, per OAC 340:50-7-31. Medical expenses are verified only when allowing the medical expense deduction increases the food benefit amount.

(b) **Food benefit allotments.** Food benefit allotments are determined, per Sections 2012 and 2017 of Title 7 of the United States Code. Refer to OKDHS Appendix C-3, Maximum Food Benefit Allotments and Standards, for Income and Deductions for food benefit allotment amounts.

(c) **Food benefit proration.** Food benefit allotments for an initial month are prorated from the date of application. Initial month means the first month the household is certified for food benefits following any time period during which the household was not certified. Food benefits are not prorated when benefits change from non-PA to SSNAP if there is no break in service.

(emergency); Amended at 23 Ok Reg 1896, eff 7-1-06 ; Amended at 26 Ok Reg 840, eff 6-1-09 ; Amended at 39 Ok Reg 1755, eff 9-15-22]

### **340:50-11-24. Food benefit allotments [REVOKED]**

[Source: Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 17 Ok Reg 473, eff 10-12-99 ; Amended at 26 Ok Reg 840, eff 6-1-09 ; Revoked at 39 Ok Reg 1755, eff 9-15-22]

### **340:50-11-25. Proration of food benefits [REVOKED]**

[Source: Amended at 11 Ok Reg 4587, eff 9-1-94 (emergency); Amended at 12 Ok Reg 1723, eff 6-12-95 ; Amended at 14 Ok Reg 220, eff 10-1-96 ; Amended at 22 Ok Reg 2767, eff 9-1-05 (emergency); Amended at 23 Ok Reg 1896, eff 7-1-06 ; Amended at 27 Ok Reg 1241, eff 6-1-10 ; Revoked at 39 Ok Reg 1755, eff 9-15-22]

### **340:50-11-26. Certification periods [REVOKED]**

[Source: Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 15 Ok Reg 757, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1623, eff 5-11-98 ; Revoked at 22 Ok Reg 2767, eff 9-1-05 (emergency); Revoked at 23 Ok Reg 1896, eff 7-1-06]

### **340:50-11-27. Changes after application and during the certification period**

Households are required to report changes per OAC 340:65-5. At each application or renewal, the worker advises households of their reporting responsibilities, gives them Form 08FB038E, Changes in Household Circumstances, and advises them to contact their worker to request additional forms as needed.

(1) **Reported change in household members' eligibility for Temporary Assistance for Needy Families (TANF) cash assistance.** The computer converts the food benefits to non-public assistance (non-PA) Supplemental Nutrition Assistance Program (SNAP) food benefits when the household reports one or more household members is not receiving TANF cash assistance. This may occur when:

- (A) one or more persons not eligible to receive TANF or State Supplemental Payment (SSP) income moves into the home;
- (B) a child included in the TANF cash assistance turns 18 or 19 years of age and is no longer eligible for inclusion in the TANF cash assistance; or
- (C) the adult parent or needy caretaker included in the TANF cash assistance tests positive for the illegal use of a controlled substance or substances per OAC 340:10-4-1 and is removed from the TANF cash assistance.

(2) **Reported change results in closure of TANF.** When the worker closes the TANF cash assistance and the household is receiving SSNAP food benefits, one of the actions described in (A) through (C) are taken.

- (A) The worker closes the food benefits the same effective date as the TANF cash assistance closure when TANF is closed as a result of the:



- (i) payee's death;
- (ii) failure or refusal to participate in TANF Work;
- (iii) household moving out-of-state; or
- (iv) household requesting closure of the TANF cash assistance and food benefits.

(B) The computer converts the SSNAP food benefits to five months of transitional food benefits (TFB) when the TANF cash assistance is closed for reasons other than those listed in (A) or (C) of this paragraph and:

- (i) there is no companion SSP case; or
- (ii) the TANF case is the primary food benefit case, and the companion SSP case remains open.

(C) The computer converts the food benefits to non-PA Supplemental Nutrition Assistance Program (SNAP) food benefits when the TANF cash assistance is closed:

- (i) for reasons other than those listed in (A) of this paragraph and the companion SSP case, which is the primary food benefit case, remains open; or
- (ii) because the adult parent or needy caretaker refuses to comply or fails to follow through with screening for the illegal use of a controlled substance or substances requirements per OAC 340:10-4-1.

**(3) Reported changes during the TFB certification period.**

The household is not required to report changes while receiving TFB. When changes are reported, the TFB benefit remains the same unless:

- (A) the household applies for TANF while in TFB status. Food benefits are converted to SSNAP at TANF certification as long as all household members are receiving cash assistance; or
- (B) a household member leaves the home and applies for food benefits in another household.

**(4) Notifications.** When requested, the worker gives the TANF applicant a copy of the signed and dated application that informs the applicant food benefit eligibility is determined using information contained in the application. A computer-generated notice is sent to the household at certification and any time the food benefit amount changes.

[Source: Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 13 Ok Reg 305, eff 6-1-95 (emergency); Amended at 13 Ok Reg 1537, eff 3-7-96 (emergency); Amended at 13 Ok Reg 2631, eff 6-28-96 ; Amended at 14 Ok Reg 59, eff 10-10-96 (emergency); Amended at 14 Ok Reg 1351, eff 5-12-97 ; Amended at 22 Ok Reg 2767, eff 9-1-05 (emergency); Amended at 23 Ok Reg 1896, eff 7-1-06 ; Amended at 25 Ok Reg 937, eff 6-1-08 ; Amended at 26 Ok Reg 840, eff 6-1-09 ; Amended at 27 Ok Reg 1241, eff 6-1-10 ; Amended at 30 Ok Reg 669, eff 6-1-13]

## **PART 5. RESTORATION OF LOST BENEFITS**

### **340:50-11-45. Transfers [REVOKED]**

[Source: Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Revoked at 18 Ok Reg 2079, eff 7-1-01]

### **340:50-11-46. Restoration of lost benefits**

(a) **Worker responsibility.** A worker is responsible for restoring lost Supplemental Nutrition Assistance Program (SNAP) food benefits to the household when food benefits were lost because of an Oklahoma Department of Human Services (DHS) error, per Section 273.17 of Title 7 of the Code of Federal Regulations (7 C.F.R. § 273.17). SNAP food benefits are restored for not more than 12 months prior to the:

- (1) month the worker receives a request to restore lost food benefits from the household in writing or verbally;
- (2) month the worker is notified or discovers the loss occurred in the normal course of business;
- (3) date the household requested a fair hearing to contest the adverse action that resulted in the loss; or
- (4) date the household initiated court action.

(b) **Disputed benefits.**

(1) When the worker determines a household is entitled to restoration of lost food benefits but the household does not agree with the amount to be restored, the household may request a fair hearing. When the household requests a fair hearing:

- (A) prior to or at the time lost food benefits are restored, the amount restored to the household is the amount determined by the worker pending results of the fair hearing; and
- (B) the worker restores the lost food benefits in accordance with the fair hearing decision, when the decision is favorable to the household.

(2) When the household notifies the worker that it is entitled to restoration of lost benefits and the worker, after reviewing the case record does not agree, the household has 90-calendar days from the date the worker notifies the household of his or her decision to request a fair hearing. The worker restores lost benefits to the household only when the fair hearing decision is favorable to the household.

(c) **Computing amount to be restored.** After correcting the loss for future months and excluding the months benefits may have been lost prior to the 12-month time limit, the worker calculates the amount to be restored. The worker computes lost food benefits beginning with the month the loss initially occurred and ending with the first month the error is corrected or the first month the household is determined to be ineligible.

- (1) When the household was determined eligible, but received an incorrect food benefit allotment, the worker calculates the lost food benefits only for the months the household participated in SNAP.

(2) When an eligible household's application was erroneously denied, the month the loss initially occurred is the application month. For a timely filed certification renewal, the initial loss occurs the month following the expiration of its certification period.

(3) When an eligible household's application is delayed, the worker calculates lost food benefits, per Oklahoma Administrative Code 340:50-9-4.

(4) When a household's benefits were incorrectly closed, the month the loss initially occurred is the first month benefits were not received because of the incorrect closure.

(5) When there is not enough information in the household's case record to determine the correct benefit amount, the worker requests information from the household to determine eligibility for those months. When the household cannot provide the information needed to determine eligibility, the household is considered ineligible for the lost food benefits.

(d) **Offsetting claims.** When the household has an unpaid overpayment or an overpayment held in suspense, the amount to be restored is offset against the overpayment amount. The balance, if any, is restored to the household. Benefits received at initial certification or because of retroactive certification are not used to offset claims against a household.

(e) **Lost benefits to persons disqualified for an intentional program violation (IPV).** The worker restores lost food benefits for months the person was disqualified for an IPV only when the disqualification decision is subsequently overturned or reversed, per 7 C.F.R. § 273.17(e). A person is not entitled to restoration of lost benefits for the disqualification period based solely on the fact that a criminal conviction could not be obtained, unless the person successfully challenged the disqualification in a separate court action.

(1) For each month the person was disqualified, the amount to be restored, if any, is the difference between the food benefit allotment the household received and the food benefit allotment the household would have received if the disqualified member was allowed to participate in SNAP.

(2) The lost benefit restoration period cannot exceed 12 months prior to the date DHS was notified or discovered a loss occurred.

(f) **Method of restoration.** The worker restores benefits equal to the amount of benefits that were lost even when the household is not currently eligible for food benefits. The amount issued is in addition to the food benefit allotment currently eligible households are entitled to receive.

[Source: Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 18 Ok Reg 2079, eff 7-1-01 ; Amended at 25 Ok Reg 937, eff 6-1-08 ; Amended at 36 Ok Reg 1816, eff 9-16-19]

## **PART 7. REPLACEMENT WHEN FOOD PURCHASED WITH FOOD BENEFITS IS DESTROYED**

### **340:50-11-60. Scope and applicability [REVOKED]**

[Source: Amended at 9 Ok Reg 2473, eff 6-25-92 ; Amended at 9 Ok Reg 511, eff 12-13-91 (emergency); Amended at 9 Ok Reg 3725, eff 2-12-92 ; Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 155, eff 9-23-92 ; Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 15 Ok Reg 165, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1623, eff 5-11-98 ; Revoked at 18 Ok Reg 2079, eff 7-1-01]

### **340:50-11-61. Non-received ATP's or Coupons - countable and non-countable replacement [REVOKED]**

[Source: Amended at 9 Ok Reg 3725, eff 2-12-92 ; Amended at 10 Ok Reg 155, eff 9-23-92 ; Revoked at 18 Ok Reg 2079, eff 7-1-01]

### **340:50-11-62. Stolen or lost ATPs and food stamps [REVOKED]**

[Source: Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Revoked at 18 Ok Reg 2079, eff 7-1-01]

### **340:50-11-63. Returned ATPs or coupons [REVOKED]**

[Source: Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Revoked at 18 Ok Reg 2079, eff 7-1-01]

### **340:50-11-64. Destroyed food purchased with benefits**

(a) In households where food purchased with benefits is destroyed in a household misfortune such as a fire, tornado, or flood, a replacement of the actual value of loss, not to exceed the household's monthly allotment, may be made if the loss is reported within 10 calendar days of the loss and the loss is verified. Food loss through loss of electricity or malfunction of appliances unless caused by a household misfortune, does not qualify for a Supplemental Nutrition Assistance Program (SNAP) replacement.

(b) Prior to issuing the replacement, a household member must complete Form 08FB0012E, Request for Replacement of Destroyed Food, attesting to the loss within ten days of the report of the loss. When the Oklahoma Department of Human Services is not open for business on the 10th calendar day, the form must be received by the next business day. The worker must issue the replacement within 10 calendar days of the reported loss or within two business days of receiving the completed form, whichever is later.

[Source: Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 18 Ok Reg 2079, eff 7-1-01 ; Amended at 28 Ok Reg 850, eff 6-1-11 ; Amended at 30 Ok Reg 669, eff 6-1-13]

### **340:50-11-65. Damaged, mutilated, or improperly manufactured ATP's and coupons [REVOKED]**

[Source: Revoked at 18 Ok Reg 2079, eff 7-1-01]

### **340:50-11-66. Altered ATP [REVOKED]**

[Source: Revoked at 18 Ok Reg 2079, eff 7-1-01]

### **340:50-11-67. Exchange of old series coupons [REVOKED]**

[Source: Revoked at 18 Ok Reg 2079, eff 7-1-01]

### **340:50-11-68. Replacement ATP's and coupons [REVOKED]**

[Source: Revoked at 18 Ok Reg 2079, eff 7-1-01]

## **PART 9. DISASTER PROCEDURES AND REPORTING REQUIREMENTS**

### **340:50-11-85. Disaster procedures [REVOKED]**

[Source: Amended at 18 Ok Reg 2079, eff 7-1-01 ; Revoked at 22 Ok Reg 805, eff 5-12-05]

### **340:50-11-86. Emergency food benefit assistance in disasters declared by Food and Nutrition Service (FNS)**

The Oklahoma Department of Human Services is responsible for operating a Disaster Supplemental Nutrition Assistance Program (DSNAP).

- (1) When a major or lesser disaster is declared by Food and Nutrition Services (FNS), Adult and Family Services (AFS) Supplemental Nutrition Assistance Program staff notifies the counties involved in the disaster and issues policy and procedures to be followed.
- (2) Maximum income limits, benefit allotments, and application procedures are followed for FNS declared disasters. Emergency benefit allotments are equal to the maximum monthly food benefit allotment for the household size.
- (3) Once benefits are issued they must be used no later than 90-calendar days from certification. Benefits not used within 90-calendar days of certification are expunged and cannot be put back into the client's account.

[Source: Amended at 9 Ok Reg 3405, eff 5-13-92 ; Amended at 18 Ok Reg 2079, eff 7-1-01 ; Amended at 27 Ok Reg 1241, eff 6-1-10 ; Amended at 36 Ok Reg 1816, eff 9-16-19]

### **340:50-11-87. Emergency food assistance in disasters not declared by FNS - "Personal Hardship" [REVOKED]**

[Source: Revoked at 25 Ok Reg 1952, eff 7-1-08]

### **340:50-11-88. Mechanical disaster**

The definition of mechanical disaster means the halting for at least 15 consecutive calendar days of the operation of all equipment available to the Oklahoma Department of Human Services (OKDHS) for food benefit issuance. To be eligible for benefits under the mechanical disaster provisions, a household must already be certified as eligible to participate in the program as of the month in which the disaster occurred. In the event of a mechanical disaster, all current food benefit recipients are notified that a mechanical disaster has occurred through announcements in the mass media. Steps are taken to issue benefits by an alternate system. Persons who apply for food benefits after the breakdown of equipment are handled in the same manner.

[Source: Amended at 9 Ok Reg 3843, eff 5-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 18 Ok Reg 2079, eff 7-1-01 ; Amended at 27 Ok Reg 1241, eff 6-1-10]

#### **340:50-11-89. Disaster reporting**

During periods of a disaster, the State Office contacts the local offices affected by the disaster daily to obtain the number of households, the number of persons, and the number of pending applications in both Food and Nutrition Service (FNS) emergency declared and non-emergency declared disasters. The State Office is responsible for following FNS guidelines for reporting information.

[Source: Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 18 Ok Reg 2079, eff 7-1-01]

#### **340:50-11-90. State Office reporting [REVOKED]**

[Source: Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Revoked at 18 Ok Reg 2079, eff 7-1-01]

### **PART 11. SPECIAL PROCEDURES FOR JOINT PROCESSING OF SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP) AND SUPPLEMENTAL SECURITY INCOME (SSI) APPLICANTS**

#### **340:50-11-105. Joint Social Security Income and Supplemental Nutrition Assistance Program (SNAP) Application procedures**

(a) **Eligible persons.** Per Section 273.2(k) of Title 7 of the Code of Federal Regulations (7 C.F.R. § 273.2(k)), the Social Security Administration (SSA) accepts Supplemental Nutritional Assistance Program applications for Oklahoma Human Services (OKDHS). To apply with SSA, the SNAP household may only include Supplemental Security Income (SSI) applicants or recipients. SSA also does not accept applications when the household:

- (1) currently receives SNAP and is not due for a certification renewal; or
- (2) has already applied for SNAP in the past 60-calendar days.

(b) **Application Procedures.** SSA informs SSI applicants and recipients of their right to apply for SNAP with SSA or OKDHS.

(1) When the SSI applicant or recipient accepts the offer to apply with SSA, SSA:

(A) follows the instructions in the SSA Program Operations Manual System to complete the SNAP application and interview;

(B) provides the SNAP application to OKDHS;

(C) prescreens the application for expedited service and indicates potential expedited service eligibility on the SSA-4233 form;

(D) suggests the household may receive quicker service by applying in person at an OKDHS office when the household qualifies for expedited service;

(E) accepts any available verification the household has and provides it to OKDHS; and

(F) completes the SSA-4233 form to record eligibility information revealed by the SSA interview and any potential missing verification and provides this form to OKDHS.

(2) When an SSI applicant or recipient declines to apply with SSA or does not meet the criteria in (a) of this Section, SSA refers them to [www.okdhslive.org](http://www.okdhslive.org), [www.okbenefits.org](http://www.okbenefits.org), or the nearest OKDHS office.

(c) **OKDHS procedures.** When SSA submits a SNAP application to OKDHS, the OKDHS worker:

(1) screens the application for expedited service on the date OKDHS receives the application;

(2) calculates expedited service from the day OKDHS receives the application online or in the OKDHS office;

(3) processes the application within 30-calendar days of when SSA received the signed application;

(4) uses the interview completed and eligibility information provided on the SSA-4233 to determine the household's eligibility;

(5) does not contact the household or request additional information or verification unless the application is incomplete, per Oklahoma Administrative Code (OAC) 340:50-3-1, missing mandatory verification, per OAC 340:50-3-3(b), or contains questionable information, per OAC 340:50-3-3(f);

(6) completes an incomplete application or obtains any missing or needed verification without requiring a household to come to an OKDHS office;

(7) applies OAC 50-11-111 to determine if a household is categorically eligible;

(8) identifies applications from SSA Prerelease Program for the Institutionalized and follows the procedures in (d) of this Section; and

(9) employs ordinary SNAP procedures except for the requirements of this subsection.

(d) **SSA Prerelease Program for the Institutionalized.** Per 7 C.F.R. 273.11(i), public institution residents may apply for SSI and SNAP before

their release from the institution through the SSA Prerelease Program for the Institutionalized. The OKDHS worker uses the resident's release date as the application date for these applications. Expedited service and the 30-calendar day processing timeframes begin on the release date.

[Source: Amended at 27 Ok Reg 1241, eff 6-1-10 ; Amended at 40 Ok Reg 979, eff 9-15-23]

#### **340:50-11-106. Processing the applications [REVOKED]**

[Source: Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Revoked at 40 Ok Reg 979, eff 9-15-23]

#### **340:50-11-107. Work registration [REVOKED]**

[Source: Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 27 Ok Reg 1241, eff 6-1-10 ; Revoked at 40 Ok Reg 979, eff 9-15-23]

#### **340:50-11-108. Certification period [REVOKED]**

[Source: Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 27 Ok Reg 1241, eff 6-1-10 ; Revoked at 40 Ok Reg 979, eff 9-15-23]

#### **340:50-11-109. Changes in circumstances [REVOKED]**

[Source: Revoked at 40 Ok Reg 979, eff 9-15-23]

#### **340:50-11-110. Recertification [REVOKED]**

[Source: Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Revoked at 40 Ok Reg 979, eff 9-15-23]

## **PART 12. CATEGORICALLY ELIGIBLE HOUSEHOLDS**

#### **340:50-11-111. Categorically eligible household**

(a) **Purpose.** This Part includes the requirements for establishing categorically eligible households for the Supplemental Nutrition Assistance Program (SNAP), per Section 273.2(j)(2) of Title 7 of the Code of Federal Regulations (7 C.F.R. § 273.2(j)).

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

- (1) **"Categorically eligible household"** means any household:
  - (A) as defined, per Oklahoma Administrative Code (OAC) 340:50-11-20, in which all members receive or are authorized to receive:
    - (i) Temporary Assistance for Needy Families (TANF) cash assistance; or
    - (ii) a combination of Supplemental Security Income (SSI) and TANF cash assistance;



(B) in which all members receive or are authorized to receive SSI; or

(C) in which members receive or are authorized to receive services through 2-1-1 Oklahoma, except as excluded in (f) of this Section.

(2) **"Authorized to receive"** means the person was determined eligible for benefits and was notified of this determination even if the benefits have not yet been received, authorized but not accessed, suspended or recouped, or not paid because they are less than a minimum amount.

(c) **When to classify categorically eligible households.** Food benefit households are categorically eligible households upon certification unless the households meet the criteria defined in (f) of this Section. Households remain categorically eligible until the next certification.

(d) **Financial eligibility factors.** When all household members meet categorical eligibility per (b)(1) of this Section, they do not have to meet either the gross or net income eligibility standards of SNAP. Income for the household must be verified to determine benefit allotment.

(e) **Non-financial eligibility factors.**

(1) All household members must meet the citizenship requirements per OAC 340:50-5-67. If a person's status as a United States (U.S.) citizen or non-citizen national is questionable and was verified for another program, the worker accepts participation in that program as proof of citizenship or lawful alien status.

(2) Aliens who are otherwise ineligible for food benefits are not automatically eligible for food benefits because they receive Supplemental Security Income (SSI). The citizenship requirements supersede the categorical eligibility requirements.

(3) A categorically eligible household receiving SSI or Temporary Assistance for Needy Families is considered as having met the Social Security number (SSN) information, sponsored alien information, and residency requirements for food benefit purposes.

(f) **Non-categorical households.** Non-categorical households are subject to income limits per OAC 340:50-9-1(b). A household is not classified as a categorically eligible household, per 7 C.F.R. § 273.2(j)(2) (vii):

(1) the first time the household applies after SNAP benefits close because of substantial lottery and gambling winning, per 7 C.F.R. § 273.11(r), OAC 340-50-7-1, and 340:50-9-5(j);

(2) when any household member is disqualified for an intentional program violation, per 7 C.F.R. § 273.16 and OAC 340:50-15-25;

(3) when any household member is disqualified for being a fleeing felon or probation or parole violator, per 7 C.F.R. § 273.11(n);

(4) when any household member is disqualified for being convicted of certain crimes as an adult after February 7, 2014, and is not in compliance with the terms of the sentence or the restrictions under 7 C.F.R. § 273.11(n), per 7 C.F.R. § 273.11(s); or

(5) the head of household is disqualified for failing to comply with work requirements per OAC 340:50-5-85 through 340:50-5-89.

Refer to OAC 340:50-3-1(b)(2) for head of household information.

(g) **Excluded individuals from non-categorical households.** When a household is otherwise categorically eligible, individuals excluded from the household, per 7 C.F.R. § 273.2(j)(2)(ix), include:

(1) an ineligible alien, per 7 C.F.R. § 273.4 and OAC 340:50-5-67(c);

(2) an ineligible student, per 7 C.F.R. § 273.5 and OAC 340:50-5-45;

(3) a resident of an institution that is not exempt, per 7 C.F.R. § 273.1(b)(7)(vi) and OAC 340:50-5-7.1; or

(4) an individual failing to comply with a work requirement, per OAC 340:50-5-85 through OAC 340:50-5-89.

[Source: Added at 25 Ok Reg 937, eff 6-1-08 ; Amended at 26 Ok Reg 840, eff 6-1-09 ; Amended at 27 Ok Reg 1241, eff 6-1-10 ; Amended at 28 Ok Reg 850, eff 6-1-11 ; Amended at 34 Ok Reg 1504, eff 9-15-17 ; Amended at 38 Ok Reg 2245, eff 9-15-21 ; Amended at 41 Ok Reg, Number 23, effective 9-14-24]

### **340:50-11-112. When to classify categorically eligible households [REVOKED]**

[Source: Added at 25 Ok Reg 937, eff 6-1-08 ; Amended at 26 Ok Reg 840, eff 6-1-09 ; Amended at 28 Ok Reg 850, eff 6-1-11 ; Revoked at 41 Ok Reg, Number 23, effective 9-14-24]

### **340:50-11-113. Financial eligibility factors [REVOKED]**

[Source: Added at 25 Ok Reg 937, eff 6-1-08 ; Amended at 26 Ok Reg 840, eff 6-1-09 ; Amended at 28 Ok Reg 850, eff 6-1-11 ; Amended at 34 Ok Reg 1504, eff 9-15-17 ; Revoked at 41 Ok Reg, Number 23, effective 9-14-24]

### **340:50-11-114. Non-financial eligibility factors [REVOKED]**

[Source: Added at 25 Ok Reg 937, eff 6-1-08 ; Amended at 26 Ok Reg 840, eff 6-1-09 ; Revoked at 41 Ok Reg, Number 23, effective 9-14-24]

### **340:50-11-115. Review of categorical eligibility [REVOKED]**

[Source: Added at 25 Ok Reg 937, eff 6-1-08 ; Amended at 26 Ok Reg 840, eff 6-1-09 ; Amended at 28 Ok Reg 850, eff 6-1-11 ; Revoked at 41 Ok Reg, Number 23, effective 9-14-24]

## **SUBCHAPTER 13. FAIR HEARINGS AND QUALITY CONTROL**

### **340:50-13-1. Complaints of alleged discriminatory conditions or practices [REVOKED]**

[Source: Amended at 25 Ok Reg 937, eff 6-1-08 ; Revoked at 35 Ok Reg 1659, eff 9-17-18]

**340:50-13-2. Hearing based on any action relating to a food benefit or case**

(a) **Client rights.** Every applicant and participating household has the right to appeal any action that affects the household's participation in the Supplemental Nutrition Assistance Program (SNAP), per Section 273.15(a) of Title 7 of the Code of Federal Regulations (7 C.F.R. § 273.15(a)). Applicants and recipients are advised verbally and in writing of their right to a fair hearing and of the procedures for appealing any decision.

(b) **Hearing request.** A hearing request may be made verbally or in writing.

(1) When the client contacts the county office to request a fair hearing, the client is given an opportunity to review the situation with a supervisory or administrative staff member in the local county office. When the situation is not resolved in the review or the client does not wish to review the situation with local supervisory or administrative staff, the worker explains hearing procedures to the client, completes the first page of Form 13MP001E, Request for a Fair Hearing, and gives or mails the form to the client to complete the rest of the form.

(2) Households wanting to contest a denial of expedited service must be given an opportunity to have an Oklahoma Department of Human Services (DHS) conference scheduled within two-business days unless the household requests it be scheduled later or states it does not wish to have a DHS conference, per 7 C.F.R. § 273.15(d). A fair hearing must be held if the issue is not resolved or the household does not withdraw its request for a fair hearing by signing Form 13MP004E, Withdrawal of Request for Hearing.

(3) When a fair hearing is requested by a household that plans to move to another state before a hearing decision would normally be reached, such as a migrant farmworker household, DHS expedites processing the hearing before the household plans to leave the state, per 7 C.F.R. § 273.15(i) and Oklahoma Administrative Code (OAC) 340:2-5-65.

(c) **Participation during appeal.** When a household requests a fair hearing during the 10-calendar day advance notice period, the household's food benefits are continued at the same level as authorized immediately prior to the notice of adverse action, unless the household specifically waives continuation of benefits, per 7 C.F.R. § 273.15(k). Benefits are not continued when the certification period expires prior to the fair hearing request.

(1) When the household chooses:

(A) to continue food benefits at the previous level until the hearing decision is reached and the hearing decision is not in the household's favor, the household is required to reimburse the ineligibly received benefits; and

(B) not to continue food benefits at the previous level until the hearing decision is reached and the hearing decision is in the household's favor, the household is entitled to the retroactive benefits lost during the appeal period.

(2) When the household fails to request continuation of benefits within the advance notice period and later establishes there was good cause for the failure, the worker reinstates the benefits to the prior basis.

(3) When benefits are reduced or closed because of a mass change without individual notice of adverse action, per OAC 340:50-9-5(k)(3)(A), the worker only reinstates benefits to the previous level when the issue being appealed is that eligibility or benefits were improperly computed or federal law or regulation is being misapplied or misinterpreted by DHS.

(4) When a household requests a hearing and continuation of benefits as a result of an action taken by DHS at initial certification or on a subsequent application, benefits are not reinstated or continued except as authorized at such initial or subsequent certification.

(d) **Reduction or closure prior to hearing decision.** Once continued, benefits are not reduced or closed prior to a hearing decision unless:

(1) the certification period expires. When this occurs, the household may reapply and be determined eligible for a new certification period and benefit amount as determined by DHS;

(2) the hearing officer makes a preliminary decision, in writing and at the hearing, that the sole issue is one of federal law or regulation and that the household's claim that DHS improperly computed benefits or misinterpreted or misapplied the federal law or regulation is invalid;

(3) a change in circumstances occurs that affects the household's eligibility or basis of issuance while the hearing decision is pending and the household does not request an additional hearing and continuation of benefits after the notice of adverse action.

The benefit allotment must be based on any income the household had prior to the first notice of adverse action; or

(4) the household or its authorized representative verbally withdraws the fair hearing request and does not inform DHS of its desire to reinstate the fair hearing within 10-calendar days of receiving written notice from DHS confirming the withdrawal request.

(e) **Hearing decision.** Hearing decisions are made by the Appeals Committee, per OAC 340:2-5-76.

(1) The hearing is conducted, a decision is reached, and the household and county office are notified of the decision within 60-calendar days of receipt of the fair hearing request per 7 C.F.R. § 273.15(c). The notice also informs the household of any further appeal rights.

(2) When the decision is:

(A) in the household's favor and results in an increase in household benefits, the benefit increase is reflected in the household's electronic benefit transfer account within 10-calendar days of receipt of the hearing decision unless the hearing decision effective date corresponds with the next benefit issuance date; or

(B) not in the household's favor and results in a benefit decrease, the worker decreases the household's food benefits effective the next scheduled benefit issuance date.

[Source: Amended at 11 Ok Reg 345, eff 10-15-93 (emergency); Amended at 11 Ok Reg 2667, eff 6-13-94 ; Amended at 21 Ok Reg 841, eff 4-26-04 ; Amended at 25 Ok Reg 937, eff 6-1-08 ; Amended at 27 Ok Reg 1241, eff 6-1-10 ; Amended at 36 Ok Reg 1816, eff 9-16-19]

### **340:50-13-3. Quality control**

(a) **Legal authority.** The Oklahoma Department of Human Services federal and state legal authority for providing a systematic Supplemental Nutrition Assistance Program (SNAP) quality control (QC) process and administrative operation to assure state accountability is vested in Sections 241 through 244 of Title 56 of the Oklahoma Statutes. SNAP QC reviews are conducted per Sections 275.10 through 275.14 of Title 7 of the Code of Federal Regulations, 7 C.F.R. § 275.10 through 275.14, and the United States Department of Agriculture Food and Nutrition Services (FNS) FNS 310 Quality Control Handbook. The USDA mandates parameters for the QC process including but not limited to conducting household interviews, type of reviewer inquiries, method of verification, and appropriateness of collateral contacts.

(b) **Sampling plan.** The annual sampling plan is developed by the Oklahoma Department of Human Services (DHS) Office of Performance Outcomes and Accountability (OPOA) in compliance with federal regulations at 7 C.F.R. § 275.11. Methodologies are outlined in detail and submitted to USDA for approval.

(c) **Random sample.** A random sample of SNAP applications, reapplications, and other case actions is generated monthly by the Oklahoma Office of Management and Enterprise Services Information Services Division.

(d) **Case assignment.** The cases in the monthly random sample are assigned to and reviewed by an Adult and Family Services (AFS) SNAP QC reviewer for verification of conditions of eligibility and for procedural errors related to denials and terminations. All errors are referred to SNAP program field representative staff, who notifies county offices and support centers of errors found on sampled cases.

(e) **Refusal to cooperate.** When, at any point in the SNAP QC review process, a household refuses to cooperate with the AFS SNAP QC reviewer, the SNAP QC administrator sends the Notice of Refusal to Cooperate with Quality Control to SNAP program field representative staff to notify them of the household's refusal.

(1) AFS SNAP program field representative staff closes the food benefits on refusal to cooperate with the SNAP QC review for the next advance-notice effective date per DHS Appendix B-2, Deadlines for Case Actions.

(2) A household closed for refusal to cooperate with a SNAP QC review may reapply and be certified for SNAP participation only after the household cooperates fully and completely with SNAP QC in the completion of the QC review or when the penalty period ends per Section 273.2(d)(2) of Title 7 of the Code of Federal Regulations. The penalty period ends 125-calendar days from the

end of the SNAP QC review period, October 1 through September 30th. Refer to OAC 340:50-3-2(g) for more information.

[Source: Amended at 11 Ok Reg 345, eff 10-15-93 (emergency); Amended at 11 Ok Reg 2667, eff 6-13-94 ; Amended at 20 Ok Reg 872, eff 6-1-03 ; Amended at 26 Ok Reg 840, eff 6-1-09 ; Amended at 35 Ok Reg 1659, eff 9-17-18]

#### **340:50-13-4. Effective and efficient operation [REVOKED]**

[Source: Amended at 11 Ok Reg 345, eff 10-15-93 (emergency); Amended at 11 Ok Reg 2667, eff 6-13-94 ; Amended at 26 Ok Reg 840, eff 6-1-09 ; Revoked at 35 Ok Reg 1659, eff 9-17-18]

## **SUBCHAPTER 15. OVERPAYMENTS AND FRAUD**

### **PART 1. OVERPAYMENTS**

#### **340:50-15-1. Scope and applicability**

(a) **Scope and applicability.** The scope and applicability of overpayment procedures contained in this Subchapter apply to Supplemental Nutrition Assistance Program (SNAP) food benefit issuance. Section 273.16 of Title 7 of the Code of Federal Regulations (7 C.F.R. § 273.16) contains federal requirements regarding disqualification for intentional program violations and 7 C.F.R. § 273.18 contains federal requirements regarding overpayment claims against households.

(b) **Overpayment claim definition.** A SNAP food benefit overpayment occurs when a household receives more food benefits than it is entitled to receive or when benefits are trafficked.

(c) **Persons responsible for repaying an established overpayment claim.** Refer to Oklahoma Administrative Code (OAC) 340:50-15-6 for repayment procedures. Persons responsible for repaying an established overpayment claim include:

- (1) every adult included in the food benefit allotment, when the overpayment or benefit trafficking occurred; and
- (2) a person connected to the household, such as an authorized representative or other individual, when the person trafficked benefits or caused the overpayment.

(d) **Overpayment referral.** When the worker determines an overpayment occurred, the worker sends an overpayment referral to Adult and Family Services (AFS) Benefit Integrity and Recovery (BIR) Unit for overpayment classification and establishment. The overpayment referral consists of a completed Form 08OP005E, Report of Food Benefit (FB) Overissuance, and supporting documents. Reasons to submit an overpayment referral to AFS BIR Unit include, but are not limited to, when:

- (1) the household:
  - (A) failed to provide Oklahoma Human Services (OKDHS) with correct or complete information;
  - (B) failed to report changes in household circumstances, per OAC 340:50-9-5;

(C) chose to continue to receive benefits pending a fair hearing decision and the:

- (i) fair hearing decision finds the household ineligible or eligible for fewer benefits; or
- (ii) household withdraws the fair hearing request after food benefits were reopened or increased, pending the outcome of the hearing; or

(D) trafficked SNAP food benefits, per OAC 340:50-15-25;

(2) the worker:

- (A) incorrectly computed the household's income or deductions or otherwise issued an excess benefit allotment;
- (B) failed to take prompt action on a change reported by the household resulting in an over-issuance;
- (C) incorrectly applied rules that resulted in an over-issuance or issuing benefits to an ineligible household;
- (D) incorrectly issued or renewed food benefits to an ineligible household; or
- (E) failed to reduce food benefits because the household's public assistance benefits changed;

(3) the computer system incorrectly issued benefits to a household;

(4) AFS SNAP Quality Control staff discovered the over-issuance during a quality control review; or

(5) the Oklahoma Inspector General Investigative Unit discovered an over-issuance.

(e) **Overpayment classification and claim establishment.** AFS BIR Unit staff classifies an overpayment as an inadvertent household error, intentional program violation, or agency error, per OAC 340:50-15-4, and establishes the overpayment claim, per OAC 340:50-15-3. Per 7 C.F.R. § 273.18(e)(2)(ii), AFS BIR Unit staff does not establish an overpayment claim when the error causing the overpayment is classified as inadvertent client error or agency error and the:

- (1) overpayment is less than \$250;
- (2) household is not participating in SNAP when the overpayment is discovered; and
- (3) overpayment was not discovered in an AFS Quality Control Review Unit review.

(f) **Repayment plan development.** AFS BIR Unit staff verifies and calculates the overpayment claim, and establishes the claim by notifying the debtor household of the overpayment debt. Once established, AFS BIR Unit staff develops a repayment plan with the household, per OAC 340:50-15-6.

(g) **Disqualification penalty.** When a person commits an intentional program violation, in addition to being responsible for repaying the overpayment debt, the person is disqualified from receiving food benefits for a time period, per OAC 340:50-15-25.

(h) **Fair hearing rights.** When the household disagrees with the overpayment decision, the household may request a fair hearing within 90-calendar days of the date on the Notification of Food Benefit Overpayment notice, per 7 C.F.R. § 273.15(g). When OKDHS Legal

Services Appeals Unit or county staff notifies AFS BIR Unit staff that the household requested a timely fair hearing, AFS BIR Unit staff ceases all collection efforts, including allotment reduction, pending the hearing decision. An item mailed by OKDHS is presumed to be received on the second day mail is delivered, following the date on the notice, per OAC 340:2-5-63.

[Source: Amended at 8 Ok Reg 3463, eff 7-31-91 (emergency); Amended at 9 Ok Reg 3945, eff 6-10-92 ; Amended at 9 Ok Reg 2473, eff 6-25-92 ; Amended at 10 Ok Reg 147, eff 9-14-92 ; Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 12 Ok Reg 1577, eff 1-27-95 (emergency); Amended at 12 Ok Reg 2443, eff 6-26-95 ; Amended at 19 Ok Reg 395, eff 12-1-01 (emergency); Amended at 19 Ok Reg 1119, eff 5-13-02 ; Amended at 20 Ok Reg 2924, eff 10-1-03 (emergency); Amended at 21 Ok Reg 841, eff 4-26-04 ; Amended at 25 Ok Reg 1329, eff 6-1-08 ; Amended at 26 Ok Reg 840, eff 6-1-09 ; Amended at 27 Ok Reg 1241, eff 6-1-10 ; Amended at 33 Ok Reg 1607, eff 9-15-16 ; Amended at 34 Ok Reg 1504, eff 9-15-17 ; Amended at 39 Ok Reg 1755, eff 9-15-22]

### **340:50-15-2. Instances when overpayment claim is not required [REVOKED]**

[Source: Amended at 8 Ok Reg 3463, eff 7-31-91 (emergency); Amended at 9 Ok Reg 3945, eff 6-10-92 ; Amended at 9 Ok Reg 2473, eff 6-25-92 ; Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 12 Ok Reg 3570, eff 8-3-95 (emergency); Amended at 13 Ok Reg 1805, eff 5-15-96 (emergency); Amended at 13 Ok Reg 2631, eff 6-28-96 ; Amended at 14 Ok Reg 1351, eff 5-12-97 ; Amended at 19 Ok Reg 395, eff 12-1-01 (emergency); Amended at 19 Ok Reg 1119, eff 5-13-02 ; Amended at 25 Ok Reg 1329, eff 6-1-08 ; Amended at 26 Ok Reg 840, eff 6-1-09 ; Revoked at 39 Ok Reg 1755, eff 9-15-22]

### **340:50-15-3. Overpayment claim procedures**

(a) **Overpayment determination.** Adult and Family Services (AFS) local office staff calculates overpayments and refers it to AFS Benefit Integrity and Recovery (BIR) for final determination.

(1) When the household failed to report earned income timely , per Oklahoma Administrative Code (OAC) 340:50-9-5, the worker does not subtract an earned income deduction from gross earnings when calculating the overpayment amount.

(2) AFS local office staff documents the circumstances causing the overpayment and the calculations used to determine the over-issuance amount on Form 08OP005E, Report of Food Benefit (FB) Overissuance and sends Form 08OP005E and supporting documentation to AFS BIR staff for claim establishment.

(3) If Office of Inspector General (OIG) staff determines a trafficking-related offense occurred, AFS BIR staff bases the overpayment amount on the value of the trafficked benefits. Per Section 273.18(c) of Title 7 of the Code of Federal Regulations, the value of the trafficked benefits is determined by:

(A) the household member or authorized representative's admission;

(B) adjudication; or

(C) OIG documentation that formed the basis for the trafficking determination.

(b) **Overpayment claim establishment.** AFS BIR staff is responsible for evaluating overpayment referrals, establishing overpayment claims, and referring overpayment claims to OIG when fraudulent intent is suspected. An overpayment claim is considered established on the date AFS BIR staff sends the overpayment notice to the household.



- (1) When fraudulent intent is not suspected, AFS BIR staff:
  - (A) establishes the overpayment claim and classifies it as an inadvertent household or agency error, per OAC 340:50-15-4;
  - (B) notifies the household and worker, per (d) and (e) of this Section; and
  - (C) sets up a repayment plan with the household, per OAC 340:50-15-6.
- (2) When fraudulent intent is suspected, AFS BIR staff sends the overpayment referral to OIG to determine whether fraudulent intent occurred. The overpayment claim is not established and notices are not sent until OIG completes its investigation and releases the claim back to AFS BIR. Refer to OAC 340:50-15-25 for procedures when overpayments are referred for an intentional program violation determination.
- (c) **Claim establishment time frame.** The amount of time included in an overpayment claim varies.
  - (1) From when Oklahoma Human Services (OKDHS) learned of the overpayment AFS BIRs calculates all overpayment claims back at least 12 months but no more than six years.
  - (2) When AFS BIR classifies an overpayment as an intentional program violation, the overpayment claim begins with the month the first intentional program violation occurred, subject to paragraph (1).
  - (3) OKDHS complies with court orders that require a household to pay restitution.
- (d) **Household notification.** AFS BIR staff sends the household:
  - (1) the Notification of Food Benefit Overpayment notice;
  - (2) page one of Form 08OP005E showing the overpayment over-issuance amount; and
  - (3) Form 08OP118E, Food Benefit Repayment Agreement.
- (e) **Local office notification.** After claim establishment, AFS BIR staff sends the local office:
  - (1) a copy of the Notification of Food Benefit Overpayment notice sent to the client;
  - (2) the completed Form 08OP005E; and
  - (3) the County Notification of Overpayment notice.

[Source: Amended at 8 Ok Reg 3463, eff 7-31-91 (emergency); Amended at 9 Ok Reg 3945, eff 6-10-92 ; Amended at 9 Ok Reg 2473, eff 6-25-92 ; Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 12 Ok Reg 1577, eff 1-27-95 (emergency); Amended at 12 Ok Reg 2443, eff 6-26-95 ; Amended at 14 Ok Reg 220, eff 10-1-96 ; Amended at 14 Ok Reg 964, eff 2-1-97 (emergency); Amended at 14 Ok Reg 1351, eff 5-12-97 ; Amended at 25 Ok Reg 1329, eff 6-1-08 ; Amended at 26 Ok Reg 840, eff 6-1-09 ; Amended at 27 Ok Reg 1241, eff 6-1-10 ; Amended at 33 Ok Reg 1607, eff 9-15-16 ; Amended at 34 Ok Reg 1504, eff 9-15-17 ; Amended at 40 Ok Reg 979, eff 9-15-23]

#### **340:50-15-4. Overpayments by classification**

(a) **Overpayment claim classified as inadvertent household error.** Adult and Family Services (AFS) Benefit Integrity and Recovery (BIR) staff classifies an overpayment claim as an inadvertent household error when the Supplemental Nutrition Assistance Program (SNAP) food benefit over-issuance was caused by a misunderstanding or unintended

error on the part of the household. Instances of inadvertent household error that may result in an established overpayment claim include, but are not limited to, when the household inadvertently:

- (1) failed to provide the Oklahoma Department of Human Services (DHS) with correct or complete information;
- (2) failed to report changes in household circumstances per Oklahoma Administrative Code (OAC) 340:50-9-5; or
- (3) received benefits or more benefits than it was entitled to receive pending a fair hearing decision.

**(b) Overpayment claim classified as agency error.** AFS BIR staff classifies an overpayment claim as an agency error when the DHS action or failure to take action caused the over-issuance. Instances of agency errors that may result in an overpayment include, but are not limited to, when:

- (1) AFS staff:
  - (A) failed to take prompt action on a change reported by the household that resulted in an over-issuance;
  - (B) incorrectly computed the household's income or deductions, or otherwise issued an excess benefit allotment;
  - (C) incorrectly issued or renewed food benefits to an ineligible household;
  - (D) incorrectly applied policy or procedure that resulted in an over-issuance or issuing benefits to an ineligible household; or
  - (E) failed to reduce food benefits because the household's public assistance benefits changed; or
- (2) the computer system incorrectly issued benefits to a household.

**(c) Overpayment claim classified as intentional program violation.** An overpayment claim is classified as an intentional program violation when it is determined that a person intentionally gave false information or withheld facts in order to receive food benefits or trafficked benefits for cash or non-food items.

- (1) An intentional program violation is determined through:
  - (A) an administrative disqualification hearing conducted by DHS Legal Services Appeals Unit staff;
  - (B) the accused person signing Form 08OP016E, Administrative Disqualification Hearing Waiver; or
  - (C) a court decision. When the court decision is a deferment, the prosecutor asks the accused person to sign Form 19MP002E, Disqualification Consent Agreement.
- (2) Instances of intentional program violation that may result in an overpayment claim include, but are not limited to, when an adult household member:
  - (A) made a false or misleading statement, or misrepresented, concealed, or withheld facts; or
  - (B) committed an act that constitutes a violation of the Supplemental Nutrition Assistance Program, relative to the use, presentation, transfer, acquisition, receipt, or possession of food benefits.

[Source: Amended at 8 Ok Reg 3463, eff 7-31-91 (emergency); Amended at 9 Ok Reg 3945, eff 6-10-92 ; Amended at 9 Ok Reg 2473, eff 6-25-92 ; Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 19 Ok Reg 395, eff 12-1-01 (emergency); Amended at 19 Ok Reg 1119, eff 5-13-02 ; Amended at 25 Ok Reg 1329, eff 6-1-08 ; Amended at 26 Ok Reg 840, eff 6-1-09 ; Amended at 33 Ok Reg 1607, eff 9-15-16 ; Amended at 34 Ok Reg 1504, eff 9-15-17]

### **340:50-15-5. Right to appeal [REVOKED]**

[Source: Amended at 8 Ok Reg 3463, eff 7-31-91 (emergency); Amended at 9 Ok Reg 3945, eff 6-10-92 ; Amended at 9 Ok Reg 2473, eff 6-25-92 ; Amended at 10 Ok Reg 147, eff 9-14-92 ; Amended at 12 Ok Reg 1577, eff 1-27-95 (emergency); Amended at 12 Ok Reg 2443, eff 6-26-95 ; Amended at 19 Ok Reg 395, eff 12-1-01 (emergency); Amended at 19 Ok Reg 1119, eff 5-13-02 ; Amended at 20 Ok Reg 872, eff 6-1-03 ; Amended at 25 Ok Reg 1329, eff 6-1-08 ; Amended at 26 Ok Reg 840, eff 6-1-09 ; Amended at 27 Ok Reg 1241, eff 6-1-10 ; Amended at 33 Ok Reg 1607, eff 9-15-16 ; Revoked at 39 Ok Reg 1755, eff 9-15-22]

### **340:50-15-6. Development of repayment**

(a) **Repayment of established overpayment claims.** Households must make repayment on all established Supplemental Nutrition Assistance Program (SNAP) food benefit overpayment claims regardless of the reason or classification for the overpayment. Adult and Family Services (AFS) Benefit Integrity and Recovery (BIR) staff initiates collection efforts against all adult household members included in SNAP food benefits during the overpayment time.

(1) AFS BIR staff may initiate collection efforts from two separate households for the same claim.

(2) AFS BIR staff may use any repayment option per (c) of this Section to collect the overpayment claim from any adult:

(A) who was in the household at the time of the overpayment and who is not currently a member of a household undergoing allotment reduction; or

(B) connected to the household, such as an authorized representative or other individual when the person trafficked benefits or caused the overpayment.

(b) **Repayment plan time frames.** After AFS BIR staff establishes the overpayment, he or she mails the household the Notification of Food Benefit Overpayment notice and Form 08OP118E, Food Benefit Repayment Agreement. Form 08OP118E informs the household of the responsibility to repay the overpayment and explains the acceptable debt repayment methods. The household is responsible for completing and returning Form 08OP118E within the appropriate time frame.

(1) The SNAP food benefit overpayment claim is considered delinquent when, within 30-calendar days of the date shown on the Notification of Food Benefit Overpayment notice, the household does not:

(A) pay the claim in full; or

(B) complete and return Form 08OP118E. AFS BIR staff must approve the repayment plan proposed by the household.

(2) The SNAP overpayment claim is not considered delinquent when, within 30-calendar days of the date shown on the Notification of Food Benefit Overpayment notice, the:

- (A) household's food benefit allotment reduction begins; or
- (B) household is undergoing recoupment to repay a previous SNAP overpayment claim at the time AFS BIR staff mails the Notification of Overpayment notice.

(3) When allotment reduction stops because the SNAP food benefit closes for any reason, the household must repay the debt in full or contact AFS BIR to request a repayment arrangement within 30-calendar days of benefit closure, unless food benefits are reopened.

(c) **Repayment options.** Form 08OP118E informs the client of available repayment options and advises the client not to send cash through the mail. Repayment options include repaying the overpayment claim:

- (1) in one lump sum by personal check, money order, cashier's check, or Electronic Benefit Transfer (EBT) debit with a signed statement;
- (2) in regular monthly installments, when he or she has an approved repayment agreement on file with AFS BIR. Payment may be made by personal check, money order, cashier's check, or approved EBT debit with a signed statement;
- (3) by applying any lost benefit due the household toward the food benefit overpayment claim per Oklahoma Administrative Code 340:50-11-46;
- (4) by authorizing a voluntary payment through a debit from the EBT Access account. The client or the household's authorized representative must mail, fax, or email a signed statement to AFS BIR giving permission for the debit before BIR staff debits the account;
- (5) by allotment reduction. Allotment reduction is an involuntary method of collecting SNAP overpayment claims by reducing the monthly benefit amount a household receives. AFS BIR staff does not reduce benefits for the initial month of certification or use other involuntary collection methods against household members while the benefit allotment is reduced. When AFS BIR staff establishes an:

- (A) agency error or inadvertent household error overpayment claim, he or she reduces the household's monthly benefit allotment by 10 percent or \$10, whichever is greater. The client may request a higher reduction up to its monthly allotment; or
- (B) intentional program violation overpayment claim, he or she reduces the household's monthly benefit allotment by 20 percent or \$20, whichever is greater. The household may request a higher reduction up to its monthly allotment; or

(6) by court ordered restitution.

(d) **Recalculation of debt.** AFS BIR staff recalculates the household's overpayment claim balance, when staff becomes aware that some or all of the issued benefits within the overpayment period were expunged. Financial Services Payment Services staff expunges food benefits remaining in a household's EBT account when the household has not accessed the account for one year.

(e) **Monthly statement.** A monthly statement computer-generates to the household around the 20th day of each month, informing the household of the remaining debt obligation.

(f) **Reconsideration of repayment plan.** The client may request reconsideration of the repayment plan by submitting information regarding changes in family and financial circumstances directly to AFS BIR. AFS BIR staff makes adjustments to the repayment plan when circumstances warrant.

(g) **Consequences of a delinquent claim.** When an overpayment claim becomes delinquent, AFS BIR staff must refer it to the Treasury Offset Program (TOP) for collection per (g) of this Section or use other involuntary collection actions including, but not limited to:

- (1) referrals to collection and/or other similar private and public sector agencies;
- (2) state tax refund and lottery offsets;
- (3) wage garnishments;
- (4) property liens; and
- (5) small claims court.

(h) **Referrals for TOP.** AFS BIR staff refers delinquent overpayment claims to TOP for collection when criteria in (1) of this subsection are met. Debts are collected in TOP through interception of federal monies including, but not limited to, federal income tax refunds, Social Security Administration benefits, and federal employee wages. The client may be responsible for paying any collection or processing fees charged by the federal government.

(1) TOP criteria are, the:

- (A) amount owed must be at least \$25;
- (B) claim is delinquent by 120-or more calendar days and legally enforceable;
- (C) claim is not part of a bankruptcy stay, under litigation, or under review per (3) of this subsection; and
- (D) the debtor is not a current SNAP recipient in Oklahoma whose claim is being collected through allotment reduction or under an approved repayment plan.

(2) At least 60-calendar days before referring an overpayment claim to TOP, AFS BIR staff notifies the person of the intended referral. AFS BIR staff mails the 60-calendar day notice to the address provided by TOP. Information contained in the notice includes:

- (A) the debtor's Social Security number;
- (B) the citation of the statutory authority for the offset;
- (C) instructions on how to avoid the TOP referral;
- (D) the right to request a review of the intended action per (3) of this subsection;
- (E) information regarding all TOP exemptions and restrictions;
- (F) information regarding spousal protection from the offset; and
- (G) the debtor's right to review applicable records.

(3) **Request for review of intended action.** To consider a request timely, the person being referred to TOP must request a

review of the intended action in writing, within 60-calendar days of the date AFS BIR staff sends the 60-calendar day letter. The person's contention that the claim is not past due or legally enforceable is the basis for the review.

(A) A claim is not past due and legally enforceable when the person provides proof:

- (i) the claim is paid in full;
- (ii) the person cited for the offset is not the person who owes the claim;
- (iii) that substantiates bankruptcy action; or
- (iv) the household's benefit allotment is currently being reduced to repay the debt.

(B) AFS BIR staff conducts the requested review and sends the person written notification of the review decision within 30-calendar days of the request. The review decision notice informs the person requesting the review:

- (i) if the debt is past due and legally enforceable;
- (ii) if the overpayment is, or is not being referred to TOP; and
- (iii) of his or her right to appeal the decision by requesting another review from the Food and Nutrition Services (FNS) Regional Office within 30-calendar days of the date on the review decision letter. The notice includes the FNS Regional Office address and the contact person's name.

(C) When, after review, AFS BIR staff finds the debt is past due and legally enforceable, the person may avoid referral to TOP by paying the overpayment claim in full or setting up an acceptable repayment agreement with AFS BIR staff.

(i) **Case record retention.** The Oklahoma Department of Human Services is mandated to retain case records containing overpayments for three years from the date:

- (1) the overpayment debt is paid in full; or
- (2) no further action is taken to collect the debt because of reasons, such as the client dies or files bankruptcy that discharges the debt.

[Source: Amended at 8 Ok Reg 3463, eff 7-31-91 (emergency); Amended at 9 Ok Reg 3945, eff 6-10-92 ; Amended at 9 Ok Reg 2473, eff 6-25-92 ; Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 147, eff 9-14-92 ; Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 12 Ok Reg 1577, eff 1-27-95 (emergency); Amended at 12 Ok Reg 2443, eff 6-26-95 ; Amended at 14 Ok Reg 964, eff 2-1-97 (emergency); Amended at 14 Ok Reg 1351, eff 5-12-97 ; Amended at 19 Ok Reg 395, eff 12-1-01 (emergency); Amended at 19 Ok Reg 1119, eff 5-13-02 ; Amended at 20 Ok Reg 2924, eff 10-1-03 (emergency); Amended at 21 Ok Reg 841, eff 4-26-04 ; Amended at 25 Ok Reg 1329<sup>1</sup>; Amended at 26 Ok Reg 840, eff 6-1-09 ; Amended at 27 Ok Reg 1241, eff 6-1-10 ; Amended at 33 Ok Reg 1607, eff 9-15-16 ; Amended at 34 Ok Reg 1504, eff 9-15-17 ; Amended at 35 Ok Reg 1659, eff 9-17-18]

**Editor's Note:** <sup>1</sup>*The agency filed these amendments for publication in The Oklahoma Register as finally adopted amendments with a scheduled effective date of 6-1-08. However, the agency had previously withdrawn the proposed amendments from the gubernatorial/legislative review*

*process [see Notice of Withdrawn Rules published at 25 Ok Reg 795]. After the amendments were published in the Register, the agency discovered the error and notified the Office of Administrative Rules. The text of the Section, as was last amended by permanent action on 4-26-04, was restored in the OAC, and an Editor's Notice explaining the error was published at 25 Ok Reg 2135.*

**340:50-15-7. Collection effort suspension or termination**

(a) **Collection effort suspension.** The Adult and Family Services (AFS) Benefit Integrity and Recovery (BIR) Unit:

(1) suspends collection action on cases no longer receiving Supplemental Nutrition Assistance Program (SNAP) food benefits when the:

- (A) primary responsible household member is deceased and there are no remaining adult household members responsible for the overpayment;
- (B) household cannot be located; or
- (C) cost of further collection action is likely to exceed the amount that can be recovered.

(2) AFS BIR Unit may:

- (A) reopen debts held in suspension based on changes in household circumstances; or
- (B) initiate food benefit reduction if the client reapplies and becomes eligible in the future.

(b) **Termination of overpayment claims.** Per Section 273.18(e)(8) of Title 7 of the Code of Federal Regulations (7 C.F.R. § 273.18(e)(8):

- (1) a terminated overpayment claim is a claim in which all collection action has ceased;
- (2) a written-off claim is a claim no longer considered a receivable subject to continued federal and state collection and reporting requirements;
- (3) when an overpayment claim is paid in full, the household is notified the debt was satisfied.
- (4) AFS BIR Unit staff may terminate and write off SNAP overpayment claim(s) when:

- (A) all adult household members die;
- (B) the claim balance is \$25 or less and the claim has been delinquent for 90-calendar days or more unless other claims exist against this household resulting in an aggregate claim total of greater than \$25;
- (C) the claim is delinquent for three years or more unless AFS BIR Unit is pursuing the claim through the Treasury Offset Program, per 7 C.F.R. § 273.18(n) and Oklahoma Administrative Code 340:50-15-6(h);
- (D) the household cannot be located for three or more years;
- (E) the claim is determined invalid unless it is appropriate to pursue a different claim type; or
- (F) it is not cost effective to pursue the claim any further, per FNS approved cost-effectiveness criteria.

(5) AFS BIR may reinstate a terminated and written-off claim when a new collection method or specific event, such as lottery winnings, substantially increases the likelihood of further collections.

[Source: Amended at 8 Ok Reg 3463, eff 7-31-91 (emergency); Amended at 9 Ok Reg 3945, eff 6-10-92 ; Amended at 9 Ok Reg 2473, eff 6-25-92 ; Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 147, eff 9-14-92 ; Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 12 Ok Reg 1577, eff 1-27-95 (emergency); Amended at 12 Ok Reg 2443, eff 6-26-95 ; Amended at 19 Ok Reg 395, eff 12-1-01 (emergency); Amended at 19 Ok Reg 1119, eff 5-13-02 ; Amended at 25 Ok Reg 1329, eff 6-1-08 ; Amended at 30 Ok Reg 669, eff 6-1-13 ; Amended at 39 Ok Reg 1755, eff 9-15-22]

#### **340:50-15-8. Compromising amount of overpayment [REVOKED]**

[Source: Amended at 9 Ok Reg 3945, eff 6-10-92 ; Revoked at 19 Ok Reg 395, eff 12-1-01 (emergency); Revoked at 19 Ok Reg 1119, eff 5-13-02]

#### **340:50-15-9. Terminating and writing-off Supplemental Nutrition Assistance Program (SNAP) overpayment claims [REVOKED]**

[Source: Amended at 8 Ok Reg 3463, eff 7-31-91 (emergency); Amended at 9 Ok Reg 2473, eff 6-25-92 ; Amended at 19 Ok Reg 395, eff 12-1-01 (emergency); Amended at 19 Ok Reg 1119, eff 5-13-02 ; Amended at 25 Ok Reg 1329, eff 6-1-08 ; Amended at 30 Ok Reg 669, eff 6-1-13 ; Revoked at 39 Ok Reg 1755, eff 9-15-22]

### **PART 3. INTENTIONAL PROGRAM VIOLATION**

#### **340:50-15-25. Cases referred for intentional program violation (IPV) determination**

(a) **IPV definition.** Per Section 273.16(c) of Title 7 of the Code of Federal Regulations (7 C.F.R. § 273.16(c)), an IPV is defined as intentionally:

- (1) making a false or misleading statement, or misrepresenting, concealing, or withholding facts; or
- (2) committing any act that constitutes a violation of the Supplemental Nutrition Assistance Program (SNAP), SNAP regulations, or of any Oklahoma State statute for the purpose of using, presenting, transferring, acquiring, receiving, possessing or trafficking of SNAP benefits or electronic benefit transfer (EBT) cards.

(b) **Cases referred for an administrative disqualification hearing (ADH).** Oklahoma Human Services (OKDHS) Office of Inspector General (OIG) staff refers cases to the OKDHS Legal Services Appeals Unit to conduct an ADH to determine when the client committed an IPV. The referred cases contain documentary evidence of an IPV, but do not warrant civil or criminal prosecution.

(c) **Waiving ADH.** OIG staff gives a client suspected of an IPV the option to waive his or her rights to an ADH. The client must complete and sign Form 08OP016E, Administrative Disqualification Hearing Waiver, to request a waiver. A hearing waiver subjects the client to the same penalties as if the hearing process determined the client committed an IPV.



(d) **Penalties for an IPV.** Persons found to have committed an IPV through an ADH, a federal, state, or local court, an ADH waiver, or, when referred for prosecution, a disqualification agreement, are ineligible to participate in SNAP, per 7 C.F.R. § 273.16(b).

(1) **Cases determined by ADH or ADH waiver.** When the ADH results in an IPV determination or the client waives his or her right to the hearing process, Adult and Family Services (AFS) Benefit Integrity and Recovery (BIR) Unit staff imposes a disqualification penalty.

(A) AFS BIR Unit staff sends Form 08AD019E, Program Penalty/Disqualification Notice, to the disqualified member. Form 08AD019E includes information regarding the remaining household members' eligibility.

(B) Unless (ii) of this subparagraph applies, the disqualification period for a person is one year for the first violation, two years for the second violation, and permanently for the third violation.

(i) Any person disqualified for an IPV prior to April 1, 1983, is considered to have one previous disqualification, regardless of the number of previous disqualifications.

(ii) A person found to have made a fraudulent statement or representation with respect to the person's identity or place of residence in order to receive multiple SNAP benefits simultaneously is disqualified for a period of 10 years or permanently for a third violation.

(iii) The disqualification period begins the first possible effective month following the date AFS BIR Unit staff mails Form 08AD019E. Once the disqualification period begins, it runs continuously until the end of the period imposed, regardless of whether the household remains eligible for food benefits during the person's disqualification period.

(iv) AFS BIR Unit staff removes the disqualified person from the household size or, for a one-person household, closes the SNAP food benefit based on an IPV. When determining the remaining household members' SNAP eligibility, the worker counts the disqualified person's total gross income and allows all applicable deductions, per Oklahoma Administrative Code (OAC) 340:50-7-29(d)(1).

(v) A household must repay the SNAP overpayment claim regardless of any disqualification penalty imposed. AFS BIR Unit staff sends Form 08OP118E, Food Benefit Repayment Agreement, to notify the household of the need to make a repayment plan and the repayment options available to the client, per OAC 340:50-15-6.

(2) **Cases determined by a court.** AFS BIR Unit staff refers all cases suspected of an IPV to OIG to determine if court action is

feasible.

(A) When OIG staff refers the person for court action, AFS BIR Unit staff must not discuss the overpayment claim with the household until court action is complete or AFS BIR Unit staff notifies the worker of needed action. County staff forwards further information or directs client inquiries regarding the overpayment to AFS BIR Unit staff.

(B) A court of appropriate jurisdiction may find one or more persons in the household guilty of obtaining food benefits by fraudulent means. The court may charge the person with either a misdemeanor or a felony.

(C) Disqualification penalty procedures for court and ADH determined cases are the same, except for (i) through (iii) of this subparagraph.

(i) The court may specify the length of the disqualification. Court-specified periods of disqualification may supersede (c)(2) of this Section.

(ii) A person is subject to disqualification when a federal, state, or local court determines the person committed an IPV of trading SNAP food benefits for firearms, ammunition, explosives, or controlled substances:

(I) for two years for the first offense and permanently for the second offense involving the sale of a controlled substance for SNAP food benefits; and

(II) permanently for the first offense involving the sale of firearms, ammunition, or explosives for SNAP food benefits.

(iii) A person is permanently disqualified from SNAP participation when a federal, state, or local court convicts the person of trafficking SNAP food benefits for an aggregate amount of \$500 or more. Per 7 C.F.R. § 271.2 and Section 243 of Title 56 of the Oklahoma Statutes (56 O.S. § 243), the definition of trafficking means:

(I) the buying, selling, stealing, or otherwise exchanging SNAP benefits issued and accessed via EBT cards, card numbers, personal identification numbers (PINs), or by manual voucher and signature, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone;

(II) the exchange of firearms, ammunition, explosives, or controlled substances, per Section 802 of Title 21 of the United States Code, for SNAP benefits;

(III) purchasing a product with SNAP benefits that has a container requiring a

return deposit with the intent of obtaining cash by discarding the product and returning the container for the deposit amount, intentionally discarding the product, and intentionally returning the container for the deposit amount;

(IV) purchasing a product with SNAP benefits with the intent of obtaining cash or consideration other than eligible food by reselling the product, and subsequently intentionally reselling the product purchased with SNAP benefits, in exchange for cash or consideration other than eligible food;

(V) intentionally purchasing products originally purchased with SNAP benefits in exchange for cash or consideration other than eligible food;

(VI) attempting to buy, sell, steal, or otherwise exchanging SNAP benefits issued and accessed via EBT cards, card numbers, PINs, or by manual voucher and signatures, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone; or

(VII) the possession of stolen SNAP EBT cards.

(D) The court may also stipulate a repayment plan. The repayment plan cannot be renegotiated. AFS BIR Unit staff may refer the case back to the district attorney's office when the client fails to comply with the repayment plan.

(E) If a court fails to impose a disqualification or a disqualification period for an IPV, OKDHS must impose the appropriate disqualification penalty specified in this Section unless it is contrary to the court order.

(3) **Disqualification consent agreement.** Per 56 O.S. § 243(B)(5), any district attorney who enters into a deferred adjudication or who negotiates for a deferred sentence with a defendant charged with fraud must present the defendant with a disqualification consent agreement as part of the deferred adjudication or sentence.

[Source: Amended at 8 Ok Reg 3463, eff 7-31-91 (emergency); Amended at 9 Ok Reg 3945, eff 6-10-92 ; Amended at 9 Ok Reg 2473, eff 6-25-92 ; Amended at 10 Ok Reg 147, eff 9-14-92 ; Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 12 Ok Reg 1577, eff 1-27-95 (emergency); Amended at 12 Ok Reg 2443, eff 6-26-95 ; Amended at 13 Ok Reg 1805, eff 5-15-96 (emergency); Amended at 14 Ok Reg 220, eff 10-1-96 ; Amended at 14 Ok Reg 964, eff 2-1-97 (emergency); Amended at 14 Ok Reg 1351, eff 5-12-97 ; Amended at 19 Ok Reg 395, eff 12-1-01 (emergency); Amended at 19 Ok Reg 1119, eff 5-13-02 ; Amended at 25 Ok Reg 1329, eff 6-1-08 ; Amended at 26 Ok Reg 840, eff 6-1-09 ; Amended at 28 Ok Reg 850, eff 6-1-11 ; Amended at 33 Ok Reg 1607, eff 9-15-16 ; Amended at 34 Ok Reg 1504, eff 9-15-17 ; Amended at 39 Ok Reg 1755, eff 9-15-22]

### **340:50-15-26. Reporting incidences of abuse in the Supplemental Nutrition Assistance Program**

In addition to submitting overpayments involving suspected household fraud, the worker is also responsible for submitting any incidence of reported abuse on the part of any person or a participating food store. Other incidences of reported fraud are submitted by memorandum to the Adult and Family Services (AFS) Supplemental Nutrition Assistance Program (SNAP).

(1) In the memorandum, the worker outlines the complaint in sufficient detail to facilitate a follow-up investigation. Further action is not taken by local county office staff pending investigation, and suspected ineligible continue to participate in SNAP during the investigation.

(2) AFS SNAP staff refers the complaint to the Office of Inspector General (OIG) for investigation and determination of whether to pursue administrative and/or court action against the household.

(3) In addition, OIG staff, on behalf of the Oklahoma Department of Human Services Director, may refer instances of misrepresentation or fraudulent acts on the part of a participating merchant to the United States Department of Agriculture.

[**Source:** Amended at 8 Ok Reg 3463, eff 7-31-91 (emergency); Amended at 9 Ok Reg 3945, eff 6-10-92 ; Amended at 9 Ok Reg 2473, eff 6-25-92 ; Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 26 Ok Reg 840, eff 6-1-09 ; Amended at 33 Ok Reg 1607, eff 9-15-16]

### **340:50-15-27. Other penalties for misuse of benefits**

Section 243 of Title 56 of the Oklahoma Statutes provides for penalties due to misuse of food benefits for those recipients who receive benefits fraudulently. Federal penalties for misuse of food benefits are found in Section 15 (b) and (c) of the Food and Nutrition Act of 2008 [7 U.S.C. § 2024].

[**Source:** Amended at 9 Ok Reg 3843, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1821, eff 5-13-93 ; Amended at 13 Ok Reg 1805, eff 5-15-96 (emergency); Amended at 14 Ok Reg 1351, eff 5-12-97 ; Amended at 20 Ok Reg 872, eff 6-1-03 ; Amended at 25 Ok Reg 1329, eff 6-1-08 ; Amended at 26 Ok Reg 840, eff 6-1-09]

## **APPENDIX A. FOOD STAMP APPLICATION [REVOKED]**

[**Source:** Revoked at 13 Ok Reg 305, eff 6-1-95 (emergency); Revoked at 13 Ok Reg 2631, eff 6-28-96]

## **APPENDIX B. LIST OF NEEDED VERIFICATIONS [REVOKED]**

[Source: Revoked at 20 Ok Reg 872, eff 6-1-03]

## **APPENDIX C. APPLICATION FOR FOOD STAMPS [REVOKED]**

[**Source:** Revoked and reenacted at 9 Ok Reg 3725, eff 2-12-92 ; Amended at 9 Ok Reg 3945, eff 6-10-92 ; Revoked at 20 Ok Reg 872, eff 6-1-03]

**APPENDIX D. APPLICATION AND AFFIDAVIT FOR  
EMERGENCY DISASTER FOOD STAMP ASSISTANCE  
[REVOKED]**

[Source: Revoked at 22 Ok Reg 805, eff 5-12-05]



## **APPENDIX E. NOTIFICATION OF FOOD STAMP OVERPAYMENT [REVOKED]**

**[Source:** Revoked and reenacted at 10 Ok Reg 2071, eff 5-27-93 ; Revoked and reenacted at 11 Ok Reg 4587, eff 8-11-94 (emergency); Revoked at 12 Ok Reg 1577, eff 1-27-95 (emergency); Revoked at 12 Ok Reg 2443, eff 6-26-95]

## **APPENDIX F. JOB SEARCH PLAN [REVOKED]**

[**Source:** Revoked at 15 Ok Reg 165, eff 11-1-97 (emergency); Revoked at 15 Ok Reg 1623, eff 5-11-98]

## **APPENDIX G. FOOD STAMP RULES [REVOKED]**

**[Source:** Revoked and reenacted at 11 Ok Reg 4587, eff 9-1-94 (emergency); Revoked at 12 Ok Reg 1577, eff 1-27-95 (emergency); Revoked at 12 Ok Reg 2443, eff 6-26-95]

## **APPENDIX H. ACTION TAKEN ON YOUR FOOD STAMP CASE [REVOKED]**

[**Source:** Revoked at 10 Ok Reg 2063, eff 5-27-93]

## **APPENDIX I. MAXIMUM COUPON ALLOTMENTS AND STANDARDS FOR DEDUCTIONS, MAXIMUM INCOME AND UTILITIES (FOOD STAMPS) [REVOKED]**

[Source: Revoked and reenacted at 9 Ok Reg 3406, eff 5-13-92 ; Revoked and reenacted at 10 Ok Reg 307, eff 10-13-92 ; Revoked and reenacted at 11 Ok Reg 245, eff 9-29-93 ; Revoked and reenacted at 11 Ok Reg 713, eff 11-10-93 ; Revoked and reenacted at 11 Ok Reg 4587, eff 9-1-94 (emergency); Revoked and reenacted at 11 Ok Reg 4791, eff 9-14-94 ; Revoked and reenacted at 12 Ok Reg 185, eff 10-2-95 ; Revoked and reenacted at 13 Ok Reg 1031, eff 12-30-95 ; Revoked and reenacted at 14 Ok Reg 179, eff 10-1-96 ; Revoked and reenacted at 15 Ok Reg 309, eff 10-9-97 ; Revoked and reenacted at 16 Ok Reg 79, eff 10-13-98 ; Revoked at 17 Ok Reg 473, eff 10-12-99]

## **APPENDIX J. MAXIMUM INCOME LIMITS AND COUPON ALLOTMENTS FOR FCS DECLARED DISASTERS [REVOKED]**

[**Source:** Amended at 9 Ok Reg 3406, eff 5-13-92 ; Amended at 10 Ok Reg 307, eff 10-13-92 ; Revoked and reenacted at 11 Ok Reg 4791, eff 9-14-94 ; Revoked and reenacted at 12 Ok Reg 185, eff 9-14-94 ; Revoked and reenacted at 12 Ok Reg 185, eff 10-2-95 ; Revoked and reenacted at 15 Ok Reg 308, eff 10-9-97 ; Revoked and reenacted at 16 Ok Reg 79, eff 10-13-98 ; Revoked at 17 Ok Reg 473, eff 10-12-99]

## **APPENDIX K. NOTICE OF FAILURE TO PARTICIPATE [REVOKED]**

[**Source:** Added at 9 Ok Reg 3725, eff 2-12-92 ; Revoked at 15 Ok Reg 165, eff 11-1-97 (emergency);  
Revoked at 15 Ok Reg 1623, eff 5-11-98]

## **APPENDIX L. CHANGES IN HOUSEHOLD CIRCUMSTANCES [REVOKED]**

**[Source:** Revoked at 14 Ok Reg 3416, eff 8-1-97 (emergency); Revoked at 15 Ok Reg 1623, eff 5-11-98]



## **APPENDIX M. FOOD STAMP REPAYMENT AGREEMENT [REVOKED]**

[**Source:** Added at 10 Ok Reg 2071, eff 5-27-93 ; Revoked at 12 Ok Reg 1577, eff 1-27-95 (emergency);  
Revoked at 12 Ok Reg 2443, eff 6-26-95]

## **APPENDIX N. HEAD OF HOUSEHOLD DESIGNATION [REVOKED]**

[**Source:** Added at 10 Ok Reg 4851, eff 9-8-93 ; Amended at 20 Ok Reg 872, eff 6-1-03]

## **CHAPTER 55. EMERGENCY REPATRIATION PROGRAM [REVOKED]**

[**Authority:** Title XI, Section 1113, Federal Social Security Act; OKLA CONST art XXV; 63 O.S., § 683.9; Presidential Executive Order 11490; 45 CFR]  
[**Source:** Codified 12-31-91]

### **340:55-1-1. Purpose [REVOKED]**

[**Source:** Amended at 11 Ok Reg 2681, eff 6-13-94 ; Revoked at 23 Ok Reg 1019, eff 6-1-06]

### **340:55-1-2. Authority-legal basis [REVOKED]**

[**Source:** Amended at 11 Ok Reg 2681, eff 6-13-94 ; Revoked at 23 Ok Reg 1019, eff 6-1-06]

### **340:55-1-3. Background [REVOKED]**

[**Source:** Amended at 11 Ok Reg 2681, eff 6-13-94 ; Revoked at 23 Ok Reg 1019, eff 6-1-06]

### **340:55-1-4. Organization and assignment of responsibilities [REVOKED]**

[**Source:** Amended at 11 Ok Reg 2681, eff 6-13-94 ; Revoked at 23 Ok Reg 1019, eff 6-1-06]

### **340:55-1-5. Command and control [REVOKED]**

[**Source:** Amended at 11 Ok Reg 2681, eff 6-13-94 ; Revoked at 23 Ok Reg 1019, eff 6-1-06]

### **340:55-1-6. Operations [REVOKED]**

[**Source:** Amended at 11 Ok Reg 2681, eff 6-13-94 ; Revoked at 23 Ok Reg 1019, eff 6-1-06]

### **340:55-1-7. Case records [REVOKED]**

[**Source:** Amended at 11 Ok Reg 2681, eff 6-13-94 ; Revoked at 23 Ok Reg 1019, eff 6-1-06]

### **340:55-1-8. Training [REVOKED]**

[**Source:** Revoked at 23 Ok Reg 1019, eff 6-1-06]

### **340:55-1-9. Public affairs [REVOKED]**

[**Source:** Amended at 11 Ok Reg 2681, eff 6-13-94 ; Revoked at 23 Ok Reg 1019, eff 6-1-06]

## CHAPTER 60. REFUGEE RESETTLEMENT PROGRAM

[**Authority:** Refugee Act of 1980 (P.L. 96-212); Immigration and Nationality Act; P.L. 109-163; P.L. 110-161; P.L. 110-181; P.L. 111-08; 45 CFR 400.25, 400.50 through 400.51, 400.53, 400.55 through 400.56, 400.59 through 400.60, 400.70 through 400.72, 400.75 through 400.77, 400.79, 400.81 through 400.83, 400.93 through 400.94, and 400.100 through 400.104; OKLA. CONST. art XXV; Director of Human Services; 56 O.S., § 162]  
[**Source:** Codified 12-31-91]

### 340:60-1-1. Purpose [REVOKED]

[**Source:** Amended at 23 Ok Reg 1022, eff 6-1-06 ; Revoked at 39 Ok Reg 1778, eff 9-15-22]

### 340:60-1-2. Legal base and availability of funds [REVOKED]

[**Source:** Amended at 10 Ok Reg 103, eff 10-13-92 (emergency); Amended at 10 Ok Reg 2077, eff 5-27-93 ; Amended at 16 Ok Reg 1947, eff 6-11-99 ; Amended at 23 Ok Reg 1022, eff 6-1-06 ; Revoked at 39 Ok Reg 1778, eff 9-15-22]

### 340:60-1-3. Refugee Resettlement Program (RRP)

(a) **Purpose.** The RRP purpose is to provide for effective refugee resettlement and to assist refugees to achieve economic self-sufficiency as quickly as possible, per Section 400.1 of Title 45 of the Code of Federal Regulations (45 C.F.R. § 400.1.).

(b) **Legal basis and funding availability.** The Refugee Act of 1980 (Public Law 96-212) provides assistance to refugees, regardless of national origin, to be administered by the states, with up to 100 percent reimbursement from federal funds. Provision of RRP benefits is based on federal fund availability. If federal funding is reduced or terminated, RRP benefits are reduced or terminated accordingly.

(c) **Refugee documentation.** A refugee applying for RRP must provide United States Citizenship and Immigration Services (USCIS) documentation to verify the person's refugee status. Acceptable documentation includes, but is not limited to:

- (1) Form I-94, Departure Record;
- (2) Form I-551, Legal Permanent Resident Card;
- (3) a passport stamped with the classification status;
- (4) a T-Visa; or
- (5) a letter or order from USCIS or court granting asylum.

(d) **Refugee status.** The USCIS documentation the applicant provides must show the applicant's status is:

- (1) paroled as a refugee or asylee under Section 212(d)(5) of the Immigration and Nationality Act (INA);
- (2) admitted as a refugee under Section 207 of the INA;
- (3) granted asylum under Section 208 of the INA;
- (4) admitted as an Amerasian immigrant from Vietnam under Section 584 of the Foreign Operations, Export Financing and Related Program Appropriations Act of 1989, as amended;
- (5) admitted for permanent residence, provided the person previously held one of the statuses identified in this Section;
- (6) a Cuban or Haitian entrant, per requirements in 45 C.F.R Part 401;

- (7) an alien and the alien's eligible relatives who are victims of a severe form of trafficking per Section 107(b) of the Trafficking Victims Protection Act of 2000 as reauthorized and amended by the Trafficking Victims Protection Reauthorization Act of 2003;
- (8) an Iraqi admitted in special immigrant status as defined in Section 101(a)(27) of Title 8 of the United States Code (8 U.S.C. 1101(a)(27)), and per Section 1059 of P.L. 109-163, the National Defense Authorization Act for Fiscal Year 2006, and Section 1244 of P.L. 110-181, the National Defense Authorization Act for Fiscal Year 2008 per Section 525 of Division G of P.L. 110-161, the Consolidated Appropriations Act of 2008, and Section 1244 of P.L. 110-181, the National Defense Authorization Act for Fiscal Year 2008;
- (9) an Afghan admitted in special immigrant status as defined per 8 U.S.C. 1101(a)(27) and per Section 1059 of P.L. 109-163, the National Defense Authorization Act for Fiscal Year 2006, Section 602, Division F of P.L. 111-08, the Omnibus Appropriations Act, 2009, per Section 525 of Division G of P.L. 110-161 of the Consolidated Appropriations Act, 2009;
- (10) an Afghan who receives special immigrant (SI) conditional permanent residence, SI/SQ parole or who is a humanitarian parolee admitted to the United States (U.S.) due to urgent humanitarian reasons or significant public benefit, per Section 2502 of the Afghanistan Supplemental Appropriations Act, 2022, P. L. 117-43, as modified by Section 106(3) and 149(a) of the Continuing Appropriations and Ukraine Supplemental Appropriations Act, 2023, P. L. 117-180. Humanitarian parolees paroled into the U.S. between July 31, 2021, through December 16, 2022 are eligible for refugee cash assistance (RCA) and refugee medical assistance (RMA) benefits for 12 months beginning October 1, 2021, or the date the parolee "enters the community" in the U.S., such as when they leave a military base, whichever is later. The latest date humanitarian parolees may receive RCA and RMA benefits is March 31, 2023 or the end of their parole term, whichever is later; or
- (11) a Ukrainian citizen or national or person who last habitually resided in Ukraine and received parole per Section 401 of the Additional Ukraine Supplemental Appropriations Act of 2022, P.L. 117-128. The parole must occur between February 24, 2022, and September 30, 2023. If after September 30, 2023, the parolee must be the child, spouse, parent, legal guardian, or primary caretaker of a Ukrainian parolee who was paroled between February 24, 2022 and September 30, 2023.

(e) **Alien status declaration.** Under penalty of perjury, the applicant declares the alien status of all persons applying for RRP benefits on the application and signs the application. Before adding an additional person to the benefit after certification, this declaration is made on Form 08MP022E, Declaration of Citizenship Status. The Systematic Alien Verification for Entitlement (SAVE) process is used to verify alien status, per OAC 340:65-3-4(5).

(f) **Exclusions from RRP.** Persons excluded from participation in RRP are:

- (1) resident aliens who did not previously have refugee or asylee status; or
- (2) any asylum applicant who has not been granted asylum status.

[Source: Amended at 10 Ok Reg 103, eff 10-13-92 (emergency); Amended at 10 Ok Reg 2077, eff 5-27-93 ; Amended at 13 Ok Reg 461, eff 11-14-95 (emergency); Amended at 13 Ok Reg 3007, eff 7-11-96 ; Amended at 16 Ok Reg 1947, eff 6-11-99 ; Amended at 23 Ok Reg 1022, eff 6-1-06 ; Amended at 26 Ok Reg 179, eff 11-1-08 (emergency); Amended at 26 Ok Reg 881, eff 4-25-09 ; Amended at 27 Ok Reg 26, eff 11-1-09 (emergency); Amended at 27 Ok Reg 1271, eff 5-27-10 ; Amended at 39 Ok Reg 466, eff 12-21-21 (emergency); Amended at 39 Ok Reg 1778, eff 9-15-22 ; Amended at 41 Ok Reg, Number 23, effective 9-14-24; Amended at 42 Ok Reg, Number 5, effective 10-10-24 (emergency)]

#### **340:60-1-4. Exclusions [REVOKED]**

[Source: Amended at 10 Ok Reg 103, eff 10-13-92 (emergency); Amended at 10 Ok Reg 2077, eff 5-27-93 ; Amended at 13 Ok Reg 461, eff 11-14-95 (emergency); Amended at 13 Ok Reg 3007, eff 7-11-96 ; Amended at 16 Ok Reg 1947, eff 6-11-99 ; Revoked at 23 Ok Reg 1022, eff 6-1-06]

#### **340:60-1-5. Sponsorship [REVOKED]**

[Source: Amended at 10 Ok Reg 103, eff 10-13-92 (emergency); Amended at 10 Ok Reg 2077, eff 5-27-93 ; Amended at 16 Ok Reg 1947, eff 6-11-99 ; Amended at 23 Ok Reg 1022, eff 6-1-06 ; Revoked at 39 Ok Reg 1778, eff 9-15-22]

#### **340:60-1-6. Program eligibility and procedures**

(a) **Refugee Resettlement Program components.** The federal Office of Refugee Resettlement provides funding to states for time-limited cash and medical assistance and resettlement case management and support services for new arrivals to the United States (U.S.) who meet refugee status, per Oklahoma Administrative Code (OAC) 340:60-1-3.

(1) A contracted service provider is responsible for providing resettlement case management and support services to newly arriving refugees and asylees in Oklahoma.

(2) Oklahoma Human Services (OKDHS) is responsible for determining financial eligibility for refugee medical benefits (RMA), and a contracted provider determines financial eligibility for refugee cash assistance (RCA) throughout Oklahoma. Refer to Appendix C-9, Refugee Resettlement Program Benefit and Service Providers, to determine which contracted provider serves a specific county.

(b) **Refugee support services.** Refugee support services are provided for up to five-calendar years after the arrival date by OKDHS-contracted providers, per Sections 400.147 through 155 of Title 45 of the Code of Federal Regulations (45 C.F.R. §§ 400.147 through 155). Support services promote economic self-sufficiency through employability services, English language instruction, and social adjustment services.

(c) **Cash assistance.** Refugees and asylees must be afforded an opportunity to apply for cash assistance, per 45 C.F.R. § 400.50. Eligibility is determined according to Temporary Assistance for Needy Families (TANF) or State Supplement Payment (SSP) program rules. When the refugee or asylee does not meet TANF or SSP cash assistance

eligibility requirements, an RCA application is made. When the refugee or asylee is 65 years of age and older, blind, or disabled, the refugee is referred to the Social Security Administration to apply for Supplemental Security Income .

(1) **Eligibility requirements for RCA.** RCA eligibility requirements are included in (A) through (H) of this paragraph, per 45 C.F.R. §§ 400.25, 400.53, 400.54, 400.59, 400.75 through 400.79, and 400.81 through 400.83.

(A) **Limited eligibility period.** A refugee or asylee may only receive RCA for the first 12-calendar months the refugee resides in the U.S.

(B) **Refugee documentation and status requirements.** Refugees and asylees must meet documentation and status requirements, per OAC 340:60-1-3.

(C) **Residence requirement.** The refugee or asylee must be an Oklahoma resident and not receiving cash assistance in another state. There is no durational requirement. OKDHS and contracted service providers accept the refugee's or asylee's statement that the refugee or asylee resides in Oklahoma unless it is inconsistent with other known facts.

(D) **Student status.** A refugee or asylee must not be a full-time student in a higher education institution.

(E) **Household composition.** Household composition may consist of a family unit that includes:

(i) a single adult. Adults living alone or with other adults are considered as single or separate family units; or

(ii) an adult and the adult's spouse and all minor children, 17 years of age and younger, for whom the family assumes financial responsibility.

Spouses living together must be considered in the same family unit.

(F) **Income requirements.** Maximum countable earned and unearned income for all family unit members must be less than the payment standard for the number of eligible members per Appendix C-1, Maximum Income, Resource, and Payment Standards, Schedule XIV.A. When income is reduced due to overpayment or garnishment recoupment, the gross income before recoupment or garnishment is counted.

(i) **Reporting requirements.** Family unit members are responsible for reporting all income at application and within 10-calendar days of when :

(I) a family unit member begins employment or starts receiving unearned income; or

(II) the income source, amount, or dates received changes.

(ii) **Earned income.** Earned income is income a family unit member receives in the form of wages, salary, commission, in-kind benefits received in lieu of wages or in conjunction with wages from an employer, or self-employment for which a person puts forth physical labor. In-kind benefits are earned income only when an employee and employer relationship is established.

(I) Earned income is not counted against the payment standard for the first six months of the 12-month eligibility period.

(II) When the person works for an employer, gross earnings for the fifth-calendar month are determined by averaging gross earnings for the most recent 30-calendar day period and converting the earnings to a monthly amount. Gross earnings from an employer are counted dollar-for-dollar against the payment standard.

(III) When the person is self-employed, gross earnings for the fifth-calendar month are determined by averaging income over the number of months the business was in operation and subtracting verified business expenses.

(iii) **Unearned income.** Income other than earned income is unearned income. All unearned income received during a month is counted dollar-for-dollar against the payment standard unless disregarded per (iv) of this subparagraph.

Unearned income includes, but is not limited to:

(I) dividends and interest;

(II) cash contributions;

(III) retirement, disability, or unemployment benefits;

(IV) worker's compensation;

(V) child support or alimony; or

(VI) rental income.

(iv) **Income disregards.** Income disregarded when determining income eligibility includes:

(I) earnings received during the first six-calendar months of the refugee's arrival in the U.S.;

(II) benefits received through a cooperative agreement, such as U.S. Department of Justice or U.S. Department of State - Reception and Placement benefits;

(III) loans;

(IV) money received from the sale of personal property, unless it is self-employment income;



(V) income received by someone living in the home who is not included in the family unit;  
(VI) tax refunds;  
(VII) gifts;  
(VIII) lump sum inheritances or insurance payments;  
(IX) Supplemental Nutrition Assistance Program food benefits;  
(X) a child's earnings, provided the child is younger than 18 years of age and is a full-time student;  
(XI) housing and utility assistance;  
(XII) income or resources remaining in the country of origin; or  
(XIII) matching grant benefits from a resettlement agency.

(v) **Verification requirements.** Income is verified at application, when a family unit member begins employment or starts receiving unearned income, and as changes occur. The verification process must be explained to the refugee or asylee at application and as new verification is needed, including what verification must be submitted by a certain date. Assistance in obtaining the required verification must be offered, when needed.

(I) Earned income may be verified by paystubs, an employer statement, or, when self-employed, business records. Self-employed persons must provide expense receipts before business expenses are subtracted from earnings. In-kind benefits' cash value is verified by an employer statement.

(II) Unearned income may be verified by an award letter, a written letter from or verbal contact with the person or agency providing the income, a check stub or a copy of a check, a court order, financial institution statements, or data exchange screens, per OAC 340:65-3-4.

(III) When the family unit fails to provide required verification or fails to ask for assistance to obtain verification, the application may be denied or cash assistance closed.

(G) **Resource requirements.** Refer to Appendix C-1, Schedule XIV.A(B) for the maximum allowable resource amount per family unit. Countable resources refer to real and personal property that have a monetary value and are available or can be converted to cash for current use.

Home property and personal items essential to day-to-day living, such as clothing, furniture, and other similar items of limited value are excluded as resources. Countable resources include, but are not limited to:

- (i) cash on hand;
- (ii) savings in a financial institution;
- (iii) stocks and bonds; or
- (iv) equity in an automobile or other vehicles that exceeds \$5,000.

**(H) Requirement to complete and participate in an employment plan.** Non-exempt household members must complete and participate in an employment plan the refugee and the refugee support service provider develop. The employment plan lists an employment goal, barriers to be addressed, and pathways to remove the barriers to meet the employment goal.

- (i) Participation in an employment plan includes:
  - (I) registering with the refugee support service provider providing employment services;
  - (II) going to a job interview the refugee support service provider arranges;
  - (III) accepting at any time, from any source, an offer of employment that the refugee support service provider determines to be appropriate; and
  - (IV) participating in any employability service program that provides job or language training in the area where the refugee resides.

(ii) Household members that meet criteria in (I) through (VIII) of this unit are exempt from the requirement to complete and participate in an employment plan. To be exempt, the household member must be:

- (I) younger than 16 years of age or 65 years of age and older;
- (II) younger than 18 years of age and a full-time student;
- (III) 18 years of age and a full-time student in secondary school or in a technical or trade school at an equivalent level with reasonable expectations to complete the program before the person turns 19 years of age;
- (IV) mentally or physically incapacitated. The refugee must provide medical documentation verifying that the incapacity is serious enough to prevent participation in employment services;

(V) caring for another household member with a mental or physical impairment that requires care in the home on a substantially continuous basis and no other appropriate household member is available;  
(VI) a parent or relative caretaker of a child younger than one year of age when the person provides full-time care of the child. Only one parent or caretaker relative may be exempt in a household for this reason;  
(VII) working 30 hours per week in unsubsidized employment; or  
(VIII) pregnant with a due date within the next six-calendar months based on medical verification.

(iii) The refugee support service provider follows criteria in (I) through (IX) of this unit when assisting a refugee with a job placement.

(I) The assignment must be within the scope of the person's employment plan.

(II) The refugee or asylee must be able to meet the job requirements.

(III) Commuting time to and from work may not exceed a total of two hours.

(IV) The assigned work site must not be in violation of applicable federal, state, or local health and safety standards.

(V) Work assignments must not be made on a discriminatory basis.

(VI) Work assignments may be temporary, part-time, full-time, or seasonal.

(VII) The earned wage must meet federal or state minimum wage laws or not be substantially less than the wage normally paid for similar work.

(VIII) The total number of days and hours the person is expected to work must not exceed those customary to the occupation.

(IX) The refugee or asylee is not required to accept work when the position is available due to a strike, lockout, or other bona fide labor dispute or when the work is contrary to the refugee's or asylee's union membership.

(iv) RCA is closed for the entire household when a non-exempt household member without good cause:

(I) refuses to complete an employment plan;

(II) refuses or fails to participate in assigned activities included in the employment plan;

(III) refuses or fails to accept appropriate employment; or  
(IV) voluntarily terminates employment.  
(v) Examples of good cause may include, but are not limited to:

- (I) when appropriate child care is not available;
- (II) the illness or incapacity of the participant or any household member who cannot give self-care and for whom special care is unavailable;
- (III) a court-required appearance or incarceration of the participant;
- (IV) the participant's attendance at parent and teacher conferences;
- (V) a family crisis or markedly changed individual or family circumstances;
- (VI) the unavailability of planned transportation when needed or the inability to arrange for transportation;
- (VII) inclement weather that prevented the participant, and other persons similarly situated, from traveling to, or participating in, the prescribed activity;
- (VIII) the lack of necessary social services or work activity;
- (IX) when the assignment or job referral does not meet the appropriate work activity;
- (X) racial, ethnic, religious, sexual, physical or mental disability, or age discrimination or harassment by an employer or other employees; or
- (XI) crisis intervention needed due to domestic violence issues.

(2) **Incentive bonuses.** Incentive bonuses are available to eligible individuals; however, the maximum total benefit amount, RCA plus incentive bonuses, that any family unit may receive is the payment standard amount times the 12-month eligibility period . When the maximum benefit amount is reached, the family unit is no longer eligible for RCA or incentive bonuses even when the family unit has been in the U.S. less than 12-calendar months.

(A) **Early job acceptance bonus.** When the refugee or asylee obtains employment within the first 150-calendar days of the U.S. arrival date , the refugee or asylee may be eligible to receive an early job acceptance bonus of up to \$750 to assist the refugee with work-related expenses. To receive the bonus, the refugee or asylee must:

- (i) request the bonus within 60-calendar days of the employment start date; and

(ii) submit proof of employment and a list of employment-related expenses necessary to successfully perform and maintain employment. Expenses may include, but are not limited to:

- (I) a vehicle down payment;
- (II) tools;
- (III) uniforms;
- (IV) driving lessons; or
- (V) automobile insurance.

(B) **Job retention bonus.** A refugee or asylee may be eligible for a job retention bonus of up to \$100 per person in the family unit when the refugee or asylee obtains employment within the first 150-calendar days of arriving in the U.S. and retains the employment through the end of the 10th-calendar month following arrival. To qualify for the bonus, the refugee or asylee must:

- (i) not have received an RCA cash assistance payment for every month of the 10-month eligibility period;
- (ii) submit proof the refugee or asylee retained employment through the end of the 10th-calendar month;
- (iii) not re-apply for RCA following benefit closure based on earnings; and
- (iv) request the job retention bonus within 60-calendar days from the end of the 10-month eligibility period.

(3) **Benefit denial or closure.** The family unit's application may be denied or benefits closed when the family unit does not:

(A) meet eligibility requirements per (c)(1) of this Section;

or

(B) abide by program terms, such as failing to:

- (i) provide required verification;
- (ii) keep scheduled appointments; or
- (iii) follow employment plans.

(4) **Notice requirement.** Written notice is sent or provided to a recipient at least 10-calendar days before the date RCA is reduced, suspended, or closed. The contracted provider sends or provides notices to refugees.

(5) **Fair hearing requirement.** RCA applicants and recipients may request a fair hearing when they disagree with an adverse action. The contracted provider conducts the fair hearings statewide.

(d) **Medical assistance.** Refugees and asylees must be afforded an opportunity to apply for medical assistance, per 45 C.F.R. § 400.93.

(1) The refugee's eligibility for SoonerCare (Medicaid) must be determined before approving a refugee or asylee for RMA. SoonerCare (Medicaid) eligibility is determined per OAC 317:35 rules.

(2) When the refugee or asylee is not eligible for SoonerCare (Medicaid), RMA eligibility is determined per (e) of this Section.

(3) When a refugee or asylee receiving SoonerCare (Medicaid) becomes ineligible because of earnings and has resided in the U.S. for less than 12-calendar months, the refugee or asylee is transferred to RMA for the remaining months.

(e) **RMA.** A refugee or asylee is not required to meet categorical relationship rules per OAC 317:35 for the first 12-calendar months from the date of entry into the U.S. Per 45 C.F.R. §§ 400.100 through 400.104, RMA eligibility requirements are listed in (1) through (5) of this subsection.

(1) **Limited eligibility period.** RMA is limited to the first 12-calendar months the refugee or asylee resides in the U.S. After the first 12-calendar months, the refugee or asylee is referred to the Oklahoma Health Care Authority's online enrollment process to apply for SoonerCare (Medicaid), and Medicaid rules, per OAC 317:35 apply.

(2) **Refugee documentation and status requirements.** Refugees and asylees must meet documentation and status requirements, per OAC 340:60-1-3.

(3) **Student status.** A refugee or asylee must not be a full-time student in a higher education institution unless OKDHS approves enrollment as part of the refugee's employability plan.

(4) **RCA eligibility.** All RCA recipients are eligible for RMA when not eligible for SoonerCare (Medicaid). However, the refugee or asylee is not required to apply for or receive RCA to qualify for RMA.

(5) **Income and resource requirements.** For RMA, only income and resources available on the application date are considered. Refer to OKDHS Appendix C-1, Schedule XIV for income standards per household size and the resource standard per family unit. No consideration is given to:

- (A) in-kind services and shelter provided by a sponsor or a local resettlement agency;
- (B) cash assistance payments; or
- (C) earnings that start after RMA approval.

(f) **Application processing time limit.** RCA and RMA applications must be processed within 30-calendar days of the application date to be considered timely. When the application cannot be processed timely, the applicant is notified in writing of the reason for the delay and the right to request a fair hearing, per OAC 340:2-5.

(g) **Food benefits.** A food benefit application is completed at the same time as the RCA and RMA application and processed using food benefit eligibility rules, per OAC 340:50.

[Source: Amended at 10 Ok Reg 151, eff 6-25-92 ; Amended at 10 Ok Reg 103, eff 10-13-92 (emergency); Amended at 10 Ok Reg 2077, eff 5-27-93 ; Amended at 13 Ok Reg 461, eff 11-14-95 (emergency); Amended at 13 Ok Reg 3007, eff 7-11-96 ; Amended at 16 Ok Reg 1947, eff 6-11-99 ; Amended at 23 Ok Reg 1022, eff 6-1-06 ; Amended at 34 Ok Reg 509, eff 3-17-17 (emergency); Amended at 35 Ok Reg 1684, eff 9-17-18 ; Amended at 39 Ok Reg 100, eff 7-19-21 (emergency); Amended at 39 Ok Reg 1778, eff 9-15-22 ; Amended at 41 Ok Reg, Number 23, effective 9-14-24]

### **340:60-1-7. Procedures [REVOKED]**

[**Source:** Amended at 10 Ok Reg 151, eff 6-25-92 ; Amended at 10 Ok Reg 103, eff 10-13-92 (emergency); Amended at 10 Ok Reg 2077, eff 5-27-93 ; Amended at 16 Ok Reg 1947, eff 6-11-99 ; Revoked at 23 Ok Reg 1022, eff 6-1-06]

## CHAPTER 61. REPATRIATION PROGRAM

[**Authority:** 56 O.S., § 162; Section 1113 of Title XI of the Social Security Act (Assistance for U.S. Citizens Returned from Foreign Countries); Oklahoma Department of Human Services (OKDHS) agreement with the Department of Health and Human Services; Administration for Children and Families (ACF) Fact Sheet; and the referral information packet received from the Office of Refugee Resettlement]

[**Source:** Codified 7-1-13]

### 340:61-1-1. Purpose [REVOKED]

[**Source:** Added at 30 Ok Reg 1356, eff 7-1-13 ; Revoked at 39 Ok Reg 1784, eff 9-15-22]

### 340:61-1-2. Purpose, legal basis, and fund availability

(a) **Purpose.** The purpose of this Chapter is to describe the rules governing the Oklahoma Human Services (OKDHS) Repatriation Program (RP).

(b) **Legal basis.** The legal basis of the United States (U.S.) RP was established in 1935 by Section 1113 of Title XI of the Social Security Act (Section 1113 of Title 42 of the United States Code) to provide temporary assistance to U.S. citizens and their dependents who the U.S. Department of State identifies as having returned, or been brought from a foreign country to the U.S. because of destitution, illness, war, threat of war, or a similar crisis, and are without available resources to meet their needs. The total amount of temporary assistance provided under this Section must not exceed \$1,000,000 during any fiscal year except fiscal year 2010.

(c) **Program management and funding.** The Department of Health and Human Services (DHHS), Office of Human Services Emergency Preparedness and Response (OHSEPR) manages this program. The RP is administered by the state in which the repatriated citizen chooses to relocate, with up to 100 percent reimbursement claimed from federal funds.

(d) **Non-emergency repatriation.** Non-emergency repatriation for individuals and their dependents is coordinated by OKDHS per agreement dated October 9, 1980 with the DHHS Social Security Administration Office of Family Assistance.

[**Source:** Added at 30 Ok Reg 1356, eff 7-1-13 ; Amended at 39 Ok Reg 1784, eff 9-15-22]

### 340:61-1-3. Program eligibility and responsibilities

(a) **Applicant eligibility.** The Office of Human Services Emergency Preparedness and Response (OHSEPR) or contracted agency staff determines the repatriated individual's eligibility for the Repatriation Program (RP). To determine RP eligibility, it is necessary to assess the repatriate's available resources and to identify the services or assistance the repatriate receives or is able to receive.

(1) Temporary assistance is not an entitlement.

(2) The RP is voluntary and the repatriate may refuse to accept services.

(3) The repatriate may be eligible for temporary assistance for up to 90-calendar days from the date the repatriate re-enters the



United States (U.S.) . The temporary assistance is considered a loan and the repatriate must sign a repayment agreement before receiving the assistance.

(4) Minors and adults found not competent to make decisions are not obligated to sign a repayment agreement.

(5) The repatriate is not eligible for repatriation assistance when he or she has access to necessary services or assistance through alternative resources.

(6) Certain temporary assistance may be furnished after the 90-calendar day period ends when the:

(A) repatriate submits an extension request with supporting documentation included prior to the end of the 90-calendar day eligibility period; and

(B) OHSEPR finds that the circumstances involved necessitate or justify furnishing such assistance beyond the 90-calendar day limit.

(7) The repatriate must notify the repatriation coordinator of address changes during the time period the repatriation case is open. The repatriate is expected to continue to notify OHSEPR of address changes after case closure until the repatriation loan is paid in full.

(8) The repatriate's case may be closed before the 90-calendar day period expires when the:

(A) repatriate's case contains an unaccompanied child and the child enters foster care upon arrival in the U.S. or is released to a parent or relative not requesting services;

(B) repatriate becomes self-sufficient and has access to necessary benefits, housing, and other services and no longer needs the temporary assistance;

(C) OHSEPR discovers the repatriate has access to other income sources;

(D) repatriate dies upon arrival in the U.S.; or

(E) repatriate, who was destitute or without available resources in the foreign country, is able to regain access to financial resources such as Social Security or Supplemental Security Income benefits or is staying in a hospital or nursing facility.

(b) **Referral information packet.** OHSEPR emails a referral information packet to the Oklahoma Human Services (OKDHS), Adult and Family Services (AFS) Temporary Assistance for Needy Families (TANF) Unit for processing. The referral information packet contains documents for the repatriate and OKDHS. Items in the packet include:

(1) a welcome letter that informs the repatriate:

(A) any funds issued are considered a loan that must be repaid by the repatriate;

(B) upon request, OKDHS or other appropriate agency staff explains the documents included in the welcome packet;

(C) OKDHS or other appropriate agency staff refers the repatriate for services available within the community or gives the repatriate information about available services;

and

(D) when needed and requested, the repatriation coordinator coordinates other service requests for the repatriate;

- (2) a welcome letter for the State;
- (3) the repatriate's rights and obligations;
- (4) a repatriation brochure;
- (5) documents requiring the repatriate's signature prior to funds being issued;
- (6) an International Social Services-USA contact list;
- (7) assessment information regarding the repatriate and his or her service needs; and
- (8) procedural information and sample letters for OKDHS staff.

(c) **OKDHS responsibilities regarding the RP.** Upon receipt of the referral information packet, the repatriation coordinator in the OKDHS AFS TANF Unit is responsible for:

- (1) confirming the repatriate's arrival date and time and arranging for OKDHS or other appropriate agency staff to meet the repatriate at the airport;
- (2) being the contact person for the repatriate and OHSEPR or its contracted agency staff;
- (3) coordinating services for the repatriate during the 90-calendar day temporary assistance period;
- (4) coordinating form and document completion necessary to issue funds and receive reimbursement from the OHSEPR or its contracted agency;
- (5) monitoring the repatriate's case at different intervals to ensure the repatriate continues to meet eligibility requirements and determine if further assistance is needed;
- (6) providing periodic updates regarding the repatriate to OHSEPR or its contracted agency staff;
- (7) submitting extension requests as quickly as possible;
- (8) maintaining all records concerning the repatriate for at least three years from the date the final expenditure report is submitted; and
- (9) upon case closure, completing a survey and submitting a closing summary to OHSEPR that includes information about the funds expended and services provided to the repatriate and the repatriate's current address.

[Source: Added at 30 Ok Reg 1356, eff 7-1-13 ; Amended at 39 Ok Reg 1784, eff 9-15-22]

#### **340:61-1-4. Repatriation Program (RP) services provisions**

(a) **Temporary assistance.** The RP defines temporary assistance as cash payments, medical care that includes counseling, temporary or permanent housing, transportation, and other goods and services necessary for the repatriate's health or welfare.

- (1) All funds are issued as a loan that must be repaid to the United States Government.

(2) The repatriate may request a waiver or repayment deferral for funds expended on his or her behalf within 30-calendar days of receiving a demand for payment letter from the Office of Human Services Emergency Preparedness and Response (OHSEPR) or its contracted agency. The letter advises the repatriate who to contact to request the waiver or repayment deferral.

(b) **Cash assistance.** The repatriate is eligible to receive a cash assistance loan equivalent to three months of Temporary Assistance for Needy Families (TANF) for the same family size as shown on Oklahoma Human Services (OKDHS) Appendix C-1, Maximum Income, Resource, and Payment Standards, Schedule IX. The cash assistance is issued after the repatriate signs the repayment agreement.

(c) **Social services.** Upon receipt of the information referral packet, the Adult and Family Services (AFS) repatriation coordinator reviews the assessment information provided regarding the repatriate and his or her dependents to determine the repatriate's identified social service needs.

(1) In addition to or instead of cash assistance, the assessment information may indicate the repatriate needs other types of temporary assistance.

(2) The repatriation coordinator and local county staff develop a tentative plan to meet the repatriate's social service needs prior to the repatriate's arrival. This plan is presented to the repatriate at the airport. The repatriate is free to accept or reject any part of the service plan. Refer to Oklahoma Administrative Code 340:61-1-3 regarding minors and mentally incompetent adults.

(3) The service plan includes helping the repatriate apply for all public assistance he or she appears eligible to receive including programs administered by OKDHS and other local agencies. RP funds are not expended when the services are available free of charge.

(A) Public assistance benefit programs administered by AFS include TANF, Supplemental Nutrition Assistance Program food benefits, Child Care Subsidy Program, and SoonerCare (Medicaid) medical benefits.

(B) Depending on the repatriate's circumstances, he or she may also be eligible for services administered by other divisions within OKDHS including the Developmental Disability Services, Community Living, Aging and Protective Services, and Child Support Services.

(C) Public assistance available through other local agencies may include housing assistance, benefits from the Social Security Administration, food banks, help finding a job, transportation, clothing closets, or medical clinics.

(4) OKDHS or other appropriate agency staff meeting the repatriate at the airport presents all available options to the repatriate prior to signing a repayment agreement. This allows the repatriate to make an informed decision about accepting an RP loan.

(d) **Medical assistance.** When the repatriate needs immediate medical attention, the repatriation coordinator locates a medical provider willing

to treat the repatriate upon arrival. OHSEPR reimburses the medical provider reasonable, allowable, and allocable expenses that are not covered by an outside source such as insurance or SoonerCare (Medicaid).

[**Source:** Added at 30 Ok Reg 1356, eff 7-1-13 ; Amended at 39 Ok Reg 1784, eff 9-15-22]

## CHAPTER 65. PUBLIC ASSISTANCE PROCEDURES

[**Authority:** 26 U.S.C. §§ 6103 and 7213; 42 U.S.C 8621 through 8624; 7 CFR 272.8; 45 CFR 98.21, 205.51 and 205.56; P.L. 113-186 and the Child Care Development Block Grant of 2014; Oklahoma Social Security Act; Federal Social Security Act; IRS Publication 1075; 56 O.S., §§ 161 et seq., 162, 185, 190, 191, 230.52(14) and 241.4; 58 O.S., §§ 890.1 et seq.]  
[**Source:** Codified 12-31-91]

### SUBCHAPTER 1. GENERAL PROVISIONS

#### 340:65-1-1. Purpose [REVOKED]

[**Source:** Amended at 18 Ok Reg 2096, eff 7-1-01 ; Revoked at 39 Ok Reg 1786, eff 9-15-22]

#### 340:65-1-2. Purpose, legal basis, and confidential nature of case material

(a) **Purpose.** The purpose of this Chapter is to describe rules for the comprehensive management of Adult and Family Services (AFS) cases.

(b) **Legal basis.** Oklahoma Human Services (OKDHS) maintains the confidentiality of all applications, information, and records concerning applicants and recipients, per the Oklahoma Social Security Act located in Sections 161-260 of Title 56 of the Oklahoma Statutes (56 O.S. §§ 161-260) and the Federal Social Security Act.

(c) **Custody of records.** All case information including electronic data procured by, or available to, any OKDHS employee is OKDHS property and is used only in accordance with the provisions of federal laws, Oklahoma Statutes, and OKDHS rules.

(1) **Authority to disclose information.** The field manager is responsible for the custody and proper use of records in the OKDHS office. All requests for information from an OKDHS record are referred to the field manager, unless the request originates within OKDHS in carrying out its regular functions. Employees of each OKDHS division may exchange necessary information when working with the same family or a related case to provide benefits and services.

(2) **Safeguarding case information.** OKDHS employees safeguard case information, per Oklahoma Administrative Code (OAC) 340:1-1-20, OKDHS:2-41-15, OKDHS:2-45, OAC 340:65-3-6, and as provided in (A) through (D) of this subsection.

(A) The field manager is:

(i) the custodian of client records assigned to and located in an OKDHS office, or processed at an alternate work location; and

(ii) responsible for:

(I) taking reasonable precautions to ensure the confidentiality and proper use of client case information; and

(II) ensuring employees know OKDHS rules regarding safeguarding client case information and when and to whom

information may be released.

(B) Per OKDHS:2-1-301, alternate work locations must be capable of safeguarding case information. When an alternate work location does not meet safeguarding standards, case information is not received, stored, or processed at that location.

(C) Practices for safeguarding information include:

- (i) secure records storage in locked buildings, rooms, and containers;
- (ii) securely storing OKDHS-owned electronic equipment;
- (iii) controlling or restricting access to areas containing case information;
- (iv) case information is:
  - (I) secured in a storage area, such as in a desk or file cabinet, when an employee is not present;
  - (II) not stored on any electronic device or storage media that is not OKDHS property;
  - (III) not emailed outside of OKDHS unless it is encrypted; and
  - (IV) destroyed in secure destruction bins when in paper form, after it is no longer needed or required; and
- (v) providing reasonable privacy or restricted viewing of electronic data visible on computer screens or mobile devices.

(D) Information that must be safeguarded includes:

- (i) names and addresses, including lists;
  - (ii) information contained in an application;
  - (iii) investigation reports;
  - (iv) medical data including, but not limited to, diagnosis and past history of disease and disability;
  - (v) correspondence and other records concerning the condition or circumstances of any person from whom or about whom information is obtained;
  - (vi) evaluations of information contained in (i) through (v) of this subparagraph; and
  - (vii) all data items available on computer screens.
- Disclosure to any unauthorized person is a federal and state regulation violation. Authorized persons are:

- (I) the client;
- (II) the client's authorized representative;
- (III) OKDHS employees;
- (IV) authorized volunteers; and
- (V) other agencies' employees with a contract or agreement that allows access to specific data.

(3) **Safeguarding federal tax information (FTI).** Per Section 6103 of Title 26 of the United States Code (26 U.S.C. § 6103),

OKDHS safeguards and restricts access to FTI to persons whose duties or responsibilities require access.

(A) FTI information that is safeguarded includes:

- (i) the client's name;
- (ii) the client's Social Security number;
- (iii) Internal Revenue Service (IRS) reporting firm, company, and political subdivision;
- (iv) state agency account number;
- (v) income type; and
- (vi) the amount of income or resources.

(B) AFS restricts FTI access to designated AFS FTI specialists who complete a favorably adjudicated suitability or security background investigation prior to handling FTI and annually thereafter. At a minimum, the background investigation must be at a tier-two level as designated by federal investigative standards and include:

- (i) the results of a Federal Bureau of Investigation (FBI) fingerprint check using Form FD-258, FBI Applicant Fingerprint Card, from the state identification bureau. In Oklahoma, the Oklahoma State Bureau of Investigation Criminal Identification Section is the agency authorized to conduct FBI fingerprinting. The fingerprint results check the employee's criminal history in all 50 states;
- (ii) a check of local law enforcement agencies where the employee lived, worked, or attended school within the last five years to identify trends of misbehavior and any identified arrests;
- (iii) validating the employee's identity and eligibility to legally work in the United States (U.S.). New employees must complete the U.S. Citizenship and Immigration Services Form I-9, Employment Eligibility Verification, and be processed through E-Verify within three-business days of completing the form to assist with verifying the employee's employment status and the documents provided with Form I-9; and
- (iv) completing another background investigation every five years following the previous background investigation's completion.

(C) AFS Information Security (IS) manager reviews a person's background investigation to determine if AFS should hire a job seeker, discipline or terminate an existing employee, and permit or terminate access to FTI. To evaluate past criminal offenses, felonies and misdemeanors, the AFS IS manager considers:

- (i) whether OKDHS learned about the offense during the application or a subsequent reinvestigation;

- (ii) what the position's duties and FTI access requirements are;
- (iii) how much time has passed without a subsequent charge or conviction relating to a new offense;
- (iv) whether the offender complied or is complying with any probation or parole terms;
- (v) whether the offender has paid restitution; and
- (vi) how any extenuating circumstances the offender offers mitigate the offense.

(D) Information safeguarding practices include:

- (i) securing FTI, such as any written, typed, photocopied, or printed information from the Income Eligibility Verification System-Internal Revenue Service (IEVS-IRS), and Beneficiary and Earnings Data Exchange System (BENDEX) in a storage area, such as in a locked desk or file cabinet;
- (ii) not viewing or storing FTI on any electronic device that is not OKDHS or state of Oklahoma property;
- (iii) not printing or maintaining FTI in a non-electronic format;
- (iv) not emailing FTI;
- (v) not faxing FTI;
- (vi) not sharing FTI in unapproved applications, such as Microsoft Office 365 applications including, but not limited to, Outlook, Yammer, Teams, SharePoint, OneDrive, and Planner; and
- (vii) not bypassing access controls to enter a restricted area that contains FTI.

(E) FTI disclosure in violation of the guidelines specified in IRS Publication 1075, is a felony punishable by a fine in an amount not exceeding \$5,000 or imprisonment of not more than five years, or both, together with the prosecution costs. Further, an AFS FTI specialist may lose access to FTI and be subject to disciplinary action, per OKDHS:2-1-7, when the specialist:

- (i) does not properly safeguard FTI;
- (ii) does not complete or pass the annual favorably adjudicated suitability or security background investigation; or
- (iii) releases FTI to an unauthorized person(s), per 26 U.S.C. § 7213.

**(4) Nature of information to be made available.** General information not identified with any particular person or group of persons, such as total expenditures made, number of recipients, and other statistical information and social data contained in reports or surveys do not fall within the material to be safeguarded.



(A) Requested information is released to representatives of other agencies that are authorized by federal law or Oklahoma Statutes to have the information. Information may be released to other agencies only when they give assurance that the:

- (i) confidential character of the information is preserved;
- (ii) information is used only for purposes related to administering the assistance program and the inquiring agency's functionality; and
- (iii) protection standards their agency establishes are equal to those OKDHS establishes, regarding both how their employees use the information and their protective procedures provisions.

(B) Client addresses may be disclosed to federal, state, and local law enforcement officers who furnish the client's name, Social Security number, and notify OKDHS that the location or apprehension of the client is within their official duties and that the client is:

- (i) a fugitive felon who is fleeing to avoid prosecution, custody, or confinement after conviction; or
- (ii) violating a probation or parole condition.

(C) The days and hours a child is approved for the Child Care Subsidy Program may be disclosed to a child care provider.

(D) Upon written request, information used to establish eligibility that is not otherwise legally protected is made available to the client or the client's representative during normal business hours. Confidential information, including the names of persons who have disclosed information about the client without the client's knowledge, and the nature or status of pending criminal prosecutions, is withheld.

(E) Information the employee obtains from collateral sources, other than public records or the employee's written evaluation of the client's situation, is not made available to the client or to any other person without the consent of the person who gave the information.

(F) Prior to a fair hearing, the designated OKDHS field employee is responsible for providing the client with a copy of the completed hearing summary and documents or other records the employee plans to present at the hearing.

(5) **Information release at client request.** Upon the client's, or the client representative's, written request, OKDHS may release client-provided information to the client or the authorized representative. When an OKDHS employee receives a written inquiry from an interested person, another agency, or the courts, and the client's written permission accompanies the inquiry, the employee may furnish the information when the written release

specifies what client-provided information to release and to whom it may be released.

**(6) Information release to courts.** OKDHS employees may only release case information about the client in court proceedings upon subpoena, except upon a court official's request in cases of child abandonment and desertion, child neglect, or restitution when OKDHS referred such cases to the court. In these situations, OKDHS employees' testimony is limited to material affecting the administration of public assistance law except when participating in a case the client or the client's representative requested and in which the client's personal interests are at stake.

(A) When a court subpoenas an OKDHS employee to give testimony based upon OKDHS records, the field manager confers with OKDHS Legal Services (LS) regarding the proper way to convey to the court the confidential character of information made available to OKDHS in the process of administering assistance and OKDHS's duty, per 43A O.S. § 10-110, to protect its records.

(B) When there is reason to believe the court will not respect the confidential character of OKDHS records, the field manager communicates immediately with OKDHS LS to determine the best course of action to take.

**(7) Information release to the District Attorney (DA).**

OKDHS employees may release information to the DA as necessary, to carry out OKDHS rules regarding child support pursuit from a non-custodial parent. When child support pursuit is required in order for a client to receive Temporary Assistance for Needy Families benefits or SoonerCare (Medicaid), AFS employees inform the client of this requirement.

**(8) Medical information release.** Medical information OKDHS or the Oklahoma Health Care Authority pays for may be released at the request of the person to whom it pertains, as well as to another agency to which the person applied for services with the objective to protect or advance the person's welfare. There is nothing in federal law or Oklahoma Statutes to prevent a physician from releasing medical information to the physician's patient or a patient's authorized representative. In such instances, the physician-patient relationship governs the physician.

(A) OKDHS LS is responsible for determining if the requested medical information may be released under federal regulations and OKDHS rules.

(B) AFS employees do not release information obtained from the U. S. Department of Veterans Affairs or from the Social Security Administration to anyone outside of OKDHS.

(C) When a client requests a fair hearing on a medical decision, all medical records or reports considered in establishing a medical decision are provided to the client or the client's authorized representative at a reasonable

time before the hearing except for psychological and psychiatric records and medical records regarding alcohol or substance abuse treatment. Copies of psychological and psychiatric records and medical records regarding alcohol or substance abuse treatment are only released with the treating physician's or practitioner's consent or when a court of competent jurisdiction orders it released upon a finding that it is in the patient's best interest.

[Source: Amended at 10 Ok Reg 1147, eff 3-9-93 (emergency); Amended at 10 Ok Reg 2303, eff 6-11-93 ; Amended at 17 Ok Reg 3233, eff 8-1-00 ; Amended at 18 Ok Reg 2096, eff 7-1-01 ; Amended at 26 Ok Reg 1272, eff 6-1-09 ; Amended at 29 Ok Reg 812, eff 7-1-12 ; Amended at 36 Ok Reg 1849, eff 9-16-19 ; Amended at 39 Ok Reg 1786, eff 9-15-22 ; Amended at 40 Ok Reg 987, eff 9-15-23 ; Amended at 41 Ok Reg, Number 15, effective 3-18-24 (emergency); Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:65-1-3. Case records**

The purposes and objectives of the Oklahoma Department of Human Services (OKDHS) are carried out on a case-by-case basis. The decision on each case must be based on facts, be free of error and prejudice, fair to the person, and within the law and OKDHS policy. The case record is the means used by OKDHS to document the factual basis for decisions.

[Source: Amended at 10 Ok Reg 1445, eff 4-26-93 ; Amended at 18 Ok Reg 2096, eff 7-1-01 ; Amended at 26 Ok Reg 1272, eff 6-1-09]

### **340:65-1-4. Narrative entries [REVOKED]**

[Source: Revoked at 10 Ok Reg 1445, eff 4-26-93]

### **340:65-1-5. Authorization to destroy numbered closed case records or information and referral only material**

(a) **Record destruction.** Quarterly, the Oklahoma Human Services (OKDHS) Records Management Coordinator sends an administrative memorandum authorizing county offices to pull cases that have been inactive for three years and send them to the OKDHS Supply Warehouse for destruction. Before sending the memorandum, the OKDHS Records Center receives destruction authorization from the State Records Administrator, per Section 204 of Title 67 of the Oklahoma Statutes (67 O.S. § 204), and notification from the appropriate federal agency that the audit for that year was completed.

(b) **Information and referral only destruction.** The county office may destroy Information and referral only material concerning a particular person when there has been no activity regarding the person for three calendar years. Special authorization from the OKDHS Records Management Coordinator is not required prior to destroying this material, per 67 O.S. § 211.

[Source: Amended at 9 Ok Reg 3561, eff 7-20-92 (emergency); Amended at 10 Ok Reg 1445, eff 4-26-93 ; Amended at 10 Ok Reg 3473, eff 6-14-93 (emergency); Amended at 11 Ok Reg 1687, eff 5-12-94 ; Amended at 11 Ok Reg 4079, eff 6-21-94 through 7-14-95 (emergency); Amended at 13 Ok Reg 353, eff 12-11-95 ; Amended at 18 Ok Reg 2096, eff 7-1-01 ; Amended at 20 Ok Reg 2059, eff 7-1-03 ; Amended at

39 Ok Reg 1786, eff 9-15-22]

### **340:65-1-6. Authorization to destroy Information and Referral Only material [REVOKED]**

[Source: Amended at 9 Ok Reg 3561, eff 7-20-92 (emergency); Amended at 10 Ok Reg 1445, eff 4-26-93 ; Amended at 18 Ok Reg 2096, eff 7-1-01 ; Revoked at 39 Ok Reg 1786, eff 9-15-22]

### **340:65-1-7. Appendices [REVOKED]**

[Source: Added at 10 Ok Reg 2173, eff 4-30-93 (emergency); Added at 10 Ok Reg 3977, eff 6-22-93 (emergency); Added at 11 Ok Reg 1687, eff 5-12-94 ; Revoked at 14 Ok Reg 3112, eff 7-1-97 (emergency); Revoked at 15 Ok Reg 1644, eff 5-11-98]

### **340:65-1-8. Audit Responsibilities**

(a) **Audit requirements.** A non-federal entity that expends \$750,000 or more in federal awards during a fiscal year must complete a single audit or a program specific audit, per Section 7502(a)(1) and (a)(3) of Title 31 of the United States Code (31 U.S.C. § 7502(a)(1) and (a)(3)) and Section 200.501 of Title 2 of the Code of Federal Regulations.

(b) **Oklahoma Human Services (OKDHS) responsibilities.** When OKDHS operates as a federal award pass-through entity, per 31 U.S.C. § 7502(f)(2), OKDHS must:

- (1) provide its federal award subrecipients with the federal requirements that govern the award's use and the program name and any identifying numbers from which such assistance is derived;
- (2) supply the OKDHS Office of Inspector General with an updated list of all subrecipients quarterly;
- (3) monitor the award's use through site visits, limited scope inspections, and other means;
- (4) review the audits to ensure prompt and appropriate corrective action occurred with respect to audit findings; and
- (5) require each subrecipient to allow any OKDHS independent auditor access to the subrecipient's records and financial statements.

[Source: Added at 40 Ok Reg 987, eff 9-15-23]

## **SUBCHAPTER 3. ELIGIBILITY FOR BENEFITS**

### **340:65-3-1. Eligibility determination**

(a) **Eligibility determination.** The eligibility determination process includes the applicant filing a signed application, the worker certifying or denying benefits, and all subsequent activities required to receive continuous benefits. The applicant has the right and responsibility to participate in the eligibility determination process and is relied on as the first source of information.

- (1) Someone acting on the applicant's behalf, such as an authorized representative or a person with power-of-attorney, may

complete the application for all programs except for Temporary Assistance for Needy Families (TANF). The applicant must complete and sign a TANF application.

(2) For another person to apply on the applicant's behalf, the applicant must designate the person as the authorized representative on the signed application or the person provides a completed Form 08MP008E, Authorized Representative Request, or a statement signed by the applicant giving the person permission to act on his or her behalf. The SoonerCare (Medicaid) programs allow others to apply for the applicant without a written designation.

**(b) Filing an application.** A household must complete an application to apply for the Child Care Subsidy Program, Low Income Home Energy Assistance Program (LIHEAP), SoonerCare (Medicaid) Program, Supplemental Nutrition Assistance Program (SNAP), State Supplemental Payment (SSP), TANF, or Diversion Assistance (DA). The applicant may request one or more benefits on the same application except for LIHEAP because it is not an ongoing benefit.

(1) The applicant may apply for benefits online , with a worker in an Oklahoma Human Services (OKDHS) office or an embedded work location, or by downloading a paper application and bringing or mailing or faxing it to an OKDHS office or an embedded work location. .

(2) When someone applies on behalf of the applicant , the person may apply in any county .

(3) When the applicant applies for TANF cash assistance , OKDHS assigns the applicant's TANF Work activities based on his or her needs, convenience, and career pathway.

**(c) Signature requirements.** The applicant, guardian, or someone acting on the applicant's behalf, such as an authorized representative or a person with power of attorney, must sign the application prior to benefit approval.

(1) The applicant must sign TANF and DA applications . When the TANF applicant lives with his or her spouse, they must both sign the application.

(2) The applicant may voluntarily withdraw the request for benefits or services before or after signing the application.

(3) An applicant who is:

(A) eligible for Medicare signs the application using the name on his or her Medicare Health Insurance Benefits (HIB) card; or

(B) not eligible for Medicare signs the application using the name shown on his or her Social Security card.

**(d) Interview requirements.** Interview requirements vary by program.

(1) Per Section 206.10 of Title 45 of the Code of Regulations, OKDHS staff must complete a face-to-face TANF certification renewal interview every 12 months. The face-to-face interview may occur in the OKDHS office, at a home visit, or through a virtual video conference.

(2) The applicant must complete a phone or face-to-face interview that may be a virtual video conference interview, for the:

- (A) Child Care Subsidy Program;
- (B) SSP Program;
- (C) SoonerCare (Medicaid) long-term care programs, such as ADvantage Waiver, nursing home care, or personal care;
- (D) SoonerCare (Medicaid) programs that categorically relate to the aged, blind, and disabled population, such as Qualified Medicare Beneficiary Plus (QMBP), Specified Low-Income Medicare Beneficiary (SLMB), or Qualified Disabled and Working Individuals (QDWI);
- (E) SNAP;
- (F) Supplemental Security Income-Disabled Children's Program, or
- (G) TANF, except for the certification renewal every 12 months.

(3) An interview is not required when a person applies for:

- (A) LIHEAP; or
- (B) SoonerCare (Medicaid), when the Oklahoma Health Care Authority is responsible for determining eligibility, per Oklahoma Administrative Code (OAC) 317:35-5-63.

(e) **Worker responsibilities.** During the eligibility determination process, the worker is responsible for:

(1) informing the applicant of the:

- (A) OKDHS responsibility for reaching a decision and notifying the applicant of eligibility or ineligibility within the appropriate time limits, per OAC 340:65-3-5;
- (B) applicant's right to request a fair hearing and obtain representation from any person the applicant chooses, per OAC 340:2-5. The applicant may request a fair hearing when there is a:
  - (i) delay beyond the established time limits for determining eligibility, per OAC 340:65-3-5; or
  - (ii) disagreement with any action taken on the case;
- (C) applicant's legal responsibility to report all facts pertinent to eligibility;
- (D) types of changes the applicant must report within 10-calendar days;
- (E) penalty for failing to report changes;
- (F) program requirements and information needed to establish eligibility for each program for which the applicant applied. The worker uses Form 08AD092E, Client Contact and Information Request, to request verification and gives the applicant at least 10-calendar days to comply, per OAC 340:65-3-2.1;
- (G) type of assistance OKDHS provides in establishing eligibility;
- (H) permission the applicant gives OKDHS to obtain information from sources other than the applicant by signing the application; and

- (I) applicant's responsibility to cooperate with federal and state officials when his or her case is selected for a Quality Control review;
  - (2) collecting information necessary for determining the applicant's initial and continuing eligibility. Information is verified when not questionable or inconsistent with known facts, and the information provider is the primary source of the information. Unless questionable, the worker accepts, without further verification, the:
    - (A) applicant's statement concerning:
      - (i) residency;
      - (ii) relationship;
      - (iii) age;
      - (iv) living in the home of a relative payee;
      - (v) a minor parent living in the home of a relative;
      - (vi) Social Security number (SSN);
      - (vii) household members; and
      - (viii) third party insurance; and
    - (B) unearned income information obtained through:
      - (i) Beneficiary and Earnings Data Exchange System, from the Social Security Administration (SSA);
      - (ii) Supplemental Security Income/State Data Exchange System, from SSA;
      - (iii) Unemployment Insurance Benefits (UIB), from the Oklahoma Employment Security Commission; and
      - (iv) workers' compensation documents from the Workers' Compensation Commission; and
    - (C) alien status information obtained through Systematic Alien Verification for Entitlements (SAVE), from the United States Citizenship and Immigration Services ;
  - (3) contacting other persons who may be able to help establish eligibility ;
  - (4) determining if the applicant or other persons seeking assistance currently receive benefits from another state, when he or she has resided in Oklahoma for less than 12 months;
  - (5) recognizing expressed or implied needs that include:
    - (A) determining if there is a need for crisis intervention;
    - (B) addressing the applicant's social services needs; and
    - (C) making appropriate referrals; and
  - (6) denying the application when sufficient facts are available to substantiate ineligibility or the applicant fails to cooperate in determining eligibility.
- (f) **SSN requirement.** The applicant must provide a verifiable SSN or a pending SSN application for every person requesting food benefits, SSP, SSI-DCP, LIHEAP, or TANF benefits. The requirement for a verifiable SSN also applies to all persons whose needs are included for SoonerCare (Medicaid) benefits, except newborn children deemed eligible, per OAC 317:35-6-60, and undocumented aliens requesting emergency medical services, per OAC 317:35-5-25.

(1) The applicant's statement regarding each household member's SSN is sufficient unless the information is inconsistent or other facts or observations cause the worker to question the statement.

(A) The OKDHS worker refers persons for whom an SSN is required, but not available, to the appropriate SSA office for SSN enumeration using Form 08AD101E, SSN Enumeration Referral. The return of Form 08AD101E to OKDHS validates the application(s) or indicates which persons have not provided SSA-appropriate original evidence of age, identity, and citizenship.

(B) Parents of newborns who participate in Enumeration at Birth receive Form SSA-2853-OP3, Message From Social Security, from hospital personnel. This receipt form is verification the newborn was enumerated at birth.

(2) When the person fails or refuses to furnish or to apply for an SSN, the worker takes action per (A) and (B) of this paragraph.

(A) For TANF purposes, the person's needs are included; however, the worker imposes a 25 percent payment standard reduction penalty until an application for or an SSN is provided.

(B) For SNAP, LIHEAP, and SoonerCare (Medicaid) purposes, only the person's needs for whom an SSN is not provided or applied for are not included.

**(g) Citizenship requirement.** All persons applying for federal or state public assistance benefits, such as Child Care Subsidy, SNAP food benefits, LIHEAP, SoonerCare (Medicaid), SSP, or TANF must declare the citizenship or alien status for each household member applying for such benefits on the application or benefit renewal. When the payee requests benefits for additional household members between application and benefit renewal, the payee completes and signs Form 08MP022E, Declaration of Citizenship Status, to declare the citizenship or alien status of the additional household members. Refer to OAC 317:35-5-25 for citizenship and alien status requirements for persons applying for SoonerCare (Medicaid) benefits.

(1) When the applicant declares that some or all the household members applying for benefits are aliens, the worker follows SAVE procedures, per OAC 340:65-3-4, to determine the validity of documents provided to verify legal alien status.

(2) The worker follows each program's rules regarding citizenship and alien status requirements to determine benefit eligibility, per:

(A) OAC 340:40-7-5 for Child Care Subsidy benefits;

(B) OAC 340:50-5-67 for SNAP food benefits;

(C) OAC 340:20-1-8, 340:20-1-10, and 340:50-5-67 for LIHEAP;

(D) OAC 317:35-5-25 for SSP; and

(E) OAC 340:10-15-1 for TANF.

(3) The citizenship requirements per (g)(3)(A) through (C) and (g)

(4) of this Section are pursuant to Section 71 of Title 56 of the Oklahoma Statutes (56 O.S. § 71) and 74 O.S. § 20j.

(A) Lawful status in the United States (U.S.) is verified when:



- (i) the person applying for benefits provides an SSN or SSA completed Form 08AD101E indicating SSA accepted the person's SSN application; and
- (ii) OKDHS, through the automated SSN enumeration data exchange transaction with SSA, is able to verify the person's SSN.

(B) Prior to receiving benefits, when OKDHS is unable to verify the SSN with SSA for a person 14 years of age or older, the person must provide a:

- (i) signed and notarized Form 08MP005E, Citizenship Affidavit, attesting to his or her U.S. citizenship or alien status; or
- (ii) U.S. birth certificate, U.S. passport, a Certificate of Naturalization or other acceptable document, per OAC 317:35-5-25 to verify lawful status.

(C) When the person fails or refuses to provide a signed and notarized Form 08MP005E or one of the documents per (g)(3)B(ii) of this Section, the worker denies or closes benefits for that person.

(4) The application, benefit renewal, and Form 08MP022E contain a statement informing the applicant that OKDHS reports fraudulent claims of citizenship or lawful alien status to the U.S. Attorney and, when a fraudulent claim is made, the person may be subject to criminal prosecution.

(5) When the worker discovers a person who signed Form 08MP005E attesting to U.S. citizenship or legal alien status made a false claim:

(A) the worker sends a memo and supporting documentation to the appropriate AFS Program. The memo must include:

- (i) the time frame, benefit type, and amount the person fraudulently applied for or obtained; and
- (ii) how the worker discovered the claim was false;

(B) AFS Program staff, in consultation with Legal Services (LS) staff, reviews the memo and supporting documentation to determine if the person made a false claim. LS staff files a complaint with the U.S. Attorney for the applicable district based upon the venue in which the affidavit was executed when appropriate.

**(h) Eligibility determination.** The worker determines eligibility after the applicant or other authorized person signs the application, completes an interview, when required, and provides required proof.

[Source: Amended at 18 Ok Reg 2096, eff 7-1-01 ; Amended at 20 Ok Reg 918, eff 6-1-03 ; Amended at 22 Ok Reg 827, eff 5-12-05 ; Amended at 23 Ok Reg 1907, eff 7-1-06 ; Amended at 25 Ok Reg 265, eff 11-1-07 (emergency); Amended at 25 Ok Reg 958, eff 6-1-08 ; Amended at 26 Ok Reg 1272, eff 6-1-09 ; Amended at 28 Ok Reg 880, eff 6-1-11 ; Amended at 29 Ok Reg 812, eff 7-1-12 ; Amended at 30 Ok Reg 686, eff 6-1-13 ; Amended at 33 Ok Reg 1629, eff 9-15-16 ; Amended at 38 Ok Reg 2283, eff 9-15-21 ; Amended at 39 Ok Reg 1786, eff 9-15-22 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

## **340:65-3-2. Definitions**

The following words and terms when used in this Subchapter shall have the following meanings, unless the context clearly indicates otherwise:

**"Applicant"** means a person who directly or through a person acting responsibly on the applicant's behalf, requests a formal eligibility determination for one or more programs administered by Oklahoma Human Services (OKDHS) Adult and Family Services .

**"Application process"** means the process by which the applicant requests benefits, completes program requirements, and provides necessary proof, and the worker determines eligibility. Any person who fraudulently represents facts, acts without authority, or exceeds his or her authority to perform a transaction may be prosecuted under all applicable criminal and civil laws.

**"Client"** means a person applying for or receiving services, cash assistance, or other benefits.

**"Date of application"** means:

(A) the Child Care Subsidy Program does not define the application date, per Oklahoma Administrative Code (OAC) 340:40-3-1.

(i) "Request date" is the date the applicant requests subsidized child care benefits verbally or in writing.

(ii) "Certification date" is the date the applicant or the applicant's authorized representative completes the child care interview and provides all necessary verification to the OKDHS office, including the name of the child care provider the client chooses to use;

(B) for Temporary Assistance for Needy Families (TANF), Supplemental Nutrition Assistance Program (SNAP) food benefits, SoonerCare (Medicaid), State Supplemental Payment (SSP), and the Low Income Home Energy Assistance Program (LIHEAP), the application date is the date the applicant or a person acting on the applicant's behalf signs the application.

(i) When the application is initiated outside of OKDHS, the application date is the date the application is stamped in the OKDHS office or received electronically .

(ii) Receipt of Form 08MA005E, Notification of Needed Medical Services, preserves the date of application for SoonerCare (Medicaid) eligibility groups for which OKDHS is responsible for determining eligibility, per OAC 317:35-5-63;

(C) when OKDHS staff receives a verbal request prior to the signature date on the application, staff enters the verbal request date in red above the signature date. The verbal request date is the application date for TANF, SSP, and SoonerCare (Medicaid) eligibility groups for which OKDHS determines eligibility.

(i) Per OAC 340:50-3-1, a verbal request for food benefits does not preserve the application date unless the applicant informs staff a hardship exists that prevents him or her from signing a request on that date. A hardship may exist when the applicant states no one can come to an OKDHS office because of a situation beyond the applicant's control, such as illness, disability, or lack of transportation; and the applicant is unable to submit the application online or by phoning an OKDHS office or the phone number on the [www.okdhslive.org](http://www.okdhslive.org) website to obtain help in submitting the application.

(ii) A verbal request for LIHEAP does not preserve the application date as funding for the program is limited.

(iii) The verbal request date preserves the application date only when the applicant signs the application within 30-calendar days.

(I) When the applicant fails to sign the application within 30-calendar days, no application request is made.

(II) When the applicant subsequently contacts OKDHS after 30-calendar days and completes the application process, the application date is the date the applicant completes and signs the application; and

(D) when the applicant comes to an OKDHS office to request benefits and cannot stay to complete the application with a worker or no appointment times are available that day, the applicant must submit a completed and signed Form 08MP001E, Request for Benefits, to preserve the application date. When the applicant does not leave a completed and signed Form 08MP001E, an application date is not preserved .

**"Inquiry"** means a request for information but does not imply a request for assistance.

**"Payee"** means the person in the household in whose name benefits are issued. The person considered the payee varies depending on the requested programs. The payee may or may not be included in the benefit.

(A) For the Child Care Subsidy Program, the payee must be the person responsible for the child for whom benefits are requested. The payee is not required to be related to the child. When the parent of the child is in the home, the parent is the payee, per OAC 340:40-3-1(a)(2).

(B) For the TANF Program, the payee must have a certain degree of relationship to the child for whom benefits are requested, per OAC 340:10-3-56 and 340:10-9-1.

(C) For SNAP, the payee may be any responsible adult living in the home, per OAC 340:50-3-1.

(D) For the SoonerCare (Medicaid) Program, the payee is the person for whom benefits are requested or the person responsible for the minor child for whom benefits are requested. The payee is not required to be related to the child. When the parent of the child is in the home, the parent must be the payee.

(E) For the SSP Program, the payee is the person for whom benefits are requested. When the person for whom benefits are requested is a minor child, the child is coded as a payee with a guardian.

(F) For LIHEAP, the payee may be any responsible adult living in the home. When the household receives other benefits, the payee is the same person shown as payee for the other benefits.

**"Recipient"** means a person who receives services, cash assistance, or other benefits.

[Source: Amended at 10 Ok Reg 1445, eff 4-26-93 ; Amended at 11 Ok Reg 4079, eff 6-21-94 through 7-14-95 (emergency); Amended at 13 Ok Reg 353, eff 12-11-95 ; Amended at 18 Ok Reg 2096, eff 7-1-01 ; Amended at 19 Ok Reg 656, eff 2-1-02 (emergency); Amended at 19 Ok Reg 2207, eff 6-27-02 ; Amended at 23 Ok Reg 2189, eff 7-1-06 ; Amended at 24 Ok Reg 2189, eff 7-1-07 ; Amended at 26 Ok Reg 1272, eff 6-1-09 ; Amended at 28 Ok Reg 880, eff 6-1-11 ; Amended at 33 Ok Reg 1629, eff 9-15-16 ; Amended at 36 Ok Reg 1849, eff 9-16-19 ; Amended at 38 Ok Reg 2283, eff 9-15-21 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24; Amended at 42 Ok Reg, Number 5, effective 10-10-24 (emergency)]

### **340:65-3-2.1. Counting days for providing proof, interview dates, and application time limits**

When counting days for providing proof, interview dates, and application time limits, the worker does not count the first day in the time period. The worker counts the last day in the time period unless Oklahoma Human Services (OKDHS) is not open for business on that date. When OKDHS is not open on the last day of the time period, the client has until the next business day to comply with eligibility requirements.

(1) **Providing proof.** When proof is required to determine eligibility, the worker gives the client at least 10-calendar days to provide it. The worker assists the client in obtaining necessary proof, when requested. The worker's assistance may range from explaining how or where to obtain proof to obtaining the proof when the client is unable to do so. The worker is not required to obtain proof for a client who is able, but unwilling to do so.

(2) **Interview .** OKDHS offers all applicants for Child Care Subsidy, Soonercare (Medicaid), Supplemental Nutrition Assistance Program (SNAP), and Temporary Assistance for Needy Families (TANF) the right to interview at any time during operating hours. The client must contact OKDHS via telephone or in person unless the household qualifies for an interview waiver or the program does not require an interview.

(A) When the client must interview and does not interview while submitting the application, the worker calls the household to conduct an on demand interview within two-calendar days of the application date.

- (i) When the client answers, the worker offers to complete the interview.
    - (ii) When the client does not answer or refuses to interview, OKDHS sends Form 08AD091E, Interview Notice, to inform the client of the interview requirement.
  - (B) When the client does not interview within 10-calendar days of the application date, the worker again calls the household to conduct an on demand interview.
    - (i) When the client answers, the worker offers to complete the interview .
    - (ii) When the client does not answer or refuses to interview, the worker:
      - (I) denies a Child Care Subsidy, Soonercare (Medicaid), or TANF application; and
      - (II) uses the FDENY transaction with reason "59" for a SNAP application.
  - (C) The OKDHS worker does not schedule an interview unless the applicant refuses the immediate interview options and requests a scheduled interview.
  - (D) The worker uses Form 08AD092E, Client Contact and Information Request, when a scheduled interview is necessary.
- (3) **Application time limits.** Refer to Oklahoma Administrative Code 340:65-3-5 for application processing time limits. To be timely, the worker must certify or deny an application:
- (A) no later than the last business day of the time limit; or
  - (B) when OKDHS is closed on the last day of the time limit, the next open business day.

[Source: Added at 18 Ok Reg 2096, eff 7-1-01 ; Amended at 28 Ok Reg 880, eff 6-1-11 ; Amended at 30 Ok Reg 686, eff 6-1-13 ; Amended at 34 Ok Reg 1544, eff 9-15-17 ; Amended at 38 Ok Reg 2283, eff 9-15-21 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:65-3-3. Processes [REVOKED]**

[Source: Amended at 8 Ok Reg 3271, eff 7-15-91 (emergency); Amended at 9 Ok Reg 2815, eff 7-13-92 ; Amended at 10 Ok Reg 1445, eff 4-26-93 ; Amended at 10 Ok Reg 2173, eff 4-30-93 (emergency); Amended at 11 Ok Reg 1687, eff 5-12-94 ; Amended at 12 Ok Reg 229, eff 11-1-94 through 7-14-95 (emergency); Amended at 13 Ok Reg 465, eff 9-1-95 (emergency); Amended at 13 Ok Reg 353, eff 12-11-95 ; Amended at 13 Ok Reg 2195, eff 6-14-96 ; Amended at 15 Ok Reg 179, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1644, eff 5-11-98 ; Revoked at 18 Ok Reg 2096, eff 7-1-01]

#### **340:65-3-3.1. Combined Application form [REVOKED]**

[Source: Added at 12 Ok Reg 229, eff 10-14-94 (emergency); Added at 13 Ok Reg 959, eff 4-10-95 (emergency); Added at 13 Ok Reg 469, eff 11-14-95 (emergency); Added at 13 Ok Reg 2195, eff 6-14-96 ; Revoked at 18 Ok Reg 2096, eff 7-1-01]

### **340:65-3-4. Investigation of eligibility conditions and services planning**

The worker is responsible for collecting information necessary to determine the client's benefit eligibility and address the client's social

service needs. When proof is necessary to determine eligibility, the worker uses sources described in this Section.

(1) **Home visits.** Home visits are sometimes necessary for Adult and Family Services (AFS) staff to provide services and benefits and promote safety and stability for families. Workers plan all home visits with the client in advance.

(A) AFS staff makes home visits or other client contacts during normal work hours whenever possible. Home visits may occur outside of normal business hours when the client's needs dictate and a supervisor, field manager, or field manager's designee approves the home visit.

(B) The AFS worker makes a home visit when:

- (i) he or she is unable to obtain necessary documentation from other sources;
- (ii) a face-to-face interview is required and an office visit creates a hardship for the household;
- (iii) a Temporary Assistance for Needy Families (TANF) benefit closes due to failure to cooperate, per Oklahoma Administrative Code (OAC) 340:10-2-2;
- (iv) it is the best method to complete or review the TANF employability plan;
- (v) the client needs protective services ; or
- (vi) the worker deems it necessary for another reason and the supervisor concurs.

(2) **Collateral contact.** A collateral contact is a person outside of the household that confirms the household's circumstances. The collateral contact may occur in person or over the phone.

(A) A collateral contact is not restricted to a particular person, but may be anyone able to provide an accurate third party confirmation of the household's circumstances. Examples of acceptable collateral contacts are:

- (i) employers;
- (ii) agencies, businesses, or community action groups;
- (iii) migrant service agencies;
- (iv) the household's neighbors ;
- (v) landlords; or
- (vi) other persons outside of the household with knowledge of the household's circumstances.

(B) The client's signature on the application or renewal authorizes the worker to secure the required information or verification from collateral contacts. When the collateral contact requires additional written authorization before supplying information to Oklahoma Human Services (OKDHS) the client or the affected adult household member signs Form 08AD060E, Request for Release of Information, to give authorization.

(C) The worker informs the person contacted for information how OKDHS plans to use the requested

information and why OKDHS needs it .

(i) When the collateral contact requests anonymity, the worker does not record the person's name in the case record or reveal the person's name to the client.

(ii) When the collateral contact requests anonymity, the worker may not use information obtained from the collateral contact to reduce or close benefits unless the worker is able to verify the information by another source.

(D) When the collateral contact provides information related to the client's eligibility that conflicts with information the client provides, the worker gives the client the opportunity to resolve the inconsistency.

(3) **Public records.** The worker may obtain information from public records that affects the person's eligibility without obtaining the person's consent.

(4) **Data exchange.** Automated data exchange provides household members' benefit status, wages, income, taxes, Social Security numbers, incarceration status, current address, and death information to OKDHS. Data matches allow eligibility staff to consult this information when making an eligibility decision during an application or renewal or to identify unreported changes . Refer to OAC 340:65-1-2 for information regarding practices for safeguarding case information and raw tax data.

The worker :

(A) reviews data exchange information at application and eligibility renewal. Available data exchange information screens include:

(i) Beneficiary and Earnings Data Exchange System (BENDEX);

(ii) Buy-In Data Exchange (BIL);

(iii) New Hire Employee lists (including the State New Hire (SNH) and National New Hire (NNH) list;

(iv) Social Security Administration (SSA) Death Master File Data Exchange (DOD);

(v) SSA Prisoner Data Exchange (PRS);

(vi) Social Security Number (SSN) Verification - SSN Enumeration;

(vii) Supplemental Security Income (SSI)/State Data Exchange System (SDX);

(viii) Unemployment compensation (UIB);

(ix) Unearned Income Eligibility Verification System (IEVS) income report (IEVS-IRS) and resource data from the Internal Revenue Service (IRS); and

(x) Wage Data Exchange; and

(B) initiates appropriate queries; and

(C) resolves data exchange discrepancy messages within:

(i) "verified upon receipt" processing timeframes;

- (ii) the unclear information timeframes per 340:50-9-5(i) for Supplemental Nutrition Assistance Program (SNAP) cases; and
- (iii) 45-calendar days of the date on the data exchange inquiry screen.

(5) **Systematic Alien Verification for Entitlement (SAVE).** All applicants and recipients of the TANF, SoonerCare (Medicaid), SNAP, Low Income Home Energy Assistance Program, State Supplemental Payment, and Child Care Subsidy Program benefits are required to declare their citizenship status. Persons who declare themselves or their minor child non-citizens must present documentation of their legal alien status from the United States Citizenship and Immigration Services (USCIS) or other acceptable source. The status, as determined from the documentation, must be verified through the USCIS Alien Status Verification Index (ASVI).

(6) **Workers' compensation.** AFS staff reviews copies of all Workers' Compensation Commission documents by matching SSNs with OKDHS records. Any court action that appears to potentially impact eligibility is forwarded to the applicable OKDHS office for clearance.

(7) **Birth verification.** For persons born in Oklahoma, OKDHS has an agreement with the Oklahoma State Department of Health to electronically verify birth for persons with an open SoonerCare (Medicaid) benefit.

(8) **Food stamp disqualification (FSD).** When a client is disqualified for SNAP food benefits due to fraud, the FSD screen shows the date the disqualification began and the length of the disqualification period.

(9) **Asset Verification System (AVS).** Per Section 1396w of Title 42 of the United States Code, an applicant or recipient, a spouse, if applicable, a parent or guardian, or other person whose resources or assets OKDHS must verify for SoonerCare (Medicaid) for a person who relates to the aged, blind, or disabled (ABD) categories must authorize OKDHS to access their financial assets and resources through an AVS.

(A) Before entering a person's information into AVS, the worker obtains a signed authorization using Form 08MP001E, Rights, Responsibilities, and Signature for Benefits, an online application, or Form 08MA014E, Asset Verification System Authorization, before entering a person's information into AVS.

(B) When asking for an AVS authorization, the worker explains the authorization remains effective until:

- (i) OKDHS denies or closes the ABD SoonerCare (Medicaid) application; or
- (ii) the signer notifies OKDHS in writing that the signer wishes to revoke the authorization.

(C) When a person who must sign refuses, the worker denies or closes the ABD SoonerCare (Medicaid).



[Source: Amended at 9 Ok Reg 97, eff 10-17-91 (emergency); Amended at 9 Ok Reg 2755, eff 7-13-92 ; Amended at 10 Ok Reg 1147, eff 3-9-93 (emergency); Amended at 10 Ok Reg 2303, eff 6-11-93 ; Amended at 10 Ok Reg 4347, eff 7-19-93 (emergency); Amended at 11 Ok Reg 1687, eff 5-12-94 ; Amended at 14 Ok Reg 3112, eff 7-1-97 (emergency); Amended at 15 Ok Reg 179, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1644, eff 5-11-98 ; Amended at 18 Ok Reg 2096, eff 7-1-01 ; Amended at 20 Ok Reg 2059, eff 7-1-03 ; Amended at 22 Ok Reg 827, eff 5-12-05 ; Amended at 24 Ok Reg 1042, eff 6-1-07 ; Amended at 26 Ok Reg 1272, eff 6-1-09 ; Amended at 28 Ok Reg 880, eff 6-1-11 ; Amended at 29 Ok Reg 812, eff 7-1-12 ; Amended at 33 Ok Reg 1629, eff 9-15-16 ; Amended at 38 Ok Reg 2283, eff 9-15-21 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:65-3-5. Application process**

The worker certifies or denies applications received online or in Oklahoma Human Services (OKDHS) offices within time limits specified in (1) of this Section.

(1) **Application processing time limits.** OKDHS workers process applications within program specific time limits. Refer to Oklahoma Administrative Code (OAC) 340:65-3-2.1, when the time limit's last day occurs on a day OKDHS is not open for business. The time limits are:

(A) Temporary Assistance for Needy Families (TANF) - 30-calendar days;

(B) Title IV-E Foster Care - 30-calendar days;

(C) Supplemental Nutrition Assistance Program - 30-calendar days unless the household is eligible for expedited service. When the household is eligible for expedited service, OKDHS workers must complete the application within seven-calendar days, per OAC 340:50-11-1;

(D) State Supplemental Payment (SSP) for persons:

(i) categorically related to Aid to the Aged - 30-calendar days; and

(ii) categorically related to Aid to the Blind or Disabled - 60-calendar days; and

(E) SoonerCare (Medicaid) benefits for:

(i) persons categorically related to Aid to the Aged - 30-calendar days;

(ii) persons categorically related to Aid to the Blind or Disabled - 60-calendar days;

(iii) Optional Tuberculosis (TB) Coverage group - 45-calendar days; and

(iv) persons requesting long-term care services - 45-calendar days; and

(F) TANF Emergency Assistance - five-working days;

(G) Low Income Home Energy Assistance Program , per OAC 340:20-1-14:

(i) 60-calendar days of the application date for winter heating and summer cooling; or

(ii) no later than 18 hours of the application date for an Energy Crisis Assistance Program (ECAP) application involving a life-threatening medical situation or 48 hours for all other ECAP applications; and

- (H) Refugee Medical Assistance - 30-calendar days;
- (I) Child Care subsidy benefits – two-business days from the interview date and required proof is provided or, when not provided, within 30-calendar days; and
- (J) Diversion Assistance – seven-working days

(2) **Delayed applications.** When it is not possible to process the application timely, the worker sends the applicant Form 08MP038E, Client Notice of Action Taken, to inform the applicant of the reason for the delay and the applicant's hearing rights. An application is not denied when it cannot be processed timely due to:

- (A) the applicant's failure or delay in providing needed information because of circumstances beyond the applicant's control;
- (B) an examining physician's failure or delay in supplying needed information;
- (C) the Social Security Administration's failure or delay in making a disability decision; or
- (D) the worker's failure to take timely action.

(3) **Certification for cash assistance.** When TANF eligibility is established for the application month, certification is effective from the application date and benefits are prorated per (5) of this Section. When SSP eligibility is established for the application month, certification is effective from the first day of the month and the SSP is not prorated.

- (A) When a TANF applicant requests benefits for an additional person after the application date, but before certification, the worker approves benefits for the additional person effective on the same date as the rest of the assistance unit.
- (B) When a TANF recipient requests benefits for an additional person after certification, the recipient must complete a new application before adding the additional person to the TANF benefit. When eligible, the worker prorates benefits for the additional person from the application date per (5) of this Section.
- (C) A retroactive payment may be authorized for any month the worker establishes eligibility prior to the current month. An application denied in error must have payment authorized for the period eligibility is established.
- (D) A certification is valid even when a month of ineligibility is determined between application and the date the certification action is taken. An applicant who is ineligible for the month of application and eligible for a subsequent month is certified effective the first day of the subsequent month.

(4) **Notice of ineligibility.** When an applicant is ineligible, a computer-generated denial notice is sent to the applicant explaining the reason. The applicant may request a fair hearing within the time period specified in the notice.

(5) **Proration of TANF benefits.** When eligible, the worker certifies a TANF application from the application date and prorates the initial month's benefit, unless the applicant applied on the first day of the month or received a TANF benefit for the previous month and is eligible to be reopened, per OAC 340:65-5-6. Proration also applies for the first month the worker adds an additional person to an open TANF cash assistance benefit. The family is eligible for the full TANF benefit effective the following month, when applicable.

(A) The worker refers to OKDHS Appendix C-1, Maximum Income, Resource, and Payment Standards, Schedule IX to determine the full monthly TANF benefit before computing the prorated benefit.

(B) The worker uses Appendix B, Prorated TANF and Food Benefit Payment, to compute the prorated benefit amount or the formula:  $31 - \text{application date} \times \text{full monthly TANF benefit} \div 30 = \text{the prorated payment}$ . The prorated payment is rounded down to the lower dollar amount.

(i) When the prorated benefit is less than \$10, the family is not eligible for a money payment, but is eligible for SoonerCare (Medicaid) benefits for the entire month.

(ii) When the worker certifies food benefits in the TANF case at the same time or after the TANF certification for the month the TANF payment is prorated, the food benefit unearned income shows the TANF benefit before proration.

(iii) The computer-generated client notice shows the benefit amount for the initial month and following month.

[Source: Amended at 10 Ok Reg 471, eff 11-30-92 (emergency); Amended at 10 Ok Reg 2343, eff 6-11-93 ; Amended at 10 Ok Reg 4465, eff 8-5-93 (emergency); Amended at 11 Ok Reg 1347, eff 3-14-94 (emergency); Amended at 11 Ok Reg 4363, eff 7-8-94 (emergency); Amended at 11 Ok Reg 4501, eff 8-1-94 through 7-14-95 (emergency); Amended at 13 Ok Reg 353, eff 12-11-95 ; Amended at 14 Ok Reg 2412, eff 5-1-97 (emergency); Amended at 15 Ok Reg 1644, eff 5-11-98 ; Amended at 15 Ok Reg 3546, eff 7-1-98 (emergency); Amended at 16 Ok Reg 1019, eff 4-26-99 ; Amended at 18 Ok Reg 2096, eff 7-1-01 ; Amended at 19 Ok Reg 1918, eff 4-29-02 (emergency); Amended at 20 Ok Reg 300, eff 1-1-03 (emergency); Amended at 20 Ok Reg 918, eff 6-1-03 ; Amended at 26 Ok Reg 1272, eff 6-1-09 ; Amended at 28 Ok Reg 880, eff 6-1-11 ; Amended at 30 Ok Reg 686, eff 6-1-13 ; Amended at 34 Ok Reg 1544, eff 9-15-17 ; Amended at 38 Ok Reg 2283, eff 9-15-21 ; Amended at 39 Ok Reg 1786, eff 9-15-22 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:65-3-6. Cash assistance payment procedures**

(a) **Payment method choices.** The Oklahoma Department of Human Services (DHS) issues cash assistance benefits through a contractor on a debit card or by direct deposit. DHS initially issues the benefit on a debit card.

(1) After the first benefit issues, the recipient may continue to receive benefits by debit card or change the payment method to direct deposit.

(2) The recipient may switch between direct deposit and debit card as needed.

(b) **Debit card procedures.** Debit card procedures are listed in (1) through (6) of this subsection.

(1) Unless the applicant was previously issued a debit card, it is issued to the applicant after the application is placed in application status or after benefits are approved.

(A) A debit card issues after the application is placed in application status when the applicant was previously issued a client number. DHS assigns a client number to a person after he or she is approved for a DHS benefit or when the person has an open child support case with DHS Child Support Services (CSS).

(B) When the applicant does not have a client number, the debit card issues after the worker certifies the Temporary Assistance for Needy Families (TANF) or State Supplemental Payment (SSP) benefit.

(C) DHS does not issue a debit card to an applicant when he or she was previously issued a debit card. When the applicant states he or she no longer has the debit card, the applicant must call 1-888-401-9843, the contractor's customer service phone number, to obtain a replacement card.

(2) Once the applicant receives the debit card, he or she must call the customer service phone number located on the back of the debit card to activate the card and choose a personal identification number (PIN).

(3) Initial and replacement debit cards are mailed to the applicant or recipient's mailing address along with information regarding

(A) the customer service phone number the applicant must call to activate the debit card or to report a lost or stolen card;

(B) how to make purchases using the debit card or get cash from participating automated teller machine (ATM) locations;

(C) free services, including two free ATM withdrawals per calendar month from MoneyPass ATMs, and fees;

(D) how to request a companion cardholder or switch to direct deposit; and

(E) the website address where the applicant may access his or her account balance and transaction information.

(4) The recipient is eligible for a free replacement card once every 12 months upon request. The recipient is charged a fee when he or she requests a replacement card more than once every 12 months. The debit card expires every three years and a free replacement is sent to recipients with open benefits.

(5) The recipient may request one or more companion cards. The companion card(s) may only be ordered online.

(A) The companion card is sent to the recipient's address.

(B) Once the companion cardholder receives the companion card, he or she must call the customer service phone number located on the back of the debit card to activate the card and choose a PIN.

(C) Funds are placed on the companion card by the recipient. The recipient may:

- (i) choose to transfer funds to the companion card by amount or by a percentage of benefits received for the month;
- (ii) set up the transfer on a recurring basis or as a one-time occurrence; and
- (iii) move money back and forth between the primary account and the companion card as he or she chooses.

(D) The same fees apply to companion cards as they do for the recipient's card.

(6) When the recipient informs the worker that he or she did not receive the debit card, the worker checks to see if the recipient's address changed. When the address changed, the worker updates the system with the correct address. The recipient must call the customer service phone number to request a replacement card.

(7) When the recipient fails or refuses to activate his or her debit card within 90-calendar days, the benefits are expunged from the debit card and returned to DHS.

(A) Upon notification of expunged benefits, the worker contacts the recipient to offer assistance in pinning the debit card.

(i) When the worker is unable to reach the recipient by phone, he or she sends Form 08AD092E, Client Contact and Information Request, and gives the recipient 10-calendar days to contact the worker.

(ii) When the worker talks to the recipient, he or she determines why the recipient did not choose a PIN for the debit card and offers assistance. The worker advises the recipient to choose a PIN for the debit card within 10-calendar days and let the worker know when it is pinned so he or she can restore expunged benefits to the debit card. When the client does not contact the worker within 10-calendar days to reissue the expunged benefits, the worker sends Form 08AD092E and gives the client 10- calendar days to respond.

(B) The funds may be reloaded on the recipient's debit card if he or she chooses a PIN for the debit card and requests DHS reissuance within 365-calendar days of the issuance date.

(C) When the recipient fails or refuses to choose a PIN for the debit card within 10-calendar days of issuing Form 08AD092E, the worker closes the cash assistance benefit due to non-cooperation. When the:

- (i) TANF cash assistance benefit closes due to non-cooperation, the assistance unit's SoonerCare (Medicaid) benefit closes. When the recipient wants to continue to receive SoonerCare

(Medicaid) benefits, he or she must reapply through the Oklahoma Health Care Authority's online enrollment system; or  
(ii) State Supplemental Payment cash assistance benefit closes due to non-cooperation, the recipient's SoonerCare (Medicaid) benefit remains open.

(D) The recipient's cash assistance benefit may be reopened when the recipient chooses a PIN for the debit card and notifies the worker within 30-calendar days of closure.

(c) **Electronic benefit transfer (EBT) transaction restrictions.** EBT transaction means the use of a credit or debit card service, automated teller machine, point-of-sale terminal, or access to an online system for the withdrawal of funds or the processing of a payment for merchandise or service. Per Section 4004 of the Middle Class Tax Relief and Job Creation Act of 2012, Section 608(a) of Title 42 of the United States Code (42 U.S.C. § 608(a)(12)), and Section 241.4 of Title 56 of Oklahoma Statutes, no debit or EBT card containing state or federal funds from programs including, but not limited to, TANF may be used in any transaction in any:

(1) liquor store. The term liquor store means any establishment that sells exclusively or primarily intoxicating liquor. The term does not include a grocery store that sells both intoxicating liquor and groceries, including staple foods, per Section 3(r) of the Food and Nutrition Act;

(2) casino, gambling casino, or gaming establishment except for:  
(A) a grocery store that sells groceries, including staple foods, per 7 U.S.C. § 2012, and also offers, or is located within the same building or complex as an establishment offering casino, gambling, or gaming activities; or  
(B) any other establishment offering casino, gambling, or gaming activities incidental to the principal purpose of the business;

(3) retail establishment that provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment; or

(4) retail establishment whose principal business is that of selling cigarettes, cigars, or tobacco products.

(d) **Direct deposit procedures.** When the recipient prefers to receive benefits through direct deposit, he or she goes online to [www.goprogram.com](http://www.goprogram.com) or phones 1-888-401-9843 to set up a bank transfer.

(1) When the recipient chooses direct deposit, he or she may decide to transfer 100 percent of the benefit to a designated bank account or may choose to transfer a percentage of the benefits to a bank account and keep the rest of the funds on the debit card.

(2) Benefits are transferred to direct deposit for the next payment due after direct deposit information is entered in the system.

(3) The recipient may transfer funds from a debit card to a bank account on a one-time basis. There is a fee associated with the transfer.

(e) **Benefit issuance.** After the initial issuance, the recipient's cash assistance benefit is deposited in the recipient's checking or savings account or loaded on the recipient's debit card each month.

(1) The funds are available for withdrawal after deposit.

(2) After the monthly benefit is deposited in the recipient's account or loaded on the debit card, DHS is not responsible if someone other than the payee withdraws the funds. Banking regulations govern withdrawals.

(3) Recipients are encouraged to be prudent about giving withdrawal privileges or debit card access to other people.

(f) **Issuance problem procedures.** When problems occur with direct deposit or debit card deposits, procedures for dealing with these problems are listed in (1) through (5) of this subsection.

(1) When the recipient provides incorrect account information, the cash assistance benefit cannot be deposited in the recipient's bank account. When this occurs, the contractor converts the payment method to a debit card. When the recipient wants direct deposit, he or she must request direct deposit again, per (d) of this Section.

(2) When a deposit is not made to the recipient's direct deposit account or loaded on the debit card, the recipient must report the problem to the contractor's customer service phone number. The contractor handles any communication with banking institutions or debit card vendors and then contacts the recipient regarding resolution.

(3) When the recipient dies while receiving benefits, questions may arise concerning unspent funds in the recipient's bank account or on his or her debit card.

(A) When the client is not eligible for a payment made after death to the recipient's debit card or bank account, an overpayment may be established against the estate.

(i) DHS notifies the debit card contractor to expunge the funds from the debit card, when possible.

(ii) Payments made by direct deposit, cannot be expunged or retrieved.

(B) When there are unused benefits on the debit card at the time of death for which the recipient was entitled and someone contacts DHS to request these benefits, he or she is advised to contact the customer service phone number located on the back of the recipient's debit card to request the funds. When unused funds remain in a bank account, the person must contact the financial institution to request the funds.

(4) When the recipient's cash assistance benefit closes due to transfer of eligibility to another cash assistance case, the payment method is automatically transferred to the new case provided the client number of the payee in the closed and new case is the same. When the recipient's cash assistance benefit closes and he or she later reapplies and is approved with the same client number, the previously chosen payment method is used to issue

the cash assistance benefit. The recipient must call the contractor's customer service phone number to change the payment method or to update bank account information.

(5) When the payee for the cash assistance benefit changes for any reason, the new payee is assigned a new client number unless one was previously issued to him or her.

(A) The new payee is considered an applicant. Refer to (a) and (b) of this Section regarding payment methods and initial payments.

(B) The new payee does not have access to benefits issued prior to the payee change.

[Source: Amended at 10 Ok Reg 471, eff 11-30-92 (emergency); Amended at 10 Ok Reg 2343, eff 6-11-93 ; Amended at 11 Ok Reg 1347, eff 3-14-94 through 7-14-95 (emergency); Amended at 13 Ok Reg 353, eff 12-11-95 ; Amended at 18 Ok Reg 2096, eff 7-1-01 ; Amended at 25 Ok Reg 958, eff 6-1-08 ; Amended at 26 Ok Reg 1272, eff 6-1-09 ; Amended at 28 Ok Reg 880, eff 6-1-11 ; Amended at 31 Ok Reg 640, eff 7-1-14 (emergency); Amended at 32 Ok Reg 1896, eff 9-15-15 ; Amended at 34 Ok Reg 1544, eff 9-15-17 ; Amended at 36 Ok Reg 1849, eff 9-16-19]

### **340:65-3-6.1. Electronic Benefits Transfer**

Food and child care benefits are delivered by a statewide Electronic Benefits Transfer (EBT) system.

[Source: Added at 17 Ok Reg 2120, eff 7-1-00 ; Amended at 17 Ok Reg 3599, eff 10-1-00 (emergency); Amended at 18 Ok Reg 1253, eff 5-11-01 ; Amended at 25 Ok Reg 958, eff 6-1-08]

### **340:65-3-7. Application denial**

(a) When the applicant is unwilling to cooperate in establishing eligibility, or when eligibility cannot be established, the worker denies the application. A computer-generated denial notice is sent to the applicant or his or her representative .

(1) Refer to Oklahoma Administrative Code (OAC) 340:65-3-2 for the definition of what constitutes an application for each program.

(2) Before denying an application with incomplete documentation, the worker must provide the applicant Form 08AD092E, Client Contact and Information Request, giving him or her at least 10-calendar days to provide the missing proof. When requested, the worker provides assistance in obtaining necessary proof. The worker's assistance may range from explaining how or where to obtain proof to the worker obtaining the proof when the client is unable to do so. The worker is not required to obtain proof for a client who is able but unwilling to do so.

(3) When an applicant verbally asks to withdraw the application before the worker determines eligibility, the worker asks the applicant to put the withdrawal request in writing. The worker denies the application based on the reason given by the applicant.

(4) When the worker is unable to locate the applicant to complete the application, he or she denies the application.

(5) The applicant may request a fair hearing within the specified time of the notice when he or she disagrees with the action taken. Refer to OAC 340:2-5 for fair hearing procedures.



(b) A new application is not required when, after denial, the household completes the application process and is determined eligible within 60-calendar days of the initial application date. When the household does not complete the application process by the 30th-calendar day following denial, when specified by the program, benefits are prorated from the date eligibility is determined.

[Source: Amended at 9 Ok Reg 3561, eff 7-20-92 (emergency); Amended at 10 Ok Reg 1445, eff 4-26-93 ; Amended at 18 Ok Reg 2096, eff 7-1-01 ; Amended at 29 Ok Reg 812, eff 7-1-12 ; Amended at 30 Ok Reg 686, eff 6-1-13 ; Amended at 34 Ok Reg 1544, eff 9-15-17 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:65-3-8. Continuing eligibility determination**

(a) **Continuing eligibility determination.** The worker determines continued eligibility at appropriate intervals, per (b) of this Section. The worker is responsible for:

- (1) informing the recipient of his or her change reporting responsibilities, per Oklahoma Administrative Code (OAC) 340:65-5-1, at each contact;
- (2) contacting the recipient when possible changes are indicated to ensure continuing eligibility;
- (3) synchronizing renewal dates for all benefits received by the household when possible; and
- (4) determining continuing eligibility.

(b) **Benefit renewal time frames.** The periodic renewal time frame varies depending on the program.

- (1) A benefit renewal is completed at six-month intervals with a:
  - (A) Temporary Assistance for Needy Families (TANF) recipient due to:
    - (i) pending required immunizations, per OAC 340:10-14-1;
    - (ii) payment standard reductions because of program violations, per OAC 340:10-3-57(g) or (h);
    - (iii) hardship extension approvals, per OAC 340:10-3-56(a)(2)(E);
    - (iv) earned income, per OAC 340:10-3-31 through 340:10-3-40; or
    - (v) a work eligible person's exemption from TANF Work activities because of his or her incapacity or to care for a disabled family member living in the household, per OAC 340:10-2-1; or
  - (B) food benefit recipient subject to a mid-certification renewal, per OAC 340:50-9-5(d) and (e).
- (2) A benefit renewal is completed at 12-month intervals, unless an earlier renewal date is warranted, with a:
  - (A) TANF recipient unless (b)(1)(A) of this Section applies;
  - (B) State Supplemental Payment (SSP) recipient who does not receive Supplemental Security Income (SSI). When the recipient receives SSI, the system passively renews the SSP and SoonerCare (Medicaid) benefit;
  - (C) Child Care Subsidy recipient, per OAC 340:40-9-1;

(D) food benefit household subject to an annual mid-certification renewal, per OAC 340:50-9-5(b) and (c);  
(E) food benefit household whose Supplemental Nutrition Assistance Program (SNAP) certification renewal is completed at 12-month intervals, per OAC 340:50-9-6; or  
(F) SoonerCare (Medicaid) recipient, per OAC 317:35, when the recipient does not receive SSI. When the recipient receives SSI, the system passively renews the SoonerCare (Medicaid) benefit.

(3) The worker completes a SNAP certification renewal at 24-month intervals for households subject to an annual mid-certification renewal, per OAC 340:50-9-5(b) and (c).

(c) **Benefit renewal notification.** The recipient receives a notice when the benefit renewal is due, informing the recipient he or she must complete the benefit renewal within a specified time frame to continue receiving benefits.

(1) The worker sends Form 08AD092E, Client Contact and Information Request, to TANF recipients.

(2) A computer-generated notice is sent to:

(A) child care recipients;

(B) food benefit recipients due for mid-certification renewal and certification renewal; and

(C) SSP and SoonerCare (Medicaid) recipients who do not receive SSI.

(3) Since SoonerCare (Medicaid) and SSP recipients who receive SSI are passively renewed, they receive a notice informing them that their benefits were renewed. The renewal notice includes the income used to renew their benefit(s). Recipients are asked to sign and return the renewal notice if the income shown on the notice is incorrect. When the notice is signed and returned, the worker contacts the recipient to obtain current information.

(d) **Signature requirements.** The recipient, guardian, or a person acting on the recipient's behalf, such as an authorized representative or a person with power-of-attorney, signs the benefit renewal for all programs except TANF. The recipient signs TANF renewals. When the recipient lives with his or her spouse, both must sign the TANF renewal.

(e) **Interview requirements.** Benefit renewal interview requirements vary depending on the program.

(1) Per Section 206.10 of Title 45 of the Code of Regulations, the TANF program requires a face-to-face certification renewal interview every 12 months. The face-to-face interview may be conducted in the OKDHS office, at a home visit, or through a virtual video conference.

(2) A phone or face-to-face interview is required for a:

(A) SNAP certification renewal, except for (e)(3)(C) of this Section, per OAC 340:50-3-1; or

(B) Supplemental Security Income-Disabled Children's Program service plan renewal, per OAC 340:15-3-1.

(3) An interview is not required for:

(A) any of the SoonerCare (Medicaid) programs when the client signs and completes the renewal, provides all

- required proof, and none of the information is questionable. When necessary, the worker contacts the recipient to complete the renewal;
- (B) passive renewals completed for SoonerCare (Medicaid) or SSP recipients;
- (C) Child Care Subsidy program renewals; or
- (D) food benefit households completing a:
  - (i) mid-certification renewal, at six- or 12-month intervals; or
  - (ii) SNAP certification renewal when all household members are elderly or disabled and there is no earned income in the household, per OAC 340:50-3-2(a)(2).

(f) **Eligibility determination.** The worker determines eligibility after the benefit renewal is signed, all required proof is provided, an interview, if required, is conducted, and all information evaluated.

- (1) The worker may:
  - (A) complete the benefit renewal without changes;
  - (B) complete the benefit renewal with changes; or
  - (C) close the benefit or benefits.
- (2) When benefits close and the recipient provides required proof by the last day of the closure month, benefits may be reopened.

[Source: Amended at 8 Ok Reg 3271, eff 7-15-91 (emergency); Amended at 9 Ok Reg 2815, eff 7-13-92 ; Amended at 10 Ok Reg 1147, eff 3-9-93 (emergency); Amended at 10 Ok Reg 1445, eff 4-26-93 ; Amended at 10 Ok Reg 2303, eff 6-11-93 ; Amended at 11 Ok Reg 4505, eff 7-22-94 through 7-14-95 (emergency); Amended at 13 Ok Reg 353, eff 12-11-95 ; Amended at 14 Ok Reg 592, eff 12-12-96 (emergency); Amended at 14 Ok Reg 1369, eff 5-12-97 ; Amended at 15 Ok Reg 179, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1644, eff 5-11-98 ; Amended at 18 Ok Reg 2096, eff 7-1-01 ; Amended at 19 Ok Reg 401, eff 12-1-01 (emergency); Amended at 19 Ok Reg 1784, eff 6-14-02 ; Amended at 24 Ok Reg 1042, eff 6-1-07 ; Amended at 25 Ok Reg 265, eff 11-1-07 (emergency); Amended at 25 Ok Reg 958, eff 6-1-08 ; Amended at 26 Ok Reg 1272, eff 6-1-09 ; Amended at 28 Ok Reg 880, eff 6-1-11 ; Amended at 29 Ok Reg 812, eff 7-1-12 ; Amended at 30 Ok Reg 686, eff 6-1-13 ; Amended at 34 Ok Reg 78, eff 10-1-16 (emergency); Amended at 34 Ok Reg 1544, eff 9-15-17 ; Amended at 38 Ok Reg 2283, eff 9-15-21 ; Amended at 39 Ok Reg 1786, eff 9-15-22 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:65-3-9. Variable conditions of eligibility**

The conditions of eligibility subject to change and review are:

- (1) income and resources;
- (2) state residence;
- (3) residence in a public institution;
- (4) blindness and disability in State Supplemental Payment (SSP) and incapacity in Temporary Assistance for Needy Families (TANF) are based on continuous receipt of a disability payment from the Social Security Administration or decision of the Oklahoma Health Care Authority, Level of Care Evaluation Unit;
- (5) concurrent receipt of assistance;
- (6) age;
- (7) living in the home of a relative for TANF per OAC 340:10-9-1;
- (8) school attendance for each minor child in TANF per OAC 340:10-13-1;
- (9) immunizations for each minor child receiving TANF per OAC 340:10-14-1;

- (10) deprivation of parental support for TANF per OAC 340:10-10-1 through 340:10-10-7;
- (11) participation in a TANF Work activity for TANF per OAC 340:10-2-1 through 340:10-2-8;
- (12) need for child care per OAC 340:40-7-7 and 340:40-7-8;
- (13) lawful status for non-citizens;
- (14) household composition;
- (15) pursuit of child support; and
- (16) mandatory screening of adult parents or needy caretakers who apply for or receive TANF cash assistance for the illegal use of a controlled substance or substances per OAC 340:10-4-1.

[Source: Amended at 10 Ok Reg 1445, eff 4-26-93 ; Amended at 15 Ok Reg 179, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1644, eff 5-11-98 ; Amended at 18 Ok Reg 2096, eff 7-1-01 ; Amended at 28 Ok Reg 880, eff 6-1-11 ; Amended at 30 Ok Reg 686, eff 6-1-13]

### **340:65-3-10. Procedure for periodic determination of eligibility [REVOKED]**

[Source: Amended at 10 Ok Reg 1445, eff 4-26-93 ; Amended at 10 Ok Reg 2173, eff 4-30-93 (emergency); Amended at 11 Ok Reg 1687, eff 5-12-94 ; Amended at 13 Ok Reg 469, eff 11-14-95 (emergency); Amended at 13 Ok Reg 2195, eff 6-14-96 ; Amended at 14 Ok Reg 3112, eff 7-1-97 through 7-14-98 (emergency)<sup>1</sup>; Amended at 16 Ok Reg 1019, eff 4-26-99 ; Revoked at 18 Ok Reg 2096, eff 7-1-01]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency amendatory action, the last effective permanent text is reinstated. Therefore, on 7-15-98 (after the 7-14-98 expiration of this emergency action), the text of 340:65-3-10 reverted back to the permanent text that became effective 6-14-96, as was last published in the 1996 Edition of the OAC, and remained as such until amended by permanent action on 4-26-99.*

### **340:65-3-11. Procedure for case changes - medical assistance and financial assistance [REVOKED]**

[Source: Amended at 8 Ok Reg 3271, eff 7-15-91 (emergency); Amended at 9 Ok Reg 2815, eff 7-13-92 ; Amended at 10 Ok Reg 1445, eff 4-26-93 ; Revoked at 18 Ok Reg 2096, eff 7-1-01]

### **340:65-3-12. Recording of redeterminations of eligibility - SSP and AFDC [REVOKED]**

[Source: Revoked at 18 Ok Reg 2096, eff 7-1-01]

### **340:65-3-13. Client's rights [REVOKED]**

[Source: Added at 9 Ok Reg 3561, eff 7-20-92 (emergency); Added at 10 Ok Reg 1445, eff 4-26-93 ; Revoked at 18 Ok Reg 2096, eff 7-1-01]

## **SUBCHAPTER 5. PROCEDURES RELATING TO CASE CHANGES**

### **PART 1. GENERAL PROVISIONS**

#### **340:65-5-1. Case changes**

(a) **Change reporting requirement for Temporary Assistance for Needy Families (TANF), State Supplemental Payment (SSP), and SoonerCare (Medicaid).** Recipients of TANF, SSP, and SoonerCare (Medicaid) for the aged, blind, and disabled must report any changes in circumstances that increases, reduces, or closes benefits within 10-calendar days.

(1) The worker:

(A) gives the client 10-calendar days to provide proof to verify the reported change

(B) acts on changes that increase, reduce, or close benefits within 10-calendar days of the date the change is reported and required proof is received, per (d) of this Section.

(2) Failure to report changes timely may result in a client error overpayment.

(3) Examples of changes the client must report include:

(A) household income;

(B) household resources;

(C) household composition;

(D) the client's address or phone number;

(E) legal alien status of non-citizens;

(F) insurance coverage, per Oklahoma Administrative Code (OAC) 317:35-5-43; and

(G) in addition, for TANF program:

(i) deprivation of parental support, per OAC 340:10-10-1 through 340:10-10-4;

(ii) when a TANF Work activity stops or starts, per OAC 340:10-2-1 through 340:10-2-8; and

(iii) when a child in the assistance unit stops attending school, per OAC 340:10-13-1.

(b) **Change reporting for the Supplemental Nutrition Assistance Program (SNAP).** SNAP has three household categories with different change reporting responsibilities; annual reporters, semi-annual reporters, and change reporters. Refer to OAC 340:50-9-5 for change reporting requirements.

(c) **Change reporting for the Child Care Subsidy Program.** Child Care Subsidy recipients must report income changes within 10-calendar days when the household's gross income exceeds federal income eligibility threshold for the household size, per OAC 340:40-9-2(a) and Oklahoma Human Services (OKDHS) Appendix C-4, Child Care Eligibility/Copayment Chart.

(d) **Changes in cash benefits.** When a change of circumstances occurs after certification that requires an increase or a reduction in the SSP or

TANF cash benefit amount, the worker processes the change to be effective the first day of the month following the next advance notice or non-advance notice deadline date, per OKDHS Appendix B-2, Deadlines for Case Actions. When the change:

- (1) increases the cash benefit, the worker makes the change by the next non-advance deadline date. The worker also determines if a supplement is due for the current month. When one is due, the worker issues the supplement within 10-calendar days of the date the change is reported and required proof is received; or
- (2) reduces the cash benefit, the worker makes the change within 10-calendar days of the date the change is reported and verified to be effective by the next advance notice deadline date. The worker also evaluates whether prior benefits were properly issued. When more benefits were issued than the household was entitled to, the worker completes an overpayment, per each program's overpayment rules.

(e) **Notices.** A computer-generated notice is sent to the client when the action taken increases, reduces, suspends, or closes benefits. A computer-generated notice is not sent when the action taken does not affect the benefit level.

(1) Advance notice is required when the action taken reduces, closes, or suspends benefits for a reason other than those listed per (2) of this subsection. Refer to OKDHS Appendix B-2 for advance notice deadline dates.

(2) When advance notice is not required, refer to OKDHS Appendix B-2 non-advance notice deadline dates. Advance notice is not required when the action taken does not suspend, close, or reduce benefits, or when:

- (A) all members included in the benefit die;
- (B) the TANF payee dies and there is not a relative available to serve as a new payee;
- (C) benefits are transferred from one assistance category to another without a resulting reduction or interruption in benefits;
- (D) care is approved in a skilled nursing facility or an intermediate nursing care facility that requires closure of the person's SSP benefit or the SoonerCare (Medicaid) Qualifying Individuals - group 1 benefit;
- (E) the household moves out-of-state;
- (F) an automatic increase in income occurs because of federal legislation, such as a cost-of-living increase to all Social Security, Supplemental Security Income, Railroad Retirement, or Veterans' benefits beneficiaries;
- (G) the client is admitted to a public institution where his or her needs are fully supplied;
- (H) the client provides a signed, written statement:
  - (i) stating he or she no longer chooses to receive assistance; or
  - (ii) requesting benefit closure or reduction to avoid or repay an overpayment;

(I) the client's whereabouts are unknown. This may occur when the post office returns the client's OKDHS mail and indicates no known forwarding address. SNAP and Child Care Subsidy benefits are not closed for this reason. Refer to OAC 317:35-5-67 to review the SoonerCare (Medicaid) return mail rule;

(J) a TANF child is removed from the home because of a judicial determination or because the legal guardian voluntarily placed the child in foster care for more than 30-calendar days;

(K) a change occurs in federal or state law;

(L) SSP benefits must be reduced to comply with federal law pertaining to maintenance of effort or a state mandate; or

(M) the client requests a reduction in or closure of the child care benefit or a change in child care provider for the Child Care Subsidy program, per OAC 340:40-9-2 and 340:40-9-3.

(f) **Closing benefits.** The worker closes a Child Care Subsidy, SoonerCare (Medicaid), SSP, SNAP, or TANF benefit only at the household's request or after ineligibility is established, per each program's eligibility rules.

(g) **Reinstating or reopening benefits.** Within 30-calendar days of notice issuance, the client may request reduced benefits be reinstated or closed benefits be reopened at the previous benefit level due to an incorrect action or a change in circumstances.

(1) When benefits were reduced and the worker determines the client remains eligible at:

(A) the previous benefit level, the worker restores benefits to the previous benefit level for all Adult and Family Services (AFS) programs;

(B) an increased benefit level, benefits are increased based on specific program rules; or

(C) a reduced level than the last action taken, the worker reduces benefits further:

(i) effective the next advance notice deadline date for TANF, SSP, and SoonerCare (Medicaid);

(ii) when the renewal is due for Child Care Subsidy and SNAP. When the renewal is not due, benefits are:

(I) not reduced for Child Care Subsidy, per OAC 340:40-9-2(a); or

(II) reduced in limited circumstances for SNAP. Refer to OAC 340:50-9-5 for appropriate circumstances.

(2) For TANF, SSP, and SoonerCare (Medicaid), when benefits were closed or suspended and the client remains eligible, but at a reduced benefit level, benefits are reopened using current eligibility information.

(3) When Child Care Subsidy benefits are reopened and the renewal is not due, benefits are not reduced below the benefit

level at closure. Child care benefits may only be reduced at renewal, per OAC 340:40-9-2(a).

(4) When SNAP benefits are reopened and the benefit renewal is not due, benefits may only be reduced in limited circumstances. Refer to OAC 340:50-9-5 for appropriate circumstances.

(h) **Fair hearing information.** When the client requests a fair hearing within 90-calendar days of the date action is taken for SNAP, or 30-calendar days for all other AFS programs, the worker follows fair hearing procedures, per OAC 340:2-5.

(1) When the client requests a fair hearing within 10-calendar days following the notice issuance date and requests, pending the hearing's outcome, that benefits be continued at the same benefit level as authorized immediately prior to the adverse action notice, the worker reopens or reinstates benefits to the previous benefit level.

(A) For SNAP, the client is not required to request benefits be continued at the same level when he or she requests a fair hearing within 10-calendar days. Benefits are continued at the previous level unless the client waives benefit continuation.

(B) For all AFS programs, the worker explains to the client when benefits are continued at the previous level and the appeal is not decided in the client's favor, he or she is expected to repay the benefits.

(C) Benefits remain open at the previous level unless another change occurs before a hearing decision is made that requires benefits be reduced or closed.

(2) When the client does not request the fair hearing within 10-calendar days of the notice date, the worker does not restore benefits unless the client provides information verifying the client remains eligible at the previous benefit level, the worker determines an incorrect action was taken, or the hearing is decided in the client's favor.

(3) Per OAC 340:2-5, the OKDHS Legal Services Appeals Unit makes a decision regarding the fair hearing and sends a decision letter to the client and the OKDHS office.

(A) The worker is responsible for taking the action needed to carry out the hearing decision and, when appropriate, sending an overpayment referral to the AFS Benefit Integrity Unit.

(B) When benefits were reinstated or reopened and the hearing decision is not in the client's favor, the worker reduces or closes benefits effective the first of the month following the month the final hearing decision is reached.

[Source: Amended at 10 Ok Reg 4465, eff 8-5-93 (emergency); Amended at 11 Ok Reg 1687, eff 5-12-94 ; Amended at 18 Ok Reg 2096, eff 7-1-01 ; Amended at 23 Ok Reg 1907, eff 7-1-06 ; Amended at 28 Ok Reg 880, eff 6-1-11 ; Amended at 29 Ok Reg 812, eff 7-1-12 ; Amended at 30 Ok Reg 686, eff 6-1-13 ; Amended at 35 Ok Reg 48, eff 10-1-17 (emergency); Amended at 35 Ok Reg 1688, eff 9-17-18 ; Amended at 38 Ok Reg 2283, eff 9-15-21 ; Amended at 39 Ok Reg 1786, eff 9-15-22]



### **340:65-5-2. Change of cash benefits [REVOKED]**

[Source: Amended at 8 Ok Reg 3471, eff 7-31-91 (emergency); Amended at 9 Ok Reg 2747, eff 7-13-92 ; Amended at 10 Ok Reg 4465, eff 8-5-93 (emergency); Amended at 11 Ok Reg 1687, eff 5-12-94 ; Amended at 18 Ok Reg 2096, eff 7-1-01 ; Amended at 26 Ok Reg 1272, eff 6-1-09 ; Revoked at 39 Ok Reg 1786, eff 9-15-22]

### **340:65-5-3. Benefit suspension and resolution**

(a) State Supplemental Payment (SSP) and SoonerCare (Medicaid) benefits may be suspended when the Social Security Administration (SSA) suspends the recipient's Supplemental Security Income (SSI) until the SSI benefit is reinstated or closed.

(b) Sooner Care (Medicaid) may be suspended when:

- (1) SSA suspends the recipient's SSI until the SSI benefit is reinstated or closed;
- (2) the recipient is incarcerated, for the duration of the incarceration period, per Oklahoma Administrative Code (OAC) 317:35-6-45; or
- (3) the Oklahoma Health Care Authority initiates an administrative sanction until the sanction is removed, per OAC 317:35-13-7; or
- (4) Form 08TA018E, Continued Medical Benefit Reply Form, is not received timely for households who are eligible for a continued medical benefit (CMB) following a Temporary Assistance for Needy Families benefit closure due to earnings. When the worker does not reinstate CMB by the suspension month's advance notice deadline, per OKDHS Appendix B-2, Deadlines for Case Actions, CMB automatically closes effective the next month, per OAC 340:10-3-75.

(c) Following suspension, when the recipient is determined:

- (1) eligible, the worker reinstates the benefit effective the month the benefit was suspended;
- (2) eligible for the month following the suspension month, the worker recertifies the benefit effective the next month; or
- (3) ineligible for the benefit, the worker closes the benefit effective the next month.

[Source: Amended at 10 Ok Reg 4465, eff 8-5-93 (emergency); Amended at 11 Ok Reg 1687, eff 5-12-94 ; Amended at 18 Ok Reg 2096, eff 7-1-01 ; Amended at 26 Ok Reg 1272, eff 6-1-09 ; Amended at 28 Ok Reg 880, eff 6-1-11 ; Amended at 39 Ok Reg 1786, eff 9-15-22]

### **340:65-5-4. Resolution of suspensions [REVOKED]**

[Source: Amended at 10 Ok Reg 4465, eff 8-5-93 (emergency); Amended at 11 Ok Reg 1687, eff 5-12-94 ; Amended at 18 Ok Reg 2096, eff 7-1-01 ; Revoked at 39 Ok Reg 1786, eff 9-15-22]

### **340:65-5-5. Termination of benefit [REVOKED]**

[Source: Amended at 10 Ok Reg 4465, eff 8-5-93 (emergency); Amended at 11 Ok Reg 1687, eff 5-12-94 ; Amended at 18 Ok Reg 2096, eff 7-1-01 ; Revoked at 39 Ok Reg 1786, eff 9-15-22]

### **340:65-5-6. Administrative action reconsideration**

(a) **Administrative action reconsideration.** An administrative action reconsideration is required when Temporary Assistance for Needy Families (TANF) or State Supplemental Payment (SSP) benefits are denied or closed in error or the benefit amount received by the client was incorrect. The worker reconsiders an administrative action when:

- (1) computer or procedure issues prevents timely action;
- (2) policy and procedures were not administered correctly; or
- (3) new or additional information is received that shows:
  - (A) the applicant is eligible for benefits within 30-calendar days of the application denial date;
  - (B) the recipient is eligible for benefits within 30-calendar days of the closure effective date; or
  - (C) recipient was underpaid.

(b) **Administrative action decision.** When the worker reconsiders a TANF or SSP:

- (1) closure and finds the benefit was closed in error, the worker reopens the benefit for the current month and any prior months, when applicable. The worker issues a retroactive payment when the benefit is reopened farther back than the immediate prior month;
- (2) application denial and finds the application was denied in error, the worker certifies the application for the time period the applicant is determined eligible from the application date. The worker issues a retroactive payment to certify the applicant for any months farther back than the immediate prior month;
- (3) benefit reduction and finds that the benefit was reduced in error, the worker issues a supplement for each month the benefit was reduced in error; or
- (4) benefit action and finds that the client received a higher benefit than he or she was eligible, the worker completes an overpayment referral for the overpaid months, per Oklahoma Administrative Code 340:65-9.

[Source: Amended at 10 Ok Reg 4465, eff 8-5-93 (emergency); Amended at 11 Ok Reg 1687, eff 5-12-94 ; Amended at 13 Ok Reg 313, eff 5-18-95 (emergency); Amended at 13 Ok Reg 2195, eff 6-14-96 ; Amended at 18 Ok Reg 2096, eff 7-1-01 ; Amended at 20 Ok Reg 918, eff 6-1-03 ; Amended at 24 Ok Reg 1042, eff 6-1-07 ; Amended at 39 Ok Reg 1786, eff 9-15-22]

## **PART 3. PROCEDURES FOR HANDLING WARRANTS IN SPECIAL CIRCUMSTANCES [REVOKED]**

### **340:65-5-15. Non-receipt of benefits issued by warrant [REVOKED]**

[Source: Amended at 10 Ok Reg 4465, eff 8-5-93 (emergency); Amended at 11 Ok Reg 1687, eff 5-12-94 ; Amended at 15 Ok Reg 758, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1644, eff 5-11-98 ; Amended at 18 Ok Reg 2096, eff 7-1-01 ; Amended at 25 Ok Reg 958, eff 6-1-08 ; Revoked at 32 Ok Reg 1896, eff 9-15-15]

### **340:65-5-16. Warrant issued after recipient's death [REVOKED]**

[Source: Amended at 10 Ok Reg 4465, eff 8-5-93 (emergency); Amended at 11 Ok Reg 1687, eff 5-12-94 ; Amended at 18 Ok Reg 2096, eff 7-1-01 ; Amended at 25 Ok Reg 958, eff 6-1-08 ; Revoked at 32 Ok Reg 1896, eff 9-15-15]

### **340:65-5-17. Warrant cashed in error [REVOKED]**

[Source: Amended at 10 Ok Reg 4465, eff 8-5-93 (emergency); Amended at 11 Ok Reg 1687, eff 5-12-94 ; Amended at 18 Ok Reg 2096, eff 7-1-01 ; Amended at 25 Ok Reg 958, eff 6-1-08 ; Revoked at 32 Ok Reg 1896, eff 9-15-15]

### **340:65-5-18. Warrant returned as undeliverable [REVOKED]**

[Source: Amended at 10 Ok Reg 4465, eff 8-5-93 (emergency); Amended at 11 Ok Reg 1687, eff 5-12-94 ; Amended at 18 Ok Reg 2096, eff 7-1-01 ; Amended at 25 Ok Reg 958, eff 6-1-08 ; Revoked at 32 Ok Reg 1896, eff 9-15-15]

### **340:65-5-19. Warrants canceled by statute of limitation [REVOKED]**

[Source: Amended at 10 Ok Reg 4465, eff 8-5-93 (emergency); Amended at 11 Ok Reg 1687, eff 5-12-94 ; Amended at 15 Ok Reg 758, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1644, eff 5-11-98 ; Amended at 18 Ok Reg 2096, eff 7-1-01 ; Amended at 25 Ok Reg 958, eff 6-1-08 ; Revoked at 32 Ok Reg 1896, eff 9-15-15]

### **340:65-5-20. Payment to estate of deceased recipient [REVOKED]**

[Source: Amended at 10 Ok Reg 4465, eff 8-5-93 (emergency); Amended at 11 Ok Reg 1687, eff 5-12-94 ; Amended at 18 Ok Reg 2096, eff 7-1-01 ; Amended at 25 Ok Reg 958, eff 6-1-08 ; Revoked at 32 Ok Reg 1896, eff 9-15-15]

### **340:65-5-21. Payment for Temporary Assistance for Needy Families (TANF) when the payee is no longer available to endorse the warrant [REVOKED]**

[Source: Amended at 10 Ok Reg 4465, eff 8-5-93 (emergency); Amended at 11 Ok Reg 1687, eff 5-12-94 ; Amended at 18 Ok Reg 2096, eff 7-1-01 ; Revoked at 25 Ok Reg 958, eff 6-1-08]

## **PART 5. OVERPAYMENTS [REVOKED]**

### **340:65-5-35. Definition [REVOKED]**

[Source: Amended at 10 Ok Reg 4465, eff 8-5-93 (emergency); Amended at 11 Ok Reg 1687, eff 5-12-94 ; Revoked at 20 Ok Reg 2059, eff 7-1-03]

### **340:65-5-36. Inadvertent client error [REVOKED]**

[Source: Amended at 10 Ok Reg 4465, eff 8-5-93 (emergency); Amended at 11 Ok Reg 1687, eff 5-12-94 ; Revoked at 20 Ok Reg 2059, eff 7-1-03]

### **340:65-5-37. Willful misrepresentation [REVOKED]**

[Source: Amended at 10 Ok Reg 4465, eff 8-5-93 (emergency); Amended at 11 Ok Reg 1687, eff 5-12-94 ; Revoked at 20 Ok Reg 2059, eff 7-1-03]

### **340:65-5-38. Fraud [REVOKED]**

[Source: Amended at 10 Ok Reg 4465, eff 8-5-93 (emergency); Amended at 11 Ok Reg 1687, eff 5-12-94 ; Amended at 14 Ok Reg 968, eff 2-1-97 (emergency); Amended at 14 Ok Reg 1369, eff 5-12-97 ; Amended at 15 Ok Reg 179, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1644, eff 5-11-98 ; Revoked at 20 Ok Reg 2059, eff 7-1-03]

### **340:65-5-39. Agency error [REVOKED]**

[Source: Amended at 10 Ok Reg 4465, eff 8-5-93 (emergency); Amended at 11 Ok Reg 1687, eff 5-12-94 ; Revoked at 20 Ok Reg 2059, eff 7-1-03]

### **340:65-5-40. Department's responsibility for diligence [REVOKED]**

[Source: Amended at 10 Ok Reg 4465, eff 8-5-93 (emergency); Amended at 11 Ok Reg 1687, eff 5-12-94 ; Revoked at 20 Ok Reg 2059, eff 7-1-03]

### **340:65-5-41. Client reporting responsibilities [REVOKED]**

[Source: Amended at 10 Ok Reg 4465, eff 8-5-93 (emergency); Amended at 11 Ok Reg 1687, eff 5-12-94 ; Revoked at 20 Ok Reg 2059, eff 7-1-03]

### **340:65-5-42. Overpayment recovery [REVOKED]**

[Source: Amended at 10 Ok Reg 4465, eff 8-5-93 (emergency); Amended at 11 Ok Reg 1687, eff 5-12-94 ; Revoked at 20 Ok Reg 2059, eff 7-1-03]

### **340:65-5-43. Overpayments referred to the Office of Inspector General (OIG) [REVOKED]**

[Source: Amended at 10 Ok Reg 4465, eff 8-5-93 (emergency); Amended at 11 Ok Reg 1687, eff 5-12-94 ; Revoked at 20 Ok Reg 2059, eff 7-1-03]

### **340:65-5-44. Special procedures for overpayments classified as willful misrepresentation [REVOKED]**

[Source: Amended at 10 Ok Reg 4465, eff 8-5-93 (emergency); Amended at 11 Ok Reg 1687, eff 5-12-94 ; Revoked at 20 Ok Reg 2059, eff 7-1-03]

## **PART 7. GUARDIANSHIPS, CONSERVATORSHIPS, AND SUBSTITUTE PAYEES**

### **340:65-5-60. Circumstances when a guardian or conservator may be needed**

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

(1) **"Incapacitated adult"** means, per Section 1-111 of Title 30 of the Oklahoma Statutes (30 O.S. § 1-111), a person 18 years of age or older:

(A) who is impaired by reason of:

- (i) mental illness as defined, per 43A O.S. § 1-103;
- (ii) intellectual or developmental disability as defined, per 10 O.S. § 1430.2;
- (iii) physical illness or disability;
- (iv) drug or alcohol dependency as defined, per 43A O.S. § 3-403; or
- (v) another similar cause, and

(B) whose ability to receive and evaluate information effectively or to make and to communicate responsible decisions is impaired to such an extent the person:

- (i) lacks the capacity to meet essential requirements for his or her physical health or safety, or
- (ii) is unable to manage his or her financial resources.

(2) **"Partially incapacitated person"** means, per 30 O.S. § 1-111, a person:

(A) whose impairment is such that without a limited guardian's assistance the person is unable to:

- (i) meet the essential requirements for his or her physical health or safety; or
- (ii) manage or engage in all of the activities necessary to effectively manage his or her financial resources; or

(B) who is considered to be legally competent in all areas not specified by a court in its dispositional or subsequent orders. The person retains all legal rights and abilities other than those expressly limited or curtailed in the orders.

(3) **"Natural guardian"** Parents are natural guardians of their minor child(ren) regardless of whether they live in the same household, unless a legal guardianship or custody transfer supersedes natural guardianship. Persons other than the parents may be considered natural guardians when they have, over a continuing period, had custody of the child(ren) and have held themselves responsible for care, support, and maintenance.

(4) **"Guardian"** means, per 30 O.S. § 1-111, a guardian may be general, limited, or special.

(A) A general guardian is a court appointed person who serves as the incapacitated person's guardian to ensure that the essential requirements for the person's health and safety are met, to manage the person's estate, or both.

(B) A limited guardian is a court appointed person who serves as the partially incapacitated person's guardian and

who is court authorized to exercise only certain guardianship powers over the person, his or her or estate or financial resources, or both.

(C) A special guardian is a court appointed person who exercises certain specified powers to alleviate a situation threatening serious impairment to the incapacitated or partially incapacitated person's health or safety, or a situation when the person's financial resources will be seriously damaged or dissipated unless immediate action is taken.

(5) **"Conservator"** means a conservator has the same powers and duties as a guardian or limited guardian of an incapacitated or partially incapacitated person's property, per 30 O.S. § 3-215. This includes the investment, management, sale or mortgage of the person's property and his or her debt payment. The conservator is not responsible for ensuring that the essential requirements for the incapacitated or partially incapacitated person's health and safety are met.

(6) **"Manage financial resources"** means to manage financial resources or the estate means those actions necessary to obtain, administer, and dispose of real property, business property, benefits and income, and to otherwise manage personal financial or business affairs, per 30 O.S. § 1-111.

(7) **"Meet the essential requirements for physical health or safety"** means to meet the essential requirements for physical health or safety means those actions necessary to provide the health care, food, shelter, clothing, personal hygiene and other care without which serious physical injury is more likely than not to occur, per 30 O.S. § 1-111.

(b) **When a guardian or conservator may be needed.** An applicant or recipient who meets the definition of an incapacitated or partially incapacitated adult, per (a) of this Section, may need the protection afforded by a guardian or conservator. When assistance is needed to select a guardian or conservator, a referral may be made to Adult Protective Services.

(1) For State Supplemental Payment (SSP) recipients who are:

(A) blind or 65 years of age and older, legal guardianship or conservatorship is the only method the SSP payment may be made to a person other than the recipient, per 56 O.S. § 172;

(B) under 65 years of age, OKDHS may make the SSP payment to the incapacitated or partially incapacitated person's legal guardian or conservator when needed for his or her protection adult; or

(C) under 16 years of age, SSP payment is made to a natural guardian, when available, per Oklahoma Administrative Code 340:15-1-6(c)(3) unless he or she is not competent to transact his or her own business or is otherwise unsuitable or legally disqualified to serve as the natural guardian, per 30 O.S. § 2-106. When the minor reaches 14 years of age, the minor may nominate his or

her own guardian, when court approved, per 30 O.S. § 2-103.

(2) For Temporary Assistance for Needy Families (TANF) benefits, when the child does not live with his or her parent(s), the relative payee who lives with the dependent child need not be appointed as guardian to receive benefits on the child's behalf. . When the eligible relative the child resides with has a guardian or conservator, the payment is made to the eligible relative's guardian.

(c) **Guardian or conservator responsibilities.** The guardian or conservator is responsible for managing the applicant or recipient's financial matters. This includes signing the SSP or TANF application or renewal and any other necessary forms and providing required verification to determine the person's SSP or TANF eligibility, per 56 O.S. § 166. When a guardian or conservator is appointed after an application is made, but before the application is approved or denied, the guardian or conservator signs and completes a new application using the same application date as the original application.

(d) **Court costs.** The court clerk and the associate or district judge may not charge court costs in cases involving the guardianship of persons who are applicants for or who are receiving Social Security benefits or assistance or veterans disability compensation of pension, per 56 O.S. §192.

[Source: Amended at 10 Ok Reg 4465, eff 8-5-93 (emergency); Amended at 11 Ok Reg 1687, eff 5-12-94 ; Amended at 18 Ok Reg 2096, eff 7-1-01 ; Amended at 39 Ok Reg 1786, eff 9-15-22]

### **340:65-5-61. Responsibilities of guardians or conservators [REVOKED]**

[Source: Amended at 10 Ok Reg 4465, eff 8-5-93 (emergency); Amended at 11 Ok Reg 1687, eff 5-12-94 ; Amended at 18 Ok Reg 2096, eff 7-1-01 ; Revoked at 39 Ok Reg 1786, eff 9-15-22]

### **340:65-5-62. Change in name [REVOKED]**

[Source: Amended at 10 Ok Reg 4465, eff 8-5-93 (emergency); Amended at 11 Ok Reg 1687, eff 5-12-94 ; Amended at 18 Ok Reg 2096, eff 7-1-01 ; Revoked at 39 Ok Reg 1786, eff 9-15-22]

### **340:65-5-63. Natural guardianships [REVOKED]**

[Source: Amended at 10 Ok Reg 4465, eff 8-5-93 (emergency); Amended at 11 Ok Reg 1687, eff 5-12-94 ; Amended at 18 Ok Reg 2096, eff 7-1-01 ; Revoked at 39 Ok Reg 1786, eff 9-15-22]

### **340:65-5-64. Legal guardianships [REVOKED]**

[Source: Amended at 18 Ok Reg 2096, eff 7-1-01 ; Amended at 19 Ok Reg 1784, eff 6-14-02 ; Revoked at 39 Ok Reg 1786, eff 9-15-22]

### **340:65-5-65. Conservatorships [REVOKED]**

[Source: Amended at 10 Ok Reg 4465, eff 8-5-93 (emergency); Amended at 11 Ok Reg 1687, eff 5-12-94 ; Amended at 18 Ok Reg 2096, eff 7-1-01 ; Revoked at 39 Ok Reg 1786, eff 9-15-22]

### **340:65-5-66. Substitute payee for the TANF Program [REVOKED]**

[Source: Added at 25 Ok Reg 958, eff 6-1-08 ; Revoked at 39 Ok Reg 1786, eff 9-15-22]

## **PART 9. PROTECTIVE PAYMENTS IN TANF [REVOKED]**

### **340:65-5-80. Purpose and conditions [REVOKED]**

[Source: Amended at 10 Ok Reg 4465, eff 8-5-93 (emergency); Amended at 11 Ok Reg 1687, eff 5-12-94 ; Amended at 15 Ok Reg 179, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1644, eff 5-11-98 ; Amended at 18 Ok Reg 2096, eff 7-1-01 ; Revoked at 25 Ok Reg 958, eff 6-1-08]

### **340:65-5-81. Money mismanagement [REVOKED]**

[Source: Amended at 10 Ok Reg 4465, eff 8-5-93 (emergency); Amended at 11 Ok Reg 1687, eff 5-12-94 ; Amended at 12 Ok Reg 391, eff 12-1-94 through 7-14-95 (emergency); Amended at 13 Ok Reg 1105, eff 10-5-95 (emergency); Amended at 13 Ok Reg 353, eff 12-11-95 ; Amended at 13 Ok Reg 2195, eff 6-14-96 ; Amended at 18 Ok Reg 2096, eff 7-1-01 ; Revoked at 25 Ok Reg 958, eff 6-1-08]

### **340:65-5-82. Refusal to participate in employment and training [REVOKED]**

[Source: Amended at 10 Ok Reg 4465, eff 8-5-93 (emergency); Amended at 11 Ok Reg 1687, eff 5-12-94 ; Revoked at 15 Ok Reg 179, eff 11-1-97 (emergency); Revoked at 15 Ok Reg 1644, eff 5-11-98]

### **340:65-5-83. Refusal to assign support rights to the Department [REVOKED]**

[Source: Amended at 10 Ok Reg 4465, eff 8-5-93 (emergency); Amended at 11 Ok Reg 1687, eff 5-12-94 ; Amended at 13 Ok Reg 469, eff 11-14-95 (emergency); Amended at 13 Ok Reg 2195, eff 6-14-96 ; Revoked at 15 Ok Reg 179, eff 11-1-97 (emergency); Revoked at 15 Ok Reg 1644, eff 5-11-98]

### **340:65-5-84. Failure to cooperate in obtaining child support [REVOKED]**

[Source: Amended at 10 Ok Reg 4465, eff 8-5-93 (emergency); Amended at 11 Ok Reg 1687, eff 5-12-94 ; Revoked at 15 Ok Reg 179, eff 11-1-97 (emergency); Revoked at 15 Ok Reg 1644, eff 5-11-98]

### **340:65-5-85. Selection and responsibilities of the protective payee [REVOKED]**

[Source: Amended at 10 Ok Reg 4465, eff 8-5-93 (emergency); Amended at 11 Ok Reg 1687, eff 5-12-94 ; Amended at 18 Ok Reg 2096, eff 7-1-01 ; Revoked at 25 Ok Reg 958, eff 6-1-08]

### **340:65-5-86. AFDC payment in the name of the payee [REVOKED]**

[Source: Amended at 10 Ok Reg 4465, eff 8-5-93 (emergency); Amended at 11 Ok Reg 1687, eff 5-12-94 ; Revoked at 18 Ok Reg 2096, eff 7-1-01]



### **340:65-5-87. Right to a fair hearing [REVOKED]**

[Source: Amended at 18 Ok Reg 2096, eff 7-1-01 ; Revoked at 25 Ok Reg 958, eff 6-1-08]

## **SUBCHAPTER 7. CLIENT APPOINTMENT SYSTEM PROGRAM (CLASP) FOOD STAMP PROGRAM [REVOKED]**

### **340:65-7-1. Goal [REVOKED]**

[Source: Amended at 10 Ok Reg 4465, eff 8-5-93 (emergency); Amended at 11 Ok Reg 1687, eff 5-12-94 ; Revoked at 18 Ok Reg 2096, eff 7-1-01]

### **340:65-7-2. General office procedures [REVOKED]**

[Source: Amended at 10 Ok Reg 4465, eff 8-5-93 (emergency); Amended at 11 Ok Reg 1687, eff 5-12-94 ; Revoked at 18 Ok Reg 2096, eff 7-1-01]

### **340:65-7-3. Error reduction activities - Quality Control (QC) [REVOKED]**

[Source: Amended at 10 Ok Reg 4465, eff 8-5-93 (emergency); Amended at 11 Ok Reg 1687, eff 5-12-94 ; Revoked at 18 Ok Reg 2096, eff 7-1-01]

### **340:65-7-4. Policy accessibility [REVOKED]**

[Source: Amended at 10 Ok Reg 4465, eff 8-5-93 (emergency); Amended at 11 Ok Reg 1687, eff 5-12-94 ; Revoked at 18 Ok Reg 2096, eff 7-1-01]

### **340:65-7-5. Case investigations [REVOKED]**

[Source: Amended at 10 Ok Reg 4465, eff 8-5-93 (emergency); Amended at 11 Ok Reg 1687, eff 5-12-94 ; Revoked at 18 Ok Reg 2096, eff 7-1-01]

### **340:65-7-6. CLASP evaluation [REVOKED]**

[Source: Amended at 10 Ok Reg 4465, eff 8-5-93 (emergency); Amended at 11 Ok Reg 1687, eff 5-12-94 ; Revoked at 18 Ok Reg 2096, eff 7-1-01]

## **SUBCHAPTER 9. OVERPAYMENT CLAIMS AND FRAUD IN TEMPORARY ASSISTANCE FOR NEEDY FAMILIES AND STATE SUPPLEMENTAL PAYMENT BENEFITS**

### **340:65-9-1. Scope and applicability**

(a) **Scope and applicability.** The scope and applicability of overpayment procedures contained in this Subchapter apply to Temporary Assistance for Needy Families (TANF) and State Supplemental Payment (SSP)

recipients.

(b) **Overpayment claim definition.** An overpayment claim occurs when a household receives more benefits than it is entitled to receive. Overpayments may be classified as inadvertent household errors (IHE), agency error (AE), willful misrepresentation, intentional program violation, or fraud.

(c) **Overpayment referral.** When Oklahoma Human Services (OKDHS) staff suspects an overpayment occurred, he or she sends an overpayment referral to the Adult and Family Services (AFS) Benefit Integrity and Recovery (BIR) Unit for an overpayment determination and claim establishment.

(1) Reasons OKDHS staff may send an overpayment referral to the AFS BIR Unit for an overpayment determination include, but are not limited to, when the:

(A) household:

- (i) failed to provide OKDHS with correct or complete information;
- (ii) failed to report changes in its circumstances; or
- (iii) elected to receive benefits pending a fair hearing decision that subsequently found the family ineligible or eligible for fewer benefits;

(B) worker:

- (i) failed to take prompt action on a change reported by the household;
- (ii) incorrectly computed the household's income, deductions, or both; or
- (iii) incorrectly authorized benefit issuance to a household; or

(C) overpayment is discovered during an audit or benefit renewal.

(2) The worker includes in the overpayment referral, the circumstances leading to the overpayment, if the overpayment occurred because of household or agency error, and how he or she computed the overpayment amount. When applicable, the overpayment referral may cover up to six years prior to the date the worker discovers the over-issuance.

(A) For TANF, when an overpayment occurs because the client does not report earned income within 10-calendar days, per Oklahoma Administrative Code (OAC) 340:65-5-1, the worker calculates the overpayment based on the client's gross earned income without the earned income deduction, per OAC 340:10-3-33.

(B) For SSP, the client is allowed the earned income deduction, per OAC 317:35-5-42(d) even when the earned income is reported untimely.

(d) **Overpayment claim establishment.** AFS BIR Unit staff evaluates overpayment referrals, establishes overpayment claims, and refers overpayment claims to the OKDHS Office of the Inspector General (OIG) when appropriate, per OAC 340:65-9-2 and OAC 340:65-9-4. An overpayment claim is considered established on the date AFS BIR Unit staff sends the overpayment notice to the household.

- (1) When AFS BIR Unit staff determines an OIG referral is not appropriate, AFS BIR Unit staff:
  - (A) establishes the overpayment claim;
  - (B) classifies the overpayment claim as an IHE, AE, or willful misrepresentation, per OAC 340:65-9-2;
  - (C) sends the:
    - (i) Notification of Overpayment, Form 08OP011E, Repayment Agreement and, when appropriate, Form 08OP025E, Chart of Temporary Assistance for Needy Families and State Supplemental Payment Overpayments, to the debtor(s); and
    - (ii) Notification of Overpayment with supporting documentation to the OKDHS county office; and
  - (D) assigns overpayment recoupment, per OAC 340:65-9-6.
- (2) When the worker suspects fraudulent intent, but has insufficient information to complete an overpayment referral, he or she sends Form 19MP001E, Referral Form, to OIG.
  - (A) When OIG staff suspects an overpayment occurred, but a fraud determination is not needed, OIG staff sends the findings to the AFS BIR Unit to calculate and establish the claim.
  - (B) When OIG staff determines fraud occurred, OIG staff may:
    - (i) refer a TANF or SSP overpayment claim for a court decision regarding fraud, per OAC 340:65-9-4;
    - (ii) for TANF overpayment claims, make a referral to the Legal Services Appeals Unit for an administrative disqualification hearing instead of a court referral; or
    - (iii) for SSP, send the findings to the AFS BIR Unit calculate and establish the overpayment based on willful misrepresentation.
- (e) **Right to appeal.** When the household disagrees with the overpayment decision, the household may request a fair hearing within 30-calendar days of the date on the Notification of Overpayment. An OKDHS mailed item is presumed received on the second day mail is delivered following the date on the notice, per OAC 340:2-5-63.
- (f) **Case record retention.** OKDHS is mandated to retain case records containing overpayments for three years from the date:
  - (1) the overpayment debt is paid in full; or
  - (2) AFS BIR Unit staff determines the debt to be uncollectable. This may occur when the debtor(s) dies or files bankruptcy and discharges the debt.

[Source: Added at 20 Ok Reg 2059, eff 7-1-03 ; Amended at 25 Ok Reg 958, eff 6-1-08 ; Amended at 28 Ok Reg 880, eff 6-1-11 ; Amended at 35 Ok Reg 1688, eff 9-17-18 ; Amended at 39 Ok Reg 1786, eff 9-15-22]

## **340:65-9-2. Overpayments by classification**

**(a) Overpayments classified as inadvertent household error (IHE).**

Adult and Family Services (AFS) Benefit Integrity and Recovery (BIR) staff classifies a State Supplemental Payment (SSP) or Temporary Assistance for Needy Families (TANF) overpayment as IHE when intent to misrepresent cannot be established. Instances of IHE that may result in an overpayment claim include, but are not limited to, when the household:

- (1) failed to provide the Oklahoma Department of Human Services (DHS) with correct or complete information;
- (2) failed to report changes in household circumstances; or
- (3) elected to receive benefits pending a fair hearing decision and the fair hearing decision found the family ineligible or eligible for fewer benefits.

**(b) Overpayments classified as agency error (AE).**

AFS BIR staff classifies a SSP or TANF overpayment as an AE when DHS action or failure to take action causes the over-issuance. Instances of AE that may result in an overpayment include, but are not limited to, when:

- (1) AFS staff failed to take prompt action on a change reported by the household;
- (2) AFS staff incorrectly calculated the household's income or deductions, or otherwise issued an incorrect benefit amount or benefits to an ineligible household;
- (3) the computer system incorrectly applied benefits to a household during an overall update or because of other system problems; or
- (4) AFS staff incorrectly applied policy or procedures.

**(c) Overpayments classified as willful misrepresentation.** AFS BIR staff classifies a SSP or TANF overpayment as willful misrepresentation when the household deliberately conceals information that, had the household reported the information, would have initiated case closure or benefit reduction. Willful misrepresentation may be verbal or written and may include under reporting the amount of income or resources or other pertinent information. Debts classified as willful misrepresentation may change in the event they are referred for judicial prosecution or an administrative disqualification hearing (ADH).

- (1) When non-exempt resources are known and a debt is classified as willful misrepresentation, but not referred to the Office of Inspector General (OIG), DHS staff requests the client voluntarily sign Form 08OP002E, Affidavit of Acknowledgment of Indebtedness. Refusal to sign Form 08OP002E does not affect the client's eligibility.
- (2) When the client voluntarily signs Form 08OP002E and owns real property other than the declared home property, the worker files the signed form with the county clerk of the county in which the real property is located. Filing Form 08OP002E with the county clerk places a lien on the real property.

**(d) TANF overpayments classified as intentional program violation (IPV).** A TANF debt classified as IHE, AE, or willful misrepresentation may change to IPV following an ADH decision, signing Form 08OP016E, Administrative Disqualification Hearing Waiver, or by court decision.

(e) **SSP overpayments classified as fraud.** A SSP debt classified as IHE, AE, or willful misrepresentation may change to fraud only after a judicial court decision. Refer to Oklahoma Administrative Code 340:65-9-4 for additional fraud information.

[Source: Added at 20 Ok Reg 2059, eff 7-1-03 ; Amended at 25 Ok Reg 958, eff 6-1-08 ; Amended at 28 Ok Reg 880, eff 6-1-11 ; Amended at 35 Ok Reg 1688, eff 9-17-18]

### **340:65-9-3. Procedures for referring overpayments [REVOKED]**

[Source: Added at 20 Ok Reg 2059, eff 7-1-03 ; Revoked at 25 Ok Reg 958, eff 6-1-08]

### **340:65-9-4. Fraud**

(a) **Fraud definition.** Per Section 185 of Title 56 of the Oklahoma Statutes(56 O.S. § 185), fraud in obtaining public assistance occurs when a person:

(1) obtains or attempts to obtain, or aids, abets, or assists any person to obtain, by means of a false statement or representation, by false impersonation, by a fictitious transfer, conveyance or encumbrance of property or income, by a knowing and willful failure to report to the Oklahoma Department of Human Services (DHS) income, personal property, real property, household members, or other material eligibility factors at the time of application or during the receipt of assistance, or by other fraudulent device, assistance to which an applicant is not entitled or assistance greater than that to which an applicant is justly entitled; or

(2) by sale, barter, purchase, theft, acquisition, possession or use of any electronic benefits or debit card or any other device authorizing participation in the Temporary Assistance for Needy Families (TANF) or other DHS program, knowingly obtains, aids, abets, or assists any person to obtain or attempt to obtain assistance to which a person is not entitled.

(b) **Fraud penalty.** The penalty for fraud is set forth in 56 O.S. § 185. Per statutes, only courts can determine guilt and impose a legal penalty for fraud.

(c) **Office of Inspector General (OIG) referral by AFS BIR staff.** Adult and Family Services (AFS) Benefit Integrity and Recovery (BIR) staff may refer household error overpayments of \$500 or more to OIG to determine if a referral for judicial court action is warranted.

(d) **OIG referrals by workers.** Workers use Form 19MP001E, Referral Form, to make an investigative referral to OIG when they suspect fraudulent intent, but there is insufficient information to calculate an overpayment or the referral involves a state employee and/or his or her relatives.

(e) **OIG findings.** OIG staff submits findings to AFS BIR for final overpayment calculation and establishment of the overpayment. When OIG returns the overpayment to AFS BIR and a fraud determination is not made per (f) or (g) of this Section, the AFS BIR staff proceeds to collect the debt.

**(f) Fraud determination for State Supplemental Payment (SSP) overpayments.** For SSP, a fraud determination is made when the local, state, or federal court official agrees to pursue judicial prosecution and the court finds the debtor(s) guilty of fraud. The debtor(s) is not subject to disqualification when the court determines fraud occurred; however, he or she may be subject to some or all of the fraud penalties in (b) of this Section.

**(g) Intentional program violation (IPV) determination for TANF overpayments.** For TANF, an IPV determination is made, when:

- (1) the local, state, or federal court official agrees to pursue judicial prosecution and the court finds the debtor(s) guilty of fraud. When the court decision is a deferment, the prosecutor asks the accused person to sign Form 19MP002E, Disqualification Consent Agreement;
- (2) Legal Services Appeals Unit staff holds an administrative disqualification hearing and determines intentional program violation; or
- (3) the debtor(s) signs Form 08OP016E, Administrative Disqualification Hearing Waiver.

**(h) TANF program penalty for overpayments classified as an IPV.** Debtor(s) with TANF overpayments classified as an IPV may be subject to a 25 percent payment standard reduction penalty per Oklahoma Administrative Code 340:10-3-57(g) in addition to the requirement to repay the overpayment.

- (1) AFS BIR staff applies the 25 percent payment standard reduction penalty period for:
  - (A) 12 months for the first violation;
  - (B) 24 months for the second violation; and
  - (C) permanently for the third violation.
- (2) AFS BIR mails the Program Penalty/Disqualification Notice to the debtor(s). The notice informs the debtor(s) of the:
  - (A) IPV determination;
  - (B) 25 percent payment standard reduction penalty; and
  - (C) date the penalty period starts and ends.
- (3) The 25 percent payment standard reduction penalty begins on the date shown on the notice. Once the payment standard reduction penalty begins, it runs continuously until the end of the period imposed regardless of whether the debtor(s) receives TANF benefits during the penalty period.

**(i) When a court finds the debtor(s) guilty of fraud.** When the court finds the debtor(s) guilty of SSP or TANF fraud, the court may order a fine, restitution, imprisonment, or any combination of the three per (b) of this Section. DHS abides by the court decision.

- (1) Court-ordered restitution does not relieve the debtor(s) of any overpayment amount in excess of the judgment.
- (2) When the court stipulates a repayment plan, DHS does not renegotiate the repayment plan with the debtor(s) unless the debtor(s) sentence expired and the court has no action pending against the debtor(s).
- (3) When the debtor(s) defaults on court-ordered restitution, the court may accelerate the sentence, which may include the

debtor(s) serving a prison term. Serving a prison term does not satisfy the debtor(s)' responsibility to repay the monetary portion of the debt. At that point the debt may be subject to civil prosecution.

(4) The fact that a client is making restitution payments does not relieve the client of the obligation to sign Form 08OP002E, Affidavit of Acknowledgment of Indebtedness. Home property and personal property are exempt from this process. A lien may also be filed on declared real property when Form 08OP002E indicates property is owned.

[Source: Added at 20 Ok Reg 2059, eff 7-1-03 ; Amended at 25 Ok Reg 958, eff 6-1-08 ; Amended at 28 Ok Reg 880, eff 6-1-11 ; Amended at 35 Ok Reg 1688, eff 9-17-18]

### **340:65-9-5. Right to appeal [REVOKED]**

[Source: Added at 20 Ok Reg 2059, eff 7-1-03 ; Amended at 25 Ok Reg 958, eff 6-1-08 ; Amended at 28 Ok Reg 880, eff 6-1-11 ; Amended at 35 Ok Reg 1688, eff 9-17-18 ; Revoked at 39 Ok Reg 1786, eff 9-15-22]

### **340:65-9-6. Development of repayment**

(a) **Repayment of established overpayments.** Households must make repayment on all established overpayments regardless of the reason for the overpayment.

(1) Adult and Family Services (AFS) Benefit Integrity and Recovery (BIR) staff initiates collection efforts against all adult household members included in the benefit at the time the overpayment occurred except members who filed bankruptcy or are deceased.

(2) Collection may be received from more than one household for the same claim when responsible debtors separate. AFS BIR staff sends the debtor(s) the Notification of Overpayment that explains the acceptable methods of repayment for the debt classification.

(3) When the debtor(s) requests a fair hearing regarding the overpayment within 30-calendar days of the Notification of Overpayment issuance date, collection is suspended until after the hearing decision is made.

(b) **Repayment options.** The debtor(s) may repay an overpayment:

(1) in one lump sum by personal check, money order, or cashier's check;

(2) in regular monthly installments by personal check, money order, or cashier's check; or

(3) by benefit reduction, also known as recoupment. When the debtor(s) continues to receive State Supplemental Payment or Temporary Assistance for Needy Families (TANF), AFS BIR staff recoups the debtor(s)' monthly benefit by 10 percent, rounded up to the nearest dollar, for all overpayment classifications. When a TANF overpayment is due to an intentional program violation, in addition to recoupment, AFS BIR staff also applies a 25 percent, rounded up to the nearest dollar, payment standard reduction penalty per Oklahoma Administrative Code 340:10-3-57(g).

(c) **Monthly statement.** When the debtor(s) does not repay the overpayment in full, a monthly statement is computer-generated around the 20th of each month and sent to the debtor(s) when appropriate.

(d) **Recoupment rate changes.** The recoupment rate cannot be changed unless the overpayment or the benefit received by the client is less than the recoupment amount.

(1) When the benefit amount is equal to the specified percentage recoupment amount, the full benefit is recouped and the case remains active. When the client requests a fair hearing regarding the overpayment within 30-calendar days of the issuance date of the Notification of Overpayment, recoupment is suspended until a hearing decision is made.

(2) When AFS BIR staff initiates or terminates recoupment, a computer-generated notice is sent to the client stating the new benefit amount and its effective date.

(d) **Repayment plan reconsideration.** The debtor(s) may request reconsideration of the repayment plan by submitting changes in family and financial circumstances directly to AFS BIR. AFS BIR staff makes adjustments to the repayment plan when circumstances warrant.

[Source: Added at 20 Ok Reg 2059, eff 7-1-03 ; Amended at 25 Ok Reg 958, eff 6-1-08 ; Amended at 28 Ok Reg 880, eff 6-1-11 ; Amended at 35 Ok Reg 1688, eff 9-17-18]

#### **340:65-9-7. Collection effort suspension or termination**

(a) The Adult and Family Services (AFS) Benefit Integrity and Recovery (BIR) Unit staff suspends collection efforts on cases no longer receiving benefits, when the:

- (1) head of household is deceased and there are no remaining debtors responsible for the overpayment;
- (2) household cannot be located;
- (3) cost of further collection action is likely to exceed the amount that can be recovered;
- (4) debtor(s) provides verification to the AFS BIR Unit that bankruptcy proceedings initiated; or
- (5) debtor(s) requests a fair hearing.

(b) AFS BIR Unit staff may begin collection actions held in suspension when changes in household circumstances occur, such as:

- (1) AFS BIR Unit staff locates the household when the client reapplies and becomes eligible in the future;
- (2) the court dismisses instead of discharging the debt through bankruptcy; or
- (3) the fair hearing decision is not in the debtor(s)' favor.

(c) When the household pays an overpayment in full, AFS BIR Unit staff sends the household the monthly overpayment account statement showing a zero balance to notify the household that the debt is satisfied.

[Source: Added at 20 Ok Reg 2059, eff 7-1-03 ; Amended at 25 Ok Reg 958, eff 6-1-08 ; Amended at 35 Ok Reg 1688, eff 9-17-18 ; Amended at 39 Ok Reg 1786, eff 9-15-22]

#### **340:65-9-8. Termination of collection of debt [REVOKED]**



[Source: Added at 20 Ok Reg 2059, eff 7-1-03 ; Amended at 25 Ok Reg 958, eff 6-1-08 ; Amended at 28 Ok Reg 880, eff 6-1-11 ; Revoked at 39 Ok Reg 1786, eff 9-15-22]

## SUBCHAPTER 11. VOTER REGISTRATION

### **340:65-11-1. Purpose, legal authority, and criminal penalties**

(a) **Purpose.** The purpose of this Subchapter is to describe voter registration rules as Oklahoma Human Services (OKDHS) is a designated voter registration agency.

(b) **Legal authority.** The National Voter Registration Act of 1993 [Public Law 103-31] and Section 109.2 of Title 26 of the Oklahoma Statutes requires state agencies providing public assistance, such as Child Care Subsidy, SoonerCare (Medicaid), State Supplemental Payment, Supplemental Nutrition Assistance Program, Temporary Assistance for Needy Families, or state-funded programs primarily engaged in providing services to persons with disabilities to offer voter registration services. Voter registration procedures comply with procedures issued by the Oklahoma State Election Board.

(c) **Criminal penalties.** Criminal penalties for improper voter registration are included in Section 1973gg-10 of Title 42 of the United States Code and the cautions portion of the State Election Board's Procedure for Voter Registration.

[Source: Added at 30 Ok Reg 686, eff 6-1-13 ; Amended at 39 Ok Reg 1786, eff 9-15-22]

### **340:65-11-2. Legal authority [REVOKED]**

[Source: Added at 30 Ok Reg 686, eff 6-1-13 ; Revoked at 39 Ok Reg 1786, eff 9-15-22]

### **340:65-11-3. Voter registration services**

(a) **Voter registration offer.** Oklahoma Human Services (OKDHS) Adult and Family Services (AFS) staff is federally mandated to offer voter registration services to applicants and recipients for qualifying events included in (1) through (3) of this subsection. Qualifying events include when persons:

- (1) apply for AFS benefits, such as Child Care Subsidy, Low Income Home Energy Assistance Program, SoonerCare (Medicaid), State Supplemental Payment, Supplemental Nutrition Assistance Program (SNAP), and Temporary Assistance for Needy Families;
- (2) complete a mid-certification benefit renewal, annual benefit renewal, or SNAP certification renewal; or
- (3) report an address or name change.

(b) **Voter registration forms.** Voter registration forms include Form 08MP007E, Voter Registration Statement, and the Oklahoma State Election Board's, Oklahoma Voter Registration Application.

- (1) The applicant, recipient, or the worker records the applicant's or recipient's decision to apply or decline to register to vote.

(2) When the applicant or recipient wants to apply to register to vote or does not want to answer the question: "If you are not registered to vote where you live now, would you like to apply to register to vote here today?" on Form 08MP007E, Voter Registration Statement, AFS staff gives or mails the Oklahoma Voter Registration Application to the applicant or recipient.

(3) When the applicant or recipient declines to apply to register to vote in writing, AFS staff does not give or mail an Oklahoma Voter Registration Application to the applicant or recipient.

(c) **Assistance completing the Oklahoma Voter Registration**

**Application.** AFS staff offers the same degree of assistance to applicants and recipients completing the Oklahoma Voter Registration Application as staff provides when completing an AFS application and renewal.

(d) **Confidentiality.** AFS staff keeps the applicant's or recipient's decision to register or not to register to vote and all voter registration materials confidential.

(e) **Prohibitions.** AFS staff must not:

- (1) seek to influence an applicant's or recipient's political preference or party registration;
- (2) display political preference or party allegiance;
- (3) make statements or take action that has the purpose or effect of discouraging the applicant or recipient from registering to vote; or
- (4) make statements or take action that has the purpose or effect of leading the applicant or recipient to believe that a decision to apply to register or a decision not to register to vote has any bearing on service or benefit availability.

(f) **Record retention.** AFS staff images and files a completed Form 08MP007E in the applicant's or recipient's case record. Completed Form 08MP007Es are retained until the case record is destroyed, per Oklahoma Administrative Code 340:65-1-5.

(g) **Training.** AFS staff are required to view voter registration training within 30 calendar days of their enter on duty date and annually thereafter.

(h) **Voter registration site coordinators.** Each county director and field manager is responsible for assigning voter registration site coordinators for the counties they manage. Site coordinator duties include:

- (1) maintaining a sufficient supply of Oklahoma Voter Registration Application forms;
- (2) compiling completed and partially completed Oklahoma Voter Registration Application forms daily and mailing them to the Oklahoma State Election Board at the close of each business week in the preaddressed, prepaid, postage envelopes the Oklahoma State Election Board provides;
- (3) maintaining a weekly count of Oklahoma Voter Registration Application forms mailed to the Oklahoma State Election Board and sending a monthly total to the AFS regional office.
- (4) being the contact person for applicants, recipients, the public, or staff inquiries regarding the voter registration process for the counties they serve;

- (5) maintaining all voter registration posters as required;
- (6) monitoring staff compliance with standard voter registration procedures included in this Section; and
- (7) monitoring the staff's completion of annual voter registration training.

(i) **Data collection.** OKDHS produces a statewide monthly report regarding voter registration activity based on weekly data collection.

[**Source:** Added at 30 Ok Reg 686, eff 6-1-13 ; Amended at 32 Ok Reg 295, eff 12-4-14 (emergency); Amended at 32 Ok Reg 1896, eff 9-15-15 ; Amended at 39 Ok Reg 1786, eff 9-15-22]

#### **340:65-11-4. Criminal penalties [REVOKED]**

[**Source:** Added at 30 Ok Reg 686, eff 6-1-13 ; Revoked at 39 Ok Reg 1786, eff 9-15-22]

## **APPENDIX A. REQUEST FOR RELEASE OF INFORMATION [REVOKED]**

**[Source:** Added at 10 Ok Reg 2173, eff 4-30-93 (emergency); Added at 11 Ok Reg 1687, eff 5-12-94 ;  
Revoked at 14 Ok Reg 3112, eff 7-1-97 (emergency); Revoked at 15 Ok Reg 1644, eff 5-11-98]

## **APPENDIX B. PROGRAM DISQUALIFICATION NOTICE [REVOKED]**

**[Source:** Added at 10 Ok Reg 2173, eff 4-30-93 (emergency); Added at 11 Ok Reg 1687, eff 5-12-94 ;  
Revoked and reenacted at 13 Ok Reg 1809, eff 5-15-96 (emergency); Revoked at 14 Ok Reg 968, eff 2-1-  
97 (emergency); Revoked at 14 Ok Reg 1369, eff 5-12-97]

## **APPENDIX C. ADMINISTRATIVE DISQUALIFICATION HEARING WAIVER [REVOKED]**

[**Source:** Added at 10 Ok Reg 2173, eff 4-30-93 (emergency); Added at 11 Ok Reg 1687, eff 5-12-94 ;  
Revoked at 14 Ok Reg 968, eff 2-1-97 (emergency); Revoked at 14 Ok Reg 1369, eff 5-12-97]

## **CHAPTER 70. SOCIAL SERVICES**

[**Authority:** Titles IV-A, IV-B, IV-C, XI (§ 1102), XVI, XIX, XX of Federal Social Security Act; Rehabilitation Act of 1973; Civil Rights Act of 1964; Refugee Act of 1980; P.L. 97-35; P.L. 100-485; Section 2604 of P.L. 101-381; 45 CFR Parts 84 and 89, and §§ 255.2(a) and 256.2(a); 56 O.S.; 56 O.S. 162; Laws 1982, c. 80; HCR 1010 (1975)]

[**Source:** Codified 12-31-91]

### **SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]**

#### **340:70-1-1. Purpose [REVOKED]**

[**Source:** Revoked at 22 Ok Reg 830, eff 5-12-05]

#### **340:70-1-2. Responsibilities [REVOKED]**

[**Source:** Revoked at 22 Ok Reg 830, eff 5-12-05]

#### **340:70-1-3. Legal base and authority [REVOKED]**

[**Source:** Revoked at 22 Ok Reg 830, eff 5-12-05]

#### **340:70-1-4. Definition, philosophy and scope [REVOKED]**

[**Source:** Revoked at 22 Ok Reg 830, eff 5-12-05]

#### **340:70-1-5. General procedures [REVOKED]**

[**Source:** Revoked at 22 Ok Reg 830, eff 5-12-05]

#### **340:70-1-6. Specific worker responsibilities [REVOKED]**

[**Source:** Revoked at 22 Ok Reg 830, eff 5-12-05]

#### **340:70-1-7. Compliance with Civil Rights Act [REVOKED]**

[**Source:** Revoked at 22 Ok Reg 830, eff 5-12-05]

### **SUBCHAPTER 3. FAMILY SERVICES [REVOKED]**

#### **340:70-3-1. Purpose [REVOKED]**

[**Source:** Revoked at 22 Ok Reg 830, eff 5-12-05]

#### **340:70-3-2. Family concepts [REVOKED]**

[**Source:** Revoked at 22 Ok Reg 830, eff 5-12-05]

### **340:70-3-3. Family assessment [REVOKED]**

[Source: Revoked at 22 Ok Reg 830, eff 5-12-05]

### **340:70-3-4. Service plan [REVOKED]**

[Source: Revoked at 22 Ok Reg 830, eff 5-12-05]

### **340:70-3-5. Refugee social services [REVOKED]**

[Source: Revoked at 22 Ok Reg 830, eff 5-12-05]

## **SUBCHAPTER 5. DAY CARE SERVICES [REVOKED]**

### **PART 1. GENERAL PROVISIONS [REVOKED]**

#### **340:70-5-1. Day care services for children and non-geriatric adults [REVOKED]**

[Source: Amended at 9 Ok Reg 1075, eff 1-30-92 (emergency); Amended at 9 Ok Reg 2801, eff 7-13-92 ; Amended at 10 Ok Reg 235, eff 10-22-92 (emergency); Amended at 10 Ok Reg 2899, eff 6-25-93 ; Amended at 15 Ok Reg 1449, eff 5-1-98 (emergency); Amended at 16 Ok Reg 1022, eff 4-26-99 ; Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

#### **340:70-5-2. The initial request [REVOKED]**

[Source: Amended at 10 Ok Reg 4755, eff 9-29-93 (emergency); Amended at 11 Ok Reg 1705, eff 5-12-94 ; Amended at 13 Ok Reg 741, eff 11-28-95 (emergency); Amended at 13 Ok Reg 2637, eff 6-28-96 ; Amended at 16 Ok Reg 272, eff 11-3-98 (emergency); Amended at 16 Ok Reg 1022, eff 4-26-99 ; Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

##### **340:70-5-2.1. Day Care Pilot - quality improvement initiative [REVOKED]**

[Source: Added at 12 Ok Reg 233, eff 10-14-94 (emergency); Added at 12 Ok Reg 1427, eff 5-26-95 ; Amended at 13 Ok Reg 741, eff 11-28-95 (emergency); Amended at 13 Ok Reg 2637, eff 6-28-96 ; Amended at 16 Ok Reg 272, eff 11-3-98 (emergency); Amended at 16 Ok Reg 1022, eff 4-26-99 ; Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

#### **340:70-5-3. Resources, residence and citizenship [REVOKED]**

[Source: Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

### **PART 3. DAY CARE SERVICES FOR CHILDREN [REVOKED]**

#### **340:70-5-20. Scope and applicability [REVOKED]**



[Source: Amended at 9 Ok Reg 1075, eff 1-30-92 (emergency); Amended at 9 Ok Reg 2801, eff 7-13-92 ; Amended at 15 Ok Reg 1449, eff 5-1-98 (emergency); Amended at 16 Ok Reg 1022, eff 4-26-99 ; Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

### **340:70-5-21. Eligibility for purchase of child day care services [REVOKED]**

[Source: Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

### **340:70-5-22. Establishing the need factor for day care [REVOKED]**

[Source: Amended at 9 Ok Reg 1075, eff 1-30-92 (emergency); Amended at 9 Ok Reg 2801, eff 7-13-92 ; Amended at 10 Ok Reg 3979, eff 6-23-93 (emergency); Amended at 11 Ok Reg 1705, eff 5-12-94 ; Amended at 13 Ok Reg 315, eff 5-18-95 (emergency); Amended at 13 Ok Reg 2637, eff 6-28-96 ; Amended at 15 Ok Reg 1449, eff 5-1-98 (emergency); Amended at 16 Ok Reg 1022, eff 4-26-99 ; Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

### **340:70-5-23. Single parent/caretaker families [REVOKED]**

[Source: Amended at 10 Ok Reg 235, eff 10-22-92 (emergency); Amended at 10 Ok Reg 2899, eff 6-25-93 ; Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

### **340:70-5-24. Two parent/caretaker families [REVOKED]**

[Source: Amended at 10 Ok Reg 235, eff 10-22-92 (emergency); Amended at 10 Ok Reg 2899, eff 6-25-93 ; Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

### **340:70-5-25. Individual(s) with a Vocational Rehabilitation (VR)/Visual Services (VS) plan [REVOKED]**

[Source: Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

### **340:70-5-26. Exploration of alternatives to purchased day care [REVOKED]**

[Source: Amended at 13 Ok Reg 741, eff 11-28-95 (emergency); Amended at 13 Ok Reg 2637, eff 6-28-96 ; Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

### **340:70-5-27. Determining financial eligibility [REVOKED]**

[Source: Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

### **340:70-5-28. Computation of income [REVOKED]**

[Source: Amended at 15 Ok Reg 760, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1658, eff 5-11-98 ; Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

### **340:70-5-29. Sources of income considered [REVOKED]**

[Source: Amended at 9 Ok Reg 1075, eff 1-30-92 (emergency); Amended at 9 Ok Reg 2801, eff 7-13-92 ; Amended at 10 Ok Reg 235, eff 10-22-92 (emergency); Amended at 10 Ok Reg 2899, eff 6-25-93 ; Amended at 10 Ok Reg 3979, eff 6-26-93 through 7-14-94 (emergency); Revoked at 17 Ok Reg 47, eff 10-

1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

### **340:70-5-30. Sources of income not considered [REVOKED]**

[**Source:** Amended at 9 Ok Reg 1075, eff 1-30-92 (emergency); Amended at 9 Ok Reg 2801, eff 7-13-92 ; Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

### **340:70-5-31. Categories of eligibility [REVOKED]**

[**Source:** Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

### **340:70-5-32. Recipients [REVOKED]**

[**Source:** Amended at 13 Ok Reg 741, eff 11-28-95 (emergency); Amended at 13 Ok Reg 2637, eff 6-28-96 ; Amended at 15 Ok Reg 1449, eff 5-1-98 (emergency); Amended at 16 Ok Reg 1022, eff 4-26-99 ; Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

### **340:70-5-33. Nonrecipients [REVOKED]**

[**Source:** Amended at 10 Ok Reg 235, eff 10-22-92 (emergency); Amended at 10 Ok Reg 2899, eff 6-25-93 ; Amended at 11 Ok Reg 355, eff 10-15-93 (emergency); Amended at 11 Ok Reg 1705, eff 5-12-94 ; Amended at 13 Ok Reg 741, eff 11-28-95 (emergency); Amended at 13 Ok Reg 2637, eff 6-28-96 ; Amended at 15 Ok Reg 1449, eff 5-1-98 (emergency); Amended at 16 Ok Reg 1022, eff 4-26-99 ; Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

### **340:70-5-34. Preventive services eligibility [REVOKED]**

[**Source:** Amended at 9 Ok Reg 1075, eff 1-30-92 (emergency); Amended at 9 Ok Reg 2801, eff 7-13-92 ; Amended at 10 Ok Reg 235, eff 10-22-92 (emergency); Amended at 10 Ok Reg 2899, eff 6-25-93 ; Amended at 13 Ok Reg 315, eff 5-18-95 (emergency); Amended at 13 Ok Reg 741, eff 11-28-95 (emergency); Amended at 13 Ok Reg 2637, eff 6-28-96 ; Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

### **340:70-5-35. Home visit [REVOKED]**

[**Source:** Amended at 9 Ok Reg 1075, eff 1-30-92 (emergency); Amended at 9 Ok Reg 2801, eff 7-13-92 ; Amended at 10 Ok Reg 387, eff 11-18-92 (emergency); Amended at 10 Ok Reg 2051, eff 5-27-93 ; Amended at 10 Ok Reg 4351, eff 7-19-93 (emergency); Amended at 11 Ok Reg 1705, eff 5-12-94 ; Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

### **340:70-5-36. Developing the plan of service [REVOKED]**

[**Source:** Amended at 9 Ok Reg 1075, eff 1-30-92 (emergency); Amended at 9 Ok Reg 2801, eff 7-13-92 ; Amended at 10 Ok Reg 235, eff 10-22-92 (emergency); Amended at 10 Ok Reg 2899, eff 6-25-93 ; Amended at 10 Ok Reg 4755, eff 9-29-93 (emergency); Amended at 11 Ok Reg 1705, eff 5-12-94 ; Amended at 13 Ok Reg 315, eff 5-18-95 (emergency); Amended at 13 Ok Reg 741, eff 11-28-95 (emergency); Amended at 13 Ok Reg 2637, eff 6-28-96 ; Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

### **340:70-5-37. Day care arrangements [REVOKED]**

[**Source:** Amended at 10 Ok Reg 3979, eff 6-22-93 (emergency); Amended at 10 Ok Reg 4755, eff 9-29-93 (emergency); Amended at 11 Ok Reg 1705, eff 5-12-94 ; Amended at 12 Ok Reg 393, eff 11-17-94 (emergency); Amended at 12 Ok Reg 1427, eff 5-26-95 ; Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

### **340:70-5-38. Disposition of the application [REVOKED]**

[Source: Amended at 10 Ok Reg 387, eff 11-18-92 (emergency); Amended at 10 Ok Reg 2051, eff 5-27-93 ; Amended at 11 Ok Reg 915, eff 1-1-94 (emergency); Amended at 11 Ok Reg 2685, eff 6-13-94 ; Amended at 13 Ok Reg 741, eff 11-28-95 (emergency); Amended at 13 Ok Reg 2637, eff 6-28-96 ; Amended at 14 Ok Reg 973, eff 1-24-97 (emergency); Amended at 14 Ok Reg 1374, eff 5-12-97 ; Amended at 16 Ok Reg 272, eff 11-3-98 (emergency); Amended at 16 Ok Reg 1022, eff 4-26-99 ; Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

### **340:70-5-39. Title IV-A day care for AFDC applicants [REVOKED]**

[Source: Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

### **340:70-5-40. Vouchered authorized day care for non-PA food stamp recipients in an Employment and Training (E&T) component [REVOKED]**

[Source: Amended at 13 Ok Reg 741, eff 11-28-95 (emergency); Amended at 13 Ok Reg 2637, eff 6-28-96 ; Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

### **340:70-5-41. Redetermination of eligibility of day care services [REVOKED]**

[Source: Amended at 13 Ok Reg 741, eff 11-28-95 (emergency); Amended at 13 Ok Reg 2637, eff 6-28-96 ; Amended at 14 Ok Reg 1081, eff 12-12-96 (emergency); Amended at 14 Ok Reg 1374, eff 5-12-97 ; Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

## **PART 5. DAY CARE SERVICES FOR NON-GERIATRIC ADULTS [REVOKED]**

### **340:70-5-55. Scope and applicability [REVOKED]**

[Source: Amended at 9 Ok Reg 1075, eff 1-30-92 (emergency); Amended at 9 Ok Reg 2801, eff 7-13-92 ; Amended at 10 Ok Reg 235, eff 10-22-92 (emergency); Amended at 10 Ok Reg 2899, eff 6-25-93 ; Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

### **340:70-5-56. Request and eligibility determination for non-geriatric adult day care services [REVOKED]**

[Source: Amended at 9 Ok Reg 1075, eff 1-30-92 (emergency); Amended at 9 Ok Reg 2801, eff 7-13-92 ; Amended at 13 Ok Reg 741, eff 11-28-95 (emergency); Amended at 13 Ok Reg 2637, eff 6-28-96 ; Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

### **340:70-5-57. Need for non-geriatric adult day care services [REVOKED]**

[Source: Amended at 9 Ok Reg 1075, eff 1-30-92 (emergency); Amended at 9 Ok Reg 2801, eff 7-13-92 ; Amended at 10 Ok Reg 3979, eff 6-22-93 (emergency); Amended at 11 Ok Reg 1705, eff 5-12-94 ; Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

### **340:70-5-58. Protective day care services for non-geriatric adults [REVOKED]**

[Source: Amended at 9 Ok Reg 1075, eff 1-30-92 (emergency); Amended at 9 Ok Reg 2801, eff 7-13-92 ; Amended at 10 Ok Reg 3979, eff 6-22-93 (emergency); Amended at 11 Ok Reg 1705, eff 5-12-94 ; Amended at 13 Ok Reg 741, eff 11-28-95 (emergency); Amended at 13 Ok Reg 2637, eff 6-28-96 ; Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

### **340:70-5-59. Plan of service [REVOKED]**

[Source: Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

### **340:70-5-60. Disposition of application - adult day care [REVOKED]**

[Source: Amended at 13 Ok Reg 741, eff 11-28-95 (emergency); Amended at 13 Ok Reg 2637, eff 6-28-96 ; Amended at 16 Ok Reg 272, eff 11-3-98 (emergency); Amended at 16 Ok Reg 1022, eff 4-26-99 ; Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

### **340:70-5-61. Redetermination of eligibility - adult day care [REVOKED]**

[Source: Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

### **340:70-5-62. Adult day care facilities [REVOKED]**

[Source: Amended at 10 Ok Reg 3979, eff 6-22-93 (emergency); Amended at 11 Ok Reg 1705, eff 5-12-94 ; Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

### **340:70-5-63. Facility approved [REVOKED]**

[Source: Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

### **340:70-5-64. Facility not approved [REVOKED]**

[Source: Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

### **340:70-5-65. Annual evaluation [REVOKED]**

[Source: Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

### **340:70-5-66. Interim service visits [REVOKED]**

[Source: Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

### **340:70-5-67. Termination of approval [REVOKED]**

[Source: Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

## **PART 7. NOTIFICATIONS [REVOKED]**

### **340:70-5-75. Timeliness [REVOKED]**

[Source: Amended at 9 Ok Reg 1075, eff 1-30-92 (emergency); Amended at 9 Ok Reg 2801, eff 7-13-92 ; Amended at 13 Ok Reg 315, eff 5-18-95 (emergency); Amended at 13 Ok Reg 2637, eff 6-28-96 ; Revoked at 16 Ok Reg 272, eff 11-3-98 (emergency); Revoked at 16 Ok Reg 1022, eff 4-26-99]

### **340:70-5-76. Notices regarding day care service eligibility [REVOKED]**

[Source: Amended at 9 Ok Reg 1075, eff 1-30-92 (emergency); Amended at 9 Ok Reg 2801, eff 7-13-92 ; Amended at 10 Ok Reg 3979, eff 6-22-93 (emergency); Amended at 11 Ok Reg 1705, eff 5-12-94 ; Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

### **340:70-5-77. Notice required [REVOKED]**

[Source: Amended at 9 Ok Reg 1075, eff 1-30-92 (emergency); Amended at 9 Ok Reg 2801, eff 7-13-92 ; Amended at 10 Ok Reg 3979, eff 6-22-93 (emergency); Amended at 11 Ok Reg 1705, eff 5-12-94 ; Amended at 13 Ok Reg 315, eff 5-18-95 (emergency); Amended at 13 Ok Reg 2637, eff 6-28-96 ; Amended at 16 Ok Reg 272, eff 11-3-98 (emergency); Amended at 16 Ok Reg 1022, eff 4-26-99 ; Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

### **340:70-5-78. Written notice not required [REVOKED]**

[Source: Amended at 16 Ok Reg 272, eff 11-3-98 (emergency); Amended at 16 Ok Reg 1022, eff 4-26-99 ; Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

### **340:70-5-79. Advance notice [REVOKED]**

[Source: Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

## **PART 9. PAYMENTS AND OVERPAYMENTS [REVOKED]**

### **340:70-5-95. Day care payments and rates [REVOKED]**

[Source: Amended at 9 Ok Reg 1075, eff 1-30-92 (emergency); Amended at 9 Ok Reg 2801, eff 7-13-92 ; Amended at 10 Ok Reg 235, eff 10-22-92 (emergency); Amended at 10 Ok Reg 2899, eff 6-25-93 ; Amended at 13 Ok Reg 753, eff 1-1-95 (emergency); Amended at 13 Ok Reg 961, eff 8-3-95 (emergency); Amended at 13 Ok Reg 2637, eff 6-28-96 ; Amended at 15 Ok Reg 1449, eff 5-1-98 (emergency); Amended at 16 Ok Reg 272, eff 11-3-98 (emergency); Amended at 16 Ok Reg 1022, eff 4-26-99 ; Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

### **340:70-5-96. Claims process [REVOKED]**

[Source: Amended at 9 Ok Reg 1075, eff 1-30-92 (emergency); Amended at 9 Ok Reg 2801, eff 7-13-92 ; Amended at 10 Ok Reg 507, eff 11-30-92 (emergency); Amended at 10 Ok Reg 3979, eff 6-22-93 (emergency); Amended at 10 Ok Reg 2907, eff 6-25-93 ; Amended at 11 Ok Reg 1705, eff 5-12-94 ; Amended at 13 Ok Reg 753, eff 1-1-95 (emergency); Amended at 13 Ok Reg 2637, eff 6-28-96 ; Amended at 15 Ok Reg 1449, eff 5-1-98 (emergency); Amended at 16 Ok Reg 1022, eff 4-26-99 ; Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

### **340:70-5-97. Day care provider contracts [REVOKED]**

[Source: Amended at 10 Ok Reg 3979, eff 6-22-93 (emergency); Amended at 11 Ok Reg 1705, eff 5-12-94 ; Amended at 16 Ok Reg 272, eff 11-3-98 (emergency); Amended at 16 Ok Reg 1022, eff 4-26-99 ; Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

### **340:70-5-98. Payment during appeals of the license revocation process [REVOKED]**

[Source: Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

### **340:70-5-99. Day care involving more than one county [REVOKED]**

[Source: Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

### **340:70-5-100. Change of provider or plan of payment [REVOKED]**

[Source: Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

### **340:70-5-101. Client and day care vendor overpayments [REVOKED]**

[Source: Amended at 13 Ok Reg 961, eff 8-3-95 (emergency); Amended at 13 Ok Reg 2637, eff 6-28-96 ; Amended at 16 Ok Reg 272, eff 11-3-98 (emergency); Amended at 16 Ok Reg 1022, eff 4-26-99 ; Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

### **340:70-5-102. Fraud [REVOKED]**

[Source: Amended at 13 Ok Reg 961, eff 8-3-95 (emergency); Amended at 13 Ok Reg 2637, eff 6-28-96 ; Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

### **340:70-5-103. Repayment of a client/vendor overpayment [REVOKED]**

[Source: Amended at 13 Ok Reg 961, eff 8-3-95 (emergency); Amended at 13 Ok Reg 2637, eff 6-28-96 ; Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

### **340:70-5-104. Appeal rights and overpayments [REVOKED]**

[Source: Amended at 13 Ok Reg 961, eff 8-3-95 (emergency); Amended at 13 Ok Reg 2637, eff 6-28-96 ; Amended at 16 Ok Reg 272, eff 11-3-98 (emergency); Amended at 16 Ok Reg 1022, eff 4-26-99 ; Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

## **SUBCHAPTER 7. GUIDELINES FOR IN HOME CHILD CARE [REVOKED]**

### **340:70-7-1. Guidelines for use in approving in-home child care [REVOKED]**

[Source: Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

## **SUBCHAPTER 8. SUPPLEMENTAL SECURITY INCOME- DISABLED CHILDREN'S PROGRAM (SSI-DCP) [REVOKED]**

### **340:70-8-1. Eligibility and available services [REVOKED]**

[Source: Added at 18 Ok Reg 2118, eff 7-1-01 ; Amended at 21 Ok Reg 866, eff 5-1-04 ; Amended at 24 Ok Reg 2191, eff 7-1-07 ; Amended at 26 Ok Reg 882, eff 6-1-09 ; Revoked at 32 Ok Reg 1902, eff 9-15-15]

## **SUBCHAPTER 9. HEALTH RELATED SERVICES [REVOKED]**

### **340:70-9-1. Health Related Services [REVOKED]**

[Source: Revoked at 24 Ok Reg 2191, eff 7-1-07]

### **340:70-9-2. Early and Periodic Screening, Diagnosis and Treatment (EPSDT) [REVOKED]**

[Source: Amended at 11 Ok Reg 825, eff 12-14-93 (emergency); Amended at 11 Ok Reg 1705, eff 5-12-94 ; Amended at 19 Ok Reg 1785, eff 6-14-02 ; Amended at 24 Ok Reg 2191, eff 7-1-07 ; Revoked at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:70-9-3. Providers of services [REVOKED]**

[Source: Amended at 11 Ok Reg 825, eff 12-14-93 (emergency); Amended at 11 Ok Reg 1705, eff 5-12-94 ; Revoked at 25 Ok Reg 1335, eff 6-1-08]

### **340:70-9-4. Eligibility for Early and Periodic Screening, Diagnosis and Treatment (EPSDT) services [REVOKED]**

[Source: Amended at 11 Ok Reg 825, eff 12-14-93 (emergency); Amended at 11 Ok Reg 1705, eff 5-12-94 ; Amended at 19 Ok Reg 1785, eff 6-14-02 ; Revoked at 25 Ok Reg 1335, eff 6-1-08]

### **340:70-9-5. Mandatory offer of Early and Periodic Screening, Diagnosis and Treatment (EPSDT) [REVOKED]**

[Source: Amended at 11 Ok Reg 825, eff 12-14-93 (emergency); Amended at 11 Ok Reg 1705, eff 5-12-94 ; Amended at 19 Ok Reg 1785, eff 6-14-02 ; Amended at 24 Ok Reg 2191, eff 7-1-07 ; Revoked at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:70-9-6. Multiple certifications for AFDC, Refugee Assistance, SSP for blind or disabled or Title XIX [REVOKED]**

[Source: Amended at 11 Ok Reg 825, eff 12-14-93 (emergency); Amended at 11 Ok Reg 1705, eff 5-12-94 ; Revoked at 19 Ok Reg 1785, eff 6-14-02]

### **340:70-9-7. Notice of Early and Periodic Screening, Diagnosis and Treatment (EPSDT) availability to families not literate in English [REVOKED]**

[Source: Amended at 11 Ok Reg 825, eff 12-14-93 (emergency); Amended at 11 Ok Reg 1705, eff 5-12-94 ; Amended at 19 Ok Reg 1785, eff 6-14-02 ; Revoked at 24 Ok Reg 2191, eff 7-1-07]

### **340:70-9-8. EPSDT services provision [REVOKED]**

[Source: Amended at 11 Ok Reg 825, eff 12-14-93 (emergency); Amended at 11 Ok Reg 1705, eff 5-12-94 ; Revoked at 19 Ok Reg 1785, eff 6-14-02]

### **340:70-9-9. Early and Periodic Screening, Diagnosis and Treatment (EPSDT) services for persons not receiving SoonerCare [REVOKED]**

[Source: Amended at 11 Ok Reg 825, eff 12-14-93 (emergency); Amended at 11 Ok Reg 1705, eff 5-12-94 ; Amended at 19 Ok Reg 1785, eff 6-14-02 ; Amended at 24 Ok Reg 2191, eff 7-1-07 ; Revoked at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:70-9-10. Early and Periodic Screening, Diagnosis and Treatment (EPSDT) support services [REVOKED]**

[Source: Amended at 11 Ok Reg 825, eff 12-14-93 (emergency); Amended at 11 Ok Reg 1705, eff 5-12-94 ; Amended at 19 Ok Reg 1785, eff 6-14-02 ; Revoked at 24 Ok Reg 2191, eff 7-1-07]

### **340:70-9-11. Determination of service status following referral for physical screening [REVOKED]**

[Source: Amended at 11 Ok Reg 825, eff 12-14-93 (emergency); Amended at 11 Ok Reg 1705, eff 5-12-94 ; Revoked at 19 Ok Reg 1785, eff 6-14-02]

### **340:70-9-12. Determination of service status following referral for dental care [REVOKED]**

[Source: Amended at 11 Ok Reg 825, eff 12-14-93 (emergency); Amended at 11 Ok Reg 1705, eff 5-12-94 ; Revoked at 19 Ok Reg 1785, eff 6-14-02]

### **340:70-9-13. Health/dental screening obtained without worker referral [REVOKED]**

[Source: Amended at 11 Ok Reg 825, eff 12-14-93 (emergency); Amended at 11 Ok Reg 1705, eff 5-12-94 ; Revoked at 19 Ok Reg 1785, eff 6-14-02]

### **340:70-9-14. Need for further diagnosis and/or treatment [REVOKED]**



[Source: Amended at 11 Ok Reg 825, eff 12-14-93 (emergency); Amended at 11 Ok Reg 1705, eff 5-12-94 ; Revoked at 19 Ok Reg 1785, eff 6-14-02]

### **340:70-9-15. Periodicity responsibilities [REVOKED]**

[Source: Amended at 11 Ok Reg 825, eff 12-14-93 (emergency); Amended at 11 Ok Reg 1705, eff 5-12-94 ; Amended at 19 Ok Reg 1785, eff 6-14-02 ; Revoked at 24 Ok Reg 2191, eff 7-1-07]

### **340:70-9-16. Documentation of EPSDT [REVOKED]**

[Source: Amended at 11 Ok Reg 825, eff 12-14-93 (emergency); Amended at 11 Ok Reg 1705, eff 5-12-94 ; Revoked at 19 Ok Reg 1785, eff 6-14-02]

### **340:70-9-17. Family planning services [REVOKED]**

[Source: Amended at 11 Ok Reg 825, eff 12-14-93 (emergency); Amended at 11 Ok Reg 1705, eff 5-12-94 ; Amended at 19 Ok Reg 1785, eff 6-14-02 ; Amended at 24 Ok Reg 2191, eff 7-1-07 ; Revoked at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:70-9-18. Supplemental Security Income-Disabled Children's Program (SSI-DCP) [REVOKED]**

[Source: Amended at 11 Ok Reg 825, eff 12-14-93 (emergency); Amended at 11 Ok Reg 1705, eff 5-12-94 ; Amended at 13 Ok Reg 1277, eff 4-1-96 (emergency); Amended at 14 Ok Reg 1374, eff 5-12-97 ; Revoked at 18 Ok Reg 2118, eff 7-1-01]

## **SUBCHAPTER 10. ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS) COORDINATION AND INFORMATION SERVICES (ACIS)**

### **340:70-10-1. Legal basis**

The Ryan White Comprehensive AIDS Resources Emergency (CARE) Act [Section 2604 of Public Law 101-381] provides the legal basis and funding for the Acquired Immune Deficiency Syndrome (AIDS) Coordination and Information Services (ACIS). Program.

[Source: Added at 30 Ok Reg 694, eff 6-1-13]

### **340:70-10-2. Acquired Immune Deficiency Syndrome (AIDS) Coordination and Information Services (ACIS)**

Acquired Immune Deficiency Syndrome (AIDS) Coordination and Information Services (ACIS) are case management services with an emphasis to:

- (1) coordinate, plan, and supervise development of services for persons with Human Immunodeficiency Virus (HIV) disease to ensure appropriate services are available; and
- (2) ensure those services are provided through either direct service provision or brokering of services through information and referral services.

[Source: Added at 30 Ok Reg 694, eff 6-1-13]

### **340:70-10-3. Acquired Immune Deficiency Syndrome (AIDS) information services**

(a) Acquired Immune Deficiency Syndrome (AIDS) Coordination and Information Services (ACIS) provide a central contact point for persons with Human Immunodeficiency Virus (HIV) disease and their families, other state agencies, community organizations, support groups, and Oklahoma Department of Human Services staff to gain information related to AIDS or HIV infection or disease. The information disseminated may cover AIDS or HIV legal, social service, or health care issues; whether these services are available to persons with HIV disease and, if so, where they may be obtained.

(b) There are no income or resource eligibility criteria for HIV/AIDS case management services. Referrals are accepted from all sources within the community.

(c) Form 08AI004E, Permission to Share Confidential Information, must be signed by the client specifying with whom confidential information may be shared prior to the release of any such information by the case manager.

[Source: Added at 30 Ok Reg 694, eff 6-1-13]

## **SUBCHAPTER 11. ELIGIBILITY STATUS [REVOKED]**

### **340:70-11-1. Eligibility status [REVOKED]**

[Source: Revoked at 18 Ok Reg 2118, eff 7-1-01]

### **340:70-11-2. Application [REVOKED]**

[Source: Revoked at 18 Ok Reg 2118, eff 7-1-01]

### **340:70-11-3. Eligibility conditions [REVOKED]**

[Source: Revoked at 18 Ok Reg 2118, eff 7-1-01]

#### **340:70-11-4. Case type [REVOKED]**

[Source: Revoked at 18 Ok Reg 2118, eff 7-1-01]

#### **340:70-11-5. Notification [REVOKED]**

[Source: Revoked at 18 Ok Reg 2118, eff 7-1-01]

#### **340:70-11-6. Redetermination of eligibility [REVOKED]**

[Source: Revoked at 18 Ok Reg 2118, eff 7-1-01]

#### **340:70-11-7. Fair hearing request [REVOKED]**

[Source: Revoked at 18 Ok Reg 2118, eff 7-1-01]

#### **340:70-11-8. Appeals committee decision [REVOKED]**

[Source: Revoked at 18 Ok Reg 2118, eff 7-1-01]

#### **340:70-11-9. Overpayments and underpayments [REVOKED]**

[Source: Revoked at 18 Ok Reg 2118, eff 7-1-01]

### **SUBCHAPTER 13. CASE RECORD [REVOKED]**

#### **340:70-13-1. Case record function and process [REVOKED]**

[Source: Revoked at 18 Ok Reg 2118, eff 7-1-01]

#### **340:70-13-2. Function [REVOKED]**

[Source: Revoked at 18 Ok Reg 2118, eff 7-1-01]

#### **340:70-13-3. Content and arrangement of case record [REVOKED]**

[Source: Revoked at 18 Ok Reg 2118, eff 7-1-01]

#### **340:70-13-4. Closing a service case [REVOKED]**

[Source: Revoked at 18 Ok Reg 2118, eff 7-1-01]

## **APPENDIX A. SERVICE INVOICE [REVOKED]**

[Source: Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

## **APPENDIX B. INCOME ELIGIBILITY STANDARDS - SOCIAL SERVICES [REVOKED]**

[**Source:** Revoked at 10 Ok Reg 3985, eff 6-22-93 (emergency); Revoked at 11 Ok Reg 1705, eff 5-12-94]

## **APPENDIX C. SERVICE/ATTENDANCE RECORD [REVOKED]**

[**Source:** Revoked and reenacted at 10 Ok Reg 4755, eff 9-29-93 (emergency); Revoked and reenacted at 11 Ok Reg 1705, eff 5-12-94 ; Revoked and reenacted at 13 Ok Reg 961, eff 8-3-95 (emergency); Revoked and reenacted at 13 Ok Reg 2637, eff 6-28-96 ; Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

## **APPENDIX D. NOTICE REGARDING SOCIAL SERVICES [REVOKED]**

[**Source:** Revoked at 16 Ok Reg 272, eff 11-3-98 (emergency); Revoked at 16 Ok Reg 1022, eff 4-26-99]

## **APPENDIX E. NOTIFICATION AND AGREEMENT FOR IN-HOME DAY CARE SERVICES [REVOKED]**

[**Source:** Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]



## **APPENDIX F. APPLICATION FOR APPROVAL ADULT DAY CARE FACILITY [REVOKED]**

[**Source:** Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

**APPENDIX G. NOTICE FOR APPROVAL/DISAPPROVAL  
ADULT DAY CARE FACILITY [REVOKED]**

[Source: Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

## **APPENDIX H. [RESERVED]**

## **APPENDIX I. DAY CARE PROVIDER CONTRACT [REVOKED]**

**[Source:** Revoked and reenacted at 10 Ok Reg 817, eff 1-6-93 (emergency); Revoked and reenacted at 10 Ok Reg 2053, eff 5-27-93 ; Revoked at 16 Ok Reg 272, eff 11-3-98 (emergency); Revoked at 16 Ok Reg 1022, eff 4-26-99]

## **APPENDIX J. NOTICE FOR DHS REGARDING CONTRACTUAL SERVICES [REVOKED]**

[Source: Revoked at 22 Ok Reg 830, eff 5-12-05]

## **APPENDIX K. [RESERVED]**

## **APPENDIX L. DAY CARE ELIGIBILITY SCHEDULE/RATES FOR NON-GERIATRIC ADULTS AND CHILDREN [REVOKED]**

**[Source:** Revoked and reenacted at 10 Ok Reg 507, eff 11-30-92 (emergency); Revoked and reenacted at 10 Ok Reg 2907, eff 6-25-93 ; Revoked and reenacted at 11 Ok Reg 4083, eff 6-24-94 (emergency); Revoked and reenacted at 12 Ok Reg 1427, eff 5-26-95 ; Revoked and reenacted at 13 Ok Reg 477, eff 9-1-95 (emergency); Revoked and reenacted at 13 Ok Reg 473, eff 11-14-95 (emergency); Revoked and reenacted at 13 Ok Reg 2637, eff 6-28-96 ; Revoked and reenacted at 14 Ok Reg 870, eff 2-1-97 (emergency); Revoked and reenacted at 14 Ok Reg 1374, eff 5-12-97 ; Revoked and reenacted at 15 Ok Reg 186, eff 11-1-97 (emergency); Revoked and reenacted at 15 Ok Reg 1658, eff 5-11-98 ; Revoked at 16 Ok Reg 1022, eff 4-26-99]

## **APPENDIX M. APPLICATION FOR SOCIAL SERVICES [REVOKED]**

[**Source:** Revoked at 16 Ok Reg 1022, eff 4-26-99]



## **APPENDIX N. SPECIAL NEEDS CHILD CARE SERVICES [REVOKED]**

[**Source:** Added at 9 Ok Reg 2801, eff 7-13-92 ; Revoked at 13 Ok Reg 315, eff 5-18-95 (emergency);  
Revoked at 13 Ok Reg 2637, eff 6-28-96]

## **APPENDIX O. AUDITING GUIDELINES FOR CHILD AND NON-GERIATRIC DAY CARE CLAIMS [REVOKED]**

**[Source:** Added at 10 Ok Reg 507, eff 11-30-92 (emergency); Added at 10 Ok Reg 2907, eff 6-25-93 ; Revoked and reenacted at 12 Ok Reg 2759, eff 4-10-95 (emergency); Revoked and reenacted at 12 Ok Reg 1427, eff 5-26-95 ; Revoked and reenacted at 13 Ok Reg 477, eff 9-1-95 (emergency); Revoked at 13 Ok Reg 753, eff 1-1-96 (emergency); Revoked at 13 Ok Reg 2637, eff 6-28-96]

## **APPENDIX P. NOTIFICATION OF ELIGIBILITY AND MUTUAL AGREEMENT TO PROVIDE IN-HOME DAY CARE SERVICES [REVOKED]**

**[Source:** Added at 10 Ok Reg 4755, eff 9-29-93 (emergency); Added at 11 Ok Reg 1705, eff 5-12-94 ;  
Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

**APPENDIX Q. TRANSITIONAL CHILD CARE (TCC)  
RETROACTIVE CLIENT REIMBURSEMENT CLAIM  
[REVOKED]**

[Source: Added at 11 Ok Reg 355, eff 10-15-93 (emergency); Added at 11 Ok Reg 1705, eff 5-12-94 ;  
Revoked at 17 Ok Reg 47, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 1266, eff 6-1-00]

## CHAPTER 75. CHILD WELFARE SERVICES

[**Authority:** Titles IV-B, IV-E and XX of Federal Social Security Act; Adoption Assistance and Child Welfare Act of 1980, P.L. 96-272; Federal Indian Child Welfare Act; 20 U.S.C. 1400-1461; 25 U.S.C. 1901 et seq.; 42 U.S.C.; 45 CFR Parts 80, 84, 98, 99, 1355, 1356, and 1357; P.L. 103-382, Multiethnic Placement Act of 1994 (MEPA), as amended by P.L. 104-188, Interethnic Adoption Provisions of 1996 (IEP); P.L. 104-193, State Plans for Medical Assistance; P.L. 110-351, Fostering Connections to Success and Increasing Adoptions Act of 2008; Preventing Sex Trafficking and Strengthening Families Act, P.L. 113-183; Family First Prevention Services Act, Public Law 115-123; 10 O.S., 10A O.S.; 21 O.S., §§ 845 et seq.; 22 O.S., § 320; 30 O.S., § 2-101; 43A O.S., § 5-511; 56 O.S., § 162 and 192; 57 O.S., §§ 582 and 590; 70 O.S., §§ 1-1-1 et seq.]

[**Source:** Codified 12-31-91]

### SUBCHAPTER 1. GENERAL PROVISIONS OF CHILD WELFARE SERVICES

#### PART 1. SCOPE AND APPLICABILITY

##### **340:75-1-1. Purpose [REVOKED]**

[**Source:** Revoked at 23 Ok Reg 1024, eff 5-11-06]

##### **340:75-1-2. Child Welfare Services mission, purpose, scope, and legal base**

(a) **Mission.** The Oklahoma Department of Human Services (OKDHS) Child Welfare Services (CWS) mission is, with the aid and support of community partners, to promote safety, permanency, and well-being for Oklahoma families whose children are abused or neglected.

(b) **Purpose and legislative intent.** The CWS purpose is to identify, treat, and prevent child abuse and neglect ensuring reasonable efforts are made to maintain and protect the child in the child's own home. When this is not feasible, CWS provides a placement that meets the child's needs. Per Section 1-1-102 of Title 10A of the Oklahoma Statutes, *for the purposes of the Oklahoma Children's Code, the Legislature recognizes that:*

*(1) parents have a natural, legal, and moral right as well as a duty, to care for and support their children and such rights are protected by state and federal laws as well as the Constitution. To that end, it is presumed that the best interests of a child are ordinarily served by leaving the child in the custody of the parents, who are expected to have the strongest bond of love and affection and to be best able to provide a child those needed qualities that make a child's life safe and secure. Nevertheless, this presumption may be rebutted where there is evidence of abuse and neglect or threat of harm;*

*(2) a child has a right to be raised by the mother and father of the child as well as a right to be raised free from physical and emotional abuse or neglect. When it is necessary to remove a child from a parent, the child is entitled to a permanent home and to be placed in the least restrictive environment to meet the needs of the child; and*

*(3) because the state has an interest in its present and future citizens as well as a duty to protect those who, because of age, are unable to protect themselves, it is the policy of this state to provide for the protection of children who have been abused or neglected and who may be further threatened by the conduct of persons responsible for the health, safety, and welfare of such children. To this end, where family circumstances threaten the safety of a child, the state's interest in the welfare of the child takes precedence over the natural right and authority of the parent to the extent that it is necessary to protect the child and assure that the best interests of the child are met.*

(c) **Scope.** OKDHS is the designated state agency mandated to protect the child who is alleged or adjudicated deprived. Child welfare services:

- (1) are directed toward child safety, permanency, and well-being;
- (2) focus on the family, defined as one or more adults and child related by blood or law residing in the same household, as an integral part of the child's well-being; and
- (3) are provided to assist the parent develop protective capacities and ability to care for the child.

(d) **Legal base.**

(1) The Social Security Act of 1935 requires:

(A) each state make welfare services available to children;  
and

(B) child welfare agencies to provide for the protection and care of homeless, dependent, neglected, and potentially delinquent children.

(2) Oklahoma's Social Security Act enacted in 1936, authorized the Division of Child Welfare.

[Source: Amended at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 28 Ok Reg 894, eff 7-1-11 ; Amended at 30 Ok Reg 839, eff 7-1-13]

### **340:75-1-3. Philosophy of Child Welfare [REVOKED]**

[Source: Amended at 11 Ok Reg 361, eff 10-15-93 (emergency); Amended at 11 Ok Reg 2267, eff 5-26-94 ; Amended at 13 Ok Reg 967, eff 1-24-96 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 15 Ok Reg 189, eff 11-1-97 (emergency); Amended at 15 Ok Reg 904, eff 12-16-97 (emergency); Amended at 15 Ok Reg 1661, eff 5-11-98 ; Revoked at 23 Ok Reg 1024, eff 5-11-06]

### **340:75-1-4. Mission of Child Welfare [REVOKED]**

[Source: Amended at 13 Ok Reg 967, eff 1-24-96 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 16 Ok Reg 1052, eff 4-26-99 ; Amended at 17 Ok Reg 92, eff 10-1-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Revoked at 23 Ok Reg 1024, eff 5-11-06]

### **340:75-1-5. Goals of Child Welfare [REVOKED]**

[Source: Amended at 11 Ok Reg 361, eff 10-15-93 (emergency); Amended at 11 Ok Reg 2267, eff 5-26-94 ; Amended at 13 Ok Reg 967, eff 1-24-96 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 15 Ok Reg 189, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1661, eff 5-11-98 ; Revoked at 23 Ok Reg 1024, eff 5-11-06]

## **340:75-1-6. Organization and scope of Children and Family Services Division [REVOKED]**

[Source: Amended at 11 Ok Reg 361, eff 10-15-93 (emergency); Amended at 11 Ok Reg 2267, eff 5-26-94 ; Amended at 13 Ok Reg 967, eff 1-24-96 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 15 Ok Reg 189, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1661, eff 5-11-98 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 17 Ok Reg 92, eff 10-1-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 18 Ok Reg 393, eff 12-8-00 (emergency); Amended at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 21 Ok Reg 2374, eff 6-25-04 ; Revoked at 28 Ok Reg 894, eff 7-1-11]

## **340:75-1-7. Eligibility for Child Welfare services**

Child welfare services, with few exceptions are provided without considering the family's financial situation. However, in some instances, services may be requested by family members that require determination of the family's income and resources.

[Source: Amended at 11 Ok Reg 361, eff 10-15-93 (emergency); Amended at 11 Ok Reg 2267, eff 5-26-94 ; Amended at 17 Ok Reg 92, eff 10-1-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 18 Ok Reg 393, eff 12-8-00 (emergency); Amended at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 28 Ok Reg 894, eff 7-1-11]

## **340:75-1-8. Child Welfare program accreditation [REVOKED]**

[Source: Amended at 11 Ok Reg 361, eff 10-15-93 (emergency); Amended at 11 Ok Reg 2267, eff 5-26-94 ; Amended at 13 Ok Reg 967, eff 1-24-96 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 15 Ok Reg 189, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1661, eff 5-11-98 ; Revoked at 21 Ok Reg 2374, eff 6-25-04]

## **340:75-1-9. Oklahoma Department of Human Services authority to administer a child welfare program**

The authority of the Oklahoma Department of Human Services (DHS) to administer a Child Welfare program is based on the Oklahoma Social Security Act, Section 176 of Title 56 of the Oklahoma Statutes that authorizes DHS to provide . . . *for the protection and care of homeless, dependent and neglected children, and children in danger of becoming delinquent*. The authority and scope for the care and custody of children, includes:

- (1) the Oklahoma Children's Code, Article 1 of Title 10A of the Oklahoma Statutes; and
- (2) federal laws and regulations under Titles IV-B, IV-E, V, VI, XIX, and XX of the Social Security Act, as amended including, but not limited to, the:
  - (A) Multiethnic Placement Act of 1994;
  - (B) Interethnic Provisions of 1996;
  - (C) Adoption and Safe Families Act of 1997;
  - (D) Fostering Connections to Success and Increasing Adoptions Act of 2008; and
  - (E) Family First Prevention Services Act, Public Law 115-123.

[Source: Amended at 11 Ok Reg 361, eff 10-15-93 (emergency); Amended at 11 Ok Reg 2267, eff 5-26-94 ; Amended at 13 Ok Reg 967, eff 1-24-96 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 15 Ok Reg 189, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1661, eff 5-11-98 ;

Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 16 Ok Reg 2740, eff 4-14-99 (emergency); Amended at 17 Ok Reg 92, eff 10-1-99 (emergency); Amended at 17 Ok Reg 829, eff 1-6-00 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 18 Ok Reg 393, eff 12-8-00 (emergency); Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 20 Ok Reg 90, eff 10-16-02 (emergency); Amended at 20 Ok Reg 921, eff 5-12-03 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 28 Ok Reg 894, eff 7-1-11 ; Amended at 35 Ok Reg 1695, eff 9-17-18 ; Amended at 37 Ok Reg 1850, eff 9-15-20]

### **340:75-1-9.1. Programs and services design, evaluation, and reports**

(a) **Program planning and evaluation.** The Oklahoma Department of Human Services (DHS) defines the purpose, population served, and performance expectations of its children and youth programs. Planning for new programs and services and major modifications to existing ones must include evaluations of their effect on other programs and services, as well as communication and coordination with other public and private children and youth service providers to assure successful and cost-effective implementation. Evaluation that includes monitoring and evaluation of client outcomes must be incorporated into all DHS children and youth programs and services provided by DHS directly or by contract.

(b) **Five-year plan.** DHS is to develop a five-year plan for children and youth services that includes:

- (1) an analysis and evaluation of programs and services continued, established, and discontinued during the reporting period;
- (2) a description of programs and services to implement;
- (3) statutory changes, when needed;
- (4) information about the number of children in DHS custody during the reporting period; and
- (5) other information that demonstrates the effectiveness of DHS programs and services.

(c) **Legislative placement report.** Each year on or before January 31, DHS submits a report to the Governor, President Pro Tempore of the Senate, Speaker of the House of Representatives, and the Oklahoma Supreme Court that includes information on:

- (1) the number of children in DHS custody placed in non-family-like placements including, but not limited to, the placement types used and the duration of children's stays in such placements;
- (2) the number of approved foster homes, the number of children placed in them, and a comparative review of foster home room-and-board rates; and
- (3) child welfare staff workloads and comparative salaries.

[Source: Added at 35 Ok Reg 451, eff 1-31-18 (emergency); Added at 35 Ok Reg 1695, eff 9-17-18]

### **340:75-1-10. Program funding [REVOKED]**

[Source: Amended at 11 Ok Reg 361, eff 10-15-93 (emergency); Amended at 11 Ok Reg 2267, eff 5-26-94 ; Amended at 13 Ok Reg 967, eff 1-24-96 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 15 Ok Reg 189, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1661, eff 5-11-98 ; Amended at 23 Ok Reg 1024, eff 5-11-06]



## **340:75-1-11. Confidentiality [REVOKED]**

[Source: Amended at 10 Ok Reg 3623, eff 7-12-93 ; Amended at 11 Ok Reg 361, eff 10-15-93 (emergency); Amended at 11 Ok Reg 2267, eff 5-26-94 ; Amended at 13 Ok Reg 967, eff 1-24-96 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 14 Ok Reg 593, eff 12-12-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 189, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1661, eff 5-11-98 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 17 Ok Reg 92, eff 10-1-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Revoked at 19 Ok Reg 2208, eff 6-27-02]

## **340:75-1-12. Grievances**

(a) **Grievance procedures.** Per Part 5 of Oklahoma Administrative Code 340:2-3, the Oklahoma Department of Human Services (DHS) Office of Client Advocacy is responsible for establishing and maintaining grievance procedures for:

- (1) individuals receiving services from DHS;
- (2) placement providers; or
- (3) children in DHS custody.

(b) **Grievance subjects.** Grievances may regard:

- (1) the substance or application of DHS policy, rule, or regulation, written or unwritten, but does not include DHS policies, rules, and regulations of DHS operated shelters and residential facilities for children; or
- (2) a decision, act, or omission by an employee of DHS or in a DHS operated facility.

[Source: Amended at 11 Ok Reg 361, eff 10-15-93 (emergency); Amended at 11 Ok Reg 2267, eff 5-26-94 ; Amended at 13 Ok Reg 967, eff 1-24-96 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 14 Ok Reg 593, eff 12-12-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 189, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1661, eff 5-11-98 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 17 Ok Reg 92, eff 10-1-99 (emergency); Amended at 17 Ok Reg 830, eff 1-6-00 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 18 Ok Reg 393, eff 12-8-00 (emergency); Amended at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 32 Ok Reg 296, eff 11-17-14 (emergency); Amended at 32 Ok Reg 1904, eff 9-15-15]

### **340:75-1-12.1. Client resolution process [REVOKED]**

[Source: Added at 16 Ok Reg 102, eff 10-13-98 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 19 Ok Reg 2208, eff 6-27-02 ; Revoked at 21 Ok Reg 867, eff 4-26-04]

### **340:75-1-12.2. Appeal process [REVOKED]**

[Source: Added at 16 Ok Reg 294, eff 11-23-98 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 21 Ok Reg 867, eff 4-26-04 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 26 Ok Reg 1785, eff 6-1-09 (emergency); Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Revoked at 28 Ok Reg 894, eff 7-1-11]

### **340:75-1-12.3. Grievance resolution process for children in care and for foster parents [REVOKED]**

[Source: Added at 17 Ok Reg 830, eff 1-6-00 (emergency); Added at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 18 Ok Reg 2128, eff 6-11-01 ; Revoked at 19 Ok Reg 208, eff 12-1-01 (emergency); Revoked at 19 Ok Reg 1129, eff 5-13-02]

**340:75-1-12.4. Grievance procedures for children placed in shelters, group homes, residential, and psychiatric facilities  
[REVOKED]**

[Source: Added at 17 Ok Reg 830, eff 1-6-00 (emergency); Added at 17 Ok Reg 1311, eff 5-11-00 ;  
Revoked at 18 Ok Reg 2128, eff 6-11-01]

**340:75-1-12.5. Placement and Mistreatment Grievances  
[REVOKED]**

[Source: Added at 17 Ok Reg 830, eff 1-6-00 (emergency); Added at 17 Ok Reg 1311, eff 5-11-00 ;  
Revoked at 18 Ok Reg 2128, eff 6-11-01]

**340:75-1-12.6. Fair hearings**

(a) The primary purpose of the fair hearing is to safeguard the rights of clients and provide recourse to address infractions of individual rights and interests. An administrative fair hearing may be granted to the:

(1) foster parent when Oklahoma Department of Human Services (OKDHS):

(A) denies the foster parent's claim for foster care maintenance payment;

(B) pays foster care maintenance payment to the foster parent in a sum lower than the amount claimed;

(C) does not pay foster care maintenance payment to the foster parent in a timely manner;

(D) closes the foster parent's home as indicated on Form 04FC008E, Notice of Closure to OKDHS Foster Parents, unless the court has ordered children removed from the foster home or has upheld an OKDHS decision removing children from the foster home following a hearing;

(E) does not return a child in OKDHS custody removed from the foster parent's home due to a child abuse or neglect investigation and:

(i) the foster parent was not provided notice of the foster parent's right to be heard during proceedings before the court; or

(ii) the foster parent received the notice, attempted to have the court hear the question but was denied a right to be heard by the court regarding the decision not to return the child during a hearing, and the court never heard the question about whether the child should be returned; or

(F) notifies the foster parent of an overpayment the foster parent disputes; or

(2) adoptive parent when OKDHS:

(A) denies the adoptive parent's application for an adoption assistance payment as indicated on Form 04AN011E, Request for Review of Denial;

(B) approves the adoptive parent's application for an adoption assistance payment in an amount less than

- requested; or
- (C) delays or denies an authorized adoptive placement out-of-state with the adoptive parent, per OAC 340:75-15-47; or
- (D) notifies the adoptive parent of an overpayment the adoptive parent disputes; or
- (3) kinship guardian when OKDHS:
  - (A) denies a kinship guardianship assistance payment as indicated on Form 04AN011E, Request for Review of Denial;
  - (B) approves the kinship guardianship payment in an amount less than requested; or
  - (C) delays or denies an authorized kinship guardian placement out-of-state with the kinship guardian; or
  - (D) notifies the kinship guardian of an overpayment the kinship guardian disputes.
- (b) Fair hearing requests regarding:
  - (1) adverse decisions on adoption assistance payments are filed within 30 days of the date of the written notice of the adverse action per OAC 340:75-15-128; or
  - (2) closures of approved OKDHS foster homes are processed per OAC 340:75-7-94 and OAC 340:2-5-94.
- (c) The appellant is given access, prior to the date of the hearing, to any information to be used in the hearing. Any information acquired after the notice of the adverse decision and after the request for the fair hearing may be used in the hearing process provided the appellant is notified of this information and of the intent to use it. Such information is made available to the appellant ten days prior to the hearing date.
- (d) Rulings and issues resulting from findings made by the court are not appealable in the fair hearing process.
- (e) Findings made pursuant to a Child Protective Services (CPS) appeal process are not subject to review in the fair hearing process.

[Source: Added at 17 Ok Reg 830, eff 1-6-00 (emergency); Added at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 22 Ok Reg 1242, eff 5-26-05 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10]

### **340:75-1-12.7. Foster parent hotline [REVOKED]**

[Source: Added at 17 Ok Reg 830, eff 1-6-00 (emergency); Added at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 22 Ok Reg 1242, eff 5-26-05 ; Revoked at 28 Ok Reg 894, eff 7-1-11]

### **340:75-1-12.8. Foster care mediation [REVOKED]**

[Source: Added at 24 Ok Reg 1323, eff 6-1-07 ; Revoked at 28 Ok Reg 894, eff 7-1-11]

### **340:75-1-13. Requests for assistance from other states**

Oklahoma Department of Human Services Child Welfare Services provides assistance to other state child welfare agencies requesting interviews and preventive or follow-up services for children and families who are currently residing in the State of Oklahoma.

[Source: Amended at 11 Ok Reg 361, eff 10-15-93 (emergency); Amended at 11 Ok Reg 2267, eff 5-26-94 ; Amended at 13 Ok Reg 967, eff 1-24-96 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 14 Ok Reg 593, eff 12-12-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 189, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1661, eff 5-11-98 ; Amended at 15 Ok Reg 3886, eff 7-14-98 (emergency); Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 17 Ok Reg 92, eff 10-1-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 28 Ok Reg 894, eff 7-1-11 ; Amended at 30 Ok Reg 839, eff 7-1-13]

### **340:75-1-14. Legal system related to child welfare services**

(a) **Enforcement authority.** Pursuant to Section 1-1-104 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-1-104), the Attorney General, the district attorney of the appropriate district, and any other law enforcement official having jurisdiction has the authority to bring civil actions against any person, officer or department, board, commission, or other entity, to enforce the provisions of the Oklahoma Children's Code, or to enforce any of the laws of this state protecting or applying in any way to a child removed from the custody of the lawful parent of the child by a disposition order of the court.

(b) **Legal considerations.** When a child requires legal protection, a judge responsible for deprived cases is assigned to the case. When criminal prosecution of the perpetrator of child abuse or neglect is warranted, a judge responsible for criminal matters is assigned to the case.

(c) **Deprived proceedings.** The focus of the court in cases of child abuse and neglect is the welfare of the child in the total context of the family. This focus requires social service professionals and the court to work closely with one another toward the goal of protecting the child and determining the appropriate response. The court has a range of choices available to rehabilitate the family and protect the child. The court may enter orders in cases of child abuse or neglect:

- (1) returning the child home under Oklahoma Department of Human Services protective supervision;
- (2) temporarily ordering the child placed out of the home until the behaviors of the parent or legal guardian provide safety for the child; or
- (3) permanently removing the child from the home and terminating parental rights when:
  - (A) the parent is unwilling or unable to provide care and protection for the child; or
  - (B) when certain circumstances exist indicating the child cannot safely return to the home.

[Source: Amended at 11 Ok Reg 361, eff 10-15-93 (emergency); Amended at 11 Ok Reg 2267, eff 5-26-94 ; Amended at 13 Ok Reg 967, eff 1-24-96 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 16 Ok Reg 1052, eff 4-26-99 ; Amended at 18 Ok Reg 393, eff 12-8-00 (emergency); Amended at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 27 Ok

Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 28 Ok Reg 894, eff 7-1-11 ; Amended at 30 Ok Reg 839, eff 7-1-13]

### **340:75-1-15. Court process [REVOKED]**

[**Source:** Amended at 10 Ok Reg 3623, eff 7-12-93 ; Amended at 11 Ok Reg 361, eff 10-15-93 (emergency); Amended at 11 Ok Reg 2267, eff 5-26-94 ; Amended at 12 Ok Reg 3456, eff 7-1-95 (emergency); Amended at 13 Ok Reg 967, eff 1-24-96 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 14 Ok Reg 593, eff 12-12-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 17 Ok Reg 92, eff 10-1-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 18 Ok Reg 393, eff 12-8-00 (emergency); Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 19 Ok Reg 402, eff 12-1-01 (emergency); Amended at 19 Ok Reg 1129, eff 5-13-02 ; Revoked at 23 Ok Reg 1024, eff 5-11-06]

### **340:75-1-16. Custody hearings, placement hearings, and court orders**

(a) **Pre-petition emergency custody order.** Section 1-4-201 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-4-201) directs that the court may not enter a pre-petition, emergency custody order removing a child from the child's home unless the court makes a determination:

- (1) that an imminent safety threat exists and continuation in the child's home is contrary to the child's welfare; and
- (2) whether reasonable efforts have been made to prevent the child's removal from the child's home; or
- (3) an absence of efforts to prevent the removal of the child from the child's home is reasonable because the removal is due to an emergency and provides for the child's safety and welfare.

(b) **Emergency custody hearing.** 10A O.S. § 1-4-203 requires that within two judicial days after a child is taken into emergency or protective custody as an alleged deprived child, the child's parent, legal guardian, or custodian is entitled to an emergency custody hearing, and thereafter at such intervals as determined by the court.

(c) **Due diligence to identify relatives.** Per 10A O.S. § 1-4-203, within 30 calendar days of the child's removal, the Oklahoma Department of Human Services (DHS) exercises due diligence to identify the child's relatives. DHS provides notice to all grandparents and to other relatives as the court directs. Relatives are not notified when notification would not be in the child's best interests, due to past or current family or domestic violence. The notice advises the relatives:

- (1) the child was or will be removed from the custody of the parent or parents;
- (2) of the options under applicable law to participate in the care and placement of the child, including any options that may be lost by failing to respond to the notice; and
- (3) of the requirements to become a foster family home and the additional services and supports available for the child placed in the home.

(d) **Pre-adjudicatory emergency custody order extension.** Per 10A O.S. § 1-4-601, the child is released from emergency custody when the adjudication hearing is delayed beyond 90 calendar days from the date the petition is filed unless the court extends the emergency order up to an additional 90 calendar days by a written order with findings of fact supporting a determination that:

- (1) reasonable suspicion exists that the health, safety, or welfare of the child would be in imminent danger if the child were returned to the home; and
- (2) an exceptional circumstance exists to support the continuance of the child in emergency custody; or
- (3) an agreement by the parents and the guardian ad litem, if any, exists to the continuance.

(e) **Emergency custody order expiration.** Per 10A O.S. § 1-4-601, when the adjudicatory hearing is delayed, the emergency custody order expires, unless the hearing on the merits of the petition is held within 180 calendar days after the actual removal of the child. Custody is determined by the court. However, the expiration of the emergency custody order does not cause the court to lose jurisdiction over the parties, including the child, and the court may enter other orders the court deems necessary to provide for the health, safety, and welfare of the child pending hearing on the petition.

(f) **Post-petition emergency hearing.** Once a child is the subject of a deprived child proceeding, any party may file a verified application for an emergency hearing that demonstrates harm or threatened harm to the health, safety, or welfare of the child. The court must hold an emergency hearing within 72 hours after receipt of the application. The court may issue an emergency order to protect the health, safety, and welfare of the child ending the emergency hearing per 10A O.S. §1-4-807.1.

(g) **Opportunity for DHS and others to be heard in placement and custody decisions.**

(1) Per 10A O.S. § 1-4-802, at any hearing under the Oklahoma Children's Code for the purpose of determining placement of the child in DHS custody, or whether the child in DHS custody, whether protective, emergency, temporary, or permanent is released from DHS custody, the court must provide an opportunity for a DHS representative, the current foster parent, a group home representative where the child is currently placed, the guardian ad litem, and child, when of sufficient age, to present sworn testimony regarding the placement or release.

(2) When the Oklahoma Commission on Children and Youth (OCCY), Office of Juvenile System Oversight has conducted an investigation regarding placement of a child or release of a child from state custody and determines there is a serious risk of danger to the health or safety of the child, OCCY provides the court and the parties a written report of the investigation and recommendation for placement of the child. The OCCY report is provided to the court and the parties no less than five judicial days prior to the hearing. The court, upon motion of any party, orders attendance of any person preparing the OCCY report when it appears there is a substantial likelihood that material evidence not contained in the report may be produced by the testimony of the person who prepared the report. The court considers the report when making the decision regarding placement of the child or release of the child from DHS custody.

(h) **Objection by district attorney or child's attorney to child's release from DHS custody and review of court order.** Per 10A O.S. §

1-8-103, at any hearing where a child's release from DHS custody, whether protective, emergency, temporary, or permanent custody, creates a serious risk of danger to the health or safety of the child, the district attorney or the attorney for the child may give verbal notice to the court of an objection to the court's order and an intention to seek review of the order releasing the child from DHS custody.

(1) Upon receiving notice, the court issuing the custody order in question stays the custody order pending the filing of an application and completion of the review. The district attorney or attorney for the child files a written application for review within three judicial days from the custody order with the presiding judge of the administrative judicial district. When a written application for review is not filed within the required time period, or when a written notice to the trial court withdrawing the objection is filed within the time period, the objection is deemed abandoned and the stay expires.

(2) Each application for review is assigned by the presiding judge of the administrative judicial district to a judge with juvenile docket responsibilities within that administrative judicial district.

(A) The review is completed within five judicial days of the filing of the written application for review and addresses the question of whether releasing the child from DHS custody creates a serious risk of danger to the health or safety of the child.

(B) The reviewing court reviews the hearing record and any other evidence the reviewing court deems relevant and issues a findings of fact and conclusions of law.

(i) **Directed placement not allowed.** When the court determines it would be in the best interests of the child, the court may place the child in DHS legal custody. Per 10A O.S. § 1-4-803, when the child is placed in DHS custody, the court does not have the authority to order a specific placement, but has the authority to approve or disapprove a specific placement when the placement does not conform to statutory requirements and the child's best interests.

(j) **Right to be heard and hearing notification to placement providers.** DHS provides notice of the hearing per Oklahoma Administrative Code 340:75-1-16.1.

(k) **Telephonic or teleconference hearings.** Per 10A O.S. § 1-4-503 any proceeding held pursuant to the Oklahoma Children's Code may be conducted via teleconference communication when authorized by the court; provided, that when a parent or child appears for a proceeding via teleconference, the attorney representing the parent or child must personally appear at the hearing. Teleconference communication means participation in the hearing by interactive telecommunication, including telephonic communication, by the absent party, parties present in court, the attorneys, and others deemed to be necessary participants to the proceeding including, but not limited to, foster parents and facility staff where a child may be receiving care or treatment.

Amended at 14 Ok Reg 593, eff 12-12-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 17 Ok Reg 92, eff 10-1-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 18 Ok Reg 393, eff 12-8-00 (emergency); Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 19 Ok Reg 402, eff 12-1-01 (emergency); Amended at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 20 Ok Reg 90, eff 10-16-02 (emergency); Amended at 20 Ok Reg 921, eff 5-12-03 ; Amended at 24 Ok Reg 631, eff 1-15-07 (emergency); Amended at 24 Ok Reg 1323, eff 6-1-07 ; Amended at 25 Ok Reg 269, eff 11-1-07 (emergency); Amended at 25 Ok Reg 970, eff 5-15-08 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 32 Ok Reg 296, eff 11-17-14 (emergency); Amended at 32 Ok Reg 1904, eff 9-15-15]

### **340:75-1-16.1. Right to be heard and hearing notification to placement providers**

(a) Per Section 1-4-807 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-4-807), a foster parent, group home, pre-adoptive parent, or relative providing care for the child in the Oklahoma Department of Human Services (DHS) custody has a right to notice of court proceedings regarding the child and the right to be heard at all proceedings. Except when allowed to intervene, the foster parent, group home, pre-adoptive parent, or relative providing care for the child is not considered a party to the juvenile court proceeding solely because of the right to notice and the right to be heard at the proceeding.

(b) Per 10A O.S. § 1-9-119, the foster parent:

- (1) receives a notification of any court hearing including the date and time, the judge or hearing officer's name, the hearing's location, and the case's court docket number; and
- (2) is kept informed of decisions concerning the child made by the court, DHS, or the child-placing agency.

[Source: Added at 32 Ok Reg 296, eff 11-17-14 (emergency); Added at 32 Ok Reg 1904, eff 9-15-15 ; Amended at 36 Ok Reg 1856, eff 9-16-19]

### **340:75-1-17. Adjudication hearing**

The adjudication hearing is a proceeding in which the district attorney representing the State, must prove the allegations of the deprived petition are supported by a preponderance of the evidence and as a result, the child is adjudicated to be deprived and made a ward of the court. The hearing is held per Section 1-4-601 of Title 10A of the Oklahoma Statutes. The order of adjudication must include a statement advising the parent that failure to appear at any subsequent hearing, or to comply with the requirements of the court may result in the loss of custody of the child or termination of parental rights.

[Source: Amended at 11 Ok Reg 361, eff 10-15-93 (emergency); Amended at 11 Ok Reg 2267, eff 5-26-94 ; Amended at 13 Ok Reg 967, eff 1-24-96 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 18 Ok Reg 393, eff 12-8-00 (emergency); Amended at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 25 Ok Reg 269, eff 11-1-07 (emergency); Amended at 25 Ok Reg 970, eff 5-15-08 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 32 Ok Reg 296, eff 11-17-14 (emergency); Amended at 32 Ok Reg 1904, eff 9-15-15]

### **340:75-1-18. Dispositional hearing and options, and placement guidelines**

(a) **Dispositional hearing purpose.** The purpose of the dispositional hearing is to determine the individualized needs of the child and family,



and custody of the child during the deprived case. The court considers all helpful evidence in determining the disposition that is in the child's best interests.

(b) **Dispositional hearing.** After a child is adjudicated to be deprived, the court holds a dispositional hearing, per Section 1-4-706 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-4-706).

(1) When the child is removed from the parent's custody, the court or the Oklahoma Department of Human Services (DHS) considers concurrent permanency immediately and throughout the case. When appropriate, a concurrent plan is developed to ensure permanency for the child occurs at the earliest opportunity in the event reunification fails or is delayed. Appropriate in-state and out-of-state placement options are identified and the placement selected is the best available placement to provide permanency for the child.

(2) At the hearing, a DHS recommended, individualized service plan is presented to the court. The judge makes the final decision regarding if the proposed individualized service plan is accepted and if any or all recommendations are ordered by the court.

(c) **Court orders regarding custody or guardianship.** Every effort is made to place a child with a member of the child's family in a safe and appropriate home, per 10A O.S. § 1-4-706. When a child is removed from the custodial parent and the court, in the child's best interests, is unable to release the child to the noncustodial parent, a placement preference is given to relatives and persons who have a kinship relationship with the child. DHS reports to the court, the diligent efforts made to secure the placement per 10A O.S. § 1-4-204 and Oklahoma Administrative Code (OAC) 340:75-6-85.2. In cases when the Indian Child Welfare Act applies, the placement preferences of the Act are followed per OAC 340:75-19-14.

(d) **Placement prohibitions.** A potential foster or adoptive parent is not approved as placement for a child when the potential foster or adoptive parent or any other person residing in the home of the potential foster or adoptive parent was convicted of any of the criminal offenses specified in 10A O.S. § 1-4-705 and OAC 340:75-7-15 or when the potential foster or adoptive parent is subject to, or is married to, or living with someone subject to the Oklahoma Sex Offender Registration Act.

(e) **Dispositional options.** 10A O.S. § 1-4-707 permits the court to enter dispositional orders including, but not limited to:

(1) placing the child under DHS protective supervision in the child's own home, with the child's parent or legal guardian with whom the child was residing at the time the events or conditions arose that brought the child within the court's jurisdiction, subject to conditions as prescribed by the court that would reasonably prevent the child from continued deprivation. DHS supervision remains in effect for one year unless extended or reduced in appropriate circumstances by the court per 10A O.S. § 1-4-707;

(2) placing custody of the child with the non-custodial parent under DHS protective supervision; and ordering:

(A) reunification services for the parent or legal guardian from whom the child was, or is being removed;

- (B) services for the parent, who is assuming physical custody of the child to allow the parent to later obtain legal custody without court supervision; or
- (C) services for both parents, with the court determining at a subsequent review hearing which parent, if either, will have legal custody of the child;

(3) placing the child in the home of a parent. The court gives a preference for placing temporary custody of the child with a relative, per 10A O.S. § 1-4-204, subject to the child's best interests and the conditions and restrictions specified in 10A O.S. § 1-4-705. In determining whether to place temporary custody of the child with a relative, the court may consider:

- (A) the child's physical, psychological, educational, medical, and emotional needs;
- (B) the wishes of the parent, the relative, and child, when appropriate;
- (C) when placement of the siblings and half-siblings can be made in the same home, if that placement is found to be in the best interest of each child;
- (D) the background information of the relative and any other person living in the home, including whether any such person has a prior history of violence, acts of child abuse or neglect, or any other background that would render the home unsuitable;
- (E) the nature and duration of the relationship between the child and the relative, and the relative's desire to care for and to provide long-term permanency for the child when reunification is unsuccessful; and
- (F) the ability of the relative to:
  - (i) provide a safe, secure, and stable environment for the child;
  - (ii) exercise proper and effective care and control of the child;
  - (iii) provide a home and the necessities of life for the child;
  - (iv) protect the child from his or her parents;
  - (v) facilitate court-ordered reunification efforts with the parent;
  - (vi) facilitate visitation with the child's siblings and other relatives; and
  - (vii) arrange for appropriate and safe child care, when necessary;

(4) placing the child in the custody of a private institution or agency, including any institution established and operated by the county, authorized to care for children or to place them in family homes.

- (A) In placing a child in a private institution or agency, the court selects one that is licensed by DHS or another state agency supervising or licensing private institutions and agencies; or, when such institution or agency is in another state, by the analogous department of that state.

- (B) Whenever the court places a child in an institution or agency, it transmits with the order of commitment a summary of its information concerning the child, and the institution or agency gives to the court such information concerning the child as the court may at any time require;
  - (5) placing the child in DHS custody. DHS makes an individualized determination when selecting a placement for the child based upon the child's best interests and permanency plan, utilizing:
    - (A) a home or facility meeting the preferences specified by the federal and state Indian Child Welfare Acts, when applicable;
    - (B) a non-custodial parent's home;
    - (C) a DHS-approved relative's home;
    - (D) a DHS-approved non-relative's, kinship family home;
    - (E) an approved foster home where the child was previously placed;
    - (F) a DHS-approved suitable, non-kinship, foster family home;
    - (G) a suitable licensed group home for children; or
    - (H) an independent living program;
  - (6) ordering that any person residing in the home follow specific conduct the court determines is in the child's best interests that reasonably prevents the child from continued deprivation;
  - (7) ordering establishment of a permanent guardianship per 10A O.S. § 1-4-709; and
  - (8) dismissing the petition and terminating the court's jurisdiction at any time for good cause when it is in the child's best interests.
- (f) **Additional court determinations.** The court makes a determination whether:
- (1) reasonable efforts:
    - (A) were made to reunite the child with his or her family; however, the period for reunification services may not exceed 17 months from the date the child was initially removed from the child's home, unless the court finds compelling reasons to the contrary;
    - (B) to reunite the child with his or her family are inconsistent with the child's permanency plan;
    - (C) were taken to finalize the child's permanent placement including, when appropriate, through an interstate placement; or
    - (D) to reunite the child with the family are not required, per 10A O.S. § 1-4-809 and OAC 340:75-1-18.4;
  - (2) services provided to assist any youth, 16 years of age or older, in the transition from out-of-home care to independent living are appropriate; and
  - (3) to place siblings, who were removed, together in the same foster care, guardianship, or adoptive placement and provide for frequent visitation or other ongoing interaction for siblings, who were removed, and are not placed together. Guidance on when siblings may be separated is found in OAC 340:75-6-85.

**(g) Notification of hearing.** DHS provides notice of the hearing per OAC 340:75-1-16.1.

[**Source:** Amended at 9 Ok Reg 3713, eff 7-23-92 (emergency); Amended at 10 Ok Reg 3623, eff 7-12-93 ; Amended at 11 Ok Reg 361, eff 10-15-93 (emergency); Amended at 11 Ok Reg 2267, eff 5-26-94 ; Amended at 13 Ok Reg 967, eff 1-24-96 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 14 Ok Reg 593, eff 12-12-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 189, eff 11-1-97 (emergency); Amended at 15 Ok Reg 904, eff 12-16-97 (emergency); Amended at 15 Ok Reg 1661, eff 5-11-98 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 16 Ok Reg 1950, eff 6-11-99 ; Amended at 17 Ok Reg 92, eff 10-1-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 18 Ok Reg 393, eff 12-8-00 (emergency); Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 19 Ok Reg 402, eff 12-1-01 (emergency); Amended at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 22 Ok Reg 233, eff 11-4-04 (emergency); Amended at 22 Ok Reg 840, eff 5-12-05 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 25 Ok Reg 269, eff 11-1-07 (emergency); Amended at 25 Ok Reg 970, eff 5-15-08 ; Amended at 26 Ok Reg 884, eff 5-15-09 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 32 Ok Reg 296, eff 11-17-14 (emergency); Amended at 32 Ok Reg 1904, eff 9-15-15 ; Amended at 35 Ok Reg 451, eff 1-31-18 (emergency); Amended at 35 Ok Reg 1695, eff 9-17-18]

### **340:75-1-18.1. Permanency hearings**

(a) **Permanency hearing.** A permanency hearing is held for the child alleged or adjudicated to be deprived. State and federal law establish the requirements for permanency hearings.

(1) Per Section 1-4-810 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-4-810), when a child has been in out-of-home care for 12 months or longer, the court may require the Oklahoma Department of Human Services (DHS) to facilitate a meeting, held no later than 30 calendar days prior to the permanency hearing, to discuss recommendations regarding the child's permanency plan that are reported to, and reviewed by, the court. The court may direct the assigned guardian ad litem, if any, who may be a court-appointed special advocate, a judicial case manager, or DHS to make meeting arrangements. The child's foster parents, the child's parents, or the parents' attorney, a post-adjudication review board member, the guardian ad litem appointed to the case, the child, the child's attorney, and others as appropriate are contacted to assist in the preparation of the report.

(2) The judge conducts the permanency hearing and makes determinations, per 10A O.S. § 1-4-811. DHS Child Welfare (CW) specialists provide the court with the necessary information to conduct the hearing. The initial and subsequent permanency hearings may be held earlier or more frequently at the request of a party, DHS, or the court, but initially no later than:

(A) six months from the date of the child's placement in out-of-home care and every six months thereafter; and

(B) 30 calendar days after a determination that reasonable efforts are not required to reunite the child with the family, and every six months thereafter.

(b) **Notification of hearing and right to be heard.** DHS provides notice of the hearing per OAC 340:75-1-16.1.

(c) **Court jurisdiction to finalize child's permanent plan.** The judge presiding over the deprived case has authority to make final determination in the matter and preside over any separate action necessary to finalize a child's permanency plan, including an adoption, guardianship, or other custody proceeding per 10A O.S. § 1-4-101.

[Source: Added at 16 Ok Reg 102, eff 10-13-98 ; Amended at 17 Ok Reg 92, eff 10-1-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 18 Ok Reg 393, eff 12-8-00 (emergency); Amended at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 20 Ok Reg 90, eff 10-16-02 (emergency); Amended at 20 Ok Reg 2066, eff 6-26-03 ; Amended at 21 Ok Reg 871, eff 4-26-04 ; Amended at 22 Ok Reg 339, eff 12-7-04 (emergency); Amended at 22 Ok Reg 840, eff 5-12-05 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 25 Ok Reg 269, eff 11-1-07 (emergency); Amended at 25 Ok Reg 970, eff 5-15-08 ; Amended at 26 Ok Reg 884, eff 5-15-09 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 32 Ok Reg 296, eff 11-17-14 (emergency); Amended at 32 Ok Reg 1904, eff 9-15-15]

### **340:75-1-18.2. Permanent care and custody transferred to another person [REVOKED]**

[Source: Added at 18 Ok Reg 393, eff 12-8-00 through 7-14-01 (emergency)<sup>1</sup>; Added at 18 Ok Reg 3480, eff 7-25-01 (emergency); Added at 19 Ok Reg 402, eff 12-1-01 (emergency); Added at 19 Ok Reg 2208,

eff 6-27-02 ; Revoked at 27 Ok Reg 1092, eff 3-26-10 (emergency); Revoked at 27 Ok Reg 1865, eff 7-1-10]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new section, the text of the section is no longer effective. Therefore, on 7-15-01 (after the 7-14-01 expiration of the emergency action), section 340:75-1-18.2 was no longer effective, and remained as such until added again by emergency action on 7-25-01.*

### **340:75-1-18.3. Permanent guardianship [REVOKED]**

[**Source:** Added at 18 Ok Reg 393, eff 12-8-00 (emergency); Added at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 19 Ok Reg 402, eff 12-1-01 (emergency); Amended at 19 Ok Reg 1129, eff 5-13-02 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Revoked at 28 Ok Reg 894, eff 7-1-11]

### **340:75-1-18.4. Reasonable efforts not required determination**

(a) At any time prior to or following the adjudicatory hearing, the court, on its own motion, or upon the motion of a party, may find that reasonable efforts to prevent the removal of a child from home or to reunite the child with the family are not required, when the court determines, per Section 1-4-809 of Title 10A of the Oklahoma Statutes, that the:

- (1) parent or legal guardian of the child who is an infant 12 months of age or younger has abandoned the child;
- (2) child's parent or legal guardian has:
  - (A) committed murder or manslaughter of any child;
  - (B) aided or abetted, attempted, conspired, or solicited to commit voluntary manslaughter of any child;
  - (C) committed a felony assault upon any child that resulted in the child receiving serious bodily injury; or
  - (D) subjected any child to aggravated circumstances including, but not limited to, heinous and shocking abuse, or heinous and shocking neglect; or
- (3) the parental rights of a parent to the child's sibling have been terminated involuntarily;
- (4) parent has been found by a court of competent jurisdiction to have committed sexual abuse against the child or another child of the parent; or
- (5) parent is required to register with a sex offender registry pursuant to Section 113(a) of the Adam Walsh Child Protection and Safety Act of 2006, 42 U.S.C., Section 16913(a).

(b) The court conducts a permanency hearing within 30 calendar days of the court's determination that any of the conditions specified in 10A O.S. § 1-4-809 exist. Reasonable efforts are required to place the child in a timely manner in accordance with the permanency plan.

[**Source:** Added at 18 Ok Reg 393, eff 12-8-00 (emergency); Added at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 18 Ok Reg 3480, eff 7-25-01 (emergency); Amended at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 26 Ok Reg 884, eff 5-15-09 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 30 Ok Reg 839, eff 7-1-13]

### **340:75-1-19. Placement plan [REVOKED]**

[Source: Revoked at 15 Ok Reg 189, eff 11-1-97 (emergency); Revoked at 15 Ok Reg 1661, eff 5-11-98]

### **340:75-1-20. Judicial review hearings**

(a) **Six-month review hearing requirement.** Section 1-4-807 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-4-807) requires the court to review every case regarding a child alleged or adjudicated deprived no later than six months after the date of the child's removal from the home and at least once every six months thereafter until permanency is achieved or the court otherwise terminates jurisdiction.

(1) At the review hearing, Oklahoma Department of Human Services (DHS) provides information similar to that offered at the dispositional hearing, with special emphasis on the parent or legal guardian's progress on the court-ordered treatment and service plan.

(2) The court reviews all evidence that assists in decision-making including, but not limited to, oral and written reports presented by DHS and others involved in the case.

(b) **Ninety-day review requirement.** Per 10A O.S. § 1-4-807, when DHS documents a compelling reason why a petition to terminate parental rights to the child is not in the child's best interests, based upon a consideration that the child is not presently capable of functioning in a family setting, the child's status is re-evaluated by the court every 90 calendar days until a final determination is made that the child cannot be placed in a family setting.

(c) **Requesting review hearing and concurrent review and permanency hearings.**

(1) At any time during the pendency of the case, any party may request the court to review the case. When a review is granted, the requesting party provides notice to all parties of the date and time of the hearing, per 10A O.S. § 1-4-807.

(2) A review hearing may be held concurrently with a permanency hearing, per 10A O.S. § 1-4-807.

(d) **Review hearing report.** DHS prepares the review hearing report for the court when the child is in DHS legal custody or when DHS has court-ordered protective supervision of the child. Per 10A O.S. § 1-4-808, the report includes, but is not limited to:

(1) a summary of the child's physical, mental, and emotional condition, the conditions existing in the out-of-home placement where the child has been placed, and the child's adjustment;

(2) a report on the child's progress in school and, when the child has been placed outside of the child's home, the visitation exercised by the child's parents or other persons authorized by the court;

(3) services provided to the child 16 years of age or older that assist the child in the transition from out-of-home care or other community placement to independent living;

(4) a description of:

- (A) each parent's progress to correct the conditions or change behaviors that caused the child to be adjudicated deprived;
  - (B) changes that still need to occur and the specific actions the parent must take to make the changes; and
  - (C) services and assistance offered or provided to each parent since the previous hearing and the services that are needed in the future;
- (5) a description of the child's placements:
- (A) by number and type with dates of entry and exit;
  - (B) reasons for the placement or change in placement; and
  - (C) a statement regarding the success or lack of success of each placement;
- (6) DHS efforts to locate and involve each parent in the planning for the child, when the parent is not currently communicating with DHS;
- (7) compliance by DHS, as applicable, and each parent with the court's orders concerning the individualized service plans, previous court orders, and DHS recommendations;
- (8) whether the current placement is appropriate for the child, its distance from the child's home and if it is the least restrictive, most family-like placement available;
- (9) a proposed timetable for the child's return to his or her home or other permanent placement; and
- (10) specific recommendations, giving reasons whether:
- (A) trial reunification should be approved by the court;
  - (B) trial reunification should be continued to a certain date as specified by the court;
  - (C) the child should remain in, or be placed outside of the child's parent or legal guardian's home; or
  - (D) the child should remain in the current placement when the permanency plan is other than reunification with the child's parent or legal guardian.
- (e) **Notice of hearing.** DHS provides notice of the hearing per Oklahoma Administrative Code 340:75-1-16.1.

[Source: Amended at 11 Ok Reg 361, eff 10-15-93 (emergency); Amended at 11 Ok Reg 2267, eff 5-26-94 ; Amended at 13 Ok Reg 967, eff 1-24-96 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 15 Ok Reg 904, eff 12-16-97 (emergency); Amended at 15 Ok Reg 1661, eff 5-11-98 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 16 Ok Reg 1950, eff 6-11-99 ; Amended at 17 Ok Reg 92, eff 10-1-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 18 Ok Reg 393, eff 12-8-00 (emergency); Amended at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 20 Ok Reg 90, eff 10-16-02 (emergency); Amended at 20 Ok Reg 921, eff 5-12-03 ; Amended at 22 Ok Reg 339, eff 12-7-04 (emergency); Amended at 22 Ok Reg 840, eff 5-12-05 ; Amended at 25 Ok Reg 269, eff 11-1-07 (emergency); Amended at 25 Ok Reg 970, eff 5-15-08 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 32 Ok Reg 296, eff 11-17-14 (emergency); Amended at 32 Ok Reg 1904, eff 9-15-15]

### **340:75-1-21. Post-adjudication review board**

Section 1116.2 et seq. of Title 10 of the Oklahoma Statutes mandates the establishment of review boards for each judicial district to review the case of each child alleged or adjudicated deprived.



(1) The child's court file is reviewed by the local post adjudication review board (PARB) at least once every six months until the court case is dismissed.

(2) PARB reviews the case of each child adjudicated deprived pursuant to the laws of another state or territory, when the child resides in Oklahoma and OKDHS has agreed to provide services to the child pursuant to the Interstate Compact on the Placement of Children (ICPC) or other agreement concerning the child.

(3) The PARB's findings and recommendations are submitted to the court within ten days of any review hearing.

(4) PARB reports its findings to OKDHS and may report these findings to the agency or court in the state having jurisdiction.

(5) A person employed by OKDHS may be appointed to a board and may participate in any court hearing concerning the case of any child subject to review by PARB; however, the OKDHS member may not participate as a board member, in a hearing in which he or she is a party or is professionally involved.

[Source: Amended at 11 Ok Reg 361, eff 10-15-93 (emergency); Amended at 11 Ok Reg 2267, eff 5-26-94 ; Amended at 13 Ok Reg 967, eff 1-24-96 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 14 Ok Reg 593, eff 12-12-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 189, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1661, eff 5-11-98 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 17 Ok Reg 92, eff 10-1-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 19 Ok Reg 402, eff 12-1-01 (emergency); Amended at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 20 Ok Reg 90, eff 10-16-02 (emergency); Amended at 20 Ok Reg 921, eff 5-12-03 ; Amended at 21 Ok Reg 2374, eff 6-25-04 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 30 Ok Reg 839, eff 7-1-13]

### **340:75-1-22. Administrative review and procedures**

(a) **Administrative review.** Title IV of the Social Security Act requires that a case review, either judicial or administrative, occur at least each six months following the date of placement for each child in out-of-home care. An administrative review may not substitute for the statutorily required hearings. An administrative review is held when a case involving a child placed in out-of-home care, or a youth age 18 to 21 in voluntary placement with Oklahoma Department of Human Services (OKDHS) is not reviewed after a six-month interval by the court of jurisdiction or the post adjudication review board (PARB). Child Welfare staff is responsible for providing an administrative review in these situations. Each parent and child, when of appropriate age or ability, is given the opportunity to participate in the review.

(b) **Case review system.** Section 475(6) of the Social Security Act defines the administrative review as ... *a review open to the participation of the parents of the child, conducted by a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review.* The case review system ensures:

(1) each adjudicated-deprived child in OKDHS custody living in out-of-home placement has a case plan designed to achieve placement in a safe setting that is least restrictive, in close proximity to the parent(s)' home, and is consistent with the child's best interests and special needs;

- (2) the child's status is reviewed at least every six months by a court or by administrative review to determine:
- (A) the child's safety;
  - (B) the continuing need for and appropriateness of the child's placement;
  - (C) the extent of progress made on the case plan toward alleviating the conditions that caused the child's placement in out-of-home care; and
  - (D) a likely date the child can be returned home or will obtain permanency through adoption, guardianship, or other placement, as applicable; and
- (3) procedural safeguards, such as a permanency hearing, are made available to the child and family, as required by Section 1-4-807 of Title 10-A of the Oklahoma Statutes, per OAC 340:75-1-18.1

[Source: Amended at 10 Ok Reg 3623, eff 7-12-93 ; Amended at 11 Ok Reg 361, eff 10-15-93 (emergency); Amended at 11 Ok Reg 2267, eff 5-26-94 ; Amended at 13 Ok Reg 967, eff 1-24-96 through 7-14-96 (emergency); Amended at 15 Ok Reg 189, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1661, eff 5-11-98 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 20 Ok Reg 2066, eff 6-26-03 ; Amended at 21 Ok Reg 871, eff 4-26-04 ; Amended at 22 Ok Reg 339, eff 12-7-04 (emergency); Amended at 22 Ok Reg 840, eff 5-12-05 ; Amended at 30 Ok Reg 839, eff 7-1-13]

### **340:75-1-23. Termination of parental rights**

**Motion or petition for termination of parental rights.** Sections 1-4-901 through 1-4-909 of Title 10A of the Oklahoma Statutes set out procedures and requirements, consistent with federal regulations, for termination of the parent-child relationship. A petition or motion for termination of parental rights may be filed by either the district attorney or the attorney of the child alleged to be or adjudicated deprived. Refer to OAC 340:75-6-40.7 for additional information regarding termination of parental rights.

[Source: Amended at 11 Ok Reg 361, eff 10-15-93 (emergency); Amended at 11 Ok Reg 2267, eff 5-26-94 ; Amended at 13 Ok Reg 967, eff 1-24-96 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 15 Ok Reg 189, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1661, eff 5-11-98 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 16 Ok Reg 1950, eff 6-11-99 ; Amended at 17 Ok Reg 92, eff 10-1-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 18 Ok Reg 393, eff 12-8-00 through 7-14-01 (emergency)<sup>1</sup>; Amended at 18 Ok Reg 3480, eff 7-25-01 (emergency); Amended at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 30 Ok Reg 839, eff 7-1-13]

**Editor's Note:** <sup>1</sup>*This emergency action expired before being superseded by a permanent action. Upon the expiration of an emergency amendatory action, the last prior permanent text is reinstated. Therefore, on 7-15-01 (after the 7-14-01 expiration of the emergency action), the text of 340:75-1-23 reverted back to the permanent text that became effective 5-11-00, as was last published in the 2000 OAC Supplement, and remained as such until amended again by emergency action on 7-25-01.*

### **340:75-1-23.1. Reinstatement of parental rights [AMENDED AND RENUMBERED TO OAC 340:75-6-40.8]**

[Source: Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended and renumbered to 340:75-6-40.8 at 30 Ok Reg 839, eff 7-1-13]

### **340:75-1-24. Child Welfare - direct service [REVOKED]**

[Source: Amended at 10 Ok Reg 3623, eff 7-12-93 ; Amended at 11 Ok Reg 361, eff 10-15-93 (emergency); Amended at 11 Ok Reg 2267, eff 5-26-94 ; Amended at 13 Ok Reg 967, eff 1-24-96 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 15 Ok Reg 189, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1661, eff 5-11-98 ; Amended at 16 Ok Reg 910, eff 12-10-98 (emergency); Amended at 16 Ok Reg 1052, eff 4-26-99 ; Amended at 17 Ok Reg 2429, eff 6-26-00 ; Amended at 19 Ok Reg 2208, eff 6-27-02 ; Revoked at 30 Ok Reg 839, eff 7-1-13]

### **340:75-1-25. Child Welfare - indirect services [REVOKED]**

[Source: Amended at 13 Ok Reg 967, eff 1-24-96 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 18 Ok Reg 393, eff 12-8-00 (emergency); Amended at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 19 Ok Reg 2208, eff 6-27-02 ; Revoked at 28 Ok Reg 894, eff 7-1-11]

### **340:75-1-26. Child Welfare Services records**

Pursuant to Section 1-6-108 of Title 10A of the Oklahoma Statutes, Oklahoma Department of Human Services (OKDHS) records regarding deprived children are maintained by OKDHS, until otherwise provided by law. A case record is established when:

- (1) the client or client's representative requests service;
- (2) service is requested on the client's behalf and the requested service is available through the Child Welfare Services program;
- or
- (3) a report of child abuse or neglect is assessed or investigated.

[Source: Amended at 10 Ok Reg 3623, eff 7-12-93 ; Amended at 11 Ok Reg 361, eff 10-15-93 (emergency); Amended at 11 Ok Reg 2267, eff 5-26-94 ; Amended at 13 Ok Reg 967, eff 1-24-96 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 15 Ok Reg 189, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1661, eff 5-11-98 ; Amended at 16 Ok Reg 1052, eff 4-26-99 ; Amended at 17 Ok Reg 92, eff 10-1-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 18 Ok Reg 393, eff 12-8-00 (emergency); Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 28 Ok Reg 894, eff 7-1-11 ; Amended at 30 Ok Reg 839, eff 7-1-13]

#### **340:75-1-26.1. Safety procedures for field visits**

Personal safety precautions are taken by each Child Welfare Services employee due to the involuntary nature of many child welfare services and potential for volatile and dangerous situations.

[Source: Added at 18 Ok Reg 3321, eff 7-1-01 (emergency); Added at 19 Ok Reg 1129, eff 5-13-02 ; Amended at 30 Ok Reg 839, eff 7-1-13]

#### **340:75-1-26.2. Death certificates**

When the parent of a child in Oklahoma Department of Human Services custody is alleged to be deceased, a certified copy of the parent's death certificate is requested.

[Source: Added at 26 Ok Reg 1282, eff 6-1-09 ; Amended at 28 Ok Reg 894, eff 7-1-11 ; Amended at 30 Ok Reg 839, eff 7-1-13]

### **340:75-1-27. Overpayments [REVOKED]**

[Source: Amended at 11 Ok Reg 361, eff 10-15-93 (emergency); Amended at 11 Ok Reg 2267, eff 5-26-94 ; Amended at 13 Ok Reg 967, eff 1-24-96 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 16 Ok Reg 910, eff 12-10-98 (emergency); Amended at 16 Ok Reg 1052, eff 4-26-99 ; Amended at 17 Ok Reg 92, eff 10-1-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 18 Ok Reg 393, eff 12-8-00 (emergency); Amended at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 19 Ok Reg 2208, eff 6-27-02 ; Revoked at 28 Ok Reg 894, eff 7-1-11]

### **340:75-1-28. Child Welfare Services contingency fund**

When assessing risk of abuse or neglect, and poverty is identified as a contributing factor a flexible contingency fund, subject to the availability of funds, may be used to provide immediate assistance for the family for services such as food, clothing, utility bills, rent, home or car repairs, and public transportation tokens.

- (1) The fund is used for a one-time purchase of goods, services, or both, needed to maintain the child safely in the home or return the child safely to the home.
- (2) The contingency fund may be utilized for purchased services for the child in Oklahoma Department of Human Services (OKDHS) custody.
- (3) Payment for services through the contingency fund are not assured .
- (4) The contingency fund is not used to reimburse the client, OKDHS employee, or other person for purchases made on behalf of the client.

[Source: Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 20 Ok Reg 2643, eff 7-1-03 (emergency); Amended at 21 Ok Reg 880, eff 4-26-04 ; Revoked at 28 Ok Reg 894, eff 7-1-11 ; Amended at 30 Ok Reg 839, eff 7-1-13]

### **340:75-1-29. Child Welfare Services case responsibility**

From intake through case closure, the Child Welfare Services case may be assigned to more than one child welfare (CW) specialist and may involve more than one county. For example, a hotline, child protective services, permanency planning, and adoption specialist may be assigned during the life of the case. In other cases, a child may be adjudicated as a deprived child in one county, while the child's parent, legal guardian, or legal custodian resides in another county, and the child is placed in another county.

[Source: Added at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 30 Ok Reg 839, eff 7-1-13]

### **340:75-1-30. Address Confidentiality Program**

The Address Confidentiality Program (ACP) provides services to Oklahoma residents who are victims of domestic violence, sexual assault, and stalking. The goal of ACP is to help victims keep his or her location confidential by providing the victim with a substitute address and a mail

forwarding service for use when interacting with state and local agencies. Section 60.14 of Title 22 of the Oklahoma Statutes governs ACP.

[Source: Added at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 30 Ok Reg 839, eff 7-1-13]

### **340:75-1-31. Citizenship and immigration status**

(a) All investigative, family-based safety, and reunification services may be provided without regard to the immigration status of the child or parent, per Section 1611 of Volume 8 of the United States Code (8 U.S.C. § 1611).

(b) Federal funding restrictions and other legal requirements require determination of citizenship or immigration status of each child in out-of-home care. Federal foster care reimbursement and adoption assistance payments are only paid on behalf of qualified aliens and United States (U.S.) citizens. Qualified aliens include, but are not limited to:

- (1) all permanent U.S. residents;
- (2) persons with a green card; and
- (3) refugees and persons granted asylum.

(c) Per 8 U.S.C. § 1641, undocumented persons are not eligible for medical assistance except in emergency medical situations regardless of custody status. [OAC 340:75-13-80]

(d) When a child is determined a foreign national, Oklahoma Department of Human Services is required by Article 37(b) of the Vienna Convention on Consular Relations to notify the appropriate foreign consul.

[Source: Added at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 30 Ok Reg 839, eff 7-1-13]

### **340:75-1-32. Transporting children and families**

(a) The child welfare (CW) specialist is authorized to transport a child(ren) and family, when:

- (1) the transportation is part of the specialist's duties related to the child's safety, permanency, and well-being; and
- (2) all other transportation options were considered and ruled out.

(b) The assigned CW specialist is responsible for coordinating transportation for court hearings, treatment planning, discharge planning, and placement arrangements while a child in the custody of the Oklahoma Department of Human Services is in either an acute or residential treatment center or an inpatient behavioral health facility.

(1) When the court requests that a child who is in an inpatient health facility be present at proceedings and, the child requires transportation by law enforcement officials, transportation is arranged by the sheriff's office in county of jurisdiction or the county of placement.

(2) The court may issue an order, per Section 1-8-107 of Title 10A of the Oklahoma Statutes, directing the county sheriff or designee, in the county where the court is located, to provide transportation for a child, who is the subject of a deprived proceeding, regardless of where the child is placed within the

state.

(c) The CW specialist ensures the child has transportation to and from school following a placement change, per Oklahoma Administrative Code 340:75-6-50.

[Source: Added at 35 Ok Reg 1695, eff 9-17-18]

## **PART 2. FAMILY PRESERVATION SERVICES [REVOKED]**

### **340:75-1-37. Title IV-A/EA Emergency Family Services [REVOKED]**

[Source: Added at 12 Ok Reg 665, eff 12-27-94 (emergency); Added at 12 Ok Reg 2801, eff 7-13-95 ; Amended at 13 Ok Reg 107, eff 10-5-95 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Revoked at 16 Ok Reg 102, eff 10-13-98]

### **340:75-1-38. Application [REVOKED]**

[Source: Added at 12 Ok Reg 665, eff 12-27-94 (emergency); Added at 12 Ok Reg 2801, eff 7-13-95 ; Revoked at 16 Ok Reg 102, eff 10-13-98]

### **340:75-1-39. Eligibility requirements for Emergency Family Services (EFS) [REVOKED]**

[Source: Added at 12 Ok Reg 665, eff 12-27-94 (emergency); Added at 12 Ok Reg 2801, eff 7-13-95 ; Amended at 13 Ok Reg 107, eff 10-5-95 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Revoked at 16 Ok Reg 102, eff 10-13-98]

### **340:75-1-40. Service authorization [REVOKED]**

[Source: Added at 12 Ok Reg 665, eff 12-27-94 (emergency); Added at 12 Ok Reg 2801, eff 7-13-95 ; Amended at 13 Ok Reg 107, eff 10-5-95 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Revoked at 17 Ok Reg 3329, eff 7-28-00 (emergency); Revoked at 18 Ok Reg 2128, eff 6-11-01]

## **PART 3. CHILD WELFARE CONFIDENTIALITY**

### **340:75-1-42. Client Information confidentiality**

#### **(a) Oklahoma Department of Human Services (OKDHS) records.**

Per Section 1-6-101 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-6-101) and Part 1340 of Title 45 of the Code of Federal Regulations (45 CFR Part 1340), Child Welfare (CW) records and information are confidential. These statutes mandate that records prepared, obtained, or maintained by OKDHS are confidential with regard to the child who is or has been under OKDHS care, custody, or supervision or to a family member or other person living in the home of the child.

(1) Any record made in the course of a referral, assessment, investigation, or inquiry by OKDHS to determine whether a child is or may be deprived is confidential and not open to public inspection.

(2) The term "record" means any written or printed document, paper, form, log, report, file, or note and any film, photograph, audio tape recording, visual tape recording, or computer tape or disk, or information entered into and maintained in an automated or computerized information system.

(3) Confidential CW records include any study, plan, recommendation, assessment, report, or other information describing the history, diagnosis, condition, care, treatment, or custody regarding a child, or safety analysis records that have been prepared and obtained in response to a report of alleged child abuse or neglect and include assessment reports and reports to the District Attorney with all supporting documentation attached and any addendums.

(4) The contents of OKDHS records cannot be disclosed without a court order except to certain persons or entities authorized by statute. CW case-specific information is not subject to the Oklahoma Open Records Act. Child Welfare neither confirms nor denies that a specific child abuse or neglect investigation is in process or that CW services are provided to a specific child or family member unless the criteria specified per OAC 340:75-1-44(e) is met regarding the death or near death of a child.

(b) **Adoption records.** All papers and records pertaining to adoption are confidential as required by 10 O.S. § 7505-1.1. The OKDHS adoption case record includes the child's case file and the adoptive home file. When the adoptive placement is authorized, the child's case file and the adoptive home file become part of the adoption record, per OAC 340:75-15-103. Records regarding adoption subsidy assistance are confidential. When required after finalization of the adoption of a child in OKDHS custody, Post Adoption Services Section releases social and medical history that does not identify the adoptive family.

(c) **HIV/AIDS information.** Refer to OAC 340:75-1-113 through 340:75-1-114 for rules regarding Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (HIV/AIDS) confidentiality and the release of confidential information.

(d) **Disclosure of information to persons or agencies providing professional services.**

(1) Pursuant to 10A O.S. § 1-2-107, OKDHS may provide information to a person or agency providing professional services such as a medical examination of or therapeutic intervention with a victim of abuse or neglect. This information may include, but is not limited to:

(A) the investigative determination; or

(B) the services offered and provided.

(2) OKDHS provides information including the investigative determination, the services offered or provided, and such other information deemed necessary by OKDHS, to any hospital or any physician, including, but not limited to, doctors of medicine and dentistry, licensed osteopathic physicians, residents and interns, reporting the abuse or neglect of a child pursuant to 10A O.S. § 1-2-101. The information is entered and maintained in the child's medical records.

[Source: Added at 12 Ok Reg 237, eff 10-17-94 (emergency); Added at 12 Ok Reg 1183, eff 5-11-95 ; Amended at 13 Ok Reg 1543, eff 4-2-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 189, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1661, eff 5-11-98 ; Amended at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 28 Ok Reg 894, eff 7-1-11 ; Amended at 30 Ok Reg 839, eff 7-1-13]

### **340:75-1-43. Scope and authority [REVOKED]**

[Source: Added at 12 Ok Reg 237, eff 10-17-94 (emergency); Added at 12 Ok Reg 1183, eff 5-11-95 ; Amended at 13 Ok Reg 1543, eff 4-2-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 189, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1661, eff 5-11-98 ; Amended at 16 Ok Reg 1052, eff 4-26-99 ; Amended at 19 Ok Reg 2208, eff 6-27-02 ; Revoked at 28 Ok Reg 894, eff 7-1-11]

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

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

(1) **Courts.** Information and records are disclosed to:

- (A) the court having the child currently before it in any proceeding pursuant to Title 10 or Title 10A of the Oklahoma Statutes;
- (B) any district court or tribal court to which the proceedings may be transferred;
- (C) employees and officers of the court in the performance of their duties, including but not limited to the guardian ad litem appointed by the court;
- (D) court-appointed special advocates as defined in Section 1-1-105 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-1-105), in the course of their official duties pertaining to recruiting, screening, training, assigning cases, supervising and supporting volunteers in their roles as guardian ad litem pursuant to 10A O.S. § 1-4-306;
- (E) post-adjudication review boards who may inspect information that includes, but is not limited to:
  - (i) psychological and medical records;
  - (ii) placement history and information, including the names and addresses of foster parents;
  - (iii) family assessments;
  - (iv) individualized service plans; and
  - (v) school records; and
- (F) any district court that has ordered a home study by the Oklahoma Department of Human Services (OKDHS) in a divorce, annulment, custody matter, guardianship, or any subsequent proceeding. OKDHS may limit disclosure to summaries or information directly necessary for the purposes of the disclosure.

(2) **OKDHS employees.** Information and records are disclosed to OKDHS employees acting in the course of their official duties



performed in connection with the implementation or administration of any program for children, youth, and families.

The administration of programs includes:

- (A) any activity relating to the review, audit, or monitoring of Child Welfare (CW) service, program, or fiscal performance; and

- (B) any activity in connection with potential or actual criminal, civil, or administrative proceedings relating to CW services and programs.

(3) **Office of Juvenile System Oversight employees.** Any employee of the Office of Juvenile System Oversight acting in the course of his or her official duties performed in connection with any investigation, inquiry, audit, or inspection conducted pursuant to 10 O.S. § 601.6.

(4) **DHHS employees.** Any employee of the United States Department of Health and Human Services (DHHS) or the Comptroller General of the United States acting in the course of his or her official duties performed in connection with any investigation, inquiry, audit, or inspection conducted pursuant to federal law.

(5) **Office of the District Attorney employees.** Any employee of the Office of the District Attorney acting in the course of his or her official duties performed pursuant to Title 10A of the Oklahoma Statutes or in connection with the prosecution of crimes against children or in the capacity of advisor to a grand jury.

(6) **Office of the Attorney General or United States Attorney employees.** Employees of the Office of the Attorney General or United States Attorney when acting in the course of their official duties performed pursuant to Title 10A.

(7) **Attorneys.** The attorney representing a child who is the subject of a proceeding conducted pursuant to the provisions of Title 10A of the Oklahoma Statutes or other proceeding where child custody or visitation is at issue.

(8) **Law enforcement officers.** Any law enforcement officer of Oklahoma or another state, or military enclave with proper identification, who is:

- (A) conducting an investigation of a report of known or suspected child abuse or neglect or crimes against children; or

- (B) determining whether to place an alleged deprived child in protective custody.

(9) **Child protective services agency employees.** Employees of child protective services agencies in other states, or military enclave with proper identification, who are:

- (A) conducting an investigation of a report of known or suspected child abuse or neglect or crimes against children; or

- (B) determining whether to place a child in protective custody.

(10) **Indian tribes.** Pursuant to the Federal Indian Child Welfare Act, Section 1915 et seq. of Title 25 of the United States Code, and the Oklahoma Indian Child Welfare Act, Section 40 et seq., of Title 10 of the Oklahoma Statutes, a federally recognized Indian tribe:

- (A) with proper identification;
- (B) in which the child who is the subject of the records filed with the court is a member or is eligible to become a member and is the biological child of a member of an Indian tribe; and
- (C) who is performing the official duties of:
  - (i) investigating a report of known or suspected child abuse or neglect or crimes against children;
  - (ii) determining whether to place a child into protective custody;
  - (iii) providing or supervising services to or for the benefit of the child, including but not limited to protective, emergency, medical, and social services; or
  - (iv) the tribe, tribal court, or tribal CW program by:
    - (I) taking jurisdiction or intervening in the child's case; or
    - (II) being a party to the juvenile court proceedings pursuant to the authority provided in the Oklahoma Indian Child Welfare Act.

(11) **Employees of a statutorily established juvenile bureau.** Employees of a statutorily established juvenile bureau pursuant to 10A O.S. § 2-4-101 with proper identification in the course of their official duties.

(12) **Child Death Review Board.** The Child Death Review Board upon the Board's request pursuant to 10 O.S. § 1150.2.

(13) **Physicians.** Any physician examining a child whom the physician suspects is a victim of child abuse or neglect.

(14) **Health care or mental health professionals.** Any health care or mental health professional involved in the evaluation or treatment of the child, the child's parents, legal guardian, foster parent, custodian, or other family members.

(15) **Multidisciplinary child abuse team.** Members of multidisciplinary teams or multidisciplinary personnel designated by the administrator of OKDHS Field Operations Division or Children and Family Services Division are authorized to review confidential information to:

- (A) investigate a report of known or suspected child abuse or neglect; or
- (B) provide services to a child or family who is the subject of the report.

(16) **Public or private agency.** Any public or private agency or person authorized by OKDHS to diagnose or provide care, treatment, supervision, or other services to a child who is the subject of a report or record of child abuse or neglect. OKDHS

may limit the disclosure of information and records to a summary of or the information directly necessary for the purpose of the disclosure.

(17) **OHCA.** Any employee of the Oklahoma Health Care Authority (OHCA) acting in the course of his or her official duties.

(18) **Medical Examiner.** A medical examiner when determining the cause of death of a child.

(19) **OJA.** Any employee of the Office of Juvenile Affairs (OJA) acting in the course of his or her official duties.

(20) **OCCY.** Any employee of the Oklahoma Commission on Children and Youth (OCCY) acting in the course of his or her official duties.

(21) **The Governor of Oklahoma.** The Governor or any person the Governor designates in writing.

(22) **Legislators.** Any member of the legislature approved in writing by the Speaker of the House or the President Pro Tempore of the Senate.

(23) **Persons or agencies engaging in research.** Persons or agencies engaging in research, provided that the person or agency:

(A) is employed by or under contract with the State of Oklahoma and is authorized by OKDHS to conduct the research; and

(B) ensures that:

(i) all documents containing identifying information are securely maintained to prohibit unauthorized access;

(ii) identifying information is not included in any document generated for the research; and

(iii) identifying information is deleted from documents when the research is completed.

(24) **Foster parents.** Information and records concerning the social, medical, psychological, or educational needs of a child currently placed with or being considered for placement with foster parents are disclosed to the foster parents. Foster parents with whom a child is currently placed are provided a copy of the court-approved individualized service plan and progress reports.

(25) **Schools.** A summary of or the information directly necessary for the school to know regarding a child enrolled in the school is disclosed upon the request for the information by the school. Any information disclosed to the school is kept confidential.

(26) **Department of Corrections employees.** An employee of any federal or state corrections or law enforcement agency in the performance of the official duties of the employee concerning pre-sentence investigations or supervision of a parent of an alleged or adjudicated deprived child or the legal guardian, custodian, or any other adult member of the child's home who is responsible for the health, safety, or welfare of the child.

(27) **Adoptions.** Any person or agency authorized to receive any paper record pursuant to the Oklahoma Adoption Code pertaining to a child who is the subject of an adoption proceeding or

relatives who are related to the child within the third degree of consanguinity.

(28) **Child support enforcement employees.** Employees of OKDHS Oklahoma Child Support Services or other state child support enforcement agencies in the performance of the official duties of the employee concerning the establishment of paternity or the establishment or enforcement of a child support order or other entitlement for the benefit of a child. Disclosure is limited to information related directly to the purpose of the disclosure.

(29) **Parent, legal guardian, or custodian.** A parent, legal guardian, or custodian of the child who is the subject of the records, provided that the records disclosed are limited to juvenile court records that are records filed with the court. All other agency records pertaining to or related to any alleged or adjudicated abuse or neglect of the child may not be inspected or disclosed.

(A) Information about the child is withheld from the parent only when a court order is in effect that prohibits the parent from obtaining information about the child.

(B) The parent may not inspect the case record, but information may be disclosed in accordance with this Section.

(C) If the child is removed from the child's home or placement, the child's parent(s) is informed of the child's general location, but not the specific address.

(D) With the foster parent's consent, the foster parent's name and address are disclosed when requested as part of the family reunification effort.

(30) **Youth 18 and older.** Any youth leaving out-of-home placement at the age of 18 or older, or an adult who was in OKDHS custody as a child, is entitled to the individual's health and education records maintained in the case record at no cost.

(b) **Disclosure when child is in need of services.** Pursuant to 10A O.S. 1-6-103, OKDHS may disclose confidential information as necessary to secure appropriate care, treatment, protection, or supervision of a child alleged to be abused or neglected.

(c) **Disclosure limited.**

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

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

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

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

(d) **Media inquiries.** The confidentiality rules for inquiries govern case-specific information and requests from the public and the media.

Inquiries may provide opportunities to discuss CW programs and services, in general, with the public or media representatives.

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

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

(A) an identifying description of any complainant or reporter of child abuse or neglect;

(B) the name of the child victim's siblings or other children living in the same household;

(C) the parent or other person responsible for the child; or

(D) any other member of the household.

(2) At any time seven days after, but no more than 45 days, from the date the person responsible for the child is criminally charged, OKDHS, the district attorney, district court clerk, and judge having jurisdiction over the case shall upon request, release to the public:

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

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

(i) the dates and outcomes of any investigations or actions taken by OKDHS in response to a previous report of child abuse or neglect;

(ii) the specific recommendation made to the district attorney by OKDHS; and

(iii) any subsequent action taken by the district attorney; and

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

(i) specific recommendations made by OKDHS in any progress reports submitted to the court;

(ii) a summary of each participant's recommendations made at the judicial proceedings, including recommendations made at the hearing as related to the custody or placement of the child; and

(iii) the rulings of the court.

[Source: Added at 12 Ok Reg 237, eff 10-17-94 (emergency); Added at 12 Ok Reg 1183, eff 5-11-95 ; Amended at 13 Ok Reg 1543, eff 4-2-96 (emergency); Amended at 14 Ok Reg 593, eff 12-12-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 189, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1661, eff 5-11-98 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 18 Ok Reg 393, eff 12-8-00 (emergency); Amended at 18 Ok Reg 2128, eff 6-11-01 ;

Amended at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 26 Ok Reg 884, eff 5-15-09 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 28 Ok Reg 375, eff 12-1-10 (emergency); Amended at 28 Ok Reg 894, eff 7-1-11 ; Amended at 29 Ok Reg 635, eff 6-1-12]

#### **340:75-1-45. Child Welfare Services records released pursuant to court order**

(a) **Child Welfare Services records released pursuant to a court order.** Any record prepared, obtained, or maintained by Child Welfare Services (CWS), with regard to the child who is or was under Oklahoma Department of Human Services (OKDHS) care, custody, or supervision, or a family member, or other person living in the home of the child, may be inspected, released, disclosed, corrected, or expunged pursuant to an order of the court.

(b) **Subpoena or subpoena duces tecum invalid for CWS records.** A subpoena or subpoena duces tecum to compel testimony or disclosure of CWS information or record is invalid. The procedure to obtain a court order is set forth in Section 1-6-102 of Title 10A of the Oklahoma Statutes.

(c) **CWS record contents.** The CWS record includes, but is not limited to:

- (1) any study, plan, recommendation, assessment, report made, or authorized to be made by OKDHS for the purpose of determining or describing the history, diagnosis, condition, care, or treatment of the child; or
- (2) safety analysis records that have been prepared and obtained in response to a report of alleged child abuse or neglect and include assessment reports and reports to the district attorney with all supporting documentation attached and any addendums.

[Source: Added at 12 Ok Reg 237, eff 10-17-94 (emergency); Added at 12 Ok Reg 1183, eff 5-11-95 ; Amended at 13 Ok Reg 1543, eff 4-2-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 16 Ok Reg 1052, eff 4-26-99 ; Amended at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Amended at 30 Ok Reg 839, eff 7-1-13]

#### **340:75-1-46. Transfer and release of confidential information with the standard Consent for Release of Information form**

(a) As mandated in 10 O.S. § 620.1 - 620.4, a uniform form, Form 04MP001E, Consent for Release of Information, was developed by the agencies listed in paragraph (1) of this subsection to be utilized when requesting confidential information from each of these agencies.

(1) Agencies mandated to develop and use the uniform Consent for Release of Information are the:

- (A) Oklahoma Department of Human Services (OKDHS);
- (B) Department of Mental Health and Substance Abuse Services;
- (C) State Department of Health;
- (D) State Department of Education;
- (E) State Department of Vocational and Technical Education;
- (F) Oklahoma Commission on Children and Youth;

- (G) J.D. McCarty Center for Children with Developmental Disabilities;
- (H) Department of Corrections; and
- (I) Office of Juvenile Affairs.

(2) The agencies in (1) of this subsection adopted the release form and its guidelines for use when agencies need information maintained by another of the participating agencies to provide services to a child and his or her family.

(A) The release does not allow information to be obtained from or released to a participating agency when the information is not otherwise subject to release by written consent.

(B) Confidential information maintained by OKDHS is only released in compliance with state and federal law and agency policy per OAC 340:75-1-42 through 340:75-1-45. Signed Form 04MP001E does not require or further allow release of information except to the extent allowed by OKDHS policy. In most circumstances, when OKDHS receives Form 04MP001E from a participating agency it is treated as a request for disclosure of relevant case information by an authorized service provider entitled to such information without a court order under one or more specific provisions per OAC 340:75-1-42 through 340:75-1-45.

(C) Form 04MP001E is not required for an otherwise authorized disclosure, nor does the form alone authorize any disclosure which would be unauthorized per OAC 340:75-1-42 through 340:75-1-45.

(b) When completing Form 04MP001E, note that state law allows for medical and/or mental health treatment, with certain exceptions, of some minors without parental consent as provided in Section 2602 of Title 63 of the Oklahoma Statutes (63 O.S. § 2602). When a minor is legally competent to consent to his or her own treatment, no other person, including a parent, may consent to the release of records relating to such treatment. Minors who cannot consent for treatment cannot release treatment records. Consent may only be given by the parent, guardian, or legal custodian.

(c) Appropriate authorizing persons may sign a release for the transfer of a copy of confidential records from one state agency to another. The release is dated and notarized or bear the appropriate agency staff signature and is only valid for a period of one year. Form 04MP001E is used in such situations. The release is available for use only when release of the confidential information is not otherwise prohibited by state or federal law. Rules and policy of each participating agency should be consulted to ascertain whether certain restrictions on transfer may apply to specific types of records maintained by various agencies.

## **PART 5. DCYFS PLACEMENT SECTION [REVOKED]**

### **340:75-1-61. Responsibility of the Division of Children, Youth and Family Services Placement Section [REVOKED]**

[Source: Added at 12 Ok Reg 79, eff 10-7-94 (emergency); Added at 12 Ok Reg 1183, eff 5-11-95 ; Revoked at 18 Ok Reg 2309, eff 5-15-01 (emergency); Revoked at 18 Ok Reg 3067, eff 7-12-01]

### **340:75-1-62. DCFS placement philosophy [REVOKED]**

[Source: Added at 12 Ok Reg 79, eff 10-7-94 (emergency); Added at 12 Ok Reg 1183, eff 5-11-95 ; Revoked at 18 Ok Reg 2309, eff 5-15-01 (emergency); Revoked at 18 Ok Reg 3067, eff 7-12-01]

### **340:75-1-63. Placement Section [REVOKED]**

[Source: Added at 12 Ok Reg 79, eff 10-7-94 (emergency); Added at 12 Ok Reg 1183, eff 5-11-95 ; Revoked at 18 Ok Reg 2309, eff 5-15-01 (emergency); Revoked at 18 Ok Reg 3067, eff 7-12-01]

### **340:75-1-64. Placement process [REVOKED]**

[Source: Added at 12 Ok Reg 79, eff 10-7-94 (emergency); Added at 12 Ok Reg 1183, eff 5-11-95 ; Revoked at 18 Ok Reg 2309, eff 5-15-01 (emergency); Revoked at 18 Ok Reg 3067, eff 7-12-01]

### **340:75-1-65. Placement Team [REVOKED]**

[Source: Added at 12 Ok Reg 79, eff 10-7-94 (emergency); Added at 12 Ok Reg 1183, eff 5-11-95 ; Revoked at 18 Ok Reg 2309, eff 5-15-01 (emergency); Revoked at 18 Ok Reg 3067, eff 7-12-01]

### **340:75-1-66. Placement in an Office of Juvenile Justice resource [REVOKED]**

[Source: Added at 12 Ok Reg 79, eff 10-7-94 (emergency); Added at 12 Ok Reg 1183, eff 5-11-95 ; Revoked at 18 Ok Reg 2309, eff 5-15-01 (emergency); Revoked at 18 Ok Reg 3067, eff 7-12-01]

### **340:75-1-67. Children in pre-adjudicatory or pre-dispositional emergency custody of DHS [REVOKED]**

[Source: Added at 12 Ok Reg 79, eff 10-7-94 (emergency); Added at 12 Ok Reg 1183, eff 5-11-95 ; Revoked at 18 Ok Reg 2309, eff 5-15-01 (emergency); Revoked at 18 Ok Reg 3067, eff 7-12-01]

### **340:75-1-68. Placement of children in need of mental health treatment [REVOKED]**

[Source: Added at 12 Ok Reg 79, eff 10-7-94 (emergency); Added at 12 Ok Reg 1183, eff 5-11-95 ; Revoked at 18 Ok Reg 2309, eff 5-15-01 (emergency); Revoked at 18 Ok Reg 3067, eff 7-12-01]

### **340:75-1-69. Placement of Indian children pursuant to the Indian Child Welfare Act [REVOKED]**



[Source: Added at 12 Ok Reg 79, eff 10-7-94 (emergency); Added at 12 Ok Reg 1183, eff 5-11-95 ; Revoked at 18 Ok Reg 2309, eff 5-15-01 (emergency); Revoked at 18 Ok Reg 3067, eff 7-12-01]

### **340:75-1-70. Facility liaison role with the Placement Section [REVOKED]**

[Source: Added at 12 Ok Reg 79, eff 10-7-94 (emergency); Added at 12 Ok Reg 1183, eff 5-11-95 ; Revoked at 18 Ok Reg 2309, eff 5-15-01 (emergency); Revoked at 18 Ok Reg 3067, eff 7-12-01]

### **340:75-1-71. Change of placement [REVOKED]**

[Source: Added at 12 Ok Reg 79, eff 10-7-94 (emergency); Added at 12 Ok Reg 1183, eff 5-11-95 ; Revoked at 18 Ok Reg 2309, eff 5-15-01 (emergency); Revoked at 18 Ok Reg 3067, eff 7-12-01]

## **PART 7. INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN**

### **340:75-1-86. Interstate Compact on the Placement of Children**

(a) **Purpose.** The Interstate Compact on the Placement of Children (ICPC) is a means to ensure protection and services to children who are placed across state lines. The ICPC establishes orderly procedures for the interstate placement of children and fixes responsibility for those involved in placing the child.

(b) **Legal base.** The ICPC is an agreement adopted by all state legislatures and is consistent with constitutional law. The legal basis for the compact is found in Article I, Section 10, Clause 3 of the United States Constitution and Section 571 of Title 10 of the Oklahoma Statutes. Oklahoma is one of 50 states, the District of Columbia, and U.S. Virgin Islands that adopted the ICPC and agreed to follow the Articles and Regulations of the ICPC when placing children out-of-state and when children are placed in Oklahoma from another state.

(c) **Sending or requesting agency.** The sending or requesting agency is:

- (1) a party state, officer, or employee thereof;
- (2) a subdivision of a party state, officer, or employee thereof;
- (3) a court of a party state;
- (4) a person, corporation, association, or charitable agency; or
- (5) an entity that sends, brings, or causes to be sent or brought any child to another party state.

(d) **Receiving state.** The receiving state is the state to which a child is sent or brought or caused to be sent or brought, whether:

- (1) by public authorities or private persons or agencies; and
- (2) for placement with state or local public authorities, private agencies, or persons.

(e) **Types of Placements.** ICPC applies to placement of a child:

- (1) preliminary to adoption;
- (2) into foster care, including foster homes, group homes, residential treatment facilities, and child caring institutions for

treatment of chronic or long-term conditions;  
(3) with the parent, stepparent, grandparent, adult brother or sister, or adult aunt or uncle when any such relative is not making the placement; and  
(4) adjudicated delinquent and placed in institutions in other states.

(f) **Exceptions to ICPC.** ICPC does not apply to:

- (1) placement of a child in a hospital, medical facility, or mental health facility for the primary purpose of treating an acute or short-term medical or emotional problem;
- (2) placement of a child in any institution primarily educational in character;
- (3) placement of a child by the parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or child's non-state agency guardian with any such relative or non-state agency guardian in the receiving state;
- (4) visits in another state;
- (5) a child's placement with a non-offending, noncustodial biological parent when the court does not:
  - (A) have evidence that such parent is unfit;
  - (B) seek such evidence; and
  - (C) retain jurisdiction over the child after the court transfers custody;
- (6) placement of a child in or from another country; and
- (7) interstate supervision of a parent's treatment and service plan.

(g) **Oklahoma as the sending agency or state.** For an out-of-state placement request, the child must be under Oklahoma court jurisdiction but is not required to be in Oklahoma Department of Human Services (OKDHS) custody.

(h) **Home study time requirements.** Home studies requested by other states to assess the safety and suitability of placement are conducted, and a report addressing the extent to which the proposed placement meets the needs of the child is completed.

- (1) The report is provided to the requesting state within 60 calendar days after receipt of the request.
- (2) When the home study is not completed and provided to the requesting state within 60 calendar days, the specific reasons it is not completed are documented in an email to the Oklahoma ICPC compact administrator.
- (3) The requesting state must accept the receiving state's home study as meeting the requirements of the receiving state unless, within 14 calendar days of receiving the study, the requesting state determines that making a decision in reliance on the study would be contrary to the welfare of the child.
- (4) A completed home study does not require the requesting state to place the child.

[Source: Added at 12 Ok Reg 79, eff 10-7-94 (emergency); Added at 12 Ok Reg 1183, eff 5-11-95 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 25 Ok Reg 632, eff 1-14-08 (emergency); Amended at 25 Ok Reg 1335, eff 6-1-08 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Amended at 30 Ok Reg 839, eff 7-1-13]

### **340:75-1-87. Interstate Compact [REVOKED]**

[Source: Added at 12 Ok Reg 79, eff 10-7-94 (emergency); Added at 12 Ok Reg 1183, eff 5-11-95 ; Amended at 15 Ok Reg 907, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1661, eff 5-11-98 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Revoked at 19 Ok Reg 2208, eff 6-27-02]

### **340:75-1-88. Placement regulated by ICPC [REVOKED]**

[Source: Added at 12 Ok Reg 79, eff 10-7-94 (emergency); Added at 12 Ok Reg 1183, eff 5-11-95 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Revoked at 19 Ok Reg 2208, eff 6-27-02]

### **340:75-1-89. Placement outside of Oklahoma [REVOKED]**

[Source: Added at 12 Ok Reg 79, eff 10-7-94 (emergency); Added at 12 Ok Reg 1183, eff 5-11-95 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Revoked at 19 Ok Reg 2208, eff 6-27-02]

### **340:75-1-90. Disruption of placement [REVOKED]**

[Source: Added at 12 Ok Reg 79, eff 10-7-94 (emergency); Added at 12 Ok Reg 1183, eff 5-11-95 ; Revoked at 18 Ok Reg 3067, eff 7-12-01]

### **340:75-1-91. Release from Departmental custody [REVOKED]**

[Source: Added at 12 Ok Reg 79, eff 10-7-94 (emergency); Added at 12 Ok Reg 1183, eff 5-11-95 ; Revoked at 18 Ok Reg 3067, eff 7-12-01]

### **340:75-1-92. Placement not regulated by ICPC [REVOKED]**

[Source: Added at 12 Ok Reg 79, eff 10-7-94 (emergency); Added at 12 Ok Reg 1183, eff 5-11-95 ; Revoked at 18 Ok Reg 3067, eff 7-12-01]

### **340:75-1-93. Children who cross state lines without permission [REVOKED]**

[Source: Added at 12 Ok Reg 79, eff 10-7-94 (emergency); Added at 12 Ok Reg 1183, eff 5-11-95 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Revoked at 19 Ok Reg 2208, eff 6-27-02]

### **340:75-1-94. Visits into or out of Oklahoma [REVOKED]**

[Source: Added at 12 Ok Reg 79, eff 10-7-94 (emergency); Added at 12 Ok Reg 1183, eff 5-11-95 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Revoked at 19 Ok Reg 2208, eff 6-27-02]

## **PART 9. RULES REGARDING HUMAN IMMUNODEFICIENCY VIRUS (HIV)**

### **340:75-1-110. Purpose [REVOKED]**

[Source: Added at 13 Ok Reg 1547, eff 3-7-96 (emergency); Added at 13 Ok Reg 2199, eff 6-14-96 ; Revoked at 23 Ok Reg 1024, eff 5-11-06]

### **340:75-1-111. Applicability [REVOKED]**

[Source: Added at 13 Ok Reg 1547, eff 3-7-96 (emergency); Added at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 18 Ok Reg 393, eff 12-8-00 (emergency); Amended at 18 Ok Reg 2128, eff 6-11-01 ; Revoked at 23 Ok Reg 1024, eff 5-11-06]

### **340:75-1-112. Authority [REVOKED]**

[Source: Added at 13 Ok Reg 1547, eff 3-7-96 (emergency); Added at 13 Ok Reg 2199, eff 6-14-96 ; Revoked at 23 Ok Reg 1024, eff 5-11-06]

### **340:75-1-113. Acquired Immunodeficiency Syndrome (AIDS) or Human Immunodeficiency Virus (HIV) requirements related to the child in Oklahoma Department of Human Services (OKDHS) custody**

#### **(a) Care and treatment for the child in OKDHS custody diagnosed with AIDS or HIV.**

(1) The child in OKDHS custody has special needs when the child is:

- (A) at risk for HIV;
- (B) seropositive for HIV; or
- (C) medically diagnosed to have AIDS.

(2) The principles of care and treatment include:

- (A) providing education regarding the transmission of HIV and precautions exercised to prevent transmission;
- (B) providing therapeutic intervention for the child found at risk of exposure to HIV;
- (C) protecting persons by universal application of infection control procedures; and
- (D) protecting the child's right to privacy.

#### **(b) Legal authority to provide care for the child in OKDHS custody with HIV or AIDS.**

(1) Sections 1-7-102 and 1-7-103 of Title 10A of the Oklahoma Statutes (10A O.S. §1-7-102 and 1-7-103) require OKDHS to provide care and treatment of the child in OKDHS custody.

(2) Per 10A O.S. § 1-7-104, OKDHS provides the child's placement provider with sufficient medical information to enable the placement providers to care for the child safely and appropriately. The placement provider for the child in OKDHS custody may request OKDHS to provide:

- (A) contagious or infectious screening examinations or tests of the child; and
- (B) the results of the child's examinations or tests to the placement provider.

(c) **Definitions.** The following words and terms, when used in Part 9 of this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

- (1) **"Acquired Immunodeficiency Syndrome (AIDS)"** means a condition caused by a virus, Human Immunodeficiency Virus (HIV), that attacks the body's natural immune system, reducing

the ability to fight off infections and diseases.

(2) **"AIDS counseling"** means counseling provided by a designated person who:

(A) is trained and certified by Oklahoma State Department of Health or American Red Cross in the health implications of HIV/AIDS; and

(B) offers supportive services for a person dealing with suspected or actual HIV infection or HIV/AIDS.

(3) **"Confidential Human Immunodeficiency Virus (HIV)-related information"** means information:

(A) obtained pursuant to a release of confidential HIV-related information;

(B) regarding a person who:

(i) is the subject of an HIV-related test; or

(ii) has HIV infection, HIV-related illness, or AIDS;  
or

(C) that identifies or may identify a person with one or more such conditions, including information pertaining to the person's contacts.

(4) **"Exposure to HIV"** means the blood, semen, vaginal fluids, breast milk, or other bodily fluid of an HIV infected person comes in contact with the blood stream or a mucous membrane of an uninfected person.

(5) **"High risk behaviors"** means activities or conditions that place a person at risk of exposure to HIV due to contact with certain bodily fluids of a person who is infected with HIV, such as:

(A) unprotected sexual contact between such persons;

(B) sharing syringe needles among such persons;

(C) perinatal transmission when the mother is HIV infected; and

(D) breast feeding when the mother is HIV infected.

(6) **"HIV"** means the virus that causes AIDS.

(7) **"HIV test"** means a blood test used to detect the presence of antibodies to HIV.

(8) **"Informed consent"** means consent obtained from a person who:

(A) understands and is competent to make an intelligent decision about the request for consent and any resulting consequences;

(B) understands any risk involved and the procedures to be undertaken; and

(C) volunteers to consent.

(9) **"Need-to-know"** means a person who needs to be informed about the HIV status of a child due to the person's direct responsibility or accountability for the child's care.

(10) **"Reduction of risk to HIV exposure"** means reduced exposure to HIV through universal application of infection control procedures. Exposure occurs when fluids such as, semen, blood, vaginal fluids, breast milk, or other bodily fluids from an infected person comes in contact with the bloodstream or a mucous membrane of an uninfected person.

(11) **"Release of confidential HIV-related information"** means disclosure through written authorization, including informed written consent for testing and release of HIV test results, that is signed by the person who has the authority to consent.

(12) **"Serologic testing and screening"** means blood tests used to detect antibodies to HIV, including Enzyme-Linked Immunosorbent Assay (ELISA) and Western Blot.

(13) **"Seronegative"** means a blood test indicates a negative result for the presence of a disease such as AIDS.

(14) **"Seropositive"** means the result of a blood test indicates the presence of a disease such as AIDS.

(15) **"Specialized AIDS trainer"** means a person who:

(A) is trained by Oklahoma State Department of Health or American Red Cross in the health implications of HIV and AIDS; and

(B) provides AIDS-related training.

(16) **"Transmission of HIV"** means passing or spreading HIV infection through:

(A) sexual contact, including oral, vaginal, or anal contact, with an infected person's blood, semen, vaginal secretions, or other bodily fluids;

(B) exposure to infected blood or blood products through needles, occupational exposure, or transfusions; or

(C) exposure from a mother, at or around the time of birth, who is HIV infected, to her fetus or newborn.

(17) **"Universal precautions"** means an approach to infection control in which all human blood and certain human body fluids are treated as infected with bloodborne pathogens, such as bacteria, HIV, or other viruses or disease.

(d) **Required AIDS and HIV educational training for CW staff and placement providers.** Educational training regarding AIDS and HIV infection is required for Child Welfare (CW) staff and placement providers.

(e) **Certified HIV/AIDS counselor role.** OKDHS provides trained certified HIV/AIDS counselors who participate in HIV pre-test and post-test activities.

(f) **HIV confidentiality.**

(1) Per 63 O.S. § 1-502.2, except as otherwise provided by law, all information and records concerning any person who may have a communicable or noncommunicable disease required to be reported by Oklahoma statute are confidential. 10A O.S. §1-6-101 defines agency records as records prepared, obtained, or maintained by the agency and would include the medical records of a child in OKDHS custody, including information regarding any communicable or sexually transmitted disease, pertaining to a child. 10A O.S. § 1-6-103 provides OKDHS records may be inspected and contents disclosed without a court order to certain persons showing proper credentials and pursuant to their lawful duties. HIV-related information about the child, or any person who is a member of the child's case record, may be disclosed to:

- (A) the court having the child currently before it in any proceeding pursuant to Title 10A of the Oklahoma Statutes;
- (B) a district attorney (DA) or employee of the DA's office in the course of his or her official duties pursuant to Title 10A of the Oklahoma Statutes;
- (C) the attorney representing a child who is the subject of a proceeding pursuant to Title 10A of the Oklahoma Statutes;
- (D) others entitled to access CW records without a court order, per 10A O.S. §1-6-103; and
- (E) per 10A O.S. §1-7-104, the placement provider, if this information is known to OKDHS.

(2) Disclosure of the child's HIV serological status is limited to the child's placement provider, court, DA, and child's attorney. OKDHS consults with the judge and DA to determine the appropriate method of disclosure of HIV-related information to the court and DA to prevent inadvertent disclosure by inclusion of the information in the court file regarding the child. Others entitled to access to CW records without a court order, per OAC 340:75-1-44, are provided communicable disease information on a need-to-know basis.

(3) A person advised of another person's HIV status, with the exception of the court, DA, or child's attorney, signs and dates a statement similar to the statement of confidentiality in (A) of this paragraph.

(A) This information is disclosed to you from confidential records that are protected by state law. State law prohibits you from making any further disclosure of this information without obtaining specific written authorization, per Part 9 of OAC 340:75-1, or as otherwise permitted by law. Any unauthorized further disclosure is in violation of state law and may result in civil or criminal sanctions as provided by Oklahoma Statutes.

(B) A general authorization for release of medical or other information is not sufficient authorization for further disclosure of a person's HIV status.

(g) **Early identification of communicable disease.** Per 10A O.S. § 1-7-103, OKDHS provides medical care as is necessary to preserve the child's health and protect the health of others in contact with the child.

(h) **Placement provider's request for HIV test.** When requested by the placement provider, OKDHS provides for the HIV examinations or tests on the child based on the Centers for Disease Control guidelines for time and frequency of testing. Per 10A O.S. §1-7-104 OKDHS provides the child's placement provider with sufficient medical information to enable the placement provider to care for the child safely and appropriately. The medical information includes, but is not limited to:

- (1) any medical or psychological conditions;
- (2) diseases, illnesses, accidents, allergies, and congenital defects;

(3) the child's Medicaid card or information on any other third-party insurer, if any; and

(4) Immunization history.

(i) **Authorization for HIV testing.** When requested by the child's placement provider, per 10A O.S. § 1-7-104, OKDHS obtains authorization for an HIV test for the child and release of the test results to the placement provider. Authorization for HIV testing or release of HIV test results may be obtained by informed written consent of the child's parent or legal guardian or court order.

[Source: Added at 13 Ok Reg 1547, eff 3-7-96 (emergency); Added at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 16 Ok Reg 1052, eff 4-26-99 ; Amended at 17 Ok Reg 92, eff 10-1-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 30 Ok Reg 1356, eff 7-1-13]

**340:75-1-114. Placement provider and residential care contractor requirements related to Human Immunodeficiency Virus (HIV)**

(a) **Residential care and foster parent requirements related to Human Immunodeficiency Virus (HIV) and Acquired Immune Deficiency Syndrome (AIDS).** Placement providers and contractors of residential care are advised regarding possible placement of a child in Oklahoma Department of Human Services (OKDHS) custody who is HIV or AIDS infected.

(1) **Residential care contractors.** OKDHS requires residential care contractors to have policy and procedures that prohibit discrimination toward the child with HIV infection. Per Section 1-502.1 of Title 63 of the Oklahoma Statutes (63 O.S. § 1-502.1), private providers of residential care for children, excluding foster parents, must establish written policy and procedures for addressing the medical and security needs of children who are at risk for HIV infection, HIV seropositive, or medically diagnosed with AIDS. Required written policy and procedures include, but are not limited to:

- (A) universal precautions for preventing transmission of communicable diseases;
- (B) staff education and training regarding AIDS and HIV infection;
- (C) nondiscrimination clause for the child who has any contagious disease, including HIV infection;
- (D) statement of confidentiality and procedures for obtaining informed written consent for testing and release of HIV test results, including disclosure to others, consistent with Part 9 of OAC 340:75-1;
- (E) guidelines for determining when the child is offered serologic testing;
- (F) guidelines to educate the child about the transmission of HIV infection and precautions to prevent transmission; and
- (G) procedure for separate and confidential case records on the health status of the child who is:
  - (i) tested for HIV;



- (ii) HIV seropositive; or
  - (iii) medically diagnosed with AIDS.
- (2) **Foster parents.** Foster parents utilize universal precautions to prevent transmission of communicable diseases.
- (b) **Release of HIV-related information from a contracted placement provider or other third party.** When a source other than the child, child's parent, legal guardian, or custodian provides HIV/AIDS-related information to OKDHS, OKDHS obtains informed written consent from the child's parent or legal guardian or custodian for the release of information. When the parent or legal guardian or custodian:
  - (1) refuses to provide written consent for the release of the HIV/AIDS-related information from the third party, OKDHS considers the information false; or
  - (2) provides written consent for the release of HIV/AIDS-related information from a third party, OKDHS proceeds with case management for the child at risk for HIV infection.
- (c) **The child's disclosure of HIV/AIDS status and HIV risk exposure behaviors.** When a child in OKDHS custody disclosed his or her HIV/AIDS status or engages in HIV risk exposure behaviors, the child is counseled regarding consequences that may result from the child's deliberate disclosure and behaviors.

[Source: Added at 13 Ok Reg 1547, eff 3-7-96 (emergency); Added at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 18 Ok Reg 393, eff 12-8-00 (emergency); Amended at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 30 Ok Reg 839, eff 7-1-13]

#### **340:75-1-115. HIV-related services and Child Welfare worker responsibilities [REVOKED]**

[Source: Added at 13 Ok Reg 1547, eff 3-7-96 (emergency); Amended at 13 Ok Reg 1543, eff 4-2-96 (emergency); Added at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 386, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1661, eff 5-11-98 ; Amended at 18 Ok Reg 393, eff 12-8-00 (emergency); Amended at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Revoked at 30 Ok Reg 839, eff 7-1-13]

#### **340:75-1-116. Methods of obtaining authorization for HIV testing and release of test results [REVOKED]**

[Source: Added at 13 Ok Reg 1547, eff 3-7-96 (emergency); Added at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 15 Ok Reg 386, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1661, eff 5-11-98 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Revoked at 30 Ok Reg 839, eff 7-1-13]

#### **340:75-1-117. Release of HIV-related information from a third party [REVOKED]**

[Source: Added at 13 Ok Reg 1547, eff 3-7-96 (emergency); Added at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 18 Ok Reg 393, eff 12-8-00 (emergency); Amended at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Revoked at 30 Ok Reg 839, eff 7-1-13]

#### **340:75-1-118. Certified HIV/AIDS counselor role [REVOKED]**

[Source: Added at 13 Ok Reg 1547, eff 3-7-96 (emergency); Added at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 15 Ok Reg 386, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1661, eff 5-11-98 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Revoked at 30 Ok Reg 839, eff 7-1-13]

### **340:75-1-119. Children who disclose HIV status and engage in HIV risk exposure behaviors [REVOKED]**

[Source: Added at 13 Ok Reg 1547, eff 3-7-96 (emergency); Added at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Revoked at 30 Ok Reg 839, eff 7-1-13]

### **340:75-1-120. Placement providers and contractors of residential care [REVOKED]**

[Source: Added at 13 Ok Reg 1547, eff 3-7-96 (emergency); Added at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 18 Ok Reg 393, eff 12-8-00 (emergency); Amended at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Revoked at 30 Ok Reg 839, eff 7-1-13]

## **PART 10. OKLAHOMA CHILDREN'S SERVICES**

### **340:75-1-150. Oklahoma Children's Services**

Oklahoma Children's Services (OCS) is a community-based contracted services program authorized by Section 1-9-110 of Title 10A of the Oklahoma Statutes (10A O. S. § 1-9-110) available throughout Oklahoma. OCS is designed to meet a child's, parent's, or kin caregiver's needs directly related to the child's safety, permanency, and well-being, or to prevent the child from entering foster care. OCS is supported under Titles IV-A, IV-B, and IV-E of the Social Security Act.

[Source: Added at 15 Ok Reg 3886, eff 7-14-98 (emergency); Added at 16 Ok Reg 1052, eff 4-26-99 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 20 Ok Reg 1252, eff 5-27-03 ; Amended at 21 Ok Reg 1385, eff 5-27-04 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 33 Ok Reg 1635, eff 9-15-16 ; Amended at 39 Ok Reg 105, eff 7-19-21 (emergency); Amended at 39 Ok Reg 1803, eff 9-15-22]

### **340:75-1-151. Oklahoma Children's Services (OCS) referral procedure**

Oklahoma Children's Services (OCS) referrals are requested by Oklahoma Department of Human Services (OKDHS) child welfare specialists and authorized by the OKDHS OCS contract liaison in the service area where the child or family resides.

[Source: Added at 15 Ok Reg 3886, eff 7-14-98 (emergency); Added at 16 Ok Reg 1052, eff 4-26-99 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 20 Ok Reg 1252, eff 5-27-03 ; Amended at 21 Ok Reg 1385, eff 5-27-04 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 30 Ok Reg 839, eff 7-1-13]

### **340:75-1-151.1. Oklahoma Children's Services (OCS) contracting agency's request to refuse a referral**

The OCS contractor has no right to refuse referrals or disrupt service provision without consultation with and approval of the child welfare (CW) specialist, CW supervisor, and the OCS contract liaison.

[Source: Added at 20 Ok Reg 1252, eff 5-27-03 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 33 Ok Reg 1635, eff 9-15-16]

### **340:75-1-151.2. Oklahoma Children's Services (OCS) emergency service response**

OCS may be initiated on an emergency basis with verbal approval from the OCS contract liaison.

[Source: Added at 20 Ok Reg 1252, eff 5-27-03 ; Amended at 21 Ok Reg 1385, eff 5-27-04 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 33 Ok Reg 1635, eff 9-15-16]

### **340:75-1-151.3. Role of Oklahoma Human Services (OKDHS) Oklahoma Children's Services (OCS) contract liaison**

The OKDHS OCS contract liaison screens and approves or denies referrals for OCS.

[Source: Added at 39 Ok Reg 105, eff 7-19-21 (emergency); Added at 39 Ok Reg 1803, eff 9-15-22]

### **340:75-1-152. Oklahoma Children's Services (OCS) waiting list**

When referrals for OCS exceed the contractor's service capacity, waiting lists are maintained by both the contractor and the OCS contract liaison. The contractor provides weekly updates to the OCS contract liaison on the waiting list status and provides consultation on prioritization of referrals for assignment as openings become available.

[Source: Added at 15 Ok Reg 3886, eff 7-14-98 (emergency); Added at 16 Ok Reg 1052, eff 4-26-99 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 20 Ok Reg 1252, eff 5-27-03 ; Amended at 21 Ok Reg 1385, eff 5-27-04 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 33 Ok Reg 1635, eff 9-15-16 ; Amended at 39 Ok Reg 105, eff 7-19-21 (emergency); Amended at 39 Ok Reg 1803, eff 9-15-22]

### **340:75-1-152.1. Maximizing service capacity of contracted services [REVOKED]**

[Source: Added at 18 Ok Reg 3067, eff 7-12-01 ; Revoked at 20 Ok Reg 1252, eff 5-27-03]

### **340:75-1-152.2. Request for extended services [REVOKED]**

[Source: Added at 18 Ok Reg 3067, eff 7-12-01 ; Revoked at 20 Ok Reg 1252, eff 5-27-03]

### **340:75-1-152.3. Oklahoma Children's Services (OCS) initiation, transfer staffings, ongoing staffings, and family meetings**

Within one-business day of receiving approved referral, the OCS contractor notifies the child welfare (CW) specialist, CW supervisor, and OCS contract liaison of the referral's status. The OCS contractor provides the name of the OCS contract staff assigned referral responsibility. When the referral is placed on a waiting list, the contractor follows procedures in Oklahoma Administrative Code 340:75-1-152.

[Source: Added at 20 Ok Reg 1252, eff 5-27-03 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 33 Ok Reg 1635, eff 9-15-16 ; Amended at 39 Ok Reg 105, eff 7-19-21 (emergency); Amended at 39 Ok Reg 1803, eff 9-15-22]

#### **340:75-1-152.4. Transfer of responsibility for voluntary services [REVOKED]**

[Source: Added at 20 Ok Reg 1252, eff 5-27-03 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Revoked at 27 Ok Reg 1092, eff 3-26-10 (emergency); Revoked at 27 Ok Reg 1865, eff 7-1-10]

#### **340:75-1-152.5. Request for extended Oklahoma Children's Services (OCS)**

OCS is initially approved for a six-month service period. Per Oklahoma Administrative Code 340:75-1-9, approval for an OCS extension can be requested and the family is eligible for Title IV-E prevention service for up to 12-months, and for additional 12-month periods, including contiguous 12-month periods when;

- (1) the family is in crisis;
- (2) new safety concerns arise; or
- (3) the child is:
  - (A) identified as a candidate for foster care; or
  - (B) a pregnant or parenting foster youth.

[Source: Added at 20 Ok Reg 1252, eff 5-27-03 ; Amended at 21 Ok Reg 1385, eff 5-27-04 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 26 Ok Reg 884, eff 5-15-09 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 33 Ok Reg 1635, eff 9-15-16 ; Amended at 39 Ok Reg 105, eff 7-19-21 (emergency); Amended at 39 Ok Reg 1803, eff 9-15-22]

#### **340:75-1-152.6. Comprehensive Home-Based Services (CHBS) maintenance level services**

Maintenance level CHBS:

- (1) is approved by the Oklahoma Children's Services (OCS) contract liaison when a family:
  - (A) achieves most of the risk-related goals; or
  - (B) is required to participate in other ongoing services as part of an individualized service plan or court order; and
- (2) requires the OCS contractor has a minimum of a one-hour, face-to-face meeting each month with the primary caregiver and the child 5 years of age or younger. Additional visits with a paraprofessional may be arranged by the OCS contractor, when appropriate.

[Source: Added at 20 Ok Reg 1252, eff 5-27-03 ; Amended at 21 Ok Reg 1385, eff 5-27-04 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 33 Ok Reg 1635, eff 9-15-16 ; Amended at 39 Ok Reg 105, eff 7-19-21 (emergency); Amended at 39 Ok Reg 1803, eff 9-15-22]

#### **340:75-1-152.7. Oklahoma Children's Services (OCS) early termination of services**

**Early termination of OCS services.** The OCS contractor may recommend early termination of OCS after consulting the contract supervisor when:

- (1) a family's goals are met, the child is safe, and protective capacities of the person responsible for the child's health, safety, or welfare are sufficient for continued safety;

- (2) further progress is unlikely; or
- (3) services are not effective in improving protective capacities to ensure the child's safety.

[Source: Added at 20 Ok Reg 1252, eff 5-27-03 ; Amended at 21 Ok Reg 1385, eff 5-27-04 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 33 Ok Reg 1635, eff 9-15-16 ; Amended at 39 Ok Reg 105, eff 7-19-21 (emergency); Amended at 39 Ok Reg 1803, eff 9-15-22]

### **340:75-1-152.8. Guidelines for the early termination of Oklahoma Children's Services (OCS) [REVOKED]**

[Source: Added at 20 Ok Reg 1252, eff 5-27-03 ; Amended at 21 Ok Reg 1385, eff 5-27-04 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Revoked at 30 Ok Reg 839, eff 7-1-13]

### **340:75-1-152.9. Oklahoma Children's Services (OCS) contractor's notification to Child Welfare Services (CWS) of increased risk**

The OCS contractor is required to submit a Critical Incident Report (CIR) to CWS when the safety or well-being of a child participating in OCS is in question. The CIR is documented in KIDS as a notification that may require Oklahoma Human Services protective action and a determination as to whether contract services will continue.

[Source: Added at 20 Ok Reg 1252, eff 5-27-03 ; Amended at 21 Ok Reg 1385, eff 5-27-04 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 28 Ok Reg 894, eff 7-1-11 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 33 Ok Reg 1635, eff 9-15-16 ; Amended at 39 Ok Reg 105, eff 7-19-21 (emergency); Amended at 39 Ok Reg 1803, eff 9-15-22]

### **340:75-1-153. Contracting agency and the right to decline cases [REVOKED]**

[Source: Added at 15 Ok Reg 3886, eff 7-14-98 (emergency); Added at 16 Ok Reg 1052, eff 4-26-99 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Revoked at 20 Ok Reg 1252, eff 5-27-03]

### **340:75-1-154. Funding for the purchase of goods and services for open Oklahoma Children's Services cases**

Special funding is available for the purchase of concrete goods and services necessary for the family participating in Oklahoma Children's Services. Each contractor authorizes special funds when assistance from other community resources is unavailable or cannot be accessed in a timely manner to resolve crisis situations.

[Source: Added at 15 Ok Reg 3886, eff 7-14-98 (emergency); Added at 16 Ok Reg 1052, eff 4-26-99 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 20 Ok Reg 1252, eff 5-27-03 ; Amended at 21 Ok Reg 1385, eff 5-27-04 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 33 Ok Reg 1635, eff 9-15-16]

### **340:75-1-155. Role of the Oklahoma Department of Human Services (DHS) Oklahoma Children's Services (OCS) contract liaison [REVOKED]**

[Source: Added at 20 Ok Reg 1252, eff 5-27-03 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 33 Ok Reg 1635, eff 9-15-16 ; Revoked at 39 Ok Reg 105, eff 7-19-21 (emergency); Revoked at 39 Ok Reg 1803, eff 9-15-22]

## **PART 11. COMPREHENSIVE HOME-BASED SERVICES (CHBS) [REVOKED]**

### **340:75-1-175. Program overview [REVOKED]**

[Source: Added at 15 Ok Reg 3886, eff 7-14-98 (emergency); Added at 16 Ok Reg 1052, eff 4-26-99 ; Amended at 20 Ok Reg 1252, eff 5-27-03 ; Revoked at 23 Ok Reg 1024, eff 5-11-06]

### **340:75-1-176. Goals [REVOKED]**

[Source: Added at 15 Ok Reg 3886, eff 7-14-98 (emergency); Added at 16 Ok Reg 1052, eff 4-26-99 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 20 Ok Reg 1252, eff 5-27-03 ; Revoked at 23 Ok Reg 1024, eff 5-11-06]

### **340:75-1-177. Target population [REVOKED]**

[Source: Added at 15 Ok Reg 3886, eff 7-14-98 (emergency); Added at 16 Ok Reg 1052, eff 4-26-99 ; Revoked at 20 Ok Reg 1252, eff 5-27-03]

### **340:75-1-178. Scope [REVOKED]**

[Source: Added at 15 Ok Reg 3886, eff 7-14-98 (emergency); Added at 16 Ok Reg 1052, eff 4-26-99 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Revoked at 20 Ok Reg 1252, eff 5-27-03]

### **340:75-1-179. Service components [REVOKED]**

[Source: Added at 15 Ok Reg 3886, eff 7-14-98 (emergency); Added at 16 Ok Reg 1052, eff 4-26-99 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 20 Ok Reg 1252, eff 5-27-03 ; Revoked at 23 Ok Reg 1024, eff 5-11-06]

### **340:75-1-180. Determining appropriate child welfare referrals to Comprehensive Home-Based Services (CHBS) [REVOKED]**

[Source: Added at 15 Ok Reg 3886, eff 7-14-98 (emergency); Added at 16 Ok Reg 1052, eff 4-26-99 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Revoked at 20 Ok Reg 1252, eff 5-27-03]

### **340:75-1-181. Eligibility requirements for Comprehensive Home-Based Services [REVOKED]**

[Source: Added at 15 Ok Reg 3886, eff 7-14-98 (emergency); Added at 16 Ok Reg 1052, eff 4-26-99 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Revoked at 20 Ok Reg 1252, eff 5-27-03]

### **340:75-1-182. Guidelines for the early termination of Comprehensive Home-Based Services [REVOKED]**

[Source: Added at 15 Ok Reg 3886, eff 7-14-98 (emergency); Added at 16 Ok Reg 1052, eff 4-26-99 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Revoked at 20 Ok Reg 1252, eff 5-27-03]

### **340:75-1-183. Role of the Child Welfare (CW) worker [REVOKED]**

[Source: Added at 15 Ok Reg 3886, eff 7-14-98 (emergency); Added at 16 Ok Reg 1052, eff 4-26-99 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Revoked at 20 Ok Reg 1252, eff 5-27-03]

### **340:75-1-184. Role of the CHBS Contract Case Manager (CCM) [REVOKED]**

[Source: Added at 15 Ok Reg 3886, eff 7-14-98 (emergency); Added at 16 Ok Reg 1052, eff 4-26-99 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Revoked at 20 Ok Reg 1252, eff 5-27-03]

## **PART 12. INDEPENDENT LIVING [REVOKED]**

### **340:75-1-185. Oklahoma Children's Services (OCS) - Independent Living [REVOKED]**

[Source: Added at 20 Ok Reg 1252, eff 5-27-03 ; Revoked at 21 Ok Reg 1385, eff 5-27-04]

## **PART 13. WORKING WITH INDIAN CHILDREN [REVOKED]**

### **340:75-1-200. Legal authority for services to Indian children [REVOKED]**

[Source: Added at 17 Ok Reg 829, eff 1-6-00 (emergency); Added at 17 Ok Reg 1311, eff 5-11-00 ; Revoked at 19 Ok Reg 2209, eff 6-27-02]

### **340:75-1-201. Child Protective Services (CPS) reports on an Indian child [REVOKED]**

[Source: Added at 17 Ok Reg 829, eff 1-6-00 (emergency); Added at 17 Ok Reg 1311, eff 5-11-00 ; Revoked at 19 Ok Reg 2209, eff 6-27-02]

### **340:75-1-202. Placement of an Indian child [REVOKED]**

[Source: Added at 17 Ok Reg 829, eff 1-6-00 (emergency); Added at 17 Ok Reg 1311, eff 5-11-00 ; Revoked at 19 Ok Reg 2209, eff 6-27-02]

### **340:75-1-203. Allegations of abuse or neglect of DHS custody children in tribal foster care [REVOKED]**

[Source: Added at 17 Ok Reg 829, eff 1-6-00 (emergency); Added at 17 Ok Reg 1311, eff 5-11-00 ; Revoked at 19 Ok Reg 2209, eff 6-27-02]

### **340:75-1-204. Roles and responsibilities of the Child Welfare tribal liaison [REVOKED]**

[Source: Added at 17 Ok Reg 829, eff 1-6-00 (emergency); Added at 17 Ok Reg 1311, eff 5-11-00 ; Revoked at 19 Ok Reg 2209, eff 6-27-02]

### **340:75-1-205. Tribal foster care agreements [REVOKED]**

[Source: Added at 17 Ok Reg 829, eff 1-6-00 (emergency); Added at 17 Ok Reg 1311, eff 5-11-00 ; Revoked at 19 Ok Reg 2209, eff 6-27-02]

### **340:75-1-206. Tribal foster care for tribal custody children [REVOKED]**

[Source: Added at 17 Ok Reg 829, eff 1-6-00 (emergency); Added at 17 Ok Reg 1311, eff 5-11-00 ; Revoked at 19 Ok Reg 2209, eff 6-27-02]

#### **340:75-1-206.1. Difficulty of care payments for tribal custody children [EXPIRED]**

[Source: Added at 19 Ok Reg 656, eff 1-14-02 through 7-14-02 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-02 (after the 7-14-02 expiration of the emergency action), Section 340:75-1-206.1 was no longer effective. For the official text of the emergency rule that was effective from 1-14-02 through 7-14-02, see 19 Ok Reg 656.*

### **340:75-1-207. Pre-service training for tribal foster parents [REVOKED]**

[Source: Added at 17 Ok Reg 829, eff 1-6-00 (emergency); Added at 17 Ok Reg 1311, eff 5-11-00 ; Revoked at 19 Ok Reg 2209, eff 6-27-02]

### **340:75-1-208. Kinship placements for tribal custody children [REVOKED]**

[Source: Added at 17 Ok Reg 829, eff 1-6-00 (emergency); Added at 17 Ok Reg 1311, eff 5-11-00 ; Revoked at 19 Ok Reg 656, eff 1-14-02 (emergency); Revoked at 19 Ok Reg 2209, eff 6-27-02]

### **340:75-1-209. Voluntary foster care for tribal children under age 18 [REVOKED]**

[Source: Added at 17 Ok Reg 829, eff 1-6-00 (emergency); Added at 17 Ok Reg 1311, eff 5-11-00 ; Revoked at 19 Ok Reg 2209, eff 6-27-02]



**340:75-1-210. Voluntary foster care for tribal children after age 18  
[REVOKED]**

[Source: Added at 17 Ok Reg 829, eff 1-6-00 (emergency); Added at 17 Ok Reg 1311, eff 5-11-00 ;  
Revoked at 19 Ok Reg 2209, eff 6-27-02]

**340:75-1-211. Tribal foster care for DHS custody children  
[REVOKED]**

[Source: Added at 17 Ok Reg 829, eff 1-6-00 (emergency); Added at 17 Ok Reg 1311, eff 5-11-00 ;  
Amended at 19 Ok Reg 208, eff 12-1-01 (emergency); Revoked at 19 Ok Reg 2209, eff 6-27-02]

**340:75-1-212. Tribal or facility contracts for residential child care  
[REVOKED]**

[Source: Added at 17 Ok Reg 829, eff 1-6-00 (emergency); Added at 17 Ok Reg 1311, eff 5-11-00 ;  
Revoked at 19 Ok Reg 2209, eff 6-27-02]

**340:75-1-213. Tribal residential placements for DHS custody  
children [REVOKED]**

[Source: Added at 17 Ok Reg 829, eff 1-6-00 (emergency); Added at 17 Ok Reg 1311, eff 5-11-00 ;  
Revoked at 19 Ok Reg 2209, eff 6-27-02]

**340:75-1-214. Indian Child Welfare Act requirements in adoptive  
planning [REVOKED]**

[Source: Added at 17 Ok Reg 829, eff 1-6-00 (emergency); Added at 17 Ok Reg 1311, eff 5-11-00 ;  
Revoked at 19 Ok Reg 2209, eff 6-27-02]

**PART 15. CHILD WELFARE SPECIALIST TRAINING**

**340:75-1-230. Child Welfare specialist training**

The Child Welfare Comprehensive Training Program (CWCTP) is a system that provides in-service training to Child Welfare (CW) specialists through standardized competency-based curricula. This system is designed to provide basic and specialized child welfare knowledge and skills and is one of several sources of job-related training. In addition, the system provides basic skills related to computerized information management necessary to support casework activities.

[Source: Added at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 30 Ok Reg 839, eff 7-1-13]

**340:75-1-231. Child Welfare Specialist Development Plan**

Completion of the Child Welfare (CW) Specialist Development Plan also known as CORE training is mandatory for each CW specialist. The CW Specialist Development Plan affords a uniform level of competency regardless of the specialist's level of education or field of study. The development plan includes 10-14 weeks of CORE training, structured

mentoring, mandatory specialized training, and intensive supervision.

[Source: Added at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 21 Ok Reg 1399, eff 5-27-04 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 32 Ok Reg 1904, eff 9-15-15]

**340:75-1-232. Specialized training for the experienced Child Welfare (CW) specialist, supervisor, and programs staff person**

Oklahoma Human Services provides ongoing professional development for the CW specialist, supervisor, and programs staff through in-service training opportunities as a component of the employee's professional development plan.

(1) **Training requirements for the experienced CW specialist.** After completing each New CW Specialist Development Plan (CORE) requirement, that includes successful completion of the CORE Comprehensive Skill Assessment and Level I and II training, the CW specialist completes a minimum of 40 hours of Level III job-related training per performance evaluation period until Level III training is complete. Thereafter, the 40 hours of required training per evaluation period is job-related to meet the specialist's needs.

(2) **Training requirements for programs staff without supervisory responsibility.** Programs staff who does not have supervisory responsibility completes a minimum of 40 hours of job-related training per performance evaluation year.

(3) **Training requirements for CW supervisor and programs staff with supervisory responsibility.** Each CW supervisor and programs staff completes a minimum of 40 hours of job-related training during each performance evaluation period. Per Section 840-3.1 of Title 74 of the Oklahoma Statutes each:

(A) employee appointed to his or her first supervisory position completes 24 hours of management training within 12 months of assuming the supervisory position; and

(B) supervisor completes 12 hours of management training during each performance evaluation period.

[Source: Added at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 21 Ok Reg 1399, eff 5-27-04 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

**340:75-1-233. Support services for the Child Welfare Services employee**

**Critical incident debriefings.** Oklahoma Human Services provides critical incident debriefings when requested for the Child Welfare Services employee exposed to a critical incident such as a child death, serious injury of a child, or workplace violence.

[Source: Added at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 21 Ok Reg 2374, eff 6-25-04 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

**340:75-1-240. Child Welfare Professional Enhancement program**

The Oklahoma Department of Human Services (OKDHS) partners with the University of Oklahoma to support employee education through the Child Welfare Professional Enhancement program (CWPEP). CWPEP provides tuition, fees, and required textbooks for employees. OKDHS employees may request authorization for up to 20 days of paid educational leave per calendar year. Annual leave may be approved when appropriate for additional classroom days.

[Source: Added at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 21 Ok Reg 1399, eff 5-27-04 ; Amended at 30 Ok Reg 839, eff 7-1-13]

### **340:75-1-241. Educational practicums**

Oklahoma Department of Human Services (OKDHS) Child Welfare Services (CWS) provides educational practicums for qualified students recruited by colleges and universities with accredited social work or other human services curriculums. Per OAC 340:2-17-3, when appropriate, the College Recruitment Program expedites the hiring process for students who graduate from accredited social work programs.

[Source: Added at 20 Ok Reg 934, eff 5-12-03 ; Amended at 30 Ok Reg 839, eff 7-1-13]

## **SUBCHAPTER 3. CHILD PROTECTIVE SERVICES**

### **PART 1. PURPOSE, DEFINITIONS, AND CHILD ABUSE AND NEGLECT HOTLINE PROTOCOL**

#### **340:75-3-1. Purpose, philosophy, legal base, and authority [REVOKED]**

[Source: Amended at 10 Ok Reg 4523, eff 8-16-93 (emergency); Amended at 11 Ok Reg 2687, eff 6-13-94 ; Amended at 13 Ok Reg 109, eff 10-5-95 (emergency); Amended at 13 Ok Reg 3637, eff 4-29-96 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 16 Ok Reg 296, eff 11-23-98 ; Amended at 16 Ok Reg 1950, eff 6-11-99 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Revoked at 30 Ok Reg 839, eff 7-1-13]

#### **340:75-3-2. Definitions [AMENDED AND RENUMBERED TO 340:75-3-120]**

[Source: Amended at 10 Ok Reg 4523, eff 8-16-93 (emergency); Amended at 11 Ok Reg 2687, eff 6-13-94 ; Amended at 12 Ok Reg 395, eff 11-17-94 (emergency); Amended at 12 Ok Reg 1183, eff 5-11-95 ; Amended at 13 Ok Reg 109, eff 10-5-95 (emergency); Amended at 13 Ok Reg 3637, eff 4-29-96 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 14 Ok Reg 605, eff 12-12-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 1285, eff 2-25-98 through 7-14-98 (emergency); Amended at 16 Ok Reg 296, eff 11-23-98 ; Amended at 16 Ok Reg 1950, eff 6-11-99 ; Amended at 17 Ok Reg 920, eff 4-18-00 (emergency); Amended at 17 Ok Reg 2429, eff 6-26-00 ; Amended at 18 Ok Reg 394, eff 12-8-00 (emergency); Amended at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 21 Ok Reg 2374, eff 6-25-04 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 24 Ok Reg 1323, eff 6-1-07 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 28 Ok Reg 894, eff 7-1-11 ; Amended and renumbered to 340:75-3-120 at 30 Ok Reg 839, eff 7-1-13]

### **340:75-3-3. Purposes of Child Protective Services [REVOKED]**

[Source: Revoked at 10 Ok Reg 4523, eff 8-16-93 (emergency); Revoked at 11 Ok Reg 2687, eff 6-13-94]

### **340:75-3-4. Scope of Child Protective Services [REVOKED]**

[Source: Amended at 10 Ok Reg 4523, eff 8-16-93 (emergency); Amended at 11 Ok Reg 2687, eff 6-13-94 ; Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 16 Ok Reg 296, eff 11-23-98 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 24 Ok Reg 1323, eff 6-1-07 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Revoked at 30 Ok Reg 839, eff 7-1-13]

### **340:75-3-5. Relationship of Child Protective Services (CPS) and other entities in child abuse and neglect investigations [AMENDED AND RENUMBERED TO 340:75-3-110]**

[Source: Amended at 10 Ok Reg 4523, eff 8-16-93 (emergency); Amended at 11 Ok Reg 2687, eff 6-13-94 ; Amended at 12 Ok Reg 395, eff 11-17-94 (emergency); Amended at 12 Ok Reg 1183, eff 5-11-95 ; Amended at 12 Ok Reg 3456, eff 7-1-95 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 14 Ok Reg 605, eff 12-12-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 16 Ok Reg 296, eff 11-23-98 ; Amended at 16 Ok Reg 1950, eff 6-11-99 ; Amended at 18 Ok Reg 394, eff 12-8-00 (emergency); Amended at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 20 Ok Reg 539, eff 1-21-03 (emergency); Amended at 20 Ok Reg 921, eff 5-12-03 ; Amended at 24 Ok Reg 631, eff 1-15-07 (emergency); Amended at 24 Ok Reg 1323, eff 6-1-07 ; Amended at 25 Ok Reg 1335, eff 6-1-08 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended and renumbered to 340:75-3-110 at 30 Ok Reg 839, eff 7-1-13]

### **340:75-3-6. Standardized Intake process and Oklahoma Department of Human Services (OKDHS) Abuse and Neglect Hotline [AMENDED AND RENUMBERED TO 340:75-3-130]**

[Source: Amended at 10 Ok Reg 4523, eff 8-16-93 (emergency); Amended at 11 Ok Reg 2687, eff 6-13-94 ; Amended at 12 Ok Reg 3456, eff 7-1-95 (emergency); Amended at 13 Ok Reg 109, eff 10-5-95 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 389, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1661, eff 5-11-98 ; Amended at 16 Ok Reg 296, eff 11-23-98 ; Amended at 17 Ok Reg 834, eff 3-1-00 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 22 Ok Reg 854, eff 5-12-05 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended and renumbered to 340:75-3-130 at 30 Ok Reg 839, eff 7-1-13]

### **340:75-3-6.1. Reports of child abuse and neglect with specialized protocols [AMENDED AND RENUMBERED TO 340:75-3-400]**

[Source: Added at 16 Ok Reg 296, eff 11-23-98 ; Amended at 16 Ok Reg 1950, eff 6-11-99 ; Amended at 17 Ok Reg 829, eff 1-6-00 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 18 Ok Reg 394, eff 12-8-00 (emergency); Amended at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 21 Ok Reg 2374, eff 6-25-04 ; Amended at 22 Ok Reg 854, eff 5-12-05 ; Amended at 24 Ok Reg 1323, eff 6-1-07 ; Amended at 25 Ok Reg 1335, eff 6-1-08 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 28 Ok Reg 375, eff 12-1-10 (emergency); Amended at 28 Ok Reg 894, eff 7-1-11 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Amended and renumbered to 340:75-3-400 at 30 Ok Reg 839, eff 7-1-13]

### **340:75-3-7. Screening reports 340:75-3-7. Screening reports [AMENDED AND RENUMBERED AS 340:75-3-140]**

[Source: Amended at 10 Ok Reg 4523, eff 8-16-93 (emergency); Amended at 11 Ok Reg 2687, eff 6-13-94 ; Amended at 13 Ok Reg 109, eff 10-5-95 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ;

Amended at 14 Ok Reg 605, eff 12-12-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 16 Ok Reg 296, eff 11-23-98 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 24 Ok Reg 1323, eff 6-1-07 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended and renumbered to 340;75-3-140 at 30 Ok Reg 839, eff 7-1-13]

### **340:75-3-7.1. Priority guidelines [REVOKED]**

[**Source:** Added at 10 Ok Reg 4523, eff 8-16-93 (emergency); Added at 11 Ok Reg 2687, eff 6-13-94 ; Amended at 13 Ok Reg 109, eff 10-5-95 (emergency); Amended at 13 Ok Reg 3637, eff 4-29-96 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 389, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1661, eff 5-11-98 ; Amended at 16 Ok Reg 296, eff 11-23-98 ; Amended at 16 Ok Reg 1950, eff 6-11-99 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 24 Ok Reg 1323, eff 6-1-07 ; Amended at 25 Ok Reg 1335, eff 6-1-08 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Revoked at 30 Ok Reg 839, eff 7-1-13]

### **340:75-3-7.2. Reports of abuse or neglect by someone other than the person responsible for the child (PRFC) [REVOKED]**

[**Source:** Added at 10 Ok Reg 4523, eff 8-16-93 (emergency); Added at 11 Ok Reg 2687, eff 6-13-94 ; Amended at 13 Ok Reg 109, eff 10-5-95 (emergency); Amended at 13 Ok Reg 3637, eff 4-29-96 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 16 Ok Reg 296, eff 11-23-98 ; Amended at 16 Ok Reg 1950, eff 6-11-99 ; Amended at 18 Ok Reg 394, eff 12-8-00 (emergency); Amended at 18 Ok Reg 2128, eff 6-11-01 ; Revoked at 27 Ok Reg 1092, eff 3-26-10 (emergency); Revoked at 27 Ok Reg 1865, eff 7-1-10]

### **340:75-3-7.3. Child Protective Services assessment and investigation assignment guidelines [REVOKED]**

[**Source:** Added at 16 Ok Reg 296, eff 11-23-98 ; Amended at 25 Ok Reg 1335, eff 6-1-08 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Revoked at 32 Ok Reg 1904, eff 9-15-15]

### **340:75-3-7.4. General protocols for Child Protective Services (CPS) assessments and investigations [AMENDED AND RENUMBERED TO 340:75-3-200]**

[**Source:** Added at 27 Ok Reg 1092, eff 3-26-10 (emergency); Added at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 28 Ok Reg 894, eff 7-1-11 ; Amended and renumbered to 340;75-3-200 at 30 Ok Reg 839, eff 7-1-13]

### **340:75-3-7.5. Assessment protocol [AMENDED AND RENUMBERED TO 340:75-3-210]**

[**Source:** Added at 27 Ok Reg 1092, eff 3-26-10 (emergency); Added at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 28 Ok Reg 894, eff 7-1-11 ; Amended and renumbered to 340;75-3-210 at 30 Ok Reg 839, eff 7-1-13]

### **340:75-3-8. Investigation protocol [AMENDED AND RENUMBERED TO 340:75-3-220]**

[**Source:** Amended at 9 Ok Reg 3675, eff 7-23-92 (emergency); Amended at 10 Ok Reg 2301, eff 6-11-93 ; Amended at 10 Ok Reg 4523, eff 8-16-93 (emergency); Amended at 11 Ok Reg 2687, eff 6-13-94 ; Amended at 12 Ok Reg 3456, eff 7-1-95 (emergency); Amended at 13 Ok Reg 109, eff 10-5-95 (emergency); Amended at 13 Ok Reg 3637, eff 4-29-96 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 14 Ok Reg 605, eff 12-12-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 389, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1661, eff 5-11-98 ; Amended at 16 Ok Reg 296, eff 11-23-98 ; Amended at 18 Ok Reg 394, eff 12-8-00 (emergency); Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 22 Ok Reg 854, eff 5-12-05 ; Amended at 25 Ok

Reg 1335, eff 6-1-08 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 28 Ok Reg 894, eff 7-1-11 ; Amended and renumbered to 340;75-3-220 at 30 Ok Reg 839, eff 7-1-13]

### **340:75-3-8.1. Investigation protocol for reports of abuse or neglect of a child in Oklahoma Department of Human Services (OKDHS) custody in a foster or trial adoptive home [AMENDED AND RENUMBERED TO 340:75-3-410]**

[Source: Added at 12 Ok Reg 395, eff 11-17-94 (emergency); Added at 12 Ok Reg 1183, eff 5-11-95 ; Amended at 12 Ok Reg 3456, eff 7-1-95 (emergency); Amended at 13 Ok Reg 3637, eff 4-29-96 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 1285, eff 2-25-98 through 7-14-98 (emergency); Amended at 16 Ok Reg 296, eff 11-23-98 ; Amended at 16 Ok Reg 1950, eff 6-11-99 ; Amended at 18 Ok Reg 394, eff 12-8-00 (emergency); Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 21 Ok Reg 2374, eff 6-25-04 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 24 Ok Reg 1323, eff 6-1-07 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 28 Ok Reg 894, eff 7-1-11 ; Amended and renumbered to 340;75-3-410 at 30 Ok Reg 839, eff 7-1-13]

### **340:75-3-8.2. Protocol for investigating reports of abuse in child care centers or homes [AMENDED AND RENUMBERED TO 340:75-3-420]**

[Source: Added at 12 Ok Reg 395, eff 11-17-94 (emergency); Added at 12 Ok Reg 1183, eff 5-11-95 ; Amended at 12 Ok Reg 3456, eff 7-1-95 (emergency); Amended at 13 Ok Reg 109, eff 10-5-95 (emergency); Amended at 13 Ok Reg 3637, eff 4-29-96 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 16 Ok Reg 296, eff 11-23-98 ; Amended at 16 Ok Reg 1950, eff 6-11-99 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 25 Ok Reg 1335, eff 6-1-08 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended and renumbered to 340;75-3-420 at 30 Ok Reg 839, eff 7-1-13]

### **340:75-3-8.3. Protocol for investigating alleged medical neglect of infants born alive and infants with disabilities [AMENDED AND RENUMBERED TO 340:75-3-430]**

[Source: Added at 12 Ok Reg 395, eff 11-17-94 (emergency); Added at 12 Ok Reg 1183, eff 5-11-95 ; Amended at 16 Ok Reg 296, eff 11-23-98 ; Amended at 16 Ok Reg 1950, eff 6-11-99 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended and renumbered to 340;75-3-430 at 30 Ok Reg 839, eff 7-1-13]

### **340:75-3-8.4. Multidisciplinary child abuse team [AMENDED AND RENUMBERED TO 340:75-3-440]**

[Source: Added at 13 Ok Reg 3637, eff 4-29-96 (emergency); Added at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 389, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1661, eff 5-11-98 ; Amended at 16 Ok Reg 1052, eff 4-26-99 ; Amended at 18 Ok Reg 394, eff 12-8-00 (emergency); Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 24 Ok Reg 2196, eff 7-1-07 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Amended and renumbered to 340;75-3-440 at 30 Ok Reg 839, eff 7-1-13]

### **340:75-3-8.5. Child Protective Services assessment protocol [REVOKED]**

[Source: Added at 16 Ok Reg 296, eff 11-23-98 ; Amended at 24 Ok Reg 2196, eff 7-1-07 ; Revoked at 27 Ok Reg 1092, eff 3-26-10 (emergency); Revoked at 27 Ok Reg 1865, eff 7-1-10]

## **340:75-3-8.6. General protocols for Child Protective Services investigations and assessments [REVOKED]**

[Source: Added at 16 Ok Reg 296, eff 11-23-98 ; Amended at 22 Ok Reg 854, eff 5-12-05 ; Amended at 24 Ok Reg 1323, eff 6-1-07 ; Amended at 25 Ok Reg 1335, eff 6-1-08 ; Revoked at 27 Ok Reg 1092, eff 3-26-10 (emergency); Revoked at 27 Ok Reg 1865, eff 7-1-10]

## **340:75-3-8.7. Methamphetamine safety precautions [AMENDED AND RENUMBERED TO 340:75-3-450]**

[Source: Added at 18 Ok Reg 3321, eff 7-1-01 (emergency); Added at 19 Ok Reg 1129, eff 5-13-02 ; Amended and renumbered to 340;75-3-450 at 30 Ok Reg 839, eff 7-1-13]

## **340:75-3-9. Information gathering [REVOKED]**

[Source: Revoked at 10 Ok Reg 4523, eff 8-16-93 (emergency); Revoked at 11 Ok Reg 2687, eff 6-13-94]

## **340:75-3-9.1. Child death or near death and critical incidents review [AMENDED AND RENUMBERED TO 340:75-3-460]**

[Source: Added at 10 Ok Reg 4523, eff 8-16-93 (emergency); Added at 11 Ok Reg 2687, eff 6-13-94 ; Amended at 13 Ok Reg 3637, eff 4-29-96 (emergency); Amended at 14 Ok Reg 605, eff 12-12-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 1285, eff 2-25-98 through 7-14-98 (emergency); Amended at 16 Ok Reg 296, eff 11-23-98 ; Amended at 16 Ok Reg 1950, eff 6-11-99 ; Amended at 17 Ok Reg 834, eff 3-1-00 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 25 Ok Reg 1335, eff 6-1-08 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended and renumbered to 340;75-3-460 at 30 Ok Reg 839, eff 7-1-13]

## **340:75-3-10. Interviewing the alleged victim [REVOKED]**

[Source: Revoked at 10 Ok Reg 4523, eff 8-16-93 (emergency); Revoked at 11 Ok Reg 2687, eff 6-13-94]

## **340:75-3-10.1. Safety determination and responses [REVOKED]**

[Source: Added at 10 Ok Reg 4523, eff 8-16-93 (emergency); Added at 11 Ok Reg 2687, eff 6-13-94 ; Amended at 12 Ok Reg 395, eff 11-17-94 (emergency); Amended at 12 Ok Reg 1183, eff 5-11-95 ; Amended at 12 Ok Reg 3456, eff 7-1-95 (emergency); Amended at 13 Ok Reg 109, eff 10-5-95 (emergency); Amended at 13 Ok Reg 3637, eff 4-29-96 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 14 Ok Reg 605, eff 12-12-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 389, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1661, eff 5-11-98 ; Amended at 16 Ok Reg 296, eff 11-23-98 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 20 Ok Reg 539, eff 1-21-13 (emergency); Amended at 20 Ok Reg 921, eff 5-12-03 ; Amended at 22 Ok Reg 854, eff 5-12-05 ; Amended at 24 Ok Reg 1323, eff 6-1-07 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Revoked at 30 Ok Reg 839, eff 7-1-13]

## **340:75-3-10.2. Findings for Child Protective Services investigations [AMENDED AND RENUMBERED TO 340:75-3-500]**

[Source: Added at 10 Ok Reg 4523, eff 8-16-93 (emergency); Added at 11 Ok Reg 2687, eff 6-13-94 ; Amended at 12 Ok Reg 3456, eff 7-1-95 (emergency); Amended at 13 Ok Reg 109, eff 10-5-95 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 14 Ok Reg 605, eff 12-12-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 16 Ok Reg 296, eff 11-23-98 ; Amended at 18 Ok Reg 394, eff 12-8-00 (emergency); Amended at 18 Ok Reg 3321, eff 7-1-01 (emergency); Amended at 19 Ok Reg 1129, eff 5-13-02 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 24 Ok Reg 1323, eff 6-1-07 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency);

Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Amended and renumbered to 340;75-3-500 at 30 Ok Reg 839, eff 7-1-13]

### **340:75-3-10.3. Substantiation protocol [REVOKED]**

[**Source:** Added at 10 Ok Reg 4523, eff 8-16-93 (emergency); Added at 11 Ok Reg 2687, eff 6-13-94 ; Amended at 13 Ok Reg 3637, eff 4-29-96 (emergency); Amended at 14 Ok Reg 605, eff 12-12-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 389, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1661, eff 5-11-98 ; Amended at 16 Ok Reg 296, eff 11-23-98 ; Amended at 16 Ok Reg 1950, eff 6-11-99 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Revoked at 30 Ok Reg 839, eff 7-1-13]

### **340:75-3-11. Reports to the District Attorney regarding child abuse or neglect investigations [AMENDED AND RENUMBERED TO 340:75-3-510]**

[**Source:** Amended at 10 Ok Reg 4523, eff 8-16-93 (emergency); Amended at 11 Ok Reg 2687, eff 6-13-94 ; Amended at 12 Ok Reg 3456, eff 7-1-95 (emergency); Amended at 13 Ok Reg 109, eff 10-5-95 (emergency); Amended at 13 Ok Reg 3637, eff 4-29-96 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 14 Ok Reg 605, eff 12-12-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 389, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1661, eff 5-11-98 ; Amended at 16 Ok Reg 296, eff 11-23-98 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 28 Ok Reg 375, eff 12-1-10 (emergency); Amended at 28 Ok Reg 894, eff 7-1-11 ; Amended and renumbered to 340;75-3-510 at 30 Ok Reg 839, eff 7-1-13]

### **340:75-3-12. Child Abuse and Neglect Information System also known as KIDS [REVOKED]**

[**Source:** Added at 10 Ok Reg 4523, eff 8-16-93 (emergency); Added at 11 Ok Reg 2687, eff 6-13-94 ; Amended at 13 Ok Reg 3637, eff 4-29-96 (emergency); Amended at 14 Ok Reg 605, eff 12-12-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 16 Ok Reg 296, eff 11-23-98 ; Amended at 16 Ok Reg 1171, eff 4-1-99 (emergency); Amended at 16 Ok Reg 1950, eff 6-11-99 ; Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 21 Ok Reg 2374, eff 6-25-04 ; Amended at 25 Ok Reg 1335, eff 6-1-08 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Revoked at 30 Ok Reg 839, eff 7-1-13]

### **340:75-3-13. Completion of the Child Protective Services assessment or investigation process [AMENDED AND RENUMBERED TO 340:75-3-520]**

[**Source:** Added at 10 Ok Reg 4523, eff 8-16-93 (emergency); Added at 11 Ok Reg 2687, eff 6-13-94 ; Amended at 13 Ok Reg 3637, eff 4-29-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 389, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1661, eff 5-11-98 ; Amended at 16 Ok Reg 296, eff 11-23-98 ; Amended at 16 Ok Reg 1171, eff 4-1-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 18 Ok Reg 394, eff 12-8-00 (emergency); Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 22 Ok Reg 854, eff 5-12-05 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 24 Ok Reg 1323, eff 6-1-07 ; Amended at 25 Ok Reg 1335, eff 6-1-08 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 28 Ok Reg 375, eff 12-1-10 (emergency); Amended at 28 Ok Reg 894, eff 7-1-11 ; Amended and renumbered to 340;75-3-520 at 30 Ok Reg 839, eff 7-1-13]

#### **340:75-3-13.1. Service planning [REVOKED]**

[**Source:** Added at 16 Ok Reg 296, eff 11-23-98 ; Amended at 16 Ok Reg 1950, eff 6-11-99 ; Amended at 19 Ok Reg 409, eff 1-1-02 (emergency); Amended at 19 Ok Reg 1129, eff 5-13-02 ; Revoked at 21 Ok Reg 2374, eff 6-25-04]



### **340:75-3-13.2. Levels of service and models of intervention [REVOKED]**

[Source: Added at 19 Ok Reg 409, eff 1-1-02 (emergency); Added at 19 Ok Reg 1129, eff 5-13-02 ; Revoked at 21 Ok Reg 2374, eff 6-25-04]

### **340:75-3-14. Statewide hotline and after hours response [REVOKED]**

[Source: Added at 15 Ok Reg 389, eff 11-1-97 (emergency); Added at 15 Ok Reg 1661, eff 5-11-98 ; Amended at 22 Ok Reg 854, eff 5-12-05 ; Revoked at 28 Ok Reg 894, eff 7-1-11]

### **340:75-3-20. Appeal process for substantiated findings of child abuse or neglect [AMENDED AND RENUMBERED TO 340:75-3-530]**

[Source: Added at 28 Ok Reg 894, eff 7-1-11 ; Amended and renumbered to 340:75-3-530 at 30 Ok Reg 839, eff 7-1-13]

### **340:75-3-100. Child protective services purpose, philosophy, legal authority, and scope**

(a) **Child protective services purpose.** Child protective services (CPS) is a child welfare services provision that focuses on preventing, identifying, and treating child abuse and neglect and ensuring child safety. Efforts are made to maintain and protect the child in the child's own home when safety threats can be managed and controlled. The primary purpose of CPS intervention is to:

- (1) protect the child;
- (2) assess family strengths and needs; and
- (3) provide services to remedy the conditions and behaviors that cause abuse, neglect, or safety threats.

(b) **Child protective services philosophy.** The child welfare (CW) program emphasizes child safety and family preservation when the child is safely maintained within the family. While family reunification or rehabilitation is an optimum means for protecting the child, the right to family integrity is limited by the child's right to be protected from abuse and neglect, per Section 1-1-102 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-1-102).

- (1) Consistent with federal and state requirements:
  - (A) reasonable efforts are made when possible to prevent or eliminate the need for the child's removal; or
  - (B) intervention is directed toward child and family reunification when the child will be safe in the home.
- (2) When the child cannot be safely maintained in the home, court intervention and the child's removal from the home may be necessary.
- (3) Oklahoma Department of Human Services (OKDHS) recognizes that when the child is removed from the home, timely achievement of the child's permanency plan is in the child's best interests.

**(c) Legal authority for child protective services.**

(1) 10A O.S. §§ 1-2-101 through 1-2-110 requires that suspected abuse and neglect be reported to OKDHS. OKDHS conducts a safety analysis and forwards the assessment conclusions or investigation findings to the appropriate district attorney's (DA's) office.

(2) 10A O.S. § 1-2-108 requires that OKDHS maintain an information system of the assessment conclusions or investigation findings in addition to other child abuse and neglect related information.

(3) 10A O.S. § 1-4-201 sets forth methods by which custody of a child may be assumed. Law enforcement officers or designated employees of the court are authorized to assume protective custody without a court order in defined circumstances, or the court may issue an order for emergency custody after an application, supported by an affidavit, is submitted by the DA to the court.

**(d) Scope of child protective services.**

(1) CPS intervention is mandated by 10A O.S. § 1-1-102 when a child is abused, neglected, drug-endangered, or at risk of significant harm because of willful acts, intent to act, or omissions by the person responsible for the child's (PRFC) health, safety, or welfare. CPS addresses intra-familial abuse or neglect and assesses or investigates allegations of abuse or neglect when the perpetrator is identified as:

- (A) the child's custodial or noncustodial parent;
- (B) the child's legal guardian or custodian;
- (C) an adult residing in the child's home including an adult who is cohabitating with the child's parent; or
- (D) a person other than a PRFC when it is necessary to determine whether the PRFC's actions contributed to the child's abuse or neglect and reflects the PRFC's unwillingness or inability to protect the child.

(2) OKDHS is mandated per 10A O.S. § 1-2-105 to investigate alleged abuse or neglect by a PRFC as defined in 10A O.S. § 1-1-105 that includes:

- (A) a foster parent per OAC 340:75-3-410;
- (B) an owner, operator, or employee of a child care facility, child care center, or child care home, as defined in 10 O.S. § 402, whether licensed or unlicensed per OAC 340:75-3-110 and 340:75-3-420; and
- (C) an agent or employee of a public or private residential home institution facility or day treatment program as defined by 10 O.S. § 175.20.

(3) Except when employed in a child care facility, school teachers and officials, OKDHS employees, and other persons providing services to the child are not PRFCs.

(4) Reports alleging child abuse or neglect in settings above the foster care level are investigated by the Office of Client Advocacy per OAC 340:2-3-32.

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13 ; Added at 30 Ok Reg 1356, eff 7-1-13]

**340:75-3-101. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-102. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-103. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-104. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-105. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-106. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-107. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-108. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-109. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-110. Child protective services (CPS) relationship to other entities involved in child abuse and neglect investigations and deprived cases**

**(a) Other entities' responsibilities for, or regarding child abuse or neglect investigations.**

**(1) Office of Client Advocacy (OCA).**

(A) The Oklahoma Department of Human Services (DHS), OCA, per Section 1-9-112 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-9-112), is responsible for investigations of allegations of child abuse:

- (i) or neglect of the child placed in a DHS facility, or in a public or private residential facility including, but not limited to, jails or detention centers, hospitals, psychiatric facilities and treatment programs, day treatment programs, and licensed or unlicensed residential child care facilities; and
- (ii) neglect, sexual abuse, or sexual exploitation by a community services worker, per 56 O.S. § 1025.1.

(B) Reports of suspected abuse or neglect of a child are made to the DHS Child Abuse and Neglect Hotline (Hotline) as prescribed in Oklahoma Administrative Code (OAC) 340:2-3-33.

(C) OCA does not investigate allegations of abuse or neglect of the child in foster homes, specialized community homes, therapeutic foster homes, or kinship home placements.

(2) **Child Care Services (CCS).** DHS CCS is responsible for implementing the Oklahoma Child Care Facilities Licensing Act, per 10 O.S. §§ 401 through 441 designed to ensure child safety. CCS has concurrent responsibilities with CPS in investigations of alleged physical abuse, sexual abuse, or serious neglect in child care centers and homes. Whenever possible, investigations are conducted jointly by CCS and CPS. This does not include violations of CCS licensing requirements that are referred to CCS.

(3) **Office of Juvenile Affairs (OJA).** OJA investigates allegations of child abuse or neglect in facilities operated per the Oklahoma Juvenile Code.

(b) **CPS and inter-agency relationships.** CPS functions as a component of the multi-faceted system established to protect children from abuse and neglect that includes law enforcement, the court system, other social services agencies and organizations. CPS is a component of the child welfare (CW) services continuum that includes preventive and protective services, voluntary family-centered services, foster care and placement services, and adoption services.

(c) **CPS role.** CPS evaluates reports of child abuse or neglect, assesses child safety and the risk of future maltreatment and the need for protective services, and provides and coordinates services.

(d) **Law enforcement role.** Law enforcement investigates a report of child abuse or neglect as a crime.

(1) Reports that require joint involvement by CPS and law enforcement are conducted as CPS investigations rather than assessments.

(2) Law enforcement identifies and arrests the offender, gathers court-admissible evidence, and protects the integrity of the evidence so the offender can be prosecuted in criminal court.

(3) Law enforcement may:

(A) provide protection to the child, other family members, and the CW specialist during crisis intervention;

(B) place the child into protective custody and authorize immediate medical or behavioral health treatment, when

necessary, to protect the child's health, safety, or welfare, per 10A O.S. § 1-4-201; and

(C) release the child to a person designated by the parent when the person responsible for the child (PRFC) was arrested on a charge or warrant for a crime other than child endangerment or child abuse or neglect, per 10A O.S. § 1-4-201.

**(e) Child Welfare Services (CWS) joint response with law**

**enforcement.** When law enforcement takes a child into protective custody due to abuse or neglect allegations, CWS is contacted in accordance with the joint response protocol developed, per 10A O.S. § 1-4-201. When possible, CWS responds to the scene where the child's protective custody was assumed.

(1) CWS conducts a safety evaluation at the scene to determine if the child faces a safety threat and, when so, if the child can be protected through placement with relatives or others instead of a DHS foster care placement.

(2) When a determination is made at the scene that the child cannot safely remain in the home, law enforcement and CWS coordinate transportation of the child to a location where DHS believes the child can be protected. DHS utilizes a shelter when other placement options are unavailable or inappropriate.

(3) When CWS is unable to respond to the scene where a child was placed in protective custody, the child is taken by law enforcement to the law enforcement office, the local CWS office, or other location as agreed to by the team.

(4) A child taken into protective custody by law enforcement is not by virtue of a standing order, considered to be in DHS emergency custody upon the child's admission to a shelter. A child cannot be placed in DHS emergency custody until:

(A) CWS has completed a safety evaluation and concluded the child faces an imminent safety threat; and

(B) the court has issued a child-specific emergency custody order.

**(f) Restoration of custody to the parent, legal guardian, or**

**custodian when child is in protective custody.** When the safety evaluation conducted by CWS indicates the child does not face an imminent safety threat, DHS restores the child to the custody and control of the parent, legal guardian, or custodian, per 10A O.S. § 1-4-201. Specific county procedures are followed when a child is released from protective custody by the court.

**(g) DHS relationship with law enforcement and Oklahoma State Bureau of Investigation (OSBI).**

(1) DHS coordinates the child abuse and neglect investigation with law enforcement, when appropriate. DHS does not relinquish investigative responsibility when law enforcement requests that DHS not interview certain persons or delay the DHS investigation. Instead, DHS develops a plan with law enforcement to ensure the DHS child safety responsibilities are fulfilled without interfering with the criminal investigation.

(2) The DHS Director or designee has the authority to request a criminal investigation by OSBI or another law enforcement agency, per 10A O.S. § 1-2-105, when it is reasonably believed that criminally injurious conduct including, but not limited to, physical or sexual abuse of a child occurred.

(h) **District attorney's (DA) role in deprived matters.** It is the DA's responsibility to determine if the information obtained during the CPS investigation warrants filing a petition alleging the child to be deprived.

(i) **The DA's role in criminal prosecutions.** DHS makes recommendations to the DA regarding deprived proceedings but not for criminal prosecution. The DA has the responsibility to decide if criminal charges are filed against the alleged perpetrator of child abuse and neglect. The CPS investigation recommendation is limited to the action necessary for child safety.

(j) **Child's attorney's role.** In deprived proceedings, the attorney appointed for the child is independent of and not selected by the DA, the child's parent, legal guardian, or custodian, per 10A O.S. § 1-4-306. In criminal actions brought under Title 21 of the Oklahoma Statutes, the child victim may be appointed an attorney, per 21 O.S. § 843.7.

(1) The child's attorney represents the child's expressed interests unless the child is very young, unable to express an interest, or incapable of judgment and meaningful communication. When the child is unable to express an interest or lacks judgment, the attorney formulates and presents a position that serves the best interests of the child using objective criteria outlined in 10A O.S. § 1-4-306, rather than relying solely on the attorney's life experience or instinct.

(2) The child's attorney meets with the child as soon as possible after appointment and, except for good cause, prior to any hearing in the deprived proceeding. DHS provides the child's attorney access to reports, records, information relevant to the case, and the child's parent, legal guardian, or custodian's examination reports. Per Oklahoma Administrative Code 340:75-6-48.1, the attorney is advised of the child's location and the best way to contact the child.

(k) **Guardian ad litem's role.** Per 10A O.S. § 1-4-306, the court appoints, after a deprived petition is filed and upon the request of the child, child's attorney, DHS, or another party to the deprived action, a guardian ad litem or court-appointed special advocate (CASA) to objectively advocate for, and investigate matters concerning the child's best interests. The guardian ad litem or CASA makes reports and recommendations to the court and conducts interviews with parents, legal guardian, custodian, foster parents, providers, CW specialists, and others with case knowledge.

(l) **Judge's role in deprived matters.** Per 10A O.S. § 1-4-102, the judge may, upon application by the DA, issue a court order to place the child in emergency custody when the child is in need of immediate protection due to an imminent safety threat. After a deprived petition is filed, the judge hears the evidence presented during the adjudication hearing and decides if the child is adjudicated a deprived child. When the child is adjudicated deprived, the judge decides if the child is placed in the

custody of the PRFC, a relative, DHS, or another agency, and may order the PRFC and child to participate in a court-ordered individualized service plan.

(m) **Judge's role in child custody or visitation proceedings.** When a judge, during a proceeding concerning child custody or visitation, determines there is evidence of abuse or neglect of the child, 10A O.S. § 1-4-102 requires the court to refer the allegations to DHS for an assessment or investigation. The referring court may also enter an order to have the child taken into emergency custody when evidence indicates the child is in surroundings that endanger his or her health, safety, or welfare.

[Source: Amended and renumbered from 340:75-3-5 at 30 Ok Reg 389, eff 7-1-13 ; Amended at 35 Ok Reg 1695, eff 9-17-18]

### **340:75-3-111. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

### **340:75-3-112. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

### **340:75-3-113. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

### **340:75-3-114. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

### **340:75-3-115. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

### **340:75-3-116. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

### **340:75-3-117. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

### **340:75-3-118. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

### **340:75-3-119. [RESERVED]**

### **340:75-3-120. Definitions and substantiation protocol**

(a) **Legislative intent.** Legislative intent, per Section 1-1-102 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-1-102) states, *"...it is the purpose of the laws relating to children alleged or found to be deprived to...intervene in the family only when necessary to protect a child from harm or threatened harm."*

(b) **Definitions.** Terms used by Oklahoma Human Services (OKDHS) Child Welfare Services not found in the Oklahoma Children's Code are defined in Oklahoma Administrative Code 340:75-3-120 Instructions to Staff. The following words and terms, when used in the Oklahoma Children's Code, 10A O.S. §§ 1-1-105, 1-2-105, and 1-6-105; 21 O.S. §§ 748, 748.2; and 1040.13a; and in this Subchapter have the following meanings unless the context clearly indicates otherwise:

(1) **"Abandonment"** means the:

- (A) willful intent by words, actions, or omissions of the person responsible for the child's (PRFC) health, safety, or welfare not to return for a child;
- (B) failure to maintain a significant parental relationship with a child through visitation, family time, or communication, such as incidental or token visits or communication, which are not considered significant; or
- (C) failure to respond to notice of deprived proceedings.

(2) **"Abuse"** means harm or threatened harm by a PRFC to a child's health, safety, or welfare including non-accidental physical or mental injury or sexual abuse or sexual exploitation; however, nothing prohibits a parent from using ordinary force as a means of discipline including, but not limited to, spanking, switching, or paddling.

(3) **"Age-appropriate"** or **"developmentally-appropriate"** means:

- (A) activities or items that are generally accepted as suitable for children of the same age or maturity level or that are determined to be developmentally-appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and
- (B) in the case of a specific child, activities or items that are suitable for that child based on the developmental stages he or she attains with respect to his or her cognitive, emotional, physical, and behavioral capacities.

(4) **"Assessment"** means a comprehensive review of child safety and evaluation of family functioning and protective capacities conducted in response to a child abuse or neglect referral that does not allege a serious and immediate safety threat to a child.

(5) **"Behavioral health"** means mental health, substance use or abuse, or co-occurring mental health and substance use or abuse diagnoses, and the continuum of mental health, substance use or



abuse, or co-occurring mental health and substance use or abuse treatment.

(6) **"Child"** means any unmarried person younger than 18 years of age, including an infant born alive.

(7) **"Children's emergency resource center"** means a community-based program that may provide:

- (A) emergency care and a safe , structured, homelike environment or a host home for children providing food, clothing, shelter, and hygiene products to each child served;
- (B) after-school tutoring;
- (C) counseling services;
- (D) life-skills training;
- (E) transition services;
- (F) assessments;
- (G) family reunification;
- (H) respite care;
- (I) transportation to or from school, appointments with health care professionals, visitations or family time, court, and social or school activities, when necessary; and
- (J) a stable environment for children in crisis who are in OKDHS custody, when permitted under OKDHS policies and regulations; or
- (K) care for children voluntarily placed in the program by a parent or custodian during a temporary crisis.

(8) **"Child safety meeting"** means the collaborative decision-making process OKDHS engages in to address each child's needs related to safety and, when the child's condition warrants a safety intervention including, but not limited to, a change in placement, and:

- (A) those involved in the collaborative decision-making process include, at a minimum, appropriate OKDHS staff, the child's parents, and, when the parent requests, an advocate or representative; and
- (B) to protect the safety of those involved and to promote efficiency, OKDHS may limit participants as determined to be in the child's best interests.

(9) **"Child with a disability"** means any child who has a physical or mental impairment that substantially limits one or more of the child's major life activities, or who is regarded as having such impairment by a competent medical professional.

(10) **"Commercial sex"** means any form of commercial sexual activity, such as sexually explicit performances, prostitution, participation in the production of pornography, performance in a strip club, or exotic dancing or display, per 21 O.S § 748.

(11) **"Custodian"** means an individual other than a parent, legal guardian, or Indian custodian, to whom legal custody of the child was awarded by the court. As used in the Oklahoma Children's Code, the term "custodian" does not mean OKDHS.

(12) **"Dependency"** means a child who is homeless or without proper care or guardianship through no fault of his or her parent,

legal guardian, or custodian.

(13) "**Deprived child**" means a child:

- (A) who is for any reason destitute, homeless, or abandoned;
- (B) who does not have the proper parental care or guardianship;
- (C) who has been abused, neglected, or is dependent;
- (D) whose home is an unfit place for the child by reason of depravity on the part of the child's parent, legal guardian, custodian, or other person responsible for the child's health or welfare;
- (E) who is in need of special care and treatment because of the child's physical or mental condition, and the child's parents, legal guardian, or other custodian is unable or willfully fails to provide such special care and treatment. A child in need of special care and treatment includes, but is not limited to, a child who at birth tests positive for alcohol or a controlled dangerous substance and who, pursuant to a drug or alcohol screen of the child and an assessment of the parent, is determined to be at risk of harm or threatened harm to his or her health or safety;
- (F) with a disability deprived of the nutrition necessary to sustain life, or deprived of the medical treatment necessary to remedy or relieve a life-threatening medical condition, in order to cause or allow the child's death when such nutrition or medical treatment is generally provided to similarly situated children without a disability or children with disabilities; provided that no medical treatment is necessary when, in the reasonable medical judgment of the attending physician, such treatment would be futile in saving the life of the child;
- (G) who, due to improper parental care and guardianship, is absent from school, per 70 O. S. § 10-106, when the child is subject to compulsory school attendance;
- (H) whose parent, legal guardian, or custodian for good cause desires to be relieved of custody;
- (I) who was born to a parent whose parental rights to another child were involuntarily terminated by the court and the conditions that led to the finding, which resulted in the termination of the parental rights of the parent to the other child, have not been corrected; or
- (J) whose parent, legal guardian, or custodian subjected another child to abuse or neglect or allowed another child to be subjected to abuse or neglect and is currently a respondent in a deprived proceeding.

(14) "**Drug-endangered child**" means a child who is at risk of suffering physical, psychological, or sexual harm as a result of the use, possession, distribution, manufacture, or cultivation of controlled dangerous substances or the attempt of any of these acts by a PRFC, per this Section and 10A O.S. § 1-1-105.

(A) This term includes circumstances wherein the PRFC's substance use or abuse interferes with his or her ability to parent and provide a safe and nurturing environment for the child.

(B) Per 10A O.S. § 1-2-101, every physician, surgeon, or other health care professional including doctors of medicine, licensed osteopathic physicians, residents and interns, any other health care professional, or midwife involved in the pre-natal care of expectant mothers or the delivery or care of infants who test positive for alcohol or a controlled dangerous substance, must promptly report the matter to the OKDHS. This includes infants who are diagnosed with neonatal abstinence syndrome or fetal alcohol spectrum disorder (FASD).

(C) Whenever OKDHS determines that a child meets the definition of a "drug-endangered child" or was diagnosed with neonatal abstinence syndrome or FASD, and the referral is assigned, OKDHS conducts an investigation of the allegations and does not limit the evaluation of the circumstances to an assessment, per 10A O.S. § 1-2-102.

(D) Whenever OKDHS determines an infant is diagnosed with neonatal abstinence syndrome or FASD, OKDHS develops a plan of safe care that addresses the infant and affected family member or caregiver and, at a minimum, their health and substance use or abuse treatment needs.

(15) "**Emergency custody**" means court-ordered custody of a child prior to the child's adjudication.

(16) "**Failure to protect**" means failure to take reasonable action to remedy or prevent child abuse or neglect, and includes the conduct of a non-abusing parent or guardian who knows the identity of the abuser or the person neglecting the child, but lies, conceals, or fails to report the child abuse or neglect, or otherwise take reasonable action to end the abuse or neglect.

(17) "**Foster parent**" means any person maintaining a therapeutic, emergency, specialized-community home, tribal, kinship, or foster family home responsible for providing care, supervision, guidance, rearing, and other foster care services to a child.

(18) "**Harm or threatened harm**" means any real or threatened physical, mental, or emotional injury or damage to the body or mind of a child that is not accidental including, but not limited to:

(A) sexual abuse or sexual exploitation;

(B) neglect; or

(C) dependency.

(19) "**Heinous and shocking abuse**" means any aggravated physical abuse that results in serious bodily, mental, or emotional injury. Serious bodily injury means, but is not limited to, injury that involves:

(A) substantial risk of death;

(B) extreme physical pain;

(C) protracted disfigurement;

- (D) loss or impairment of a function of a body member, organ, or mental faculty;
- (E) an injury to an internal or external organ or the body;
- (F) bone fractures;
- (G) sexual abuse or sexual exploitation;
- (H) chronic abuse including, but not limited to, physical, emotional, or sexual abuse or sexual exploitation that is repeated or continuing;
- (I) torture including, but not limited to, inflicting, participating in, or assisting in inflicting intense physical or emotional pain upon a child repeatedly over a period of time for the purpose of coercing or terrorizing a child, or for the purpose of satisfying the perpetrator's or another person's craven, cruel, or prurient desires; or
- (J) any other similar aggravated circumstance.

(20) "**Heinous and shocking neglect**" means neglect that includes, but is not limited to:

- (A) chronic neglect that includes, but is not limited to, a persistent pattern of family functioning in which the caregiver has not met or sustained the child's basic needs resulting in harm to the child;
- (B) neglect that resulted in a diagnosis of the child as a failure to thrive;
- (C) an act or failure to act by a parent that results in:
  - (i) serious physical or emotional harm;
  - (ii) sexual abuse or sexual exploitation;
  - (iii) the death or near death of a child or sibling; or
  - (iv) presents an imminent risk of serious harm to a child; or
- (D) any other similar aggravating circumstance.

(21) "**Human trafficking**" means modern-day slavery that includes, but is not limited to, extreme exploitation and the denial of freedom or liberty of an individual for purposes of deriving benefit from that individual's commercial sex act or labor.

(22) "**Human trafficking for commercial sex**" means:

- (A) recruiting, enticing, harboring, maintaining, transporting, providing, or obtaining, by any means, another person through deception, force, fraud, threat, or coercion for purposes of engaging the person in a commercial sex act;
- (B) recruiting, enticing, harboring, maintaining, transporting, providing, purchasing or obtaining, by any means, a minor for purposes of engaging the minor in a commercial sex act; or
- (C) benefiting, financially or by receiving anything of value, from participating in a venture engaged in an act of trafficking for commercial sex.

(23) "**Infant**" means a child 12 months of age and younger.

(24) "**Investigation**" means a response to an allegation of abuse or neglect that involves a serious and immediate threat to the safety of the child making it necessary to determine:

- (A) the current safety of the child and the risk of subsequent abuse or neglect;
- (B) if child abuse or neglect occurred; and
- (C) if the family needs prevention- and intervention-related services.

(25) "**Minor in need of treatment**" means a child in need of mental health or substance use or abuse treatment as defined by the Inpatient Mental Health and Substance Abuse Treatment of Minors Act.

(26) "**Multidisciplinary child abuse team**" means any team established, per 10A O.S. § 1-9-102 of three or more persons who are trained in the prevention, identification, investigation, prosecution, and treatment of physical and sexual child abuse and who are qualified to facilitate a broad range of prevention- and intervention-related services and services related to child abuse. For purposes of this definition, "freestanding" means a team not used by a child advocacy center for its accreditation;

(27) "**Near death**" means a child is in serious or critical condition as a result of abuse or neglect verified by a physician, registered nurse, or other licensed health care provider. Verification of the medical condition of a child may be given in person or by phone, email, fax, or mail.

(28) "**Neglect**" means:

(A) the failure or omission by the PRFC to provide the child with:

- (i) adequate nurturance and affection, food, clothing, shelter, sanitation, hygiene, or an appropriate education;
  - (ii) medical, dental, or behavioral health care;
  - (iii) supervision or appropriate caretakers to protect the child from harm or threatened harm any reasonable and prudent PRFC would be aware;
- or
- (iv) special care made necessary for the child's health and safety by the child's physical or mental condition;

(B) the failure or omission by the PRFC to protect the child from exposure to:

- (i) the use, abuse, possession, sale, or manufacture of illegal drugs;
- (ii) illegal activities; or
- (iii) sexual acts or materials that are not age-appropriate; or

(C) abandonment.

(29) "**Person responsible for the child's health, safety, or welfare**" means:

(A) the child's parent, legal guardian, custodian, or foster parent. A custodian is an individual other than a parent, legal guardian, or Indian custodian to whom legal custody of the child was awarded by the court, per 10A O.S. § 1-1-105;

- (B) a person 18 years of age and older with whom the child's parent cohabitates or any other adult residing in the child's home;
- (C) an agent or employee of a public or private residential home, institution, facility, or day-treatment program, per 10 O.S. § 175.20;
- (D) an owner, operator, or employee of a child care program, per 10 O.S. § 402, whether the home is licensed or unlicensed; or
- (E) a foster parent maintaining a therapeutic, emergency, specialized-community, tribal, kinship, or foster family home responsible for providing care, supervision, guidance, rearing, and other foster care services to a child.

(30) "**Physical abuse**" means an injury resulting from punching, beating, kicking, biting, burning, or otherwise harming a child. Even though the injury is not an accident, the PRFC may not have intended to hurt the child.

(A) The injury may result from:

- (i) extreme physical punishment inappropriate to the child's age or condition;
- (ii) a single episode or repeated episodes that range in severity from significant bruising to death; or
- (iii) any action including, but not limited to, hitting with a closed fist, kicking, inflicting burns, shaking, or throwing the child, even when no injury is sustained, but the action places the child at risk of grave physical danger.

(B) Minor injury of a child older than 10 years of age is not considered physical abuse unless the actions that caused the injury placed the child in grave physical danger.

(31) "**Plan of safe care**" means a plan developed for an infant with neonatal abstinence syndrome or a FASD, upon release from healthcare provider care that addresses the infant's and mother's or caregiver's health and substance use or abuse treatment needs.

(32) "**Protective custody**" means custody of a child taken by law enforcement or designated employee of the court, without a court order.

(33) "**Reasonable parental discipline**" means parental use of ordinary force as a means of discipline including, but not limited to, spankings, switching, or paddling that does not result in bodily injury to the child.

(34) "**Risk**" means the likelihood that an incident of child abuse or neglect will occur in the future.

(35) "**Risk factors**" means family behaviors and conditions that suggest the caregivers are likely to maltreat their child in the future.

(36) "**Safety analysis**" means OKDHS action taken in response to a report of alleged child abuse or neglect that may include an

assessment or investigation based upon an analysis of the information received according to priority guidelines and other OKDHS-adopted criteria.

(37) "**Safety evaluation**" means an OKDHS evaluation of a child's situation, using a structured, evidence-based tool to determine if the child is subject to safety threats.

(38) "**Safety threat**" means the threat of serious harm due to child abuse or neglect occurring in the present or in the very near future that without another person's intervention, a child would likely or in all probability sustain severe or permanent disability or injury, illness, or death.

(39) "**Sexual abuse**" means any sexual activity, including sexual propositioning between the PRFC and child or any sexual acts committed or permitted by the PRFC including, but not limited to:

- (A) rape;
- (B) sodomy;
- (C) incest; and
- (D) lewd or indecent acts or proposals to a child.

(40) "**Sexual exploitation**" means any person 18 years of age and older or a PRFC:

- (A) allowing, permitting, encouraging, or forcing a child to engage in prostitution, as defined by law; or
- (B) allowing, permitting, encouraging, or engaging in the lewd, obscene, or pornographic, as defined by law, photographing, filming, or depicting of the child in those acts.

(41) "**Sibling**" means a biologically or legally-related brother or sister of a child. This includes an individual who satisfies at least one of the conditions in (A) and (B) with respect to a child. The individual:

- (A) is considered by state law to be a child's sibling; or
- (B) would be considered a sibling under state law, except for a termination or other disruption of parental rights, such as a parent(s)' death.

(42) "**Trafficking in persons**" means sex trafficking or severe forms of trafficking in persons.

(A) "Sex trafficking" means the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act.

(B) "Severe forms of trafficking in persons" means:

- (i) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act is not 18 years of age; or
- (ii) the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

(43) **"Youth"** means a child 13 through 17 years of age.

(c) **Substantiation of child abuse and neglect allegations.** Specific guidelines in conjunction with the definitions in this Section are utilized in substantiating abuse or neglect.

[Source: Amended and renumbered from 340:75-3-2 at 30 Ok Reg 389, eff 7-1-13 ; Amended at 32 Ok Reg 1904, eff 9-15-15 ; Amended at 33 Ok Reg 477, eff 2-29-16 (emergency); Amended at 34 Ok Reg 1550, eff 9-15-17 ; Amended at 35 Ok Reg 451, eff 1-31-18 (emergency); Amended at 35 Ok Reg 1695, eff 9-17-18 ; Amended at 36 Ok Reg 443, eff 4-9-19 (emergency); Amended at 37 Ok Reg 1850, eff 9-15-20 ; Amended at 39 Ok Reg 468, eff 12-21-21 (emergency); Amended at 39 Ok Reg 1803, eff 9-15-22]

**340:75-3-121. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-122. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-123. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-124. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-125. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-126. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-127. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-128. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-129. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-130. Child Abuse and Neglect Hotline**

(a) **Child Abuse and Neglect Hotline (Hotline).** Per Section 1-2-101 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-2-101), Oklahoma



Human Services (OKDHS) established a statewide, centralized Hotline that operates 24 hours per day to receive child abuse or neglect reports , and reports made by any person subject to the provisions of the Sex Offenders Registration Act who resides with a minor child, per 57 O.S. § 584. An allegation of child abuse or neglect reported in any manner to an OKDHS county office is immediately referred to the Hotline.

(b) **Hotline tracking system.** Per 10A O.S. § 1-2-101, OKDHS maintains a system to track the number of calls the Hotline received and the number of:

- (1) calls screened out;
- (2) referrals assigned;
- (3) calls received by persons unwilling to disclose basic personal information including, but not limited to, first and last names; and
- (4) unsubstantiated or ruled out allegations.

(c) **Screening Hotline reports.** Each report received at the Hotline is screened to determine whether the allegations meet the definition of child abuse or neglect and are within the scope of child protective services (CPS) assessment or investigation, per 10A O.S. §§ 1-1-101 et seq. and Oklahoma Administrative Code (OAC) 340:75-3. When the allegations are not appropriate for CPS, the reporter may be provided an explanation as to why an assessment or investigation will not be conducted and, when appropriate, where a referral may be made to assist the family.

(d) **Time limitations for accepting reports for assessment or investigation.** CPS intervention is limited to current situations as the CPS focuses on identifying and protecting children presently at risk or who will be at risk when safety measures are not put in place.

(1) When a report is received that alleges abuse or neglect that is not recent, information is obtained to determine if there is reason to believe the child or other children may presently be at risk or in present danger.

(2) When information does not indicate a child is presently at risk or in present danger, CPS intervention may not be warranted.

(e) **Disposition of the screened-out report.** When a report is received that is not appropriate for CPS, however, services are needed, OKDHS may make a referral to an OKDHS or outside resource for emergency food, shelter, medical services, or counseling.

(f) **Response to reporter concerning a screened-out report.** The reporter may be informed of the decision to screen out the referral and the reason for the decision.

(g) **OKDHS response to reports of child abuse or neglect.** Per 10A O.S. § 1-2-105, OKDHS responds to an accepted report of child abuse or neglect by initiating an assessment of the family or an investigation of the report in accordance with priority guidelines. The primary purpose of the assessment or investigation is the protection of the child. For assessments or investigations, OKDHS gives special consideration to the risks of any minor child, including a child with a disability, who is vulnerable due to his or her inability to communicate effectively about abuse, neglect, or any safety threat.

(h) **Prioritization of child abuse and neglect reports.** Per 10A O.S. § 1-2-105, OKDHS prioritizes reports of alleged child abuse or neglect

based on the severity and immediacy of the alleged harm to the child and assigns a response time.

(1) **Priority I reports.** A Priority I report indicates the child is in present danger and at risk of serious harm or injury. Allegations of abuse and neglect may be severe and conditions extreme. The situation is responded to immediately, the same day the report is received.

(2) **Priority II reports.** Priority II is assigned to all other reports. The response time is established based on the vulnerability and risk of harm to the child. Priority II assessments or investigations are initiated within two-to 10-calendar days from the date the report is accepted for assessment or investigation.

(i) **Accepted report assigned as assessment or investigation.**

(1) An assessment is conducted when a report meets the abuse or neglect guidelines but does not constitute a serious and immediate safety threat to a child.

(2) An investigation is conducted when:

(A) a report meets the abuse or neglect guidelines and constitutes a serious and immediate threat to the safety of a child, per 10A O.S. § 1-1-105;

(B) three or more reports were previously accepted for assessment or investigation regarding the family, per 10A O.S. § 1-2-102;

(C) the family has been the subject of a deprived petition, per 10A O.S. § 1-2-102; or

(D) the child was diagnosed with fetal alcohol syndrome or OKDHS determines the child meets the definition of "drug-endangered child," per 10A O.S. § 1-1-105 and OAC 340:75-3-450.

(j) **Referral recordings.** Per 10A O.S. § 1-2-101(A)(5), OKDHS electronically records each referral received by the Hotline and retains the recordings securely for 12 months. The recordings are confidential and subject to disclosure only when the court orders the disclosure of the referral. OKDHS redacts any information identifying the reporting party unless otherwise ordered by the court.

[Source: Amended and renumbered from 340:75-3-6 at 30 Ok Reg 389, eff 7-1-13 ; Amended at 32 Ok Reg 1904, eff 9-15-15 ; Amended at 33 Ok Reg 477, eff 2-29-16 (emergency); Amended at 34 Ok Reg 1550, eff 9-15-17 ; Amended at 38 Ok Reg 2294, eff 9-15-21]

**340:75-3-131. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-132. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-133. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

### **340:75-3-134. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

### **340:75-3-135. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

### **340:75-3-136. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

### **340:75-3-137. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

### **340:75-3-138. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

### **340:75-3-139. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

### **340:75-3-140. Child Abuse and Neglect Information System (CANIS)**

(a) **Legal basis for CANIS.** The Child Abuse and Neglect Information System is a permanent, computerized record-keeping system Child Welfare Services maintains, per Section 1-2-108 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-2-108) that requires *the maintenance of all reports of child abuse, sexual abuse, and neglect made pursuant to the provisions of the Oklahoma Children's Code*. Only authorized Oklahoma Human Services (OKDHS) staff may inquire and report to the information system.

(b) **Fees for CANIS search.** OKDHS may charge a fee, up to \$35.00, for each CANIS search conducted for a prospective guardian of a child not in OKDHS custody and all other household members 18 years of age and older. The court receives a background check for a prospective guardian and all other household members 18 years of age and older, consisting of a review of a national fingerprint-based criminal background check, a search of the Oklahoma Department of Corrections' files maintained per the Sex Offenders Registration Act, and a search of the child abuse and neglect information system maintained for review by authorized entities by the OKDHS, per 30 O.S. § 2-101.

(c) **CANIS search for court-appointed special advocate (CASA) volunteers.** OKDHS conducts a CANIS search for any person making application to become a CASA volunteer or to be employed by the local CASA program, per 10A O.S. § 1-8-102.

(d) **CANIS search for private adoptive applicants.** OKDHS conducts a CANIS search for private adoptive applicants and all other adult household members 18 years of age and older, per 10 O.S. § 7505-5.3.

[Source: Amended and renumbered from 340:75-3-7 at 30 Ok Reg 389, eff 7-1-13 ; Amended at 36 Ok Reg 1856, eff 9-16-19 ; Amended at 37 Ok Reg 1850, eff 9-15-20 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

## **PART 2. INVESTIGATIVE PROTOCOLS**

### **340:75-3-200. General protocols for Child Protective Services (CPS) assessments and investigations**

(a) **Assessment and investigation process.** The CPS safety assessment and investigation process allows Child Welfare Services (CWS) to have direct involvement with a family to identify problems and provide services, either directly or indirectly, that protect children and assist the family. Per Section 1-2-105 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-2-105), Oklahoma Human Services (OKDHS) responds promptly to a report of child abuse or neglect by initiating an assessment of the family or an investigation of the report per OKDHS priority guidelines. The process includes gathering information:

- (1) regarding the reported allegations and family dynamics that jeopardize the child's safety; and
- (2) to assess the person responsible for the child's health, safety, or welfare (PRFC) protective capacities.

(b) **Assessment and investigation protocols.** Protocols provide:

- (1) continuity when addressing allegations of abuse or neglect;
- (2) a family functioning assessment of possible safety threats; and
- (3) continuity related to CWS contact with the family.

(c) **Multidisciplinary investigation protocol.** Investigations regarding physical abuse, serious neglect, and sexual abuse are conducted utilizing a multidisciplinary approach when possible per the Oklahoma Administrative Code 340:75-3-440. Each child sexual abuse, physical abuse, or neglect investigation and child victim interviews are conducted by appropriate personnel using the protocols and procedures per 10A O.S. § 1-9-102. The investigation may proceed without full participation of all personnel:

- (1) when trained personnel are not available timely and, in the judgment of the law enforcement officer or OKDHS, there is reasonable cause to believe a delay in investigation or interview of the child victim could place the child in jeopardy of harm or threatened harm to the child's health or welfare; and
- (2) for only as long as reasonable danger to the child exists.

(d) **Assessment and investigation requirements.**

(1) Per 10A O.S. § 1-2-105, the assessment or investigation requires:

(A) a visit to the child's home, unless:

- (i) there is reason to believe an extreme safety risk to the child or OKDHS employee exists; or
- (ii) it appears the referral was made in bad faith;

- (B) an interview with, and examination of, the child;
- (C) the visit to be conducted at any reasonable time and at any place including, but not limited to, the child's school; and
- (D) when a child is interviewed at school that OKDHS notify the PRFC that the child was interviewed at school.

(2) The assessment or investigation may include:

- (A) an interview with, and examination of, any child in the home; and
- (B) interviews with the child's parents or any other PRFC.

(e) **Disclosure of specific complaint or allegation to PRFC.** At the initial contact with the PRFC, who is the subject of the investigation pursuant to the Oklahoma Children's Code, OKDHS advises the person of the specific complaint or allegation made against the PRFC per 10A O.S. § 1-2-106.

(f) **Description of the investigation process provided to the PRFC.** Per 10A O.S. § 1-2-106, OKDHS provides a brief and easily understood written description of the investigation process. The notice includes a statement that:

- (1) OKDHS is undertaking the investigation pursuant to Oklahoma Children's Code requirements in response to a report of child abuse or neglect;
- (2) the identity of the person who reported the incident of abuse or neglect is confidential and may not be known to OKDHS since the report may have been made anonymously;
- (3) the investigation is required by law to be conducted enabling OKDHS to identify incidents of abuse or neglect in order to provide social services to the family in need of protective or preventive services;
- (4) upon completion of the investigation, OKDHS sends the PRFC a letter stating:
  - (A) OKDHS found insufficient evidence of abuse or neglect; or
  - (B) there appears to be probable cause to suspect the existence of child abuse or neglect in the judgment of OKDHS;
- (5) the procedures OKDHS uses to conduct an investigation of alleged child abuse or neglect, include:
  - (A) a description of the circumstances that would cause OKDHS to seek judicial approval to remove the child from the home; and
  - (B) an explanation that the law requires OKDHS to refer all reports of child abuse or neglect to a law enforcement agency for a separate determination of whether a criminal violation occurred;
- (6) the procedures to follow when:
  - (A) there is a complaint regarding OKDHS actions; or
  - (B) requesting a review of the findings OKDHS made during or at the conclusion of an investigation;
- (7) the PRFC has a right to review unsealed records filed with the court in the event an action is filed;

- (8) the PRFC has a right to seek legal counsel;
- (9) the PRFC may obtain copies of the statutory and regulatory provisions governing child abuse and neglect and an explanation of how to obtain copies of the provisions;
- (10) the PRFC may request visitation or family time and an explanation of the process to use to acquire visitation or family time with the child when the child is removed from the home; and
- (11) failure to appear for court proceedings may result in the termination of the person's parental rights to the child.

(g) **Assessment or investigation report forwarded to district attorney (DA).** OKDHS, per 10A O.S. § 1-2-102, forwards the completed assessment or investigation report and findings to any DA office that may have jurisdiction to file a petition per 10A O.S. § 1-4-902.

(h) **Referral to law enforcement.**

(1) Per 10A O.S. 1-2-102, OKDHS immediately makes a referral, either verbally or in writing, to the appropriate local law enforcement agency for the purpose of conducting a possible criminal investigation when, upon receipt of a report alleging abuse, neglect, or during the assessment or investigation, OKDHS determines the alleged:

- (A) perpetrator is someone other than a PRFC; and
- (B) abuse or neglect of the child does not appear attributable to failure on the part of a PRFC to provide protection for the child.

(2) OKDHS, after making the referral to law enforcement, is not responsible for further investigation unless:

- (A) OKDHS has reason to believe the alleged perpetrator is a parent of another child, not the subject of the criminal investigation, or is otherwise a PRFC of another child;
- (B) notice is received from a law enforcement agency that has determined the alleged perpetrator is a parent or PRFC of another child, not the subject of the criminal investigation; or
- (C) the appropriate law enforcement agency requests OKDHS, in writing, to participate in the investigation. When funds and personnel are available, as determined by the OKDHS Director or designee, OKDHS may assist law enforcement in interviewing children alleged to be victims of physical or sexual abuse.

(i) **Court order for access to or examination of child.** The assessment or investigation may include a medical, psychological, or psychiatric examination of any child in the home. When the PRFC refuses to cooperate with arranging an examination, or when admission to the home, school, or any place where the child may be located cannot be obtained, OKDHS may request the DA apply, per 10A O.S. § 1-2-105 for a court order to compel access or examination of the child. The court may order that a child be transported to a court-approved location for the interview or examination and designate an appropriate person or persons to transport the child. The persons may include, but are not limited to: a relative of the child, a PRFC, law enforcement, an OKDHS employee, or an Office of Juvenile Affairs (OJA) employee if the child is in OJA custody.

The court will consider safety protocols based on the child's gender. It is the PRFC's responsibility to secure medical examinations that may be necessary due to abuse or neglect of the child by a third party.

(j) **Obtaining the child's medical records.** As necessary in the course of conducting an assessment or investigation, OKDHS may request and obtain, without a court order, copies of a child's current and prior medical records including, but not limited to, hospital, medical, and dental records. The physician-patient privilege does not constitute grounds for failure to produce the requested records, per 10A O.S. § 1-2-105.

(k) **Requests for the child or PRFC's behavioral health records relevant to the assessment or investigation.** Per 10A O.S. §§ 1-2-105 and 1-6-103, the assessment or investigation may include an inquiry into the possibility the child or PRFC has a history of mental illness. When the PRFC denies OKDHS access to their personal behavioral health records or treatment plans requested by OKDHS that may be relevant to the alleged abuse or neglect, OKDHS requests the DA apply for a court order allowing OKDHS access to the records pursuant to terms and conditions prescribed by the court.

(l) **Failure to report child abuse or neglect.** Per 10A O.S. § 1-2-101, any person who knowingly and willfully fails to promptly report suspected child abuse or neglect, or who interferes with the prompt reporting of suspected child abuse or neglect, may be reported to local law enforcement for criminal investigation, and upon conviction, is guilty of a misdemeanor.

(m) **False reports of abuse or neglect made knowingly and willfully.** Any person who knowingly and willfully makes a false report of child abuse or neglect, per 10A O.S. § 1-2-101, or who makes a report the person knows lacks factual foundation, may be reported to local law enforcement for criminal investigation, and upon conviction is guilty of a misdemeanor.

(n) **Restraining order prohibiting child's removal from Oklahoma.** Per 10A O.S. § 1-2-105, when OKDHS has reason to believe the PRFC may remove the child from Oklahoma before the investigation is completed, OKDHS may request the DA file an application for a temporary restraining order in any district court in Oklahoma without regard to continuing jurisdiction of the child. Upon cause shown, the court may enter a temporary restraining order prohibiting the parent or other person from removing the child from Oklahoma pending completion of the assessment or investigation.

[Source: Amended and renumbered from 340:75-3-7.4 at 30 Ok Reg 389, eff 7-1-13 ; Amended at 32 Ok Reg 1904, eff 9-15-15 ; Amended at 39 Ok Reg 468, eff 12-21-21 (emergency); Amended at 39 Ok Reg 1803, eff 9-15-22]

### **340:75-3-201. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

### **340:75-3-202. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-203. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-204. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-205. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-206. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-207. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-208. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-209. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-210. Assessment protocol**

**Assessment protocol.** An assessment is a comprehensive review of child safety and evaluation of family functioning and protective capacities conducted in response to a child abuse or neglect report that does not allege a serious and immediate safety threat to a child.

[Source: Amended and renumbered from 340:75-3-7.5 at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-211. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-212. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]



**340:75-3-213. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-214. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-215. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-216. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-217. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-218. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-219. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-220. Investigation protocol**

**Purpose of investigation.** The purpose of Child Protective Services (CPS) is to protect children and provide services to the family, as opposed to a focus on criminal prosecution and punishment. The CPS investigation provides for direct involvement with the family, problem identification, service provision, and the development of a helping relationship. Pursuant to Section 1-2-105 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-2-105), Oklahoma Department of Human Services (OKDHS) responds promptly to a report of child abuse or neglect by initiating an assessment of the family or investigation of the report per OKDHS priority guidelines. The investigation process includes gathering information:

- (1) about the reported allegations and family dynamics that jeopardize the child's safety; and
- (2) to assess the protective capacity of the family.

[Source: Amended and renumbered from 340:75-3-8 at 30 Ok Reg 389, eff 7-1-13]

**PART 3. CHILD SAFETY EVALUATION CRITERIA AND  
PROCEDURE**

### **340:75-3-300. Child safety evaluation**

(a) **Evaluating child safety.** Evaluating child safety is a primary child protective services (CPS) function. Safety refers to the child's present security and well-being when the child is assessed to be at risk of abuse or neglect. The safety evaluation is an adaptable and continuous process that is not complete until the child is safe and the case is closed.

(b) **Determining the need for protective or emergency custody.**

Oklahoma Human Services (OKDHS) evaluates whether to recommend emergency OKDHS custody of a child based on the seriousness of the child's abuse or neglect and if the child is in need of immediate protection due to an imminent safety threat. A child taken into protective custody by law enforcement is not considered in OKDHS emergency custody. A child cannot be placed in OKDHS emergency custody, per Section 1-4-201 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-4-201) until:

- (1) the court issues a child-specific emergency custody order; or
- (2) OKDHS completes a safety evaluation, concludes the child faces an imminent safety threat, and the court issues a child-specific emergency custody order.

(c) **Protective custody for victims of human trafficking.** Any peace officer, district court, juvenile bureau, or Office of Juvenile Affairs employee, who has reasonable suspicion that a minor may be a victim of human trafficking and is in need of immediate protection, assumes protective custody over the minor and immediately notifies OKDHS. A child believed to be a victim of human trafficking is not considered in OKDHS emergency custody solely upon identification, but is transferred to OKDHS emergency custody, per 10A O.S. § 1-4-201.

(d) **Child safety meeting.** A child safety meeting is a collaborative decision-making process conducted to address each child's needs related to safety and to determine if the child's condition warrants a safety intervention including, but not limited to, a change in placement, and:

- (1) includes, at a minimum, appropriate OKDHS staff, the child's parents and, when the parent requests, an advocate or representative, as participants; and
- (2) to protect the safety of those involved and to promote efficiency, OKDHS may limit participants as determined to be in the child's best interests.

(e) **Alternatives to protective or emergency custody in cases of serious abuse or neglect.** When an alternative to protective or emergency custody is determined appropriate in circumstances where serious neglect or abuse is documented, an OKDHS form for a Safety Plan, is completed and implemented when the person responsible for the child's (PRFC) health, safety, or welfare agrees to cooperate with OKDHS efforts to ensure the child's safety. The Safety Plan describes the present danger the child welfare (CW) specialist identifies and addresses actions to take to ensure the child's safety until a thorough safety evaluation is completed. The PRFC and identified safety monitors sign the Safety Plan and agree to cooperate with OKDHS oversight to ensure the child's safety.

(f) **Safety planning without court involvement in cases of serious abuse or neglect.** In circumstances where serious neglect or abuse is documented, upon completion of a thorough safety evaluation, and when an alternative to OKDHS custody is appropriate, an OKDHS form for a Safety Plan is completed and implemented, when the PRFC agrees to cooperate with OKDHS efforts to ensure the child's safety.

(1) The Safety Plan is developed and implemented by agreement without court intervention and describes the impending danger the CW specialist identified and addresses actions to take to control or eliminate any identified safety threat.

(2) The implementation of a short-term Safety Plan does not preclude OKDHS from recommending court involvement.

(3) When the parent of a child in a Safety Plan is unavailable, the Safety Plan monitor may authorize medical or dental treatment or examinations if necessary for the child's well-being, per 10A O.S. § 1-3-104.

(g) **Removal of a child from the home.** A recommendation to remove a child from the home is made when, upon evaluating relevant conditions, a determination is made that:

(1) in-home safety responses are not available or acceptable;

(2) the PRFC appears unable or unwilling to protect the child;

(3) an emergency exists that prohibits the timely arrangement of resources or services to reduce risk and threats of abuse or neglect, or such resources or services are unavailable; or

(4) continued placement in the home is contrary to the child's health, safety, and welfare.

(h) **Placement considerations when the child is removed from the home.** When a child is removed from his or her home, placement preference is given to relatives and persons who have a kinship relationship with the child, per 10A O.S. § 1-4-204.

(1) Siblings are placed together in the same home when appropriate and possible.

(2) Placement decisions are made with the child's long-term best interests in mind.

(i) **Restoration of custody to the parent, legal guardian, or custodian when the child is in protective custody.** When the OKDHS safety evaluation indicates the child does not face an imminent safety threat, OKDHS restores the child to the custody and control of the parent, legal guardian, or custodian, per 10A O.S. § 1-4-201. Specific county procedures are followed with a request to release the child from protective custody.

(j) **Emergency removal of a child not in OKDHS custody.**

(1) Reasonable efforts are made to prevent the pre-petition removal of a child from the home unless a documented emergency exists that requires immediate removal. Per 10A O.S. § 1-4-201 and Section 671 of Title 42 of the United States Code, a child is removed from the home prior to filing a petition only when there is reasonable suspicion the:

(A) child is in need of immediate protection due to an imminent safety threat; or

(B) child's circumstances or surroundings are such that continuation in the child's home or in the care or custody of the parent, legal guardian, or custodian would present an imminent safety threat to the child and is contrary to his or her welfare.

(2) Law enforcement may remove a child from the home without a court order when the child is in surroundings that pose an immediate threat to the child. When law enforcement declines to remove the child, or when OKDHS is responding to a referral without law enforcement involvement, and the child is believed to be in need of immediate protection due to an imminent safety threat, OKDHS prepares an affidavit to present to the district attorney (DA) to request that the DA consider filing an application with the court to obtain an emergency custody order, per 10A O.S. § 1-4-201.

**(k) OKDHS authority to execute a pre-petition emergency custody order.** Per 10A O.S. § 1-4-201, when the district court issues a pre-petition order placing the child in OKDHS emergency custody pending further hearing, an OKDHS employee may execute the emergency order and physically take the child into custody in limited circumstances, when:

- (1) the child is located in a hospital, school, or child care program; and
- (2) it is believed assuming custody of the child from the hospital, school, or child care program can occur without risk to the child or the OKDHS employee.

**(l) Medical care for child in protective custody.**

(1) When the child in protective custody is in need of emergency medical care prior to the emergency custody hearing, a peace officer, court employee, or the court may authorize such treatment as necessary to safeguard the child's health or life, when the:

(A) treatment is related to the suspected abuse or neglect; or

(B) parent or legal guardian is unavailable or unwilling to consent to physician-recommended treatment. Before a peace officer, court employee, or the court authorizes treatment based on the unavailability of the parent or legal guardian, law enforcement exercises diligence to locate the parent or guardian, when known, per 10A O.S. § 1-3-102.

(2) When law enforcement, the parent, or guardian is unwilling to consent to emergency medical care, the DA is contacted to obtain a court order for the child's treatment.

**(m) Notification, disposition, and release of the child in pre-petition emergency custody.**

(1) The court may provide for the disposition of the child taken into custody and notification to the court of the assumption of custody in an administrative order or rule issued, per 10A O.S. § 1-4-201. The administrative order or rule may include a process for the child's release prior to an emergency custody hearing. Specific county procedures are followed when the child is

released from emergency custody prior to the emergency hearing.

(2) The court may order the child released to the parent, legal guardian, custodian, or to any responsible adult without conditions or under conditions the court finds necessary to ensure the child's safety, health, or welfare.

(n) **Post-petition removal of the child in OKDHS custody.** OKDHS may remove the child in OKDHS custody directly from the child's home when continued placement in the home is contrary to the child's health, safety, or welfare. OKDHS notifies the court prior to removal, or when an emergency exists, as soon as possible, following the child's removal.

(1) To ensure the safety of the child and the OKDHS employee, law enforcement assistance is requested in these situations.

(2) Refer to 10A O.S. § 1-4-806 when the child is in trial reunification status.

(o) **Child who left Oklahoma.** When the child who is the subject of an emergency custody or a pick-up order left Oklahoma prior to the order's execution, the other state enforces the emergency custody or pick-up order and recognizes Oklahoma's jurisdiction to return the child to Oklahoma. Each circumstance is managed according to the laws and procedures in the state where the child is located.

(p) **Standardized assessment.** Every child taken into OKDHS custody is given a standardized assessment evaluating his or her physical, developmental, medical, mental health, and educational needs within 21-calendar days of entering OKDHS custody, per 10A O.S. § 1-4-208. The assessment is updated on a consistent basis and is considered when making placement and service plans.

[Source: Added at 30 Ok Reg 1358, eff 7-1-13 ; Amended at 32 Ok Reg 1904, eff 9-15-15 ; Amended at 35 Ok Reg 451, eff 1-31-18 (emergency); Amended at 35 Ok Reg 1695, eff 9-17-18 ; Amended at 36 Ok Reg 443, eff 4-9-19 (emergency); Amended at 37 Ok Reg 1850, eff 9-15-20 ; Amended at 38 Ok Reg 2294, eff 9-15-21 ; Amended at 39 Ok Reg 468, eff 12-21-21 (emergency); Amended at 39 Ok Reg 1803, eff 9-15-22]

## **PART 4. SPECIALIZED INVESTIGATIVE PROTOCOLS, CHILD DEATH, OR NEAR-DEATH REPORTING PROTOCOLS**

### **340:75-3-400. Reports of child abuse and neglect with specialized protocols**

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

- (1) from Child Protective Services (CPS) regarding an Oklahoma Human Services (OKDHS) employee;
- (2) of abuse or neglect of a child in an active permanency planning or family-centered services (FCS) case;
- (3) regarding a child whose address is confidential per the Address Confidentiality Program (ACP) per Section 60.14 of Title 22 of the Oklahoma Statutes (22 O.S. § 60.14);
- (4) regarding Indian children;

- (5) regarding children in out-of-home care;
- (6) of abuse or neglect in a child care program or home;
- (7) of abuse or neglect by someone other than the person responsible for the child's (PRFC) health, safety, or welfare per 10A O.S. § 1-2-102.

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

- (i) perpetrator is someone other than a PRFC; and
- (ii) abuse or neglect of the child does not appear to be attributable to failure on the part of a PRFC to provide protection for the child.

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

- (i) OKDHS has reason to believe the alleged perpetrator is a parent or PRFC of another child, not the subject of the criminal investigation;
- (ii) notice is received from an appropriate law enforcement jurisdiction that it determined the alleged perpetrator is a parent or PRFC of another child, not the subject of the criminal investigation;
- or
- (iii) the appropriate law enforcement jurisdiction requests OKDHS participate in the investigation. When funds and personnel are available, as determined by the OKDHS Director or designee, OKDHS may assist law enforcement in interviewing children alleged to be victims of physical or sexual abuse;

(8) resulting from judicial proceedings.

(A) When a report of child abuse or neglect resulting from court proceedings concerning child custody, visitation, or family time is received, the CPS assessment or investigation protocol and the provisions of 10A O.S. § 1-4-102 are followed. The assessment or investigation is completed within 30-calendar days of the referral date. Upon completion, OKDHS:

- (i) submits an assessment or investigation report to the district attorney's office;
- (ii) provides a copy of the report to the referring court; and
- (iii) notifies the parties to the proceeding of the report's submission to the court.

(B) When the evidence in a court proceeding concerning child custody, visitation, or family time results in placing the child into OKDHS emergency custody by the referring court, the provisions of 10A O.S. § 1-4-203 apply.

(C) Per 22 O.S. § 20, when a judge finds a defendant subject to incarceration is the sole custodian of a minor child and has not made safe and appropriate arrangements for the child's care, the court makes a referral to OKDHS. The report is assigned for assessment or investigation;

(9) of relinquishment of a child 30-calendar days of age and younger to OKDHS.

(A) OKDHS, without court order, takes possession of a child 30-calendar days of age and younger, when a parent voluntarily delivers and relinquishes a child to the child protective services agency, and expresses an intent not to return for the child, per 10A O.S. § 1-2-109. At the parent's request, OKDHS respects the parent's desire to remain anonymous. OKDHS may:

(i) request, but not demand, information the parent is willing to share about the child, including details of the child's or parent's relevant medical histories; and

(ii) provide the parent with printed information regarding the parent's rights with respect to reunification with the child and counseling sources for the parents.

(B) When a child is relinquished to OKDHS, OKDHS:

(i) performs, or provides for the performance of, any act necessary to protect the child's health or safety; and

(ii) immediately checks with the appropriate law enforcement jurisdiction to determine if a child was reported missing and if the missing child is the relinquished child;

(10) involving child victims of human trafficking. Per 21 O.S. § 748.2, when law enforcement determines a child may be a victim of human trafficking, OKDHS initiates a joint investigation with law enforcement. A law enforcement entity, or district court, juvenile bureau, or the Office of Juvenile Affairs employee, who has reasonable suspicion that a child may be a victim of human trafficking and is in need of immediate protection, assumes protective custody over the child and immediately notifies OKDHS. The child victim is transferred to OKDHS emergency custody, per 10A O.S. § 1-4-201; and

(11) involving children of active duty military parent(s) or legal guardian(s), per 10A O.S. § 1-2-102.

(A) OKDHS inquires, during the course of an assessment or an investigation, if a child's parent or legal guardian is an active duty service member of the military or the spouse of an active duty service member.

(B) OKDHS notifies the designated federal authorities at the federal military installation where the active duty service member is assigned when OKDHS receives a report that a child may be abused, neglected, or drug-

endangered.

(C) Upon completion of the assessment or the investigation, OKDHS forwards Form 04KI003E, Report to District Attorney, or Form 04KI030E, Assessment of Child Safety, to the appropriate military law enforcement entity.

[Source: Amended and renumbered from 340:75-3-6.1 at 30 Ok Reg 389, eff 7-1-13 ; Amended at 32 Ok Reg 1904, eff 9-15-15 ; Amended at 35 Ok Reg 451, eff 1-31-18 (emergency); Amended at 35 Ok Reg 1695, eff 9-17-18 ; Amended at 36 Ok Reg 443, eff 4-9-19 (emergency); Amended at 37 Ok Reg 1850, eff 9-15-20 ; Amended at 39 Ok Reg 468, eff 12-21-21 (emergency); Amended at 39 Ok Reg 1803, eff 9-15-22]

#### **340:75-3-401. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

#### **340:75-3-402. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

#### **340:75-3-403. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

#### **340:75-3-404. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

#### **340:75-3-405. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

#### **340:75-3-406. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

#### **340:75-3-407. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

#### **340:75-3-408. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

#### **340:75-3-409. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

#### **340:75-3-410. Investigation protocol for reports of abuse or neglect of a child in Oklahoma Department of Human Services**



**(DHS) custody in a foster or trial adoptive home**

(a) **Purpose of foster or trial adoptive home investigations.** A child in DHS care or custody requires ongoing protection from subsequent abuse or neglect while in therapeutic, specialized community home, emergency, Developmental Disabilities Services (DDS), tribal, kinship, and foster family care or trial adoptive placement.

(b) **Foster or trial adoptive home investigation protocol.** The investigation protocol used during a foster or trial adoptive home investigation is the same protocol used when an investigation is conducted in the child's own home, but includes additional interviews and the evaluation of case records relating to the foster or trial adoptive home.

(c) **Abuse or neglect investigation when the child is in DHS custody in a tribal foster home.** The protocols used during a tribal foster home investigation are the same used when an investigation is conducted in the child's own home and the protocol regarding the Indian child, per Oklahoma Administrative Code (OAC) 340:75-19-10.

(d) **Contracted therapeutic, specialized community, or emergency foster home investigation protocol.** The protocol used during a contracted therapeutic, specialized community, or emergency foster home investigation is the same protocol used when an investigation is conducted in the child's own home, but includes additional interviews and evaluation of case records relating to the placement.

(e) **Foster or trial adoptive home investigation findings.** Upon completion of the foster or trial adoptive home investigation, a finding is made, per OAC 340:75-3-500.

(f) **Evaluation to determine continued use or closure of the foster or trial adoptive home.** The results of the foster or trial adoptive home investigation are evaluated to determine whether to continue to use or to close the foster or trial adoptive home.

(g) **Office of Client Advocacy (OCA) investigates allegations of abuse or neglect in above foster care level settings.** OCA investigates reports of child abuse or neglect of a child in DHS custody when the child is placed in an above foster care level setting.

[Source: Amended and renumbered from 340:75-3-8.1 at 30 Ok Reg 389, eff 7-1-13 ; Amended at 36 Ok Reg 1856, eff 9-16-19]

**340:75-3-411. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-412. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-413. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-414. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-415. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-416. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-417. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-418. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-419. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-420. Protocol for investigating reports of abuse or neglect in child care centers or homes**

(a) Reports of physical abuse, sexual abuse, and serious neglect in child care centers or homes, licensed or unlicensed, are investigated by child protective services staff.

(b) Allegations of general neglect and violations of licensing laws and regulations, such as a dirty facility, children not being appropriately supervised, or other similar situations, are referred to and addressed by Child Care Services.

[Source: Amended and renumbered from 340:75-3-8.2 at 30 Ok Reg 389, eff 7-1-13 ; Amended at 32 Ok Reg 1904, eff 9-15-15]

**340:75-3-421. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-422. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-423. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-424. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-425. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-426. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-427. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-428. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-429. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-430. Protocol for investigating alleged medical neglect of infants born alive and infants born with disabilities**

Withholding needed medical treatment from an infant born alive at any stage of development or an infant born with disabilities is prohibited by state and federal statutes and regulations. Withholding medical treatment is the failure to respond in any manner to an infant born alive and failure to respond to the infant's life-threatening conditions by providing treatment that, in the treating physician's reasonable medical judgment, will most likely improve or correct such conditions.

(1) **When treatment is not required.** Providing treatment to the infant born with disabilities is not required when, in the physician's reasonable medical judgment, any of the following circumstances exist:

- (A) the infant is chronically and irreversibly comatose;
- (B) provision of treatment would merely prolong dying; or
- (C) provision of treatment would be virtually futile in terms of the infant's survival and the treatment itself would be inhumane.

(2) **Reports of medical neglect of the infant born alive and of the infant born with disabilities.** Reports alleging the person responsible for the child (PRFC) has denied the infant born alive or the infant with disabilities medically beneficial treatment, including nutrition and hydration are investigated by OKDHS.

**(3) Reports of medical neglect of the infant born alive or of the infant born with disabilities by a medical provider.**

Reports alleging the medical provider has denied medically beneficial treatment to a child or infant born alive or an infant born with disabilities is investigated by the Office of Client Advocacy.

**(4) Protocol for investigating alleged medical neglect of infants born alive and infants with disabilities.** The protocol for investigating reports of alleged medical neglect of an infant born alive or an infant born with disabilities is the same as other investigations of reported child abuse or neglect by a person responsible for the child.

[Source: Amended and renumbered from 340:75-3-8.3 at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-431. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-432. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-433. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-434. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-435. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-436. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-437. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-438. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-439. [RESERVED]**

**340:75-3-440. Multidisciplinary child abuse team (MDT)**

(a) **Multidisciplinary child abuse team MDT purpose.** It is the primary responsibility of the district attorney (DA) to develop an MDT in the DA's county or contiguous group of counties, per Section 1-9-102 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-9-102). The MDT approach is:

- (1) used whenever feasible for investigations and service planning involving cases of child sexual abuse, serious physical abuse, and serious neglect;
- (2) used to enhance the investigative process and maximize services provided to the affected children and families; and
- (3) not required when there is reasonable cause to believe a delay in investigation or interview of a child victim could place the child at risk of harm or threatened harm.

(b) **MDT members.** The MDT members include, but are not limited to:

- (1) mental health professionals;
- (2) law enforcement;
- (3) medical personnel;
- (4) Oklahoma Department of Human Services (DHS) Child Welfare Services (CWS) personnel;
- (5) MDT coordinators or child advocacy centers personnel; and
- (6) the county DA or assistant DA.

(c) **MDT functions.** The MDT function is dependent upon available resources and includes, but is not limited to:

- (1) joint investigations of child abuse reports by law enforcement and CWS personnel whenever possible;
- (2) development of written protocol for investigations and for interviewing children;
- (3) identification, improvement, and delivery of services to the child victim and the child's family;
- (4) training in the multidisciplinary team approach; and
- (5) formalized case reviews.

(d) **Child abuse multidisciplinary team account (CAMA).** Monies appropriated and funds collected from criminal cases filed in Oklahoma district courts are deposited with DHS and designated as CAMA monies, per 10A O.S. §§ 1-9-103 and 1-9-104.

- (1) DHS distributes CAMA monies to functioning freestanding MDTs approved by the Oklahoma Commission on Children and Youth (OCCY) and to child advocacy centers (CACs) accredited by the National Children's Alliance (NCA).
- (2) CAMA monies are:
  - (A) provided for the maintenance of eligible MDTs and CACs;
  - (B) distributed each calendar year to MDTs and CACs by a weighted formula;
  - (C) made available to:
    - (i) one functioning MDT per county;

- (ii) one hospital team; and
  - (iii) one accredited CAC per DA's district.
- (3) After the NCA's five-year accreditation, the CAC must secure a third-year interim review to continue eligibility for CAMA monies.
  - (A) The Children's Advocacy Centers of Oklahoma, Inc. (CACO) administers the review by procuring an NCA site reviewer who resides outside of Oklahoma and has no conflict of interest. The CAC submits to the reviewer, 60 calendar days prior to the on-site review:
    - (i) the current interagency agreement;
    - (ii) the current MDT Protocol;
    - (iii) the current financial audit;
    - (iv) the current program budget;
    - (v) proof of general and professional liability coverage for the CAC board of directors and officers;
    - (vi) the Internal Revenue Service letter of 501(c)(3) status or government affiliation statement letter;
    - (vii) the demographic information for the community;
    - (viii) statistical data; and
    - (ix) NCA accreditation standards certifying documents.
  - (B) The site reviewer makes one half-day on-site visit to the CAC and administers the review in accordance with the NCA accreditation process.
  - (C) The CAC demonstrates performance of the essential components of the NCA accreditation process with full cooperation and availability of requested personnel.
- (4) Failure of the third-year review requires a fourth-year review, but does not make the CAC ineligible for CAMA monies. If the CAC fails the fourth-year review:
  - (A) the CAC may submit, within 10 business days from the site reviewer's written notice of failure:
    - (i) a written request for further review by the CACO board of directors; and
    - (ii) documents pertaining only to the CAC's understanding of the compliance issues.  
Information for the purposes of improvement or change of practice is not considered; and
  - (B) the CACO board of directors secures three additional NCA site reviewers from outside of Oklahoma to review the written findings.
- (5) When the review failure is upheld or when the CAC does not request further review of a failure notice, the CAC is no longer eligible for CAMA monies until reaccredited by the NCA.

**340:75-3-441. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-442. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-443. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-444. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-445. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-446. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-447. [RESERVED]**

**340:75-3-448. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-449. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-450. Drug-endangered child**

(a) **Substance abuse considered during safety determination and family intervention strategy.** Addiction to and misuse of alcohol and controlled dangerous substances, including prescription medication may impact the person responsible for the child's (PRFC's) ability to provide child safety. Substance use alone does not directly determine child abuse or neglect; however, it is a factor considered when safety determinations and intervention strategies are considered.

(b) **Investigation instead of assessment conducted when report alleges child is drug-endangered.** Per Section 1-2-102 of Title 10A of the Oklahoma Statutes, when the Oklahoma Department of Human Services (DHS) determines a child meets the definition of a "drug-endangered child," as defined in 10A O.S. § 1-1-105, or a child diagnosed with a fetal alcohol spectrum disorder, DHS conducts an investigation of

the allegation and does not limit the evaluation of the circumstances to an assessment.

**(c) Law enforcement assistance required to initiate investigation of child abuse or neglect alleging methamphetamine production.**

The DHS child abuse or neglect investigation involving allegations of methamphetamine production is initiated only with the assistance of law enforcement.

**(d) Records regarding infants born exposed to alcohol or other harmful substances.** Per Section 1-550.3 of Title 63 of the Oklahoma Statutes (63 O.S. § 1-550.3), DHS maintains up-to-date records of infants born exposed to alcohol or other harmful substances.

(1) "Harmful substances" means an intoxicating liquor or a controlled dangerous substance.

(2) The records detailed in 63 O.S. § 1-550.3 include data necessary for surveys and scientific research and other data that is necessary and proper to further the recognition, prevention, and treatment of infants born addicted to or prenatally exposed to harmful substances.

(3) DHS compiles and evaluates information received from the reports into a report distributed on or before January 1, of each year to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and such other persons as DHS deems advisable or necessary.

[Source: Amended and renumbered from 340:75-3-8.7 at 30 Ok Reg 389, eff 7-1-13 ; Amended at 36 Ok Reg 443, eff 4-9-19 (emergency); Amended at 37 Ok Reg 1850, eff 9-15-20]

**340:75-3-451. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-452. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-453. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-454. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-455. [RESERVED]**

**340:75-3-456. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]



### **340:75-3-457. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

### **340:75-3-458. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

### **340:75-3-459. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

### **340:75-3-460. Child death or near-death review**

(a) **Child death or near-death definitions.** The following words and terms shall have the following meanings, when Oklahoma Human Services OKDHS investigates a child death or near-death or is required to disclose certain information after a child death or near-death that does not meet OKDHS criteria for investigation, per Section 1-6-105 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-6-105).

(1) **"Abuse"** means harm or threatened harm or failure to protect from harm or threatened harm to the child's health, safety, or welfare by a person responsible for the child (PRFC) including, but not limited to, non-accidental physical or mental injury, sexual abuse, or sexual exploitation. However nothing contained in this Section prohibits any parent from using ordinary force as a means of discipline including, but not limited to, spanking, switching, or paddling.

(2) **"Near-death"** means a child is in serious or critical condition as verified by a physician, registered nurse, or other licensed health care provider. Verification of the child's medical condition may be provided in person, by phone, email, facsimile, or mail.

(3) **"PRFC"** means, for the purposes of this Statute only:

(A) a PRFC, per 10A O.S. § 1-1-105;

(B) any person who voluntarily accepted the duty of supervising a child; or

(C) any person who was directed or authorized by the PRFC to supervise a child's health, safety, or welfare.

(b) **Child death or near-death investigation protocol.** The child death or near-death investigation requires a multidisciplinary approach. The protocol used during the child death or near-death investigation is the same protocol used in other in-home and out-of-home investigations but includes additional interviews, coordination with law enforcement and medical professionals, and evaluation of case records, per Oklahoma Administrative Code (OAC) 340:75-3-200.

(c) **Child death and near-death investigations subject to program, administrative, or committee review.** The child death or near-death resulting from suspected abuse or neglect investigated by OKDHS is subject to evaluation by program, administrative, or committee review.

(d) **Public disclosure of OKDHS child death and near-death information.** Requests for the release of information concerning the DHS-investigated OKDHS-investigated child death and near-death are processed, per OAC 340:75-1-44.

(e) **Death and near-death notice provided to Governor and Legislature.** When OKDHS has reasonable cause to suspect the child death or near-death is the result of abuse or neglect, OKDHS notifies the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives of the initial investigative findings of the child protective services review, per 10A O.S. § 1-6-105. Notice is communicated securely no later than 24 hours after the determination of reasonable suspicion.

(f) **Child maltreatment review.** When a child maltreatment medical review is conducted by a child abuse examiner or a child abuse pediatrician regarding a child death, the child maltreatment medical review is considered prior to closing a child death investigation, per 10 O.S. § 1150.6.

[Source: Amended and renumbered from 340:75-3-9.1 at 30 Ok Reg 389, eff 7-1-13 ; Amended at 36 Ok Reg 1856, eff 9-16-19 ; Amended at 38 Ok Reg 2294, eff 9-15-21]

## **PART 5. INVESTIGATIVE FINDINGS AND APPEALS**

### **340:75-3-500. Child Protective Services investigation findings**

After completion of the child protective services (CPS) investigation, a finding is made regarding whether there was some credible evidence to constitute child abuse or neglect, per Section 1-1-105 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-1-105) and Oklahoma Administrative Code 340:75.

(1) **Ruled out.** A finding of ruled out means the Oklahoma Department of Human Services (DHS), after an investigation of a report of child abuse or neglect, determined that no child abuse or neglect occurred.

(2) **Unsubstantiated.** A finding of unsubstantiated means DHS, after an investigation of a report of child abuse or neglect, determined insufficient evidence exists to fully determine whether child abuse or neglect occurred. When child abuse or neglect is unsubstantiated, DHS may recommend, when determined necessary, that the parents or persons responsible for the care of the child obtain child abuse and neglect prevention and intervention-related services.

(3) **Substantiated.** A finding of substantiated means DHS, after an investigation of a report of child abuse or neglect and based upon some credible evidence, determined that child abuse or neglect occurred. When child abuse or neglect is substantiated, DHS may recommend:

(A) court intervention if DHS finds the child's health, safety, or welfare is threatened; or

(B) child abuse and neglect prevention and intervention-related services for the child, parents, or persons responsible for the care of the child if court intervention is not determined necessary.

[Source: Amended and renumbered from 340:75-3-10.2 at 30 Ok Reg 389, eff 7-1-13 ; Amended at 32 Ok Reg 1904, eff 9-15-15]

**340:75-3-501. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-502. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-503. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-504. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-505. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-506. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-507. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-508. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-509. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-510. Reports to the district attorney regarding child abuse or neglect investigations**

(a) Sections 1-2-102 and 1-4-101 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-2-102 and 10A O.S. § 1-4-101), provide that a complete written report of the child abuse or neglect assessment or investigation

conducted by Oklahoma Department of Human Services be made within 30 calendar days, except as otherwise provided in policy, and that the report, together with its recommendations, be submitted to the appropriate district attorney's office:

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

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

[Source: Amended and renumbered from 340:75-3-11 at 30 Ok Reg 389, eff 7-1-13]

### **340:75-3-511. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

### **340:75-3-512. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

### **340:75-3-513. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

### **340:75-3-514. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

### **340:75-3-515. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

### **340:75-3-516. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

### **340:75-3-517. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

### **340:75-3-518. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

### **340:75-3-519. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

### **340:75-3-520. Closure of the child protective services assessment or investigation**

#### **(a) Determination of prevention and intervention-related services.**

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

(1) Attempts to provide, refer, or arrange voluntary services are documented in the OKDHS record.

(2) OKDHS determines within 60-calendar days whether the family has accessed services directly related to the child's safety.

(3) When the family refuses voluntary services or does not access services directly related to the child's safety, and OKDHS determines that the child's surroundings endanger the child's health, safety, or welfare, OKDHS may recommend the child be placed in protective or emergency custody, or that a petition be filed.

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

(1) Following completion of the assessment, OKDHS notifies each PRFC of the conclusion.

(2) Following completion of the investigation, OKDHS notifies each PRFC of any findings pertaining to the PRFC.

#### **(c) Disclosure of information to reporter of child abuse or neglect.**

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

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

(1) Per 10A O.S. § 1-2-107, OKDHS may provide information to a person or agency that provides professional services, such as medical examination of, or therapeutic intervention with, a victim of abuse or neglect. This information may include, but is not limited to the:

(A) investigative determination; or

(B) services offered and provided.

(2) OKDHS forwards information, including the investigative determination, the services offered or provided, and such other information deemed necessary by OKDHS, to any hospital or any physician including, but not limited to, doctors of medicine and

dentistry, licensed osteopathic physicians, residents and interns, reporting the abuse or neglect of a child, per 10A O.S. § 1-2-101. The information is entered and maintained in the child's medical record.

**(e) Notification to Child Care Services (CCS) of a substantiated finding of heinous and shocking abuse by a PRFC.**

(1) Child Welfare Services (CWS) is responsible for notifying CCS upon completion of a program review when a finding of heinous and shocking abuse is substantiated.

(2) CCS notifies a child care facility owner or operator and the child care resource and referral organization in writing immediately or not later than one-business day after CWS substantiates a finding of heinous and shocking abuse by a PRFC, per 10 O.S. § 406.

[Source: Amended and renumbered from 340:75-3-13 at 30 Ok Reg 389, eff 7-1-13 ; Amended at 39 Ok Reg 468, eff 12-21-21 (emergency); Amended at 39 Ok Reg 1803, eff 9-15-22]

**340:75-3-521. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-522. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-523. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-524. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-525. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-526. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-527. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

**340:75-3-528. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

### **340:75-3-529. [RESERVED]**

[Source: Reserved at 30 Ok Reg 389, eff 7-1-13]

### **340:75-3-530. Appeal process for substantiated findings of child abuse or neglect**

(a) **Purpose.** The Child Abuse Prevention and Treatment Act (CAPTA), Section 5101 et seq. of Title 42 of the United States Code, requires Oklahoma Human Services (OKDHS) to provide an appeal process for persons who disagree with a substantiated finding of child abuse or neglect. The appeal process:

- (1) provides individuals with a substantiated finding of child abuse or neglect an opportunity for due process;
- (2) serves as a quality assurance mechanism to assess findings compliance with child protective services (CPS) standards, per Oklahoma Administrative Code (OAC) 340:75-3-120 and 340:75-3-130; and
- (3) provides substantiated findings review by Child Welfare Services (CWS) personnel not involved in any other stage of the case.

(b) **Eligibility criteria.**

- (1) An individual may be eligible to request an appeal when the individual is a person responsible for the child's (PRFC) health, safety, or welfare, per OAC 340:75-3-120, in an investigation involving abuse or neglect allegations and the investigation results in a substantiated finding regarding the PRFC.
- (2) An eligible individual may request a review through the appeal process when:
  - (A) no deprived petition is filed; or
  - (B) a deprived petition is filed and the court case is dismissed prior to adjudication.
- (3) An individual meeting the requirements in (1) and (2) of this subsection is not eligible for a review through the appeal process when:
  - (A) other court action is filed or a court order is issued concerning the alleged child abuse or neglect including, but not limited to:
    - (i) permanent protective orders issued against the PRFC that include the alleged child victim(s); or
    - (ii) pending or concluded criminal court proceedings; or
  - (B) another OKDHS program-specific review is pending or was conducted including, but not limited to:
    - (i) a child death or near-death; or
    - (ii) any substantiated finding of an out-of-home care investigation completed by a child welfare (CW) specialist or an Office of Client Advocacy investigator.

(c) **Tribal investigations not eligible for OKDHS appeal process.**

The OKDHS appeal process applies only to OKDHS-conducted

investigations. Child abuse or neglect investigations by a tribal representative or on tribal land are not eligible for the OKDHS appeal process.

(d) **Appeal process procedures.** Appeal process procedures are outlined in (1) through (4) of this subsection.

(1) **PRFC notification.** Upon substantiation of abuse, neglect, or both, the CW specialist notifies the PRFC of the finding by sending Forms 04KI019E, Notification Concerning Finding(s) of Child Abuse/Neglect, and 04KI020E, Request for Appeal of Substantiated Findings of Child Abuse or Neglect, provided the criteria in this Section are met. Forms 04KI019E and 04KI020E are not mailed to the PRFC when case records reflect notification may place family members at risk. When sent, Forms 04KI019E and 04KI020E are:

(A) mailed to last known address within 10-calendar days of substantiation of abuse or neglect; or

(B) sent secure to the PRFC's individually owned and operated personal email address that is not shared with other users within 10-calendar days of abuse or neglect substantiation:

(i) Form 04KI019E informs the PRFC of:

(I) any substantiated child abuse or neglect finding in the investigation; and

(II) the date of the abuse or neglect referral, allegation, and finding without identifying the reporting party.

(ii) Form 04KI020E specifies:

(I) the PRFC may file an appeal by emailing a request to CWS Appeals Program Unit at [CWS.AppealsProgramReview@okdhs.org](mailto:CWS.AppealsProgramReview@okdhs.org) within 15-calendar days from the postmark on the envelope containing Form 04KI020E; or

(II) the PRFC may mail a request to CWS Appeals Program Unit within 15-calendar days from the postmark on the envelope containing Form 04KI020E; and

(III) failure to submit the appeal request within 15-calendar days from the postmark on the envelope containing Form 04KI020E results in the finding becoming final, and the PRFC waives any right to appeal this finding in the future, unless good cause is established per this Section.

(2) **Conditions of good cause.** A PRFC is granted a review despite failure to make a timely response, provided good cause is established including, but not limited to, severe illness or other disabling condition.

(3) **Response to appeal request from PRFC.** When the PRFC requests a review within the required time, the Appeals Program Unit responds to the PRFC through written notice within 10-



calendar days following receipt of the PRFC's request for review. The Appeals Program Unit notifies the PRFC:

- (A) of the right to provide additional information through written statements that must be submitted within 30-calendar days from the postmark on the envelope containing the notification that the appeal was accepted for review;
- (B) that failure to submit additional information within 30-calendar days results in a waiver of this right, unless good cause is established per this Section; and
- (C) that verification of legal representation must be established when the PRFC requests an attorney be notified of the determination results. Verification is established by a statement of representation on the attorney's official letterhead.

(4) **Review Procedure.** Within 120-calendar days following acceptance of the PRFC's timely request for a review, or a late request for a review when good cause was established per this Section, the CWS Appeals Program Unit determines if the substantiated finding of abuse or neglect meets substantiation protocol, per OAC 340:75-3-120.

- (A) The decision to uphold, modify, or reverse the original finding of abuse or neglect is determined by reviewing:
  - (i) Form 04KI003E, Report to District Attorney, that includes Form 04KI030E, Assessment of Child Safety, attachments, and relevant CWS information including CW history and referrals; and
  - (ii) all written documents submitted by the PRFC.

(B) Per OAC 340:75-3-120, the Appeals Program Unit determines the finding failed to meet the criteria for substantiation based upon a lack of:

- (i) credible evidence to support the allegations of child abuse, neglect, or both; or
- (ii) documentation by the CW specialist.
  - (I) When a lack of documentation exists, the Appeals Program Unit sends notification to the district director, approving supervisor, and CW specialist that information is missing and requests the information be added to the report or scanned into the KIDS document management system.
  - (II) After notification by the Appeals Program Unit, the district director reopens and reassigns the investigation.
  - (III) The assigned CW specialist adds the additional information to the report within 15-calendar days of the reassignment and sends notification to the Appeals Program Unit when completed.
  - (IV) The Appeals Program Unit reconsiders the PRFC's appeal with the additional

information and upholds, modifies, or reverses the finding as appropriate.

(C) The Appeals Program Unit enters a modified finding in KIDS, when appropriate.

(i) When the substantiation finding is appropriate, but the allegation in KIDS is incorrect, the Appeals Program Unit ensures the inappropriate allegation is marked as an improper entry and the correct allegation is added with the substantiated finding.

(ii) Forms 04KI019E, Notification Concerning Finding(s) of Child Abuse/Neglect, and 04KI020E, Request for Appeal of Substantiated Findings of Child Abuse or Neglect, are mailed to the PRFC with the corrected allegations with the substantiated finding.

(D) The Appeals Program Unit provides written notification or secure email notification to the personal email address individually owned and operated by the PRFC and not shared with other users of the final determination of the finding within 120-calendar days following acceptance of the PRFC's request for a review to the:

(i) PRFC who requested the review;

(ii) district director;

(iii) regional deputy director;

(iv) CW supervisor;

(v) CW specialist;

(vi) tribe, when applicable; and

(vii) Child Care Services, when applicable.

(E) When the finding is reversed, the district attorney's office in the county where the finding originated is notified by district staff.

[Source: Amended and renumbered from 340:75-3-20 at 30 Ok Reg 389, eff 7-1-13 ; Amended at 32 Ok Reg 1904, eff 9-15-15 ; Amended at 34 Ok Reg 1550, eff 9-15-17 ; Amended at 36 Ok Reg 1856, eff 9-16-19 ; Amended at 37 Ok Reg 1850, eff 9-15-20 ; Amended at 39 Ok Reg 468, eff 12-21-21 (emergency); Amended at 39 Ok Reg 1803, eff 9-15-22]

## **SUBCHAPTER 4. FAMILY-CENTERED AND COMMUNITY SERVICES**

### **PART 1. FAMILY-CENTERED SERVICES**

#### **340:75-4-1. Purpose and authority [REVOKED]**

[Source: Added at 14 Ok Reg 2288, eff 6-12-97 ; Revoked at 19 Ok Reg 409, eff 1-1-02 (emergency); Revoked at 19 Ok Reg 1129, eff 5-13-02]

## **340:75-4-2. Referrals to Preventive Services [REVOKED]**

[Source: Added at 14 Ok Reg 2288, eff 6-12-97 ; Revoked at 19 Ok Reg 409, eff 1-1-02 (emergency); Revoked at 19 Ok Reg 1129, eff 5-13-02]

## **340:75-4-3. Worker responsibilities for Preventive Services cases [REVOKED]**

[Source: Added at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 3886, eff 7-14-98 (emergency); Amended at 16 Ok Reg 1052, eff 10-13-98 ; Revoked at 19 Ok Reg 409, eff 1-1-02 (emergency); Revoked at 19 Ok Reg 1129, eff 5-13-02]

## **340:75-4-4. Provision of Preventive Services [REVOKED]**

[Source: Added at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 3886, eff 7-14-98 (emergency); Amended at 16 Ok Reg 1052, eff 4-26-99 ; Revoked at 19 Ok Reg 409, eff 1-1-02 (emergency); Revoked at 19 Ok Reg 1129, eff 5-13-02]

## **340:75-4-5. Implementing the initial contacts with the family [REVOKED]**

[Source: Added at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 3886, eff 7-14-98 (emergency); Amended at 16 Ok Reg 1052, eff 4-26-99 ; Revoked at 19 Ok Reg 409, eff 1-1-02 (emergency); Revoked at 19 Ok Reg 1129, eff 5-13-02]

## **340:75-4-6. Crisis intervention [REVOKED]**

[Source: Added at 14 Ok Reg 2288, eff 6-12-97 ; Revoked at 19 Ok Reg 409, eff 1-1-02 (emergency); Revoked at 19 Ok Reg 1129, eff 5-13-02]

### **340:75-4-6.1. Child Welfare (CW) contingency fund [REVOKED]**

[Source: Added at 15 Ok Reg 761, eff 12-28-97 ; Added at 15 Ok Reg 1661, eff 5-11-98 ; Amended at 15 Ok Reg 3886, eff 7-14-98 (emergency); Amended at 16 Ok Reg 1052, eff 4-26-99 ; Amended at 17 Ok Reg 3329, eff 7-28-00 (emergency); Amended at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Revoked at 19 Ok Reg 409, eff 1-1-02 (emergency); Revoked at 19 Ok Reg 1129, eff 5-13-02]

## **340:75-4-7. Collateral contacts [REVOKED]**

[Source: Added at 14 Ok Reg 2288, eff 6-12-97 ; Revoked at 19 Ok Reg 409, eff 1-1-02 (emergency); Revoked at 19 Ok Reg 1129, eff 5-13-02]

## **340:75-4-8. Termination of Preventive Services [REVOKED]**

[Source: Added at 14 Ok Reg 2288, eff 6-12-97 ; Revoked at 19 Ok Reg 409, eff 1-1-02 (emergency); Revoked at 19 Ok Reg 1129, eff 5-13-02]

## **340:75-4-9. Purpose, philosophy, legal base, and authority for family-centered services (FCS)**

(a) **Purpose.** Oklahoma Human Services (OKDHS) provides FCS that includes appropriate referrals and services for families after completing an assessment or investigation of child abuse or neglect allegations. The

purpose of FCS is to:

- (1) focus on the child's safety; and
- (2) preserve and strengthen protective capacities of the person responsible for the child to keep the child safely in the child's own home.

(b) **Philosophy.** Family preservation and rehabilitation is a priority during the pendency of the FCS case; however, the right to family integrity is limited by a child's right to be protected from abuse and neglect, per Section 1-1-102 of Title 10A of the Oklahoma Statutes. FCS emphasizes a commitment to:

- (1) maintain the child safely in his or her own home, when possible;
- (2) focus on the entire family rather than individuals; and
- (3) provide comprehensive services that engage the family and target the family's therapeutic, supportive, and concrete needs.

(c) **Legal basis and authority.** Preventive and pre-placement services to children and families are mandated by the Promoting Safe and Stable Families Act, Title IV-B, Subparts I and II, Family First Prevention Services Act, Title IV-E, and the OKDHS Child and Family Services Plan.

[Source: Added at 19 Ok Reg 409, eff 1-1-02 (emergency); Added at 19 Ok Reg 1129, eff 5-13-02 ; Amended at 20 Ok Reg 2072, eff 6-26-03 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Amended at 39 Ok Reg 105, eff 7-19-21 (emergency); Amended at 39 Ok Reg 1803, eff 9-15-22]

#### **340:75-4-10. Definitions [REVOKED]**

[Source: Added at 19 Ok Reg 409, eff 1-1-02 (emergency); Added at 19 Ok Reg 1129, eff 5-13-02 ; Revoked at 20 Ok Reg 2072, eff 6-26-03]

#### **340:75-4-11. Scope of voluntary Family-Centered Services (FCS) [REVOKED]**

[Source: Added at 19 Ok Reg 409, eff 1-1-02 (emergency); Added at 19 Ok Reg 1129, eff 5-13-02 ; Amended at 20 Ok Reg 2072, eff 6-26-03 ; Revoked at 23 Ok Reg 1024, eff 5-11-06]

#### **340:75-4-12. Initiation of Family-Centered Services (FCS) [REVOKED]**

[Source: Added at 19 Ok Reg 409, eff 1-1-02 (emergency); Added at 19 Ok Reg 1129, eff 5-13-02 ; Revoked at 20 Ok Reg 2072, eff 6-26-03]

##### **340:75-4-12.1. Family-centered and community-based services**

(a) **Safety planning.** When a child abuse or neglect investigation is completed, the child welfare (CW) specialist makes determinations that include:

- (1) the investigative finding;
- (2) if the child is safe or unsafe in the home;
- (3) the protective capacities of the person responsible for the child; and

(4) appropriate ongoing service needs for the family. Ongoing service options include:

- (A) a determination that no services are needed;
- (B) a referral for community-based services including Oklahoma Children's Services (OCS); and
- (C) opening an Oklahoma Human Services (OKDHS) family-centered services (FCS) case.

(b) **Safety Plan.** The Safety Plan and service planning include the family's involvement and input. The risk of future maltreatment to the child, safety threats, the family's protective capacities, and the level of need within the family determine the intensity of services required to address concerns within the family.

(c) **Family service agreement.** The family service agreement documents the parent or legal guardian's acceptance of CW services and intervention to assist the family to safely care for the child.

(d) **Family service agreement informal supports.** With the family's permission, supportive persons, such as kin, extended family members, friends, neighbors, volunteers, tribal representatives, and other culturally-relevant supports may be involved in Safety Plans and service agreements. Supportive persons who agree to be resources for the family commit to involvement in the safety planning and sign the voluntary Safety Plan.

(e) **Family meeting (FM).** AnFM is a structured, facilitated meeting that includes parents, caregivers, relatives, CW specialists, tribal partners, service providers, and other culturally-relevant supports to collaboratively create plans that address the child's safety, permanency, and well-being.

(f) **Family service agreement supports.** Family service agreement supports include programs and professional services, such as culturally-relevant, community-based service programs to assist the family with incorporating new behaviors that support safety. OCS is community-based contracted services authorized by Section 1-9-110 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-9-110) and per Oklahoma Administrative Code (OAC) 340:75-1-151.

(g) **Voluntary family care.**

(1) Voluntary family care is available as a preventive and protective service to enhance family functioning without court intervention.

(2) Per 10A O.S. § 1-7-112, when the parent with legal custody requests, OKDHS may accept any child into voluntary family care placement. The parent considering voluntary family care is informed:

- (A) he or she may, at any time, request that OKDHS return the child to the parent;
- (B) evidence gathered during the time the child is voluntarily placed may be used at a later time as the basis for a petition alleging the child is deprived or as the basis for a petition seeking termination of parental rights;
- (C) of the timelines and procedures for voluntary family care placement;

(D) a period of voluntary family care placement, per 10A O.S. § 1-7-112, does not exceed 90-calendar days, except as otherwise provided by OKDHS policy;

(E) voluntary family care placement, per the conditions and restrictions of 10A O.S. § 1-7-112, does not constitute abandonment, abuse, or neglect as defined in the Oklahoma Children's Code; and

(F) he or she may be assessed the full or partial cost of the voluntary family care placement.

(3) Voluntary family care requires a written agreement signed by the parent or legal guardian and OKDHS wherein authority is given to OKDHS to place the child in family care and provide for the child's needs.

(4) Family care by voluntary request is approved for an initial 30-calendar day period and may extend to a 90-calendar day maximum when the extension results in family reunification without requiring court intervention.

(5) Court intervention is required when voluntary family care reaches a maximum of 90-calendar days and the parent or legal guardian does not accept the child's return.

(h) **Protective and preventive child care.** Child care services may be provided to a family when a:

(1) child is at risk of removal from the home due to abuse or neglect; and

(2) family is in the process of reunification, per OAC 340:75-6-91.

(i) **SoonerStart services.** SoonerStart Early Intervention Program (SoonerStart) is a statewide, interagency, multidisciplinary system of services to families with children birth to 36 months with developmental delays. SoonerStart services may be provided to a child who is:

(1) the victim of substantiated abuse or neglect; or

(2) a party in an open FCS case.

(j) **Medical or Dental Treatment.** When the parent of a child in a Safety Plan with OKDHS is unavailable, the child's Safety Plan monitor may authorize medical or dental treatment or examinations that are necessary for the child's well-being.

[Source: Added at 20 Ok Reg 2072, eff 6-26-03 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Amended at 37 Ok Reg 1850, eff 9-15-20 ; Amended at 39 Ok Reg 105, eff 7-19-21 (emergency); Amended at 39 Ok Reg 468, eff 12-21-21 (emergency); Amended at 39 Ok Reg 1803, eff 9-15-22]

#### **340:75-4-12.2. Determining appropriate referrals to Oklahoma Children's Services [REVOKED]**

[Source: Added at 20 Ok Reg 2072, eff 6-26-03 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Revoked at 27 Ok Reg 1092, eff 3-26-10 (emergency); Revoked at 27 Ok Reg 1865, eff 7-1-10]

#### **340:75-4-13. Ongoing voluntary Family-Centered Services [REVOKED]**

[Source: Added at 19 Ok Reg 409, eff 1-1-02 (emergency); Added at 19 Ok Reg 1129, eff 5-13-02 ; Added at 19 Ok Reg 2225, eff 6-27-02 ; Amended at 20 Ok Reg 2072, eff 6-26-03 ; Amended at 21 Ok Reg 867, eff 4-26-04 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Revoked at 29 Ok Reg 635, eff 6-1-12]

### **340:75-4-14. Termination of voluntary Family-Centered Services [REVOKED]**

[Source: Added at 19 Ok Reg 409, eff 1-1-02 (emergency); Added at 19 Ok Reg 1129, eff 5-13-02 ; Amended at 20 Ok Reg 2072, eff 6-26-03 ; Amended at 24 Ok Reg 2196, eff 7-1-07 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Revoked at 29 Ok Reg 635, eff 6-1-12]

## **PART 3. FAMILY FOCUS [REVOKED]**

### **340:75-4-25. Scope [REVOKED]**

[Source: Added at 12 Ok Reg 2455, eff 6-26-95 ; Revoked at 15 Ok Reg 3886, eff 7-14-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

### **340:75-4-26. Values and beliefs [REVOKED]**

[Source: Added at 12 Ok Reg 2455, eff 6-26-95 ; Revoked at 15 Ok Reg 3886, eff 7-14-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

### **340:75-4-27. Goals [REVOKED]**

[Source: Added at 12 Ok Reg 2455, eff 6-26-95 ; Revoked at 15 Ok Reg 3886, eff 7-14-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

### **340:75-4-28. Program overview [REVOKED]**

[Source: Added at 12 Ok Reg 2455, eff 6-26-95 ; Revoked at 15 Ok Reg 3886, eff 7-14-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

### **340:75-4-29. Target population [REVOKED]**

[Source: Added at 12 Ok Reg 2455, eff 6-26-95 ; Revoked at 15 Ok Reg 3886, eff 7-14-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

### **340:75-4-30. Service description [REVOKED]**

[Source: Added at 12 Ok Reg 2455, eff 6-26-95 ; Revoked at 15 Ok Reg 3886, eff 7-14-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

### **340:75-4-31. Determining appropriate child welfare referrals to Family Focus Services [REVOKED]**

[Source: Added at 12 Ok Reg 2455, eff 6-26-95 ; Revoked at 15 Ok Reg 3886, eff 7-14-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

### **340:75-4-32. Family eligibility requirements [REVOKED]**

[Source: Added at 12 Ok Reg 2455, eff 6-26-95 ; Revoked at 15 Ok Reg 3886, eff 7-14-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

### **340:75-4-33. Guidelines for referral of child welfare protective service cases [REVOKED]**

[Source: Added at 12 Ok Reg 2455, eff 6-26-95 ; Revoked at 15 Ok Reg 3886, eff 7-14-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

### **340:75-4-34. Physical abuse [REVOKED]**

[Source: Added at 12 Ok Reg 2455, eff 6-26-95 ; Revoked at 15 Ok Reg 3886, eff 7-14-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

### **340:75-4-35. Sexual abuse [REVOKED]**

[Source: Added at 12 Ok Reg 2455, eff 6-26-95 ; Revoked at 15 Ok Reg 3886, eff 7-14-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

### **340:75-4-36. Neglect [REVOKED]**

[Source: Added at 12 Ok Reg 2455, eff 6-26-95 ; Revoked at 15 Ok Reg 3886, eff 7-14-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

### **340:75-4-37. Substance abuse [REVOKED]**

[Source: Added at 12 Ok Reg 2455, eff 6-26-95 ; Revoked at 15 Ok Reg 3886, eff 7-14-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

### **340:75-4-38. Mental health [REVOKED]**

[Source: Added at 12 Ok Reg 2455, eff 6-26-95 ; Revoked at 15 Ok Reg 3886, eff 7-14-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

### **340:75-4-39. Physical illness or limitation [REVOKED]**

[Source: Added at 12 Ok Reg 2455, eff 6-26-95 ; Revoked at 15 Ok Reg 3886, eff 7-14-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

### **340:75-4-40. Referrals for family reunification services [REVOKED]**

[Source: Added at 12 Ok Reg 2455, eff 6-26-95 ; Revoked at 15 Ok Reg 3886, eff 7-14-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

### **340:75-4-41. Referral procedure [REVOKED]**

[Source: Added at 12 Ok Reg 2455, eff 6-26-95 ; Revoked at 15 Ok Reg 3886, eff 7-14-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]



#### **340:75-4-42. Contracting agency, right to decline case, and contingency allocation [REVOKED]**

[Source: Added at 12 Ok Reg 2455, eff 6-26-95 ; Revoked at 15 Ok Reg 3886, eff 7-14-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

#### **340:75-4-43. Guidelines for the early termination of Family Focus Services [REVOKED]**

[Source: Added at 12 Ok Reg 2455, eff 6-26-95 ; Revoked at 15 Ok Reg 3886, eff 7-14-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

#### **340:75-4-44. Role of the CW/JSU gatekeeper [REVOKED]**

[Source: Added at 12 Ok Reg 2455, eff 6-26-95 ; Revoked at 15 Ok Reg 3886, eff 7-14-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

#### **340:75-4-45. Role of the CW worker [REVOKED]**

[Source: Added at 12 Ok Reg 2455, eff 6-26-95 ; Revoked at 15 Ok Reg 3886, eff 7-14-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

#### **340:75-4-46. Role of the Family Focus Services worker [REVOKED]**

[Source: Added at 12 Ok Reg 2455, eff 6-26-95 ; Revoked at 15 Ok Reg 3886, eff 7-14-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

### **PART 5. SCHOOL-BASED SERVICES**

#### **340:75-4-51. Purpose, partnership, goals, scope, and confidentiality requirement of school-based (SB) services**

(a) **Purpose.** SB services is a program that offers preventative and early intervention services to children, adolescents, and families in Oklahoma through community-based partnerships between Oklahoma Human Services (OKDHS) and local school districts. The program aids students in overcoming barriers which impede educational success and in addressing concerns before they can escalate into a crisis.

(b) **Partnership.** The SB Services Program is a contractual and collaborative partnership between OKDHS and local school systems. The SB Services Program requires specialists to be competent in a specialized practice area, including knowledge, skills, and abilities necessary for effective service delivery across OKDHS services, schools, and communities. An SB specialist works in a partnering school to:

- (1) increase awareness of, and access to, OKDHS services and community resources for families;
- (2) improve coordination and communication between OKDHS and public schools; and
- (3) increase community education on family issues through agency-school-community collaboration and planning.

(c) **Goals.** OKDHS expects the SB Services Program to:

- (1) impact a community through improved individual and family health, safety, and functioning;
- (2) give all children the opportunity and resources to succeed academically and socially in a safe and healthy school environment;
- (3) improve community outcomes through SB activities; thus, reducing an array of family risk factors; and
- (4) work with individual families and in collaboration with other community stakeholders.

(d) **Scope and applicability.** The SB specialist retains the same rights and privileges and the same obligations set forth in OKDHS policy. The SB specialist maintains office hours similar to the school staff members and is expected to work no less and no more than 40 hours per week.

(1) In the event the partnering school:

- (A) is closed, and school staff is not working onsite, the SB specialist is authorized to telework from home provided the SB specialist is generally accessible by phone and email during working hours; and
- (B) deems distance learning is necessary for reasons of health and safety, OKDHS continues to supply the SB specialist to perform the same services using means appropriate to distance learning.

(2) In the event the contractual agreement with the partnering school is cancelled, the immediate supervisor or reviewing supervisor ensures permanent employees are able to return to a position within OKDHS when the contract is discontinued due to actions unrelated to the SB specialist.

(3) The SB specialist maintains records by documenting students' situations and activities on the OKDHS software platform, which is used to evaluate the program's outcomes.

(e) **Confidential information.**

(1) The SB Services Program complies with confidentiality restraints that are in existence at the participating school, and OKDHS rules regarding confidentiality. Per the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the participating school and SB specialists agree to use and disclose Protected Health Information in compliance with the "Privacy Rule" HIPAA set forth in Sections 160.01 through 160.552 and 164.102 through 164.534 of Title 45 of the Code of Federal Regulations (45 C.F.R. §§ 160.01 - 160.552, 164.102 - 164.534). Per the Family Education Rights and Privacy Act (FERPA), SB specialists use and disclose student educational records and family information in compliance with FERPA, Section 1232g of Title 20 of the United States Code and 34 C.F.R. §§ 99.1 - 99.67.

(2) The partnered school and OKDHS recognize the other has and will acquire client or student information which is protected from improper disclosure. Neither the partnered school nor OKDHS, whether directly or indirectly, divulges, discloses, or otherwise communicates such information to third parties without the prior written consent of the other.

(3) Through the contractual relationship with the partnered school, the SB specialist is able to communicate information to the school to better understand and help a specific student and family. The SB specialist is permitted to share information with the partnered school that supports the educational needs of students.

[Source: Added at 40 Ok Reg 990, eff 9-15-23]

## **PART 9. SOONERSTART EARLY INTERVENTION PROGRAM [REVOKED]**

### **340:75-4-120. Purpose [REVOKED]**

[Source: Added at 14 Ok Reg 2288, eff 6-12-97 ; Revoked at 22 Ok Reg 854, eff 5-12-05]

### **340:75-4-121. Eligibility [REVOKED]**

[Source: Added at 14 Ok Reg 2288, eff 6-12-97 ; Revoked at 22 Ok Reg 854, eff 5-12-05]

### **340:75-4-122. Background and authority [REVOKED]**

[Source: Added at 14 Ok Reg 2288, eff 6-12-97 ; Revoked at 22 Ok Reg 854, eff 5-12-05]

### **340:75-4-123. Structure [REVOKED]**

[Source: Added at 14 Ok Reg 2288, eff 6-12-97 ; Revoked at 22 Ok Reg 854, eff 5-12-05]

### **340:75-4-124. Services [REVOKED]**

[Source: Added at 14 Ok Reg 2288, eff 6-12-97 ; Revoked at 22 Ok Reg 854, eff 5-12-05]

### **340:75-4-125. Funding [REVOKED]**

[Source: Added at 14 Ok Reg 2288, eff 6-12-97 ; Revoked at 22 Ok Reg 854, eff 5-12-05]

### **340:75-4-126. Referrals [REVOKED]**

[Source: Added at 14 Ok Reg 2288, eff 6-12-97 ; Revoked at 22 Ok Reg 854, eff 5-12-05]

### **340:75-4-127. Children in Foster Care [REVOKED]**

[Source: Added at 14 Ok Reg 2288, eff 6-12-97 ; Revoked at 22 Ok Reg 854, eff 5-12-05]

### **340:75-4-128. Transition [REVOKED]**

[Source: Added at 14 Ok Reg 2288, eff 6-12-97 ; Revoked at 22 Ok Reg 854, eff 5-12-05]

## **SUBCHAPTER 5. TREATMENT SERVICES [REVOKED]**

### **PART 1. GENERAL PROVISIONS [REVOKED]**

#### **340:75-5-1. Treatment services [REVOKED]**

[Source: Revoked at 10 Ok Reg 1293, eff 3-25-93 (emergency); Revoked at 10 Ok Reg 2309, eff 6-11-93]

#### **340:75-5-2. Legal base and authority [REVOKED]**

[Source: Revoked at 10 Ok Reg 1293, eff 3-25-93 (emergency); Revoked at 10 Ok Reg 2309, eff 6-11-93]

#### **340:75-5-3. Values and goals [REVOKED]**

[Source: Revoked at 10 Ok Reg 1293, eff 3-25-93 (emergency); Revoked at 10 Ok Reg 2309, eff 6-11-93]

### **PART 3. PROGRAM OVERVIEW [REVOKED]**

#### **340:75-5-15. Program responsibilities [REVOKED]**

[Source: Revoked at 10 Ok Reg 1293, eff 3-25-93 (emergency); Revoked at 10 Ok Reg 2309, eff 6-11-93]

#### **340:75-5-16. Judicial findings regarding preplacement preventive and family reunification services [REVOKED]**

[Source: Revoked at 10 Ok Reg 1293, eff 3-25-93 (emergency); Revoked at 10 Ok Reg 2309, eff 6-11-93]

#### **340:75-5-17. Treatment services [REVOKED]**

[Source: Revoked at 10 Ok Reg 1293, eff 3-25-93 (emergency); Revoked at 10 Ok Reg 2309, eff 6-11-93]

#### **340:75-5-18. Relative placement [REVOKED]**

[Source: Revoked at 10 Ok Reg 1293, eff 3-25-93 (emergency); Revoked at 10 Ok Reg 2309, eff 6-11-93]

#### **340:75-5-19. Service delivery system [REVOKED]**

[Source: Revoked at 10 Ok Reg 1293, eff 3-25-93 (emergency); Revoked at 10 Ok Reg 2309, eff 6-11-93]

#### **340:75-5-20. Family assessment, Appendix P, Part B of this Chapter [REVOKED]**

[Source: Revoked at 10 Ok Reg 1293, eff 3-25-93 (emergency); Revoked at 10 Ok Reg 2309, eff 6-11-93]

## **PART 5. TREATMENT PLANNING [REVOKED]**

### **340:75-5-35. Definition [REVOKED]**

[Source: Revoked at 10 Ok Reg 1293, eff 3-25-93 (emergency); Revoked at 10 Ok Reg 2309, eff 6-11-93]

### **340:75-5-36. Purpose [REVOKED]**

[Source: Revoked at 10 Ok Reg 1293, eff 3-25-93 (emergency); Revoked at 10 Ok Reg 2309, eff 6-11-93]

### **340:75-5-37. Structure of treatment planing [REVOKED]**

[Source: Revoked at 10 Ok Reg 1293, eff 3-25-93 (emergency); Revoked at 10 Ok Reg 2309, eff 6-11-93]

### **340:75-5-38. Service selection [REVOKED]**

[Source: Revoked at 10 Ok Reg 1293, eff 3-25-93 (emergency); Revoked at 10 Ok Reg 2309, eff 6-11-93]

### **340:75-5-39. Development of treatment goals [REVOKED]**

[Source: Revoked at 10 Ok Reg 1293, eff 3-25-93 (emergency); Revoked at 10 Ok Reg 2309, eff 6-11-93]

### **340:75-5-40. Prioritization of treatment goals [REVOKED]**

[Source: Revoked at 10 Ok Reg 1293, eff 3-25-93 (emergency); Revoked at 10 Ok Reg 2309, eff 6-11-93]

### **340:75-5-41. Client involvement in treatment planning [REVOKED]**

[Source: Revoked at 10 Ok Reg 1293, eff 3-25-93 (emergency); Revoked at 10 Ok Reg 2309, eff 6-11-93]

### **340:75-5-42. Consequences [REVOKED]**

[Source: Revoked at 10 Ok Reg 1293, eff 3-25-93 (emergency); Revoked at 10 Ok Reg 2309, eff 6-11-93]

## **PART 7. CASE PLANS, CASE MANAGEMENT AND CHILD WELFARE SUPERVISORY RESPONSIBILITIES [REVOKED]**

### **340:75-5-60. Procedures for case plan document-voluntary and court involved [REVOKED]**

[Source: Revoked at 10 Ok Reg 1293, eff 3-25-93 (emergency); Revoked at 10 Ok Reg 2309, eff 6-11-93]

### **340:75-5-61. Case management function [REVOKED]**

[Source: Revoked at 10 Ok Reg 1293, eff 3-25-93 (emergency); Revoked at 10 Ok Reg 2309, eff 6-11-93]

### **340:75-5-62. Use of community service providers [REVOKED]**

[Source: Revoked at 10 Ok Reg 1293, eff 3-25-93 (emergency); Revoked at 10 Ok Reg 2309, eff 6-11-93]

### **340:75-5-63. Support services [REVOKED]**

[Source: Revoked at 10 Ok Reg 1293, eff 3-25-93 (emergency); Revoked at 10 Ok Reg 2309, eff 6-11-93]

### **340:75-5-64. Referrals to service providers [REVOKED]**

[Source: Revoked at 10 Ok Reg 1293, eff 3-25-93 (emergency); Revoked at 10 Ok Reg 2309, eff 6-11-93]

### **340:75-5-65. Services to non-court and court involved children and families [REVOKED]**

[Source: Revoked at 10 Ok Reg 1293, eff 3-25-93 (emergency); Revoked at 10 Ok Reg 2309, eff 6-11-93]

### **340:75-5-66. Case evaluation and case closure [REVOKED]**

[Source: Revoked at 10 Ok Reg 1293, eff 3-25-93 (emergency); Revoked at 10 Ok Reg 2309, eff 6-11-93]

### **340:75-5-67. Child Welfare supervisory responsibilities [REVOKED]**

[Source: Revoked at 10 Ok Reg 1293, eff 3-25-93 (emergency); Revoked at 10 Ok Reg 2309, eff 6-11-93]

## **PART 9. MATERNITY SERVICES [REVOKED]**

### **340:75-5-85. Provision of services to expectant parents [REVOKED]**

[Source: Revoked at 10 Ok Reg 1293, eff 3-25-93 (emergency); Revoked at 10 Ok Reg 2309, eff 6-11-93]

### **340:75-5-86. Counseling services [REVOKED]**

[Source: Revoked at 10 Ok Reg 1293, eff 3-25-93 (emergency); Revoked at 10 Ok Reg 2309, eff 6-11-93]

### **340:75-5-87. Protection and confidentiality [REVOKED]**

[Source: Revoked at 10 Ok Reg 1293, eff 3-25-93 (emergency); Revoked at 10 Ok Reg 2309, eff 6-11-93]

### **340:75-5-88. Medical services [REVOKED]**

[Source: Revoked at 10 Ok Reg 1293, eff 3-25-93 (emergency); Revoked at 10 Ok Reg 2309, eff 6-11-93]

### **340:75-5-89. Living arrangements [REVOKED]**

[Source: Revoked at 10 Ok Reg 1293, eff 3-25-93 (emergency); Revoked at 10 Ok Reg 2309, eff 6-11-93]

### **340:75-5-90. Termination of pregnancy [REVOKED]**

[Source: Revoked at 10 Ok Reg 1293, eff 3-25-93 (emergency); Revoked at 10 Ok Reg 2309, eff 6-11-93]

### **340:75-5-91. Planning for the child [REVOKED]**

[Source: Revoked at 10 Ok Reg 1293, eff 3-25-93 (emergency); Revoked at 10 Ok Reg 2309, eff 6-11-93]

### **340:75-5-92. Case management procedures regarding planning for the child [REVOKED]**

[Source: Revoked at 10 Ok Reg 1293, eff 3-25-93 (emergency); Revoked at 10 Ok Reg 2309, eff 6-11-93]

### **340:75-5-93. Client requests confidentiality [REVOKED]**

[Source: Revoked at 10 Ok Reg 1293, eff 3-25-93 (emergency); Revoked at 10 Ok Reg 2309, eff 6-11-93]

### **340:75-5-94. Coordination with Court Related and Community Services unit [REVOKED]**

[Source: Revoked at 10 Ok Reg 1293, eff 3-25-93 (emergency); Revoked at 10 Ok Reg 2309, eff 6-11-93]

### **340:75-5-95. Coordination with institutional services [REVOKED]**

[Source: Revoked at 10 Ok Reg 1293, eff 3-25-93 (emergency); Revoked at 10 Ok Reg 2309, eff 6-11-93]

### **340:75-5-96. Coordination with Family Support Services [REVOKED]**

[Source: Revoked at 10 Ok Reg 1293, eff 3-25-93 (emergency); Revoked at 10 Ok Reg 2309, eff 6-11-93]

## **SUBCHAPTER 6. PERMANENCY PLANNING**

### **PART 1. GENERAL PROVISIONS**

#### **340:75-6-1. Purpose of permanency planning for the child in Oklahoma Department of Human Services (DHS) custody or under DHS supervision**

(a) **Purpose.** Permanency planning services are provided to the:

- (1) child in DHS legal custody or under DHS legal supervision as ordered by a court; and
- (2) child's parent, legal guardian, or custodian to assist in changing behaviors and correcting the conditions that led to the child's removal from the home and court involvement.

(b) **Guiding principles.** The guiding principles of planning for the child in DHS custody or under DHS supervision are:

- (1) safety;
- (2) permanency; and
- (3) well-being.

(c) **Outcomes.** Addressing the child's needs is critical in attaining the desired safety, permanency, and well-being outcomes.

(1) Permanency planning services are initiated immediately following the child's removal from the home and continue until the child is safely returned to the home or other safe, permanent placement is finalized.

(2) Services are provided on the basis of the individualized needs of the child and family, whenever possible. A full range of community-based program options are provided so the child may remain in his or her own home or community, whenever possible.

(3) When it is not safe for the child to remain in his or her own home, every effort is made to place the child with a suitable relative, per Section 1-4-706 of Title 10A of the Oklahoma Statutes.

(4) When siblings are in DHS custody, every reasonable attempt is made to place the siblings together. Guidance on when siblings may be separated is located in Oklahoma Administrative Code 340:75-6-85.

(5) Children are placed in residential settings only after other less restrictive settings were attempted or considered.

[Source: Added at 10 Ok Reg 1293, eff 3-25-93 (emergency); Added at 10 Ok Reg 2309, eff 6-11-93 ; Amended at 11 Ok Reg 647, eff 11-22-93 (emergency); Amended at 11 Ok Reg 1729, eff 12-5-94 ; Amended at 13 Ok Reg 3669, eff 4-29-96 (emergency); Amended at 14 Ok Reg 974, eff 1-24-97 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 211, eff 1-11-97 (emergency); Amended at 15 Ok Reg 909, eff 12-16-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 1052, eff 4-26-99 ; Amended at 17 Ok Reg 92, eff 10-1-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Amended at 30 Ok Reg 389, eff 7-1-13 ; Amended at 35 Ok Reg 1695, eff 9-17-18]

## **340:75-6-2. Legal base and authority [REVOKED]**

[Source: Added at 10 Ok Reg 1293, eff 3-25-93 (emergency); Added at 10 Ok Reg 2309, eff 6-11-93 ; Amended at 13 Ok Reg 3669, eff 4-29-96 (emergency); Amended at 14 Ok Reg 630, eff 12-12-96 (emergency); Amended at 14 Ok Reg 974, eff 1-24-97 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 211, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 17 Ok Reg 92, eff 10-1-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 18 Ok Reg 393, eff 12-8-00 (emergency); Revoked at 18 Ok Reg 3067, eff 7-12-01]

## **340:75-6-3. Values and goals [REVOKED]**

[Source: Added at 10 Ok Reg 1293, eff 3-25-93 (emergency); Added at 10 Ok Reg 2309, eff 6-11-93 ; Amended at 11 Ok Reg 647, eff 11-22-93 (emergency); Amended at 11 Ok Reg 1729, eff 5-12-94 ;



#### **340:75-6-4. Definitions**

The following words and terms when used in Section 1-1-105 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-1-105) or in this Subchapter have the following meanings unless the context clearly indicates otherwise:

**"Age-appropriate" or "developmentally-appropriate"** means:

- (A) activities or items that are generally accepted as suitable for children of the same age or level of maturity or that are determined to be developmentally-appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and
- (B) in the case of a specific child, activities or items that are suitable for that child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the specific child.

**"Alleged father"** means *a man who alleges himself to be, or is alleged to be, the genetic father or a possible genetic father of a child, but whose paternity has not been determined.* The term does not include a presumed father per 10 O.S. § 7700-102.

**"Child advocacy center"** means an entity that is an associate or full member in good standing with the National Children's Alliance.

**"Concurrent permanency planning"** means when indicated, the implementation of two plans for a child entering out-of-home placement. One plan focuses on reuniting the parent and child; the other seeks to find a permanent out-of-home placement for the child and both plans are pursued simultaneously.

**"Kinship care"** means full-time care of a child by a kinship relation.

**"Kinship relation"** means relatives, stepparents, or other responsible adults who have a bond or tie with the child and to whom have been ascribed a family relationship role with the child or the child's parent.

**"Multidisciplinary team"** means any team of three or more persons involved in the provision of services, treatment, or both, to a child and the child's family and who meet to assess the progress on the treatment and service plan.

**"Permanent guardianship"** means a judicially created relationship between a child, a kinship relation of the child, or other adult per 10A O.S. 1-4-709.

**"Presumed father"** means a man who, by operation of law per 10 O.S. § 7700-204, is recognized as the father of a child until that status is rebutted or confirmed in a judicial proceeding. A man is presumed the father of a child when:

- (A) he and the mother of the child are married to each other and the child is born during the marriage;
- (B) he and the mother of the child were married to each other and the child is born within 300-calendar days after the marriage is terminated by death, annulment,

declaration of invalidity, dissolution of marriage, or after decree of separation;

(C) before the birth of the child, he and the mother of the child married each other in apparent compliance with law, even if the attempted marriage is or could be declared invalid, and the child is born during the invalid marriage or within 300-calendar days after its termination by death, annulment, declaration of invalidity, or after a decree of separation, or dissolution of marriage;

(D) after the birth of the child, he and the mother of the child married each other in apparent compliance with law, whether the marriage is or could be declared invalid, and he voluntarily asserted his paternity of the child; and:

(i) the assertion is in a record with the Oklahoma State Department of Health, Division of Vital Records or the Oklahoma Department of Human Services (DHS);

(ii) he agreed to be and is named as the child's father on the child's birth certificate; or

(iii) he promised in a record to support the child as his own; or

(E) for the first two years of the child's life, he resided in the same household with the child and openly held out the child as his own.

**"Reasonable and prudent parent standard"** means the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child. This standard is used by the child's caregiver when determining whether to allow a child to participate in extracurricular, enrichment, cultural, and social activities. For purposes of this definition, the term "caregiver" means a foster parent with whom a child in foster care has been placed, a representative of a group home where a child has been placed, or a designated official for a residential child care facility where a child in foster care has been placed.

**"Risk"** means the likelihood that an incident of child abuse or neglect will occur in the future.

**"Safety threat"** means the threat of serious harm due to child abuse or neglect occurring in the present or in the very near future and without the intervention of another person, a child would likely or in all probability sustain severe or permanent disability or injury, illness, or death.

**"Sibling"** means a biologically or legally-related brother or sister of a child. This includes an individual who satisfies at least one of the conditions in (A) or (B) with respect to a child. The individual:

(A) is considered by state law to be a child's sibling; or

(B) would be considered a sibling under state law except for a termination or other disruption of parental rights, such as the parent(s)' death.

**"Successful adulthood program"** means a program specifically designed to assist a child in DHS custody or tribal custody in developing

and enhancing the skills and abilities necessary for successful adult living, per 10A O.S. § 1-9-107.

**"Trafficking in persons"** means sex trafficking or severe forms of trafficking in persons:

(A) "sex trafficking" means the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act; and

(B) "severe forms of trafficking in persons" means:

(i) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or

(ii) the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

**"Transitional living program"** means a residential program that may be attached to an existing facility or operated solely for the purpose of assisting children to develop the skills and abilities necessary for successful adult living. The program may include, but shall not be limited to, reduced staff supervision, vocational training, educational services, employment and employment training, and other appropriate independent living skills training as a part of the transitional living program.

**"Young adult"** means a person age 18 through 22 years of age who is eligible to participate in the Successful Adulthood program.

**"Youth"** means a child 13 through 17 years of age.

[Source: Added at 13 Ok Reg 3669, eff 4-29-96 (emergency); Added at 14 Ok Reg 630, eff 12-12-96 (emergency); Added at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 211, eff 11-1-97 (emergency); Amended at 15 Ok Reg 909, eff 12-16-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 18 Ok Reg 393, eff 12-8-00 (emergency); Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 19 Ok Reg 402, eff 12-1-01 (emergency); Amended at 19 Ok Reg 1129, eff 5-13-02 ; Amended at 22 Ok Reg 339, eff 12-7-04 (emergency); Amended at 22 Ok Reg 840, eff 5-12-05 ; Amended at 25 Ok Reg 1953, eff 7-1-08 ; Amended at 26 Ok Reg 884, eff 5-15-09 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 28 Ok Reg 894, eff 7-1-11 ; Amended at 33 Ok Reg 477, eff 2-29-16 (emergency); Amended at 34 Ok Reg 1550, eff 9-15-17 ; Amended at 36 Ok Reg 443, eff 4-9-19 (emergency); Amended at 37 Ok Reg 1850, eff 9-15-20]

## **PART 3. PROGRAM OVERVIEW [REVOKED]**

### **340:75-6-10. Program responsibilities [REVOKED]**

[Source: Added at 10 Ok Reg 1293, eff 3-25-93 (emergency); Added at 10 Ok Reg 2309, eff 6-11-93 ; Amended at 11 Ok Reg 647, eff 11-22-93 (emergency); Amended at 11 Ok Reg 1729, eff 12-5-94 ; Revoked at 13 Ok Reg 3669, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-6-11. Judicial findings and Child Welfare worker role [REVOKED]**

[Source: Added at 10 Ok Reg 1293, eff 3-25-93 (emergency); Added at 10 Ok Reg 2309, eff 6-11-93 ; Amended at 13 Ok Reg 3669, eff 4-29-96 (emergency); Amended at 14 Ok Reg 974, eff 1-24-97 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 211, eff 11-1-97 (emergency); Amended at 15 Ok Reg 909, eff 12-16-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Revoked at 18 Ok Reg 3067, eff 7-12-01]

### **340:75-6-12. Provision of casework treatment services [REVOKED]**

[Source: Added at 10 Ok Reg 1293, eff 3-25-93 (emergency); Added at 10 Ok Reg 2309, eff 6-11-93 ; Amended at 11 Ok Reg 647, eff 11-22-93 (emergency); Amended at 11 Ok Reg 1729, eff 5-12-94 ; Revoked at 13 Ok Reg 3669, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-6-13. Relative placement [REVOKED]**

[Source: Added at 10 Ok Reg 1293, eff 3-25-93 (emergency); Added at 10 Ok Reg 2309, eff 6-11-93 ; Amended at 11 Ok Reg 647, eff 11-22-93 (emergency); Amended at 11 Ok Reg 1729, eff 5-12-94 ; Revoked at 13 Ok Reg 3669, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-6-14. Service delivery system [REVOKED]**

[Source: Added at 10 Ok Reg 1293, eff 3-25-93 (emergency); Added at 10 Ok Reg 2309, eff 6-11-93 ; Amended at 11 Ok Reg 647, eff 11-22-93 (emergency); Amended at 11 Ok Reg 1729, eff 5-12-94 ; Revoked at 13 Ok Reg 3669, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

## **PART 5. PERMANENCY PLANNING SERVICES**

### **340:75-6-24. Scope of Court Involved Permanency Planning Services [REVOKED]**

[Source: Added at 10 Ok Reg 1293, eff 3-25-93 (emergency); Added at 10 Ok Reg 2309, eff 6-11-93 ; Amended at 11 Ok Reg 647, eff 11-22-93 (emergency); Amended at 11 Ok Reg 1729, eff 5-12-94 ; Amended at 13 Ok Reg 3669, eff 4-29-96 (emergency); Amended at 14 Ok Reg 630, eff 12-12-96 (emergency); Amended at 14 Ok Reg 974, eff 1-24-97 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 211, eff 11-1-97 (emergency); Amended at 15 Ok Reg 909, eff 12-16-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 17 Ok Reg 92, eff 10-1-99 (emergency); Amended at 17 Ok Reg 923, eff 3-1-00 (emergency); Amended at 17 Ok Reg 2429, eff 6-26-00 ; Amended at 18 Ok Reg 393, eff 12-8-00 (emergency); Revoked at 18 Ok Reg 3067, eff 7-12-01]

#### **340:75-6-24.1. Multidisciplinary teams in the permanency planning process [REVOKED]**

[Source: Added at 13 Ok Reg 3669, eff 4-29-96 (emergency); Added at 14 Ok Reg 630, eff 12-12-96 (emergency); Added at 14 Ok Reg 974, eff 1-24-97 (emergency); Added at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 211, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 16 Ok Reg 1950, eff 6-11-99 ; Amended at 18 Ok Reg 393, eff 12-8-00 (emergency); Revoked at 18 Ok Reg 3067, eff 7-12-01]

### **340:75-6-25. Purpose of treatment planning [REVOKED]**

[Source: Added at 10 Ok Reg 1293, eff 3-25-93 (emergency); Added at 10 Ok Reg 2309, eff 6-11-93 ; Amended at 11 Ok Reg 647, eff 11-22-93 (emergency); Amended at 11 Ok Reg 1729, eff 5-12-94 ;

Revoked at 13 Ok Reg 3669, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-6-26. Development of treatment needs [REVOKED]**

[Source: Added at 10 Ok Reg 1293, eff 3-25-93 (emergency); Added at 10 Ok Reg 2309, eff 6-11-93 ; Amended at 11 Ok Reg 647, eff 11-22-93 (emergency); Amended at 11 Ok Reg 1729, eff 5-12-94 ; Revoked at 13 Ok Reg 3669, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-6-27. Prioritization of treatment needs [REVOKED]**

[Source: Added at 10 Ok Reg 1293, eff 3-25-93 (emergency); Added at 10 Ok Reg 2309, eff 6-11-93 ; Amended at 11 Ok Reg 647, eff 11-22-93 (emergency); Amended at 11 Ok Reg 1729, eff 5-12-94 ; Revoked at 13 Ok Reg 3669, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-6-28. Client involvement in treatment planning [REVOKED]**

[Source: Added at 10 Ok Reg 1293, eff 3-25-93 (emergency); Added at 10 Ok Reg 2309, eff 6-11-93 ; Revoked at 13 Ok Reg 3669, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-6-29. Consequences [REVOKED]**

[Source: Added at 10 Ok Reg 1293, eff 3-25-93 (emergency); Added at 10 Ok Reg 2309, eff 6-11-93 ; Amended at 11 Ok Reg 647, eff 11-22-93 (emergency); Amended at 11 Ok Reg 1729, eff 5-12-94 ; Revoked at 13 Ok Reg 3669, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-6-30. Child's visitation with parents and siblings**

(a) **Visitation is a right.** The child and parent have a right to regular visitation when the child is in Oklahoma Department of Human Services (DHS) custody and in an out-of-home placement.

(1) A court may not deny visitation based solely on the failure of a parent to prove that the parent has not used legal or illegal substances or complied with an aspect of the court-ordered individualized service plan per Section 1-4-707 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-4-707).

(2) When the court determines reunification services are appropriate for the child and parent, the court allows reasonable visitation with the parent or legal guardian from whose custody the child was removed, unless visitation is not in the child's best interests, considering the child's:

(A) physical safety;

(B) need for protection from traumatizing contact with the parent or sibling or contact that could endanger the child's life; and

(C) expressed wishes.

(b) **Frequency of parent-child visitation.** Per 10A O.S. § 1-7-105, the child has the right to communicate and visit with his or her family, kin, and community on a regular basis, provided the communication or visitation is in the best interests of the child.

(1) Family visitation begins no later than seven-calendar days after the child's removal from the home.

(2) A visitation schedule that considers the child's needs is developed and includes a minimum of one visit per week during the first 90-calendar days from the date of the child's removal and then a minimum of two times per calendar month visitation thereafter until the child is returned or the permanency plan is no longer reunification.

(3) Exceptions to the frequency of visitation, including the termination of visitation are made, when the:

- (A) parent fails or declines to cooperate with visitation arrangements;
- (B) court orders no visitation;
- (C) whereabouts of the parent is unknown despite continuous attempts to locate;
- (D) visitation, even when supervised, endangers or is determined not to be in the child's best interest;
- (E) court orders a different visitation frequency; or
- (F) the permanency plan is not reunification.

(c) **Child's mail and phone contacts.** Per 10A O.S. § 1-7-105, a child has constant access to writing materials and may send mail without limitation, censorship, or prior reading, and may receive mail without prior reading, except that mail may be opened in the presence of the child, without being read, to inspect for contraband or when authorized by the court for the child's protection.

(1) The child's contact with the child's parent, extended family, and friends through phone calls, email, social media, and mail is encouraged. The child's phone calls, email, social media, and mail are not monitored or restricted unless done so for the child's protection.

(2) Restrictions to mail and phone contact only occur when court-ordered and may be considered when:

- (A) threats are made to the child;
- (B) the contact causes harm to the child's emotional well-being;
- (C) there is an attempt to influence the child's testimony;
- or
- (D) an attempt is made to undermine a present or future placement.

(d) **Child's contact with siblings.** Per Section 471(a)(31) of the Social Security Act (42 U.S.C. § 671(a)(31)), 10A O.S. §§ 1-4-807 and 1-4-811, and Oklahoma Administrative Code 340:75-6-85, DHS makes ongoing reasonable efforts to place sibling groups together in both temporary and permanent placements. When joint placement of siblings is unsafe or contrary to the child's well-being, DHS must justify and document the justification for the decision, make monthly efforts to resolve the barriers to joint placement, provide frequent visitation, and arrange for ongoing interaction. Frequent contact, such as face-to-face visitation, phone calls, email, social media, or mail contact between siblings is arranged. DHS must make efforts to resolve barriers to joint placement and visitation a minimum of once a month.

(e) **Child's visits and contacts with relatives and others.** When a child is in DHS custody, visitation or contact with relatives or other

community connections is encouraged whenever it is safe and in the child's best interest.

[Source: Added at 10 Ok Reg 1293, eff 3-25-93 (emergency); Added at 10 Ok Reg 2309, eff 6-11-93 ; Amended at 11 Ok Reg 647, eff 11-22-93 (emergency); Amended at 11 Ok Reg 1729, eff 5-12-94 ; Amended at 13 Ok Reg 3669, eff 4-29-96 (emergency); Amended at 14 Ok Reg 630, eff 12-12-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 211, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 17 Ok Reg 92, eff 10-1-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 18 Ok Reg 393, eff 12-8-00 (emergency); Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 20 Ok Reg 2066, eff 6-26-03 ; Amended at 21 Ok Reg 871, eff 4-26-04 ; Amended at 22 Ok Reg 854, eff 5-12-05 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Amended at 30 Ok Reg 389, eff 7-1-13 ; Amended at 33 Ok Reg 1635, eff 9-15-16 ; Amended at 35 Ok Reg 1695, eff 9-17-18]

### **340:75-6-31. Permanency planning (PP) for the child in Oklahoma Human Services (OKDHS) custody**

(a) **Legislative intent.** Per Section 1-1-102 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-1-102), whenever it is necessary for a child to be placed outside of the home per the Oklahoma Children's Code, it is the intent of the Legislature that:

- (1) each child be assured of the care, guidance, and supervision in a permanent home or foster home that serves the best interests of the child including, but not limited to, the development of the moral, emotional, spiritual, mental, social, educational, and physical well-being of the child; and
- (2) permanent placement is achieved as soon as possible for the child.

(b) **Permanency planning and placement preferences.** The purpose of permanency planning is to develop an appropriate plan addressing the child's immediate and long-term needs for safety, permanency, and well-being. Permanency planning begins immediately when a child is placed in OKDHS custody and continues until the child is living in a permanent home and the child welfare (CW) case is closed.

(c) **Efforts to place the child with a suitable relative.** Per 10A O.S. § 1-4-706, every effort is made to place the child with a suitable relative of the child.

(d) **Consideration given to child's initial out-of-home placement.** Careful planning and consideration is given to the child's initial placement so that in the event reunification fails or is delayed, the first placement made is the best available placement to provide permanency for the child per 10A O.S. § 1-4-706.

(e) **Concurrent permanency planning.** Per 10A O.S. § 1-4-706, when a child is removed from the custody of the child's parent, OKDHS immediately assesses the need for permanency planning with the intention that permanency occurs for the child at the earliest opportunity.

(f) **Permanency hearing.** Permanency hearings are held as required per 10A O.S. § 1-4-811, and per Oklahoma Administrative Code (OAC) 340:75-1-18.1.

(g) **Permanency plan preferences.** The permanency plan indicates the intended or desired outcome for each child and influences the services and interventions used to achieve such outcome. The permanency plan is consistent with each child's legal status and is in his or her best

interests.

(1) When a plan is established, careful consideration is given when changing the plan to ensure the child's immediate and long-term needs for safety, permanency, and well-being continue to be met.

(2) In most cases, reuniting the child with his or her parent or legal guardian is the original case plan goal, unless a petition for immediate termination of parental rights is filed or the court makes a finding that reasonable efforts to reunite are not required.

(3) When reunification is not possible, other permanency plan options based on the child's best interests include:

(A) termination of parental rights resulting in an adoption;

(B) permanent guardianship; or

(C) a planned alternative permanent placement provided a child is 16 years of age and older.

(h) **Reunification.** In most situations, the initial permanency plan is to reunite the child with the family. Per 10A O.S. § 1-7-103, the child may be returned to the home of the parent or legal guardian from whom the child was removed with prior court approval. When the permanency plan is reunification, services are implemented until:

(1) the child is returned home, the family home has stabilized, and the court case is dismissed; or

(2) it is determined the conditions that necessitated intervention have not been corrected, although sufficient time and services have been provided.

(i) **Exceptions to reunification as the preferred permanency plan.**

Exceptions to reunification as the preferred permanency plan include:

(1) voluntary relinquishment of parental rights by all parents, biological, legal, presumed, and alleged;

(2) a Petition for Termination of parental rights is filed; or

(3) the court finds reasonable efforts to reunite the child and family are not required as outlined in 10A O.S. § 1-4-809 and OAC 340:75-1-18.4.

(j) **Priority for reunification with the custodial parent or placement with the non-custodial parent.** When the child's parents do not live together, the priority for reunification is primarily with the custodial parent; however, a home assessment may be conducted regarding the noncustodial parent to assess the possibility of placement or custody with the noncustodial parent, when appropriate.

(k) **Placement with the noncustodial parent.** The court may place the child with the noncustodial parent when it is in the best interests of the child per 10A O.S. § 1-4-707. When the child is placed with the noncustodial parent, the court may order the noncustodial parent to assume:

(1) sole custodial responsibilities for the child; or

(2) custody of the child under OKDHS protective supervision.

(l) **Final permanency order.** Per 10A O.S. § 1-4-707, when the court orders the noncustodial parent to assume sole custodial responsibilities for the child, the court may also:



(1) order reasonable visitation and the payment of child support by the child's other parent; and  
(2) terminate its jurisdiction in the deprived action by entering a final permanency order determining custody, visitation, and child support. The final permanency order:

(A) remains in full force and effect and controls custody or child support orders entered in an administrative or district court initiated prior to, or during the pendency of the deprived action until it is modified by a subsequent court order; and

(B) may be docketed and filed in the prior, existing, or pending administrative or district court action; or

(C) when there is no administrative or district court action in existence, the surviving order may be used as the sole basis for opening a new administrative or district court action.

(m) **Adoption.** When a child cannot return safely to his or her own home, in most cases adoption is the preferred permanency plan.

(n) **Legal guardianship.** A guardianship may be the permanency plan for a child, when reunification and adoption have been ruled out.

(1) The court may establish a permanent guardianship between a child and a relative or other adult per 10A O.S. § 1-4-709, when the guardianship is in the child's best interest.

(2) Subject to the availability of funds, financial assistance is available to the legal guardian, provided the eligibility requirements per OAC 340:75-6-31.4 are met.

(o) **Planned alternative permanent placement.** Per 10A O.S. § 1-4-811, a permanency plan of planned alternative permanent placement is limited to a child 16 years of age or older when OKDHS documents a compelling reason for the court to determine returning home, or placement of the child for adoption or guardianship, is not in the child's best interests.

(p) **Successful adulthood plan.** Every child 14 years of age or older has a transition plan to successful adulthood, per OAC 340:75-6-110.

(q) **Notice of rights.** Every child 14 years of age or older is provided a notice of rights per OAC 340:75-6-110.

(r) **Emancipation.** The federal definition of emancipation is the age at which the child reaches majority. In Oklahoma, 18 years of age is the age of emancipation.

[Source: Added at 11 Ok Reg 647, eff 11-22-93 (emergency); Added at 11 Ok Reg 1729, eff 5-12-94 ; Amended at 13 Ok Reg 3669, eff 4-29-96 (emergency); Amended at 14 Ok Reg 630, eff 12-12-96 (emergency); Amended at 14 Ok Reg 974, eff 1-24-97 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 211, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 15 Ok Reg 3886, eff 7-14-98 (emergency); Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 16 Ok Reg 1950, eff 6-11-99 ; Amended at 17 Ok Reg 92, eff 10-1-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 18 Ok Reg 160, eff 12-1-00 (emergency); Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 20 Ok Reg 2066, eff 6-26-03 ; Amended at 21 Ok Reg 871, eff 4-26-04 ; Amended at 22 Ok Reg 339, eff 12-7-04 (emergency); Amended at 22 Ok Reg 840, eff 5-12-05 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 25 Ok Reg 1953, eff 7-1-08 ; Amended at 26 Ok Reg 884, eff 5-15-09 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Amended at 33 Ok Reg 477, eff 2-29-16 (emergency); Amended at 34 Ok Reg 1550, eff 9-15-17 ; Amended at 36 Ok Reg 1856, eff 9-16-19 ; Amended at 40 Ok Reg 990, eff 9-15-23]

### **340:75-6-31.1. Family meeting (FM) process**

The FM's purpose is to facilitate planning, team decision-making, and engaging the family of the child in Oklahoma Department of Human Services custody.

(1) The court may require facilitation of a meeting no later than 30-calendar days prior to a permanency hearing when a child was in out-of-home care for 12 months or longer, per Section 1-4-810 of Title 10A of the Oklahoma Statutes and an FM is used for this purpose.

(2) An FM includes parents, caregivers, children, relatives, family friends, child welfare specialists, service providers, community group members, and other appropriate community partners, when appropriate.

[Source: Added at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 28 Ok Reg 894, eff 7-1-11 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Amended at 30 Ok Reg 389, eff 7-1-13 ; Amended at 36 Ok Reg 1856, eff 9-16-19 ; Amended at 37 Ok Reg 1850, eff 9-15-20]

### **340:75-6-31.2. Reunification services for Temporary Assistance for Needy Families (TANF) recipients**

When the parent or needy caretaker receiving TANF has the only dependent child removed from the home by a child protection action and the child's return to the home is reasonably anticipated within four months of the child's removal, the parent or needy caretaker continues to be eligible for adult only TANF benefits, when other eligibility conditions are met per OAC 340:10-3-56(2)(B)(ii) and 340:10-3-57(j).

[Source: Added at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 30 Ok Reg 389, eff 7-1-13]

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

(a) **Trial home reunification - supervision of child in Oklahoma Human Services (OKDHS) custody.** Per Sections 1-4-806 and 1-7-103 of Title 10A of the Oklahoma Statutes (10A O.S. §§ 1-4-806 and 1-7-103), the court may order trial reunification by returning the child to the care of the parent or legal guardian from whom the child was removed and setting a date for review within six months. At any time during trial reunification, when reunification appears successful, the court may return legal custody to the parent or legal guardian and relieve OKDHS of legal custody. If the court determines to extend trial reunification, the court sets a new date for review. The child spends no longer than a total of twelve months in trial reunification. During trial reunification , OKDHS:

- (1) retains legal custody of the child, permitting OKDHS to visit the child in the parent's home, at school, in a child care facility, or any other setting OKDHS deems necessary and appropriate;
- (2) continues to provide appropriate services to the parent, when eligible, and the child;
- (3) terminates trial reunification and removes the child to out-of-home placement, without court order or authorization, when

necessary to protect the child's health, safety, or welfare; and  
(4) advises the court and parties within three-judicial days of the termination of trial reunification when terminated by OKDHS without a court order.

**(b) Trial home reunification - supervision of child not in OKDHS custody.** Per 10A O.S. § 1-4-806:

- (1) if the court determines to continue supervision after twelve months of trial reunification period or any extension of trial reunification, the court may award legal custody of the child to the parent or legal guardian with whom the child is reunited and order OKDHS to provide supervision per OAC 340:75-6-48; and
- (2) the duration of the extended supervision may not exceed six months except in circumstances the court finds appropriate and necessary to protect the child's health, safety, or welfare.

**(c) Report required when trial home reunification terminated.**

When trial home reunification is terminated by OKDHS or by court order, OKDHS prepares a report for the court describing the child's circumstances during the trial home reunification period and recommends court orders, when appropriate, to provide for the child's safety and stability, per 10A O.S. § 1-4-806.

**(d) Required criminal background check prior to trial home reunification.** Per 10A O.S. § 1-4-806, Prior to trial reunification, OKDHS conducts a criminal background check of any adult in the home who is not a parent, legal guardian, or custodian . The background check includes inquiries into Oklahoma State Bureau of Investigation and Federal Bureau of Investigation (FBI) records for a national criminal history record check, per provisions of 74 O.S. § 150.9. OKDHS notifies the court that the parent received a copy of the national criminal history record check results.

**(e) Notice to individual subject to criminal background checks.**

OKDHS provides Form 04MP060E, Notice to Individual Being Fingerprinted, per Section 50.12 of Title 28 of the Code of Federal Regulations (28 C.F.R. §50.12) to individuals requiring fingerprinting. Form 04MP060E notifies the individual being fingerprinted:

- (1) the fingerprints are used to check the criminal history records of the FBI;
- (2) of a date range in which the individual must get fingerprinted;
- (3) of the individual's right to challenge the accuracy of the information contained in the FBI identification record;
- (4) procedures to obtain a change, correction, or update of an FBI identification record are set forth in 28 C.F.R. §16.34; and
- (5) of the use-and-challenge requirements placed on all records disseminated under the FBI program.

**(f) Exception to fingerprinting.** Per Section 10A O.S. § 1-7-111, the OKDHS Director or designee may authorize an exception to the fingerprinting requirement and authorize use of an alternative procedure to obtain a national criminal history record check for any adult residing in the home who has a severe condition precluding such individual from being fingerprinted. In limited, case specific circumstances OKDHS may not be able to obtain:

- (1) an individual's fingerprints due to the individual's disability; or

(2) legible fingerprints due to low quality fingerprint characteristics as a result of the individual's age, occupation, or otherwise resulting in the inability for the national crime information databases (NCID) to provide results.

(g) **Confidentiality of national criminal history record check obtained for trial home reunification consideration.** The report of the national criminal history record check obtained prior to trial home reunification is confidential, per 28 C.F.R. § 50.12, used only for purposes related to trial reunification, and may not be disseminated outside OKDHS or authorized entities such as the court. The report of the national criminal history record check is placed in a separate envelope for each individual and maintained in a locked file cabinet.

[Source: Added at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 20 Ok Reg 2643, eff 7-1-03 (emergency); Amended at 21 Ok Reg 880, eff 4-26-04 ; Amended at 22 Ok Reg 339, eff 12-7-04 (emergency); Amended at 22 Ok Reg 840, eff 5-12-05 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 28 Ok Reg 375, eff 12-1-10 (emergency); Amended at 28 Ok Reg 894, eff 7-1-11 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Amended at 30 Ok Reg 389, eff 7-1-13 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:75-6-31.4. Legal guardianship**

(a) **Permanent guardianship established pursuant to the Oklahoma Children's Code.** The court may establish a permanent guardianship between a child and a relative or other adult per Sections 1-4-709 and 1-4-710 of Title 10A of the Oklahoma Statutes (10A O.S. §§ 1-4-709 and 1-4-710) when the guardianship is in the child's best interests and when all conditions listed in 10A O.S. § 1-4-709 are substantially satisfied.

(1) 10A O.S. § 1-4-709 conditions are, the:

(A) child was adjudicated a deprived child;

(B) parent:

(i) consented to the permanent guardianship;

(ii) had his or her parental rights terminated;

(iii) failed to substantially correct the conditions that led to the child's adjudication;

(iv) was adjudicated as incompetent or incapacitated by a court;

(v) abandoned the child;

(vi) was not identified or located despite reasonably diligent efforts to ascertain the parent's whereabouts; or

(vii) died;

(C) child consents to the permanent guardianship when the court finds the child of sufficient intelligence, understanding, and experience to provide consent;

(D) termination of the parent's parental rights is not legally possible, not in the child's best interests, or adoption is not the child's permanency plan;

(E) child and proposed permanent guardian do not require protective supervision or preventive services to ensure the permanent guardianship's stability;

(F) proposed permanent guardian is committed to providing for the child until he or she reaches the age of

majority, and to preparing the child for adulthood and independence;

(G) proposed permanent guardian agrees not to return the child to the care of the person from whom he or she was removed nor allow visitation without the court's approval; and

(H) child resides or was placed with the proposed permanent guardian for at least the six preceding months or the proposed permanent guardian is a relative with whom the child has a relationship.

(2) When the child is in Oklahoma Human Services (OKDHS) custody, a study of the proposed permanent guardian's home is completed and a report is provided to the court regarding the proposed permanent guardian's suitability, if permanent guardianship is in the child's best interests, and other information as the court requests. The child welfare (CW) specialist:

(A) when the proposed permanent guardian is:

(i) a resource parent, updates Form 04AF003E, Resource Family Assessment - Family Profile; or

(ii) not an OKDHS resource parent:

(I) completes Form 04PP008E, Title 10A Permanent Guardianship Home Study; and

(II) conducts a national criminal history records search in addition to the other background search requirements for each proposed permanent guardian and each adult household member; and

(B) provides the report to the court as directed by the court, or no later than 14-calendar days prior to the permanent guardianship hearing.

(3) A permanent guardianship is not permitted when the proposed guardian:

(A) would be denied placement as a prospective foster or adoptive parent, per 10A O.S. § 1-4-705(C);

(B) is subject to the Oklahoma Sex Offenders Registration Act living with a person subject to the Oklahoma Sex Offenders Registration Act; or

(C) is the child's parent and his or her parental rights are terminated.

(4) A permanent guardian is vested with the rights and responsibilities set forth in 30 O.S. §§ 1-101 et seq. relating to the powers and duties of a guardian of a minor, except for rights and responsibilities the child's parent retains, as set forth in the permanent guardianship decree.

(5) OKDHS may not recommend a parent whose parental rights are terminated to seek guardianship of a child in OKDHS custody.

(b) **Filing the 10A permanent guardianship motion.** The district attorney or child's attorney is responsible for filing a motion for permanent guardianship with the juvenile court in the deprived case. The proposed guardian signs the information verification contained in the permanent guardianship motion, per 10A O.S. § 1-4-710.

(c) **Filing the Title 30 guardianship proceeding.** When a Title 30 guardianship is filed for the child to achieve the permanency plan of guardianship, the proposed guardian has the responsibility to obtain an attorney for this purpose. Per 10A O.S. § 1-4-101, the written consent of the judge presiding over the deprived case must be obtained and filed in the Title 30 guardianship case, prior to the guardian being appointed for the child. Limited monetary reimbursement for attorney fees and costs is available when the attorney represents a proposed relative guardian in a Title 30 guardianship proceeding.

(d) **Types of guardianship assistance funding available.**

Guardianship assistance for a Title 10A or Title 30 guardianship may be funded through the:

- (1) Temporary Assistance for Needy Families (TANF) Supported Permanency Program;
- (2) Title IV-E Subsidized Guardianship Program; or
- (3) state.

(e) **Requirements for guardianship without benefits.** A guardianship may be established without accessing a benefit funding source when the:

- (1) guardianship is in the child's best interests; and
- (2) conditions listed in 10A O.S. § 1-4-709 are substantially satisfied for a Title 10A guardianship, or a return home or adoption is not an appropriate permanency option for the child when a Title 30 guardianship was court-authorized.

(f) **Requirements for guardianship with TANF Supported Permanency Program benefits.**

(1) A guardianship may be established with TANF Supported Permanency Program benefits subject to the availability of funds and OKDHS approval when the:

- (A) guardianship is in the child's best interests;
- (B) conditions listed in 10A O.S. § 1-4-709 are substantially satisfied for a Title 10A guardianship, or a return home or adoption is not an appropriate permanency option for the child when a Title 30 guardianship was court-authorized;
- (C) child in OKDHS custody is placed in a paid kinship foster home with a relative who resides in Oklahoma and the relative meets the specified degree of relationship as defined by the TANF program, per Oklahoma Administrative Code (OAC) 340:10-9-1(a);
- (D) child is 12 years of age and older or has a sibling 12 years of age and older who resides in the same relative foster home. The deputy director for programs may, for good cause, approve Supported Permanency for a child younger than 12 years of age;
- (E) court makes a finding that termination of the parent's rights is either not legally possible or not in the child's best interests, or adoption is not the child's permanency plan;
- (F) relative meets requirements for approval as a OKDHS foster home;
- (G) child is currently residing with the relative in Oklahoma and has for four of the previous six months;

(H) relative is willing to assume legal responsibility for the child; and

(I) court and, when appropriate, the child are in agreement with the plan for the relative to obtain legal responsibility for the child.

(2) TANF Supported Permanency Program assistance includes:

(A) a monthly payment standard for the child, per OKDHS Appendix C-1, Maximum Income, Resource, and Payment Standards, Schedule XVII;

(B) a Medicaid card for the child's medical care; and

(C) an assigned Adult and Family Services worker who provides referrals for services, when needed.

**(g) Requirements for Title IV-E Subsidized Guardianship benefits.**

(1) A guardianship may be eligible for Title IV-E guardianship assistance when:

(A) the guardianship is in the child's best interests;

(B) all conditions listed in 10A O.S. § 1-4-709 are substantially satisfied for a Title 10A guardianship, or a return home or adoption is not an appropriate permanency option for the child when a Title 30 guardianship was court-authorized;

(C) the child meets eligibility for Title IV-E kinship guardianship assistance payments, per Section 473(d)(3)

(A) of Title IV-E of the Social Security Act (42 United States Code (U.S.C.) § 673(d)(3)(A)). The relative may reside in or out-of-state;

(D) the child was removed from his or her home pursuant to a voluntary placement agreement or as a result of a judicial determination that continuation in the home is contrary to the child's welfare and the child is Title IV-E eligible, per OAC 340:75-13-13, for at least six-consecutive months;

(E) the child is a sibling to a child eligible for, or receiving Title IV-E kinship guardianship assistance, and is residing or planning to reside in the same placement;

(F) the child is 12 years of age and older or has a sibling 12 years of age and older who resides in the same relative foster home. The deputy director may, for good cause, approve Title IV-E kinship guardianship assistance for a child younger than 12 years of age;

(G) termination of the parent's rights is either not legally possible or not in the child's best interests or adoption is not the child's permanency plan;

(H) the relative completed requirements to be an OKDHS-approved or tribal foster home;

(I) the child is currently residing with the relative and has for six consecutive months;

(J) the relative is willing to assume legal responsibility for the child and has a strong commitment to permanently care for the child;

(K) the child who is 14 years of age and older is consulted regarding the kinship guardianship arrangement;  
(L) the child demonstrates a strong attachment to the proposed relative guardian; and  
(M) prior to transferring legal responsibility, OKDHS and the proposed relative guardian sign Form 04MP049E, Title IV-E Subsidized Guardianship Agreement, outlining the assistance provided to the relative guardian.

(2) The Title IV-E Subsidized Guardianship agreement outlines the assistance provided to the relative that includes:

(A) a limited monetary reimbursement for legal fees and costs incurred in transferring legal responsibility of the child to the relative guardian is paid to an attorney representing the proposed relative guardian when a Title 30, instead of a Title 10A, guardianship is filed;  
(B) a monthly payment standard for the child, per OKDHS Appendix C-20, Child Welfare Services Rates Schedule;  
(C) the manner in which the payment may be adjusted periodically, in consultation with the relative guardian, based on the relative guardian's circumstances and the child's needs;  
(D) a Medicaid card for the child;  
(E) a right to a fair hearing, per OAC 340:75-1-12.6;  
(F) the additional services and assistance for which the child and relative guardian are eligible under the agreement;  
(G) the procedure by which the relative guardian applies for additional services; and  
(H) assurance the agreement remains in effect if the relative guardian moves to another state.

(3) The child's case plan describes:

(A) how the child meets the eligibility requirements;  
(B) the steps OKDHS took to determine a return to the home or adoption is not appropriate, and termination of the parent's rights is either not legally possible or not in the child's best interests;  
(C) the efforts OKDHS made to discuss adoption with the child's relative foster parent and the reasons why adoption by the relative foster parent is not an option;  
(D) the reason a permanent placement with a proposed relative guardian and receipt of a guardianship assistance payment is in the child's best interests;  
(E) OKDHS efforts to discuss with the child's parent the kinship guardianship assistance arrangements or why efforts were not made; and  
(F) when the child's placement with the proposed relative guardian does not include siblings, the reasons the child is separated from siblings during placement.

(h) **Successor guardian and eligibility for Title IV-E guardianship assistance.** In the event of the relative guardian's death or incapacity, the child's eligibility for a kinship guardianship assistance payment under



this subsection is not affected by reason of the replacement of the relative guardian with a successor legal guardian named in the Title IV-E kinship guardianship assistance agreement, per 42 U.S.C. § 673(d)(3)(C).

**(i) Requirements for a guardianship with state-funded benefits.**

(1) A guardianship may be established with state-funded assistance, when:

- (A) the guardianship is in the child's best interests;
- (B) all conditions listed in 10A O.S. § 1-4-709 are substantially satisfied for a Title 10A guardianship, or a return home or adoption is not an appropriate permanency option for the child when a Title 30 guardianship was court-authorized;
- (C) the child is not eligible for TANF Supported Permanency Program or Title IV-E Subsidized Guardianship; and
- (D) the deputy director for programs, for good cause, approves state-funded payments to the guardian for the child's benefit.

(2) The state-funded benefit is a monthly payment standard for the child, per OKDHS Appendix C-20, Child Welfare Services Rates Schedule.

**(j) Court-ordered provisions within permanent guardianship providing for child's safety and well-being.** Per 10A O.S. § 1-4-710, the court, upon finding grounds exist for a permanent guardianship, may order visitation with the child's parent, siblings, or other relatives when contact is in the child's best interests, and any other provision necessary to provide for his or her continuing safety and well-being.

**(k) Child support ordered with permanent guardianship.** Per 10A O.S. § 1-4-710, the court orders the parent to contribute to the child's support pursuant to child support guidelines, per 43 O.S. §§ 118 and 119.

**(l) Permanent guardianship placement not supervised by OKDHS.** Per 10A O.S. § 1-4-710, the order appointing a permanent guardian does not require OKDHS placement supervision.

**(m) Permanent guardianship placement review period.** Per 10A O.S. § 1-4-710, the permanent guardianship order:

- (1) requires the placement be reviewed within one year after transfer;
- (2) requires the permanent guardian to submit records or reports the court deems necessary for the one year review;
- (3) divests OKDHS of legal custody and supervision of the child with no further responsibility for the child's custody or supervision; and
- (4) does not require periodic court reviews after the one year review when the parties and court agree the reviews are not necessary to serve the child's best interests, unless periodic reviews are otherwise required by the court.

**(n) Child returned to OKDHS custody when permanent guardianship terminated.** When a permanent guardianship, established per the Oklahoma Children's Code, is terminated due to the guardian's abuse or neglect of the child, death, or inability to care for the child, the court orders the child returned to OKDHS legal custody

pending further hearing.

(1) OKDHS develops a new permanency plan for the child to present to the court within 30-calendar days from the permanent guardianship termination date.

(2) Unless parental rights were terminated, the child's parent is notified and is entitled to participate in the upcoming permanency planning hearing.

(3) The court may order reunification services again be provided to each parent or consider each parent for custody of the child with OKDHS supervision, when the parent can prove conditions previously existing at the time the permanent guardianship was granted were substantially corrected, and reunification is the best alternative for, and in the child's best interests.

**[Source:** Added at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 20 Ok Reg 2643, eff 7-1-03 (emergency); Amended at 21 Ok Reg 871, eff 4-26-04 ; Amended at 22 Ok Reg 854, eff 5-12-05 ; Amended at 27 Ok Reg 44, eff 7-1-09 (emergency); Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 30 Ok Reg 389, eff 7-1-13 ; Amended at 33 Ok Reg 1635, eff 9-15-16 ; Amended at 35 Ok Reg 451, eff 1-31-18 (emergency); Amended at 35 Ok Reg 1695, eff 9-17-18 ; Amended at 36 Ok Reg 443, eff 4-9-19 (emergency); Amended at 37 Ok Reg 1850, eff 9-15-20 ; Amended at 39 Ok Reg 1803, eff 9-15-22 ; Amended at 40 Ok Reg 990, eff 9-15-23]

**340:75-6-31.5. Establishing paternity for the child in Oklahoma Department of Human Services (OKDHS) custody**

(a) **Paternity establishment for the child in OKDHS custody.** When paternity is not legally established for the child in OKDHS custody, OKDHS:

- (1) requests the court to establish paternity in the juvenile court action; or
- (2) cooperates with Oklahoma Child Support Services (OCSS) to establish paternity per the Uniform Parentage Act.
- (3) does not pursue a paternity action or request genetic testing when:
  - (A) paternity is voluntarily acknowledged in Oklahoma or another state and not rescinded within 60 calendar days, per Sections 7700-301 through 7700-314 of Title 10 of the Oklahoma Statutes (10 O.S. §§ 7700-301 through 7700-314);
  - (B) the child has a presumed father and a party initiates a challenge more than two years after the child's birth, per 10 O.S. §§ 7700-204 and 7700-607; or
  - (C) paternity is established by a district or administrative court order, per 10 O.S. §§ 7700-636.

(b) **Acknowledgment of paternity.** When no other conclusive presumption or court determination of paternity exists for the child, the mother and father are referred to OCSS and may complete and sign Form 03PA209E, Acknowledgment of Paternity.

- (1) OCSS provides Form 03PA209E, for voluntary acknowledgment of paternity, per 10 O.S. § 7700-312 and 63 O.S. §§ 1-311 and 1-311.3.
- (2) Signed and witnessed forms are filed with Oklahoma State Department of Health, Division of Vital Records.

[Source: Added at 22 Ok Reg 854, eff 5-12-05 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 25 Ok Reg 1953, eff 7-1-08 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 30 Ok Reg 389, eff 7-1-13]

## **PART 7. FAMILY AND CHILD INDIVIDUALIZED SERVICE PLANNING COMPONENTS**

**340:75-6-40. Case plan**

The case plan consists of multiple reports that comprise the individualized service plan. The information contained in the reports document the identified safety threats, the family's functioning, and the behaviors or conditions that require change for the child to remain safely in or return to the home or obtain permanency through adoption or guardianship.

[Source: Added at 10 Ok Reg 1293, eff 3-25-93 (emergency); Added at 10 Ok Reg 2309, eff 6-11-93 ; Amended at 11 Ok Reg 647, eff 11-22-93 (emergency); Amended at 11 Ok Reg 1729, eff 5-12-94 ; Amended at 12 Ok Reg 3456, eff 7-1-95 (emergency); Amended at 13 Ok Reg 3669, eff 4-29-96 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 14 Ok Reg 630, eff 12-12-96]

(emergency); Amended at 14 Ok Reg 974, eff 1-24-97 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 211, eff 11-1-97 (emergency); Amended at 15 Ok Reg 909, eff 12-16-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 15 Ok Reg 3886, eff 7-14-98 (emergency); Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 16 Ok Reg 1950, eff 6-11-99 ; Amended at 17 Ok Reg 92, eff 10-1-99 (emergency); Amended at 17 Ok Reg 923, eff 3-1-00 (emergency); Amended at 17 Ok Reg 2249, eff 5-1-00 (emergency); Amended at 17 Ok Reg 2429, eff 6-26-00 ; Amended at 18 Ok Reg 393, eff 12-8-00 (emergency); Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 21 Ok Reg 871, eff 4-26-04 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 30 Ok Reg 389, eff 7-1-13]

### **340:75-6-40.1. Child's individualized service plan**

(a) **Child's individualized service plan (ISP) requirements.** Per Section 1-4-704 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-4-704), each ISP specifically provides for the child's safety per state and federal law, and clearly defines what actions or precautions will or may be necessary to provide for the child's safety and protection. Forms 04KI005E, Child's Individualized Service Plan (ISP); 04KI012E, Individualized Service Plan (ISP); 04KI004E, Placement Provider Information; and 04KI014E, Individualized Service Plan (ISP) Progress Report, are the components of the case plan that comprise the child's ISP. The information contained in at least one of the reports includes:

- (1) the child's history, including identification of the problems or conditions leading to the deprived child adjudication;
- (2) identification of the specific services to be provided to the child including, but not limited to:
  - (A) educational;
  - (B) vocational education;
  - (C) medical; and
  - (D) drug or alcohol use or abuse treatment, or counseling, or other treatment services;
- (3) upon the court's request, the child's most recent available health and educational records including:
  - (A) the names and addresses of the child's health and educational providers;
  - (B) the child's grade-level performance;
  - (C) the child's school records;
  - (D) the child's immunization records;
  - (E) the child's known medical problems, including any known communicable diseases;
  - (F) the child's medications; and
  - (G) any other relevant health and education information;
- (4) a schedule of the frequency of services and the means by which delivery of the services is assured or, as necessary, the proposed means by which support services or other assistance is provided to enable the parent or the child to obtain the services;
- (5) the name of the child welfare (CW) specialist assigned to the case;
- (6) a projected date for the completion of the ISP;
- (7) performance criteria that measures the child's progress toward completion of the ISP including, but not limited to, time requirements for achieving objectives and addressing the identified problems;

(8) the name and business address of the attorney representing the child;

(9) when the child is placed outside of the home:

(A) the sequence and time requirements for services to be provided to the child and when the child is placed in foster care, the services to be provided to the foster parent to facilitate the child's return home or to another permanent placement; and

(B) a description of the child's placement and explanation of whether the placement is the least restrictive, placement available, and in as close proximity as possible to the child's parent or legal guardian's home when the case plan is reunification, and how the placement is consistent with the child's best interests and special needs;

(10) a description of the successful adulthood plan for the child 14 years of age or older specifying how the objectives will be met including:

(A) education, vocational, or employment planning;

(B) health care planning and medical coverage;

(C) transportation including, when appropriate, assisting the child in obtaining a driver license;

(D) money management;

(E) planning for housing;

(F) social and recreational skills; and

(G) establishing and maintaining connections with the child's family and community;

(11) when the child is in placement due solely or in part to the child's behavioral health or medical health issues, diagnostic and assessment information, specific services relating to meeting the child's applicable behavioral health and medical care needs, and desired treatment outcomes;

(12) a plan and schedule for regular and frequent visitation for the child and each child's parent or legal guardian and siblings, unless the court has determined that visitation even when supervised would be harmful to the child; and

(13) a plan for ensuring the child's educational stability while the child is in out-of-home placement, including:

(A) assurances the child's placement considers the appropriateness of the current educational setting and the proximity to the school in which the child was enrolled at the time of placement; and

(B) when appropriate, an assurance that the Oklahoma Department of Human Services (DHS) coordinated with appropriate local educational agencies to ensure the child remains in the school in which the child was enrolled at the time of placement; or

(C) when remaining in the school in which the child was enrolled at the time of placement is not in the child's best interests, assurances by DHS and the local educational agencies to provide immediate and appropriate enrollment

in a new school with all of the child's educational records provided to the school; and

(14) the permanency plan for the child, the reason for selection of the plan, and a description of the steps taken by DHS to finalize the plan. When the permanency plan is adoption or legal guardianship, DHS describes, at a minimum, child-specific recruitment efforts, such as relative searches conducted and the use of state, regional, and national adoption exchanges to facilitate the child's orderly and timely placement, whether in or outside of the state.

**(b) Child's ISP amended when child committed for inpatient behavioral health or substance use or abuse treatment.** Per 10A O.S. § 1-4-704, when the child is committed for inpatient behavioral health or substance use or abuse treatment per the Inpatient Mental Health and Substance Abuse Treatment of Minors Act, the ISP is amended as necessary and appropriate including, but not limited to, identification of the treatment and services to be provided to the child upon the child's discharge from inpatient behavioral health or substance use or abuse treatment.

[Source: Added at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 20 Ok Reg 935, eff 5-12-03 ; Amended at 21 Ok Reg 871, eff 4-26-04 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 30 Ok Reg 389, eff 7-1-13 ; Amended at 33 Ok Reg 477, eff 2-29-16 (emergency); Amended at 34 Ok Reg 1550, eff 9-15-17 ; Amended at 37 Ok Reg 1850, eff 9-15-20]

### **340:75-6-40.2. Placement provider information**

Form 04KI004E, Placement Provider Information, is a component of the case plan and is provided to the child's out-of-home placement provider. The form includes the most recent information available about the child required by Section 1-7-104 of Title 10A of the Oklahoma Statutes, but is not limited to, available information regarding:

- (1) demographic information;
- (2) the child's strengths, needs, and general behavior;
- (3) circumstances necessitating the child's placement;
- (4) type of custody and child's previous placement;
- (5) pertinent family information including, but not limited to:
  - (A) names of family members who are and who are not, by court order, allowed to visit the child; and
  - (B) the child's relationship to family that might affect placement;
- (6) known and important life experiences and relationships that may significantly affect the child's feelings, behavior, attitudes, or adjustment;
- (7) whether third-party insurance coverage may be available to the child;
- (8) education history including present grade placement, last school attended, and special strengths and weaknesses. OKDHS assists the foster parent with the child's school admittance and enrollment and obtaining the child's school records;
- (9) known or available medical history including, but not limited to:

- (A) allergies;
- (B) childhood diseases;
- (C) immunizations;
- (D) physical handicaps;
- (E) psycho-social information; and
- (F) the name of the child's last doctor, if known; and
- (10) sufficient medical information regarding the child to enable the placement provider to care for the child safely and appropriately, including, but not limited to:
  - (A) any medical or psychological conditions;
  - (B) diseases, illnesses, accidents, allergies, or congenital defects;
  - (C) the child's SoonerCare card or information on other third-party insurer, if any; and
  - (D) immunization history.

[Source: Added at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 30 Ok Reg 389, eff 7-1-13]

### **340:75-6-40.3. Permanency Assessments**

(a) The Assessment of Child Safety (AOCS) is a tool where all information gathered during in-depth assessments is documented. The AOCS builds upon the information documented in the initial Child Protective Services AOCS, lists all safety threats, and identifies any underlying causes of behavior related to those safety threats that led to the child's removal.

(1) An in-depth family assessment begins as soon as possible and is completed within the first 60-calendar days using the earliest date: after the child's removal, the filing of the petition, or the signing of the family service agreement.

(2) The assessment process identifies and evaluates the family's strengths, resources, protective capacities, and underlying causes of behavior that create the unsafe conditions and then integrates the information into a behaviorally-based individualized service plan.

(3) The assessment process is ongoing as information is gathered, obtained, and added to the assessment document.

(b) **Ongoing assessment of child safety.** Evaluating child safety is a primary function of all child welfare (CW) specialists during the investigative process and ongoing casework. Safety is assessed by the CW specialist during every contact with the family. The safety evaluation is a continuous process that occurs throughout the life of the case. The ongoing evaluation determines if the behaviors and conditions that led to the child's removal continue to rise to the level of a safety threat and assesses for additional safety threats and for safety as the case progresses and in reunification. This process is documented on Form 04KI030E, Assessment of Child Safety.

(c) **Preliminary inquiry.** A preliminary inquiry is conducted when the child, in an open permanency planning, trial reunification, Interstate Compact on the Placement of Children, or family-centered services case is reported to have a physical injury and the cause of the injury is

unknown, per Oklahoma Administrative Code 340:75-3-130.

[Source: Added at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 28 Ok Reg 894, eff 7-1-11 ; Amended at 30 Ok Reg 389, eff 7-1-13 ; Amended at 33 Ok Reg 1635, eff 9-15-16 ; Amended at 37 Ok Reg 1850, eff 9-15-20]

#### **340:75-6-40.4. Individualized Service Plan (ISP)**

(a) **Written ISP requirement.** Form 04KI012E, Individualized Service Plan (ISP), and Form 04KI013E, Individualized Service Plan (ISP) Dispositional Report, are components of the case plan. Per Section 1-4-704 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-4-704), Oklahoma Human Services (OKDHS):

- (1) prepares and maintains a written ISP for the child who is adjudicated deprived;
- (2) furnishes the plan to the court within 30-calendar days after the adjudication; and
- (3) makes a copy of the ISP available to each party to the case including any applicable tribe or court-appointed special advocate (CASA).

(b) **ISP preparation, content, disputes, and modifications.** Per 10A O.S. § 1-4-704, the ISP is based upon a comprehensive assessment and evaluation of the child and family and is developed with the participation of the child, when appropriate, and the child's parent, legal guardian, legal custodian, attorney, guardian ad litem, and tribe, when applicable. The health and safety of the child is the paramount concern in the ISP development.

- (1) When any part of the ISP is disputed or not approved by the court, an evidentiary hearing may be held and the court determines the content of the ISP in accord with the evidence presented and in the best interests of the child.
- (2) The ISP is signed by:
  - (A) the child's parent or parents or legal guardian;
  - (B) the attorney for the child's parent or parents or legal guardian;
  - (C) the child's attorney;
  - (D) the child's guardian ad litem, when any, that may be a CASA;
  - (E) a representative of the child's tribe, when applicable;
  - (F) the child, when possible; and
  - (G) OKDHS.
- (3) Each ISP is individualized and specific to each child and the child's family.
- (4) The ISP is written in simple and clear English. When English is not the principal language of the child's parent, legal guardian, or custodian, and the person is unable to read or comprehend the English language, the ISP is written, to the extent possible, in the person's principal language.
- (5) The ISP may be modified based on changing circumstances consistent with the correction of the conditions that led to the child's adjudication or other conditions inconsistent with the



child's health, safety, or welfare.

(6) The ISP is measurable, realistic, and consistent with other court-ordered requirements.

(c) **ISP content for the parent or legal guardian.** Per 10A O.S. § 1-4-704, the ISP for the parent or legal guardian includes, but is not limited to:

(1) a history of the child and family, including identification of the problems or conditions leading to the deprived child adjudication and changes each parent must make for the child to safely remain in, or return to the home;

(2) the permanency plan for the child, the reason for selection of that plan, and a description of the OKDHS steps to finalize the permanency plan;

(3) identification of time-limited reunification services provided to the parent, legal guardian, legal custodian, stepparent, other adult person living in the home, or other family members;

(4) a schedule of the frequency of services and the means by which delivery of the services is assured or, as necessary, the proposed means by which support services or other assistance is provided to enable the parent or child to obtain the services;

(5) the name of the child welfare specialist assigned to the case;

(6) a projected date for the ISP completion;

(7) performance criteria that measures the child and family progress toward completion of the ISP including, but not limited to, time requirements for achieving objectives and addressing the identified problems;

(8) the sequence and time requirements for services provided to the parent to facilitate the child's return home;

(9) a description of services or resources requested by the child's parent or legal guardian since the date of the child's placement, and if those services or resources were provided and when not, the basis for the denial of the services or resources;

(10) efforts to be made by the child's parent and OKDHS to enable the child to return to his or her home;

(11) a plan and schedule for regular and frequent visitation for the child and the child's parent or legal guardian and siblings, unless the court determined visitation, even when supervised, would be harmful to the child;

(12) provisions for the child's safety, per state and federal law, and clearly defined actions or precautions necessary to provide for the safety and protection of the child;

(13) the statement: TO THE PARENT: THIS IS A VERY IMPORTANT DOCUMENT. ITS PURPOSE IS TO HELP YOU PROVIDE YOUR CHILD WITH A SAFE HOME WITHIN THE REASONABLE PERIOD SPECIFIED IN THE PLAN. IF YOU ARE UNWILLING OR UNABLE TO PROVIDE YOUR CHILD WITH A SAFE HOME OR ATTEND COURT HEARINGS, YOUR PARENTAL AND CUSTODIAL DUTIES AND RIGHTS MAY BE RESTRICTED OR TERMINATED OR YOUR CHILD MAY NOT BE RETURNED TO YOU; and

(14) whenever a child in OKDHS custody or under OKDHS protective supervision is committed for inpatient behavioral health or substance use or abuse treatment pursuant to the Inpatient Mental Health and Substance Abuse Treatment of Minors Act, the ISP is amended as necessary and appropriate including, but not limited to, identification of the treatment and services to be provided to the child and child's family upon the child's discharge from inpatient behavioral health or substance use or abuse treatment.

(d) **Voluntary ISP participation.** Prior to adjudication, the parent or legal guardian may voluntarily participate in services related to the behaviors and conditions that led to the filing of a deprived petition. Participation in such services is not an admission of guilt and participation itself is not be used as evidence for the purposes of adjudication or disposition.

(e) **ISP for adoption or legal guardianship** permanency plan. Per federal and state statutes, when the permanency plan is adoption or legal guardianship, OKDHS describes, at a minimum, child-specific recruitment efforts, such as relative searches conducted and the use of state, regional, and national adoption exchanges to facilitate the orderly and timely placement of the child, whether in or outside of the state.

(f) **ISP for successful adulthood youth.** Federal law requires the initiation of a successful adulthood plan for the youth in OKDHS custody and out-of-home placement upon reaching 14 years of age, Oklahoma Administrative Code 340:75-6-110. This plan includes a description of how the following objectives will be met:

- (1) education, vocational, or employment planning;
- (2) health care planning and medical coverage;
- (3) transportation including, where appropriate, assisting the child in obtaining a driver license;
- (4) money management;
- (5) planning for housing;
- (6) social and recreational skills; and
- (7) establishing and maintaining connections with the child's family and community.

[Source: Added at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 21 Ok Reg 871, eff 4-26-04 ; Amended at 22 Ok Reg 854, eff 5-12-05 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 28 Ok Reg 894, eff 7-1-11 ; Amended at 30 Ok Reg 389, eff 7-1-13 ; Amended at 33 Ok Reg 477, eff 2-29-16 (emergency); Amended at 34 Ok Reg 1550, eff 9-15-17 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:75-6-40.5. Court reports**

(a) **Review by the court.** Per Section 1-4-807 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-4-807) each case regarding a child alleged or adjudicated deprived is reviewed by the court:

- (1) at a hearing no later than six months from the date of the child's removal from the home and at least once every six months thereafter until permanency is achieved or the court otherwise terminates jurisdiction;

(2) when Oklahoma Human Services (OKDHS) documents a compelling reason why a petition to terminate parental rights to a child is not in the best interests of the child, based upon consideration that the child is presently not capable of functioning in a family setting. The court reevaluates the status of the child every 90-calendar days until there is a final determination the child cannot be placed in a family setting;

(3) per 10A O.S. § 1-4-811, to determine the child's appropriate permanency goal and to order completion of all steps necessary to finalize the permanent plan. A permanency hearing may be held concurrently with a dispositional or review hearing. The permanency hearing is held no later than six months after placing the child in out-of-home placement and every six months thereafter. A child is considered to have entered out-of-home placement on the earlier of the:

(A) adjudication date; or

(B) date that is 60-calendar days after the date the child is removed from the home; and

(4) 30-calendar days after the court determines that reasonable efforts to return a child to either parent are not required.

**(b) Purpose of review or permanency hearing reports.** Court reports are a component of the case plan. Progress review reports provided to the court, are based in part on information OKDHS obtains from talking with the family and other key case participants, observing the family, and reviewing progress reports from service providers. The information gathered is reported to the court:

(1) for evaluation of the efficacy of the individualized service plan; and

(2) as a means for recommending changes needed as family service and intervention needs change as families make progress or face setbacks.

**(c) Review hearing report requirements.** OKDHS prepares a written report concerning each child who is the subject of the review per 10A O.S. § 1-4-808 for each review hearing. The report includes, but is not limited to:

(1) a summary of the child's physical, mental, and emotional condition, the conditions existing in the out-of-home placement where the child was placed, and the child's adjustment thereto;

(2) a report on the child's progress in school and, if the child has been placed outside the child's home, the visitation exercised by the child's parent or other persons authorized by the court;

(3) services provided to the child 16 years of age or older to assist in the transition from out-of-home care or other community placement to independent living;

(4) a description of:

(A) each parent's progress toward correcting the conditions that caused the child to be adjudicated deprived;

(B) changes that still need to occur and the specific actions required to make the changes; and

- (C) services and assistance that were offered to or provided to each parent since the previous hearing and the services that are needed in the future; and
- (5) a description of the child's placements by number and type with dates of entry and exit, reasons for the placement or change in placement, and a statement about the success or lack of success of each placement;
- (6) OKDHS efforts to locate the parent and involve the parent in the planning for the child when the parent is not currently communicating with OKDHS;
- (7) compliance by each parent and OKDHS, as applicable, with the court's orders concerning the individualized service plans, previous court orders, and OKDHS recommendations;
- (8) whether the current placement is appropriate for the child, its distance from the child's home, and whether it is the least restrictive, most family-like placement available;
- (9) a proposed timetable for the child's return to the home or other permanent placement;
- (10) specific recommendations providing reasons whether:
  - (A) trial reunification should be approved by the court;
  - (B) trial reunification should be continued to a date certain as specified by the court;
  - (C) the child should remain in or be placed outside of the child's parent or legal guardian's home; or
  - (D) the child should remain in the current placement when the permanency plan is other than reunification with the child's parent or legal guardian; and
- (11) a plan for ensuring the child's educational stability while the child is in out-of-home placement, including:
  - (A) assurances the child's placement considers the appropriateness of the current educational setting and the proximity to the school in which the child was enrolled at the time of placement; and
  - (B) where appropriate, an assurance that OKDHS has coordinated with appropriate local educational agencies to ensure the child remains in the school in which the child was enrolled at the time of placement; or
  - (C) if remaining in the school in which the child was enrolled at the time of placement is not in the best interests of the child, assurances by OKDHS and the local educational agencies to provide immediate and appropriate enrollment in a new school with all of the child's educational records provided to the school; and
- (12) per 10A O.S. § 1-4-807, all service provider progress and critical incident reports are submitted to the court and delivered to the district attorney, the attorney or attorneys representing the parents, the child's attorney, and when applicable the guardian ad litem and relevant tribe or tribes; and
- (13) for any child placed in a Qualified Residential Treatment Program (QRTP), per 10A O.S. § 1-4-703, OKDHS submits to the court as part of its written report an assessment completed by a

qualified individual to support the determination that placement in a QRTP is in the best interests of the child.

(d) **Social records.** Social records are defined by 10A O.S. § 1-6-101 to mean, *"family social histories, medical reports, psychological and psychiatric evaluations or assessments, educational records, or home studies, even if attached to court reports prepared by the Department. 'Social record' shall not include service provider progress reports or critical incident reports as required pursuant to 10A O.S. § 1-4-807."*

(1) Social records are submitted to the court, but are not filed in the court file unless ordered by the court.

(2) When filed in the court file, the social records are placed in confidential envelopes in the court file by the court clerk and may only be accessed by the person who is the subject of the records, or the attorney for such person, except as provided by 10A O.S. § 1-6-103.

[Source: Added at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 20 Ok Reg 90, eff 10-16-02 (emergency); Amended at 20 Ok Reg 2066, eff 6-26-03 ; Amended at 21 Ok Reg 871, eff 4-26-04 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Amended at 30 Ok Reg 389, eff 7-1-13 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

#### **340:75-6-40.6. Case contacts**

Oklahoma Department of Human Services maintains a chronological history of contacts with clients and collaterals that is a permanent part of the case record and a component of the case plan.

[Source: Added at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 20 Ok Reg 935, eff 5-12-03 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 30 Ok Reg 389, eff 7-1-13]

#### **340:75-6-40.7. Family visitation screen [REVOKED]**

[Source: Added at 18 Ok Reg 3067, eff 7-12-01 ; Revoked at 27 Ok Reg 1092, eff 3-26-10 (emergency); Revoked at 27 Ok Reg 1865, eff 7-1-10]

#### **340:75-6-40.8. Reinstatement of parental rights**

(a) Per Section 1-4-909 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-4-909), a child 14 years of age or older may, by an application signed by the child and the child's attorney, request the court reinstate the child's parent's previously terminated parental rights when the:

- (1) child was previously found to be a deprived child;
- (2) parent's rights were terminated in a deprived proceeding under Title 10 or 10A of the Oklahoma Statutes; and
- (3) at least three years have passed since the final termination of parental rights (TPR) order; and
  - (A) the child has not achieved his or her permanency plan;
  - (B) a permanency plan of adoption failed; or
  - (C) a permanency plan of guardianship failed.

(b) When after a preliminary hearing to consider the parent's apparent fitness and interest in reinstatement of parental rights, the court finds by a preponderance of the evidence that the best interests of the child may

be served by reinstatement of parental rights, the court orders a hearing on the application's merits. The court provides notice of the hearing to the child, the child's attorney, and Oklahoma Human Services (OKDHS) and orders OKDHS or the child's attorney to give notice to the:

- (1) former parent of the child whose parental rights are the subject of the application;
- (2) current foster parent or the child's relative guardian;
- (3) child's guardian ad litem, if any; and
- (4) child's tribe, when applicable.

(c) In determining whether the child has or has not achieved his or her permanency plan, OKDHS provides information related to any efforts to achieve the permanency plan, including efforts to achieve adoption or a permanent guardianship, to the court for review.

(d) When the court conditionally grants the application for reinstatement of parental rights, the case remains open for six months and a temporary order of reinstatement of parental rights is entered. During this period, the child is placed in the parent's custody. OKDHS develops a permanency plan for the child reflecting the plan for reunification and provides transition services to the family as appropriate.

(e) After the child is placed with the parent for six months, a hearing is held. When the placement with the parent is successful, the court issues a final order of reinstatement of parental rights, which restores all rights, powers, privileges, immunities, duties, and obligations of the parent to the child, including those relating to custody, control, and support of the child. The deprived action is closed and the court clerk's office provides a certified copy of the final order of reinstatement of parental rights to the parent at no cost.

(f) A proceeding to reinstate parental rights is a separate action from the TPR proceeding and does not vacate the original TPR. An order granted through this proceeding reinstates the parental rights to the child and acknowledges the conditions of the parent and child changed since the TPR and reunification is now appropriate.

(g) Per 10A O.S. § 1-4-909, a child's application for reinstatement of parental rights applies to:

- (1) any child who is under the district court's jurisdiction as a deprived child at the time of the hearing to reinstate parental rights regardless of the date when the parental rights were terminated;
- (2) the sibling group of a child when, at the discretion of the court, parental rights to one child of the sibling group were reinstated; and
- (3) the child of a failed adoption or guardianship permanency plan when parental rights of the child's parents were terminated for three or more years at the time of the child's application to reinstate parental rights.

[Source: Added at 30 Ok Reg 839, eff 7-1-13 ; Amended at 38 Ok Reg 2294, eff 9-15-21 ; Amended at 39 Ok Reg 1803, eff 9-15-22]

### **340:75-6-40.9. Termination of parental rights (TPR)**

(a) **Effect of TPR.** Per Section 1-4-906 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-4-906), TPR terminates the parent-child relationship including the parent's right to:

- (1) custody of the child;
- (2) visit the child;
- (3) control the child's training and education;
- (4) apply for guardianship of the child;
- (5) consent to the child's adoption;
- (6) the child's earnings; and
- (7) inherit from or through the child; although, termination of parental rights does not affect the child's right to inherit from the parent.

(b) **Legal grounds for termination of parental rights.**

(1) Per 10A O.S. § 1-4-904, a court may not terminate a parent's parental rights unless the child is adjudicated deprived prior to, or concurrent with, TPR proceedings, and the court makes the finding that TPR is in the child's best interests.

(2) Per 10A O.S. § 1-4-901, a TPR petition or motion may be filed by the district attorney (DA) or by the attorney for the child alleged to be or adjudicated deprived.

(3) Per 10A O.S. § 1-4-904, the court may terminate parental rights on the grounds listed in (A) through (Q) of this paragraph.

(A) **Consent.** The parent may consent to termination of his or her parental rights by signing a voluntary consent form to relinquish parental rights.

(i) The written, voluntary consent signed under oath, recorded before a judge of a court of competent jurisdiction, is not revocable unless the parent can provide clear and convincing evidence that the consent was executed by reason of fraud or duress.

(ii) In any proceeding for a voluntary TPR to an Indian child, the parent's consent may be withdrawn for any reason at any time prior to the entry of a final decree of termination. Any consent given prior to or within 10-calendar days after the birth of the Indian child is not valid.

(B) **Abandonment.** The court may find that the parent who is entitled to custody of the child has abandoned the child.

(C) **Abandonment of an Infant.** The court may find that the child, 12 months of age and younger, was abandoned.

(D) **Non-compliance with voluntary placement**

**agreement.** The court may find that the child's parent:

- (i) voluntarily placed physical custody of the child with Oklahoma Human Services (OKDHS) or a child-placing agency for out-of-home placement;
- (ii) has not complied with the placement agreement; and
- (iii) during the child's period of voluntary out-of-home placement, has not demonstrated a firm

intent to resume physical custody of the child or make other permanent legal arrangements for the child's care.

(E) **Failure to correct condition(s).** The court may find that the parent failed to correct the condition(s) that led to the child's adjudication as a deprived child although the parent was given at least three months to correct the condition(s).

(F) **Same conditions - another child.** The court may find that another child of a parent whose parental rights to any other child were terminated and the conditions that led to the prior TPR were not corrected.

(G) **Failure to support.** The court may find that the non-custodial parent has willfully failed, refused, or neglected to contribute to the child's support for at least six out of the last 12 months immediately preceding the filing of the termination petition or motion:

- (i) as specified by a court order for child support, or
- (ii) according to the parent's financial ability to support the child, when an order for child support does not exist. Incidental or token support is not construed or considered when determining if the parent maintained or contributed to the child's support.

(H) **Certain criminal convictions.** The court may find a parent has a conviction in a criminal action, in any state, of any of the following acts:

- (i) permitting a child to participate in pornography;
  - (ii) rape or rape by instrumentation;
  - (iii) lewd molestation of a child younger than 16 years of age;
  - (iv) child abuse or neglect;
  - (v) enabling child abuse or neglect;
  - (vi) causing the death of a child as a result of the physical or sexual abuse , chronic abuse, or chronic neglect of the child;
  - (vii) causing the death of the child's sibling as a result of the physical or sexual abuse , chronic abuse, or chronic neglect of the child's sibling;
  - (viii) murder of any child or aiding or abetting, attempting, conspiring, or soliciting to commit murder of any child;
  - (ix) voluntary manslaughter of any child;
  - (x) a felony assault that resulted in serious bodily injury to the child or another child of the parents;
- or
- (xi) murder or involuntary manslaughter of the child's parent or aiding or abetting, attempting, conspiring, or soliciting to commit murder of the child's parent.



(I) **Heinous or shocking abuse or neglect.** The court may find that a parent has abused or neglected any child or failed to protect any child from abuse or neglect that is heinous or shocking.

(J) **Prior abuse or neglect.** The court may find that a parent previously abused or neglected the child or the child's sibling, or failed to protect the child or sibling from abuse or neglect and the child or sibling was subjected to subsequent abuse.

(K) **Rape by the parent.** The court may find the child was conceived as a result of a rape perpetrated by the parent whose rights to the child are sought to be terminated.

(L) **Incarceration.** While a parent's incarceration in and of itself is not sufficient to deprive a parent of parental rights, the court may find continued parental rights of an incarcerated parent whose rights are sought to be terminated would result in harm to the child based on the consideration of factors including, but not limited to, the:

- (i) duration of incarceration and its detrimental effect on the parent-child relationship;
- (ii) previous convictions resulting in involuntary confinement in a secure facility;
- (iii) history of criminal behavior, including crimes against children;
- (iv) the child's age;
- (v) evidence of abuse or neglect or failure to protect the child or the child's siblings by the parent;
- (vi) current relationship between the parent and child; and
- (vii) manner in which the parent exercised parental rights and duties in the past.

(M) **Behavioral health illness or incapacity.** The court must find the factors in (i) and (ii) of this subparagraph exist.

- (i) The parent has a diagnosed cognitive disorder, an extreme physical incapacity, or a medical condition, including behavioral health or substance dependency, that renders the parent incapable of adequately and appropriately exercising parental rights, duties, and responsibilities within a reasonable time, considering the child's age. A finding that a parent has a diagnosed cognitive disorder, an extreme physical incapacity, or a medical condition, including behavioral health or substance dependency, does not in and of itself deprive the parent of parental rights.
- (ii) Allowing the parent to have custody would cause the child actual harm or harm in the near future. A parent's refusal or non-compliance with treatment, therapy, medication, or assistance for

the condition can be used as evidence.

(N) **Prior adjudication of same conditions.** The court may find the:

- (i) condition that led to the deprived adjudication was the subject of a previous deprived adjudication of this child or this child's sibling; and
- (ii) parent was given an opportunity to correct the conditions that led to the determination of the initial deprived child.

(O) **Substantial erosion of parent-child relationship.**

The court may find a substantial erosion of the relationship between the parent and child exists caused at least in part by:

- (i) the parent's serious or aggravated neglect of the child, physical or sexual abuse, or sexual exploitation of the child;
- (ii) a prolonged and unreasonable absence of the parent from the child; or
- (iii) the parent's unreasonable failure to visit or communicate in a meaningful way with the child.

(P) **Lengthy foster care of child years of age and older.**

(i) The court may find:

(I) a child years of age and older at the time of placement was placed in foster care by OKDHS for 15 of the most recent 22 months preceding the filing of the TPR petition or motion; and

(II) at the time of the filing of the TPR petition or motion, the child cannot be safely returned to the home of the parent.

(ii) A child is considered to have entered foster care on the earlier of the:

(I) adjudication date; or

(II) date 60-calendar days after the date the child was removed from his or her home.

(Q) **Lengthy foster care of a child younger than 4 years of age.**

(i) The court may find a child younger than 4 years of age at the time of placement:

(I) was placed in foster care by OKDHS for at least six of the 12 months preceding the filing of the TPR petition or motion; and

(II) the child cannot be safely returned to the home of the parent.

(ii) A child is considered to have entered foster care on the earlier of the:

(I) adjudication date; or

(II) date 60-calendar days after the date the child was removed from his or her home.

(iii) The court may consider:

(I) circumstances of the parent's failure to develop and maintain a parental bond with the child in a meaningful, supportive manner; and

(II) if allowing the parent to have custody would likely cause the child actual serious psychological harm or harm in the near future as a result of the child's removal from the substitute caregiver due to the existence of a strong, positive bond between the child and caregiver.

(c) **Mandatory petition or motion for TPR.** Per 10A O.S. § 1-4-902, the DA is required to file a petition or motion to terminate the parent-child relationship and parental rights with respect to a child joins in the petition or motion, when filed by the child's attorney in any of the circumstances detailed in (1) through (4) of this subsection.

(1) **The child is in out-of-home care for 15 out of the most recent 22 months.** Prior to the end of the fifteenth month, the child was placed in foster care by OKDHS for 15 of the most recent 22 months. The child is considered to have entered foster care on the earlier date:

(A) of adjudication as a deprived child; or

(B) 60-calendar days after the date the child was removed from his or her home.

(2) **The child is determined to be an abandoned infant.** A petition or motion to TPR is filed no later than 60-calendar days after the child is judicially determined to be an abandoned infant.

(3) **Reasonable efforts to reunite are not required due to certain felony convictions of the parent.** A TPR petition or motion is filed no later than 60-calendar days after the court determines that reasonable efforts to reunite are not required due to a parent's felony conviction of any of the following acts:

(A) permitting a child to participate in pornography;

(B) rape, or rape by instrumentation;

(C) lewd molestation of a child younger than 16 years of age;

(D) child abuse or neglect;

(E) enabling child abuse or neglect;

(F) causing a child's death as a result of the physical or sexual abuse , chronic abuse, or chronic neglect of the child;

(G) causing the death of the child's sibling as a result of the physical or sexual abuse , chronic abuse, or chronic neglect of the child's sibling;

(H) murder of any child or aiding or abetting, attempting, conspiring in, or soliciting to commit murder of any child;

(I) voluntary manslaughter of any child;

(J) a felony assault that resulted in serious bodily injury to the child or another child of the parent; or

(K) murder or voluntary manslaughter of the child's parent, or aiding or abetting, attempting, conspiring in, or

soliciting to commit murder of the child's parent; or  
(4) **The parent made no measurable progress in correcting conditions.** No later than 90-calendar days after the court ordered the individualized service plan, the court may file a TPR petition when the parent has made no measurable progress in correcting the conditions that caused the child to be adjudicated deprived.

(d) **DA not mandated to file petition or motion to TPR under certain conditions.** Per 10A O.S. § 1-4-902, when any of the conditions in (1) through (3) of this subsection exist, the DA is not mandated to file a TPR petition or motion.

(1) At the option of OKDHS or by order of the court, the child is properly cared for by a relative.

(2) OKDHS documents a compelling reason for determining that filing a TPR petition would not serve the child's best interests and may include consideration that the:

(A) parents or legal guardians have maintained a relationship with the child and the child would benefit from continuing the relationship;

(B) child, who is 12 years of age and older, objects to the termination of the parent-child, legal relationship;

(C) child's foster parents are unable to adopt the child because of exceptional circumstances that do not include an unwillingness to accept legal responsibility for the child; but are willing and capable of providing the child with a stable and permanent environment, and the removal of the child from the physical custody of the foster parents would be seriously detrimental to the emotional well-being of the child because the child has substantial psychological ties to the foster parents;

(D) child is not capable of achieving stability when placed in a family setting; or

(E) child is an unaccompanied, refugee minor and the situation regarding the child involves international legal issues or compelling foreign policy issues.

(3) Reasonable efforts to reunite the child with his or her family are required and OKDHS has not provided services the state deems necessary for the child's safe return to his or her home, which are consistent with the time period in the state case plan.

(e) **Parental rights not terminated at trial.** When parental rights are not terminated at trial, the court schedules a permanency hearing within 30-calendar days, per 10A O.S. § 1-4-908. TPR failure at trial does not:

(1) deprive the court of its continuing jurisdiction over the child; or

(2) require the child's reunification with the parent when the child is adjudicated deprived.

(f) **Adoption consent authority with TPR.** When the court terminates parental rights and the child's custody is placed with OKDHS, the court must vest OKDHS with the authority to place the child, and consent to the child's adoption, per 10A O.S. § 1-4-907.

**(g) Duty to provide access to identifying information to the Oklahoma State Department of Health (OSDH).** OKDHS provides OSDH with access to the identifying information of all individuals who had their parental rights terminated and the conditions that led to the TPR finding, per 63 O.S. § 1-227.10.

[Source: Added at 30 Ok Reg 1358, eff 7-1-13 ; Amended at 32 Ok Reg 296, eff 11-17-14 (emergency); Amended at 32 Ok Reg 1904, eff 9-15-15 ; Amended at 33 Ok Reg 477, eff 2-29-16 (emergency); Amended at 34 Ok Reg 1550, eff 9-15-17 ; Amended at 37 Ok Reg 1850, eff 9-15-20 ; Amended at 39 Ok Reg 468, eff 12-21-21 (emergency); Amended at 39 Ok Reg 1803, eff 9-15-22]

### **340:75-6-41. Family Strengths and Needs Assessment, CWS-KIDS-9 [REVOKED]**

[Source: Added at 10 Ok Reg 1293, eff 3-25-93 (emergency); Added at 10 Ok Reg 2309, eff 6-11-93 ; Amended at 11 Ok Reg 647, eff 11-22-93 (emergency); Amended at 11 Ok Reg 1729, eff 5-12-94 ; Amended at 12 Ok Reg 3456, eff 7-1-95 (emergency); Revoked at 13 Ok Reg 3669, eff 4-29-96 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-6-42. Treatment Plan Report, CWS-KIDS-10 [REVOKED]**

[Source: Added at 10 Ok Reg 1293, eff 3-25-93 (emergency); Added at 10 Ok Reg 2309, eff 6-11-93 ; Amended at 11 Ok Reg 647, eff 11-22-93 (emergency); Amended at 11 Ok Reg 1729, eff 5-12-94 ; Amended at 12 Ok Reg 3456, eff 7-1-95 (emergency); Revoked at 13 Ok Reg 3669, eff 4-29-96 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-6-43. Court reports (CWS-KIDS-11) [REVOKED]**

[Source: Added at 10 Ok Reg 1293, eff 3-25-93 (emergency); Added at 10 Ok Reg 2309, eff 6-11-93 ; Amended at 11 Ok Reg 647, eff 11-22-93 (emergency); Amended at 11 Ok Reg 1729, eff 5-12-94 ; Amended at 12 Ok Reg 3456, eff 7-1-95 (emergency); Revoked at 13 Ok Reg 3669, eff 4-29-96 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-6-44. Case planning for reasonable efforts not required or heinous and shocking judicial findings**

#### **(a) Reasonable efforts not required or heinous and shocking judicial findings.**

(1) Per Section 1-4-809 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-4-809), at any time prior to or following the adjudicatory hearing the court, on its own motion or upon the motion of a party, may find that reasonable efforts to prevent the removal of the child from home or to reunify the child and family are not required if the court determines, based upon a preponderance of the evidence, that the parent or legal guardian subjected any child to aggravated circumstances including, but not limited to the:

(A) parent or legal guardian, of the child, who is an infant age 12 months or younger, has abandoned the child;

(B) child's parent or legal guardian has:

- (i) committed murder or manslaughter of any child;
- (ii) aided or abetted, attempted, conspired, or solicited to commit voluntary manslaughter of any child;

(iii) committed a felony assault upon any child that resulted in the child receiving serious bodily injury; or

(iv) subjected any child to aggravated circumstances including, but not limited to, heinous and shocking abuse, or heinous and shocking neglect; or

(C) parental rights of a parent to the child's sibling were involuntarily terminated.

(D) parent was convicted of a sex crime against the child or another child of the parent; or

(E) parent is required to register with a sex offender registry pursuant to Section 113(a) of the Adam Walsh Child Protection and Safety Act of 2006, 42 U.S.C. Section 16913(A).

(2) A permanency hearing is conducted within 30 calendar days of a determination by the court that any of the conditions in (A) through (E) exists.

(3) Reasonable efforts are made to place the child in a timely manner in accordance with the permanency plan.

(4) Per 10A O.S. § 1-4-904, a court may terminate parental rights if a finding is made that the parent has abused or neglected the child or a sibling of the child or failed to protect the child or a sibling of the child from abuse or neglect that is heinous and shocking.

**(b) Permanency planning for the case with heinous and shocking or reasonable efforts not required findings.** When the district attorney files a petition or motion to terminate parental rights based on heinous and shocking abuse or neglect or the court makes a finding that reasonable efforts are not required to reunify the child and family, efforts immediately begin to secure an alternative permanent home for the child.

[Source: Added at 13 Ok Reg 3669, eff 4-29-96 (emergency); Added at 14 Ok Reg 974, eff 1-24-97 (emergency); Added at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 211, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 17 Ok Reg 92, eff 10-1-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 22 Ok Reg 854, eff 5-12-05 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 30 Ok Reg 839, eff 7-1-13]

### **340:75-6-45. Case planning for incarcerated parents**

**(a) Service planning for the incarcerated parent.** When the child's parent is incarcerated, services and visitation, when appropriate, are attempted through the correctional system.

**(b) Termination of parental rights due to the parent's incarceration.** Section 1-4-904 of Title 10A of the Oklahoma Statutes provides that the parental rights of an incarcerated parent can be terminated due to the incarceration and if the continuation of parental rights would result in harm to the child based on consideration of certain factors outlined in statute.

[Source: Added at 13 Ok Reg 3669, eff 4-29-96 (emergency); Added at 14 Ok Reg 630, eff 12-12-96 (emergency); Added at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 211, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 18 Ok Reg 393, eff 12-8-00]

(emergency); Amended at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 30 Ok Reg 839, eff 7-1-13]

### **340:75-6-46. Services to youth in Oklahoma Department of Human Services (OKDHS) custody involved in the juvenile justice system**

The child or youth in Oklahoma Department of Human Services (OKDHS) custody or under OKDHS supervision as a deprived child who is involved in the juvenile justice system due to delinquency or In Need of Supervision (INS) acts receives services from OKDHS Child Welfare Services and the juvenile justice system provider.

[Source: Added at 13 Ok Reg 3669, eff 4-29-96 (emergency); Added at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 211, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 15 Ok Reg 3886, eff 7-14-98 (emergency); Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 17 Ok Reg 3530, eff 10-1-00 (emergency); Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Amended at 30 Ok Reg 839, eff 7-1-13]

## **PART 8. CHILD WELFARE SPECIALIST ROLE**

### **340:75-6-47. Role of the Child Welfare worker [REVOKED]**

[Source: Added at 11 Ok Reg 647, eff 11-22-93 (emergency); Added at 11 Ok Reg 1729, eff 5-12-94 ; Amended at 13 Ok Reg 3669, eff 4-29-96 (emergency); Amended at 14 Ok Reg 630, eff 12-12-96 (emergency); Amended at 14 Ok Reg 974, eff 1-24-97 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 211, eff 11-1-97 (emergency); Amended at 15 Ok Reg 909, eff 12-16-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 17 Ok Reg 92, eff 10-1-99 (emergency); Amended at 17 Ok Reg 923, eff 3-1-00 (emergency); Amended at 17 Ok Reg 2248, eff 6-1-00 (emergency); Amended at 17 Ok Reg 2429, eff 6-26-00 ; Amended at 18 Ok Reg 393, eff 12-8-00 (emergency); Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Revoked at 28 Ok Reg 894, eff 7-1-11]

### **340:75-6-48. Oklahoma Department of Human Services (DHS) contacts with child, placement providers, parents, and service providers**

(a) **Child visitation required by the Oklahoma Children's Code.** Per Sections 1-4-707, 1-7-103, and 1-7-113 of Title 10A of the Oklahoma Statutes, DHS:

- (1) visits each child in DHS custody a minimum of one time per calendar month, with no less than two visits per quarter in the home or out-of-home placement; and
- (2) interviews or, when an infant, observes each child alone without the placement provider or parent present at least one time per month in an environment where the child would be able to talk freely about safety, permanency, and well-being. The parent or placement provider identifies a place in the home where this interview with the child can occur privately. Interviews always include discussing or, when an infant, observing the child's safety, permanency, and well-being.

(b) **Child visitation requirement following initial placement and subsequent placement changes.** The assigned child welfare specialist visits each child in DHS custody in the child's placement on the day the placement is made, and a minimum of two times per month during the

child's first and second month in each placement, and one time per calendar month thereafter.

[Source: Added at 11 Ok Reg 647, eff 11-22-93 (emergency); Added at 11 Ok Reg 1729, eff 5-12-94 ; Amended at 13 Ok Reg 3669, eff 4-29-96 (emergency); Amended at 14 Ok Reg 630, eff 12-12-96 (emergency); Amended at 14 Ok Reg 974, eff 1-24-97 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 211, eff 11-1-97 (emergency); Amended at 15 Ok Reg 909, eff 12-16-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 15 Ok Reg 3886, eff 7-14-98 (emergency); Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 17 Ok Reg 92, eff 10-1-99 (emergency); Amended at 17 Ok Reg 2249, eff 6-1-00 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 18 Ok Reg 393, eff 12-8-00 (emergency); Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 20 Ok Reg 2643, eff 7-1-03 (emergency); Amended at 21 Ok Reg 880, eff 4-26-04 ; Amended at 22 Ok Reg 854, eff 5-12-05 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 25 Ok Reg 269, eff 11-1-07 (emergency); Amended at 25 Ok Reg 970, eff 5-15-08 ; Amended at 26 Ok Reg 884, eff 5-15-09 ; Amended at 26 Ok Reg 1785, eff 6-1-09 (emergency); Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 28 Ok Reg 894, eff 7-1-11 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 33 Ok Reg 1635, eff 9-15-16]

### **340:75-6-48.1. Appointment and role of the child's attorney, guardian ad litem, and court-appointed special advocate**

(a) **Appointment of child's attorney.** Per Section 1-4-306 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-4-306), the court may appoint an attorney to represent the child when an emergency custody hearing is held but must appoint an attorney to represent the child when a petition is filed alleging the child to be deprived.

(1) The child's attorney is independent of and not selected by the district attorney, the child's parent, legal guardian, or custodian. The parent, legal guardian, or custodian may not select the child's attorney.

(2) If financially capable, the parent, legal guardian, or custodian reimburses the court fund for the services of the child's court-appointed attorney.

(b) **Role and responsibilities of the child's attorney.** Per 10A O.S. § 1-4-306, the child's attorney:

(1) represents the child and any of the child's expressed interests;

(2) arranges to meet with the child as soon as possible after receiving notification of the appointment.

(3) except for good cause, meets with the child prior to any court proceedings;

(4) speaks with the child by telephone if a personal visit is not possible due to exigent circumstances; and

(5) contacts the custodian or caretaker of the child prior to the hearing when a meaningful attorney-client relationship between the child and attorney is not possible due to the child's age or disability,

(c) **Child attorney's access to Oklahoma Department of Human Services (OKDHS) records.** The child's attorney is entitled to access juvenile court and OKDHS records without a court order per 10A O.S. 1-6-103.

(d) **Child's attorney may object to court's ruling to release child from state custody.** Per 10A O.S. § 1-4-801, at any hearing, including hearings where a child is to be released from state custody, the child's attorney or district attorney may give verbal notice of an objection to the



court order and intention to seek review of that order based on the grounds that the order of the court releasing the child from state custody creates a serious risk of danger to the health or safety of the child. Upon receiving notice, the court issuing the custody order in question, stays the custody order pending the filing of an application and completion of review. Refer to OAC 340:75-1-16 and OAC 340:75-1-16 Instructions to Staff for additional information and guidance.

(e) **Appointment and role of the guardian ad litem or court-appointed special advocate.** For the purposes of the Oklahoma Children's Code the court-appointed special advocate and the guardian ad litem have the same function, power, duties, and responsibilities except as otherwise provided by law. After a deprived petition is filed, the court appoints a guardian ad litem upon the request of the child, child's attorney, OKDHS, another party to the action, or upon the court's own motion.

(1) The guardian ad litem is not a district attorney, an employee of the office of the district attorney, the child's attorney, an employee of the court, an employee of a juvenile bureau, or an employee of any public agency having duties or responsibilities towards the child.

(2) The guardian ad litem objectively advocates on behalf of the child and acts as an officer of the court to investigate all matters concerning the best interests of the child. In addition to other duties required or specified by the court the guardian ad litem:

(A) reviews documents, reports, records and other information relevant to the case, meets with and observes the child in appropriate settings, and interviews parents, foster parents, health care providers, child protective services workers and any other person with knowledge relevant to the case;

(B) advocates for the best interests of the child by participating in the case, attending any hearings in the matter, and advocating for appropriate services for the child when necessary;

(C) monitors the best interests of the child throughout any judicial proceeding, and

(D) presents written reports regarding the best interests of the child that include conclusions and recommendations and the facts upon which the conclusions and recommendations are based.

(3) The guardian ad litem is given access to the court and OKDHS records, each document, report, record, and other information relevant to the case and to any records and reports of examination of the child's parent or other custodian, made pursuant to the laws relating to child abuse and neglect including reports generated by service providers.

[Source: Added at 13 Ok Reg 3669, eff 4-29-96 (emergency); Added at 14 Ok Reg 630, eff 12-12-96 (emergency); Added at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 211, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 17 Ok Reg 92, eff 10-1-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 18 Ok Reg 393, eff 12-8-00 (emergency); Amended at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 27 Ok Reg 1092, eff 3-26-10

(emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 30 Ok Reg 1358, eff 7-1-13]

## **340:75-6-48.2. Role of the child's court-appointed special advocate or guardian ad litem [REVOKED]**

[Source: Added at 17 Ok Reg 92, eff 10-1-99 (emergency); Added at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 18 Ok Reg 393, eff 12-8-00 (emergency); Amended at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Revoked at 30 Ok Reg 839, eff 7-1-13]

## **340:75-6-48.3. Children missing from care**

(a) A child or youth missing from care is one who runs away, is abducted, or is otherwise absent from placement.

(b) Per Section 1-9-123 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-9-123) the Oklahoma Department of Human Services (DHS) takes appropriate steps when a child or youth in DHS custody or under DHS supervision is missing from care or when DHS has reasonable cause to believe a child or youth is currently, or is at risk of being, a victim of sex trafficking, including a child or youth:

(1) for whom DHS has an open case file, but who was not removed from the home;

(2) who ran away from foster care and has not attained 18 years of age; or

(3) who is not in foster care, but is receiving services.

(c) When notified a child or youth is missing from care, the child welfare (CW) specialist within 24 hours of notification, reports the child's or youth's status to the:

(1) appropriate law enforcement jurisdiction and requests the report be sent to the National Crime Information Center; and

(2) National Center for Missing and Exploited Children.

(d) When a child or youth in DHS custody or under DHS supervision is missing from care, DHS:

(1) immediately takes steps to locate the child or youth;

(2) determines the primary factors that contributed to the child or youth running away or otherwise being absent from placement;

(3) documents and responds, to the extent possible and appropriate, to those factors that contributed to the absence from care or runaway behaviors in the current and subsequent placements of the child or youth; and

(4) determines what the child or youth experienced while missing from care, including an appropriate screening to see if the child or youth is a possible victim of sex trafficking.

(e) The CW specialist reports to appropriate law enforcement jurisdictions immediately and, in no case later than 24 hours, after receiving information on a child or youth who is identified as a sex trafficking victim, per 10A O.S. § 1-1-105.

(f) Runaway juveniles from other states, with or without delinquent status, may be held in a detention facility, per 10A O.S. § 2-3-101 and the Interstate Compact for Juveniles Act, 10A O.S. §§ 2-9-101 through 2-9-116.

[Source: Added at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 33 Ok Reg 477, eff 2-29-16 (emergency); Amended at 34 Ok Reg 1587, eff 9-15-17 ; Amended at 42 Ok Reg, Number 7, effective 11-18-24 (emergency)]

### **340:75-6-49. Religious and cultural observation**

When placing a child, the court and Oklahoma Department of Human Services (DHS), when possible, selects a person, agency, or institution governed by persons of the same religious faith as that of the child's parents, or in case of a difference in the religious faith of the parents, the child's religious faith.

[Source: Added at 11 Ok Reg 647, eff 11-22-93 (emergency); Added at 11 Ok Reg 1729, eff 5-12-94 ; Amended at 13 Ok Reg 3669, eff 4-29-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 211, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 17 Ok Reg 92, eff 10-1-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 35 Ok Reg 1695, eff 9-17-18]

### **340:75-6-50. Education**

(a) **Education assurance.** A child in the custody or care of the Oklahoma Department of Human Services (DHS) is provided access to an education including teaching, educational materials, and books, per Section 1-7-105 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-7-105).

(b) **Education assurance required for the Title IV-E eligible child.** Per 10A O.S. § 1-7-103, DHS is required to ensure that a child who attains the minimum age for compulsory school attendance and is eligible for a Title IV-E foster care payment is:

- (1) enrolled in an institution that provides elementary or secondary education;
- (2) instructed in elementary or secondary education in any legally authorized education program;
- (3) in an independent-study elementary or secondary education program; or
- (4) incapable of attending school on a full-time basis due to a documented medical condition supported by regular updates.

(c) **Health and education records provided to court.** Per 10A O.S. § 1-4-704, the child's most recent available health and educational records are provided to the court at the court's request including, but not limited to:

- (1) the names and addresses of the child's health and educational providers;
- (2) the child's grade-level performance;
- (3) the child's school record;
- (4) the child's immunization record;
- (5) the child's known medical problems including communicable diseases;
- (6) the child's medications; and
- (7) any other relevant health and education information.

(d) **Individuals with Disabilities Education Act (IDEA).** The child with disabilities in Oklahoma, including the child in DHS custody, has the statutory right to receive special education and related services from birth through 21 years of age as mandated by Title 70 O.S. Oklahoma School Code and the Education of All Handicapped Children Act, codified at Sections 1400-1461 of Title 20 of the United States Code (20 U.S.C. §§ 1400-1461). IDEA specifies that each child with a disability 3 to 22 years of age receives specialized services to meet the child's needs. The child with disabilities has the basic rights to:

- (1) a Free Appropriate Public Education (FAPE);
- (2) an education in the least restrictive setting possible; and
- (3) an Individualized Education Program (IEP).

(e) **Parents' rights regarding educational requests.** Parents and surrogate parents, including foster parents acting in place of the parents, have the right to examine the child's complete school records. In addition, the school system is obligated to provide notice to the parent when the school system refuses to take actions requested by the parent. The notice informs the parent of each procedure available to the parent under IDEA and must be written in the parent's native language.

(f) **Foster or surrogate parents acting in place of the parents.** When the parent is unable, unavailable, or unwilling to participate in the child's school arrangements, foster parents may act in place of the parent to represent the child's educational interests. DHS employees and other public agency employees may not act in place of a parent or sign an IEP. Volunteers, who serve as surrogate parents for children in placements other than foster care, are required to complete training through the Oklahoma State Department of Education.

(g) **Every Student Succeeds Act (ESSA) child welfare (CW) point of contact.** Per 20 U.S.C. § 6312, each CW district must:

- (1) designate a point of contact;
- (2) notify each local educational agency in that CW district, in writing, of the designee; and
- (3) create a local educational agency plan to support ESSA guidelines for students in foster care.

(h) **Oklahoma's Promise.** DHS provides parents, foster parents, and legal guardians of foster youth with information on Oklahoma's Promise, formerly known as the Oklahoma Higher Learning Access Program (OHLAP) including, but not limited to, eligibility, application guidelines, academic requirements, and any other information required by Oklahoma's Promise for participation in the program.

(i) **Corporal punishment by school.** DHS and the foster parent do not authorize school personnel to administer corporal punishment to a child in DHS custody. The foster parent does not authorize corporal punishment by school personnel, but refers school personnel to the CW specialist to establish alternative discipline methods, per Oklahoma Administrative Code 340:75-7-38.

[Source: Added at 11 Ok Reg 647, eff 11-22-93 (emergency); Added at 11 Ok Reg 1729, eff 5-12-94 ; Amended at 13 Ok Reg 3669, eff 4-29-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 211, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 17 Ok Reg 92, eff 10-1-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 18 Ok Reg 393, eff 12-8-00 (emergency); Amended at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 19 Ok

Reg 2208, eff 6-27-02 ; Amended at 26 Ok Reg 884, eff 5-15-09 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 33 Ok Reg 477, eff 2-29-16 (emergency); Amended at 34 Ok Reg 1550, eff 9-15-17 ; Amended at 36 Ok Reg 1856, eff 9-16-19]

### **340:75-6-51. Travel outside the county or state [REVOKED]**

[Source: Added at 11 Ok Reg 647, eff 11-22-93 (emergency); Added at 11 Ok Reg 1729, eff 5-12-94 ; Revoked at 13 Ok Reg 3669, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

## **PART 9. MATERNITY SERVICES [REVOKED]**

### **340:75-6-54. Provision of services to expectant parents [REVOKED]**

[Source: Added at 10 Ok Reg 1293, eff 3-25-93 (emergency); Added at 10 Ok Reg 2309, eff 6-11-93 ; Revoked at 13 Ok Reg 3669, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-6-55. Counseling services [REVOKED]**

[Source: Added at 10 Ok Reg 1293, eff 3-25-93 (emergency); Added at 10 Ok Reg 2309, eff 6-11-93 ; Amended at 11 Ok Reg 647, eff 11-22-93 (emergency); Amended at 11 Ok Reg 1729, eff 5-12-94 ; Revoked at 13 Ok Reg 3669, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-6-56. Protection and confidentiality [REVOKED]**

[Source: Added at 10 Ok Reg 1293, eff 3-25-93 (emergency); Added at 10 Ok Reg 2309, eff 6-11-93 ; Revoked at 13 Ok Reg 3669, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-6-57. Medical services [REVOKED]**

[Source: Added at 10 Ok Reg 1293, eff 3-25-93 (emergency); Added at 10 Ok Reg 2309, eff 6-11-93 ; Revoked at 13 Ok Reg 3669, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-6-58. Living arrangements [REVOKED]**

[Source: Added at 10 Ok Reg 1293, eff 3-25-93 (emergency); Added at 10 Ok Reg 2309, eff 6-11-93 ; Revoked at 13 Ok Reg 3669, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-6-59. Termination of pregnancy [REVOKED]**

[Source: Added at 10 Ok Reg 1293, eff 3-25-93 (emergency); Added at 10 Ok Reg 2309, eff 6-11-93 ; Revoked at 13 Ok Reg 3669, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-6-60. Planning for the child [REVOKED]**

[Source: Added at 10 Ok Reg 1293, eff 3-25-93 (emergency); Added at 10 Ok Reg 2309, eff 6-11-93 ; Revoked at 13 Ok Reg 3669, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-6-61. Transfer of case record [REVOKED]**

[Source: Added at 10 Ok Reg 1293, eff 3-25-93 (emergency); Added at 10 Ok Reg 2309, eff 6-11-93 ; Revoked at 13 Ok Reg 3669, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-6-62. Coordination with Juvenile Services unit [REVOKED]**

[Source: Added at 10 Ok Reg 1293, eff 3-25-93 (emergency); Added at 10 Ok Reg 2309, eff 6-11-93 ; Revoked at 13 Ok Reg 3669, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-6-63. Coordination with Institutional Services [REVOKED]**

[Source: Added at 10 Ok Reg 1293, eff 3-25-93 (emergency); Added at 10 Ok Reg 2309, eff 6-11-93 ; Revoked at 13 Ok Reg 3669, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-6-64. Coordination with Family Support Services [REVOKED]**

[Source: Added at 10 Ok Reg 1293, eff 3-25-93 (emergency); Added at 10 Ok Reg 2309, eff 6-11-93 ; Revoked at 13 Ok Reg 3669, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-6-65. Use of community service providers [REVOKED]**

[Source: Added at 10 Ok Reg 1293, eff 3-25-93 (emergency); Added at 10 Ok Reg 2309, eff 6-11-93 ; Revoked at 13 Ok Reg 3669, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-6-66. Referrals to service providers [REVOKED]**

[Source: Added at 10 Ok Reg 1293, eff 3-25-93 (emergency); Added at 10 Ok Reg 2309, eff 6-11-93 ; Revoked at 13 Ok Reg 3669, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-6-67. Community Based Services [REVOKED]**

[Source: Added at 10 Ok Reg 1293, eff 3-25-93 (emergency); Added at 10 Ok Reg 2309, eff 6-11-93 ; Amended at 11 Ok Reg 647, eff 11-22-93 (emergency); Amended at 11 Ok Reg 1729, eff 5-12-94 ; Revoked at 13 Ok Reg 3669, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-6-68. Case evaluation and case closure [REVOKED]**

[Source: Added at 10 Ok Reg 1293, eff 3-25-93 (emergency); Added at 10 Ok Reg 2309, eff 6-11-93 ; Revoked at 13 Ok Reg 3669, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-6-69. Divorce home studies [REVOKED]**

[Source: Added at 10 Ok Reg 1293, eff 3-25-93 (emergency); Added at 10 Ok Reg 2309, eff 6-11-93 ; Revoked at 11 Ok Reg 647, eff 11-22-93 (emergency); Revoked at 11 Ok Reg 1729, eff 5-12-94]

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

**340:75-6-85. Placement considerations for the child in Oklahoma Department of Human Services (DHS) custody**

**(a) Legislative intent for the child placed outside the child's home.**

Per Section 1-1-102 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-1-102), when a child's placement outside of the home is necessary, per Oklahoma Children's Code, each child is assured care, guidance, and supervision in a permanent home or foster home that serves the child's best interests including, but not limited to, the development of the child's moral, emotional, spiritual, mental, social, educational, and physical well-being. The child is entitled to a permanent home and placement in the least restrictive environment that meets the child's needs.

**(b) DHS responsibility for the child's out-of-home placement.** DHS has the duty to provide for the care and treatment of each child placed in DHS custody by an order of the court, per 10A O.S. § 1-7-103. DHS:

(1) may place the child in a:

(A) kinship care home or other foster care home;

(B) group home, or children's shelter subject to the Child Welfare Services (CWS) director's or designee's approval;  
or

(C) any licensed facility established for the care of children when a kinship or foster care home is not available;

(2) gives priority to the child's noncustodial parent unless the placement is not in the child's best interests; and

(3) reviews and assesses the child to determine the type of placement and services consistent with the child's needs in the nearest geographic proximity to the child's home as possible.

**(c) DHS authority to determine the child's placement.**

(1) DHS has the responsibility to determine if a placement is appropriate for the child in DHS custody and to remove the child from the placement when in the child's best interests, per 10A O.S. § 1-7-103, subject to the provisions of 10A O.S. §§ 1-4-804 and 1-4-805.

(2) A request by a placement provider for immediate removal of the child is examined and assessed to determine if the situation can be resolved to prevent disruption of the child's placement.

**(d) Court's authority to approve or disapprove placement.** When the court determines it is in the child's best interests, the court may place the child in DHS legal custody. Per 10A O.S. § 1-4-803, when the child is placed in DHS custody, the court may not direct DHS to place the child in a specific home or placement, but may approve or disapprove a specific placement when it does not conform to statutory requirements and the child's best interests.

**(e) Determining the appropriate placement.**

(1) Per 10A O.S. § 1-7-106, a placement is made that meets the treatment needs of the child and supports the permanency plans for the child and family.

(2) Per 10A O.S. § 1-4-204, when determining the appropriate placement for the child, DHS considers, but does not limit consideration to, the:

- (A) person's ability to provide safety for the child including a willingness to cooperate with any restrictions placed on contact between the child and others and to prevent others from influencing the child in regard to allegations of the case;
- (B) person's ability to support DHS efforts to implement the permanency plan for the child;
- (C) person's ability to meet the child's physical, emotional, and educational needs, including the child's need to continue in the same school or educational placement;
- (D) person who has the closest existing personal relationship with the child, when more than one person requests placement;
- (E) person's ability to provide a placement for the child's sibling who is in need of placement or continuation in out-of-home care;
- (F) wishes of the parent, the relative, and the child when appropriate;
- (G) person's ability to care for the child as long as necessary and to provide a permanent home, when needed; and
- (H) child's best interests including placement in a non-family-like setting.

**(f) Relative placement preference when not with noncustodial parent.** Per 10A O.S. §§ 1-4-204 and 1-7-106, when DHS determines that placement with the noncustodial parent is not in the child's best interests, preference is given to relatives and persons who have a kinship relationship with the child, and who are determined to be suitable, capable, and willing to serve as the child's caretakers.

- (1) Per 10A O.S. §§ 1-4-204 and 1-7-106, every effort is made to place the child with a suitable relative.
- (2) DHS makes efforts to locate the relative, kinship relation, or resource parent who is best able to meet the child's long-term best interests.
- (3) Per 10A O.S. § 1-4-204, DHS reports to the court the diligent efforts made to secure the child's placement.
- (4) When applicable to the child, DHS complies with Indian Child Welfare Act (ICWA) placement preferences, per Oklahoma Administrative Code (OAC) 340:75-19-14, and reports to the court the diligent efforts to secure the child's placement.
- (5) When a child is not placed with a relative who was considered for placement, DHS must advise the court why the relative was denied listing the reasons on Form 04MP056E, Notice to the Court of Relative Denied Placement. The written reasons are made a part of the court record, per 10A O.S. § 1-4-204, and documented in the CWS case record.

**(g) Sibling placement.** Per 10A O.S. §§ 1-4-204 and 1-7-107, when two or more siblings are removed and placed in foster care, every reasonable attempt is made to place the siblings together in the same temporary or permanent placement.



(1) When siblings are separated, the siblings are allowed contact or visitation with each other, when safe.

(2) The safety and best interests of each child determine if joint placement, contact, or visitation is allowed.

(3) When the child is a part of a sibling group, it is presumed that placement of the entire sibling group in the same placement is in the best interests of the child and siblings.

(4) Siblings may be separated when the court and DHS find:

(A) one sibling resided in a resource home for six or more months and established a relationship with the resource family;

(B) the siblings never resided in the same resource together;

(C) there is no established relationship between the siblings; or

(D) it is in the child's best interests to remain in the current placement.

(5) In making a permanent placement, siblings are placed in the same permanent home. When the siblings are separated, they are allowed contact or visitation with other siblings, provided that each child's best interests are the standard for determining if the siblings are placed in the same foster placement or permanent placement, or allowed contact or visitation with other siblings.

**(h) Placement in nearest geographic proximity to parent or school.**

(1) Per 10A O.S. § 1-4-707, unless the child is placed with relatives or in accordance with federal and state ICWA, the child is placed, when possible, in the parent or legal guardian's county of residence to facilitate family reunification.

(A) When an appropriate placement is not available in the parent or legal guardian's county of residence, the child is placed in an appropriate home in the nearest proximity to the parent or legal guardian's county of residence to facilitate family reunification. The child's placement is not intended to correspond in frequency to the parent or legal guardian's change of residence.

(B) When determining if the child is to be moved, DHS considers the potential harmful effects of disrupting the child's placement and the reason the parent or legal guardian changed residences.

(2) When an appropriate placement is not available in the parent or legal guardian's county of residence, the child is placed in an appropriate home in the nearest proximity to the child's school district to ensure his or her educational consistency.

**(i) Child's placement preference.** Per 10A O.S. § 1-7-110, when determining placement of a deprived child in foster care, DHS is governed by the child's long-term best interests. The child may express a preference as to placement and the preference may be expressed by the child with or without the parents, foster parents, guardians, or any other parties present. DHS determines if the child's long-term best interests are served by the child's preference, but is not bound by the child's preference and may consider other facts when determining placement.

(j) **Former foster parent preferred placement.** Per 10A O.S. § 1-9-119, the former foster parent has a right to be considered as a preferred placement option when the foster child who was formerly placed with the foster parent reenters foster care at the same level and type of care, when the placement is consistent with the best interests of the child and other children in the foster parent's home.

(k) **Multiethnic Placement Act of 1994.** DHS follows the provisions of the Multiethnic Placement Act of 1994 and the Interethnic Provisions of 1996, per OAC 340:75-1-9.

(l) **ICWA and placement.** DHS follows federal ICWA, Section 1915 of Title 25 of the United States Code, Oklahoma ICWA, 10 O.S. § 40.6, and OAC 340:75-19-14.

(m) **Religious consideration in placement decision.** Consideration is given to the parent's wishes regarding religious preference in the selection of a placement provider for the child, per OAC 340:75-6-49.

(n) **Prescribed requirements for placement provider.** Each placement utilized by DHS is approved or licensed by specified procedures and meets prescribed requirements.

(1) The child in DHS custody is not placed in a home prior to the person meeting provider standards, per OAC 340:75-7.

(2) Placement providers must:

(A) provide safety for the child in DHS custody;

(B) have sufficient space in the home to allow the child privacy;

(C) support and participate in the child's permanency plan;

(D) adhere to DHS rules, such as not using physical discipline; and

(E) support the child's preferred religious and cultural choices.

(o) **Certain criminal convictions prohibit placement approval.** Per 10A O.S. § 1-4-705, DHS does not approve potential foster or adoptive parents for placement when the applicant, or any person residing in the potential applicant's home, has a criminal conviction for any of the felony offenses listed in (1) through (5) of this subsection. The felony offenses are:

(1) physical assault, battery, or a drug-related offense within the five-year period preceding the application date;

(2) child abuse or neglect;

(3) domestic abuse;

(4) a crime against a child including, but not limited to, child pornography; or

(5) a crime involving violence including, but not limited to, rape, sexual assault, or homicide, but excluding those crimes specified in (1) of this subsection.

(p) **Placement provider's age.** Per 10A O.S. § 1-4-705, when a prospective placement provider meets the minimum age required, per OAC 340:75-7-12, DHS may not use the age of an otherwise eligible individual as a reason for placement denial.

(q) **Placement providers as essential participants.**

(1) As placement providers, 10A O.S. § 1-9-119 and OAC 340:75-7-37 recognize foster parents and group home providers as essential participants in the decisions related to the growth, development, care, protection, and treatment of the child placed in the foster parent's home or in the group home with whom they have established a familial relationship.

(2) Per 10A O.S. §§ 1-4-807 and 1-4-811, a placement provider has the right to be heard in a proceeding concerning the child, although the provider is not considered a party to the proceeding, unless allowed to intervene.

(r) **Foster parent rights.** A statement of foster parent's rights is given to every foster parent annually and found at 10A O.S. § 1-9-119.

(s) **Group home rights.** A statement of group home provider rights is attached to the group home contract.

(t) **Foster parent eligibility to adopt the child.** Per 10A O.S. § 1-4-812, during any permanency hearing when the court determines the child is to be placed for adoption, the court considers the foster parent eligible to adopt when the foster parent meets established eligibility requirements. When the child has resided with the foster parent for at least one year, the court gives great weight to the foster parent in the adoption consideration unless the child has an existing, loving, emotional bond with a relative, by blood or marriage, who is willing, able, and eligible to adopt the child.

[Source: Added at 13 Ok Reg 3669, eff 4-29-96 (emergency); Added at 14 Ok Reg 630, eff 12-12-96 (emergency); Added at 14 Ok Reg 974, eff 1-24-97 (emergency); Added at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 211, eff 11-1-97 (emergency); Amended at 15 Ok Reg 909, eff 12-16-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 17 Ok Reg 92, eff 10-1-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 18 Ok Reg 393, eff 12-8-00 (emergency); Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 19 Ok Reg 402, eff 12-1-01 (emergency); Amended at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 20 Ok Reg 90, eff 10-16-02 (emergency); Amended at 20 Ok Reg 921, eff 5-12-03 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 25 Ok Reg 269, eff 11-1-07 (emergency); Amended at 25 Ok Reg 970, eff 5-15-08 ; Amended at 26 Ok Reg 884, eff 5-15-09 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 30 Ok Reg 1358, eff 7-1-13 ; Amended at 32 Ok Reg 296, eff 11-17-14 (emergency); Amended at 32 Ok Reg 1904, eff 9-15-15 ; Amended at 34 Ok Reg 1587, eff 9-15-17 ; Amended at 35 Ok Reg 451, eff 1-31-18 (emergency); Amended at 35 Ok Reg 1695, eff 9-17-18]

### **340:75-6-85.1. Child Welfare (CW) worker responsibilities to children in OKDHS custody [REVOKED]**

[Source: Added at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 26 Ok Reg 884, eff 5-15-09 ; Revoked at 27 Ok Reg 1092, eff 3-26-10 (emergency); Revoked at 27 Ok Reg 1865, eff 7-1-10]

### **340:75-6-85.2. Diligent search for relatives and kin**

(a) **Placement preference.** When the Oklahoma Department of Human Services (DHS) determines placement with the noncustodial parent is not in the child's best interests, preference, per Section 1-7-106 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-7-106), is given to relatives and persons who have a kinship relationship with the child, who are determined suitable, capable, and willing to serve as the child's caretakers.

(1) DHS reports to the court what diligent efforts were made to secure the placement, per 10A O.S. § 1-4-204.

(2) In cases where the Indian Child Welfare Act (ICWA) applies to the child, placement preferences, per 10 O.S. § 40.6; or the child's tribe-specific order, per the Federal Indian Child Welfare Act (FICWA), Section 1915 (c) of Title 25 of the United States Code (25 U.S.C. § 1915 (c)), are followed.

(3) DHS verifies ICWA applicability within three months of taking the child into custody.

**(b) Due diligence to identify and notify relatives.** Within 30-calendar days of the removal of a child, DHS exercises due diligence to identify the child's relatives, per 10A O.S. § 1-4-203. DHS completes a nationwide relative search within three months of taking the child into custody. Notice is provided by DHS to each grandparent, other adult relatives of the child, and parents of the child's siblings, per 42 U.S.C. § 671(a)(29). Relatives are not notified when notification is not in the child's best interests due to past or current family or domestic violence. The notice advises the relative:

(1) the child was or is being removed from the custody of the child's parent or parents;

(2) of the options under applicable law to participate in the child's care and placement, including any options that may be lost by failing to respond to the notice; and

(3) of the requirements to become a foster family parent and the additional services and supports available for children placed in the home.

**(c) Efforts required for children 16 years of age and older with a planned alternative permanent living arrangement placement.**

(1) Per 10A O.S. § 1-4-811, DHS documents and presents compelling reasons to the court at each permanency hearing of the intensive, ongoing, and, as of the date of the hearing, unsuccessful efforts made to:

(A) return the child home; or

(B) place the child with a fit and willing relative, including adult siblings, a legal guardian, or an adoptive parent; and

(C) find biological family members for the child utilizing search technology, including social media.

(2) DHS documents at each permanency hearing the steps taken, including inquiry of the child in an age-appropriate manner, to ensure the:

(A) foster family home of the child or facility where the child is placed uses the reasonable and prudent parent standard; and

(B) child has regular, ongoing opportunities to engage in age-appropriate or developmentally-appropriate activities.

(3) When a planned alternative permanent placement is the court-ordered permanency plan for the child, at each permanency hearing the court:

(A) may ask the child about the permanency outcome the child desires; and

(B) makes a judicial determination as of the date of the hearing, why a planned alternative permanent placement is the best permanency plan for the child and provides compelling reasons why it continues to not be in the child's best interests to return home, be placed for adoption with a legal guardian, or placed with a fit and willing relative.

[Source: Added at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 33 Ok Reg 477, eff 2-29-16 (emergency); Amended at 34 Ok Reg 1550, eff 9-15-17 ; Amended at 37 Ok Reg 1850, eff 9-15-20]

### **340:75-6-85.3. Sibling placement [REVOKED]**

[Source: Added at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Revoked at 34 Ok Reg 1587, eff 9-15-17]

### **340:75-6-85.4. Adoption as the permanency plan**

The preferred permanency plan for the child in Oklahoma Department of Human Services custody who cannot return home is adoption with extended family, foster family, or an approved adoptive resource family. In most cases, the adoptive home is the relative, kin, or Bridge family with whom the child is currently placed.

[Source: Added at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 28 Ok Reg 894, eff 7-1-11 ; Amended at 30 Ok Reg 839, eff 7-1-13]

### **340:75-6-85.5. Supervision only cases**

(a) The court may order, per Section 1-4-707 of Title 10A of the Oklahoma Statutes, the child placed under the Oklahoma Department of Human Services (DHS) protective supervision:

- (1) in the home of the parent or legal guardian with whom the child was residing at the time the events or conditions arose that brought the child within the jurisdiction of the court; or
- (2) with the noncustodial parent, when available, upon completion of a home assessment.

(b) In supervision only cases, the court may issue written orders specifying:

- (1) when the noncustodial parent assumes custody, reunification services be provided to the parent or legal guardian from whom the child was or is being removed;
- (2) services be provided solely to the parent who is assuming physical custody of the child to allow the parent to later obtain legal custody without court supervision;
- (3) services be provided to both parents, in which case the court at a subsequent hearing, determines which parent, if either, will have custody of the child;
- (4) the alleged father must cooperate with establishing paternity as a condition for the child's continued placement, when the child

is ordered into the home of a father whose paternity has not been established;

(5) a person residing in the home, vacate the child's home indefinitely or for a specified period within 48 hours of the order;

(6) that the child's parent or legal guardian prevent a particular person from having contact with the child;

(7) conduct to be followed by any person living in the home that is in the child's best interests;

(8) the order placing the child under DHS supervision in the child's own home remains in effect for a one-year period with extension or reduction of the supervision period in appropriate circumstances; and

(9) when a child cannot be placed in the parent's home, placement of the child in a relative's temporary custody.

[Source: Added at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 34 Ok Reg 1550, eff 9-15-17]

#### **340:75-6-85.6. Voluntary foster care for a child born to a minor parent in Oklahoma Department of Human Services (OKDHS) custody**

Voluntary foster care is available for a child born to a minor parent in Oklahoma Department of Human Services custody when the child can reside safely with the minor parent.

[Source: Added at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 26 Ok Reg 884, eff 5-15-09 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 30 Ok Reg 839, eff 7-1-13]

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

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

(1) court of jurisdiction;

(2) child's attorney of the child's specific location;

(3) district attorney;

(4) Post Adjudication Review Board;

(5) court-appointed special advocate, when any, of the child's specific location;

(6) guardian ad litem of the child, when any, of the child's specific location;

(7) the tribal representative involved in the case, when any, of the child's specific location; and

(8) Child Support Services office in the county of jurisdiction.

(b) **Emergency movement of the child in custody.** "Emergency," as used in 10A O.S. § 1-4-804, means movement of the child that is:

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

(A) Form 04MP014E, Notice of Child's Removal from Out-of-Home Placement, to the resource parent; and

(B) Form 04MP031E, Notice of Decision Not to Return Child After Investigation, to the resource parent when a decision is made not to return the child to the home, per OAC 340:75-7-94.

**(c) Removal notification when child has resided in foster home or group home for three months or more.**

(1) Pursuant to 10A O.S. § 1-4-805, except in an emergency, when the child has resided with the foster parent or in a group home for three months or more, written notice is provided five-judicial days prior to the child's removal from the foster parent or group home to the:

(A) tribal foster parent;

(B) emergency foster parent;

(C) therapeutic foster parent;

(D) Developmental Disabilities Services foster parent;

(E) kinship foster parent;

(F) non-kinship foster parent; and

(G) court.

(2) The length of time applies to placement in each individual therapeutic or contract foster home or group home and not placement with the therapeutic or contract agency.

**(d) Objection to removal when child has resided in foster home or group home for more than six months.** When the child has resided in the same foster home or group home for more than six months, the foster parent or group home representative has the right to file a written objection to the child's removal from the placement home per 10A O.S. § 1-4-805.

(1) The objection is filed with the court and served on OKDHS within five-judicial days after receipt of the notice to remove the child.

(2) Timely filing and service of the objection stays removal of the child pending review by the court, unless the reason OKDHS stated for removal is due to an emergency, per subsection (b) of this Section.

**(e) Hearing on objection to child's removal from the foster home or group home.** When the child is being removed from the foster home or group home and any party, the foster parent, or group home representative files an objection, an informal placement review hearing is held within 15-judicial days per 10A O.S. § 1-4-805. The court may order the child remain in, or be returned to, the objecting foster parent's home or group home when the court finds the OKDHS placement decision was arbitrary, inconsistent with the child's permanency plan, or not in the child's best interests.

[Source: Added at 13 Ok Reg 3669, eff 4-29-96 (emergency); Added at 14 Ok Reg 630, eff 12-12-96 (emergency); Added at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 211, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 18 Ok Reg 393, eff 12-8-00 (emergency); Amended at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 20 Ok Reg 90, eff 10-16-02 (emergency); Amended at 20 Ok Reg 921, eff 5-12-03 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 28 Ok Reg 894, eff 7-1-11 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 32 Ok Reg 296, eff 11-17-14 (emergency); Amended at 32 Ok Reg 1904, eff 9-15-15 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:75-6-87. Placement of an Indian child [REVOKED]**

[Source: Added at 13 Ok Reg 3669, eff 4-29-96 (emergency); Added at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 211, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 910, eff 12-10-98 (emergency); Amended at 16 Ok Reg 1052, eff 4-26-99 ; Amended at 17 Ok Reg 92, eff 10-1-99 (emergency); Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-6-88. Medical services for the child in Oklahoma Department of Human Services (DHS) [REVOKED]**

[Source: Added at 13 Ok Reg 3669, eff 4-29-96 (emergency); Added at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 211, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 26 Ok Reg 884, eff 5-15-09 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 28 Ok Reg 375, eff 12-1-10 (emergency); Amended at 28 Ok Reg 894, eff 7-1-11 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 33 Ok Reg 1635, eff 9-15-16 ; Revoked at 36 Ok Reg 1856, eff 9-16-19]

### **340:75-6-89. Travel and transportation of children and families**

**(a) Travel outside Oklahoma.** The child in Oklahoma Department of Human Services (DHS) custody may travel outside Oklahoma with the placement provider or a DHS-approved person.

(1) Prior DHS approval is not required for the child to accompany the placement provider or DHS-approved person when travel does not involve an overnight stay.

(2) When travel involves an overnight stay, the placement provider contacts DHS for approval prior to the child's travel outside Oklahoma.

**(b) Travel outside the United States.** DHS and judicial approval is required before the child in DHS custody travels outside the United States.

**(c) Transportation of children and families for placement or community-based services.** The child welfare specialist is authorized to transport children and families as long as the transportation is part of the specialist's duties and all other transportation options were considered



and ruled out, per Oklahoma Administrative Code 340:75-1-32.

[Source: Added at 13 Ok Reg 3669, eff 4-29-96 (emergency); Added at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 211, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 17 Ok Reg 92, eff 10-1-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 34 Ok Reg 1550, eff 9-15-17 ; Amended at 35 Ok Reg 1695, eff 9-17-18]

### **340:75-6-90. Community-based services [REVOKED]**

[Source: Added at 13 Ok Reg 3669, eff 4-29-96 (emergency); Added at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 211, eff 11-1-97 (emergency); Amended at 15 Ok Reg 909, eff 12-16-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 15 Ok Reg 3886, eff 7-14-98 (emergency); Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 18 Ok Reg 393, eff 12-8-00 (emergency); Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 21 Ok Reg 1385, eff 5-27-04 ; Revoked at 23 Ok Reg 1024, eff 5-11-06]

### **340:75-6-91. Child care services for parents with a child in Oklahoma Department of Human Services (DHS) custody**

(a) **Preventive child care services.** Preventive child care services enable the child to be in a protective environment a specified number of hours per day and days per week as determined by Child Welfare Services (CWS).

(1) Preventive child care services may be provided to the family with an active CWS case when the:

(A) child is determined unsafe due to the existence of present or impending danger; and

(B) family is in the process of reunification in an active permanency planning case.

(2) The family is not required to establish financial eligibility as preventive child care can be provided for income eligible or non-income eligible families.

(b) **Child care services for employment, education, and training purposes.**

(1) Parents with a child in DHS custody who need child care for education, training, or employment purposes are required to meet the eligibility requirements in Oklahoma Administrative Code (OAC) 340:40-7.

(2) Parents with a child in DHS custody apply for trial reunification child care services through DHS Adult and Family Services, as a co-payment may be required.

(3) Resource parents requesting child care are required to meet the eligibility requirements in OAC 340:75-7-65.

(c) **Child care program options.**

(1) The parent may choose a family child care home regardless of star level.

(2) Child care subsidy benefits are not paid by DHS when the:

(A) child care program does not have a valid contract with DHS;

(B) parent, his or her spouse, or child's parent or stepparent, has an ownership interest;

(C) parent works in the child care home during the same hours the child attends child care;  
(D) parent chooses more than one child care program to provide service to a child on the same day;  
(E) program does not allow parental access during the hours the program cares for children;  
(F) program is receiving state or federal funds, such as Head Start or public schools, and is not charging all parents for the hours the subsidy payment is requested. Early Head Start programs are exempt from this rule;  
(G) program caring for a school-age child during the regular school day when the student could be attending a public or private school during those hours; or  
(H) program is one star, unless there are no programs with a higher star status in the community or special exception criteria are met. Special exception criteria are:

(i) the child was already approved for care at the one star program prior to January 1, 2003, or prior to the program's star status being reduced to one star. The child:

(I) can remain at the one star program, unless the child stops attending the program for more than 30-calendar days; and

(II) may be approved at the same one star program again when the only reason the child did not attend for more than 30-calendar days was due to a school break or circumstances beyond the family's control, such as the child's illness;

(ii) care is requested for the child residing in the same home as a child already approved for care as described in (c)(H)(i) in the same one star child care program; or

(iii) the parent or guardian demonstrates there is no other child care option that meets the family's needs.

**(d) Child care subsidy benefits for the child with disabilities.** A child with disabilities is potentially eligible for the higher special needs rate for child care subsidy benefits. Each child with disabilities requires a separate and specific certification of the child care program.

(1) The child with disabilities is defined as a child receiving:

(A) Supplemental Security Income (SSI). This includes a child whose SSI payment stops because of financial reasons, but who still meets the medical definition of disability as determined by the Social Security Administration;

(B) SoonerStart early intervention services; or

(C) special education services provided, per an Individualized Education Program (IEP), by the child's school district.

(2) When the child with disabilities is 13 years of age or older, the parent must provide a statement from a licensed health care professional verifying the child is physically or mentally incapable of self-care as age-appropriate before care is approved and annually at review. Subsidized child care benefits are not approved when the licensed health care professional states the child is capable of self-care as age-appropriate.

(e) **Overpayment of child care.** DHS seeks repayment for any child care that was received or paid in error per OAC 340:40-15-1.

[Source: Added at 13 Ok Reg 3669, eff 4-29-96 (emergency); Added at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 211, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 15 Ok Reg 3886, eff 7-14-98 (emergency); Amended at 16 Ok Reg 1052, eff 4-26-99 ; Amended at 17 Ok Reg 92, eff 10-1-99 (emergency); Amended at 17 Ok Reg 923, eff 3-1-00 (emergency); Amended at 17 Ok Reg 2249, eff 6-1-00 (emergency); Amended at 17 Ok Reg 2429, eff 6-26-00 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 28 Ok Reg 894, eff 7-1-11 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 34 Ok Reg 1550, eff 9-15-17]

### **340:75-6-92. Services to the pregnant youth in Oklahoma Department of Human Services (OKDHS) custody**

#### **(a) Specialized services provided for the pregnant youth.**

Specialized services are provided to youth in Oklahoma Department of Human Services (OKDHS) custody who are pregnant.

(b) **Parenting assistance.** When the pregnant youth decides to keep the child, services, including parenting skills training and assistance with accessing community resources are arranged.

(c) **Relinquishment of parental rights.** When a minor parent decides to relinquish her parental rights, the child's attorney is contacted.

(d) **Termination of the pregnancy.** OKDHS does not:

- (1) consent to or sign any type of form related to a procedure to terminate the pregnancy of the youth who is in OKDHS custody;
- (2) provide payment assistance for a procedure to terminate the youth's pregnancy; or
- (3) prohibit or assist the pregnant youth with an action to terminate the youth's pregnancy when the youth has a method of payment and a resource with which to pursue the procedure.

[Source: Added at 13 Ok Reg 3669, eff 4-29-96 (emergency); Added at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 211, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 1052, eff 4-26-99 ; Amended at 17 Ok Reg 92, eff 10-1-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 18 Ok Reg 393, eff 12-8-00 (emergency); Amended at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 22 Ok Reg 854, eff 5-12-05 ; Amended at 30 Ok Reg 839, eff 7-1-13]

## **PART 13. SUCCESSFUL ADULTHOOD**

### **340:75-6-110. Oklahoma Successful Adulthood (OKSA) program**

(a) **OKSA program eligibility.** The OKSA program serves:

- (1) youth 14 through 17 years of age who are in an out-of-home placement; and in:
  - (A) Oklahoma Human Services (OKDHS) legal custody; or

- (B) the custody of a federally recognized Indian tribe;
  - (2) young adults 18, 19, and 20 years of age, who:
    - (A) were in an out-of-home placement while in OKDHS or tribal custody on his or her 18th birthday; or
    - (B) entered a guardianship or adoption at 16 years of age and older to achieve permanency and who have not yet reached his or her 21st birthday; and
  - (3) young adults 21 to 26 years of age who participate for no more than five years in the Education and Training Voucher Program.
- (b) **Legal authority for OKSA services.** Laws that guide OKSA services administered by OKDHS are described in (1) and (2) of this subsection.
- (1) **Federal successful adulthood law.** The Foster Care Independence Act of 1999 enacted as part of Public Law (P.L.) 106-169; Section 475 of the Social Security Act as amended by P.L. 110-351, Fostering Connections to Success and Increasing Adoption Act of 2008; by the Preventing Sex Trafficking and Strengthening Families Act, P.L. 113-183; and the Family First Prevention Services Act, P.L. 115-123:
- (A) supports states in the delivery of successful adulthood services to eligible youth and provides them with services that focus on:
    - (i) education;
    - (ii) career planning;
    - (iii) life skills; and
    - (iv) aftercare services; and
  - (B) requires successful adulthood services:
    - (i) complement the youth's own efforts to achieve self-sufficiency; and
    - (ii) program participants recognize and accept personal responsibility for the transition from out-of-home care to adulthood.
- (2) **State successful adulthood law.** Section 1-9-107 of the Oklahoma Statutes (10A O.S. §1-9-107) created the "Successful Adulthood Act," the purpose of which is to ensure eligible youth who, due to abuse or neglect, were or are in the OKDHS foster care program or a federally-recognized Indian tribe with whom OKDHS has a contract or agreement, receive the protection and support necessary to allow them to become self-reliant and productive citizens through the provision of requisite services that include, but are not limited to:
- (A) transitional planning;
  - (B) housing;
  - (C) medical coverage;
  - (D) education; and
  - (E) tuition waivers, when eligible, per 70 O.S. § 3230.
- (c) **OKSA service provision.** OKSA services for youth:
- (1) are initiated by the child welfare (CW) specialist according to the youth's age, as outlined in OKDHS Publication No. 94-08, Oklahoma Successful Adulthood Program;
  - (2) in OKDHS custody placed in other states, are OKDHS responsibility, per Oklahoma Administrative Code (OAC) 340:75-1-

86;

(3) placed in Oklahoma through the Interstate Compact for the Placement of Children (ICPC) are approved by OKSA Program staff on a case-by-case basis, per OAC 340:75-1-86; and

(4) are initiated by the legal guardian or adoptive parent for youth who exited care at 16 years of age and older to permanent guardianship or adoption.

(d) **Requirements.** Eligible youth are provided each of the items listed in (1) through (6).

(1) **Successful adulthood case assessment.** The successful adulthood case assessment is a comprehensive evaluation of the youth's readiness for successful adulthood and identification of the services and supports required for him or her to achieve a maximum level of self-sufficiency.

(2) **Successful adulthood plan.**

(A) The CW specialist develops an initial plan for the youth transitioning to a successful adulthood within 60-calendar days of his or her 14th birthday or within 60-calendar days of the youth entering care after his or her 14th birthday. The plan is developed in consultation with the youth and, at his or her option, with up to two members of the planning team to be chosen by the youth, not including the foster parent and his or her CW specialist, subject to:

(i) the youth's selection of one person that may be designated to be the advisor and his or her advocate, with respect to the application of the reasonable and prudent parent standard to the youth; and

(ii) OKDHS rejecting a person selected by the youth to be a member of the permanency planning team at any time when OKDHS has good cause to believe the selected person would not act in the youth's best interests.

(B) The successful adulthood plan describes the services, supports, and activities the CW specialist, the permanency planning team, and youth identify as necessary for the youth to transition to successful adulthood, and includes the components required by federal and state statutes. At a minimum, the successful adulthood plan is reviewed and updated each month with the youth and placement provider.

(C) Prior to the 90-calendar day period immediately before a youth's 18th birthday, OKDHS and, as appropriate, the youth's representatives, provide the youth with assistance and support in developing an appropriate personalized transition plan based upon his or her input, and as detailed as he or she elects, including specific options regarding:

(i) housing;

(ii) health insurance;

(iii) education;

- (iv) local opportunities for mentors and continuing support services; and
- (v) employment supports and services.

**(3) Notice of rights.**

(A) Per 10A O.S. § 1-9-107, each child in OKDHS foster care or a federally- recognized Indian tribe and in an out-of-home placement who reaches 14 years of age is given a notice of foster youth rights describing his or her rights to:

- (i) education, health, visitation, and court participation;
- (ii) provision of documents specified in (4) of this subsection; and
- (iii) stay safe and avoid exploitation.

(B) The youth signs an acknowledgment stating he or she was provided a copy of the notice of foster youth rights and the rights were explained in an age-appropriate way.

**(4) Essential documents.** Per 10A O.S. § 1-9-107, a youth about to leave foster care at 18 years of age and was in foster care for at least six months is given:

- (A) an official or certified copy of his or her United States birth certificate;
- (B) a Social Security Administration Social Security card;
- (C) his or her health insurance information;
- (D) a copy of his or her medical records;
- (E) a state-issued driver license or identification card; and
- (F) official documentation necessary to prove the youth was previously in foster care.

**(5) Judicial oversight.** A judicial determination is made:

- (A) at each dispositional and review hearing involving a youth 14 years of age and older, whether the OKSA services needed to assist the youth in making the transition from out-of-home care to successful adulthood are being provided, not provided, or are not appropriate;
- (B) confirming that information was provided to the youth about the importance of designating another individual to make health care treatment decisions on his or her behalf when he or she:

- (i) becomes unable to participate in his or her health care decisions; and
- (ii) does not have, or does not want a relative, who would otherwise be authorized under state or tribal law, to make health care decisions for the youth; and

(C) that the youth was provided with the option of executing a health care power of attorney, health care proxy, or other similar documents recognized under state or tribal law.

**(6) OKSA support services.** A variety of services, resources, and funds are provided to facilitate successful transition into adulthood and each has distinct eligibility requirements.

- (A) **Youth 14 through 15 years of age.**

(i) **Youth development funds.** OKSA youth development funds are obtained through community-contracted providers and are designed to support the youth's successful adulthood case plan in preparation for living independently.

(ii) **Incentive payments.** The OKSA incentive payment is a category of youth development funds that allows for monetary payments to youth for survey and application completions and for accomplishments prior to exiting OKDHS or tribal custody.

(iii) **Teen panels.** Teen panels provide an opportunity for OKDHS and tribal custody youth to educate staff, care providers, the community, and potential resource parents by presenting the youth's views and experiences in the CW system.

**(B) Youth 16 years of age and older.**

(i) **Community-contracted services.** Contracts support the OKSA program activities and serve youth who are OKSA eligible.

(ii) **Youth development funds.** OKSA youth development funds are obtained through community-contracted providers and are designed:

(I) to support the youth's successful adulthood case plan in preparation for living independently; and

(II) for emergencies the youth encounters after leaving out-of-home care while learning to live independently.

(iii) **Incentive payments.** The OKSA incentive payment is a category of youth development funds that allows for monetary payments to youth for survey and application completions and for accomplishments prior to exiting OKDHS or tribal custody.

(iv) **Educational opportunities and scholarships.** Scholarships and OKSA services are available to assist the youth complete his or her education and training.

(v) **Youth and Adult Advisory Board.** The Youth and Adult Advisory Board includes current and former OKDHS and tribal custody youth, OKSA Program staff, and adult advisors. The board provides the youth an opportunity to work together with other interested youth and adults to:

(I) educate the community regarding issues related to youth in out-of-home placement;

(II) improve the CW system through problem solving;

(III) promote successful adulthood through training; and

(IV) bridge the gap between youth and adults.

(vi) **Teen panels.** Teen panels provide an opportunity for OKDHS and tribal custody youth to educate staff, care providers, the community, and potential resource parents by presenting youth views and experiences in the CW system.

(vii) **Voluntary placement of youth after 18 years of age.** Custody youth may request placement in an OKDHS-paid placement and services from OKDHS on a voluntary basis, or in special circumstances, a short-term voluntary placement while 18, 19, or 20 years of age, when the youth:

(I) reaches 18 years of age prior to completing his or her General Educational Development (GED) or high school education;

(II) did not obtain a GED or high school education and left an out-of-home placement after reaching 18 years of age; or

(III) has specified reasons approved by the district director for the county where the youth resides.

(viii) **Credit reports for youth in out-of-home care.** Each youth beginning at 14 years of age and continuing until the youth is discharged from out-of-home care receives:

(I) an annual consumer credit report;

(II) assistance interpreting the report; and

(III) assistance resolving any inaccuracies or evidence of identity theft in the report.

The court with jurisdiction over the youth is notified of any inaccuracies, evidence of identity theft, or other fraudulent activity.

[Source: Added at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 3886, eff 7-14-98 (emergency); Amended at 16 Ok Reg 1052, eff 4-26-99 ; Amended at 18 Ok Reg 3610, eff 9-1-01 ; Amended at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 21 Ok Reg 1385, eff 5-27-04 ; Amended at 22 Ok Reg 1270, eff 5-26-05 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 28 Ok Reg 894, eff 7-1-11 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 32 Ok Reg 1904, eff 9-15-15 ; Amended at 33 Ok Reg 477, eff 2-29-16 (emergency); Amended at 34 Ok Reg 1587, eff 9-15-17 ; Amended at 36 Ok Reg 443, eff 4-9-19 (emergency); Amended at 37 Ok Reg 1850, eff 9-15-20 ; Amended at 38 Ok Reg 2294, eff 9-15-21]

### **340:75-6-111. Preparation for adult life/independent living initiative [REVOKED]**

[Source: Added at 14 Ok Reg 2288, eff 6-12-97 ; Revoked at 18 Ok Reg 3610, eff 9-1-01]



### **340:75-6-112. Administration [REVOKED]**

[Source: Added at 14 Ok Reg 2288, eff 6-12-97 ; Revoked at 18 Ok Reg 3610, eff 9-1-01]

### **340:75-6-113. Eligibility [REVOKED]**

[Source: Added at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 3886, eff 7-14-98 (emergency); Amended at 16 Ok Reg 1052, eff 4-26-99 ; Revoked at 18 Ok Reg 3610, eff 9-1-01]

### **340:75-6-114. Requirements [REVOKED]**

[Source: Added at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 3886, eff 7-14-98 (emergency); Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 18 Ok Reg 3610, eff 9-1-01 ; Amended at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 21 Ok Reg 1385, eff 5-27-04 ; Revoked at 27 Ok Reg 1092, eff 3-26-10 (emergency); Revoked at 27 Ok Reg 1865, eff 7-1-10]

### **340:75-6-115. Independent living support services [REVOKED]**

[Source: Added at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 3886, eff 7-14-98 (emergency); Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 18 Ok Reg 3610, eff 9-1-01 ; Amended at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 22 Ok Reg 1270, eff 5-26-05 ; Revoked at 27 Ok Reg 1092, eff 3-26-10 (emergency); Revoked at 27 Ok Reg 1865, eff 7-1-10]

#### **340:75-6-115.1. Community contracted services [REVOKED]**

[Source: Added at 18 Ok Reg 3610, eff 9-1-01 ; Amended at 22 Ok Reg 1270, eff 5-26-05 ; Revoked at 27 Ok Reg 1092, eff 3-26-10 (emergency); Revoked at 27 Ok Reg 1865, eff 7-1-10]

#### **340:75-6-115.10. Independent living specialized community homes [REVOKED]**

[Source: Added at 22 Ok Reg 1270, eff 5-26-05 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Revoked at 27 Ok Reg 1092, eff 3-26-10 (emergency); Revoked at 27 Ok Reg 1865, eff 7-1-10]

#### **340:75-6-115.2. Oklahoma Children's Services (OCS) [REVOKED]**

[Source: Added at 18 Ok Reg 3610, eff 9-1-01 ; Amended at 19 Ok Reg 2208, eff 6-27-02 ; Revoked at 20 Ok Reg 1252, eff 5-27-03]

#### **340:75-6-115.3. Independent living contingency funds [REVOKED]**

[Source: Added at 18 Ok Reg 3610, eff 9-1-01 ; Amended at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 22 Ok Reg 1270, eff 5-26-05 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Revoked at 27 Ok Reg 1092, eff 3-26-10 (emergency); Revoked at 27 Ok Reg 1865, eff 7-1-10]

#### **340:75-6-115.4. Independent living incentive payments [REVOKED]**

[Source: Added at 18 Ok Reg 3610, eff 9-1-01 ; Amended at 22 Ok Reg 1270, eff 5-26-05 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Revoked at 27 Ok Reg 1092, eff 3-26-10 (emergency); Revoked at 27 Ok Reg 1865, eff 7-1-10]

### **340:75-6-115.5. Educational and scholarship assistance [REVOKED]**

[Source: Added at 18 Ok Reg 3610, eff 9-1-01 ; Amended at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 22 Ok Reg 1270, eff 5-26-05 ; Revoked at 27 Ok Reg 1092, eff 3-26-10 (emergency); Revoked at 27 Ok Reg 1865, eff 7-1-10]

### **340:75-6-115.6. Youth Advisory Board [REVOKED]**

[Source: Added at 18 Ok Reg 3610, eff 9-1-01 ; Amended at 19 Ok Reg 2208, eff 6-27-02 ; Revoked at 27 Ok Reg 1092, eff 3-26-10 (emergency); Revoked at 27 Ok Reg 1865, eff 7-1-10]

### **340:75-6-115.7. Teen panels [REVOKED]**

[Source: Added at 18 Ok Reg 3610, eff 9-1-01 ; Revoked at 27 Ok Reg 1092, eff 3-26-10 (emergency); Revoked at 27 Ok Reg 1865, eff 7-1-10]

### **340:75-6-115.8. Special Independent Living (IL) funding [REVOKED]**

[Source: Added at 18 Ok Reg 3610, eff 9-1-01 ; Revoked at 27 Ok Reg 1092, eff 3-26-10 (emergency); Revoked at 27 Ok Reg 1865, eff 7-1-10]

### **340:75-6-115.9. Voluntary placement after age 18 [REVOKED]**

[Source: Added at 19 Ok Reg 2208, eff 6-27-02 ; Revoked at 27 Ok Reg 1092, eff 3-26-10 (emergency); Revoked at 27 Ok Reg 1865, eff 7-1-10]

### **340:75-6-116. Oklahoma Children's Services (OCS) [REVOKED]**

[Source: Added at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 211, eff 11-1-97 (emergency); Amended at 15 Ok Reg 909, eff 12-16-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 15 Ok Reg 3886, eff 7-14-98 (emergency); Amended at 16 Ok Reg 102, eff 10-13-98 ; Revoked at 18 Ok Reg 3610, eff 9-1-01]

### **340:75-6-117. Matrix of independent living program services [REVOKED]**

[Source: Added at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 3886, eff 7-14-98 (emergency); Amended at 16 Ok Reg 1052, eff 4-26-99 ; Revoked at 18 Ok Reg 3610, eff 9-1-01]

## **SUBCHAPTER 7. FOSTER HOME CARE**

### **PART 1. GENERAL PROVISIONS**

#### **340:75-7-1. Foster resource family care services [REVOKED]**

[Source: Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 929, eff 12-16-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 102, eff 10-13-98 ;

Amended at 17 Ok Reg 549, eff 12-1-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ;  
Amended at 17 Ok Reg 3367, eff 9-1-00 ; Amended at 19 Ok Reg 534, eff 12-20-01 (emergency);  
Amended at 19 Ok Reg 2226, eff 6-27-02 ; Revoked at 21 Ok Reg 2385, eff 6-25-04]

### **340:75-7-2. Purpose, legal basis, and definitions related to foster care**

(a) **Purpose for foster care.** Foster care provides 24-hour a day substitute temporary care and supportive services for the child, birth through 17 years of age, who resides in Oklahoma and is in Oklahoma Human Services (OKDHS) custody. Voluntary foster care is available for the child, birth through 20 years of age, who meets criteria, per Oklahoma Administrative Code (OAC) 340:75-4-12.1 and 340:75-6-110.

(b) **Legal basis for OKDHS foster care services.**

(1) The Oklahoma Children's Code, Section 1-1-102 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-1-102), acknowledges that the foster parent has a recognizable interest in the familial relationship established with the child placed in the foster parent's care. The law recognizes that the foster parent is an essential participant in the decision-making process related to the care, supervision, guidance, rearing, and other foster care services for the child.

(2) 10A O.S. §§ 1-1-105 and 1-7-109 define and authorize foster care.

(3) Titles IV-B and IV-E of the Social Security Act mandate and provide funding for certain child welfare services, including foster care.

(4) OKDHS implements recruitment and retention activities supporting the:

(A) Multiethnic Placement Act of 1994, as amended by the Interethnic Provisions of 1996 (MEPA/IEP), per OAC 340:75-1-9;

(B) Federal Indian Child Welfare Act, per Section 1901 et seq. of Title 25 of the United States Code (25 U.S.C. §§ 1901 et seq.), and the Oklahoma Indian Child Welfare Act, per 10 O.S. §§ 40 et seq.;

(C) Adoption and Safe Families Act of 1997 (ASFA) that amended Titles IV-B and IV-E of the Social Security Act, per 42 U.S.C. §§ 621 through 629i;

(D) Family First Prevention Services Act, Public Law 115-123; and

(E) regulations promulgated to implement each Act.

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

(1) **"Age-appropriate" or "developmentally-appropriate"** means, per 10A O.S. § 1-1-105:

(A) activities or items that are generally accepted as suitable for children of the same age or maturity level or that are determined to be developmentally-appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an

age or age group; and

(B) in the case of a specific child, activities or items that are suitable for the child based on the developmental stages the child attains with respect to the cognitive, emotional, physical, and behavioral capacities of the specific child.

(2) **"Alternate caregiver"** means a person, assessed and approved by OKDHS, who for not more than 14-consecutive days, relieves a resource parent's day-to-day responsibilities by temporarily assuming care and supervision of the child or youth in OKDHS custody. This definition applies only to traditional, contracted, and kinship foster care.

(3) **"Applicant"** means a person who makes a formal application to become a resource parent, but has not completed the approval process.

(4) **"Application"** means a completed Form 04AF001E, Resource Family Application. Form 04AF001E requires documents and actions be completed by the applicant.

(5) **"Behavioral health"** means mental health, substance use or abuse, or co-occurring mental health and substance use or abuse diagnoses and the mental health continuum, substance use or abuse, or co-occurring mental health and substance use or abuse treatment.

(6) **"Foster care"** means an essential, temporary Child Welfare Services (CWS) service for the child and parent, legal guardian, or custodian provided when the child's safety cannot be ensured in his or her own home due to the threat of child abuse, neglect, or special circumstances necessitating out-of-home care in a home away from the child's parent, legal guardian, or custodian. A continuous care service is provided for the child requiring out-of-home placement in a home environment including, but not limited to, the care, supervision, guidance, and rearing of the child by a resource parent, who is under contract with OKDHS or approved by a child-placing agency.

(A) A foster family provides the child in OKDHS custody with continuous 24-hour care in a home-like setting with one or more identified supportive services, including:

(i) mentoring and actively helping the parent of the child in OKDHS custody improve his or her ability to safely care for the child upon reunification with the parent;

(ii) staying connected to the child by assisting his or her transition to:

(I) reunification with a parent; or

(II) another family when the permanency plan is legal guardianship or adoption; or

(iii) the possibility of becoming the child's legal guardian or adoptive parent when parental reunification is not the permanency plan while safely maintaining the child's connection to kin, culture, and community.

(B) CWS foster care includes:

(i) traditional foster care, which is continuous 24-hour care and supportive services provided for the child in a home setting by a foster parent without a kinship relationship to the child. A resource family partner (RFP) develops a supported home to provide traditional foster care to meet the needs of a child in OKDHS custody through service coordination and delivery in conjunction with OKDHS;

(ii) kinship foster care, which is continuous care for the child requiring out-of-home placement provided by a relative, stepparent, or other responsible adult who has a bond or tie with the child or a family relationship role with the child's parent or the child prior to the child's entry into foster care. In cases where the Indian Child Welfare Act (ICWA) applies, the definitions, per 25 U.S.C. § 1903 are used;

(iii) enhanced foster care (EFC), which is a traditional or kinship resource home where child-specific services are provided for a child already placed in the home. The family in an EFC home receives additional training to support the placement of children:

(I) transitioning from congregate care, acute care, or residential treatment; or

(II) who are placed in shelter care or are at risk of placement in shelter care;

(iv) therapeutic foster care (TFC), per OAC 340:75-8 Part 1, residential behavioral management services are provided in a specialized foster care setting for a child, who:

(I) meets medical necessity criteria, per OAC 317:30-5-741;

(II) has special psychological, behavioral, social, and emotional needs;

(III) accepts and responds to close relationships within a family setting; and

(IV) requires more intensive or therapeutic services than are found in traditional foster care when additional supports are not available or have failed to stabilize the child in a less restrictive setting;

(v) intensive treatment family care (ITFC) is a program for children:

(I) with special psychological, social, and emotional needs;

(II) with intellectual and developmental disabilities requiring more intensive treatment than traditional foster care and TFC settings provide; and

(III) meets medical necessity criteria, per OAC 317:30-5-751; and  
(vi) contracted foster care (CFC), which is traditional foster care provided:

(I) in a TFC home for children in OKDHS or tribal custody meeting specific criteria, per OAC 340:75-8-11.1(b); and  
(II) by a contracted child-placing agency to meet the child's needs through service coordination and delivery in conjunction with OKDHS.

(7) **"House assessment"** means the evaluation of the prospective resource family's residence to determine if it meets OKDHS physical safety requirements.

(8) **"Infant"** means a child, who is 12 months of age and younger.

(9) **"In-service training"** means yearly instruction the resource parent is required to complete to maintain approval as a resource home.

(10) **"Inquiry"** means the first contact an individual makes by phone, email, or in person with OKDHS to inquire about foster parenting.

(11) **"Pre-service training"** means required instruction to prepare and educate the applicant for caregiving and provides an opportunity for self-assessment, prior to approval as a resource parent.

(12) **"Reasonable and prudent parent standard"** means, per 10A O.S. § 1-1-105, the standard characterized by careful and sensible parental decisions that maintain the child's health, safety, and best interests while at the same time encouraging the child's emotional and developmental growth. This standard is used by the child's resource parent when determining whether to allow a child to participate in extracurricular, enrichment, cultural, and social activities.

(13) **"Relative"** means a grandparent, great-grandparent, brother, or sister of whole or half-blood, aunt, uncle, or any other person related to the child.

(14) **"Resource"** means all foster care families, including traditional, kinship, CFC, EFC, TFC, ITFC, and adoptive families.

(15) **"Resource family assessment (RFA)"** means a joint process between CWS and the family that consists of an evaluation of the family's ability to foster, adopt, or both and includes, but is not limited to:

- (A) consideration of each family member's criminal and child welfare histories;
- (B) the safety and physical space available in the home to integrate a new family member;
- (C) the number and ages of children residing in the home;
- (D) references;
- (E) household income; and
- (F) health histories.

(16) **"Resource family partner (RFP)"** means a private, child-placing agency under contract with OKDHS to recruit, retain, and support foster homes to meet the child's needs through service coordination and delivery in conjunction with OKDHS. RFP foster homes are known as supported homes.

(17) **"Respite care"** means short-term care provided by an approved foster family when foster parents need breaks from day-to-day parenting responsibilities while caring for a child in OKDHS custody.

(18) **"Targeted recruitment"** means efforts that:

(A) utilize data to focus on specific families or communities most likely to yield results in recruiting resource parents who can safely meet the unique needs of the child and youth in OKDHS custody; and

(B) comply with MEPA/IEP/ICWA requirements.

(19) **"Written plan of compliance"** means a formal accountability process for the resource parent that identifies concerns and contract and policy violations and, when unresolved, may result in resource home closure.

(20) **"Youth"** means a child 13 through 17 years of age.

[Source: Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 656, eff 12-12-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 17 Ok Reg 549, eff 12-1-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 19 Ok Reg 2226, eff 6-27-02 ; Amended at 21 Ok Reg 2385, eff 6-25-04 ; Amended at 24 Ok Reg 1323, eff 6-1-07 ; Amended at 25 Ok Reg 1335, eff 6-1-08 ; Amended at 26 Ok Reg 1282, eff 6-1-09 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 35 Ok Reg 1695, eff 9-17-18 ; Amended at 37 Ok Reg 1850, eff 9-15-20 ; Amended at 39 Ok Reg 1803, eff 9-15-22 ; Amended at 42 Ok Reg, Number 7, effective 11-18-24 (emergency)]

### **340:75-7-3. Voluntary foster family care for children under age 18 [REVOKED]**

[Source: Amended at 10 Ok Reg 3623, eff 7-12-93 ; Amended at 10 Ok Reg 3987, eff 7-13-93 (emergency); Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Revoked at 17 Ok Reg 549, eff 12-1-99 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-7-4. Reunification program responsibilities and philosophy [REVOKED]**

[Source: Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Revoked at 13 Ok Reg 3927, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-7-5. Preparation for adult life/independent living initiative [REVOKED]**

### **340:75-7-6. Voluntary foster care after age 18 [REVOKED]**

[Source: Amended at 10 Ok Reg 3623, eff 7-12-93 ; Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Revoked at 17 Ok Reg 549, eff 12-1-99 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-7-7. Long-term foster care [REVOKED]**

[Source: Amended at 10 Ok Reg 3623, eff 7-12-93 ; Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Revoked at 13 Ok Reg 3927, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-7-8. Number and ages of children allowed placed in a regular or kinship foster resource home [REVOKED]**

[Source: Added at 17 Ok Reg 549, eff 12-1-99 (emergency); Added at 17 Ok Reg 1481, eff 3-27-00 (emergency); Added at 17 Ok Reg 2429, eff 6-26-00 ; Amended at 19 Ok Reg 2226, eff 6-27-02 ; Revoked at 21 Ok Reg 2385, eff 6-25-04]

## **PART 2. DEVELOPMENT OF RESOURCE FAMILIES**

### **340:75-7-10. Resource family recruitment and retention**

(a) **Resource family recruitment.** Resource family recruitment is a crucial component to provide a safe home environment for a child in Oklahoma Department of Human Services (DHS) custody requiring out-of-home placement due to child abuse, neglect, or other circumstances. Diligent and targeted recruitment provides the child access to a resource family, who:

- (1) can meet the child's unique needs;
- (2) allows the child to stay with siblings;
- (3) reflects and understands the racial and ethnic diversity of the child in care; and
- (4) lives in close proximity to the child's family.

(b) **Resource family recruitment and retention plan.** DHS, in conjunction with resource family partners, impacts the availability and diversity of resource families by implementing recruitment and retention activities defined by each district based on the characteristics and needs of children in DHS custody. Per Section 1-9-114 of Title 10A of the Oklahoma Statutes, DHS:

- (1) makes diligent efforts to identify, locate, and engage suitable relatives and kin for the child in DHS custody;
- (2) makes diligent efforts to recruit resource families that reflect the child's ethnic and racial diversity;
- (3) provides individuals the opportunity to become resource parents regardless of race, color, or national origin; or
- (4) does not delay or deny the child's placement based on the race, color, or national origin of the resource or child; and
- (5) uses diligent and targeted efforts to recruit resource families that include, but are not limited to:
  - (A) partnering with tribes;



- (B) partnering with community and religious organizations;
- (C) conducting outreach activities; and
- (D) utilizing media and local resources.

[Source: Added at 17 Ok Reg 549, eff 12-1-99 (emergency); Added at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 18 Ok Reg 666, eff 1-10-01 (emergency); Amended at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 19 Ok Reg 2226, eff 6-27-02 ; Amended at 21 Ok Reg 2385, eff 6-25-04 ; Amended at 26 Ok Reg 1282, eff 6-1-09 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 35 Ok Reg 1695, eff 9-17-18]

### **340:75-7-10.1. Resource parent framework**

(a) **General.** The requirements in Oklahoma Administrative Code (OAC) 340:110-5 serve as the framework for families and the Oklahoma Department of Human Services (DHS) in the mutual assessment process used to select the most suitable home for the child in DHS custody in need of foster care. Each child in DHS custody has the right to a safe, affirming, and family-like placement. As a result, resource parents:

- (1) are responsible, mature, healthy adults capable of meeting the needs of the children in DHS custody;
- (2) apply the reasonable and prudent parent standard;
- (3) demonstrate a capacity for setting realistic expectations for behavior and performance based on the ages, abilities, and unique needs of the children;
- (4) have stable relationships and a living arrangement whether married, single, separated, or divorced; and
- (5) ensure all members of the household are informed of and agree to accept the child into the home.

(b) **Age.** A resource parent must be at least 21 years of age. Per Section 1-4-705 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-4-705), when a potential resource parent meets the minimum age required per this Section, DHS may not use the age of an otherwise eligible individual as a reason for denial of placement.

(c) **Income and employment.** Resource parents must have sufficient income to meet their needs and ensure the security and stability of the household without relying on the foster care maintenance payment.

(d) **Foster principles.** A resource parent commits to demonstrating to each child in DHS custody basic fostering principles that include:

- (1) understanding and meeting the child's unique needs;
- (2) actively supporting each child's connections and ongoing relationships with family, kin, culture, and community;
- (3) understanding the impact of separation, grief, loss, and trauma the child has suffered;
- (4) partnering with the child's professional team to focus on his or her safety, permanency, and well-being;
- (5) recognizing that foster care is a planned, temporary placement for a child whose goal is family reunification or other permanency plan;
- (6) actively mentoring the parent to help improve the parent's ability to safely care for the child, when safe to do so; and
- (7) recognizing the impact of secondary traumatic stress and the importance of the resource parent's self-care.

(e) **Relationship with DHS.** The resource parent acknowledges, cooperates, and agrees to abide by applicable statutes and DHS rules regarding the child in care that include, but are not limited to:

- (1) DHS, as the legal custodian of the child, has the right to move any child from any resource home at any time, when in the child's best interests and, per statutes governing movement of the child in DHS custody;
- (2) the necessity to maintain and respect the confidential nature of all information regarding a child placed in the resource home. A breach of confidentiality may be grounds for resource home closure and termination of the foster care contract; and
- (3) the requirement that DHS investigate, in the same manner as any other abuse or neglect investigation conducted by DHS, allegations of abuse, neglect, or maltreatment of any child in DHS custody placed in an approved resource home;

[Source: Amended at 35 Ok Reg 1695, eff 9-17-18 ; Amended at 42 Ok Reg, Number 7, effective 11-18-24 (emergency)]

### **340:75-7-11. Legal basis and authority [REVOKED]**

[Source: Added at 17 Ok Reg 549, eff 12-1-99 (emergency); Added at 17 Ok Reg 1311, eff 5-11-00 ; Revoked at 19 Ok Reg 2226, eff 6-27-02]

### **340:75-7-12. Prospective Bridge resource application and screening process and requirements [REVOKED]**

[Source: Added at 17 Ok Reg 549, eff 12-1-99 (emergency); Added at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 17 Ok Reg 3367, eff 9-1-00 ; Amended at 19 Ok Reg 534, eff 12-20-01 (emergency); Amended at 19 Ok Reg 2226, eff 6-27-02 ; Amended at 21 Ok Reg 2385, eff 6-25-04 ; Amended at 22 Ok Reg 1242, eff 5-26-05 ; Amended at 25 Ok Reg 1335, eff 6-1-08 ; Amended at 26 Ok Reg 1282, eff 6-1-09 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Revoked at 35 Ok Reg 1695, eff 9-17-18]

#### **340:75-7-12.1. Inquiries of Department of Human Service (DHS) employees [REVOKED]**

[Source: Added at 19 Ok Reg 2226, eff 6-27-02 ; Revoked at 21 Ok Reg 2385, eff 6-25-04]

### **340:75-7-13. Mutual family assessment [REVOKED]**

[Source: Added at 17 Ok Reg 549, eff 12-1-99 (emergency); Added at 17 Ok Reg 1311, eff 5-11-00 ; Revoked at 17 Ok Reg 3367, eff 9-1-00]

#### **340:75-7-13.1. Definitions [REVOKED]**

[Source: Added at 17 Ok Reg 3367, eff 9-1-00 ; Revoked at 19 Ok Reg 2226, eff 6-27-02]

### **340:75-7-14. Training requirements**

(a) **Pre-service training.** Applicants and adult household members who care for a child in Oklahoma Human Services (OKDHS) custody are

required to complete a prescribed course of training, prior to resource approval. The training incorporates the reasonable and prudent parent standard and addresses the values and guiding principles essential for caring for a child, who is a victim of maltreatment.

(1) Each applicant completes required Child Welfare Services (CWS)-approved training. Additionally, any adult household member, 18 years of age and older, who provides daily care for a child, completes the required training. An exception may be given when an individual is determined to possess required values and guiding principles as a result of prior foster care training and experience.

(2) Kinship applicants may be approved for placement of the kinship child prior to completion of pre-service training.

(3) Kinship applicants complete pre-service training before receiving foster care maintenance payments.

(4) An applicant who is a former resource parent with a break in OKDHS service of less than five years meets the training requirements.

(5) An applicant may request a permanent training waiver. The resource field manager approves or denies a request for a permanent training waiver. The applicant may request a permanent waiver, when:

(A) the equivalent training was completed within the last five years. A list of equivalent training from a tribe, private agency, or another state is included that details subjects addressed in the training; or

(B) he or she has a significant disability that precludes the completion of training. Disability verification is provided by a physician. A person granted a permanent training waiver for disabilities may not be a caregiver for the child in OKDHS custody.

(b) **In-service training.** Each resource parent completes 12 hours of continuing in-service training per year to enhance his or her skills as a provider.

(1) OKDHS provides free in-service training options for the resource parent.

(2) With CWS approval, other training is accepted as credit toward in-service training requirements. The resource parent provides the resource specialist with the training certificate, when available, from the training source that lists completed, approved hours.

(3) The resource parent selects from training options, such as classes, conferences, reading materials, or other learning opportunities that enhance his or her skills and meet the in-service training requirement. The resource parent receives approval for each training option from the resource specialist.

(4) A resource parent residing in another state and caring for a child in OKDHS custody meets the requirements of his or her state of residence for ongoing training to maintain OKDHS approval as a resource parent.

[Source: Added at 17 Ok Reg 549, eff 12-1-99 (emergency); Added at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 17 Ok Reg 3367, eff 9-1-00 ; Amended at 18 Ok Reg 666, eff 1-10-01 (emergency); Amended at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 19 Ok Reg 534, eff 12-20-01 (emergency); Amended at 19 Ok Reg 2226, eff 6-27-02 ; Amended at 21 Ok Reg 2385, eff 6-25-04 ; Amended at 22 Ok Reg 1242, eff 5-26-05 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 24 Ok Reg 1323, eff 6-1-07 ; Amended at 26 Ok Reg 1282, eff 6-1-09 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 35 Ok Reg 1695, eff 9-17-18 ; Amended at 37 Ok Reg 1850, eff 9-15-20 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24; Amended at 42 Ok Reg, Number 7, effective 11-18-24 (emergency)]

### **340:75-7-15. Background information search and assessment of results**

(a) **Authorization to conduct criminal history records searches.** The applicants and adult household members give consent for Oklahoma State Bureau of Investigation (OSBI) and Federal Bureau of Investigation (FBI) criminal histories records searches by signing Form 04AD003E, Request for Background Check.

(b) **Background information search for applicants and adult household members.** A background information search is conducted regarding each adult in the applicant's home as a safeguard for children placed in Oklahoma Human Services (OKDHS) custody. Results from the background information searches are obtained, assessed, and documented prior to the applicant's approval. Background information searches are conducted at the time of application and include, but are not limited to:

- (1) an OSBI name and criminal history records search;
- (2) an FBI national criminal history records search, based on fingerprints, per Section 1-7-111 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-7-111);
- (3) a search of the Oklahoma Sex Offender Registry;
- (4) a search of the Mary Rippey Violent Offender Registry;
- (5) a Department of Public Safety (DPS) report;
- (6) a search of the Oklahoma State Courts Network, including Oklahoma District Court Records to determine if the applicant or adult household member is, or was, a party in any court action;
- (7) a search of the Oklahoma Department of Corrections (DOC) offender information;
- (8) a search of all OKDHS records, including child welfare (CW) records;
- (9) a search of the Restricted Registry;
- (10) a search of Nontechnical Services Worker Abuse Registry maintained by the Oklahoma State Department of Health;
- (11) a search of the Community Services Worker Registry;
- (12) a search of all applicable out-of-state child abuse and neglect registries for the applicant or adult household member who has not lived in Oklahoma continuously for the past five years, per 10A O.S. § 1-7-111;

(A) when a child abuse and neglect registry is maintained in the applicable state, the potential resource home is not approved without the results for the applicant's and adult household member's registry checks; or

- (B) when a child abuse and neglect registry is not maintained in the applicable state, OKDHS requests any information that can be provided from the state; and
- (13) a search of Juvenile Online Tracking System (JOLTS) records for any child not in OKDHS custody, 13 through 17 years of age, living in the home.

(c) **Background information summary.** All background information is documented on Form 04AF007E, Records Check Documentation. A copy of Form 04AF007E is shared with the resource family partner (RFP) or the resource family assessment (RFA) contractor responsible for completing an RFA. The RFP is provided background information only for searches the RFP does not conduct.

(d) **Exception to fingerprinting.** Per 10A O.S. § 1-7-111, the OKDHS Director or designee may authorize an exception to the fingerprinting requirement and an alternative procedure for obtaining a national criminal history records search for any applicant or adult residing in the home who has a severe condition that precludes him or her from being fingerprinted. In limited, case-specific circumstances, OKDHS may not be able to obtain:

- (1) an individual's fingerprints as a result of the individual's disability; or
- (2) legible fingerprints due to low quality fingerprints, as a result of age, occupation, or other conditions, thereby making it impossible for the National Crime Information Center (NCIC) to provide results.

(e) **Out-of-state equivalent records check required based on length of residency.** Prior to approval, applicants or adult household members who have lived in Oklahoma for less than five years must provide equivalent background records checks from previous state(s) of residence. Equivalent records checks include, but are not limited to, a state's criminal history search, including Sex Offender registries. Prior to approval, OKDHS obtains the child abuse and neglect registry check from the previous state(s) of residence, when a registry is available. When a child abuse and neglect registry is not maintained in the applicable state, OKDHS requests any information that the state can provide.

(f) **Residence time requirement for kinship applicants.** Prior to placement, kinship applicants or adult household members who have not lived in Oklahoma continuously for the past five years must submit fingerprints. OKDHS must obtain the child abuse and neglect registry check from the previous state(s) of residence, when a registry is available. Both the national criminal history records search and the child abuse and neglect registry checks must be completed, prior to a child's placement in a kinship home, per 10A O.S. § 1-7-111. When a child abuse and neglect registry is not maintained in the applicable state, OKDHS requests any information that the state can provide.

(g) **New household members in the resource home.** The resource parent notifies the resource specialist within 24 hours of a new household member in the resource home. A resource family's failure to notify the resource specialist of a new household member, or the refusal of a household member who remains in the home to consent to a

background information search, is cause for the foster care child's removal from the resource home, possible closure of the resource home, and cancellation of the foster care contract.

(1) OKDHS completes a background information search, per this Section, for persons 18 years of age and older residing in the resource home for 30-calendar days or more. The resource parent's child who reaches 18 years of age is considered in this category.

(2) An adult household member that moves into the resource home must consent to a background information search and be fingerprinted immediately after notification to the resource specialist.

(3) The resource parent's child who turns 18 years of age must consent to a background information search and be fingerprinted within 30-calendar days of turning 18 years of age.

(4) Any child 13 through 17 years of age who moves into the home must have a JOLTS check completed immediately.

**(h) Kinship applicant criminal history records searches after normal business hours or on a holiday.** In determining the suitability of the potential kinship home, OKDHS uses the OKDHS Office of Background Investigations (OBI) to perform a name-based state and federal criminal history records search, per Section 901 et seq. of Title 28 of the Code of Federal Regulations. When OBI is not operational, OKDHS may elect to contract or otherwise collaborate with law enforcement agencies to perform a name-based state and federal criminal history records search followed by fingerprint verification. Fingerprint verification must be completed within five-business days immediately after the child entered emergency placement, per 10A O.S. § 1-7-115.

**(i) Assessment of background information search results.**

(1) **Felony convictions.** OKDHS denies a resource home application when the applicant, or any person residing in the applicant's home, has a criminal conviction record for any felony offenses listed in (A) through (E) of this paragraph. The criminal conviction of an approved resource parent or any person residing in the resource home of any of the felony offenses listed in (A) through (E) of this paragraph requires the resource home's closure, cancellation of the foster care contract, and removal of every child in OKDHS custody from the home. The felony offenses are:

- (A) physical assault, battery, or a drug-related offense, when the conviction occurs within the five-year period preceding the application date;
- (B) child abuse or neglect;
- (C) spousal abuse or domestic abuse;
- (D) a crime against a child including, but not limited to, child pornography; or
- (E) a crime involving violence including, but not limited to, rape, sexual assault, or homicide, but excluding those crimes specified in (A) of this paragraph. Per 21 O.S. § 692, homicide includes manslaughter. Per Section 16 of

Title 18 of the United States Code, a crime involving violence means, an offense that:

- (i) has an element of the use, attempted use, or threatened use of physical force against the person or property of another; or
- (ii) by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

(2) **Sex-related crimes.** OKDHS denies the application to become a resource parent when the applicant:

(A) or any person residing in the applicant's home, has a conviction for any crime, felony, or misdemeanor, per 57 O.S. § 582, whether the conviction occurred upon a:

- (i) verdict;
- (ii) plea of guilty; or
- (iii) plea of nolo contendere; or

(B) is subject to, living with, or married to a person who is subject to the Oklahoma Sex Offender Registration Act.

(3) **Restricted Registry.** OKDHS denies the application to become a resource parent when the applicant is a registrant on the Restricted Registry, per 10 O.S. § 405.3.

(4) **Arrests, charges, or other convictions.** Approval of an applicant who has, or is, living with a person who has a history of arrests, charges, or convictions for any felony, other than those listed in (1) of this subsection, or a relevant misdemeanor may be approved as a resource parent on a case-by-case basis. A relevant misdemeanor includes:

- (A) assault and battery;
- (B) alcohol- or drug-related offenses;
- (C) domestic violence; or
- (D) other offenses involving the use of physical force or violence against the person or property of another.

(5) **Child abuse and neglect investigations.** OKDHS determinesthe approval of any resource applicant with a history of child abuse and neglect investigations on a case-by-case basis.

[Source: Added at 17 Ok Reg 549, eff 12-1-99 (emergency); Added at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 17 Ok Reg 3367, eff 9-1-00 ; Amended at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 19 Ok Reg 2226, eff 6-27-02 ; Amended at 21 Ok Reg 2385, eff 6-25-04 ; Amended at 22 Ok Reg 1270, eff 5-26-05 ; Amended at 24 Ok Reg 1323, eff 6-1-07 ; Amended at 25 Ok Reg 20, eff 8-3-07 (emergency); Amended at 25 Ok Reg 269, eff 11-1-07 (emergency); Amended at 25 Ok Reg 1335, eff 6-1-08 ; Amended at 26 Ok Reg 1282, eff 6-1-09 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Amended at 35 Ok Reg 451, eff 1-31-18 (emergency); Amended at 35 Ok Reg 1695, eff 9-17-18 ; Amended at 36 Ok Reg 1856, eff 9-16-19 ; Amended at 37 Ok Reg 1850, eff 9-15-20 ; Amended at 38 Ok Reg 2294, eff 9-15-21 ; Amended at 39 Ok Reg 468, eff 12-21-21 (emergency); Amended at 39 Ok Reg 1803, eff 9-15-22 ; Amended at 42 Ok Reg, Number 7, effective 11-18-24 (emergency)]

**340:75-7-15.1. Prospective kinship foster resource criminal background records search after normal business hours and holidays [REVOKED]**

[Source: Added at 19 Ok Reg 534, eff 12-20-01 (emergency); Added at 19 Ok Reg 1129, eff 5-13-02 ; Added at 19 Ok Reg 2226, eff 6-27-02 ; Revoked at 21 Ok Reg 2385, eff 6-25-04]

### **340:75-7-16. Automated fingerprinting authorizations [REVOKED]**

[Source: Added at 17 Ok Reg 549, eff 12-1-99 (emergency); Added at 17 Ok Reg 1311, eff 5-11-00 ; Revoked at 21 Ok Reg 2385, eff 6-25-04]

### **340:75-7-17. Assessment of background investigation results [REVOKED]**

[Source: Added at 17 Ok Reg 549, eff 12-1-99 (emergency); Added at 17 Ok Reg 1481, eff 3-27-00 (emergency); Added at 17 Ok Reg 2263, eff 6-1-00 (emergency); Added at 17 Ok Reg 2429, eff 6-26-00 ; Amended at 17 Ok Reg 3367, eff 9-1-00 ; Amended at 19 Ok Reg 2226, eff 6-27-02 ; Revoked at 21 Ok Reg 2385, eff 6-25-04]

### **340:75-7-18. Resource family assessment (RFA)**

(a) **RFA.** Per Section 1-7-111 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-7-111), the Oklahoma Human Services (OKDHS) or RFA contractor conducts an assessment of the applicant's and each household member's background and other circumstances and conditions to determine if the home is suitable and provides a safe environment for the child in OKDHS custody requiring foster care.

(b) **Mandate to conduct background information search.** 10A O.S. § 1-7-111 and the Oklahoma Child Care Facilities Licensing Act, 10 O.S. §§ 401 et seq. mandate that a national criminal history records search based on the submission of fingerprints and a child abuse and neglect information system check be conducted for each applicant and each household member 18 years of age and older that is not a foster child. The applicant and each adult household member complete and sign Forms 04AF001E, Resource Family Application, and 04AD003E, Request for Background Check to authorize OKDHS to conduct a search into the applicant's and adult household member's criminal history records and OKDHS records.

(c) **Form 04AF004E, House assessment.** An in-home evaluation of the applicant's residence is conducted to assess the location, condition, and capacity to accommodate the child in OKDHS custody who requires foster care. Form 04AF004E includes an assessment of (1) through (13) of this subsection.

(1) The home's location. The home is accessible to school, medical, and recreational resources.

(2) The home's and property's condition. The home is clean and safe and any structures on the property that are accessible to a child are in a safe condition. The home and surroundings are evaluated regarding possible safety concerns and addressed with a plan of supervision, when applicable.

(3) Available play space. Adequate and safe indoor and outdoor space for play activities is available. Outdoor recreational equipment on the resource home's grounds, such as swing sets, riding toys, trampolines, or tree houses are clean and are maintained in good repair.



(4) Age-appropriate equipment. Age-appropriate child care equipment, such as beds, high chairs, or toys are available, clean, and in good repair.

(5) Medication, cleaning supplies, and other hazardous materials storage. Medication, cleaning supplies, and other hazardous materials are securely stored to ensure safety for all children.

(6) Phone communications. An operable phone is available in the home when a child is present.

(7) Transportation.

(A) The applicant:

(i) maintains a vehicle in safe working order that is capable of transporting children and:

(I) carries the statutorily mandated vehicle liability insurance;

(II) possesses a valid driver license; and

(III) has a current, valid vehicle license tag;  
or

(ii) provides an acceptable transportation plan for the child in OKDHS custody.

(B) The applicant is advised that proper passenger restraints are used at all times when a child in OKDHS custody is riding in a vehicle.

(C) The applicant agrees to transport all children and adults in compliance with applicable state law, per 47 O.S. § 11-1112.

(8) Sleeping arrangements and privacy.

(A) The applicant's home provides a separate bed for each child, with the exception of siblings younger than 6 years of age who exhibit a need for mutual support.

(B) A separate bedroom is provided for a child who acts out sexually.

(C) Preferably, no more than two children share a bedroom. Primary consideration is given to related children according to age and emotional needs.

(D) The applicant's home provides separate bedrooms for children 7 years of age and older of the opposite sex.

(E) A child in OKDHS custody, with the exception of an infant who is younger than 12 months of age, does not share a bedroom with an adult in the household. Under no circumstances is a child of any age authorized to sleep with an adult.

(F) The applicant's home provides space for the child's personal possessions and for a reasonable degree of privacy.

(G) The applicant may not designate a room, such as the living room, utility room, den, dining room, pantry, or unconverted garage as a bedroom for a child in OKDHS custody unless the room is specifically designed as a bedroom.

(9) Infant sleeping arrangements. A crib, port-a-crib, or playpen with a firm, waterproof mattress or pad is used for each child

younger than 12 months of age.

(A) Cribs, port-a-cribs, and playpens with more than two and 3/8 inches between slats or between the side and end panels are not allowed.

(B) Cribs with decorative cutout areas in crib-end panels or tall decorative knobs on the corner posts that may entrap a child's head or catch the child's clothing are not allowed.

(C) Cribs with drop-side latches have the manufacturer-provided kits to lock the crib side in the upright position due to safety hazards.

(D) Mattresses are tight-fitting with no more than one inch between the mattress and crib, port-a-crib, or playpen.

(E) Mattress and crib sheets fit snugly.

(F) Soft sleeping surfaces, such as soft mattresses, waterbeds, sofas, pillows, beanbag chairs, and inflatable mats are prohibited.

(G) Pillows, quilts, comforters and blankets, sheepskins, stuffed toys, bumper pads, breathable bumper pads, and other soft products are not permitted in the infant's crib, port-a-crib, or playpen.

(H) Infants birth through three months of age may be swaddled with an infant-sized, thin fabric, such as a receiving blanket.

(I) When placed for sleeping, items, such as pacifiers, teething necklaces, and bibs, are not attached to the infant or his or her clothing.

(J) An infant is immediately moved to a crib, port-a-crib, or playpen when he or she falls asleep in other equipment.

(K) Mobiles may be securely attached or hung above the crib provided no part of the mobile is within the infant's reach.

(10) Infant sleep positions.

(A) To reduce the risk of Sudden Infant Death Syndrome (SIDS), the infant younger than 12 months of age is placed on his or her back for sleeping, unless there is a medical reason documented by a health care professional that the infant cannot sleep on his or her back.

(B) The infant who is able to turn himself or herself over is placed initially on his or her back for sleeping but is allowed to sleep in the position he or she prefers.

(11) Water safety.

(A) Form 04MP061E, Water Safety Agreement, is completed for all applicants.

(B) The definition of a water structure or water mass includes, but is not limited to:

- (i) swimming pools;
- (ii) decorative ponds;
- (iii) farm ponds or streams;
- (iv) fountains;
- (v) wading pools;

- (vi) hot tubs or spas; and
- (vii) waterfalls.

(C) Any activity that involves a child in OKDHS custody wading or swimming is supervised at all times.

(D) All applicable laws, ordinances, rules and regulations, and insurance requirements for pools are followed.

(E) A hot tub is equipped with a hard cover designed for a hot tub.

(F) The use of portable wading pools is monitored at all times. The wading pool is emptied at the end of each use.

(G) A water Safety Plan is developed and each adult identified to provide supervision for the child during water activities signs the water safety plan. The water Safety Plan includes appropriate measures to ensure the child's safety. Appropriate measures may include, but are not limited to:

- (i) fencing. A water structure or water mass is fenced to prevent unsupervised access. There is a sturdy fence:

- (I) at least four feet high that cannot be easily climbed; or

- (II) that connects to the top of an above-ground pool and extends two feet above the pool or follows other specified safety guidelines; or

- (ii) pool covers. A child-safety pool cover is placed over the water area each time the pool is not in use. Pool covers are completely removed prior to pool use;

- (iii) locked doors. All doors and gates leading to the water structure, are locked;

- (iv) pool alarms. Pool alarms are installed and operating when the pool is not in use;

- (v) removable ladders. Removable ladders are removed from the water structure when not in use;

- (vi) safety devices, such as lifejackets or rings;

- (vii) swimming lessons; or

- (viii) training, such as cardio-pulmonary resuscitation and first aid.

(12) Animal and household pet safety.

(A) Animals are in good health, do not show evidence of carrying disease, and do not present a threat to the health, safety, or welfare of children. Appropriate supervision is required when the child in OKDHS custody is in the presence of the family's animals.

(B) The applicant or parent provides documentation of current rabies vaccinations administered by a licensed veterinarian for applicable animals.

(C) When an animal bites a child, the applicant or parent obtains appropriate and immediate medical treatment and contacts the assigned child welfare (CW) specialist as soon

as the child's safety is secured.

(13) Weapon safety.

(A) An applicant or parent ensures the safety of a child in OKDHS custody who comes within close proximity to:

- (i) a firearm or other weapon; or
- (ii) an individual in possession of a firearm or other weapon.

(B) Any firearm or weapon in the home is maintained, along with any ammunition, in a secure container, cabinet, or closet or otherwise be inaccessible at all times to children who are in the home.

(C) No firearm or weapon is transported in any vehicle in which a child in OKDHS custody is riding unless the firearm or weapon is safely secured or inaccessible to the child.

(D) A law enforcement official is exempt from (B) and (C) of this paragraph when conditions of employment require ready and immediate access to his or her weapon.

(E) An applicant or parent licensed to carry a handgun, whether concealed or unconcealed, per 21 O.S. §§ 1290.1 et seq., the Oklahoma Self-Defense Act, may maintain the firearm in a holster secured to his or her person, per 21 O.S. § 1290.2. When the firearm is not holstered and secured to his or her person, it is be maintained as required in (A) through (C) of this paragraph.

(F) Any activity the child in OKDHS custody participates in that involves a weapon has appropriate adult supervision at all times. The applicant or parent obtains pre-approval for the child's participation in a weapons activity from the child's assigned CW specialist or CW supervisor.

(14) Disaster plans. Disaster plans are reviewed with each newly-placed child and periodically with all children in the home. The family disaster plan includes:

(A) a list of emergency phone numbers posted in an accessible and conspicuous place. The list includes:

- (i) 911;
- (ii) doctors' names and phone numbers;
- (iii) health professionals or clinics;
- (iv) fire and police departments;
- (v) an ambulance service; and
- (vi) the name and phone numbers of the alternate caregiver; and

(B) access to a phone at all times when a child in OKDHS custody is present;

(C) an evacuation plan in the event of a fire, tornado, earthquake, flood, ice storm, or other natural, state, or national disaster;

(D) first aid procedures and supplies;

(E) a planned source of available medical care, such as a hospital emergency room, clinic, or health care professional;

- (F) a plan of whom to contact when there is an accident, an incident involving the child in OKDHS custody, or he or she runs away or is abducted; and
- (G) a plan of whom to contact and community resources to access when the child in OKDHS custody has behavioral problems.

(d) **Number of children in the home.** OKDHS determines the number and ages of children placed in each resource home.

(1) **Maximum number of children allowed to reside in the resource home.** The total number of children in OKDHS custody placed in a resource home does not exceed five. The total number of children in the resource home does not exceed six, which includes biological, adoptive, foster, and other children not in OKDHS custody. Approval to exceed these limits may be given to allow:

- (A) a parenting youth in foster care to remain with his or her child;
- (B) siblings to remain together;
- (C) a child with an established meaningful relationship with the family to remain with the family; or
- (D) a family with special training or skills to provide care to a child who has a severe disability.

(2) **Maximum number of children younger than 2 years of age allowed in a resource home.** No more than two children younger than 2 years of age including the resource parent's own children may reside or be placed in the resource home.

(3) **Child in OKDHS custody placed in a tribal home.** The number of children in OKDHS and tribal custody allowed to reside in a tribal resource home is determined by the applicable tribe. When a child in OKDHS custody is placed in a tribal home and placement exceeds six children, overfill procedures are followed. An Indian child in OKDHS custody is placed in compliance with the placement preferences of the Indian Child Welfare Act, per Oklahoma Administrative Code (OAC) 340:75-19.

(e) **Authorization to check applicant's references.** The applicant grants OKDHS and RFA contractors permission to contact the applicant's references by signing Form 04AF001E, Resource Family Application. Information obtained from the references is confidential and may only be released upon order of a court with competent jurisdiction.

(f) **Assessment of applicant's marital and relationship history.** The applicant has stable relationships whether married, single, separated, or divorced. The applicant's ability to develop and sustain stable relationships is assessed and documented.

(g) **Household income.** The applicant completes Form 04AF010E, Resource Family Financial Assessment, and provides documentation of employment, income, and expenditures as an assessment component. The applicant provides verification that he or she can manage personal and household financial needs without relying on the foster care maintenance payment. The applicant has sufficient income or community resources to meet the needs of an additional child placed in his or her home until the foster care maintenance payment for the child in OKDHS

custody is received.

(h) **RFA disposition.** Upon completion of the RFA, a decision regarding approval or denial is made after assessing the information gathered.

(1) The assessment process is completed and the determination regarding approval or denial is made no later than 60-calendar days after receipt of completed Form 04AF001E.

(2) OKDHS may approve or deny an applicant as a resource when the applicant or the home meets or does not meet requirements, per OAC 340:75-7.

(3) OKDHS makes the final determination of application denial, which may occur at any point during the process.

(i) **Exceptions to assessment guidelines.** Upon the applicant's or CW specialist's request, OKDHS may grant exceptions, provided adequate standards affording protection for the health, safety, and welfare of the child exist, per (1) and (2) of this subsection.

(1) For kinship resource homes only, OKDHS may, at its discretion, grant a waiver of specific rules or standards that do not compromise a child's safety and does not violate federal or state statutes.

(2) For traditional resource homes, OKDHS may, at its discretion, grant a variance of specific rules or standards that do not compromise a child's safety and does not violate federal or state statutes.

(j) **Application denial.** When a decision is made to deny an applicant as a resource parent, the applicant is provided an explanation regarding the reasons for the denial. When the denial pertains to a kinship resource home, the child in OKDHS custody is immediately moved from the applicant's home. Reasons for denying an application may include, but are not limited to:

(1) a lack of stable, adequate income to meet the applicant's own or total family needs, or the poor management of available income;

(2) the physical facility is inadequate to accommodate the addition of the child in OKDHS custody into the home, or presents health or safety concerns;

(3) a household member that has a history of alleged or confirmed child abuse, neglect, or both, per OAC 340:75-7-15;

(4) a household member that has a history of arrests or convictions, per OAC 340:75-7-15;

(5) any household member's health, behavioral health, or any condition that impedes the applicant's ability to provide appropriate care for a child;

(6) relationships in the household that are unstable and unsatisfactory;

(7) references that are guarded or have reservations in recommending the applicant;

(8) the applicant fails to complete the application, required training, or verifications timely as requested, or provides incomplete, inconsistent, or untruthful information;

(9) the home is determined unsuitable for the child requiring placement;

- (10) the applicant applied for a child that OKDHS reasonably believes may not be available for placement; or
- (11) one or more factors concerning any household member or conditions in the home, as described in the denial letter, renders the applicant or home environment inappropriate as a resource home.

**(k) Authority to approve or deny resource home and Interstate Compact on the Placement of Children (ICPC) assessments.**

OKDHS determines the final disposition of each resource home and ICPC assessment completed by OKDHS or RFA contractors.

**(l) Changes in the household.** The applicant or parent notifies the resource specialist or RFA contractor:

- (1) immediately of any:
  - (A) charges, arrests, or any alleged illegal activity committed by the applicant or any household member; and
  - (B) proceeding for a protective order filed by or against the applicant or any household member; and
- (2) within 24 hours of any change in the household including, but not limited to:
  - (A) the address or the home's location, including emergency home displacement;
  - (B) any significant change in the home that impacts the family's day-to-day living;
  - (C) the death or serious illness of a resource parent;
  - (D) health;
  - (E) income;
  - (F) individuals moving in or moving out of the home for any reason; or
  - (G) new or terminated relationships.

[Source: Added at 17 Ok Reg 549, eff 12-1-99 (emergency); Added at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 17 Ok Reg 3367, eff 9-1-00 ; Amended at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 19 Ok Reg 2226, eff 6-27-02 ; Amended at 21 Ok Reg 2385, eff 6-25-04 ; Amended at 22 Ok Reg 1242, eff 5-26-05 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 24 Ok Reg 1323, eff 6-1-07 ; Amended at 25 Ok Reg 1335, eff 6-1-08 ; Amended at 26 Ok Reg 1282, eff 6-1-09 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 28 Ok Reg 894, eff 7-1-11 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 35 Ok Reg 1695, eff 9-17-18 ; Amended at 39 Ok Reg 468, eff 12-21-21 (emergency); Amended at 39 Ok Reg 1803, eff 9-15-22 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24; Amended at 42 Ok Reg, Number 7, effective 11-18-24 (emergency)]

**340:75-7-18.1. Specialized community home**

Oklahoma Department of Human Services approves or denies the specialized community home as described in Oklahoma Administrative Code (OAC) 340:75-11-286, pursuant to the requirements of OAC 340:75-7-18.

[Source: Added at 29 Ok Reg 635, eff 6-1-12]

**340:75-7-19. Joint approval of resource homes**

**(a) Joint approval of resource home.** The Oklahoma Human Services (OKDHS) resource parent may be jointly-approved to provide foster care services to the child in OKDHS custody while approved by another

agency, entity, or tribe. Joint approval occurs after each agency conducts an assessment and determines the child's needs can be met in a jointly-approved home. While the home is jointly-approved, any changes or concerns are shared between each agency involved with the jointly-approved home. Joint-home approval is child-specific and occurs when, the:

- (1) child's need for specialized services, treatment, or placement changes;
- (2) child re-enters the child welfare (CW) system and has a previous relationship with the placement provider;
- (3) placement provider is kin to the child;
- (4) siblings need to be placed together;
- (5) infant of a youth in OKDHS custody requires placement; or
- (6) child in OKDHS custody requires specialized services or treatment in a kinship placement.

(b) **Joint approval of a therapeutic foster care (TFC) home.** Joint approval of the TFC home as a resource home occurs after an assessment of the child's case and approval by the TFC program staff and the TFC agency.

(c) **Joint approval of an OKDHS Developmental Disabilities Services (DDS) home.** Joint approval of a DDS home as a Child Welfare Services (CWS) resource home occurs after an assessment of the child's case and approval by the CWS DDS and Education program supervisor and the Resource Unit.

(d) **Joint use of CWS resource home by Office of Juvenile Affairs (OJA).** Joint use of the CWS resource home occurs after an assessment of the child's case and approval by the Resource Unit.

(e) **Joint use of CWS kinship resource home.** Use of the kinship resource home as a traditional resource home requires the kinship family continue to meet all the requirements of a CWS resource home.

(f) **Joint approval of resource home for Interstate Compact on the Placement of Children (ICPC).** An OKDHS resource parent may be jointly-approved to provide foster care services to a child in another state's custody when the request is received through OKDHS ICPC Unit and approved by another agency, entity, or tribe. Joint approval occurs after each agency conducts an assessment and determines the child's needs can be met in a jointly-approved home. While the home is jointly-approved, any changes or concerns are shared between each agency involved with the jointly-approved home.

(g) **Joint use of licensed family child care home.** A resource home is considered for joint approval as an OKDHS-licensed family child care home after an assessment and joint approval by the Resource Unit and Child Care Services (CCS). Prior to each child placement, a request for approval is made in writing on Form 07LC099E, Dual Approval Request for Foster Care Placement, based on the recommendation of CCS Licensing staff and resource staff. When a joint consensus is not achieved, CCS or the Resource Unit may request a review by the dual-approval committee, per Oklahoma Administrative Code 340:110-1-6 for a final decision. The approval decision is based on the number, ages, and specific needs of children potentially eligible for child care and foster care. Receipt of a written agreement from the caregiver is required that



states the person(s) from whom the child was removed is not present during child care hours.

(h) **Joint approval of resource home by OKDHS and tribes.** The OKDHS or tribal resource home may be jointly-approved by both the tribe and OKDHS when the home meets OKDHS standards; however, the total number of children placed in the jointly-approved home cannot exceed the total number of children approved for the home.

[Source: Added at 17 Ok Reg 549, eff 12-1-99 (emergency); Added at 17 Ok Reg 1481, eff 3-27-00 (emergency); Added at 17 Ok Reg 2429, eff 6-26-00 ; Amended at 17 Ok Reg 3367, eff 9-1-00 ; Amended at 19 Ok Reg 534, eff 12-20-01 (emergency); Amended at 19 Ok Reg 2226, eff 6-27-02 ; Amended at 21 Ok Reg 2385, eff 6-25-04 ; Amended at 24 Ok Reg 1323, eff 6-1-07 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 35 Ok Reg 1695, eff 9-17-18 ; Amended at 37 Ok Reg 1850, eff 9-15-20 ; Amended at 40 Ok Reg 990, eff 9-15-23 ; Amended at 42 Ok Reg, Number 7, effective 11-18-24 (emergency)]

### **340:75-7-20. Contract foster resource home assessments [REVOKED]**

[Source: Added at 17 Ok Reg 549, eff 12-1-99 (emergency); Added at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 17 Ok Reg 3367, eff 9-1-00 ; Amended at 19 Ok Reg 2226, eff 6-27-02 ; Revoked at 21 Ok Reg 2385, eff 6-25-04]

### **340:75-7-21. Denial or withdrawal of the foster home application [REVOKED]**

[Source: Added at 17 Ok Reg 549, eff 12-1-99 (emergency); Added at 17 Ok Reg 1311, eff 5-11-00 ; Revoked at 19 Ok Reg 2226, eff 6-27-02]

### **340:75-7-22. Disposition of foster resource home assessments [REVOKED]**

[Source: Added at 17 Ok Reg 549, eff 12-1-99 (emergency); Added at 17 Ok Reg 1481, eff 3-27-00 (emergency); Added at 17 Ok Reg 2429, eff 6-26-00 ; Amended at 17 Ok Reg 3367, eff 9-1-00 ; Amended at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 19 Ok Reg 208, eff 12-1-01 (emergency); Amended at 19 Ok Reg 2226, eff 6-27-02 ; Revoked at 21 Ok Reg 2385, eff 6-25-04]

### **340:75-7-23. Regular Child Welfare (CW) foster resource home contracts including Interstate Compact on the Placement of Children (ICPC) [REVOKED]**

[Source: Added at 17 Ok Reg 549, eff 12-1-99 (emergency); Added at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 18 Ok Reg 666, eff 1-10-01 (emergency); Amended at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 19 Ok Reg 2226, eff 6-27-02 ; Revoked at 21 Ok Reg 2385, eff 6-25-04]

### **340:75-7-24. Kinship placement for the child in Oklahoma Human Services (OKDHS) custody**

(a) **Kinship care.** Per Section 1-9-106 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-9-106), OKDHS establishes standards for kinship foster care.

(1) Per 10A O.S. § 1-4-204, when determining the placement of a child in OKDHS custody, a preference is given to relatives and persons who have a kinship relationship with the child. OKDHS makes diligent efforts to place the child accordingly and, per 10A

O.S. § 1-4-704, reports to the court the efforts made to secure a placement for the child in the least restrictive, most family-like setting, in reasonable proximity to the child's home, and where the child's special needs may be met.

(2) When the child is not placed with a relative who was considered for placement, OKDHS notifies the court in writing the reasons the relative was denied placement and becomes part of the court record, per 10A O.S. § 1-4-204.

(3) When the Indian Child Welfare Act (ICWA) applies, ICWA placement preferences are followed. The Indian child in foster care is placed in the following order of preference, absent good cause to the contrary, with:

(A) a member of the Indian child's extended family as specified by the child's tribe;

(B) a foster home licensed, approved, or specified by the Indian child's tribe;

(C) an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or

(D) an institution for children approved by an Indian tribe or operated by an Indian organization that has a program suitable to meet the Indian child's needs. If the Indian child's tribe has established by resolution a different order of preference, the tribe's placement preferences must be applied.

(b) **Kinship relationships.** Kinship relationships are identified in (1) through (5) of this subsection.

(1) **Related by blood.** Maternal and paternal blood relatives considered as kinship, including half-blood relatives, are:

(A) siblings;

(B) grandparents including those denoted by prefixes of great and great-great;

(C) aunts and uncles including those denoted by prefixes of great and great-great or by degree of relationship;

(D) nieces and nephews including those denoted by prefixes of grand and great-grand; and

(E) cousins.

(2) **Related by marriage.** Relationships created by marriage, as described in (1) of this subsection, whether by common-law or ceremony include:

(A) step-relations; and

(B) the previous relationship designation prior to the termination of the marriage by death or divorce.

(3) **Related by adoption.** Relatives by adoption as described in (1) and (2) of this subsection are considered kinship.

(4) **Related by emotional tie or bond.** An emotional tie or bond exists when a child or the child's parent acknowledges and accepts a person as part of the extended family or in the family's close network of friends and relationships. The family or child relationship role must exist prior to the necessity for the child's initial out-of-home placement. Individuals with whom a child in OKDHS custody establishes a relationship after the child's out-of-

home placement may be considered as a non-relative kinship placement after an assessment of the child's case and an exception to kinship placement is granted.

(A) When the child is in protective or OKDHS emergency custody, OKDHS gives priority to the child's noncustodial parent for placement, unless the placement is not in the child's best interests.

(B) When the child cannot be placed with the noncustodial parent, the child's placement is made, per 10A O.S. § 1-4-204.

(5) **Parent not considered kinship.** A kinship placement does not include:

(A) the child's custodial or noncustodial parent with whom the child is placed or to whom the child is returned; or

(B) a parent whose parental rights are terminated.

(c) **Residence requirement for kinship applicants.** For kinship applicants or adult household members who have not lived continuously in Oklahoma for the past five years, OKDHS must obtain the child abuse and neglect registry checks from the previous state(s) of residence, when a registry is available, prior to the child's placement in a kinship resource home, per 10A O.S. § 1-7-111.

(d) **Initial kinship placement.** Per 10A O.S. § 1-9-106, a child may be placed in the kinship resource home prior to completion of the resource family assessment, a national criminal history records search, and pre-service training provided:

(1) Form 04AD003E, Request for Background Check, is completed, signed, and results are received for the applicant and each adult household member, other than a foster child, per Oklahoma Administrative Code (OAC) 340:75-7-15;

(2) an OKDHS records search, including Child Welfare Services records, is completed and documented for the applicant and each adult household member on Form 04AF007E, Records Check Documentation. When an applicant or adult household member has not lived continuously in Oklahoma for the past five years, the resource specialist gathers all child welfare (CW) histories from other states where the applicant or adult household member lived within the past five years. The applicant or adult household member submits fingerprints for a national criminal history records search to expedite the initial placement approval process.

(3) Form 04FC001E, Initial Kinship Placement Agreement, is completed and signed;

(4) Form 04AF001E, Resource Family Application, is completed and signed;

(5) Form 04AF004E, House Assessment, is completed;

(6) Form 04MP061E, Water Safety Agreement, is completed and signed;

(7) Form 04AF021E, Verification of Receipt of OKDHS Rules, is completed and signed;

(8) Form 04AF052E, Initial Kinship Safety Evaluation and Assessment Tool, is completed and signed; and

(9) three personal references, only one of whom is a family member, are interviewed.

(e) **Kinship resource applicant criminal history records searches after normal business hours or on holidays.** In determining the suitability of the prospective kinship home, OKDHS uses the OKDHS Office of Background Investigations (OBI) to perform a name-based state criminal history records search, per procedures set forth in Section 901 et seq. of Title 28 of the Code of Federal Regulations. When OKDHS OBI is not operational, OKDHS may elect to contract or otherwise collaborate with local law enforcement agencies to perform a name-based state and federal criminal history records search followed by fingerprint verification, per 10A O.S. § 1-7-115.

(f) **Kinship maintenance payment option.** The kinship applicant may opt for:

- (1) an OKDHS foster care maintenance payment; or
- (2) a money payment that the child is eligible for, instead of the foster care maintenance payment, when the child lived with the kinship applicant continuously for at least twelve months.
  - (A) The foster care maintenance payment is reduced by the amount of the money payment when the money payment is less than the foster care maintenance payment. Refer to OAC 340:75-7-52.1 for Supplemental Security Income (SSI) or Social Security Administration (SSA) benefits received for a parent who is deceased or disabled.
  - (B) Payment may include:
    - (i) other financial resources, per OAC 340:75-13-28; or
    - (ii) Temporary Assistance for Needy Families (TANF) benefits, per OAC 340:10-9.

(g) **Kinship and traditional resource home requirements the same.** Each kinship resource home, whether paid or non-paid, meets the same requirements as the traditional non-related resource home.

(h) **Kinship start-up and training stipend.** The kinship resource family that has not been approved within the preceding five years is entitled to receive, per OKDHS Appendix C-20, Child Welfare Services Rates Schedule, a:

- (1) one-time kinship start-up stipend to assist with initial expenditures for each child placed in the home for 14-consecutive days; and
- (2) training stipend. Half of the total stipend is paid to the kinship resource family after the kinship resource parent(s) enrolls in the pre-service training and the second half of the total stipend is paid to the kinship parent(s) after the kinship resource parent(s) completes the pre-service training when:
  - (A) a child is placed and residing in the home at the time the kinship resource parent enrolls in training; and
  - (B) the child remains in the home until the kinship resource parent completes training.

(i) **Foster care maintenance payments begin when requirements satisfied.** Per 10A O.S. § 1-9-106, the kinship resource parent is not entitled to any payments for providing foster care until the resource

parent receives final approval from OKDHS. Foster care maintenance payments for kinship resource homes begin at the time requirements are met, per OAC 340:75-7-18 and are not retroactive. On a case-by-case basis, the kinship resource parent may be approved for maintenance payments based on an exception to a non-safety requirement, per OAC 340:75-7-10.1.

**(j) Kinship resource family transfer to a resource family partner (RFP).** When a kinship resource family is already approved as a supported foster home or is in the approval process with an RFP, the RFP may request the kinship resource family case be transferred to the RFP agency.

[Source: Added at 21 Ok Reg 2385, eff 6-25-04 ; Amended at 22 Ok Reg 1242, eff 5-26-05 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 24 Ok Reg 1323, eff 6-1-07 ; Amended at 25 Ok Reg 1335, eff 6-1-08 ; Amended at 26 Ok Reg 413, eff 11-20-08 (emergency); Amended at 26 Ok Reg 884, eff 5-15-09 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 35 Ok Reg 1695, eff 9-17-18 ; Amended at 37 Ok Reg 1850, eff 9-15-20 ; Amended at 38 Ok Reg 2294, eff 9-15-21 ; Amended at 39 Ok Reg 1803, eff 9-15-22 ; Amended at 42 Ok Reg, Number 7, effective 11-18-24 (emergency)]

## **PART 3. PARTNERSHIPS IN PARENTING [REVOKED]**

### **340:75-7-25. Background [REVOKED]**

[Source: Amended at 10 Ok Reg 3987, eff 7-13-93 (emergency); Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Revoked at 13 Ok Reg 3927, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-7-26. Values [REVOKED]**

[Source: Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Revoked at 13 Ok Reg 3927, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-7-27. Goals [REVOKED]**

[Source: Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Revoked at 13 Ok Reg 3927, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-7-28. Parental involvement [REVOKED]**

[Source: Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Revoked at 13 Ok Reg 3927, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-7-29. Visitation between the child in foster home care and family [REVOKED]**

[Source: Revoked at 11 Ok Reg 501, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 2283, eff 5-26-94]

### **340:75-7-30. Mail and telephone contact [REVOKED]**

[Source: Revoked at 11 Ok Reg 501, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 2283, eff 5-26-94]

### **340:75-7-31. Case management services [REVOKED]**

[Source: Amended at 10 Ok Reg 3623, eff 7-12-93 ; Revoked at 11 Ok Reg 501, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 2283, eff 5-26-94]

### **340:75-7-32. Criteria for return of child to own home [REVOKED]**

[Source: Revoked at 11 Ok Reg 501, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 2283, eff 5-26-94]

### **340:75-7-33. Issues to consider when family reunification does not seem appropriate [REVOKED]**

[Source: Revoked at 11 Ok Reg 501, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 2283, eff 5-26-94]

## **PART 4. ROLES AND RESPONSIBILITIES**

### **340:75-7-35. Goals [REVOKED]**

[Source: Added at 17 Ok Reg 549, eff 12-1-99 (emergency); Added at 17 Ok Reg 1311, eff 5-11-00 ; Revoked at 19 Ok Reg 2226, eff 6-27-02]

### **340:75-7-36. Foster parents' rights [REVOKED]**

[Source: Added at 17 Ok Reg 549, eff 12-1-99 (emergency); Added at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 17 Ok Reg 3367, eff 9-1-00 ; Amended at 19 Ok Reg 2226, eff 6-27-02 ; Revoked at 21 Ok Reg 2385, eff 6-25-04]

### **340:75-7-37. Resource parent responsibilities**

(a) **Resource compliance.** The resource parent complies with the Oklahoma Children's Code, the Oklahoma Child Care Facilities Licensing Act, and the rules promulgated by Oklahoma Human Services (OKDHS), per Sections 1-9-106 and 1-9-118 of Title 10A of the Oklahoma Statutes (10A O.S. §§ 1-9-106 and 1-9-118).

(b) **Resource parent responsibility to the child in OKDHS custody and the child's family.** The resource parent's responsibilities to the child in OKDHS custody placed in foster care and the child's family include:

- (1) integrating the child into the resource family setting and caring for the child as the resource parent would care for the resource parent's own child;
- (2) bridging with the child's parent, per Oklahoma Administrative Code (OAC) 340:75-7-18;
- (3) coordinating visitation and contact between the child, siblings, and family members including face-to-face, phone, email, and mail contact, when appropriate, per OAC 340:75-6-30;
- (4) participating in the initial meeting with the child's parents coordinated by OKDHS;
- (5) helping the child understand why he or she is in foster care and attempting to resolve the grief caused by separation from the

child's family;

(6) helping the child maintain a connection to the child's kin, culture, and community;

(7) helping the child develop a positive identity and self-esteem that includes feeling lovable, capable, worthwhile, and competent;

(8) using appropriate parent-child conflict resolution, and behavior and stress management techniques in a manner appropriate to the child's age and development, without using any type of physical discipline, per OAC 340:75-7-38;

(9) participating with SoonerStart services, per OAC 340:75-7-65, when applicable;

(10) enrolling the child in an accredited school, when applicable, ensuring the child attends school, and completes schoolwork, per OAC 340:75-6-50;

(11) advocating for the child to obtain appropriate educational testing and placement timely;

(12) attending school conferences and Individualized Education Program (IEP) meetings and following up with recommended services including, but not limited to, tutoring or special assistance with school work, per OAC 340:75-6-50;

(13) exercising the reasonable and prudent parent standard when determining the child's participation in extracurricular and other recreational activities as age- and developmentally-appropriate, such as allowing the child overnight stays with appropriate individuals;

(14) seeking necessary medical, dental, and counseling services for the child and maintaining records of all medical, dental, and counseling appointments, per OAC 340:75-14-3;

(15) promoting and supporting the child's opportunity to participate in the religious practices of the child's family's choice, per OAC 340:75-6-49;

(16) providing for the child's access to legal counsel including, but not limited to, mail contact, and transporting or arranging the child's transportation to meet with legal counsel upon reasonable request, per OAC 340:75-6-89;

(17) using the foster care maintenance payment for the care and maintenance of the child, per OAC 340:75-7-52 including, but not limited to, food, adequate clothing and possessions, and incidental expenses;

(18) providing federally mandated successful adulthood services to youth who are at least 14 years of age, per OAC 340:75-6-110;

(19) assisting the child younger than 14 years of age learn basic life skills, allowing him or her the opportunity to improve self-esteem and strengthen identity in preparation for life after foster care, per OAC 340:75-6-110; and

(20) maintaining and respecting the confidential nature of information regarding the child and the child's family. The resource parent does not identify the child or the child's family as a participant in a Child Welfare Services case when sharing a photo or information on any type of media or on any Internet site, per OAC 340:75-1-42.

(c) **Resource parent's responsibility to OKDHS.** The resource parent's responsibility to OKDHS includes:

- (1) participating as a team member with OKDHS and the child's parent toward a permanency plan including, but not limited to:
  - (A) attending meetings and case staffings when requested;
  - (B) informing OKDHS and other team members of the child's strengths, needs, progress, and development; and
  - (C) providing OKDHS and other team members with any known family information;
- (2) cooperating with and assisting OKDHS to place siblings together;
- (3) attending court hearings as desired or required;
- (4) submitting written reports to the court when desired or requested;
- (5) presenting testimony concerning the child's strengths, needs, behaviors, important experiences, and relationships in addition to other information the court requests;
- (6) completing required training hours each year ;
- (7) maintaining a Life Book for each child placed in the resource home to support the child's sense of family continuity. The Life Book accompanies the child when he or she leaves the resource home; and
- (8) notifying the resource specialist, per OAC 340:75-7-18:
  - (A) immediately of any:
    - (i) charges, arrests, or any alleged illegal activity committed by the applicant or any household member; or
    - (ii) proceeding for a protective order filed by, or against the applicant, or any household member; and
  - (B) within 24 hours of any change in the household including, but not limited to:
    - (i) the address or the home's location including emergency home displacement;
    - (ii) any significant change in the home that impacts the family's day-to-day living;
    - (iii) the death or serious illness of a resource parent;
    - (iv) health;
    - (v) income;
    - (vi) new or terminated relationships; or
    - (vii) household members moving in or moving out of the home for any reason.

[Source: Added at 17 Ok Reg 549, eff 12-1-99 (emergency); Added at 17 Ok Reg 1481, eff 3-27-00 (emergency); Added at 17 Ok Reg 2429, eff 6-26-00 ; Amended at 19 Ok Reg 2226, eff 6-27-02 ; Amended at 21 Ok Reg 2385, eff 6-25-04 ; Amended at 22 Ok Reg 1242, eff 5-26-05 ; Amended at 25 Ok Reg 1335, eff 6-1-08 ; Amended at 26 Ok Reg 1282, eff 6-1-09 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 35 Ok Reg 1695, eff 9-17-18 ; Amended at 36 Ok Reg 1856, eff 9-16-19 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]



### **340:75-7-37.1. Oklahoma Department of Human Services (DHS) resource specialist responsibilities**

The resource specialist, per Section 1-9-114 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-9-114) engages in timely activities designed to recruit, assess, approve, support, re-assess, and retain resource families by working cooperatively with internal and external sources to provide a safe environment while the child in DHS custody is placed in a resource home. The resource specialist's primary responsibility is to locate through diligent efforts safe, appropriate, and preferably kinship, placements for the child in DHS custody, per 10A O.S. § 1-4-204 and, Oklahoma Administrative Code 340:75-6-85, and to coordinate and cooperate with other child welfare specialists to meet the goals for safe and informed resource homes that reflect the ethnic and racial diversity of children for whom resource homes are needed, per 10A O.S. § 1-9-114.

[Source: Added at 24 Ok Reg 1323, eff 6-1-07 ; Amended at 26 Ok Reg 1282, eff 6-1-09 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 35 Ok Reg 1695, eff 9-17-18]

### **340:75-7-38. Discipline for the child in Oklahoma Human Service (OKDHS) custody placed in foster family care**

(a) **Discipline.** "Discipline" means safe practices or methods of teaching and enforcing acceptable patterns of behavior to ensure proper conduct and does not include corporal punishment. The resource parent assists the child in OKDHS custody placed in the resource home learn behaviors that promote the child's self-regard, personal ability, and socialization skills. The rules governing these efforts are outlined in Oklahoma Administrative Code (OAC) 340:75-7-38(b) through (d).

(b) **Positive interactions.** The resource parent and family interactions with a child:

- (1) protect and nurture the child's physical and psychological well-being;
- (2) advance the child's development;
- (3) meet the child's needs;
- (4) teach the child ways to prevent and solve problems;
- (5) maintain and build the parent and child relationship;
- (6) build the child's self-control and responsibility; and
- (7) comply with OKDHS rules regarding discipline to provide a safe, nurturing environment that allows the child to experience security and positive self-esteem.

(c) **Teaching techniques.**

(1) **Positive behavior management.** Positive behavior management techniques include, but are not limited to:

- (A) rewards. Rewards may be small gestures of approval, such as treats or toys, and symbols of recognition, such as stickers, stars, happy faces, or money. Rewards are for the interest, desire, and effort the child displays, not for performance, talent, or ability. This technique must not be used all the time;

(B) privileges. Privileges allow the child to experience greater freedom or opportunity and an increased responsibility. Privileges are used to encourage the child's interest and talents by supporting the child's efforts in pursuing interests; and

(C) praise. Praise may be communicated by verbal or non-verbal expression of the child's achievements or good qualities.

(2) **Self-control.** To promote the child's self-control, the resource parent clearly communicates expectations and provides a structured, safe environment. The resource parent's use of planning and preparation prevents confrontation, acting-out, and negative behaviors by:

(A) establishing expectations. The child in out-of-home care experiences varied expectations in each placement setting. Since each placement setting is different, the resource parent must communicate expectations to the child through setting rules, telling the child what to expect, and modeling. Clearly communicated expectations provide structure for the child and a structure for building and maintaining self-control; and

(B) modifying the environment. A structured, safe environment allows the child to succeed at identified tasks. The resource parent structures the environment by removing negative sources of stimulation for the child and establishing routines and consistency in the child's day-to-day schedule.

(3) **Direct intervention.** When the child does not have sufficient self-control to ensure acceptable behavior, the resource parent uses direct intervention and techniques, per OAC 340:75-7-38(c) (1) and (2). Techniques used are dependent upon the child's developmental needs and anticipated outcomes. Techniques appropriate for responding to lack of self-control include:

(A) rules. Rules are established guidelines that:

(i) allow the child to know what can and cannot be done;

(ii) help the child know right from wrong;

(iii) communicate to the child how something is done and help prevent problems; or

(iv) provide a way to respond to a problem;

(B) time out. Time out provides space between the child and a situation where the child exhibits behavior that is not acceptable or where the situation is dangerous.

Recommended time out is one minute per age of the child. Time out is typically used for the younger child;

(C) restricting privileges. Privileges are restricted when a child is not allowed to do something for a specified time period, such as not playing with a particular toy, watching television, playing music or computer games, having phone privileges, or engaging in some other pleasant activity. Talking to parents or siblings is not included in

restricting phone privileges;

(D) grounding. Grounding involves imposing restrictions on a child's interaction and involvement with friends or activities outside the placement setting, such as restriction to the house or leaving the premises to attend parties, movies, or visit friends. Grounding is typically used for the older child;

(E) logical consequences. Logical consequences require the resource parent to impose a response to the child's behavior consistent with and connected to the unacceptable behavior exhibited; and

(F) natural consequences. Natural consequences occur in response to the child's behavior. This technique is most appropriately used with adolescents and for the child who tends to get in power struggles. Natural consequences are never allowed when a child's safety or well-being is in question.

(4) **Physical discipline.** OKDHS prohibits the use of any form of physical discipline for the child in OKDHS custody in an out-of-home placement or any act or omission that would emotionally, physically, or psychologically harm the child.

(A) The resource parent contacts the child welfare (CW) or the resource specialist when the resource parent cannot successfully discipline the child.

(B) OKDHS and the resource parent do not authorize school personnel to administer corporal punishment to the child in OKDHS custody. The resource parent does not, when requested, authorize corporal punishment by school personnel, but refers school personnel to the CW specialist to establish alternative discipline methods.

(C) The developmental needs of the child and the desired outcomes define the discipline techniques used to modify the child's behaviors. Some of the circumstances that may affect the discipline technique used include:

(i) the behavior the child is exhibiting;

(ii) the resource parent's feelings about the behavior;

(iii) the purpose assigned to the behavior;

(iv) where the behavior occurs; and

(v) who is present at the time of the behavior.

(5) **Punishment.** Unacceptable behavior management methods and techniques promote negative behavior, are punitive, and do not promote self-control. Unacceptable behavior management techniques for the child include, but are not limited to:

(A) the use of the hand or any object, such as a board, fly swatter, paddle, belt, switch, electrical cord, hair brush, or wooden spoon, to hit, strike, swat, or physically discipline the child;

(B) deprivation of food or sleep;

(C) deprivation of family visits;

- (D) slapping, pinching, shaking, biting, pushing, shoving, thumping, or rough jerking;
- (E) cursing or other verbal abuse;
- (F) private or public humiliation or any act that degrades;
- (G) derogatory remarks about the child, the child's biological family, race, religion, or cultural background;
- (H) solitary confinement in areas, such as closets, cellars, and rooms with locked doors;
- (I) threatening to move the child from the resource home;
- (J) use of any chemical agent, such as mace, sleeping pills, or alcohol;
- (K) physical force or threat of physical force;
- (L) assuming and maintaining an unnatural position that may include holding arms out-stretched from the body, placing the nose against a wall, or forced squatting;
- (M) tying with a rope, cord, or other object;
- (N) ordering, allowing, or encouraging physical discipline or hitting by other children or anyone else in the home;
- (O) washing the mouth out with soap, eating certain foods that may include peppers, hot sauce, or other food stuff when intended for punishment; and
- (P) forced physical exertion, such as running laps and push-ups.

(d) **OKDHS rules.** The resource parent must abide by OKDHS rules regarding discipline of the child in OKDHS custody even when there is a difference between OKDHS discipline rules and the methods used to discipline the resource parent's own child.

[Source: Added at 17 Ok Reg 549, eff 12-1-99 (emergency); Added at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 17 Ok Reg 3367, eff 9-1-00 ; Amended at 19 Ok Reg 2226, eff 6-27-02 ; Amended at 21 Ok Reg 2385, eff 6-25-04 ; Amended at 22 Ok Reg 1242, eff 5-26-05 ; Amended at 25 Ok Reg 1335, eff 6-1-08 ; Amended at 30 Ok Reg 1358, eff 7-1-13 ; Amended at 38 Ok Reg 2294, eff 9-15-21]

### **340:75-7-39. Religious and cultural observation [REVOKED]**

[Source: Added at 17 Ok Reg 549, eff 12-1-99 (emergency); Added at 17 Ok Reg 1311, eff 5-11-00 ; Revoked at 19 Ok Reg 2226, eff 6-27-02]

### **340:75-7-40. Education [REVOKED]**

[Source: Added at 17 Ok Reg 549, eff 12-1-99 (emergency); Added at 17 Ok Reg 1311, eff 5-11-00 ; Revoked at 19 Ok Reg 2226, eff 6-27-02]

### **340:75-7-41. Placement considerations and requirements for the child in Oklahoma Department of Human Services (DHS) custody**

(a) **Placement preferences for the child in DHS custody.** Refer to Oklahoma Administrative Code (OAC) 340:75-6-85 for additional statutory and DHS requirements regarding sibling placement and placement preferences for the child in DHS custody.

(b) **Identification of appropriate placement.** Per Section 1-4-204 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-4-204), when selecting an appropriate placement, preferably kinship placement, for the child in

DHS custody, DHS considers the:

- (1) child's best interests;
- (2) preferences of the parent, relative, and child, when appropriate; and
- (3) applicant's ability and willingness to:
  - (A) provide safety for the child;
  - (B) cooperate with any restrictions placed on contact between the child and others;
  - (C) support DHS efforts to implement the child's permanency plan;
  - (D) meet the child's physical, emotional, and educational needs including the child's need to continue in the same school or educational placement;
  - (E) provide a placement for the child's sibling(s); and
  - (F) care for the child as long as necessary and provide a permanent home, when necessary.

(c) **Placement stability.** To promote stability and healthy growth of the child in DHS custody, it is the intent of DHS to limit the number of times a child is moved in out-of-home placement.

- (1) The placement made is the best available placement to provide permanency for the child.
- (2) A request by a placement provider for immediate removal of a child is examined and assessed to determine if the situation can be resolved to prevent disruption of the placement.

[Source: Added at 17 Ok Reg 549, eff 12-1-99 (emergency); Added at 17 Ok Reg 1481, eff 3-27-00 (emergency); Added at 17 Ok Reg 2429, eff 6-26-00 ; Amended at 17 Ok Reg 3367, eff 9-1-00 ; Amended at 19 Ok Reg 208, eff 12-1-01 (emergency); Amended at 19 Ok Reg 2226, eff 6-27-02 ; Amended at 21 Ok Reg 2385, eff 6-25-04 ; Amended at 26 Ok Reg 1282, eff 6-1-09 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 35 Ok Reg 1695, eff 9-17-18]

### **340:75-7-41.1. Types of reimbursement for kinship provider [REVOKED]**

[Source: Added at 17 Ok Reg 3367, eff 9-1-00 ; Added at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 19 Ok Reg 534, eff 12-20-01 (emergency); Amended at 19 Ok Reg 2226, eff 6-27-02 ; Revoked at 21 Ok Reg 2385, eff 6-25-04]

### **340:75-7-42. Exceptions to foster family care policy [REVOKED]**

[Source: Added at 17 Ok Reg 549, eff 12-1-99 (emergency); Added at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 19 Ok Reg 2226, eff 6-27-02 ; Revoked at 21 Ok Reg 2385, eff 6-25-04]

### **340:75-7-43. Change of placement and notice to placement providers [REVOKED]**

[Source: Added at 17 Ok Reg 549, eff 12-1-99 (emergency); Added at 17 Ok Reg 2429, eff 6-26-00 ; Revoked at 19 Ok Reg 2226, eff 6-27-02]

**340:75-7-44. Voluntary foster family care for children under age 18 [REVOKED]**

[Source: Added at 17 Ok Reg 549, eff 12-1-99 (emergency); Added at 17 Ok Reg 1481, eff 3-27-00 (emergency); Added at 17 Ok Reg 2429, eff 6-26-00 ; Revoked at 19 Ok Reg 2226, eff 6-27-02]

**340:75-7-45. Voluntary foster care after age 18 [REVOKED]**

[Source: Added at 17 Ok Reg 549, eff 12-1-99 (emergency); Added at 17 Ok Reg 1311, eff 5-11-00 ; Revoked at 19 Ok Reg 2226, eff 6-27-02]

**340:75-7-46. Services to the child in foster family care provided by Child Welfare (CW) worker and the foster parent [REVOKED]**

[Source: Added at 17 Ok Reg 549, eff 12-1-99 (emergency); Added at 17 Ok Reg 1481, eff 3-27-00 (emergency); Added at 17 Ok Reg 2429, eff 6-26-00 ; Revoked at 19 Ok Reg 2226, eff 6-27-02]

**340:75-7-47. Child Welfare (CW) worker contacts with foster parents [REVOKED]**

[Source: Added at 17 Ok Reg 549, eff 12-1-99 (emergency); Added at 17 Ok Reg 1481, eff 3-27-00 (emergency); Added at 17 Ok Reg 2429, eff 6-26-00 ; Revoked at 19 Ok Reg 2226, eff 6-27-02]

**340:75-7-48. Professional team of the foster resource specialist, Child Welfare (CW) specialist, and foster parents [REVOKED]**

[Source: Added at 17 Ok Reg 549, eff 12-1-99 (emergency); Added at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 19 Ok Reg 2226, eff 6-27-02 ; Revoked at 21 Ok Reg 2385, eff 6-25-04]

**PART 5. ELIGIBILITY AND PAYMENTS**

**340:75-7-50. Eligibility [REVOKED]**

[Source: Amended at 10 Ok Reg 3623, eff 7-12-93 ; Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 1052, eff 4-26-99 ; Revoked at 19 Ok Reg 2226, eff 6-27-02]

**340:75-7-51. Foster care claims**

**(a) Foster care maintenance payments.**

(1) A foster care claim for a maintenance payment is approved after:

(A) the resource family assessment is completed and approved, per Oklahoma Administrative Code (OAC) 340:75-7-18;

(B) pre-service training is completed by each parent in the resource home unless an exception applies, per OAC 340:75-7-14;

(C) the results of national criminal history records searches based on fingerprints are received regarding each applicant and each adult household member, per OAC 340:75-7-15;

(D) a foster care contract is signed by each applicant; and

(E) a Designated Client Number (DCN) is assigned to the foster care contract.

(2) A maintenance payment may not precede the date of the foster care contract.

(3) The resource parent authorizes direct deposit or obtains a debit card to receive foster care maintenance payments.

**(b) Overpayment or underpayment of the foster care maintenance payment.** The Oklahoma Department of Human Services (DHS) and the resource parent ensure the accuracy of the foster care maintenance payment upon receipt of the payment. When an error occurs, the procedures for adjustments listed in (1) through (3) of this subsection must be completed.

(1) The resource parent immediately notifies the resource specialist or DHS notifies the resource parent upon discovery of an error in the foster care maintenance payment.

(2) DHS authorizes foster care supplemental payments upon discovery of underpayments. When an overpayment coincides with the underpayment, the overpayment is recouped before the underpayment is paid.

(3) DHS authorizes repayment schedules when resource parents are paid for days the child was not in placement or for an amount greater than authorized.

(A) The resource parent reimburses DHS for any overpayment, regardless of the party responsible for the error. Each monthly payment toward resolving the overpayment must equal at least 10 percent of the overpayment unless an exception was granted.

(B) The resource specialist assigned to the resource home notifies the resource parent of the overpayment and explains the:

(i) reason for the overpayment;

(ii) amount of overpayment;

(iii) resource parent's responsibility for repayment;  
and

(iv) repayment options.

(C) Repayment options are:

(i) payment in full by check or money order payable to DHS;

(ii) a deduction from the monthly foster care maintenance payment while children in DHS custody remain in the home; or

(iii) extra payments each month to DHS as well as the deduction from the monthly foster care maintenance payment.

(D) When the resource parent:

- (i) closes the home and does not repay the overpayment, the amount of the overpayment remains in the DHS electronic system indefinitely; and
- (ii) reopens the resource home after closure, the overpayment is deducted from the foster care maintenance payment.

[Source: Amended at 10 Ok Reg 3623, eff 7-12-93 ; Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 17 Ok Reg 549, eff 10-1-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 18 Ok Reg 666, eff 1-10-01 (emergency); Amended at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 19 Ok Reg 208, eff 12-1-01 (emergency); Amended at 19 Ok Reg 2226, eff 6-27-02 ; Amended at 21 Ok Reg 2385, eff 6-25-04 ; Amended at 22 Ok Reg 1242, eff 5-26-05 ; Amended at 25 Ok Reg 1335, eff 6-1-08 ; Amended at 26 Ok Reg 1282, eff 6-1-09 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 35 Ok Reg 1695, eff 9-17-18 ; Amended at 42 Ok Reg, Number 7, effective 11-18-24 (emergency)]

### **340:75-7-52. Foster care contracts and maintenance payments**

(a) **Foster care contracts.** The rules in this Section and the provisions of the foster care contract for services define the resource parent and Oklahoma Department of Human Services (DHS) responsibilities regarding the care of the child in a resource home. The foster care contract is signed when each requirement for approval as a resource parent is satisfied, per Oklahoma Administrative Code (OAC) 340:75-7-18, except for kinship, per OAC 340:75-7-24.

(1) Foster care contracts are perpetually renewed and considered in effect unless a specific action by one of the parties to the contract terminates the contract. The resource parent is eligible for foster care maintenance payments effective the date the home is approved. The kinship resource parent is not paid retroactively to the date of the child's placement.

(2) Foster care maintenance payments are authorized for intervals of care provided to a child in foster care:

(A) placed by DHS; or

(B) by a tribe with an approved Tribal/State Agreement with DHS.

(3) On a case-by-case basis, the kinship resource parent may be approved for maintenance payments based on an exception to a non-safety requirement, per OAC 340:75-7-24.

(4) The kinship resource parent who meets the degree of relationship, per OAC 340:10-9-1, may apply for assistance through Temporary Assistance for Needy Families (TANF) at a local DHS office pending resource home approval.

(b) **Foster care maintenance payments.** When the child is eligible for a benefit payment, the resource family may opt to receive the larger of either the DHS foster care maintenance payment or the benefit payment, per OAC 340:75-7-52.1. The foster care contract authorizes foster care maintenance payments to offset the additional expense of caring for a child in DHS custody.

(1) A foster care maintenance payment is not paid until the home is granted final approval. The foster care maintenance payment is



issued the month after the care is provided. No foster care maintenance payment is paid after the effective date of the cancellation or termination of the contract.

(2) The DHS Director authorizes the amount of the foster care maintenance payment and difficulty of care payment rates. Foster care maintenance payment rates are reviewed annually to ensure continued appropriateness, per Section 1356.21(m) of Title 45 of the Code of Federal Regulations. When additional funding is needed, a request is made through the Oklahoma legislative budget process for state agencies.

(3) The foster care maintenance payment is a fixed monthly amount and corresponds to the child's age, per DHS Appendix C-20, Child Welfare Services Rates Schedule. When a change in the child's age qualifies for a new rate, the new rate becomes effective on the first day of the month following the child's birthday.

(4) The foster care maintenance payment is provided to the resource parent to address the costs of room, board, clothing, and incidentals for the child in DHS custody.

(5) The resource parent's monthly foster care maintenance payment includes a clothing allowance for each child in DHS custody, per OAC 340:75-13-45.

(6) The medical expense of the child in foster care is covered through Medicaid (SoonerCare) when private insurance is not available to the child or through state funds when the child is not eligible for Medicaid (SoonerCare), per OAC 340:75-13.

(7) The foster care maintenance payment received through the foster care contract is not considered income, per Section 131 of Title 26 of the United States Code and the resource family does not receive Form 1099 from DHS at year's end. The resource parent consults a tax advisor for advice, as needed.

(8) When a partial month of foster care service is provided, the foster care maintenance payment begins on the child's date of entry to the resource home and concludes on the day before the child's departure from the home. A prorated sum is paid:

- (A) based on the number of days of service provided, multiplied by the daily rate, per DHS Appendix C-20; and
- (B) automatically by KIDS.

(9) When a child is out of the resource home for family reunification purposes, pre-placement visits, or is missing from care for up to seven consecutive days, the resource parent receives a foster care maintenance payment when the child is expected to return to the resource home by the end of the seven consecutive days.

(10) The resource parent is eligible for prorated foster care maintenance payments when the child attends an Indian boarding school, Oklahoma Schools for the Deaf or Blind, or a similar residential program and returns to the resource home for weekends or school vacations.

- (A) When the child returns to the resource home for a summer vacation, the monthly rate is used.

(B) The days the child spends in the resource home are documented in KIDS, and the foster care maintenance payment is automatically generated.

(11) The resource parent is eligible for the foster care maintenance payment for up to 10-calendar days during each of the child's health or behavioral health hospitalization events when the child is expected to return to the resource home.

(12) The foster care maintenance payment is generated electronically based on the child's placement episode in KIDS.

(c) **Termination of the foster care contract.** Termination of the foster care contract occurs, per OAC 340:75-7-94 and results in closure of the resource home.

[Source: Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 17 Ok Reg 549, eff 10-1-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 19 Ok Reg 2226, eff 6-27-02 ; Amended at 21 Ok Reg 2385, eff 6-25-04 ; Amended at 22 Ok Reg 1242, eff 5-26-05 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 24 Ok Reg 1323, eff 6-1-07 ; Amended at 25 Ok Reg 1335, eff 6-1-08 ; Amended at 26 Ok Reg 1282, eff 6-1-09 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 35 Ok Reg 1695, eff 9-17-18 ; Amended at 42 Ok Reg, Number 7, effective 11-18-24 (emergency)]

#### **340:75-7-52.1. Social Security benefits**

**Resource parent may become payee of certain benefits provided to the child.** The resource parent may opt to receive an Oklahoma Human Services (OKDHS) foster care maintenance payment or a Social Security benefit payment for which the child is eligible. Upon application, the resource parent with whom the child in OKDHS custody has lived continuously for at least twelve months may become the payee to receive the child's Supplemental Security Income (SSI) or Social Security Administration (SSA) benefits.

[Source: Added at 24 Ok Reg 1323, eff 6-1-07 ; Amended at 25 Ok Reg 1335, eff 6-1-08 ; Amended at 26 Ok Reg 1282, eff 6-1-09 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 35 Ok Reg 1695, eff 9-17-18 ; Amended at 37 Ok Reg 1850, eff 9-15-20 ; Amended at 39 Ok Reg 1803, eff 9-15-22]

#### **340:75-7-53. Difficulty of care (DOC) payments for the eligible child**

(a) **DOC payments available for the eligible child in certain types of foster care placements.**

(1) DOC rates are available to reimburse the Oklahoma Department of Human Services (DHS), tribal, supported, or coordinated foster care resource parent for additional care and supervision required due to the child's extraordinary physical, mental, or emotional needs.

(2) DOC reimbursement is not available to the child in a specialized community home, specialized foster care and agency companion through Developmental Disabilities Services, community-based residential care, inpatient care, or a therapeutic foster care home.

(3) The resource parent is eligible for pro-rated DOC payments when the child attends an Indian boarding school, Oklahoma Schools for the Deaf or Blind, or a similar residential program and returns to the resource home for weekends or school vacations.

(A) When the child returns to the resource home for school vacations the monthly DOC rate is used.

(B) The days the child spends in the resource home are documented in KIDS and the DOC payment is automatically generated.

(4) The resource parent is eligible for the DOC payment for up to 10-calendar days during each of the child's health or behavioral health hospitalization events when the child is expected to return to the resource home.

(b) **DOC rates and descriptions.** DOC reimbursements are provided for the eligible child in addition to the foster care maintenance or adoption assistance payment, per DHS Appendix C-20, Child Welfare Services Rates Schedule.

(1) The descriptions in DHS Appendix C-20 are used as guidelines from which DHS makes the most appropriate increase recommendation.

(2) Not every situation clearly fits in one rate category.

(3) The child's age is considered when determining the appropriate rate category.

(4) When approved, DOC payments are:

(A) not retroactive unless an exception was approved; and

(B) available the first day of the month the DOC rate is requested.

(c) **DOC request.** The resource parent or DHS may initiate the request for DOC payments.

(1) The DOC review process is completed within 10-calendar days after receipt of all information necessary to make a determination.

(2) Each DOC authorization is limited to six months.

[Source: Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 656, eff 12-12-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 19 Ok Reg 2226, eff 6-27-02 ; Amended at 21 Ok Reg 2385, eff 6-25-04 ; Amended at 22 Ok Reg 1242, eff 5-26-05 ; Amended at 25 Ok Reg 1335, eff 6-1-08 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 35 Ok Reg 1695, eff 9-17-18]

### **340:75-7-54. Difficulty of Care rate descriptions [REVOKED]**

[Source: Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 17 Ok Reg 549, eff 12-1-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 19 Ok Reg 2226, eff 6-27-02 ; Amended at 20 Ok Reg 738, eff 4-1-03 (emergency); Amended at 20 Ok Reg 2090, eff 6-26-03 ; Revoked at 21 Ok Reg 2385, eff 6-25-04]

### **340:75-7-55. Difficulty of care approval process [REVOKED]**

[Source: Amended at 10 Ok Reg 3623, eff 7-12-93 ; Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 17 Ok Reg 1481, eff 3-27-00]

(emergency); Amended at 17 Ok Reg 2429, eff 6-26-00 ; Amended at 19 Ok Reg 2226, eff 6-27-02 ; Revoked at 21 Ok Reg 2385, eff 6-25-04]

### **340:75-7-56. Difficulty of care reviews [REVOKED]**

[Source: Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 19 Ok Reg 2226, eff 6-27-02 ; Revoked at 21 Ok Reg 2385, eff 6-25-04]

### **340:75-7-57. Difficulty of care cancellations [REVOKED]**

[Source: Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Revoked at 15 Ok Reg 416, eff 11-1-97 (emergency); Revoked at 15 Ok Reg 1663, eff 5-11-98]

### **340:75-7-58. Foster resource home overpayments [REVOKED]**

[Source: Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 19 Ok Reg 2226, eff 6-27-02 ; Revoked at 21 Ok Reg 2385, eff 6-25-04]

### **340:75-7-59. Foster resource home underpayments [REVOKED]**

[Source: Amended at 10 Ok Reg 3623, eff 7-12-93 ; Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 19 Ok Reg 2226, eff 6-27-02 ; Revoked at 21 Ok Reg 2385, eff 6-25-04]

### **340:75-7-60. Late or lost foster home payments [REVOKED]**

[Source: Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Revoked at 21 Ok Reg 2385, eff 6-25-04]

### **340:75-7-61. Child out of foster home for hospitalization [REVOKED]**

[Source: Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Revoked at 19 Ok Reg 2226, eff 6-27-02]

## **PART 6. RESOURCE HOME SUPPORT SERVICES**

### **340:75-7-62. Foster care grievance procedure [REVOKED]**

[Source: Added at 17 Ok Reg 549, eff 10-1-99 (emergency); Added at 17 Ok Reg 1481, eff 3-27-00 (emergency); Added at 17 Ok Reg 2429, eff 6-26-00 ; Amended at 19 Ok Reg 208, eff 12-1-01 (emergency); Amended at 19 Ok Reg 2226, eff 6-27-02 ; Revoked at 21 Ok Reg 2385, eff 6-25-04]

### **340:75-7-63. Foster Parent Hotline [REVOKED]**

[Source: Added at 17 Ok Reg 549, eff 12-1-99 (emergency); Added at 17 Ok Reg 1481, eff 3-27-00 (emergency); Added at 17 Ok Reg 2429, eff 6-26-00 ; Revoked at 19 Ok Reg 2226, eff 6-27-02]

### **340:75-7-64. Child care services for children in foster or kinship care [REVOKED]**

[Source: Added at 17 Ok Reg 549, eff 12-1-99 (emergency); Added at 17 Ok Reg 1481, eff 3-27-00 (emergency); Added at 17 Ok Reg 2429, eff 6-26-00 ; Amended at 17 Ok Reg 3367, eff 9-1-00 ; Amended at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 19 Ok Reg 2226, eff 6-27-02 ; Revoked at 21 Ok Reg 2385, eff 6-25-04]

### **340:75-7-65. Child care and support services for the resource home**

(a) **Child care subsidy.** Child care subsidy benefits paid by Oklahoma Human Services (OKDHS) for a child in OKDHS or tribal custody are available, when:

- (1) a foster child attends an Early Head Start (EHS) program contracted with OKDHS to receive child care subsidy payments;
- (2) the resource is a:
  - (A) paid or non-paid resource parent authorized for child care subsidy benefits by Child Welfare Services (CWS);
  - (B) tribal resource family providing care for the child in tribal custody in a paid placement when authorized by the OKDHS tribal program staff;
  - (C) coordinated foster care parent when authorized by the district of service;
  - (D) shelter host home when authorized by the assigned child welfare (CW) specialist in the district of service;
  - (E) supported home when authorized by the assigned OKDHS resource family partner liaison; or
  - (F) therapeutic foster home when authorized by the therapeutic foster care (TFC) program staff; or
- (3) the need for child care is met:
  - (A) when a single resource parent is:
    - (i) employed 20 hours a week or more;
    - (ii) enrolled and attending a formal education program for at least six credit hours per semester. A formal education program is defined as a course of study that leads to the attainment of an associate, bachelor's, or post-graduate degree;
    - (iii) enrolled and attending a training program. A training program is defined as a course of study that when completed, qualifies a person to meet requirements for a job the individual could not have obtained without the certificate of completion, accreditation, or licensure resulting from completion of training;
    - (iv) employed during night hours and needs OKDHS paid child care to allow him or her to sleep during the day. During the night working hours, a

feasible alternative is used at no cost to OKDHS. Night working hours are defined as the hours between 11:00 p.m. and 7:00 a.m. The maximum amount of child care time the resource specialist approves allows the resource parent eight hours of sleep plus travel time to and from the child care provider; and

(v) approved for child care by the resource program staff for reasons other than those listed in this subparagraph. These decisions are made on a case-by-case basis; or

(B) in a two-parent resource home, when:

(i) both resource parents are employed 20 hours a week or more and have the same working hours;

(ii) one resource parent works and the other resource parent has a significant disability that precludes providing care for the child;

(iii) one resource parent works during the same hours the other resource parent is enrolled and attending a formal education or training program as defined in (3)(A) of this subsection;

(iv) sleep-time child care is needed during the day because one or both resource parents work nights. During the night working hours, a feasible alternative is used at no cost to OKDHS. When one resource parent works nights, the other resource parent must work or need child care for a reason that requires the approval of resource program staff during the hours the other resource parent is sleeping. Night working hours are defined as the hours between 11:00 p.m. and 7:00 a.m. The maximum amount of child care time the resource specialist approves allows the resource parent eight hours of sleep, plus travel time to and from the child care provider; or

(v) one resource parent works during the same hours the other resource parent needs child care for a reason other than those listed in this subparagraph. In this situation, resource program staff approve the need for subsidized child care on a case-by-case basis; or

(4) child care is provided:

(A) in a licensed and contracted child care center with a one star plus or higher star status, unless there are no centers with a one star plus or higher star status in the community or special exception criteria are met. Special exception criteria are:

(i) the child was already approved for care at the one star center prior to January 1, 2003, or prior to the provider's star status being reduced to one star. The child may remain in this facility, unless

the child stops attending there for more than 30-calendar days. The child may be approved at this same facility again when the only reason the child did not attend for more than 30-calendar days was because of a school break or due to circumstances beyond the control of the resource home, such as the child's illness;

(ii) care is requested for a child living in the same home as a child already approved for care per (3) (A)(i) of this paragraph for the same one star child care provider; or

(iii) the resource parent demonstrates no other child care option meets the family's needs; or

(B) in a licensed and contracted child care home regardless of star level; or

(C) by an approved in-home provider who cares for the child at the resource parent's home, per Oklahoma Administrative Code (OAC) 340:40-13-2.

**(b) Child care subsidy benefits available through Adult and Family Services (AFS).** Child care subsidy benefits may be available through local OKDHS AFS for child care, per OAC 340:40, to:

- (1) resource parents who finalized an adoption of a foster child;
- (2) a child in tribal custody placed by the tribe in a home without a resource case in KIDS; and
- (3) a child in the custody of another state placed in a kinship home in Oklahoma through the Interstate Compact on the Placement of Children.

**(c) Foster care child care subsidy benefits not paid by OKDHS.**

Foster care child care subsidy benefits are not paid by OKDHS, when the:

- (1) resource parent has an ownership interest in the chosen child care center;
- (2) foster child attends a family child care home where the child lives, unless:
  - (A) the child care home provided child care to the child immediately prior to the foster care placement; and
  - (B) it is in the child's best interests to remain in the kinship provider's child care home; or
- (3) resource parent works in the child care home during the same hours the child attends child care;
- (4) resource parent chooses more than one child care provider to provide service to a child on the same day;
- (5) resource parent makes informal arrangements for child care;
- (6) provider is receiving state or federal funds, such as Head Start or public schools, and is not charging all parents for the hours the subsidy payment is requested. EHS programs are exempt from this rule; or
- (7) provider is caring for a school-age child during the regular school day when such student could be attending a public or private school during those hours.

**(d) Child care subsidy benefits for a child with disabilities.** A child with disabilities is potentially eligible for the higher special needs rate

for child care subsidy benefits. Each child with disabilities requires a separate and specific certification of the child care provider.

- (1) A child with disabilities is defined as a child receiving:
  - (A) Supplemental Security Income (SSI). This includes those whose SSI payment stops because of financial reasons, but who still meet the medical definition of disability as determined by the Social Security Administration;
  - (B) SoonerStart (Medicaid) early intervention services; or
  - (C) special education services provided per an Individualized Education Program (IEP) by the child's school district.

- (2) When the child with disabilities is 13 years of age and older, the resource parent provides a statement from a licensed health care professional verifying that the child is physically or mentally incapable of self-care as age-appropriate before care is approved, and annually at review. Subsidized child care benefits are not approved when a licensed health care professional states that the child is capable of self-care as age-appropriate.

(e) **Resource parent's responsibility for electronic benefit transfer (EBT).** Refer to OAC 340:40-10 for information regarding the EBT system that includes the manual claim process. Resource parent responsibilities for EBT include:

- (1) watching the EBT training video;
- (2) completing and submitting a signed Form 04MP042E, Application for Child Welfare Child Care Benefits;
- (3) swiping the EBT card every day the child attends child care;
- (4) not swiping the EBT card for any day the child does not attend child care;
- (5) checking the message on the point of service machine for correct times of attendance and approval;
- (6) not giving the EBT card or personal identification number to anyone, including the child care provider; and
- (7) paying for care that OKDHS does not pay because the:
  - (A) EBT card was not swiped for the correct days and times the child attended child care;
  - (B) swipes were denied and not corrected within 10-business days; or
  - (C) provider loses the weekly rate payment for absent days because the correct attendance for every day the child attended that month was not swiped.

(f) **Therapeutic child care services.** Therapeutic child care services are paid by OKDHS when recommended by a mental health professional and supporting documentation is provided. Prior authorization from the CWS Finance and Business (FB) is required. CWS FB makes the determination of the availability of funds.

(g) **Overpayment of child care.** OKDHS seeks repayment for any child care subsidy benefit paid in error to a licensed child care center, home, or professional in the resource parent's own home. The resource parent reimburses these costs to OKDHS when the overpayment occurs due to the resource parent's ineligibility.



**(h) Informal care arrangements for the foster child.** Resource parents may make informal care arrangements with friends, neighbors, or relatives for the foster child's occasional care.

(1) Resource parents apply the reasonable and prudent parent standard when selecting an informal care provider to care for the foster child and ensure he or she possesses the maturity and skills to address the child's needs.

(2) The foster child may stay with a friend, when the resource parent:

(A) knows the family;

(B) reasonably believes the family, household members, and environment are safe for the child; and

(C) exchanges contact information, including names, addresses, and phone numbers.

(3) The resource parent notifies the resource specialist when using informal care arrangements. The resource parent may not use an informal care provider who the resource specialist determines is unsafe.

(4) The resource parent obtains permission from the foster child's assigned CW specialist before allowing the foster child's relatives to provide informal care for the child.

(5) An informal care provider, living outside of the resource parent's home, must be 18 years of age and older.

(6) A teenager living in the resource parent's home must be 16 or 17 years of age, related to the resource parent, and is limited to providing 12-consecutive hours of informal care. The resource specialist and the resource parent assess the teen's ability and appropriateness to assume responsibility for the foster child and ensure his or her needs and well-being can be met.

(7) The resource parent does not use a child in OKDHS custody to care for a younger child unless approved by the resource specialist.

(8) Informal care providers are notified on how to reach the resource parent and other emergency contacts.

(9) An individual providing care for more than seven-consecutive days must be an approved alternate caregiver.

**(i) Alternate caregiver selected by the resource parent.** The resource parent is required to identify at least one formal, alternate caregiver, but no more than two, who can fulfill the resource parent's role for the child in OKDHS custody placed in the resource home in case of family emergencies, or when the family needs an extended break for up to 14-consecutive days. The alternate caregiver is limited to providing care only for resource families for which the caregiver is approved.

(1) The alternate caregiver is not used as a placement for the child.

(2) The resource parent identifies and reimburses the alternate caregiver. When funding is available, respite vouchers may be used for reimbursement.

(3) The alternate caregiver is at least 21 years of age.

(4) The alternate caregiver and each adult household member in the alternate caregiver's home must be willing to:

- (A) submit to a name-based records search by the Oklahoma State Bureau of Investigation, per OAC 340:75-7-15;
- (B) submit to an OKDHS records search including, but not limited to:
  - (i) CWS history, per OAC 340:75-7-15;
  - (ii) Restricted Registry; and
  - (iii) Community Services Worker Registry; and
- (C) submit to an Oklahoma State Department of Health Nontechnical Services Worker Abuse Registry search;
- (D) submit to a Juvenile Online Tracking System records search for each child, 13 through 17 years of age, living in the home, per OAC 340:75-7-15;
- (E) engage in an evaluation of the home to assess the location, condition, and capacity to accommodate the child in OKDHS custody;
- (F) provide one reference on Form 04AF026E, Alternate Caregiver Reference Letter;
- (G) comply with discipline policy, per OAC 340:75-7-38, and confidentiality policy, per OAC 340:75-1-42; and
- (H) participate in a yearly update.

(j) **Respite care.** Respite care may only be provided by an approved resource home. A resource home is not limited to providing respite care to only one resource family.

(k) **Resource home insurance.** Liability insurance is provided for resource families for damages caused by the child in OKDHS custody per the terms of the policy. Resource families have the right to receive a copy of the liability insurance policy, per Section 1-9-119 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-9-119). Resource parents are responsible for any deductibles.

(l) **Foster care associations.** OKDHS cooperates with and promotes the development of foster care associations for resource parents in each district. OKDHS provides information to resource families about local foster care associations.

(m) **Foster Care and Adoption Support Center.** The Foster Care and Adoption Support Center, 1-800-376-9729, is maintained by the Foster Care and Adoption Support Unit and assists with questions and problem resolution.

(n) **Foster parents' rights.** Foster parents' rights are found in 10A O.S. § 1-9-119 and a copy is given to every resource parent at the annual update.

(o) **Shared information.** Information shared between CWS employees, resource parents, and parents includes, but is not limited to the:

- (1) child's legal status;
- (2) upcoming court hearings;
- (3) reason for the child's foster care placement;
- (4) child's and parent's prior and present living experiences; and
- (5) child's medical, psychological, and behavioral information, current photographs, and educational records.

(p) **Foster care grievance procedures.** The resource parent and child in foster care have access to OKDHS grievance procedures through the

Office of Client Advocacy, per OAC 340:2-3. Foster parent grievances are confidential and the foster parent has the right to be free from harassment and retaliation, per 10A O.S. § 1-9-119.

(q) **Foster care mediation program.** The resource parent may access the foster care mediation program through the Oklahoma Commission on Children and Youth (OCCY), per OAC 340:75-7-291.

(r) **Resource parent complaints about OKDHS employees.** Resource parents may file a complaint with OCCY Office of Juvenile System Oversight about an action of an OKDHS employee involving retaliation or discrimination against a resource parent, per OAC 340:75-7-292.

(s) **Training topics relevant to fostering.** Pre-service and in-service training is provided to enhance the resource parent's foster parenting skills.

(t) **Travel reimbursement for the resource parent.**

(1) The resource parent, including a tribal resource parent, may be reimbursed for four trips per month for mileage incurred when providing transportation for the child in OKDHS custody placed in the resource home. When multiple children are included on a trip, the trip is counted as one trip for the group. Travel reimbursement may occur when the:

(A) resource parent provides travel associated with the child's permanency and well-being, limited to:

- (i) visits with parents and any person approved by the child's CW specialist;
- (ii) visits with the child's sibling; or
- (iii) court hearings; and

(B) round trip for a single event is 26 miles or more; and

(C) trips are documented and filed monthly on Form 10AD006E, Travel Claim, provided by a CW specialist, and processed through the Foster Care and Adoption Support Center.

(2) Travel reimbursement may occur when transporting a child to and from the foster placement to Oklahoma Schools for the Blind or Deaf on a bi-weekly basis after all other options are exhausted.

(u) **Tax deduction available.** An Oklahoma income tax deduction may be available for resource parents who meet requirements, per 68 O.S. § 2358.5-1. A resource parent with tax questions related to the care of a child in OKDHS custody contacts a tax professional.

[**Source:** Added at 17 Ok Reg 549, eff 12-1-99 (emergency); Added at 17 Ok Reg 1481, eff 3-27-00 (emergency); Added at 17 Ok Reg 2429, eff 6-26-00 ; Amended at 17 Ok Reg 3367, eff 9-1-00 ; Amended at 19 Ok Reg 2226, eff 6-27-02 ; Amended at 20 Ok Reg 747, eff 3-5-03 (emergency); Amended at 20 Ok Reg 2090, eff 6-26-03 ; Amended at 21 Ok Reg 2385, eff 6-25-04 ; Amended at 22 Ok Reg 1242, eff 5-26-05 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 24 Ok Reg 1323, eff 6-1-07 ; Amended at 25 Ok Reg 1335, eff 6-1-08 ; Amended at 26 Ok Reg 1282, eff 6-1-09 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 28 Ok Reg 894, eff 7-1-11 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 32 Ok Reg 296, eff 11-17-14 through 9-14-15 (emergency)<sup>1</sup>; Amended at 35 Ok Reg 451, eff 1-31-18 (emergency); Amended at 35 Ok Reg 1695, eff 9-17-18 ; Amended at 37 Ok Reg 1850, eff 9-15-20 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency*

*amendatory action, the last effective permanent text is reinstated. Therefore, on 9-15-15 (after the 9-14-15 expiration of the emergency action), the text of 340:75-7-65 reverted back to the permanent text that became effective on 7-1-13, as was last published in the 2014 OAC Supplement and republished in the 2015 OAC Supplement and the 2016 Edition of the OAC, and remained as such until amended again by emergency rulemaking on 1-31-18.*

### **340:75-7-66. Alternate care [REVOKED]**

[Source: Added at 17 Ok Reg 549, eff 12-1-99 (emergency); Added at 17 Ok Reg 1481, eff 3-27-00 (emergency); Added at 17 Ok Reg 2429, eff 6-26-00 ; Amended at 18 Ok Reg 666, eff 1-10-01 (emergency); Amended at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 19 Ok Reg 2226, eff 6-27-02 ; Revoked at 21 Ok Reg 2385, eff 6-25-04]

### **340:75-7-67. Travel outside the state [REVOKED]**

[Source: Added at 17 Ok Reg 549, eff 12-1-99 (emergency); Added at 17 Ok Reg 1311, eff 5-11-00 ; Revoked at 19 Ok Reg 2226, eff 6-27-02]

### **340:75-7-68. Transportation responsibilities [REVOKED]**

[Source: Added at 17 Ok Reg 549, eff 12-1-99 (emergency); Added at 17 Ok Reg 1311, eff 5-11-00 ; Revoked at 19 Ok Reg 2226, eff 6-27-02]

### **340:75-7-69. In-service training programs for resource families [REVOKED]**

[Source: Added at 17 Ok Reg 549, eff 12-1-99 (emergency); Added at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 17 Ok Reg 3367, eff 9-1-00 ; Amended at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 19 Ok Reg 2226, eff 6-27-02 ; Revoked at 21 Ok Reg 2385, eff 6-25-04]

### **340:75-7-70. Foster care associations [REVOKED]**

[Source: Added at 17 Ok Reg 549, eff 12-1-99 (emergency); Added at 17 Ok Reg 1481, eff 3-27-00 (emergency); Added at 17 Ok Reg 2429, eff 6-26-00 ; Amended at 19 Ok Reg 2226, eff 6-27-02 ; Revoked at 21 Ok Reg 2385, eff 6-25-04]

## **PART 7. FOSTER FAMILY CARE PLACEMENTS, ROLES, RESPONSIBILITIES AND SERVICES [REVOKED]**

### **340:75-7-75. Goals [REVOKED]**

[Source: Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-7-75.1. The Multiethnic Placement Act of 1994 [REVOKED]**

[Source: Added at 13 Ok Reg 3927, eff 4-29-96 (emergency); Added at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

## **340:75-7-76. Placement procedures for children in foster family care [REVOKED]**

[Source: Amended at 9 Ok Reg 3713, eff 7-23-92 (emergency); Amended at 10 Ok Reg 3623, eff 7-12-93 ; Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 656, eff 12-12-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-7-76.1. Change of placement and notice to placement providers [REVOKED]**

[Source: Added at 14 Ok Reg 656, eff 12-12-96 (emergency); Added at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 15 Ok Reg 2103, eff 5-20-98 (emergency); Amended at 16 Ok Reg 102, eff 10-13-98 ; Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

## **340:75-7-77. Grievance procedure for children in out of home care [REVOKED]**

[Source: Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-7-77.1. Dispute resolution or grievance procedures for foster parents [REVOKED]**

[Source: Added at 14 Ok Reg 656, eff 12-12-96 (emergency); Added at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 926, eff 12-16-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 1052, eff 4-26-99 ; Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-7-77.2. Foster Parent Hotline [REVOKED]**

[Source: Added at 15 Ok Reg 416, eff 11-1-97 (emergency); Added at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 15 Ok Reg 2103, eff 5-20-98 (emergency); Amended at 16 Ok Reg 102, eff 10-13-98 ; Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

## **340:75-7-78. Social worker contacts with foster parents [REVOKED]**

[Source: Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 926, eff 12-16-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

## **340:75-7-79. Responsibilities and services to the child in foster home care and the child's family [REVOKED]**

[Source: Revoked at 11 Ok Reg 501, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 2283, eff 5-26-94]

### **340:75-7-79.1. Foster parents' rights [REVOKED]**

[Source: Added at 15 Ok Reg 416, eff 11-1-97 (emergency); Added at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-7-80. Responsibilities of the foster parents [REVOKED]**

[Source: Amended at 10 Ok Reg 3623, eff 7-12-93 ; Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 656, eff 12-12-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

#### **340:75-7-80.1. Discipline for children in foster family care [REVOKED]**

[Source: Added at 13 Ok Reg 3927, eff 4-29-96 (emergency); Added at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1293, eff 2-25-98 (emergency); Amended at 15 Ok Reg 2629, eff 6-25-98 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 16 Ok Reg 2773, eff 4-14-99 (emergency); Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-7-81. Religious and cultural observation [REVOKED]**

[Source: Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 2773, eff 4-14-99 (emergency); Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-7-82. Education [REVOKED]**

[Source: Amended at 10 Ok Reg 3623, eff 7-12-93 ; Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

#### **340:75-7-83. Services to the child in foster family care [REVOKED]**

[Source: Amended at 10 Ok Reg 3623, eff 7-12-93 ; Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 656, eff 12-12-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 929, eff 12-16-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 1052, eff 4-26-99 ; Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

#### **340:75-7-83.1. Long term foster care as a plan for temporary or permanent custody children [REVOKED]**

[Source: Added at 13 Ok Reg 3927, eff 4-29-96 (emergency); Added at 14 Ok Reg 2288, eff 6-12-97 ; Revoked at 15 Ok Reg 416, eff 11-1-97 (emergency); Revoked at 15 Ok Reg 1663, eff 5-11-98]

### **340:75-7-84. Services and training to assist foster families [REVOKED]**

[Source: Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Revoked at 13 Ok Reg 3927, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-7-85. Day care services for children in foster or kinship care [REVOKED]**

[Source: Added at 13 Ok Reg 3927, eff 4-29-96 (emergency); Added at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

#### **340:75-7-85.1. Payment for day care services in licensed day care center or licensed day care home [REVOKED]**

[Source: Added at 15 Ok Reg 416, eff 11-1-97 (emergency); Added at 15 Ok Reg 1293, eff 2-25-98 (emergency); Added at 15 Ok Reg 2629, eff 6-25-98 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

#### **340:75-7-85.2. In-home care [REVOKED]**

[Source: Added at 15 Ok Reg 416, eff 11-1-97 (emergency); Added at 15 Ok Reg 1663, eff 5-11-98 ; Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

## **PART 8. RESOURCE HOME CONTINUOUS QUALITY ASSESSMENT**

### **340:75-7-86. Resource family assessment [REVOKED]**

[Source: Added at 17 Ok Reg 549, eff 12-1-99 (emergency); Added at 17 Ok Reg 1481, eff 3-27-00 (emergency); Added at 17 Ok Reg 2429, eff 6-26-00 ; Added at 17 Ok Reg 3367, eff 9-1-00 ; Amended at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 19 Ok Reg 208, eff 12-1-01 (emergency); Amended at 19 Ok Reg 534, eff 12-20-01 (emergency); Amended at 19 Ok Reg 2226, eff 6-27-02 ; Revoked at 21 Ok Reg 2385, eff 6-25-04]

### **340:75-7-87. Investigative protocol for abuse or neglect of a child in foster resource family care [REVOKED]**

[Source: Added at 17 Ok Reg 549, eff 12-1-99 (emergency); Added at 17 Ok Reg 1481, eff 3-27-00 (emergency); Added at 17 Ok Reg 2429, eff 6-26-00 ; Added at 17 Ok Reg 3367, eff 9-1-00 ; Amended at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 19 Ok Reg 2226, eff 6-27-02 ; Revoked at 21 Ok Reg 2385, eff 6-25-04]

### **340:75-7-88. Appeals process for foster home investigation findings [REVOKED]**

[Source: Added at 17 Ok Reg 549, eff 12-1-99 (emergency); Added at 17 Ok Reg 1481, eff 3-27-00 (emergency); Added at 17 Ok Reg 2429, eff 6-26-00 ; Revoked at 21 Ok Reg 2385, eff 6-25-04]

### **340:75-7-89. Time frames for decision making regarding continued use or closure of the foster home [REVOKED]**

[Source: Added at 17 Ok Reg 549, eff 12-1-99 (emergency); Added at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 19 Ok Reg 2226, eff 6-27-02 ; Revoked at 21 Ok Reg 2385, eff 6-25-04]

### **340:75-7-90. Evaluation of foster home rule violations or concerns [REVOKED]**

[Source: Added at 17 Ok Reg 549, eff 12-1-99 (emergency); Added at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 19 Ok Reg 2226, eff 6-27-02 ; Revoked at 21 Ok Reg 2385, eff 6-25-04]

### **340:75-7-91. Written plan of compliance (WPC) [REVOKED]**

[Source: Added at 17 Ok Reg 549, eff 12-1-99 (emergency); Added at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 17 Ok Reg 3367, eff 9-1-00 ; Amended at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 19 Ok Reg 2226, eff 6-27-02 ; Revoked at 21 Ok Reg 2385, eff 6-25-04]

### **340:75-7-92. Closure of a resource home [REVOKED]**

[Source: Added at 17 Ok Reg 549, eff 12-1-99 (emergency); Added at 17 Ok Reg 1481, eff 3-27-00 (emergency); Added at 17 Ok Reg 2429, eff 6-26-00 ; Amended at 17 Ok Reg 3367, eff 9-1-00 ; Amended at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 19 Ok Reg 534, eff 12-20-01 (emergency); Amended at 19 Ok Reg 2226, eff 6-27-02 ; Revoked at 21 Ok Reg 2385, eff 6-25-04]

### **340:75-7-93. Re-application to provide foster care [REVOKED]**

[Source: Added at 17 Ok Reg 549, eff 12-1-99 (emergency); Added at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 17 Ok Reg 3367, eff 9-1-00 ; Amended at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 19 Ok Reg 2226, eff 6-27-02 ; Revoked at 21 Ok Reg 2385, eff 6-25-04]

### **340:75-7-94. Resource home annual updates, non-compliance or rule violations, investigations, closures, fair hearings, and reassessment to re-open a previously closed resource**

(a) **Annual update.** The resource family assessment is updated annually from the resource home's approval date in KIDS.

(b) **Resource home non-compliance or rule violation issues.** When non-compliance or rule violation issues in the home require remediation for continued use of the home, a written plan of compliance is developed as a tool to address the safety and stability of the child in Oklahoma Human Services (OKDHS) custody placed in the home.

(c) **Resource home investigation.**

(1) When a Child Protective Services investigation results in removal of a child in OKDHS custody from the home:

(A) Form 04MP014E, Notice of Child's Removal from Out-of-Home Placement, is provided by the child welfare (CW) specialist, per Oklahoma Administrative Code (OAC) 340:75-6-86; and

(B) the resource parent receives Form 04MP031E, Notice of Decision Not to Return Child After Investigation, from the CW specialist when a decision is made not to return the child to the home.



(2) Per Section 1-9-119 of Title 10A of the Oklahoma Statutes, the resource parent has the right to request and receive a fair and impartial administrative hearing regarding decisions that affect certification, retention, or placement of a child in OKDHS custody in the resource home.

(d) **Closure of the resource home.** The resource home is closed and the contract is terminated, when:

- (1) resource home services are no longer needed;
- (2) kinship children are no longer placed in the kinship resource home;
- (3) the child leaves a resource home jointly-approved for that specific child;
- (4) the child is no longer placed in the resource home approved for the specific child;
- (5) the resource parent requests closure;
- (6) the resource parent fails to timely implement or maintain compliance with provisions of Form 04AF023E, Written Plan of Compliance, to resolve conditions that present a risk to the child or conditions that do not conform to the contract;
- (7) there are non-compliance issues related to a rule, statute, contract, or a written plan of compliance that are unresolved including, but not limited to, failure of the resource parent or household member to meet or maintain the initial screening and requirements, per OAC 340:75-7-10.1 or maintain compliance with background requirements, per OAC 340:75-7-15; or
- (8) rules, statutes, or contract violations by the resource parent or household member occurred that resulted in OKDHS determining the child to be unsafe in the resource home.

(e) **Fair hearing.** When the approved resource home is closed, the resource parent has the right to appeal closure through the fair hearing process, per OAC 340:75-1-12.6.

(f) **Reassessment to re-open a previously closed resource.** When the resource is closed for more than 12 months but less than five years, the resource may be opened with an approved reassessment within 30-calendar days of the disposition date.

[Source: Added at 21 Ok Reg 2385, eff 6-25-04 ; Amended at 22 Ok Reg 1242, eff 5-26-05 ; Amended at 24 Ok Reg 1323, eff 6-1-07 ; Amended at 25 Ok Reg 1335, eff 6-1-08 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 35 Ok Reg 1695, eff 9-17-18 ; Amended at 36 Ok Reg 1856, eff 9-16-19 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24; Amended at 42 Ok Reg, Number 7, effective 11-18-24 (emergency)]

## **PART 9. SERVICES TO FOSTER PARENTS [REVOKED]**

### **340:75-7-100. Role of the CW worker with foster parents [REVOKED]**

[Source: Amended at 10 Ok Reg 3987, eff 7-13-93 (emergency); Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 1052, eff 4-26-99 ;

Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-7-101. Short term care [REVOKED]**

[Source: Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-7-102. Travel outside the county/state [REVOKED]**

[Source: Amended at 10 Ok Reg 3987, eff 7-13-93 (emergency); Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Amended at 16 Ok Reg 910, eff 12-10-98 (emergency); Amended at 16 Ok Reg 1052, eff 4-26-99 ; Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

#### **340:75-7-102.1. Transportation responsibilities [REVOKED]**

[Source: Added at 16 Ok Reg 102, eff 10-13-98 ; Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-7-103. Foster PRIDE - Adopt PRIDE preservice training [REVOKED]**

[Source: Amended at 10 Ok Reg 3987, eff 7-13-93 (emergency); Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 16 Ok Reg 2773, eff 4-14-99 (emergency); Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-7-104. Inservice training programs for foster parents [REVOKED]**

[Source: Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 656, eff 12-12-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-7-105. Scheduling of training sessions [REVOKED]**

[Source: Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Added at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

#### **340:75-7-105.1. Roles and responsibilities in regard to training [REVOKED]**

[Source: Added at 13 Ok Reg 3927, eff 4-29-96 (emergency); Added at 14 Ok Reg 656, eff 12-12-96 (emergency); Added at 14 Ok Reg 2288, eff 6-12-97 ; Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-7-106. Selection of trainers [REVOKED]**

[Source: Amended at 10 Ok Reg 3623, eff 7-12-93 ; Amended at 10 Ok Reg 3987, eff 7-13-93 (emergency); Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Revoked at 13 Ok Reg 3927, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

## **PART 10. KINSHIP CARE [REVOKED]**

### **340:75-7-107. Definition of kinship care [REVOKED]**

[Source: Added at 17 Ok Reg 549, eff 12-1-99 (emergency); Added at 17 Ok Reg 1481, eff 3-27-00 (emergency); Added at 17 Ok Reg 2429, eff 6-26-00 ; Revoked at 17 Ok Reg 3367, eff 9-1-00]

### **340:75-7-108. Purpose of kinship care [REVOKED]**

[Source: Added at 17 Ok Reg 549, eff 12-1-99 (emergency); Added at 17 Ok Reg 1311, eff 5-11-00 ; Revoked at 17 Ok Reg 3367, eff 9-1-00]

### **340:75-7-109. Identification of potential providers and types of kinship care [REVOKED]**

[Source: Added at 17 Ok Reg 549, eff 12-1-99 (emergency); Added at 17 Ok Reg 1311, eff 5-11-00 ; Revoked at 17 Ok Reg 3367, eff 9-1-00]

### **340:75-7-110. Initial kin placement [REVOKED]**

[Source: Added at 17 Ok Reg 549, eff 12-1-99 (emergency); Added at 17 Ok Reg 1311, eff 5-11-00 ; Revoked at 17 Ok Reg 3367, eff 9-1-00]

### **340:75-7-111. Kinship placement process and certification requirements [REVOKED]**

[Source: Added at 17 Ok Reg 549, eff 12-1-99 (emergency); Added at 17 Ok Reg 1481, eff 3-27-00 (emergency); Added at 17 Ok Reg 2429, eff 6-26-00 ; Revoked at 17 Ok Reg 3367, eff 9-1-00]

### **340:75-7-112. Kinship home assessment process [REVOKED]**

[Source: Added at 17 Ok Reg 549, eff 12-1-99 (emergency); Added at 17 Ok Reg 1311, eff 5-11-00 ; Revoked at 17 Ok Reg 3367, eff 9-1-00]

### **340:75-7-113. Kinship foster care contract or non-paid kinship agreement [REVOKED]**

[Source: Added at 17 Ok Reg 549, eff 12-1-99 (emergency); Added at 17 Ok Reg 1311, eff 5-11-00 ; Revoked at 17 Ok Reg 3367, eff 9-1-00]

### **340:75-7-114. Role of the Child Welfare (CW) worker in kinship care settings [REVOKED]**

[Source: Added at 17 Ok Reg 549, eff 12-1-99 (emergency); Added at 17 Ok Reg 1481, eff 3-27-00 (emergency); Added at 17 Ok Reg 2429, eff 6-26-00 ; Revoked at 17 Ok Reg 3367, eff 9-1-00]

### **340:75-7-115. Services provided by kinship providers [REVOKED]**

[Source: Added at 17 Ok Reg 549, eff 12-1-99 (emergency); Added at 17 Ok Reg 1311, eff 5-11-00 ; Revoked at 17 Ok Reg 3367, eff 9-1-00]

## **PART 11. APPLICATION AND ELIGIBILITY TO PROVIDE FOSTER FAMILY CARE [REVOKED]**

### **340:75-7-119. Legal base and authority [REVOKED]**

[Source: Added at 10 Ok Reg 3987, eff 7-13-93 (emergency); Added at 11 Ok Reg 2283, eff 5-26-94 ; Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-7-120. Inquiry and initial screening of foster family home [REVOKED]**

[Source: Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-7-121. Mutual family assessment [REVOKED]**

[Source: Amended at 10 Ok Reg 3987, eff 7-13-93 (emergency); Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1293, eff 2-25-98 (emergency); Amended at 15 Ok Reg 2629, eff 6-25-98 ; Amended at 15 Ok Reg 3886, eff 7-14-98 (emergency); Amended at 16 Ok Reg 102, eff 10-13-98 ; Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-7-122. Background investigation [REVOKED]**

[Source: Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1293, eff 2-25-98 (emergency); Amended at 15 Ok Reg 2629, eff 6-25-98 ; Amended at 15 Ok Reg 3886, eff 7-14-98 (emergency); Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 16 Ok Reg 2773, eff 4-14-99 (emergency); Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

#### **340:75-7-122.1. Automated fingerprinting authorizations [EXPIRED]**

[Source: Added at 16 Ok Reg 2773, eff 4-14-99 through 7-14-00 (emergency)]

### **340:75-7-123. Mutual assessment process [REVOKED]**

[Source: Amended at 10 Ok Reg 3623, eff 7-12-92 ; Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1293, eff 2-25-98 (emergency); Amended at 15 Ok Reg 2629, eff 6-25-98 ; Amended at 15 Ok Reg 3886, eff 7-14-98 (emergency); Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 16 Ok Reg 2773, eff 4-14-99 (emergency); Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

(emergency); Amended at 15 Ok Reg 1293, eff 2-25-98 (emergency); Amended at 15 Ok Reg 2629, eff 6-25-98 ; Amended at 15 Ok Reg 3886, eff 7-14-98 (emergency); Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 16 Ok Reg 2773, eff 4-14-99 (emergency); Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-7-123.1. Dual approval of foster homes [REVOKED]**

[Source: Added at 13 Ok Reg 3927, eff 4-29-96 (emergency); Added at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1293, eff 2-25-98 (emergency); Amended at 15 Ok Reg 2629, eff 6-25-98 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-7-123.2. Contract foster home assessments [REVOKED]**

[Source: Added at 15 Ok Reg 3886, eff 7-14-98 (emergency); Added at 16 Ok Reg 1052, eff 4-26-99 ; Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-7-124. Denial or withdrawal of the foster home application [REVOKED]**

[Source: Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 15 Ok Reg 3886, eff 7-14-98 (emergency); Amended at 16 Ok Reg 102, eff 10-13-98 ; Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-7-125. Disposition of foster home applications [REVOKED]**

[Source: Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 656, eff 12-12-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-7-126. Exceptions to foster family care policy [REVOKED]**

[Source: Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-7-127. Foster home contract [REVOKED]**

[Source: Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 15 Ok Reg 3886, eff 7-14-98 (emergency); Amended at 16 Ok Reg 102, eff 10-13-98 ; Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-7-127.1. Foster parent associations [REVOKED]**

[Source: Added at 16 Ok Reg 102, eff 10-13-98 ; Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-7-128. Identification of Indian foster homes [REVOKED]**

[Source: Amended at 10 Ok Reg 3987, eff 7-13-93 (emergency); Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Amended at 16 Ok Reg 910, eff 12-10-98 (emergency); Amended at 16 Ok Reg 1052, eff 4-26-99 ; Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

## **PART 13. ANNUAL ASSESMENT OF A FOSTER HOME [REVOKED]**

### **340:75-7-145. Applicability [REVOKED]**

[Source: Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 656, eff 12-12-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 910, eff 12-10-98 (emergency); Amended at 16 Ok Reg 2773, eff 4-1-99 (emergency); Amended at 16 Ok Reg 1052, eff 4-26-99 ; Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-7-146. Investigative protocol for abuse or neglect of a child in foster family care [REVOKED]**

[Source: Amended at 10 Ok Reg 3623, eff 7-12-93 ; Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Added at 15 Ok Reg 2103, eff 5-20-98 (emergency); Amended at 16 Ok Reg 1052, eff 4-26-99 ; Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

#### **340:75-7-146.1. Time frames for decision making regarding continued use or closure of the foster home [REVOKED]**

[Source: Added at 15 Ok Reg 2103, eff 5-20-98 (emergency); Added at 16 Ok Reg 1052, eff 4-26-99 ; Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-7-147. Evaluation of foster home rule violations or concerns [REVOKED]**

[Source: Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 16 Ok Reg 1052, eff 4-26-99 ; Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-7-148. Written plan of compliance [REVOKED]**

[Source: Amended at 10 Ok Reg 3623, eff 7-12-93 ; Amended at 10 Ok Reg 3987, eff 7-13-93 (emergency); Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-7-149. Closure of a foster home [REVOKED]**

[Source: Amended at 10 Ok Reg 3623, eff 7-12-93 ; Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 656, eff 12-12-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 1052, eff 4-26-99 ; Amended at 16 Ok Reg 2773, eff 4-14-99 (emergency);

Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-7-150. Re-application to provide foster care [REVOKED]**

[Source: Amended at 10 Ok Reg 3623, eff 7-12-93 ; Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Added at 15 Ok Reg 2103, eff 5-20-98 (emergency); Amended at 16 Ok Reg 102, eff 10-13-98 ; Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

## **PART 15. TRIBAL FOSTER CARE [REVOKED]**

### **340:75-7-165. Placement of an Indian child [REVOKED]**

[Source: Amended at 10 Ok Reg 3623, eff 7-12-93 ; Amended at 10 Ok Reg 3987, eff 7-13-93 (emergency); Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 16 Ok Reg 1052, eff 4-26-99 ; Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-7-166. Tribal foster care agreements [REVOKED]**

[Source: Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Amended at 14 Ok Reg 656, eff 12-12-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 16 Ok Reg 1052, eff 4-26-99 ; Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-7-167. Tribal foster care for DHS custody children [REVOKED]**

[Source: Amended at 10 Ok Reg 3623, eff 7-12-93 ; Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 656, eff 12-12-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 16 Ok Reg 910, eff 12-10-98 (emergency); Amended at 16 Ok Reg 1052, eff 4-26-99 ; Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-7-168. Allegations of abuse or neglect of DHS custody children in tribal foster care [REVOKED]**

[Source: Amended at 10 Ok Reg 3623, eff 7-12-93 ; Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 16 Ok Reg 1052, eff 4-26-99 ; Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-7-169. Tribal foster care for tribal custody children [REVOKED]**

[Source: Amended at 10 Ok Reg 3623, eff 7-12-93 ; Amended at 10 Ok Reg 3987, eff 7-13-93 (emergency); Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 656, eff 12-12-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 16 Ok Reg 910, eff 12-10-98 (emergency); Amended at 16 Ok Reg 1052, eff 4-26-99 ; Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-7-170. Tribal or facility contracts for residential child care [REVOKED]**

[Source: Amended at 10 Ok Reg 3623, eff 7-12-93 ; Amended at 10 Ok Reg 3987, eff 7-13-93 (emergency); Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 16 Ok Reg 910, eff 12-10-98 (emergency); Amended at 16 Ok Reg 1052, eff 4-26-99 ; Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

## **PART 17. PERMANENCY PLANNING FOR CHILDREN IN DHS CUSTODY [REVOKED]**

### **340:75-7-185. Process [REVOKED]**

[Source: Revoked at 13 Ok Reg 3927, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-7-186. Termination of parental rights [REVOKED]**

[Source: Amended at 10 Ok Reg 3623, eff 7-12-93 ; Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Revoked at 13 Ok Reg 3927, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-7-187. Planning for permanent custody children [REVOKED]**

[Source: Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Revoked at 13 Ok Reg 3927, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-7-188. Permanent custody Indian children [REVOKED]**

[Source: Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Revoked at 13 Ok Reg 3927, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-7-189. Long term foster care as a plan for temporary or permanent custody children [REVOKED]**

[Source: Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Revoked at 13 Ok Reg 3927, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-7-190. Fost-adopt in permanency planning for all custody children [REVOKED]**

[Source: Amended at 10 Ok Reg 3623, eff 7-12-93 ; Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Revoked at 13 Ok Reg 3927, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

## **PART 19. SPECIALIZED FOSTER CARE (SFC)/DDSD THROUGH DEVELOPMENTAL DISABILITIES SERVICES DIVISION (DDSD) [REVOKED]**



### **340:75-7-205. Community based waiver program [REVOKED]**

[Source: Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Revoked at 13 Ok Reg 3927, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-7-206. Roles and responsibilities in specialized foster care through Developmental Disabilities Services Division [REVOKED]**

[Source: Amended at 10 Ok Reg 3623, eff 7-12-93 ; Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Revoked at 13 Ok Reg 3927, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-7-207. Specialized foster care through Developmental Disabilities Services Division referral, study and training process [REVOKED]**

[Source: Amended at 10 Ok Reg 3623, eff 7-12-93 ; Revoked at 13 Ok Reg 3927, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-7-208. Specialized foster care through Developmental Disabilities Services Division claims procedure [REVOKED]**

[Source: Amended at 10 Ok Reg 3623, eff 7-12-93 ; Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Revoked at 13 Ok Reg 3927, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-7-209. Referral to DDS for services beyond age eighteen [REVOKED]**

[Source: Revoked at 13 Ok Reg 3927, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

## **PART 20. KINSHIP CARE [REVOKED]**

### **340:75-7-210. Definition of Kinship Care [REVOKED]**

[Source: Added at 13 Ok Reg 3927, eff 4-29-96 (emergency); Added at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 15 Ok Reg 2103, eff 7-14-98 (emergency); Amended at 16 Ok Reg 102, eff 10-13-98 ; Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-7-211. Purpose of Kinship Care [REVOKED]**

[Source: Added at 13 Ok Reg 3927, eff 4-29-96 (emergency); Added at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 16 Ok Reg 1052, eff 4-26-99 ; Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-7-212. Identification of potential caregivers and types of Kinship Care [REVOKED]**

[Source: Added at 13 Ok Reg 3927, eff 4-29-96 (emergency); Added at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ;

Amended at 16 Ok Reg 102, eff 10-13-98 ; Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-7-213. Initial kin foster care placement [REVOKED]**

[Source: Added at 13 Ok Reg 3927, eff 4-29-96 (emergency); Added at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-7-214. Initial kinship placement process [REVOKED]**

[Source: Added at 13 Ok Reg 3927, eff 4-29-96 (emergency); Added at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 16 Ok Reg 2773, eff 4-14-99 (emergency); Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-7-215. Kinship placement assessment process [REVOKED]**

[Source: Added at 13 Ok Reg 3927, eff 4-29-96 (emergency); Added at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 910, eff 12-10-98 (emergency); Amended at 16 Ok Reg 1052, eff 4-26-99 ; Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-7-216. Kinship foster home assessment process [REVOKED]**

[Source: Added at 13 Ok Reg 3927, eff 4-29-96 (emergency); Added at 14 Ok Reg 656, eff 12-12-96 (emergency); Added at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1293, eff 2-25-98 (emergency); Amended at 15 Ok Reg 2629, eff 6-25-98 ; Amended at 15 Ok Reg 3886, eff 7-14-98 (emergency); Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 16 Ok Reg 2773, eff 4-14-99 (emergency); Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-7-217. Kinship Foster Care contract and reimbursement [REVOKED]**

[Source: Added at 13 Ok Reg 3927, eff 4-29-96 (emergency); Added at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 910, eff 12-10-98 (emergency); Amended at 16 Ok Reg 1052, eff 4-26-99 ; Amended at 16 Ok Reg 2773, eff 4-14-99 (emergency); Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-7-218. Role of the Child Welfare worker in kinship care settings [REVOKED]**

[Source: Added at 13 Ok Reg 3927, eff 4-29-96 (emergency); Added at 14 Ok Reg 656, eff 12-12-96 (emergency); Added at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-7-219. Services provided by kinship caregivers [REVOKED]**

[Source: Added at 13 Ok Reg 3927, eff 4-29-96 (emergency); Added at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 16 Ok Reg 1052, eff 4-26-99 ; Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

## **PART 21. EMERGENCY AND SPECIALIZED FOSTER CARE PROGRAMS [REVOKED]**

### **340:75-7-225. Emergency foster care (EFC) program [REVOKED]**

[Source: Revoked at 13 Ok Reg 3927, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-7-226. EFC assessments [REVOKED]**

[Source: Amended at 10 Ok Reg 3623, eff 7-12-93 ; Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Revoked at 13 Ok Reg 3927, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-7-227. Emergency foster care contracts [REVOKED]**

[Source: Amended at 10 Ok Reg 3623, eff 7-12-93 ; Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Revoked at 13 Ok Reg 3927, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-7-228. EFC payment [REVOKED]**

[Source: Amended at 10 Ok Reg 3623, eff 7-12-93 ; Revoked at 13 Ok Reg 3927, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-7-229. EFC leave [REVOKED]**

[Source: Amended at 10 Ok Reg 3623, eff 7-12-93 ; Revoked at 13 Ok Reg 3927, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-7-230. EFC training [REVOKED]**

[Source: Revoked at 13 Ok Reg 3927, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-7-231. Specialized foster care (SFC) program [REVOKED]**

[Source: Amended at 10 Ok Reg 3623, eff 7-12-93 ; Amended at 11 Ok Reg 501, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2283, eff 5-26-94 ; Revoked at 13 Ok Reg 3927, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

## **PART 23. GUIDELINES FOR WORKING WITH EFC CONTRACTORS [REVOKED]**

### **340:75-7-245. Requirments [REVOKED]**

[Source: Amended at 10 Ok Reg 3623, eff 7-12-93 ; Revoked at 13 Ok Reg 3927, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-7-246. Contractor's family needs [REVOKED]**

[Source: Revoked at 13 Ok Reg 3927, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

## **PART 25. EMERGENCY FOSTER CARE PROGRAM [REVOKED]**

### **340:75-7-260. Mission statement [REVOKED]**

[Source: Added at 11 Ok Reg 2525, eff 5-10-94 (emergency); Added at 12 Ok Reg 1739, eff 6-12-95 ; Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 18 Ok Reg 666, eff 1-10-01 (emergency); Amended at 18 Ok Reg 2128, eff 6-11-01 ; Revoked at 21 Ok Reg 2385, eff 6-25-04]

### **340:75-7-261. Population to be served [REVOKED]**

[Source: Added at 11 Ok Reg 2525, eff 5-10-94 (emergency); Added at 12 Ok Reg 1739, eff 6-12-95 ; Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 18 Ok Reg 666, eff 1-10-01 (emergency); Amended at 18 Ok Reg 2128, eff 6-11-01 ; Revoked at 21 Ok Reg 2385, eff 6-25-04]

### **340:75-7-262. Emergency foster care [REVOKED]**

[Source: Added at 11 Ok Reg 2525, eff 5-10-94 (emergency); Added at 12 Ok Reg 1739, eff 6-12-95 ; Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 18 Ok Reg 666, eff 1-10-01 (emergency); Amended at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 21 Ok Reg 2385, eff 6-25-04 ; Amended at 22 Ok Reg 1242, eff 5-26-05 ; Amended at 25 Ok Reg 1335, eff 6-1-08 ; Amended at 30 Ok Reg 1358, eff 7-1-13 ; Revoked at 35 Ok Reg 1695, eff 9-17-18]

### **340:75-7-263. Movement of children from emergency foster care [REVOKED]**

[Source: Added at 11 Ok Reg 2525, eff 5-10-94 (emergency); Added at 12 Ok Reg 1139, eff 3-20-95 (emergency); Added at 12 Ok Reg 1739, eff 6-12-95 ; Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 18 Ok Reg 666, eff 1-10-01 (emergency); Amended at 18 Ok Reg 2128, eff 6-11-01 ; Revoked at 21 Ok Reg 2385, eff 6-25-04]

#### **340:75-7-263.1. Admission into regular contract foster care [REVOKED]**

[Source: Added at 15 Ok Reg 416, eff 11-1-97 (emergency); Added at 15 Ok Reg 1663, eff 5-11-98 ; Revoked at 18 Ok Reg 666, eff 1-10-01 (emergency); Revoked at 18 Ok Reg 2128, eff 6-11-01]

### **340:75-7-264. Roles and responsibilities in emergency foster care program [REVOKED]**

[Source: Added at 11 Ok Reg 2525, eff 5-10-94 (emergency); Added at 12 Ok Reg 1139, eff 3-20-95 (emergency); Added at 12 Ok Reg 1739, eff 6-12-95 ; Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 18 Ok Reg 666, eff 1-10-01 (emergency); Amended at 18 Ok Reg 2128, eff 6-11-01 ; Revoked at 21 Ok Reg 2385, eff 6-25-04]

### **340:75-7-265. Service delivery in emergency foster care programs [REVOKED]**

[Source: Added at 11 Ok Reg 2525, eff 5-10-94 (emergency); Added at 12 Ok Reg 1139, eff 3-20-95 (emergency); Added at 12 Ok Reg 1739, eff 6-12-95 ; Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 18 Ok Reg 666, eff 1-10-01 (emergency); Amended at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 19 Ok Reg 208, eff 12-1-01 (emergency); Amended at 19 Ok Reg 1129, eff 5-13-02 ; Amended at 19 Ok Reg 2226, eff 6-27-02 ; Revoked at 21 Ok Reg 2385, eff 6-25-04]

### **340:75-7-266. Substitute care [REVOKED]**

[Source: Added at 11 Ok Reg 2525, eff 5-10-94 (emergency); Added at 12 Ok Reg 1739, eff 6-12-95 ; Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 18 Ok Reg 666, eff 1-10-01 (emergency); Amended at 18 Ok Reg 2128, eff 6-11-01 ; Revoked at 21 Ok Reg 2385, eff 6-25-04]

### **340:75-7-267. Reimbursement to emergency foster care program providers [REVOKED]**

[Source: Added at 11 Ok Reg 2525, eff 5-10-94 (emergency); Added at 12 Ok Reg 1139, eff 3-20-95 (emergency); Added at 12 Ok Reg 1739, eff 6-12-95 ; Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 18 Ok Reg 666, eff 1-10-01 (emergency); Amended at 18 Ok Reg 2128, eff 6-11-01 ; Revoked at 21 Ok Reg 2385, eff 6-25-04]

### **340:75-7-268. Discharge from emergency foster care (EFC) [REVOKED]**

[Source: Added at 11 Ok Reg 2525, eff 5-10-94 (emergency); Added at 12 Ok Reg 1139, eff 3-20-95 (emergency); Added at 12 Ok Reg 1739, eff 6-12-95 ; Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 910, eff 12-10-98 (emergency); Amended at 16 Ok Reg 1052, eff 4-26-99 ; Amended at 18 Ok Reg 666, eff 1-10-01 (emergency); Amended at 18 Ok Reg 2128, eff 6-11-01 ; Revoked at 21 Ok Reg 2385, eff 6-25-04]

### **340:75-7-268.1. Discharge from contract regular foster care [REVOKED]**

[Source: Added at 15 Ok Reg 416, eff 11-1-97 (emergency); Added at 15 Ok Reg 1663, eff 5-11-98 ; Revoked at 18 Ok Reg 666, eff 1-10-01 (emergency); Revoked at 18 Ok Reg 2128, eff 6-11-01]

### **340:75-7-269. Standards for emergency foster care (EFC) program homes [REVOKED]**

[Source: Added at 11 Ok Reg 2525, eff 5-10-94 (emergency); Added at 12 Ok Reg 1139, eff 3-20-95 (emergency); Added at 12 Ok Reg 1739, eff 6-12-95 ; Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 18 Ok Reg 666, eff 1-10-01 (emergency); Amended at 18 Ok Reg 2128, eff 6-11-01 ; Revoked at 21 Ok Reg 2385, eff 6-25-04]

### **340:75-7-270. Training for contract foster care program providers and contract staff [REVOKED]**

[Source: Added at 11 Ok Reg 2525, eff 5-10-94 (emergency); Added at 12 Ok Reg 1739, eff 6-12-95 ; Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Revoked at 18 Ok Reg 666, eff 1-10-01 (emergency); Revoked

at 18 Ok Reg 2128, eff 6-11-01]

**340:75-7-271. Additional contract requirements [REVOKED]**

[**Source:** Added at 11 Ok Reg 2525, eff 5-10-94 (emergency); Added at 12 Ok Reg 1739, eff 6-12-95 ; Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 16 Ok Reg 2773, eff 4-14-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Revoked at 18 Ok Reg 666, eff 1-10-01 (emergency); Revoked at 18 Ok Reg 2128, eff 6-11-01]

**PART 27. OKLAHOMA HUMAN SERVICES (OKDHS)  
RESOURCE FAMILY PARTNER (RFP) FOSTER CARE  
PROGRAM**

**340:75-7-280. Resource Family Partner (RFP) foster care**

(a) **RFP foster care purpose.** RFP foster care services are provided, per Oklahoma Administrative Code (OAC) 340:110-5, by a private, licensed child-placing agency that contracts with OKDHS to meet, per OAC 340:75-7, the child's foster care needs through service coordination and delivery in conjunction with OKDHS.

(b) **Admission to RFP foster care.** Admission to RFP foster care is administered by the OKDHS RFP Liaison Unit.

(c) **Roles and responsibilities.**

(1) **OKDHS RFP liaison.** The OKDHS RFP liaison is the contact person for the RFP agency regarding home approval, determining placement eligibility, and contract monitoring.

(2) **RFP agency.** The RFP agency:

- (A) ensures the availability of qualified and trained providers and staff;
- (B) coordinates requests for placements with OKDHS;
- (C) coordinates placement and discharges with the child welfare (CW) specialist;
- (D) coordinates with the CW specialist to afford the child all services that promote the child's progress; and
- (E) ensures the child's total needs are met while the child is in an RFP placement.

(e) **Discharge from an RFP home.**

(1) **Notice.** When the child discharges from an RFP home, the CW specialist coordinates the discharge with the RFP agency and the home, and advance notice is provided, per OAC 340:75-6-86(c).

(2) **Provider information.** Information and items given to the new provider include the:

- (A) child's current medications with instructions for dosage and use;
- (B) equipment or supplies required for the child's special care;
- (C) dates of follow-up appointments;
- (D) personal items or clothing OKDHS purchases, including disposable diapers; and
- (E) Women, Infants, and Children vouchers, non-perishable food, or other items obtained for the child.

[Source: Added at 26 Ok Reg 1282, eff 6-1-09 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 32 Ok Reg 1904, eff 9-15-15 ; Amended at 35 Ok Reg 1695, eff 9-17-18 ; Amended at 39 Ok Reg 1803, eff 9-15-22]

**PART 28. FOSTER PARENT HELPLINE, MEDIATION,  
AND REPORTS ABOUT OKLAHOMA HUMAN SERVICES  
(OKDHS) OR CHILD-PLACING AGENCY EMPLOYEES**

**340:75-7-290. Foster Care and Adoption Support Center**

Oklahoma Human Services (OKDHS) maintains a foster parent and adoptive parent support center to provide information related to foster

care and adoptive services. The support center is accessed by calling 1-800-376-9729, emailing [fcasupportcenter@okdhs.org](mailto:fcasupportcenter@okdhs.org), or by visiting [www.okfosters.org](http://www.okfosters.org).

(1) **Foster care general information or concerns.** The support center may be contacted when:

- (A) a person needs general information regarding foster care or adoption;
- (B) the foster parent or adoptive parent does not feel his or her specific concerns were addressed by OKDHS staff; or
- (C) a person needs contact information for his or her child welfare specialist.

(2) **Reports.**

(A) Per Section 1-9-117 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-9-117), the support center call is directed to the OKDHS Office of Client Advocacy where an investigation or inquiry may be initiated regarding allegations that an OKDHS employee or a child-placing agency:

- (i) threatened the foster parent with removal of a child in the foster parent's care;
- (ii) harassed the foster parent;
- (iii) refused to place a child in the approved foster home; or
- (iv) disrupted a child placement as a result of retaliation or discrimination against the foster parent who:
  - (I) filed a grievance with OKDHS Child Welfare Services;
  - (II) provided information to any state official or OKDHS employee; or
  - (III) testified, assisted, or otherwise participated in an investigation, proceeding, or hearing against OKDHS or a child-placing agency.

(B) Allegations of foster parent rights violations are reported to the foster care ombudsman at the OKDHS Office of Client Advocacy, per 10A O.S. § 1-9-120. The foster care ombudsman may be contacted at 1-866-335-9288 or [www.okfosterparentvoices.org](http://www.okfosterparentvoices.org).

[Source: Added at 28 Ok Reg 894, eff 7-1-11 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 35 Ok Reg 1695, eff 9-17-18 ; Amended at 39 Ok Reg 1803, eff 9-15-22]

### **340:75-7-291. Foster care mediation**

(a) **Foster care mediation program.** The Oklahoma Commission on Children and Youth (OCCY), Office of Juvenile System Oversight, pursuant to Section 601.6(B)(3) of Title 10 of the Oklahoma Statutes (10 O.S. § 601.6(B)(3)) established in accordance with the Dispute Resolution Act, 12 O.S. §§ 1801 through 1813 a voluntary program for foster parents to mediate complaints concerning the rights of foster parents, as



provided in 10A O.S. § 1-9-119, that relate to certain actions, inactions, or decisions of Oklahoma Department of Human Services (OKDHS), Department of Juvenile Justice, or child-placing agencies that may adversely affect the safety and well-being of the child in the custody of the state.

(1) The mediation program is confidential, fair, speedy, and free. Participants retain any rights they may have to request a hearing or file a court action or complaint.

(2) Mediation is an effective way to help parties who disagree discuss the problem and come to a mutually acceptable resolution.

(3) Mediation is not a substitute for legal assistance. Legal assistance is not provided by the mediator.

(b) **Requests.** A request for mediation must meet criteria. The dispute must concern:

(1) the child in OKDHS or Office of Juvenile Affairs (OJA) custody;

(2) the rights of the foster parent;

(3) the action, inaction, or decision of the child-placing agency; or

(4) an adverse effect on the health, safety, or welfare of the child in OKDHS or OJA custody.

(c) **Mediators.** The mediator:

(1) is a community volunteer who has special training;

(2) is certified pursuant to the Dispute Resolution Act;

(3) is experienced in mediation;

(4) is trained in issues involving the Foster Parent Bill of Rights, the juvenile justice system, and the Child Welfare system; and

(5) does not judge or decide the issue, but helps parties find their own resolution.

(d) **Foster care mediation process.** The OCCY toll-free number for the foster care mediation program is 1-800-822-0899 or in Oklahoma City 405-606-4925. OCCY receives requests for mediation and contacts all parties to seek voluntary involvement in the process. When each party agrees, the case is referred to the Alternative Dispute Resolution System of the Administrative Office of the Courts. Early Settlement Centers uses a network of volunteers to mediate the cases within five business days. The procedure in this subsection is followed.

(1) OCCY intake receives the request for mediation.

(2) OCCY intake logs in the information.

(3) The post adjudication review board (PARB) coordinator screens the mediation request for eligibility criteria.

(4) When the request meets criteria, the PARB coordinator contacts the foster parent and child-placing agency to seek the agreement of each party to mediate pursuant to the Dispute Resolution Act, or when the request does not meet criteria, the PARB coordinator recommends an alternative course of action.

[Source: Added at 28 Ok Reg 894, eff 7-1-11 ; Amended at 30 Ok Reg 839, eff 7-1-13]

**340:75-7-292. Foster parent complaints about Oklahoma Department of Human Services (DHS) or child-placing employees**

**made to the Office of Juvenile System Oversight**

(a) The Oklahoma Commission on Children and Youth, Office of Juvenile System Oversight (OJSO), receives any complaint alleging an employee of the Department of Human Services (DHS) or a child placing agency has threatened a foster parent with removal of a child from the foster parent, harassed a foster parent, refused to place a child in a licensed or certified foster home, or disrupted a child placement as retaliation or discrimination toward a foster parent who has:

- (1) filed a grievance pursuant to Section 1-9-120 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-9-120);
- (2) provided information to any state official or DHS employee; or
- (3) testified, assisted, or otherwise participated in an investigation, proceeding, or hearing against the DHS or child placing agency.

(b) OJSO forwards complaints to the DHS Office of Client Advocacy (OCA) for investigation per 10A O.S. § 1-9-112. OJSO works with OCA to ensure the complaints are investigated and resolved in accordance with the grievance procedures per 10A O.S. § 1-9-120. This does not apply to any complaint by a foster parent regarding the result of a criminal, administrative, or civil proceeding for a violation of any law, rule, or contract provision by that foster parent, or the action taken by DHS or a child placing agency in conformity with the result of any such proceeding.

[Source: Added at 32 Ok Reg 296, eff 11-17-14 (emergency); Added at 32 Ok Reg 1904, eff 9-15-15]

## **PART 30. ENHANCED FOSTER CARE**

### **340:75-7-301. Enhanced foster care (EFC) general**

(a) **EFC purpose.** EFC is a service category developed to respond to the complex behavioral, medical, developmental, and mental health needs of children by stabilizing placement for a child in a family-based setting or by supporting children who need additional services to be successful in a family-based settings. EFC services are:

- (1) child-specific services provided to kinship or traditional resource homes for children already placed in those settings; and
- (2) designed for traditional homes in which additional training is provided to the family to support the placement of children transitioning from congregate care, acute or residential treatment, or children who are placed in shelter care or are at risk of placement in shelter care.

(b) **Eligibility.** EFC is available to any child in Oklahoma Human Services (OKDHS) or tribal custody meeting service criteria. Information obtained during the referral process is used to determine eligibility and to support individualized service planning for the child.

- (1) A child meets at least one of the following eligibility criteria to receive EFC, the:

- (A) Child and Adolescent Needs and Strengths (CANS) Assessment indicates the child would benefit from EFC.

The CANS Assessment is conducted by a third-party qualified person, per Oklahoma Administrative Code (OAC) 340:75-13-16 and 340:75-14-1;

(B) onset of frequent placement moves from family-based settings due to the provider requesting change of placement or because the provider cannot meet the child's behavioral health needs;

(C) child has a minimum of two elevated Child Behavioral Health Screeners;

(D) child has a provisional or primary diagnosis from the most recent edition of "The Diagnostic and Statistical Manual of Mental Disorders," except for V codes and adjustment disorders, with a detailed description of the symptoms supporting the diagnosis;

(E) child's conditions are directly attributed to a primary medical diagnosis of a severe behavioral and emotional health need and may also be attributed to a secondary medical diagnosis of a physical, developmental, intellectual, or social disorder that is supported alongside the mental health needs;

(F) child's conditions are directly attributed to a mental illness or serious emotional disturbance, a medical issue, or a developmental or intellectual delay;

(G) evidence the child's presenting problems require full integration of a 24-hour crisis response, behavior management, or intensive clinical interventions from professional staff to prevent the child from having to move from a family-based placement or to transition to a family-based setting from a higher level of care; or

(H) the child has specific needs or factors that pertain to the child's permanency, safety, and well-being, as approved by the EFC programs administrator.

(2) The resource parent caring for the child agrees to participate in the child's treatment needs and planning actively.

(c) **Training.** All resource parents receiving EFC services are required to complete a supplemental EFC training determined by OKDHS and any child-specific training dependent on the child's individual needs, in addition to the agency required pre-service training.

(d) **EFC homes.** EFC homes are approved, per OAC 340:75-7-10.1 through 340:75-7-18, and after:

(1) undergoing assessment;

(2) finishing the supplemental EFC training;

(3) demonstrating a willingness and capacity to provide the level of supervision the child requires or needs on an ongoing basis;

(4) agreeing to participate in a child's treatment needs and planning actively; and

(5) receiving approval from the regional field manager.

**340:75-7-303. Enhanced foster care (EFC) initial consultation, Service and Support Plan (SSP), and ongoing treatment**

(a) **Initial consultation for services.** The initial consultation is completed with the treatment team within five-business days of determination the child meets EFC criteria. The consultation clearly articulates the child's and family's current needs and identification of services to meet those needs. The treatment team includes:

- (1) the child receiving EFC services, when age appropriate;
- (2) resource parent(s);
- (3) biological parent(s) or guardian, when appropriate;
- (4) child's assigned child welfare (CW) specialist and his or her supervisor;
- (5) resource specialist and his or her supervisor;
- (6) service provider(s);
- (7) regional EFC program staff; and
- (8) other professionals providing support to the child or resource parent(s).

(b) **EFC SSP.** Thirty-calendar days after the initial consultation, a treatment team meeting is held which includes individuals listed in (a)(1)-(8). EFC program staff completes Form 04EF001E, Enhanced Foster Care Service & Support Plan during the meeting with the treatment team. The EFC SSP outlines the child's and family's individualized needs and the identified service array and supports.

(c) **EFC ongoing treatment.** A treatment team meeting (TTM) takes place 30-calendar days after the initial consultation and every 60-calendar days from the last TTM. The TTM informs the child's ongoing need and utilization of EFC services. EFC program staff facilitates the meetings and complete Form 04EF004E, Enhanced Foster Care Treatment Team Meeting Documentation. The TTM covers topics regarding the child's progress on treatment goals and objectives, the family's participation and engagement in EFC services, and any additional services or supports needed.

(d) **EFC ongoing approval.** The regional EFC program staff approves EFC services in six-month increments. Upon request from the child's assigned CW specialist or resource specialist, the regional EFC program staff evaluates service progress, resource family participation, and the child's current eligibility for EFC services.

[Source: Added at 39 Ok Reg 1803, eff 9-15-22 ; Amended at 40 Ok Reg 990, eff 9-15-23 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

## **SUBCHAPTER 8. THERAPEUTIC FOSTER CARE AND DEVELOPMENTAL DISABILITIES SERVICES**

### **PART 1. THERAPEUTIC FOSTER CARE**

#### **340:75-8-1. Purpose, legal basis, and definitions**

(a) **Purpose.**

- (1) Therapeutic foster care (TFC) serves children in Oklahoma Human Services (OKDHS) or tribal custody who are:
- (A) 4 through 17 years of age; and
  - (B) youth, up to 19 years of age or until completion of high school who have requested extended services, and:
    - (i) meet medical necessity criteria established by the Oklahoma Health Care Authority (OHCA), per Oklahoma Administrative Code (OAC) 317:30-5-741;
    - (ii) respond to close relationships within a family setting; and
    - (iii) require more intensive behavioral health services than available in traditional and supported foster care family settings, when additional supports are not available or have failed to stabilize the child in a lesser restrictive placement; and do not require 24-hour supervision by an adult who is not sleeping.
- (2) Intensive treatment family care (ITFC) serves children in OKDHS or tribal custody who are:
- (A) 6 through 17 years of age; and
  - (B) youth, up to 19 years of age or until completion of high school who have requested extended services, and:
    - (i) meet medical necessity criteria established by OHCA, per OAC 317:30-5-751; and
    - (ii) require more intensive treatment than traditional foster care and TFC settings provide.
- (3) A TFC or ITFC contractor may use contracted foster care (CFC) to provide care to children in the legal custody of, or voluntarily placed with, OKDHS or tribal custody. When funding availability is uncertain, CFC approval may be required. Approval is requested from the TFC field manager or TFC field administrator.

**(b) Legal basis.**

- (1) Section 1-7-103 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-7-103) mandates OKDHS review and assess each child in OKDHS custody to determine the type of placement consistent with the child's treatment needs in the nearest geographical proximity to the child's home.
- (2) OKDHS develops and implements a diversity of community-based services and residential care, as needed, to provide for adequate and appropriate home-based and community-based treatment or rehabilitation of each child in a:
- (A) foster home;
  - (B) group home;
  - (C) community residential center; or
  - (D) non-secure facility consistent with the child's individualized treatment needs and, when possible, in or near the child's home community.

**(c) Definitions.** The following words and terms, when used in Part 1 of this Subchapter, have the following meaning, unless the context clearly

indicates otherwise:

- (1) **"Intensive treatment family care (ITFC)"** means residential behavioral management services provided in a specialized foster care setting for a child who:
  - (A) meets medical necessity criteria, per OAC 317:30-5-751;
  - (B) has severe psychological, behavioral, social, and emotional needs;
  - (C) may also present with a secondary physical, developmental, intellectual, or social disorder;
  - (D) requires a higher level of care and ITFC helps prevent placement in a more restrictive setting, such as an inpatient setting; and
  - (E) receives intensive individualized behavioral health and other support services from qualified staff.
- (2) **"Oklahoma Human Services (OKDHS) placement agreement for residential behavioral management services (RBMS)"** means the contract entered into between OKDHS and an agency providing TFC services, including all attachments and exhibits.
- (3) **"OHCA"** means the entity designated for administering Title XIX Medicaid reimbursement, including both the responsibility for the establishment of medical necessity criteria for children receiving TFC and ITFC services and prior authorization for the admission and extension of Medicaid or Title XIX reimbursed TFC and ITFC services.
- (4) **"Therapeutic foster care (TFC)"** means residential behavioral management services provided in a specialized foster care setting for a child who:
  - (A) meets medical necessity criteria, per OAC 317:30-5-741;
  - (B) has special psychological, behavioral, social, and emotional needs;
  - (C) accepts and responds to close relationships within a family setting; and
  - (D) requires more intensive or therapeutic services than are found in traditional foster care when additional supports are not available or have failed to stabilize the child in a less restrictive setting.
- (5) **"TFC or ITFC contractor"** means a licensed child care agency that meets OKDHS and OHCA requirements to provide residential behavioral management services in a foster care setting. A TFC or ITFC contract agency:
  - (A) provides direct clinical treatment services to the child placed; and
  - (B) recruits, trains, certifies, reimburses, and provides supportive services to the TFC or ITFC foster parent.
- (6) **"Contracted foster care (CFC)"** means a traditional level of foster care used through the TFC or ITFC contractor. The contractor may use certified a TFC or ITFC home for a child's placement at a traditional foster care level.

[Source: Added at 18 Ok Reg 2309, eff 5-15-01 (emergency); Added at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 22 Ok Reg 1242, eff 5-26-05 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 31 Ok Reg 1839, eff 9-15-14 ; Amended at 35 Ok Reg 1695, eff 9-17-18 ; Amended at 39 Ok Reg 1803, eff 9-15-22 ; Amended at 40 Ok Reg 990, eff 9-15-23]

## **340:75-8-2. Legal base and authority [REVOKED]**

[Source: Added at 18 Ok Reg 2309, eff 5-15-01 (emergency); Added at 18 Ok Reg 3067, eff 7-12-01 ; Revoked at 22 Ok Reg 1242, eff 5-26-05]

## **340:75-8-3. Definitions [REVOKED]**

[Source: Added at 18 Ok Reg 2309, eff 5-15-01 (emergency); Added at 18 Ok Reg 3067, eff 7-12-01 ; Revoked at 22 Ok Reg 1242, eff 5-26-05]

## **340:75-8-4. Contract procedures for therapeutic foster care (TFC) or intensive treatment family care (ITFC)**

(a) Contracts for the provision of TFC or ITFC placements are issued per Section 85 of Title 74 of the Oklahoma Statutes. Prior to issuance of the Oklahoma Health Care Authority Title XIX contract for TFC or ITFC services, the TFC field administrator for TFC or ITFC approves providers as eligible TFC or ITFC contractors.

(b) Contracts for the provision of TFC or ITFC placements are monitored on-site or on a virtual platform at least annually to ensure services provided are in compliance with contract terms as approved by the TFC field administrator.

[Source: Added at 18 Ok Reg 2309, eff 5-15-01 (emergency); Added at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 19 Ok Reg 2258, eff 6-27-02 ; Amended at 22 Ok Reg 1242, eff 5-26-05 ; Amended at 31 Ok Reg 1839, eff 9-15-14 ; Amended at 39 Ok Reg 1803, eff 9-15-22 ; Amended at 40 Ok Reg 990, eff 9-15-23]

## **340:75-8-5. Definition of therapeutic foster care [REVOKED]**

[Source: Added at 18 Ok Reg 2309, eff 5-15-01 (emergency); Added at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 19 Ok Reg 2258, eff 6-27-02 ; Revoked at 22 Ok Reg 1242, eff 5-26-05]

## **340:75-8-6. Required protocol for therapeutic foster care (TFC) or intensive therapeutic family care (ITFC) contractors**

TFC or ITFC contractors:

(1) implement and review an individualized treatment plan for each child in placement, with documented input from the child's assigned child welfare (CW) specialist, according to the requirements set forth in the Oklahoma Human Services (OKDHS) contract;

(2) accept responsibility for a reasonable knowledge of the child's whereabouts at all times. When a child is unaccounted for, the TFC or ITFC contractor:

(A) immediately notifies the assigned CW specialist or CW supervisor. CW staff follows protocol and completes missing from care notifications, per Oklahoma

Administrative Code (OAC) 340:75-6-48.3; and  
(B) submits a written incident report to the child's assigned CW specialist describing the circumstances and files a copy in the child's case record;

(3) agree to immediately report all emergency medical care to the child's assigned CW specialist and to document the manner of report and response in the child's case record. The contractor ensures CW specialists, parents, and guardians are advised of physician recommendations regarding the use of psychotropic medications and the contractor must comply with OKDHS policy, per OAC 340:75-14-3. Neither OKDHS, a TFC or ITFC parent, nor TFC or ITFC contractor staff may consent to a child in OKDHS custody undergoing an abortion or sterilization procedure, initiating termination of life support, or implementing a "do not resuscitate" order;

(4) ensure the completion of a clothing and personal item inventory for each child entering and leaving placement and ensure each child leaves the placement with all of his or her clothing and personal items;

(5) develop and implement written policy for the approval and use of volunteers, per Section 404.1 of Title 10 of the Oklahoma Statutes (10 O.S. § 404.1), when the TFC or ITFC contractor uses volunteers that, at a minimum, require criminal history, Restricted Registry, and sex offender registry checks;

(6) submit written reports to the child's CW specialist or specialists describing the child's stay in placement, progress toward meeting the identified treatment plan, education, and medical care as requested for court hearings, and file a copy of the reports in the child's case record;

(7) develop and implement written policy and procedures for discipline that comply with OAC 340:75-7-38 and 10A O.S. § 1-7-105;

(8) develop and implement written policy that prohibits possession or use of tobacco and tobacco products by any child in placement, and prohibits the use of tobacco or tobacco products by employees of the TFC or ITFC contractor in the presence of any child in placement;

(9) afford the TFC or ITFC parent the same rights as all foster parents in Oklahoma, per 10A O.S. § 1-9-119;

(10) plan and coordinate each child's discharge with the child's CWS assigned specialist or specialists, when different, and provide a minimum of 72-business hours' notice to discharge, except in medical emergencies. On-site crisis intervention is provided prior to any emergency discharge;

(11) submit a written discharge summary to the child's CW specialists within 30-calendar days of the child's discharge and file a copy in the child's case record. The discharge summary includes:

(A) a summary of treatment services;

(B) child's progress on the treatment plan;

(C) reason for discharge; and



- (D) recommendations for future placements and services for the child's treatment needs;
- (12) ensure compliance with:
  - (A) minimum licensing standards per Child Care Services licensing standards for child-placing agencies; and
  - (B) staffing requirements per OKDHS Contract Agreement for TFC or ITFC;
- (13) develop and implement written policy and operating procedures regarding corrective discipline procedures for employees;
- (14) ensure any TFC or ITFC agency staff member responsible for conducting resource family assessments (RFAs) or annual updates attended OKDHS training prior to conducting RFAs or updates. The staff member attends a minimum six hours of mandatory training annually;
- (15) develop and implement written policy and operating procedures to govern the TFC or ITFC parent's maintenance and administration of prescription and non-prescription medication to each child in placement, including transporting prescription and non-prescription medication when the child receives medication any place other than the TFC or ITFC home, such as respite placements, family visits, and medication administered during school hours;
- (16) develop and implement written policy, operating procedures, and supervision guidelines regarding the use of solitary confinement and separation programs, such as restricting the child to his or her own room for a cooling off period. The duration of room restriction is specified at the time of assignment and is consistent with the child's chronological age; developmental level; behavioral, emotional, and medical needs; and availability of supervision;
- (17) for each scheduled review hearing, coordinate with the CW specialist and the TFC or ITFC parent for a youth 14 through 17 years of age to ensure the youth's availability to respond to the court's inquiry, in person, by phone, or by other electronic means, about the youth's plan for skills development and transition to successful adulthood;
- (18) assist the CW specialist and TFC parent with ensuring youth in the eighth, ninth, or tenth grades are enrolled in the Oklahoma's Promise, formerly known as the Oklahoma Higher Learning Access Program, and provide TFC or ITFC parents with information on the program's eligibility, application guidelines, and academic requirements; and
- (19) for any youth 14 years of age and older, assist the CW specialist and youth, as needed, to remedy concerns of identity theft or fraudulent use of the youth's identity noted through a review of the his or her credit report provided by OKDHS.

[Source: Added at 18 Ok Reg 2309, eff 5-15-01 (emergency); Added at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 19 Ok Reg 214, eff 12-1-01 (emergency); Amended at 19 Ok Reg 1129, eff 5-13-02 ; Amended at 19 Ok Reg 2258, eff 6-27-02 ; Amended at 22 Ok Reg 1242, eff 5-26-05 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 26 Ok Reg 884, eff 5-15-09 ; Amended at 27 Ok Reg 1092, eff 3-26-10

(emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 31 Ok Reg 1839, eff 9-15-14 ; Amended at 33 Ok Reg 477, eff 2-29-16 (emergency); Amended at 34 Ok Reg 1550, eff 9-15-17 ; Amended at 35 Ok Reg 1695, eff 9-17-18 ; Amended at 36 Ok Reg 1856, eff 9-16-19 ; Amended at 37 Ok Reg 1850, eff 9-15-20 ; Amended at 39 Ok Reg 1803, eff 9-15-22 ; Amended at 40 Ok Reg 990, eff 9-15-23]

### **340:75-8-7. Contracted therapeutic foster care services**

(a) **Contractor rules.** Therapeutic foster care (TFC) contractors meet Oklahoma Health Care Authority (OHCA) rules as described in Parts 1, 3, and 5 of the Oklahoma Administrative Code (OAC) 317:30-3 and Part 83 of OAC 317:30-5.

(b) **TFC services.** Contracted TFC services are based on the child's assessed needs and are provided consistent with the goals and objectives of the child's treatment plan (TP) per OAC 317:30-5-241.2 and 317:30-5-742.2 and include:

- (1) individual therapy;
- (2) family therapy. The TFC contractor:
  - (A) works with the parent or parents or placement provider to whom a child in TFC will be discharged;
  - (B) seeks to support and enhance the child's relationship with family members, including siblings;
  - (C) arranges for and encourages regular contact and visitation between the child and parent or parents and other family members; and
  - (D) engages the child's parent or parents and siblings in visitation and family therapy with the child, when the case plan is reunification. The TFC contractor provides consultation, support, and technical assistance to the TFC parent in the implementation of the child's TP;
- (3) group rehabilitative treatment. Group rehabilitative treatment services may be part of the child's TP to provide needed services, such as basic living skills, social skills redevelopment, independent living or services for successful adulthood, self-care, lifestyle change, recovery principles, and other similar services. Thirty minutes of individual therapy, family therapy, or both, may be provided in lieu of one hour of group rehabilitative treatment when group treatment services are part of the child's treatment plan but are temporarily unavailable;
- (4) substance use or abuse or chemical dependency therapy, as needed, by a child with behavioral or emotional problems directly related to substance use or abuse. A minimum of two hours of education and prevention therapy per 90-calendar day period is recommended, based on individual needs, for a child who does not have behavioral or emotional problems directly related to substance use or abuse;
- (5) basic living skills redevelopment provided by the TFC parent;
- (6) social skills redevelopment provided by the TFC parent;
- (7) crisis behavior management and redirection services to ensure therapeutic contract staff are available for response 24 hours a day, seven days a week. Response includes providing face-to-face or phone intervention during a crisis to stabilize the child's behavior and prevent placement disruption. Face-to-face

intervention must be utilized prior to a child's placement in a higher level of care, unless there is an imminent safety risk. Crisis behavior management and redirection services are consistent with the goals and objectives of the child's TP;

(8) collaboration with Child Welfare Services (CWS) specialists in the completion of the youth's basic life skills assessment and the development of the youth's successful adulthood plan; and

(9) successful adulthood plan services in compliance with the Oklahoma Successful Adulthood program administered by the Oklahoma Department of Human Services, per OAC 340:75-6-110.

(c) **TFC contractor requirements.** TFC contractors are required to provide services and meet requirements as identified in OAC 340:75, 317:30-5-740, 317:30-5-740.1 and the residential behavioral management services (RBMS).

(1) Specialized treatment services to augment the required services provided by the TFC contractor may be obtained when a child experiences severe functional impairment, exhibiting the need for additional treatment beyond the required TFC services. The specialized treatment services are provided by a Medicaid behavioral health contractor other than the TFC contractor and require prior OHCA authorization.

(2) The CWS specialist is required to participate in the coordination of all requests for additional treatment services for a child in a TFC placement with the TFC contractor. In requesting additional services from a licensed PhD psychologist in private practice, the CWS specialist considers the:

(A) duration, intensity, and frequency of the child's behaviors;

(B) child's specialized treatment needs including, but not limited to, sexual perpetration, long-term substance use or abuse, and highly-sexualized behaviors;

(C) number of crises requiring an on-site response; and

(D) child's progress on his or her TFC treatment plan.

[Source: Added at 18 Ok Reg 2309, eff 5-15-01 (emergency); Added at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 19 Ok Reg 2258, eff 6-27-02 ; Amended at 21 Ok Reg 1385, eff 5-27-04 ; Amended at 22 Ok Reg 1242, eff 5-26-05 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 26 Ok Reg 884, eff 5-15-09 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 31 Ok Reg 1839, eff 9-15-14 ; Amended at 33 Ok Reg 477, eff 2-29-16 (emergency); Amended at 34 Ok Reg 1550, eff 9-15-17]

### **340:75-8-8. Therapeutic foster care (TFC) or intensive therapeutic family care (ITFC) contractor requirements**

(a) TFC or ITFC contractors:

(1) actively recruit prospective TFC or ITFC parents who reflect the racial and ethnic diversity of children requiring placement, in compliance with the Multiethnic Placement Act of 1994 and the Interethnic Provisions of 1996, per Oklahoma Administrative Code (OAC) 340:75-7-10;

(2) actively recruit prospective TFC or ITFC parents who are receptive and capable of meeting the service needs of all Oklahoma Human Services (OKDHS) custody children determined

to be eligible for TFC or ITFC placement;

(3) engage with a family within one-business day of receiving a recruitment lead referral from OKDHS. Upon request, the contractor communicates to Child Welfare Service (CWS) progress on resource development;

(4) certify TFC or ITFC homes according to rules established by Child Care Services (CCS), CWS, OAC 340:75-7-10 through 340:75-7-19, Oklahoma Health Care Authority (OHCA), and the requirements outlined in the OKDHS placement agreement for residential behavioral management services (RBMS) in TFC or ITFC Settings;

(5) ensure each TFC or ITFC parent receives the appropriate pre-service training according to CCS and OHCA rules, per OAC 317:30-5-740.1 or OAC 317:30-5-750.1, CWS resource family requirements, and the requirements outlined in RBMS in TFC or ITFC sections, prior to a child's placement in the home;

(6) ensure the TFC or ITFC home meets all OKDHS certification requirements prior to a child's or youth's placement in the home;

(7) evaluate the TFC or ITFC parent's ability to provide TFC or ITFC services and meet the needs of children receiving RMBS in a foster care setting, per OAC 340:75-7-94;

(8) participate in regularly scheduled staffings on all child abuse and neglect referrals with CWS program staff, per OAC 340:75-3-410. Each TFC or ITFC home file a log of all investigations and screened-out referrals for use as a continual assessment of safety and resource home developmental needs;

(9) ensure that no TFC or ITFC home is used for new placements or respite care while under investigation for child abuse or neglect. CWS has the right to decline or may discontinue the home's use for placement when the TFC or ITFC parent's documented efforts did not resolve the concerns. New placements or respite care cannot resume without specific consent of the TFC liaison and liaison supervisor;

(10) ensure each TFC or ITFC parent meets the requirements for in-service training as defined in the OKDHS RBMS contract;

(11) ensure the TFC or ITFC parent has training and support to apply reasonable and prudent parent standards, per Section 1-1-105 of Title 10A of the Oklahoma Statutes. The reasonable and prudent parent standard is characterized by careful and sensible parental decisions that maintain the child's health, safety, and best interests while at the same time encouraging the child's emotional and developmental growth. This standard is used by the child's TFC or ITFC parent when determining whether to allow a child to participate in extracurricular, enrichment, cultural, and social activities. The TFC or ITFC parent may request consultation with the CWS specialist, biological parent or guardian, TFC or ITFC contractor staff, or other parties to the child's case to assist with decision-making and ensure the child has access to immediate therapeutic response and support when needed. Visitation with the child's family of origin, or with connections identified by OKDHS to have restricted contact with

the child , is approved by the child's CWS specialist;  
(12) complete Form 04TF006E, Unsupervised Time Assessment, for all TFC or ITFC children, regardless of age, anytime an assessment is made that the child has the ability to have time away from the TFC or ITFC parent's direct supervision for activities other than those included under reasonable and prudent parenting standards, such as the child spending time alone or attending a child care program while the TFC parent works. This assessment includes, but is not limited to, child care utilization and the TFC parent's availability to respond to behavioral needs and all problems when the child is not under his or her direct supervision. The assessment is documented as part of the child's ongoing TFC or ITFC treatment plan with a copy of the finalized plan provided to the TFC or ITFC parent or parents;  
(13) request approval from the TFC liaison and liaison supervisor when accessing child care. The written request includes the:

- (A) therapeutic justification of daily child care outside of the child's TFC placement home in the child's treatment plan;
- (B) justification for the TFC parent's need for child care outside of the child's TFC placement home;
- (C) ability of child care staff or the child care provider to meet the child's emotional and behavioral needs and all problems;
- (D) availability of the TFC parent and TFC contractor staff to respond to behavioral needs and all problems at the child care environment;
- (E) verification of the child care center's licensing status, star ratings, and adult-to child ratio, per OAC 340:75-7-65(a)(4)(A);
- (F) proposed weekly schedule for child care utilization; and
- (G) planned length of use of child care as a service component of the child's treatment plan;

(14) follow established protocol found in the RBMS, contract for TFC or ITFC services, for managing the transfer of a currently certified foster home from another contracting agency;  
(15) do not certify a OKDHS employee as a TFC or ITFC parent without prior written approval from the CWS director or designee. The TFC or ITFC contractor submits the written request to the CWS TFC program staff. The request's review is consistent with OAC 340:75-7-10.1;  
(16) do not certify a TFC or ITFC agency employee assigned to the TFC or ITFC program as a TFC or ITFC parent without prior written approval from the TFC field administrator. The request includes a copy of TFC or ITFC agency policy regarding certification of the TFC or ITFC agency employees;  
(17) do not accept a TFC or ITFC parent application from a person licensed to provide child care services. Families are not approved as licensed family child care homes and TFC or ITFC

homes at their home or in any other location;

(18) establish a procedure to address and document a response to concerns in a TFC or ITFC home that do not warrant a referral for an abuse or neglect assessment or investigation. Examples of these concerns include, but are not limited to, a TFC or ITFC parent's judgment or supervision, disciplinary practices, non-compliance with policy or contract, unacceptable housing standards, inadequate clothing provisions for the child, or a lack of involvement in the child's education or independent living skills. CWS has the right to decline the home's use when the TFC or ITFC parent's documented efforts did not resolve the concerns; and

(19) require all TFC or ITFC parents to immediately report to the TFC or ITFC contractor:

(A) charges or arrests of any TFC or ITFC parent or household member and any criminal investigation of a TFC or ITFC parent or household member; or

(B) a proceeding for a protective order filed by, or against any member, of the household. The TFC or ITFC contractor immediately reports these events to the TFC liaison and liaison supervisor and complies with directives given to ensure the safety of children in the home.

(b) TFC or ITFC homes may be jointly-approved, per OAC 340:75-7-19.

[Source: Added at 18 Ok Reg 2309, eff 5-15-01 (emergency); Added at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 19 Ok Reg 2258, eff 6-27-02 ; Amended at 22 Ok Reg 1242, eff 5-26-05 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 25 Ok Reg 1953, eff 7-1-08 ; Amended at 26 Ok Reg 884, eff 5-15-09 ; Amended at 31 Ok Reg 1839, eff 9-15-14 ; Amended at 33 Ok Reg 477, eff 2-29-16 (emergency); Amended at 34 Ok Reg 1587, eff 9-15-17 ; Amended at 35 Ok Reg 1695, eff 9-17-18 ; Amended at 37 Ok Reg 1850, eff 9-15-20 ; Amended at 39 Ok Reg 1803, eff 9-15-22]

### **340:75-8-9. Placement procedures in therapeutic foster care homes (TFC) or intensive therapeutic family care (ITFC)**

(a) TFC is the least restrictive, community-based residential care placement setting. Children in Oklahoma Human Services (OKDHS) custody or tribal custody served in TFC placements are 4 through 17 years of age, and the Oklahoma Health Care Authority (OHCA) authorized reviewer has determined the children meet the medical necessity criteria for TFC services, per Oklahoma Administrative Code (OAC) 317:30-5-741.

(1) The child is diagnosed with any Diagnostic and Statistical Manual of Mental Disorders (DSM) AXIS I primary diagnosis, with the exception of V codes and adjustment disorders, accompanied by a detailed description of the symptoms supporting the diagnosis.

(2) The child's conditions are directly attributed to a mental illness or serious emotional disturbance as the primary need for professional attention.

(3) The inpatient authorization reviewer determines that the child's current disabling symptoms cannot be or were not managed in a less intensive treatment program.

(4) There is evidence that the child's presenting emotional or behavioral problems prohibit full integration in a family or home setting without the availability of 24-hour crisis response, behavior management, and intensive clinical interventions from professional staff.

(5) The child is medically stable and not actively suicidal or homicidal and not in need of substance use or abuse detoxification services.

(6) The parent or the legal guardian of the child in OKDHS custody or tribal custody is afforded the opportunity to actively participate in the child's treatment and planning.

(b) In addition to the above criteria, the following conditions are representative of other factors that may qualify children for ITFC services:

(1) multiple placements in various settings including acute and residential treatment, psychiatric hospitals, group homes, shelter, traditional, and TFC homes;

(2) problematic sexual behavior, a victim of sexual trauma, or both;

(3) extensive physical aggression or causing harm to others, including people and animals;

(4) a variety of self-injurious behaviors including previous suicide attempts;

(5) a history of other difficulties that present a critical risk of harm to self or others;

(6) severely impaired cognitive functioning including hallucinations, affective disorders, and communication deficiencies;

(7) impaired social skills, personal hygiene, and other daily living skills;

(8) a history of substance use, abuse, or exposure;

(9) secondary needs associated with identified developmental or intellectual delays; or

(10) other complex trauma experiences.

(c) The Child Welfare Services (CWS) specialist and supervisor assess each child's treatment needs per OAC 340:75-6-40 and 340:75-6-85. The CWS specialist seeks TFC or ITFC placement when the:

(1) child's treatment needs can no longer be met in the child's own home, relative home, or traditional foster family setting;

(2) child does not require a group home placement; and

(3) child does not meet the medical necessity criteria for psychiatric treatment.

(d) A child whose behavior requires 24-hour awake supervision or who poses a danger in a family setting is not appropriate for TFC or ITFC placement.

(e) The TFC or ITFC contractor receives child placement referrals from TFC or ITFC placement coordinator, per OAC 340:75-8-12.

(f) The TFC or ITFC contractor requests a TFC or ITFC authorization extension 30-calendar days prior to the expiration of the authorized length of stay. When the OHCA authorized reviewer denies the service extension, the TFC or ITFC contractor provides written notification

within one-business day of the denial to the CWS specialist, or the Indian child welfare worker when the child is in tribal custody only, to initiate transition planning.

(g) TFC or ITFC contractors document in writing, an assessment of the agency's ability to serve a child 5 years of age or younger prior to placement. The written documentation is maintained for on-site review during program audits and includes:

- (1) the assessed diagnosis and proposed treatment plan for the child;
- (2) the credentials, experience, and training of the TFC or ITFC contractor's staff documenting the staff's ability to develop an age-appropriate treatment plan and deliver clinical services to children, 5 years of age or younger, with emotional or behavioral problems; and
- (3) a description of the proposed TFC or ITFC parent's:
  - (A) age, availability, experience, and skills;
  - (B) family structure;
  - (C) ability to meet the child's needs, including a child 5 years of age or younger; and
  - (D) parenting responsibilities to other children in the home, children in foster care or TFC or ITFC placement, any adopted children, and any birth children.

(h) The TFC contractor does not place more than two children in a TFC home without prior written approval from the Foster Care and Adoptions Programs deputy director on completed Form 04FT003E, Request for Third Placement. The TFC contractor submits the written request that includes:

- (1) primary treatment needs for the proposed placement of a third child and any subsequent children in the TFC home;
- (2) availability, placement history, skills, completed or planned corrective action, and additional contractor supports of the TFC parent identified for proposed third child placement;
- (3) risk factors considered and compelling reasons for proposed placement of a third child;
- (4) documentation of TFC contractor contact with CWS specialists or supervisors for each child in the home, involved professionals, and each TFC family member regarding the impact of the proposed third child placement;
- (5) documentation of TFC contractor's review of any separated siblings placed in the proposed third placement. Guidance on when siblings may be separated is located in OAC 340:75-6-85; and
- (6) other information as requested by the Foster Care and Adoptions Programs deputy director.

(i) An ITFC home serves only one child at a time. An exception to this limit is reviewed and approved by the Foster Care and Adoptions Programs deputy director. The ITFC contractor submits the written request on Form 04FT003E that includes:

- (1) primary treatment needs for the proposed placement of a second child and any subsequent children in the ITFC home;



- (2) availability, placement history, skills, completed or planned corrective action, and additional contractor supports of the ITFC parent identified for proposed placement of a second child;
- (3) risk factors considered and compelling reasons for proposed placement of a second child;
- (4) documentation of ITFC contractor contact with CWS specialists or supervisors for the child in the home, involved professionals, and each ITFC family member regarding the impact of the proposed placement of a second child;
- (5) documentation of ITFC contractor's review of any separated siblings placed in the proposed second placement. Guidance on when siblings may be separated is located in OAC 340:75-6-85; and
- (6) other information as requested by the Foster Care and Adoptions Programs deputy director.

(j) A home serving three or more children without prior written approval is subject to denial of payment above the foster care maintenance rate. Email approval from the Foster Care deputy director is considered valid written approval. A child respite in the home beyond timeframes and processes for extensions, per OAC 340:75-8-11, is considered a placement in the home after 14-calendar days.

(k) Title XIX payments for TFC or ITFC services are not made for TFC or ITFC parents who move out of Oklahoma.

(l) A youth 18 years of age and older may remain in TFC or ITFC placement on a voluntary basis, per OAC 340:75-6-110.

(m) The TFC or ITFC contractor establishes practice modalities to support the placement of all children in OKDHS custody and tribal custody meeting criteria for TFC or ITFC level of care in a fully-certified TFC or ITFC home. Each child in placement receives services based on his or her individualized service plan to meet mental and behavioral health needs. Services provided support the child to move to a less restrictive level of care as quickly as possible.

(n) Children in TFC or ITFC are authorized for placement based on meeting specific criteria. The reimbursement amount paid to the contractor and TFC or ITFC parent are in accordance with Appendix C-20, Child Welfare Services (CWS) Rates Schedule.

(o) Children are supported with TFC or ITFC services to make progressive step downs and maintain stability in placement to reach traditional foster care level or achieve permanency goals.

(p) When the TFC or ITFC placement is not approved by OHCA because the placement need developed outside of OHCA business hours or the business day closed without a return call from OHCA, the contractor may assist with immediate placement of a child OKDHS staff identifies as in need of TFC or ITFC level placement. These placements are documented and paid through the contractor's resource family partners contract for placement of traditional foster care placements or contracted foster care contract. OHCA approval is obtained the following business day after placement. The child is then admitted to TFC or ITFC placement in the same home. When OHCA denies TFC or ITFC approval, the contractor and CWS specialist immediately coordinate to ensure a new placement referral is initiated for placement in the appropriate level of care. The

child may not remain in a TFC or ITFC home more than three-business days when OHCA denies them for TFC or ITFC placement.

[Source: Added at 18 Ok Reg 2309, eff 5-15-01 (emergency); Added at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 19 Ok Reg 2258, eff 6-27-02 ; Amended at 22 Ok Reg 1242, eff 5-26-05 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 26 Ok Reg 884, eff 5-15-09 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 31 Ok Reg 1839, eff 9-15-14 ; Amended at 33 Ok Reg 477, eff 2-29-16 (emergency); Amended at 34 Ok Reg 1587, eff 9-15-17 ; Amended at 35 Ok Reg 1695, eff 9-17-18 ; Amended at 39 Ok Reg 1803, eff 9-15-22]

#### **340:75-8-10. Therapeutic foster care placement in close proximity to child's home community**

(a) **Placement within the closest geographic proximity.** The therapeutic foster care (TFC) contractor places the child in custody:

- (1) in a therapeutic foster home within the closest geographic proximity as possible to the county of residence of the child's parent(s); or
- (2) within the closest geographic proximity as possible to the child's county of court jurisdiction.

(b) **Proximity of siblings.** The TFC contractor considers the placement and accessibility of the placed child's sibling(s), if the sibling(s) is in Oklahoma Department of Human Services (DHS) custody.

(c) **Disruption.** If disruption occurs in the TFC placement and the custody child's disrupted placement is not in the closest geographic proximity as possible, the TFC contractor serving the child seeks placement, per (a) and (b) of this Section, in one of the TFC contractor's homes.

- (1) If the TFC contractor cannot place the child, per (a) and (b) of this Section, the TFC contractor contacts other TFC contractors for availability of an appropriate TFC placement.
- (2) If another TFC contractor can appropriately place the child per (a) and (b) of this Section, DHS transfers the child to that TFC contractor for placement.
- (3) When efforts to locate new placement are not successful, the TFC contractor provides notification of discharge to the Child Welfare Services (CWS) specialist per Oklahoma Administrative Code 340:75-8-6 (24).
- (4) The CWS specialist arranges for alternate placement and transportation in accordance with the timeframes established by the TFC contractor's notification of discharge.

[Source: Added at 18 Ok Reg 2309, eff 5-15-01 (emergency); Added at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 31 Ok Reg 1839, eff 9-15-14]

#### **340:75-8-11. Therapeutic foster care (TFC) or intensive treatment family care (ITFC) placement stability**

(a) **Placement stability assessment.** TFC or ITFC contractors and child welfare (CW) specialists continually assess a child's placement stability. When indications of instability are identified, the TFC or ITFC contractor and CW specialist jointly evaluate the need for additional services and supports to maintain the current placement.

(b) **Supporting placement stability.** The TFC or ITFC contractor and CW specialist review the child's current treatment plan and determine the need for modifications including, but not limited to:

- (1) the need for further evaluation;
- (2) specialized treatment services;
- (3) increased communication between team members;
- (4) wraparound services;
- (5) additional supports for the TFC or ITFC parents;
- (6) use of disruption prevention staffing; and
- (7) behavior redirection and crisis management services.

(c) **Foster**

(i) **home insurance.** Liability insurance is provided for TFC or ITFC families for damages caused by the child in Oklahoma Human Services or tribal custody according to the policy terms. TFC or ITFC families have the right to receive a copy of the liability insurance policy, per Section 1-9-119 of Title 10A of the Oklahoma Statutes. TFC or ITFC parents are responsible for deductibles.

(d) **Placement disruption.** Disruption is an unplanned change in a child's placement and occurs when a child is removed from a TFC or ITFC home and will not return to the same TFC or ITFC home due to the home or contractor being unable or unwilling to continue to serve the child. Disruptions include all placement changes that are not related to a planned movement toward the child's identified permanency goal. Unless an emergency exists, the TFC or ITFC contractor does not move children in TFC or ITFC placement without CWS approval.

(e) **Disruption staffing.** A disruption staffing occurs for all unplanned placement changes. When possible, the staffing occurs prior to providing discharge notice to support the TFC or ITFC parent and child, prevent disruption, or assist with transition. When prior planning is not possible, the staffing occurs within the 72-business hours' notice of discharge period. The staffing occurs within 72-business hours following immediate discharge, such as into an inpatient setting. The staffing includes at least the TFC or ITFC therapist, TFC or ITFC parent, CW specialist or supervisor, and tribal worker or supervisor. The child may participate, when able. The staffing may be conducted by conference call or other virtual means. The contractor's TFC or ITFC program director reviews all disruptions and includes copies with the contractor's monthly report to TFC program staff.

(f) **Respite care.** Respite care provides reprieve and support for the TFC or ITFC parent, child, or both. Respite for children in TFC is only provided in certified therapeutic homes. Respite for children in ITFC is only provided in certified ITFC homes. Reprieve for the TFC or ITFC parent with whom a child is placed includes a defined timeframe, not to exceed 14-calendar days, and specifies the date for the child to return. When the need arises to extend the 14-calendar day respite, the TFC or ITFC contractor obtains prior approval from the TFC field manager.

(g) **Respite placement notification.** The TFC or ITFC contractor notifies, via Form 04FT004E, Notice of Child's Location, the CW specialists involved in the placement and the TFC liaison and liaison supervisor of all placement changes, including respite, for each child in

TFC or ITFC placement.

(h) **TFC or ITFC contractor.** The TFC or ITFC contractor:

- (1) ensures the respite TFC or ITFC parent is informed of the child's current treatment issues; behavioral, medical, and physical needs; and any child-specific supervision or safety plans;
- (2) pre-approves the respite after assessing both the requesting and receiving resources to ensure safety, bed space, and compatibility of children, and ensures the respite home is not on a written plan of compliance or any other disciplinary action; and
- (3) supervises the respite TFC or ITFC parent in implementing in-home treatment strategies identified in the TFC or ITFC contractor's individualized treatment plan for the child.

[Source: Added at 18 Ok Reg 2309, eff 5-15-01 (emergency); Added at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 19 Ok Reg 2258, eff 6-27-02 ; Amended at 22 Ok Reg 1242, eff 5-26-05 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 31 Ok Reg 1839, eff 9-15-14 ; Amended at 33 Ok Reg 477, eff 2-29-16 (emergency); Amended at 34 Ok Reg 1587, eff 9-15-17 ; Amended at 35 Ok Reg 1695, eff 9-17-18 ; Amended at 37 Ok Reg 1850, eff 9-15-20 ; Amended at 39 Ok Reg 1803, eff 9-15-22 ; Amended at 40 Ok Reg 990, eff 9-15-23]

#### **340:75-8-11.1. Contracted foster care (CFC) in therapeutic foster care (TFC) or intensive therapeutic family care (ITFC) homes**

(a) **Purpose.** A TFC or ITFC contractor may use certified TFC or ITFC homes to provide CFC to children in the legal custody of, or who are voluntarily placed with, Oklahoma Human Services (OKDHS), or a child in an Indian tribe's custody with an OKDHS tribal agreement. TFC or ITFC contractor CFC placements are submitted for approval to the TFC field manager or field administrator prior to admission to CFC placement in a specified home. Approval may be contingent upon funding availability.

(b) **Population served.** Children may be considered for CFC placement in a TFC or ITFC home on a case-by-case basis. The TFC or ITFC contractor determines a designated timeframe when a child:

- (1) placed in TFC or ITFC, no longer requires TFC or ITFC level of care and steps down to a traditional foster care level in the current placement;
- (2) needs traditional foster care placement in the same home with a sibling, who is placed in the home on TFC or ITFC level of care;
- (3) needs placement in traditional foster care in the same home with his or her parent, who is in OKDHS or tribal custody, and is placed on a TFC or ITFC level of care;
- (4) needs to return to a home where he or she was previously placed, following an unsuccessful permanency effort, such as trial adoption or trial reunification;
- (5) appears to meet criteria for placement in TFC or ITFC and needs immediate placement when Oklahoma Healthcare Authority (OHCA) approval is not available because the placement need developed outside OHCA business hours or the business day closed without a return call from OHCA. The contractor may assist with the child's immediate placement. This placement is documented and reimbursed through the contractor's resource family partnership (RFP) contract for traditional foster care

placements or by placement in CFC. OHCA approval is obtained the following business day after placement. When OHCA approval is obtained, the child is admitted to TFC or ITFC.

(A) When OHCA denies TFC or ITFC placement and when the family agrees to keep the child, the child may remain in the CFC home.

(B) When the family does not agree to keep the child, the contractor and child welfare (CW) specialist immediately coordinate to ensure a new placement referral is initiated for placement in the appropriate level of care; or

(6) a child needing traditional foster care level is placed with a specific TFC or ITFC home due to the home's unique characteristics that meet the child's needs. This placement requires prior approval of the TFC or ITFC contractor and the TFC field manager or field administrator. Examples of unique characteristics include the ability to communicate with the child in a language other than English, specialized medical training, and wheelchair accessible housing and transportation. When funding availability is uncertain, CFC approval may be required. Approval is requested from the TFC field manager or TFC field administrator.

**(c) CFC admission procedure.**

(1) The TFC or ITFC contractor notifies the child's CW specialist and CW supervisor when the child is determined to no longer meet TFC or ITFC level of care criteria and is appropriate to step down to traditional foster care. The TFC or ITFC contractor and CWS staff, and tribal staff for a child in tribal custody, determine the most appropriate placement option for the child, including possible CFC placement in the current TFC or ITFC placement.

(2) OKDHS may request the TFC or ITFC contractor consider a CFC placement for the child meeting criteria as sibling to a TFC or ITFC child, a child of a parent placed in TFC or ITFC, or a child returning to placement after failed permanency placement.

(3)

(1) At the time of CFC placement, the TFC or ITFC contractor provides written notification of the placement date to the TFC liaison and liaison supervisor and the CW specialist by submitting Form 04FT004E, Notice of Child's Location.

(4) The TFC liaison documents the child's CFC placement in KIDS.

**(d) The CFC discharge procedure.**

(1) Discharge planning is coordinated between TFC or ITFC contractor staff and the child's CW specialist and tribal worker.

(2) Discharges from CFC are reported to the TFC liaison and liaison supervisor and the child's CW specialist within five-business days from the date of discharge by submitting Form 04FT004E.

(3) The contractor averts disruption, when possible, through the use of additional services, respite, disruption prevention meetings, and other identified methods to stabilize placement. The child must meet CFC criteria for placement in a new TFC or ITFC home.

(4) The CW specialist is notified immediately of all changes in the child's location, including respite, within one-business day of the date of the change in location by submitting Form 04FT004E.

(e) **CFC respite.** The TFC or ITFC contractor ensures resource homes have access to both planned and unplanned respite care providers for children placed in CFC. Respite care may be used for the same reasons and time periods specified, per Oklahoma Administrative Code (OAC) 340:75-8-11, for respite care for a child in TFC or ITFC placement. Any respite provider is fully informed of a child's special needs and has skills or training to meet those needs, prior to assuming care of the child, while ensuring the safety and well-being of all children in the home. Respite for children placed in CFC may be provided by accessing:

- (1) a CFC bed within the TFC or ITFC home in compliance with all certification requirements;
- (2) identification and approval of an alternate caregiver, per OAC 340:75-7-65; or
- (3) a traditional foster care resource, when available, by coordinating with the child's CWS resource staff. When utilizing a traditional foster care resource for respite, the contractor is responsible for paying the daily board rate directly to the foster family providing care for the child. The payment rate is the same daily rate as a traditional foster care maintenance payment per Appendix C-20, Child Welfare Services (CWS) Rates Schedule, including any difficulty of care (DOC) rate in effect for the child.

(f) **TFC or ITFC contractor requirements for CFC.**

- (1) The TFC or ITFC contractor:
  - (A) provides 24-hour support services to homes providing CFC placements including crisis intervention, consultation, training, and referral to services as needed;
  - (B) complies with policies and procedures established for TFC or ITFC placements regarding management of a CFC placement child's property, allowance, funds, and Life Books;
  - (C) ensures the TFC or ITFC contractor or subcontractor staff, CFC foster parents, respite providers, and alternate caregivers comply with OKDHS policy regarding discipline, behavior management, and corporal punishment, per OAC 340:75-7-38;
  - (D) provides written reports to the child's CW specialist or tribal worker on a quarterly basis, or more frequently when OKDHS or the court requests. The report includes:
    - (i) a summary of progress and overall adjustment made in the placement, during or following visitation with the child's parents, siblings, and important connections;
    - (ii) the child's strengths and behavioral concerns;
    - (iii) medical or psychological appointments and outcomes; and
    - (iv) the child's identified need for additional services;

(E) coordinates with the child's CW specialist to make referrals and obtain needed services for the child; and  
(F) participates in all OKDHS initiated staffings or meetings regarding the child and may choose to attend court proceedings for the child. The court may mandate TFC or ITFC contractor attendance to some court proceedings.

(2) The TFC or ITFC contractor staff:

(A) immediately reports to the Oklahoma Abuse and Neglect Hotline (Hotline) at 1-800-522-3511, any allegations or suspicions of abuse or neglect of a child, per Section 1-1-105 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-1-105) and OKDHS policy. The TFC or ITFC contractor ensures CFC foster parents understand and acknowledge failure to report is a misdemeanor offense, failure to report with prolonged knowledge is a felony, and upon conviction, is punishable, per 10A O.S. § 1-2-101, and may result in discontinued use of the home to provide placement for children in OKDHS custody;

(B) cooperates with CWS on any referral regarding alleged abuse or neglect assessed or investigated per OKDHS policy and state law. No new placements are assigned to the home until the assessment or investigation is completed and a finding is made regarding the allegations. CWS program staff notifies the TFC or ITFC contractor of the assessment conclusion or investigation finding and jointly determines if a written plan of compliance, training, or assessment is needed prior to the home's continued use; and

(C) establishes a procedure to address and document a response to concerns in a CFC foster home that do not warrant a referral for an abuse or neglect assessment or investigation. Examples of this type of concern include, but are not limited to, a foster parent's judgment or supervision, disciplinary practices, non-compliance with policy or contract, unacceptable housing standards, inadequate clothing provisions for the child, or a lack of involvement in the child's education or independent living skills. When documented efforts to address these issues do not remove the concerns, CWS has the right to decline the use of the home.

(3) TFC or ITFC contractor makes the child's records and resource file available for review by CW specialists, CWS TFC program staff, or tribal worker assigned to the child.

(g) **Foster parent supports for CFC.**

(1) **Child care.** OAC 340:75-7-65 provides for the availability of child care subsidy benefits for a child placed in a CFC foster home while the foster parent is employed outside of the home for at least 20 hours weekly.

(2) **Travel reimbursement.** OAC 340:75-7-65 provides for CFC parent reimbursement for a child's transportation that meets

specific criteria.

(3) **DOC reimbursement.** OAC 340:75-7-53 provides for the availability of DOC reimbursement for a child in CFC placement based on the child's extraordinary physical, mental, or emotional needs, per Appendix C-20.

(h) **Foster home insurance.** Liability insurance is provided for TFC, ITFC, and CFC foster families according to the policy terms. Foster families have the right to receive a copy of the liability insurance policy, per 10A O.S. § 1-9-119. Foster parents are responsible for deductibles.

(i) **Child safety.**

(1) The TFC or ITFC contractor ensures:

(A) the foster parent takes all necessary steps to provide for the safety of children in placement;

(B) the foster parent knows where the child is at all times. The TFC or ITFC contractor and foster parent immediately follow protocol in OAC 340:75-8-6(4) to notify CWS staff and law enforcement in the event a child:

(i) is removed by anyone without authorization;

(ii) is taken into custody by law enforcement officials;

(iii) leaves without authorization or runs away; or

(iv) cannot otherwise be located;

(C) Child Welfare Services is notified of any changes in the coordinated foster family circumstances that may affect the child's safety or stability in placement, including changes in finances, location, health, relationships, or household members;

(D) the CFC home and TFC or ITFC contractor comply with OAC 340:75-7-18 to immediately complete assessment of new household members; and

(E) the CFC, TFC, or ITFC home is not providing routine child care as a licensed or unlicensed child care provider.

(2) The TFC or ITFC contractor, the foster parent, or both obtain CWS permission before taking a child in OKDHS custody out-of-state for an overnight stay.

(3) CW specialist reports all concerns for abuse or neglect in a CFC home to the Hotline at 1-800-522-3511.

(4) The TFC or ITFC contractor participates in regularly scheduled staffings on all child abuse and neglect referrals with CW program staff, per OAC 340:75-3-410. Each foster care resource file must contain a log of all investigations and screened-out referrals for use as a continual assessment of safety and resource home developmental needs.

(5) TFC program staff reports to the TFC or ITFC contractor for evaluation and response, all contract and policy violations, and concerns for child safety and well-being that do not meet criteria for abuse or neglect referral. The TFC or ITFC contractor reports resolution of the concerns to the TFC liaison supervisor within 15-calendar days of the report of violations or concerns.



[Source: Added at 32 Ok Reg 1904, eff 9-15-15 ; Amended at 33 Ok Reg 477, eff 2-29-16 (emergency); Amended at 34 Ok Reg 1550, eff 9-15-17 ; Amended at 35 Ok Reg 1695, eff 9-17-18 ; Amended at 37 Ok Reg 1850, eff 9-15-20 ; Amended at 39 Ok Reg 1803, eff 9-15-22 ; Amended at 40 Ok Reg 990, eff 9-15-23]

#### **340:75-8-12. Placement responsibilities of therapeutic foster care (TFC) program staff**

TFC contractors receive referrals for the placement of children in Oklahoma Department of Human Services custody or tribal custody in TFC homes from TFC program staff. TFC program staff is responsible for the referral process of children to TFC contractors.

[Source: Added at 18 Ok Reg 2309, eff 5-15-01 (emergency); Added at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 22 Ok Reg 1242, eff 5-26-05 ; Amended at 31 Ok Reg 1839, eff 9-15-14 ; Amended at 33 Ok Reg 477, eff 2-29-16 (emergency); Amended at 34 Ok Reg 1550, eff 9-15-17 ; Amended at 36 Ok Reg 1856, eff 9-16-19]

#### **340:75-8-13. Additional responsibilities of the Child Welfare worker**

Children in Oklahoma Department of Human Services custody and in therapeutic foster care placements receive child welfare services consistent with Oklahoma Administrative Code 340:75-6.

[Source: Added at 18 Ok Reg 2309, eff 5-15-01 (emergency); Added at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 22 Ok Reg 1242, eff 5-26-05 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 31 Ok Reg 1839, eff 9-15-14]

#### **340:75-8-14. Therapeutic foster care (TFC) program staff responsibilities**

TFC program staff acts as a liaison to each contracted TFC agency.

[Source: Added at 18 Ok Reg 2309, eff 5-15-01 (emergency); Added at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 31 Ok Reg 1839, eff 9-15-14 ; Amended at 35 Ok Reg 1695, eff 9-17-18]

### **PART 3. DEVELOPMENTAL DISABILITIES SERVICES FOR CHILDREN IN CUSTODY**

#### **340:75-8-35. Purpose [REVOKED]**

[Source: Added at 18 Ok Reg 2309, eff 5-15-01 (emergency); Added at 18 Ok Reg 3067, eff 7-12-01 ; Revoked at 33 Ok Reg 1635, eff 9-15-16]

#### **340:75-8-36. Identification, application, and needs assessment**

(a) Children in Oklahoma Human Services (OKDHS) custody, who have an intellectual disability and meet eligibility requirements for Home and Community-Based Services (HCBS), per Oklahoma Administrative Code (OAC) 317:40-1-1, may be jointly served by Child Welfare Services and Developmental Disabilities Services (DDS).

(b) The child welfare (CW) specialist has responsibility to make application for DDS services for children in OKDHS custody.

(1) DDS area intake staff completes the needs assessment and identifies services necessary to meet the child's needs.

(2) DDS services, when appropriate and when funding is available, may be provided in the child's:

(A) family home;

(B) foster home;

(C) adoptive home; or

(D) group home per OAC 317:40-1-1.

(c) When the needs assessment determines the child's needs require HCBS, DDS area staff forwards the completed DDS eligibility packet to the Oklahoma Health Care Authority (OHCA). The completed eligibility packet includes Form 06MP001E, Request for Developmental Disabilities Services, and all required attachments provided by the CW specialist.

(d) OHCA reviews the completed eligibility packet and makes a determination of eligibility for HCBS.

[Source: Added at 18 Ok Reg 2309, eff 5-15-01 (emergency); Added at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 22 Ok Reg 1270, eff 5-26-05 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 33 Ok Reg 1635, eff 9-15-16 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

#### **340:75-8-37. Child welfare (CW) specialist responsibilities for a child receiving Home and Community-Based Services (HCBS)**

The role and responsibilities of the CW specialist for a child in Oklahoma Department of Human Services (DHS) custody do not change when a child is eligible for or receives HCBS. The CW specialist complies with Oklahoma Administrative Code (OAC) 340:75 and supports the application for and delivery of Developmental Disabilities Services (DDS). The child's CW specialist is responsible for:

(1) applying for Supplemental Security Income (SSI) on behalf of the child per OAC 340:75-13-28 and 340:75-13-29;

(2) applying for medical services per OAC 340:75-13-61;

(3) visiting the child in DHS custody in DDS placement, per OAC 340:75-6-48;

(4) participating in the development of the child's DDS Individual Plan and attending meetings and case staffing as notified by DDS case management staff;

(5) notifying the DDS case manager of court hearings and requesting pertinent information for reports to the court; and

(6) arranging for the child's transportation, in collaboration with the DDS case manager, when the child must attend court

[Source: Added at 18 Ok Reg 2309, eff 5-15-01 (emergency); Added at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 22 Ok Reg 1270, eff 5-26-05 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 33 Ok Reg 1635, eff 9-15-16]

#### **340:75-8-38. Developmental Disabilities Services (DDS) case manager responsibilities for a child receiving Home and Community-Based Services (HCBS)**

The DDS case manager:

- (1) provides services to children in Oklahoma Department of Human Services (DHS) custody receiving HCBS;
- (2) identifies team members and includes the child's child welfare (CW) specialist, per Oklahoma Administrative Code (OAC) 340:100-5-52;
- (3) submits copies of any progress reports or information requested for court reports to the CW specialist;
- (4) notifies the CW specialist of needed medical consents for pre-planned or emergency medical treatment for children in DHS custody in DDS placements; and
- (5) attends court hearings for children in OKDHS custody when requested and notified by the CW worker.

[Source: Added at 18 Ok Reg 2309, eff 5-15-01 (emergency); Added at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 19 Ok Reg 2258, eff 6-27-02 ; Amended at 22 Ok Reg 1270, eff 5-26-05 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 33 Ok Reg 1635, eff 9-15-16]

**340:75-8-39. Child welfare (CW) specialist and Developmental Disabilities Services (DDS) staff shared responsibilities for a child receiving Home and Community-Based Services (HCBS)**

(a) **Long-term plan.** CW and DDS staff work together in identifying and developing the best long-term plan for a child in Oklahoma Department of Human Services (DHS) custody who has an intellectual disability. Permanency planning begins immediately after a child enters DHS custody, per Oklahoma Administrative Code (OAC) 340:75-6-31, and continues until the child returns home or an appropriate permanency plan is achieved.

(b) **Guardianship.** When a child in DHS custody reaches 16 years of age, the CW specialist and DDS case manager review the permanency plan for transition to adulthood and complete a capacity assessment to determine necessity for an adult guardian, per OAC 340:100-3-5. Guardianship is generally not established prior to 18 years of age.

(1) When guardianship is determined appropriate for a child who is transitioning from DHS custody to independence, the CW specialist coordinates with DDS to identify and establish a guardianship relationship for the child.

(2) The CW specialist, DDS area guardianship coordinator, and, when applicable, DDS volunteer recruiter, assist the potential guardian to petition for guardianship a minimum of 30-calendar days prior to the child's 18th birthday in preparation for a hearing on or immediately following the child's 18th birthday.

[Source: Added at 18 Ok Reg 2309, eff 5-15-01 (emergency); Added at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 22 Ok Reg 1270, eff 5-26-05 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 33 Ok Reg 1635, eff 9-15-16]

**340:75-8-40. Accessing Developmental Disabilities Services (DDS) for a child with an intellectual disability**

An array of services, support options, and placement settings, designed to meet individual needs exist for a child in Oklahoma

Department of Human Services (DHS) custody who has an intellectual disability. Per Oklahoma Administrative Code (OAC) 340:75-8-36, the child may live with a family or in another community-based setting while receiving DDS services.

(1) The child's child welfare (CW) specialist pursues appropriate placement resources for a child in DHS custody consistent with OAC 340:75-6-40.

(2) Home and CommunityBased Services, arranged by DDS staff, may be available to meet the child's identified needs and may be provided in most placement settings.

(3) Early identification, expedient application, and joint planning between CW and DDS staff, facilitate appropriate referrals and service plan development for a child with a developmental disability.

[Source: Added at 18 Ok Reg 2309, eff 5-15-01 (emergency); Added at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 19 Ok Reg 2258, eff 6-27-02 ; Amended at 22 Ok Reg 1270, eff 5-26-05 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 33 Ok Reg 1635, eff 9-15-16]

## **SUBCHAPTER 9. REPORTS OF ABUSE AND NEGLECT IN OUT-OF-HOME CARE [REVOKED]**

### **340:75-9-1. Responsibility of Child Welfare [REVOKED]**

[Source: Revoked at 12 Ok Reg 395, eff 11-17-94 (emergency); Revoked at 12 Ok Reg 1183, eff 5-11-95]

### **340:75-9-2. Responsibility of the Office of Client Advocacy [REVOKED]**

[Source: Revoked at 12 Ok Reg 395, eff 11-17-94 (emergency); Revoked at 12 Ok Reg 1183, eff 5-11-95]

### **340:75-9-3. Alleged medical neglect of handicapped infants [REVOKED]**

[Source: Revoked at 12 Ok Reg 395, eff 11-17-94 (emergency); Revoked at 12 Ok Reg 1183, eff 5-11-95]

### **340:75-9-4. Evaluating suspected abuse/neglect of a child in a foster or adoptive home [REVOKED]**

[Source: Revoked at 12 Ok Reg 395, eff 11-17-94 (emergency); Revoked at 12 Ok Reg 1183, eff 5-11-95]

### **340:75-9-5. Protocol for investigating reports of abuse in day care centers/homes [REVOKED]**

[Source: Revoked at 12 Ok Reg 395, eff 11-17-94 (emergency); Revoked at 12 Ok Reg 1183, eff 5-11-95]

## **SUBCHAPTER 10. EMERGENCY SHELTER CARE**

### **340:75-10-1. Mission statement [REVOKED]**

[Source: Added at 11 Ok Reg 1133, eff 1-25-94 (emergency); Added at 11 Ok Reg 2723, eff 6-13-94 ; Revoked at 15 Ok Reg 239, eff 11-1-97 (emergency); Revoked at 15 Ok Reg 1663, eff 5-11-98]

### **340:75-10-2. Admissions/discharges [REVOKED]**

[Source: Added at 11 Ok Reg 1133, eff 1-25-94 (emergency); Added at 11 Ok Reg 2723, eff 6-13-94 ; Revoked at 15 Ok Reg 239, eff 11-1-97 (emergency); Revoked at 15 Ok Reg 1663, eff 5-11-98]

### **340:75-10-3. Child Welfare worker role/responsibilities [REVOKED]**

[Source: Added at 11 Ok Reg 1133, eff 1-25-94 (emergency); Added at 11 Ok Reg 2723, eff 6-13-94 ; Revoked at 15 Ok Reg 239, eff 11-1-97 (emergency); Revoked at 15 Ok Reg 1663, eff 5-11-98]

### **340:75-10-4. Family involvement [REVOKED]**

[Source: Added at 11 Ok Reg 1133, eff 1-25-94 (emergency); Added at 11 Ok Reg 2723, eff 6-13-94 ; Revoked at 15 Ok Reg 239, eff 11-1-97 (emergency); Revoked at 15 Ok Reg 1663, eff 5-11-98]

### **340:75-10-5. Movement of children from shelter care [REVOKED]**

[Source: Added at 11 Ok Reg 1133, eff 1-25-94 (emergency); Added at 11 Ok Reg 2723, eff 6-13-94 ; Revoked at 15 Ok Reg 239, eff 11-1-97 (emergency); Revoked at 15 Ok Reg 1663, eff 5-11-98]

### **340:75-10-6. Shelter social worker roles/responsibilities [REVOKED]**

[Source: Added at 11 Ok Reg 1133, eff 1-25-94 (emergency); Added at 11 Ok Reg 2723, eff 6-13-94 ; Revoked at 15 Ok Reg 239, eff 11-1-97 (emergency); Revoked at 15 Ok Reg 1663, eff 5-11-98]

### **340:75-10-7. Leaves without permission [REVOKED]**

[Source: Added at 11 Ok Reg 1133, eff 1-25-94 (emergency); Added at 11 Ok Reg 2723, eff 6-13-94 ; Revoked at 15 Ok Reg 239, eff 11-1-97 (emergency); Revoked at 15 Ok Reg 1663, eff 5-11-98]

### **340:75-10-8. Purpose and authority**

(a) **Purpose.** The emergency shelters managed and operated by Oklahoma Department of Human Services (OKDHS) provide, temporary placement for children ages 0 to 17 years of age who have been removed from their homes due to abuse or neglect.

(b) **Authority.** OKDHS is authorized pursuant to Section 1-9-111 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-9-111) to manage and operate the children's shelter located in Oklahoma City, known and designated as the Pauline Mayer Children's Shelter, and the children's shelter located in Tulsa, known and designated as the Laura Dester Children's Center.

(c) **Certification.** OKDHS managed and operated shelters are certified by the Oklahoma Commission on Children and Youth in accordance with 10 O.S. § 601.3 and the Child Care Facilities Licensing Act.

**(d) Admissions.**

(1) Children between the ages of 0 and 17 years of age may be admitted to an OKDHS-operated shelter by a:

- (A) law enforcement officer who has assumed protective custody of the child without a court order;
- (B) law enforcement officer who has executed a court order for emergency custody of the child;
- (C) child welfare specialist with court-ordered emergency custody of the child; or
- (D) child welfare specialist, when the child is in the emergency, temporary, or permanent custody of OKDHS and the child has experienced a placement disruption.

(2) Children with substantial physical injuries, medical problems, or who appear chemically intoxicated, are seen by medical personnel prior to admission to the shelter. An examination is facilitated before admission by the police officer when the child is in protective custody or by OKDHS when the child is in OKDHS emergency, temporary, or permanent custody.

**(e) Capacity.** The Pauline E. Mayer Children's Shelter has a licensed capacity of 48 children and the Laura Dester Children's Center has a licensed capacity of 63 children. Pursuant to 10A O.S. § 1-9-111, OKDHS has structured a plan to place no more than 25 children at a time in each OKDHS managed and operated shelter. Foster care homes are utilized for placement of children instead of the shelters when possible.

**(f) Confidentiality.** In accordance with 10A O.S. § 1-6-103, information acquired as a result of a child's placement in the shelter is confidential and may be disclosed only as provided by the Oklahoma Children's Code, applicable state or federal law, regulation, or court order. OKDHS is not prohibited from disclosing confidential information necessary to secure appropriate care, treatment, protection, or supervision of a child alleged to be abused or neglected.

[Source: Added at 15 Ok Reg 239, eff 11-1-97 (emergency); Added at 15 Ok Reg 933, eff 12-16-97 (emergency); Added at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 18 Ok Reg 2131, eff 6-11-01 ; Amended at 28 Ok Reg 894, eff 7-1-11]

**340:75-10-8.1. General requirements**

**(a) Uncensored mail communications for residents.** Pursuant to 10A O.S. § 1-7-105, a child residing in an OKDHS managed and operated shelter may have constant access to writing materials and may send mail without limitation, censorship, or prior reading and may receive mail without prior reading. Mail may be opened in the presence of the child, without being read, to inspect for contraband or if authorized by the court for the protection of the child. Restrictions are court-ordered when warranted for the child's protection.

**(b) Resident's communication and visitation with family.** A child in OKDHS custody has a right to communicate and visit his or her family on a regular basis, and to communicate with persons in the community provided the communication or visitation is in the best interests of the child, per 10A O.S. § 1-7-105.

(c) **Resident's access to his or her attorney.** A shelter resident is provided access to his or her attorney while a resident of an OKDHS managed and operated shelter.

(d) **Comprehensive service plan.** A written service plan, required by OAC 340:75-110-3-154, is developed and documented for each resident within three days of admission.

(e) **Education.** Pursuant to 10A O.S. § 1-7-105 a child in the custody or care of OKDHS is provided access to an education including teaching, educational materials, and books. In accordance with 10A O.S. § 1-7-103, when a child is admitted to the shelter, educational instruction is provided, as soon as practicable, through enrollment in a public school or an alternative program consistent with the needs of the child. Pursuant to 10A O.S. § 1-9-111, OKDHS may:

- (1) assist local school districts in providing an education to children in OKDHS operated facilities;
- (2) supplement the education; and
- (3) provide facilities for these purposes.

(f) **McKinney-Vento Homeless Assistance Act.** Subtitle B of Title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. § 1143 et seq.) prohibits the segregation of a homeless child or youth in a separate school, or in a separate program within a school, based on the child or youth's homelessness.

(g) **Hygiene and clothing.** Per 10A O.S. § 1-7-105, a child placed in an OKDHS operated and managed shelter is allowed daily access to showers and is allowed his or her own clothing or individualized clean clothing.

(h) **Emergency plans in OKDHS managed and operated shelters.** The shelters maintain plans for the protection of all persons in the facility in the event of fire, severe weather, or other emergency situations in accordance with OAC 340:110-3-165.1. The plans include evacuation of the shelter buildings when necessary. All shelter staff are trained to perform their duties in the event of an emergency and emergency plan drills are conducted periodically.

(i) **Minimum qualifications for shelter staff.** Per 10A O.S. § 1-9-111, shelter staff working with or around children possess minimum qualifications designed to assure:

- (1) sufficient education, training, experience, and background to provide adequate and safe professional care and services to children; and
- (2) children are not exposed to abuse, deprivation, criminal conduct, or other unwholesome conditions attributable to employee misconduct.

(j) **Prohibited punishment.** A shelter resident is not punished by physical force, deprivation of nutritious meals, family visits, or solitary confinement per 10A O.S. § 1-7-105.

(k) **Mistreatment of shelter residents prohibited.** OKDHS conduct prohibits the abuse, neglect, or mistreatment of shelter residents and requires employees to report any suspected abuse, neglect, or mistreatment of children residing in a shelter.

(l) **Use of physical force.** Use of physical force, when authorized, is the least force necessary under the circumstances and is permitted by 10A O.S. § 1-7-105 only:

- (1) for self-protection;
- (2) to separate children who are fighting;
- (3) to restrain children in danger of inflicting harm to themselves or others; or
- (4) to deter children who are in the process of leaving the facility without authorization.

(m) **Resident grievances in OKDHS managed and operated shelters.** OKDHS maintains a complaint resolution process designed to ensure fair consideration of complaints made by or on behalf of children in OKDHS custody. The grievance process may be utilized by shelter residents.

(n) **Volunteers in OKDHS managed and operated shelters.** Pursuant to OAC 340:110-3-153.1, OKDHS shelters may utilize groups of or individual volunteers.

(o) **Resident's shelter record.** OKDHS shelters maintain a written record for each resident.

[Source: Added at 28 Ok Reg 894, eff 7-1-11]

#### **340:75-10-8.2. Medical services in Oklahoma Department of Human Service (OKDHS) managed and operated shelters**

OKDHS managed and operated shelters have an operational plan to meet the individual medical needs of each resident based on information obtained from the admission assessment, physical examination by a health care professional, and observation during placement in accordance with OAC 340:110-3-154.3.

[Source: Added at 28 Ok Reg 894, eff 7-1-11]

#### **340:75-10-8.3. Care and supervision of shelter residents**

Pursuant to OAC 340:110-3-167, the Oklahoma Department of Human Services managed and operated shelters employ an adequate number of staff as child care workers to meet the needs of residents. All staff members on duty are awake and accessible at all times. Shelter staff provide direct care and supervision of shelter residents.

[Source: Added at 28 Ok Reg 894, eff 7-1-11]

#### **340:75-10-8.4. Runaway or abducted children in Oklahoma Department of Human Services (OKDHS) managed and operated shelters**

(a) **Non-secure shelter setting.** In accordance with OAC 340:110-3-167, OKDHS managed and operated shelters are non-secure residential programs that provide emergency care and supervision for children.

(b) **Restraining young and vulnerable children attempting to leave without permission.** Use of physical force, when authorized, is the least force necessary under the circumstances and is permitted by Section 1-7-105 of Title 10A of the Oklahoma Statutes to deter children who are in the process of leaving the OKDHS facility without authorization.



[Source: Added at 28 Ok Reg 894, eff 7-1-11]

### **340:75-10-9. Admissions and discharges [REVOKED]**

[Source: Added at 15 Ok Reg 239, eff 11-1-97 (emergency); Added at 15 Ok Reg 933, eff 12-16-97 (emergency); Added at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 18 Ok Reg 2131, eff 6-11-01 ; Amended at 22 Ok Reg 875, eff 5-12-05 ; Amended at 25 Ok Reg 1335, eff 6-1-08 ; Revoked at 28 Ok Reg 894, eff 7-1-11]

### **340:75-10-10. Child Welfare (CW) worker role [REVOKED]**

[Source: Added at 15 Ok Reg 239, eff 11-1-97 (emergency); Added at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 18 Ok Reg 2131, eff 6-11-01 ; Revoked at 28 Ok Reg 894, eff 7-1-11]

### **340:75-10-11. DHS operated shelter social worker role [REVOKED]**

[Source: Added at 15 Ok Reg 239, eff 11-1-97 (emergency); Added at 15 Ok Reg 933, eff 12-16-97 (emergency); Added at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 18 Ok Reg 2131, eff 6-11-01 ; Revoked at 28 Ok Reg 894, eff 7-1-11]

### **340:75-10-12. Leaves without permission in DHS operated shelters [REVOKED]**

[Source: Added at 15 Ok Reg 239, eff 11-1-97 (emergency); Added at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 18 Ok Reg 2131, eff 6-11-01 ; Revoked at 28 Ok Reg 894, eff 7-1-11]

### **340:75-10-13. Direct Care Specialist's (DCS) role in DHS operated shelters [REVOKED]**

[Source: Added at 15 Ok Reg 239, eff 11-1-97 (emergency); Added at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 18 Ok Reg 2131, eff 6-11-01 ; Revoked at 28 Ok Reg 894, eff 7-1-11]

### **340:75-10-14. Training for DHS operated shelter staff [REVOKED]**

[Source: Added at 15 Ok Reg 239, eff 11-1-97 (emergency); Added at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 18 Ok Reg 2131, eff 6-11-01 ; Revoked at 28 Ok Reg 894, eff 7-1-11]

### **340:75-10-15. Use of physical force in DHS operated shelters [REVOKED]**

[Source: Added at 15 Ok Reg 239, eff 11-1-97 (emergency); Added at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 18 Ok Reg 2131, eff 6-11-01 ; Revoked at 28 Ok Reg 894, eff 7-1-11]

### **340:75-10-16. Emergency plans in DHS operated shelters [REVOKED]**

[Source: Added at 15 Ok Reg 239, eff 11-1-97 (emergency); Added at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 18 Ok Reg 2131, eff 6-11-01 ; Revoked at 28 Ok Reg 894, eff 7-1-11]

**340:75-10-17. Resident grievances in DHS operated shelters  
[REVOKED]**

[Source: Added at 15 Ok Reg 239, eff 11-1-97 (emergency); Added at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 18 Ok Reg 2131, eff 6-11-01 ; Revoked at 28 Ok Reg 894, eff 7-1-11]

**340:75-10-18. Mistreatment of shelter residents [REVOKED]**

[Source: Added at 15 Ok Reg 239, eff 11-1-97 (emergency); Added at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 18 Ok Reg 2131, eff 6-11-01 ; Revoked at 28 Ok Reg 894, eff 7-1-11]

**340:75-10-19. Medical services in DHS operated shelters  
[REVOKED]**

[Source: Added at 15 Ok Reg 239, eff 11-1-97 (emergency); Added at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 18 Ok Reg 2131, eff 6-11-01 ; Revoked at 28 Ok Reg 894, eff 7-1-11]

**340:75-10-20. Shelter volunteers in DHS operated shelters  
[REVOKED]**

[Source: Added at 15 Ok Reg 239, eff 11-1-97 (emergency); Added at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 18 Ok Reg 2131, eff 6-11-01 ; Revoked at 28 Ok Reg 894, eff 7-1-11]

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

**PART 1. GENERAL PROVISIONS [REVOKED]**

**340:75-11-1. Scope and applicability**

[Source: Amended at 11 Ok Reg 1219, eff 9-2-94 (emergency); Amended at 11 Ok Reg 3249, eff 6-27-94 ; Amended at 15 Ok Reg 936, eff 12-16-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Revoked at 18 Ok Reg 680, eff 1-10-01 (emergency); Revoked at 18 Ok Reg 2128, eff 6-11-01]

**PART 2. RESIDENTIAL DIAGNOSTIC AND EVALUATION  
FACILITY [REVOKED]**

**340:75-11-10. Residential diagnostic and evaluation center  
[REVOKED]**

[Source: Added at 15 Ok Reg 936, eff 12-16-97 (emergency); Added at 15 Ok Reg 1663, eff 5-11-98 ; Revoked at 18 Ok Reg 680, eff 1-10-01 (emergency); Revoked at 18 Ok Reg 2128, eff 6-11-01]

**PART 3. SPECIALIZED COMMUNITY HOMES  
[REVOKED]**

### **340:75-11-15. Legal base [REVOKED]**

[Source: Amended at 11 Ok Reg 1219, eff 2-9-94 (emergency); Amended at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 18 Ok Reg 680, eff 1-10-01 (emergency); Revoked at 18 Ok Reg 2128, eff 6-11-01]

### **340:75-11-16. Definition of specialized community home [REVOKED]**

[Source: Amended at 11 Ok Reg 1219, eff 2-9-94 (emergency); Amended at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 18 Ok Reg 680, eff 1-10-01 (emergency); Revoked at 18 Ok Reg 2128, eff 6-11-01]

### **340:75-11-17. Implementing a specialized community home [REVOKED]**

[Source: Amended at 10 Ok Reg 3643, eff 7-12-93 ; Amended at 11 Ok Reg 1219, eff 2-9-94 (emergency); Amended at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 18 Ok Reg 680, eff 1-10-01 (emergency); Revoked at 18 Ok Reg 2128, eff 6-11-01]

### **340:75-11-18. Specialized community home/foster home study [REVOKED]**

[Source: Amended at 10 Ok Reg 3643, eff 7-12-93 ; Amended at 11 Ok Reg 1219, eff 2-9-94 (emergency); Amended at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 18 Ok Reg 680, eff 1-10-01 (emergency); Revoked at 18 Ok Reg 2128, eff 6-11-01]

### **340:75-11-19. Application to provide specialized community home/foster home care [REVOKED]**

[Source: Amended at 10 Ok Reg 3643, eff 7-12-93 ; Amended at 11 Ok Reg 1219, eff 2-9-94 (emergency); Amended at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 18 Ok Reg 680, eff 1-10-01 (emergency); Revoked at 18 Ok Reg 2128, eff 6-11-01]

### **340:75-11-20. Contracting [REVOKED]**

[Source: Amended at 9 Ok Reg 3257, eff 6-15-92 (emergency); Amended at 10 Ok Reg 3643, eff 7-12-93 ; Amended at 11 Ok Reg 1219, eff 2-9-94 (emergency); Amended at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 18 Ok Reg 680, eff 1-10-01 (emergency); Revoked at 18 Ok Reg 2128, eff 6-11-01]

### **340:75-11-21. Role expectation of the specialized community home contractor [REVOKED]**

[Source: Amended at 10 Ok Reg 3643, eff 7-12-93 ; Amended at 11 Ok Reg 1219, eff 2-9-94 (emergency); Amended at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 18 Ok Reg 680, eff 1-10-01 (emergency); Revoked at 18 Ok Reg 2128, eff 6-11-01]

### **340:75-11-22. Responsibilities of the specialized community home contractor [REVOKED]**

[Source: Amended at 10 Ok Reg 3643, eff 7-12-93 ; Revoked at 18 Ok Reg 680, eff 1-10-01 (emergency); Revoked at 18 Ok Reg 2128, eff 6-11-01]

### **340:75-11-23. Additional requirements for the specialized community home contractor [REVOKED]**

[Source: Amended at 10 Ok Reg 3643, eff 7-12-93 ; Amended at 11 Ok Reg 1219, eff 2-9-94 (emergency); Amended at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 18 Ok Reg 680, eff 1-10-01 (emergency); Revoked at 18 Ok Reg 2128, eff 6-11-01]

### **340:75-11-24. Behavior management of residents [REVOKED]**

[Source: Amended at 10 Ok Reg 3643, eff 7-12-93 ; Amended at 11 Ok Reg 1219, eff 2-9-94 (emergency); Amended at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 18 Ok Reg 680, eff 1-10-01 (emergency); Revoked at 18 Ok Reg 2128, eff 6-11-01]

### **340:75-11-25. Protected communication [REVOKED]**

[Source: Amended at 10 Ok Reg 3643, eff 7-12-93 ; Revoked at 18 Ok Reg 680, eff 1-10-01 (emergency); Revoked at 18 Ok Reg 2128, eff 6-11-01]

### **340:75-11-25.1. Placement into specialized community homes [REVOKED]**

[Source: Added at 11 Ok Reg 1219, eff 2-9-94 (emergency); Added at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 18 Ok Reg 680, eff 1-10-01 (emergency); Revoked at 18 Ok Reg 2128, eff 6-11-01]

### **340:75-11-26. Role of the county worker [REVOKED]**

[Source: Amended at 10 Ok Reg 3643, eff 7-12-93 ; Amended at 11 Ok Reg 1219, eff 2-9-94 (emergency); Amended at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 18 Ok Reg 680, eff 1-10-01 (emergency); Revoked at 18 Ok Reg 2128, eff 6-11-01]

### **340:75-11-27. Role of the specialized community home liaison [REVOKED]**

[Source: Amended at 10 Ok Reg 3643, eff 7-12-93 ; Amended at 11 Ok Reg 1219, eff 2-9-94 (emergency); Amended at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 18 Ok Reg 680, eff 1-10-01 (emergency); Revoked at 18 Ok Reg 2128, eff 6-11-01]

### **340:75-11-28. Remaining in the specialized community home placement after 18 [REVOKED]**

[Source: Amended at 10 Ok Reg 3643, eff 7-12-93 ; Revoked at 18 Ok Reg 680, eff 1-10-01 (emergency); Revoked at 18 Ok Reg 2128, eff 6-11-01]

### **340:75-11-29. Investigation of alleged abuse or neglect of youth in specialized community home care [REVOKED]**

[Source: Amended at 10 Ok Reg 3643, eff 7-12-93 ; Amended at 11 Ok Reg 1219, eff 2-9-94 (emergency); Amended at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 18 Ok Reg 680, eff 1-10-01 (emergency); Revoked at 18 Ok Reg 2128, eff 6-11-01]

## **PART 5. COMMUNITY-BASED CONTRACT RESIDENTIAL CARE [REVOKED]**

### **340:75-11-45. Legal base [REVOKED]**

[Source: Amended at 10 Ok Reg 3643, eff 7-12-93 ; Amended at 11 Ok Reg 1219, eff 2-9-94 (emergency); Amended at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 18 Ok Reg 680, eff 1-10-01 (emergency); Revoked at 18 Ok Reg 2128, eff 6-11-01]

### **340:75-11-46. Contract facilities [REVOKED]**

[Source: Amended at 11 Ok Reg 1219, eff 2-9-94 (emergency); Amended at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 18 Ok Reg 680, eff 1-10-01 (emergency); Revoked at 18 Ok Reg 2128, eff 6-11-01]

### **340:75-11-47. Levels of care [REVOKED]**

[Source: Amended at 10 Ok Reg 3643, eff 7-12-93 ; Amended at 11 Ok Reg 1219, eff 2-9-94 (emergency); Amended at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 18 Ok Reg 680, eff 1-10-01 (emergency); Revoked at 18 Ok Reg 2128, eff 6-11-01]

### **340:75-11-48. Contracting [REVOKED]**

[Source: Amended at 10 Ok Reg 3643, eff 7-12-93 ; Amended at 11 Ok Reg 1219, eff 2-9-94 (emergency); Amended at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 18 Ok Reg 680, eff 1-10-01 (emergency); Revoked at 18 Ok Reg 2128, eff 6-11-01]

### **340:75-11-49. Placement into community based residential contract care - non-guaranteed contracts [REVOKED]**

[Source: Amended at 10 Ok Reg 3643, eff 7-12-93 ; Amended at 11 Ok Reg 1219, eff 2-9-94 (emergency); Amended at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 18 Ok Reg 680, eff 1-10-01 (emergency); Revoked at 18 Ok Reg 2128, eff 6-11-01]

### **340:75-11-49.1. Placement into community based residential contract care - guaranteed contracts [REVOKED]**

[Source: Added at 11 Ok Reg 1219, eff 2-9-94 (emergency); Added at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 18 Ok Reg 680, eff 1-10-01 (emergency); Revoked at 18 Ok Reg 2128, eff 6-11-01]

### **340:75-11-50. Role of the county worker [REVOKED]**

[Source: Amended at 10 Ok Reg 3643, eff 7-12-93 ; Amended at 11 Ok Reg 1219, eff 2-9-94 (emergency); Amended at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 18 Ok Reg 680, eff 1-10-01 (emergency); Revoked at 18 Ok Reg 2128, eff 6-11-01]

### **340:75-11-50.1. Role of the liaison [REVOKED]**

[Source: Added at 11 Ok Reg 1219, eff 2-9-94 (emergency); Added at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 18 Ok Reg 680, eff 1-10-01 (emergency); Revoked at 18 Ok Reg 2128, eff 6-11-01]

### **340:75-11-51. Transfer of case record [REVOKED]**

[Source: Amended at 11 Ok Reg 1219, eff 2-9-94 (emergency); Amended at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 18 Ok Reg 680, eff 1-10-01 (emergency); Revoked at 18 Ok Reg 2128, eff 6-11-01]

### **340:75-11-52. Educational information [REVOKED]**

[Source: Amended at 10 Ok Reg 3643, eff 7-12-93 ; Revoked at 11 Ok Reg 1219, eff 2-9-94 (emergency); Revoked at 11 Ok Reg 3249, eff 6-27-94]

### **340:75-11-53. Grievance procedure [REVOKED]**

[Source: Amended at 11 Ok Reg 1219, eff 2-9-94 (emergency); Amended at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 18 Ok Reg 680, eff 1-10-01 (emergency); Revoked at 18 Ok Reg 2128, eff 6-11-01]

### **340:75-11-54. Remaining in residential care after 18 [REVOKED]**

[Source: Amended at 10 Ok Reg 3643, eff 7-12-93 ; Revoked at 18 Ok Reg 680, eff 1-10-01 (emergency); Revoked at 18 Ok Reg 2128, eff 6-11-01]

### **340:75-11-55. Investigations of alleged abuse or neglect [REVOKED]**

[Source: Amended at 11 Ok Reg 1219, eff 2-9-94 (emergency); Amended at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 18 Ok Reg 680, eff 1-10-01 (emergency); Revoked at 18 Ok Reg 2128, eff 6-11-01]

## **PART 7. CHILD WELFARE OPERATED GROUP HOMES [REVOKED]**

### **340:75-11-70. Abbreviations [REVOKED]**

[Source: Amended at 10 Ok Reg 3643, eff 7-12-93 ; Revoked at 11 Ok Reg 1219, eff 2-9-94 (emergency); Revoked at 11 Ok Reg 3249, eff 6-27-94]

### **340:75-11-71. Group home defined [REVOKED]**

[Source: Amended at 10 Ok Reg 3643, eff 7-12-93 ; Amended at 11 Ok Reg 1219, eff 2-9-94 (emergency); Amended at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 19 Ok Reg 1160, eff 5-13-02]

### **340:75-11-72. Legal base and authority [REVOKED]**

[Source: Revoked at 19 Ok Reg 1160, eff 5-13-02]

### **340:75-11-73. Personnel [REVOKED]**

[Source: Amended at 10 Ok Reg 3643, eff 7-12-93 ; Revoked at 19 Ok Reg 1160, eff 5-13-02]

### **340:75-11-74. Physical plant [REVOKED]**

[Source: Amended at 10 Ok Reg 3643, eff 7-12-93 ; Amended at 11 Ok Reg 1219, eff 2-9-94 (emergency); Amended at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 19 Ok Reg 1160, eff 5-13-02]

### **340:75-11-75. Reporting requirements [REVOKED]**

[Source: Amended at 11 Ok Reg 1219, eff 2-9-94 (emergency); Amended at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 19 Ok Reg 1160, eff 5-13-02]

**340:75-11-76. Staff medical responsibilities [REVOKED]**

[Source: Amended at 10 Ok Reg 3643, eff 7-12-93 ; Amended at 11 Ok Reg 1219, eff 2-9-94 (emergency); Amended at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 19 Ok Reg 1160, eff 5-13-02]

**340:75-11-77. [RESERVED]**

**340:75-11-78. [RESERVED]**

**340:75-11-79. [RESERVED]**

**340:75-11-80. [RESERVED]**

**340:75-11-81. [RESERVED]**

**340:75-11-82. [RESERVED]**

**340:75-11-83. [RESERVED]**

**340:75-11-84. [RESERVED]**

**340:75-11-85. [RESERVED]**

**340:75-11-86. [RESERVED]**

**340:75-11-87. [RESERVED]**

**340:75-11-88. [RESERVED]**

**340:75-11-89. [RESERVED]**

**340:75-11-90. Supervision [REVOKED]**

[Source: Amended at 11 Ok Reg 1219, eff 2-9-94 (emergency); Amended at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 19 Ok Reg 1160, eff 5-13-02]

**340:75-11-91. Restriction of privileges [REVOKED]**

[Source: Revoked at 19 Ok Reg 1160, eff 5-13-02]

**340:75-11-92. Room restriction [REVOKED]**

[Source: Revoked at 19 Ok Reg 1160, eff 5-13-02]

**340:75-11-93. Physical force [REVOKED]**

[Source: Amended at 10 Ok Reg 3643, eff 7-12-93 ; Revoked at 19 Ok Reg 1160, eff 5-13-02]

**340:75-11-94. Searches [REVOKED]**

[Source: Amended at 10 Ok Reg 3643, eff 7-12-93 ; Revoked at 19 Ok Reg 1160, eff 5-13-02]

**340:75-11-95. Restitution [REVOKED]**

[Source: Revoked at 19 Ok Reg 1160, eff 5-13-02]

**340:75-11-96. [RESERVED]**

**340:75-11-97. [RESERVED]**

**340:75-11-98. [RESERVED]**

**340:75-11-99. [RESERVED]**

**340:75-11-100. [RESERVED]**

**340:75-11-101. [RESERVED]**

**340:75-11-102. [RESERVED]**

**340:75-11-103. [RESERVED]**

**340:75-11-104. [RESERVED]**

**340:75-11-105. [RESERVED]**

**340:75-11-106. [RESERVED]**

**340:75-11-107. [RESERVED]**

**340:75-11-108. [RESERVED]**

**340:75-11-109. [RESERVED]**

**340:75-11-110. Admission [REVOKED]**

[Source: Amended at 10 Ok Reg 3643, eff 7-12-93 ; Amended at 11 Ok Reg 1219, eff 2-9-94 (emergency); Amended at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 19 Ok Reg 1160, eff 5-13-02]



### **340:75-11-111. Resident rights [REVOKED]**

[Source: Revoked at 19 Ok Reg 1160, eff 5-13-02]

### **340:75-11-112. Resident grievance procedures [REVOKED]**

[Source: Amended at 19 Ok Reg 217, eff 12-1-01 (emergency); Revoked at 19 Ok Reg 1160, eff 5-13-02]

### **340:75-11-113. Treatment planning [REVOKED]**

[Source: Revoked at 19 Ok Reg 1160, eff 5-13-02]

### **340:75-11-114. Staffing [REVOKED]**

[Source: Amended at 11 Ok Reg 1219, eff 2-9-94 (emergency); Amended at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 19 Ok Reg 1160, eff 5-13-02]

### **340:75-11-115. Counseling [REVOKED]**

[Source: Revoked at 19 Ok Reg 1160, eff 5-13-02]

### **340:75-11-116. Preparation for adult life [REVOKED]**

[Source: Revoked at 19 Ok Reg 1160, eff 5-13-02]

### **340:75-11-117. Other services [REVOKED]**

[Source: Amended at 10 Ok Reg 3643, eff 7-12-93 ; Amended at 11 Ok Reg 1219, eff 2-9-94 (emergency); Amended at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 19 Ok Reg 1160, eff 5-13-02]

### **340:75-11-118. [RESERVED]**

### **340:75-11-119. [RESERVED]**

### **340:75-11-120. [RESERVED]**

### **340:75-11-121. [RESERVED]**

### **340:75-11-122. [RESERVED]**

### **340:75-11-123. [RESERVED]**

### **340:75-11-124. [RESERVED]**

### **340:75-11-125. [RESERVED]**

### **340:75-11-126. [RESERVED]**

**340:75-11-127. [RESERVED]**

**340:75-11-128. [RESERVED]**

**340:75-11-129. [RESERVED]**

**340:75-11-130. [RESERVED]**

**340:75-11-131. [RESERVED]**

**340:75-11-132. [RESERVED]**

**340:75-11-133. [RESERVED]**

**340:75-11-134. [RESERVED]**

**340:75-11-135. Absent Without Leave (AWOL) [REVOKED]**

[Source: Amended at 10 Ok Reg 3643, eff 7-12-93 ; Revoked at 19 Ok Reg 1160, eff 5-13-02]

**340:75-11-136. Discharge [REVOKED]**

[Source: Amended at 10 Ok Reg 3643, eff 7-12-93 ; Revoked at 19 Ok Reg 1160, eff 5-13-02]

## **PART 9. THERAPEUTIC FOSTER CARE SERVICES [REVOKED]**

**340:75-11-151. Legal base [REVOKED]**

[Source: Added at 11 Ok Reg 1219, eff 2-9-94 (emergency); Added at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 18 Ok Reg 2309, eff 5-15-01 (emergency); Revoked at 18 Ok Reg 3067, eff 7-12-01]

**340:75-11-152. Definition [REVOKED]**

[Source: Added at 11 Ok Reg 1219, eff 2-9-94 (emergency); Added at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 18 Ok Reg 2309, eff 5-15-01 (emergency); Revoked at 18 Ok Reg 3067, eff 7-12-01]

**340:75-11-153. Contract programs [REVOKED]**

[Source: Added at 11 Ok Reg 1219, eff 2-9-94 (emergency); Added at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 18 Ok Reg 2309, eff 5-15-01 (emergency); Revoked at 18 Ok Reg 3067, eff 7-12-01]

**340:75-11-153.1. Day care services for custody youth in  
therapeutic foster care [REVOKED]**

[Source: Added at 12 Ok Reg 85, eff 10-7-94 (emergency); Added at 12 Ok Reg 1183, eff 5-11-95 ; Revoked at 18 Ok Reg 2309, eff 5-15-01 (emergency); Revoked at 18 Ok Reg 3067, eff 7-12-01]

### **340:75-11-154. Contracting [REVOKED]**

[Source: Added at 11 Ok Reg 1219, eff 2-9-94 (emergency); Added at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 18 Ok Reg 2309, eff 5-15-01 (emergency); Revoked at 18 Ok Reg 3067, eff 7-12-01]

### **340:75-11-154.1. DCYFS employees as therapeutic foster homes [REVOKED]**

[Source: Added at 12 Ok Reg 85, eff 10-7-94 (emergency); Added at 12 Ok Reg 1183, eff 5-11-95 ; Revoked at 18 Ok Reg 2309, eff 5-15-01 (emergency); Revoked at 18 Ok Reg 3067, eff 7-12-01]

### **340:75-11-155. Placement into therapeutic foster care programs [REVOKED]**

[Source: Added at 11 Ok Reg 1219, eff 2-9-94 (emergency); Added at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 18 Ok Reg 2309, eff 5-15-01 (emergency); Revoked at 18 Ok Reg 3067, eff 7-12-01]

### **340:75-11-156. Role of the primary worker [REVOKED]**

[Source: Added at 11 Ok Reg 1219, eff 2-9-94 (emergency); Added at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 18 Ok Reg 2309, eff 5-15-01 (emergency); Revoked at 18 Ok Reg 3067, eff 7-12-01]

### **340:75-11-157. Role of the county of placement CW Worker [REVOKED]**

[Source: Added at 11 Ok Reg 1219, eff 2-9-94 (emergency); Added at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 18 Ok Reg 2309, eff 5-15-01 (emergency); Revoked at 18 Ok Reg 3067, eff 7-12-01]

### **340:75-11-158. Role of the liaison [REVOKED]**

[Source: Added at 11 Ok Reg 1219, eff 2-9-94 (emergency); Added at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 18 Ok Reg 2309, eff 5-15-01 (emergency); Revoked at 18 Ok Reg 3067, eff 7-12-01]

### **340:75-11-159. Transfer of case record [REVOKED]**

[Source: Added at 11 Ok Reg 1219, eff 2-9-94 (emergency); Added at 11 Ok Reg 3249, eff 6-27-94 ; Amended at 12 Ok Reg 85, eff 10-7-94 (emergency); Amended at 12 Ok Reg 1183, eff 5-11-95 ; Revoked at 18 Ok Reg 2309, eff 5-15-01 (emergency); Revoked at 18 Ok Reg 3067, eff 7-12-01]

### **340:75-11-160. Grievance procedure [REVOKED]**

[Source: Added at 11 Ok Reg 1219, eff 2-9-94 (emergency); Added at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 18 Ok Reg 2309, eff 5-15-01 (emergency); Revoked at 18 Ok Reg 3067, eff 7-12-01]

### **340:75-11-161. Remaining in therapeutic foster care after 18 [REVOKED]**

[Source: Added at 11 Ok Reg 1219, eff 2-9-94 (emergency); Added at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 18 Ok Reg 2309, eff 5-15-01 (emergency); Revoked at 18 Ok Reg 3067, eff 7-12-01]

**340:75-11-162. Investigations of alleged abuse or neglect  
[REVOKED]**

[Source: Added at 11 Ok Reg 1219, eff 2-9-94 (emergency); Added at 11 Ok Reg 3249, eff 6-27-94 ; Amended at 12 Ok Reg 85, eff 10-7-94 (emergency); Amended at 12 Ok Reg 1183, eff 5-11-95 ; Amended at 12 Ok Reg 3456, eff 7-1-95 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Revoked at 18 Ok Reg 2309, eff 5-15-01 (emergency); Revoked at 18 Ok Reg 3067, eff 7-12-01]

**PART 11. FAMILY REUNIFICATION/COMMUNITY  
REINTEGRATION SERVICES [REVOKED]**

**340:75-11-177. Scope and applicability [REVOKED]**

[Source: Added at 11 Ok Reg 1219, eff 2-9-94 (emergency); Added at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 18 Ok Reg 680, eff 1-10-01 (emergency); Revoked at 18 Ok Reg 2128, eff 6-11-01]

**340:75-11-178. Services/providers [REVOKED]**

[Source: Added at 11 Ok Reg 1219, eff 2-9-94 (emergency); Added at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 18 Ok Reg 680, eff 1-10-01 (emergency); Revoked at 18 Ok Reg 2128, eff 6-11-01]

**340:75-11-179. Documentation/referral [REVOKED]**

[Source: Added at 11 Ok Reg 1219, eff 2-9-94 (emergency); Added at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 18 Ok Reg 680, eff 1-10-01 (emergency); Revoked at 18 Ok Reg 2128, eff 6-11-01]

**PART 13. SPECIALIZED COMMUNITY HOME  
STANDARDS AND HOME STUDY GUIDELINES  
[REVOKED]**

**340:75-11-194. Scope [REVOKED]**

[Source: Added at 11 Ok Reg 1219, eff 2-9-94 (emergency); Added at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 18 Ok Reg 680, eff 1-10-01 (emergency); Revoked at 18 Ok Reg 2128, eff 6-11-01]

**340:75-11-195. Specialized community home standards  
[REVOKED]**

[Source: Added at 11 Ok Reg 1219, eff 2-9-94 (emergency); Added at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 18 Ok Reg 680, eff 1-10-01 (emergency); Revoked at 18 Ok Reg 2128, eff 6-11-01]

**340:75-11-196. Uninhabitable facility and contractor  
incapacitation [REVOKED]**

[Source: Added at 11 Ok Reg 1219, eff 2-9-94 (emergency); Added at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 18 Ok Reg 680, eff 1-10-01 (emergency); Revoked at 18 Ok Reg 2128, eff 6-11-01]

### **340:75-11-197. Home study guidelines [REVOKED]**

[Source: Added at 11 Ok Reg 1219, eff 2-9-94 (emergency); Added at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 18 Ok Reg 680, eff 1-10-01 (emergency); Revoked at 18 Ok Reg 2128, eff 6-11-01]

### **340:75-11-198. Recommendation, evaluation and annual re-evaluation [REVOKED]**

[Source: Added at 11 Ok Reg 1219, eff 2-9-94 (emergency); Added at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 18 Ok Reg 680, eff 1-10-01 (emergency); Revoked at 18 Ok Reg 2128, eff 6-11-01]

## **PART 15. COMMUNITY-BASED RESIDENTIAL CARE CONTRACT PROGRAM DESCRIPTIONS [REVOKED]**

### **340:75-11-218. Purpose [REVOKED]**

[Source: Added at 11 Ok Reg 1219, eff 2-9-94 (emergency); Added at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 18 Ok Reg 680, eff 1-10-01 (emergency); Revoked at 18 Ok Reg 2128, eff 6-11-01]

### **340:75-11-219. Level A - basic congregate residential care [REVOKED]**

[Source: Added at 11 Ok Reg 1219, eff 2-9-94 (emergency); Added at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 18 Ok Reg 680, eff 1-10-01 (emergency); Revoked at 18 Ok Reg 2128, eff 6-11-01]

### **340:75-11-220. Level B - enriched congregate residential care [REVOKED]**

[Source: Added at 11 Ok Reg 1219, eff 2-9-94 (emergency); Added at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 18 Ok Reg 680, eff 1-10-01 (emergency); Revoked at 18 Ok Reg 2128, eff 6-11-01]

### **340:75-11-221. Level C - specialized residential care [REVOKED]**

[Source: Added at 11 Ok Reg 1219, eff 2-9-94 (emergency); Added at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 18 Ok Reg 680, eff 1-10-01 (emergency); Revoked at 18 Ok Reg 2128, eff 6-11-01]

### **340:75-11-222. Level D - moderate intensity specialized residential care [REVOKED]**

[Source: Added at 11 Ok Reg 1219, eff 2-9-94 (emergency); Added at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 18 Ok Reg 680, eff 1-10-01 (emergency); Revoked at 18 Ok Reg 2128, eff 6-11-01]

### **340:75-11-223. Level E - specialized residential high intensity treatment program [REVOKED]**

[Source: Added at 11 Ok Reg 1219, eff 2-9-94 (emergency); Added at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 18 Ok Reg 680, eff 1-10-01 (emergency); Revoked at 18 Ok Reg 2128, eff 6-11-01]

### **340:75-11-224. Therapeutic foster care [REVOKED]**

[Source: Added at 11 Ok Reg 1219, eff 2-9-94 (emergency); Added at 11 Ok Reg 3249, eff 6-27-94 ; Amended at 13 Ok Reg 133, eff 10-5-95 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Revoked at 18 Ok Reg 680, eff 1-10-01 (emergency); Revoked at 18 Ok Reg 2128, eff 6-11-01]

### **340:75-11-225. Residential maternity services [REVOKED]**

[Source: Added at 11 Ok Reg 1219, eff 2-9-94 (emergency); Added at 11 Ok Reg 3249, eff 6-27-94 ; Revoked at 18 Ok Reg 680, eff 1-10-01 (emergency); Revoked at 18 Ok Reg 2128, eff 6-11-01]

### **340:75-11-226. Residential diagnostic and evaluation programs [REVOKED]**

[Source: Added at 15 Ok Reg 936, eff 12-16-97 (emergency); Added at 15 Ok Reg 1663, eff 5-11-98 ; Revoked at 18 Ok Reg 680, eff 1-10-01 (emergency); Revoked at 18 Ok Reg 2128, eff 6-11-01]

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

### **340:75-11-230. Purpose, legal basis, and definitions**

#### **(a) Purpose.**

(1) The community-based residential care (CBRC) program serves children in Oklahoma Human Services (OKDHS) custody or tribal custody whose treatment needs cannot be met in a family setting, but whose treatment needs do not require inpatient psychiatric care.

(2) OKDHS contracts for different levels of CBRC placements that vary according to the intensity and individualized treatment needs of children.

#### **(b) Legal basis.**

(1) Section 1-7-103 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-7-103) requires OKDHS review and assess each child in OKDHS custody to determine the type of placement consistent with the child's treatment needs in the nearest geographic proximity as possible to the child's home.

(2) 10A O.S. § 1-9-110 requires OKDHS, to the extent of funds available, directly, or by grant or contract, to implement a diversity of CBRC for children who are alleged or adjudicated deprived. When a child is placed with a non-custodial parent, the non-custodial parent's home is construed to be the child's home community. CBRC is care in a:

(A) qualified residential treatment program;

(B) group home;

(C) community residential center; or

(D) similar non-secure facility consistent with the child's individualized treatment needs and provided, whenever practical, in or near the child's home community.

(c) **Definitions.** The following words and terms, when used in this Subchapter, have the following meanings, unless the context clearly indicates otherwise:

(1) **"Age-appropriate" or "developmentally-appropriate"** means:

(A) activities or items that are generally accepted as suitable for children of the same age or level of maturity, or that are determined to be developmentally-appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and

(B) in the case of a specific child, activities or items that are suitable for that child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the specific child, per 10A O.S. § 1-1-105.

(2) **"Behavioral health"** means mental health, substance use or abuse, or co-occurring mental health and substance use or abuse diagnoses, and the continuum of mental health, substance use or abuse, or co-occurring mental health and substance use or abuse treatment.

(3) **"Community-based services" or "community-based programs"** mean services or programs, which maintain community participation or supervision in their planning, operation, and evaluation. Community-based services and programs may include, but are not limited to, emergency shelter, crisis intervention, group work, case supervision, job placement, recruitment and training of volunteers, consultation, medical, educational, home-based services, vocational, social, preventive and psychological guidance, training, counseling, early intervention and diversionary substance use or abuse treatment, sexual abuse treatment, transitional living, successful adulthood, and other related services and programs.

(4) **"Corrective action plan (CAP)"** means steps, actions, or strategies taken to correct or address behaviors or conditions associated with abuse, neglect, or areas of concern related to an individual employee of a facility.

(5) **"Facility"** means a place, an institution, a building or part thereof, a set of buildings, or an area whether or not enclosing a building or set of buildings, used for the lawful custody and treatment of children.

(6) **"Facility action step (FAS)"** means all actions, steps, or strategies to correct or address areas of concern identified within a facility including, but not limited to, the culture of care, services, or contract compliance.

(7) **"Facility services plan (FSP)"** means a yearly, progressive document specific to each facility identifying issues impacting child safety within the facility's culture of care including, but not limited to, hiring, training, supervision, services, or contract compliance. The FSP includes all CAPs, FASs, notices to comply, and written plans of compliances related to the specific facility.

(8) **"Family-style living program"** means a residential program providing sustained care and supervision to residents in a home-like environment not located in a building used for commercial activity, per 10A O.S. § 1-1-105

(9) **"Group home"** means a residential facility licensed by OKDHS to provide full-time care and community-based services for more than five but fewer than 13 children.

(10) **"Intensive treatment services"** means a contracted nine-bed program that provides seven-calendar day crisis intervention services for children in OKDHS custody.

(11) **"Mental health"** means behavioral health, substance use or abuse, or co-occurring mental health and substance use or abuse diagnoses, and the continuum of mental health, substance use or abuse, or co-occurring mental health and substance use or abuse treatment.

(12) **"Missing from Care"** means the child in OKDHS custody or tribal custody is not present in a placement and does not have permission to be absent.

(13) **"Normalcy"** means the child's emotional developmental growth is encouraged by allowing the child to participate in age-appropriate and developmentally-appropriate extracurricular, enrichment, cultural, and social activities, using a reasonable and prudent parent standard.

(14) **"Notice to comply"** means a formal written notice sent to a facility to indicate a CAP or FAS was not completed within agreed upon timeframes.

(15) **"Plan for immediate safety"** means actions taken to immediately control any significant and clearly observable condition that is present and is endangering or threatening to endanger a child in a residential facility.

(16) **"Qualified residential treatment program"** means a program that, per 10A O.S. § 1-1-105:

(A) has a trauma-informed treatment model designed to address the needs, including clinical needs, as appropriate, of children with serious emotional or behavioral disorders or disturbances. The program is able to implement the child's identified treatment from a required assessment;

(B) has registered or licensed nursing staff and other licensed clinical staff who:

(i) provide care within the scope of their practice as defined by Oklahoma laws;

(ii) are on-site according to the treatment model referred to in (A) of this paragraph; and

(iii) are available 24 hours a day, seven days a week;

(C) facilitates participation of family members in the child's treatment program, to the extent appropriate, and in accordance with the child's best interest;

(D) facilitates outreach to the child's family members including siblings; documents how the outreach is made



including contact information; and maintains contact information for any of the child's known biological family;

(E) documents how family members are integrated into the child's treatment process, including post-discharge, and how sibling connections are maintained;

(F) provides discharge planning and family-based aftercare support for at least six months post-discharge; and

(G) is licensed and accredited by any of the following independent, not-for-profit organizations:

- (i) the Commission on Accreditation of Rehabilitation Facilities (CARF);
- (ii) the Joint Commission on Accreditation of Healthcare Organizations (JCAHO);
- (iii) the Council on Accreditation (COA); or
- (iv) any other federally-approved, independent, not-for-profit accrediting organization.

(17) **"Reasonable and prudent parent standard"** means the standard characterized by careful and sensible parental decisions that maintain the child's health, safety, and best interests while at the same time encouraging the child's emotional and developmental growth. This standard is used by the child's caregiver when determining whether to allow a child to participate in extracurricular, enrichment, cultural, and social activities, per 10A O.S. § 1-1-105.

(A) For purposes of this definition, the term "caregiver" means a foster parent with whom a child in foster care is placed, a representative of a group home where a child is placed, or a designated official for a residential child care facility where a child in foster care is placed.

(B) Each CBRC provider must ensure that at least one employee is designated and authorized to apply the reasonable and prudent parent standard to decisions involving the participation of a child in age-appropriate or developmentally-appropriate activities. The authorized CBRC employee is provided with training on how to use and apply the reasonable and prudent parent standard.

(18) **"Residential child care facility"** means a 24-hour residential facility where children live together with or are supervised by adults who are not their parents or relatives, per 10A O.S. § 1-1-105.

(19) **"Serious emotional disturbance"** means a disability persisting for six months or longer as defined by the most-recently published version of the Diagnostic and Statistical Manual of Mental Disorders or International Classification of Disease whereby the child exhibits psychotic symptoms of a serious mental illness or difficulties that interfere or limit social, behavioral, cognitive, communicative, or adaptive skills.

(20) **"Sexual exploitation"** means, per 10A O.S. § 1-1-105, any person 18 years of age and older, or a person responsible for the health, safety, or welfare of a child:

(A) allowing, permitting, encouraging, or forcing a child to engage in prostitution, as defined by law; or  
(B) allowing, permitting, encouraging, or engaging in the lewd, obscene, or pornographic, as defined by law, photographing, filming, or depicting of a child in those acts.

(21) **"Written plan of compliance"** means the formal accountability process for facilities and when not adhered to within 30-calendar days results in adverse contract actions.

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 22 Ok Reg 1270, eff 5-26-05 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 33 Ok Reg 477, eff 2-29-16 (emergency); Amended at 34 Ok Reg 1550, eff 9-15-17 ; Amended at 37 Ok Reg 1850, eff 9-15-20 ; Amended at 38 Ok Reg 2294, eff 9-15-21 ; Amended at 39 Ok Reg 468, eff 12-21-21 (emergency); Amended at 39 Ok Reg 1803, eff 9-15-22]

### **340:75-11-231. Legal base and authority [REVOKED]**

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Revoked at 22 Ok Reg 1270, eff 5-26-05]

### **340:75-11-232. Definitions [REVOKED]**

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Revoked at 22 Ok Reg 1270, eff 5-26-05]

### **340:75-11-233. Placement of children into more restrictive community-based residential care (CBRC) placements**

(a) Sections 1-1-102 and 1-7-103 of Title 10A of the Oklahoma Statutes require children in Oklahoma Human Services (OKDHS) custody be served in the least restrictive setting that meets each child's treatment needs in the closest geographic proximity as possible to the child's home, per Oklahoma Administrative Code (OAC) 340:75-6-85.

(b) CBRC placements are more restrictive placement settings than the child's own home, relative's home, or foster family home. The request and referral for the placement of a child in OKDHS custody in a CBRC placement is made through the Child Welfare Services (CWS) Specialized Placements and Partnerships Unit (SPPU).

(c) Children 12 years of age and younger in OKDHS custody are not placed in CBRC placements, except when maintaining sibling groups together in placement, maintaining a OKDHS custody parent and child together in placement, or in CBRC placements that provide services to a younger age population due to the child's treatment needs, when an exception is received.

(d) A child in OKDHS custody residing in a CBRC placement on his or her 18th birthday may receive voluntary care in his or her CBRC placement after 18 years of age per OAC 340:75-6-110.

(e) The child's case assignment remains in the county of jurisdiction.

(f) CBRC placements must:

(1) be licensed by OKDHS, or another approved licensing body, and are either operated by, or under formal contract with OKDHS;

and

(2) provide appropriate treatment interventions for children that improve the child's functioning level, resulting in a successful discharge to a less restrictive placement, such as his or her own home, relative home, foster family home, therapeutic foster care, adoptive home, or successful adulthood.

(g) CBRC placements are subject to the availability of funds in the OKDHS budget. CWS SPPU maintains the waiting list for children requiring CBRC placements when the need for CBRC exceeds the availability of CBRC resources.

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 22 Ok Reg 1270, eff 5-26-05 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 33 Ok Reg 1635, eff 9-15-16 ; Amended at 38 Ok Reg 2294, eff 9-15-21]

#### **340:75-11-233.1. Placement services**

The purpose of Child Welfare Services Specialized Placement and Partnerships Unit is to:

- (1) ensure that children in Oklahoma Department of Human Services (DHS) custody or tribal custody are placed in the least restrictive community-based residential care (CBRC) placement that most appropriately meets their treatment needs;
- (2) ensure equal access to CBRC placement resources by children in DHS custody or tribal custody statewide; and
- (3) maintain the waiting list of children in DHS or tribal custody who need CBRC placements when the need for CBRC exceeds the availability of CBRC placements.

[Source: Added at 18 Ok Reg 2323, eff 5-15-01 (emergency); Added at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 22 Ok Reg 1270, eff 5-26-05 ; Amended at 26 Ok Reg 884, eff 5-15-09 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 33 Ok Reg 477, eff 2-29-16 (emergency); Amended at 34 Ok Reg 1550, eff 9-15-17]

#### **340:75-11-234. Community-based residential care (CBRC) placement contracts**

(a) Contracts for provision of CBRC placements are issued according to rules and procedures, per Oklahoma Administrative Code 340:2-13, established by statutory requirements found in Section 85.1 et seq. of Title 74 of the Oklahoma Statutes.

(b) Contracts are monitored on-site, at least annually by the Child Welfare Services Contract Performance Review team, to ensure the:

- (1) contractor's compliance with all contract terms;
- (2) services provided are in compliance with contract terms; and
- (3) clients receive the maximum benefit from the contractual services.

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 22 Ok Reg 1270, eff 5-26-05 ; Amended at 33 Ok Reg 1635, eff 9-15-16 ; Amended at 38 Ok Reg 2294, eff 9-15-21]

### **340:75-11-235. Monitoring of contracts [REVOKED]**

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Revoked at 22 Ok Reg 1270, eff 5-26-05]

### **340:75-11-236. Child welfare (CW) facility liaisons**

A CW specialist from the Specialized Placements and Partnerships Unit is assigned to each community-based residential care (CBRC) provider as the CW facility liaison. CW facility liaison duties are in accordance with the type of CBRC provider per Oklahoma Administrative Code 340:75-11-239.

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 22 Ok Reg 1270, eff 5-26-05 ; Amended at 33 Ok Reg 1635, eff 9-15-16]

### **340:75-11-237. Rights of a child in community-based residential care (CBRC)**

#### **(a) Child's rights.**

(1) A child is not subjected to unreasonable silence rules, group punishment for inappropriate individual acts, profanity, verbal abuse, or threats of unnecessary or unauthorized physical force by staff, or "make work"; provided that nothing herein prevents a child from performing routine housekeeping tasks or maintenance work directly related to a vocational program, such as specific skill training.

(2) Except in situations that pose a serious threat to the child's life or health, a child has the right to refuse medications. Refused medications cannot be administered unless a court order is obtained authorizing forcible administration. Necessary medication a physician prescribes may be forcibly administered by staff trained in medication administration and who are familiar with the child's condition.

#### **(3) A child:**

(A) is not punished by:

- (i) physical force;
- (ii) deprivation of nutritious meals;
- (iii) deprivation of family visits; or
- (iv) solitary confinement;

(B) has the opportunity to participate in physical exercise daily;

(C) has daily access to a shower;

(D) is allowed his or her own clothing or individualized clothing that is clean per Oklahoma Administrative Code (OAC) 340:110-3-154.1;

(E) has constant access to writing material and may send mail without limitation, censorship, or prior reading;

(F) may receive mail without prior reading, except that mail may be opened in the child's presence, without being read, to inspect for contraband or when court authorized for the child's protection;

(G) has access to email, mail, social media, and phone calls with family and friends that are not monitored or restricted unless for the child's protection. Denial of email, mail, social media, phone contact, or visitation with family members occurs only by court order when it is determined contact with a specifically identified family member is not in the child's best interest, per OAC 340:75-6-30;  
(H) has a right to communicate and to visit with his or her family on a regular basis and to communicate with persons in the community provided the communication or visitation is in the child's best interest;  
(I) has timely access to medical care as needed;  
(J) is provided access to educational programs, including teaching, educational materials, and books;  
(K) has a right to access his or her attorney; and  
(L) has access to grievance and appeal procedures, per OAC 340:2-3-45 through 340:2-3-49.

(4) A child's visitation with family is not contingent upon the child's behavior and the CBRC does not deny family visitation.

(5) A child's behavioral health needs are met, protected, and served through the provision of guidance, counseling, and treatment programs staffed by competent, professionally qualified persons.

(b) All CBRC programs under contract with Oklahoma Human Services (OKDHS) comply with Section 1-7-105 of Title 10A of the Oklahoma Statutes, OAC 340:110-3-154.1, and OAC 340:110-3-154.2.

(1) The use of mechanical restraints and medication for behavior management are prohibited in OKDHS operated and contracted programs. The use of physical force, when authorized, is the least force necessary under the circumstances and is permitted only with an approved, non-pain producing, passive, positive, youth development curriculum:

- (A) for self-protection;
- (B) to separate children who are fighting;
- (C) to restrain children in danger of inflicting harm to themselves or others; or
- (D) to deter children who are in the process of leaving the facility without authorization.

(2) The approved, non-pain producing, passive, positive, youth development curriculum includes:

- (A) graded alternatives using a combination of psychological and physical techniques to ensure safety with emphasis toward:
  - (i) de-escalation of the situation;
  - (ii) elimination of abuse to persons with acting out behavior; and
  - (iii) injury reduction; and

(B) physical contact aspects are utilized only when the child's behavior poses an imminent danger to self or others when all other methods were exhausted. Physical contact may only last until the imminent danger has

passed.

(3) CBRC placements providing care and treatment for children in OKDHS or tribal custody are not locked for the purpose of deprivation of liberty or for disciplinary purposes.

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 19 Ok Reg 217, eff 12-1-01 (emergency); Amended at 19 Ok Reg 1129, eff 5-13-02 ; Amended at 22 Ok Reg 1270, eff 5-26-05 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 33 Ok Reg 477, eff 2-29-16 (emergency); Amended at 34 Ok Reg 1550, eff 9-15-17 ; Amended at 39 Ok Reg 1803, eff 9-15-22]

#### **340:75-11-238. Assigned child welfare (CW) specialist general responsibilities for children placed in community-based residential care (CBRC)**

The assigned CW specialist has general responsibilities for children in Oklahoma Department of Human Services custody placed in any CBRC placement.

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 19 Ok Reg 217, eff 12-1-01 (emergency); Amended at 19 Ok Reg 1129, eff 5-13-02 ; Amended at 22 Ok Reg 1270, eff 5-26-05 ; Amended at 33 Ok Reg 1635, eff 9-15-16]

#### **340:75-11-239. Child welfare (CW) facility liaison's general responsibilities for children placed in community-based residential care (CBRC) and CBRC placement providers**

CW facility liaisons have responsibility for assisting CW specialists with placement of children in Oklahoma Department of Human Services (DHS) custody into CBRC, ensuring the safety of children in DHS or tribal custody placed in CBRC, monitoring CBRC contract compliance, and supporting and linking CBRC placement providers, assigned CW specialists, and community partners.

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 19 Ok Reg 217, eff 12-1-01 (emergency); Amended at 19 Ok Reg 1129, eff 5-13-02 ; Amended at 22 Ok Reg 1270, eff 5-26-05 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 33 Ok Reg 477, eff 2-29-16 (emergency); Amended at 34 Ok Reg 1550, eff 9-15-17]

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

All contracted CBRC providers:

- (1) maintain a written case record on each child that documents all services provided or obtained for the child while in placement;
- (2) implement and review an individualized treatment plan for each child in placement, with documented input from the child's assigned child welfare (CW) specialist, according to the requirements set forth in the Oklahoma Human Services (OKDHS) contract;
- (3) assume responsibility for basic needs maintenance of each child placed;
- (4) ensure the safety, supervision, protection, and provision of necessary medical or psychological care and treatment for each child receiving services from the facility or provider is

individualized to the child's specific needs. The placement provider or facility cooperates with any inspection, investigation, evaluation, plan for immediate safety, or corrective action plan OKDHS or the Office of Client Advocacy makes and provides all ongoing assistance necessary to ensure child safety, protection, and well-being;

(5) accept responsibility for a reasonable knowledge of the child's whereabouts at all times.

(A) When a child:

(i) is removed by anyone without authorization;

(ii) is taken into custody by law enforcement officials;

(iii) is missing from care; or

(iv) otherwise cannot be accounted for, the provider immediately phones the:

(I) child's assigned CW specialist. The child's CW specialist follows protocol and completes missing from care notifications, per Oklahoma Administrative Code (OAC) 340:75-6-48.3;

(II) CW facility liaison; and

(III) law enforcement.

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

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

(A) OKDHS authorizes the CBRC facility administrator in writing, through the placement provider agreement, to consent to routine and ordinary medical care and treatment needed by the child in OKDHS custody or tribal custody upon the advice of a licensed physician, per OAC 340:75-14-3.

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

(i) emergency medical care. When appropriate OKDHS staff cannot be located and the situation is life-threatening, the provider obtains emergency care and treatment and notifies OKDHS at the earliest possible time; and

(ii) any extraordinary medical care and treatment, such as surgery, general anesthesia, blood transfusions, or invasive or experimental procedures requires consent of the:

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

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

(C) The provider complies with OKDHS rules for the administration of prescribed psychotropic medication, per OAC 340:75-14-3.

(D) Provision of all medical or dental care is documented in the provider's case record, including notification and attempts of notification in emergency situations;

(7) notify the assigned CW specialist and the CW facility liaison of any accidental or non-accidental injuries the child sustains;

(8) ensure the child has the opportunity to engage in religious and cultural observations, per OAC 340:75-6-49.

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

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

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

(10) develop and implement written policy and procedures regarding securing and safeguarding each child's property and funds, the disbursement of allowances, and items allowed and not allowed into the placement;

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

(12) obtain prior approval from the assigned CW specialist any time the child travels overnight outside of the state of placement, per OAC 340:75-6-89;

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

(A) does not allow a child any overnight visitation, except with peers, per OAC 340:75-7-37, without prior planning and the child's assigned CW specialist's documented written approval;

(B) does not secure any placement without prior planning and the child's assigned CW specialist's documented written approval; and



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

(14) develop and implement written policy and procedures that prohibit the utilization of children for commercial purposes;  
(15) submit written reports to the child's assigned CW specialist describing the child's stay in placement, progress toward meeting identified treatment goals, education, and medical care on a quarterly basis, or more frequently when requested for court hearings, and file a copy of the reports in the child's case record;  
(16) develop and implement written policy and procedures for discipline that comply with OAC 340:75-7-38 and 10A O.S. § 1-7-105 that prohibit the use of solitary confinement, separation programs, use of mechanical restraints, and administration of medicine as discipline or control.

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

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

(17) ensure all employees are trained in an approved, non-pain producing, passive, positive youth development curriculum;  
(18) develop and implement written policy and procedures that require the contractor, and all contractor employees, having reason to believe any child in placement was subjected to physical abuse, neglect, or both, to report the matter to the OKDHS Abuse and Neglect Hotline (Hotline).

(A) The provider makes the report to the Hotline the same day of the incident or on the date the incident becomes known to the provider.

(B) Failure to report is a misdemeanor offense; failure to report with prolonged knowledge is a felony, and upon conviction is punishable, per 10A O.S. § 1-2-101;

(19) develop and implement written rules and procedures that prohibit the:

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

(B) use of tobacco or tobacco products by the provider, provider employees, or visitors in the presence of children in placement;

(20) develop and implement written policy and procedures for resolving grievances by recipients of the services provided under the contract regarding the substance or application of the contractor's written or unwritten policies or procedures, or any decision, act, or omission the contractor or the contractor's employees or agents make. The contractor:

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

(B) submits policy regarding grievance resolution, and any subsequent revisions, to the Office of Client Advocacy for approval prior to the placement of any child, per OAC

340:2-3-45;

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

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

(23) submit monthly and annual reports to Child Welfare Services (CWS) Specialized Placements and Partnerships Unit (SPPU) program staff to provide an overview of the provider's activities;

(24) plan and coordinate each child's discharge with the assigned CW specialist and provide a minimum 48-hour notice to discharge, except in medical or psychiatric emergencies. Prior to the provider implementing the discharge plan, the assigned CW specialist approves the contractor's recommendation for discharge;

(25) submit a written discharge summary to the assigned CW specialist within 30-calendar days of discharge and file a copy in the child's case record, including a summary of treatment services, child's progress on treatment goals, reason for discharge, and recommendations for future placements and services for the child's treatment needs;

(26) ensure all staff complies, as applicable, with the minimum licensing standards defined in the Child Care Services OKDHS Publication No. 86-78, Licensing Requirements for Residential Child Care Facilities;

(27) ensure all staff complies with the staffing requirements mandated in the contract that are in addition to the minimum staffing requirements in OKDHS Publication No. 86-78, Licensing Requirements. When the provider's actual staffing ratio differs from the requirements set forth in the contract, the provider submits a written plan to CWS SPPU program staff that defines the contractor's proposed staffing pattern, timeframe for the differing ratio, and clearly illustrates how each of the staffing functions is provided;

(28) fill vacant positions required by the OKDHS contract within 30-calendar days of the position becoming vacant. The contractor notifies CWS SPPU program staff in writing:

(A) when contractually required positions are vacant;

(B) of updates during the selection process; and

(C) of the effective hiring date for these positions;

(29) develop and implement written policy and procedure regarding corrective discipline for employees;

(30) notify CWS SPPU program staff immediately by phone and in writing within one-business day, per OAC 340:110-3-152(f), of any critical incidents, such as:

- (A) the death of a child;
- (B) the death of an employee caused by murder, suicide, or accident;
- (C) severe injury to a child as a result of abuse, neglect, or maltreatment by a service provider, employee, another child, or accident;
- (D) misappropriation of state or federal funds by an employee of a private or public service agency that receives these funds;
- (E) a violent crime a child commits against another person; or
- (F) any event that occurs in the facility that gains or is likely to gain media attention;

(31) provide an on-site educational program, when required by terms of the OKDHS contract and provide a 60-calendar day notice to the local school board prior to the facility opening, per 70 O.S. § 1-113; and

(32) maintain a current Life Book, in a format separate from the provider's case record, for each child placed, regardless of the child's age, that documents the child's stay in care and provides continuity throughout the child's life, per OAC 340:75-7-37. The provider:

(A) when the assigned CW specialist does not provide the child's Life Book, initiates and maintains a Life Book with current information about the child while in placement including, but not limited to:

- (i) placement name and address;
- (ii) date of admission and discharge;
- (iii) educational history;
- (iv) medical history;
- (v) awards and achievements;
- (vi) photographs; and
- (vii) family information; and

(B) gives the Life Book to the child and the child's assigned CW specialist when the child is discharged; and

(33) ensure that at least one facility employee is designated and authorized to apply the reasonable and prudent parent standard to decisions involving the child's participation in age-appropriate or developmentally-appropriate activities and the authorized employee is provided with training on how to use and apply the reasonable and prudent parent standard.

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 19 Ok Reg 217, eff 12-1-01 (emergency); Amended at 19 Ok Reg 1129, eff 5-13-02 ; Amended at 22 Ok Reg 1270, eff 5-26-05 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 28 Ok Reg 375, eff 12-1-10 (emergency); Amended at 28 Ok Reg 894, eff 7-1-11 ; Amended at 33 Ok Reg 477, eff 2-29-16 (emergency); Amended at 34 Ok Reg 1550, eff 9-15-17 ; Amended at 36 Ok Reg 1856, eff 9-16-19 ; Amended at 38 Ok Reg 2294, eff 9-15-21 ; Amended at 39 Ok Reg 1803, eff 9-15-22]

## **PART 19. RESIDENTIAL DIAGNOSTIC AND EVALUATION SERVICES [REVOKED]**

### **340:75-11-250. Contracted residential diagnostic and evaluation services [REVOKED]**

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 22 Ok Reg 1270, eff 5-26-05 ; Amended at 26 Ok Reg 884, eff 5-15-09 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Revoked at 33 Ok Reg 1635, eff 9-15-16]

### **340:75-11-251. Custody children served in contracted residential diagnostic and evaluation services [REVOKED]**

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Revoked at 22 Ok Reg 1270, eff 5-26-05]

### **340:75-11-252. Responsibilities of Child Welfare (CW) county of jurisdiction worker for custody children placed in contracted residential diagnostic and evaluation services [REVOKED]**

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Revoked at 22 Ok Reg 1270, eff 5-26-05]

### **340:75-11-253. Responsibilities of the liaison to contracted residential diagnostic and evaluation services [REVOKED]**

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Revoked at 22 Ok Reg 1270, eff 5-26-05]

## **PART 21. RESIDENTIAL INTENSIVE TREATMENT SERVICES**

### **340:75-11-265. Contracted residential intensive treatment services (ITS)**

(a) Contracted residential ITS are available to provide crisis stabilization interventions to children in Oklahoma Human Services (OKDHS) or tribal custody, 8 to 18 years of age, who are experiencing a behavioral health or psychiatric crisis. ITS are available to avoid admission to psychiatric care and enable the child's return to community-based residential care.

(b) Children served by ITS are diagnosed with a serious emotional disturbance, per Oklahoma Administrative Code (OAC) 340:75-11-230 and:

- (1) are at imminent risk of admission to acute psychiatric care or a psychiatric residential treatment center; or
- (2) have developmental disabilities or are certified for services through Developmental Disabilities Services (DDS).

(c) Contracted residential ITS are intensive, short-term, individualized, behavioral health treatment services for children, and include:

- (1) an initial period, a maximum of seven-calendar days, of crisis stabilization in a crisis residential bed provided by a licensed child-placing agency or a licensed residential child care facility;
- (2) crisis stabilization, behavioral health services, available 24-hours a day, seven-calendar days a week, per OAC 317:30-5Part 105;
- (3) 24-hours a day, seven-calendar days per week access by phone to a contractor's employee so referrals are made and services are provided in emergency situations;
- (4) development of a Safety Plan by the child's placement provider for implementation, upon ITS discharge;
- (5) consultation with a psychiatrist or doctoral-level licensed, behavioral health professional 24-hours a day, seven-calendar days per week; and
- (6) 24-hour on-call and on-site crisis intervention and behavior management services with the child, as needed. Emergency or crisis intervention services include face-to-face encounters with the child to resolve acute emotional dysfunction by providing intervention resolution and stabilizing functions through triage screening, planning, and documentation.

(d) The provider:

- (1) receives referrals from the child welfare (CW) facility liaison, CW specialists, and Child Welfare Services (CWS) Specialized Placements and Partnerships (SPPU) programs staff;
- (2) considers each child's age, gender, and presenting behaviors in determining which children are admitted and share bedrooms to ensure the safety of all children;
- (3) completes a written incident report describing any extreme behavioral incident or major rule violation, including the provider's response, submits the copy to the child's assigned CW specialist and CWS SPPU program staff or tribal worker, if in tribal custody, and files the original in the child's case record;
- (4) meets the staffing guidelines defined in the contract;
- (5) complies with children's rights, per OAC 340:75-11-237;
- (6) complies with all general requirements, per OAC 340:75-11-240;
- (7) complies with OAC 317:30-5 Part 105 for residential behavior management services in group settings;
- (8) submits monthly and annual reports to CWS SPPU program staff or tribal worker to provide an overview of the contractor's activities.

(A) The monthly report includes:

- (i) each child's significant behavior events;
- (ii) each child's unapproved absence from the program and duration of the time away;
- (iii) total bed days utilized;
- (iv) total bed days not utilized;
- (v) total number of children served during the month;

- (vi) number of children served:
  - (I) who are also certified for DDS services;
  - (II) by county of jurisdiction;
  - (III) by age;
  - (IV) by gender;
  - (V) by ethnicity;
  - (VI) who were admitted to psychiatric care;
  - (VII) in placement for three-calendar days or less, and the average length of stay; and
  - (VIII) in placement for more than three-calendar days, and the average length of stay; and
- (vii) vacancies in contract mandated staffing requirements and other significant program events.
- (B) The annual report, due within 60-calendar days after the end of the contract year, includes required information in OAC 340:75-11-265(d)(8)(A) for the total contract year;
- (9) is paid by OKDHS at a fixed daily rate. The fixed daily rate is a blend of Title IV-E and Title XIX federal funds, per eligibility of each child served, and state funds; and
- (10) submits Form 04CB002E, CWS Claim for Purchase of Residential Care, monthly for payment to the CWS Contracting and Acquisition Unit.

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 22 Ok Reg 1270, eff 5-26-05 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 33 Ok Reg 1635, eff 9-15-16 ; Amended at 38 Ok Reg 2294, eff 9-15-21 ; Amended at 39 Ok Reg 1803, eff 9-15-22]

#### **340:75-11-266. Custody children served in contracted residential intensive treatment services (ITS) [REVOKED]**

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Revoked at 22 Ok Reg 1270, eff 5-26-05]

#### **340:75-11-267. Responsibilities of Child Welfare (CW) county of jurisdiction worker for custody children placed in contracted residential intensive treatment services (ITS) [REVOKED]**

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Revoked at 22 Ok Reg 1270, eff 5-26-05]

#### **340:75-11-268. Responsibilities of the liaison to contracted residential intensive treatment services (ITS) [REVOKED]**

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Revoked at 22 Ok Reg 1270, eff 5-26-05]

## **PART 22. SUBSTANCE USE OR ABUSE TREATMENT CENTERS**

**340:75-11-275. Substance use or abuse treatment services**

(a) Each substance use or abuse treatment services provider serves a specially defined target population of children both in the custody of Oklahoma Department of Human Services (DHS) and those not in the custody of DHS.

(1) Children served:

- (A) are 13 years of age through 17 years of age;
- (B) vary by gender and behaviors exhibited;
- (C) require 24-hour awake supervision; and
- (D) are voluntarily placed and must follow the 90-calendar day substance use or abuse treatment program.

(2) Services include:

- (A) substance use or abuse treatment;
- (B) counseling by a licensed, behavioral health professional;
- (C) a completed Addiction Severity Index (ASI); and
- (D) an evaluation on each youth.

(b) The substance use or abuse treatment services provider must comply with:

- (1) children's rights per Oklahoma Administrative Code (OAC) 340:75-11-237;
- (2) all general requirements per OAC 340:75-11-240; and
- (3) other requirements in the DHS contract.

[Source: Added at 26 Ok Reg 884, eff 5-15-09 ; Amended at 33 Ok Reg 1635, eff 9-15-16]

**PART 23. SPECIALIZED COMMUNITY HOMES**

**340:75-11-285. Definition [REVOKED]**

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Revoked at 22 Ok Reg 1270, eff 5-26-05]

**340:75-11-286. Requirements for specialized community home (SCH) contractors**

(a) Each SCH contractor serves a specially defined target population of four children in Oklahoma Department of Human Services (DHS) custody.

(1) Children served:

- (A) vary by age, gender, and behaviors exhibited; and
- (B) do not require 24-hour awake supervision.

(2) The contractor provides or obtains:

- (A) individually focused therapeutic interventions to meet the treatment needs of these children; and
- (B) educational and employment opportunities, cultural enrichment, and successful adulthood skills consistent with each child's treatment plan.

(b) The SCH contractor must comply with:

- (1) children's rights per Oklahoma Administrative Code (OAC) 340:75-11-237;
  - (2) all general requirements per OAC 340:75-11-240; and
  - (3) other requirements in the DHS contract.
- (c) The SCH applicant must meet the requirements for DHS foster home care, per OAC 340:75-7.
- (d) The SCH contractor must meet the requirements described in (1) through (4) of this subsection.
- (1) **Education and experience.** The SCH contractor meets one of the education and experience qualifications listed in (A) through (D) of this paragraph.
- (A) A Master or Doctor of Philosophy in Social Work degree or other related area of study and one year of direct experience working with children with comparable treatment needs to those requiring treatment in the SCH.
  - (B) A Bachelor in Social Work degree or other related area of study and two years direct experience working with children with comparable treatment needs to those requiring treatment in the SCH.
  - (C) An Associate degree in a social service field and four years direct experience working with children with comparable treatment needs to those requiring treatment in the SCH; or
  - (D) A high school diploma or General Educational Development (GED) and six years of direct experience working with children with comparable treatment needs to those requiring treatment in the SCH plus training hours pertinent to residential child care.
- (2) **Outside employment.** The SCH contractor is not allowed other employment outside of the operation of the SCH contract and is not eligible for paid day care.
- (3) **Alternate caregiver.** During the mutual family assessment process, the SCH contractor identifies a Child Welfare Services (CWS) approved alternate caregiver, per OAC 340:75-7-65, to provide respite care when the SCH provider takes leave from his or her SCH contract responsibilities.
- (A) The SCH contractor identifies the alternate caregiver at the time of the initial assessment. The alternate caregiver:
    - (i) must be at least 21 years of age; and
    - (ii) is not a DHS foster parent, a CWS employee, or an Office of Juvenile Affairs (OJA) employee, as the alternate caregiver must be available on short notice when the contractor takes leave.
  - (B) When the SCH contractor takes leave, the contractor selects one of the three options listed in (i) through (iii).
    - (i) The approved, alternate caregiver utilizes the SCH to provide respite care. Prior to approving the alternate caregiver, the CWS resource specialist in the region where the SCH home is located:



(I) makes personal contact with the alternate caregiver and conducts a personal assessment of the provider to determine his or her ability and willingness to provide alternate care;

(II) discusses SCH policy, per OAC 340:75-11-286 through 340:75-11-289, and foster care policy, per OAC 340:75-7, with the respite care provider;

(III) contacts two references for, and completes the background investigation of the alternate caregiver, including an Oklahoma State Bureau of Investigation (OSBI) name search, OSBI records search, a Federal Bureau of Investigation records search, and fingerprinting per OAC 340:75-7-15; and

(IV) files the personal assessment of the alternate caregiver in the SCH resource record.

(ii) The children go to the home of the approved alternate caregiver for alternate care.

(iii) The children go to their own homes or relative homes on planned leave approved by the child's assigned CW specialist.

(C) The SCH contractor is:

(i) encouraged to take two weeks, planned time away from the home each year;

(ii) responsible for reimbursing the alternate caregiver from the contractor's salary; and

(iii) responsible for training the alternate caregiver.

**(4) Mandatory training for SCH contractors.** All SCH contractors must:

(A) complete all training requirements for DHS foster parents prior to placement of children in the home, per OAC 340:75-7-14;

(B) be certified in a behavior management system directed at managing aggressive and non-aggressive acting out behavior per OAC 340:75-11-237. Spouses or significant others must also be certified;

(C) obtain 21 hours of training each calendar year geared toward working with the children served in the SCH contract;

(D) attend the annual mandatory meetings for SCH contractors scheduled by CWS Specialized Placements and Partnerships Unit that provide training hours; and

(E) participate in other training curricula required of DHS foster parents.

(e) CWS does not enter into SCH contracts with any person related, either directly or through marriage, to:

(1) an OJA employee;

- (2) a CWS employee; or
- (3) a DHS employee who substantially influenced the funding of the contract.

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 22 Ok Reg 1270, eff 5-26-05 ; Amended at 26 Ok Reg 1282, eff 6-1-09 ; Amended at 33 Ok Reg 1635, eff 9-15-16]

**340:75-11-287. Rights and responsibilities of the specialized community home (SCH) contractor**

- (a) SCH contractors have rights as Oklahoma Department of Human Services (DHS) foster parents, per Oklahoma Administrative Code (OAC) 340:2-3-50 and Section 1-9-119 of Title 10A of the Oklahoma Statutes.
- (b) The SCH contractor provides a full range of social services, including:
  - (1) direct social services to the child on an individual and group basis that focuses on the child's individual treatment goals;
  - (2) community resources for the child, such as outpatient behavioral health treatment;
  - (3) educational and vocational services and tutoring, as needed, for the child;
  - (4) skills training to prepare the child for employment and facilitate job placement and retention, as appropriate per the child's age;
  - (5) crisis intervention on a 24-hour basis for each child;
  - (6) recreational activities and opportunities for each child to pursue his or her talents, hobbies, and chosen interests;
  - (7) adequate clothing and shoes for each child;
  - (8) skills training in personal hygiene and grooming for each child;
  - (9) medical and dental care for each child within the scope of DHS policy and contract mandates;
  - (10) proper food and nutrition for each child;
  - (11) successful adulthood skills training for eligible youth;
  - (12) establishment and maintenance of grievance procedures for each child consistent with OAC 340:2-3-45 and 340:2-3-47;
  - (13) positive role modeling for the child;
  - (14) alternate caregiver per OAC 340:75-11-286;
  - (15) written expectations and an orientation process for each child upon initial placement; and
  - (16) discharge planning and preparing each child for discharge.

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 19 Ok Reg 217, eff 12-1-01 (emergency); Amended at 19 Ok Reg 1129, eff 5-13-02 ; Amended at 22 Ok Reg 1270, eff 5-26-05 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 33 Ok Reg 1635, eff 9-15-16]

**340:75-11-288. Rights of the specialized community home (SCH) contractor [REVOKED]**

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 19 Ok Reg 217, eff 12-1-01 (emergency); Amended at 19 Ok Reg 1129, eff 5-13-02 ; Revoked at 22 Ok Reg 1270, eff 5-26-05]

### **340:75-11-289. Specialized community home (SCH) contract reimbursement**

(a) **Monthly allotment.** SCH contractors are reimbursed at an annual fixed rate of reimbursement, paid in 12 equal monthly allotments. The SCH contractor submits a monthly claim for the monthly allotment on Form 04CB002E, CWS Claim for Purchase of Residential Care, to Child Welfare Services Contracting and Acquisition Unit on the first business-day of each month.

(b) **Foster care maintenance payment.** In addition to the monthly allotment reimbursement, the SCH contractor is paid at the daily Oklahoma Department of Human Services foster care maintenance payment rate, per actual number of days in each month, according to the child's age. The SCH contractor signs the Fixed Rate Foster Home Contract at the same time the SCH contract is initiated.

(1) SCH contractors are reimbursed for up to a total of 10-calendar days for planned treatment leave per child, per child placement year, such as a pre-placement visitation or family reunification.

(2) A child's placement year begins on the date a child is placed in the home and terminates 12 months later or on the date of discharge within that 12-month period. When a child is discharged, then readmitted to the same or another facility, a new child placement year begins.

(3) SCH contractors are reimbursed for a child who runs away a total of five-calendar days per child, per child placement year, when there is reasonable expectation the child will return to the SCH from runaway status.

(4) SCH contractors are reimbursed when a child is hospitalized for a period not to exceed 10-calendar days when the contractor maintains daily contact with the child and the child returns to the SCH upon discharge.

(5) The SCH child welfare facility liaison and supervisor approves all reimbursement for planned leave, hospital leave, or runaway status.

(6) SCH contractors are not eligible for difficulty of care payments for children in SCH placements.

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 22 Ok Reg 1270, eff 5-26-05 ; Amended at 26 Ok Reg 884, eff 5-15-09 ; Amended at 33 Ok Reg 1635, eff 9-15-16]

### **340:75-11-290. Custody children served in contracted specialized community homes (SCH) [REVOKED]**

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Revoked at 22 Ok Reg 1270, eff 5-26-05]

**340:75-11-291. Responsibilities of Child Welfare (CW) county of jurisdiction worker for custody children placed in contracted specialized community homes (SCH) [REVOKED]**

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Revoked at 22 Ok Reg 1270, eff 5-26-05]

**340:75-11-292. Responsibilities of the liaison to contracted specialized community homes (SCH) [REVOKED]**

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Revoked at 22 Ok Reg 1270, eff 5-26-05]

**PART 25. FAMILY-STYLE LIVING PROGRAMS AND  
NON-FUNDED CONTRACTED LEVEL B PLACEMENTS**

**340:75-11-300. Family-style living program and non-funded, contracted Level B placements**

(a) Family-style living programs, non-funded, Level B placements are provided by residential agencies that provide the equivalent to foster home placements for children requiring a home-like environment with a full-time house parent or parents.

(b) Family-style living programs and non-funded, contracted Level B services include:

- (1) group treatment for each child, as needed, focusing on maintenance issues and daily living matters;
- (2) individual treatment for each child, as needed;
- (3) active teaching and redevelopment of the child's basic living and social skills, both on-site and in the community. At minimum, the focus is on skill restoration for:
  - (A) personal health and hygiene;
  - (B) maintaining the living environment, including food preparation;
  - (C) money management;
  - (D) job skills readiness, acquisition, and retention;
  - (E) community awareness and mobility, including the use of community resources; and
  - (F) socialization skills and techniques, including communication;
- (4) developing and implementing policy and procedures for successfully delivering adult skills training to youth, using an approved curriculum for teaching independent living skills;
- (5) assisting in the provision of federally-mandated successful adulthood services that include coordinating with the assigned child welfare (CW) specialist to ensure:
  - (A) the life skills assessment is completed with each youth, 14 years of age and older, and implementing the plan produced by this assessment; and

- (B) each youth 14 years of age and older, attends one community contractor seminar each year; and
- (6) providing 24-hour on-call and on-site crisis intervention and behavior management services to each child, as needed.
- (c) Contracted Level B placements are provided in a setting licensed as a residential child care facility that is not located in a hospital, either medical or psychiatric, or a psychiatric residential treatment center.
- (d) The contractor:
  - (1) does not provide 24-hour awake supervision of children;
  - (2) may provide clothing for the child in Oklahoma Human Services (OKDHS) custody. Emergency clothing authorizations may be accessed per OAC 340:75-13-45;
  - (3) completes a written incident report describing any extreme behavioral incident or major rule violation, including the contractor's response, submits the original to Child Welfare Services (CWS) Specialized Placements and Partnerships Unit program staff, a copy to the child's assigned CW specialist and CW facility liaison, and files a copy in the child's case record;
  - (4) meets the staffing guidelines defined in the OKDHS contract;
  - (5) complies with children's rights, per OAC 340:75-11-237;
  - (6) complies with all general requirements, per OAC 340:75-11-240; and
  - (7) provides placements of children at no cost to OKDHS for family-style living programs and non-funded, contracted Level B services.

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 21 Ok Reg 1385, eff 5-27-04 ; Amended at 22 Ok Reg 1270, eff 5-26-05 ; Amended at 26 Ok Reg 884, eff 5-15-09 ; Amended at 33 Ok Reg 1635, eff 9-15-16 ; Amended at 37 Ok Reg 1850, eff 9-15-20 ; Amended at 39 Ok Reg 1803, eff 9-15-22]

### **340:75-11-301. Children served in family-style living programs and non-funded, contracted Level B placements**

- (a) Children in Oklahoma Human Services (OKDHS) custody are provided a structured and supportive living environment that provides direction and guidance. Children appropriate for placement:
  - (1) demonstrate the ability to positively interact with adult caregivers and have limited, unsuccessful placements;
  - (2) agree to the placement;
  - (3) agree to attend the placement provider's identified place of worship in family-style living programs or non-funded group homes;
  - (4) demonstrate the ability to attend public school; and
  - (5) exhibit minimal behavioral or emotional problems.
- (b) In general, children served are male or female, 13 to 18 years of age. Exceptions to the age range may be made when keeping sibling groups together in placement, or maintaining a minor parent in OKDHS custody and his or her child together, with the agreement of the contractor and Child Welfare Services (CWS) Specialized Placements and Partnerships Unit (SPPU) program staff. Exceptions to the age range are documented by the child welfare (CW) facility liaison.

(c) Each family-style living program and non-funded Level B contractor serves a different target population.

(d) The placement provider and CW facility liaison screen referrals for appropriateness for the placement of children to family-style living programs and non-funded, Level B group homes.

(e) Referrals to family-style living programs and non-funded, Level B group homes are made by the assigned CW specialist through the CW facility liaison.

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 22 Ok Reg 1270, eff 5-26-05 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 33 Ok Reg 1635, eff 9-15-16 ; Amended at 37 Ok Reg 1850, eff 9-15-20 ; Amended at 39 Ok Reg 1803, eff 9-15-22]

**340:75-11-302. Responsibilities of Child Welfare (CW) county of jurisdiction worker for custody children placed in non-funded contracted Level B placements [REVOKED]**

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Revoked at 22 Ok Reg 1270, eff 5-26-05]

**340:75-11-303. Responsibilities of the liaison to non-funded contracted Level B placement providers [REVOKED]**

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Revoked at 22 Ok Reg 1270, eff 5-26-05]

**340:75-11-304. Funded contracted Level B placements [REVOKED]**

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 21 Ok Reg 1385, eff 5-27-04 ; Revoked at 22 Ok Reg 1270, eff 5-26-05]

**340:75-11-305. Custody children served in funded contracted Level B placements [REVOKED]**

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Revoked at 22 Ok Reg 1270, eff 5-26-05]

**340:75-11-306. Responsibilities of Child Welfare (CW) county of jurisdiction worker for custody children placed in funded contracted Level B placements [REVOKED]**

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Revoked at 22 Ok Reg 1270, eff 5-26-05]

**340:75-11-307. Responsibilities of the liaison to funded contracted Level B placement providers [REVOKED]**

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Revoked at 22 Ok Reg 1270, eff 5-26-05]

## **PART 27. RESIDENTIAL MATERNITY SERVICES**

### **340:75-11-320. Non-funded and funded contracted residential maternity services placements**

(a) Contracted residential maternity services placements provide residential care and treatment for pregnant youth in Oklahoma Department of Human Services (DHS) custody or tribal custody, regardless of age. The youth may return to the residential maternity services placement postpartum not to exceed 45-calendar days, except with the Child Welfare Services (CWS) Specialized Placements and Partnerships Unit (SPPU) approval.

(b) Children served are pregnant youth in DHS custody or tribal custody, regardless of age, who require a supportive living environment with direction and guidance and whose needs exceed foster family care due to difficulty in sustaining relationships with parental figures.

(c) Youth behaviors that are not appropriate for residential maternity services are violence, aggressiveness, destructive behavior to self, others, or property, engagement in criminal or delinquent acts, or other behaviors requiring intensive supervision and services.

(d) Non-funded and funded contracted residential maternity services for pregnant youth include:

(1) group therapy, as needed, that focuses on maintenance issues and daily living skills;

(2) individual treatment, as needed;

(3) parenting skills training to enhance the youth's capability to function as a parent. A specific plan for the delivery of those services is delineated in the contractor's written policy;

(4) active teaching and redevelopment of the youth's basic living and social skills. At minimum, the focus is on the restoration of skills for:

(A) personal health and hygiene;

(B) maintenance of the living environment, including food preparation;

(C) money management;

(D) job skills readiness, acquisition, and retention;

(E) community awareness and mobility, including the use of community resources; and

(F) socialization skills and techniques, including communication;

(5) developing and implementing policy and procedures for the delivery of successful adulthood skills training, using an approved curriculum for teaching successful adulthood skills;

(6) assisting in the provision of federally mandated successful adulthood services that include coordinating with the assigned child welfare (CW) specialist to ensure:

(A) the life skills assessment is completed with each youth 14 years of age or older and the successful adulthood plan produced by this assessment is implemented; and

- (B) each youth 14 years of age or older attends one community contractor successful adulthood seminar each year;
  - (7) ensuring the youth applies for Medicaid upon his or her 18th birthday, when the youth remains in placement in voluntary care to complete secondary education per Oklahoma Administrative Code (OAC) 340:75-6-110;
  - (8) providing 24-hour on-call and on-site crisis intervention and behavior management services, as needed;
  - (9) arranging prenatal, delivery, and postpartum care for the youth by a local physician or clinic; and
  - (10) ensuring a licensed dietitian or nutritionist is on staff or available as a consultant in menu planning that meets the United States Department of Agriculture or Oklahoma State Department of Health standards for pregnant teenagers or adult women.
- (e) The youth may be eligible for an emergency clothing authorization for maternity clothing after initial placement in a funded, maternity residential services placement and quarterly emergency clothing authorizations when the youth is placed in a non-funded, maternity residential services placement, per OAC 340:75-13-45.
- (f) When the youth is in the Home Bound educational program, the contractor provides additional educational services at a minimum of two hours per day during the school term.
- (g) Contracted residential maternity services placements are provided in a setting licensed as a child-placing agency or residential child care facility that is not located in a hospital, either medical or psychiatric, or a psychiatric residential treatment center.
- (h) The contractor:
- (1) does not provide 24-hour awake supervision of children in placement;
  - (2) completes a written incident report describing any extreme behavioral incident or major rule violation, including the contractor's response, submits the original to CWS SPPU program staff, a copy to the assigned CW specialist, CW facility liaison, and files a copy in the child's case record;
  - (3) meets the staffing guidelines defined in the DHS contract;
  - (4) complies with a child's rights per OAC 340:75-11-237;
  - (5) complies with all general requirements per OAC 340:75-11-240;
  - (6) maintains documentation for funded programs of each child's unapproved absence from the program and leave days set forth in the contract and reports leave days on Form 04CB002E, CWS Claim for Purchase of Residential Care;
  - (7) is paid by DHS for funded programs at a fixed daily rate, based upon actual utilization. The fixed daily rate is a blend of Title IV-E funds, per eligibility of each child served, and state funds. The contractor submits Form 04CB002E for payment to CWS Contracting and Acquisition Unit; and
  - (8) receives referrals for the placement of youth from the assigned CW specialist through the CW facility liaison.



[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 21 Ok Reg 1385, eff 5-27-04 ; Amended at 22 Ok Reg 1270, eff 5-26-05 ; Amended at 26 Ok Reg 884, eff 5-15-09 ; Amended at 33 Ok Reg 477, eff 2-29-16 (emergency); Amended at 34 Ok Reg 1550, eff 9-15-17]

**340:75-11-321. Placements for infants of youth in non-funded and funded, contracted residential maternity services**

- (a) Infants served are the newborn infants whose mothers are in Oklahoma Department of Human Services (DHS) custody and in the residential maternity services placement.
- (b) The infant is accompanied in care by his or her mother and the length of stay does not exceed 45-calendar days, except with the approval of the Child Welfare Services (CWS) Specialized Placements and Partnerships Unit.
- (c) The contractor provides residential maternity services for infants in care that include:
  - (1) a separate, suitable bed in a room shared with his or her mother. No other adults or children share the room with the mother and infant;
  - (2) child care equipment, including bedding, high chairs, when needed, car seats, appropriate toys, and furniture;
  - (3) clothing;
  - (4) all food, formula, diapers, and personal hygiene items; and
  - (5) pediatric care. Prior consultation and consent from infant's mother is required for any medical procedure.
- (d) The contractor documents the interaction between the mother and the infant in the child's case record.
- (e) The funded contractor is:
  - (1) paid by DHS at a fixed daily rate, based upon actual utilization. The fixed daily rate is a blend of Title IV-E funds, per eligibility of each child served, and state funds; and
  - (2) submits Form 04CB002E, CWS Claim for Purchase of Residential Care, for payment to the CWS Contracting and Acquisition Unit.

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 22 Ok Reg 1270, eff 5-26-05 ; Amended at 26 Ok Reg 884, eff 5-15-09 ; Amended at 33 Ok Reg 1635, eff 9-15-16]

**340:75-11-322. Responsibilities of the assigned child welfare (CW) specialist and CW facility liaison for children in contracted residential maternity services placements**

- (a) The assigned CW specialist has responsibilities for children in Oklahoma Department of Human Services custody placed in contracted residential maternity services placements.
- (b) The CW facility liaison to contracted residential maternity services placement providers has specific duties and responsibilities.

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 22 Ok Reg 1270, eff 5-26-05 ; Amended at 33 Ok Reg 1635, eff 9-15-16]

**340:75-11-323. Responsibilities of the liaison to contracted residential maternity services placement providers [REVOKED]**

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Revoked at 22 Ok Reg 1270, eff 5-26-05]

**PART 29. CONTRACTED LEVEL C QUALIFIED RESIDENTIAL TREATMENT PROGRAMS (QRTP)**

**340:75-11-330. Contracted Level C qualified residential treatment programs (QRTP) and children served**

(a) Contracted Level C QRTP are equivalent to foster home care for children requiring a home-like environment.

(b) Contracted Level C services include:

- (1) structured group treatment, a minimum of one hour per week for each child;
- (2) individual treatment for each child, as needed;
- (3) family time;
- (4) family treatment, when deemed appropriate by the contractor and the assigned child welfare (CW) specialist;
- (5) active teaching and redevelopment of the child's basic living and social skills, both on-site and in the community. At minimum, the focus is on the restoration of skills for:
  - (A) personal health and hygiene;
  - (B) maintenance of the living environment, including food preparation;
  - (C) money management;
  - (D) job skills readiness, acquisition, and retention;
  - (E) community awareness and mobility, including the use of community resources; and
  - (F) socialization skills and techniques, including communication;
- (6) developing and implementing policy and procedures to successfully deliver adulthood skills training to youth, using an approved teaching curriculum;
- (7) assisting in the provision of federally mandated services that include coordinating with the assigned CW specialist to ensure:
  - (A) the life skills assessment is completed with each youth 14 years of age and older and implementing the successful adulthood plan produced by this assessment; and
  - (B) each youth 14 years of age and older attends one successful adulthood community contractor seminar each year;
- (8) ensuring the youth applies for Medicaid upon his or her 18th birthday, when the youth remains in placement in voluntary care to complete his or her secondary education per Oklahoma Administrative Code (OAC) 340:75-6-110;

- (9) substance use or abuse or chemical dependency therapy within a group or individual counseling or therapy sessions for each child, as needed;
  - (10) behavior redirection 24-hours a day, seven days a week to meet the goals and objectives of the treatment plan and respond to any behavioral crisis of the child. The contractor ensures staff are available to respond in a crisis to stabilize the child's behavior and prevent placement disruption; and
  - (11) 24-hour, on-call and on-site crisis intervention and behavior management services to each child, as needed. Emergency or crisis intervention services include face-to-face encounters with the child to resolve acute emotional dysfunction by providing intervention resolution and stabilizing functions through triage screening, planning, and documentation.
- (c) Contracted Level C QRTP are provided in a setting licensed as a residential child care facility not located in a hospital, either medical or psychiatric, or psychiatric residential treatment center.
- (d) The Level C contractor:
- (1) provides clothing after a child's initial placement. Emergency clothing authorizations may be accessed per OAC 340:75-13-45;
  - (2) maintains documentation of each child's unapproved absence from the program and leave days defined in the contract and reports leave days on Form 04CB002E, CWS Claim for Purchase of Residential Care;
  - (3) is paid by Oklahoma Human Services at a fixed daily rate. The fixed daily rate is a blend of Title IV-E per eligibility of each child served and state funds; and
  - (4) submits Form 04CB002E for payment to the Child Welfare Services (CWS) Contracting and Acquisition Unit.
- (e) Children served in Level C QRTP.
- (1) The primary goal of services is the remediation of mild to moderate behavioral health conditions through a focus on daily living issues rather than clinical interventions.
  - (2) Level C contractors provide services to children, 13 to 18 years of age, whose behavioral health conditions, such as impulse control disorders, result in actions that may include, but are not limited to:
    - (A) minor criminal offenses;
    - (B) difficulty in school;
    - (C) verbal aggression;
    - (D) issues with peer interaction;
    - (E) defiance with authority figures;
    - (F) infrequent runaway behavior; or
    - (G) a few unsuccessful placements in a family setting.
  - (3) The Level C contractor receives referrals of children for placement from the CWS Specialized Placements and Partnerships Unit.

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 21 Ok Reg 1385, eff 5-27-04 ; Amended at 22 Ok Reg 1270, eff 5-26-05 ; Amended at 26 Ok Reg 884, eff 5-15-09 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 33 Ok Reg 1635, eff 9-15-16 ; Amended at 39 Ok Reg 468, eff 12-21-21

(emergency); Amended at 39 Ok Reg 1803, eff 9-15-22]

**340:75-11-331. Custody children served in non-funded Level C placements [REVOKED]**

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Revoked at 22 Ok Reg 1270, eff 5-26-05]

**340:75-11-332. Responsibilities of Child Welfare (CW) county of jurisdiction worker for custody children placed in non-funded contracted Level C placements [REVOKED]**

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Revoked at 22 Ok Reg 1270, eff 5-26-05]

**340:75-11-333. Responsibilities of the liaison to non-funded contracted Level C placement providers [REVOKED]**

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Revoked at 22 Ok Reg 1270, eff 5-26-05]

**340:75-11-334. Funded Level C placements [REVOKED]**

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 21 Ok Reg 1385, eff 5-27-04 ; Revoked at 22 Ok Reg 1270, eff 5-26-05]

**340:75-11-335. Custody children served in funded Level C placements [REVOKED]**

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Revoked at 22 Ok Reg 1270, eff 5-26-05]

**340:75-11-336. Responsibilities of Child Welfare (CW) county of jurisdiction worker for custody children placed in funded contracted Level C placements [REVOKED]**

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Revoked at 22 Ok Reg 1270, eff 5-26-05]

**340:75-11-337. Responsibilities of the liaison to funded contracted Level C placement providers [REVOKED]**

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Revoked at 22 Ok Reg 1270, eff 5-26-05]

**PART 31. CONTRACTED LEVEL D PLACEMENTS**

**340:75-11-350. Contracted Level D placements and children served**

- (a) Contracted Level D placements are designed to serve the special needs of children, 13 to 17 years of age, in Oklahoma Department of Human Services (DHS) custody, with emotional disorders who are certified as developmentally disabled by Developmental Disabilities Services (DDS).
- (b) The placement of children who are adjudicated deprived and certified as developmentally disabled in Level D facilities is a joint decision made by the Child Welfare Services (CWS) programs supervisor or liaison to DDS and DDS programs manager for Residential Services.
- (c) Providers of Level D placements are under contract with both CWS and DDS.
- (d) Contractors receive referrals for children who are adjudicated deprived and certified as developmentally disabled from the DDS programs manager.
- (e) Level D contracted services include:
  - (1) structured group therapy, a minimum of one hour per week for each child;
  - (2) individual therapy, a minimum of one hour per week for each child;
  - (3) family visitation, when the case plan is reunification;
  - (4) family therapy, when deemed appropriate by the county of jurisdiction assigned child welfare (CW) specialist;
  - (5) substance use or abuse or chemical dependency therapy within a group or individual counseling or therapy session for each child, as needed;
  - (6) crisis intervention and behavior management services, as indicated in each child's DDS Individualized Plan and in compliance with Oklahoma Administrative Code (OAC) 340:100-5-57. Emergency or crisis intervention services include face-to-face encounters with the child to resolve acute emotional dysfunction by providing intervention resolution and stabilizing functions through triage screening, planning, and documentation;
  - (7) staff available to respond in a crisis to stabilize a child's behavior and prevent placement disruption, 24-hours a day, seven-calendar days per week;
  - (8) active teaching and redevelopment of the child's basic living skills. At minimum, the focus is on the restoration of skills for:
    - (A) personal health and hygiene;
    - (B) maintenance of the living environment, including food preparation;
    - (C) money management;
    - (D) job skills readiness, acquisition, and retention;
    - (E) community awareness and mobility, including the use of community resources; and
    - (F) socialization skills and techniques, including communication;
  - (9) developing and implementing policy and procedures for delivery of successful adulthood skills training to youth, using an approved curriculum for teaching successful adulthood skills; and
  - (10) providing 24-hour awake supervision of children.
- (f) The contractor:

- (1) complies with Part 105 of OAC 317:30-5 for residential behavior management services in group settings and non-secure diagnostic and evaluation centers;
- (2) provides clothing after initial placement of a child. Emergency funds for clothing may be accessed per OAC 340:75-13-45;
- (3) complies with group home regulations per OAC 340:100-6;
- (4) completes a written incident report describing any extreme behavioral incident or major rule violation, including the contractor's response, submits a copy to the child's county of jurisdiction CW specialist, and DDS case manager, and files the original in the child's case record;
- (5) meets the staffing guidelines set forth in the DHS contract and OAC 340:100-6;
- (6) complies with children's rights per OAC 340:75-11-237;
- (7) complies with all general requirements per OAC 340:75-11-240;
- (8) maintains documentation of each child's unapproved absences for the program and leave days set forth in the contract and reports leave days on Form 04CB002E, CWS Claim for Purchase of Residential Care;
- (9) is reimbursed guaranteed payment by CWS for the total number of beds specified in the contract;
- (10) is paid by DHS at a fixed daily rate. The fixed daily rate is a blend of Title IV-E and Title XIX federal funds, per eligibility of each child served, and state funds; and
- (11) submits Form 04CB002E for payment to CWS Contracting and Acquisition Unit.

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 22 Ok Reg 1270, eff 5-26-05 ; Amended at 26 Ok Reg 884, eff 5-15-09 ; Amended at 33 Ok Reg 1635, eff 9-15-16]

### **340:75-11-351. Custody children served in contracted Level D placements [REVOKED]**

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Revoked at 22 Ok Reg 1270, eff 5-26-05]

### **340:75-11-352. Responsibilities of Child Welfare (CW) county of jurisdiction worker for custody children placed in contracted Level D placements [REVOKED]**

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Revoked at 22 Ok Reg 1270, eff 5-26-05]

### **340:75-11-353. Responsibilities of the liaison to contracted Level D placement providers [REVOKED]**

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Revoked at 22 Ok Reg 1270, eff 5-26-05]

## **PART 33. CONTRACTED LEVEL D PLUS AND LEVEL E QUALIFIED RESIDENTIAL TREATMENT PROGRAMS (QRTP)**

### **340:75-11-360. Contracted Level D plus (+) qualified residential treatment programs (QRTP)**

(a) Contracted Level D+ services include:

- (1) structured group therapy, a minimum of two hours per week for each child;
- (2) individual therapy, a minimum of one hour per week for each child;
- (3) family time;
- (4) family therapy;
- (5) substance use, abuse, or chemical dependency therapy within a group or individual counseling or therapy session for each child, as needed;
- (6) psychological or psychiatric intervention for each child through direct contact with a psychologist or psychiatric consultant or the contractor's designated therapy counseling staff;
- (7) behavior redirection 24-hours a day, seven days a week to ensure safety, meet the goals and objectives of the treatment plan, and respond to any behavioral crisis of the child. The contractor ensures that staff is available to respond in a crisis to stabilize the child's behavior and prevent placement disruption;
- (8) active teaching and redevelopment of the child's basic living and social skills, both on-site and in the community. At minimum, the focus is on the restoration of skills for:
  - (A) personal health and hygiene;
  - (B) maintenance of the living environment, including food preparation;
  - (C) money management;
  - (D) job skills readiness, acquisition, and retention;
  - (E) community awareness and mobility, including the use of community resources; and
  - (F) socialization skills and techniques, including communication;
- (9) developing and implementing policy and procedures to successfully deliver adulthood skills training to youth, using an approved curriculum for teaching successful adulthood skills;
- (10) assisting in the provision of federally mandated successful adulthood services that include coordinating with the assigned child welfare (CW) specialist to ensure:
  - (A) the life skills assessment is completed with each youth 14 years of age and older, and implementing the successful adulthood plan produced by this assessment;and

(B) each youth 14 years of age and older attends one community contractor successful adulthood seminar each year;

(11) providing 24-hour awake supervision of each child;

(12) providing 24-hour on-call and on-site crisis intervention and behavior management services to each child, as needed.

Emergency or crisis intervention services include face-to-face encounters with the child to resolve acute emotional dysfunction by providing intervention resolution and stabilizing functions through triage screening, planning, and documentation;

(13) providing recreation services for each child;

(14) providing schooling according to the school district where each child is located, and as agreed upon by the child's educational team. The child's educational team is comprised of the local education agency, contractor, CW specialist, and education surrogate;

(15) operating with a trauma-informed treatment model;

(16) providing transition services throughout the child's placement episode; and

(17) providing post-discharge support to each child and his or her family.

(b) Contracted Level D+ QRTP are accredited by a federally-approved, independent, not-for-profit accrediting organization and are provided in a setting licensed as a residential child care facility that is not located in a hospital, either medical or psychiatric, or psychiatric residential treatment center.

(c) The contractor:

(1) complies with Part 105 of Oklahoma Administrative Code (OAC) 317:30-5 for residential behavior management services in group settings;

(2) provides clothing after the child's initial placement.

Emergency funds for clothing may be accessed, per OAC 340:75-13-45;

(3) completes a written incident report describing any extreme behavioral incident or major rule violation, including the contractor's response. The contractor submits the original incident report to the Child Welfare Services (CWS) Specialized Placements and Partnerships Unit (SPPU), a copy to the assigned CW specialist and CW facility liaison, and files a copy in the child's case record;

(4) meets the staffing guidelines defined in the Oklahoma Human Services (OKDHS) contract;

(5) complies with a child's rights, per OAC 340:75-11-237;

(6) complies with all general requirements, per OAC 340:75-11-240;

(7) maintains documentation of each child's unapproved absence from the facility and leave days defined in the contract and reports leave days on Form 04CB002E, CWS Claim for Purchase of Residential Care;

(8) establishes a procedure to address and document a response to concerns in Level D+ QRTP that do not warrant a referral for



an abuse or neglect assessment or investigation. When documented efforts to address these issues do not remove the concerns, OKDHS has the right to impose adverse contract actions or decline use of the facility. Examples of this type of concern include, but are not limited to:

- (A) an employee's judgment or supervision;
- (B) disciplinary practices;
- (C) non-compliance with policy or contract;
- (D) unacceptable housing standards;
- (E) inadequate clothing provisions for the child; or
- (F) a lack of involvement in the child's education or independent living skills;

(9) is paid by OKDHS at a fixed daily rate for the total number of beds specified in the OKDHS contract. The fixed daily rate is a blend of Title IV-E and Title XIX federal funds, per eligibility of each child served, and state funds; and

(10) submits Form 04CB002E for payment to CWS Contracting and Acquisition Unit.

(d) Children served in Level D+ QRTP.

(1) The primary goal of Level D+ services is the remediation of emotional or behavioral disorders or behavioral problems through clinical interventions.

(2) Level D+ QRTP are less restrictive treatment intensive placements than Level E QRTP or psychiatric inpatient care and are available for children with severe emotional or behavioral disorders.

(3) Children served in Level D+ QRTP exhibit a wide range of severe emotional and behavioral disorders, per OAC 317:30-5-240.1, but are less physically or sexually aggressive than children served in Level E QRTP.

(4) Children served in D+ QRTP typically have a history of trauma that results in characteristics including, but not limited to:

- (A) risk of leaving placements without approval;
- (B) difficulty attending public school settings;
- (C) acts of aggression toward peers, property, and authority figures;
- (D) sexual behaviors, including sexual aggression;
- (E) substance use, abuse, or related needs;
- (F) severe delays in development;
- (G) verbal aggression;
- (H) difficulty with peer or adult relationships;
- (I) history of disruptions in attachment;
- (J) difficulties in emotional functioning and regulation;
- (K) multiple placement changes;
- (L) dual adjudication with the Office of Juvenile Affairs or a history of criminal activities;
- (M) inability to experience joy, happiness, and meaningful play or recreation; and
- (N) damage to trust, impaired relationships, and difficulty forming relationships and attachments to people.

(5) In general, children served are 13 to 18 years of age in Level D+ QRTP. Each contractor serves a specifically defined target population of children.

(6) The contractor receives referrals for the placement of children from CWS SPPU through the CW facility liaison.

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 21 Ok Reg 1385, eff 5-27-04 ; Amended at 22 Ok Reg 1270, eff 5-26-05 ; Amended at 26 Ok Reg 884, eff 5-15-09 ; Amended at 33 Ok Reg 477, eff 2-29-16 (emergency); Amended at 34 Ok Reg 1550, eff 9-15-17 ; Amended at 38 Ok Reg 2294, eff 9-15-21 ; Amended at 39 Ok Reg 468, eff 12-21-21 (emergency); Amended at 39 Ok Reg 1803, eff 9-15-22]

### **340:75-11-361. Custody children served in contracted Level D+ placements [REVOKED]**

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Revoked at 22 Ok Reg 1270, eff 5-26-05]

### **340:75-11-362. Responsibilities of Child Welfare (CW) county of jurisdiction worker for custody children placed in contracted Level D+ placements [REVOKED]**

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Revoked at 22 Ok Reg 1270, eff 5-26-05]

### **340:75-11-363. Responsibilities of the liaison to contracted Level D+ placement providers [REVOKED]**

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Revoked at 22 Ok Reg 1270, eff 5-26-05]

### **340:75-11-364. Contracted Level E qualified residential treatment programs (QRTP)**

(a) Contracted Level E services include:

- (1) structured group therapy, a minimum of two hours per week for each child;
- (2) individual therapy, a minimum of one hour per week for each child;
- (3) family time;
- (4) family therapy;
- (5) substance use, abuse, or chemical dependency therapy within a group or individual counseling or therapy session for each child, as needed;
- (6) psychological or psychiatric intervention for each child through direct contact with a psychologist or psychiatric consultant or the contractor's designated therapy counseling staff;
- (7) behavior redirection 24-hours a day, seven days a week to ensure safety, meet the treatment plan's goals and objectives, and respond to any behavioral crisis of the child. The contractor ensures that staff is available to respond in a crisis to stabilize the child's behavior and prevent placement disruption;

(8) active teaching and redevelopment of the child's basic living and social skills, both on-site and in the community. At minimum, the focus is on the restoration of skills for:

- (A) personal health and hygiene;
- (B) maintenance of the living environment, including food preparation;
- (C) money management;
- (D) job skills readiness, acquisition, and retention;
- (E) community awareness and mobility, including the use of community resources; and
- (F) socialization skills and techniques, including communication;

(9) developing and implementing policy and procedures to successfully deliver adulthood skills training to youth, using an approved curriculum for teaching successful adulthood skills;

(10) assisting in the provision of federally mandated successful adulthood services that include coordinating with the assigned child welfare (CW) specialist to ensure:

- (A) the life skills assessment is completed with each youth 14 years of age and older and implementing the successful adulthood plan produced by this assessment; and
- (B) each youth 14 years of age and older attends one community contractor successful adulthood seminar each year;

(11) providing 24-hour awake supervision of each child;

(12) providing 24-hour on-call and on-site crisis intervention and behavior management services to each child, as needed.

Emergency or crisis intervention services include face-to-face encounters with the child to resolve acute emotional dysfunction by providing intervention resolution and stabilizing functions through triage screening, planning, and documentation;

(13) providing recreation services with a recreation coordinator for each child;

(14) providing schooling according to the school district where the child is located and as agreed upon by the child's educational team. The child's educational team is comprised of the local education agency, contractor, CW specialist and education surrogate;

(15) operating with a trauma-informed treatment model;

(16) providing transition services throughout the child's placement episode; and

(17) providing post discharge support to each child and their family.

(b) Contracted Level E QRTP are accredited by a federally-approved, independent, not-for-profit accrediting organization and are provided in a setting licensed as a residential child care facility that is not located in a hospital, either medical or psychiatric, or psychiatric residential treatment center.

(c) The contractor:

- (1) complies with Part 105 of Oklahoma Administrative Code (OAC) 317:30-5 for residential behavior management services in

group settings;

(2) provides clothing, after the child's initial placement.

Emergency funds for clothing may be accessed, per OAC 340:75-13-45;

(3) completes a written incident report describing any extreme behavioral incident or major rule violation, including the contractor's response. The contractor submits the original incident report to the Child Welfare Services (CWS) Specialized Placements and Partnerships Unit (SPPU), submits a copy to the assigned CW specialist and CW facility liaison, and files a copy in the child's case record;

(4) meets the staffing guidelines defined in the Oklahoma Human Services (OKDHS) contract;

(5) complies with a child's rights, per OAC 340:75-11-237;

(6) complies with all general requirements, per OAC 340:75-11-240;

(7) maintains documentation of each child's unapproved absence from the facility and leave days defined in the contract and reports leave days on Form 04CB002E, CWS Claim for Purchase of Residential Care;

(8) establishes a procedure to address and document a response to concerns in Level E QRTP that do not warrant a referral for an abuse or neglect assessment or investigation. When documented efforts to address these issues do not remove the concerns, OKDHS has the right to impose adverse contract actions or decline use of the facility. Examples of this type of concern include, but are not limited to:

(A) an employee's judgment or supervision;

(B) disciplinary practices;

(C) non-compliance with policy or contract;

(D) unacceptable housing standards;

(E) inadequate clothing provisions for the child; or

(F) a lack of involvement in the child's education or independent living skills;

(9) is paid by OKDHS at a fixed daily rate for the total number of beds specified in the OKDHS contract. The fixed daily rate is a blend of Title IV-E and Title XIX federal funds, per eligibility of each child served, and state funds; and

(10) submits Form 04CB002E for payment to CWS Contracting and Acquisition Unit.

(d) Children served in Level E QRTP.

(1) The primary goal of Level E services is the remediation of emotional or behavioral disorders or behavioral problems through clinical interventions.

(2) Children served in Level E QRTP exhibit a wide range of severe emotional and behavioral disorders as described in OAC 317:30-5-240.1.

(3) Children served typically have a history of trauma that results in some of, but not limited to, the following characteristics:

(A) high risk of leaving placements without approval;

(B) difficulty attending public school settings;

(C) acts of violence and aggression toward peers, property, and authority figures;  
(D) sexual behaviors, including sexual aggression and sexually predatory behavior;  
(E) substance use or related needs;  
(F) severe delays in development;  
(G) verbal aggression;  
(H) difficulty with peer or adult relationships;  
(I) history of disruptions in attachment;  
(J) difficulties in emotional functioning and regulation;  
(K) multiple placement changes;  
(L) dual adjudication with the Office of Juvenile Affairs or a history of criminal activities;  
(M) inability to experience joy, happiness, and meaningful play or recreate; and  
(N) damage to trust, impaired relationships, and difficulty forming relationships and attachments to people.

(4) Level E placements are the most restrictive treatment intensive placements available for children outside of a psychiatric facility.

(5) In general, children served in Level E QRTP are 13 to 18 years of age. Each contractor serves a specifically defined target population of children.

(6) The contractor receives referrals for the placement of children from CWS SPPU through the CW facility liaison.

(e) Children served in Level E QRTP designated for victims of sexual exploitation.

(1) The primary goal of a Level E QRTP designated for victims of sexual exploitation is to address the unique needs of survivors, assist victims in gaining an understanding of the victimization process, empower survivors, and prepare children for reintegration into a family or a successful adulthood living environment.

(2) Services provided in designated Level E QRTP for victims of sexual exploitation include a protected environment, specified cognitive behavioral therapy, individualized therapeutic services, and positive behavioral supports.

(3) Per Section 1-9-123 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-9-123), OKDHS immediately reports to law enforcement no later than 24 hours after receiving information on a child or youth who was identified as a sex trafficking victim, per 10A O.S. § 1-1-105.

(f) Level E QRTP with enhanced support, known as Level E Enhanced, serve the individualized treatment and supervision needs of children who meet Level E criteria and who can benefit from an enhanced supervision ratio and special programming. Level E Enhanced services include all services listed in subsection (a) of this Section, with the addition of a higher level of staffing ratio than the traditional Level E, to meet the unique needs of the children served.

(g) Level E QRTP with increased psychiatric supports, known as Level E plus (+), serve the individualized needs of children who meet traditional

level E criteria and who can benefit from additional psychiatric services.

(1) Level E+ has five major goals for children:

- (A) reducing inpatient psychiatric hospitalizations;
- (B) stabilizing children who are experiencing significant mental health issues;
- (C) teaching children new skills to meet their needs;
- (D) preparing and planning for the child to live in a less restrictive environment, such as a family-like setting; and
- (E) providing child safety through 24-hour awake intensive supervision.

(2) Level E+ services include all services listed in subsection (a) of this Section with the addition of:

- (A) weekly psychiatric treatment;
- (B) completion of a psychological evaluation within five-business days of a child's placement; and
- (C) treatment plan updates every 30-calendar days.

[Source: Added at 39 Ok Reg 468, eff 12-21-21 (emergency); Added at 39 Ok Reg 1803, eff 9-15-22]

## **PART 35. CONTRACTED LEVEL E PLACEMENTS [REVOKED]**

### **340:75-11-370. Contracted Level E placements [REVOKED]**

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 21 Ok Reg 1385, eff 5-27-04 ; Revoked at 22 Ok Reg 1270, eff 5-26-05]

### **340:75-11-371. Custody children served in contracted Level E placements [REVOKED]**

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Revoked at 22 Ok Reg 1270, eff 5-26-05]

### **340:75-11-372. Responsibilities of Child Welfare (CW) county of jurisdiction worker for custody children placed in contracted Level E placements [REVOKED]**

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Revoked at 18 Ok Reg 2128, eff 6-11-01]

### **340:75-11-373. Responsibilities of the liaison to contracted Level E placement providers [REVOKED]**

[Source: Added at 18 Ok Reg 680, eff 1-10-01 (emergency); Added at 18 Ok Reg 2128, eff 6-11-01 ; Revoked at 22 Ok Reg 1270, eff 5-26-05]

## **SUBCHAPTER 12. OKDHS OPERATED GROUP HOMES [REVOKED]**

### **340:75-12-1. General description [REVOKED]**

[Source: Added at 19 Ok Reg 1160, eff 5-13-02 ; Amended at 21 Ok Reg 2374, eff 6-25-04 ; Revoked at 36 Ok Reg 1856, eff 9-16-19]

### **340:75-12-2. Legal base [REVOKED]**

[Source: Added at 19 Ok Reg 1160, eff 5-13-02 ; Revoked at 36 Ok Reg 1856, eff 9-16-19]

### **340:75-12-3. Medical services [REVOKED]**

[Source: Added at 19 Ok Reg 1160, eff 5-13-02 ; Revoked at 36 Ok Reg 1856, eff 9-16-19]

### **340:75-12-4. Preparation for adult life [REVOKED]**

[Source: Added at 19 Ok Reg 1160, eff 5-13-02 ; Revoked at 36 Ok Reg 1856, eff 9-16-19]

### **340:75-12-5. Behavior management of residents [REVOKED]**

[Source: Added at 19 Ok Reg 1160, eff 5-13-02 ; Revoked at 36 Ok Reg 1856, eff 9-16-19]

### **340:75-12-6. Searches [REVOKED]**

[Source: Added at 19 Ok Reg 1160, eff 5-13-02 ; Revoked at 36 Ok Reg 1856, eff 9-16-19]

### **340:75-12-7. Resident rights [REVOKED]**

[Source: Added at 19 Ok Reg 1160, eff 5-13-02 ; Revoked at 36 Ok Reg 1856, eff 9-16-19]

### **340:75-12-8. Resident mail and phone communication [REVOKED]**

[Source: Added at 19 Ok Reg 1160, eff 5-13-02 ; Revoked at 36 Ok Reg 1856, eff 9-16-19]

### **340:75-12-9. Resident funds [REVOKED]**

[Source: Added at 19 Ok Reg 1160, eff 5-13-02 ; Revoked at 36 Ok Reg 1856, eff 9-16-19]

### **340:75-12-10. Education and employment [REVOKED]**

[Source: Added at 19 Ok Reg 1160, eff 5-13-02 ; Revoked at 36 Ok Reg 1856, eff 9-16-19]

### **340:75-12-11. Absent without leave [REVOKED]**

[Source: Added at 19 Ok Reg 1160, eff 5-13-02 ; Revoked at 36 Ok Reg 1856, eff 9-16-19]

### **340:75-12-12. Use of physical force [REVOKED]**

[Source: Added at 19 Ok Reg 1160, eff 5-13-02 ; Revoked at 36 Ok Reg 1856, eff 9-16-19]

### **340:75-12-13. Maltreatment of group home residents [REVOKED]**

[Source: Added at 19 Ok Reg 1160, eff 5-13-02 ; Revoked at 36 Ok Reg 1856, eff 9-16-19]

### **340:75-12-14. Resident grievances [REVOKED]**

[Source: Added at 19 Ok Reg 1160, eff 5-13-02 ; Revoked at 36 Ok Reg 1856, eff 9-16-19]

### **340:75-12-15. Emergency plans [REVOKED]**

[Source: Added at 19 Ok Reg 1160, eff 5-13-02 ; Revoked at 36 Ok Reg 1856, eff 9-16-19]

### **340:75-12-16. Discharge [REVOKED]**

[Source: Added at 19 Ok Reg 1160, eff 5-13-02 ; Revoked at 36 Ok Reg 1856, eff 9-16-19]

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

### **PART 1. ELIGIBILITY FOR SUBSTITUTE CARE SERVICES AND CLAIMS FOR PAYMENT**

#### **340:75-13-1. Substitute care payments [REVOKED]**

[Source: Amended at 10 Ok Reg 3987, eff 7-13-93 (emergency); Amended at 11 Ok Reg 1733, eff 5-12-94 ; Revoked at 15 Ok Reg 1457, eff 4-1-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

#### **340:75-13-2. Child Welfare funds (Title IV-B) [REVOKED]**

[Source: Amended at 10 Ok Reg 3987, eff 7-13-93 (emergency); Amended at 11 Ok Reg 1733, eff 5-12-94 ; Revoked at 15 Ok Reg 1457, eff 4-1-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

#### **340:75-13-3. Initial eligibility for AFDC foster care funds [REVOKED]**

[Source: Revoked at 15 Ok Reg 1457, eff 4-1-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

#### **340:75-13-4. Eligibility factors [REVOKED]**

[Source: Amended at 10 Ok Reg 3987, eff 7-13-93 (emergency); Amended at 11 Ok Reg 505, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1733, eff 5-12-94 ; Revoked at 15 Ok Reg 1457, eff 4-1-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

#### **340:75-13-5. Continued eligibility for AFDC foster care funds [REVOKED]**



[Source: Amended at 10 Ok Reg 3987, eff 7-13-93 (emergency); Amended at 11 Ok Reg 505, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1733, eff 5-12-94 ; Revoked at 15 Ok Reg 1457, eff 4-1-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

### **340:75-13-6. Eligibility for AFDC upon return to own home [REVOKED]**

[Source: Revoked at 15 Ok Reg 1457, eff 4-1-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

### **340:75-13-7. Allowance claims**

(a) Allowance funds are transferred from the Child Welfare Services (CWS) operating fund to client trust accounts utilizing Form 10AD012E, Claim Form, for the child in:

- (1) Oklahoma Department of Human Services (DHS) custody; and
- (2) an out-of-home placement, including Indian boarding schools, that provide a monthly allowance for the child's use.

(b) Forms 10AD012E and 10CL017E, Claim Code Slip, reflecting location code 95077 for children in unfunded group home placements, or location code 95078 for children in DHS-operated group homes, are submitted to the DHS Financial Services Trust Account Unit.

(c) The Financial Services Trust Account Unit processes Form 10AD012E and transfers funding from the CWS operating fund to the DHS Fund 700 Trust Account. Each month, the facility submits Forms 10AD012E and 10CL017E to the Financial Services Trust Account Unit to request an allowance for children in DHS custody and in the facility's care. Procedures for disbursing allowances are described in Oklahoma Administrative Code 340:2-11-86.

[Source: Amended at 10 Ok Reg 3987, eff 7-13-93 (emergency); Amended at 11 Ok Reg 1733, eff 5-12-94 ; Amended at 15 Ok Reg 1457, eff 1-4-98 (emergency); Amended at 16 Ok Reg 1052, eff 4-26-99 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 37 Ok Reg 1850, eff 9-15-20]

### **340:75-13-8. Students at Schools for the Deaf and the Blind**

Boarding home care is paid at the fixed daily rate while the child in Oklahoma Department of Human Services (DHS) custody is in a foster home during school holidays or weekends, except during the summer vacation when it is paid at the monthly rate.

- (1) Murray County DHS is the liaison county for the School for the Deaf; and
- (2) Muskogee County DHS is the liaison county for the School for the Blind.

(A) The primary child welfare (CW) specialist is responsible for notifying Muskogee or Murray County, as appropriate, of the child's placement and the need for assigning a secondary responsibility to the child's KIDS case.

(B) All inquiries or replies to inquiries are sent to the appropriate county and not directly to the respective school.

[Source: Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 37 Ok Reg 1850, eff 9-15-20]

### **340:75-13-9. Birth verification**

. Child Welfare Services Birth Certificate staff obtains birth certificates through an automated application to the Department of Vital Records (DVR).

[Source: Amended at 10 Ok Reg 3987, eff 7-13-93 (emergency); Amended at 11 Ok Reg 505, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1733, eff 5-12-94 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 25 Ok Reg 970, eff 5-15-08 ; Amended at 34 Ok Reg 1550, eff 9-15-17 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:75-13-10. Social Security number**

A SSN is required by federal regulations for anyone applying for Medicaid coverage. Form SS-5, Application for Social Security Number, is completed and submitted to the local Social Security Administration office by the Child Welfare worker for the child in the legal custody of Oklahoma Department of Human Services in out-of-home care;

- (A) who does not have a Social Security number (SSN);
- (B) whose SSN cannot be obtained from family resources; or
- (C) for whom the OKDHS Information Management System (IMS) does not show a verified SSN.

[Source: Added at 15 Ok Reg 1457, eff 4-1-98 (emergency); Amended at 16 Ok Reg 1052, eff 4-26-99 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 26 Ok Reg 884, eff 5-15-09]

## **PART 2. TITLE IV-E ELIGIBILITY AND REIMBURSABILITY**

### **340:75-13-11. Title IV-E of the Social Security Act**

(a) **Legal base.** Title IV-E (IV-E) was originally enacted as part of the Adoption Assistance and Child Welfare Act of 1980, and later amended by the Adoption and Safe Families Act, (ASFA) of 1997, Public Law 105-89, Sections 620 through 679 of Title 42 of the United States Code. ASFA was enacted to address the nationwide problem of children remaining removed from their homes and in out-of-home care for many years with no permanent plan.

- (1) These laws require that a child be removed from his or her home only when continuation in the home is contrary to the child's welfare and, unless an emergency exists, reasonable efforts be made to prevent the child's removal.
- (2) When a child is removed, reasonable efforts must be made to finalize the permanency plan adopted by the court.
- (3) Judicial determinations or findings must be made on a case-by-case basis and reflect the actions and efforts by the State. In those cases where reasonable efforts to prevent removal or reunify are not required, the court must hold a permanency hearing within 30 days of such finding.

(b) **Purpose.** To assist states in compliance with federal law, funds were made available through IV-E of the federal Social Security Act to reimburse the states for a percentage of the cost of:

- (1) certain administrative and training activities;
- (2) room, board, and basic supervision for children in out-of-home care; and
- (3) recurring and non-recurring adoption assistance for eligible children.

[Source: Added at 15 Ok Reg 1457, eff 1-4-98 (emergency); Added at 16 Ok Reg 1052, eff 4-26-99 ; Amended at 19 Ok Reg 561, eff 12-20-01 ; Amended at 22 Ok Reg 1270, eff 5-26-05]

### **340:75-13-12. Title IV-E applications for children in OKDHS or tribal custody**

Custody specialists process applications for Title IV-E eligibility and determine Title IV-E eligibility for children in Oklahoma Human Services (OKDHS) custody or in the custody of Indian tribes that have a contractual agreement with OKDHS for payment of foster care services.

[Source: Added at 15 Ok Reg 1457, eff 4-1-98 (emergency); Added at 16 Ok Reg 1052, eff 4-26-99 ; Amended at 22 Ok Reg 1270, eff 5-26-05 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:75-13-13. Title IV-E eligibility criteria**

A child is determined eligible for Title IV-E when paragraphs (1) and (2) are present.

(1) **Legal status.** The child's removal or placement is the result of a:

(A) court finding, determined on a case-by-case basis documented in a court order that:

(i) continuation in the home is contrary to the child's welfare, or that the placement is in the child's best interests, or language to that effect, per Oklahoma Administrative Code (OAC) 340:75-3-300.

(I) The finding is made in the first court order that sanctions the child's removal from the home.

(II) Failure to include this finding in the first court order results in a determination of ineligibility for Title IV-E foster care reimbursement for the duration of the child's stay in out-of-home care; and

(ii) prior to the placement of the child in out-of-home care, reasonable efforts were made to prevent the removal from the home, or reasonable efforts were not required due to an emergency, per Section 1-4-201 of Title 10A of the Oklahoma Statutes and OAC 340:75-1-16.

(I) The determination is made no later than 60-calendar days from the date of the

child's removal from the home.

(II) Failure to include this finding within 60-calendar days of the child's removal results in a determination of ineligibility for the duration of the child's stay in out-of-home care; or

(B) voluntary consent with a signed written agreement between Oklahoma Human Services (OKDHS) or a tribe and the child's parent or legal guardian that is binding on the parties to the agreement and specifies the child's legal status, the rights and obligations of the parent or legal guardian, and the rights and responsibilities of OKDHS or the tribe. A court order with required Title IV-E findings and custody to OKDHS or the tribe is necessary when the child is in out-of-home care more than 90-calendar days, per OAC 340:75-4-12.1.

**(2) Relationship to Aid to Families with Dependent Children (AFDC).** The Title IV-E determination is made based on the child's circumstances in the month of the initiation of court proceedings that led to the removal. The child must have been categorically related to the AFDC program using the AFDC rules in effect as of July 16, 1996, per OKDHS:10-1-1. To qualify for Title IV-E, a child is:

(A) removed:

(i) physically and legally from the parent; or  
(ii) constructively from the parent or specified relative, per OKDHS:10-1-21, regardless of whether the child was physically moved from the current relative or non-relative caregiver's home. The child must have been living with the parent or specified relative and AFDC eligible in that home:

(I) in the month of the initiation of court proceedings; or

(II) within six months of the initiation of court proceedings and would have been eligible in the month court proceedings were initiated if the child was living in that home; and

(B) a citizen of the United States or having an alien status that qualifies for Title IV-E;

(C) deprived of parental support or care, per 1996 AFDC policy;

(D) the household's countable income is below the 1996 AFDC need standard; and

(E) Title IV-E, Section 472 of the Social Security Act allows a resource value of \$10,000 for Title IV-E eligibility.

[Source: Added at 15 Ok Reg 1457, eff 4-1-98 (emergency); Added at 16 Ok Reg 1052, eff 4-26-99 ; Amended at 19 Ok Reg 561, eff 12-20-01 ; Amended at 22 Ok Reg 1270, eff 5-26-05 ; Amended at 25 Ok Reg 970, eff 5-15-08 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Amended at 37 Ok Reg 1850, eff 9-15-20 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:75-13-14. Income verification [REVOKED]**

[Source: Added at 15 Ok Reg 1457, eff 4-1-98 (emergency); Added at 16 Ok Reg 1052, eff 4-26-99 ; Revoked at 19 Ok Reg 561, eff 12-20-01]

### **340:75-13-15. Initial eligibility determination [REVOKED]**

[Source: Added at 15 Ok Reg 1457, eff 4-1-98 (emergency); Added at 16 Ok Reg 1052, eff 4-26-99 ; Amended at 22 Ok Reg 1270, eff 5-26-05 ; Amended at 25 Ok Reg 970, eff 5-15-08 ; Revoked at 29 Ok Reg 635, eff 6-1-12]

### **340:75-13-16. Title IV-E reimbursement and eligibility re-determination**

(a) **Title IV-E eligibility re-determination.** When the child is determined eligible for Title IV-E, an eligibility re-determination is conducted by the custody specialist at least once every 12 months to determine whether the cost of the child's out-of-home care is reimbursable by Title IV-E funds. The review determines:

- (1) legal responsibility for the child. To continue to receive Title IV-E reimbursement, a court order is required verifying the child is in the legal custody of Oklahoma Department of Human Services (OKDHS) or an Indian tribe; and
- (2) if the child's placement is a Title IV-E reimbursable qualifying placement. A qualifying placement is any placement that is Title IV-E reimbursable, such as:

- (A) an OKDHS or tribally approved foster home of an individual, per Section 1-1-105 of Title 10A of the Oklahoma Statutes;
- (B) a private child care institution;
- (C) a public child care group home; or
- (D) child care facility licensed for no more than 25 children.

(3) if subparagraphs (B) through (D) of paragraph (2), collectively referred to as child care institution (CCI), may claim foster care maintenance payment (FCMP), per Section 475(4) of the Social Security Act (42 United States Code (U.S.C.) § 675(4)).

(A) Title IV-E agencies may claim for Title IV-E foster care maintenance payments to be paid on behalf of an eligible child placed in a child care institution for up to two weeks.

(B) Title IV-E agencies may continue to claim administrative costs for the duration of the period in the CCI regardless of whether the CCI meets the restrictions in 42 U.S.C. § 672(k).

(C) After two weeks, Title IV-E FCMP for a child placed in a CCI are only available if that CCI is a:

- (i) qualified residential treatment program (Q RTP), as defined in 42 U.S.C § 672(k)(4) and per Oklahoma Administrative Code (OAC):340:75-11-230 that require:

(I) completion of a Child and Adolescent Needs and Strengths assessment within 30-

calendar days of the child's placement in a QRTP, per 42 U.S.C. § 675A(c)(1)(A) and OAC 340:75-14-1; and  
(II) court approval within 60-calendar days of the child's placement in a QRTP, per 42 U.S.C. § 675A(c)(2);

- (ii) setting specializing in providing prenatal, post-partum, or parenting supports for youth;
- (iii) in the case of a youth who attained 18 years of age, a supervised setting in which the youth is living independently;
- (iv) setting providing high-quality residential care and supportive services to children and youth who were found to be, or are at risk of becoming, sex trafficking victims; or
- (v) licensed residential family-based treatment facility for substance abuse, per 42 U.S.C. § 672(j) and OAC 340:75-14-4.

(b) **When Title IV-E funds not available.** Title IV-E funds are not available when a court assumes responsibility for ordering the placement of a child and orders such with a specific placement provider without consideration of the recommendation by OKDHS or the tribe. Title IV-E funds are available if the child is later placed in accordance with OAC 340:75-13-16(a)(1) and (2).

(c) **Title IV-E payment date.** Title IV-E reimbursement payments may begin the date the child:

- (1) is determined eligible; and
- (2) enters a qualified placement.

[Source: Added at 15 Ok Reg 1457, eff 4-1-98 (emergency); Added at 16 Ok Reg 1052, eff 4-26-99 ; Amended at 19 Ok Reg 561, eff 12-20-01 ; Amended at 22 Ok Reg 1270, eff 5-26-05 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Amended at 39 Ok Reg 105, eff 7-19-21 (emergency); Amended at 39 Ok Reg 1803, eff 9-15-22]

### **340:75-13-17. IV-E annual eligibility re-determination review**

(a) **Title IV-E (IV-E) eligibility re-determinations.** Title IV-E eligibility is re-determined:

- (1) no less than 12 months from the date of the most recent court order used to establish or maintain Title IV-E eligibility; or
- (2) at the time the custody specialist becomes aware of a change in circumstances that may affect the Title IV-E eligibility.

(A) At the time of the eligibility re-determination, the custody specialist reviews all court orders issued after the date of the court order used to update the previous Title IV-E re-determination in KIDS.

(B) An annual Title IV-E eligibility re-determination review is not required for adoption assistance cases, as the annual review of the Adoption Assistance Agreement serves that purpose, per OAC 340:75-15-128.2.

(b) **Ongoing IV-E eligibility factors.** Ongoing Title IV-E eligibility factors include the child's:

- (1) continued out-of-home placement;
- (2) age;
- (3) school attendance, when applicable;
- and
- (4) financial resources.

(c) **Judicial determinations for ongoing Title IV-E eligibility.**

(1) Per Section 1-4-811 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-4-811) a judicial determination that Oklahoma Department of Human Services (OKDHS) made reasonable efforts to finalize the permanency plan in effect at the time of the hearing must be made no later than:

- (A) six months from the child's date of entry into out-of-home care; and
- (B) at least once every six months thereafter while the child is in out-of-home care.

(2) When a judicial determination is not made the child becomes ineligible for Title IV-E from the end of the:

- (A) twelfth month following the child's date of entry into out-of-home care; or
- (B) twelve months from the date of the most recent judicial determination of reasonable efforts to finalize a permanency plan, and remains ineligible until such a judicial determination is made.

(3) When a judicial determination is made that OKDHS has not made reasonable efforts to finalize a permanency plan, Title IV-E eligibility ends that month and the child remains ineligible until the court makes the finding that reasonable efforts have been made to finalize a permanency plan.

[Source: Added at 15 Ok Reg 1457, eff 4-1-98 (emergency); Added at 16 Ok Reg 1052, eff 4-26-99 ; Amended at 19 Ok Reg 561, eff 12-20-01 ; Amended at 22 Ok Reg 1270, eff 5-26-05 ; Amended at 29 Ok Reg 635, eff 6-1-12]

**340:75-13-18. Title IV-E eligibility for minor parent and child in care**

(a) When a minor parent is determined Title IV-E eligible:

- (1) the cost of the minor parent's child residing in the same placement is reimbursed through Title IV-E; and
- (2) the cost of the minor parent and child is reimbursed through one payment monthly to the foster parent.

(b) When the child is removed from the minor parent's custody and placed in another foster home, the child may be determined Title IV-E eligible if all eligibility criteria are met.

[Source: Added at 15 Ok Reg 1457, eff 4-1-98 (emergency); Added at 16 Ok Reg 1052, eff 4-26-99 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 29 Ok Reg 635, eff 6-1-12]

**340:75-13-19. IV-E adoption assistance**

Application for Title IV-E adoption assistance may be approved for a child who meets the eligibility criteria for special needs and Aid to Families with Dependent Children, per DHS 10:1, OAC 340:75-15-128.2,

and OAC 340:75-15-128.4.

[Source: Added at 15 Ok Reg 1457, eff 4-1-98 (emergency); Added at 16 Ok Reg 1052, eff 4-26-99 ; Amended at 19 Ok Reg 561, eff 12-20-01 ; Amended at 22 Ok Reg 1270, eff 5-26-05]

### **340:75-13-20. Youth in the custody of OJA [REVOKED]**

[Source: Added at 15 Ok Reg 1457, eff 4-1-98 (emergency); Added at 16 Ok Reg 1052, eff 4-26-99 ; Revoked at 22 Ok Reg 1270, eff 5-26-05]

### **340:75-13-21. Reimbursement for the child in tribal custody**

(a) **Title IV-E eligibility and the Indian child.** Oklahoma Human Services seeks Title IV-E reimbursement for any eligible Indian child when the child is placed in an approved foster home per Section 1356.67 of Title 45 of the United States Code of Federal Regulations, procedures for the transfer of placement and care responsibility of a child from a state to a tribal Title IV-E agency or an Indian tribe with a Title IV-E agreement. Title IV-E eligibility is determined by the tribal custody specialist using the criteria set forth in Oklahoma Administrative Code (OAC) 340:75-13-13.

(b) **Tribal responsibilities related to Title IV-B and Title IV-E.** The tribe :

- (1) develops and implements policies and practices that ensure compliance with federal regulations related to Titles IV-B and Title IV-E of the Social Security Act. Child Welfare Services (CWS) monitors tribal compliance with the regulations through annual on-site visits, per OAC 340:75-19-32; and
- (2) provides required information needed to determine Title IV-E eligibility to the assigned CWS regional tribal coordinator.

(A) The CWS regional tribal coordinator uploads completed Form 04TB004E, Indian Child Welfare Program Referral, and all court orders into the KIDS document management system.

(B) The tribal custody specialist contacts the CWS regional tribal coordinator to request needed information for the initial eligibility determination or annual eligibility re-determination, per OAC 340:75-19-33.

[Source: Added at 15 Ok Reg 1457, eff 4-1-98 (emergency); Added at 16 Ok Reg 1052, eff 4-26-99 ; Amended at 19 Ok Reg 561, eff 12-20-01 ; Amended at 22 Ok Reg 1270, eff 5-26-05 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Amended at 32 Ok Reg 1904, eff 9-15-15 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:75-13-22. Trial home visit**

A child who is returned to the parent(s)' home and remains in Oklahoma Department of Human Services (OKDHS) custody is considered on a trial home visit. The child retains Title IV-E eligibility for up to six months, and longer if the court extends the trial home visit.

[Source: Added at 19 Ok Reg 561, eff 12-20-01 ; Amended at 22 Ok Reg 1270, eff 5-26-05]



## **PART 3. INCOME AND RESOURCES OF THE CHILD**

### **340:75-13-25. Exploration of resources**

(a) **Identifying resources.** The Child Welfare (CW) worker of a child in Oklahoma Department of Human Services (OKDHS) custody and out-of-home placement:

- (1) explores with the child's family all benefits or resources, such as Social Security benefits, Supplemental Security Income (SSI), Veterans benefits, child support, inheritance, trust funds, insurance benefits, and Indian trusts or monies, available and non-available for use, to which the child is or may be entitled; and
- (2) identifies the child who is or may be Indian, per OAC 340:75-19, and requests through the appropriate tribe or Bureau of Indian Affairs (BIA) information regarding:
  - (A) tribal membership or eligibility for membership; and
  - (B) the present balance of any individual money accounts and trust funds.

(b) **Reporting resources.** The CW worker reports to the assigned custody specialist all current and subsequent information pertaining to any income or resources.

- (1) Benefits received are used by OKDHS to defray the cost of the child's care.
- (2) Any amount over the cost of care is deposited to the child's trust fund account and is available to the child.

[Source: Amended at 10 Ok Reg 655, eff 12-23-92 (emergency); Amended at 10 Ok Reg 2081, eff 5-27-93 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 22 Ok Reg 875, eff 5-12-05]

### **340:75-13-26. Child support**

(a) **Legal basis.** Federal regulations require the Oklahoma Department of Human Services (DHS) to pursue child support payments on Title IV-E foster care cases where federal funding is involved. Section 454 of Title IV-D of the Social Security Act requires a referral to the state's child support enforcement agency for child support services. Section 1-4-702 of Title 10A of the Oklahoma Statutes (10A O.S. §1-4-702) requires the court to address paternity and child support issues for every child alleged or adjudicated deprived. Child Support Services (CSS) carries out the provisions of these regulations based on information provided by Child Welfare Services (CWS) staff. Benefits to the child include:

- (1) locating an absent parent(s);
- (2) establishing paternity;
- (3) obtaining previously unavailable child support; and
- (4) exploring, on behalf of the child, eligibility for benefits through:
  - (A) the Social Security Administration;
  - (B) Veterans Affairs; or
  - (C) other government programs.

(b) **Use of child support monies.** Support monies collected while the child is in DHS custody and out-of-home placement are used to

reimburse:

- (1) the federal government for Title IV-E expenditures; and
- (2) DHS for monies expended to meet the child's needs.

(c) **Paternity.** Within six months after the deprived petition is filed, CWS staff recommend the court either:

- (1) establish paternity; or
- (2) defer the issue of paternity to the appropriate administrative or district court.

(d) **Child support orders.** After paternity is established, CWS staff recommends the court address the issue of current child support. Per 10A O.S. § 1-4-702, within six months after the deprived petition is filed, the court must either:

- (1) address the issue of child support; or
- (2) defer the issue of establishment and enforcement of child support to the appropriate administrative or district court. CSS proceeds with the establishment and enforcement of child support orders for any case deferred in this manner.

(A) Each parent must be individually ordered to pay his or her percentage of the total monthly child support obligation, including parents who reside together.

(B) 43 O.S. § 118 and 119 require the court to follow child support guidelines in determining each parent's support obligation.

(C) Deviation from the child support guidelines is permitted when it is determined necessary in order for the parent to meet the obligations of an individual treatment and service plan or for other reasons the court deems appropriate. When the court deviates from the amount of support indicated by the guidelines, specific findings of fact supporting such action are required to be documented in the child support computation form.

(D) The child support order must:

(i) be filed on a standard child support order form, as prescribed by CSS;

(ii) be filed as a separate document from the individual treatment and service plan or court minute and is therefore not confidential;

(iii) direct a parent to provide for the child per 43 O.S. § 118F and Oklahoma Administrative Code 340:25-5-168:

(I) health care coverage insurance;

(II) an alternative health care coverage plan; or

(III) make application for health care coverage through a government medical assistance program, such as SoonerCare (Medicaid);

(iv) include each parent's contribution towards actual employment or education related child care expenses per 43 O.S. § 118G and Oklahoma Administrative Code 340:25-5-178;

- (v) include an immediate income assignment provision pursuant to 43 O.S. § 115;
- (vi) include a reimbursement judgment for time periods when Title IV-E, non-Title IV-E eligible foster care and Temporary Assistance to Needy Families benefits have been paid and a monthly judgment payment amount per Oklahoma Administrative Code 340:25-5-179.1;
- (vii) include a provision for an address of record for service of process per 43 O.S. § 112A;
- (viii) include a provision for payments to be paid to the Oklahoma Centralized Support Registry per 43 O.S. § 413; and
- (ix) include, as an attachment, a child support computation form signed by the judge, per 43 O.S. § 120.

(E) The duty to pay child support continues after parental rights are terminated and until the child is adopted pursuant to 10A O.S. § 1-4-906 and 10 O.S. § 7503-2.3. Parents may be obligated to pay child support arrears even after adoption.

(F) After a deprived action is dismissed, the most recent child support order entered in the deprived action must remain in full force and effect, unless the judge presiding over the deprived action orders otherwise.

(G) All child support payments must be paid, per 43 O.S. § 413, through the Oklahoma Centralized Support Registry, PO Box 268849, Oklahoma City, Oklahoma 73126-8849.

(H) The child welfare specialist verifies each parent's compliance with his or her child support obligation.

[Source: Amended at 10 Ok Reg 3987, eff 7-13-93 (emergency); Amended at 11 Ok Reg 505, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1733, eff 5-12-94 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 22 Ok Reg 875, eff 5-12-05 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 32 Ok Reg 1904, eff 9-15-15]

### **340:75-13-27. Child support enforcement requirements [REVOKED]**

[Source: Amended at 10 Ok Reg 3987, eff 7-13-93 (emergency); Amended at 11 Ok Reg 505, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1733, eff 5-12-94 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Revoked at 22 Ok Reg 875, eff 5-12-05]

### **340:75-13-28. Social Security Administration and Veterans Affairs benefits**

(a) **Benefits.** Social Security Administration (SSA) benefits are based on the child's wage earner's work record and are paid due to the wage earner's death, retirement, or disability. Entitlement to Veterans Affairs (VA) benefits may be due to a deceased, disabled, or retired parent's service connected or nonservice connected military record.

(b) **Oklahoma Department of Human Services (DHS) as payee for a child's benefits.** When a child who receives or may be eligible to receive

SSA or VA benefits, and for whom DHS is paying the full amount of the child's cost of care, is placed in DHS custody and out-of-home placement, Child Welfare Services (CWS) Finance and Business Operations (FBO) applies to become payee for these benefits.

(1) To ensure the application for, and transfer of SSA or VA benefits, the:

(A) child welfare (CW) specialist within 10-business days after the child's placement or when potential eligibility is recognized, emails notification to the FBO Social Security specialist requesting an initial eligibility determination for a child in out-of-home placement;

(B) assigned custody specialist, within 10-business days after the child's placement, emails notification to the FBO Social Security specialist to request that the payee be changed to DHS; and

(C) CW specialist, within 10-business days, emails the FBO Social Security specialist when the:

(i) child's placement type changes; or

(ii) child is released from DHS custody or DHS paid care.

(2) The youth who remains in school beyond 18 years of age to complete his or her high school education remains eligible for SSA and VA benefit payments until he or she turns 19 years of age or graduates when still in high school. If the youth is not competent to manage his or her money and pay for his or her cost of care, DHS remains the payee for benefits. The CW specialist:

(A) receives, from the FBO Social Security specialist, Forms SSA-1372, Advance Notice of Termination of Child's Benefits, and Form SSA-4164, Student Statement

Regarding School Attendance, and a letter that allows DHS to remain the payee. The CW specialist returns the completed forms to the FBO Social Security specialist;

(B) assists the youth in applying for a Disabled Adult Child case with SSA; or

(C) discusses alternatives to DHS paid care that are consistent with self-support and self-sufficiency goals, when the youth does not want to make the benefit payments available to DHS to defray the cost of care.

(c) **Placement provider as payee for a child's benefits.** The kinship, paid, or non-paid placement provider submits completed Form 04FC011E, Placement Agreement for Out-of-Home Care, to the local SSA office to apply as the eligible child's payee. The CW specialist assists the placement provider complete the form.

(1) **Benefits.** When the SSA benefit is:

(A) equal to or greater than the foster care payment, the placement provider receives the full benefit and no payment from DHS for the child's care; or

(B) less than the foster care payment, the placement provider may receive a partial foster care payment that is reduced dollar-for-dollar based on the amount of the SSA benefit.

(2) **Eligibility for paid placement provider.** The DHS paid placement provider may apply as representative payee for a child when the child is an SSA recipient placed with the placement provider continuously for nine or more months.

(d) **Beneficiary as payee for a child's benefits.** The youth who remains in school beyond 18 years of age to complete his or her high school education remains eligible for SSA and VA payments until he or she turns 19 years of age or graduates from high school.

(1) If the youth is capable of managing money, the CW specialist or placement provider:

(A) submits Form SSA-1372, Student Statement Regarding School Attendance, to the local SSA office;

(B) explains to the youth that he or she must pay the placement provider at the current rate;

(C) explores alternative placements with the youth that are consistent with the goals of self-support and self-sufficiency if he or she does not want to pay the cost of care; and

(D) notifies the placement provider that DHS may pay a foster care payment reduced dollar-for-dollar based on the SSA benefit when the benefit is less than the foster care payment.

(2) If the youth is not capable of managing money and DHS is not paying the full cost of care, the placement provider works with SSA to determine the payee for his or her benefits.

[Source: Amended at 10 Ok Reg 3987, eff 7-13-93 (emergency); Amended at 11 Ok Reg 505, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1733, eff 5-12-94 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 22 Ok Reg 875, eff 5-12-05 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 24 Ok Reg 2196, eff 7-1-07 ; Amended at 37 Ok Reg 1850, eff 9-15-20]

### **340:75-13-29. Supplemental Security Income (SSI) - Disabled Children's program**

(a) **SSI program.** SSI is a federal program for which recipients must qualify based on disability criteria, household income, and resource criteria designated by the Social Security Administration (SSA).

(1) To remain eligible for SSI, recipients may not accrue more than the maximum allowed by SSA.

(2) Some children in Oklahoma Department of Human Services (DHS) custody receive, or may be eligible to receive, SSI benefits on the basis of physical, mental, or emotional criteria.

(3) The SSI recipient remains eligible for SSI when his or her income, resources, and disability continue to meet SSI program criteria.

(b) **DHS as payee for a child's benefits.**

(1) The initial application is made by Child Welfare Services Finance and Business Operations (FBO) for a child who receives, or may be eligible to receive, SSI when the child:

(A) is in DHS custody and DHS is paying the total cost of the child's care; and

(B) appears eligible for SSI based on disability.

- (2) To ensure the application for, and transfer of benefits, the:
- (A) child welfare (CW) specialist completes and emails the FBO Social Security specialist, within 10-business days after the child's placement or as soon as the child's disabling condition is identified, using Form 04MP029E, Report of Social Security and Veterans Benefits for Children in Out-of-Home Placement, to request an initial eligibility determination;
  - (B) custody specialist emails the FBO Social Security specialist, within 10-business days after the child's placement to request the payee be changed to DHS; and
  - (C) CW specialist, within 10-business days, emails the FBO Social Security specialist when the child's placement type changes or the child is released from DHS custody or out-of-home placement.

- (3) DHS receives and monitors the child's benefits.

- (A) DHS receives the child's benefits until the child leaves DHS out-of-home placement when DHS is paying the full cost of the child's care.
- (B) FBO monitors each child's accrued funds and notifies the CW specialist by a KIDS-generated email when the limit is approached to give specific instructions regarding the spenddown of that child's money. Purchases made with the child's accrued benefits must be items that benefit the child and are specifically for that child. These items must follow the child to all subsequent placements.

(c) **Placement provider as payee for a child's benefits.** The kinship, paid, or non-paid placement provider must be the child's established home for nine-consecutive months or longer before applying to be the child's payee. The CW specialist contacts the FBO Social Security specialist to assist the placement provider in completing the form.

- (1) **Benefits.** When the SSI benefit is:

- (A) equal to or greater than the foster care payment, the placement provider receives the full benefit and no payment from DHS for the child's care.
- (B) less than the foster care payment, the placement provider may receive a partial foster care payment that is reduced dollar-for-dollar based on the SSI benefit amount.

- (2) **Eligibility for paid placement provider.** The DHS-paid placement provider may apply as representative payee for a child when the child is an SSI recipient placed with the placement provider continuously for nine or more months.

(d) **Beneficiary as payee for a youth's benefits.** For a youth who remains in school beyond 18 years of age, the youth or the placement provider must apply as the eligible payee.

- (1) When the youth is capable of managing money, the CW specialist or placement provider:

- (A) explains to the youth that he or she must pay the placement provider at the current rate;
- (B) explores alternative placements with the youth that are consistent self-support and self-sufficiency goals, when he

or she does not want to pay the cost of care; and  
(C) notifies the placement provider that DHS may pay a foster care payment reduced dollar for dollar based on the SSI benefit if the benefit is less than the foster care payment.

(2) When the youth is not capable of managing money and DHS is not paying his or her full cost of care, the placement provider works with SSA to determine the payee for the youth's benefits.

(e) **Referrals.** Section 1615 of the Social Security Act provides for the referral by SSA of SSI recipients younger than 18 years of age to a designated state agency for provision of services to improve the child's disability. The Omnibus Reconciliation Act of 1981, Public Law 97-35, authorizes Oklahoma to operate a program for these children as a component of the Maternal and Child Health Block Grant. DHS is designated to administer this program in Oklahoma.

(1) The purpose of SSI-Disabled Children's Program (DCP) is to ensure that all available services and resources are used, as necessary, to assist each eligible child to become a self-sustaining and self-supporting adult.

(2) The Department of Rehabilitation Services Disability Determination Unit determines SSI eligibility for SSA and refers every SSI recipient, younger than 18 years of age, to Adult and Family Services Health-Related and Medical Services to maintain a control on all referrals.

[Source: Amended at 10 Ok Reg 3987, eff 7-13-93 (emergency); Amended at 11 Ok Reg 505, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1733, eff 5-12-94 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 22 Ok Reg 875, eff 5-12-05 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 24 Ok Reg 2196, eff 7-1-07 ; Amended at 37 Ok Reg 1850, eff 9-15-20]

### **340:75-13-30. Special needs trust**

When a child in Oklahoma Department of Human Services (DHS) custody does not use all of the Supplemental Security Income (SSI) received, per Oklahoma Administrative Code (OAC) 340:75-13-29, the accrued funds may be transferred into a special needs trust (SNT), per OAC 317:35-5-41.

(1) The assets in an SNT do not count toward the Medicaid or SSI resource limits when:

- (A) the trust established is irrevocable and may only be amended with DHS agreement;
- (B) the trust beneficiary is disabled and younger than 65 years of age when the trust is created and funded;
- (C) the trust beneficiary meets the SSI definition of a disabled person;
- (D) the trust is created by the beneficiary's parent, grandparent, legal guardian, or a court; and
- (E) Medicaid is reimbursed after the beneficiary dies, to the extent of Medicaid funds spent on the beneficiary.

(2) The child welfare (CW) specialist contacts DHS Legal Services for assistance to create an SNT. The Finance and Business Operations Social Security specialist is notified and SNT approval

or denial is requested.

[Source: Added at 22 Ok Reg 1270, eff 5-26-05 ; Amended at 37 Ok Reg 1850, eff 9-15-20]

## **PART 5. CLOTHING PURCHASES**

### **340:75-13-45. Clothing purchases for children**

(a) **Clothing accompanies child.** The Child Welfare (CW) worker obtains the child's clothing, and any other items that have personal meaning to the child, from the parent(s) at the time of initial placement in out-of-home care. Clothing purchased for or accompanying the child belongs to that child. The CW worker and placement provider ensure the clothing accompanies the child when the child moves from one placement to another.

(b) **Clothing purchase authorization amounts.** The amounts designated as clothing authorizations are set out in Oklahoma Department of Human Services (DHS) Appendix C-20, Child Welfare Services Rates Schedule, as amended from time-to-time, as approved by the DHS Director.

(c) **Use of Supplemental Security Income (SSI) or Social Security Administration (SSA) funds before clothing authorizations.** A child who is a recipient of SSI or SSA benefits is not eligible to receive clothing authorizations. Instead a spend-down must be completed against the child's trust account or the payee must supply the clothing with the SSI or SSA benefits.

(d) **Types and uses of clothing authorizations.**

(1) **One-time startup authorization.**

(A) A one-time startup authorization may be issued for a child at initial placement into a kinship home that is not receiving foster care maintenance payments.

(B) Another one-time startup authorization may be issued when DHS subsequently places a child into another kinship home that is not receiving foster care maintenance payments.

(2) **Emergency clothing authorizations.** Authorized staff in each county may provide emergency clothing authorizations not more than four times in any twelve-month period. An emergency clothing authorization may not be issued within 90-calendar days of the issuance of a one-time startup authorization or a previous emergency clothing authorization.

(A) The child's CW specialist requests an emergency clothing authorization four times a year for a child placed in a:

- (i) non-paid kinship home;
- (ii) non-funded group home; or
- (iii) psychiatric facility, such as an acute or residential treatment center, in-state or out-of-state.

(B) Emergency authorizations may be provided for a child:



- (i) residing in youth services shelters without adequate clothing;
- (j)
- (ii) who lost clothing as a result of being absent without leave or due to a disaster, such as fire, flood, and similar natural disasters;
- (iii) residing in a DHS operated group home and, when applicable, her child;
- (iv) placed directly from inpatient psychiatric care into a Developmental Disabilities Services (DDS) home prior to the availability of SSI benefits;
- (v) placed in maternity residential services; and
- (vi) on a case-by-case basis for exigent circumstances and with prior approval by the Child Welfare Services Operations and Business Processes Section Financial Operations administrator.

(3) **Clothing authorization process.** The designated staff at the local DHS office processes clothing authorizations through the AS400 Finance Division system. The authorization is provided to the placement provider who purchases the clothing through a vendor who accepts DHS authorizations. The vendor submits the authorization to DHS for payment.

(4) **Clothing.**

(A) The foster parent is responsible for providing adequate clothing for the child based on the child's needs, such as a minimum of a week's worth of clothing that is appropriate for the season and well-fitting. The foster parent maintains an inventory of clothing utilizing Form 04FC004E, Clothing Inventory. The clothing allowance is included in the monthly foster care maintenance payment for a child who is in DHS custody and placed in a:

- (i) foster family home;
- (ii) paid kinship home; or
- (iii) specialized community home.

(B) The clothing allowance is included in the daily foster care maintenance payment rates per the DHS contract for:

- (i) TFC; and
- (ii) funded DHS group homes and maternity homes.

(C) Clothing is purchased with SSI or SSA benefits for a child who is in DHS custody and placed in a DDS foster home or non-paid kinship home.

(5) **Interstate Compact on the Placement of Children (ICPC) placements.** The clothing allowances for a child in DHS custody placed in foster care out-of-state through ICPC are included in the receiving state's monthly reimbursement.

(6) **Allowable clothing purchases.** Allowable purchases must meet the child's needs and include:

- (A) clothing;
- (B) shoes; and
- (C) disposable diapers.

(7) **Disallowable clothing purchases.** The items not appropriate to purchase with clothing authorizations are any non-clothing item, such as:

- (A) any food item;
- (B) athletic equipment;
- (C) cosmetics or personal grooming supplies;
- (D) hair accessories;
- (E) haircuts;
- (F) jewelry;
- (G) non-prescription medication or supplies;
- (H) school supplies; and
- (I) toys.

[Source: Amended at 10 Ok Reg 3987, eff 7-13-93 (emergency); Amended at 11 Ok Reg 505, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1733, eff 5-12-94 ; Amended at 12 Ok Reg 1139, eff 3-20-95 (emergency); Added at 12 Ok Reg 1739, eff 6-12-95 ; Amended at 16 Ok Reg 2773, eff 4-14-99 (emergency); Amended at 17 Ok Reg 549, eff 12-1-99 (emergency); Amended at 17 Ok Reg 2429, eff 6-26-00 ; Amended at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 22 Ok Reg 239, eff 11-4-04 (emergency); Amended at 22 Ok Reg 840, eff 5-12-05 ; Amended at 33 Ok Reg 477, eff 2-29-16 (emergency); Amended at 34 Ok Reg 1550, eff 9-15-17]

#### **340:75-13-46. Special Services [REVOKED]**

[Source: Amended at 10 Ok Reg 3987, eff 7-13-93 (emergency); Amended at 11 Ok Reg 505, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1733, eff 5-12-94 ; Revoked at 16 Ok Reg 102, eff 10-13-98]

## **PART 7. MEDICAL SERVICES**

#### **340:75-13-60. Scope [REVOKED]**

[Source: Revoked at 22 Ok Reg 854, eff 5-12-05]

#### **340:75-13-61. Medical services to children in placement**

Children in Oklahoma Human Services (OKDHS) custody and out-of-home placements have fee-for-service medical cases. The Oklahoma Health Care Authority pays for each medical service provided at the Medicaid allowable rate. The child welfare specialist:

- (1) ensures medical services are provided, per Oklahoma Administrative Code (OAC) 340:75-14-3;
- (2) applies for SoonerCare (Medicaid) for a child following execution of a court order to remove the child by entering the child's removal and placement information into KIDS as soon as possible, but no later than two-business days after the child was physically placed in OKDHS custody per OAC 340:75-3-300 ITS 10(6).
  - (A) When the child's removal information is entered into the KIDS Removal screen, a KIDS assignment is generated to the custody specialist.
  - (B) The KIDS assignment to the custody specialist is considered the referral for:
    - (i) Title XIX medical benefits; and

- (ii) Title IV-E eligibility determination; and
- (3) notifies the placement provider of the child's medical ID number upon receipt to facilitate medical services and payment.

[Source: Amended at 10 Ok Reg 3987, eff 7-13-93 (emergency); Amended at 11 Ok Reg 505, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1733, eff 5-12-94 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 19 Ok Reg 2265, eff 6-27-02 ; Amended at 22 Ok Reg 854, eff 5-12-05 ; Amended at 36 Ok Reg 1856, eff 9-16-19 ; Amended at 37 Ok Reg 1850, eff 9-15-20 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:75-13-62. Medical services to children in own home**

(a) The child welfare (CW) specialist and parent(s) have a joint responsibility to:

- (1) ensure the medical needs of the child in Oklahoma Department of Human Services (DHS) custody are met; and
- (2) share all information to maximize the child's health and well-being.

(b) The parent(s) is responsible for his or her child's medical expenses when the child resides with the parent(s), regardless of legal custody.

- (1) The CW specialist informs the parent(s) of available medical resources and refers the parent(s) to SoonerCare to apply for medical assistance. Application for children receiving Supplemental Security Income must be made in the local DHS office.
- (2) At the time the parent(s) applies for medical assistance, the parent(s) must notify the person taking the application of the child's legal status to ensure proper coding in the medical case.
- (3) If the family qualifies for medical assistance, the child in DHS or tribal custody remains fee-for-service on the medical case until the child is released from DHS or tribal custody.
- (4) The child in his or her own home eligible for a medical card is eligible for Early Periodic, Screening, Diagnosis and Treatment (EPSDT) services. Eligibility, based on the parent(s)' income and resources, varies with the specific circumstances of each family.

[Source: Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 19 Ok Reg 2265, eff 6-27-02 ; Amended at 22 Ok Reg 854, eff 5-12-05 ; Amended at 24 Ok Reg 1323, eff 6-1-07 ; Amended at 37 Ok Reg 1850, eff 9-15-20]

### **340:75-13-63. Prior authorization and claims procedures for medical services**

Prior authorization is required for medical services, per Oklahoma Administrative Code (OAC) 317:30-3-82. Procedures and guidelines for prior authorization are outlined in OAC 317:30-3-82, available to all healthcare providers at [www.oklahoma.gov/ohca](http://www.oklahoma.gov/ohca).

- (1) **Contact Oklahoma Health Care Authority (OHCA).** For services, supplies, or equipment requiring prior authorization, the healthcare provider contacts the OHCA-contracted agency for specific instructions and assistance.
- (2) **Contact Child Welfare Services (CWS) Finance and Business (FB).** When CWS staff or placement providers are referred to a collection agency for nonpayment of a medical bill

for a child in Oklahoma Human Services custody, CWS staff contacts CWS FB for guidance regarding payment procedures. Any medical payments made from state funds are paid at rates no greater than established Oklahoma Medicaid rates.

[Source: Amended at 11 Ok Reg 505, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1733, eff 5-12-94 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 22 Ok Reg 854, eff 5-12-05 ; Amended at 24 Ok Reg 1323, eff 6-1-07 ; Amended at 28 Ok Reg 894, eff 7-1-11 ; Amended at 37 Ok Reg 1850, eff 9-15-20 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:75-13-64. Sources of funding for medical services**

Medical services for children in Oklahoma Department of Human Services (DHS) custody are paid through a variety of funds.

(1) **Title XIX Medicaid and Children's Special Health Care Needs program.** Title XIX Medicaid, a combination of state and federal money, is administered through Oklahoma Health Care Authority (OHCA). Medicaid claims are paid from the OHCA budget through a designated fiscal agent. The Medicaid program:

- (A) has specific eligibility requirements;
- (B) covers specific services as determined by Oklahoma's State Plan; and
- (C) does not pay for experimental procedures.

(2) **Child Welfare Services (CWS) medical - special approval.** CWS has limited funds, state monies that are utilized when the needed service, excluding experimental procedures, is not covered by other medical programs. Utilization of these funds is considered for approval by CWS Finance and Business Operations (FBO) after Title XIX and OHCA denial. Only services for children in DHS custody and out-of-home placement are eligible for payment from these funds. All expenditures paid from state funds are paid at the Oklahoma Medicaid compensable amount.

(3) **Child abuse examinations.** When a child abuse examination is warranted, the reimbursement process is dependent upon the child's medical assistance case status on the date of the examination. When the child is:

- (A) not a Medicaid recipient and the parent(s) is unable or unwilling to pay for the examination, state funds pay for the examination at established Medicaid rates. The provider completes claims, per Oklahoma Administrative Code 317:30-3-1. The claim is routed to CWS FBO with an explanation for using state funds; or
- (B) a Medicaid recipient and is designated eligible for:
  - (i) fee-for-service, OHCA reimburses for these services at the established rates; or
  - (ii) SoonerCare, OHCA reimburses for these services at the established rates.

[Source: Amended at 10 Ok Reg 3987, eff 7-13-93 (emergency); Amended at 11 Ok Reg 505, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1733, eff 5-12-94 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 19 Ok Reg 2265, eff 6-27-02 ; Amended at 22 Ok Reg 854, eff 5-12-05 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 28 Ok Reg 894, eff 7-1-11 ; Amended at 37 Ok Reg 1850, eff 9-15-20]

### **340:75-13-65. Consent for medical services [REVOKED]**

[Source: Amended at 10 Ok Reg 3987, eff 7-13-93 (emergency); Amended at 11 Ok Reg 999, eff 1-13-94 (emergency); Amended at 11 Ok Reg 2727, eff 6-13-94 ; Amended at 13 Ok Reg 989, eff 4-10-95 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 24 Ok Reg 1323, eff 6-1-07 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Revoked at 28 Ok Reg 375, eff 12-1-10 (emergency); Revoked at 28 Ok Reg 894, eff 7-1-11]

### **340:75-13-66. Consent for admission/treatment [REVOKED]**

#### **340:75-13-66.1. Admission to Children's Convalescent Center [REVOKED]**

[Source: Added at 11 Ok Reg 505, eff 11-15-93 (emergency); Added at 11 Ok Reg 1733, eff 5-12-94 ; Revoked at 16 Ok Reg 102, eff 10-13-98]

### **340:75-13-67. Consent for Surgery [REVOKED]**

[Source: Amended at 10 Ok Reg 3987, eff 7-13-94 (emergency); Revoked at 11 Ok Reg 999, eff 1-13-94 (emergency); Revoked at 11 Ok Reg 2727, eff 6-13-94]

### **340:75-13-68. Consent for DHS custody children in own or relative's homes [REVOKED]**

[Source: Revoked at 11 Ok Reg 999, eff 1-13-94 (emergency); Revoked at 11 Ok Reg 2727, eff 6-13-94]

### **340:75-13-69. Consent for DHS custody children in purchase of care facilities and residential treatment facilities [REVOKED]**

[Source: Revoked at 11 Ok Reg 999, eff 1-13-94 (emergency); Revoked at 11 Ok Reg 2727, eff 6-13-94]

### **340:75-13-70. Consent for DHS custody children in State Schools for the Mentally Retarded [REVOKED]**

[Source: Revoked at 11 Ok Reg 999, eff 1-13-94 (emergency); Revoked at 11 Ok Reg 2727, eff 6-13-94]

### **340:75-13-71. Children's Hospital of Oklahoma (CHO) [REVOKED]**

[Source: Amended at 10 Ok Reg 3987, eff 7-13-93 (emergency); Revoked at 11 Ok Reg 505, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 1733, eff 5-12-94]

### **340:75-13-72. Medical care unavailable locally [REVOKED]**

[Source: Revoked at 11 Ok Reg 999, eff 1-13-94 (emergency); Revoked at 11 Ok Reg 2727, eff 6-13-94]

### **340:75-13-73. Specialized medical facilities (Children's Convalescent Center, O'Donoghue Rehabilitation Center) [REVOKED]**

[Source: Revoked at 11 Ok Reg 505, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 1733, eff 5-12-94]

### **340:75-13-74. Medical identification cards**

A child in Oklahoma Department of Human Services (OKDHS) or tribal custody in out-of-home placement receiving Medicaid is issued a medical identification card.

[Source: Amended at 10 Ok Reg 3987, eff 7-13-93 (emergency); Amended at 11 Ok Reg 505, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1733, eff 5-12-94 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 19 Ok Reg 2265, eff 6-27-02 ; Amended at 24 Ok Reg 1323, eff 6-1-07 ; Amended at 29 Ok Reg 635, eff 6-1-12]

### **340:75-13-75. Out-of-state Medicaid coverage**

(a) **Title IV-E eligible.** A child certified for Title IV-E in Oklahoma is eligible for Title XIX Medicaid coverage in the child's state of residence when the child is placed in an out-of-state Interstate Compact on the Placement of Children placement, receiving state, with relatives or non-relatives.

(1) The child continues to receive Title XIX Medicaid coverage from the state of residence when the Title IV-E foster care eligibility remains in effect.

(2) A medical plan that provides necessary and expected medical services and payment for those services must be in place before the child in Oklahoma Department of Human Services (OKDHS) custody is sent to reside out-of-state.

(b) **Medicaid and Title IV-E ineligible child.** A child ineligible for Title IV-E may be eligible for Medicaid from the receiving state, depending on that state's eligibility criteria.

(1) When the receiving state does not provide Medicaid for a child in OKDHS custody who is ineligible for Title IV-E:

(A) the Oklahoma medical case remains open; and

(B) the placement provider in the receiving state locates all medical providers the child may need who:

(i) are Oklahoma Medicaid providers; or

(ii) may become Oklahoma Medicaid providers.

(2) The Oklahoma Health Care Authority (OHCA) assists providers from other states to become Oklahoma Medicaid providers.

(c) **Out-of-state medical services.** A child in OKDHS custody requiring medical attention while traveling through or vacationing in another state must receive the needed emergency care. When the medical provider is:

(1) an Oklahoma Medicaid provider, the provider files a claim;

(2) not an Oklahoma Medicaid provider, but is willing to become one, the provider is referred to the OHCA Provider Contract; or

(3) not an Oklahoma Medicaid provider and is not willing to become one, the CW specialist contacts Operations and Business Processes Section for assistance to pay for the medical service provided to the child.

(d) **Medical expenses when a child is placed with a parent.** When a child in OKDHS custody is placed with a parent, the parent is responsible for the child's medical expenses.

(1) The parent may apply for medical assistance for the child in the parent's state of residence.

(2) The child may receive medical coverage from the receiving state when the family meets that state's eligibility requirements.

[Source: Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 22 Ok Reg 854, eff 5-12-05 ; Amended at 24 Ok Reg 1323, eff 6-1-07 ; Amended at 28 Ok Reg 894, eff 7-1-11 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Amended at 30 Ok Reg 839, eff 7-1-13]

### **340:75-13-76. Medical categories [REVOKED]**

[Source: Amended at 10 Ok Reg 3987, eff 7-13-93 (emergency); Amended at 11 Ok Reg 1733, eff 5-12-94 ; Revoked at 19 Ok Reg 2265, eff 6-27-02]

### **340:75-13-77. Potential payment from third party sources**

Section 447.20 of Title 42 of the Code of Federal Regulations requires that the Oklahoma Department of Human Services take all reasonable measures to ascertain liability of a third party, for example, private insurance, to pay for care and services.

(1) Third party liability is treated as a resource if payment by a third party has been made on behalf of the recipient.

(A) In instances where such liability is found to exist after medical assistance has been made available, the Oklahoma Health Care Authority (OHCA) seeks reimbursement to the extent of such legal liability.

(B) If the applicant or recipient has already received payments from a third party, Form 08AD050E, Third Party Liability Resource, is completed and submitted to the OHCA Third Party Liability Unit.

(2) The Child Welfare worker is responsible for identifying and providing all insurance information for each child. Private insurance information is provided to the custody specialist and the custody specialist is kept current on any changes in the private insurance. OHCA accesses private insurance for payment of medical claims before Medicaid pays on the claims.**340-75-13-78. Third party liability, accident, or injury**When medical services are provided to a recipient of Medicaid as the result of an accident or injury, the Child Welfare (CW) worker determines if there has been or may be monetary settlements that affect eligibility. The Oklahoma Health Care Authority (OHCA), Third Party Liability Unit checks all paid claims for potential accident or trauma related diagnosis codes and follows up on those directly with the recipient.

(1) If the recipient fails to cooperate or does not respond to requests from OHCA, OHCA may request the local office to submit Form 08AD050E, Third Party Liability Resource.

(2) If a recipient continues to not respond to requests for information or fails to cooperate with the CW worker, the worker suspends further benefits until the recipient has supplied the necessary information to OHCA.

[Source: Amended at 10 Ok Reg 3987, eff 7-13-93 (emergency); Amended at 11 Ok Reg 1733, eff 5-12-94 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 19 Ok Reg 2265, eff 6-27-02 ; Amended at 24 Ok Reg 1323, eff 6-1-07]

### **340:75-13-78. Third party liability, accident, or injury**

When medical services are provided to a recipient of Medicaid as the result of an accident or injury, the Child Welfare (CW) worker determines if there has been or may be monetary settlements that affect eligibility. The Oklahoma Health Care Authority (OHCA), Third Party Liability Unit checks all paid claims for potential accident or trauma related diagnosis codes and follows up on those with the recipient directly. If the recipient fails to cooperate or does not respond to requests from OHCA, OHCA may request the local office to submit Form ADM-50, Third Party Liability Resource. If a recipient continues to not respond to requests for information or fails to cooperate with the CW worker, the worker suspends further benefits until the recipient has supplied the necessary information to OHCA.

[Source: Amended at 10 Ok Reg 3987, eff 7-13-93 (emergency); Amended at 11 Ok Reg 1733, eff 5-12-94 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 19 Ok Reg 2265, eff 6-27-02 ; Amended at 24 Ok Reg 1323, eff 6-1-07]

### **340:75-13-79. Transportation and travel expenses for necessary medical services outside the child's community**

(a) **Transportation for medical services outside the child's community.** Oklahoma Health Care Authority (OHCA) ensures that necessary transportation is available to a child approved for Medicaid who is in need of medical services that are unavailable in the child's community.

- (1) Community-based residential care contractors providing transportation do not receive transportation reimbursement.
- (2) Placement providers are responsible for transporting the child to routine medical appointments.
- (3) Placement providers who must travel out of the community for necessary and non-routine medical services for the child use the SoonerRideNon-Emergency Transportation (NET) service.

(A) NET is used for transportation for routine medical services and must be scheduled by appointment at least three business days prior to the child's health care appointment, but may be scheduled up to 14 business days in advance.

(B) Standing transportation appointments for the child with NET may be scheduled beyond the 14-day time requirements, not to exceed 30 days.

(C) When scheduling SoonerRide transportation, the placement provider identifies himself or herself as the child's foster parent.

(D) The placement provider has the option of receiving gasoline reimbursement for providing transportation when the provider chooses not to use public transportation or when public transportation is not available.

(b) **Transportation for urgent care.** When the child's condition requires urgent care, the placement provider must attempt to schedule NET services through SoonerRide.



(1) SoonerRide must be contacted on or before the date of service to allow for assignment of a trip number and mailing of a reimbursement form to the placement provider. The reservation center is open 24 hours a day, seven days a week.

(2) When SoonerRide cannot provide transportation or the placement provider chooses not to use NET for urgent care, the placement provider may receive gasoline reimbursement.

(c) **Transportation by commercial airline.** When a child requires out-of-state medical care that involves the use of a commercial airline, approval and flight arrangements must be secured by contacting OHCA, Care Management Unit.

(d) **Ambulance services.** Ambulance service is compensable for the child when other forms of transportation do not meet the medical needs of the child. Arrangements must be secured by contacting OHCA SoonerRide coordinator.

(e) **Reimbursement for transportation and travel expenses.** Travel expenses may be reimbursed only when necessary medical services are unavailable in the community where a child in Oklahoma Department of Human Services (OKDHS) custody and out-of-home placement resides.

(1) Travel, lodging, and meals are paid with Title XIX funds for the child and one essential person when travel outside the child's community is necessary to secure necessary medical services.

(2) Any associated travel expense claimed on Form 10AD006E, Travel Claim, must be documented with receipt and is initially processed through the local OKDHS office. Completed Form 10AD006E, is sent to OHCA Finance Division Travel Claims.

[Source: Amended at 10 Ok Reg 3987, eff 7-13-93 (emergency); Amended at 11 Ok Reg 505, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1733, eff 5-12-94 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 19 Ok Reg 2265, eff 6-27-02 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 24 Ok Reg 1323, eff 6-1-07 ; Amended at 25 Ok Reg 1335, eff 6-1-08 ; Amended at 29 Ok Reg 635, eff 6-1-12]

### **340:75-13-80. Determination of medical eligibility**

(a) **Determination of medical assistance eligibility.** Determination of eligibility for the state's medical assistance programs is required when a child:

(1) is removed from home and placed in the custody of Oklahoma Human Services (OKDHS) or a federally recognized Indian tribe when the state is paying for the Indian child's care; or

(2) enters state-paid care by signed parental agreement.

(b) **Unqualified alien child.** A child who is an undocumented or unqualified alien is not eligible for medical assistance except in emergency medical situations, regardless of custody status until the child was lawfully determined to be a permanent resident for five years or otherwise meets federal requirements as a qualified alien per Oklahoma Administrative Code 317:35-5-25.

(c) **Child or youth not in OKDHS or tribal custody and medical assistance.** An application for medical assistance may be made on behalf of a child or by a youth not in OKDHS or tribal custody.

(1) The child in a family-centered services case meets eligibility requirements based on the family income to qualify for medical

assistance.

(2) A youth leaving OKDHS or federally recognized tribal care who is 18 years of age may receive medical assistance. Per the 2014 Affordable Care Act, a youth in OKDHS or tribal custody and out-of-home placement on his or her 18th birthday may be eligible to receive medical benefits until his or her 26th birthday. The youth:

(A) meets eligibility criteria to maintain continuous coverage;

(B) who loses medical coverage may apply online with SoonerCare and receive medical coverage until his or her 26th birthday provided all eligibility requirements are met. OKDHS does not pay for services not covered by the Oklahoma Health Care Authority medical program for the youth; and

(C) receiving Supplemental Security Income applies in the local OKDHS office.

(3) A pregnant youth 18 years of age or older may apply for pregnancy-related services covered under Title XXI.

[Source: Amended at 10 Ok Reg 3987, eff 7-13-93 (emergency); Amended at 11 Ok Reg 505, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1733, eff 5-12-94 ; Amended at 19 Ok Reg 2265, eff 6-27-02 ; Amended at 22 Ok Reg 854, eff 5-12-05 ; Amended at 24 Ok Reg 1323, eff 6-1-07 ; Amended at 28 Ok Reg 894, eff 7-1-11 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 37 Ok Reg 1850, eff 9-15-20 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

**340:75-13-81. Withdrawal of life support, withholding, or withdrawal of hydration and nutrition, resuscitation efforts, and organ donation**

(a) **Decisions for a child in OKDHS custody.** When a child is in Oklahoma Department of Human Services (OKDHS) legal custody of, regardless of custody status, the court must be involved and make any decision regarding:

(1) withdrawal or withholding of life support systems;

(2) hydration;

(3) nutrition; and

(4) approval of a Do Not Resuscitate Order.

(b) **Withdrawal of life support.** Any medical procedure or intervention administered to a child in OKDHS custody that serves only to prolong the process of dying or maintain the child's condition of persistent unconsciousness is considered life-sustaining treatment. This does not include the administration of medication or the performance of any medical treatment deemed necessary to alleviate pain or the normal consumption of food and water. The withdrawal of life support systems is generally considered only for a patient who suffers from an incurable and irreversible condition, death within six months, or who is persistently unconscious, per Section 3101.1 et seq. of Title 63 of the Oklahoma Statutes (63 O.S. § 3101.1 et seq.).

(c) **Withholding or withdrawal of hydration and nutrition.** Hydration and nutrition may be withheld or withdrawn only if the impending death would result from the underlying terminal illness or injury and not from dehydration, starvation, or both, per 63 O.S. § 3080.1.

(d) **Resuscitation efforts.** A Do Not Resuscitate Order is an order issued by a licensed physician that cardiopulmonary resuscitation must not be administered. Cardiopulmonary resuscitation includes those measures used to restore or support cardiac or respiratory function in the event of cardiac or respiratory arrest. As a result of such an order for a child in OKDHS custody, no efforts are made to restore or support the cardiac or respiratory system.

(e) **Organ donation during the life of a child in OKDHS custody.** During the life of a child in OKDHS custody, OKDHS may not consent to the anatomical gift of the body or organs of the child regardless of the child's custody status. An anatomical gift of a donor's body or part may be made during the life of the donor for the purpose of transplantation, therapy, research, or education pursuant to 63 O.S. § 2200.4A by:

- (1) the donor, if the donor is an adult or if the donor is a minor and is:
  - (A) emancipated; or
  - (B) authorized under state law to apply for a driver license because the donor is at least 16 years of age;
- (2) an agent of the donor, unless the power of attorney for health care or other record prohibits the agent from making an anatomical gift;
- (3) a parent of the donor, if the donor is an unemancipated minor; or
- (4) the donor's guardian.

(f) **Organ donation after the death of a child in OKDHS custody.** When the potential donor child is in OKDHS custody at the time of death, nine classes of persons supersede OKDHS and have the right to consent to the donation of the decedent's body or part. When none of the nine classes of persons is reasonably available, OKDHS may consent to an anatomical gift of the decedent's body or part when:

- (1) the child donor was in OKDHS permanent custody at the time of the child's death; and
- (2) all other classes of persons listed in 63 O.S. § 2200.9A, who supersede OKDHS, have been given a reasonable opportunity to consent or object to the donation and have not done so.

[Source: Added at 16 Ok Reg 102, eff 10-13-98 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 28 Ok Reg 894, eff 7-1-11]

### **340:75-13-82. Funeral expenses for children**

(a) The Oklahoma Department of Human Services (DHS) is responsible for funeral and burial expenses and related costs for a child in permanent DHS custody.

(b) When the child is in emergency or temporary DHS custody and in out-of-home placement, DHS determines the parent(s)' or next of kin's ability to assume the cost. When the parent(s) or next-of-kin is unable or unwilling, DHS assumes the responsibility. A maximum reimbursement limit of \$4,500 is allowed for the funeral and burial. The parent(s) is responsible for all funeral and burial expenses when the child resides with the parent(s).

(c) When a child in permanent DHS custody has a documented terminal medical diagnosis at the time of adoption finalization, a maximum reimbursement limit of \$4,500 is allowed for the funeral and burial.

[Source: Added at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 22 Ok Reg 875, eff 5-12-05 ; Amended at 37 Ok Reg 1850, eff 9-15-20]

### **340:75-13-83. Child Welfare Targeted Case Management**

Oklahoma's Medicaid State Plan was amended August 1, 1997 to include Targeted Case Management (TCM). Under the plan, the Oklahoma Department of Human Services (OKDHS) is designated as a TCM provider for children under the age of 18 who are in the voluntary, emergency, temporary, or permanent custody of OKDHS and who are in out-of-home care or trial adoption. Specific TCM services are those that assist these children to access needed medical, educational, social, and other services. The Child Welfare (CW) worker:

- (1) selects TCM services when completing the child's placement plan; [OAC 340:75-6-40.1]
- (2) provides TCM services during contacts with the child or with other persons on behalf of the child; and [OAC 340:75-6-48]
- (3) documents TCM services on the KIDS Contacts screen. [OAC 340:75-6-40.6]

[Source: Added at 20 Ok Reg 935, eff 5-12-03]

## **PART 9. INDEPENDENT LIVING [REVOKED]**

### **340:75-13-95. Independent Living Initiative [REVOKED]**

[Source: Added at 11 Ok Reg 379, eff 10-15-93 (emergency); Added at 11 Ok Reg 1733, eff 5-12-94 ; Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-13-96. Preparation for adult life/independent living initiative [REVOKED]**

[Source: Added at 11 Ok Reg 379, eff 10-15-93 (emergency); Added at 11 Ok Reg 1733, eff 5-12-94 ; Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-13-97. Administration [REVOKED]**

[Source: Added at 11 Ok Reg 379, eff 10-15-93 (emergency); Added at 11 Ok Reg 1733, eff 5-12-94 ; Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-13-98. Eligibility [REVOKED]**

[Source: Added at 11 Ok Reg 379, eff 10-15-93 (emergency); Added at 11 Ok Reg 1733, eff 5-12-94 ; Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-13-99. Federal requirements [REVOKED]**

[Source: Added at 11 Ok Reg 379, eff 10-15-93 (emergency); Added at 11 Ok Reg 1733, eff 5-12-94 ; Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-13-100. Services [REVOKED]**

[Source: Added at 11 Ok Reg 379, eff 10-15-93 (emergency); Added at 11 Ok Reg 1733, eff 5-12-94 ; Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-13-101. Matrix of independent living initiative services [REVOKED]**

[Source: Added at 11 Ok Reg 379, eff 10-15-93 (emergency); Added at 11 Ok Reg 1733, eff 5-12-94 ; Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-13-102. Oklahoma Children's Initiative (OCI) [REVOKED]**

[Source: Added at 11 Ok Reg 379, eff 10-15-93 (emergency); Added at 11 Ok Reg 1733, eff 5-12-94 ; Revoked at 14 Ok Reg 2288, eff 6-12-97]

## **SUBCHAPTER 14. WELL-BEING**

### **340:75-14-1. Purpose, definitions, and assessment**

#### **(a) Purpose.**

- (1) A child's well-being is comprised of four basic domains:
  - (A) cognitive functioning;
  - (B) physical health and development;
  - (C) behavioral/emotional functioning; and
  - (D) social functioning.
- (2) A child's well-being is dependent upon the caretaker's ability to meet the child's physical health, learning and development, behavioral health, and the child's ongoing opportunities to engage in age- or developmentally-appropriate activities following the reasonable and prudent parent standard.
- (3) The child welfare (CW) specialist assesses:
  - (A) child functioning that includes the specific indicators of child well-being. An assessment of child functioning is the basis for understanding how the caregiver addresses any specific child needs and is a central component of promoting well-being for children who have experienced abuse or neglect; and
  - (B) a child's needs in these areas throughout the case process and addresses identified needs as part of case planning activities.
- (4) Children and families are meaningfully engaged in all aspects of the service process to build and maintain a trusting, supportive working relationship.

(5) A trauma-informed framework of well-being puts together assessments, interventions, actions, and supports that are intentional and inclusive of a deeper understanding of the four basic domains of a child's well-being through a trauma-informed lens.

(6) Children engaged by the CW system, especially those who were removed from their birth families, have likely experienced traumatic events in their lives, thereby impacting their development and overall well-being.

(A) A removal leading to the separation of the family, in and of itself, can cause trauma.

(B) Children's relationships, behaviors, and sense of self may all be impacted.

(C) Adverse effects of trauma may be immediate or have a delayed onset.

(D) Not all children who are involved in or witness traumatic events develop traumatic stress responses.

Some children are able to adapt and cope with trauma better than others, especially when intervention is early.

(b) **Equal access.** Children engaged by the CW system have the right to fair and equal access to all available services, placement, care, treatment, and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or Human Immunodeficiency Virus (HIV) status.

(c) **Definitions.** Per Section 1-1-105 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-1-105) the following words and terms, when used in this Subchapter shall have the following meanings, unless the context clearly indicates otherwise:

(1) **"Age-appropriate" or "developmentally-appropriate"** means:

(A) activities or items that are generally accepted as suitable for children of the same age or level of maturity or that are determined to be developmentally-appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and

(B) in the case of a specific child, activities or items that are suitable for that child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the specific child.

(2) **"Behavioral health"** means mental health, substance use or abuse, or co-occurring mental health and substance use or abuse diagnoses, and the continuum of mental health, substance use or abuse, or co-occurring mental health and substance use or abuse treatment.

(3) **"Child behavioral health screener"** means a brief measuring tool designed to screen for the presence of behavioral and trauma-related symptoms that may be negatively impacting

child function in children ages birth through 17 years old. It additionally has questions geared to track counseling progress and psychotropic medication management.

(4) **"Child with disability"** means any child who has a physical or mental impairment that substantially limits one or more of the child's major life activities or who is regarded as having such impairment by a competent medical professional.

(5) **"Infant"** means a child 12 months of age and younger.

(6) **"Psychotropic medications"** means medications with well-demonstrated efficacy in the treatment of mental disorders through the modification of behavior, mood, and emotions.

(7) **"Reasonable and prudent parent standard"** means the standard characterized by careful and sensible parental decisions that maintain the child's health, safety, and best interests while at the same time encouraging the emotional and developmental growth of the child. This standard is used by the child's caregiver when determining whether to allow a child to participate in extracurricular, enrichment, cultural, and social activities. For purposes of this definition, the term "caregiver" means a foster parent with whom a child in foster care was placed, a representative of a group home where a child was placed, or a designated official for a residential child care facility where a child in foster care was placed.

(8) **"Trauma"** means what happens to a child that results from an event, series of events, or set of circumstances experienced by an individual as physically or emotionally harmful or life threatening and that has lasting adverse effects on the individual's functioning and mental, physical, social, emotional, or spiritual well-being.

(9) **"Successful adulthood program"** means a program specifically designed to assist a child in Oklahoma Department of Human Services (DHS) custody or tribal custody in developing and enhancing the skills and abilities necessary for successful adult living, per 10A O.S. § 1-9-107.

(10) **"Youth"** means a child 13 through 17 years of age.

(d) **Child functioning.**

(1) **Description.** Child functioning is concerned with describing the child's general behavior, emotions, temperament, development, academic status, physical capacity, and health status. It addresses how a child functions from day-to-day and their current status rather than focusing on a specific point in time. An assessment of child functioning must take into account the child's age and/or any special needs or developmental delays.

(2) **Child functioning indicators.**

(A) **Emotion/trauma.** The degree to which, an adequate pattern of appropriate self-management of emotions is displayed, consistent with the child's age, ability, and developmental level.

(B) **Behavior.** The degree to which, an appropriate coping and adapting behavior is displayed, consistent with the child's age, ability, and developmental level.

(C) **Developmental/early learning.** Consistent with age and ability expectations, the child is achieving milestones based on his or her age and developmental capacities.

(D) **Academic status.** The child, according to age and ability, is:

- (i) actively engaged in instructional activities and reading at grade level or an Individualized Education Program (IEP) expectation level; and
- (ii) meeting requirements for annual promotion and course completion leading to a high school diploma or equivalent or vocational program.

(E) **Positive peer/adult relationships.** The child, according to age and ability, demonstrates adequate positive social relationships.

(F) **Family relationships.** The child demonstrates age and developmentally-appropriate patterns of forming relationships with family members.

(G) **Physical health.** The child is achieving and maintaining positive health status that includes physical, dental, audio and visual assessments and services. When the child has a serious or chronic health condition, he or she is achieving the best attainable health status given the diagnosis and prognosis.

(H) **Cultural identity.** Important cultural factors, such as race; class; ethnicity; religion; gender, gender identity, and sexual orientation; and other forms of culture are appropriately considered in the child's life.

(I) **Substance awareness.** The assessment of substance awareness is multi-dimensional. The assessment:

- (i) includes the child/youth's awareness of alcohol and drugs, and his or her own use; and
- (ii) for children who have experienced the negative impacts of parent/caregiver substance use or abuse within their home, includes their awareness of alcohol and drugs and treatment/recovery for their parent/legal guardian(s), as age appropriate.

(J) **Preparation for adult living skills development.**

The child, according to age and ability, is gaining skills, education, work experience, long-term relationships and connections, income, housing, and other capacities necessary for functioning upon adulthood; and includes access to age-appropriate, medically-accurate information about reproductive health care, pregnancy prevention, and the prevention and treatment of sexually-transmitted infections at 12 years of age and older.

(e) **Screenings and functional assessments.** Screening and functional assessment tools are used to inform decisions about appropriateness of evidence-informed services. All children, birth through 17 years of age, engaged with Child Welfare Services have access to screening and functional assessments for the early and ongoing identification of well-being needs, per 10A O.S. § 1-4-208.



**340:75-14-2. Rights of a child served by the Oklahoma Department of Human Services (DHS)**

(a) **Rights.** Child Welfare Services (CWS) makes reasonable, good-faith efforts to provide the rights in (1) through (5) for a child in DHS custody, when doing so is in the child's best interest, per Section 1-9-119.1 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-9-119.1).

(1) **Placement.** A child deserves to:

- (A) remain in the custody of his or her parent(s) or legal custodian unless and until there is a determination in accordance with state law that removal is appropriate;
- (B) be placed in accordance with state law, when circumstances permit and, in (i) through (iv) order of preference, with an approved:
  - (i) relative;
  - (ii) kinship placement;
  - (iii) resource family who previously cared for the child; and
  - (iv) resource family;
- (C) be placed in the nearest geographic proximity to his or her home as possible;
- (D) be placed with the child's sibling(s), when the sibling(s) is also placed outside of his or her home, when appropriate;
- (E) be placed with a child of his or her own, when appropriate;
- (F) be placed with an approved resource family that can and is willing to accommodate the child's communication needs, when possible;
- (G) be provided with both information about a resource family or program and, when circumstances permit, an opportunity to meet the resource parent or program staff before placement occurs;
- (H) be provided an age-appropriate explanation why he or she is in foster care and what is happening to him or her and to his or her family, including a sibling(s), when possible;
- (I) continue in the same school or educational placement with minimal disruption in order to receive an education that fits his or her age and individual needs;
- (J) be treated with dignity during placement changes.
  - (i) Except when a change in placement is due to an emergency, a child and the child's attorney are given five-judicial days' notice before a change in placement.
  - (ii) Prior to any placement change, the impacted child is consulted when appropriate and advised in an age-appropriate manner of the circumstances

and the reason for the placement change. The child's input concerning the placement change is considered, taking the child's age and developmental level into account; and

(K) receive reasonable equipment and assistance to transport personal possessions during placement changes.

(2) **Safety.** Efforts are made to ensure a child in DHS custody:

(A) lives in a safe, healthy, and comfortable home;

(B) has adequate and appropriate clothing;

(C) receives individualized medical, dental, vision, behavioral health, and other required services by a continuity of providers, when reasonably possible;

(D) is free of unnecessary or excessive medication; and

(E) can report a potential violation of personal rights without fear of punishment, interference, coercion, or other retaliation.

(3) **Privacy.** A child deserves:

(A) to have an age-appropriate expectation of privacy in accordance with existing law as to his or her person, property, and communications;

(B) to freely exercise his or her own religious beliefs, including the refusal to attend any religious activities and services; and

(C) confidentiality of all of his or her juvenile court records consistent with existing law.

(4) **Communications.** A child deserves:

(A) written visitation plans with a parent(s) and sibling(s), per 10A O.S. § 1-7-105;

(B) to begin visitation with a parent(s) and sibling(s) in accordance with existing law;

(C) to have safe and reasonable communications with his or her parent(s), sibling(s), extended family and friends, when appropriate;

(D) regular and meaningful access his or her attorney, guardian, and/or court-appointed special advocate;

(E) to communicate, in private when necessary, with any court and the judge with personal jurisdiction of his or her case. This includes informing the court of inadequate representation provided by any attorney or other individual tasked with advocating on his or her behalf;

(F) the opportunity to engage in regular, meaningful, and private communication with his or her assigned child welfare (CW) specialist;

(G) to participate, in a manner consistent with his or her age and developmental level in the development of, and any revision to, the service plan;

(H) to be presented with the service plan for his or her review and signature, when appropriate;

(I) to be notified of, attend, and have the opportunity to be heard in court hearings relating to his or her case and in family meetings, when appropriate; and

(J) to have, in accordance with existing law, all of his or her records available for review by his or her attorney and court-appointed special advocate when such review is necessary.

(5) **Personal growth.** A child deserves:

(A) to have fair and equal access to all available services, placements, care, treatments and benefits, and to not be subjected to discrimination or harassment, as ensured by existing law;

(B) to engage in reasonable, age-appropriate day-to-day activities, including extracurricular, enrichment and social activities, consistent with the most family-like environment;

(C) to receive independent living and support services and, unless circumstances or existing law requires a document be obtained sooner, be provided identification and permanent documents, including, but not limited to, his or her birth certificate, Social Security card, and health records by 18 years of age, to the extent allowed by federal and state law;

(D) the opportunity to work and develop job skills at an age-appropriate level that is consistent with state law; and

(E) to manage or have managed his or her personal earnings and financial resources in a manner consistent with his or her age and developmental level.

(b) **Balancing rights.** One or more of the rights in subsection (a) may conflict; therefore, a balanced approach to protect these rights takes into account both the child's unique circumstances and what is in the child's best interest.

(c) **Rights notification.** A statement of these rights is provided to:

(1) each child upon entering foster care and at annually thereafter; and

(2) any foster parent once a child in DHS custody enters the foster parent's home and annually thereafter.

(d) **Questions or complaints.** A child in DHS custody is encouraged to talk to the assigned CW specialist and/or the foster parent(s) when he or she has questions or wants to talk to someone about his or her rights. When talking with the CW specialist or foster parent(s) is not helpful or the child is uncomfortable, a youth advocate may be contacted at OK Foster Youth Matters at 1-800-522-8014, or a complaint may be filed at [www.okfosteryouthmatters.org](http://www.okfosteryouthmatters.org).

(e) **Grievance.**

(1) A child in DHS custody has the right to file a grievance about the foster care services provided or received, without fear of reprisal or discrimination. The grievance is filed with the Office of Client Advocacy (OCA).

(2) After exhausting the remedies available through the OCA grievance process, a child in DHS custody may request intervention from the district court with jurisdiction over his or her case to obtain relief.

**340:75-14-3. Medical services for the child in Oklahoma  
Department of Human Services (DHS) custody**

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

(1) **"Consent"** means obtaining approval from a person for the procedure after providing an explanation of the necessity for the procedure involved, any known risks involved and, when appropriate, any alternative course of care.

(A) **"Informed consent"** means voluntary written consent from a person who received full, accurate, and sufficient information and explanation about a child's medical condition, medication, and treatment to enable the person to make a knowledgeable decision without being subjected to any deceit or coercion.

(B) **"Separate and specific consent"** means a licensed physician, psychiatrist, or other medical professional recommended a treatment or medication and requires an additional consent form provided by the professional be signed to authorize the treatment to occur or medication to be administered.

(C) **"Sufficient explanation"** means information provided and explained in plain language by the prescribing physician or physician's representative to the consent-giver including, but not limited to, the:

- (i) medical care and treatment or the medication;
- (ii) reason for prescribing the treatment or medication and the medication's purpose or intended results;
- (iii) side effects, risks, and contraindications including the effects of stopping the medication;
- (iv) method for administering the treatment or medication and dosage range, when applicable;
- (v) potential drug interactions;
- (vi) alternative treatments;
- (vii) behavioral health or other services used to complement the use of the psychotropic medication, when applicable; and
- (viii) other treatment interventions considered by the physician that may include, but are not limited to, medical, mental health, behavioral, counseling, or other services.

(2) **"DHS custody"** means a child is in the voluntary, emergency, temporary, or permanent custody of DHS.

(3) **"Medical" care** or **"treatment"** means, per Section 1-3-102 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-3-102) medical care or treatment that is either extraordinary or routine

and ordinary.

(A) Extraordinary medical care and treatment includes, but is not limited to:

- (i) surgery;
- (ii) general anesthesia;
- (iii) blood transfusions; or
- (iv) invasive or experimental procedures.

(B) Routine and ordinary medical care and treatment does not include any type of extraordinary care or treatment and includes, but is not limited to:

- (i) any necessary medical and dental examinations and treatments;
- (ii) medical screenings;
- (iii) clinical laboratory tests;
- (iv) blood testing;
- (v) preventative care;
- (vi) health assessments;
- (vii) physical examinations;
- (viii) immunizations;
- (ix) contagious or infectious disease screenings;
- (x) tests and care required for treatment of illness and injury including x-rays, stitches, and casts; or
- (xi) the provision of psychotropic medication.

(4) **"Placement provider"** means the person, foster parent, or administrator of a facility providing out-of-home care for a child in DHS custody.

(5) **"Psychotropic medications"** means medications with well-demonstrated efficacy in the treatment of mental disorders through the modification of behavior, mood, and emotions.

(b) **Medical services for the child in DHS custody in out-of-home care.** DHS is required to provide medical care necessary to preserve the child's health, per Oklahoma Children's Code provisions, 10A O.S. § 1-7-103. The child in DHS custody receives:

(1) Early Periodic, Screening, Diagnosis, and Treatment (EPSDT) screening according to the schedule of frequency or at a minimum, an annual physical exam. In addition, DHS provides, within 21-calendar days of entering custody, a standardized assessment for each child placed in DHS emergency custody, to evaluate the physical, developmental, medical, mental health, and educational needs, including health problems requiring immediate treatment, diagnosis of infections and communicable diseases, and an evaluation of injuries or other signs of abuse or neglect.

(2) a yearly behavioral health or developmental screening, and when recommended a behavioral health or developmental assessment, within 60-calendar days of the screening;

(3) a yearly dental exam when the child is over 3 years of age. A child under 3 years of age receives dental services as needed;

(4) an initiation of immunizations that are kept current;

(5) a visual and hearing evaluation exam and corrective lenses or hearing aids, when indicated;

- (6) outpatient or inpatient behavioral mental health treatment, when appropriate;
- (7) physician's services when the child is sick. This service is not considered a physical exam;
- (8) contagious or infectious disease screenings, including Human Immunodeficiency Virus (HIV) exams or testing, are provided as needed or upon request by a placement provider in a manner consistent with the Centers for Disease Control guidelines for time and testing frequency, per Oklahoma Administrative Code 340:75-1-113; and
- (9) follow-up and referral services as recommended by a qualified professional.

**(c) Consent for medical services.**

**(1) DHS authority to consent to routine and ordinary medical care and treatment.**

(A) DHS may consent to routine and ordinary medical care and treatment when the child is in DHS custody. DHS makes reasonable attempts, per 10A O.S. § 1-3-102, when the child is in voluntary, emergency, or temporary custody to:

- (i) notify the child's parent or legal guardian of the provision of routine and ordinary medical care and treatment; and
- (ii) keep the parent or legal guardian involved in the care.

(B) DHS may authorize the placement provider, in writing, through the placement provider agreement, to consent to routine and ordinary medical care and treatment needed for the child upon the advice of a licensed physician, including psychotropic medication.

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

(A) DHS employees are not authorized to consent to extraordinary medical care and treatment for any child in DHS voluntary, emergency, temporary, or permanent custody.

(B) When the child is in DHS voluntary, emergency, or temporary custody, consent for the child's extraordinary medical care and treatment is obtained from the parent or legal guardian, unless the:

- (i) parent is unavailable to provide consent;
- (ii) parent refuses to consent; or
- (iii) care and treatment is related to the suspected abuse or neglect.

(C) Court authority is required for extraordinary medical care and treatment when the:

- (i) child is in DHS permanent custody;
- (ii) parent is unavailable to provide consent;
- (iii) parent refuses to provide consent; or
- (iv) care and treatment is related to the suspected abuse or neglect.

(D) When the recommended extraordinary medical care and treatment is not the result of a life-threatening emergency requiring immediate medical intervention, the court, per 10A O.S. § 1-3-102:

- (i) holds a hearing, upon the application of the district attorney and notice to all parties; and
- (ii) may authorize the recommended extraordinary care and treatment.

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

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

(A) Per 10A O.S. § 1-3-102, when the child taken into protective custody without a court order, requires emergency medical care prior to the emergency custody hearing, a peace officer, court employee, or the court may authorize treatment as necessary to safeguard the health and life of the child when the:

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

(B) Before a peace officer, court employee, or the court authorizes treatment based on the unavailability of the parent or legal guardian, law enforcement exercises diligence in locating the parent or guardian, when known.

**(4) Consent for medical care for the child in his or her own home.** The parent of the child in DHS custody placed in his or her own home consents to routine and ordinary medical care and treatment and extraordinary medical care and treatment needed by the child. In the event of parental refusal, DHS may consent to routine and ordinary medical care and treatment needed by a child in DHS custody, per OAC 340:75-14-3(c)(1). In the event of parental refusal to consent to extraordinary medical care and treatment needed by a child in DHS custody, DHS complies with procedures, per OAC 340:75-14-3(c)(2).

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

**(6) Experimental medical procedures.** Medical procedures that are experimental may not be compensable through SoonerCare (Medicaid) and are considered to be extraordinary medical care

and treatment that must be authorized by the parent or court order.

[Source: Added at 36 Ok Reg 1856, eff 9-16-19 ; Amended at 37 Ok Reg 1850, eff 9-15-20]

**340:75-14-4. Child placed with a parent in a licensed residential family-based treatment facility**

Per Section 472 of the Social Security Act (42 U.S.C. § 672) as amended by the Family First Prevention Services Act, a child in the custody of the Oklahoma Department of Human Services (DHS) is eligible for foster care maintenance payments (FCMP) when placed with a parent receiving services through a residential family-based treatment facility for substance use or abuse. The Oklahoma Department of Mental Health and Substance Abuse Services (ODMHSAS) administers the program for such facilities.

**(1) FCMP-eligible substance use or abuse facility.**

(A) The facility must meet all ODMHSAS established licensing requirements.

(B) The treatment facility must provide parenting skills, parent education, and individual and family therapy in addition to the substance use or abuse treatment.

(C) All treatments are provided under an organizational structure and treatment framework that involves understanding, recognizing, and responding to the effects of all types of trauma and, per recognized principles of trauma-informed approach and trauma-specific interventions, to address the consequences of trauma and facilitate healing.

**(2) FCMP-eligible child placed in residential family-based treatment facility.** For a child placed with a parent receiving substance use or abuse treatment in a residential family-based treatment facility, the child:

(A) is required to meet all foster care eligibility criteria in Title IV-E of the Social Security Act, except for Aid to Families with Dependent Children (AFDC);

(B) must have a recommendation for placement with a parent in a residential family-based treatment facility for substance use or abuse documented in his or her case plan; and

(C) only receives FCMP for 12 months or less.

**(3) Costs eligible for FCMP reimbursement.** Eligible costs for FCMP reimbursements, per 42 U.S.C. § 675 (4)(A) include, but are not limited to:

(A) food;

(B) clothing;

(C) shelter;

(D) daily supervision;

(E) personal incidentals; and

(F) reasonable travel for a child to remain in his or her school of origin.



(4) **Costs exempt from FCMP reimbursement.** The costs for operation and administration of the facility and programs are specifically excluded from FCMP.

[Source: Added at 36 Ok Reg 443, eff 4-9-19 (emergency); Added at 37 Ok Reg 1850, eff 9-15-20]

## **SUBCHAPTER 15. ADOPTIONS**

### **PART 1. GENERAL PROVISIONS [REVOKED]**

#### **340:75-15-1. Legal base [REVOKED]**

[Source: Revoked at 11 Ok Reg 651, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 3281, eff 6-27-94]

#### **340:75-15-1.1. Permanency planning [REVOKED]**

[Source: Added at 14 Ok Reg 998, eff 1-24-97 (emergency); Added at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 1463, eff 3-30-98 (emergency); Revoked at 16 Ok Reg 102, eff 10-13-98]

#### **340:75-15-2. Program responsibilities [REVOKED]**

[Source: Revoked at 11 Ok Reg 651, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 3281, eff 6-27-94]

#### **340:75-15-3. Recruitment [REVOKED]**

[Source: Revoked at 11 Ok Reg 651, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 3281, eff 6-27-94]

#### **340:75-15-4. Eligibility [REVOKED]**

[Source: Revoked at 11 Ok Reg 651, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 3281, eff 6-27-94]

### **PART 2. ADOPTION SERVICES PROGRAM LEGAL AUTHORITY AND SCOPE**

#### **340:75-15-5. Oklahoma Human Services (OKDHS) adoption services program legal authority and scope**

(a) **Legal authority.** Every child has the right to be raised in a secure, loving home and when the child's biological parents are unable or unwilling to provide for the child's care, the child's interests are best served by providing the child with a permanent family through adoption, per the Oklahoma Adoption Code, Section 7501-1.2 of Title 10 of the Oklahoma Statutes (10 O.S. § 7501-1.2).

(b) **Adoption and Safe Families Act (ASFA).** Per Public Law 105-89, ASFA mandates that OKDHS:

- (1) identify an appropriate adoptive home for the legally-free child when adoption is the child's permanency plan;

- (2) provide for the interjurisdictional placement of children; and
- (3) provide post-adoption services as a component of family preservation services.

(c) **Multiethnic Placement Act of 1994 (MEPA).**

(1) MEPA as amended by the Interethnic Adoption Provisions of 1996 (IEP), is designed to:

- (A) eliminate discrimination on the basis of race, color, or national origin of the child or the prospective foster or adoptive parent;
- (B) decrease the length of time that children wait to be adopted;
- (C) facilitate the identification, recruitment, and retention of foster and adoptive parents who can meet the distinctive needs of children awaiting placement; and
- (D) prohibit states or agencies that receive federal funds from delaying or denying any child's placement on the basis of the child's or prospective foster or adoptive parent's race, color, or national origin.

(2) Any decision to consider the use of race as a necessary element of a placement decision is based on concerns arising out of the circumstances of the individual case and based on the child's best interests. Only the most compelling reasons may serve to justify consideration of race and ethnicity as part of a placement decision. Such reasons are likely to emerge only in unique and individual circumstances.

(3) Occasions where race or ethnicities are lawfully considered in a placement decision are very rare. MEPA/IEP does not prohibit a preference for placing a child with relatives.

(4) Children who meet the definition of an Indian child, per the Indian Child Welfare Act (ICWA), Section 1903(4) of Title 25 of the United States Code are placed according to the placement preferences found in ICWA.

(5) Resource family recruitment reflects the ethnic and cultural diversity of children in OKDHS custody who need foster and adoptive homes. A comprehensive recruitment plan is developed and updated annually by the field administrator.

(d) **Privacy rights of each party to the adoption.** The privacy rights of each party to an adoption are protected by clarifying when and to whom information is released, per 10 O.S. § 7501-1.2.

(e) **OKDHS adoption services for the eligible child.** Each child with a permanency goal of adoption is referred for adoption services that include:

- (1) identifying an appropriate adoptive home;
- (2) preparing the child for adoptive placement; and
- (3) providing supportive services to the child and adoptive family.

(f) **Adoption records maintained by OKDHS.** Adoption records finalized in Oklahoma are maintained for 99 years by the child-placing agency, attorney, entity, or person arranging or facilitating the adoption. Child-placing agencies, attorneys, entities, or persons arranging or facilitating adoptions that cease to operate or to practice in Oklahoma transfer the child-placing agency's, attorney's, entity's, or person's

adoption records to the OKDHS Resource Unit or, after notifying OKDHS, to a transferee that assumes responsibility for those records.

[Source: Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ; Amended at 15 Ok Reg 417, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 2740, eff 4-14-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 20 Ok Reg 2072, eff 6-26-03 ; Amended at 25 Ok Reg 970, eff 5-15-08 ; Amended at 25 Ok Reg 1953, eff 7-1-08 ; Amended at 26 Ok Reg 884, eff 5-15-09 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 35 Ok Reg 1695, eff 9-17-18 ; Amended at 39 Ok Reg 1803, eff 9-15-22]

### **340:75-15-6. Adoption services**

(a) **Adoption services.** Adoption services are provided to the child in Oklahoma Department of Human Services (DHS) custody when reunification efforts with the parent or legal guardian failed or are not in the child's best interests, and permanency may be achieved through an adoptive placement. Adoption is considered for each child in DHS custody who cannot return home regardless of the child's age or special needs.

(b) **Interstate Compact on the Placement of Children (ICPC) adoption services.** ICPC is an agreement between states to provide protection and services to the child placed across state lines for adoption.

(1) The ICPC deputy compact administrator (DCA) is authorized to conduct the necessary investigation of the proposed placement to assure all statutorily mandated adoptive home-assessment requirements are met.

(2) After the DCA approves the placement, the DCA is administratively responsible for overseeing the placement until the adoption is finalized or, when applicable disrupts, and the child is moved from the placement. DCA administrative oversight includes:

- (A) processing supervisory reports from the receiving state;
- (B) facilitating communication between the states or parties involved; and
- (C) notifying the agency or individual of an adoption finalization or disruption, per Oklahoma Administrative Code 340:75-1-86.

(c) **Inter-country adoption.** DHS does not complete adoptive home assessments for persons requesting to adopt a foreign national child through inter-country adoption. DHS refers inquiries regarding inter-country adoptions to licensed child-placing agencies in Oklahoma that provide inter-country adoption services.

(d) **Private adoptive home study.** DHS is not required to make a home study and report to the court on adoptive placements made by private adoption agencies or persons providing private adoption services, per Section 7505-5.4(D) of Title 10 of the Oklahoma Statutes.

[Source: Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ; Amended at 14 Ok Reg 998, eff 1-24-97 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 417, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 20 Ok Reg 2072, eff 6-26-03 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Amended at 30 Ok Reg 839, eff 7-1-13 ;

### **340:75-15-7. Definitions**

The following words and terms, when used in this Subchapter, have the following meaning, unless the context clearly indicates otherwise:

**"Adoptee"** means a person who is adopted or is to be adopted.

**"Adoption"** means a way of meeting the child's best interests by providing him or her with a permanent family through a legal transfer of the parental responsibilities for that child from the parent or legal guardian to the adoptive parent, per the Oklahoma Adoption Code, Section 7501-1.1 et seq. of Title 10 of the Oklahoma Statutes (10 O.S. §§ 7501-1.1 et seq.). The adoption process creates a new kinship network that links the birth family and the adoptive family through the child.

**"Adoption assistance"** means medical assistance, monthly monetary payment, or both, and limited reimbursement of attorney's fees and other non-recurring expenses related to the adoption's finalization, provided to the adoptive parent based on the child's needs and the adopting parent(s)' circumstances.

**"Adoption assistance agreement"** means a binding, contractual agreement negotiated between an adoptive parent and Oklahoma Human Services (OKDHS) that specifies the:

- (A) duration of the agreement;
- (B) nature and amount of any payment, service, or assistance provided;
- (C) agreement remains in effect regardless of the adoptive parent's state of residence;
- (D) child's interests are protected in cases where the adoptive parent and the child move to another state;
- (E) adoptive parent's requirements to continue receiving assistance;
- (F) adoptive parent chooses to defer the receipt of medical assistance, monthly monetary payment, or both and elects to maintain the option in the future; and
- (G) child is not immediately eligible for adoption assistance benefits; however, he or she is at risk of developing a special need making him or her eligible for adoption assistance after the adoption finalization.

**"Adoption disruption"** means the interruption of a prospective adoption after the child's placement and before the adoption finalization.

**"Adoption dissolution"** means the act of ending an adoption by a court order terminating the legal relationship between the child and the adoptive parent. This term applies only after finalization of the adoption.

**"Agency decline"** means an OKDHS decision not to proceed with a child's placement in an authorized adoptive home.

**"Alleged father"** means *a man who alleges himself to be, or is alleged to be, the genetic father or a possible genetic father of a child, but whose paternity has not been determined, per 10 O.S. § 7700-102. The term does not include a presumed father.*

**"Applicant"** means a person who makes a formal application to become a resource parent but has not completed the approval process.

**"Application"** means a completed Form 04AF001E, Resource Family Assessment Application. Form 04AF001E requires documents and actions completed by the applicant.

**"Approved adoptive family"** means a family who completed the required assessment process for adoption approval, per Oklahoma Administrative Code (OAC) 340:75-15-88.

**"Attachment"** means a psychologically-rooted tie between two persons that permits them to have powerful emotional significance for each other.

**"Authorized adoptive placement"** means an approved adoptive family is authorized to take placement of an adoption-eligible child.

**"Child profile"** means the full-disclosure report prepared when the child's permanency plan is adoption, including information regarding the child's biological-family background and the child's social, educational, and medical history. When the child's permanency plan is adoption, the child profile is prepared and provided to the adoptive parent after the adoption authorization is completed, prior to the child's placement in the adoptive home.

**"Child with special needs"** means a child, per Public Law 96-272, who may be difficult to place for adoption due to:

- (A) a serious physical or mental disability;
- (B) emotional disturbance;
- (C) a high risk to develop a physical or mental disability;
- (D) his or her age;
- (E) a sibling relationship;
- (F) racial or cultural factors; or
- (G) a combination of these conditions.

**"Concurrent planning"** means the provision of reunification services to the child in OKDHS custody and the child's parent or legal guardian while simultaneously developing an alternative plan in the event reunification efforts fail or are no longer feasible.

**"Directive"** means a document signed by the OKDHS Director or his or her designee authorizing an OKDHS employee to sign consent to the adoption of a child who is in OKDHS custody.

**"Disclosure"** means a process in which OKDHS provides medical, psychological, educational, and social history including the child's profile to the adoptive parent.

**"Family decline"** means a decision made by the family not to pursue placement of the child for whom they were authorized.

**"Finalized adoption"** means the legal consummation of an adoption.

**"Indian Child Welfare Act"** means federal and state laws that govern the removal and out-of-home placement of Indian children, per Section 1901 et seq. of Title 25 of the United States Code, and 10 O.S. §§ 40 et seq.

**"Interlocutory decree"** means a temporary court order, after the filing of the adoption petition that gives the petitioner temporary care and custody of the child until the final decree of adoption is entered by the court.

**"Licensed child-placing agency"** means a private agency licensed by OKDHS that arranges for or places a child who is legally

available for adoption, in an adoptive home.

**"Life Book"** means a compilation of photographs, documents, mementos, illustrations, and narrative accounts of important events in a child's and family's lives. The child's Life Book is compiled with or for the child who is in OKDHS custody in an effort to prepare the child for placement. The adoptive family's Life Book is completed by the family as part of the assessment process.

**"Notice of Plan for Adoption"** means written notification provided to the alleged or presumed father that the birth mother is considering adoptive placement for the child. Notice of Plan for Adoption may be given by OKDHS, a licensed child-placing agency, or an attorney representing the child's prospective adoptive parent, before or after the child's birth.

**"Presumed father"** means a man who, by operation of law, per 10 O.S. § 7700-204, is recognized as the child's father until that status is rebutted or confirmed in a judicial proceeding under the Uniform Parentage Act. A man is presumed the child's father, when:

- (A) he and the child's mother are married to each other and the child is born during the marriage;
- (B) he and the child's mother were married to each other and the child is born within 300-calendar days after the marriage is terminated by death, annulment, declaration of invalidity, dissolution of marriage, or after decree of separation;
- (C) before the child's birth, he and the child's mother married each other in apparent compliance with law, even when the attempted marriage is or could be declared invalid, and the child is born during the invalid marriage or within 300-calendar days after the invalid marriage is terminated by death, annulment, declaration of invalidity, dissolution of marriage, or after decree of separation;
- (D) after the child's birth, he and the child's mother married each other in apparent compliance with law, even when the marriage is or could be declared invalid, and he voluntarily asserted his paternity of the child; and:
  - (i) the assertion is in a record with the Oklahoma State Department of Health, Division of Vital Records or OKDHS;
  - (ii) he agreed to be and is named as the child's father on the child's birth certificate; or
  - (iii) he promised in a record to support the child as his own; or
- (E) for the first two years of the child's life, he resided in the same household with the child and openly held the child out as his own.

**"Resource"** means all foster care families, including traditional, coordinated, kinship, therapeutic, intensive treatment family care, and adoptive families.

**"Resource family assessment (RFA)"** means a joint process between Child Welfare Services and the family that consists of an evaluation of the family's ability to foster and/or adopt and includes, but

is not limited to:

- (A) consideration of each family member's criminal and child welfare histories;
- (B) the safety and physical space available in the home to integrate a new family member;
- (C) the number and ages of children residing in the home;
- (D) references;
- (E) military histories;
- (F) household income; and
- (G) health histories.

**"Statewide family staffing"** means a monthly meeting between resource specialists and youth transition staff to share information about families approved for adoption and waiting on placement of a child.

**"Termination of parental rights"** means a court order ending all custody and control by the child's parent.

**"Trial adoption (TA)"** means the period of time when a child is placed with an adoptive family until the adoption is legally finalized.

[Source: Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ; Amended at 14 Ok Reg 998, eff 1-24-97 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 417, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 20 Ok Reg 2072, eff 6-26-03 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 25 Ok Reg 1953, eff 7-1-08 ; Amended at 26 Ok Reg 884, eff 5-15-09 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 35 Ok Reg 1695, eff 9-17-18 ; Amended at 37 Ok Reg 1850, eff 9-15-20 ; Amended at 39 Ok Reg 1803, eff 9-15-22]

### **340:75-15-8. Adoption specialist, youth transition specialist, and resource specialist responsibilities**

The adoption process is a team effort that includes the adoption specialist, youth transition specialist, child welfare specialist, resource specialist, and service providers, such as resource parents, group homes, or resource family partners. The adoption specialist, youth transition specialist, and resource specialist:

- (1) consult with permanency planning, foster care, and child protective services specialists to address permanency issues for the child in out-of-home care; and
- (2) conduct an ongoing process that begins with the adoption consultation and concludes when an adoption for a child is finalized by the court.

[Source: Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ; Amended at 14 Ok Reg 998, eff 1-24-97 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 16 Ok Reg 2740, eff 4-14-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 20 Ok Reg 2072, eff 6-26-03 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 24 Ok Reg 1323, eff 6-1-07 ; Revoked at 27 Ok Reg 1092, eff 3-26-10 (emergency); Revoked at 27 Ok Reg 1865, eff 7-1-10 ; Added at 35 Ok Reg 1695, eff 9-17-18 ; Amended at 39 Ok Reg 1803, eff 9-15-22]

### **340:75-15-9. Confidentiality**

Section 7505-1.1 of Title 10 of the Oklahoma Statutes (10 O.S. § 7505-1.1) requires that all papers and records pertaining to adoption are confidential except as authorized by 10 O.S. §§ 7505-3.2, 7505-6.6, 7508-1.2, and 7508-1.3 or upon order of a court of record for good cause

shown. The adoption case record includes the child's case file and the adoptive family resource files. These files are adoption records once they become part of an authorized adoptive placement, per Oklahoma Administrative Code (OAC) 340:75-15-103.

(1) **Disclosure of medical and social history.** When a child is in Oklahoma Department of Human Services (DHS) custody, per 10 O.S. § 7504-1.2 his or her medical and social histories may be disclosed to the potential adoptive parent without any agreement and without redacting identifying information, unless DHS determines redaction of such information is in the child's best interests, when the:

(A) potential adoptive parent is a kinship or relative caregiver for the child; or

(B) child lived in the potential adoptive parent's home for 12 or more months.

(2) **Oklahoma Commission on Children and Youth (OCCY) access to pre-adoption or adoption records.** OCCY may access, examine, and copy DHS Child Welfare Services records including records regarding the transition of the child in DHS custody into adoptive placement, per 10 O.S. § 601.6. Adoption records are confidential and not open to inspection except for good cause shown and upon an order of the court of record, per 10 O.S. § 7505-1.1.

(3) **Adoption assistance records.** All records regarding adoption assistance are confidential.

[Source: Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ; Amended at 13 Ok Reg 483, eff 11-14-95 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 15 Ok Reg 417, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 20 Ok Reg 2072, eff 6-26-03 ; Amended at 24 Ok Reg 1323, eff 6-1-07 ; Amended at 28 Ok Reg 375, eff 12-1-10 (emergency); Amended at 28 Ok Reg 894, eff 7-1-11 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 35 Ok Reg 451, eff 1-31-18 (emergency); Amended at 35 Ok Reg 1695, eff 9-17-18]

## **PART 3. APPLICATION PROCESS [REVOKED]**

### **340:75-15-20. Confidentiality [REVOKED]**

[Source: Revoked at 11 Ok Reg 651, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 3281, eff 6-27-94]

### **340:75-15-21. Application and intake interview [REVOKED]**

[Source: Revoked at 11 Ok Reg 651, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 3281, eff 6-27-94]

### **340:75-15-22. Setting up the record [REVOKED]**

[Source: Revoked at 11 Ok Reg 651, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 3281, eff 6-27-94]

### **340:75-15-23. Interviews with applicants [REVOKED]**



[Source: Revoked at 11 Ok Reg 651, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 3281, eff 6-27-94]

### **340:75-15-24. Adoptive home study [REVOKED]**

[Source: Revoked at 11 Ok Reg 651, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 3281, eff 6-27-94]

## **PART 4. PLANNING AND PREPARATION OF CHILDREN FOR ADOPTION [REVOKED]**

### **340:75-15-25. Permanency planning through adoption [REVOKED]**

[Source: Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ; Amended at 13 Ok Reg 483, eff 11-14-95 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 14 Ok Reg 998, eff 1-24-97 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 1463, eff 3-30-98 (emergency); Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 16 Ok Reg 2740, eff 4-14-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Revoked at 18 Ok Reg 3067, eff 7-12-01]

### **340:75-15-26. Responsibility for adoptive planning and placement of custody children [REVOKED]**

[Source: Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ; Amended at 14 Ok Reg 998, eff 1-24-97 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 1463, eff 3-30-98 (emergency); Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 17 Ok Reg 445, eff 10-19-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Revoked at 18 Ok Reg 3067, eff 7-12-01]

### **340:75-15-27. Assessing the child for adoption [REVOKED]**

[Source: Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ; Amended at 13 Ok Reg 483, eff 11-14-95 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 14 Ok Reg 998, eff 1-24-97 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 1463, eff 3-30-98 (emergency); Amended at 16 Ok Reg 2740, eff 4-14-99 (emergency); Amended at 16 Ok Reg 1052, eff 4-26-99 ; Amended at 17 Ok Reg 1311, eff 5-11-00 ; Revoked at 18 Ok Reg 3067, eff 7-12-01]

### **340:75-15-28. Preparation of the child [REVOKED]**

[Source: Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ; Amended at 14 Ok Reg 998, eff 1-24-97 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 16 Ok Reg 2740, eff 4-14-99 (emergency); Amended at 17 Ok Reg 923, eff 3-1-00 (emergency); Amended at 17 Ok Reg 2429, eff 6-26-00 ; Revoked at 18 Ok Reg 3067, eff 7-12-01]

### **340:75-15-29. Indian Child Welfare Act requirements in adoptive planning [REVOKED]**

[Source: Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ; Amended at 14 Ok Reg 998, eff 1-24-97 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 16 Ok Reg 2740, eff 4-14-99 (emergency); Revoked at 17 Ok Reg 829, eff 1-6-00 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-15-30. Multiethnic Placement Act of 1994 (MEPA) requirements in adoptive planning [REVOKED]**

[Source: Amended at 13 Ok Reg 483, eff 11-14-95 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 16 Ok Reg 2740, eff 4-14-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Revoked at 18 Ok Reg 3067, eff 7-12-01]

## **PART 5. TEAM TRAINING FOR EDUCATION AND RECRUITMENT [REVOKED]**

### **340:75-15-40. Scope and responsibility [REVOKED]**

[Source: Revoked at 11 Ok Reg 651, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 3281, eff 6-27-94]

## **PART 6. ADOPTION PROCESS**

### **340:75-15-41. Adoptive placement criteria staffing [REVOKED]**

[Source: Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ; Amended at 13 Ok Reg 483, eff 11-14-95 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 14 Ok Reg 998, eff 1-24-97 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 1463, eff 3-30-98 (emergency); Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 16 Ok Reg 2740, eff 4-14-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 20 Ok Reg 2072, eff 6-26-03 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 24 Ok Reg 1323, eff 6-1-07 ; Amended at 25 Ok Reg 970, eff 5-15-08 ; Amended at 26 Ok Reg 884, eff 5-15-09 ; Revoked at 27 Ok Reg 1092, eff 3-26-10 (emergency); Revoked at 27 Ok Reg 1865, eff 7-1-10]

#### **340:75-15-41.1. Adoption placement considerations**

(a) **Sibling placement.** Every reasonable attempt is made to place siblings together who were removed together whether in temporary or permanent placement. When separated, siblings are provided frequent contact or visitation, when appropriate. Each child's best interests determine if joint placement, contact, or visitation is allowed. When the child is a part of a sibling group, placement of the entire sibling group in the same placement is in the child's and siblings' best interests. Guidance on when siblings may be separated is found in Oklahoma Administrative Code (OAC) 340:75-6-85.

(b) **Indian Child Welfare Act (ICWA) and placement.** The federal ICWA, Section 1915 of Title 25 of the United States Code, Oklahoma (ICWA), Section 40.6 of Title 10 of the Oklahoma Statutes (10 O.S. § 40.6), and OAC 340:75-19-14 define placement preferences for Indian children, unless the child's tribe established a different preference order by tribal resolution.

(c) **Multiethnic Placement Act (MEPA) of 1994.** The Oklahoma Department of Human Services (DHS) follows the MEPA provisions and the Interethnic Provisions of 1996, per OAC 340:75-1-9, unless the court finds that ICWA applies to the child.

(d) **Potential adoptive parent age.** When a potential adoptive parent meets the minimum age required, per OAC 340:75-7-12, DHS may not use the age of an otherwise eligible individual as a reason for denial of placement, per 10A O.S. § 1-4-705.

(e) **Child's placement preference.** In determining placement of a deprived child in foster care, DHS is governed by the child's long-term best interests. The child may express a preference as to placement and the preference may be given with or without the parents, foster parents, guardians, or any other parties being present. DHS determines if the child's best interests are served by his or her preference. DHS is not bound by the child's preference and may consider other facts in determining the placement, per 10A O.S. § 1-7-110.

(f) **Bars to placement.**

(1) Per Section 1356.30 of Title 45 of the Code of Federal Regulations, does not approve potential adoptive parents as resource parents when the applicant, or any person residing in the potential applicant's home, has a criminal conviction record for any of the felony offenses listed in (A) through (E). The felony offenses are:

- (A) physical assault, battery, or a drug-related offense within the five-year period preceding the date of the petition;
- (B) child abuse or neglect;
- (C) domestic abuse;
- (D) a crime against a child including, but not limited to, child pornography; or
- (E) a crime involving violence including, but not limited to, rape, sexual assault, or homicide, but excluding those crimes specified in paragraph (A) of this Subsection. Per Section 16 of Title 18 of the United States Code, a crime involving violence means an offense that:
  - (i) has as an element the use, attempted use, or threatened use of physical force against the person or property of another; or
  - (ii) by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

(2) Per 10 O.S. 7505-6.3, the court may choose to accept an individual as a potential adoptive parent for placement who has a felony conviction listed in (1)(A) and (C) of this subsection, when an evaluation of the individual considers the:

- (A) crime's nature and seriousness in relation to the adoption;
- (B) time elapsed since the crime's commission;
- (C) circumstances under which the crime was committed;
- (D) degree of rehabilitation;
- (E) number of crimes committed; and
- (F) showing by clear and convincing evidence that the child will not be at risk by such placement.

(3) DHS denies the application to become a resource parent, when, the applicant:

(A) or any person residing in the applicant's home has a conviction for any crime, felony or misdemeanor, specified in 57 O.S. § 582, whether the conviction occurred upon a:

(i) verdict;

(ii) plea of guilty; or

(iii) plea of nolo contendere; or

(B) is subject to, living with, or married to a person who is subject to the Oklahoma Sex Offender Registration Act.

(g) **Eligibility of foster parent to adopt the child.** Per 10A O.S. § 1-4-812, during any permanency hearing, when the court determines the child is to be placed for adoption, the court considers the foster parent eligible to adopt, when the foster parent meets established eligibility requirements. When the child has resided with the foster parent for at least one year, the court gives great weight to the foster parent in the adoption consideration unless there is an existing, loving, emotional bond with a relative of the child, by blood or marriage, who is willing, able, and eligible to adopt the child.

[Source: Added at 27 Ok Reg 1092, eff 3-26-10 (emergency); Added at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 35 Ok Reg 451, eff 1-31-18 (emergency); Amended at 35 Ok Reg 1695, eff 9-17-18]

#### **340:75-15-41.2. Adoption consultation**

The adoption and permanency planning specialists participate in the adoption consultation meeting no later than 10-calendar days after:

(1) the child's name first appears on Report YI602, Adoption Permanency Plan Case Goal Report, listing the child with a permanency plan of adoption; or

(2) an in-person, email, or phone notification from the permanency planning specialist or supervisor is received.

[Source: Added at 35 Ok Reg 1695, eff 9-17-18]

#### **340:75-15-41.3. Adoption criteria staffing**

(a) The adoption criteria staffing determines the type of adoptive placement that meets the child's long-term needs and best interests. The adoption criteria staffing does not constitute agency approval or authorization for an adoptive placement.

(b) Every effort is made to place the child with suitable relatives, per Section 1-4-706 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-4-706).

(c) A prospective adoptive parent who has the ability to meet the child's needs may be identified during the adoption criteria staffing.

(d) Factors in paragraphs (1) through (10) of this subsection are considered when identifying the placement that meets the child's long-term needs and best interests.

(1) **Siblings.** Siblings are:

(A) placed together when possible, unless a joint placement is contrary to the safety or well-being of any of the siblings; or

(B) separated for purposes of adoptive placement only in certain circumstances, per Oklahoma Administrative Code (OAC) 340:75-6-85.

(2) **Attachment.** The nature and degree of the child's attachment to the siblings, foster family, and significant others is assessed and considered as an indicator of the child's ability to attach to an adoptive family.

(3) **Age.** Age is evaluated as a factor in relation to the adoptive applicant's ability to parent the child into the child's adult years, provided age is not used as the basis to deny an applicant.

(4) **Health.** The adoptive applicant's health records are evaluated to determine if he or she has the:

(A) health to participate with the child in normal developmental activities; and

(B) ability to parent the child beyond the child's age of majority.

(5) **Culture.** Oklahoma Human Services (OKDHS) does not:

(A) rely on generalizations about the child's cultural identity needs based on a particular race or ethnicity; or

(B) presume from the adoptive applicant's race or ethnicity that the applicant is able or unable to maintain the child's ties to another racial, ethnic, or cultural community.

(6) **Indian child.**

(A) A child who is an Indian child as defined by the federal and state Indian Child Welfare Acts (ICWA), Section 1901 et seq. of Title 25 of the United States Code (25 U.S.C. §§ 1901 et seq.) and 10 O.S. §§ 40 through 40.9, is placed according to ICWA placement preference order or the Indian child's tribe's preference order as established by tribal resolution, per OAC 340:75-19-23.

(B) Prior to placing the Indian child outside ICWA preference order or the child's tribe's preference order, the CW specialist assigned to the child requests the court conduct a hearing to determine if good cause exists to allow placement of the Indian child outside ICWA- or tribal-specified placement preference order. ICWA requires that:

(i) a good cause hearing be held when a child's placement is outside the ICWA- or tribal-specified placement preference order;

(ii) prior notice of the good cause hearing is given to all parties, including the tribe; and

(iii) the court makes a finding as to whether good cause exists to not follow the ICWA- or tribal-specified placement preference order.

(7) **Religion.** The child in OKDHS custody is provided an opportunity for spiritual and moral development. When the child has made a religious commitment or the parent made a specific religious request, OKDHS makes reasonable efforts to find an adoptive family of like religious faith.

(8) **Language.** When the child's primary language is not English or is sign language, special consideration is given to identifying an adoptive family fluent in his or her language.

(9) **Education.** The child is provided the opportunity to develop his or her potential and is not subjected to unrealistic academic expectations.

(10) **Resources.** The adoptive family must have adequate resources to meet the child's financial, medical, health, educational, shelter, and emotional needs. Adoption assistance is a resource for the child who meets eligibility criteria, per OAC 340:75-15-128.

[Source: Added at 35 Ok Reg 1695, eff 9-17-18 ; Amended at 39 Ok Reg 1803, eff 9-15-22]

#### **340:75-15-41.4. Trial adoptive (TA) placement**

The youth transition specialist, child welfare specialist assigned to the child, and resource specialist coordinate the TA placement to transition the child into the adoptive family.

[Source: Added at 35 Ok Reg 1695, eff 9-17-18 ; Amended at 39 Ok Reg 1803, eff 9-15-22]

#### **340:75-15-42. Statewide adoption staffing [REVOKED]**

[Source: Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ; Amended at 14 Ok Reg 998, eff 1-24-97 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 16 Ok Reg 2740, eff 4-14-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 18 Ok Reg 3322, eff 6-19-01 (emergency); Amended at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 20 Ok Reg 2072, eff 6-26-03 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Revoked at 30 Ok Reg 839, eff 7-1-13]

#### **340:75-15-43. Sibling placements [REVOKED]**

[Source: Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ; Amended at 14 Ok Reg 998, eff 1-24-97 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 1463, eff 3-30-98 (emergency); Amended at 16 Ok Reg 2740, eff 4-14-99 (emergency); Amended at 16 Ok Reg 1052, eff 4-26-99 ; Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 20 Ok Reg 2072, eff 6-26-03 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 26 Ok Reg 884, eff 5-15-09 ; Revoked at 27 Ok Reg 1092, eff 3-26-10 (emergency); Revoked at 27 Ok Reg 1865, eff 7-1-10]

#### **340:75-15-44. Criteria for selection [REVOKED]**

[Source: Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ; Amended at 13 Ok Reg 483, eff 11-14-95 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 14 Ok Reg 998, eff 1-24-97 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 1463, eff 3-30-98 (emergency); Amended at 16 Ok Reg 2740, eff 4-14-99 (emergency); Amended at 16 Ok Reg 1052, eff 4-26-99 ; Amended at 17 Ok Reg 1311, eff 5-11-00 ; Revoked at 18 Ok Reg 3067, eff 7-12-01]

#### **340:75-15-45. Adoptive placement recommendation, authorization, and offer of child [REVOKED]**

[Source: Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ; Amended at 14 Ok Reg 998, eff 1-24-97 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 1463, eff 3-30-98 (emergency); Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 17 Ok Reg 445, eff 10-19-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ;

Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 20 Ok Reg 2072, eff 6-26-03 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 24 Ok Reg 1323, eff 6-1-07 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Revoked at 30 Ok Reg 839, eff 7-1-13]

### **340:75-15-47. Inter-jurisdictional fair hearing**

The Oklahoma Department of Human Services (DHS) does not deny or delay a child's adoptive placement when an approved adoptive family is available outside of Oklahoma.

(1) The potential adoptive parent can request a fair hearing when placement by DHS with the approved adoptive family in another state was denied or is unreasonably delayed.

(2) The out-of-state potential adoptive parent completes and files Form 13MP005E, Resource Family Request for a Fair Hearing, to request a fair hearing, per Oklahoma Administrative Code 340:75-1-12.6(a)(2)(C).

[Source: Added at 16 Ok Reg 2740, eff 4-14-99 (emergency); Added at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 20 Ok Reg 2072, eff 6-26-03 ; Amended at 24 Ok Reg 1323, eff 6-1-07 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 35 Ok Reg 1695, eff 9-17-18]

## **PART 7. CASE ACTIONS [REVOKED]**

### **340:75-15-55. Six-month review [REVOKED]**

[Source: Revoked at 11 Ok Reg 651, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 3281, eff 6-27-94]

### **340:75-15-56. Transfer of adoptive home case [REVOKED]**

[Source: Revoked at 11 Ok Reg 651, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 3281, eff 6-27-94]

### **340:75-15-57. Closure of adoptive case [REVOKED]**

[Source: Revoked at 11 Ok Reg 651, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 3281, eff 6-27-94]

### **340:75-15-58. Reopened application [REVOKED]**

[Source: Revoked at 11 Ok Reg 651, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 3281, eff 6-27-94]

## **PART 8. ADOPTIVE PLACEMENT PROCESS**

### **340:75-15-59. Transition to adoptive placement [REVOKED]**

[Source: Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ; Amended at 14 Ok Reg 998, eff 1-24-97 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 20 Ok Reg 2072, eff 6-26-03 ; Amended at 22 Ok Reg 1242, eff 5-26-05 ; Amended at 24 Ok Reg 1323, eff 6-1-07 ; Revoked at 27 Ok Reg 1092, eff 3-26-10 (emergency); Revoked at 27 Ok Reg 1865, eff 7-1-10]

### **340:75-15-60. Physical placement of the child [REVOKED]**

[Source: Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ; Amended at 14 Ok Reg 998, eff 1-24-97 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 16 Ok Reg 2740, eff 4-14-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Revoked at 18 Ok Reg 3067, eff 7-12-01]

### **340:75-15-61. Interstate placements for adoption [REVOKED]**

[Source: Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ; Amended at 14 Ok Reg 998, eff 1-24-97 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 1463, eff 3-30-98 (emergency); Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 20 Ok Reg 2072, eff 6-26-03 ; Amended at 25 Ok Reg 970, eff 5-15-08 ; Revoked at 27 Ok Reg 1092, eff 3-26-10 (emergency); Revoked at 27 Ok Reg 1865, eff 7-1-10]

### **340:75-15-62. Intercountry adoption [REVOKED]**

[Source: Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Revoked at 27 Ok Reg 1092, eff 3-26-10 (emergency); Revoked at 27 Ok Reg 1865, eff 7-1-10]

## **PART 9. SELECTION, PLACEMENT AND ADOPTION [REVOKED]**

### **340:75-15-75. Adoption selection committee [REVOKED]**

[Source: Revoked at 11 Ok Reg 651, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 3281, eff 6-27-94]

### **340:75-15-76. Adoptive placement [REVOKED]**

[Source: Revoked at 11 Ok Reg 651, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 3281, eff 6-27-94]

### **340:75-15-77. Return of child prior to adoption [REVOKED]**

[Source: Revoked at 11 Ok Reg 651, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 3281, eff 6-27-94]

### **340:75-15-78. Consummation of adoption [REVOKED]**

[Source: Revoked at 11 Ok Reg 651, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 3281, eff 6-27-94]

### **340:75-15-79. Report to the court [REVOKED]**

[Source: Revoked at 11 Ok Reg 651, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 3281, eff 6-27-94]

### **340:75-15-80. Completed adoption [REVOKED]**

[Source: Revoked at 11 Ok Reg 651, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 3281, eff 6-27-94]



### **340:75-15-81. Post adoption services [REVOKED]**

[Source: Revoked at 11 Ok Reg 651, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 3281, eff 6-27-94]

## **PART 10. FAMILY ASSESSMENT AND PREPARATION PROCESS**

### **340:75-15-82. Adoptive family recruitment**

(a) The Oklahoma Department of Human Services (DHS) recruits and develops adoptive families for children in DHS custody who are legally-free for adoption and recognizes each child has unique life experiences that require adoption service components to be child focused.

(1) DHS seeks an adoptive parent that meets the child's needs rather than seeking a child that meets the adoptive parent's needs.

(2) Potential adoptive family assessments are completed, per Oklahoma Administrative Code (OAC) 340:75-15-82 through 340:75-15-89.

(b) **Recruitment program.** Adoptive family recruitment is an ongoing, proactive adoption services component. A comprehensive recruitment plan consisting of general, child-specific, and targeted recruitment is used.

(c) **Minority adoption recruitment.** As part of the Multiethnic Placment Act of 1994 (MEPA), as amended by the Interethnic Provisions of 1996 (IEP), efforts are made to recruit potential adoptive families who reflect the ethnic and racial diversity of children in DHS custody for whom adoptive families are needed.

(d) **Adoptive family recruitment through adoption exchanges.**

(1) When funds are available for such purposes, DHS contracts with or joins the Oklahoma Children's Adoption Resource Exchange or other in-state, out-of-state, or national adoption exchange (adoption exchange) for purposes of increasing and promoting the placement and adoption of children in DHS custody, per Section 7510-2.1 of Title 10 of the Oklahoma Statutes (10 O.S. § 7510-2.1).

(2) DHS provides certain, specified information to the adoption exchange.

(e) **Photographs and descriptions provided to the adoption exchange.** DHS, per 10 O.S. §§ 7510-2.1 and 7510-2.2, provides a recent photograph and description of each child who is legally free for adoption and for whom no adoptive family has been found:

(1) to the adoption exchange specified by DHS; and

(2) within 90-calendar days of the date the child became legally free for adoption or as otherwise required by the adoption exchange.

(f) **Exemptions to utilizing an adoption exchange.** Children who are exempt from 10 O.S. §§ 7510-2.1 through 7510-2.5 provisions, include those:

- (1) 12 years of age and older who choose not to be adopted, per the Oklahoma Adoption Act;
- (2) for whom permanent placement plans were made that do not include adoption, such as permanent placement with relatives or long-term foster care;
- (3) who, because of medical or psychological reasons as determined by a licensed psychiatrist, psychologist, or physician, are not ready for adoption;
- (4) who is missing from care and whose present location is unknown; and
- (5) who are currently in an adoptive placement, per 10 O.S. § 7505-6.3.

(g) **Child's status change reported to adoption exchange.** DHS reports any change in the child's status to an adoption exchange, per 10 O.S. § 7510-2.4 within 20-business days of the change.

(h) **Withdrawing a child from an adoption exchange.** When a child is placed with an adoptive family, DHS notifies the adoption exchange that the child is no longer available, per 10 O.S. § 7510-2.5.

[Source: Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ; Amended at 14 Ok Reg 998, eff 1-24-97 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 417, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 17 Ok Reg 3531, eff 9-7-00 (emergency); Amended at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 20 Ok Reg 2072, eff 6-26-03 ; Amended at 24 Ok Reg 1323, eff 6-1-07 ; Amended at 26 Ok Reg 884, eff 5-15-09 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 35 Ok Reg 1695, eff 9-17-18]

### **340:75-15-83. Eligibility to adopt [REVOKED]**

[Source: Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ; Amended at 13 Ok Reg 483, eff 11-14-95 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 14 Ok Reg 998, eff 1-24-97 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 417, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 16 Ok Reg 2740, eff 4-14-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 17 Ok Reg 3531, eff 9-7-00 (emergency); Amended at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 20 Ok Reg 2072, eff 6-26-03 ; Amended at 22 Ok Reg 1242, eff 5-26-05 ; Amended at 26 Ok Reg 884, eff 5-15-09 ; Revoked at 30 Ok Reg 839, eff 7-1-13]

### **340:75-15-84. Adoption application process**

(a) **Child-focused adoption.** The Oklahoma Human Services (OKDHS) adoption program is child focused. An adoptive family is selected for the child in OKDHS custody that is the closest match to the child's long-term best interests and needs.

- (1) An application requesting a child of a certain age, race, or characteristic is not generally considered.
- (2) An application, including one by a foster parent or relative, does not guarantee a child's placement in the applicant's home.
- (3) There are no OKDHS service fees to applicants applying to adopt a child in OKDHS custody.

(b) **Adoption eligibility.** Section 7503-1.1 of Title 10 of the Oklahoma Statutes (10 O.S. § 7503-1.1) states that a person is eligible to adopt a child when he or she is at least 21 years of age, and:

- (1) is not married;

- (2) married and the husband and wife, as a couple, adopt;
- (3) is married, but legally separated from his or her spouse; or
- (4) the spouse of the child's parent or relative.
- (e) **OKDHS employee applications.** OKDHS employees may apply to adopt children in OKDHS custody.
- (f) **Out-of-state applications.** OKDHS does not process applications from out-of-state applicants.
  - (1) OKDHS does accept certified resource family assessments from licensed private or public adoption agencies in other states and may consider the approved adoptive family for a child in OKDHS custody.
  - (2) The Interstate Compact on the Placement of Children (ICPC) Unit coordinates placement and supervision with the licensed private or public adoption agency in the state where the adoptive family resides.
  - (3) Each provision of the ICPC is followed, per Oklahoma Administrative Code (OAC) 340:75-15-82 and 340:75-1-86.
- (g) **Reapplication to adopt.** When an adoptive parent applies to OKDHS to adopt again subsequent to a prior completed adoption, his or her information is updated.
- (h) **Application withdrawal or denial.**
  - (1) The applicant may voluntarily withdraw the application.
  - (2) The application is denied when the applicant does not meet requirements, per OAC 340:75-15-84.
  - (3) Reasons for denying the application are explained to the applicant and are also stated in a letter to the applicant.
  - (4) The applicant desiring to adopt a child of a certain age, race, or other characteristic that OKDHS reasonably believes may not be available for adoption in the foreseeable future is referred to licensed child-placing agencies that are more likely to place children matching the request.

[Source: Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ; Amended at 13 Ok Reg 483, eff 11-14-95 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 14 Ok Reg 998, eff 1-24-97 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 1463, eff 3-30-98 (emergency); Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 16 Ok Reg 2740, eff 4-14-99 (emergency); Amended at 16 Ok Reg 1950, eff 6-11-99 ; Amended at 17 Ok Reg 445, eff 10-19-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 17 Ok Reg 3531, eff 9-7-00 (emergency); Amended at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 20 Ok Reg 2072, eff 6-26-03 ; Amended at 22 Ok Reg 1242, eff 5-26-05 ; Amended at 24 Ok Reg 1323, eff 6-1-07 ; Amended at 25 Ok Reg 269, eff 11-1-07 (emergency); Amended at 25 Ok Reg 970, eff 5-15-08 ; Amended at 26 Ok Reg 884, eff 5-15-09 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 32 Ok Reg 1904, eff 9-15-15 ; Amended at 35 Ok Reg 1695, eff 9-17-18 ; Amended at 39 Ok Reg 1803, eff 9-15-22]

### **340:75-15-84.1. Background information search**

#### **(a) Background checks.**

##### **(1) Mandate to conduct background searches.**

(A) Oklahoma Human Services (OKDHS) is mandated to conduct a criminal background and child abuse and neglect information system (CANIS) search for OKDHS and private adoptive applicants and adult household members, 18 years of age and older, per Section 7505-5.3

of Title 10 of the Oklahoma Statutes (10 O.S. § 7505-5.3).

(B) The background search for OKDHS adoptive applicants and adult household members includes a search of:

- (i) Oklahoma State Bureau of Investigation (OSBI) name and criminal records histories;
- (ii) the Oklahoma Sex Offender Registry;
- (iii) the Mary Rippey Violent Crime Offender Registry;
- (iv) the Oklahoma Department of Corrections (DOC) offender information;
- (v) Federal Bureau of Investigations (FBI) national criminal history records based on the applicant's and each adult household member's fingerprints;
- (vi) the applicant's or adult household member's involvement as a party in any court action found on the:

- (I) Oklahoma State Courts Network (OSCN); or

- (II) Oklahoma District Court Records (ODCR);

- (vii) Oklahoma Department of Public Safety records;

- (viii) OKDHS records including child welfare records involving the applicant and each adult household member; and

- (ix) applicable out-of-state child abuse and neglect registries when the applicant or adult household member has not lived continuously in Oklahoma for the past five years.

- (I) When a child abuse and neglect registry is not maintained in the applicable state, the resource specialist requests any information that can be provided.

- (II) The applicant is not approved without state-maintained child abuse and neglect registry searches when a registry is maintained in the applicable state;

- (x) the Restricted Registry;

- (xi) the Oklahoma State Department of Health Nontechnical Services Worker Abuse Registry;

- (xii) the Community Services Worker Registry; and

- (xiii) Juvenile Online Tracking System (JOLTS) records for any child not in OKDHS custody, 13 through 17 years of age, living in the home.

(2) **CANIS and the private adoptive applicant.** The private adoptive applicant, adoption agency, or another person authorized to conduct home study investigations:

- (A) completes a written request for a CANIS search using Form 04AN028E, Request for Child Abuse and Neglect Information System Search; and

(B) submits Form 04AN028E, with verification of impending adoption, to the Child Protective Services Programs Unit as directed on the form.

(3) **Exception to fingerprinting.** The OKDHS Director or designee may authorize an exception to the fingerprinting requirement and authorize use of an alternative procedure for obtaining a national criminal history records search for any OKDHS and private adoptive applicant or adult household member, who has a severe condition that precludes him or her from fingerprinting, per 10A O.S. § 1-7-111. In limited, case-specific circumstances, OKDHS may not be able to obtain:

- (A) an individual's fingerprints as a result of his or her disability; or
- (B) legible fingerprints due to low quality, as a result of age, occupation, or other conditions, making it impossible for the National Crime Information Center to provide results.

**(b) Felony convictions.**

(1) Per Section 1356.30 of Title 45 of the Code of Federal Regulations, OKDHS does not approve prospective adoptive parents as resource parents when the applicant or any person residing in the prospective applicant's home has a criminal conviction record for any of the felony offenses listed in (A) through (E) of this paragraph. The felony offenses are:

- (A) physical assault, battery, or a drug-related offense, when the conviction occurs within the five-year period preceding the petition date;
- (B) child abuse or neglect;
- (C) spousal abuse or domestic abuse, per 10A O.S. § 1-4-705;
- (D) a crime against a child including, but not limited to, child pornography; or
- (E) a crime involving violence including, but not limited to, rape, sexual assault, or homicide, but excluding physical assault or battery. Per Section 16 of Title 18 of the United States Code, a crime involving violence means an offense that:
  - (i) has an element of the use, attempted use, or threatened use of physical force against the person or property of another; or
  - (ii) by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

(2) Per 10 O.S. § 7505-6.3, the court may choose to accept an individual as a prospective adoptive parent for placement who has a felony conviction listed in (1)(A) and (1)(C) of this subsection, when an evaluation of the individual considers the:

- (A) crime's nature and seriousness in relation to the adoption;
- (B) time elapsed since the crime's commission;

- (C) circumstances under which the crime was committed;
  - (D) degree of rehabilitation;
  - (E) number of crimes committed; and
  - (F) showing by clear and convincing evidence that the child will not be at risk by such placement.
- (c) **Sex-related crimes.** OKDHS denies the application to become a resource parent, when an applicant:
- (1) or any person residing in the applicant's home has a conviction for any crime, felony or misdemeanor, specified in 57 O.S. § 582, whether the conviction occurred upon a:
    - (A) verdict;
    - (B) plea of guilty; or
    - (C) plea of nolo contendere; or
  - (2) is subject to, living with, or married to a person who is subject to the Oklahoma Sex Offender Registration Act.
- (d) **Restricted Registry.** OKDHS denies the application to become an adoptive parent, when the applicant is a registrant on the Restricted Registry, per 10 O.S. § 405.3.

[Source: Added at 35 Ok Reg 451, eff 1-31-18 (emergency); Added at 35 Ok Reg 1695, eff 9-17-18 ; Amended at 36 Ok Reg 1856, eff 9-16-19 ; Amended at 37 Ok Reg 1850, eff 9-15-20 ; Amended at 38 Ok Reg 2294, eff 9-15-21 ; Amended at 39 Ok Reg 1803, eff 9-15-22]

### **340:75-15-85. Application to adopt by a foster parent or relative [REVOKED]**

[Source: Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ; Amended at 13 Ok Reg 483, eff 11-14-95 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 15 Ok Reg 1463, eff 3-30-98 (emergency); Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 16 Ok Reg 2740, eff 4-14-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 17 Ok Reg 3531, eff 9-7-00 (emergency); Amended at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 20 Ok Reg 2072, eff 6-26-03 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Revoked at 27 Ok Reg 1092, eff 3-26-10 (emergency); Revoked at 27 Ok Reg 1865, eff 7-1-10]

### **340:75-15-86. Reapplication to adopt [REVOKED]**

[Source: Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ; Amended at 14 Ok Reg 998, eff 1-24-97 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 1463, eff 3-30-98 (emergency); Amended at 16 Ok Reg 2740, eff 4-14-99 (emergency); Amended at 16 Ok Reg 1052, eff 4-26-99 ; Amended at 17 Ok Reg 445, eff 10-19-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 17 Ok Reg 3531, eff 9-7-00 (emergency); Amended at 18 Ok Reg 2128, eff 6-11-01 ; Revoked at 18 Ok Reg 3067, eff 7-12-01]

### **340:75-15-87. Assessing the adoptive applicant**

- (a) **Resource family assessment (RFA).** Oklahoma Human Services (OKDHS) or the RFA contractor conducts an assessment into the adoptive applicant's and each household member's background and other circumstances and conditions to determine if the home is suitable and can provide a safe environment for the child in OKDHS custody available for adoption, per Oklahoma Administrative Code (OAC) 340:75-7-18.
- (b) **Photographs.** The adoptive applicant provides recent photographs of himself or herself as a component of the assessment summary.

(c) **Required pre-service training.** The adoptive applicant must complete required pre-service training designed to evaluate the strengths, needs, and challenges associated with parenting a child and meeting his or her special needs, per OAC 340:75-7-14.

[Source: Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ; Amended at 14 Ok Reg 998, eff 1-24-97 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 1463, eff 3-30-98 (emergency); Amended at 15 Ok Reg 3886, eff 7-14-98 (emergency); Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 16 Ok Reg 2740, eff 4-14-99 (emergency); Amended at 17 Ok Reg 445, eff 10-19-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 17 Ok Reg 3531, eff 9-7-00 (emergency); Amended at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 19 Ok Reg 419, eff 12-1-01 (emergency); Amended at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 20 Ok Reg 2072, eff 6-26-03 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 24 Ok Reg 1323, eff 6-1-07 ; Amended at 25 Ok Reg 269, eff 11-1-07 (emergency); Amended at 25 Ok Reg 970, eff 5-15-08 ; Amended at 26 Ok Reg 884, eff 5-15-09 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Amended at 30 Ok Reg 1358, eff 7-1-13 ; Amended at 32 Ok Reg 1904, eff 9-15-15 ; Amended at 35 Ok Reg 1695, eff 9-17-18 ; Amended at 39 Ok Reg 1803, eff 9-15-22]

### **340:75-15-88. Resource Family Assessment (RFA) disposition**

(a) **Adoptive applicant approval or denial.** Upon completion of the RFA, a decision regarding approval or denial is made after assessing the information gathered. The Oklahoma Department of Human Services (DHS) may approve or deny the adoptive applicant when he or she does or does not meet requirements, per Oklahoma Administrative Code (OAC) 340:75-15.

(b) **Exceptions to assessment guidelines.** Upon the applicant's or child welfare specialist's request, DHS may, at its discretion, grant an exception of specific rules or standards that do not compromise a child's safety and do not violate federal or state statutes. Exceptions may be granted, provided adequate standards affording protection for the child's health, safety, and welfare exist and will be met in lieu of the exact requirements of the rule or standard in question.

(c) **Adoptive applicant denial.** Denial reasons may include, but are not limited to:

- (1) poor management of available income or a lack of stable, adequate income to meet the applicant's or household needs;
- (2) a home environment that is inadequate to accommodate the addition of children into the applicant's home or that presents health or safety concerns;
- (3) the applicant or any person residing in the home with a history of:
  - (A) alleged or confirmed child abuse or neglect; or
  - (B) arrests or convictions;
- (4) the applicant who has, or is living with a person with a criminal history for any felony, a relevant misdemeanor, or pending charges;
- (5) unstable and unsatisfactory relationships in the household;
- (6) the applicant's health or any other condition that would impede his or her ability to parent, provide age-appropriate activities, and care for a child on a permanent basis into the child's adult years;
- (7) the applicant's or household member's behavioral health that would impede the applicant's ability to care for a child;

- (8) references that are guarded or have reservations in recommending the applicant;
- (9) the applicant, who does not complete the required pre-service training within one year of application;
- (10) the applicant, who applied to adopt a child of a certain age, race, or other characteristic that DHS reasonably believes may not be available for adoption in the foreseeable future, per Oklahoma Administrative Code 340:75-15-84; or
- (11) one or more factors regarding the applicant or household members or conditions in the home, renders the applicant or home environment inappropriate as an adoptive resource.

[Source: Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ; Amended at 13 Ok Reg 483, eff 11-14-95 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 14 Ok Reg 998, eff 1-24-97 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 1463, eff 3-30-98 (emergency); Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 16 Ok Reg 2740, eff 4-14-99 (emergency); Amended at 16 Ok Reg 1950, eff 6-11-99 ; Amended at 17 Ok Reg 445, eff 10-19-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 17 Ok Reg 3531, eff 9-7-00 (emergency); Amended at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 20 Ok Reg 2072, eff 6-26-03 ; Amended at 22 Ok Reg 1242, eff 5-26-05 ; Amended at 24 Ok Reg 1323, eff 6-1-07 ; Amended at 25 Ok Reg 269, eff 11-1-07 (emergency); Amended at 25 Ok Reg 1335, eff 6-1-08 ; Amended at 26 Ok Reg 884, eff 5-15-09 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 32 Ok Reg 1904, eff 9-15-15 ; Amended at 35 Ok Reg 1695, eff 9-17-18]

### **340:75-15-89. Adoptive resource continual evaluation**

**Continual evaluation.** The adoptive parent is continually evaluated in his or her home. The resource family assessment is updated annually from the resource home's approval date in the Oklahoma Department of Human Services State Automated Child Welfare Information System (KIDS).

[Source: Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ; Amended at 14 Ok Reg 998, eff 1-24-97 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 16 Ok Reg 910, eff 12-10-98 (emergency); Amended at 16 Ok Reg 2740, eff 4-14-99 (emergency); Amended at 16 Ok Reg 1052, eff 4-26-99 ; Amended at 17 Ok Reg 445, eff 10-19-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 17 Ok Reg 3531, eff 9-7-00 (emergency); Amended at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 24 Ok Reg 1323, eff 6-1-07 ; Amended at 26 Ok Reg 884, eff 5-15-09 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 35 Ok Reg 1695, eff 9-17-18 ; Amended at 36 Ok Reg 1856, eff 9-16-19]

### **340:75-15-90. Transfer of resource family record [REVOKED]**

[Source: Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ; Amended at 14 Ok Reg 998, eff 1-24-97 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 17 Ok Reg 3531, eff 9-7-00 (emergency); Amended at 18 Ok Reg 2128, eff 6-11-01 ; Revoked at 18 Ok Reg 3067, eff 7-12-01]

### **340:75-15-91. Adoptive home closure**

An adoptive home is closed, when:

- (1) the adoptive parent requests closure;
- (2) the adoptive parent completes the adoption of a child from the Oklahoma Department of Human Services and does not want to reapply;
- (3) the adoptive parent moves out of state;
- (4) the adoptive parent's address is unknown;



- (5) the adoptive parent displays a lack of interest and cooperation; or
- (6) conditions exist concerning the adoptive home, adoptive parent, or household member, per Oklahoma Administrative Code 340:75-15-88.

[Source: Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ; Amended at 13 Ok Reg 483, eff 11-14-95 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 14 Ok Reg 998, eff 1-24-97 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 16 Ok Reg 2740, eff 4-14-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 17 Ok Reg 3531, eff 9-7-00 (emergency); Amended at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 20 Ok Reg 2072, eff 6-26-03 ; Amended at 26 Ok Reg 884, eff 5-15-09 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 32 Ok Reg 1904, eff 9-15-15 ; Amended at 35 Ok Reg 1695, eff 9-17-18]

### **340:75-15-92. Independent adoptive home investigation [REVOKED]**

[Source: Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ; Amended at 13 Ok Reg 483, eff 11-14-95 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 15 Ok Reg 417, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 1052, eff 4-26-99 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Revoked at 27 Ok Reg 1092, eff 3-26-10 (emergency); Revoked at 27 Ok Reg 1865, eff 7-1-10]

### **340:75-15-93. Centralized Paternity Registry**

The Oklahoma Department of Human Services (OKDHS) is required by Section 7506-1.1 of Title 10 of the Oklahoma Statutes to maintain a Centralized Paternity Registry (CPR) to protect the parental rights of an alleged or presumed father who may wish to affirmatively assume responsibility for a child(ren) he may have fathered. It is also maintained to expedite adoptions of children whose biological fathers are unwilling to assume responsibility for their children by registering with the CPR or otherwise acknowledging their children.

(1) **Notice of Plan for Adoption per Section 7503-3. 1 of Title 10 of the Oklahoma Statutes.** Form 04AN018E, Notice of Plan for Adoption, may be used by OKDHS, a licensed child-placing agency, or attorney to notify an alleged or presumed father of a child born out of wedlock that the birth mother is considering adoptive placement for the child. The notice may be served personally or sent by certified mail, before or after the birth of the child. Whether personally served or sent by certified mail, the notice may not be delivered to, or signed for, by anyone other than the alleged or presumed father.

(A) The notice must include:

- (i) the identity of the mother;
- (ii) a statement that the mother is pregnant and the estimated date of birth;
- (iii) that the notified person may be the father of the child; and
- (iv) that a plan for the adoption of the child is being considered by the mother.

(B) The notice must include Form 04AN019E, Form Enclosed with Notice of Plan for Adoption, to be completed and signed by the alleged or presumed father

indicating his acknowledgment or denial of paternity of the child.

(C) The notice must also inform the alleged or presumed father that failure to file Form 04AN019E within 30 calendar days of service constitutes waiver of right to receive further notice of adoption proceedings or proceedings to terminate parental rights and a denial of interest in the minor child can result in termination of parental rights and adoption without his consent. If Form 04AN019E is returned to OKDHS, the attorney, or child-placing agency within 30 calendar days, indicating the alleged or presumed father's interest in the child, he has a right to notice of any adoption or termination of parental rights proceedings regarding the child. The return of the form within 30 calendar days is the only action by which the alleged or presumed father retains the right to notice of any adoption or termination of parental rights proceedings regarding the child.

(i) Filing Form 04AN019E alone does not establish parental rights or constitute the bearing of parental responsibilities.

(ii) Filing or failing to file the form does not affect the duty of the alleged or presumed father to support the mother and child during the pregnancy or after the child's birth.

(iii) If a petition to adopt the child is not filed within 12 months of the placement of the child for adoption, failure to mail Form 04AN019E does not affect the alleged or presumed father's parental rights and responsibilities.

(iv) Failure to give such notice is not grounds available to the alleged or presumed father to establish that he was denied knowledge of the pregnancy.

(v) Receipt by the alleged or presumed father of Form 04AN018E, Notice of Plan for Adoption, or return by the alleged or presumed father of Form 04AN019E does not obligate the mother to place the child for adoption.

(D) If Form 04AN019E is not received by CPR within 30 calendar days from the date Form 04AN018E is served, it constitutes waiver of the alleged or presumed father's right to receive further notice of any adoption or termination of parental rights proceedings regarding the child, and further constitutes a denial of interest in the minor which shall result in a termination of parental rights and approval for adoption without his consent.

**(2) Notice of filing of paternity action by alleged or presumed father.** Per Section 7503-3.2 of Title 10 of the Oklahoma Statutes, if an alleged or presumed father files a paternity action after receiving notice of or having knowledge of a

potential adoption from OKDHS, an attorney, or child-placing agency, he notifies the attorney for the petitioner for adoption, OKDHS, or the child-placing agency that the paternity action has been filed.

(A) This notice includes:

- (i) the name of the court;
- (ii) the case number; and
- (iii) the date of filing.

(B) If the name or location of the attorney for the petitioner for adoption or the child-placing agency placing the child for adoption cannot be ascertained by the alleged or presumed father, the alleged or presumed father notifies the petitioner for adoption. If the petitioner for adoption is also unknown to the alleged or presumed father, the alleged or presumed father notifies CPR of OKDHS.

(C) Upon a motion of the prospective adoptive parent, the court having jurisdiction over the paternity action, if it is filed in Oklahoma, allows the prospective adoptive parent to intervene in the paternity action and have the opportunity to be heard and seek custody or visitation. If a proceeding for adoption or for termination of parental rights of the alleged or presumed father and a paternity action by the alleged or presumed father regarding the same minor are both pending in the courts of this state, upon motion of any party, the court having jurisdiction over the paternity action transfers the paternity proceeding to the court in which the adoption or termination proceeding is pending, whereupon the two proceedings may be considered.

**(3) Alleged or presumed father per Sections 7506-1. 1 through 7506-1.2 of Title 10 of the Oklahoma Statutes.** CPR protects the parental rights of an alleged or presumed father who may wish to affirmatively assume responsibility for a child(ren) he may have fathered.

(A) The father or alleged or presumed father of a child born out of wedlock may file Form 04AN016E, Centralized Paternity Registry, indicating:

- (i) a notice of desire to receive notification of an adoption proceeding concerning the child he has fathered;
- (ii) a notice of intent to claim paternity of the child he has fathered;
- (iii) an instrument acknowledging paternity of the child he has fathered;
- (iv) a waiver of interest concerning the child he has fathered; or
- (v) any other claim for acknowledging or denial of paternity as authorized by law.

(B) The CPR is also available to any person who:

(i) has been adjudicated by a court of another state or territory of the United States to be the father of a child by filing a certified copy of the court order with the CPR; or

(ii) has been adjudicated by a court of Oklahoma to be the father of a child born out of wedlock.

(C) A person filing a notice of desire to receive notification of an adoption proceeding concerning the child, a notice of intent to claim paternity of a child, or an acknowledgment of paternity provides his current address and notifies the CPR of any change of address. If the alleged or presumed father does not have an address where he is able to receive notice of an adoption, the alleged or presumed father may designate another person as an agent for the purpose of receiving notice of adoption. The alleged or presumed father must provide OKDHS with the agent's name and the address at which the agent may be served. Service of notice upon the agent constitutes service of notice upon the alleged or presumed father. If the agent cannot be served at the address provided by the alleged or presumed father, as provided in this subparagraph, and if the alleged or presumed father cannot be served because his whereabouts are unknown, the alleged or presumed father may be served by publication.

(D) An unrevoked notice of intent to claim paternity of a child or an instrument acknowledging paternity may be introduced in evidence in any proceeding in which it may be relevant.

(E) An alleged or presumed father may waive his right to notice of termination of parental rights proceeding on Form 04AN019E filed with the CPR or by failing to register with the CPR after receiving a Notice of Plan for Adoption.

(F) An alleged or presumed father may waive his right to notice of adoption proceedings by waiving notice on a form filed with the CPR or by failing to register with the Paternity Registry after receiving Form 04AN018E.

(G) OKDHS, upon request, provides the names and addresses of persons listed with the CPR to any court, authorized agency, or other persons deemed necessary to receive such information by OKDHS. OKDHS provides CPR information to attorneys or licensed child-placing agencies upon request. The information is not divulged to any other person except upon order of a court for good cause shown.

[Source: Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ; Amended at 14 Ok Reg 998, eff 1-24-97 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 417, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 17 Ok Reg 445, eff 10-19-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 20 Ok Reg 2072, eff 6-26-03 ; Amended at 24 Ok Reg 1323, eff 6-1-07 ; Amended at 25 Ok Reg 1953, eff 7-1-08]

## **PART 11. SERVICES, SELECTION AND PLACEMENT OF CHILDREN FOR ADOPTION [REVOKED]**

### **340:75-15-95. Scope and applicability [REVOKED]**

[Source: Revoked at 11 Ok Reg 651, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 3281, eff 6-27-94]

### **340:75-15-96. Placement of Indian children [REVOKED]**

[Source: Revoked at 11 Ok Reg 651, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 3281, eff 6-27-94]

### **340:75-15-97. Adoption of hard-to-place and special needs children [REVOKED]**

[Source: Revoked at 11 Ok Reg 651, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 3281, eff 6-27-94]

### **340:75-15-98. Adoption exchange registrations [REVOKED]**

[Source: Revoked at 11 Ok Reg 651, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 3281, eff 6-27-94]

### **340:75-15-99. Adoption subsidy [REVOKED]**

[Source: Revoked at 11 Ok Reg 651, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 3281, eff 6-27-94]

### **340:75-15-100. Payment for medical services prior to consummation of adoption [REVOKED]**

[Source: Revoked at 11 Ok Reg 651, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 3281, eff 6-27-94]

### **340:75-15-101. Payment for medical services following consummation of adoption [REVOKED]**

[Source: Revoked at 11 Ok Reg 651, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 3281, eff 6-27-94]

### **340:75-15-102. Services to Oklahoma residents who are adopting foreign children [REVOKED]**

[Source: Revoked at 11 Ok Reg 651, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 3281, eff 6-27-94]

## **PART 12. ADOPTION PLACEMENT SERVICES**

### **340:75-15-103. Pre-adoption placement services**

(a) **Pre-adoption services.** Oklahoma Human Services (OKDHS) pre-adoption services assist the prospective adoptive family to incorporate the child into the adoptive family during the trial-adoption (TA)

placement period, prior to the legal finalization of the adoption.

(1) **Disclosure of identifying or non-identifying background information.** OKDHS provides medical, psychological, educational, and social history including the child profile, to the adoptive parent authorized to adopt the specific child.

(2) **Counseling services.** The adoptive family is fully informed of the child's history of psychological counseling and referred for services at the time of TA placement, when needed. Under Medicaid, all outpatient psychological services except for the first hour of psychological evaluation must have prior authorization.

(3) **Medical services.** Children in a TA may be eligible to receive Medicaid (SoonerCare) services.

(4) **Pre-finalization adoption assistance.** Adoption assistance may be provided to the adoptive family at the time the child enters the adoptive home as a legal-risk or legally-free adoptive placement, per Oklahoma Administrative Code (OAC) 340:75-15-128 through 340:75-15-128.6. Adoption assistance may include a monthly payment, Medicaid (SoonerCare), or both.

(5) **Child care.** Employment-related child care is available for children in trial- adoptive placement, per OAC 340:75-7-65.

(6) **Comprehensive Home-Based Services (CHBS).** CHBS are available to assist trial-adoptive and post-adoptive families who are experiencing difficulty and are at risk of a placement disruption, per OAC 340:75-1-151.

(7) **Family assessment and service plan.** A written service plan is completed for Quadrant 1 children in TA placement more than 30-calendar days; or Quadrant 2 children prior to TA placement.

(8) **Adoptive parent support groups.** Adoptive parent support groups provide social and emotional support to the adopted child and his or her parent. The resource specialist informs the adoptive parent of support group benefits.

(9) **Notice to pre-adoptive parent of deprived court hearing.** The adoption or resource specialist provides the pre-adoptive parent, who is providing care for the child, with notice of reviews or deprived court hearings that are held regarding the child, and the court provides an opportunity for the pre-adoptive parent to be heard.

(b) **TA period.** When the child has no prior relationship with the adoptive family, the TA period is usually six months. When the child is being adopted by a relative or foster family with whom the child has resided for the preceding six months, the TA period may be reduced when the child and family have successfully adjusted to the placement. The adoptive parent is advised to retain the services of an attorney or those of an OKDHS Legal Services attorney when the child is placed in the adoptive home to complete the legal finalization of the adoption by the court.

(c) **Pre-finalization disruption.** The TA placement may disrupt prior to finalization when the adoptive parent requests the child be moved from the adoptive home or OKDHS determines the placement poses a risk to the child.

[Source: Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ; Amended at 14 Ok Reg 998, eff 1-24-97 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 16 Ok Reg 2740, eff 4-14-99 (emergency); Amended at 16 Ok Reg 1950, eff 6-11-99 ; Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 20 Ok Reg 2072, eff 6-26-03 ; Amended at 22 Ok Reg 1242, eff 5-26-05 ; Amended at 24 Ok Reg 1323, eff 6-1-07 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Amended at 32 Ok Reg 1904, eff 9-15-15 ; Amended at 35 Ok Reg 1695, eff 9-17-18 ; Amended at 39 Ok Reg 1803, eff 9-15-22]

### **340:75-15-104. Disclosure of information during post placement [REVOKED]**

[Source: Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ; Amended at 12 Ok Reg 3456, eff 7-1-95 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 14 Ok Reg 998, eff 1-24-97 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 417, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 2740, eff 4-14-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 19 Ok Reg 2265, eff 6-27-02 ; Revoked at 20 Ok Reg 2072, eff 6-26-03]

### **340:75-15-105. Case plans [REVOKED]**

[Source: Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ; Amended at 14 Ok Reg 998, eff 1-24-97 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 417, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 2740, eff 4-14-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Revoked at 18 Ok Reg 3067, eff 7-12-01]

### **340:75-15-106. Post placement services [REVOKED]**

[Source: Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ; Amended at 14 Ok Reg 998, eff 1-24-97 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 1463, eff 3-30-98 (emergency); Amended at 15 Ok Reg 3886, eff 7-14-98 (emergency); Amended at 16 Ok Reg 2740, eff 4-14-99 (emergency); Amended at 16 Ok Reg 1052, eff 4-26-99 ; Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 20 Ok Reg 2072, eff 6-26-03 ; Amended at 22 Ok Reg 1242, eff 5-26-05 ; Amended at 24 Ok Reg 1323, eff 6-1-07 ; Revoked at 27 Ok Reg 1092, eff 3-26-10 (emergency); Revoked at 27 Ok Reg 1865, eff 7-1-10]

### **340:75-15-107. Adoption disruption [REVOKED]**

[Source: Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ; Amended at 14 Ok Reg 998, eff 1-24-97 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 16 Ok Reg 2740, eff 4-14-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 24 Ok Reg 1323, eff 6-1-07 ; Revoked at 27 Ok Reg 1092, eff 3-26-10 (emergency); Revoked at 27 Ok Reg 1865, eff 7-1-10]

### **340:75-15-108. Legal finalization of the adoption [REVOKED]**

[Source: Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ; Amended at 14 Ok Reg 998, eff 1-24-97 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 1463, eff 3-30-98 (emergency); Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 20 Ok Reg 2072, eff 6-26-03 ; Revoked at 27 Ok Reg 1092, eff 3-26-10 (emergency); Revoked at 27 Ok Reg 1865, eff 7-1-10]

### **340:75-15-109. Completed adoption [REVOKED]**

[Source: Amended at 14 Ok Reg 998, eff 1-24-97 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 1463, eff 3-30-98 (emergency); Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 16 Ok Reg 2740, eff 4-14-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Revoked at 18 Ok Reg 3067, eff 7-12-01]

### **340:75-15-115. Relative contact agreement**

(a) **Post-adoption relative contact agreement.** When a child in Oklahoma Department of Human Services (DHS) custody is placed for adoption, the adoptive parents may voluntarily enter into a written agreement with the child's birth relatives, including the birth parents, for post-adoption contact with the child, per Section 1-4-813 of Title 10A of the Oklahoma Statutes. The post-adoption relative contact agreement is issued by the court in a separate instrument at the time the adoption decree is entered, when the court finds the relative contact agreement:

- (1) is voluntary;
- (2) does not pose a threat to the safety of the child; and
- (3) is in the child's best interests.

(b) **Definition of birth relative.** Birth relative means a parent, stepparent, grandparent, great-grandparent, sibling, uncle, or aunt of a minor adoptee. This relationship may be by blood or marriage. A sibling relationship may be by whole or half-blood, marriage, or affinity through a common legal or biological parent. For an Indian child, birth relative includes members of the extended family as defined by the laws or customs of the Indian child's tribe or, in the absence of laws or customs, is a person who is 18 years of age, and who is the Indian child's great-grandparent, grandparent, aunt, uncle, brother, sister, brother-in-law, sister-in-law, niece, nephew, first or second cousin, or stepparent, per the Indian Child Welfare Act, Section 1903 of Title 25 of the United States Code.

(c) **Visitation and contact with siblings.** When a child, who is separated from a sibling, is placed for adoption, DHS facilitates ongoing sibling contact or visitation by providing the adoptive parents with:

- (1) information about the importance of sibling relationships to the child placed for adoption;
- (2) methods to maintain sibling relationships;
- (3) information about the child's siblings; provided, the address where the siblings reside is not disclosed unless authorized by a court order for good cause shown; and
- (4) encouragement to continue post-adoption contact between the child and the child's siblings.

(d) **Post-adoption relative contact agreement terms.** The post-adoption relative contact agreement terms are limited. When the child does not have an existing relationship with the birth relative, the contact is limited to the sharing of information about the child. When the child has an existing relationship with the birth relative, the relative contact agreement may include provisions for:

- (1) visitation between the child and the birth relatives;
- (2) contact between the child or an adoptive parent and the birth relatives, or both;



(3) the adoptive parent to facilitate sibling contact or visitation;  
and

(4) sharing information about the child.

(e) **Post-adoption relative contact agreement requirements.** A post-adoption relative contact agreement is not legally enforceable, unless the:

- (1) child is represented by an attorney for purposes of consent to the post-adoption relative contact agreement;
- (2) terms of the post-adoption relative contact agreement are contained in a written court order entered in accordance with the statute;
- (3) court order is filed in the adoption action by separate instrument at the time the adoption decree is entered; and
- (4) terms of the post-adoption relative contact agreement were approved in writing by the adoptive parents, the birth relative who desires to be a party to the agreement, the child, when 12 years of age and older, and, when the child is in the custody of DHS, a DHS representative.

(f) **Approved post-adoption relative contact agreement.** The adoption specialist provides a copy of the post-adoption relative contact agreement approved by the court to the adoptive parent, foster parent, relative caretaker, the child's legal guardian, the child's siblings, or others as necessary to facilitate the relative contact or visitation.

(g) **Failure to comply with post-adoption relative contact agreement.** Failure to comply with the post-adoption relative contact agreement as ordered by the court is not grounds for:

- (1) setting aside an adoption decree;
- (2) revocation of a written consent to an adoption after the consent becomes irrevocable; or
- (3) preventing the child's adoptive parent from changing residence within or outside of the state.

(h) **Post-adoption relative contact agreement jurisdiction.** The enforcement of a court-ordered post-adoption relative contact agreement continues under the jurisdiction of the court granting the petition for adoption.

(i) **Compliance with post-adoption relative contact agreement.** The court may not order compliance with a post-adoption relative contact agreement unless the court finds that the party seeking the enforcement participated in good faith in mediation or other appropriate dispute resolution proceedings regarding the conflict prior to the filing of the enforcement action and, that the enforcement is in the child's best interests. Documentary evidence or offers of proof may serve as the basis for the court's decision regarding enforcement.

(j) **Attorney fees and costs.** The prevailing party may be awarded reasonable attorney fees and costs. All mediation or other appropriate dispute resolution proceeding fees and costs are borne by each party, excluding the child.

(k) **Modification or termination of post-adoption relative contact agreement.** The post-adoption relative contact agreement may be modified or terminated when the court finds the modification or termination is necessary to serve the child's best interests and is agreed

to by all parties, including the child, when he or she is 12 years of age and older.

[Source: Added at 35 Ok Reg 1695, eff 9-17-18]

## **PART 13. INTERSTATE PLACEMENTS [REVOKED]**

### **340:75-15-120. Interstate compact on the placement of children, adoptions [REVOKED]**

[Source: Revoked at 11 Ok Reg 651, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 3281, eff 6-27-94]

### **340:75-15-121. Medical expenses [REVOKED]**

[Source: Revoked at 11 Ok Reg 651, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 3281, eff 6-27-94]

### **340:75-15-122. Closure of ICPC adoption [REVOKED]**

[Source: Revoked at 11 Ok Reg 651, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 3281, eff 6-27-94]

### **340:75-15-123. Interstate Compact on Adoption and Medical Assistance (ICAMA) [REVOKED]**

[Source: Revoked at 11 Ok Reg 651, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 3281, eff 6-27-94]

## **PART 14. POST-ADOPTION SERVICES**

### **340:75-15-124. Post-adoption services**

Post-adoption services are an essential component of the adoption program. The Oklahoma Department of Human Services (DHS) provides post-adoption services to assist the adoptive family, maintain the child in the home, and support adult adoptees and birth family members coping with the lifelong impact of adoption. DHS post-adoption services include:

- (1) **Adoption assistance.** DHS administers federal and state adoption assistance programs to assist with the adoption of children with special needs, per Oklahoma Administrative Code (OAC) 340:75-15-7 and 340:75-15-128.
- (2) **Comprehensive Home-Based Services (CHBS).** DHS provides CHBS for adoptive families through Oklahoma Children's Services, per OAC 340:75-1-151.
- (3) **Medicaid (SoonerCare) services.** Children who are approved for adoption assistance may be eligible for services within the scope of the Medicaid (SoonerCare) program. The adoptive family is responsible for any medical services provided to the child that are not within the scope of the Medicaid (SoonerCare) program.

(4) **Respite vouchers.** Adoptive families may request respite vouchers.

(5) **Information disclosure after finalization.**

(A) **Adoptee and birth family.** DHS provides upon request, a copy of Form 04AN347E, Medical and Social History Report for Adoption, and any additional medical and social history information in its possession to:

- (i) the adoptive parent or legal guardian of the minor adopted child;
- (ii) an adoptee 18 years of age and older; or
- (iii) an individual 18 years of age and older, whose biological parents' parental rights were terminated and who was never adopted.

(B) **Direct descendant.** DHS provides medical information, only upon request, to:

- (i) an adult direct descendant of a deceased adopted person;
- (ii) an adult direct descendant of a deceased person whose biological parents' parental rights were terminated and who was never adopted;
- (iii) the parent or guardian of a minor direct descendant of a deceased adopted person; or
- (iv) the parent or guardian of a minor direct descendant of a deceased person whose biological parents' rights were terminated and who was never adopted.

(C) **Genetic information.** DHS provides upon request, a copy of supplemental genetic information about an adopted person, or about a person, whose parental rights were terminated that became available after the issuance of the final decree of adoption, or the termination order to a biological parent or biological relative of:

- (i) an adopted person; and
- (ii) a person whose biological parents' rights were terminated and was never adopted.

(D) **Post-finalization.** Additional information received about an adopted child, the adopted child's biological parents, or the adopted child's genetic history is submitted to DHS after the adoption is finalized and retained in the adoption record as long as the records are maintained. A copy is filed with the clerk of the court that issued the decree of adoption and made a part of the court's permanent record.

(E) **Tribal information.** DHS may not provide identifying information directly to an adult adoptee to establish tribal rights or membership, but will provide identifying information to the tribe, the court, or Secretary of the Interior for purposes of establishing Native American heritage.

(F) **Inheritance.** Termination of parental rights does not terminate the child's right to inherit from the biological

parent. DHS assists biological parents with locating heirs and acts as an intermediary, upon request.

(6) **Mutual-Consent Voluntary Registry.** The Mutual-Consent Voluntary Registry allows adult adoptees and persons separated from birth family members to receive assistance locating birth family members, when parental rights were terminated, per OAC 340:75-15-132.

(7) **Confidential Intermediary Search Program.** A person may request the services of a confidential intermediary to search for members of his or her birth family, per OAC 340:75-15-133.

[Source: Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ; Amended at 17 Ok Reg 3531, eff 9-7-00 (emergency); Amended at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 20 Ok Reg 2072, eff 6-26-03 ; Amended at 32 Ok Reg 1904, eff 9-15-15 ; Amended at 35 Ok Reg 1695, eff 9-17-18]

### **340:75-15-125. Case management [REVOKED]**

[Source: Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ; Amended at 14 Ok Reg 998, eff 1-24-97 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Revoked at 18 Ok Reg 3067, eff 7-12-01]

### **340:75-15-126. Insurance coverage**

Section 6059 of Title 36 of the Oklahoma Statutes provides that health insurance benefits applicable for any natural child of an insured or subscriber must be payable regarding an adopted child of the insured or subscriber from the date of placement of the child in the custody of the insurer or subscriber, provided the insurer is notified in writing within 31 days.

(1) Coverage includes the necessary care and treatment of medical conditions existing prior to the date of placement of the child in the adoptive home.

(2) Placement is defined as the assumption of physical custody and the financial responsibility for the support and care of the adopted child.

[Source: Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ; Amended at 23 Ok Reg 1024, eff 5-11-06]

### **340:75-15-127. Family Focus Services for adoptive families [REVOKED]**

[Source: Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ; Revoked at 18 Ok Reg 3067, eff 7-12-01]

### **340:75-15-128. Adoption Assistance Program**

(a) The Adoption Assistance Program secures and supports safe and permanent adoptive families for children with special needs, as defined in Public Law 96-272 in Oklahoma Human Services (OKDHS) custody. Adoption assistance provides adoptive families of any socio-economic status with social services and medical and financial support to care for children considered difficult to place. The Adoption Assistance Program

supplements the adoptive family's resources, as adoptive parents are responsible for the child's support.

(b) OKDHS promotes the availability of adoption assistance for eligible children with special needs by providing information to families who apply for adoption assistance through OKDHS.

(1) OKDHS provides information to licensed, in-state, child-placing agencies and federally-recognized Indian tribes about the availability of adoption assistance for eligible children with special needs.

(2) OKDHS is not responsible for seeking out and informing individuals who are unknown to OKDHS about the possibility of adoption assistance for children with special needs who are also unknown to OKDHS.

(c) The federal adoption assistance program provides assistance to eligible children with special needs. When the child is not eligible for federally-funded adoption assistance, he or she may be eligible for state-funded assistance, per the Oklahoma Adoption Assistance Act, Section 7510-1.3 of Title 10 of the Oklahoma Statutes.

[Source: Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ; Amended at 12 Ok Reg 3456, eff 7-1-95 (emergency); Amended at 13 Ok Reg 2199, eff 6-14-96 ; Amended at 14 Ok Reg 998, eff 1-24-97 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 417, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 15 Ok Reg 2106, eff 5-20-98 (emergency); Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 16 Ok Reg 2740, eff 4-14-99 (emergency); Amended at 17 Ok Reg 445, eff 10-19-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 17 Ok Reg 3097, eff 6-7-00 (emergency); Amended at 17 Ok Reg 3531, eff 9-7-00 (emergency); Amended at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 18 Ok Reg 3322, eff 6-19-01 (emergency); Amended at 19 Ok Reg 1129, eff 5-13-02 ; Amended at 20 Ok Reg 302, eff 12-5-02 (emergency); Amended at 20 Ok Reg 921, eff 5-12-03 ; Amended at 28 Ok Reg 894, eff 7-1-11 ; Amended at 35 Ok Reg 1695, eff 9-17-18 ; Amended at 39 Ok Reg 1803, eff 9-15-22]

### **340:75-15-128.1. Adoption assistance benefits**

(a) **Adoption assistance benefits.** Adoption assistance benefits may include Medicaid Medical coverage, a monthly assistance payment, child care, reimbursement of non-recurring adoption expenses, or any combination thereof. Children eligible for Title IV-E assistance are also eligible for available Title XX services.

(1) **Medicaid.** The Title IV-E child may be eligible for the Oklahoma Medicaid program or the Medicaid program in the state of his or her residence. All necessary medical and dental care under the scope of the Title IV-E program is compensable at usual and customary charges, per Oklahoma Administrative Code (OAC) 340:75-15-129.

(2) **Monthly adoption assistance payments.** A child who is considered difficult to place may be eligible for a monthly adoption assistance payment. The standard monthly adoption assistance payments set out in Oklahoma Human Services (OKDHS) Appendix C-20, Child Welfare Services Rates Schedule, correspond to the child's age.

(3) **Difficulty of care (DOC).** The DOC descriptions set out in OKDHS Appendix C-20, are guidelines from which the most appropriate DOC rate is determined for the eligible child. Every situation is not clearly defined in a DOC rate category and

OKDHS, when determining the appropriate rate category:

- (A) considers the child's age;
- (B) requests documentation from the adoptive family and professional sources outside of the adoptive family that verify the child's needs, conditions, or behaviors as they correspond to a rate category; and
- (C) requires updated documentation annually to establish a child's ongoing DOC eligibility.

**(4) Child care.**

(A) OKDHS may pay for child care services as a part of adoption assistance for the child who is in foster care, per Section 1355.20 of Title 45 Chapter XIII of The Code of Federal Regulations, at the time of approval for adoption assistance; provided, a child determined eligible, will retain eligibility in any subsequent adoption. The child is eligible, when:

- (i) the child is 5 years of age and younger;
- (ii) the child is adopted through OKDHS or a federally-recognized Indian tribe as defined by the Federal and Oklahoma Indian Child Welfare Acts;
- (iii) the child was adopted by the parent applying for benefits;
- (iv) the adoptive parent applying for benefits has fully executed Form 04AN002E, Adoption Assistance Agreement, that lists child care as an adoption assistance benefit for the child and includes Form 04AN033E, Post-Adoption Child Care Referral, when the child resides in Oklahoma; and
- (v) employment or formal training is verified and child care is approved for only the days and hours the adoptive parent works or is attending formal training; however, in a two-parent family, care may be approved for sleep time when one parent works or attends school during the day and the other parent works during normal night time sleep hours.

(B) Child care is:

- (i) negotiated between OKDHS and the adoptive parent, but cannot exceed the one star child care center rate as listed on OKDHS Appendix C-4-B, Child Care Provider Rate Schedule, for a child residing outside of Oklahoma;
- (ii) approved by Post-Adoption Services;
- (iii) included in Form 04AN002E;
- (iv) paid from Child Welfare Services funds when the child resides outside of Oklahoma; and
- (v) not available when the adoptive family negotiated its Oklahoma adoption assistance rate payment to take into consideration another state's payment rate.

(5) **Non-recurring adoption expenses.** Certain non-recurring adoption expenses incurred by, or on behalf of, the adoptive parent in connection with the adoption of a child with special needs may be reimbursed.

- (A) Reimbursable non-recurring adoption expenses are:
  - (i) the reasonable and necessary adoption fees, court costs, attorney fees, and other expenses directly related to the legal adoption of a child with special needs;
  - (ii) not incurred in violation of federal or state law; and
  - (iii) not reimbursed from other sources or funds.
- (B) Financial reimbursement is available to the adoptive parent of a child with special needs for:
  - (i) adoption fees;
  - (ii) court costs;
  - (iii) attorney fees;
  - (iv) an adoptive home study fee;
  - (v) costs incurred for family members to obtain health and psychological reports;
  - (vi) supervision of the adoptive placement by another agency;
  - (vii) transportation, food, and lodging for the adoptive parent and child during the placement process; and
  - (viii) the cost of fingerprinting paid for by the adoptive parent.

(6) **Non-recurring adoption expense reimbursement amounts.** When siblings are placed together with the same adoptive family, separate reimbursement for non-recurring expenses is considered for each child and may be approved for each eligible child, per OAC 340:75-15-128.1.

- (A) When the adoption is finalized, non-recurring adoption expense reimbursement does not exceed the documented actual expense incurred, up to a \$1,200 maximum per child, without Post-Adoption Services approval.
- (B) When the trial adoption disrupts prior to finalization, the prospective adoptive parent may be eligible for a reimbursement of up to \$500 per child.

(7) **Non-recurring adoption expense approval and payment.** Prior to adoption finalization, the reimbursement request for non-recurring adoption expenses is approved by Post-Adoption Services and the adoptive parent and OKDHS designee must sign Form 04AN002E. Payment is made directly to the adoptive parent for approved amounts shown on the itemized statement as paid in full after adoption finalization. Payment is made directly to a vendor, such as an attorney or private adoption agency when the itemized statement indicates the adoptive parent did not pay the fee in full.

(8) **Interstate adoption reimbursements.** OAC 340:75-15-128.5(b) provisions apply to reimbursement of non-recurring

adoption expenses in interstate adoptions.

(9) **Adoption assistance overpayments.** Post-Adoption Services notifies the adoptive parent when an overpayment occurs. The adoptive parent is responsible for repayment, even when he or she is not responsible for the overpayment.

(A) Post-Adoption Services contacts the adoptive parent regarding an overpayment and discusses the amount to be automatically deducted from the monthly adoption assistance payment, when applicable.

(i) The adoptive parent is notified of the overpayment agreement plan by certified mail. When the adoptive parent receives the overpayment agreement plan, he or she signs the plan and returns it to OKDHS.

(ii) The overpayment agreement plan does not exceed 30 months from the date of receipt of the written notification of the plan.

(iii) The minimum monthly payment toward the overpayment is not less than \$150, with the exception of the final payment.

(B) Post-Adoption Services notifies OKDHS Legal Services when the adoptive parent does not respond to the written notification or fails to comply with the overpayment agreement plan.

(C) A referral is made to Office of Inspector General when fraud is suspected.

(10) **Adoption assistance agreement modification.** Form 04AN002E may be modified and the adoption assistance payment amount readjusted periodically when warranted by a change in circumstances and with the adoptive parent's agreement.

(A) The adoption assistance payment amount may not be automatically adjusted without the adoptive parent's agreement except when an across-the-board reduction or increase in OKDHS foster care reimbursement or DOC rates occurs.

(B) Form 04AN002E modification is prospective only and is not retroactive.

(C) When the parties cannot come to an agreement, OKDHS establishes the payment amount.

(D) The adoptive parent must inform OKDHS of circumstances that make the child ineligible for adoption assistance payments or eligible for payments of a different amount. OKDHS may require:

(i) the adoptive parent to provide updated documentation of the child's ongoing eligibility for the payment amount received; and

(ii) a licensed or certified examiner's evaluation of the child when the child's eligibility is in question.

(E) The agreement may be extended and the child may continue to receive assistance until the day of his or her 19th birthday or high school graduation, whichever comes



first. The request to extend adoption assistance beyond 18 years of age includes:

- (i) a statement from school personnel documenting the child's high school attendance and anticipated graduation date;
- (ii) a statement documenting the child's pursuit of a General Educational Development (GED); or
- (iii) medical or psychological assessments, signed by a licensed physician, psychiatrist, or clinician describing the child's conditions including diagnosis, treatment, and prognosis conducted and dated within one year preceding the child's 18th birthday.

(11) **Adoption assistance agreement termination.** When Form 04AN002E is signed and in effect, adoption assistance terminates when one of the conditions in (A) through (E) of this paragraph occurs.

(A) The child reaches 18 years of age. The child may continue to receive assistance until the day of his or her 19th birthday, or high school graduation, whichever comes first.

(B) The adoptive parent fails to submit a request for adoption assistance to extend beyond 18 years of age.

(C) OKDHS determines the adoptive parent is no longer legally responsible for the child's support.

(D) OKDHS determines the adoptive parent is no longer providing financial support to the child. When a child is placed in out-of-home care, including psychiatric, residential, therapeutic, or foster family care, and the adoptive parent continues to provide financial support for the child, adoption assistance may continue. The payment rate may be renegotiated.

(E) The child's adoptive parents are deceased.

(12) **Death of adoptive parents or adoption dissolution.** A child who was Title IV-E eligible, met the criteria for special needs, and was receiving adoption assistance at the time of the death of the child's adoptive parents or at the time the adoption dissolved may be eligible for federally-funded or state-funded adoption assistance when adopted again. For the child to be eligible for adoption assistance, the child at re-application must meet the special needs criteria and all requirements in (A) through (D) of this paragraph are completed.

(A) The prospective adoptive parent applies on Form 04AN001E, Adoption Assistance Application.

(B) The prospective adoptive parent provides a district or tribal court copy of a file-stamped:

- (i) Petition for Adoption, when requesting pre-finalization adoption assistance for children in state or tribal custody; or
- (ii) Final Decree of Adoption, when requesting adoption assistance to begin after adoption

finalization.

(C) OKDHS documents the child was receiving federally-funded or state-funded assistance at the time of the death of the adoptive parent or at the time the adoption dissolved.

(D) OKDHS receives documentation that the new adoptive parent is not the biological parent.

(13) **Adoptive-family relocation to another state.** When OKDHS uses Form 04AN002E, all subsequent adoption assistance agreement modifications remain under the control and authority of OKDHS regardless of the adoptive parent's state of residence.

(14) **Federally-funded adoption assistance eligibility.** To be considered eligible for federally-funded adoption assistance, the child must meet criteria, per OAC 340:75-15-128.2, and be placed for adoption in accordance with applicable state and local laws.

[Source: Added at 18 Ok Reg 3322, eff 6-19-01 (emergency); Added at 19 Ok Reg 1129, eff 5-13-02 ; Amended at 20 Ok Reg 302, eff 12-5-02 (emergency); Amended at 20 Ok Reg 738, eff 4-1-03 (emergency); Amended at 20 Ok Reg 2090, eff 6-26-03 ; Amended at 22 Ok Reg 233, eff 11-4-04 (emergency); Amended at 22 Ok Reg 840, eff 5-12-05 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 24 Ok Reg 210, eff 11-1-06 (emergency); Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Amended at 32 Ok Reg 1904, eff 9-15-15 ; Amended at 35 Ok Reg 1695, eff 9-17-18 ; Amended at 39 Ok Reg 1803, eff 9-15-22]

#### **340:75-15-128.2. Title IV-E adoption assistance eligibility requirements**

(a) **The child.** The requirements for a child to be eligible for Title IV-E adoption assistance are outlined in this subsection.

(1) To be considered for adoption assistance, the child is:

(A) determined to have special needs, per Oklahoma Administrative Code (OAC) 340:75-15-128.4, prior to the adoption finalization; and

(B) by way of a voluntary placement, voluntary relinquishment, or a court-ordered removal with a judicial determination that remaining in the home would be contrary to the child's welfare, is at the time of initiation of adoption proceedings, in the care and control of:

- (i) Oklahoma Human Services (OKDHS);
- (ii) a federally-recognized Indian tribe; or
- (iii) a licensed, private child-placing agency, effective October 1, 2009.

(2) To be eligible for adoption assistance the child:

(A) is Aid to Families with Dependent Children (AFDC) eligible at the time of removal, per OAC 340:75-13-13;

(B) attained the age listed in (i) through (ix) of this subparagraph in the federal fiscal year (FFY) phased in from October 1, 2009, through October 1, 2017, and an adoption assistance agreement is entered into during that FFY. The schedule for phasing in based on the child's applicable age that decreases by two years each subsequent FFY, is:

- (i) FFY 2010 16 years of age;

- (ii) FFY 2011 14 years of age;
- (iii) FFY 2012 12 years of age;
- (iv) FFY 2013 10 years of age;
- (v) FFY 2014 8 years of age;
- (vi) FFY 2015 6 years of age;
- (vii) FFY 2016 4 years of age;
- (viii) FFY 2017 through 2023 2 years of age;
- (ix) FFY 2024 2 years of age or in the case of a child for whom an adoption assistance agreement is entered into under this section on or after July 1, 2024, any age; or
- (x) FFY 2025 or thereafter any age;

(C) meets the Supplemental Security Income (SSI) program disability or medical requirements;

(D) is residing with a minor parent in foster care and the minor parent was placed in foster care by way of a voluntary placement agreement, voluntary relinquishment, or court-ordered removal;

(E) was eligible for Title IV-E adoption assistance in a previous adoption when the child's adoptive parents died or their parental rights were voluntarily or involuntarily terminated; or

(F) beginning October 1, 2009, is a child of any age for which an adoption assistance agreement is entered into, when the child:

- (i) was in foster care for 60-consecutive months; and

- (ii) is a sibling to a child who is eligible due to age or length in foster care and is placed in the same adoptive placement.

**(b) Kinship guardianship assistance payment not considered when determining adoption assistance eligibility.** To determine eligibility for adoption assistance payments of a child OKDHS placed for adoption who was previously in a legal guardianship arrangement, per Section 473(a)(1)(d) of Title IV-E, both the child's placement with the relative guardian involved and any kinship guardianship assistance payments made on behalf of the child are considered never to have occurred.

**(c) The adoptive parent.** There is no means test for the prospective adoptive parent to determine eligibility for adoption assistance. Title IV-E adoption assistance benefits are not available when a prospective adoptive parent has a felony conviction for:

- (1) physical assault, battery, or a drug-related offense when the conviction occurs within the five-year period preceding the application date;

- (2) child abuse or neglect;

- (3) domestic abuse;

- (4) a crime against a child including, but not limited to, child pornography; or

- (5) a crime involving violence including, but not limited to, rape, sexual assault, or homicide, but excluding those crimes specified in (1) of this paragraph. Per Section 16 of Title 18 of the United

States Code, a crime involving violence means an offense that:

(A) has as an element of the use, attempted use, or threatened use of physical force against the person or property of another; or

(B) by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

(d) **School enrollment.** The prospective adoptive parent written verification at the time he or she applies for adoption assistance and annually thereafter that each child, who is the minimum age for compulsory school attendance under state law is:

(1) enrolled in an institution that provides elementary or secondary education as determined under the law of the state or other jurisdiction in which the institution is located;

(2) instructed in elementary or secondary education at home in accordance with a home school law or other jurisdiction in which the home is located;

(3) in an independent study elementary or secondary education program in accordance with the law of the state or other jurisdiction in which the program is located that is administered by the local school or school district; or

(4) incapable of attending school on a full-time basis due to a documented medical condition supported by regular updates.

(e) **Adoption of child not a United States (U.S.) citizen.** A child who has special needs:

(1) but is not a U.S. citizen; and

(2) was adopted in another country or brought to the U.S. for the purpose of adoption is categorically ineligible for Title IV-E adoption assistance, when the child meets the eligibility criteria after the dissolution of the international adoption.

[Source: Added at 18 Ok Reg 3322, eff 6-19-01 (emergency); Added at 19 Ok Reg 863, eff 3-1-02 (emergency); Added at 19 Ok Reg 2271, eff 6-27-02 ; Amended at 20 Ok Reg 302, eff 12-5-02 (emergency); Amended at 20 Ok Reg 921, eff 5-12-03 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 25 Ok Reg 970, eff 5-15-08 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 28 Ok Reg 894, eff 7-1-11 ; Amended at 32 Ok Reg 1904, eff 9-15-15 ; Amended at 35 Ok Reg 1695, eff 9-17-18 ; Amended at 36 Ok Reg 443, eff 4-9-19 (emergency); Amended at 37 Ok Reg 1850, eff 9-15-20 ; Amended at 39 Ok Reg 1803, eff 9-15-22]

### **340:75-15-128.3. State-funded adoption assistance eligibility requirements**

(a) Per Section 7510-1.3 of Title 10 of the Oklahoma Statutes, the Oklahoma Department of Human Services (DHS) establishes and administers an ongoing program of adoption assistance for the eligible, special needs child in DHS custody or a federally-recognized Indian tribe, as defined by the federal Indian Child Welfare Act and the Oklahoma Indian Child Welfare Act, who is not eligible for federally-funded adoption assistance benefits.

(1) Adoption assistance benefits under this program are provided out of funds appropriated to DHS for the maintenance of the child in foster care or made available to DHS from other sources.

(2) Adoption assistance benefits under this program may include Medicaid (SoonerCare) coverage, a monthly adoption assistance payment, reimbursement of non-recurring adoption expenses, child care, or any combination of benefits.

(3) To comply with Section 471(a)(14) of the Social Security Act and Section 1356.21(n) of Title 45 of the Code of Federal Regulations, DHS limits the number of children under its responsibility, who remain in substitute care for over 24 months, to no more than 30 percent of the children in care during any fiscal year.

(b) DHS may determine a child eligible for state-funded adoption assistance when he or she does not meet Title IV-E adoption assistance eligibility requirements and, at the time of adoptive placement:

(1) is not 18 years of age;

(2) was in court-ordered DHS custody or a federally-recognized Indian tribe as defined by the federal and Oklahoma Indian Child Welfare Acts; and

(3) met the definition of a child with special needs, per Oklahoma Administrative Code (OAC) 340:75-15-128.4.

(c) OAC 340:75-15-128.1 addresses the adoption assistance benefits an eligible child may receive. When DHS determines a child is eligible for an adoption assistance payment, DHS sets the payment amount within the range of payments in Appendix C-20, Child Welfare Services Rates Schedule, based on the child's needs and the adoptive parent's circumstances. The other provisions of OAC 340:75-15-128.1 regarding overpayments, termination or modification, death of adoptive parent, or dissolution of the adoption, and relocation by adoptive parent to another state also apply to state-funded adoption assistance.

(d) OAC 340:75-15-128.5 applies to state-funded adoption assistance except as specifically indicated otherwise.

(e) A child may be eligible for state-funded adoption assistance, as determined on a case-by-case basis in consultation with Post-Adoption Services and DHS Director or designee approval, when either potential adoptive parent has a felony conviction, per OAC 340:75-15-88.

(f) The only exception to the requirement in OAC 340:75-15-128.5 is that Form 04AN002E, Adoption Assistance Agreement, must be signed by the adoptive parent and DHS before adoption finalization, when the child is determined to have a causative, pre-existing condition not identified or known prior to adoption finalization that resulted in a severe medical or psychiatric condition requiring extensive treatment, hospitalization, or institutionalization. The child must also meet the definition of a child with special needs, per OAC 340:75-15-128.4.

(1) The application procedure is the same as that for Title IV-E applications made after adoption finalization, per OAC 340:75-15-128.5. There is no requirement that the adoptive parent prevail at a fair hearing.

(2) The benefits are the same as those for state-funded adoption assistance approved prior to adoption finalization.

(3) When a child is eligible for a monthly adoption assistance payment, he or she may also be entitled to receive retroactive payments for the two months prior to the date the adoption

assistance was approved, when requested, and documentation is produced that shows the child was receiving treatment or assessment during those two months.

[Source: Added at 18 Ok Reg 3322, eff 6-19-01 (emergency); Added at 19 Ok Reg 419, eff 12-1-01 (emergency); Added at 19 Ok Reg 1129, eff 5-13-02 ; Amended at 20 Ok Reg 302, eff 12-5-02 (emergency); Amended at 20 Ok Reg 921, eff 5-12-03 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 32 Ok Reg 1904, eff 9-15-15 ; Amended at 35 Ok Reg 1695, eff 9-17-18]

#### **340:75-15-128.4. Special needs determination**

A child is determined to have special needs by meeting all criteria in (A) through (C) of this subsection and, to be eligible for:

- (1) federally-funded adoption assistance, per Oklahoma Administrative Code (OAC) 340:75-15-128.2;
- (2) state-funded adoption assistance, per OAC 340:75-15-128.3; or
- (3) reimbursement of non-recurring adoption expenses, per OAC 340:75-15-128.1.

(A) **The child cannot return home.** When Oklahoma Human Services (OKDHS) recommends the child not return to his or her parent's home, it is documented with:

- (i) a Petition for Termination of Parental Rights;
- (ii) an Order of Termination of Parental Rights from a court of competent jurisdiction;
- (iii) a signed Relinquishment of Parental Rights, when the child is under the jurisdiction of the court;
- (iv) other official documentation when a child can be adopted per state or tribal law without parental rights termination or relinquishment; or
- (v) verification of the parent's death, when the child is orphaned.

(B) **Special factors or conditions exist.** OKDHS determines that one or more of the factors or conditions listed in (i) through (vii) of this subparagraph exists, and that the child may not be placed with the adoptive parent without adoption assistance.

(i) **Physical disability.** The child has a physical condition that adversely affects his or her day-to-day motor functioning.

(ii) **Intellectual disability.** The child has significantly sub-average, general cognitive capacity, motor-functioning, or both existing concurrently with deficits in adaptive behavior, manifested during the developmental period adversely affecting a child's or youth's socialization and learning.

(iii) **Age and type of placement.** Eligibility based on the child's age and type of placement is determined according to (I) and (II) of this unit.

(I) **Kinship placement.** There is no age requirement when the child is placed with a

relative who meets the specified degree of relationship per OAC 340:10-9-1.

(II) **Non-related placement.** When no other special needs are determined and the child is 8 years of age and older.

(iv) **Sibling relationship.**

(I) A child of any age and at least one sibling are placed in trial adoption status in the same home.

(II) A child younger than 3 years of age, not determined eligible to receive an adoption assistance payment at the time of the adoption assistance application, becomes eligible when there is a sibling relationship.

(III) When an adoptive child was not adoption-assistance eligible at the time of adoption and the adoptive parent accepts a sibling's placement within one year of the original child's adoption finalization date, the original child becomes eligible for an adoption assistance payment.

(IV) The effective date the adoption assistance payment begins for the original child is the eligibility date for the sibling.

(v) **Emotional disorder.** A child with an emotional disorder exhibits one or more of the characteristics in (I) through (IV) of this unit over an extended period of time and to a marked degree:

(I) an inability to build or maintain satisfactory interpersonal relationships;

(II) inappropriate types of behavior or feelings under normal circumstances;

(III) a general pervasive mood of unhappiness or depression; or

(IV) a tendency to develop physical symptoms or fears associated with personal problems.

(vi) **Racial or ethnic factor.** The child is American Indian, Hispanic or Latino, Asian, or African American and 3 years of age and older.

(vii) **High risk of emotional disorder or physical or intellectual disability.** The child who has a high risk of emotional disorder or physical or intellectual disability for conditions not currently being treated may qualify for adoption assistance. When no other special factors or conditions exist, a monthly payment is not approved until there are documented symptoms of emotional disorder or physical or intellectual disability. Indicators of high risk for emotional disorder or physical or intellectual disability are:

- (I) social and medical histories, such as the biological parents' or family member's emotional disorder;
- (II) events or life experiences, such as severe sexual abuse; or
- (III) prenatal exposure to drugs or alcohol.

(C) **Unsuccessful efforts to place the child without assistance.** A reasonable, but unsuccessful effort is made to place the child without adoption assistance, except where it is not in the child's best interests due to factors, such as a strong emotional tie to a foster parent who plans to adopt the child or placing the child with a relative.

(i) Documentation of efforts to place the child without adoption assistance is required and includes specific recruitment efforts for an adoptive parent who can meet the child's special needs.

(ii) Per OAC 340:75-15-128.5, Form 04AN001E, Adoption Assistance Application, states why the child may not be placed in an adoptive home without adoption assistance and include the:

- (I) specific factors that make it difficult to place the child;
- (II) efforts made to place the child without assistance; and
- (III) reasons it is not in the child's best interests to attempt to place the child for adoption without assistance.

[Source: Added at 18 Ok Reg 3322, eff 6-19-01 (emergency); Added at 19 Ok Reg 1129, eff 5-13-02 ; Amended at 20 Ok Reg 302, eff 12-5-02 (emergency); Amended at 20 Ok Reg 738, eff 4-1-03 (emergency); Amended at 20 Ok Reg 2090, eff 6-26-03 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Amended at 32 Ok Reg 1904, eff 9-15-15 ; Amended at 33 Ok Reg 1635, eff 9-15-16 ; Amended at 35 Ok Reg 1695, eff 9-17-18 ; Amended at 39 Ok Reg 1803, eff 9-15-22 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:75-15-128.5. Adoption assistance application process**

(a) **Adoption assistance application process.** To apply for adoption assistance, the prospective adoptive parent, child-placing agency, or tribe completes Form 04AN001E, Adoption Assistance Application, for the child and family and submits it to Post-Adoption Services for approval.

(b) **Interstate adoptive placements and adoption assistance.** The adoption assistance program's provisions in the state where the application is made govern the terms of an adoption assistance agreement including, but not limited to, adoption assistance payment rates.

(1) Federally-funded adoption assistance applications for interstate adoptions are submitted to:

(A) Oklahoma, when the child is in Oklahoma Human Services (OKDHS) or tribal custody, receiving Title IV-E foster care, and placed for adoption in another state;



- (B) the other state, when an Oklahoma child is placed by any other entity;
- (C) the other state, when a child is placed in Oklahoma by another state's public child welfare agency or a tribal child in Title IV-E foster care of another state; or
- (D) Oklahoma, when a child is placed in Oklahoma from another state by any other entity and there is compliance with the provisions of the Interstate Compact on the Placement of Children.

(2) State-funded adoption assistance applications for interstate adoptions are submitted to Oklahoma only when the child is in the legal custody of OKDHS or an Oklahoma tribe at the time of adoption, regardless of the adoptive parent's residence, per Oklahoma Administrative Code (OAC) 340:75-15-128.3.

(3) A child placed in Oklahoma from another state is not eligible for Oklahoma's state-funded adoption assistance.

**(c) Adoption assistance determination.**

(1) Each Form 04AN002E, Adoption Assistance Agreement, is based on the case and its circumstances and not on predetermined guidelines.

(2) The adoption specialist advises adoptive parents of adoption assistance components including child care, coverage under Title XIX Medicaid, reimbursement of non-recurring adoption expenses, and monthly assistance payments.

(A) When the child is eligible for Title IV-E adoption assistance, the:

(i) payment amount, if any, is agreed to by the adoptive parent and OKDHS.

(I) The adoption specialist considering the circumstances of the adopting parent and the child's needs, negotiates with the adoptive parent to reach an agreement on the adoption assistance amount.

(II) When the parties cannot agree, OKDHS establishes the payment amount;

(ii) payment amount is within the range of adoption assistance rates in OKDHS Appendix C-20, Child Welfare Services Rates Schedule; and

(iii) maximum amount cannot exceed the equivalent of the foster care maintenance payment that would have been paid during the period if the child had been in a foster family home. Therapeutic foster care (TFC) and intensive treatment family care (ITFC) do not constitute a foster family home in the context of adoption assistance rates.

(B) When the child is eligible for state-funded adoption assistance:

(i) OKDHS determines the payment amount within the range of rates in OKDHS Appendix C-20 based on the child's needs and the adoptive family's circumstances; and

(ii) the maximum adoption assistance amount cannot exceed the foster care maintenance payment that would have been paid during the period if the child was in a foster family home. TFC and ITFC do not constitute a foster family home in the context of adoption assistance rates.

(C) Federally-funded or state-funded adoption assistance, may have a zero payment agreement at the time Form 04AN002E is signed.

(i) The zero payment agreement applies, when:

(I) a risk of an emotional disorder or physical or intellectual disability exists, but is not manifested;

(II) no other special factor or condition exists; and

(III) the criteria in OAC 340:75-15-128.4 are met, documenting that the child cannot return home; and reasonable, but unsuccessful, efforts were made to place the child without adoption assistance.

(ii) When documented symptoms of an emotional disorder or physical or intellectual disability manifest, Form 04AN002E may be modified by agreement of the adoptive parent and Post-Adoption Services.

(D) When the child is eligible for a difficulty of care (DOC) rate, the DOC rate is the maximum monthly assistance payment for federally- or state-funded adoption assistance that would have been paid during the same period if the child was in a foster family home.

(E) OKDHS may require updated, supporting documentation from the adoptive parent at any time to determine continuing adoption assistance eligibility.

(F) The OKDHS Director or designee may approve adoption assistance payments on behalf of a child subject to Oklahoma's jurisdiction and residing in another state, up to the maximum foster care reimbursement allowable in the state of residence for regular foster care, per Section 7510-3.2 of Title 10 of the Oklahoma Statutes.

(d) **Adoption Assistance Agreement.** OKDHS and the adoptive parent sign Form 04AN002E prior to adoption finalization for Title IV-E federally-or state-funded adoption assistance, and non-recurring assistance.

(1) Adoption assistance is approved and the initial agreement signed prior to the child's 18th birthday.

(2) When OKDHS determines the child is eligible for adoption assistance, adoption assistance may commence at the time of adoptive placement or at the time of the adoption finalization.

(e) **Adoption disruption.**

(1) When a disruption occurs and there is an open line of service, the payment is end-dated for the disruption date on the child that

disrupted from the placement.

(2) A closure letter is sent to the family terminating the agreement.

(3) The adoption specialist submits a new adoption assistance application for any child remaining in the TA placement. The new application reviews the special factor criteria for the child to determine if he or she continues to meet eligibility to receive adoption assistance benefits.

(4) The adoptive parent signs a new agreement after the application's approval.

(f) **Annual adoption assistance reviews.** When adoption assistance continues for more than one year, OKDHS:

(1) reviews Form 04AN002E, Adoption Assistance Agreement, annually;

(2) sends Form 04AN014E, Adoption Assistance Annual Review, annually to the adoptive parent to complete and return within the time requirement specified on the form; and

(3) reviews Form 04AN014E to determine if the adoptive parent is fulfilling the Adoption Assistance Agreement terms. The adoptive parent is required to:

(A) inform OKDHS when circumstances occur that make the child:

(i) ineligible for adoption assistance payments; or

(ii) eligible for adoption assistance payments in a different amount; and

(B) provide annual assurance that the child, who has attained the minimum age for compulsory school attendance under state law of the child's state of residence is:

(i) enrolled in elementary or secondary education as determined under the law of the state or other jurisdiction in which the institution is located;

(ii) instructed in elementary or secondary education at home in accordance with a home school law or other jurisdiction in which the home is located;

(iii) in an independent study elementary or secondary education program in accordance with the law of the state or other jurisdiction in which the program is located, administered by the local school or school district; or

(iv) incapable of attending school on a full-time basis due to a documented medical condition supported by regular updates.

(g) **State-funded adoption assistance application after adoption finalization.** Refer to OAC 340:75-15-128.3 for state-funded adoption assistance application provisions after adoption finalization.

(h) **Title IV-E federally-funded adoption assistance application after adoption finalization.** Section 1356.40(b)(1) of Title 45 of the Code of Federal Regulations requires that Form 04AN002E is signed and effective at the time of, or prior to, the final adoption decree.

(1) **Fair hearing when post adoption assistance benefits are denied.** When the adoptive parent, who applied for Title IV-E adoption assistance after adoption finalization, believes benefits on behalf of the adopted child were wrongfully denied, the adoptive parent may request a fair hearing. When a fair hearing determines that the child was wrongfully denied benefits, OKDHS:

(A) determines if the child met all eligibility requirements at the time of the placement in the adoptive home and at finalization of the adoption; and

(B) may reverse the earlier decision to deny benefits.

(2) **Post-adoption assistance eligibility.** A child is eligible for Title IV-E post-adoption assistance, when:

(A) he or she met all eligibility requirements, per OAC 340:75-15-128.2 and 340:75-15-128.4 at the time of the placement in the adoptive home, and at finalization of the adoption; and

(B) the adoptive parent prevails in a fair hearing and proved a circumstance existed, such as:

(i) relevant facts regarding the child, or the child's background were known, but not presented to the adoptive parent prior to the adoption finalization;

(ii) denial of assistance was based upon a means test of the adoptive parent;

(iii) an adoptive family disagrees with ineligibility determination; or

(iv) OKDHS was required and failed to advise the adoptive parent of the availability of the Title IV-E adoption assistance program.

(3) **Post-adoption assistance benefits.** Post-adoption assistance benefits are the same as the benefits listed in OAC 340:75-15-128.1.

(4) **Post-adoption assistance payments.** When OKDHS approves post-adoption assistance payments, the payment period begins on the date of approval, which is either the finalization or placement date. OKDHS considers retroactive payments on a case-by-case basis; however, not for a period exceeding 18 months from the approval date or from the date the initial application for assistance was denied, whichever is less.

(5) **Title IV-E or state-funded post-adoption assistance application procedures.** The application for Title IV-E post-adoption assistance includes:

(A) a court order documenting the child's removal from the home and that continuation in the home is contrary to the child's welfare;

(B) Form 04AN001E;

(C) Form 04AN038E, Post-Adoption Services Health Benefits Application;

(D) a description of the child's special needs that meet the eligibility criteria;

(E) documentation of the special needs from physician(s), licensed social worker(s), or other professionals, as required; and

(F) criminal background search results.

**(6) Title IV-E or state-funded post-adoption assistance application submission and review.** The adoptive parent submits the application for Title IV-E and state-funded, post-adoption assistance to Post-Adoption Services. The Adoption Assistance Review Committee reviews the application.

[Source: Added at 18 Ok Reg 3322, eff 6-19-01 (emergency); Added at 19 Ok Reg 419, eff 12-1-01 (emergency); Added at 19 Ok Reg 1129, eff 5-13-02 ; Amended at 20 Ok Reg 302, eff 12-5-02 (emergency); Amended at 20 Ok Reg 738, eff 4-1-03 (emergency); Amended at 20 Ok Reg 2090, eff 6-26-03 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Amended at 32 Ok Reg 1904, eff 9-15-15 ; Amended at 35 Ok Reg 1695, eff 9-17-18 ; Amended at 39 Ok Reg 1803, eff 9-15-22]

### **340:75-15-128.6. Denial and fair hearing**

(a) **Notice of intent to deny adoption assistance.** The application for adoption assistance may be denied when the child does not meet eligibility criteria. Form 04AN003E, Notice of Intent to Deny Adoption Assistance, is sent to the adoptive parent by certified mail.

(b) **Additional review.** The adoptive parent is given 30-calendar days from receipt of notice of intent to deny to provide additional information or documentation that might affect the approval of the original application. When the adoptive parent provides additional information, the application is reviewed by the Adoption Assistance Review Committee (Committee). When the Committee denies the application, the parent is notified on Form 04AN004E, Final Notice of Denial of Adoption Assistance, by certified mail.

**(c) Fair hearing request.**

(1) A fair hearing may be requested, per Oklahoma Administrative Code 340:2-5-91, by any adoptive parent, whose:

(A) application for adoption assistance was:

(i) denied or not acted upon with reasonable promptness; or

(ii) approved in an amount less than requested; or

(B) Form 04AN002E, the Adoption Assistance Agreement, was:

(i) modified without the adoptive parent's concurrence; or

(ii) terminated by the Oklahoma Department of Human Services (DHS).

(2) The adoptive parent may request a fair hearing, when he or she received Form:

(A) 04AN003E and does not have additional information or documentation to submit for further consideration; or

(B) 04AN004E.

(3) The request for a fair hearing is submitted in writing to DHS using Form 13MP005E, Resource Family Request for a Fair Hearing, within 30-calendar days of the date of receipt of Form:

(A) 04AN003E; or

(B) 04AN004E, when a review of denial process is requested.

[Source: Added at 18 Ok Reg 3322, eff 6-19-01 (emergency); Added at 19 Ok Reg 1129, eff 5-13-02 ; Amended at 20 Ok Reg 302, eff 12-5-02 (emergency); Amended at 20 Ok Reg 921, eff 5-12-03 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 35 Ok Reg 1695, eff 9-17-18]

### **340:75-15-128.7. Non-recurring adoption assistance [REVOKED]**

[Source: Added at 18 Ok Reg 3322, eff 6-19-01 (emergency); Added at 19 Ok Reg 1129, eff 5-13-02 ; Revoked at 20 Ok Reg 302, eff 12-5-02 (emergency); Revoked at 20 Ok Reg 921, eff 5-12-03]

### **340:75-15-129. Interstate Compact on Adoption and Medical Assistance (ICAMA)**

ICAMA strengthens protections for and provides assurances and procedures to promote the delivery of medical and other services when a child receiving adoption assistance moves to another state other than the one committed to make adoption assistance payments. Sections 7510-3.1 through 7510-3.3 of Title 10 of the Oklahoma Statutes provide that the Oklahoma Department of Human Services administers ICAMA. An adoptive family receiving adoption assistance that moves to another state continues to receive the assistance. When the move is between states who are ICAMA members, assistance is provided in locating medical or educational resources as needed.

(1) **Services.** The maintenance payments are made by the state that approved the adoption assistance. Medical payments provided through Medicaid may be paid by the approving state or residence state, depending on the Medicaid program in the residence state. Children who receive Title IV-E adoption assistance are eligible for Medicaid in their state of residence when that state has a Medicaid program. When an adoptive family receiving adoption assistance moves to Oklahoma, they are referred to the medical services eligibility worker in the county where they reside.

(2) **Procedures.** All ICAMA cases are processed by the Deputy Compact Administrator. Referrals are made to adoption specialists for assistance in locating community resources and to medical services for Medicaid (SoonerCare) eligibility determinations.

[Source: Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ; Amended at 14 Ok Reg 998, eff 1-24-97 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 417, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 35 Ok Reg 1695, eff 9-17-18]

### **340:75-15-130. Post adoption disclosure of information [REVOKED]**

[Source: Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ; Amended at 14 Ok Reg 998, eff 1-24-97 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Revoked at 18 Ok Reg 3067, eff 7-12-01]

### **340:75-15-131. Voluntary Adoption Reunion Registry [REVOKED]**

[Source: Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ; Amended at 14 Ok Reg 998, eff 1-24-97 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Revoked at 15 Ok Reg 417, eff 11-1-97 (emergency); Revoked at 15 Ok Reg 1663, eff 5-11-98]

### **340:75-15-132. Mutual-Consent Voluntary Registry**

Section 7508-1.2 of Title 10 of the Oklahoma Statutes (10 O.S. § 7508-1.2) requires the Oklahoma Department of Human Services (DHS) to administer, directly or through a contractor, a Mutual-Consent Voluntary Registry where the eligible person, who was separated from birth family members through adoption or termination of parental rights, may indicate a willingness to have his or her identity and whereabouts disclosed to birth family members, per 10 O.S. §§ 7508-1.1 through 7508-1.3.

(1) **Persons eligible to register.** The following persons may register with the Oklahoma Mutual-Consent Voluntary Registry:

- (A) an adult adopted person;
- (B) an adult person whose biological parents' parental rights were terminated;
- (C) the adoptive parent or guardian of an adopted person, who is under 18 years of age or who was declared mentally incompetent;
- (D) when adopted person is deceased, the legal parent or guardian of any minor child or mentally-incompetent minor of the adopted person;
- (E) when the adopted person is deceased, any adult descendant of the adopted person;
- (F) the legal parent or guardian of a minor or a person who was declared mentally incompetent whose biological parent's parental rights were terminated;
- (G) the legal parent or guardian of any minor or mentally-incompetent child of a deceased person whose biological parent's parental rights were terminated;
- (H) the adult descendant of a deceased person whose biological parent's parental rights were terminated;
- (I) a parent whose parental rights were voluntarily terminated by court order subsequent to the parent's consent or relinquishment, or involuntarily terminated by court order in an adoption, juvenile, guardianship, or domestic relations proceeding; or
- (J) an adult biological relative of an adopted person.

(2) **Persons ineligible to register.** Persons ineligible to register are:

- (A) an adult adopted person who has a minor biological sibling in the same adoptive family or in an adoptive or foster family or other placement whose location is known to the adult adopted person;
- (B) an adult whose biological parent's parental rights were terminated and who has a biological sibling in the same

family or in an adoptive or foster family or other placement whose location is known to that adult; or  
(C) a person whose adoption or termination of parental rights proceedings did not occur in Oklahoma.

(3) **Registration.** An eligible person may register by submitting a notarized affidavit completed on DHS Form 04CI002E, Oklahoma Mutual Consent Voluntary Registry.

(4) **Nondisclosure affidavit.** When a biological relative, other than a biological parent registers, a DHS Mutual-Consent Voluntary Registry administrator ascertains from the State Registrar of Vital Statistics if an affidavit of nondisclosure by a biological parent is on file. When an affidavit of nondisclosure is on file with the State Registrar of Vital Statistics and has not been revoked, the DHS Mutual-Consent Registry administrator does not process a match with any biological relative of the parent who filed the affidavit of nondisclosure.

(5) **Matching registrant with eligible persons.**

(A) A DHS Mutual-Consent Voluntary Registry administrator processes each eligible person's affidavit on completed Form 04CI002E to attempt to match the registrant with other registered eligible persons who consented to have their identifying information released to the registrant. The processing may include, but is not limited to:

- (i) research from DHS records, when available; and
- (ii) from court records to determine conclusively if registrants match, when agency records are not available.

(B) When a match occurs, the Mutual-Consent Voluntary Registry administrator:

- (i) notifies each registrant, by the registrant's designated method only; and
- (ii) obtains the registrant's consent to an exchange of identifying information before any identifying information is released.

(C) DHS is not allowed to solicit consent for the release of identifying information from someone who has not registered. A confidential intermediary may invite an unregistered person to register when a registered person has expressed an interest in contacting the unregistered person.

(6) **Record retention.** Any affidavits filed and other information collected is retained for 22 years following the registration date.

[Source: Added at 15 Ok Reg 417, eff 11-1-97 (emergency); Added at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 15 Ok Reg 2106, eff 5-20-98 (emergency); Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 17 Ok Reg 445, eff 10-19-99 (emergency); Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Amended at 35 Ok Reg 1695, eff 9-17-18]

### **340:75-15-133. Confidential-Intermediary Search Program**



Oklahoma Human Services (OKDHS) administers the Confidential-Intermediary Search Program, which is limited to adoptions and termination of parental rights proceedings completed in Oklahoma, as required by Section 7508-1.3 of Title 10 of the Oklahoma Statutes. The Confidential-Intermediary Search Program permits a confidential search for certain adult members of an individual's birth family, with whom contact was lost through adoption or parental rights termination proceedings. Persons contacted under this program are directed to the Mutual-Consent Voluntary Registry where exchange of identifying information can be authorized.

(1) **Confidential Intermediaries.** Confidential intermediaries who conduct searches, are certified by, and can be contracted through OKDHS. Confidential intermediaries are subject to OKDHS criteria establishing:

- (A) eligibility standards;
- (B) training requirements;
- (C) standards of conduct and search procedures; and
- (D) fees paid by persons requesting assisted searches.

(2) **Persons eligible for the Confidential-Intermediary Search Program.** Persons who may request a search or be the subject of a search, are:

- (A) an adopted individual, 18 years of age and older (adult);
- (B) an adult person whose biological parent's parental rights were terminated;
- (C) the legal parent or guardian of a minor or mentally-incompetent minor of a deceased-adopted person;
- (D) an adult descendant of a deceased-adopted person;
- (E) the legal parent or guardian of a minor or mentally-incompetent minor of a deceased person whose biological parents' parental rights were terminated;
- (F) an adult descendant of a deceased person whose biological parents' parental rights were terminated;
- (G) a biological parent whose parental rights were voluntarily or involuntarily terminated by court order in an adoption, juvenile, guardianship, or domestic relations proceeding;
- (H) an adult biological sibling or biological grandparent of an adult-adopted person or of an adult person whose parents' parental rights were terminated; and
- (I) the sibling of a deceased-biological parent whose parental rights were voluntarily or involuntarily terminated by court order in an adoption, juvenile, guardianship, or domestic relations proceeding.

(3) **Persons not eligible for the Confidential-Intermediary Search Program.** Persons who are not eligible for a search are listed in (A) - (E) of this paragraph.

- (A) Anyone who has not previously registered with the Mutual-Consent Voluntary Registry at least six months prior to submission of the application for the Confidential-Intermediary Search Program services.

(B) An adult adopted person who has a minor-biological sibling in the same adoptive family or in an adoptive or foster family or other placement whose location is known to the adult-adopted person.

(C) An adult whose biological parents' parental rights were terminated and who has a minor-biological sibling in the same family or in an adoptive or foster family or other placement, whose location is known to that adult.

(D) Anyone who previously initiated a search for a biological parent that refused to share identifying information, communicate, or meet, and who initiates a subsequent search for a biological relative of that biological parent.

(E) A birth relative, other than a birth parent, who applies to initiate a search or is the subject of a search, in which case the Confidential-Intermediary Search Program administrator ascertains from the State Registrar of Vital Statistics if an affidavit of nondisclosure by a birth parent of the adopted person is on file. When an affidavit of nondisclosure is filed and was not revoked, the Confidential-Intermediary Search Program administrator must decline to initiate a search at the request of or for any birth relative of the birth parent who filed the affidavit of nondisclosure, unless the person initiating the search can provide satisfactory proof that the birth parent who filed the affidavit of nondisclosure is deceased.

(4) **Requirements of the confidential intermediary.** Each potential confidential intermediary signs Form 04CI010E, Confidential Intermediary Oath of Confidentiality, which must be signed under penalty of perjury, prior to receiving OKDHS certification.

(5) **Eligibility competencies and standards for confidential intermediaries.** Persons contracting with OKDHS to perform searches must:

(A) be 21 years of age and older;

(B) complete a minimum of two years at an accredited college or university;

(C) demonstrate a minimum of two years' experience, either professional or volunteer, in legal or psychological aspects of adoption and adoption search;

(D) demonstrate expertise, through written references, approved training, and personal interviews, regarding:

(i) sensitivity to adoption-related issues;

(ii) an ability to maintain confidential files and information;

(iii) an ability to work within established legal, administrative, and ethical boundaries;

(iv) listening and communication skills, written and verbal;

(v) an ability to work with persons from diverse backgrounds and cultures;

- (vi) personal attitudes toward adoption, search, and reunion to maintain professional neutrality; and
- (vii) general and specific knowledge of search procedures and techniques utilized to successfully locate sought after parties;

(E) provide a criminal background search with no record of arrests or convictions; and

(F) attend continuing education and applicable training as required by OKDHS to maintain confidential intermediary certification, in the areas of adoption, search, and reunion.

**(6) Procedures to initiate search by confidential**

**intermediary.** The eligible person described in paragraph (2) must:

(A) complete an application to initiate a search;

(B) provide satisfactory proof of identity to the Confidential-Intermediary Search Program administrator with a copy of a:

- (i) birth certificate;
- (ii) current driver license; or
- (iii) Social Security Administration card; and

(C) pay the OKDHS-established fee for initiating a search.

**(7) Procedures for search by confidential intermediary.**

(A) The Confidential-Intermediary Search Program administrator assigns the search to a confidential intermediary. The confidential intermediary is permitted to inspect:

- (i) all court records relevant to the adoption or termination of parental rights proceedings;
- (ii) the original birth certificate, or other sealed adoption records, and other relevant records, when any, in the possession of the State Registrar of Vital Statistics; and
- (iii) all relevant records in OKDHS possession.

(B) The confidential intermediary:

- (i) presents documentary proof of the intermediary's certification and the referral form from the Confidential-Intermediary Search Program administrator to records custodians, prior to obtaining access to any of these records;
- (ii) may also inspect records in the possession of a private adoption agency or attorney, but only when the private agency or attorney voluntarily agrees to cooperate and permits the examination; and
- (iii) keeps all information obtained during the course of the investigation confidential, except when disclosure is permitted by the procedures described in search policy.

(C) When the confidential intermediary is able to locate the subject of the search, the confidential intermediary makes a discreet and confidential inquiry as to whether

the person who is the subject of the search will consent to share identifying information, communicate, or meet with the person who initiated the search. The inquiry is made without disclosing the identifying information about the person who initiated the search.

(i) When the person, who is the subject of the search, is willing to share identifying information, communicate, or meet with the person who initiated the search, the confidential intermediary must obtain this consent in a written document that is dated and signed by the subject of the search.

(ii) When the person who is the subject of the search is not willing to share identifying information, communicate, or meet with the person who initiated the search, the confidential intermediary must attempt to obtain any non-identifying medical or social history information requested by the person who initiated the search.

(iii) When the confidential intermediary discovers the subject of the search is deceased, the confidential intermediary includes this information in a written report. When the deceased subject is a biological parent, his or her identity is included.

(D) Any written consent and non-identifying information obtained by the confidential intermediary, along with a written report of the results of the intermediary's search and inquiry, is transmitted to the Confidential-Intermediary Search Program administrator.

(E) When the confidential intermediary is unable to locate the subject of the search, the confidential intermediary reports this to the Confidential-Intermediary Search Program administrator in writing and includes a description of the search efforts.

(F) When the confidential intermediary discovers that the identity of the biological father was unknown or not revealed by the biological mother, the confidential intermediary includes this information in a written report.

**(8) Confidential-Intermediary Search Program**

**confidentiality.** All searches done through the Confidential-Intermediary Search Program are confidential.

(A) Any information obtained by a confidential intermediary during the course of the investigation is kept strictly confidential and is disclosed and utilized only in the manner permitted by this Section.

(B) 10 O.S. § 7508-1.3 states that any person who discloses information obtained during the course of a search performed, per this Section in violation of this act shall be guilty of a misdemeanor and fined up to \$5,000 or imprisoned for a period of six months or both.

(9) **Search records.** Search records are examined, retained, and maintained as outlined in (A) - (D) of this paragraph.

(A) The OKDHS-contracted confidential intermediary may examine children's Child Welfare Services records maintained by the OKDHS State Office.

(B) No original file contents or copies of confidential documents are removed from OKDHS files.

(C) Any reports and other information collected as a result of a search performed, per this Section are retained by the Confidential-Intermediary Search Program administrator for 22 years following the date of the initial search application.

(D) During a confidential intermediary search, the intermediary maintains records of all actions and furnishes copies of those records to the Confidential-Intermediary Search Program administrator.

(10) **Confidential-Intermediary Search Program fees.** Each application for a search through a confidential intermediary must be accompanied by a fee, per 10 O.S. § 7508-1.3. Once application is made for the search and is initiated by the confidential intermediary, any fees paid are non-refundable under any circumstances, including unsuccessful location or reunion. All fees are waived for siblings who were separated through OKDHS adoptions. Each application for a search must be accompanied by a:

(A) \$20 fee to register on the Mutual-Consent Voluntary Registry, six months prior to application for a search;

(B) \$400 fee for an initial search for one eligible person. Of this fee, \$100 is used for search program

administrative costs and \$300 is the fixed rate for the search, paid to the confidential intermediary; and

(C) \$200 fee for subsequent searches for eligible persons by the same requester. Of this fee, \$50 is for search program administrative costs and \$150 is the fixed rate for the subsequent search, paid to the confidential intermediary.

[Source: Added at 15 Ok Reg 417, eff 11-1-97 (emergency); Added at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 15 Ok Reg 2106, eff 5-20-98 (emergency); Amended at 16 Ok Reg 2740, eff 4-14-99 (emergency); Amended at 16 Ok Reg 1052, eff 4-26-99 ; Amended at 17 Ok Reg 1311, eff 5-11-00 ; Amended at 17 Ok Reg 3531, eff 9-7-00 (emergency); Amended at 18 Ok Reg 2128, eff 6-11-01 ; Amended at 18 Ok Reg 3067, eff 7-12-01 ; Amended at 35 Ok Reg 1695, eff 9-17-18 ; Amended at 38 Ok Reg 2294, eff 9-15-21]

## **PART 15. INDEPENDENT ADOPTION [REVOKED]**

### **340:75-15-140. Definition [REVOKED]**

[Source: Revoked at 11 Ok Reg 651, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 3281, eff 6-27-94]

**340:75-15-141. Authority for making court ordered investigation on an independent adoption [REVOKED]**

[Source: Revoked at 11 Ok Reg 651, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 3281, eff 6-27-94]

**340:75-15-142. Registration, centralized paternity registry and case recording [REVOKED]**

[Source: Revoked at 11 Ok Reg 651, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 3281, eff 6-27-94]

**340:75-15-143. Social services to family and the court [REVOKED]**

[Source: Revoked at 11 Ok Reg 651, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 3281, eff 6-27-94]

**340:75-15-144. Collection of fees [REVOKED]**

[Source: Revoked at 11 Ok Reg 651, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 3281, eff 6-27-94]

**SUBCHAPTER 16. BEHAVIORAL HEALTH TREATMENT SERVICES**

**PART 1. INPATIENT BEHAVIORAL HEALTH TREATMENT SERVICES**

**340:75-16-1. Child in need of treatment [REVOKED]**

[Source: Added at 9 Ok Reg 3649, eff 7-23-92 (emergency); Added at 10 Ok Reg 3659, eff 7-12-93 ; Revoked at 11 Ok Reg 1137, eff 1-25-94 (emergency); Revoked at 11 Ok Reg 2731, eff 6-13-94]

**340:75-16-2. Referral regarding Child In Need of Treatment [REVOKED]**

[Source: Added at 9 Ok Reg 3649, eff 7-23-92 (emergency); Added at 10 Ok Reg 3659, eff 7-12-93 ; Revoked at 11 Ok Reg 1137, eff 1-25-94 (emergency); Revoked at 11 Ok Reg 2731, eff 6-13-94]

**340:75-16-3. Pre-Conference information gathering for Child in Need of Treatment [REVOKED]**

[Source: Added at 9 Ok Reg 3649, eff 7-23-92 (emergency); Added at 10 Ok Reg 3659, eff 7-12-93 ; Revoked at 11 Ok Reg 1137, eff 1-25-94 (emergency); Revoked at 11 Ok Reg 2731, eff 6-13-94]

**340:75-16-4. Recommendation to the district attorney regarding Child In Need of Treatment [REVOKED]**

[Source: Added at 9 Ok Reg 3649, eff 7-23-92 (emergency); Added at 10 Ok Reg 3659, eff 7-12-93 ; Revoked at 11 Ok Reg 1137, eff 1-25-94 (emergency); Revoked at 11 Ok Reg 2731, eff 6-13-94]

### **340:75-16-5. Emergency medical facility access [REVOKED]**

[Source: Added at 9 Ok Reg 3649, eff 7-23-92 (emergency); Added at 10 Ok Reg 3659, eff 7-12-93 ; Revoked at 11 Ok Reg 1137, eff 1-25-94 (emergency); Revoked at 11 Ok Reg 2731, eff 6-13-94]

### **340:75-16-6. Services to Children In Need Of Treatment [REVOKED]**

[Source: Added at 9 Ok Reg 3649, eff 7-23-92 (emergency); Added at 10 Ok Reg 3659, eff 7-12-93 ; Revoked at 11 Ok Reg 1137, eff 1-25-94 (emergency); Revoked at 11 Ok Reg 2731, eff 6-13-94]

### **340:75-16-7. Central Oklahoma Juvenile Treatment Center [REVOKED]**

[Source: Added at 9 Ok Reg 3649, eff 7-23-92 (emergency); Added at 10 Ok Reg 3659, eff 7-12-93 ; Revoked at 11 Ok Reg 1137, eff 1-25-94 (emergency); Revoked at 11 Ok Reg 2731, eff 6-13-94]

### **340:75-16-8. Other inpatient facilities [REVOKED]**

[Source: Added at 9 Ok Reg 3649, eff 7-23-92 (emergency); Added at 10 Ok Reg 3659, eff 7-12-93 ; Revoked at 11 Ok Reg 1137, eff 1-25-94 (emergency); Revoked at 11 Ok Reg 2731, eff 6-13-94]

### **340:75-16-9. Return to residential treatment after formal discharge [REVOKED]**

[Source: Added at 9 Ok Reg 3649, eff 7-23-92 (emergency); Added at 10 Ok Reg 3659, eff 7-12-93 ; Revoked at 11 Ok Reg 1137, eff 1-25-94 (emergency); Revoked at 11 Ok Reg 2731, eff 6-13-94]

### **340:75-16-10. Worker responsibilities to youth on aftercare [REVOKED]**

[Source: Added at 9 Ok Reg 3649, eff 7-23-92 (emergency); Added at 10 Ok Reg 3659, eff 7-12-93 ; Revoked at 11 Ok Reg 1137, eff 1-25-94 (emergency); Revoked at 11 Ok Reg 2731, eff 6-13-94]

### **340:75-16-11. Information and services specific to In Need of Treatment/Deprived (dual adjudications) [REVOKED]**

[Source: Added at 9 Ok Reg 3649, eff 7-23-92 (emergency); Added at 10 Ok Reg 3659, eff 7-12-93 ; Revoked at 11 Ok Reg 1137, eff 1-25-94 (emergency); Revoked at 11 Ok Reg 2731, eff 6-13-94]

### **340:75-16-12. Definitions [REVOKED]**

[Source: Added at 11 Ok Reg 1137, eff 1-25-94 (emergency); Added at 11 Ok Reg 2731, eff 6-13-94 ; Amended at 15 Ok Reg 938, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Revoked at 19 Ok Reg 2208, eff 6-27-02]

### **340:75-16-13. Referral regarding a child in need of mental health treatment [REVOKED]**

[Source: Added at 11 Ok Reg 1137, eff 1-25-94 (emergency); Added at 11 Ok Reg 2731, eff 6-13-94 ; Revoked at 15 Ok Reg 938, eff 1-1-98 (emergency); Revoked at 15 Ok Reg 1663, eff 5-11-98]

### **340:75-16-13.1. Purpose [REVOKED]**

[Source: Added at 15 Ok Reg 938, eff 1-1-98 (emergency); Added at 15 Ok Reg 1663, eff 5-11-98 ; Revoked at 19 Ok Reg 2208, eff 6-27-02]

### **340:75-16-14. Admission of a custody child [REVOKED]**

[Source: Added at 11 Ok Reg 1137, eff 1-25-94 (emergency); Added at 11 Ok Reg 2731, eff 6-13-94 ; Amended at 15 Ok Reg 938, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Revoked at 19 Ok Reg 2208, eff 6-27-02]

### **340:75-16-15. Protective custody [REVOKED]**

[Source: Added at 11 Ok Reg 1137, eff 1-25-94 (emergency); Added at 11 Ok Reg 2731, eff 6-13-94 ; Amended at 15 Ok Reg 938, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Revoked at 19 Ok Reg 2208, eff 6-27-02]

### **340:75-16-16. Emergency admission - DHS custody or court ordered supervision [REVOKED]**

[Source: Added at 11 Ok Reg 1137, eff 1-25-94 (emergency); Added at 11 Ok Reg 2731, eff 6-13-94 ; Amended at 15 Ok Reg 938, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Revoked at 19 Ok Reg 2208, eff 6-27-02]

### **340:75-16-17. Commitment for inpatient treatment [REVOKED]**

[Source: Added at 11 Ok Reg 1137, eff 1-25-94 (emergency); Added at 11 Ok Reg 2731, eff 6-13-94 ; Amended at 15 Ok Reg 938, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Revoked at 19 Ok Reg 2208, eff 6-27-02]

### **340:75-16-18. Individualized treatment and discharge plan [REVOKED]**

[Source: Added at 11 Ok Reg 1137, eff 1-25-94 (emergency); Added at 11 Ok Reg 2731, eff 6-13-94 ; Revoked at 19 Ok Reg 2208, eff 6-27-02]

### **340:75-16-19. Adjudicated children; parental support obligation; civilly committed wards from another state [REVOKED]**

[Source: Added at 11 Ok Reg 1137, eff 1-25-94 (emergency); Added at 11 Ok Reg 2731, eff 6-13-94 ; Revoked at 19 Ok Reg 2208, eff 6-27-02]

### **340:75-16-20. Court review hearings on previously adjudicated in need of treatment [REVOKED]**

[Source: Added at 11 Ok Reg 1137, eff 1-25-94 (emergency); Added at 11 Ok Reg 2731, eff 6-13-94 ; Revoked at 15 Ok Reg 938, eff 1-1-98 (emergency); Revoked at 15 Ok Reg 1663, eff 5-11-98]

### **340:75-16-21. Substance abuse treatment [REVOKED]**

[Source: Added at 11 Ok Reg 1137, eff 1-25-94 (emergency); Added at 11 Ok Reg 2731, eff 6-13-94 ; Revoked at 15 Ok Reg 938, eff 1-1-98 (emergency); Revoked at 15 Ok Reg 1663, eff 5-11-98]



### **340:75-16-22. Gatekeeping [REVOKED]**

[Source: Added at 11 Ok Reg 1137, eff 1-25-94 (emergency); Added at 11 Ok Reg 2731, eff 6-13-94 ; Amended at 15 Ok Reg 938, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Revoked at 19 Ok Reg 2208, eff 6-27-02]

### **340:75-16-23. Admission requirements to a state operated facility [REVOKED]**

[Source: Added at 11 Ok Reg 1137, eff 1-25-94 (emergency); Added at 11 Ok Reg 2731, eff 6-13-94 ; Revoked at 15 Ok Reg 938, eff 1-1-98 (emergency); Revoked at 15 Ok Reg 1663, eff 5-11-98]

### **340:75-16-24. Role of the county worker [REVOKED]**

[Source: Added at 11 Ok Reg 1137, eff 1-25-94 (emergency); Added at 11 Ok Reg 2731, eff 6-13-94 ; Amended at 15 Ok Reg 938, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Revoked at 19 Ok Reg 2208, eff 6-27-02]

### **340:75-16-25. Role of the psychiatric facility liaison [REVOKED]**

[Source: Added at 11 Ok Reg 1137, eff 1-25-94 (emergency); Added at 11 Ok Reg 2731, eff 6-13-94 ; Revoked at 19 Ok Reg 2208, eff 6-27-02]

### **340:75-16-26. Utilization of inpatient psychiatric care [REVOKED]**

[Source: Added at 15 Ok Reg 938, eff 1-1-98 (emergency); Added at 15 Ok Reg 1663, eff 5-11-98 ; Revoked at 19 Ok Reg 2208, eff 6-27-02]

### **340:75-16-27. Purpose [REVOKED]**

[Source: Added at 19 Ok Reg 2208, eff 6-27-02 ; Revoked at 20 Ok Reg 2643, eff 7-1-03 (emergency); Revoked at 21 Ok Reg 246, eff 11-7-03 (emergency); Revoked at 21 Ok Reg 880, eff 4-26-04]

### **340:75-16-28. Purpose and legal basis**

(a) **Purpose.** The purpose of behavioral health treatment services is to ensure children in Oklahoma Department of Human Services (DHS) custody receive inpatient behavioral health treatment as needed per Sections 5-501 through 5-513 of Title 43A of the Oklahoma Statutes (43A O.S. §§ 5-501 through 5-513), Inpatient Mental Health and Substance Abuse Treatment of Minors Act. The primary purpose of inpatient behavioral health treatment is short-term crisis stabilization of children.

(b) **Legal basis.** The rules in Oklahoma Administrative Code 340:75-16 are issued in compliance with 43A O.S. §§ 5-501 through 5-513 and 10A O.S. § 1-7-103, that mandates to DHS review and assess each child in DHS custody to determine the type of placement consistent with the child's treatment needs in the nearest geographical proximity possible to the home of the child.

[Source: Added at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 20 Ok Reg 2643, eff 7-1-03 (emergency); Amended at 21 Ok Reg 246, eff 11-7-03 (emergency); Amended at 21 Ok Reg 880, eff 4-26-04 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 33 Ok Reg 1635, eff 9-15-16]

### **340:75-16-29. Definitions**

The following words and terms, when used in this Subchapter, shall have the following meanings unless the context clearly indicates otherwise:

**"Acute psychiatric care"** per Oklahoma Administrative Code 317:30-5-95.22 means care that provides inpatient behavioral health treatment including assessment, medical management, and monitoring to children requiring short-term, intensive treatment and stabilization.

Acute psychiatric care:

(A) is delivered in a psychiatric unit of a general hospital or a free-standing psychiatric hospital;

(B) is secure; and

(C) may use:

(i) physical or drug restraint ordered by a physician, in conjunction with treatment modalities; and

(ii) seclusion.

**"Age-appropriate"** or **"developmentally-appropriate"** per Section 1-1-105 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-1-105) means:

(A) activities or items that are generally accepted as suitable for children of the same age or level of maturity or that are determined to be developmentally-appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and

(B) in the case of a specific child, activities or items that are suitable for that child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the specific child.

**"Behavioral health"** means mental health, substance use or abuse, or co-occurring mental health and substance use or abuse diagnoses, and the continuum of mental health, substance use or abuse, or co-occurring mental health and substance use or abuse treatment.

**"Corrective action plan (CAP)"** means steps, actions, or strategies taken to correct or address behaviors or conditions associated with abuse, neglect, or areas of concern related to an individual employee of a facility.

**"Designated agent"** means the entity contracted with the Oklahoma Health Care Authority (OHCA) to provide certain services to meet federal and state statutory obligations of the OHCA.

**"Facility"** means a place, an institution, a building or part thereof, a set of buildings, or an area whether or not enclosing a building or set of buildings used for the lawful custody and treatment of children.

**"Facility action step (FAS)"** means all actions, steps, or strategies to correct or address areas of concern identified within a facility including, but not limited to, the culture of care, services, or contract compliance.

**"Facility services plan (FSP)"** means a yearly, progressive document specific to each facility identifying issues that impact child

safety within the facility's culture of care including, but not limited to, hiring, training, supervision, services, or contract compliance. The FSP includes all CAPs and FASs related to the specific facility.

**"Institution"** means a residential facility offering care and treatment for more than 20 residents.

**"Medical necessity review"** means an assessment of current and recent behaviors and symptoms to determine whether an admission for inpatient behavioral health or drug or alcohol dependence treatment constitutes the least restrictive level of care necessary. The review is performed by a licensed behavioral health professional.

**"Minor"** means any unmarried person younger than 18 years of age.

**"Minor in need of treatment"** means a person younger than 18 years of age who is in need of treatment, per 43A O.S. § 5-502, and who:

- (A) has a demonstrable mental illness or who is drug or alcohol dependent and as a result of that mental illness or dependency is expected within the near future to inflict or attempt to inflict serious bodily harm to himself or herself or another person and engaged in one or more recent overt acts or made significant recent threats that substantially support that expectation; or
- (B) has a demonstrable mental illness or is drug or alcohol dependent of sufficient severity to cause substantial impairment or disability in at least two of the major areas of functioning in the minor's:
  - (i) family relations;
  - (ii) school performance;
  - (iii) social interactions;
  - (iv) ability to perform independently the basic tasks of personal hygiene, hydration and nutrition; or
  - (v) self-protection. A determination regarding the ability of the minor to perform independently, such tasks is based upon the age of the minor and the reasonable and appropriate expectation of the minor's ability to perform such tasks.

**"Normalcy"** means the emotional developmental growth of the child is encouraged by allowing the child to participate in age-appropriate and developmentally-appropriate extracurricular, enrichment, cultural, and social activities using a reasonable and prudent parent standard.

**"Notice to comply"** means a formal written notice sent to a facility to indicate a CAP or FAS was not completed within agreed upon timeframes.

**"Oklahoma Health Care Authority (OHCA)"** means the state agency that administers medical programs reimbursed by the Title XIX Medicaid program; and is responsible for the establishment of medical necessity criteria and prior and continued authorization that determine whether an inpatient psychiatric service facility is reimbursed by Title XIX Medicaid.

**"Plan for immediate safety"** means actions taken to immediately control any significant and clearly observable condition that is present

and endangering or threatening to endanger a child in a residential facility.

**"Prior-authorization"** means pre-approval by OCHA or its designated agent for inpatient behavioral health treatment for a child in Oklahoma Department of Human Services custody for an approved length of stay.

**"Reasonable and prudent parent standard"** means the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child. This standard is used by the child's caregiver when determining whether to allow a child to participate in extracurricular, enrichment, cultural, and social activities, per 10A O.S. § 1-1-105.

(A) For purposes of this definition, the term "caregiver" means a foster parent with whom a child in foster care has been placed, a representative of a group home where a child has been placed, or a designated official for a residential child care facility where a child in foster care has been placed.

(B) Each facility must assure that at least one employee is designated and authorized to apply the reasonable and prudent parent standard to decisions involving the participation of a child in age-appropriate or developmentally-appropriate activities. The authorized facility employee is provided with training on how to use and apply the reasonable and prudent parent standard.

**"Residential child care facility"** means a 24-hour residential facility where children live together with or are supervised by adults who are not their parents or relatives.

**"Residential treatment center (RTC)"** means a facility that provides residential behavioral health treatment to children who need longer term, more intensive treatment, and a more highly structured environment than is available in a family environment or other community-based alternatives. The RTC:

(A) may be located in a hospital or non-hospital setting;

(B) must provide adequate supervision for residents because the RTC is not a secure facility; and

(C) may use:

(i) physical or drug restraint ordered by a physician, in conjunction with treatment modalities; and

(ii) seclusion.

**"Restraint"** means a physical method or drug used to manage the child's behavior or restrict the child's freedom of movement and is not the standard treatment or dosage for the child's condition per OAC 317:30-5-95.

**"Seclusion"** means the involuntary confinement of a child alone in a room or area from which leaving is prevented and may only be used for management of behavior that jeopardizes the immediate safety of the child or others per OAC 317:30-5-95.

**"Written plan of compliance"** means the formal accountability process for facilities that when not adhered to within 30-calendar days, results in adverse contract actions.

[Source: Added at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 20 Ok Reg 2643, eff 7-1-03 (emergency); Amended at 21 Ok Reg 246, eff 11-7-03 (emergency); Amended at 21 Ok Reg 880, eff 4-26-04 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 33 Ok Reg 477, eff 2-29-16 (emergency); Amended at 34 Ok Reg 1550, eff 9-15-17]

### **340:75-16-30. Admission to inpatient behavioral health treatment**

The Oklahoma Health Care Authority (OHCA) or its designated agent facilitates all inpatient behavioral health treatment for children in Oklahoma Department of Human Services (DHS) custody prior to admission.

(1) **Prior authorization.** Prior authorization is required for Title XIX Medicaid reimbursement of inpatient behavioral health treatment for children in DHS custody.

(A) OHCA or its designated agent is responsible for determining if the child meets medical necessity criteria for inpatient behavioral health treatment.

(B) Prior authorization is a phone review or face-to-face evaluation to determine the level of inpatient behavioral health treatment needed by the child, based on the medical necessity criteria developed for each level of treatment, acute and residential.

(2) **Authorization and denial.** Authorization for the length of services is approved at the time of admission for treatment. When OHCA or its designated agent denies inpatient behavioral health treatment for the child, the assigned child welfare (CW) specialist may request OHCA reconsideration of the decision.

(3) **Admission.** When OHCA or its designated agent authorizes inpatient behavioral health treatment based on the facility assessment, the child is admitted to an inpatient behavioral health treatment facility on an emergency basis.

(A) The assigned CW specialist notifies the child's attorney, court-appointed special advocate (CASA), guardian ad litem, post adjudication review board (PARB), judge, and district attorney of the emergency, inpatient admission, no later than the next business day following the child's admission to the facility.

(B) A behavioral health evaluation, per Section 5-507 of Title 43A of the Oklahoma Statutes (43A O.S. § 5-507), is:

- (i) completed by a licensed, behavioral health professional at the inpatient facility and a report is provided to the district attorney within 48 hours of admission, excluding weekends and holidays; and
- (ii) attached to the petition requesting inpatient treatment.

(4) **Petition.** After filing the petition, the district attorney obtains a pre-hearing commitment order authorizing the child to remain inpatient pending the hearing.

(A) The hearing is set within one to three judicial days from the petition filing.

(B) The child is detained in the behavioral health treatment facility no longer than necessary for a hearing on the petition per 43A O.S. § 5-510.

(C) The inpatient facility submits a proposed individualized treatment plan to the court 24-hours in advance of the scheduled hearing.

(5) **Hearing.** At the hearing, the court determines whether by clear and convincing evidence the child is a minor in need of treatment. When the court:

(A) finds the child is not a minor in need of treatment, the court dismisses the commitment case;

(B) finds the child is a minor in need of treatment, but does not require inpatient treatment, the court may order behavioral health treatment or services through a less restrictive alternative;

(C) finds the child is a minor in need of treatment and requires inpatient treatment in an inpatient behavioral health treatment facility, the court orders the commitment of the child to a behavioral health treatment facility for not more than 30-calendar days; or

(D) commits a child to a behavioral health treatment facility for inpatient treatment, the court sets the case for review every 30-calendar days from the date of the commitment hearing provided the child receives inpatient treatment.

(6) **Telephonic or teleconference hearing.** Per 43A O.S. § 5-511, when authorized by the court, any proceeding held pursuant to the Inpatient Mental Health and Substance Abuse Treatment of Minors Act may be conducted via teleconference communication; provided, that when a parent or child appears for a proceeding via teleconference, the attorney representing the parent or child personally appears at the hearing. Teleconference communication means participation in the hearing by interactive telecommunication, including telephonic communication, by the absent party, parties present in court, the attorneys, and other participants deemed necessary to the proceeding including, but not limited to, foster parents and facility staff where the child may be receiving care or treatment.

(7) **Individualized treatment plan.** Per 43A O.S. § 5-513, an individualized treatment plan is submitted by the facility within 10-calendar days after the order authorizing inpatient treatment.

(8) **Progress report.** The inpatient facility submits a report on progress and recommendations three-calendar days prior to any review hearing.

(9) **Child's rights.** The child's rights during the commitment process include:

(A) notice of hearing;

(B) representation by an attorney;

- (C) right to a private hearing unless the judge directs otherwise according to the statute;
- (D) right to a jury trial; and
- (E) right to cross examine.

[Source: Added at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 20 Ok Reg 2643, eff 7-1-03 (emergency); Amended at 21 Ok Reg 246, eff 11-7-03 (emergency); Amended at 21 Ok Reg 880, eff 4-26-04 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 28 Ok Reg 375, eff 12-1-10 (emergency); Amended at 28 Ok Reg 894, eff 7-1-11 ; Amended at 29 Ok Reg 635, eff 6-1-12 ; Amended at 33 Ok Reg 1635, eff 9-15-16]

### **340:75-16-31. Individualized plan of care**

Per Section 5-513 of Title 43A of the Oklahoma Statutes, within 10-calendar days after the admission of a minor for inpatient behavioral health services, the facility ensures that an individualized plan of care is submitted to the court. The child is involved in determining the plan of care when possible. The child's parent(s) and the assigned child welfare (CW) specialist are involved to the maximum extent consistent with the treatment needs of the child.

(1) The court reviews the case every 30-calendar days as long as the child receives inpatient treatment. The assigned CW specialist ensures the court receives a written report from the facility regarding the child's progress within three-calendar days prior to any review hearing.

(2) The assigned CW specialist has on-site, face-to-face interaction with the child in acute and residential inpatient behavioral health treatment, per Oklahoma Administrative Code 340:75-6-48.

[Source: Added at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 20 Ok Reg 2643, eff 7-1-03 (emergency); Amended at 21 Ok Reg 246, eff 11-7-03 (emergency); Amended at 21 Ok Reg 880, eff 4-26-04 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 33 Ok Reg 477, eff 2-29-16 (emergency); Amended at 34 Ok Reg 1550, eff 9-15-17]

### **340:75-16-32. Length of stay and extensions for inpatient behavioral health services**

(a) **Initial length of stay.** The initial length of stay for inpatient behavioral health services is the decision of the Oklahoma Health Care Authority (OHCA) or its designated agent based upon information provided by the inpatient facility staff at the completion of the assessment and ongoing treatment recommendations that determine the number of days required to resolve the identified presenting problems.

(b) **Extension requests.** Extension requests for behavioral health care services must be made to OHCA or its designated agent by the treating facility staff on or before the last business day of the current authorization for inpatient services. The number of days allowed is determined by OHCA or its designated agent based on the medical necessity criteria.

(c) **Reconsideration request.** A reconsideration request for an extension of behavioral health services is made to OHCA or its designated agent by Child Welfare Services or the inpatient behavioral health facility.

[Source: Added at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 20 Ok Reg 2643, eff 7-1-03 (emergency); Amended at 21 Ok Reg 246, eff 11-7-03 (emergency); Amended at 21 Ok Reg 880, eff 4-26-04 ; Amended at 22 Ok Reg 875, eff 5-12-05 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 33 Ok Reg 1635, eff 9-15-16]

### **340:75-16-33. Discharge and transition plan**

(a) The treating facility prepares a discharge plan with the assigned child welfare (CW) specialist's input prior to discharge and submits a copy to him or her. The discharge plan includes:

- (1) the services required by the child in the community to meet his or her needs for treatment and safety; and
- (2) identification of public and private community-based agencies that are involved in providing treatment and support for the child. Linkages with the agencies are made prior to the child's discharge to allow for a smooth transition.

(b) The child is discharged from the facility when he or she no longer meets medical necessity or commitment criteria as determined by appropriate inpatient behavioral health service staff.

(c) The child is discharged upon the expiration of the court order or when a new court order directs the child's discharge.

(d) Discharge and transition planning is provided one hour per week in inpatient acute care and thirty-minutes per week in inpatient residential care.

[Source: Added at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 20 Ok Reg 2643, eff 7-1-03 (emergency); Amended at 21 Ok Reg 246, eff 11-7-03 (emergency); Amended at 21 Ok Reg 880, eff 4-26-04 ; Amended at 33 Ok Reg 1635, eff 9-15-16]

### **340:75-16-34. Responsibilities of the CW county of jurisdiction worker [REVOKED]**

[Source: Added at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Revoked at 27 Ok Reg 1092, eff 3-26-10 (emergency); Revoked at 27 Ok Reg 1865, eff 7-1-10]

### **340:75-16-35. Responsibilities of the inpatient behavioral health services Child Welfare (CW) facility liaison**

(a) A CW specialist from the Child Welfare Services (CWS) Specialized Placements and Partnerships Unit is assigned to each CWS contracted inpatient behavioral health service facility.

(b) The CW facility liaison responsibilities include:

- (1) assessing and ensuring the safety of children receiving acute and residential behavioral health services per Oklahoma Administrative Code 340:75-11-239;
- (2) having on-site interaction with the child at the inpatient behavioral health service facility; and
- (3) immediately notifying the child's assigned CW specialist when the child is absent from the facility without permission. The child's CW specialist follows protocol and completes runaway notifications, per Oklahoma Administrative Code (OAC) 340:75-6-48.3.



[Source: Added at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 33 Ok Reg 477, eff 2-29-16 (emergency); Amended at 34 Ok Reg 1550, eff 9-15-17]

#### **340:75-16-36. Out-of-state inpatient behavioral health services**

(a) A child in Oklahoma Department of Human Services (DHS) custody admitted to inpatient behavioral health service facilities out-of-state must meet the same medical necessity criteria for inpatient behavioral health services required in Oklahoma.

(1) A child in DHS custody is only admitted to a facility that is an Oklahoma Health Care Authority (OHCA) approved, Title XIX provider under formal contract with OHCA and Child Welfare Services Specialized Placements and Partnerships Unit.

(2) Admission of a child in DHS custody to an out-of-state, inpatient behavioral health service facility requires prior approval through the Interstate Compact on the Placement of Children and facilitation via OHCA.

(b) The assigned child welfare specialist visits a child in an out-of-state behavioral health service facility every six months.

(c) A child who is admitted to an inpatient behavioral health service facility in Oklahoma by another state does not have to meet Oklahoma Medicaid requirements.

[Source: Added at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 20 Ok Reg 2643, eff 7-1-03 (emergency); Amended at 21 Ok Reg 246, eff 11-7-03 (emergency); Amended at 21 Ok Reg 880, eff 4-26-04 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 33 Ok Reg 1635, eff 9-15-16]

#### **340:75-16-37. Child who no longer meets medical necessity criteria for inpatient behavioral health services**

When the Oklahoma Health Care Authority or its designated agent determines a child in Oklahoma Department of Human Services custody no longer meets medical necessity criteria for inpatient behavioral health services and when the attending physician agrees to discharge, the child is discharged and placed in an appropriate placement with consideration of the inpatient behavioral health services staff's recommendation.

[Source: Added at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 20 Ok Reg 2643, eff 7-1-03 (emergency); Amended at 21 Ok Reg 246, eff 11-7-03 (emergency); Amended at 21 Ok Reg 880, eff 4-26-04 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 28 Ok Reg 894, eff 7-1-11 ; Amended at 33 Ok Reg 1635, eff 9-15-16]

#### **340:75-16-38. Rights of a child in an inpatient behavioral health service facility**

(a) Child's rights.

(1) A child is not subjected to unreasonable silence rules, group punishment for inappropriate individual acts, profanity, verbal abuse, or threats of unnecessary or unauthorized physical force by staff, or "make work"; provided nothing herein prevents a child from performing routine housekeeping tasks or maintenance work directly related to a vocational program, such as specific skill training.

(2) Except in situations that pose a serious threat to a child's life or health, a child has the right to refuse medications. Refused medications cannot be administered unless a court order is obtained authorizing its forcible administration. Necessary medication, prescribed by a physician, may be forcibly administered by staff trained in the administration of medication who are familiar with the child's condition.

(b) The facility strictly prohibits all forms of corporal punishment, abuse, neglect, or other maltreatment of a child as required by state law and Oklahoma Department of Human Services ((DHS) policy. The facility agrees to comply with the terms of DHS policy on maltreatment investigations per Oklahoma Administrative Code (OAC) 340:2-3-32 through 340:2-3-37, and immediately reports as provided in policy any abuse, neglect, or maltreatment of a child to the DHS Child Abuse and Neglect Hotline.

(c) The facility agrees to cooperate in any investigation made pursuant to a report of abuse, neglect, or maltreatment, and makes available to the investigator all records pertaining to an incident of abuse, neglect, or maltreatment, including personnel records when needed.

(d) The facility operates a system for the resolution of grievances by a child regarding the application of any written or unwritten policy or rule of the facility, or any decision, behavior, or action by the facility, its agents, or employees. The grievance system used by the facility complies with the DHS grievance policy for private and public agencies per OAC 340:2-3-45 through 340:2-3-47 and 340:2-3-49, and is approved by the Office of Client Advocacy (OCA). The facility submits to OCA, on a monthly basis, a copy of any grievance filed during that month by children who are in DHS custody.

(e) The facility provides, whether on or off-campus, education and training for each child that conforms with the course of instruction approved by the State Board of Education, per Section 11-103 of Title 70 of the Oklahoma Statutes (70 O.S. § 11-103). The facility ensures educational opportunities are available that satisfy each child's special educational requirements, per 70 O.S. §§ 13-101 et seq., and all applicable federal laws. Services are provided or arranged for by the facility for a child who the facility, the school system, or DHS deems is in need of services.

(f) A child's religious preferences are respected and each child has reasonable opportunity to practice the religion of his or her choice.

(g) The facility allows a child visitation with parents, other family members, and legal guardians, unless otherwise ordered by the court of jurisdiction. In emergencies, based upon demonstrable evidence, the child's physician may disapprove visitation by specific family members and legal guardians. The facility involves the child's assigned child welfare (CW) specialist in the decision to disapprove visitation and in determining the need for subsequent denials. Disapproval of visitation is not extended beyond the next court review of the child's case without a court order. In every instance of disapproved visitation, the facility fully documents the reasons for disapproval and promptly notifies and informs the child's assigned CW specialist of the reasons. The facility maintains a written schedule of reasonable visiting days and hours, a copy of which is

provided to each child's parent or legal guardian. The visitation schedule accommodates the special needs of working family members. Attorneys are permitted to visit privately with a child during business hours and at all other reasonable times by arrangement with facility administration. The facility may ask attorneys to verify the existence of an attorney-client relationship. In no case is attorney visitation denied when visitation was requested by the child. A child is permitted reasonable access to an unmonitored telephone to make or receive calls from attorneys, family members, and legal guardians who were not denied visitation by the court or the child's physician.

(h) The facility allows a child to send and receive written correspondence. The facility ensures delivery of incoming mail and posting of outgoing mail within 24 hours, excluding weekends and holidays. Written correspondence is not read or censored, but may be inspected for contraband. When mail is opened for inspection of contraband, it is done by the resident in the presence of facility staff. Correspondence may be denied, based upon demonstrable evidence by the child's physician in specific instances where it is clearly documented the correspondence is from someone whose continued relationship poses, or may pose, a decided detriment to the child's care and treatment. In each case involving the denial of written correspondence, the facility physician fully documents reasons, promptly notifies and informs the child's assigned CW specialist of the reasons. The facility actively involves the child's assigned CW specialist in the decision of subsequent denial. In cases where correspondence is denied, the facility promptly returns the correspondence to the sender.

(i) Medications, such as stimulants, tranquilizers, or psychotropics, may be administered only as a part of a program of medically approved therapy, are included in the child's individual plan of care, and are listed in the facility's formulary. Prior to the implementation of the order of such medication, the child's assigned CW specialist and the child are informed of the benefits and hazards of the medication. When the child's assigned CW specialist cannot be located, the facility informs the assigned CW specialist's supervisor or district director or his or her designee. The administration or dispensing of such drugs is monitored by a licensed psychiatrist according to accepted medical standards. The use of medication for punishment, experimentation and research, staff convenience, control, or program management is prohibited.

[Source: Added at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 27 Ok Reg 1092, eff 3-26-10 (emergency); Amended at 27 Ok Reg 1865, eff 7-1-10 ; Amended at 28 Ok Reg 375, eff 12-1-10 (emergency); Amended at 28 Ok Reg 894, eff 7-1-11 ; Amended at 33 Ok Reg 1635, eff 9-15-16]

**340:75-16-39. Victim's protection order**

When family members are threatened with imminent physical harm by their child, age 13 years or older, the parent(s) contacts the local county court clerk's office and requests a Victim's Protection Order (VPO) petition form. The court clerk then files the petition requesting a hearing be set placing the child in the custody of the Office of Juvenile Affairs (OJA), per Section 60.1 et seq. of Title 22 of the Oklahoma Statutes. OJA is responsible for placement of the child.

[Source: Added at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 21 Ok Reg 867, eff 4-26-04]

**PART 3. OUTPATIENT BEHAVIORAL HEALTH CARE SERVICES****340:75-16-45. Outpatient behavioral health services**

(a) The child in Oklahoma Department of Human Services (DHS) custody is eligible to receive a behavioral health assessment once per local community mental health center services provider or other outpatient Medicaid approved provider, without prior authorization. The behavioral health service plan development may also be provided without prior authorization.

(b) Prior authorization from the Oklahoma Health Care Authority is required for the child in DHS custody to receive outpatient behavioral health rehabilitative services beyond the initial assessment and service plan development.

(1) The child's assigned child welfare specialist refers the child for services to the local community mental health center or Medicaid approved provider in the county where the child resides.

(2) The mental health professional develops an assessment and service plan to indicate strengths, needs, and potential services.

[Source: Added at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 22 Ok Reg 875, eff 5-12-05 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 33 Ok Reg 1635, eff 9-15-16]

**340:75-16-46. Systems of care**

(a) Systems of care is a framework through Oklahoma Department of Mental Health and Substance Abuse Services per Section 5-521 of Title 43A of the Oklahoma Statutes and offers a comprehensive array of behavioral health and other support services organized into a coordinated network to meet the multiple and changing needs of children with serious emotional disturbances and their families. Counties are selected based on an evaluation of community readiness and the intensity of children's behavioral health needs within a community.

(b) Systems of care is individualized to each child, family, and community, and includes services that are:

(1) child-centered;

(2) family-focused;

- (3) needs-driven;
  - (4) strengths-based; and
  - (5) based on a national best practice model.
- (c) The core aspects of systems of care are:
- (1) partnerships with families;
  - (2) collaboration with all child-serving agencies; and
  - (3) local control of services enhanced through:
    - (A) the wraparound service philosophy;
    - (B) flexible funds;
    - (C) respite care;
    - (D) case management; and
    - (E) transitional services.
- (d) Expected outcomes of systems of care are:
- (1) an improved level of functioning;
  - (2) improved school attendance and performance;
  - (3) fewer encounters with the juvenile justice system;
  - (4) a reduced number of out-of-home placements; and
  - (5) parent and child satisfaction.

[Source: Added at 19 Ok Reg 2208, eff 6-27-02 ; Amended at 22 Ok Reg 875, eff 5-12-05 ; Amended at 33 Ok Reg 1635, eff 9-15-16]

## **SUBCHAPTER 17. CHILD WELFARE STANDARDS AND GUIDELINES [REVOKED]**

### **PART 1. STANDARDS FOR FOSTER HOMES [REVOKED]**

#### **340:75-17-1. Scope and applicability [REVOKED]**

[Source: Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Revoked at 17 Ok Reg 549, eff 12-1-99 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

#### **340:75-17-2. Basic requirements of foster parents [REVOKED]**

[Source: Amended at 9 Ok Reg 3675, eff 7-23-92 (emergency); Amended at 10 Ok Reg 2301, eff 6-11-93 ; Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 16 Ok Reg 2773, eff 4-14-99 (emergency); Amended at 16 Ok Reg 1052, eff 4-26-99 ; Revoked at 17 Ok Reg 549, eff 12-1-99 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

#### **340:75-17-3. Physical facilities, sleeping arrangements, and surroundings [REVOKED]**

[Source: Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 16 Ok Reg 1052, eff 4-26-99 ; Revoked at 17 Ok Reg 549, eff 12-1-99 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-17-4. Number of children [REVOKED]**

[Source: Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Revoked at 17 Ok Reg 549, eff 12-1-99 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

## **PART 3. SUPPLEMENTAL TO GUIDELINES FOR FOSTER HOMES ASSESSMENT [REVOKED]**

### **340:75-17-20. Purpose [REVOKED]**

[Source: Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Revoked at 17 Ok Reg 549, eff 12-1-99 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-17-21. Motivation and family interest [REVOKED]**

[Source: Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 16 Ok Reg 1052, eff 4-26-99 ; Revoked at 17 Ok Reg 549, eff 12-1-99 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-17-22. Personal information [REVOKED]**

[Source: Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 910, eff 12-10-98 (emergency); Amended at 16 Ok Reg 1052, eff 4-26-99 ; Revoked at 17 Ok Reg 549, eff 12-1-99 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-17-23. Discipline [REVOKED]**

[Source: Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 16 Ok Reg 1052, eff 4-26-99 ; Revoked at 17 Ok Reg 549, eff 12-1-99 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-17-24. Marital status and background [REVOKED]**

[Source: Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 16 Ok Reg 1052, eff 4-26-99 ; Revoked at 17 Ok Reg 549, eff 12-1-99 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-17-25. Income and money management [REVOKED]**

[Source: Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 1052, eff 4-26-99 ; Revoked at 17 Ok Reg 549, eff 12-1-99 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-17-26. Home and living standards [REVOKED]**

[Source: Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 1052, eff 4-26-99 ; Revoked at 17 Ok Reg 549, eff 12-1-99 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-17-27. Reference information [REVOKED]**

[Source: Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Revoked at 17 Ok Reg 549, eff 12-1-99 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-17-28. Teamwork and supervision [REVOKED]**

[Source: Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 16 Ok Reg 1052, eff 4-26-99 ; Revoked at 17 Ok Reg 549, eff 12-1-99 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-17-29. Assessment and recommendation [REVOKED]**

[Source: Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 1052, eff 4-26-99 ; Revoked at 17 Ok Reg 549, eff 12-1-99 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

### **340:75-17-30. Annual assessment [REVOKED]**

[Source: Amended at 13 Ok Reg 3927, eff 4-29-96 (emergency); Amended at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 2773, eff 4-14-99 (emergency); Amended at 16 Ok Reg 1052, eff 4-26-99 ; Revoked at 17 Ok Reg 549, eff 12-1-99 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

## **PART 4. STANDARDS FOR KINSHIP CARE [REVOKED]**

### **340:75-17-35. Requirements of kinship caregivers [REVOKED]**

[Source: Added at 13 Ok Reg 3927, eff 4-29-96 (emergency); Added at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Amended at 16 Ok Reg 102, eff 10-13-98 ; Amended at 16 Ok Reg 2773, eff 4-14-99 (emergency); Amended at 16 Ok Reg 1052, eff 4-26-99 ; Revoked at 17 Ok Reg 549, eff 12-1-99 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

#### **340:75-17-35.1. Supplemental to guidelines for Kinship foster home assessment [REVOKED]**

[Source: Added at 16 Ok Reg 102, eff 10-13-98 ; Amended at 16 Ok Reg 2773, eff 4-14-99 (emergency); Revoked at 17 Ok Reg 549, eff 12-1-99 (emergency); Revoked at 17 Ok Reg 1311, eff 5-11-00]

## **PART 5. GUIDELINES FOR STUDY UTILIZING SELF STUDY FORMS [REVOKED]**

### **340:75-17-45. Use of the self study forms [REVOKED]**

[Source: Revoked at 11 Ok Reg 651, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 3281, eff 6-27-94]

### **340:75-17-46. Summary report [REVOKED]**

[Source: Revoked at 11 Ok Reg 651, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 3281, eff 6-27-94]

## **PART 6. GUIDELINES FOR STUDY UTILIZING SELF STUDY FORMS [REVOKED]**

### **340:75-17-47. Use of the self study forms [REVOKED]**

[Source: Added at 13 Ok Reg 3927, eff 4-29-96 (emergency); Added at 14 Ok Reg 2288, eff 6-12-97 ; Revoked at 16 Ok Reg 102, eff 10-13-98]

### **340:75-17-48. Summary report [REVOKED]**

[Source: Added at 13 Ok Reg 3927, eff 4-29-96 (emergency); Added at 14 Ok Reg 2288, eff 6-12-97 ; Amended at 15 Ok Reg 416, eff 11-1-97 (emergency); Amended at 15 Ok Reg 1663, eff 5-11-98 ; Revoked at 16 Ok Reg 102, eff 10-13-98]

## **PART 7. STANDARDS FOR EMERGENCY FOSTER HOMES [REVOKED]**

### **340:75-17-60. General [REVOKED]**

[Source: Revoked at 13 Ok Reg 3927, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-17-61. Motivation [REVOKED]**

[Source: Revoked at 13 Ok Reg 3927, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-17-62. Financial status [REVOKED]**

[Source: Revoked at 13 Ok Reg 3927, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-17-63. Insurance [REVOKED]**

[Source: Revoked at 13 Ok Reg 3927, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-17-64. Community resources [REVOKED]**

[Source: Revoked at 13 Ok Reg 3927, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-17-65. Foster parent training [REVOKED]**

[Source: Revoked at 13 Ok Reg 3927, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]



### **340:75-17-66. Children to be placed [REVOKED]**

[Source: Revoked at 13 Ok Reg 3927, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-17-67. Availability for placement [REVOKED]**

[Source: Revoked at 13 Ok Reg 3927, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-17-68. Respite time for EFC parents [REVOKED]**

[Source: Revoked at 13 Ok Reg 3927, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-17-69. Reporting [REVOKED]**

[Source: Revoked at 13 Ok Reg 3927, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

## **PART 9. GUIDELINES FOR ADOPTIVE HOME STUDY [REVOKED]**

### **340:75-17-85. Purpose of guidelines [REVOKED]**

[Source: Revoked at 11 Ok Reg 651, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 3281, eff 6-27-94 ; Revoked at 14 Ok Reg 2288, eff 6-12-97]

### **340:75-17-86. Home study [REVOKED]**

[Source: Revoked at 11 Ok Reg 651, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 3281, eff 6-27-94 ; Revoked at 14 Ok Reg 2288, eff 6-12-97]

## **SUBCHAPTER 18. CONTINUOUS QUALITY IMPROVEMENT**

### **340:75-18-1. Purpose of Continuous Quality Improvement (CQI)**

CQI is an on-going process of identifying, describing, and analyzing Child Welfare Services (CWS) program and system strengths and problems, and then testing, implementing, learning from, and developing solutions to the problems.

(1) **Evaluating achievement of outcomes for children and families.** An annual Child and Family Services Review (CFSR) is conducted by the CQI program to review CWS performance.

(A) Desired outcomes include that:

- (i) children are first and foremost protected from abuse and neglect;
- (ii) children are safely maintained in their own homes when possible and appropriate;

- (iii) children have permanency and stability in their living situations;
- (iv) continuity of family relationships and connections is preserved for children;
- (v) the person responsible for the child's health, safety or welfare (PRFC) has enhanced capacity to provide for the child's needs;
- (vi) children receive appropriate services to meet their educational needs; and
- (vii) children receive adequate services to meet their physical and mental health needs.

(B) Systemic factors identified as essential to effective service provision are reviewed, such as the:

- (i) Statewide Automated Child Welfare Information System (SACWIS system), commonly known as KIDS;
- (ii) CWS case review system;
- (iii) training for CWS staff and providers;
- (iv) availability of services and resources;
- (v) DHS response to the community;
- (vi) quality assurance system; and
- (vii) foster and adoptive home recruitment and approval process.

**(2) Facilitating ongoing feedback and adjustment to programs and processes.** CQI is a process that promotes circular feedback and communication among staff and stakeholders. Feedback loops permit an ongoing, bi-directional information exchange across DHS that in turn impact the change process. Sharing data with staff, consumers, and external stakeholders is equally important. Through data-based decision-making, the CQI process is subject to continued examination, evaluation, and refinement to address needs.

**(3) Providing ongoing support and training.** The training is designed to provide time-intensive, small group, or one-on-one guidance to CWS staff to enhance child welfare practice as outlined by the CWS practice standards and the practice model.

**(4) Assessing and ensuring contractor compliance.** As part of the CQI process, DHS conducts performance reviews of the CW service provider's contract with DHS and assesses the contractor's performance annually. Those providers include, but are not limited to:

- (A) therapeutic foster care;
- (B) psychiatric acute and residential treatment centers;
- (C) group homes;
- (D) specialized community homes;
- (E) residential maternity and infant homes; and
- (F) intensive treatment services.

### **340:75-18-2. Definitions**

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

**"Administration on Children and Families (ACF)"** means an agency within the United States Children's Bureau that has primary oversight of child welfare (CW) services administered by the states with the participation of federal financing.

**"Child and Family Services Review (CFSR)"** means a procedure developed by ACF to assess and improve CW services. The Oklahoma Department of Human Services (DHS) replicated this procedure with minor modification to assess outcomes from, and systemic factors of, Oklahoma's CW services.

**"Child Welfare case review"** means a qualitative and quantitative method of evaluation that:

- (A) examines outcomes for children and families receiving CW services; and
- (B) informs case practice.

**"Contractor"** means a person or agency that provides CW services through a contract or agreement with DHS or the Oklahoma Health Care Authority.

**"Oklahoma Health Care Authority (OHCA)"** means the state agency that administers federal Medicaid, Title XIX, funding for social services.

**"Outcomes"** means statements describing achievements realized by children and families as a result of CW services.

**"Program Improvement Plan (PIP)"** means a plan of action that establishes goals and strategies for ongoing service improvement.

**"Quality assurance (QA)"** means a systematic process used to:

- (A) assess quality of services;
- (B) identify strengths and needs of the service delivery system;
- (C) provide reports; and
- (D) evaluate program improvement measures.

**"Site"** means a county or grouping of counties, typically supervised by one district director that is the focus of review by one team, during a CFSR.

**"Stakeholder"** means a person or group that has an investment, interest, or participates in the child welfare system and includes, but is not limited to, the courts, tribes, families, youth, caregivers, contracted providers, community partners, or other public entities, and individuals within the child welfare organization, such as administrators, caseworkers, supervisors, and program, policy, and training staff.

**"Systemic factors"** means components of CW services important to the successful realization of targeted outcomes by children and families, as measured in the CFSR.

### **340:75-18-3. Independent safeguards [REVOKED]**

[Source: Added at 18 Ok Reg 1425, eff 3-28-01 ; Amended at 18 Ok Reg 3565, eff 5-7-01 ; Amended at 21 Ok Reg 2374, eff 6-25-04 ; Revoked at 29 Ok Reg 635, eff 6-1-12]

### **340:75-18-4. Information management [REVOKED]**

[Source: Added at 18 Ok Reg 1425, eff 3-28-01 ; Amended at 18 Ok Reg 3565, eff 5-7-01 ; Revoked at 29 Ok Reg 635, eff 6-1-12]

### **340:75-18-5. Assessing and responding to opinions regarding services [REVOKED]**

[Source: Added at 18 Ok Reg 1425, eff 3-28-01 ; Revoked at 29 Ok Reg 635, eff 6-1-12]

### **340:75-18-6. Independent assessment of Oklahoma Children Services (OCS) [REVOKED]**

[Source: Added at 18 Ok Reg 1425, eff 3-28-01 ; Amended at 18 Ok Reg 3565, eff 5-7-01 ; Revoked at 29 Ok Reg 635, eff 6-1-12]

### **340:75-18-7. Minimizing use of restrictive procedures [REVOKED]**

[Source: Added at 18 Ok Reg 1425, eff 3-28-01 ; Amended at 18 Ok Reg 3565, eff 5-7-01 ; Amended at 29 Ok Reg 635, eff 6-1-12]

### **340:75-18-8. Assessing and ensuring contractor compliance with rules [REVOKED]**

[Source: Added at 18 Ok Reg 1425, eff 3-28-01 ; Amended at 18 Ok Reg 3565, eff 5-7-01 ; Revoked at 29 Ok Reg 635, eff 6-1-12]

### **340:75-18-9. Administrative inquiry [REVOKED]**

[Source: Added at 18 Ok Reg 1425, eff 3-28-01 ; Amended at 18 Ok Reg 3565, eff 5-7-01 ; Revoked at 29 Ok Reg 635, eff 6-1-12]

### **340:75-18-10. Child and Family Services Review [REVOKED]**

[Source: Added at 18 Ok Reg 1425, eff 3-28-01 ; Amended at 18 Ok Reg 3565, eff 5-7-01 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Revoked at 29 Ok Reg 635, eff 6-1-12]

### **340:75-18-11. Immediate notice of risk [REVOKED]**

[Source: Added at 18 Ok Reg 1425, eff 3-28-01 ; Amended at 18 Ok Reg 3565, eff 5-7-01 ; Revoked at 29 Ok Reg 635, eff 6-1-12]

### **340:75-18-12. Prohibition of retaliation [REVOKED]**

[Source: Added at 18 Ok Reg 1425, eff 3-28-01 ; Amended at 18 Ok Reg 3565, eff 5-7-01 ; Revoked at 29 Ok Reg 635, eff 6-1-12]

### **340:75-18-13. Implementation of service review activities [REVOKED]**

[Source: Added at 18 Ok Reg 1425, eff 3-28-01 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Revoked at 29 Ok Reg 635, eff 6-1-12]

### **340:75-18-14. Provider agency fiscal controls [REVOKED]**

[Source: Added at 18 Ok Reg 1425, eff 3-28-01 ; Revoked at 29 Ok Reg 635, eff 6-1-12]

### **340:75-18-15. Agency cooperation in assessments [REVOKED]**

[Source: Added at 18 Ok Reg 1425, eff 3-28-01 ; Amended at 18 Ok Reg 3565, eff 5-7-01 ; Revoked at 29 Ok Reg 635, eff 6-1-12]

## **SUBCHAPTER 19. WORKING WITH INDIAN CHILDREN**

### **340:75-19-1. Child Welfare Services Tribal Program purpose and designation as review location for child's tribe or Secretary of the Interior**

(a) The Oklahoma Department of Human Services (OKDHS) Child Welfare Services (CWS) Tribal Program Section provides services to Indian children and families in compliance with federal and state regulations.

(b) CWS is the established location for OKDHS records review by the child's tribe or the Secretary of the Interior per Section 40.9 of Title 10 of the Oklahoma Statutes that requires OKDHS to establish a single location where all records of every involuntary foster care, pre-adoptive placement and adoptive placement by the courts of any Indian child in custody or under the supervision of OKDHS is available within seven calendar days of a request by the tribe of the Indian child or by the Secretary of Interior. The records include, but are not limited to:

- (1) the state child welfare specialist's reports;
- (2) a summary of the efforts to rehabilitate the Indian child's parents;
- (3) a list of the names and addresses of families and tribally approved homes contacted regarding placement; and
- (4) a statement of reason for the final placement decision.

[Source: Added at 19 Ok Reg 2209, eff 6-27-02 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 30 Ok Reg 839, eff 7-1-13]

### **340:75-19-2. Legal authority and applicability of the Federal and State Indian Child Welfare Acts (ICWA) to child custody proceedings**

(a) **Legal authority.** The Federal Indian Child Welfare Act of 1978 (FICWA or Federal Act) and Oklahoma Indian Child Welfare Act of 1982 (OICWA or State Act) [10 O.S. § 40 through 40.9] provide the legal basis

for services to Indian children.

(1) **FICWA.** The stated purpose of FICWA is to protect the best interests of Indian children and to promote the stability and security of Indian tribes and families. FICWA establishes minimum federal standards for the removal of Indian children from their families and ensures the placement of Indian children in foster or adoptive homes that reflect the unique values of Indian culture.

(2) **OICWA.** Per 10 O.S. § 40.1, the purpose of the Oklahoma Indian Child Welfare Act is the clarification of state policies and procedures regarding the implementation by the State of Oklahoma of the federal Indian Child Welfare Act, P.L. 95-608. It is the policy of the State of Oklahoma to:

(A) recognize that Indian tribes and nations have a valid governmental interest in Indian children regardless of whether the Indian children are in the physical or legal custody of an Indian parent or Indian custodian at the time state proceedings are initiated; and

(B) cooperate fully with Indian tribes in Oklahoma to ensure the intent and provisions of the federal Indian Child Welfare Act are enforced.

**(b) Applicability of the Federal and State Indian Child Welfare Acts.**

(1) Per 10 O.S. § 40.3, the Oklahoma Indian Child Welfare Act applies to all state voluntary and involuntary child custody court proceedings involving the Indian child, regardless of whether the child involved is in the physical or legal custody of an Indian parent or Indian custodian at the time state proceedings are initiated.

(2) The Federal and Oklahoma Indian Child Welfare Acts, apply to each Indian child custody proceedings involving:

(A) foster care placement, including any involuntary action that removes the Indian child from the parent or Indian custodian for temporary placement and parental rights have not been terminated;

(B) termination of parental rights, including any action resulting in the termination of the parent-child relationship;

(C) pre-adoptive placement, including temporary placement of the Indian child in a foster home or institution after parental rights have been terminated, but prior to or in lieu of adoptive placement; or

(D) adoptive placement, including:

(i) permanent placement of the Indian child for adoption; or

(ii) any action resulting in a final decree of adoption.

**(c) ICWA inapplicable in certain proceedings.** The Oklahoma Indian Child Welfare Act, in accordance with the federal Indian Child Welfare Act, does not apply to child custody proceeding arising from:

(1) an award of custody to a parent in a divorce proceeding; or

(2) an adjudication of delinquency, unless there has been a request for termination of parental rights.

[Source: Added at 19 Ok Reg 2209, eff 6-27-02 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 30 Ok Reg 839, eff 7-1-13]

### **340:75-19-3. Definitions**

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

**"Active efforts"** per Section 671(A) of Title 42 of the United States Code (42 U.S.C. § 671(A)) means actions intended primarily to maintain and reunite an Indian child with his or her family or tribal community and constitutes more than reasonable efforts.

**"Child custody proceeding"** means any proceeding regarding child custody under the Federal and State Acts, including:

(A) **"Adoptive placement"** means the permanent placement of the Indian child for adoption, including any action that results in a final decree of adoption.

(B) **"Foster care placement"** means any action removing the Indian child from the parent or Indian custodian for temporary placement in a foster home, institution, or the home of a guardian or conservator where the parent or Indian custodian cannot have the child returned upon demand, but where parental rights have not been terminated.

(C) **"Preadoptive placement"** means the temporary placement of the Indian child in a foster home or institution after the termination of parental rights, but prior to or in lieu of an adoptive placement.

(D) **"Termination of parental rights"** means any action resulting in the termination of the parent-child relationship.

**"Extended family member"** means any person as defined by the law or custom of the Indian child's tribe, or, in absence of such law or custom, a person who is at least 18 years of age and is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent.

**"Indian"** means any person who is a member of an Indian tribe, or who is an Alaska Native and a member of a Regional Corporation per Section 7 of the Alaska Native Claims Settlement Act 43 U.S.C. § 1606.

**"Indian child"** means any unmarried person under 18 years of age and is:

(A) a member of an Indian tribe; or

(B) eligible for membership in an Indian tribe and the biological child of a member of an Indian tribe.

**"Indian child's tribe"** means:

(A) the Indian tribe in which an Indian child is a member or eligible for membership; or

(B) the Indian tribe with which the Indian child, who is a member of or is eligible for membership in more than one tribe, has the more significant contacts, as designated.

**"Indian country or tribal land"** means lands, per 18 U.S.C. § 1151, and any lands not covered under Section 1151, title to which is held by the United States in trust for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to a restriction by the United States against alienation. Tribal land may also be referred to as "trust land."

**"Indian custodian"** means any Indian person who has legal custody of the Indian child under tribal law or custom or under state law or to whom temporary physical care, custody, and control was transferred by the child's parent.

**"Indian tribe"** means any Indian tribe, band, nation, or other organized group or community of Indians federally recognized as eligible for the services provided to Indians by the Secretary of the Interior because of their status as Indians, including an Alaska Native village per Section 3 (c) of the Alaska Native Claims Settlement Act, 43 U.S.C. 1602 (c).

**"Parent"** means any biological parent of the Indian child, or an Indian person who has lawfully adopted an Indian child, including adoptions under tribal law or custom, but not including an unwed father where paternity has not been acknowledged or established.

**"Secretary"** means the Secretary of the Interior.

**"State Act"** means the Oklahoma Indian Child Welfare Act that is referred to by the acronym OICWA.

**"Tribal-certified foster home"** means a foster home maintained and certified through an Indian tribe.

**"Tribal court"** means a court with jurisdiction over child custody proceedings, including:

- (A) a court of Indian offenses;
- (B) a court established and operated under the code or custom of an Indian tribe; or
- (C) any other administrative body of a tribe that has authority over child custody proceedings.

**"Youth"** means a child 13 through 17 years of age.

[Source: Added at 19 Ok Reg 2209, eff 6-27-02 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 33 Ok Reg 1635, eff 9-15-16]

#### **340:75-19-4. Applicability of the Acts to child custody proceedings [REVOKED]**

[Source: Added at 19 Ok Reg 2209, eff 6-27-02 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Revoked at 30 Ok Reg 839, eff 7-1-13]

#### **340:75-19-5. Tribal and state court jurisdiction**

Tribal courts have exclusive jurisdiction over any child custody proceeding involving an Indian child who resides within the reservation of such tribe. The tribal court shares concurrent jurisdiction with the state court in state court proceedings for foster care placement of, or termination of parental rights to, an Indian child not residing within the reservation of the Indian child's tribe. The tribe, either parent, or an Indian custodian may request transfer of state court proceedings to tribal



court.

[Source: Added at 19 Ok Reg 2209, eff 6-27-02 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 33 Ok Reg 1635, eff 9-15-16]

**340:75-19-6. Tribal intervention in state court proceedings and tribal inspection of Oklahoma Department of Human Services (DHS) records without a court order**

(a) **Tribal right to intervene in state court proceeding.** The Indian child's tribe has the right to intervene at any point in a state court proceeding involving the foster care placement or termination of parental rights to the Indian child per Section 1911 of Title 25 of the United States Code (25 U.S.C. §. 1911). Upon intervening, the tribe becomes a party to the state court proceeding.

(b) **Tribal inspection of the Indian child's DHS records without a court order.**

(1) Per Section 1-6-103 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-6-103), DHS records pertaining to a child may be inspected, and their contents disclosed, without a court order to a federally recognized Indian tribe, upon showing of proper credentials and pursuant to the tribal representative's lawful duties when the child who is the subject of the record is a member or is eligible to become a member of the tribe; and is the biological child of a member of an Indian tribe pursuant to the provisions of the Federal Indian Child Welfare Act and the Oklahoma Indian Child Welfare Act; provided such Indian tribe in the course of the tribe's official duties is:

(A) investigating a report of known or suspected child abuse or neglect or crimes against children or for the purpose of determining whether to place a child in protective custody;

(B) providing services to or for the benefit of a child including, but not limited to, protective, emergency, social and medical services; or

(C) the tribe, the tribal court, or the tribal child welfare program asserting jurisdiction or intervention in any case in which the child is the subject of the proceedings or is a party to the proceedings pursuant to the authority provided in the Oklahoma Indian Child Welfare Act.

(2) The records provided to Indian tribes include all case records, reports, and documents per 10A O.S. § 1-6-101.

(c) **Disclosure of DHS records to federally recognized Indian tribe to consider persons as tribal placement resources.** Per 10A O.S. § 1-6-102, DHS is authorized to disclose DHS records in a reasonable amount of time to a federally recognized Indian tribe pertaining to any individual who applied to provide tribal foster care, adoptive, or guardianship placement; provided, the tribe is required to maintain the confidentiality of the records.

[Source: Added at 19 Ok Reg 2209, eff 6-27-02 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 33 Ok Reg 1635, eff 9-15-16]

### **340:75-19-7. Transfer of proceeding to tribal court**

(a) A parent, Indian custodian, or tribe may request transfer of a state court proceeding for foster care placement or termination of parental rights of an Indian child to tribal court. Whenever a parent, Indian custodian, or tribe seeks to transfer the case, it is presumptively in the Indian child's best interest to transfer the case to the Indian tribe's jurisdiction. When a proper request for transfer is made, jurisdiction is transferred by the state court to the tribal court unless:

- (1) either parent objects to such transfer;
- (2) the court finds good cause to deny transfer of the case; or
- (3) the tribal court declines the transfer.

(b) In determining if good cause exists, recommendations to the court do not include:

- (1) whether the case is at an advanced stage;
- (2) whether transfer would result in a change in the child's placement;
- (3) the Indian child's contacts with the tribe or reservation;
- (4) the tribal court's prospective placement for the Indian child; or
- (5) the socio-economic conditions and any perceived inadequacy of tribal or Bureau of Indian Affairs social services or judicial systems.

[Source: Added at 19 Ok Reg 2209, eff 6-27-02 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 33 Ok Reg 1635, eff 9-15-16]

### **340:75-19-8. Identification of an Indian child**

(a) The Oklahoma Indian Child Welfare Act (OICWA) per Section 40.3(C) of Title 10 of the Oklahoma Statutes (10 O.S. § 40.3(C) 1-3) requires the state court to seek a determination of the child's Indian status when the:

- (1) court is informed by an interested party, an officer of the court, a tribe, an Indian organization, or a public or private agency that the child is Indian;
- (2) child who is the subject of the proceeding gives the court reason to believe he or she is an Indian child; or
- (3) court has reason to believe the child's residence or domicile is within a predominantly Indian community.

(b) The court seeks verification of the Indian status of the child from the Indian tribe. The determination of membership by the Indian tribe is conclusive.

[Source: Added at 19 Ok Reg 2209, eff 6-27-02 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 33 Ok Reg 1635, eff 9-15-16]

### **340:75-19-9. Child Protective Services reports of abuse or neglect regarding the Indian child**

(a) State jurisdiction does not extend to the Indian child who resides on tribal land. Oklahoma Department of Human Services (OKDHS) reports child abuse or neglect that occurs on tribal land involving an Indian child victim and an Indian or non-Indian perpetrator as addressed in the

Memorandum of Understanding (MOU) for Reporting and Investigating Child Abuse Criminal Offenses in Indian Country between the OKDHS, tribal law enforcement and Child Protective Services (CPS) agencies, BIA, United States Attorney's offices for the Western, Northern, and Eastern Districts of Oklahoma, Federal Bureau of Investigation, and Indian Health Services.

(1) The MOU requires that OKDHS notify these entities of reports involving abuse, neglect, or both, of the Indian child that occurs on tribal land.

(2) The MOU provides extensive guidelines for use and contact numbers and addresses for all parties who require notification of CPS reports.

(b) The investigation or assessment of reports of abuse or neglect of a non-Indian child residing or found on tribal land is not within the tribe's jurisdiction. These reports are referred to OKDHS for disposition.

[Source: Added at 19 Ok Reg 2209, eff 6-27-02 ; Amended at 22 Ok Reg 854, eff 5-12-05 ; Amended at 30 Ok Reg 839, eff 7-1-13]

#### **340:75-19-10. Emergency removal of the Indian child**

(a) **Emergency removal and placement of the Indian child domiciled on but temporarily located off the reservation.** Per Section 1922 of Title 25 of the United States Code (25 U.S.C. § 1922) of the Federal Indian Child Welfare Act, the Indian child who is a resident of or is domiciled on a reservation, but temporarily located off the reservation from his or her parent or Indian custodian is subject to emergency removal and emergency placement in a foster home or institution, under applicable State law, to prevent imminent physical damage or harm to the child. The State authority, official, or agency involved in the emergency removal, as appropriate:

(1) ensures the emergency removal or placement terminates immediately when the removal or placement is no longer

necessary to prevent imminent physical damage or harm to the child;

(2) expeditiously initiates a child custody proceeding;

(3) transfers the child to the jurisdiction of the appropriate Indian tribe; or

(4) restores the child to the parent or Indian custodian.

(b) **Emergency order removing the Indian child accompanied by affidavit.** Per Section 40.5 of Title 10 of the Oklahoma Statutes (10 O.S. § 40.5):

(1) when the court order authorizes the emergency removal of the Indian child from the child's parent or Indian custodian in accordance with 25 U.S.C. 21 1922, the order is accompanied by an affidavit containing:

(A) the names, tribal affiliations, and addresses of the Indian child, the parents of the Indian child, and Indian custodians if any;

(B) a specific and detailed account of the circumstances and the reasons for the removal; and

- (C) a statement of the specific actions that have been taken to assist the parents or Indian custodians so that the child may be safely returned to their custody; and
- (2) no pre-adjudicatory custody order may remain in force or in effect for more than 30 calendar days without a determination by the court, supported by clear and convincing evidence and the testimony of at least one qualified expert witness, that custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child. The court may, for good and sufficient cause shown, extend the emergency custody order for an additional 60 calendar days.

[Source: Added at 19 Ok Reg 2209, eff 6-27-02 ; Amended at 30 Ok Reg 839, eff 7-1-13]

### **340:75-19-11. Notice of Indian child custody proceedings**

(a) **Statutory notice of Indian child custody proceeding.** The Federal and Oklahoma Indian Child Welfare Act address procedures for notice to Indian tribes of voluntary and involuntary child custody proceedings, including review hearings, involving Indian children. The Oklahoma Indian Child Welfare Act per Section 40.4 of Title 10 of the Oklahoma Statutes (10 O.S. § 40.4) requires the state court to ensure the initiating party, usually the district attorney, sends notice by certified mail, return receipt requested, to the:

- (1) Indian child's parents;
- (2) Indian custodians;
- (3) child's tribe; and
- (4) the appropriate Bureau of Indian Affairs office.

(b) **Notice requirements.** Per 10 O.S. § 40.4, the notice of the Indian child custody proceeding is written in clear and understandable language and includes:

- (1) name, date of birth, birthplace, and tribal affiliation of the Indian child;
- (2) a copy of the petition;
- (3) name of petitioner and name and address of petitioner's attorney;
- (4) a statement of the rights of the parents or Indian custodian, and the Indian tribe to:
  - (A) intervene in the proceeding;
  - (B) petition the court to transfer the proceeding to the tribal court;
  - (C) request an extension of time, up to 20 additional calendar days, to prepare for the proceeding;
- (5) a statement of the potential legal consequences of the proceedings on the future custodial rights of the parents or Indian custodians;
- (6) a statement that counsel will be appointed for the parent or custodian when unable to afford counsel;
- (7) mailing addresses and phone numbers of the court, information related to all parties to the proceeding, and individuals notified; and

- (8) a statement that tribal officials must keep information contained in the notice confidential.
- (c) Under the Federal Act, a proceeding for foster care placement or termination of parental rights is not held until 10-calendar days after receipt of notice by the parent or Indian custodian and the tribe.
- (d) **Invalidation of action upon showing of certain violations.** Per 25 U.S.C. § 1914, motions to invalidate state court actions based on violations of the provisions of 25 U.S.C. §§ 1911, 1912, and 1913 may be filed by:
- (1) the Indian child who is the subject of any action for foster care placement or termination of parental rights under Oklahoma law;
  - (2) any parent or Indian custodian from whose custody the child was removed; and
  - (3) the child's tribe.

[Source: Added at 19 Ok Reg 2209, eff 6-27-02 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 33 Ok Reg 1635, eff 9-15-16]

#### **340:75-19-12. Adjudication of an Indian child**

- (a) **Time restriction for pre-adjudicatory custody of the Indian child.** Per the Oklahoma Indian Child Welfare Act (OICWA), Section 40.5 of Title 10 of the Oklahoma Statutes, the maximum time period for pre-adjudicatory custody of the Indian child is 90-calendar days.
- (b) **Standards of evidence for deprived adjudication of the Indian child.** Adjudication of an Indian child per Section 1912(e) of Title 25 of the United States Code requires a determination, by the court supported by clear and convincing evidence, including testimony of a qualified expert witness, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage or harm to the child.
- (c) **Demonstration of active efforts.** A party petitioning a state court for foster care placement of an Indian child must demonstrate to the court that active efforts were made to prevent removal of the child from the parent or Indian custodian and those efforts were unsuccessful.

[Source: Added at 19 Ok Reg 2209, eff 6-27-02 ; Amended at 33 Ok Reg 1635, eff 9-15-16]

#### **340:75-19-13. Qualified expert witness testimony in the case requiring Indian Child Welfare Act compliance**

- (a) Per Section 1912 of Title 25 of the United States Code (25 U.S.C. § 1912) no foster care placement or termination of parental rights may be ordered without the testimony of a qualified expert witness that the continued custody of the Indian child by the parent or Indian custodian is likely to result in serious emotional or physical damage or harm to the child.
- (b) A qualified expert witness has specific knowledge of the Indian tribe's culture and customs. Persons with the following characteristics, in descending order, meet the requirements for a qualified expert witness, a:

- (1) member of the Indian child's tribe recognized by the tribal community as knowledgeable in tribal customs as they pertain to family organizations and child rearing practices;
  - (2) member of another tribe recognized to be a qualified expert witness by the Indian child's tribe based on his or her knowledge of the delivery of child and family services to Indians and the Indian child's tribe;
  - (3) layperson recognized by the Indian child's tribe as having substantial experience in the delivery of child and family services to Indians, and knowledge of prevailing social and cultural standards and childrearing practices within the Indian child's tribe; and
  - (4) professional person with substantial education and experience in the area of his or her specialty who can demonstrate knowledge of the prevailing social and cultural standards and childrearing practices within the Indian child's tribe.
- (c) The court or any party may request the assistance of the Indian child's tribe or the Bureau of Indian Affairs agency serving the child's tribe in locating persons qualified to serve as an expert witness.

[Source: Added at 19 Ok Reg 2209, eff 6-27-02 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 33 Ok Reg 1635, eff 9-15-16]

#### **340:75-19-14. Placement preferences for the Indian child**

(a) **Statutory authority for placement preferences for the Indian child.** The Federal and State Indian Child Welfare Acts (ICWA) per Section 1915 (a) and (b) of Title 25 of the United States Code (25 U.S.C. § 1915 (a) and (b)) and Section 40.6 of Title 10 of the Oklahoma Statutes (10 O.S. § 40.6) establish an order of placement preferences for foster care, pre-adoptive, and adoptive placement for Indian children. The placement preferences are in order of most preferable to least preferable. The order of placement preferences for foster and pre-adoptive placements differs from the order of placement preferences for adoptive placements. The court, when appropriate, considers the preferences of the extended family or siblings, the Indian child, or parent.

(b) **Foster care or pre-adoptive placement preferences for the Indian child.** The Indian child in foster care or pre-adoptive placements is placed:

- (1) in the least restrictive, most family-like setting;
- (2) in reasonable proximity to the child's home, extended family, or siblings;
- (3) where the child's special needs, when any, may be met; and
- (4) in the following descending order of preference, absent good cause to the contrary, with:
  - (A) a member of the Indian child's extended family;
  - (B) a foster home licensed, approved, or specified by the Indian child's tribe whether on or off the reservation, Indian country, or tribal land;
  - (C) an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or

(D) an institution for children approved by an Indian tribe or operated by an Indian organization that has a program suitable to meet the Indian child's needs.

(c) **Adoptive placement preferences for the Indian child.** The Indian child in an adoptive placement is placed in the following descending order of preference, absent good cause to the contrary, with:

- (1) a member of the child's extended family;
- (2) other members of the Indian child's tribe; or
- (3) other Indian families.

(d) **Tribal authority to establish tribe-specific placement preferences.** Per 25 U.S.C. § 1915 (c) of the Federal Indian Child Welfare Act (FICWA), the child's tribe may establish a different order of preference by resolution and the Oklahoma Department of Human Services (DHS) follows the tribe's order when the placement is the least restrictive setting appropriate to the child's needs.

(e) **Utilization of the child's tribe to secure placement.** Per 10 O.S. § 40.6, in the placement of the Indian child, DHS must utilize, to the maximum extent possible, the services of the child's Indian tribe in securing placement consistent with the provisions of the Oklahoma Indian Child Welfare Act.

(f) **Good cause to modify placement preference.** The state court must find, by clear and convincing evidence, that good cause exists to deviate from the placement preferences. The determination must be based on one of the following considerations, the:

- (1) request of the parents, when both parents attest they reviewed the placement options that comply with the order of preference;
- (2) request of the child, when the child is able to understand and comprehend the decision being made;
- (3) extraordinary physical or emotional needs of the child, such as specialized treatment services that may be unavailable in the community where families who meet the criteria live, as established by testimony of a qualified expert witness; provided that extraordinary physical or emotional needs of the child does not include ordinary bonding or attachment that may have occurred as a result of a placement or the fact that the child has, for an extended amount of time, been in another placement that does not comply with FICWA; or
- (4) unavailability of a placement after a showing by the applicable agency and a determination by the court that active efforts were made to find placements meeting the preference criteria, but none were located.

(g) **Indian child's placement records.** A record of each placement of an Indian child is maintained by DHS, evidencing the efforts to comply with the order of preference specified in 25 U.S.C. § 1915, and is made available at any time upon request of the Secretary of the Interior or the Indian child's tribe.

**340:75-19-15. Documentation of efforts to comply with placement preferences [REVOKED]**

[Source: Added at 19 Ok Reg 2209, eff 6-27-02 ; Revoked at 30 Ok Reg 839, eff 7-1-13]

**340:75-19-16. Review of records by the child's tribe or Secretary of the Interior [REVOKED]**

[Source: Added at 19 Ok Reg 2209, eff 6-27-02 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Revoked at 30 Ok Reg 839, eff 7-1-13]

**340:75-19-17. Release of agency records to tribes without a court order [REVOKED]**

[Source: Added at 19 Ok Reg 2209, eff 6-27-02 ; Revoked at 30 Ok Reg 839, eff 7-1-13]

**340:75-19-18. Permanency planning for Indian children**

The Federal and State Indian Child Welfare Acts (ICWA) and OAC 340:75-6 provide information regarding services to Indian children and families. The ICWA requires active efforts be made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family per Section 1912 of Title 25 of the United States Code (25 U.S.S. § 1912).

[Source: Added at 19 Ok Reg 2209, eff 6-27-02 ; Amended at 30 Ok Reg 839, eff 7-1-13]

**340:75-19-19. Termination of parental rights to the Indian child**

Proceedings to terminate parental rights to the Indian child, pursuant to the Federal Indian Child Welfare Act, per Section 1912(f) of Title 25 of the United States Code require:

- (1) evidence beyond a reasonable doubt, supported by testimony of a qualified expert witness that continued custody by the parent or Indian custodian is likely to result in serious emotional or physical harm or damage to the child; and
- (2) a showing that active efforts were made to provide remedial and rehabilitative services designed to prevent the breakup of the Indian family and that these efforts proved unsuccessful.

[Source: Added at 19 Ok Reg 2209, eff 6-27-02 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 33 Ok Reg 1635, eff 9-15-16]

**340:75-19-20. Special procedures for placement of the Indian child in Oklahoma Department of Human Services (DHS) custody in a tribal-certified foster home or residential placement**

(a) **Placement of the Indian child in DHS custody in tribal-certified foster home.** The Indian child in DHS custody may be placed in a tribal-certified foster home with permission of the applicable tribal child welfare program.

(b) **Placement of the Indian child in DHS custody in residential placement.** Section 1915 of Title 25 of the United States Code provides



as a last placement preference for the Indian child in foster care or pre-adoptive placement who is in DHS custody, placement in an institution for children approved by an Indian tribe or operated by an Indian organization that has a program suitable to meet the Indian child's needs.

[Source: Added at 19 Ok Reg 2209, eff 6-27-02 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 33 Ok Reg 1635, eff 9-15-16]

**340:75-19-21. Reports of abuse or neglect of the child in Oklahoma Department of Human Services (OKDHS) or tribal custody placed in tribal foster resource care**

(a) **Reports of abuse or neglect in a tribal foster care resource.** The report of abuse or neglect of either the Oklahoma Department of Human Services (OKDHS) or tribal custody child placed in a tribal foster home is processed in accordance with OAC 340:75-3-410.

(b) **Tribal decisions regarding the child in tribal custody.** Tribes make decisions regarding the removal from or the return to the tribal foster home for the child in tribal custody.

(c) **OKDHS decisions regarding the child in OKDHS custody.** OKDHS makes each decision regarding the removal from or return to the tribal foster home for the child in OKDHS custody.

[Source: Added at 19 Ok Reg 2209, eff 6-27-02 ; Amended at 30 Ok Reg 839, eff 7-1-13]

**340:75-19-22. Tribal residential placements for children in OKDHS custody [REVOKED]**

[Source: Added at 19 Ok Reg 2209, eff 6-27-02 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Revoked at 30 Ok Reg 839, eff 7-1-13]

**340:75-19-23. Adoptive placement of the Indian child**

(a) **Adoptive placement preference for the Indian child.** Adoptive placements are defined by the Federal Indian Child Welfare Act (ICWA) as the permanent placement of the Indian child for adoption, including any action resulting in a final decree of adoption. ICWA establishes an order of placement preference for the Indian child in an adoptive placement. Unless the court finds good cause to deviate from the ICWA-specified, placement preference, or the Indian child's tribe has established by resolution a different order of specified preference, Section 1915 of Title 25 of the United States Code (25 U.S.C. § 1915) requires that Indian children in adoptive placement are placed in descending order:

- (1) a member of the child's extended family;
- (2) other members of the Indian child's tribe; or
- (3) members of other Indian families.

(b) **Standards applied to adoptive placement preference.** The criteria for the placement of the Indian child, per 25 U.S.C. §1915(d) includes consideration of the prevailing social and cultural standards of the Indian community in which the parent or extended family resides or in which the parent or extended family members maintain social and

cultural ties. The court, where appropriate, considers the preference of the Indian child or parent.

(c) **Adoptive placement with non-Indian family.** Adoptive placement in a non-Indian resource is considered only after the Oklahoma Department of Human Services determines, no:

- (1) extended family are available for adoptive placement;
- (2) Indian families of the child's tribe are available for adoptive placement; and
- (3) Indian families of other tribes are available for adoptive placement.

(d) **Good cause hearing required prior to placement in non-family or non-Indian resource.** Prior to the adoptive placement of the Indian child in a placement that deviates from the preference order, the court must conduct a hearing to determine if good cause exists to deviate from the adoptive placement preference order.

[Source: Added at 19 Ok Reg 2209, eff 6-27-02 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 33 Ok Reg 1635, eff 9-15-16]

#### **340:75-19-24. Voluntary consent to adoption by the Indian parent or custodian**

(a) **Withdrawal of the Indian parent or custodian's voluntary consent to adoption.** Per Section 1913 of Title 25 of the United States Code (25 U.S.C. § 1913), the parent or Indian custodian of the Indian child may withdraw consent to termination of parental rights or adoption at any time before an entry of final decree of voluntary termination or adoption.

(b) **Time requirement for invalidation of adoption.** An adoption in effect for at least two years may not be invalidated under the provisions of 25 U.S.C. § 1913, unless otherwise permitted under state law.

[Source: Added at 19 Ok Reg 2209, eff 6-27-02 ; Amended at 30 Ok Reg 839, eff 7-1-13]

### **340:75-19-25. Records of adoption**

(a) **Final decree of Indian child's adoption.** Per Section 1951 of Title 25 of the United States Code, the state court provides a copy of the final decree of adoption of the Indian child to the Secretary of Interior (Secretary). Additional information accompanying the final decree, when not included in the final decree, includes the:

- (1) child's name and tribal affiliation;
- (2) biological parent's names and addresses;
- (3) adoptive parent's names and addresses; and
- (4) identity of any agency having files or information relating to the adoptive placement.

(b) **Confidentiality affidavit.** When the court records contain an affidavit of the biological parent or parents requesting that the parent's or parents' identity remain confidential, the court includes the affidavit with the other information accompanying the final decree of adoption. The Secretary ensures that confidentiality is maintained and not subject to the Freedom of Information Act per 5 U.S.C. § 552).

[Source: Added at 19 Ok Reg 2209, eff 6-27-02 ; Amended at 30 Ok Reg 839, eff 7-1-13]

### **340:75-19-26. Foster care maintenance payment for the child in tribal custody**

(a) Oklahoma Human Services (OKDHS) provides foster care maintenance payment to approved tribal-certified foster homes for the placement of the child in tribal custody when OKDHS has a contractual agreement with the child's tribe for the payment of foster care and the tribe submitted Form 04TB004E, Indian Child Welfare Program Referral, along with a copy of the court order and case plan to the assigned OKDHS tribal program staff.

(b) The tribe sends copies of updated case plans and current court orders to tribal IV-E program staff. The Indian child's tribe immediately notifies tribal IV-E program staff via Form 04TB003E, Indian Child Welfare Program Update, of any change in the child's placement or custody.

(c) The child's tribe provides services and supervises the child's placement when the child is in tribal custody.

(d) The child's tribe makes application on behalf of the child for any financial benefits, such as Social Security, to which the child is entitled. When the child is determined eligible, the child's tribe immediately notifies tribal IV-E program staff by submitting Form 04TB003E with updated information. The foster care maintenance payment is reduced by the dollar amount of the benefit.

(e) Each tribe develops and implements policies and practices per federal regulations related to Titles IV-B and IV-E. Tribes may request technical assistance from OKDHS regarding:

- (1) federal law, policy, and regulation;
- (2) accountability for fiscal and program operations;
- (3) reporting procedures; and
- (4) compliance with the terms and conditions of tribal and OKDHS agreements.

(f) When OKDHS identifies questionable foster care practices or circumstances that may jeopardize continued federal funding, the situation is reviewed and reconciled by a panel of tribal and OKDHS officials on a case-by-case basis. When reconciliation is not possible, both parties may present views to the OKDHS Director who determines if continued payment is made on behalf of the cases affected.

[Source: Added at 19 Ok Reg 2209, eff 6-27-02 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 33 Ok Reg 1635, eff 9-15-16 ; Amended at 39 Ok Reg 1803, eff 9-15-22]

#### **340:75-19-26.1. Therapeutic foster care (TFC) or intensive treatment family care (ITFC) for the child in tribal custody**

TFC or ITFC is the least restrictive, community-based residential care placement setting. Children in Oklahoma Human Services (OKDHS) custody or tribal custody served in TFC placements are 4 through 17 years of age, and the Oklahoma Health Care Authority (OHCA) authorized reviewer determines whether they meet the medical necessity criteria for TFC or ITFC services, per Oklahoma Administrative Code (OAC) 317:30-5-741 or 317:30-5-751.

(1) When the child in tribal custody requires TFC or ITFC, per Part 1 of OAC 340:75-8, the tribal Indian child welfare (ICW) worker:

(A) requests an interview for TFC or ITFC application by completing the TFC Coversheet and emailing it to TherapeuticFosterCare@okdhs.org; and

(B) provides accurate and complete information regarding the child's behavior to the TFC program staff completing the application over the phone.

(2) Upon the application's completion, TFC program staff sends it to OHCA for the request's approval or denial.

(3) TFC program staff enters and updates the placement recommendation screens in KIDS according to OHCA approval or denial.

[Source: Added at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 24 Ok Reg 1323, eff 6-1-07 ; Amended at 33 Ok Reg 1635, eff 9-15-16 ; Amended at 39 Ok Reg 1803, eff 9-15-22]

#### **340:75-19-27. Clothing vouchers for tribal custody children [REVOKED]**

[Source: Added at 19 Ok Reg 2209, eff 6-27-02 ; Revoked at 23 Ok Reg 1024, eff 5-11-06]

#### **340:75-19-28. Difficulty of care payments for the child in tribal custody**

(a) Difficulty of care (DOC) payments are available to reimburse tribal foster parents for the care of the child in tribal custody.

(b) The Indian child welfare (ICW) worker submits a written request for DOC to tribal IV-E program staff when the ICW worker determines the child meets DOC criteria. Tribal IV-E program staff approves or denies the written request within 10-calendar days from the date the request is

received.

(c) The written request details the child's special needs, including statements from medical or psychological reports that describe the child's condition and diagnosis, utilizing the rate descriptions per Oklahoma Human Services (OKDHS) Appendix C-20, Child Welfare Services Rates Schedule, as amended from time to time.

(1) The effective date of DOC approval is the first day of the month in which Child Welfare Services receives the request.

(2) No retroactive payments are made prior to the date of the request.

(d) The ICW worker:

(1) reviews the child's DOC rate increase every six months;

(2) one month prior to the end date of DOC approval, submits notification to tribal IV-E program staff for continuation of DOC or that DOC is no longer needed;

(3) notifies tribal IV-E program staff when the Indian child's placement changes to a placement other than tribal foster care or the child returns to his or her own home; and

(4) when the child's special needs change, requiring a DOC rate change, prepares a detailed request and submits the request to tribal IV-E program staff. tribal IV-E program staff terminates the original request.

[Source: Added at 19 Ok Reg 2209, eff 6-27-02 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 33 Ok Reg 1635, eff 9-15-16 ; Amended at 39 Ok Reg 1803, eff 9-15-22]

### **340:75-19-29. Voluntary foster care for the child in tribal custody younger than 18 years of age**

(a) **Purpose of voluntary foster care.** The Indian child may be placed in voluntary foster care with either Oklahoma Human Services (OKDHS) or the tribe at the parent's or legal guardian's request. Voluntary foster care:

(1) is available as a preventive and protective service to enhance family functioning without court intervention, per Oklahoma Administrative Code 340:75-4-12.1; and

(2) may be approved for tribal children who are placed within the tribe in a tribal foster care home for up to 90-calendar days for children younger than 18 years of age. Voluntary foster care placements that extend beyond 90-calendar days require a judicial determination to the effect that continued voluntary foster care is in the child's best interest.

(b) **Tribe's responsibilities for voluntary foster care.**

(1) When the Indian child welfare (ICW) worker places the child in voluntary foster care, the tribe obtains a written voluntary foster care agreement.

(A) The agreement does not require court action, and the child is returned to the parent or guardian upon request. When the parent or guardian fails to meet the terms of the agreement or cannot be located, court involvement is required.

(B) The tribe submits Form 04TB004E, Indian Child Welfare Program Referral, and a memo requesting approval for voluntary foster care to tribal IV-E program staff.

(2) The child's tribe notifies tribal IV-E program staff when:

(A) the child leaves the placement; or

(B) court action is initiated.

(c) **Evidence gathered during the Indian child's voluntary foster care episode.** The ICW worker or child welfare specialist advises the parent, Indian custodian, or legal guardian at the time of the child's placement that any evidence gathered during the time the child is placed in voluntary foster care may be used as a basis for court action, per Section 1-7-112 of Title 10A of the Oklahoma Statutes.

[Source: Added at 19 Ok Reg 2209, eff 6-27-02 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 33 Ok Reg 1635, eff 9-15-16 ; Amended at 39 Ok Reg 1803, eff 9-15-22]

### **340:75-19-30. Voluntary foster care for the youth in tribal custody after 18 years of age**

(a) The tribe may continue to provide foster care services on a voluntary basis to a youth in tribal custody who turns 18 years of age prior to completing his or her:

(1) high school education; or

(2) General Educational Development (GED).

(b) The youth:

(1) remains eligible for voluntary foster care until he or she completes high school or GED requirements or reaches his or her 21st birthday. When the youth stops pursuing an education, the youth is no longer eligible for voluntary foster care; and

(2) agrees to:

(A) participate in the development of an successful adulthood plan outlining the steps to achieve self-sufficiency;

(B) participate in successful adulthood services and activities; and

(C) abide by the successful adulthood plan.

[Source: Added at 19 Ok Reg 2209, eff 6-27-02 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 33 Ok Reg 1635, eff 9-15-16]

### **340:75-19-31. Oklahoma Successful Adulthood (OKSA) program services for youth in tribal or Oklahoma Human Services (OKDHS) custody**

(a) **John H. Chafee Foster Care Program for Successful Transition to Adulthood (Chafee Program).** The Chafee Program supports states in providing independent living services for both state and tribal youth in custody, focusing on:

(1) career planning;

- (2) emergency housing; and
- (3) aftercare.

(b) **Requirements for eligible Indian youth.** Federal regulations and state statutes require that eligible youth receive:

- (1) an OKSA assessment, which is a comprehensive evaluation of the youth's readiness for successful adulthood and identification of the services and supports required for the youth to achieve a maximum level of self-sufficiency;
- (2) an OKSA plan, which describes the services supports and activities the child welfare specialist and youth identify as necessary for the youth to transition to independence, and includes the components required by federal and state statutes;
- (3) a judicial determination made at each dispositional and review hearing as to whether:

- (A) the OKSA services needed to assist the youth in making the transition from custody to self-sufficiency are provided or are not appropriate;
- (B) during the 90-day period immediately prior to a youth's 18th birthday, OKDHS and, as appropriate, the youth's representatives, are providing the youth with assistance and support in developing an appropriate personalized transition plan based upon the youth's input, and as detailed as the youth elects, that includes specific options regarding:

- (i) housing;
- (ii) health insurance;
- (iii) education;
- (iv) local opportunities for mentors and continuing support services; and
- (v) employment supports and services;

- (C) information is provided to the youth about the importance of designating another individual to make health care treatment decisions on the youth's behalf if the youth:

- (i) becomes unable to participate in his or her health care decisions; and
- (ii) does not have, or does not want a relative, who would otherwise be authorized under state or tribal law, to make health care decisions; and

- (D) the youth is provided with the option of executing a health care power of attorney, health care proxy, or other similar documents recognized under state or tribal law; and

- (4) a variety of services, resources, and youth development funds are provided to facilitate successful transition into adulthood. Each service, resource, and youth development fund category has distinct eligibility requirements that are found at Oklahoma Administrative Code (OAC) 340:75-6-110.

(c) **Community contracts.** Youth in tribal custody are eligible for services provided through community contracts, including educational, vocational, supplemental assistance, resource materials, teen

conferences, OKSA seminars, technical assistance, and training. The Indian child welfare (ICW) worker enrolls eligible youths at 14 years of age by contacting the OKSA Program via the OKSA email, [oksa@ou.edu](mailto:oksa@ou.edu).

(d) **Contingency funds.** Contingency funds are designed as supportive services for youths in preparation for living on their own and for emergencies encountered after leaving care while learning to live independently. The ICW worker accesses the funds per OAC 340:75-6-110 by contacting the OKSA Program via the OKSA email, [oksa@ou.edu](mailto:oksa@ou.edu).

(e) **Incentive payment.** Youths in tribal custody are eligible for a one-time monetary incentive payment when exiting tribal custody from an out-of-home placement to reunification, adoption, guardianship, or independence. The incentive payment is accessed when the youth completes an intake and exit interview process with the OKSA aftercare program by contacting the Yes I Can toll free number at 1-800-397-2945. The KK case remains open when the child in tribal custody is enrolled in OKSA, is in a non-paid placement, and the case type is changed to OKSA.

[Source: Added at 19 Ok Reg 2209, eff 6-27-02 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 39 Ok Reg 1803, eff 9-15-22]

### **340:75-19-32. Agreements for foster care**

- (a) The Oklahoma Indian Child Welfare Act (ICWA) Section 40.7 of Title 10 of the Oklahoma Statutes authorizes Oklahoma Human Services (OKDHS) to enter into contractual agreements with Indian tribes for the care and custody of Indian children and jurisdiction over child custody proceedings which provide for orderly transfer of jurisdiction on a case-by-case basis and provide for concurrent jurisdiction. The objective of the agreements is to enhance coordination and cooperation between the tribes and OKDHS in providing appropriate foster care and related services to Indian children in both OKDHS and tribal custody.
- (b) OKDHS pays the costs of foster care to tribally approved foster homes for the placement of Indian children in OKDHS or tribal custody.
- (c) Tribes develop and implement tribal foster home standards according to each tribe's culture and standards. The tribe's foster home standards are submitted in writing to OKDHS tribal program staff and the tribe uses these standards to certify tribal foster homes. Tribal-certified foster families may serve as placement resources for the Indian child in OKDHS or tribal custody.
- (d) The foster care maintenance payment to the tribal-certified foster home is initiated only after the tribe submits the tribal-certified foster resource home study. Maintenance payments are not provided to any tribal foster home prior to the tribe's approval date and OKDHS' receipt of all required documentation including all required background checks. The tribe mails or faxes each completed tribal-certified foster resource home study and re-assessment to Child Welfare Services (CWS) tribal IV-E program staff. The Indian child welfare (ICW) worker sends documentation of the effective date and reason for closure of tribal foster homes to CWS tribal IV-E program staff.
- (e) Confidentiality is addressed in each contractual agreement for foster care. The tribe agrees to exercise confidentiality and provide information only to those persons who need the information in order to exercise the



tribes' rights under the federal and state ICWA.

(f) Federal and Oklahoma laws and regulations regarding review hearings, permanency hearings, case plans, and recordkeeping are applicable to the Indian child placed in tribal custody and a tribal foster home.

(g) Each contractual agreement for foster care includes OKDHS responsibilities for placement of the Indian child in tribal custody.

(h) The tribe agrees to abide by the placement preferences of the federal and state ICWA unless the tribe establishes a different order of preference by resolution. The tribe submits any changes in the tribe's placement preference order, in writing, within 10-calendar days, to OKDHS tribal program staff.

(i) The Plan of Operation is a binding part of each contractual agreement for foster care and sets forth tribal foster home procedures and protocols for the placement and services of the Indian child in tribal custody.

[Source: Added at 19 Ok Reg 2209, eff 6-27-02 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 33 Ok Reg 1635, eff 9-15-16 ; Amended at 39 Ok Reg 1803, eff 9-15-22]

#### **340:75-19-33. Role of Oklahoma Human Services (OKDHS) tribal program staff**

OKDHS tribal program staff is assigned for each Oklahoma federally recognized tribe. OKDHS tribal program staff is also assigned to each OKDHS Child Welfare Services region in proximity with assigned tribes.

[Source: Added at 19 Ok Reg 2209, eff 6-27-02 ; Amended at 23 Ok Reg 1024, eff 5-11-06 ; Amended at 24 Ok Reg 1044, eff 6-1-07 ; Amended at 30 Ok Reg 839, eff 7-1-13 ; Amended at 33 Ok Reg 1635, eff 9-15-16 ; Amended at 39 Ok Reg 1803, eff 9-15-22]

#### **340:75-19-34. Role of Oklahoma Human Services (OKDHS) tribal IV-E program staff**

OKDHS tribal IV-E program staff is assigned for each tribe with a contractual agreement for foster care.

[Source: Added at 39 Ok Reg 1803, eff 9-15-22]

## **APPENDIX A. RELEASE OF INFORMATION REGARDING JUVENILES [REVOKED]**

**[Source:** Revoked at 11 Ok Reg 501, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 2283, eff 5-26-94]

## **APPENDIX B. FOSTER/ADOPTIVE HOME ASSESSMENT MEDICAL EXAMINATION REPORT [REVOKED]**

[**Source:** Revoked and reenacted at 11 Ok Reg 651, eff 11-15-93 (emergency); Revoked and reenacted at 11 Ok Reg 3281, eff 6-27-94 ; Revoked at 16 Ok Reg 910, eff 12-10-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

## **APPENDIX C. FOSTER/ADOPTION HOME ASSESSMENT APPLICATION [REVOKED]**

[**Source:** Revoked and reenacted at 11 Ok Reg 651, eff 11-15-93 (emergency); Revoked and reenacted at 11 Ok Reg 3281, eff 6-27-94 ; Revoked at 15 Ok Reg 1293, eff 2-25-98 (emergency); Revoked at 15 Ok Reg 2629, eff 6-25-98]

## **APPENDIX D. CENTRALIZED PATERNITY REGISTRY [REVOKED]**

**[Source:** Revoked at 16 Ok Reg 910, eff 12-10-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

## **APPENDIX E. ADOPTIVE AFFIDAVIT - LEGAL RISK CHILD [REVOKED]**

[**Source:** Revoked and reenacted at 11 Ok Reg 651, eff 11-15-93 (emergency); Revoked and reenacted at 11 Ok Reg 3281, eff 6-27-94 ; Revoked at 16 Ok Reg 910, eff 12-10-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

## **APPENDIX F. ADOPTIVE AFFIDAVIT - LEGALLY FREE CHILD [REVOKED]**

[**Source:** Revoked at 11 Ok Reg 651, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 3281, eff 6-27-94]

## **APPENDIX G. FAMILY HEALTH HISTORY [REVOKED]**

**[Source:** Revoked and reenacted at 11 Ok Reg 651, eff 11-15-93 (emergency); Revoked and reenacted at 11 Ok Reg 3281, eff 6-27-94 ; Revoked at 16 Ok Reg 910, eff 12-10-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]



## **APPENDIX H. FOSTER/ADOPTIVE HOME ASSESMENT [REVOKED]**

[**Source:** Revoked and reenacted at 11 Ok Reg 651, eff 11-15-93 (emergency); Revoked and reenacted at 11 Ok Reg 3281, eff 6-27-94 ; Revoked at 16 Ok Reg 910, eff 12-10-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

## **APPENDIX I. FAMILY/PARENT QUESTIONNAIRE [REVOKED]**

[**Source:** Revoked and reenacted at 11 Ok Reg 651, eff 11-15-93 (emergency); Revoked and reenacted at 11 Ok Reg 3281, eff 6-27-94 ; Revoked at 16 Ok Reg 910, eff 12-10-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

## **APPENDIX J. CHILD'S QUESTIONNAIRE [REVOKED]**

**[Source:** Revoked and reenacted at 11 Ok Reg 651, eff 11-15-93 (emergency); Revoked and reenacted at 11 Ok Reg 3281, eff 6-27-94 ; Revoked at 16 Ok Reg 910, eff 12-10-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

## **APPENDIX K. INFORMATION REGARDING CHILD BEING PLACED [REVOKED]**

[**Source:** Revoked at 10 Ok Reg 3987, eff 7-13-93 (emergency); Revoked at 11 Ok Reg 3285, eff 6-27-94]

## **APPENDIX L. AUTHORIZATION FROM PARENT OR GUARDIAN FOR FOSTER FAMILY HOME PLACEMENT AND MEDICAL CARE OF CHILD [REVOKED]**

[Source: Revoked and reenacted at 11 Ok Reg 501, eff 11-15-93 (emergency); Revoked and reenacted at 11 Ok Reg 2283, eff 5-26-94 ; Revoked at 16 Ok Reg 910, eff 12-10-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

## **APPENDIX M. CLAIM FOR FOSTER AND ADOPTIVE HOME CARE [REVOKED]**

[**Source:** Revoked and reenacted at 10 Ok Reg 4523, eff 8-16-93 (emergency); Revoked and reenacted at 11 Ok Reg 501, eff 11-15-93 (emergency); Revoked and reenacted at 11 Ok Reg 2283, eff 5-26-94 ; Revoked and reenacted at 11 Ok Reg 2687, eff 6-13-94 ; Revoked at 16 Ok Reg 910, eff 12-10-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

## **APPENDIX N. FOSTER HOME APPLICATION [REVOKED]**

**[Source:** Revoked at 11 Ok Reg 651, eff 11-15-93 (emergency); Revoked at 11 Ok Reg 3281, eff 6-27-94]

## **APPENDIX O. FOSTER HOME APPLICANT - PHYSICAL EXAMINATION REPORT [REVOKED]**

[**Source:** Revoked at 16 Ok Reg 910, eff 12-10-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]



## **APPENDIX P. FAMILY CASE PLAN [REVOKED]**

**[Source:** Revoked and reenacted at 10 Ok Reg 125, eff 9-21-92 ; Revoked and reenacted at 11 Ok Reg 647, eff 11-22-93 (emergency); Revoked and reenacted at 11 Ok Reg 1729, eff 5-12-94 ; Revoked at 12 Ok Reg 3456, eff 7-1-95 (emergency); Revoked at 13 Ok Reg 2199, eff 6-14-96]

## **APPENDIX Q. AGREEMENT REGARDING FOSTER HOME CARE/COMMUNITY BASED RESIDENTIAL CARE [REVOKED]**

[Source: Revoked and reenacted at 11 Ok Reg 501, eff 11-15-93 (emergency); Revoked and reenacted at 11 Ok Reg 2283, eff 5-26-94 ; Revoked at 16 Ok Reg 910, eff 12-10-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

## **APPENDIX R. FAIR HEARING NOTICE [REVOKED]**

[**Source:** Revoked at 16 Ok Reg 910, eff 12-10-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

## **APPENDIX S. NOTIFICATION OF RIGHT TO FAIR HEARING [REVOKED]**

**[Source:** Added at 11 Ok Reg 1219, eff 2-9-94 (emergency); Added at 11 Ok Reg 3249, eff 6-27-94 ;  
Revoked at 16 Ok Reg 910, eff 12-10-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

## **APPENDIX T. NOTICE TO FOSTER PARENTS/APPLICANTS [REVOKED]**

[**Source:** Revoked and reenacted at 11 Ok Reg 501, eff 11-15-93 (emergency); Revoked and reenacted at 11 Ok Reg 2283, eff 5-26-94 ; Revoked at 16 Ok Reg 910, eff 12-10-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

## **APPENDIX U. APPLICATION FOR PLACEMENT CHANGE HEARING [REVOKED]**

**[Source:** Added at 9 Ok Reg 3713, eff 7-23-92 through 7-14-93 (emergency); Added at 11 Ok Reg 501, eff 11-15-93 (emergency); Added at 11 Ok Reg 2283, eff 5-26-94 ; Revoked at 13 Ok Reg 3669, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

## **APPENDIX V. WITHDRAWAL OF APPLICATION FOR PLACEMENT CHANGE HEARING [REVOKED]**

**[Source:** Added at 9 Ok Reg 3713, eff 7-23-92 through 7-14-93 (emergency); Added at 11 Ok Reg 501, eff 11-15-93 (emergency); Added at 11 Ok Reg 2283, eff 5-26-94 ; Revoked at 13 Ok Reg 3669, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

## **APPENDIX W. [RESERVED]**



## **APPENDIX X. FAMILY STRENGTHS AND NEEDS ASSESSMENT [REVOKED]**

**[Source:** Added at 9 Ok Reg 3713, eff 7-23-92 (emergency); Added at 10 Ok Reg 125, eff 9-21-92 ; Revoked and reenacted at 11 Ok Reg 647, eff 11-22-93 (emergency); Revoked and reenacted at 11 Ok Reg 1729, eff 5-12-94 ; Revoked at 12 Ok Reg 3456, eff 7-1-95 (emergency); Revoked at 13 Ok Reg 2199, eff 6-14-96]

## **APPENDIX Y. PREVENTIVE SERVICES GRID [REVOKED]**

**[Source:** Added at 9 Ok Reg 3713, eff 7-23-92 through 7-15-93 (emergency); Added at 11 Ok Reg 647, eff 11-22-93 (emergency); Added at 11 Ok Reg 1729, eff 5-12-94 ; Revoked at 12 Ok Reg 3456, eff 7-1-95 (emergency); Revoked at 13 Ok Reg 2199, eff 6-14-96]

## **APPENDIX Z. VOLUNTARY SERVICES NOTIFICATION OF RIGHT TO FAIR HEARING [REVOKED]**

[**Source:** Added at 9 Ok Reg 3713, eff 7-23-92 through 7-15-93 (emergency); Added at 9 Ok Reg 3713, eff 7-28-92 through 7-14-93 (emergency); Added at 11 Ok Reg 647, eff 11-22-93 (emergency); Added at 11 Ok Reg 1729, eff 5-12-94 ; Revoked at 16 Ok Reg 910, eff 12-10-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

## **APPENDIX AA. RELATIVE PRELIMINARY PLACEMENT AGREEMENT [REVOKED]**

**[Source:** Added at 10 Ok Reg 1293, eff 3-25-93 (emergency); Added at 10 Ok Reg 2309, eff 6-11-93 ;  
Revoked and reenacted at 11 Ok Reg 647, eff 11-22-93 ; Revoked and reenacted at 11 Ok Reg 1729, eff  
5-12-94 ; Revoked at 16 Ok Reg 910, eff 12-10-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

## **APPENDIX BB. REPORT TO THE DISTRICT ATTORNEY [REVOKED]**

[**Source:** Added at 10 Ok Reg 4523, eff 8-16-93 (emergency); Added at 11 Ok Reg 2687, eff 6-13-94 ;  
Revoked at 12 Ok Reg 3456, eff 7-1-95 (emergency); Revoked at 13 Ok Reg 2199, eff 6-14-96]

## **APPENDIX CC. INDIAN CHILD WELFARE PROGRAM REFERRAL [REVOKED]**

**[Source:** Added at 10 Ok Reg 3987, eff 6-22-93 (emergency); Added at 11 Ok Reg 3285, eff 6-27-94 ;  
Revoked at 16 Ok Reg 910, eff 12-10-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

## **APPENDIX DD. LETTER TO VERIFY TRIBAL MEMBERSHIP OF FOSTER AND ADOPTIVE APPLICANTS [REVOKED]**

**[Source:** Added at 10 Ok Reg 3987, eff 6-22-93 (emergency); Added at 11 Ok Reg 3285, eff 6-27-94 ;  
Revoked at 16 Ok Reg 910, eff 12-10-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

## **APPENDIX EE. LETTER TO VERIFY TRIBAL MEMBERSHIP OR ELIGIBILITY AND EXTENDED FAMILY [REVOKED]**

**[Source:** Added at 10 Ok Reg 3987, eff 6-22-93 (emergency); Added at 11 Ok Reg 3285, eff 6-27-94 ;  
Revoked at 16 Ok Reg 910, eff 12-10-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]



## **APPENDIX FF. OUT-OF-COUNTY/STATE TRAVEL AND MEDICAL AUTHORIZATION [REVOKED]**

**[Source:** Added at 10 Ok Reg 3987, eff 6-22-93 (emergency); Added at 11 Ok Reg 3285, eff 6-27-94 ;  
Revoked at 16 Ok Reg 910, eff 12-10-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

## **APPENDIX GG. CORRECTIVE ACTION PLAN [REVOKED]**

**[Source:** Added at 10 Ok Reg 3987, eff 6-22-93 (emergency); Added at 11 Ok Reg 3285, eff 6-27-94 ;  
Revoked at 13 Ok Reg 3927, eff 4-29-96 (emergency); Revoked at 14 Ok Reg 2288, eff 6-12-97]

**APPENDIX HH. NOTIFICATION TO LAW  
ENFORCEMENT AGENCY OF CHILD ABUSE/NEGLECT  
REPORT [REVOKED]**

[**Source:** Added at 10 Ok Reg 4523, eff 8-16-93 (emergency); Added at 11 Ok Reg 2687, eff 6-13-94 ;  
Revoked at 16 Ok Reg 910, eff 12-10-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

## **APPENDIX II. CHILD NEEDS INFORMATION LIST [REVOKED]**

**[Source:** Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ;  
Revoked at 16 Ok Reg 910, eff 12-10-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

## **APPENDIX JJ. FOSTER/ADOPTIVE HOME ASSESMENT REFERENCE LETTER [REVOKED]**

[**Source:** Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ;  
Revoked at 16 Ok Reg 910, eff 12-10-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

**APPENDIX KK. FOSTER/ADOPTIVE HOME  
ASSESSMENT REFERENCE LETTER FOR MENTAL  
HEALTH PROFESSIONALS [REVOKED]**

**[Source:** Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ;  
Revoked at 16 Ok Reg 910, eff 12-10-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

## **APPENDIX LL. [RESERVED]**

**[Source:** Reserved at 11 Ok Reg 651, eff 11-15-93 (emergency); Reserved at 11 Ok Reg 3281, eff 6-27-94]

## **APPENDIX MM. COMPLETED ADOPTIVE HOME ASSESSMENT [REVOKED]**

[**Source:** Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ;  
Revoked at 16 Ok Reg 910, eff 12-10-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]



## **APPENDIX NN. ADOPTION SUBSIDY APPLICATION [REVOKED]**

**[Source:** Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ;  
Revoked at 12 Ok Reg 3456, eff 7-1-95 (emergency); Revoked at 13 Ok Reg 2199, eff 6-14-96]

## **APPENDIX OO. ADOPTION SUBSIDY ANNUAL REEVALUATION [REVOKED]**

**[Source:** Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ;  
Revoked at 15 Ok Reg 1463, eff 3-30-98 (emergency); Revoked at 16 Ok Reg 910, eff 12-10-98  
(emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

**APPENDIX PP. MEDICAID ELIGIBILITY  
DETERMINATION ON ADOPTION SUBSIDY CASES  
[REVOKED]**

[Source: Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ;  
Revoked at 16 Ok Reg 910, eff 12-10-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

## **APPENDIX QQ. ADOPTION SUBSIDY CONTRACT AGREEMENT [REVOKED]**

[**Source:** Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ; Revoked and reenacted at 15 Ok Reg 1463, eff 3-30-98 (emergency); Revoked and reenacted at 15 Ok Reg 3886, eff 7-14-98 (emergency); Revoked at 16 Ok Reg 910, eff 12-10-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

## **APPENDIX RR. AFFIDAVIT OF INFORMATION DISCLOSURE FOR ADOPTION [REVOKED]**

**[Source:** Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ;  
Revoked at 12 Ok Reg 3456, eff 7-1-95 (emergency); Revoked at 13 Ok Reg 2199, eff 6-14-96]

## **APPENDIX SS. GUIDELINE FOR ADOPTIVE HOME ASSESSMENT [REVOKED]**

**[Source:** Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ; Revoked and reenacted at 14 Ok Reg 998, eff 1-24-97 (emergency); Revoked and reenacted at 14 Ok Reg 2288, eff 6-12-97 ; Revoked at 16 Ok Reg 910, eff 12-10-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

## **APPENDIX TT. GUIDELINES FOR FOSTER PARENT ADOPTIVE HOME ASSESMENT [REVOKED]**

**[Source:** Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ;  
Revoked at 16 Ok Reg 910, eff 12-10-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

**APPENDIX UU. PURPOSE OF GUIDELINES FOR  
INDEPENDENT, RELATIVE AND ICPC ADOPTIVE  
HOME ASSESMENT [REVOKED]**

[Source: Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ;  
Revoked at 16 Ok Reg 910, eff 12-10-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]



## **APPENDIX W. GUIDELINES FOR ADOPTIVE HOME ANNUAL EVALUATION [REVOKED]**

[**Source:** Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ;  
Revoked at 16 Ok Reg 910, eff 12-10-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

## **APPENDIX WW. OUT-OF-STATE PLACEMENT AFFIDAVIT OF A CUSTODY CHILD [REVOKED]**

**[Source:** Added at 11 Ok Reg 501, eff 11-15-93 (emergency); Added at 11 Ok Reg 2283, eff 5-26-94 ; Revoked and reenacted at 13 Ok Reg 3669, eff 4-29-96 (emergency); Revoked and reenacted at 14 Ok Reg 2288, eff 6-12-97 ; Revoked at 16 Ok Reg 910, eff 12-10-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

## **APPENDIX XX. AFFIDAVIT OF ADOPTION DISRUPTION [REVOKED]**

[Source: Added at 11 Ok Reg 651, eff 11-15-93 (emergency); Added at 11 Ok Reg 3281, eff 6-27-94 ;  
Revoked at 16 Ok Reg 910, eff 12-10-98 (emergency); Revoked at 16 Ok Reg 1052, eff 4-26-99]

## **CHAPTER 78. OFFICE OF JUVENILE JUSTICE (OJJ) [REVOKED]**

[**Authority:** 10 O.S., §§ 1507.10 through 1507.14;43 O.S., §§ 5-501 et seq]  
[**Source:** Codified 6-12-95]

### **SUBCHAPTER 1. CHILD IN NEED OF MENTAL HEALTH TREATMENT [REVOKED]**

#### **340:78-1-1. Definitions [REVOKED]**

[**Source:** Added at 11 Ok Reg 4087, eff 6-21-94 (emergency); Added at 12 Ok Reg 1751, eff 6-12-95 ;  
Revoked at 14 Ok Reg 1382, eff 5-12-97]

#### **340:78-1-2. Referral of non-adjudicated children in need of mental health treatment [REVOKED]**

[**Source:** Added at 11 Ok Reg 4087, eff 6-21-94 (emergency); Added at 12 Ok Reg 1751, eff 6-12-95 ;  
Revoked at 14 Ok Reg 1382, eff 5-12-97]

#### **340:78-1-3. Admission of a non-custody youth who is a ward of the court [REVOKED]**

[**Source:** Added at 11 Ok Reg 4087, eff 6-21-94 (emergency); Added at 12 Ok Reg 1751, eff 6-12-95 ;  
Revoked at 14 Ok Reg 1382, eff 5-12-97]

#### **340:78-1-4. Emergency admission - DHS custody [REVOKED]**

[**Source:** Added at 11 Ok Reg 4087, eff 6-21-94 (emergency); Added at 12 Ok Reg 1751, eff 6-12-95 ;  
Revoked at 14 Ok Reg 1382, eff 5-12-97]

#### **340:78-1-5. Commitment for inpatient treatment [REVOKED]**

[**Source:** Added at 11 Ok Reg 4087, eff 6-21-94 (emergency); Added at 12 Ok Reg 1751, eff 6-12-95 ;  
Revoked at 14 Ok Reg 1382, eff 5-12-97]

#### **340:78-1-6. Individualized treatment and discharge plan [REVOKED]**

[**Source:** Added at 11 Ok Reg 4087, eff 6-21-94 (emergency); Added at 12 Ok Reg 1751, eff 6-12-95 ;  
Revoked at 14 Ok Reg 1382, eff 5-12-97]

#### **340:78-1-7. Adjudicated children; parental support obligation; civilly committed wards from another state [REVOKED]**

[**Source:** Added at 11 Ok Reg 4087, eff 6-21-94 (emergency); Added at 12 Ok Reg 1751, eff 6-12-95 ;  
Revoked at 14 Ok Reg 1382, eff 5-12-97]

#### **340:78-1-8. Substance abuse treatment [REVOKED]**

[Source: Added at 11 Ok Reg 4087, eff 6-21-94 (emergency); Added at 12 Ok Reg 1751, eff 6-12-95 ; Revoked at 14 Ok Reg 1382, eff 5-12-97]

### **340:78-1-9. Title XIX Medicaid eligible children [REVOKED]**

[Source: Added at 11 Ok Reg 4087, eff 6-21-94 (emergency); Added at 12 Ok Reg 1751, eff 6-12-95 ; Revoked at 14 Ok Reg 1382, eff 5-12-97]

### **340:78-1-10. Admission requirements to a state operated facility [REVOKED]**

[Source: Added at 11 Ok Reg 4087, eff 6-21-94 (emergency); Added at 12 Ok Reg 1751, eff 6-12-95 ; Revoked at 14 Ok Reg 1382, eff 5-12-97]

### **340:78-1-11. Role of the JSU worker [REVOKED]**

[Source: Added at 11 Ok Reg 4087, eff 6-21-94 (emergency); Added at 12 Ok Reg 1751, eff 6-12-95 ; Revoked at 14 Ok Reg 1382, eff 5-12-97]

## **SUBCHAPTER 3. DELINQUENCY AND YOUTH GANG INTERVENTION AND DETERRENCE ACT [REVOKED]**

### **PART 1. GENERAL PROVISIONS [REVOKED]**

#### **340:78-3-1. Purpose [REVOKED]**

[Source: Added at 12 Ok Reg 547, eff 12-10-94 (emergency); Added at 12 Ok Reg 1751, eff 6-12-95 ; Revoked at 14 Ok Reg 1382, eff 5-12-97]

## **PART 3. INFORMATION AND TECHNICAL ASSISTANCE [REVOKED]**

#### **340:78-3-11. Services [REVOKED]**

[Source: Added at 12 Ok Reg 547, eff 12-10-94 (emergency); Added at 12 Ok Reg 1751, eff 6-12-95 ; Revoked at 14 Ok Reg 1382, eff 5-12-97]

#### **340:78-3-12. Eligibility for services [REVOKED]**

[Source: Added at 12 Ok Reg 547, eff 12-10-94 (emergency); Added at 12 Ok Reg 1751, eff 6-12-95 ; Revoked at 14 Ok Reg 1382, eff 5-12-97]

#### **340:78-3-13. Limitations on services [REVOKED]**

[Source: Added at 12 Ok Reg 547, eff 12-10-94 (emergency); Added at 12 Ok Reg 1751, eff 6-12-95 ; Revoked at 14 Ok Reg 1382, eff 5-12-97]

**340:78-3-14. Submission procedures-requests for services  
[REVOKED]**

[Source: Added at 12 Ok Reg 547, eff 12-10-94 (emergency); Added at 12 Ok Reg 1751, eff 6-12-95 ;  
Revoked at 14 Ok Reg 1382, eff 5-12-97]

**PART 5. CONTRACTS FOR PROGRAMS [REVOKED]**

**340:78-3-25. Eligibility for contracts [REVOKED]**

[Source: Added at 12 Ok Reg 547, eff 12-10-94 (emergency); Added at 12 Ok Reg 1751, eff 6-12-95 ;  
Revoked at 14 Ok Reg 1382, eff 5-12-97]

**340:78-3-26. Submission procedures for program proposals  
[REVOKED]**

[Source: Added at 12 Ok Reg 547, eff 12-10-94 (emergency); Added at 12 Ok Reg 1751, eff 6-12-95 ;  
Revoked at 14 Ok Reg 1382, eff 5-12-97]

**340:78-3-27. Selection of proposals [REVOKED]**

[Source: Added at 12 Ok Reg 547, eff 12-10-94 (emergency); Added at 12 Ok Reg 1751, eff 6-12-95 ;  
Revoked at 14 Ok Reg 1382, eff 5-12-97]

**SUBCHAPTER 5. OJJ FEDERAL FUNDED PROGRAM  
[REVOKED]**

**340:78-5-1. Title IV-A/EA Emergency Family Services [REVOKED]**

[Source: Added at 12 Ok Reg 667, eff 12-27-94 (emergency); Added at 12 Ok Reg 2463, eff 6-26-95 ;  
Revoked at 14 Ok Reg 1382, eff 5-12-97]

**340:78-5-2. Application for Emergency Family Services  
[REVOKED]**

[Source: Added at 12 Ok Reg 667, eff 12-27-94 (emergency); Added at 12 Ok Reg 2463, eff 6-26-95 ;  
Revoked at 14 Ok Reg 1382, eff 5-12-97]

**340:78-5-3. Eligibility requirements for Title IV-A/EA Emergency  
Family Services [REVOKED]**

[Source: Added at 12 Ok Reg 667, eff 12-27-94 (emergency); Added at 12 Ok Reg 2463, eff 6-26-95 ;  
Revoked at 14 Ok Reg 1382, eff 5-12-97]

**340:78-5-4. Service authorization [REVOKED]**

[Source: Added at 12 Ok Reg 667, eff 12-27-94 (emergency); Added at 12 Ok Reg 2463, eff 6-26-95 ;  
Revoked at 14 Ok Reg 1382, eff 5-12-97]

## **CHAPTER 80. JUVENILE SERVICES [REVOKED]**

[**Authority:** OKLA. CONST. art XXV; Federal Indian Child Welfare Act; Oklahoma Indian Child Welfare Act; 25 U.S.C. 1901 et seq.; 10 O.S., §§ 532 et seq., 602 et seq., 1102 et seq., 1103, 1104 et seq., 1107, 1108(A)(1), 1109, 1115, 1116, 1120, 1135, 1139, 1141, 1404, 1506, 1601 et seq., and 1608; 21 O.S., §§ 40 et seq. and 843 through 847; 23 O.S., § 10]  
[**Source:** Codified 12-31-91]

### **SUBCHAPTER 1. ADMINISTRATIVE BASIS AND ORGANIZATION OF RULES [REVOKED]**

#### **340:80-1-1. Purpose [REVOKED]**

[**Source:** Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

#### **340:80-1-2. Definitions [REVOKED]**

[**Source:** Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

#### **340:80-1-3. Abbreviations [REVOKED]**

[**Source:** Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

#### **340:80-1-4. Legal basis and authority [REVOKED]**

[**Source:** Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

#### **340:80-1-5. Administration [REVOKED]**

[**Source:** Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

#### **340:80-1-6. Organization of rules [REVOKED]**

[**Source:** Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

#### **340:80-1-7. Management information and research [REVOKED]**

[**Source:** Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

#### **340:80-1-8. Transportation rules [REVOKED]**

[**Source:** Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

### **SUBCHAPTER 2. GENERAL PROVISIONS [REVOKED]**

#### **340:80-2-1. Purpose [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

## **340:80-2-2. Legal base and authority [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

## **340:80-2-3. Philosophical statement [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

## **340:80-2-4. Organizational structure [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

## **340:80-2-5. Fiscal management [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

## **340:80-2-6. Staff background checks [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

## **340:80-2-7. Management information system [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

## **340:80-2-8. Planning [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

## **340:80-2-9. Reports [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

## **340:80-2-9.1. Appendices [RENUMBERED TO 340:80-2-14]**

[Source: Added at 9 Ok Reg 3435, eff 5-25-92 ; Renumbered to 340:80-2-14 at 10 Ok Reg 161, eff 9-23-92]

## **340:80-2-10. Research [REVOKED]**



[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-2-11. Evaluation [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-2-12. Training [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-2-13. Volunteer services [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-2-14. Appendices [REVOKED]**

[Source: Renumbered from 340:80-2-9.1 at 10 Ok Reg 161, eff 9-23-92 ; Amended at 11 Ok Reg 4367, eff 7-8-94 (emergency); Amended at 12 Ok Reg 2465, eff 6-26-95 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

## **SUBCHAPTER 3. INTAKE [REVOKED]**

### **340:80-3-1. Intake/preliminary inquiry [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

### **340:80-3-2. Legal basis [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

### **340:80-3-3. Detention screening [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

### **340:80-3-4. Information and referral [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

### **340:80-3-5. Receiving referrals [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

### **340:80-3-6. Voluntary request for services [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

### **340:80-3-7. Intake process [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

### **340:80-3-8. Filing [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

### **340:80-3-9. Victim Restitution/Offender Responsibility program [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

### **340:80-3-10. Disposition notification [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

## **SUBCHAPTER 4. INTAKE [REVOKED]**

### **340:80-4-1. Definitions [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Amended at 11 Ok Reg 4367, eff 7-8-94 (emergency); Amended at 12 Ok Reg 2465, eff 6-26-95 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-4-2. Duly authorized individual [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Amended at 11 Ok Reg 4367, eff 7-8-94 (emergency); Amended at 12 Ok Reg 2465, eff 6-26-95 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-4-3. Non-adjudicatory alternatives [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-4-4. Intake responsibilities [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-4-5. Intake procedures [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-4-6. Receipt of referral [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Amended at 11 Ok Reg 4367, eff 7-8-94 (emergency); Amended at 12 Ok Reg 2465, eff 6-26-95 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-4-7. Systems checks [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-4-8. Dismiss without conference [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-4-9. Setting the intake conference [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-4-10. Intake conference [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-4-11. Information provided [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-4-12. Information to be gathered [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-4-13. Jurisdictional considerations [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-4-14. Request for support payment [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-4-15. Consent for release of information [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-4-16. Recommendation to district attorney [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-4-17. No action/decline [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-4-18. Dismiss [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-4-19. Defer decision [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-4-20. Deferred prosecution agreements [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-4-21. Divert [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-4-22. File [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-4-23. Notification of intake disposition [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-4-24. Case information [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-4-25. Additional intake considerations-delinquent [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

**340:80-4-26. Recommendation to the district attorney  
(delinquent) [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ;  
Revoked at 14 Ok Reg 1392, eff 5-12-97]

**340:80-4-27. Victim Restitution/Offender responsibility program  
[REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ;  
Revoked at 14 Ok Reg 1392, eff 5-12-97]

**340:80-4-28. Application of Indian Child Welfare Act (ICWA) (In  
Need of Supervision) [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ;  
Revoked at 14 Ok Reg 1392, eff 5-12-97]

**340:80-4-29. Intake dispositions (In Need of Supervision)  
[REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ;  
Revoked at 14 Ok Reg 1392, eff 5-12-97]

**340:80-4-30. Receipt of referral (In Need of Treatment)  
[REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ;  
Revoked at 11 Ok Reg 4367, eff 7-8-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

**340:80-4-31. Pre-conference information gathering (In Need of  
Treatment) [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ;  
Revoked at 11 Ok Reg 4367, eff 7-8-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

**340:80-4-32. Recommendation to the district attorney (In Need of  
Treatment) [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ;  
Revoked at 11 Ok Reg 4367, eff 7-8-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

**SUBCHAPTER 5. PROBATION [REVOKED]**

**PART 1. FACTORS RELATED TO PROBATION  
[REVOKED]**

### **340:80-5-1. The Oklahoma Uniform Juvenile Information System [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

### **340:80-5-2. Confidentiality of records [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

### **340:80-5-3. Certification and reverse certification [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

## **PART 3. PROBATION SERVICES [REVOKED]**

### **340:80-5-20. Probation/court supervision personnel [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

### **340:80-5-21. Definition of probation/court supervision [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

### **340:80-5-22. Probation responsibility [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

### **340:80-5-23. Probation/court supervision service objectives [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

### **340:80-5-24. Case referrals from intake [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

### **340:80-5-25. Case referrals from court [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

### **340:80-5-26. Disposition [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

**340:80-5-27. Terms of probation (rules and conditions)  
[REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

**340:80-5-28. Probation and court supervision services [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

**340:80-5-29. Other service directives and liaison responsibilities  
[REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

**340:80-5-30. Judicial review and transfer of jurisdiction  
[REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

**PART 5. RULES RELATED TO RECORDS [REVOKED]**

**340:80-5-45. Case records [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

**340:80-5-46. Case recording requirements [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

**340:80-5-47. Confidentiality [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

**SUBCHAPTER 6. CASEWORK SERVICES [REVOKED]**

**340:80-6-1. Purpose [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ;  
Revoked at 14 Ok Reg 1392, eff 5-12-97]

**340:80-6-2. Definitions [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ;  
Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-6-3. Responsibilities [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-6-4. Counseling [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-6-5. Team staffing [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-6-6. Positive probation [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-6-7. Equality of services [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-6-8. Case assignment [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-6-9. Case service provision [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Amended at 11 Ok Reg 4367, eff 7-8-94 (emergency); Amended at 12 Ok Reg 2465, eff 6-26-95 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-6-10. Individual service plan [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Amended at 9 Ok Reg 3435, eff 5-25-92 ; Added at 9 Ok Reg 2091, eff 6-11-92 ; Amended at 10 Ok Reg 161, eff 9-23-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-6-11. Supervision [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-6-12. Levels of supervision [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]



### **340:80-6-13. Confidentiality of information regarding juveniles [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-6-14. Physical security of case records [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-6-15. Legal and social records [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-6-16. Delineation of documents [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-6-17. Storage and destruction of closed case records [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-6-18. Contact sheets [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-6-19. Case cards [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-6-20. Case records [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-6-21. Reports [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-6-22. Dispositional study [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Amended at 10 Ok Reg 161, eff 9-23-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-6-23. Reports to the court [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-6-24. Home evaluation [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-6-25. Closing summary [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-6-26. Transfer summary [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-6-27. Case transfers [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-6-28. Dismissal of wardship [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-6-29. Transfer of court jurisdiction [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-6-30. Retention of wardship [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-6-31. Community resource development [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-6-32. Court appearances [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-6-33. Placements [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Amended at 11 Ok Reg 4367, eff 7-8-94 (emergency); Amended at 12 Ok Reg 2465, eff 6-26-95 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-6-34. Thirty day visits [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-6-35. Delinquent referral [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-6-36. Searches of youth [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-6-37. Use of physical force [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-6-38. Use of mechanical restraints [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-6-39. Incident reports [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Amended at 11 Ok Reg 4367, eff 7-8-94 (emergency); Amended at 12 Ok Reg 2465, eff 6-26-95 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

#### **340:80-6-39.1. Staff reporting of abuse/neglect [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-6-40. Absconders [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-6-41. Transportation [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-6-42. Youth services/shelter [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-6-43. Referrals to Youth Service Emergency Shelters [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-6-44. Referral to Child Welfare for maternity services [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-6-45. Coordination of pregnant youth in institutions [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-6-46. Certification [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-6-47. Reverse certification [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

## **SUBCHAPTER 7. CUSTODY/PAROLE [REVOKED]**

### **PART 1. PAROLE/CUSTODY SCOPE AND ORGANIZATION OF SERVICES [REVOKED]**

#### **340:80-7-1. Parole/custody personnel [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

#### **340:80-7-2. Definition of parole/custody responsibilities [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

### **340:80-7-3. Parole/custody responsibilities [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

### **340:80-7-4. Parole/custody objectives [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

### **340:80-7-5. Initial procedures upon commitment [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

### **340:80-7-6. Placement responsibilities [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

### **340:80-7-7. Intensive Treatment Center (I.T.C.) [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

## **PART 3. PAROLE/CUSTODY SERVICES DELIVERY [REVOKED]**

### **340:80-7-25. Case assignment [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

### **340:80-7-26. Plan of supervision [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

### **340:80-7-27. Community resource development [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

### **340:80-7-28. Purchase of service [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

### **340:80-7-29. Judicial review [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

### **340:80-7-30. Court appearances [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

### **340:80-7-31. Counseling [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

### **340:80-7-32. Custody/parole supervision [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

### **340:80-7-33. Levels of supervision [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

### **340:80-7-34. Grievance/abuse procedure for custody juveniles [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

## **PART 5. INFORMATION AND SERVICES SPECIFIC TO DELINQUENT JUVENILES [REVOKED]**

### **340:80-7-50. Parole [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

### **340:80-7-51. Parole approval [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

### **340:80-7-52. Parole rules [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

### **340:80-7-53. Parole violations [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

### **340:80-7-54. District review hearing [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

### **340:80-7-55. Crisis intervention programs [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

### **340:80-7-56. Revocation process [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

#### **340:80-7-57. Revocation review hearing [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

#### **340:80-7-58. Types of movement [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

### **PART 7. INFORMATION AND SERVICES SPECIFIC TO INT JUVENILES [REVOKED]**

#### **340:80-7-75. Treatment [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

#### **340:80-7-76. Post commitment worker responsibility [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

#### **340:80-7-77. Central Oklahoma Juvenile Treatment Center (COJTC) [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

#### **340:80-7-78. Community conference [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

#### **340:80-7-79. Private psychiatric facilities [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

#### **340:80-7-80. Movement of INT juveniles [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

#### **340:80-7-81. Retention of custody of delinquents to age nineteen (19) [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

### **PART 9. COORDINATION OF SERVICES [REVOKED]**

### **340:80-7-100. Liaison responsibilities [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

### **340:80-7-101. CRCS counselor responsibilities [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

### **340:80-7-102. Youth services/shelter [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

### **340:80-7-103. Foster care [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

### **340:80-7-104. Screening of foster home inquires [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

### **340:80-7-105. Application to provide foster home care [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

### **340:80-7-106. Background review [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

### **340:80-7-107. Foster home study [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

### **340:80-7-108. Disposition of foster home application [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

### **340:80-7-109. Foster care contract [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

### **340:80-7-110. Identification of Indian foster homes [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

### **340:80-7-111. Parental agreement foster care [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]



**340:80-7-112. Procedures for placement [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

**340:80-7-113. Out of county foster home search and placement [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

**340:80-7-114. Case transfers [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

**340:80-7-115. Foster care beyond age 18 [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

**340:80-7-116. Responsibility of the foster parents [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

**340:80-7-117. Short term substitute care [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

**340:80-7-118. Worker responsibility [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

**340:80-7-119. Allegations of abuse and/or neglect [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

**340:80-7-120. Foster home re-evaluation [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

**340:80-7-121. Rates of payment for foster care [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

**340:80-7-122. Difficulty of care payment rates [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

**340:80-7-123. Difficulty of care rate descriptions [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

**340:80-7-124. Difficulty of care approval process [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

**340:80-7-125. Difficulty of care rate reviews [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

**340:80-7-126. Difficulty of care cancellations [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

**340:80-7-127. Payment for child out of foster home for an extended period [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

**340:80-7-128. Foster care overpayments and underpayments [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

**340:80-7-129. Late and/or lost foster home payments [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

**340:80-7-130. Change in foster parent's county of residence [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

**340:80-7-131. Foster home closure fair hearings [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

**340:80-7-132. Group home/specialized community homes [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

**340:80-7-133. Coordination with child welfare services (CWS) for maternity services [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

**340:80-7-134. Coordination with Payment and Services Division (PSD) [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

**340:80-7-135. Institutional services/continuum of care  
[REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

**340:80-7-136. Continuum of care model [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

**340:80-7-137. Discharge [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

**340:80-7-138. Court ordered discharge [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

**340:80-7-139. Discharge by administrative action or Department's  
motion [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

**340:80-7-140. Discharge of delinquent juveniles [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

**340:80-7-141. Exceptions to use of administrative discharge  
[REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

**340:80-7-142. Discharge of juvenile In Need of Supervision and In  
Need of Treatment [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

**340:80-7-143. Exceptions to discharge [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

**PART 11. CASE RECORD REQUIREMENTS [REVOKED]**

**340:80-7-160. Transfer of case records [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

### **340:80-7-161. Case recording requirements [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2091, eff 6-11-92]

## **SUBCHAPTER 8. PROBATION SERVICES [REVOKED]**

### **340:80-8-1. Scope [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-8-2. Crisis intervention programs [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

## **SUBCHAPTER 9. CUSTODY [REVOKED]**

### **PART 1. GENERAL PROVISIONS [REVOKED]**

#### **340:80-9-1. Definitions [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Amended at 11 Ok Reg 4367, eff 7-8-94 (emergency); Amended at 12 Ok Reg 2465, eff 6-26-95 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

#### **340:80-9-2. Custody responsibilities [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Amended at 11 Ok Reg 4367, eff 7-8-94 (emergency); Amended at 12 Ok Reg 2465, eff 6-26-95 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

#### **340:80-9-3. Initial procedures upon commitment [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

#### **340:80-9-4. Grievance [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

#### **340:80-9-5. Placement responsibilities [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-6. Emergency custody [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-7. Emergency medical facility access [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4367, eff 7-8-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-9-8. Diagnostic and Evaluation Center access [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-9. Community placements [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-10. Training school placements [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-11. Pending placement [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-12. Parole rules/rules of supervised community placement [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-13. Purchase of service [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

## **PART 3. FOSTER CARE [REVOKED]**

### **340:80-9-20. Applicability [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-21. Scope [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-22. Screening of foster home inquiries [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-23. Application to provide foster home care [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-24. Background review [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-25. Foster home study [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-26. Disposition of foster home application [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-27. Foster care contract [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-28. Identification of Indian foster homes [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-29. Parental agreement foster care [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-30. Procedures for placement [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-31. Out of county foster home search and placement [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-32. Case transfers [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-33. Foster care beyond age eighteen [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-34. Responsibility of the foster parents [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-35. Short term substitute care [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-36. Worker responsibility [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-37. Allegations of abuse and/or neglect [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-38. Foster home re-evaluation [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-39. Payment [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-40. Difficulty of care payment rate [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-41. Difficulty of care rate descriptions [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-42. Difficulty of care approval process [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-43. Difficulty of care rate reviews [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-44. Difficulty of care cancellations [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-45. Payment for youth out of foster home for an extended period [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-46. Foster care overpayments and underpayments [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-47. Late and/or lost foster home payments [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-48. Change in foster parent's county of residence [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-49. Foster home closure fair hearings [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

## **PART 5. TRACKING SERVICES [REVOKED]**



### **340:80-9-55. Introduction [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-56. Scope [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-57. Pre-placement access [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-58. Post-placement access [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-59. Levels of tracking [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-60. Duties/responsibilities [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

## **PART 7. CRISIS INTERVENTION [REVOKED]**

### **340:80-9-65. District review hearing [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-66. Crisis intervention programs [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Amended at 11 Ok Reg 4367, eff 7-8-94 (emergency); Amended at 12 Ok Reg 2465, eff 6-26-95 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-67. Intensive Crisis Intervention Program [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-68. Community-Based Crisis Intervention [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

## **PART 9. COMMUNITY SERVICES TO YOUTH ON SUPERVISED COMMUNITY PLACEMENT [REVOKED]**

### **340:80-9-75. Conditions of Supervised Community Placement [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-76. Non Compliance with Conditions (In Need of Supervision and Delinquent) [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-77. Non compliance with conditions of Supervised Community Placement (Delinquent only) [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-78. Administrative transfer hearing [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

## **PART 11. SERVICES TO INSTITUTIONALIZED YOUTH [REVOKED]**

### **340:80-9-85. Scope and applicability [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-86. Joint family conference [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-87. Leaves [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-88. Thirty-day leave [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-89. Early termination of thirty-day leave [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-90. Completion of thirty-day leave [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-91. New Short Term Accelerated Residential Tracking [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-92. Parole [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

## **PART 13. COMMUNITY SERVICES TO YOUTH ON PAROLE (DELINQUENT ONLY) [REVOKED]**

### **340:80-9-100. Conditions of parole [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-101. Parole violations [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-102. Revocation process [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-103. Revocation preparation [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-104. Pre-revocation conference [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-105. Detention [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-106. Revocation hearing [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

## **PART 15. SERVICES TO IN NEED OF TREATMENT [REVOKED]**

### **340:80-9-110. Scope and applicability [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4367, eff 7-8-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-9-111. Worker responsibilities - Central Oklahoma Juvenile Treatment Center [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4367, eff 7-8-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-9-112. Worker responsibilities - other inpatient facilities [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4367, eff 7-8-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-9-113. Worker responsibilities to youth on agtercare [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4367, eff 7-8-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-9-114. Information and Services Specific to In Need of Treatment/-Delinquent, In Need of Treatment/In Need of Supervision or In Need of Treatment/Deprived (dual adjudications) [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4367, eff 7-8-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-9-115. Custody discharge - In Need of Treatment/Delinquent, In Need of Treatment/In Need of Supervision, In Need of Treatment/Deprived [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4367, eff 7-8-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

## **PART 17. INDEPENDENT LIVING [REVOKED]**

### **340:80-9-120. Scope and applicability [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-121. Legal base [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-122. Independent living programs [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-123. Independent living placement [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-124. Treatment planning [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-125. Discharge [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

## **PART 19. DISCHARGE FROM CUSTODY [REVOKED]**

### **340:80-9-130. Delinquent [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-131. In Need of Supervision [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ;  
Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-132. In Need of Treatment [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ;  
Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-133. Other discharge factors [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ;  
Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-134. Court ordered discharge [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ;  
Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-135. Administrative discharge [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ;  
Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-136. Voluntary services beyond age eighteen [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ;  
Revoked at 14 Ok Reg 1392, eff 5-12-97]

## **PART 21. RETENTION OF CUSTODY OF DELINQUENTS TO AGE NINETEEN [REVOKED]**

### **340:80-9-140. Applicability [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ;  
Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-141. Treatment plan/plan of services review [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ;  
Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-142. Guides to be used in making the decision to seek retention of custody [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ;  
Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-9-143. Procedure for retention of custody [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

#### **340:80-9-144. Parole rules [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

#### **340:80-9-145. In what court to seek retention of custody [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

#### **340:80-9-146. Crimes committed after age eighteen [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

#### **340:80-9-147. Parole revocation [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

#### **340:80-9-148. Focus of services [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

#### **340:80-9-149. Discharge [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **SUBCHAPTER 11. JUVENILE SERVICES UNIT COMMUNITY-BASED RESIDENTIAL SERVICES [REVOKED]**

#### **PART 1. JUVENILE SERVICES UNIT OPERATED GROUP HOMES [REVOKED]**

##### **340:80-11-1. Definitions [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

##### **340:80-11-2. Legal base [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-11-3. Administration [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-11-4. Management of information and research [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-11-5. Personnel [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-11-6. Medical [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-11-7. Scheduling [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-11-8. Orientation [REVOKED]**

[Source: Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-11-9. YGS training [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-11-10. Physical plant [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-11-11. Food service, sanitation and hygiene [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-11-12. Medical and health care [REVOKED]**



[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-11-13. Release of medical information [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-11-14. Medical, dental and eye examinations [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-11-15. Emergency medical [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-11-16. Administration of medication [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-11-17. Safety and emergency procedures [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

## **PART 3. SUPERVISION [REVOKED]**

### **340:80-11-25. Scope and applicability [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-11-26. Suspension of privileges [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-11-27. Room restriction [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-11-28. Confinement [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-11-29. Physical force [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-11-30. Searches [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-11-31. Absent Without Official Leave (AWOL) [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-11-32. Key inventory [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

## **PART 5. ADMISSION [REVOKED]**

### **340:80-11-40. Placement [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-11-41. Intake conference [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-11-42. Visit status [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-11-43. Non-acceptance of referral [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-11-44. Orientation [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

## **PART 7. BASIC RIGHTS [REVOKED]**

### **340:80-11-50. Legal rights [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-11-51. Treatment planning [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-11-52. Community conference [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-11-53. Use of community resources [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-11-54. Education and vocational training [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-11-55. Employment [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-11-56. Religious services [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-11-57. Access to courts [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-11-58. Recreation [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-11-59. Consent to enlist in armed forces [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

## **PART 9. PROGRAM SERVICES [REVOKED]**

### **340:80-11-65. Counseling [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-11-66. Visitation [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-11-67. Leaves [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-11-68. Leaves for pre-placement planning [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-11-69. Other leaves [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-11-70. Mail [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-11-71. Telephone [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-11-72. Resident funds [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-11-73. Resident allowances [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-11-74. Restitution [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-11-75. Physical activity and resident in-home responsibilities [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-11-76. Volunteers [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

## **PART 11. DISCHARGE RECORDS AND REPORTING [REVOKED]**

### **340:80-11-80. Discharge [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-11-81. Juveniles reaching the age of majority [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-11-82. Records and reporting [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-11-83. Resident grievance procedure [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-11-84. Mistreatment investigations [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

## **SUBCHAPTER 13. SPECIALIZED COMMUNITY HOMES [REVOKED]**

### **PART 1. DEFINITIONS AND LEGAL BASE [REVOKED]**

### **340:80-13-1. Definitions [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-13-2. Legal base [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

## **PART 3. IMPLEMENTING A SPECIALIZED COMMUNITY HOME [REVOKED]**

### **340:80-13-10. Implementation of a Specialized Community Home [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Amended at 10 Ok Reg 1451, eff 4-26-93 ; Revoked at 11 Ok Reg 4367, eff 7-8-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-13-11. New programs [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Amended at 10 Ok Reg 1451, eff 4-26-93 ; Revoked at 11 Ok Reg 4367, eff 7-8-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-13-12. Minimum education and experience requirements [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-13-13. Individuals with whom JSU does not contract [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Amended at 10 Ok Reg 1451, eff 4-26-93 ; Revoked at 11 Ok Reg 4367, eff 7-8-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-13-14. Information addressed in program proposals [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-13-15. Solicitation of applicants [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

## **PART 5. SPECIALIZED COMMUNITY HOME/FOSTER HOME STUDY [REVOKED]**

### **340:80-13-20. Community Home Studies [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-13-21. Responsibility for performing the Specialized Community Home/Foster Home study [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4095, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-13-22. Application to provide Specialized Community Home/Foster Home care [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Amended at 10 Ok Reg 1451, eff 4-26-93 ; Revoked at 11 Ok Reg 4367, eff 7-8-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

## **PART 7. CONTRACTING [REVOKED]**

### **340:80-13-30. Initial contracting process [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Amended at 10 Ok Reg 1451, eff 4-26-93 ; Revoked at 11 Ok Reg 4367, eff 7-8-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-13-31. Contract reimbursement [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Amended at 10 Ok Reg 1451, eff 4-26-93 ; Revoked at 11 Ok Reg 4367, eff 7-8-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-13-32. Contract monitoring [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Amended at 10 Ok Reg 1451, eff 4-26-93 ; Revoked at 11 Ok Reg 4367, eff 7-8-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-13-33. Program assessment [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Amended at 10 Ok Reg 1451, eff 4-26-93 ; Revoked at 11 Ok Reg 4367, eff 7-8-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-13-34. Cancellation [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Amended at 10 Ok Reg 1451, eff 4-26-93 ; Revoked at 11 Ok Reg 4367, eff 7-8-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-13-35. Placement into a Specialized Community Home [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Amended at 10 Ok Reg 1451, eff 4-26-93 ; Revoked at 11 Ok Reg 4367, eff 7-8-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

## **PART 9. ROLE EXPECTATION OF THE SPECIALIZED COMMUNITY HOME CONTRACTOR [REVOKED]**

### **340:80-13-40. Philosophy of Specialized Community Home Care [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Amended at 10 Ok Reg 1451, eff 4-26-93 ; Revoked at 11 Ok Reg 4367, eff 7-8-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-13-41. Mandatory training for a Specialized Community Home contractor [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Amended at 10 Ok Reg 1451, eff 4-26-93 ; Revoked at 11 Ok Reg 4367, eff 7-8-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-13-42. Responsibilities of the Specialized Community Home contractor [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Amended at 10 Ok Reg 1451, eff 4-26-93 ; Revoked at 11 Ok Reg 4367, eff 7-8-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

### **340:80-13-43. Additional requirements for the Specialized Community Home contractor [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Amended at 10 Ok Reg 1451, eff 4-26-93 ; Revoked at 11 Ok Reg 4367, eff 7-8-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

## **PART 11. BEHAVIOR MANAGEMENT OF JUVENILES [REVOKED]**

### **340:80-13-50. Philosophy of behavior management [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4367, eff 7-8-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]



**340:80-13-51. Appropriate methods of behavior management  
[REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4367, eff 7-8-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

**340:80-13-52. Prohibited methods of behavior management -  
physical, verbal or group punishment, food, chemical agents,  
psychotropic drugs, etc [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4367, eff 7-8-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

**340:80-13-53. Protected communication [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4367, eff 7-8-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

**340:80-13-54. Mail [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4367, eff 7-8-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

**340:80-13-55. Visitation [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4367, eff 7-8-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

**340:80-13-56. Telephone [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4367, eff 7-8-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

**PART 13. ROLE OF THE COUNTY WORKER AND  
SPECIALIZED COMMUNITY HOME LIAISON  
[REVOKED]**

**340:80-13-60. County worker responsibility [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Amended at 10 Ok Reg 1451, eff 4-26-93 ; Revoked at 11 Ok Reg 4367, eff 7-8-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

**340:80-13-61. Role of the Specialized Community Home Liaison  
[REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 11 Ok Reg 4367, eff 7-8-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

## **SUBCHAPTER 15. CONTRACT BASED RESIDENTIAL CARE [REVOKED]**

### **340:80-15-1. Purpose [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-15-2. Legal base [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-15-3. Levels of care system [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-15-4. The Levels of Care process [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-15-5. Determining reimbursement rate [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-15-6. Levels of care in contracting with existing programs [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-15-7. Levels of Care in response to solicitation [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-15-8. Annual Levels of Care in contract programs [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-15-9. Levels of Care appeal process [REVOKED]**

[Source: Added at 9 Ok Reg 2091, eff 6-11-92 ; Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-15-10. New programs [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-15-11. Basic contracting/recontracting process [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-15-12. Contract modifications [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-15-13. Contract reimbursement [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-15-14. Contract monitoring [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-15-15. Contract cancellation [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-15-16. Placement into Community-Based Residential Contract care [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-15-17. Placement process for non-guaranteed contracts [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-15-18. Placement process for guaranteed contracts [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-15-19. Establishing a liaison [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-15-20. Basic liaison responsibilities [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-15-21. County worker responsibility [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-15-22. Grievance procedure [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-15-23. Remaining in residential care after age eighteen [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-15-24. Investigations of alleged abuse or neglect [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

## **SUBCHAPTER 17. JUVENILE DETENTION PROGRAM SYSTEM SUPPORT [REVOKED]**

### **340:80-17-1. Detention [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-17-2. Legal base [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-17-3. State Plan for the establishment of juvenile detention services (Plan) [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

#### **340:80-17-4. Plan contents [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

#### **340:80-17-5. Ongoing needs assessment of detention services [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

#### **340:80-17-6. Detention screening [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

#### **340:80-17-7. County detention screening agreements/plans [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

#### **340:80-17-8. Multi-purpose detention logs (Multi-Purpose Log) [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

#### **340:80-17-9. Detention options/elections [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

#### **340:80-17-10. Promise to appear [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

#### **340:80-17-11. Non-secure detention services [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

#### **340:80-17-12. Secure detention services [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

#### **340:80-17-13. Responsibilities to youth receiving detention services [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ;  
Revoked at 14 Ok Reg 1392, eff 5-12-97]

#### **340:80-17-14. Detention coordinator/liaison [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ;  
Revoked at 14 Ok Reg 1392, eff 5-12-97]

#### **340:80-17-15. Role of the coordinator [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ;  
Revoked at 14 Ok Reg 1392, eff 5-12-97]

#### **340:80-17-16. Assigned worker responsibilities to youth receiving secure detention services [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ;  
Revoked at 14 Ok Reg 1392, eff 5-12-97]

#### **340:80-17-17. Visitation to offender being legally held in adult jails [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ;  
Revoked at 14 Ok Reg 1392, eff 5-12-97]

#### **340:80-17-18. Detention programs monitoring [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ;  
Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **SUBCHAPTER 19. PROGRAM DEFINITIONS, GUIDES, AND STANDARDS [REVOKED]**

#### **PART 1. COMMUNITY-BASED RESIDENTIAL CARE CONTRACT PROGRAM DEFINITIONS [REVOKED]**

##### **340:80-19-1. Program levels [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ;  
Revoked at 14 Ok Reg 1392, eff 5-12-97]

##### **340:80-19-2. Explanation of basic concepts [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ;  
Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **PART 3. JSU DISPOSITIONAL STUDY GUIDE [REVOKED]**

### **340:80-19-10. Study guide [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Amended at 10 Ok Reg 161, eff 9-23-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

## **PART 5. JSU REPORT GUIDE [REVOKED]**

### **340:80-19-15. Report guide [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

## **PART 7. JSU HOME EVALUATION GUIDE [REVOKED]**

### **340:80-19-20. Evaluation factors [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

## **PART 9. JSU CERTIFICATION STUDY GUIDE [REVOKED]**

### **340:80-19-25. Certification study factors [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

## **PART 11. JSU REVERSE CERTIFICATION STUDY GUIDE [REVOKED]**

### **340:80-19-30. Reverse certification study factors [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

## **PART 13. JSU DELINQUENT CLASSIFICATION GUIDE [REVOKED]**

### **340:80-19-35. Factors [REVOKED]**

[Source: Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-19-36. Delinquent classification [REVOKED]**

[**Source:** Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ;  
Revoked at 14 Ok Reg 1392, eff 5-12-97]

### **340:80-19-37. Delinquent subtypes [REVOKED]**

[**Source:** Added at 8 Ok Reg 3569, eff 9-20-91 (emergency); Added at 9 Ok Reg 2091, eff 6-11-92 ;  
Revoked at 14 Ok Reg 1392, eff 5-12-97]



## **APPENDIX A. ELIGIBILITY DETERMINATION FOR PROTECTIVE SERVICES [REVOKED]**

[Source: Revoked at 9 Ok Reg 3435, eff 5-25-92]

## **APPENDIX B. WAIVER OF PAROLE REVOCATION OR ADMINISTRATIVE TRANSFER HEARING [REVOKED]**

[**Source:** Revoked and reenacted at 9 Ok Reg 3435, eff 5-25-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

## **APPENDIX C. VOLUNTARY REQUEST TO RETURN [REVOKED]**

[**Source:** Revoked and reenacted at 9 Ok Reg 3435, eff 5-25-92 ; Revoked at 11 Ok Reg 4367, eff 7-8-94 (emergency); Revoked at 12 Ok Reg 2465, eff 6-26-95]

**APPENDIX D. RELEASE OF MEDICAL, PSYCHIATRIC,  
PSYCHOLOGICAL OR OTHER INFORMATION  
[REVOKED]**

[Source: Revoked and reenacted at 9 Ok Reg 3435, eff 5-25-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

**APPENDIX E. NOTICE OF AND ACKNOWLEDGEMENT  
OF CONSTITUTIONAL AND LEGAL RIGHTS  
[REVOKED]**

[Source: Revoked and reenacted at 9 Ok Reg 3435, eff 5-25-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

## **APPENDIX F. JUVENILE PROBATION CONDITIONS AND STATEMENT OF UNDERSTANDING [REVOKED]**

[Source: Revoked and reenacted at 9 Ok Reg 3435, eff 5-25-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

## **APPENDIX G. STATEMENT OF PAROLE CONDITIONS [REVOKED]**

[**Source:** Revoked and reenacted at 9 Ok Reg 3435, eff 5-25-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

## **APPENDIX H. ADDITIONAL PAROLE CONDITIONS [REVOKED]**

[**Source:** Revoked and reenacted at 9 Ok Reg 3435, eff 5-25-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]



**APPENDIX I. STATEMENT OF CONDITIONS OF  
SUPERVISED COMMUNITY PLACEMENT (INS ONLY)  
[REVOKED]**

[Source: Revoked and reenacted at 9 Ok Reg 3435, eff 5-25-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

**APPENDIX J. ADDITIONAL CONDITIONS OF  
SUPERVISED COMMUNITY PLACEMENT (INS ONLY)  
[REVOKED]**

[Source: Revoked and reenacted at 9 Ok Reg 3435, eff 5-25-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

## **APPENDIX K. FINANCIAL REPORT [REVOKED]**

[Source: Added at 9 Ok Reg 3435, eff 5-25-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

## **APPENDIX L. PLAN OF SERVICES [REVOKED]**

[Source: Added at 9 Ok Reg 3435, eff 5-25-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

## **APPENDIX M. DISTRICT REVIEW HEARING FINDINGS [REVOKED]**

[**Source:** Added at 9 Ok Reg 3435, eff 5-25-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

## **APPENDIX N. REQUEST FOR VOLUNTARY SERVICES [REVOKED]**

[**Source:** Added at 9 Ok Reg 3435, eff 5-25-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

**APPENDIX O. STATEMENT OF CONDITIONS OF  
SUPERVISED COMMUNITY PLACEMENT FOR  
DELINQUENT YOUTH [REVOKED]**

[Source: Added at 9 Ok Reg 3435, eff 5-25-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]

**APPENDIX P. ADDITIONAL CONDITIONS OF  
SUPERVISED COMMUNITY PLACEMENT FOR  
DELINQUENT YOUTH [REVOKED]**

[Source: Added at 9 Ok Reg 3435, eff 5-25-92 ; Revoked at 14 Ok Reg 1392, eff 5-12-97]



## **APPENDIX Q. INDIVIDUALIZED SERVICE PLAN NEEDS BASED ASSESSMENT [REVOKED]**

[**Source:** Added at 9 Ok Reg 3435, eff 5-25-92 ; Revoked and reenacted at 10 Ok Reg 161, eff 9-23-92 ;  
Revoked at 14 Ok Reg 1392, eff 5-12-97]

## **CHAPTER 85. COMMUNITY BASED YOUTH SERVICES [REVOKED]**

[**Authority:** OKLA. CONST. art XXV; 10 O.S., §§ 602 et seq.; 74 O.S., §§ 85.2, 85.4, and 85.7; Single Audit Act of 1984]

[**Source:** Codified 12-31-91]

### **340:85-1-1. Purpose [REVOKED]**

[**Source:** Revoked at 14 Ok Reg 1393, eff 5-12-97]

### **340:85-1-2. Mission and functions [REVOKED]**

[**Source:** Revoked at 14 Ok Reg 1393, eff 5-12-97]

### **340:85-1-3. Application for designation as a youth services agency [REVOKED]**

[**Source:** Revoked at 14 Ok Reg 1393, eff 5-12-97]

### **340:85-1-4. Certification [REVOKED]**

[**Source:** Revoked at 14 Ok Reg 1393, eff 5-12-97]

### **340:85-1-5. Contracts [REVOKED]**

[**Source:** Revoked at 14 Ok Reg 1393, eff 5-12-97]

### **340:85-1-6. Management information system [REVOKED]**

[**Source:** Revoked at 14 Ok Reg 1393, eff 5-12-97]

### **340:85-1-7. Audits [REVOKED]**

[**Source:** Revoked at 14 Ok Reg 1393, eff 5-12-97]

### **340:85-1-8. Staff roles [REVOKED]**

[**Source:** Revoked at 14 Ok Reg 1393, eff 5-12-97]

### **340:85-1-9. Program dispute resolution [REVOKED]**

[**Source:** Revoked at 14 Ok Reg 1393, eff 5-12-97]

## **CHAPTER 90. RESIDENTIAL SERVICES UNIT [REVOKED]**

[**Authority:** OKLA. CONST. art XXV; Terry D. vs. Radar Consent Decree, No. CIV-78-004-T; P.L. 94-142; 10 O. O.S., §§ 55, 451, 601, 602, 1101, 1116, 1129, 1135, 1137, 1141, 1401, 1403, and 1404; 21 O.S., §§ 646, 845, and 846; 43 O.S.; 62 O.S.; 84 O.S.]  
[**Source:** Codified 12-31-91]

### **SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]**

#### **340:90-1-1. Purpose [REVOKED]**

[**Source:** Amended at 11 Ok Reg 4103, eff 6-21-94 (emergency); Amended at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

#### **340:90-1-2. Abbreviations [REVOKED]**

[**Source:** Amended at 11 Ok Reg 655, eff 11-22-93 (emergency); Amended at 11 Ok Reg 2287, eff 5-26-94 ; Amended at 11 Ok Reg 4103, eff 6-21-94 (emergency); Amended at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

#### **340:90-1-3. Administration [REVOKED]**

[**Source:** Amended at 11 Ok Reg 655, eff 11-22-93 (emergency); Amended at 11 Ok Reg 2287, eff 5-26-94 ; Amended at 11 Ok Reg 4103, eff 6-21-94 (emergency); Amended at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

#### **340:90-1-4. Legal basis and authority [REVOKED]**

[**Source:** Amended at 11 Ok Reg 4103, eff 6-21-94 (emergency); Amended at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

#### **340:90-1-5. Definition of facility [REVOKED]**

[**Source:** Revoked at 14 Ok Reg 1398, eff 5-12-97]

#### **340:90-1-6. Definition of institution [REVOKED]**

[**Source:** Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

#### **340:90-1-7. Mission [REVOKED]**

[**Source:** Amended at 11 Ok Reg 655, eff 11-22-93 (emergency); Amended at 11 Ok Reg 2287, eff 5-26-94 ; Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

#### **340:90-1-8. Limitations on size of institutions and dormitories [REVOKED]**

[**Source:** Amended at 11 Ok Reg 655, eff 11-22-93 (emergency); Amended at 11 Ok Reg 2287, eff 5-26-94 ; Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-1-9. Coeducational institutions [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-1-10. Duties [REVOKED]**

[Source: Amended at 11 Ok Reg 655, eff 11-22-93 (emergency); Amended at 11 Ok Reg 2287, eff 5-26-94 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-1-11. Public relationships [REVOKED]**

[Source: Amended at 11 Ok Reg 655, eff 11-22-93 (emergency); Amended at 11 Ok Reg 2287, eff 5-26-94 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

## **SUBCHAPTER 2. RESIDENTIAL SERVICES UNIT OPERATED GROUP HOMES [REVOKED]**

### **PART 1. GENERAL PROVISIONS [REVOKED]**

#### **340:90-2-1. Definitions [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

#### **340:90-2-2. Administration [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

#### **340:90-2-3. Management of information and research [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

#### **340:90-2-4. Personnel [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

#### **340:90-2-5. Medical [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

#### **340:90-2-6. Scheduling [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-2-7. Orientation [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-2-8. YGS training [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-2-9. Physical plant [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-2-10. Food service, sanitation and hygiene [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-2-11. Medical and health care [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-2-12. Release of medical information [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-2-13. Medical, dental and eye examinations [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-2-14. Emergency medical [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-2-15. Administration of medication [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-2-16. Safety and emergency procedures [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

## **PART 3. SUPERVISION [REVOKED]**

### **340:90-2-30. Scope and applicability [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-2-31. Suspension of privileges [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-2-32. Room restriction [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-2-33. Confinement [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-2-34. Physical force [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-2-35. Searches [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-2-36. Absent Without Official Leave (AWOL) [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-2-37. Key inventory [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

## **PART 5. ADMISSION [REVOKED]**

### **340:90-2-50. Placement [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-2-51. Intake conference [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-2-52. Visit status [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-2-53. Non-acceptance of referral [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-2-54. Orientation [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

## **PART 7. BASIC RIGHTS [REVOKED]**

### **340:90-2-70. Legal rights [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-2-71. Treatment planning [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-2-72. Community conference [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-2-73. Use of community resources [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-2-74. Education and vocational training [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-2-75. Employment [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-2-76. Religious services [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-2-77. Access to courts [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-2-78. Recreation [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-2-79. Consent to enlist in armed forces [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

## **PART 9. PROGRAM SERVICES [REVOKED]**

### **340:90-2-90. Counseling [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-2-91. Visitation [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-2-92. Leaves [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-2-93. Leaves for pre-placement planning [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-2-94. Other leaves [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]



### **340:90-2-95. Mail [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-2-96. Telephone [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-2-97. Resident funds [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-2-98. Resident allowances [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-2-99. Restitution [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-2-100. Physical activity and resident in-home responsibilities [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-2-101. Volunteers [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

## **PART 11. DISCHARGE RECORDS AND REPORTING [REVOKED]**

### **340:90-2-115. Discharge [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-2-116. Juveniles reaching the age of majority [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-2-117. Records and reporting [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-2-118. Resident grievance procedure [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-2-119. Mistreatment investigations [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

## **SUBCHAPTER 3. PERSONNEL [REVOKED]**

### **340:90-3-1. Non-discriminatory practices [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-3-2. Annual review of affirmative action program [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-3-3. Staffing [REVOKED]**

[Source: Amended at 8 Ok Reg 3229, eff 7-8-91 (emergency); Amended at 9 Ok Reg 2821, eff 7-13-92 ; Amended at 11 Ok Reg 655, eff 11-22-93 (emergency); Amended at 11 Ok Reg 2287, eff 5-26-94 ; Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-3-4. Physicals [REVOKED]**

[Source: Amended at 11 Ok Reg 655, eff 11-22-93 (emergency); Amended at 11 Ok Reg 2287, eff 5-26-94 ; Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-3-5. Public service projects [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-3-6. Professional conduct and supervision [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

#### **340:90-3-6.1. Staff training and development [REVOKED]**

[Source: Added at 11 Ok Reg 655, eff 11-22-93 (emergency); Added at 11 Ok Reg 2287, eff 5-26-94 ; Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-3-7. Sexual abuse/rape [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

## **SUBCHAPTER 4. SPECIALIZED COMMUNITY HOMES [REVOKED]**

### **PART 1. DEFINITIONS [REVOKED]**

#### **340:90-4-1. Definitions [REVOKED]**

[Source: Added at 11 Ok Reg 4383, eff 7-8-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

## **PART 3. IMPLEMENTING A SPECIALIZED COMMUNITY HOME [REVOKED]**

#### **340:90-4-10. Implementation of a specialized community home [REVOKED]**

[Source: Added at 11 Ok Reg 4383, eff 7-8-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

#### **340:90-4-11. New programs [REVOKED]**

[Source: Added at 11 Ok Reg 4383, eff 7-8-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

#### **340:90-4-12. Minimum education and experience requirements [REVOKED]**

[Source: Added at 11 Ok Reg 4383, eff 7-8-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

#### **340:90-4-13. Individuals with whom OJJ does not contract [REVOKED]**

[Source: Added at 11 Ok Reg 4383, eff 7-8-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

#### **340:90-4-14. Information addressed in program proposals [REVOKED]**

[Source: Added at 11 Ok Reg 4383, eff 7-8-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-4-15. Solicitation of applicants [REVOKED]**

[Source: Added at 11 Ok Reg 4383, eff 7-8-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

## **PART 5. SPECIALIZED COMMUNITY HOME/FOSTER HOME STUDY [REVOKED]**

### **340:90-4-20. Community home studies [REVOKED]**

[Source: Added at 11 Ok Reg 4383, eff 7-8-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-4-21. Responsibility for performing the specialized community home/foster home study [REVOKED]**

[Source: Added at 11 Ok Reg 4383, eff 7-8-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-4-22. Application to provide specialized community home/foster home care [REVOKED]**

[Source: Added at 11 Ok Reg 4383, eff 7-8-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

## **PART 7. CONTRACTING [REVOKED]**

### **340:90-4-30. Initial contracting process [REVOKED]**

[Source: Added at 11 Ok Reg 4383, eff 7-8-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-4-31. Contract reimbursement [REVOKED]**

[Source: Added at 11 Ok Reg 4383, eff 7-8-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-4-32. Contract monitoring [REVOKED]**

[Source: Added at 11 Ok Reg 4383, eff 7-8-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-4-33. Program assessment [REVOKED]**

[Source: Added at 11 Ok Reg 4383, eff 7-8-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-4-34. Cancellation [REVOKED]**

[Source: Added at 11 Ok Reg 4383, eff 7-8-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-4-35. Placement into a specialized community home [REVOKED]**

[Source: Added at 11 Ok Reg 4383, eff 7-8-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

## **PART 9. ROLE EXPECTATION OF THE SPECIALIZED COMMUNITY HOME CONTRACTOR [REVOKED]**

### **340:90-4-40. Philosophy of specialized community home care [REVOKED]**

[Source: Added at 11 Ok Reg 4383, eff 7-8-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-4-41. Mandatory training for a specialized community home contractor [REVOKED]**

[Source: Added at 11 Ok Reg 4383, eff 7-8-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-4-42. Responsibilities of the specialized community home contractor [REVOKED]**

[Source: Added at 11 Ok Reg 4383, eff 7-8-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-4-43. Additional requirements for the specialized community home contractor [REVOKED]**

[Source: Added at 11 Ok Reg 4383, eff 7-8-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

## **PART 11. BEHAVIOR MANAGEMENT OF JUVENILES [REVOKED]**

### **340:90-4-50. Philosophy of behavior management [REVOKED]**

[Source: Added at 11 Ok Reg 4383, eff 7-8-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

**340:90-4-51. Appropriate methods of behavior management  
[REVOKED]**

[Source: Added at 11 Ok Reg 4383, eff 7-8-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

**340:90-4-52. Prohibited methods of behavior management-  
physical, verbal or group punishment, food, chemical agents,  
psychotropic drugs, etc [REVOKED]**

[Source: Added at 11 Ok Reg 4383, eff 7-8-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

**340:90-4-53. Protected communication [REVOKED]**

[Source: Added at 11 Ok Reg 4383, eff 7-8-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

**340:90-4-54. Mail [REVOKED]**

[Source: Added at 11 Ok Reg 4383, eff 7-8-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

**340:90-4-55. Visitation [REVOKED]**

[Source: Added at 11 Ok Reg 4383, eff 7-8-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

**340:90-4-56. Telephone [REVOKED]**

[Source: Added at 11 Ok Reg 4383, eff 7-8-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

**PART 13. ROLE OF THE COUNTY WORKER AND  
SPECIALIZED COMMUNITY HOME LIAISON  
[REVOKED]**

**340:90-4-61. County worker responsibility [REVOKED]**

[Source: Added at 11 Ok Reg 4383, eff 7-8-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

**340:90-4-62. Role of the specialized community home liaison  
[REVOKED]**

[Source: Added at 11 Ok Reg 4383, eff 7-8-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

## **SUBCHAPTER 5. MANAGEMENT [REVOKED]**

### **PART 1. GENERAL PROVISIONS [REVOKED]**

#### **340:90-5-1. Fiscal management [REVOKED]**

[Source: Amended at 11 Ok Reg 655, eff 11-22-93 (emergency); Amended at 11 Ok Reg 2287, eff 5-26-94 ; Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

#### **340:90-5-2. Research [REVOKED]**

[Source: Amended at 8 Ok Reg 3229, eff 7-8-91 (emergency); Amended at 9 Ok Reg 2821, eff 7-13-92 ; Amended at 11 Ok Reg 655, eff 11-22-93 (emergency); Amended at 11 Ok Reg 1437, eff 5-26-94 ; Amended at 11 Ok Reg 2287, eff 5-26-94]

#### **340:90-5-3. Collaboration with universities/colleges [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

#### **340:90-5-4. Resident records [REVOKED]**

[Source: Amended at 11 Ok Reg 655, eff 11-22-93 (emergency); Amended at 11 Ok Reg 2287, eff 5-26-94 ; Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

#### **340:90-5-5. Release of information [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

#### **340:90-5-6. Physical plant [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

#### **340:90-5-7. Safety and emergency procedures [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **PART 3. SECURITY AND CONTROL [REVOKED]**

#### **340:90-5-20. Emergency referral to outside law enforcement/contingency planning [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

#### **340:90-5-21. Transportation of residents [REVOKED]**

[Source: Amended at 11 Ok Reg 655, eff 11-22-93 (emergency); Amended at 11 Ok Reg 2287, eff 5-26-94 ; Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-5-22. Injuries, fires, assaults [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-5-23. Control of residents [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-5-24. Appropriate and inappropriate methods of control [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-5-25. Guidelines for use of physical force [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-5-26. Use of restraints [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-5-27. Contraband [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-5-28. Search procedures [REVOKED]**

[Source: Amended at 11 Ok Reg 655, eff 11-22-93 (emergency); Amended at 11 Ok Reg 2287, eff 5-26-94 ; Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-5-29. Closure of cottage/campus [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-5-30. Absent Without Leave (AWOL) policies and procedures [REVOKED]**

[Source: Amended at 11 Ok Reg 655, eff 11-22-93 (emergency); Amended at 11 Ok Reg 2287, eff 5-26-94 ; Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

## **SUBCHAPTER 7. INSTITUTIONAL SERVICES [REVOKED]**

### **PART 1. FOOD SERVICES, SANITATION, SAFETY AND HYGIENE [REVOKED]**



### **340:90-7-1. Food Service [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-7-2. Resident/staff meals [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-7-3. Sanitation [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-7-4. Cleanliness, linen supply and exchange [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-7-5. Fire and safety [REVOKED]**

[Source: Amended at 11 Ok Reg 655, eff 11-22-93 (emergency); Amended at 11 Ok Reg 2287, eff 5-26-94 ; Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-7-6. Clothing [REVOKED]**

[Source: Amended at 8 Ok Reg 3229, eff 7-8-91 (emergency); Amended at 9 Ok Reg 2821, eff 7-13-92 ; Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-7-7. Toiletries [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-7-8. Grooming standards [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

## **PART 3. MEDICAL AND HEALTH CARE [REVOKED]**

### **340:90-7-25. Medical services [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-7-26. Surgery [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-7-27. Records [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-7-28. Tattoo removal [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-7-29. Sanctions/discipline [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-7-30. Refusal of non-necessary medical care [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-7-31. Response to refusal of necessary medical services [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-7-32. Emergency medical services [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-7-33. Medical isolation [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-7-34. Administration of medications [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-7-35. Second medical opinions [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

## **PART 5. RESIDENT RIGHTS [REVOKED]**

### **340:90-7-50. Notice of availability of Advocate Defender [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-7-51. Resident grievance policy [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-7-52. Access to courts/counsel [REVOKED]**

[Source: Amended at 11 Ok Reg 655, eff 11-22-93 (emergency); Amended at 11 Ok Reg 2287, eff 5-26-94 ; Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-7-53. Testing for research purposes [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-7-54. Use of pharmaceutical testing prohibited [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-7-55. Child (resident) abuse [REVOKED]**

[Source: Amended at 11 Ok Reg 655, eff 11-22-93 (emergency); Amended at 11 Ok Reg 2287, eff 5-26-94 ; Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-7-56. Resident property [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-7-57. Liability [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-7-58. Resident work [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-7-59. Smoking (use of tobacco products) [REVOKED]**

[Source: Amended at 8 Ok Reg 3229, eff 7-8-91 (emergency); Amended at 9 Ok Reg 2821, eff 7-13-92 ; Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

## **PART 7. RESIDENT RULES/DISCIPLINE [REVOKED]**

### **340:90-7-75. Scope and applicability [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-7-76. Waiver of hearing for transfer to a more secure facility [REVOKED]**

[Source: Amended at 8 Ok Reg 3229, eff 7-8-91 (emergency); Amended at 9 Ok Reg 2821, eff 7-13-92 ; Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-7-77. Institutional rules governing conduct [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-7-78. Staff roles in resident discipline [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-7-79. Available responses for rule violations [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-7-80. Hearing for transfer to a more secure facility (ITP or RTP) [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-7-81. Room restriction [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-7-82. Definition of solitary confinement [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-7-83. Solitary Confinement [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-7-84. Resident correspondence [REVOKED]**

[Source: Amended at 8 Ok Reg 3229, eff 7-8-91 (emergency); Amended at 9 Ok Reg 2821, eff 7-13-92 ; Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-7-85. Visitation on campus [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-7-86. Access to telephone [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

## **PART 9. RECEPTION, CLASSIFICATION, AND TRANSFER [REVOKED]**

### **340:90-7-100. Placement section [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-7-101. Private provider compliance with Consent Decree [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-7-102. Limitations on transfers (placements) in relation to psychiatric services [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-7-103. DCYS placement process [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-7-104. Classification of restriction (placement by least restriction) [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-7-105. Least restrictive alternative [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-7-106. Classification and placement variables for adjudicated delinquents [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-7-107. Admissions [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

## **SUBCHAPTER 9. PROGRAMS AND SERVICES [REVOKED]**

## **PART 1. MANAGEMENT, MONITORING, EVALUATION [REVOKED]**

### **340:90-9-1. Program management [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-9-2. Systems approach [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-9-3. Service modalities [REVOKED]**

[Source: Amended at 11 Ok Reg 655, eff 11-22-93 (emergency); Amended at 11 Ok Reg 2287, eff 5-26-94 ; Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-9-4. Service approach [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

## **PART 3. STAFF TEAM FUNCTIONS [REVOKED]**

### **340:90-9-15. Institutional treatment team, L.E. Rader Center, or program management committee (COJC) [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-9-16. Cottage Committee, juvenile facility, or unit treatment team (COJC) [REVOKED]**

[Source: Amended at 8 Ok Reg 3229, eff 7-8-91 (emergency); Amended at 9 Ok Reg 2821, eff 7-13-92 ; Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-9-17. Consultation/special needs [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

## **PART 5. ANCILLARY PROGRAMS [REVOKED]**

### **340:90-9-30. Education [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-9-31. Recreation/exercise [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-9-32. Religious services and counseling [REVOKED]**

[Source: Amended at 11 Ok Reg 655, eff 11-22-93 (emergency); Amended at 11 Ok Reg 2287, eff 5-26-94 ; Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-9-33. Restitution [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-9-34. Volunteer services [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-9-35. Contract requirements [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-9-36. Crisis management [REVOKED]**

[Source: Amended at 8 Ok Reg 3229, eff 7-8-91 (emergency); Amended at 9 Ok Reg 2821, eff 7-13-92 ; Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-9-37. Leaves [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

## **PART 7. RELEASE AND REVOCATION (DELINQUENT PROGRAMS) [REVOKED]**

### **340:90-9-50. Parole release planning [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-9-51. Parole release review [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-9-52. Parole preparation [REVOKED]**

[Source: Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

### **340:90-9-53. Extension of custody [REVOKED]**

[Source: Amended at 11 Ok Reg 655, eff 11-22-93 (emergency); Amended at 11 Ok Reg 2287, eff 5-26-94 ; Revoked at 11 Ok Reg 4103, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 1437, eff 5-26-95]

## **SUBCHAPTER 10. INSTITUTIONAL SERVICES [REVOKED]**

### **PART 1. GENERAL PROVISIONS [REVOKED]**

### **340:90-10-1. Definition of institution [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-2. Mission [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-3. Limitations on size of institutions and dormitories [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-4. Coeducational institutions [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-5. Non-discriminatory practices [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-6. Annual review of affirmative action program [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-7. Institutional responsibilities [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-8. Staffing [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-9. Physicals [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-10. Duties [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]



### **340:90-10-11. Public relationships [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-12. Personnel policy review [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-13. Annual review of assigned position [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-14. Public service projects [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-15. Professional conduct and supervison [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-16. Staff training and development [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-17. Sexual abuse/rape [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-18. Fiscal management [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-19. Research [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-20. Collaboration with universities/colleges [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-21. Resident records [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-22. Release of information [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-23. Physical plant [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-24. Safety and emergency procedures [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

## **PART 3. SECURITY AND CONTROL [REVOKED]**

### **340:90-10-45. Emergency referral to outside law enforcement/contingency planning [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-46. Transportation of residents [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-47. Injuries, fires, assaults [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-48. Control of residents [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-49. Appropriate and inappropriate methods of control [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-50. Guidelines for use of physical force [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-51. Use of restraints [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-52. Contraband [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-53. Search procedures [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-54. Closure of cottage/campus [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-55. Absent Without Official Leave (AWOL) policies and procedures [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

## **PART 5. FOOD SERVICES, SANITATION, SAFETY AND HYGIENE [REVOKED]**

### **340:90-10-65. Food service [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-66. Resident/staff meals [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-67. Sanitation [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-68. Cleanliness, linen supply and exchange [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-69. Fire and safety [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-70. Clothing [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-71. Toiletries [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-72. Grooming standards [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

## **PART 7. MEDICAL AND HEALTH CARE [REVOKED]**

### **340:90-10-82. Medical services [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-83. Surgery [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-84. Records [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-85. Tattoo removal [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-86. Sanctions/discipline [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-87. Refusal of non-necessary medical care [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-88. Response to refusal of necessary medical services [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-89. Emergency medical services [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-90. Medical isolation [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-91. Administration of medications [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-92. Second medical opinions [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

## **PART 9. RESIDENT RIGHTS [REVOKED]**

### **340:90-10-105. Notice of availability of advocate defender [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-106. Resident grievance policy [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-107. Access to courts/counsel [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-108. Testing for research purposes [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-109. Use of pharmaceutical testing prohibited [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-110. Child (resident) abuse [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-111. Resident property [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-112. Liability [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-113. Resident work [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-114. Smoking (use of tobacco products) [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

## **PART 11. RESIDENT RULES/DISCIPLINE [REVOKED]**

### **340:90-10-125. Scope and applicability [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-126. Waiver of hearing for transfer to a more secure facility [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-127. Institutional rules governing conduct [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-128. Staff roles in resident discipline [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-129. Available responses for rule violations [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-130. Hearing for transfer to a more secure facility (ITP or RTP) [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-131. Room restriction [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-132. Definition of solitary confinement [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-133. Solitary confinement [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-134. Resident correspondence [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-135. Visitation on campus [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-136. Access to telephone [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

## **PART 13. RECEPTION, CLASSIFICATION, AND TRANSFER [REVOKED]**

### **340:90-10-150. Placement Section [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-151. Private provider compliance with Consent Decree [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-152. Limitations on transfers (placements) in relation to psychiatric services [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-153. OJJ placement process [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-154. Classification of restriction (placement by least restriction) [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-155. Least restrictive alternative [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-156. Classification and placement variables for adjudicated delinquents [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-157. Admissions [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]



## **PART 15. MANAGEMENT, MONITORING, EVALUATION [REVOKED]**

### **340:90-10-170. Program management [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-171. Systems approach [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-172. Service modalities [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-173. Service approach [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

## **PART 17. STAFF TEAM FUNCTIONS [REVOKED]**

### **340:90-10-185. Institutional treatment team [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-186. Cottage Committee [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-187. Consultation/special needs [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

## **PART 19. ANCILLARY PROGRAMS [REVOKED]**

### **340:90-10-200. Education [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-201. Recreation/exercise [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-202. Religious services and counseling [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-203. Restitution [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-204. Volunteer services [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-205. Contract requirements [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-206. Crisis management [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-207. Leaves [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

## **PART 21. RELEASE AND REVOCATION (DELINQUENT PROGRAMS) [REVOKED]**

### **340:90-10-220. Parole release planning [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-221. Parole release review [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-222. Parole preparation [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-10-223. Extension of custody [REVOKED]**

[Source: Added at 11 Ok Reg 4103, eff 6-21-94 (emergency); Added at 12 Ok Reg 1437, eff 5-26-95 ; Revoked at 14 Ok Reg 1398, eff 5-12-97]

## **SUBCHAPTER 11. INDIVIDUAL FACILITIES [REVOKED]**

### **PART 1. LLOYD E. RADER CENTER (LERC) [REVOKED]**

#### **340:90-11-1. Mission [REVOKED]**

[Source: Revoked at 14 Ok Reg 1398, eff 5-12-97]

#### **340:90-11-2. L.E. Rader Center (Diagnostic and Evaluation Program) [REVOKED]**

[Source: Revoked at 14 Ok Reg 1398, eff 5-12-97]

#### **340:90-11-3. L.E. Rader Center (New Short Term Accelerated Residential Tracking Program) [REVOKED]**

[Source: Revoked at 14 Ok Reg 1398, eff 5-12-97]

#### **340:90-11-4. L.E. Rader Center (Treatment Program) [REVOKED]**

[Source: Revoked at 14 Ok Reg 1398, eff 5-12-97]

#### **340:90-11-5. L.E. Rader Center (Intensive Treatment Program) [REVOKED]**

[Source: Revoked at 14 Ok Reg 1398, eff 5-12-97]

## **PART 3. PLACEMENT RULES [REVOKED]**

### **340:90-11-20. The Intensive Treatment Program (ITP) [REVOKED]**

[Source: Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-11-21. Screening procedures [REVOKED]**

[Source: Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-11-22. Procedure for referral [REVOKED]**

[Source: Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-11-23. Referrals from parole status or supervised community placement, recommitment, or institutions [REVOKED]**

[Source: Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-11-24. Procedures for evaluation for ITP [REVOKED]**

[Source: Revoked at 14 Ok Reg 1398, eff 5-12-97]

## **PART 5. CENTRAL OKLAHOMA JUVENILE TREATMENT CENTER (COJTC) [REVOKED]**

### **340:90-11-40. Mission [REVOKED]**

[Source: Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-11-41. Placement of juveniles adjudicated In Need of Treatment [REVOKED]**

[Source: Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-11-42. Community case responsibility [REVOKED]**

[Source: Revoked at 14 Ok Reg 1398, eff 5-12-97]

### **340:90-11-43. Case planning [REVOKED]**

[Source: Revoked at 14 Ok Reg 1398, eff 5-12-97]

## **SUBCHAPTER 13. CENTRAL OKLAHOMA JUVENILE TREATMENT CENTER (COJTC) [REVOKED]**

### **340:90-13-1. Definition of Specialized Community Home [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2083, eff 6-11-92]

### **340:90-13-2. Legal base [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2083, eff 6-11-92]

### **340:90-13-3. Implementing a specialized community home [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2083, eff 6-11-92]

### **340:90-13-4. Specialized community home/foster home study [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2083, eff 6-11-92]

### **340:90-13-5. Contracting [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2083, eff 6-11-92]

### **340:90-13-6. Placement into a Specialized community home [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2083, eff 6-11-92]

### **340:90-13-7. Role of the Specialized community home operator [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2083, eff 6-11-92]

### **340:90-13-8. Behavior control of residents [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2083, eff 6-11-92]

### **340:90-13-9. Role of the specialized community home liaison [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2083, eff 6-11-92]

### **340:90-13-10. Investigation of alleged abuse or neglect of youth in specialized community home [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2083, eff 6-11-92]

## **APPENDIX A. AUTHORIZED LEAVE [REVOKED]**

[Source: Revoked at 14 Ok Reg 1398, eff 5-12-97]

## **APPENDIX B. REQUEST FOR HEARING ON VOLUNTARY RESTRICTION OF LIBERTY [REVOKED]**

[Source: Revoked at 14 Ok Reg 1398, eff 5-12-97]

## **APPENDIX C. INSTITUTIONAL RULES GOVERNING UNACCEPTABLE CONDUCT [REVOKED]**

[Source: Revoked at 14 Ok Reg 1398, eff 5-12-97]



## **CHAPTER 95. REHABILITATION SERVICES [REVOKED]**

**Editor's Note:** *Effective 7-1-93, the Rehabilitation Services Division of the Department of Human Services was transferred to the newly-created State Department of Rehabilitation Services. [74 O. S., Section 166.4(A)] "[T]o effectuate the transfer of the Rehabilitation Services Division . . . to the Commission for Rehabilitation Services, the Commission for Rehabilitation Services shall have the powers and duties to . . . promulgate rules for the regulation of its affairs and the conduct of its business . . . ." [Laws 1993, c. 364, § 5] For the rules of the State Department of Rehabilitation Services, see OAC 612. For additional information on the transfer, see Laws 1993, c. 364.*

[**Authority:** OKLA. CONST. art XXV; Rehabilitation Act of 1973, as amended; Federal Elementary and Secondary Education Act; Title IX Education Amendments of 1972; Civil Rights Act of 1964; P.L. 89-522; P.L. 93-380; P.L. 93-568; P.L. 94-142; 10 O.S.; 56 O.S.1971, § 321; 70 O.S.Supp.1978, § 1733; 70 O.S., § 1734; 79 O.S.Supp.1978, § 1733; 72 O.S., §§ 85.2, 85.4, and 85.7; Developmental Disabilities Assistance and Bill of Rights Act]  
[**Source:** Codified 12-31-91]

### **SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]**

#### **340:95-1-1. Purpose [REVOKED]**

[**Source:** Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

#### **340:95-1-2. Definitions [REVOKED]**

[**Source:** Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

#### **340:95-1-3. Basic philosophy of Rehabilitation Services [REVOKED]**

[**Source:** Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

#### **340:95-1-4. Local project funding contract guidelines [REVOKED]**

[**Source:** Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

#### **340:95-1-5. Case findings and referrals [REVOKED]**

[**Source:** Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

#### **340:95-1-6. Diagnosis and evaluation [REVOKED]**

[**Source:** Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-1-7. Consultants (medical and psychological) [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

## **SUBCHAPTER 2. GENERAL PROVISIONS [REVOKED]**

### **340:95-2-1. Purpose [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-2-2. Definitions [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Amended at 10 Ok Reg 353, eff 10-22-92 ; Amended at 10 Ok Reg 1283, eff 3-19-93 (emergency); Amended at 10 Ok Reg 2413, eff 6-11-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-2-3. Basic philosophy of rehabilitation programs [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-2-4. Consultants (medical, dental and psychological) [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Amended at 9 Ok Reg 3629, eff 7-23-92 (emergency); Amended at 10 Ok Reg 1727, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-2-5. Confidentiality [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Amended at 9 Ok Reg 3629, eff 7-23-92 (emergency); Amended at 10 Ok Reg 1727, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-2-6. Due process [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Amended at 9 Ok Reg 3629, eff 7-23-92 (emergency); Amended at 10 Ok Reg 1727, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-2-7. Fiscal operations procedures [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Amended at 9 Ok Reg 3629, eff 7-23-92 (emergency); Amended at 10 Ok Reg 1727, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-2-8. Vendor contracts [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Amended at 9 Ok Reg 3629, eff 7-23-92 (emergency); Amended at 10 Ok Reg 1727, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

## **340:95-2-9. Appendices [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Amended at 10 Ok Reg 1743, eff 5-24-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

# **SUBCHAPTER 3. ELIGIBILITY AND INELIGIBILITY - DELEGATED AUTHORITY [REVOKED]**

## **PART 1. GENERAL PROVISIONS [REVOKED]**

### **340:95-3-1. Delegation [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-3-2. Basic eligibility requirements [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-3-3. Other factors affecting eligibility [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-3-4. Evidence of eligibility [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-3-5. Evidence of ineligibility [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-3-6. Order of selection for services [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-3-7. Financial need [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-3-8. Consideration of similar benefits [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-3-9. Financial need determination [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-3-10. Basic living requirements [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

## **PART 3. GUIDELINES FOR EVALUATING THE LIMITATIONS AND REHABILITATION POTENTIAL OF CERTAIN DISABILITY GROUPS [REVOKED]**

### **340:95-3-25. Treatment of acute and chronic conditions [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-3-26. Allergies [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-3-27. Arthritis [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-3-28. Cardiac and circulatory disorders [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-3-29. Deafness and hearing loss [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-3-30. Eligibility on the basis of dental disability [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-3-31. Facial deformities [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-3-32. Hernia [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-3-33. Malignancies (cancer) [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-3-34. Mental disturbances [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-3-35. Mental retardation or mental deficiency [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-3-36. Learning disabled [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-3-37. Orthopedic [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-3-38. Size and weight [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-3-39. Speech defects [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-3-40. Visual [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-3-41. Traumatic brain injury (TBI) code 639 [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-3-42. Acquired Immune Deficiency Syndrome (AIDS) and Aids Related Complex (ARC) [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

## **PART 5. CONFIDENTIAL INFORMATION [REVOKED]**

### **340:95-3-60. Safeguards [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-3-61. Release of information to other agencies [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-3-62. Restricted information [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-3-63. Who may release confidential information [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-3-64. Access to case file in fair hearings [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-3-65. Administrative review and fair hearings [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-3-66. RVS staff responsibility in fair hearings requests [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

## **SUBCHAPTER 4. ELIGIBILITY AND INELIGIBILITY FOR VOCATIONAL REHABILITATION SERVICES [REVOKED]**

### **340:95-4-1. Counselor responsibilities [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ;  
Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-4-2. Basic eligibility requirements [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ;  
Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-4-3. Factors affecting eligibility [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ;  
Amended at 9 Ok Reg 3629, eff 7-23-92 (emergency); Amended at 10 Ok Reg 1727, eff 5-13-93 ; Revoked  
at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

#### **340:95-4-4. Evidence of eligibility [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

#### **340:95-4-5. Evidence of ineligibility [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

#### **340:95-4-6. Order of selection [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Amended at 10 Ok Reg 353, eff 10-22-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

#### **340:95-4-7. Exceptions to order of selection [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Amended at 10 Ok Reg 353, eff 10-22-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

#### **340:95-4-8. Guidelines for determining client participation in service costs [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

#### **340:95-4-9. Services exempt from financial need [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

#### **340:95-4-10. Consideration of comparable services and benefits [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Amended at 9 Ok Reg 3629, eff 7-23-92 (emergency); Amended at 10 Ok Reg 1727, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

#### **340:95-4-11. Financial need determination [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Amended at 9 Ok Reg 3629, eff 7-23-92 (emergency); Amended at 10 Ok Reg 1727, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

#### **340:95-4-12. Basic living requirements [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Amended at 9 Ok Reg 3629, eff 7-23-92 (emergency); Amended at 10 Ok Reg 1727, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-4-13. Assets [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-4-14. Liabilities [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Amended at 9 Ok Reg 3629, eff 7-23-92 (emergency); Amended at 10 Ok Reg 1727, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-4-15. Decision [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

## **SUBCHAPTER 5. SERVICES PROVIDED [REVOKED]**

### **PART 1. GENERAL PROVISIONS [REVOKED]**

#### **340:95-5-1. Scope and applicability [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

#### **340:95-5-2. Rehabilitation services under an extended evaluation program [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

#### **340:95-5-3. Intercurrent illnesses [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **PART 3. PHYSICAL AND MENTAL RESTORATION SERVICES [REVOKED]**

#### **340:95-5-20. Purpose [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

#### **340:95-5-21. Artificial eyes, glasses and other optical aids [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]



### **340:95-5-22. Artificial limbs [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-5-23. Braces [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-5-24. Convalescent care [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-5-25. Dental services [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-5-26. End-stage renal disease [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-5-27. Drugs and supplies [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-5-28. Hearing aids [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-5-29. Hospitalization [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-5-30. Laboratory work and x-rays [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-5-31. Medical examinations [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-5-32. Nursing services [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-5-33. Low vision service [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-5-34. Physical therapy [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-5-35. Psychiatric and psychological treatment [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-5-36. Rehabilitation centers [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-5-37. Speech therapy/training [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-5-38. Surgery and medical treatment [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-5-39. Chiropractic treatment [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-5-40. Medical services for individuals under age 21 [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-5-41. Telecommunications, sensory and other technological aids and devices [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-5-42. Wheel chairs [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

## **PART 5. MAINTENANCE AND TRANSPORTATION [REVOKED]**

### **340:95-5-60. Maintenance [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-5-61. Transportation [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

## **PART 7. TRAINING [REVOKED]**

### **340:95-5-80. Training Scope and applicability [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-5-81. Types of training [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-5-82. Training use/objectives [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-5-83. Coordination of training with other services [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-5-84. Training to meet individual needs [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-5-85. Counseling activities during training program [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-5-86. Securing reports on progress of trainee [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-5-87. Methods of training [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-5-88. Business and vocational trade schools [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

**340:95-5-89. Duties of counselors to students in training  
[REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

**340:95-5-90. Special scholarships and training facilities  
[REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

**PART 9. SPECIAL SERVICES FOR BLIND, DEAF, AND  
OTHER SEVERELY DISABLED INDIVIDUALS  
[REVOKED]**

**340:95-5-105. Attendant escort services [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

**340:95-5-106. Interpreter services [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

**340:95-5-107. Telecommunication services and devices for hearing  
impaired [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

**340:95-5-108. Reader service [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

**340:95-5-109. Library for the blind and physically handicapped  
[REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

**340:95-5-110. Services to the deaf-blind [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

**340:95-5-111. Merchandising service [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

**PART 11. TOOLS, OCCUPATIONAL EQUIPMENT,  
INITIAL STOCKS AND SUPPLIES [REVOKED]**

**340:95-5-130. Tools, occupational equipment and supplies  
[REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

**340:95-5-131. Rules for the purchase of tools and equipment  
[REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

**340:95-5-132. Occupational licenses [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

**340:95-5-133. Purchase of motor vehicles (automobiles, vans,  
trucks and motorcycles) [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

**340:95-5-134. Purchase of special equipment for motor vehicles  
[REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

**PART 13. SELF EMPLOYMENT PROGRAMS AND  
OTHER SERVICES [REVOKED]**

**340:95-5-150. Self employment programs [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

**340:95-5-151. Other services [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

**SUBCHAPTER 6. GUIDELINES FOR EVALUATING THE  
LIMITATION AND REHABILITATION POTENTIAL OF  
CERTAIN DISABILITY GROUPS [REVOKED]**

**PART 1. TREATMENT [REVOKED]**

**340:95-6-1. Treatment of emergency conditions and general  
health care [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Amended at 9 Ok Reg 3629, eff 7-23-92 (emergency); Amended at 10 Ok Reg 1727, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

## **340:95-6-2. Treatment of chronic conditions [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Amended at 9 Ok Reg 3629, eff 7-23-92 (emergency); Amended at 10 Ok Reg 1727, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

# **PART 3. TYPES OF DISABILITIES [REVOKED]**

## **340:95-6-12. Acquired Immune Deficiency Syndrome (AIDS) and AIDS Related Complex (ARC) [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

## **340:95-6-13. Alcoholism [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

## **340:95-6-14. Allergies [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

## **340:95-6-15. Asthma [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

## **340:95-6-16. Arthritis [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

## **340:95-6-17. Back disorders [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

## **340:95-6-18. Cancer [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

## **340:95-6-19. Cardiac disorders [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-6-20. Cerebral palsy [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-6-21. Deafness and hearing loss [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Amended at 9 Ok Reg 3629, eff 7-23-92 (emergency); Amended at 10 Ok Reg 1727, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-6-22. Dental [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Amended at 9 Ok Reg 3629, eff 7-23-92 (emergency); Amended at 10 Ok Reg 1727, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-6-23. Diabetes [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Amended at 9 Ok Reg 3629, eff 7-23-92 (emergency); Amended at 10 Ok Reg 1727, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-6-24. Drug dependency [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Amended at 9 Ok Reg 3629, eff 7-23-92 (emergency); Amended at 10 Ok Reg 1727, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-6-25. Epilepsy [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 1727, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-6-26. Facial and disfigurement conditions [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-6-27. Hernia [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-6-28. Learning disabilities [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Amended at 9 Ok Reg 3629, eff 7-23-92 (emergency); Amended at 10 Ok Reg 1727, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-6-29. Mental disorders [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Amended at 9 Ok Reg 3629, eff 7-23-92 (emergency); Amended at 10 Ok Reg 1727, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-6-30. Mental retardation [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Amended at 10 Ok Reg 1283, eff 3-19-93 (emergency); Amended at 10 Ok Reg 2413, eff 6-11-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-6-31. Orthopedic conditions [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-6-32. Renal disease [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-6-33. Size and obesity [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-6-34. Speech defects [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-6-35. Stroke (Cerebrovascular accident) [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-6-36. Traumatic brain injury (TBI) [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-6-37. Visual [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Amended at 9 Ok Reg 3629, eff 7-23-92 (emergency); Amended at 10 Ok Reg 1727, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

## **SUBCHAPTER 7. INDEPENDENT LIVING REHABILITATION SERVICES (ILRS) [REVOKED]**



### **340:95-7-1. Independent living services [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-7-2. Direct independent living services [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-7-3. Basic eligibility requirements [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-7-4. Statuses [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-7-5. Procedure for case closure [REVOKED]**

[Source: Revoked Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-7-6. Approved independent living services [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-7-7. Substantial independent living services [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-7-8. Rights of appeal [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-7-9. Fiscal procedures [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-7-10. Development of community independent living centers [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

## **SUBCHAPTER 8. CASELOAD MANAGEMENT, CASE PROCESSING AND RECORDING [REVOKED]**

### **PART 1. CASE PROCESSING REQUIREMENTS [REVOKED]**

### **340:95-8-1. Case recording [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-8-2. Caseload management [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-8-3. Preliminary diagnostic study [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-8-4. Medical diagnosis and evaluation for determination of eligibility [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-8-5. General medical [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-8-6. Special medical examination [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-8-7. Mental disability [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-8-8. Medical or psychological reports [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-8-9. Evaluation [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-8-10. Vocational evaluation center services [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-8-11. Vocational evaluation referrals [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-8-12. Referral process [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-8-13. Supportive services [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-8-14. Services provided [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-8-15. Case recording requirements [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-8-16. Transfer of cases [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-8-17. Production standards [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-8-18. Supervisory caseload reviews [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Amended at 9 Ok Reg 3629, eff 7-23-92 (emergency); Amended at 10 Ok Reg 1727, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-8-19. Case findings and referrals [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-8-20. Processing of referrals [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

## **PART 3. CASE STATUS CLASSIFICATION SYSTEM [REVOKED]**

### **340:95-8-31. Case statuses and case flow [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-8-32. Status 00 - Referral [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-8-33. Status 02 - Applicant [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-8-34. Status 06 - Extended Evaluation [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-8-35. Status 08 - Closed Not Accepted (from Statuses 00, 02, or 06) [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-8-36. Status 10 - Accepted for services and IRP under development [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Amended at 10 Ok Reg 1283, eff 3-19-93 (emergency); Amended at 10 Ok Reg 2413, eff 6-11-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-8-37. Status 12 - IRP completed but not initiated [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Amended at 10 Ok Reg 1283, eff 3-19-93 (emergency); Amended at 10 Ok Reg 2413, eff 6-11-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-8-38. Status 14 - Counseling, Guidance and Placement [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-8-39. Status 16 - Physical and Mental Restoration [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-8-40. Status 18 - Training [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-8-41. Status 20 - Ready for Employment [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-8-42. Status 22 - In Employment [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-8-43. Status 24 - Services Interrupted [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Amended at 9 Ok Reg 3629, eff 7-23-92 (emergency); Amended at 10 Ok Reg 1727, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-8-44. Status 26 - Closed Rehabilitated [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Amended at 10 Ok Reg 1283, eff 3-19-93 (emergency); Amended at 10 Ok Reg 2413, eff 6-11-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-8-45. Status 28 - Closed Not Rehabilitated, After IRP Initiation (From Statuses 14-24) [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-8-46. Status 30 - Closed Not Rehabilitated, Before IRP Initiation (From Statuses 10 or 12) [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-8-47. Status 32 - post-employment services [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Amended at 10 Ok Reg 1283, eff 3-19-93 (emergency); Amended at 10 Ok Reg 2413, eff 6-11-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-8-48. Status 33 - Post-Employment Services Completed [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

## **PART 5. SOCIAL SECURITY ADMINISTRATION PROGRAMS [REVOKED]**

### **340:95-8-59. Social Security referrals [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-8-60. Verification of Social Security disability beneficiary Status [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-8-61. Refusal of VR services [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-8-62. Failure to cooperate [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-8-63. Social Security closures [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Amended at 9 Ok Reg 3629, eff 7-23-92 (emergency); Amended at 10 Ok Reg 1727, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

## **PART 7. ACTIONS REQUIRING SUPERVISORY APPROVAL [REVOKED]**

### **340:95-8-74. Approval outline [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Amended at 9 Ok Reg 3629, eff 7-23-92 (emergency); Amended at 10 Ok Reg 1727, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

## **SUBCHAPTER 9. CASELOAD MANAGEMENT, CASE PROCESSING AND RECORDING [REVOKED]**

### **340:95-9-1. Definition of caseload [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-9-2. Management techniques [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-9-3. Case statuses and case flow [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-9-4. Social Security Administration programs [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-9-5. Actions requiring supervisory approval [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

## **SUBCHAPTER 10. REHABILITATION SERVICES [REVOKED]**

### **PART 1. SCOPE AND APPLICABILITY [REVOKED]**

#### **340:95-10-1. Purpose [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ;  
Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

#### **340:95-10-2. Counselor's role [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ;  
Amended at 9 Ok Reg 3629, eff 7-23-92 (emergency); Amended at 10 Ok Reg 1727, eff 5-13-93 ; Revoked  
at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

#### **340:95-10-3. Rehabilitation services under an extended evaluation program [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ;  
Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

#### **340:95-10-4. Counseling and guidance [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ;  
Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

## **PART 3. PHYSICAL AND MENTAL RESTORATION SERVICES [REVOKED]**

### **340:95-10-15. Applicability [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-16. Braces [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-17. Chiropractic treatment [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-18. Convalescent care [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Amended at 9 Ok Reg 3629, eff 7-23-92 (emergency); Amended at 10 Ok Reg 1727, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-19. Dental services [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-20. Dialysis/end-stage renal services [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-21. Drugs and supplies [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-22. Hearing aids [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-23. Hospitalization [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]



### **340:95-10-24. Laboratory work and X-rays [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-25. Low vision service [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-26. Medical examinations [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-27. Medical services for individuals under age 21 [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-28. Nursing services [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-29. Physical therapy [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-29.1. Post-operative care of cataract patients [REVOKED]**

[Source: Added at 9 Ok Reg 3629, eff 7-23-92 (emergency); Added at 10 Ok Reg 1727, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-30. Prosthetic eyes, glasses and other optical aids [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Amended at 9 Ok Reg 3629, eff 7-23-92 (emergency); Amended at 10 Ok Reg 1727, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-31. Prosthetic limbs [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Amended at 9 Ok Reg 3629, eff 7-23-92 (emergency); Amended at 10 Ok Reg 1727, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-32. Psychiatric and psychological treatment [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-33. Speech therapy/training [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-34. Surgery and medical treatment [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Amended at 9 Ok Reg 3629, eff 7-23-92 (emergency); Amended at 10 Ok Reg 1727, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-35. Wheel chairs [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

## **PART 5. SUPPORTIVE SERVICES [REVOKED]**

### **340:95-10-46. Clothing and uniforms [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-47. Computers and high tech electronic aids or devices [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-48. Day care [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-49. Intercurrent illnesses [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-50. Maintenance [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Amended at 10 Ok Reg 353, eff 10-22-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-51. Rehabilitation engineering/sensory aids specialist [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Amended at 9 Ok Reg 3629, eff 7-23-92 (emergency); Amended at 10 Ok Reg 1727, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-52. Transportation [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

## **PART 7. TRAINING [REVOKED]**

### **340:95-10-63. Scope and applicability [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-64. Coordination of training with other services [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-65. Training to meet individual needs [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-66. Counseling activities during training program [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-67. Trainee progress reports [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-68. Special scholarships and training facilities [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-69. Types of training [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-70. College and university training [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Amended at 9 Ok Reg 3629, eff 7-23-92 (emergency); Amended at 10 Ok Reg 1727, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-71. Continued eligibility for college or university training [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Amended at 9 Ok Reg 3629, eff 7-23-92 (emergency); Amended at 10 Ok Reg 1727, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-72. Duration of college and university training [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-73. Payment of tuition and fees at colleges and universities [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Amended at 9 Ok Reg 3629, eff 7-23-92 (emergency); Amended at 10 Ok Reg 1727, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-74. Purchase of books and training supplies for college and university students [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-75. College courses offered through Talkback TV [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-76. Advanced standing test for college students [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-77. Out-of-state training [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-78. Training for individuals in custody of the Department of Corrections [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-79. Privately owned business and trade schools [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-80. Payment of tuition at privately owned business and trade schools [REVOKED]**

[Source: Added at 9 Ok Reg 2905, eff 7-13-92 ; Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Amended at 9 Ok Reg 3629, eff 7-23-92 (emergency); Amended at 10 Ok Reg 1727, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-81. Public vocational schools [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-82. Supplies and training tools for business, vocational and trade schools [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-83. On-the-job training [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-84. Personal and work adjustment training [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-85. Correspondence training [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-86. Tutorial training [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-87. Compensatory training [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-88. Duties of home counselor to students in training [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Amended at 9 Ok Reg 3629, eff 7-23-92 ; Amended at 10 Ok Reg 1727, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-89. Duties of counselors who supervise clients in training facilities [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Amended at 9 Ok Reg 3629, eff 7-23-92 (emergency); Amended at 10 Ok Reg 1727, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

## **PART 9. SUPPORTED EMPLOYMENT SERVICES [REVOKED]**

### **340:95-10-100. Supported employment [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Amended at 10 Ok Reg 1283, eff 3-19-93 (emergency); Amended at 10 Ok Reg 2413, eff 6-11-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

## **PART 11. SPECIAL SERVICES FOR BLIND, DEAF AND OTHER SEVERELY DISABLED INDIVIDUALS [REVOKED]**

### **340:95-10-111. Attendant services [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-112. Interpreter services [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Amended at 9 Ok Reg 3629, eff 7-23-92 (emergency); Amended at 10 Ok Reg 1727, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-113. Telecommunication services and devices for hearing impaired [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-114. Reader/recording services [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-115. Library for the blind and physically handicapped [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-116. Rehabilitation teaching [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-117. Merchandising service [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-118. Orientation and mobility (O&M) [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-119. Specialist on aging [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-120. Services to the deaf-blind [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

## **PART 13. TOOLS, OCCUPATIONAL EQUIPMENT, INITIAL STOCKS AND SUPPLIES [REVOKED]**

### **340:95-10-131. Scope and applicability [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-132. Purchase of tools and equipment [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Amended at 9 Ok Reg 3629, eff 7-23-92 ; Amended at 10 Ok Reg 1727, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-133. Title agreement/repossession of agency purchased goods [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-134. Occupational licenses and certification [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-135. Purchase of motor vehicles (automobiles, vans, trucks and motorcycles) [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-136. Purchase of special equipment for motor vehicles [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Amended at 9 Ok Reg 3629, eff 7-23-92 (emergency); Amended at 10 Ok Reg 1727, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

## **PART 15. SELF-EMPLOYMENT PROGRAMS AND OTHER SERVICES [REVOKED]**

### **340:95-10-147. Self-employment programs [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-148. Services to groups of persons with disabilities [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-149. Services to family members [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-150. Placement [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Amended at 9 Ok Reg 3629, eff 7-23-92 (emergency); Amended at 10 Ok Reg 1727, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]



**340:95-10-151. "Special Handicapped Persons" Act (HB 1340)  
[REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

**PART 17. REHABILITATION TEACHING SERVICES  
[REVOKED]**

**340:95-10-162. Philosophy and scope of program [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

**340:95-10-163. Caseload management [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

**340:95-10-164. Case status [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

**340:95-10-165. Status 01: Referral Status [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

**340:95-10-166. Status 03: Applicant [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Amended at 9 Ok Reg 3629, eff 7-23-92 (emergency); Amended at 10 Ok Reg 1727, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

**340:95-10-167. Initial interview [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

**340:95-10-168. Status 09: Ineligibility [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

**340:95-10-169. Status 11: Eligibility [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-170. Documentation of eligibility [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-171. Program development [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-172. Status 23: In-Service [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-173. ITP amendments [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-174. Status 27: Successful Closure [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-175. Status 29: Unsuccessful Closure [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-176. Client rights [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-177. Diagnosis and evaluation [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-178. Diagnosis [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-179. Vocational evaluation [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-180. Family evaluation [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-181. Community evaluation [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-182. Communication [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-183. Personal management [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-184. Orientation and Mobility (O&M) [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-185. Home management [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-186. Counseling/guidance [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-187. Client counseling [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-188. Family counseling [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-189. Other services [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-190. Special programs [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-191. Vocational rehabilitation [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Amended at 9 Ok Reg 3629, eff 7-23-92 (emergency); Amended at 10 Ok Reg 1727, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-192. Independent living rehabilitation services [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-193. Other specialized services [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-194. Case recording standards [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-195. Initial interview [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Amended at 9 Ok Reg 3629, eff 7-23-92 (emergency); Amended at 10 Ok Reg 1727, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-196. Eligibility [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-197. Evaluation of independent living skills [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-198. Individualized Teaching Program [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-199. Interim recording [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-200. Closures [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

## **PART 19. LIBRARY SERVICES FOR THE BLIND AND PHYSICALLY HANDICAPPED [REVOKED]**

### **340:95-10-211. Scope and applicability [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-212. Eligibility [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-213. Application and certification [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-214. Reading materials [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-215. Books and recordings [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-216. Machines [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-217. Volunteer services [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-218. Services for students [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-219. Recordings for the Blind, Inc [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-220. Library loan policy [REVOKED]**

[Source: Reserved at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2695, eff 6-8-92 (emergency); Reserved at 9 Ok Reg 2905, eff 7-13-92 ; Added at 10 Ok Reg 1443, eff 4-26-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

## **PART 21. INDEPENDENT LIVING REHABILITATION SERVICES (ILRS) [REVOKED]**

### **340:95-10-231. Objectives [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-232. Purpose [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-233. Basic eligibility requirements [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Amended at 9 Ok Reg 3629, eff 7-23-92 (emergency); Amended at 10 Ok Reg 1727, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-234. Age [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-235. Citizenship [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-236. Order of selection [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-237. Statuses [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-238. The Individual Rehabilitation Program for Independent Living [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-239. Status 23-Services Initiated [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-240. Status 25-Services Interrupted [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-241. Status 27-Successful Closure [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-242. Status 29-Unsuccessful Closure [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-243. Reopening of cases [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-244. Administrative review and fair hearing [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-245. Inter-program transfers [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Amended at 9 Ok Reg 3629, eff 7-23-92 ; Amended at 10 Ok Reg 1727, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

## **PART 23. SCOPE OF INDEPENDENT LIVING SERVICES [REVOKED]**

### **340:95-10-256. Applicability [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-257. Client participation in cost of services [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-258. Counseling services [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-259. Housing services [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-260. Physical and mental restoration [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-261. Attendant care services [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-262. Guidelines for attendant care services [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-263. Exclusions to attendant care services [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-264. Transportation [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-265. Interpreter services [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-266. Rehabilitation reader services [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]



**340:95-10-267. Orientation and mobility services (O&M)  
[REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

**340:95-10-268. Rehabilitation teacher services [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

**340:95-10-269. Recreational services [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

**340:95-10-270. Training [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

**340:95-10-271. Services to family member [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

**340:95-10-272. Referral services [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

**340:95-10-273. Rehabilitation engineering, sensory aids specialist, and adaptive aids [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

**340:95-10-274. Services for groups of persons with disabilities  
[REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

**340:95-10-275. Purchase of special equipment for motor vehicles  
[REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

**340:95-10-276. Other goods and services [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

## **PART 25. CLIENT ASSISTANCE PROGRAM [REVOKED]**

### **340:95-10-287. Purpose [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-288. Definitions [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-289. Services [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-290. Referrals [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-291. Confidentiality [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-10-292. Field visits [REVOKED]**

[Source: Added at 9 Ok Reg 341, eff 11-12-91 (emergency); Added at 9 Ok Reg 2905, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

## **SUBCHAPTER 11. OTHER SERVICES FOR BLIND INDIVIDUALS [REVOKED]**

### **340:95-11-1. Definitions [REVOKED]**

[Source: Revoked at 9 Ok Reg 315, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2841, eff 7-13-92]

### **340:95-11-2. Vending facility program [REVOKED]**

[Source: Revoked at 9 Ok Reg 315, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2841, eff 7-13-92]

### **340:95-11-3. Placement [REVOKED]**

[Source: Revoked at 9 Ok Reg 315, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2841, eff 7-13-92]

## **SUBCHAPTER 12. VENDING FACILITY PROGRAMS FOR BLIND INDIVIDUALS [REVOKED]**

### **PART 1. RULES AND REGULATIONS GOVERNING THE VENDING FACILITY PROGRAM UNDER THE RANDOLPH SHEPPARD ACT AS AMENDED [REVOKED]**

#### **340:95-12-1. Purpose [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ;  
Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

#### **340:95-12-2. Definitions [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ;  
Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

#### **340:95-12-3. Issuance of licenses, and eligibility of applicant's [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ;  
Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

#### **340:95-12-4. Selection, promotion and transfer [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ;  
Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

#### **340:95-12-5. Fair hearing [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ;  
Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

#### **340:95-12-6. Operators agreement [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ;  
Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

#### **340:95-12-7. Equipment [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ;  
Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-8. Initial stock/merchandise loan [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-9. Responsibilities of the Department [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-10. Duties of the vendor [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-11. General terms [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-12. Setting aside of funds [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-13. Distribution and use of income from vending machine on federal property [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-14. Training program [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-15. State Committee of Blind Vendors [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-16. Program and financial information [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-17. Retirement, health and life insurance benefits [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

## **PART 3. VENDING FACILITY PROGRAM [REVOKED]**

### **340:95-12-25. Purpose [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-26. Definitions [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-27. Objectives of the Vending Facility Program [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-28. Eligibility [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-29. Vending facility training program [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-30. Prerequisites for training [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-31. Application process [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-32. Duration of training [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-33. Evaluation [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-34. Completion of training [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-35. Failure to complete training [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-36. Post training interview [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-37. Acceptance of out of state licenses [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-38. Selection procedures for managing operators [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-39. Qualifications of applicants [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-40. Selection committee [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-41. Interviews [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-42. Ninety-day replacement [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-43. Merchandise loan [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-44. Sanitation [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-45. Food quality [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-46. Employment policy [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-47. Insurance [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-48. Upward mobility training [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-49. Use of dog guides [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-50. Motor vehicle operation [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-51. Equipment [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-52. Inventory [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-53. Merchandise [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-54. Monthly vending facility reports [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-55. Program supervision [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-56. Criteria to establish new facilities [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-57. Contracts and permits [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-58. Procedures to establish new vending facilities [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-59. Criteria for closing facilities [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-60. Recruiting, screening and selecting [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-61. Installation of a managing operator [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-62. Installation process [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-63. Supervisory facility visits [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]



### **340:95-12-64. Frequency of supervisory visits [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-65. Inspection reports [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-66. Case recording [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-67. Repair requisitions [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-68. Equipment repairs [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-69. Audit procedures [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-70. Program remedies and vendor rights [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-71. Non-discrimination [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-72. Fair hearings [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-12-73. Confidentiality [REVOKED]**

[Source: Added at 9 Ok Reg 315, eff 11-12-91 (emergency); Added at 9 Ok Reg 2841, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

## **SUBCHAPTER 13. PHILOSOPHY AND SCOPE OF PROGRAM [REVOKED]**

### **PART 1. GENERAL PROVISIONS [REVOKED]**

#### **340:95-13-1. Philosophy and scope of program [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

#### **340:95-13-2. Caseload management [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

#### **340:95-13-3. Case statuses [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **PART 3. SERVICES [REVOKED]**

#### **340:95-13-20. Client rights [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

#### **340:95-13-21. Diagnosis and evaluation [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

#### **340:95-13-22. Personal management [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

#### **340:95-13-23. Home management [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

#### **340:95-13-24. Counseling activities [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

#### **340:95-13-25. Other services [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

#### **340:95-13-26. Special programs [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

## **PART 5. CASE RECORDING STANDARDS [REVOKED]**

### **340:95-13-40. Case recording [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-13-41. Initial interview [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-13-42. Eligibility [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-13-43. Individual Written Teaching Plan [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-13-44. Interim recording [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

### **340:95-13-45. Closures [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

## **SUBCHAPTER 15. LIBRARY SERVICE FOR THE BLIND AND PHYSICALLY HANDICAPPED [REVOKED]**

### **340:95-15-1. Library services for the blind and physically handicapped [REVOKED]**

[Source: Revoked at 9 Ok Reg 341, eff 11-12-91 (emergency); Revoked at 9 Ok Reg 2905, eff 7-13-92]

## **SUBCHAPTER 17. SPECIAL SCHOOLS [REVOKED]**

### **PART 1. SCOPE AND APPLICABILITY OF SPECIAL SCHOOLS [REVOKED]**

#### **340:95-17-1. Special schools [REVOKED]**

[Source: Amended at 9 Ok Reg 231, eff 11-4-91 (emergency); Amended at 9 Ok Reg 2895, eff 7-13-92 ; Amended at 10 Ok Reg 1805, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-17-2. Administrative responsibility [REVOKED]**

[Source: Amended at 8 Ok Reg 231, eff 11-4-91 (emergency); Amended at 9 Ok Reg 2895, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-17-3. Comprehensive programming for all basic needs [REVOKED]**

[Source: Amended at 9 Ok Reg 231, eff 11-4-91 (emergency); Amended at 9 Ok Reg 2895, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-17-4. Records [REVOKED]**

[Source: Amended at 9 Ok Reg 231, eff 11-4-91 (emergency); Amended at 9 Ok Reg 2895, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-17-5. Departmental resources [REVOKED]**

[Source: Amended at 9 Ok Reg 231, eff 11-4-91 (emergency); Amended at 9 Ok Reg 2895, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-17-6. Admission to OSB and OSD [REVOKED]**

[Source: Amended at 9 Ok Reg 231, eff 11-4-91 (emergency); Amended at 9 Ok Reg 2895, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-17-7. Discipline [REVOKED]**

[Source: Amended at 9 Ok Reg 231, eff 11-4-91 (emergency); Amended at 9 Ok Reg 2895, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-17-8. Elementary and Secondary Education Act [REVOKED]**

[Source: Amended at 9 Ok Reg 231, eff 11-4-91 (emergency); Amended at 9 Ok Reg 2895, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-17-9. Educational records [REVOKED]**

[Source: Revoked at 9 Ok Reg 231, eff 11-4-91 (emergency); Revoked at 9 Ok Reg 2895, eff 7-13-92]

### **340:95-17-10. Regional preschool satellite programs (RPSP) [REVOKED]**

[Source: Amended at 9 Ok Reg 231, eff 11-4-91 (emergency); Amended at 9 Ok Reg 2895, eff 7-13-92 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

## **PART 3. OKLAHOMA SCHOOL FOR THE BLIND (O.S.B./PARKVIEW SCHOOL) ADMISSION RULES [REVOKED]**

### **340:95-17-25. Scope and applicability [REVOKED]**

[Source: Added at 9 Ok Reg 3611, eff 7-23-92 (emergency); Added at 10 Ok Reg 1805, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-17-26. General admission requirements [REVOKED]**

[Source: Added at 9 Ok Reg 3611, eff 7-23-92 (emergency); Added at 10 Ok Reg 1805, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-17-27. Admission criteria for regular academic day/residential program [REVOKED]**

[Source: Added at 9 Ok Reg 3611, eff 7-23-92 (emergency); Added at 10 Ok Reg 1805, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-17-28. Admission criteria for the special needs day/residential school program [REVOKED]**

[Source: Added at 9 Ok Reg 3611, eff 7-23-92 (emergency); Added at 10 Ok Reg 1805, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-17-29. Criteria for the pre-school multihandicapped program [REVOKED]**

[Source: Added at 9 Ok Reg 3611, eff 7-23-92 (emergency); Added at 10 Ok Reg 1805, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-17-30. Admission requirements for summer school [REVOKED]**

[Source: Added at 9 Ok Reg 3611, eff 7-23-92 (emergency); Added at 10 Ok Reg 1805, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-17-31. Admissions process [REVOKED]**

[Source: Added at 9 Ok Reg 3611, eff 7-23-92 (emergency); Added at 10 Ok Reg 1805, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

## **PART 5. OKLAHOMA SCHOOL FOR THE DEAF (O.S.D.) ADMISSION RULES [REVOKED]**

### **340:95-17-45. Scope and applicability [REVOKED]**

[Source: Added at 9 Ok Reg 3611, eff 7-23-92 (emergency); Added at 10 Ok Reg 1805, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-17-46. General admission requirements [REVOKED]**

[Source: Added at 9 Ok Reg 3611, eff 7-23-92 (emergency); Added at 10 Ok Reg 1805, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-17-47. Admission criteria for regular academic program [REVOKED]**

[Source: Added at 9 Ok Reg 3611, eff 7-23-92 (emergency); Added at 10 Ok Reg 1805, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-17-48. Admission criteria for the early childhood development program [REVOKED]**

[Source: Added at 9 Ok Reg 3611, eff 7-23-92 (emergency); Added at 10 Ok Reg 1805, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-17-49. Criteria for admission to the regional preschool program [REVOKED]**

[Source: Added at 9 Ok Reg 3611, eff 7-23-92 (emergency); Added at 10 Ok Reg 1805, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-17-50. Admission requirements for the special needs program [REVOKED]**

[Source: Added at 9 Ok Reg 3611, eff 7-23-92 (emergency); Added at 10 Ok Reg 1805, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-17-51. Admission criteria for the preschool special needs program [REVOKED]**

[Source: Added at 9 Ok Reg 3611, eff 7-23-92 (emergency); Added at 10 Ok Reg 1805, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

### **340:95-17-52. Admissions process [REVOKED]**

[Source: Added at 9 Ok Reg 3611, eff 7-23-92 (emergency); Added at 10 Ok Reg 1805, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

## **APPENDIX A. REHABILITATION SERVICES APPLICATION [REVOKED]**

**[Source:** Revoked and reenacted at 10 Ok Reg 1743, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

## **APPENDIX B. INDIVIDUALIZED REHABILITATION PROGRAM [REVOKED]**

**[Source:** Revoked and reenacted at 10 Ok Reg 1743, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]



## **APPENDIX C. ANNUAL REVIEW OF INELIGIBILITY [REVOKED]**

**[Source:** Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

## **APPENDIX G. REQUEST FOR A FAIR HEARING [REVOKED]**

[**Source:** Revoked and reenacted at 10 Ok Reg 1743, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

## **APPENDIX Q. VOCATIONAL AND TECHNICAL TRAINING PROGRESS REPORT [REVOKED]**

**[Source:** Added at 10 Ok Reg 1743, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency);  
Revoked at 11 Ok Reg 2741, eff 6-13-94]

## **APPENDIX R. RELEASE OF RECEIPT FOR TOOLS AND/OR OTHER EQUIPMENT [REVOKED]**

[**Source:** Added at 10 Ok Reg 1743, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency);  
Revoked at 11 Ok Reg 2741, eff 6-13-94]

## **APPENDIX S. RECEIPT FOR WARRANT [REVOKED]**

[**Source:** Added at 10 Ok Reg 1743, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

## **APPENDIX T. INTERPRETER ASSIGNMENT REPORT [REVOKED]**

[**Source:** Added at 10 Ok Reg 1743, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency);  
Revoked at 11 Ok Reg 2741, eff 6-13-94]

## **APPENDIX U. OPTIONAL METHODS FOR FURNISHING INITIAL STOCKS OF MERCHANDISE [REVOKED]**

**[Source:** Added at 10 Ok Reg 1743, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency);  
Revoked at 11 Ok Reg 2741, eff 6-13-94]

## **APPENDIX V. REVIEW OF LOCATION [REVOKED]**

[**Source:** Added at 10 Ok Reg 1743, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]



## **APPENDIX W. DRIVER SERVICE CONTRACT [REVOKED]**

[Source: Added at 10 Ok Reg 1743, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency);  
Revoked at 11 Ok Reg 2741, eff 6-13-94]

## **APPENDIX X. PLACEMENT AFFIDAVIT OF CHILD SUPPORT PAYMENTS RECEIVED [REVOKED]**

[**Source:** Added at 10 Ok Reg 1743, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency);  
Revoked at 11 Ok Reg 2741, eff 6-13-94]

## **APPENDIX Y. INDIVIDUAL APPLICATION FOR FREE LIBRARY SERVICE [REVOKED]**

[**Source:** Added at 10 Ok Reg 1743, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency);  
Revoked at 11 Ok Reg 2741, eff 6-13-94]

## **APPENDIX Z. HOUSE MODIFICATION RELEASE [REVOKED]**

[**Source:** Added at 10 Ok Reg 1743, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency);  
Revoked at 11 Ok Reg 2741, eff 6-13-94]

## **APPENDIX D. CERTIFICATION OF REHABILITATION [REVOKED]**

[**Source:** Revoked and reenacted at 10 Ok Reg 1743, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

## **APPENDIX E. CASE CLOSURE AMENDMENT AND/OR CERTIFICATION OF INELIGIBILITY [REVOKED]**

[**Source:** Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

**APPENDIX F. RSV INDEPENDENT  
LIVING/REHABILITATION TEACHING APPLICATION  
FORM [REVOKED]**

[**Source:** Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

## **APPENDIX H. RECEIPT FOR EQUIPMENT AND TITLE AGREEMENT [REVOKED]**

[**Source:** Revoked and reenacted at 10 Ok Reg 1743, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]



## **APPENDIX I. AUTHORIZATION FOR RELEASE OF INFORMATION [REVOKED]**

[**Source:** Revoked and reenacted at 10 Ok Reg 1743, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

## **APPENDIX J. CERTIFICATION AS A "SPECIAL" HANDICAPPED PERSON [REVOKED]**

[**Source:** Revoked and reenacted at 10 Ok Reg 1743, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

## **APPENDIX K. STATEMENT OF INCOME AND LIABILITIES [REVOKED]**

**[Source:** Revoked and reenacted at 10 Ok Reg 1743, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency); Revoked at 11 Ok Reg 2741, eff 6-13-94]

## **APPENDIX L. APPLICATION FOR TELECOMMUNICATION EQUIPMENT [REVOKED]**

**[Source:** Added at 10 Ok Reg 1743, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency);  
Revoked at 11 Ok Reg 2741, eff 6-13-94]

## **APPENDIX M. AGREEMENT FOR OPERATION OF A VENDING FACILITY UNDER RANDOLPH-SHEPPARD ACT [REVOKED]**

[**Source:** Added at 10 Ok Reg 1743, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency);  
Revoked at 11 Ok Reg 2741, eff 6-13-94]

## **APPENDIX N. REVIEW OF INELIGIBILITY [REVOKED]**

[**Source:** Added at 10 Ok Reg 1743, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency);  
Revoked at 11 Ok Reg 2741, eff 6-13-94]

## **APPENDIX O. CERTIFICATION OF INELIGIBILITY [REVOKED]**

[**Source:** Added at 10 Ok Reg 1743, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency);  
Revoked at 11 Ok Reg 2741, eff 6-13-94]

## **APPENDIX P. PROGRAM REVIEW [REVOKED]**

[**Source:** Added at 10 Ok Reg 1743, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency);  
Revoked at 11 Ok Reg 2741, eff 6-13-94]



## **APPENDIX AA. MONTHLY VENDING FACILITY REPORT [REVOKED]**

[**Source:** Added at 10 Ok Reg 1743, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency);  
Revoked at 11 Ok Reg 2741, eff 6-13-94]

## **APPENDIX BB. RETIREMENT PROGRAM OPTION [REVOKED]**

[**Source:** Added at 10 Ok Reg 1743, eff 5-13-93 ; Revoked at 10 Ok Reg 4595, eff 9-1-93 (emergency);  
Revoked at 11 Ok Reg 2741, eff 6-13-94]

## CHAPTER 100. DEVELOPMENTAL DISABILITIES SERVICES

[**Authority:** 15 U.S.C 1681b; 18 U.S.C 228; 28 U.S.C 1738B; 31 U.S.C 3716; 42 U.S.C. Chapter 7, Subchapter IV, Part D; 50A U.S.C. 501-596; Internal Revenue Service Publication 1075, Executive Order 13019; Section 6305 of the Internal Revenue Code of 1954; The Domestic Volunteer Service Act of 1973; 21st Century Cares Act; P.L. 93-113; 31 CFR 285.1 and 285.3; 42 CFR; 45 CFR Subtitle B, Chapter III; 3A O.S. §724.1; 10 O.S., §§ 83, 1-1-105, §§ 1406 et seq., and 1430.1 et seq.; 10A O.S., §§ 1-4-702, 7700-307, 7700-308 and 7700-312; 12 O.S., §§ 719 through 726, 842, 1171.2 and 2005; 21 O.S., §§ 566, 566.1, 567 and 852; 22 O.S., § 1175.1, 1175.66, and 1175.66A; 24 O.S., §§ 112 through 123; 30 O.S., § 3-102 through 3-104; 43A O.S., 10-101 through 10-111; 36 O.S., §§ 6058A and 6059A; 43 O.S., §§ 112, 112A, 112.1A through 118I, 1182.2, 119, 120, 135, 137, 139, 139.1, 140, 413, 601-100 through 601-901; 47 O.S., §§ 1-153, 6-201, 6-201.1, 6-211 and 6-212; 51 O.S., § 157 et seq.; 56 O.S., §§ 162, 183, 192, 228, 230.5, 231 through 240.23, 601-608, 1020, and 1025.1 et seq.; 58 O.S., § 1928; 59 O.S., § 3331; 62 O.S.; 63 O.S., §§ 1-311, 1-311.3, 1-901 et seq.; 68 O.S., §§ 205.2 and 205.3; 70 O.S., §11-103; 75 O.S., § 318]  
[**Source:** Codified 12-31-91]

### SUBCHAPTER 1. GENERAL PROVISIONS

#### 340:100-1-1. Purpose [REVOKED]

[**Source:** Amended at 11 Ok Reg 177, eff 10-11-93 (emergency); Amended at 11 Ok Reg 2303, eff 5-26-94 ; Revoked at 40 Ok Reg 1005, eff 9-15-23]

#### 340:100-1-2. Definitions

The following words and terms, when used in this Chapter, shall have the following meanings, unless the context clearly indicates otherwise:

**"Active treatment"** means aggressive and consistent implementation of a program of specialized and generic training, treatment, and health services directed toward the service recipient's acquisition of skills necessary, in order to function as independently as possible.

**"Advisory Committee on Services to Persons with Developmental Disabilities"** means the committee appointed by the Director of Human Services (Director) to review and make recommendations on Developmental Disabilities Services (DDS) rules and programs.

**"Advocate"** means a person who speaks for or on behalf of a service recipient, especially when individual rights or interests are at risk.

**"Alternative appropriate setting"** means a setting, other than a nursing facility, where needed habilitation services are provided, including an intermediate care facility for individuals with intellectual disabilities (ICF/IID) or Home and Community-Based Services (HCBS).

**"Assessment"** means one or more processes used to obtain information about a service recipient, including his or her condition, personal goals and preferences, functional limitations, health status, or other factors relevant to service authorization or provision. Assessment information supports the determination that an individual requires services and is used to develop the Individual Plan (Plan).

**"Back-up-plan"** means provision for alternative service delivery arrangements for critical to the service recipient's well-being in the event the service provider fails, is unable to deliver the services, or the home

where the person lives is no longer available.

**"Capacity to give informed consent"** means an individual's ability to make and express voluntary decisions, given correct and sufficient information about the nature, purpose, risks, and benefits of a proposed service or action, when the individual is not adjudicated incapacitated by a court for purposes of the decision.

**"Case manager"** means an Oklahoma Department of Human Services (OKDHS) DDS professional who is responsible for assisting a service recipient in gaining access to needed medical, social, educational, or other services per Oklahoma Administrative Code (OAC) 317:30-5-1010.1. Case management activities may include assessment, plan development, plan implementation and monitoring, as well as assistance in accessing services and other resources.

**"Challenging behavior"** means a behavior that, by its frequency or degree of intensity:

- (A) places a service recipient's physical safety, environment, relationships, or participation in the community at risk; or
- (B) creates a risk of involvement in civil or criminal processes.

**"Client Contact Manager (CCM)"** means a computer software system used by DDS case managers to collect and monitor case management data for service recipients.

**"Community Integrated Employment (CIE)"** means a service program that provides placement, job training, and short-term or long-term supports to assist service recipients in achieving and maintaining employment within the community.

**"Confidential information"** means:

- (A) information related to a service recipient generated by OKDHS or contract providers; and
- (B) observations of and discussions concerning service recipients, their families, guardians, or friends.

**"Consumer"** means a person who is a direct recipient or beneficiary of service planning and delivery and is synonymous with client, service recipient, individual, and member in Oklahoma Health Care Authority (OHCA) policy.

**"Contract provider or agency"** means an agency rendering services to persons with developmental disabilities under a contractual agreement with OKDHS or OHCA.

**"Convalescent care"** means nursing facility care:

- (A) following a person's release from an acute care hospital that is part of a medically prescribed recovery period; and
- (B) not expected to exceed an established number of days.

**"DDS"** means OKDHS Developmental Disabilities Services.

**"Developmental disability"** means a person's severe chronic disability that:

- (A) is attributable to a mental or physical impairment or combination of mental and physical impairments;
- (B) is manifested before the person is 22 years of age;
- (C) is likely to continue indefinitely;

(D) results in substantial functional limitations in three or more major life activity areas:

- (i) self-care;
- (ii) receptive and expressive language;
- (iii) learning;
- (iv) mobility;
- (v) self-direction;
- (vi) capacity for independent living; and
- (vii) economic self-sufficiency; and

(E) reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated.

**"Enabling technology"** means equipment, product systems, engineered solutions, devices, or items that support a service recipient's increased independence in the home, employment site, or the community. These items address a service recipient's needs and outcomes identified in his or her Plan.

**"Family homes"** means residences maintained by persons related by biology, adoption, marriage or common law, to a service recipient.

**"Family training"** means activities designed to equip family members, significant others, and persons with developmental disabilities with knowledge and skills that allow a family member with developmental disabilities to remain in, or return to, his or her home.

**"Goals"** means long-term categorical statements that describe what the service recipient is expected to achieve in a given time frame and are used synonymously with outcomes.

**"Guardian"** means a person appointed by a court as general or limited guardian of the person, general or limited guardian of property, special guardian, or temporary guardian as provided by state statutes . A guardian ensures the essential requirements for the ward's health and safety are met and manages the ward's estate, financial resources, or both.

**"Guardian ad litem"** means a person appointed by a court to represent the interests of a person in a legal action.

**"Habilitation services"** means goal-directed services and therapy activities:

(A) designed to assist a service recipient in acquiring a variety of skills, including self-help, socialization, adaptive skills, and prevention of loss of skills; and

(B) based on the service recipient's capacity to increase his or her own level of physical, mental, and social functioning.

**"Human Rights Committee"** means the committee charged with the responsibility for external monitoring and advocacy to address protection of individual rights.

**"ICF/IID"** means an intermediate care facility for individuals with intellectual disabilities (ID) that is:

(A) a residential facility licensed in accordance with Oklahoma law; and

(B) certified by the federal government as a Medicaid services provider to persons who have ID or related conditions.

**"Incapacitated"** means a court determination that a person is unable to provide for and make decisions for his or her own needs and safety.

**"Individual Plan (Plan)"** means a written document developed by the Personal Support Team (Team) based on a need assessment. The Plan:

(A) specifies outcomes pursued on the service recipient's behalf, steps taken to achieve outcomes; and

(B) is a single, comprehensive plan that encompasses all relevant components of the service recipient's life. Various aspects of the Plan are assigned to those persons or agencies designated by the Team to provide services.

**"Individual provider"** means a person rendering services to persons with ID under a contractual agreement with OKDHS or OHCA.

**"Intake"** means the process a person goes through to gain access to DDS services. Intake staff:

(A) provides answers to specific service inquiries;

(B) assists in the identification of needs in times of crisis;

(C) supplies information regarding the range and means of accessing available services;

(D) provides assistance as necessary in service application; and

(E) facilitates eligibility determination.

**"Intellectual Disability (ID)"** means a person, per Section 1408 of Title 10 of the Oklahoma Statutes who:

(A) has significantly sub average functioning, an intelligence quotient (IQ) of less than 70 that manifests before 18 years of age; and

(B) exists concurrently with related limitations in two or more of the applicable adaptive skill areas that are:

(i) communication;

(ii) self-care;

(iii) home living;

(iv) social skills;

(v) use of community resources;

(vi) self-direction;

(vii) health and safety;

(viii) functional academics;

(ix) leisure; and

(x) work.

**"Integrated employment site"** means a location or activity that provides service recipients with regular interaction with persons without disabilities, excluding service providers, to the same extent that a worker without disabilities, in a comparable position, interacts with others.

**"Intrusive procedure"** means a procedure that impinges upon the service recipient's bodily integrity, per OAC 340:100-5-57 and OAC 340:100-5-58. Intrusive procedures include, but are not limited to:

- (A) p.r.n. psychotropic medications used for behavioral control;
- (B) physical management or physical restraint; and
- (C) mechanical restraints for behavioral reasons.

**"Job coach"** means a person who holds an OKDHS approved job coach certification and provides ongoing support services to service recipients in supported employment placements. Services directly support the service recipient's work activity, including:

- (A) marketing and job development;
- (B) job and work site assessment;
- (C) training and assessment;
- (D) job matching procedures;
- (E) developing co-worker supports; and
- (F) teaching job skills.

**"Least restrictive"** means services and supports that maximize the service recipient's independence and freedom and are provided in a manner that is the least restrictive and intrusive possible to meet the service recipient's needs.

**"Long-term resident"** means a nursing facility resident with ID or related conditions who has continuously resided in a nursing facility for at least 30-consecutive months prior to the date of the first preadmission screening and resident review (PASRR) disposition.

**"Mechanical restraint"** means any device used to hinder, forcibly confine, or control an individual's freedom of bodily movement.

**"Monitoring"** means the ongoing service provision observation and analysis to determine whether the services are furnished per the Plan and effectively meet the service recipient's needs, including whether services adequately protect his or her health and welfare. Monitoring activities may include, but are not limited to, telephone contact, observations, and interviewing the service recipient, family, or service provider.

**"Natural supports"** means assistance provided by a person, such as a service recipient's family, friend, co-worker, neighbor, or member of a service recipient's club, church, or interest group, or others in the service recipient's community, who:

- (A) are not paid specifically to provide assistance to the service recipient; and
- (B) provide voluntary assistance.

**"Non-prescription medication"** means a pharmacological drug sold without a prescription, prepackaged for the service recipient's use, and labeled per state and federal statutes and regulations.

**"Nursing facility"** means an Oklahoma Medicaid-certified institution providing skilled nursing and related services, excluding a facility certified as ICF/IID.

**"Personal Support Team (Team)"** means the participants in the service recipient's assessment and planning process and includes:

- (A) the service recipient; and
- (B) service recipient's:
  - (i) case manager;
  - (ii) legal guardian; and

- (iii) when applicable, advocate, who may be a parent, family member, friend, or other person who knows the service recipient well; and
- (C) others, including service providers, whose participation is necessary to achieve the service recipient's desired outcomes.

**"Physical management"** means an intrusive procedure involving any physical guidance of a service recipient to overcome his or her resistance, or a brief upper body hold to ensure safety per OAC 340:100-5-57.

**"Physical restraint"** means an intrusive procedure where the service recipient is physically held to restrict movement.

**"Plan of Care (POC)"** means a summary listing of services requested as a result of needs identified within the Plan that indicates the amount, duration, and cost of each service recommended for funding through DDS HCBS Waivers.

**"Preadmission screening and resident review (PASRR)"** means the process of evaluating, reviewing, and establishing the need for nursing facility services in contrast to other services for persons with ID and related conditions.

**"Prescription medication"** means any drug ordered by a health care provider, who is licensed by law to prescribe a drug, intended to be filled, compounded, or dispensed by a pharmacist.

**"p.r.n."** means to take or administer a medication as needed.

**"Program coordinator"** means a person employed by a DDS residential or group home contract provider agency who supervises, coordinates, and monitors the contract agency's service provision to a service recipient.

**"Program manager"** means a person employed by a DDS employment contract provider agency who supervises, coordinates, and monitors the contract agency's service provision to a service recipient.

**"Psychotropic medication"** means a pharmacological drug used to treat a mental disorder, or any drug prescribed to stabilize or improve mood, mental status, or behavior.

**"Punishment"** means the intentional application of something undesirable or unpleasant, or the removal of something desirable or pleasant, in response to a behavior deemed unacceptable.

**"Punitive"** means inflicting or involving punishment.

**"QIDP"** means a qualified ID professional who meets ICF/IID regulations per Section 483.430 of Title 42 of the Code of Federal Regulations (42 C.F.R. § 483.430). A QIDP must have a baccalaureate degree in a human services field, in addition to one year of experience serving persons with ID.

**"Related condition"** means a severe chronic disability, per 42 C.F.R. § 435.1010 that:

(A) is attributable to:

- (i) cerebral palsy;
- (ii) epilepsy; or
- (iii) other condition except mental illness (MI) that is closely related to ID as it results in impairment of general intellectual functioning or adaptive



behavior similar to that of persons with ID and requires treatment or services similar to those required for persons with ID;

(B) is manifested before the person reaches 22 years of age;

(C) is likely to continue indefinitely; and

(D) results in substantial functional limitations in three or more major life activity areas, including:

(i) self-care;

(ii) understanding and use of language;

(iii) learning;

(iv) mobility;

(v) self-direction; and

(vi) independent living.

**"Response cost procedure"** means the removal of a reinforcer the individual values as a consequence of a behavior with the intent of reducing the frequency of the behavior.

**"Restrictive procedure"** or **"restriction"** means a procedure that results in limiting the service recipient's rights, per OAC 340:100-5-57 and OAC 340:100-5-58 and includes:

(A) limiting communication or association with others;

(B) any limitation of access to:

(i) leisure activities;

(ii) the service recipient's own money, personal property, or items purchased with the individual's money; and

(iii) food or beverages;

(C) any movement limitation at home or in the community;

(D) visual or electronic supervision during times or places that would otherwise be considered private; or

(E) the use of a response cost procedure.

**"Sheltered employment"** means a service that:

(A) assists service recipients toward achieving their vocational potential through a controlled work environment;

(B) provides worker reimbursement in accordance with individual production and Fair Labor Standards Act (FLSA); and

(C) includes assessment, training, and transitional programming leading to community job placements.

**"Sheltered workshop"** means a facility that contracts with DDS to provide employment training and sheltered employment services for workers with disabilities.

**"Short-term resident"** means any resident with ID or related conditions who resided in a nursing facility for less than 30 months prior to the first PASRR disposition date.

**"Specialized services"** means individualized services specified in PASRR evaluations DDS completes that, combined with services the nursing facility or other service providers provide, results in a treatment regimen leading to continued and ongoing independence enhancement.

**"Supplemental Security Income (SSI)"** means a federal income subsidy program administered by the Social Security Administration.

**"Supported employment"** means competitive work in an integrated work setting with ongoing support services for service recipients with severe disabilities for whom competitive employment has not traditionally occurred or has been interrupted or intermittent as a result of severe disabilities.

**"Terminal illness"** means, as certified by a physician, a person with a medical prognosis of life expectancy of six months or less, when the illness runs its natural course.

**"Transition"** means a service recipient's planned movement from one service setting to another, occurring as a result of a Team recommendation and the service recipient's informed consent.

**"Treatment team for specialized services"** means the team whose purpose is to develop a prescribed plan of specialized services for each service recipient. The team:

- (A) is composed of the service recipient, guardian or advocate, nursing home representative, and other professionals and paraprofessionals as needed to develop a comprehensive service plan; and
- (B) may include a psychologist, physical therapist, speech pathologist, physician, and nurse's aide among others.

**"Vocational assessment"** means the employment service evaluation, whether standardized procedures are employed, that:

- (A) identifies the service recipient's unique preferences, strengths, and needs;
- (B) evaluates work skills and work behaviors;
- (C) is supplemented by personal interviews and behavioral observations; and
- (D) incorporates information that addresses the service recipient's:
  - (i) medical;
  - (ii) physical;
  - (iii) psychological;
  - (iv) social;
  - (v) cultural;
  - (vi) educational goals and objectives; and
  - (vii) present and future employment options.

**"Volunteer guardian"** means a person unrelated to the service recipient who:

- (A) serves as guardian for the service recipient and is trained and certified by the volunteer guardianship agency; and
- (B) is appointed by and responsible to the court to ensure essential requirements for the health and safety of the service recipient are met.

**"Ward"** means a person who has a court-appointed guardian.

[Source: Amended at 8 Ok Reg 2163, eff 5-13-91 (emergency); Amended at 9 Ok Reg 1549, eff 4-27-92 ; Amended at 11 Ok Reg 177, eff 10-11-93 (emergency); Amended at 11 Ok Reg 2303, eff 5-26-94 ; Amended at 12 Ok Reg 409, eff 11-17-94 (emergency); Amended at 12 Ok Reg 1761, eff 6-12-95 ; Amended at 12 Ok Reg 2491, eff 6-26-95 ; Amended at 13 Ok Reg 1555, eff 4-2-96 (emergency);

Amended at 14 Ok Reg 1399, eff 5-12-97 ; Amended at 14 Ok Reg 3600, eff 7-25-97 (emergency); Amended at 15 Ok Reg 948, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1666, eff 5-11-98 ; Amended at 16 Ok Reg 2115, eff 5-20-98 (emergency); Amended at 16 Ok Reg 2915, eff 7-12-99 ; Amended at 20 Ok Reg 97, eff 10-16-02 (emergency); Amended at 20 Ok Reg 936, eff 6-1-03 ; Amended at 23 Ok Reg 1026, eff 5-11-06 ; Amended at 24 Ok Reg 1046, eff 5-11-07 ; Amended at 27 Ok Reg 838, eff 7-1-10 ; Amended at 32 Ok Reg 1906, eff 9-15-15 ; Amended at 39 Ok Reg 1807, eff 9-15-22]

### **340:100-1-3. Legal base [REVOKED]**

[**Source:** Amended at 11 Ok Reg 177, eff 10-11-93 (emergency); Amended at 11 Ok Reg 2303, eff 5-26-94 ; Revoked at 40 Ok Reg 1005, eff 9-15-23]

#### **340:100-1-3.1. Mission statement and guiding principles**

(a) The mission of the Developmental Disabilities Services Division (DDSD) is to design and operate a service system centered around the needs and preferences of citizens with developmental disabilities by:

- (1) enabling persons with developmental disabilities to lead healthy, independent, and productive lives to the fullest extent possible;
- (2) promoting the full exercise of their rights as citizens of their communities, state, and country; and
- (3) promoting the integrity and well-being of their families.

(b) To support implementation of the mission statement appearing in subsection (a), the policies and practices of DDSD staff and providers are directed by the guiding principles in this subsection.

(1) **Independence.** We help people fulfill their personal goals, needs, and desires with as little intrusion from paid workers as possible.

(A) People exercise control over their own lives to the fullest extent possible.

(B) Supports are authorized for essential needs.

(C) Supports enhance the self-sufficiency of families caring for children or adults with developmental disabilities.

(D) Adults are, to the fullest extent possible, supported in integrated jobs where they are fully involved with their coworkers and responsible to their employer for the work they do.

(E) Independence is maximized through assistive technology.

(2) **Dignity.** We respect the status of people we serve as citizens, coworkers, neighbors, and friends.

(A) Interactions with people are based on respect.

(B) People we serve exercise the same rights and responsibilities as other citizens.

(C) Supports are authorized on the basis of need and individual preference.

(D) People are not discriminated against because of their disability.

(E) People are not grouped by disabilities or segregated because of them.

(F) The resources of people are protected.

(G) Senior adults are supported in preferred activities typically experienced after retirement.

(3) **Privacy.** We honor each person's right, need, and desire for privacy.

(A) The confidentiality of each person is protected.

(B) People are ensured privacy in written, verbal or personal communications.

(C) People spend time alone or with friends when they wish.

(4) **Individualization.** We recognize and respond to the unique qualities, circumstances, and aspirations of each person.

(A) Services and interactions enhance the self image and esteem of each person we serve.

(B) Each person's strengths, talents, and interests guide the provision of supports and services.

(C) People are encouraged to explore leisure pursuits that reflect personal interests and promote friendships with persons who do not have disabilities.

(5) **Choice.** We encourage people to make choices about their daily lives and services.

(A) People we serve and their guardians are the primary decision makers regarding issues affecting their lives.

(B) To the extent possible, people select their home and roommate(s).

(C) People are provided information about the possible results of their choices.

(D) Friends and advocates help people to make decisions when necessary.

(E) The assistance of a guardian is secured when a court determines that an individual lacks the capacity to make decisions essential to maintenance of health or resources.

(6) **Health.** We promote the health of individuals receiving services.

(A) People are assisted to understand their health needs and to secure treatment.

(B) The health needs of each person are met by appropriately licensed or certified community practitioners.

(C) Advocates and friends help to secure desired health services that are not available through private or public insurance.

(7) **Safety.** We promote the safety of people in all aspects of service delivery.

(A) People we serve are free from abuse, neglect, and exploitation.

(B) People providing supports display skills requisite to their responsibilities.

(C) Safety issues are always considered during the development, implementation, and evaluation of supports.

(D) People are protected from significant risk as a result of their choices.

- (E) People live in safe homes.
- (8) **Learning.** We support each person's ability to develop relationships and to participate in personally meaningful activities.
  - (A) Functional communication is a primary consideration in planning for and delivering supports.
  - (B) Safety, security, and respect are the basis of learning and teaching relationships.
  - (C) People are supported to gain independence and personal fulfillment while learning decision-making skills.
  - (D) Potential issues with health, relationships, and environment are explored and addressed prior to the implementation of restrictive services.
  - (E) Supports which address challenging behaviors:
    - (i) are positive;
    - (ii) use the least restrictive appropriate approach;
    - (iii) are designed and implemented with the participation and consent of the individual and guardian; and
    - (iv) focus on establishing bonds of companionship, trust, safety, and security between the person and those providing support.
- (9) **Family.** We encourage each individual's development and maintenance of caring relationships.
  - (A) Children live with families.
  - (B) The lives of adults include their families to the extent adults desire.
  - (C) Services support the stability and well being of families formed by adults.
  - (D) Adults are encouraged to develop bonds with significant others.
- (10) **Inclusion.** We support the integration of all people with developmental disabilities within their communities.
  - (A) Communities are encouraged to eliminate obstacles to the full inclusion of citizens with disabilities.
  - (B) People with disabilities use the same community resources as people who do not have disabilities.
  - (C) People contribute to and benefit from the enrichment of their communities through volunteer activities and membership in civic organizations.

[Source: Added at 8 Ok Reg 2163, eff 5-13-91 (emergency); Added at 9 Ok Reg 1549, eff 4-27-92 ; Amended at 11 Ok Reg 177, eff 10-11-93 (emergency); Amended at 11 Ok Reg 2303, eff 5-26-94 ; Amended at 15 Ok Reg 4274, eff 8-20-98 (emergency); Amended at 16 Ok Reg 1056, eff 4-26-99]

#### **340:100-1-4. Behavior procedures hierarchy [REVOKED]**

[Source: Amended at 8 Ok Reg 2163, eff 5-13-91 (emergency); Amended at 9 Ok Reg 1549, eff 4-27-92 ; Amended at 11 Ok Reg 177, eff 10-11-93 (emergency); Amended at 11 Ok Reg 2303, eff 5-26-94 ; Amended at 15 Ok Reg 3746, eff 6-23-98 (emergency); Amended at 16 Ok Reg 1056, eff 4-26-99 ; Revoked at 20 Ok Reg 97, eff 10-16-02 (emergency); Revoked at 20 Ok Reg 936, eff 6-1-03]

## **SUBCHAPTER 3. ADMINISTRATION**

### **PART 1. GENERAL ADMINISTRATION**

#### **340:100-3-1. Eligibility determination for Developmental Disabilities Services state-funded services**

Developmental Disabilities Services (DDS) services are state-funded without federal subsidy and available to persons meeting eligibility requirements.

- (1) To be eligible for state-funded DDS services a person must:
  - (A) present a psychological assessment with a diagnosis of intellectual disability (ID) that includes a full scale intelligence quotient (IQ) of 75 or less; or
  - (B) be determined disabled, with a diagnosis of ID, by the Social Security Administration;
  - (C) be a resident of Oklahoma; and
  - (D) have achieved an age defined within the provisions of each state-funded program per Oklahoma Administrative Code (OAC) 340:100.
- (2) Persons approved for DDS state-funded services prior to January 1, 1990, maintain their eligibility for services.
- (3) Members of the Homeward Bound class, who are not eligible for services through Home and Community-Based Services (HCBS) Waivers because they do not meet the intermediate care facility for individuals with intellectual disabilities (ICF/IID) level of care, receive state-funded services.
- (4) Members of the Homeward Bound class who are not eligible for services through the HCBS Waiver because they do not meet financial eligibility requirements must resolve financial eligibility issues within a 90-calendar day period. Members may continue to receive services included in their plan of care with state funding for a maximum 90-calendar day period while resolving financial eligibility issues. If issues are not resolved, the member may receive state-funded services available to non-Medicaid eligible persons including group homes, assisted living services without supports, community integrated employment services, and sheltered workshop services. The member may also receive such other services as the member may choose to purchase. The member is not eligible for other Medicaid services until eligibility issues are resolved. Case management is provided.
- (5) Per Section 1414 of Title 10 of the Oklahoma Statutes, the Oklahoma Department of Human Services Director may authorize delivery of services to persons whose capacities exceed criteria per this Section.
- (6) Eligibility for the Family Support Assistance Payment Program is in accordance with OAC 340:100-13-1.

[Source: Amended at 8 Ok Reg 2163, eff 5-13-91 (emergency); Amended at 9 Ok Reg 1549, eff 4-27-92 ; Amended at 9 Ok Reg 2207, eff 5-18-92 (emergency); Amended at 10 Ok Reg 1403, eff 4-26-93 ;

Amended at 18 Ok Reg 681, eff 1-10-01 (emergency); Amended at 18 Ok Reg 1254, eff 5-11-01 ;  
Amended at 25 Ok Reg 986, eff 5-15-08 ; Amended at 28 Ok Reg 897, eff 6-1-11 ; Amended at 34 Ok Reg  
1598, eff 9-15-17]

### **340:100-3-1.1. Competency [REVOKED]**

[Source: Added at 18 Ok Reg 681, eff 1-10-01 (emergency); Added at 18 Ok Reg 1254, eff 5-11-01]

### **340:100-3-1.2. Rights**

The Developmental Disabilities Services Division, in accordance with the mission statement and guiding principles given at OAC 340:100-1-3.1, promotes the full exercise of rights by persons served as citizens of their communities, state, and country.

- (1) Each person receiving services has the right to:
  - (A) manage, be taught to manage, have assistance in managing financial affairs, and have access to all financial records regarding the person's funds;
  - (B) submit recommendations and complaints about services and policies without fear of reprisal, interference, or discrimination;
  - (C) be given information regarding the advantages and disadvantages of available services;
  - (D) be informed of the reasons for decisions regarding plans for enrollment, services, service termination, transfer, relocation, or denial of services;
  - (E) receive information and review records about the individual's evaluations, assessments, and services;
  - (F) know the name and qualifications of any person or agency providing services to the individual;
  - (G) choose among available service providers;
  - (H) receive visitors without prior notice to the provider unless restricted by the individual's Plan or the rights of other individuals;
  - (I) privacy and confidentiality in all matters;
  - (J) participate in religious activities of choice or to abstain from the practice of religion;
  - (K) freedom from restraints;
  - (L) be protected from abuse, exploitation, and neglect;
  - (M) a safe, humane, living environment;
  - (N) participate in decisions regarding the person's living environment including location, furnishings, other individuals residing in the home, and moves to other locations;
  - (O) be treated with dignity and respect;
  - (P) participate in social, recreational, and other community activities;
  - (Q) be informed of, and agree in writing to, any charges assessed by the provider against the individual's personal funds and the purposes of those charges;
  - (R) positive approaches in all services received; and

- (S) due process in accordance with rules specific to the service(s) received.
- (2) If the service recipient is a minor or has been adjudicated incapacitated, the legal guardian or the parent of the minor child exercises the rights in this Section on behalf of the person, as authorized by the order of appointment.
- (3) The case manager informs and documents that each individual receiving services and his or her legal guardian or personal advocate is informed of the rights in this Section. Other persons are informed of the rights of an individual receiving services upon request.
- (4) The Individual Plan documents any supports necessary to assist the person to exercise his or her rights.

[Source: Added at 18 Ok Reg 681, eff 1-10-01 (emergency); Added at 18 Ok Reg 1254, eff 5-11-01]

### **340:100-3-2. Client records, confidentiality, and security [REVOKED]**

[Source: Amended at 38 Ok Reg 2317, eff 9-15-21 ; Revoked at 40 Ok Reg 1005, eff 9-15-23]

### **340:100-3-3. Communicable diseases [REVOKED]**

[Source: Revoked at 40 Ok Reg 1005, eff 9-15-23]

### **340:100-3-4. Service recipient personal funds**

(a) **General information.** Each service recipient receiving services from Developmental Disabilities Services (DDS) is ensured access to his or her personal funds.

- (1) Personal funds include income from all sources, earned or unearned, and assets.
  - (A) Income is money received in the current month.
  - (B) Any income not used to meet the service recipient's needs during the current month is a resource or asset of the service recipient in the following month(s).
- (2) Services do not include the provision of room and board or personal spending. Each service recipient is responsible for meeting his or her room and board and personal spending needs including, but not limited to:
  - (A) healthcare;
  - (B) medications and co-pays not provided by Medicare, Medicaid (SoonerCare) or other health insurance;
  - (C) legal fees;
  - (D) vacation costs;
  - (E) recreation and social expenses;
  - (F) educational expenses;
  - (G) clothing; and
  - (H) furniture or household items.
- (3) After the service recipient's day-to-day needs for food and shelter are met, personal funds may be used for the service



recipient's needs, such as recreation, clothing, and other expenses. The provider agency staff and DDS Personal Support Team (Team) members work with the service recipient to ensure all needs are met.

**(b) Prohibited transactions.**

(1) Provider agency and DDS employees are prohibited from engaging in any financial transaction with a service recipient, including:

(A) giving gifts to a service recipient with a cumulative annual value of more than \$100;

(B) accepting gifts from a service recipient with a cumulative annual value of more than \$20;

(C) selling, purchasing, leasing, or trading any item except:

(i) as part of an established business in which fair market value is received; or

(ii) when approved in advance and in writing by the Team;

(D) borrowing personal funds or any item of value from the service recipient; and

(E) loaning funds to a service recipient, except:

(i) small amounts, such as money for a meal or a recreational activity, for periods of time less than 24 hours; or

(ii) as part of a program authorized in advance and in writing by the Team.

(2) Except for client trust accounts managed, per Oklahoma Administrative Code(OAC) 340:2-11-86, DDS employees are prohibited from assisting service recipients in conducting financial transactions or being listed on a service recipient's bank account; although case managers may monitor service recipient expenditures through financial record reviews.

**(c) Living expenses.** The provider agency:

(1) may lend funds to a service recipient to cover the service recipient's living expenses in expectation that funds will be available in the future enabling the service recipient to repay the loan; and

(2) must submit ongoing written reports to the Team regarding the status of the service recipient's financial condition of the loan and repayment.

**(d) Protection of personal funds.**

(1) Per OAC 340:100-3-1.2 each service recipient, when not in conflict with a guardianship order or representative payee agreement, has the right to:

(A) manage his or her financial affairs;

(B) be taught to manage his or her financial affairs;

(C) receive assistance in managing his or her financial affairs; and

(D) access all financial records regarding his or her personal funds.

(2) When a provider agency serves as representative payee, or when provider agency staff provides assistance in managing, or have access to personal funds for service recipients receiving community residential supports or group home services:

(A) the provider agency retains, safeguards, and accounts for the service recipient's personal funds when determined necessary by the service recipient's Team and as authorized by the service recipient, applicable guardian, or when the provider agency is the representative payee; and

(B) spending programs may be implemented on an individual basis, provided they are requested by the service recipient, guardian, or parent of a minor service recipient and reviewed by the service recipient's Team. A portion of the service recipient's funds may be designated for personal use when the exact amount of the spending program is documented in the service recipient's Individual Plan (Plan). A spending program consists of a fixed amount of money regularly given to the service recipient to spend as he or she chooses.

(3) Provider agency staff who have access to, or assist the service recipient with personal funds, ensures:

(A) the service recipient's personal funds are not co-mingled with provider agency funds;

(B) a separate financial record is maintained for each service recipient including receipts for all expenditures that are:

(i) more than \$5; and

(ii) made with provider agency staff involvement;

(C) a written accounting of the service recipient's personal funds is maintained;

(D) a summary of financial transactions is available to the service recipient, guardian, DDS case manager, and the Office of Client Advocacy (OCA) advocate, when involved:

(i) monthly; and

(ii) when the service recipient ceases receiving service from the provider agency;

(E) copies of the written accounting and summary of financial transactions are provided to the service recipient, guardian, case manager upon request, and OCA advocate when involved;

(F) the service recipient's personal funds account is reconciled at least monthly by provider agency staff who does not have authority to disburse funds from, or responsibility to, deposit funds to the account;

(G) documentation is maintained to support all transactions involving the service recipient's personal funds that are not independently controlled by the service recipient;

(H) the service recipient's income is deposited to the service recipient's personal account within seven-calendar

days of receipt;

(I) when the service recipient's income is held in an interest bearing account, the interest accrues to the service recipient;

(J) any personal cash not in the service recipient's possession is properly protected against theft;

(K) the service recipient receives requested funds within one banking day of request;

(L) the service recipient, minor service recipient's parent, guardian, or representative payee, as applicable, and DDS case manager are advised of eligibility requirements when the service recipient's account accumulates \$1100; unless the Plan includes specific provisions to maintain Medicaid (SoonerCare) eligibility;

(M) the service recipient's personal funds are not used to supplement service rates or to purchase items that are part of the services that the service recipient is currently authorized to receive;

(N) prior to receiving services from a provider agency, a written agreement is executed between the service recipient or guardian as applicable, and provider agency. Copies of the agreement are provided to each party and filed in the service recipient's record. The agreement includes the:

- (i) provider agency's responsibilities to the service recipient in handling his or her personal funds;
- (ii) service recipient's fiscal responsibilities; and
- (iii) services for which the service recipient's personal funds must be used;

(O) all requested financial information necessary for the maintenance of the service recipient's financial eligibility is provided in a timely manner to Oklahoma Human Services and the Social Security Administration;

(P) the service recipient receives choices in the selection of stores for the purchase of food, clothing, and personal items; and

(Q) except for minor repairs, the service recipient's personal funds are not used to make permanent modifications to a home not owned by the service recipient.

(4) For service recipients not receiving community residential supports or group home services that do not meet the criteria established in (2) of this subsection; the Team discusses and documents the party responsible for maintaining and planning for continued participation in Medicaid (SoonerCare) and other benefit programs for which the service recipient is eligible.

(5) Allegations of exploitation must be reported in accordance with OAC 340:2-3-33. When a provider agency is a service recipient's representative payee, it must fulfill its duties per applicable federal regulations defining those duties.

(e) **Team planning and assistance to manage personal funds.** The Team may limit, but not totally deny a service recipient without a guardian access to or use of his or her personal funds only when a determination is made, per OAC 340:100-3-4, when the limitation is essential to prevent the service recipient from unreasonably or significantly dissipating his or her personal funds.

(1) The Team follows rules, per OAC 340:100-3-1.2.

(2) Justification for limiting access to and use of personal funds is documented in the service recipient's Plan. The Team develops a Plan to remove the restriction and includes specific dates to review the Plan.

(3) The Team ensures the service recipient is afforded due process prior to implementation of any financial restrictions.

(4) When determining whether to limit a service recipient's access to personal funds, the Team addresses if the service recipient:

(A) recognizes currency, coins, and values of such;

(B) does not lose money regularly;

(C) does not leave money unattended;

(D) does not give money away;

(E) has the ability to make change or knows when to wait for change;

(F) shows responsible behavior regarding his or her money, such as paying bills on time, writing checks only when he or she has sufficient funds, or saving or planning for special items;

(G) understands his or her responsibility to pay room and board expenses; and

(H) understands budgeting so money will last all month.

(f) **Payee responsibilities.** In addition to the requirements of OAC 340:100-3-4, persons or organizations serving as representative payee for a service recipient's personal funds are responsible for obtaining a copy of the dispersing agency's regulations regarding representative payee responsibilities and adhering to the dispersing agency's requirements.

(1) The service recipient, guardian, or representative payee is responsible for paying for room and board from the service recipient's income.

(2) A provider agency serving as payee uses direct deposit of benefits, when available.

[Source: Amended at 8 Ok Reg 2163, eff 5-13-91 (emergency); Amended at 9 Ok Reg 1549, eff 4-27-92 ; Amended at 23 Ok Reg 1026, eff 5-11-06 ; Amended at 26 Ok Reg 922, eff 5-15-09 ; Amended at 27 Ok Reg 838, eff 7-1-10 ; Amended at 29 Ok Reg 822, eff 7-1-12 ; Amended at 38 Ok Reg 2317, eff 9-15-21]

### **340:100-3-4.1. Consumers' Personal Funds managed by contract residential providers [REVOKED]**

[Source: Added at 13 Ok Reg 993, eff 8-3-95 (emergency); Added at 13 Ok Reg 2659, eff 6-28-96 ; Revoked at 23 Ok Reg 1026, eff 5-11-06]

### **340:100-3-5. Advocacy and guardianship**

(a) **Purpose.** Developmental Disabilities Services (DDS) supports each service recipient's right to self-determination.

(1) An advocate assists service recipients to represent his or her own interests.

(2) Although a service recipient may have other advocates, only a guardian may act on behalf of his or her ward, per Oklahoma Administrative Code (OAC) 340:100-1-2 to the extent authorized in the guardianship order and, the Oklahoma Guardianship and Conservatorship Act, per Section 1-101 et seq. of Title 30 of the Oklahoma Statutes (30 O.S. §§ 1-101 et seq.).

(3) Each guardian is:

(A) responsible for representing the interest of his or her ward as provided by Oklahoma law; and

(B) obligated to involve the ward in decision-making to the extent the ward is able.

(b) **Capacity to give informed consent.** Service recipients, 18 years of age and older, are presumed to have capacity to give informed consent except to the extent adjudicated incapacitated by the court. A service recipient:

(1) is not considered incapacitated solely by reason of his or her diagnosis;

(2) may be adjudicated incapacitated in one area while being fully capable in other areas; and

(3) has the right to exercise judgment in all areas of capacity.

(c) **Assessment of capacity to give informed consent.** Each service recipient's current need for advocacy or guardianship services is reviewed at least annually and documented in the Individual Plan (Plan).

(1) Form 06MP032E, Capacity Assessment, is:

(A) used to determine the service recipient's capacity to give informed consent and identify the type of assistance, if any, the service recipient needs to make life decisions and be protected from exploitation and maltreatment; and

(B) completed for each:

(i) adult and minor attaining the age of 17 1/2 years, who receives residential services through the Community Waiver or Homeward Bound Waiver, when recommended by his or her Personal Support Team (Team); and

(ii) child in Oklahoma Department of Human Services (OKDHS) custody who receives DDSD services upon reaching 16 years of age, per OAC 340:75-8-39; and

(iii) Robert M. Greer Center residents.

(2) The Team meets to complete Form 06MP032E. All members are notified of the meeting at least two weeks in advance and offered the opportunity to provide written input when they cannot attend.

(3) For service recipients who do not receive residential services per OAC 340:100-5-22:

(A) a capacity assessment is not required. If the family or service recipient wishes to complete a capacity

assessment, the DDS case manager completes a capacity assessment using Form 06MP032E; and  
(B) a review of the service recipient's need for advocacy or guardianship must occur annually beginning at age 17½, and be addressed in the Plan. If this review indicates needs in the area of advocacy, the DDS case manager offers a capacity assessment.

(d) **Assessment Team recommendations.** DDS supports the use of less restrictive alternatives to guardianship.

(1) The Team recommends guardianship after they consider and rule out less restrictive alternatives to guardianship. Alternatives include, but are not limited to:

- (A) guidance and support from family or friends;
- (B) a volunteer advocate;
- (C) Plan modification to more effectively meet the service recipient's health, safety, and financial needs;
- (D) a representative payee;
- (E) limited bank accounts;
- (F) power of attorney, durable power of attorney, or durable power of attorney with health care powers;
- (G) Advance Directive for Health Care;
- (H) a trust fund; or
- (I) a conservatorship.

(2) When Form 06MP032E indicates a guardian is needed, the Team recommends an appropriate person to serve.

- (A) Priority for persons to serve as guardians is given to:
- (i) any person nominated by the service recipient, per 30 O.S. § 3-102;
  - (ii) a current guardian appointed by an appropriate court in another jurisdiction;
  - (iii) a person nominated by will or other writing of a deceased parent, spouse, or adult child who was serving as the service recipient's guardian, per 30 O.S. § 3-103;
  - (iv) a service recipient's spouse;
  - (v) a service recipient's adult child;
  - (vi) a service recipient's parent;
  - (vii) a service recipient's sibling;
  - (viii) a person the service recipient has been living with for more than six months prior to the filing of the petition for guardianship. Providers subject to the provisions of the Nursing Home Care Act, Residential Home Care Act, or Group Home for Developmentally Disabled or Physically Handicapped Persons Act is not appointed guardian of such service recipient unless the provider is the service recipient's spouse, mother, father, sibling, adult child, aunt, uncle, grandparent, or adult grandchild; or
  - (ix) other relatives of the service recipient, such as a niece, nephew, or cousin.

(B) When an appropriate relative is not available, a volunteer is sought, per OAC 340:100-3-5.1.

**(e) Guardianship eligibility requirements.**

(1) A guardian must:

(A) be at least 18 years of age;

(B) be a resident of Oklahoma for at least one year, except as provided in 30 O.S. § 4-104;

(C) not be under any financial obligation to the proposed ward; and

(D) disclose to the Team and court any potential conflict of interest that may preclude acting in the proposed ward's best interest.

(2) An incapacitated or partially incapacitated person cannot be appointed guardian.

(3) A convicted felon cannot be appointed guardian, except upon:

(A) further review by the court into the nature of the felony; and

(B) court approval.

**(f) Guardian responsibilities.**

(1) The guardian:

(A) is responsible for protecting the rights of the ward, per 30 O.S. § 1-103;

(B) files the Plan for the Care and Treatment of the Ward, with the court within 10-calendar days of appointment as guardian;

(C) files Administrative Office of the Courts (AOC) Form 34, Report on the Guardianship of the Person; or AOC Form 34a, Report on the Guardianship of Property; or both, with the court. Assistance in completing these annual reports may be obtained from the DDS case manager or guardianship coordinator. The guardian may hire an attorney to prepare annual reports for a fee;

(D) has a legal duty to:

(i) know the service recipient, including awareness of his or her capabilities, needs, and physical and mental health;

(ii) maintain contact with the service recipient;

(iii) ensure the service recipient is living in the least restrictive environment that meets his or her needs;

(iv) provide necessary consents authorized by the court; and

(v) notify the court when the service recipient's incapacity ends; and

(E) has limited authority, per 30 O.S. § 3-119 and the guardianship order that sets forth the limitation of powers of a guardian, prohibiting the guardian from consenting on behalf of the ward to the withholding or withdrawal of life-sustaining procedures except with specific authorization of the court having jurisdiction over the guardianship proceedings. Authorization must be granted in a separate

court order and only when the ward is in need of life-sustaining treatment.

(2) When performing duties and exercising authority, the guardian:

(A) ensures the interests, rights, and welfare of the ward are protected;

(B) may act independently from provider agency staff and DDS staff;

(C) encourages the ward to:

(i) participate to the maximum extent possible in all decisions that affect the ward; and

(ii) act on all matters in which the ward is able to do so within the limitations imposed by the court; and

(D) as appropriate, assists the ward to develop or regain his or her capacity to meet the essential requirements for health or safety.

(g) **Changes in guardianship.** The ward, any person interested in the welfare of the ward, or a guardian may make application to the court for:

(1) termination of the guardianship;

(2) removal of a guardian;

(3) imposition of additional restrictions or the removal of existing restrictions; or

(4) a review hearing.

(h) **Special guardianships.** DDS assists in establishing special guardianships when consent is needed for emergency medical and dental procedures or to protect the service recipient's money, property, or assets at risk of loss or exploitation through a process to establish special guardianship.

(i) **Costs and fees.** Court costs are not charged for filing guardianship petitions and reports for persons who are applicants for, or recipients of Social Security, per 56 O.S. § 192.

[Source: Amended at 24 Ok Reg 1046, eff 5-11-07 ; Amended at 26 Ok Reg 922, eff 5-15-09 ; Amended at 28 Ok Reg 897, eff 6-1-11 ; Amended at 36 Ok Reg 1880, eff 9-16-19]

### **340:100-3-5.1. Volunteer guardians and advocates**

(a) **Purpose.** Volunteer guardians and advocates are recommended by the Personal Support Team (Team) when service recipients have unmet advocacy needs and no appropriate relative willing to serve.

(b) **Developmental Disabilities Services (DDS) responsibilities.**

(1) When the need for a guardian is determined through the capacity assessment process, per Oklahoma Administrative Code (OAC) 340:100-3-5, the DDS case manager forwards Form 06MP032E, Capacity Assessment, with a recommendation for a volunteer guardian to the DDS case management supervisor. When volunteer guardianship is recommended, documentation of attempts made to locate an eligible guardian, per OAC 340:100-3-5 must be included.

(2) The DDS case management supervisor reviews the documents, and when approved, forwards the documents to the DDS director



or designee.

(3) The DDS director or designee reviews Form 06MP032E and, when approved, issues a voucher to the volunteer.

(c) **Volunteer guardianship eligibility requirements.** In addition to requirements, per OAC 340:100-3-5, eligibility criteria for volunteer guardians listed in (1) through (6) of this subsection apply.

(1) A corporate officer, member of the board of directors, owner, operator, administrator, or employee of a facility subject to provisions of Section 1-1901 et seq. of Title 63 of the Oklahoma Statutes (63 O.S. §§ 1-1901 et seq.) or 10 O.S. §§ 1430.1 et seq., or other DDS providers are ineligible to be appointed volunteer guardian of a person receiving services from that provider.

(A) An immediate family member, such as a wife, husband, brother, sister, biological or adoptive child, biological or adoptive parent, stepparent, stepchild, adult biological or stepchild, of an ineligible person cannot serve as a volunteer guardian.

(B) An extended family member, such as a parent-in-law, grandchild, grandparent, brother-in-law, sister-in-law, son-in-law, daughter-in-law, aunt, uncle, niece, nephew, or first cousin, of an ineligible person cannot serve as a volunteer guardian when there is evidence that financial interdependence exists.

(2) DDS employees cannot serve as volunteer guardians.

(A) An immediate family member, including a wife, husband, brother, sister, biological or adoptive child, biological or adoptive parent, stepparent, stepchild, adult biological or stepchild, of the DDS employee cannot serve as a volunteer guardian.

(B) An extended family member, including a parent-in-law, grandchild, grandparent, stepchild, brother-in-law, sister-in-law, son-in-law, daughter-in-law, aunt, uncle, niece, nephew, or first cousin, of the DDS employee cannot serve as a volunteer.

(3) Any exceptions to the selection of a volunteer guardian, per OAC 340:100-3-5.1(c)(1) and (2) must be approved by the DDS programs manager for guardianship.

(4) Employees of Oklahoma Department of Human Services (DHS) cannot serve as volunteer guardians for Robert M. Greer Center residents, per 10 O.S. § 1415.

(5) Potential guardians must:

(A) consent to a background check, per OAC 340:100-3-39 and a DHS Community Services Worker Registry check;

(B) be willing and able to fulfill guardian responsibilities;

(C) be certified by DDS; and

(D) be approved by the Team.

(6) A volunteer guardian:

(A) supports philosophies and values consistent with the DDS mission statement, per OAC 340:100-1-3.1; and

(B) may not act as a volunteer guardian for more than two service recipients unless approved in advance, and in

writing, by the DDS programs manager for guardianship.

(d) **Volunteer guardian responsibilities.** Volunteer guardian responsibilities are outlined, per OAC 340:100-3-5.

(e) **Volunteer guardian and advocate eligibility requirements.** DDS supports the recruitment of volunteers from outside of the service-delivery system to avoid conflicts of interest.

(1) Non-DHS employees, contract providers, and employees of contract providers may serve as volunteer advocates, when:

(A) an ongoing relationship exists with the service recipient;

(B) they are not providing direct services to the service recipient and are not employed by a provider agency or DHS program that provides services to the service recipient; and

(C) they serve as a volunteer advocate or guardian for no more than two service recipients.

(2) DDS employees may not serve as volunteer advocates.

(3) Any exceptions to the selection of a volunteer advocate, per OAC 340:100-3-5.1 must be approved in advance and in writing by the DDS director or designee.

(4) The appointment of a volunteer advocate is made by Team agreement and is documented in the Individual Plan (Plan).

(f) **Volunteer advocate responsibilities.** A volunteer advocate assists the service recipient in making decisions, and supports the service recipient in preserving his or her rights and obtaining necessary services. Such supports may include:

(1) reviewing the quality of services provided to the service recipient;

(2) attending the Plan meeting or other meeting(s);

(3) assisting the service recipient with financial decisions;

(4) accompanying the service recipient to medical appointments;

or

(5) assisting the service recipient in completing applications.

(g) **Volunteer guardian and advocate monitoring.** Volunteer guardian and advocate monitoring is provided by DDS guardianship staff.

(h) **Volunteer guardian and advocate training requirements.**

Volunteers must participate in training regarding understanding and defining advocacy, developing effective advocacy skills, working effectively with service recipients and Teams, community inclusion, Oklahoma's service delivery system, and confidentiality. Volunteer guardians must participate in additional training regarding guardianship responsibilities, duties, and limitations.

(1) Training is provided by DDS at no cost to the volunteer.

(2) Volunteers receive orientation from the volunteer guardianship agency regarding applicable DHS rules and procedures.

(3) Volunteer guardians proceed with knowledge they are not covered by 51 O.S. § 151 et seq., The Governmental Tort Claims Act, as they are not authorized to act on behalf of DHS, nor can they be so authorized without creating a conflict of interest in their roles as guardians.

[Source: Added at 11 Ok Reg 4107, eff 6-29-94 (emergency); Added at 12 Ok Reg 1761, eff 6-12-95 ; Amended at 23 Ok Reg 1026, eff 5-11-06 ; Amended at 24 Ok Reg 1046, eff 5-11-07 ; Amended at 26 Ok Reg 922, eff 5-15-09 ; Amended at 30 Ok Reg 1373, eff 7-1-13 ; Amended at 32 Ok Reg 1906, eff 9-15-15 ; Amended at 36 Ok Reg 1880, eff 9-16-19]

### **340:100-3-5.2. Guardianship Voucher Program**

(a) **Scope and applicability.** Section 1415 of Title 10 and Section 228 of Title 56 of the Oklahoma Statutes, establishes the requirements for Oklahoma Human Services (OKDHS) to pay for legal fees associated with guardianship proceedings for persons, who:

- (1) are members of the Homeward Bound class;
- (2) receive Developmental Disabilities Services (DDS) Home and Community-Based Services Waiver services and are determined by the DDS director or designee to need guardianship due to imminent risk to health, safety, or finances; or
- (3) are Robert M. Greer Center residents and are determined by the DDS director or designee to need guardianship due to imminent risk to health, safety, or finances.

(b) **Payment.** Payment for legal services is contingent upon resource availability and does not exceed the rate defined in the OKDHS Appendix D-26, Developmental Disabilities Services Rates Schedule. Priority for funding is for groups in the order identified by (a) of this Section.

(c) **Participation.** Participation in the Guardianship Voucher Program extends only to service recipients determined, per Oklahoma Administrative Code (OAC) 340:100-3-5, to need a service listed in (d) of this Section.

(d) **Services.** Payment may be made for legal services necessary to:

- (1) establish guardianship;
- (2) replace, change, or add a guardian;
- (3) appoint a successor guardian;
- (4) alter the terms or level of an established guardianship; or
- (5) restore the ward's capacity.

(e) **Subsequent services.** The DDS director or designee may approve requests for payment for subsequent legal services related to the guardianship of the same service recipient.

(f) **Eligibility.** The guardian or potential guardian applying for a voucher must be:

- (1) a service recipient's relative or a volunteer, per OAC 340:100-3-5.1; and
- (2) recommended by the DDS Personal Support Team.

(g) **Financial eligibility.**

- (1) Approved prospective volunteer guardians are exempt from financial eligibility requirements.
- (2) When the service recipient's spouse, mother, or father is applying to be the guardian, he or she is subject to financial eligibility requirements. To be financially eligible to receive a guardianship voucher, the applicant spouse's annual adjusted gross income or the applicant's mother's or father's household income must be \$60,000 or less.

(3) Other relatives who desire to become the service recipient's guardian are exempt from the financial eligibility criteria.

(h) **Guardianship voucher application.**

(1) Form 06MP030E, Guardianship Voucher Application, is available from the DDS case manager assigned to the service recipient.

(2) The applicant's spouse, mother, or father applying for the guardianship voucher must submit required income verification, per OAC 340:100-3-5.2(i).

(3) Applications are sent to the DDS director or designee.

(4) Incomplete applications are returned to applicants for correction.

(5) Guardianship voucher applications are considered in chronological order of receipt at DDS State Office, with priority given to Homeward Bound class members.

(6) The number of applications approved is determined by available funding and, eligibility, per (a) of this Section.

(i) **Income verification.** When the applicant is the service recipient's spouse, mother, or father, verification of annual income must be provided. Acceptable forms of verification include a signed copy of the applicant's most recent federal income tax return or documentation of all sources of income from Supplemental Security Income, Temporary Assistance for Needy Families, child support, alimony, other state or federal subsidies, or other types of income.

(j) **Notification of application status.** The applicant is provided written notice of approval or denial within 30-calendar days of receipt of completed Form 06MP030E at DDS State Office.

(k) **Issuance and expiration of guardianship voucher.** When an application for the guardianship voucher is approved, dated Form 06MP031E, Guardianship Voucher, is issued to the applicant who then seeks and retains legal counsel. Each Form 06MP031E is approved for use from the date of issuance and is valid through the printed expiration date on the voucher.

(l) **Submitting voucher for payment.** Upon completion of the guardianship proceedings, the attorney who provides the service submits Form 06MP031E to DDS State Office for payment. A copy of all pleadings filed, the letters of guardianship, the guardianship order, Plan for the Care and Treatment of the Ward, and an itemized bill for legal services must be attached to Form 06MP031E. Designated DDS State Office staff must receive Form 06MP031E and required documentation prior to the expiration date identified, or Form 06MP031E expires and is null and void.

(m) **Fair hearing.** Any person who was denied a voucher may request a hearing, per OAC 340:2-5.

[Source: Added at 15 Ok Reg 948, eff 5-11-98 (emergency); Added at 15 Ok Reg 1666, eff 5-11-98 ; Amended at 21 Ok Reg 888, eff 4-26-04 ; Amended at 24 Ok Reg 1046, eff 5-11-07 ; Amended at 26 Ok Reg 922, eff 5-15-09 ; Amended at 36 Ok Reg 1880, eff 9-16-19 ; Amended at 40 Ok Reg 1005, eff 9-15-23]

### **340:100-3-6. Human Rights Committee [REVOKED]**

[Source: Amended at 14 Ok Reg 873, eff 2-1-97 (emergency); Amended at 14 Ok Reg 1399, eff 5-12-97 ; Amended at 15 Ok Reg 1307, eff 3-15-98 (emergency); Amended at 16 Ok Reg 1056, eff 4-26-99 ; Amended at 20 Ok Reg 97, eff 10-16-02 (emergency); Amended at 20 Ok Reg 936, eff 6-1-03 ; Amended at 25 Ok Reg 986, eff 5-15-08 ; Amended at 29 Ok Reg 822, eff 7-1-12 ; Revoked at 34 Ok Reg 1598, eff 9-15-17]

### **340:100-3-7. Behavior management [REVOKED]**

[Source: Amended at 8 Ok Reg 2163, eff 5-13-91 (emergency); Amended at 9 Ok Reg 1549, eff 4-27-92 ; Amended at 10 Ok Reg 2505, eff 5-24-93 (emergency); Amended at 11 Ok Reg 2303, eff 5-26-94 ; Amended at 14 Ok Reg 3120, eff 7-1-97 (emergency); Amended at 15 Ok Reg 1666, eff 5-11-98 ; Revoked at 15 Ok Reg 2115, eff 5-20-98 (emergency); Revoked at 16 Ok Reg 1056, eff 4-26-99]

### **340:100-3-8. Client work [REVOKED]**

[Source: Amended at 8 Ok Reg 2163, eff 5-13-91 (emergency); Amended at 9 Ok Reg 1549, eff 4-27-92 ; Revoked at 39 Ok Reg 1807, eff 9-15-22]

### **340:100-3-9. Unscheduled client absence [REVOKED]**

[Source: Revoked at 40 Ok Reg 1005, eff 9-15-23]

### **340:100-3-10. Research initiatives [REVOKED]**

[Source: Amended at 8 Ok Reg 2163, eff 5-13-91 (emergency); Amended at 9 Ok Reg 1549, eff 4-27-92 ; Revoked at 34 Ok Reg 1598, eff 9-15-17]

### **340:100-3-11. Right to refuse services**

DDSD clients or their legal representatives maintain the right to refuse services.

(1) Clients and their legal representatives are advised of any risks accompanying exercise of the right to refuse services.

(2) Clients or their legal representatives are advised of the option of terminating participation in a specific program or DDSD services when following extensive counseling efforts, it is documented that exercise of this right precludes the delivery of habilitation services.

(A) Documentation reveals extensive interdisciplinary team consideration of, and attempts to initiate, alternatives resolving concerns expressed by the client/legal representative.

(B) Consumers maintain the right to a Fair Hearing as provided by DHS rules and are advised of procedures for exercising this right.

(3) Appropriate legal resolutions are sought when it is determined that the exercise of the right to refuse services by an adult client, who has not been determined incapacitated to act on his/her own behalf, presents a significant risk to the individual or others, as defined by Oklahoma Statutes.

### **340:100-3-12. Prohibition of client abuse**

Client abuse, mistreatment, neglect, or exploitation is prohibited.

- (1) When client abuse, mistreatment, neglect or exploitation is substantiated, appropriate disciplinary action, including termination, is taken per OAC 340:2-3.
- (2) Any employee/provider witnessing and failing to report to the appropriate authority an act of abuse, neglect mistreatment, or exploitation on the part of another employee is subject to appropriate disciplinary action.
- (3) All Department employees/contract providers shall abide by the strictest standards of professional, ethical, and moral conduct when dealing with client.

[Source: Amended at 8 Ok Reg 2163, eff 5-13-91 (emergency); Amended at 9 Ok Reg 1549, eff 4-27-92]

### **340:100-3-13. Fair hearings**

Refer to Oklahoma Administrative Code (OAC) 340:2, Subchapter 5.

[Source: Added at 8 Ok Reg 2163, eff 5-13-91 (emergency); Added at 9 Ok Reg 1549, eff 4-27-92 ; Amended at 38 Ok Reg 2317, eff 9-15-21]

### **340:100-3-14. Statewide Human Rights and Behavior Review Committee (SHRBRC)**

(a) **Purpose.** Review and approval is required prior to the use of a restrictive or intrusive procedure except in emergencies per Oklahoma Administrative Code (OAC) 340:100-5-57. The Statewide (SHRBRC) is established to review each restrictive or intrusive procedure included in a behavioral, protective intervention protocol to ensure compliance with Development Disabilities Services (DDS) policy on the use of restrictive or intrusive procedures per OAC 340:100-5-57.

(1) The Personal Support Team (Team):

- (A) ensures the protective intervention protocol complies with requirements per OAC 340:100-5-57;
- (B) documents review, revision, and approval of the protective intervention protocol; and
- (C) ensures the service recipient or his or her guardian participates in the development of the protective intervention protocol and provides written informed consent for protocol implementation.

(2) The case manager submits a protective intervention protocol containing restrictive or intrusive procedures to the SHRBRC for review per this Section.

(3) The SHRBRC ensures:

- (A) each protective intervention protocol complies with requirements per OAC 340:100-5-57;
- (B) each protective intervention protocol focuses on:
  - (i) person-centered principles and positive procedures;

- (ii) education to maximize the individual's growth and skill development in areas, such as communication and choice making;
    - (iii) staff conduct; and
    - (iv) environmental and programmatic changes.
  - (C) use of each restrictive or intrusive procedure is:
    - (i) justified based on the severity and frequency of risk;
    - (ii) the least restrictive alternative and used only after less intrusive methods were determined ineffective; and
    - (iii) used only with the continued use of positive procedures.
- (4) In addition to review of protective intervention protocols containing restrictive or intrusive procedures, the SHRBRC may:
  - (A) review protective intervention protocols without restrictive or intrusive procedures when requested by a member of the Team or address relevant concerns of committee members or others; or
  - (B) identify systems issues and make recommendations as appropriate to the DDS director.
- (b) **Membership.** SHRBRC members are appointed by the DDS director.
  - (1) The committee is chaired by the DDS director of psychological and behavioral supports or his or her designee.
  - (2) Other members are appointed in writing by the DDS director for a three-year term and may be reappointed.
  - (3) The SHRBRC includes:
    - (A) at least three members with expertise in areas relating to the duties of the committee, including:
      - (i) positive behavior supports and educational methodologies;
      - (ii) issues involving client rights;
      - (iii) related medical or psychiatric issues; or
      - (iv) other qualifying experience as accepted by the DDS director. Documentation of members' additional credentials is maintained by DDS;
    - (B) at least two individuals who receive DDS services or are a family member, guardian, or advocate of an individual who receives DDS services; and
    - (C) ex-officio, non-voting members as appropriate to assist in the business of the committee. The positive support field specialist serves as a non-voting member, when present to discuss protective intervention protocols submitted by the Team.
  - (4) At least one-half of the voting committee members must be present to conduct business.
  - (5) A professional whose protective intervention protocol is the subject of review may not vote on his or her protocol approval.
  - (6) A member may not vote on an issue or recommendation when there is a professional, pecuniary, or familial conflict of interest.

(7) Members are required to protect the confidentiality of all records and information disclosed in carrying out the duties and activities of the committee.

(A) Each committee member is required to sign a confidentiality statement.

(B) Confidentiality is protected in all communications of the committee to non-members.

(c) **Documentation of SHRBRC reviews.** The SHRBRC chairperson must maintain:

(1) a record of each meeting that includes:

(A) a summary of the disposition of each protective intervention protocol reviewed;

(B) a record of attendance;

(C) the date of the meeting; and

(D) documentation of other issues discussed by the committee;

(2) a tracking system that allows for retrieval of information pertinent to:

(A) individual protective intervention protocols;

(B) protective intervention protocol authors; and

(C) types of restrictions.

(d) **Findings of the SHRBRC.** All required changes, requests for additional information, and SHRBRC recommendations are supported by a consensus of the committee.

(1) Protective intervention protocols must be modified to accommodate the required SHRBRC changes and approved per this Section prior to implementing the proposed restrictive or intrusive procedure(s).

(2) Educational supports in addition to those required by the protective intervention protocol may be recommended by the SHRBRC to assist the Team in maximizing the individual's growth and skill development. Recommended supports address specific educational needs of the individual or training needs of the support staff and are designed to reduce or eliminate the need for restrictive or intrusive procedures.

(3) Additional medical evaluation(s) may be recommended by the SHRBRC to determine if challenging behaviors are due to physical or medical conditions.

(4) When the Team is resistant to positive approaches and preventions, the SHRBRC may recommend administrative action when necessary.

(5) The SHRBRC is the final approval authority for protective intervention protocols that include restrictive or intrusive procedures.

(6) Continued use of the restrictive or intrusive procedure must be reviewed and approved annually as long as the restrictive or intrusive procedure is in place.

(e) **Notification of the Team.** The SHRBRC sends a copy of the protective intervention protocol review summary to the case manager. The review summary specifies whether the protective intervention protocol is:



- (1) approved by a consensus of the committee;
- (2) conditionally approved, with required information or changes to be provided within a SHRBRC specified time period; or
- (3) not approved, with required information or changes to be provided. The case manager convenes the Team within 10-business days of receipt of the SHRBRC review makes necessary modifications to the protective intervention protocol.

(f) **Revisions to protective intervention protocols.** Revisions to protective intervention protocols are clearly marked when resubmitted to the SHRBRC.

- (1) When the information or revision requested by the SHRBRC is not provided within the SHRBRC specified time period, the restrictive or intrusive procedure contained in the protective intervention protocol is considered not approved for use.
- (2) When the Team is unclear on how to meet the SHRBRC requirements, they may request technical assistance from the positive support field specialist.
- (3) The SHRBRC may request an administrative inquiry per OAC 340:100-3-27.1 when it determines there are service deficiencies associated with the development of the protective intervention protocol.
- (4) The Team may request a SHRBRC hearing, when presenting revisions, to further explain the direction taken in the protective intervention protocol.

(g) **The Robert M. Greer Center (Greer).** For persons served by Greer, review and approval by the center's Behavior Review Committee and HRC are required when restrictive or intrusive procedures are proposed.

[Source: Added at 20 Ok Reg 97, eff 10-16-02 (emergency); Added at 20 Ok Reg 936, eff 6-1-03 ; Amended at 33 Ok Reg 1668, eff 9-15-16]

### **340:100-3-15. SoonerStart [REVOKED]**

[Source: Added at 22 Ok Reg 882, eff 5-12-05 ; Amended at 25 Ok Reg 986, eff 5-15-08 ; Revoked at 33 Ok Reg 1668, eff 9-15-16]

### **340:100-3-16. Provider enrollment**

(a) **Eligible providers.** The SoonerCare Home and Community-Based Services (HCBS) Waiver programs are authorized per Section 1915(c) of the Social Security Act. All providers must have current provider agreements with the Oklahoma Health Care Authority (OHCA) to provide HCBS for persons with intellectual disabilities or related conditions.

(b) **Application.** Requests for applications to provide daily living supports, agency companion, supported living, group home, habilitation training services (HTS), homemaker, and employment services are made to the Oklahoma Department of Human Service (DHS) Developmental Disabilities Services (DDS) State Office. Applications must include a narrative describing the applicant's:

- (1) existing program, when applicable;
- (2) service and support philosophies for persons with intellectual disabilities;

- (3) proposed plan for providing HCBS, in compliance with Oklahoma Administrative Code (OAC) 317:40-1-3;
- (4) quality assurance program, commitment to DDS quality assurance processes, and OAC 340:100-3-27, et. seq. compliance; and
- (5) organizational summary and operational plan, including:
  - (A) the anticipated number of persons served in the first three months, first six months, and the first year of operation;
  - (B) the counties served;
  - (C) an organizational chart and a key personnel roster; and
  - (D) evidence of the applicant's plan for compliance with the United States (U.S.) Internal Revenue Service, U.S. Worker's Compensation, U.S. Department of Labor, U.S. Occupational Safety and Health Administration, U.S. Drug-Free Workplace, and Health Insurance Portability and Accountability Act (HIPAA) requirements.

(c) **Policies and procedures.** All applications must include the provider's internal policies for:

- (1) protection of individual rights per OAC 340:100-3-1.2;
- (2) a statement of rights and responsibilities developed and submitted by the group home provider per OAC 340:100-6-95;
- (3) service recipient admission and discharge procedures;
- (4) client confidentiality;
- (5) emergencies and disasters per OAC 340:100-3-32 including, but not limited to:
  - (A) fire;
  - (B) severe weather;
  - (C) missing persons;
  - (D) evacuations;
  - (E) a plan for continuity of services in the event of an emergency; and
  - (F) provisions for practice drills per OAC 340:100-5-22.1, and OAC 340-100-6-45, as applicable;
- (6) identifying and avoiding conflicts of interest and nepotism including, but not limited to:
  - (A) renting and leasing;
  - (B) staffing;
  - (C) board membership;
  - (D) contracted services;
  - (E) real property and equipment acquisition;
  - (F) board membership and relationships with agency staff and/or contractors;
  - (G) auditing;
  - (H) client-staff relationships including the prohibition of services to individuals for whom agency staff are guardian; unless the ward is the guardian's spouse, mother, father, sibling, aunt, uncle, grandparent, adult child, adult grandchild, niece, nephew, or cousin; and

- (I) any other situation with the potential to result in a conflict of interest;
- (7) a means to establish and collect fees for services not covered by OHCA or DDS per OAC 317:30-3-5.1;
- (8) a grievance process that is reviewed and approved by the Office of Client Advocacy per OAC 340:2-3-2 and OAC 340:2-3-45;
- (9) suspected maltreatment reporting per Section 1025.1 of Title 56 of the Oklahoma Statutes and OAC 340:2-3-33;
- (10) personnel policies that comply with federal and state employment laws and DHS training requirements per OAC 340:100-3-38 through 340:100-3-38.13;
- (11) protection of the service recipient's personal funds per OAC 340:100-3-4 and for those providing residential supports per OAC 340:100-5-22.1, and non-residential services per OAC 340:100-5-35;
- (12) records maintenance per OAC 340:100-3-40;
- (13) health and wellness maintenance per OAC 340:100-5-26; and
- (14) medication administration per OAC 340:100-5-32 and 340:100-5-33.

(d) **Financial solvency and service capacity.** All applications must include evidence supported by an operational plan demonstrating the applicant's capacity to provide services in a financially solvent manner by:

- (1) a description of experience and capacity to operate a business in a fiscally-responsible manner;
- (2) management and financial strategies ensuring SoonerCare compliance per OAC 317:30, Subchapters One and Three, per the OHCA provider manual;
- (3) a description of the proposed record-keeping system and the methods used to maintain and retain documentation to successfully complete the annual financial audit;
- (4) evidence of sufficient liquid assets or lines-of-credit in the name of the provider agency or business indicating the greater of \$100,000 or three times the average monthly-budgeted expenses;
- (5) a line-item budget, accompanied by a description justifying an expense estimate for the first full-year of operations;
- (6) a written quote for proposed insurance coverage identifying all policy types and limitations. Insurance requirements are:
  - (A) a \$250,000 professional liability minimum, when the provider agency receives \$50,000 or less per fiscal year for the delivery of supports funded through DHS or HCBS Waivers or \$1,000,000 when the provider agency receives more than \$50,000;
  - (B) a \$100,000 general liability minimum, when the provider agency receives \$50,000 or less per fiscal year for the delivery of supports funded through DHS or HCBS Waivers or \$1,000,000 when the provider agency receives more than \$50,000;
  - (C) a \$100,000 commercial automobile liability minimum per occurrence;

(D) a \$25,000 minimum employee dishonesty coverage;  
and

(E) upon coverage commencement, a copy of the certificate of insurance with a 30-calendar day cancellation notice is required and, is sent to DDS by the carrier showing DHS as the certificate of insurance holder;

(7) a State of Oklahoma certificate of incorporation and the applicant's federal tax identification number; and

(8) the most recent, audited-financial statement, when applicable or the most recent tax return.

(e) **Qualified personnel.** All applications must include key personnel's qualifications and appropriate background searches, including:

(1) administrative and executive position descriptors and resumes including three references for each;

(2) documentation of an Oklahoma State Bureau of Investigation (OSBI) background search and Community Services Worker Registry search for the executive director, program coordinator, program manager, key business office staff, and management staff who supervise service delivery;

(3) documentation that the executive director or program director has a Bachelor's degree from an accredited college or university and a minimum of two-years supervisory or management experience;

(4) board of director meeting minutes listing the authorized individual by name, who conducts business and has the provider agency's signature authority;

(5) documentation that the program coordinator meets minimum qualifications per OAC 340:100-5-22.1, when residential, group home, HTS, or homemaker services are provided;

(6) documentation that the provider agency's program manager meets minimum qualifications when employment services are provided per OAC 317:40-7-20; and

(7) an attestation that staff meet training requirements per OAC 340:100-3-38 through 340:100-3-38.13 and that community service workers meet pre-employment screening requirements per OAC 340:100-3-39.

(f) **Disclosures.** Disclosure of ownership and control by an organization, institution, business, fiscal agent, or agency requesting a provider agreement is a federal requirement for any SoonerCare program. The SoonerCare provider is the disclosing entity and the person(s) making application for a provider agreement with OHCA to provide HCBS.

(1) SoonerCare providers, other than an individual practitioner, group of practitioners, or a fiscal agent must disclose per Section 455.104 of Title 42 of the Code of Federal Regulations (42 C.F.R. § 455.104):

(A) the name and address of any person, individual, or corporation, with an ownership or controlling interest in the disclosing entity. Corporate entities must include the primary business address, all business locations, and PO Box addresses, as applicable;

(B) the date of birth and Social Security number, for an individual;

(C) other tax identification numbers for a corporation with an ownership or controlling interest in the disclosing entity or in any subcontractor in which the disclosing entity has a five percent or more interest; and

(D) if the person, individual, or corporation with an ownership or controlling interest in the disclosing entity is related to an individual, such as a spouse, parent, child, or sibling with ownership or controlling interest in the disclosing entity, or if the person, individual or corporation, with an ownership or controlling interest in any subcontractor in which the disclosing entity has a five percent or more interest is related to another person with ownership or controlling interests in the disclosing entity as a spouse, parent, child, or sibling; and

(E) the name of any other disclosing entity in which a person with an ownership or controlling interest in the disclosing entity has an ownership or controlling interest; and

(F) the name, address, date of birth, and Social Security number of any managing employee of the disclosing entity.

(2) SoonerCare providers, or the person making application, must disclose per 42 C.F.R. § 455.106 the identity of any person convicted of crimes prior to OHCA issuing or renewing a provider agreement or when OHCA submits a written request, who:

(A) has ownership or controlling interest in the provider, is an agent, or is a managing employee of the provider; and

(B) was convicted of a criminal offense related to his or her involvement in any program under Medicare, SoonerCare, or the Title XIX services program since the inception of those programs.

(g) **Provider orientation.** DDS area office staff conducts provider orientation and OHCA conducts provider-billing training.

(h) **Ownership transfers.** Providers provide DDS with a 30-calendar day notice of intent to transfer ownership. Services cannot be provided by a new owner until there is a valid provider agreement contract, with OHCA.

(i) **Provider agreement termination.** DDS may recommend a provider agreement termination to OHCA, when the:

(1) owners, officers, managers, or other persons with substantial contractual relationships are convicted of certain crimes or received certain sanctions per Section 1128 of the Social Security Act;

(2) provider fails to maintain required licensure or certification;

(3) provider fails to timely correct program deficiencies per OAC 340:100-3-27.1;

(4) provider is unable to provide the services per the agreement; or

(5) provider becomes insolvent.

(j) **Exceptions.** Employment providers requesting a provider agreement to provide services through the Contracts with Industry program contact the DDS State Office employment services program supervisor. The provider submits copies of the Oklahoma State Bureau of Investigation (OSBI) background searches and of the Community Services Worker Registry checks for assigned job coaches.

[Source: Added at 29 Ok Reg 822, eff 7-1-12 ; Amended at 35 Ok Reg 1698, eff 9-17-18]

## **PART 3. ADMINISTRATION**

### **340:100-3-25. Advisory Committee on Services to Persons with Developmental Disabilities**

The Advisory Committee on Services to Persons with Developmental Disabilities (Advisory Committee) reviews Developmental Disabilities Services policies and makes recommendations to the Director of Human Services (Director).

- (1) The statutory authority of the Advisory Committee is Section 1412 of Title 10 of the Oklahoma Statutes (10 O.S. § 1412).
- (2) Advisory Committee members are volunteers.
- (3) The Director determines the size and constituency groups directly represented through Advisory Committee membership per 10 O.S. § 1412.
- (4) The Advisory Committee is governed by bylaws approved by the Director and statutory requirements inclusive of the Open Meetings Act.
- (5) The Advisory Committee meets at least quarterly.

[Source: Amended at 15 Ok Reg 2124, eff 5-5-98 (emergency); Amended at 16 Ok Reg 1056, eff 4-26-99 ; Amended at 32 Ok Reg 1906, eff 9-15-15]

### **340:100-3-26. Contracting and purchasing**

The Department of Human Services/Developmental Disabilities Services Division (DDSD) procures services and commodities from private corporations, individuals and governmental entities in addition to directly delivering services to fulfill its mission.

- (1) All contracts and purchases executed by DDSD are in compliance with general Department of Human Services (DHS) contracting and purchasing rules, OAC 340:2-13, and state purchasing law including but not limited to 74 O.S. 85 et.seq. and 74 O.S. 4243.
- (2) All DDSD purchases of services or commodities are based upon a valid written contract between the contractor and DHS, except one time purchases under \$750 that have been exempted in writing by the Division Administrator.
- (3) All DDSD employees involved in purchasing services or commodities conduct themselves in an ethical manner, avoiding conflict of interest and maintaining compliance with pertinent state employee ethics laws to include but not be limited to 74 O.S.

4241 and 74 O.S. 4242.

(4) DDS purchase of all services and commodities is contingent upon the availability of sufficient funds.

(5) All DDS purchases of services and commodities are made with due consideration given toward obtaining maximum benefit for minimum cost.

(6) Contracts for the purchase of services or commodities are not executed for a period which exceeds 12 months.

(7) Unless otherwise approved by the Division Administrator/designee, contracts are not executed for a period which extends across state fiscal years.

(8) All purchases in excess of \$2,500 are competitively bid through the Oklahoma Department of Central Services (DCS) unless exempted by state law. All non-exempt purchases between \$750 and \$2,500 are informally bid by DDS in accordance with DCS policy.

(A) Purchases of exempt professional services as defined in 18 O.S. 803 are exempted from competitive bidding.

(B) Purchases made through DCS approved "fixed-rate" contracts are exempt from competitive bidding.

(C) Purchases made from federal, state or local governmental entities are exempt from competitive bidding.

(D) Purchases of services or commodities which can only be supplied by one contract provider ("sole-source") are exempt from competitive bidding.

(E) Purchases made to remedy an unexpected emergency which endangers the health or safety of any individual or public property are exempt from competitive bidding.

(9) DDS requires a prospective contractor to submit evidence of financial solvency and ability to successfully deliver the specified service/commodity prior to the initial execution of any contract in excess of \$50,000.

(10) DDS offers preference to qualified corporations to provide contract residential or vocational services in accordance with state law as set forth in 56 O.S. 227.

(11) DDS does not directly contract with state employees for the provision of services or commodities with the following two exceptions.

(A) DDS may contract directly with state employees to supply foster care or respite services.

(B) DDS may contract directly with OUHSC employees to supply medical or professional health services.

(12) All DDS contracts are approved by the Division Administrator and officially executed by the DHS Director.

(A) Contracts for purchases in excess of \$25,000 are reviewed by the Legal Division prior to approval by the Division Administrator.

(B) The Division Administrator may delegate contract approval authority. Such delegation is made in writing, with a copy maintained in the Division's State Office

contract files.

(13) All DDS contract define the amount of service/commodity to be supplied, the rate of payment for the service/commodity to be supplied, the specifications to which the service or commodity must conform and the expectations with which the contract provider must comply.

(A) Contract terms are sufficiently specific to enable an objective determination of contract provider compliance.

(B) The expectations with which the contract provider must comply are consistent with DDS mission and policy.

(14) Any amendment to a DDS contract is made in writing and is approved by the Division Administrator and executed by the DHS Director. The Division Administrator may delegate the authority to approve contract modifications. Such delegation is made in writing, with a copy maintained in the Division's State Office contract files.

(15) All correspondence with the contract provider regarding a material change in the status of DDS contracts is issued under the signature of the Division Administrator. The Division Administrator may delegate the authority to sign correspondence regarding material changes in contract status. Such delegation is made in writing, with a copy maintained in the Division's State Office contract files.

(16) A fully executed copy of all contracts and related correspondence is maintained in a designated repository.

(A) The State Office maintains the official record for all Division service contracts and State Office commodity contracts.

(B) The Resource Centers and Area Offices maintain the official record for their commodity contracts.

(C) Contract records are retained for a minimum of six years or until any pending litigation related to the respective contract is resolved.

(17) DDS regularly monitors contract providers to determine if the service/commodity supplied is in compliance with the terms of the contract and to ensure that the contractor maintains fiscal solvency.

(A) Contract providers are required to cooperate with DDS in accessing necessary information to assess contract compliance/fiscal solvency.

(B) Results of the monitoring are documented in writing and stored in central State Office file.

(C) Monitoring results are considered prior to renewal of any service or commodity contract.

(18) If the contract provider fails to materially comply with terms of the contract the Division Administrator may:

(A) Withhold payment until provider achieves compliance;  
or

(B) reduce payment rate by ten percent for the period in which provider fails to comply; or



- (C) refuse to make any payment for services/commodities supplied during period of non-compliance; or
  - (D) terminate the current contract for cause.
- (19) Contract providers may appeal adverse action taken by DDS against the provider except for contract termination without cause.
- (A) Contractors submit written appeal to DDS within 14 days of adverse action.
  - (B) The Division Administrator reviews written contractor appeal and issues a final DDS appeal disposition.

[Source: Amended at 8 Ok Reg 2163, eff 5-13-91 (emergency); Amended at 9 Ok Reg 1549, eff 4-27-92 ; Amended at 10 Ok Reg 2505, eff 5-24-93 (emergency); Amended at 11 Ok Reg 2303, eff 5-26-94]

### **340:100-3-27. Quality assurance**

(a) **Purpose.** Developmental Disabilities Services (DDS) quality assurance (QA) activities assess and encourage delivery of supports consistent with:

- (1) the service recipient's preferences and needs;
- (2) Oklahoma Human Services (OKDHS) rules;
- (3) applicable Oklahoma Health Care Authority (OHCA) rules;
- (4) OKDHS and OHCA contract requirements for Home and Community-Based Services (HCBS);
- (5) regulatory standards applicable to services; and
- (6) federal and state laws.

(b) **Case manager monitoring.** DDS case managers assess services rendered to each service recipient to ensure service effectiveness in meeting the service recipient's needs. The case manager periodically observes service provision to assess implementation of the service recipient's Individual Plan (Plan). The requirements per this Section are minimum expectations for face-to-face visits with service recipients. Case management may require additional visits to ensure the service recipient's health and welfare.

(1) The DDS case manager conducts face-to-face visits to monitor the service recipient's health and welfare and service effectiveness in meeting his or her needs.

(A) Face-to-face visits include observation of, and talking with, the service recipient regarding his or her health and welfare and satisfaction with services.

(B) The case manager may:

- (i) observe service provision and related documentation in any location where services are provided; and
- (ii) talk with family members and providers regarding service provision and the service recipient's health and welfare.

(C) For service recipients receiving services through an In-Home Supports Waiver:

- (i) a face-to-face visit is completed at least semi-annually with one visit occurring between January and June and one between July and December; and

(ii) at least one of the two visits occurs at the site where the majority of services are provided.

(D) For service recipients receiving services through the Community Waiver:

(i) a face-to-face visit occurs during each calendar month in the residential service recipient's home, per Oklahoma Administrative Code (OAC) 340:100-5-22.1, or the group home service recipient's home, per OAC 317:40-5-152. Case managers certify home visits on Form 06MP070E, Access to Record and Verification of Monitoring Requirements, located per OAC 340:100-3-40;

(ii) a face-to-face visit is completed each calendar-year quarter, coinciding with the quarters established per OAC 340:100-5-52 for a quarterly summary of progress reports, for service recipients who do not receive residential services or group home services, with at least two of these visits occurring at the site where the majority of services are provided; and

(iii) the case manager visits the employment or day services site at least semi-annually, with one visit occurring between January and June, and one between July and December, when services are funded through the Community Waiver unless the Personal Support Team (Team) requests a DDS area manager or designee approved exception.

(E) For service recipients receiving services through the Homeward Bound Waiver:

(i) a face-to-face visit occurs in the home during each calendar month. Case managers certify home visits on Form 06MP070E located within the home record per OAC 340:100-3-40; and

(ii) the case manager visits the employment site each calendar-year quarter, coinciding with the quarters established, per OAC 340:100-5-52, for quarterly summary of progress reports, unless the Team requests a DDS area manager or designee approved exception.

(F) For Homeward Bound class members who reside in an intermediate care facility for individuals with intellectual disabilities, the case manager visits monthly.

(2) The DDS case manager may conduct virtual monitoring as a substitute for the required minimum face-to-face visits utilizing Health Insurance Portability and Accountability Act (HIPAA) compliant phone calls or video conferencing as identified in (A) through (F) of this paragraph. The DDS area manager or designee approves virtual monitoring.

(A) Virtual visits are limited to two, non-consecutive calendar months per calendar year for service recipients who receive;

- (i) daily living supports; and
- (ii) traditional or community living group home services, specialized foster care (SFC), agency companion services and Prader-Willi Services.

(B) Virtual visits are limited to one time per calendar year for service recipients who receive non-residential services on the Community Waiver and only when the member does not receive Remote Supports (RS) service.

(C) Virtual visits are not permitted when heightened need for visits is required such as during the first 30-calendar days after a service recipient transitions to a new residential placement or when there are concerns of unmet health and safety needs.

(D) Virtual visits may not be substituted for the required minimum face-to-face visits for service recipients who:

- (i) receive services through the Homeward Bound Waiver;
- (ii) receive services through the In-Home Supports Waiver;
- (iii) receives RS services;
- (iv) reside in an Alternative Group Home; or
- (v) are in custody of OKDHS, Child Welfare Services.

(E) Virtual visits in addition to the required minimum face-to-face visits utilizing HIPAA compliant phone calls or video conferencing may also be conducted.

(3) DDS case managers review and ensure Plan implementation. The case manager completes a quarterly review for service recipients receiving services through HCBS Waivers, documenting the review in the service recipient's electronic record.

(4) When the DDS case manager believes the service recipient is at risk of harm, the case manager takes immediate steps to protect the service recipient and notifies the DDS case management supervisor and other appropriate authorities.

(5) When the DDS case manager determines a provider is not effectively addressing a service recipient's needs or meeting contractual responsibilities or policies, steps in (A) through (C) of this paragraph are followed.

(A) The case manager consults with the relevant provider to secure a commitment for necessary service changes within an agreed time frame.

(B) When necessary changes are not accomplished within the specified time frame, the case management supervisor intervenes to secure commitments from the provider.

(C) When the service deficiency is not resolved as a result of the case management supervisor's intervention, an administrative inquiry referral is initiated, per OAC 340:100-3-27.1.

(6) If, during a contract survey, administrative inquiry, SFC monitoring, or area survey, DDS QA staff discovers a situation

that requires correction by DDS staff, a system administrative inquiry is initiated.

(A) DDS QA staff emails notification to DDS staff to correct the situation, establishing a reasonable time frame for correction.

(B) When the identified staff is unable to correct the situation within the established time frame, DDS QA staff emails notification to the DDS staff supervisor, establishing a reasonable time frame for correction.

(C) When the staff supervisor is unable to correct the situation within the established time frame, DDS QA staff notifies his or her supervisor, who notifies the DDS area manager, establishing a reasonable time frame for correction.

(D) When the area manager is unable to correct the situation within the established time frame, he or she notifies the DDS State Office QA unit, to resolve the situation with the community services unit deputy director.

(c) **SFC monitoring.** DDS QA staff monitors the SFC program in each area for DDS and OHCA policy compliance. Monitoring is based on a proportionate, representative sample of individuals receiving SFC supports identified for the fiscal year for each area. Monitoring includes a visit to the service recipient's SFC home. A home visit may be conducted virtually if the home has electronic equipment that allows for face-to-face communication unless health and safety issues are reported that require on-site review.

(d) **Consumer Service Evaluation.** At least annually, service recipients and families receiving supports are provided the opportunity to complete a service evaluation per OKDHS Publication No. 89-10, Consumer Service Evaluation.

(1) Confidentiality is maintained unless the respondent authorizes OKDHS to reveal his or her name to those responsible for service delivery. OKDHS Publication No. 89-10 may be completed anonymously.

(2) DDS QA staff distributes OKDHS Publication No. 89-10 to service recipients or his or her legal guardians at least annually.

(3) OKDHS Publication No. 89-10, when completed is returned to the DDS State Office QA Unit.

(4) Results are forwarded to the respective DDS area office when authorized by the service recipient or legal guardian for resolution of concerns or staff recognition.

(5) A response analysis is completed and distributed to DDS area offices, DDS State Office, or OKDHS for action. Data is available upon request.

(e) **Oklahoma Advocates Involved in Monitoring (OK AIM).** Service recipients and families receiving supports participate in contact providers' formal assessments to promote service enhancement, consistent with service recipient expectations.

(1) OK AIM operates under direction of the Oklahomans for Quality Services Committee (OQSC).

(A) OQSC is composed of 15 persons who receive or have a family member receiving DDS services. All areas of Oklahoma are represented.

(i) OQSC members may be nominated by the public at large, current OQSC members, or DDS representatives.

(ii) Appointment of OQSC members occurs as a result of joint consensus by the OQSC chair and DDS director or designee following a determination of the nominee's:

(I) commitment to promote the interests of persons with developmental disabilities;  
and

(II) capacity to dedicate the necessary time to fulfill his or her responsibilities.

(iii) OQSC members have the authority to elect officers based on a simple majority vote and establish by-laws governing the conduct of business.

(B) OQSC:

(i) develops and refines procedures and the survey instrument used, based on feedback from service recipients and their families, providers, and other key constituents;

(ii) participates in the selection of agencies submitting proposals to conduct OK AIM activities;  
and

(iii) serves as a resource for education and coordination of agencies conducting OK AIM monitoring activities.

(2) OKDHS issues and awards a Request for Proposal (RFP) per the Oklahoma Central Purchasing Act, Sections 85.1 through 85.44E of Title 74 of the Oklahoma Statutes (74 O.S. §§ 85.1 through 85.44E) and the approved OKDHS Internal Purchasing Procedures, and solicits proposals from qualified organizations to participate in the OK AIM initiative. Qualified organizations include agencies that:

(A) are incorporated non-profit agencies dedicated to representing persons with developmental disabilities and their family members;

(B) are not involved in service delivery funded through DDS or HCBS Waivers; and

(C) meet additional requirements set forth by federal and state laws as indicated in the RFP.

(3) OQSC is consulted regarding bids submitted in response to an RFP.

(4) Agencies selected to conduct OK AIM monitoring and reporting activities are responsible for:

(A) soliciting, screening, and training volunteers to conduct OK AIM site visits;

- (B) scheduling site visits with all service providers referenced in the RFP within counties for which the agency assumed responsibility;
  - (C) ensuring consistency of volunteer and staff activities with:
    - (i) OQSC-approved procedures and protocols;
    - (ii) federal and state laws; and
    - (iii) OKDHS and OHCA rules;
  - (D) accurately recording OK AIM monitoring activities findings;
  - (E) ensuring provision of findings to provider agencies and DDS; and
  - (F) immediately notifying the DDS area office of any issue identified during OK AIM monitoring activities that presents risk to the service recipient's health or welfare.
- (5) DDS area managers identify OKDHS staff responsible for resolving concerns identified during OK AIM monitoring activities and notify the agencies responsible on how to contact staff during business, evening, and weekend hours.
- (6) OQSC with DDS State Office, DDS area offices, and agencies conducting OK AIM activities participation, identifies conditions determined to present significant risks to service recipients.
- (A) Conditions determined to present imminent risks to service recipients are reported immediately to the:
    - (i) statutory investigatory authority;
    - (ii) DDS area office; and
    - (iii) provider agency chief executive officer (CEO) or designee.
  - (B) Issues determined to pose potential risks to service recipients are reported to DDS area office staff, who notify the provider agency CEO or designee, no later than at the close of the first business-day following observation.
  - (C) OK AIM monitors report any other significant issues to designated DDS area office staff within time frames OK AIM determines appropriate.
- (7) DDS staff immediately identifies DDS area office staff to assume responsibility for verification and correction of problems posing imminent or potential risks.
- (A) The DDS area manager approves resolution time frames for validated concerns based on the degree of risk.
  - (B) All identified concerns are resolved within 30-calendar days from initial notification to the DDS area office, unless the DDS area manager authorizes an extension in circumstances that pose no jeopardy to any service recipient.
  - (C) Concerns presenting immediate and significant risk to service recipients are corrected immediately.
- (8) Each DDS area manager designates staff to:
- (A) track resolution of each identified concern; and
  - (B) advise agencies conducting OK AIM monitoring activities of the steps taken to resolve each concern.

(9) OK AIM staff summarizes findings of each home visit volunteers conduct, and staff notes performance in regards to the established OQSC expectations as published in the OK AIM training manual.

(A) Recommendations for service enhancement are presented to the relevant DDS area office for review within 30-calendar days of a home visit.

(B) DDS area office staff shares this information with the provider and collaborates on recommendations as well as other alternatives to achieve targeted service enhancement. Plans developed as a result are shared with OK AIM staff during the next meeting. Provider comments or action plans are maintained with the OK AIM report in area office files.

(10) OQSC re-assesses the OK AIM survey process at least annually and does so based on feedback solicited from service recipients, DDS area office staff, providers, and other constituencies affected by or involved in the process.

(f) **Independent assessments.** An independent authority annually assesses service outcomes for a sample of service recipients receiving residential services funded or administered through DDS or HCBS Waivers.

(1) Assessments employ standardized measures, facilitating individual as well as congregate data analysis over time.

(2) Assessment protocols provide for identification and resolution of circumstances posing immediate risks to service recipients.

(g) **Failure to cooperate.** Provider agencies failing to cooperate with provisions, or providing false information in response to inquiries per this Section, are subject to identified sanctions including contract termination.

(h) **Findings of non-compliance.** Findings of significant non-compliance with human rights, laws, or rules are immediately reported to the DDS director and other relevant authorities for appropriate action, including disciplinary action of OKDHS employees or sanction imposition, including suspension or contract termination with provider agencies, per OAC 340:100-3-27.2.

(i) **Retaliation.** Provider agencies and OKDHS employees are prohibited from any form of retaliation against any service recipient, employee, or agency for reporting or discussing possible performance deficiencies with any authorized OKDHS agent. Authorized agents are OKDHS staff whose responsibilities include administration, supervision, or oversight of DDS services, including all DDS and Office of Client Advocacy staff.

(j) **QA functions.** Additional DDS QA program components are found in OAC 340:100-3-27.1 through OAC 340:100-3-27.5.

(k) **Reports.** Reports generated by QA discovery activities are distributed as described in (1) through (4) of this subsection.

(1) Reports of performance surveys and administrative inquiries are provided to the administrator of the provider agency surveyed, are stored electronically, and made accessible to:

(A) DDS staff;

(B) OHCA;

- (C) Office of Inspector General; and
- (D) appropriate Office of Client Advocacy staff.
- (2) Performance survey reports with personal identifying information removed are available to interested citizens upon request.
- (3) Reports of administrative inquiries are not released.
- (4) Unless otherwise authorized by the individual or the legal guardian, OK AIM reports and case manager reports are available only to the:
  - (A) referenced individual(s) served;
  - (B) individual's legal guardian;
  - (C) agencies providing supports;
  - (D) relevant DDS area manager;
  - (E) DDS QA administrator; and
  - (F) other relevant DDS personnel.

[Source: Amended at 8 Ok Reg 2163, eff 5-13-91 (emergency); Amended at 9 Ok Reg 1549, eff 4-27-92 ; Amended at 10 Ok Reg 2505, eff 5-24-93 (emergency); Amended at 11 Ok Reg 2303, eff 5-26-94 ; Amended at 11 Ok Reg 4107, eff 6-29-94 (emergency); Amended at 12 Ok Reg 1761, eff 6-12-95 ; Amended at 15 Ok Reg 2125, eff 5-5-98 (emergency); Amended at 16 Ok Reg 544, eff 12-31-98 (emergency); Amended at 16 Ok Reg 1056, eff 4-26-99 ; Amended at 19 Ok Reg 2948, eff 8-1-02 (emergency); Amended at 20 Ok Reg 936, eff 6-1-03 ; Amended at 21 Ok Reg 888, eff 4-26-04 ; Amended at 23 Ok Reg 1026, eff 5-11-06 ; Amended at 25 Ok Reg 986, eff 5-15-08 ; Amended at 29 Ok Reg 822, eff 7-1-12 ; Amended at 34 Ok Reg 1598, eff 9-15-17 ; Amended at 39 Ok Reg 1807, eff 9-15-22 ; Amended at 40 Ok Reg 1005, eff 9-15-23]

### **340:100-3-27.1. Contract performance surveys and administrative inquiries**

Agencies providing services under contract with the Oklahoma Department of Human Services (OKDHS), or through a Home and Community-Based Waiver (HCBW) participate in performance surveys assessing compliance with OKDHS and Oklahoma Health Care Authority (OHCA) contracts and rules.

- (1) Performance surveys are conducted:
  - (A) with providers serving five or fewer service recipients when deemed necessary by the administrator of Developmental Disabilities Services Division (DDSD) Quality Assurance (QA); and
  - (B) during each state fiscal year with providers of residential, vocational, or non-medical in-home supports serving six or more service recipients.
- (2) OKDHS conducts interim administrative inquiries that evaluate the validity of allegations of non-compliance with provisions of the provider contract(s).
  - (A) Administrative inquiries are authorized by the administrator of DDSD QA in response to complaints filed by any interested party that represent potentially serious breaches of service assurances, contract requirements, or OKDHS rules. The administrator of DDSD QA or designee is authorized to conduct a screening to determine the potential validity of the complaint.
  - (B) Administrative inquiries are limited in scope to the responsibilities described in the provider's contract(s) with



or rules of OKDHS or OHCA including, but not limited to human rights assurances, service provision, and fiscal accountability.

(C) Allegations of abuse and neglect are immediately referred to statutorily identified lead agencies for investigation. OKDHS acts on the findings or recommendations of agencies with statutory responsibility to ensure provider compliance with provisions of law.

(D) Administrative inquiries are conducted by staff assigned to DDS QA although other resources of OKDHS such as Office of Inspector General may be requested to assist in the investigation of complaints.

(E) OKDHS is not required to provide advance notice of an administrative inquiry.

(F) Notifications to providers of findings and dispositions follow procedures established for performance surveys in subparagraph (L) of paragraph (3) of this subsection, except that:

(i) written findings of administrative inquiries may instead be presented to an agency through mail or email and an exit conference may be conducted by telephone; and

(ii) the DDS director or designee retains the authority to initiate an emergency disposition as specified by subsection (f) of OAC 340:100-3-27.2.

(3) Providers of direct services to six or more service recipients listed in paragraph (1) of this subsection participate in performance surveys assessing success in implementing contractual standards.

(A) Prior to the fiscal year beginning, a proportionate, representative sample of service recipients for each Waiver is identified.

(B) The administrator of DDS QA or designee may provide written notice to provider agencies of scheduled performance surveys. DDS advises the agency in writing of:

(i) demographic information and documents that must be provided to DDS within two weeks of the postmark on the notice; and

(ii) documents that must be available on the dates of the performance survey.

(C) Provider agencies may request a change of the schedule of the performance survey by contacting the administrator of DDS QA or designee. Authorization of a change in schedule occurs at the discretion of the administrator of QA.

(D) DDS QA staff conducting performance surveys assess the delivery of services and realization of outcomes for a sample of people served by each provider agency. The sample includes those service recipients identified in the representative sample and at least one service recipient

receiving each discrete service provided through the agency's contract with OKDHS or OHCA. The size of the sample is adjusted based upon the number of service recipients served by the agency under contractual agreement with OKDHS or OHCA and the number of surveyors assigned to the survey.

- (i) The sample will be 10 per cent of the agency population or four service recipients for each surveyor assigned, whichever is greater.

- (ii) The size of performance survey samples may be increased at the discretion of performance survey team members.

(E) Performance surveys and administrative inquiries are conducted by DDS QA staff that have completed a minimum of 150 hours of training specific to the application and interpretation of OKDHS and OHCA contract standards and rules. Findings of performance survey team members that have not completed 150 hours of required training are not considered, unless observations are confirmed by staff who have met this training requirement.

(F) A private work area at the agency site is made available for surveyors during the course of the survey. If space is unavailable, the provider makes copies of documents available that may be taken by the performance survey team for review at another site.

(G) Performance survey team staff meet with the chief executive officer (CEO) or designee of a provider agency upon arrival to:

- (i) discuss the survey schedule;

- (ii) identify the balance of the survey sample;

- (iii) determine locations where services are provided; and

- (iv) make tentative arrangements for an exit conference.

(H) Agency staff and agency records are made available to the team as necessary to assess agency performance with provisions of rules and their contract(s) with OKDHS or OHCA.

(I) Performance survey teams observe and meet with service recipients served and staff involved in each type of service provided by the agency through contract(s) with OKDHS, or with OHCA for the HCBW services.

- (i) Interviews and observations are conducted in a manner minimizing disruption of service activities.

- (ii) Observations and interviews occur during varied hours of service delivery.

(J) Performance survey team personnel evaluate information from observations, interviews, and record reviews in the context of relevant contract standards and rules.

(K) Performance survey teams immediately report to appropriate authorities, conditions or actions of agency staff that are possibly abusive or negligent or that otherwise pose immediate jeopardy to the health or safety of service recipients.

(L) Performance survey team staff provide a written summary of findings to the CEO or designee of the provider agency on the final day of the survey. The summary of findings is presented at least two hours prior to the scheduled exit conference. The CEO or designee of the provider agency may waive the two-hour period between presentation of the summary and the exit conference or the exit conference itself.

(M) The provider agency may structure the exit conference in a manner determined most beneficial to the agency.

(i) The agency may invite staff, service recipients, family members, and other citizens to participate.

(ii) Performance survey team personnel provide an explanation of findings and standards, as requested by the agency.

(iii) Performance survey team personnel provide an explanation of the procedures described in this Section that are available to the agency regarding any disputed findings.

(iv) During the exit conference, the agency may submit evidence contesting the citation of standards. Performance survey team members review presented evidence and for each contested standard, may:

(I) reverse the entire citation;

(II) reverse a portion of the citation; or

(III) affirm the citation.

(v) Within two weeks of the exit conference, the agency sends to the administrator of DDS QA a written response that identifies a date the agency will comply with the cited requirement.

(I) Any projected resolution date beyond two months from the exit conference is accompanied by a justification.

(II) Approval of extended resolution dates occurs only upon the presentation of evidence that extensive change in agency management systems or extensive expenditures is essential to resolution of the problem.

(III) The agency presents plans and time frames to implement incremental changes necessary to achieve contract conformance when an interval of more than two months is requested.

(vi) The agency may send supplemental information to the administrator of QA contesting the findings of the performance survey team within two weeks of the exit conference. An appeal does not relieve the agency from the responsibility to achieve resolution of contract deficiencies within two months from the date of the exit conference, if the request for reversal is not supported through procedures described in paragraph (5) of this subsection.

(4) The findings of performance surveys and administrative inquiries, as well as any appeals, are reviewed by the administrator of DDS QA or designee.

(5) The QA administrator or designee issues, within 30 days of the report detailing findings, a preliminary determination regarding:

- (A) any standard citation appeal by the agency;
- (B) acceptance or revision of resolution dates proposed by the provider to achieve conformance with the provisions of the contract(s) or rules; and
- (C) when necessary, specific corrective action(s) is undertaken by the agency, including that:
  - (i) the agency reimburse OKDHS or OHCA for unsubstantiated or unauthorized claims;
  - (ii) the agency reimburse service recipients for the balance of funds managed by the agency contrary to the expectations of OAC 340:100-3-4; and
  - (iii) service provision is immediately suspended or modified when it is determined there is imminent risk to the health or safety of service recipients.

(6) Performance survey teams conduct focused re-surveys to assess resolution of identified contract deficiencies.

- (A) Focused re-surveys including a new random sample are conducted at any time following the established resolution date.
- (B) Focused re-surveys require no advance notice.
- (C) Focused re-surveys may, at the discretion of the performance survey team be expanded to include any new performance issue identified.
- (D) Focused re-surveys evaluate whether the provider has corrected identified deficiencies by the approved resolution date. The written report provided to the provider includes any new performance issues identified as well as the:
  - (i) resolution of conditions resulting in the citation of a standard; and
  - (ii) continued existence of a deficiency.
- (E) Following a focused re-survey the provider is informed of the results.
  - (i) The provider may submit evidence contesting a citation.

(ii) New citations found during the focused re-survey are added to the report of the original survey for consideration by the Performance Review Committee.

(7) **Failure to cooperate.** Provider agencies failing to cooperate with provisions or providing false information in response to any inquiry per OAC 340:100-3-27.1 are subject to sanctions identified, including contract termination.

(8) **Retaliation.** Provider agencies and OKDHS employees are prohibited from any form of retaliation against any service recipient, employee, or agency for reporting or discussing possible performance deficiencies with any OKDHS authorized agent. Authorized agents are OKDHS staff whose responsibilities include administration, supervision, or oversight of DDS services, including all DDS and Office of Client Advocacy staff.

[Source: Added at 19 Ok Reg 2948, eff 8-1-02 (emergency); Added at 20 Ok Reg 936, eff 6-1-03 ; Amended at 23 Ok Reg 1026, eff 5-11-06 ; Amended at 29 Ok Reg 822, eff 7-1-12]

#### **340:100-3-27.2. Performance Review Committee (PRC), sanctions, and emergency determinations**

(a) Findings of performance surveys, administrative inquiries, or focused re-surveys are reviewed by the PRC when the:

- (1) provider submits an appeal of any decision of the Quality Assurance (QA) administrator or designee within 14 calendar days from mailing of the preliminary determination;
- (2) provider fails to correct all identified deficiencies by the approved resolution date or if new deficiencies are identified per Oklahoma Administrative Code (OAC) 340:100-3-27.1(6)(E); or
- (3) QA administrator or designee determines sanctions may be required as a result of gross or perpetual violation of the contract.

(b) The PRC consists of representatives of major units of the division appointed by the Developmental Disabilities Services (DDS) director, except the QA administrator does not serve as a voting member.

(c) The PRC meets monthly to review and issue a determination on referrals. Available determinations include:

- (1) acceptance, denial, or modification of an appeal;
- (2) a determination that sanctions are not warranted;
- (3) invocation of one or more sanctions including:
  - (A) a vendor hold that precludes the admission to the agency of any person whose services are funded by DDS or Waiver services. The agency may not provide services to a participant who was not being served before the vendor hold was issued;
  - (B) suspension of funding pending resolution of conditions violating terms of the contract;
  - (C) disallowance of claims for services by staff whose:
    - (i) training was not completed per OAC 340:100-3-38; or
    - (ii) pre-employment screening does not comply with OAC 340:100-3-39;

(D) termination of contract with the Oklahoma Department of Human Services (DHS);  
(E) recommendation for termination of contract with the Oklahoma Health Care Authority (OHCA); and  
(F) the requirement the provider employ sufficient program coordination staff to provide one program coordinator for every 10 individuals receiving residential supports per OAC 340:100-5-22.1.

(i) The program coordination staff ratio may be invoked when a violation(s) of program coordination requirements in OAC 340:100-5-22.1 remains uncorrected for 60 calendar days following the provider's receipt of a written report of the findings.

(ii) The provider maintains the 1:15 program coordinator ratio for one year, unless the requirement is extended by the PRC based on subsequent deficiencies.

(iii) The provider must maintain the 1:15 program coordinator ratio for each caseload that includes a person receiving residential supports.

(d) Agencies are notified in writing of the determinations made by the PRC. The president of the agency's board of directors is provided a copy by mail when a sanction, as described in (c) of this Section is authorized.

(e) When DDS receives an appeal of any decision of the PRC in writing within 14 calendar days from the mailing of the determination, the DDS director retains the authority to supersede the decisions of the QA administrator or the PRC.

(f) Failure to comply with pre-employment screening requirements of criminal background checks and registry checks for community services workers per OAC 340:100-3-39 result in placement of agencies on immediate vendor hold. Per OAC 340:100-3-27.2, agencies have 60 calendar days to correct all deficiencies. Following the re-survey, if all deficiencies are not corrected, DDS pursues recoupment in those instances where services were delivered by an unqualified provider.

(g) The DDS director or designee may issue an emergency determination independent of review by the PRC or written input by a provider agency when evidence is presented indicating risk of immediate and substantial jeopardy to the health or safety of a person receiving supports.

(1) The DDS director or designee may use any DHS resource considered appropriate to further investigate such circumstance, but is not required to do so.

(2) Emergency determinations:

(A) include the scope of options defined in (c) of this Section, waiving any stated time frame for implementation; and

(B) are not subject to appeal.

### **340:100-3-27.3. Person-centered evaluations (PCE) [REVOKED]**

[Source: Added at 19 Ok Reg 2948, eff 8-1-02 (emergency); Added at 20 Ok Reg 936, eff 6-1-03 ; Revoked at 29 Ok Reg 822, eff 7-1-12]

### **340:100-3-27.4. Developmental Disabilities Services Division Quality Assurance reports [REVOKED]**

[Source: Added at 19 Ok Reg 2948, eff 8-1-02 (emergency); Added at 20 Ok Reg 936, eff 6-1-03 ; Amended at 29 Ok Reg 822, eff 7-1-12 ; Revoked at 40 Ok Reg 1005, eff 9-15-23]

### **340:100-3-27.5. Provider agency quality assurance and fiscal controls**

(a) Each agency providing services funded through the Oklahoma Department of Human Services (DHS) or the Oklahoma Health Care Authority (OHCA), through Home and Community-Based Services (HCBS) Waivers, to six or more service recipients implements an internal quality assurance system. The system identifies and corrects obstacles to agency compliance with rules governing its services or effectively addressing the needs and preferences of service recipients.

Implementation is assessed on the basis of outcomes for service recipients and services.

(b) Provider agencies must have adequate fiscal controls, including internal management controls, systems to ensure accuracy and authorization of claims, and mechanisms to detect and resolve a threat to solvency.

(1) A provider agency is a corporation, partnership, association, or individual proprietorship that contracts with DHS or OHCA, through HCBS Waivers, to provide residential, employment, or in-home paraprofessional supports to service recipients.

(2) Each provider agency receiving \$100,000 or more per fiscal year for the delivery of supports funded through DHS or HCBS Waivers is required to conduct an independent financial audit.

When a financial audit is required:

(A) the audit is performed by a certified public accountant:

(i) with a valid and current permit to practice public accountancy in Oklahoma; and

(ii) approved by the Oklahoma Accountancy Board to perform audits in accordance with Government Auditing Standards;

(B) DHS reserves the right to approve the selection of the auditor or examine the work papers of the auditor; and

(C) the provider agency submits two copies of the audited financial statements, management letter, and plan to address all concerns noted by the auditor to the DHS Office of Inspector General (OIG).

(i) The audited financial statements are submitted within four months after the end of the provider agency's fiscal year.

- (ii) An extension of up to four months may be authorized by DDS or OIG, following the provider agency's submission of a request and explanation for delay.
  - (iii) No extension is granted to an agency that has not submitted the previous year's audit.
  - (iv) Failure to submit the audited financial statements may result in sanctions per Oklahoma Administrative Code (OAC) 340:100-3-27.2.
- (3) Audited financial statements are examined by DDS and OIG staff. Problems noted in either the findings or substance of the audit may result in:
- (A) acceptance of audited financial statements;
  - (B) correspondence with the provider agency or auditor to clarify and resolve issues in or with the audited financial statements;
  - (C) an administrative inquiry per OAC 340:100-3-27.1; or
  - (D) sanctions per OAC 340:100-3-27.2.

[Source: Added at 19 Ok Reg 2948, eff 8-1-02 (emergency); Added at 20 Ok Reg 936, eff 6-1-03 ; Amended at 25 Ok Reg 986, eff 5-15-08 ; Amended at 29 Ok Reg 822, eff 7-1-12 ; Amended at 32 Ok Reg 1906, eff 9-15-15]

### **340:100-3-28. Volunteer services [REVOKED]**

[Source: Amended at 8 Ok Reg 2163, eff 5-13-91 (emergency); Amended at 9 Ok Reg 1549, eff 4-27-92 ; Amended at 11 Ok Reg 1935, eff 6-21-94 (emergency); Amended at 12 Ok Reg 1761, eff 6-12-95 ; Amended at 20 Ok Reg 936, eff 6-1-03 ; Amended at 23 Ok Reg 1026, eff 5-11-06 ; Amended at 25 Ok Reg 986, eff 5-15-08 ; Revoked at 40 Ok Reg 1005, eff 9-15-23]

### **340:100-3-29. Foster Grandparent Program [REVOKED]**

[Source: Amended at 10 Ok Reg 2505, eff 5-24-93 (emergency); Amended at 11 Ok Reg 2303, eff 5-26-94 ; Amended at 21 Ok Reg 888, eff 4-26-04 ; Amended at 23 Ok Reg 1026, eff 5-11-06 ; Amended at 27 Ok Reg 838, eff 7-1-10 ; Amended at 30 Ok Reg 695, eff 7-1-13 ; Revoked at 33 Ok Reg 1668, eff 9-15-16]

### **340:100-3-30. News media relations [REVOKED]**

[Source: Amended at 8 Ok Reg 2163, eff 5-13-91 (emergency); Amended at 9 Ok Reg 1549, eff 4-27-92 ; Revoked at 40 Ok Reg 1005, eff 9-15-23]

### **340:100-3-31. Student placements**

The DDSD makes available opportunities for educational experiences for students in health care or related fields through internships, externships, field placements or similar learning experiences at program sites.

- (1) Student placements are beneficial to, and do not interfere with, client care, treatments, and/or habilitation.
- (2) The participating student must be sponsored by a bona fide educational instructor, and be in good standing in a recognized educational program.



- (3) The participating educational institution designates a faculty member to coordinate the program with the program area and supervise the students.
- (4) The program area arranges for the orientation and direct supervision of students by an appropriate professional staff member who retains responsibility for client services performed by the student.
- (5) Students are required to comply with all program policies and procedures.
- (6) Students shall be identified to clients/family who may refuse to accept services provided by the student.
- (7) Students comply with all legal/professional constraints relating to the practice of their profession while a student.
- (8) Client medical records are available only when access is necessary to the fulfillment of the student's duties. The professional supervising the student must review, approve, and co-sign any client related paperwork, and by doing so accepts full responsibility for the document's contents.
- (9) Students (both employees and non-employees) who want to gather data or conduct studies relating to clients must have prior approval and adhere to all guidelines for conducting research as established by DHS, DDSD and the program.
- (10) Students participating in any DDSD programs are subject to background investigations.

[Source: Amended at 8 Ok Reg 2163, eff 5-13-91 (emergency); Amended at 9 Ok Reg 1549, eff 4-27-92]

### **340:100-3-32. Fire/disaster/emergency plan**

All programs operated by or under contract with DDSD adhere to applicable State and Local laws/codes, and the rules, regulations and requirements of State and Federal regulatory agencies to ensure the safety of clients, guests, and employees and to safeguard personal and agency property.

- (1) All programs develop, publish and review plans to be implemented in the event of a fire, disaster, and/or other emergency.
- (2) Each Department/facility/provider develops written procedures, publishes plans, and trains staff and clients to address any emergency.

### **340:100-3-33. Service authorization**

(a) Developmental Disabilities Services Division (DDSD) provides services using state and federal funds.

- (1) All Medicaid services are implemented in accordance with Title XIX regulations.
- (2) Oklahoma Health Care Authority (OHCA) authorizes Title XIX compensability of all Home and Community-Based Services (HCBS) Waiver and intermediate care facility for persons with mental retardation (ICF/MR) services.

(3) HCBS Waiver services are included in the service recipient's Plan of Care (POC) and are identified in accordance with OAC 340:100-5-53.

(4) Facility administrators of Northern Oklahoma Resource Center of Enid (NORCE), Southern Oklahoma Resource Center (SORC), and Robert M. Greer (Greer) are authorized to approve habilitation and support services required by the service recipient's individual program plan and regulatory standards, including the purchase of adaptive and mobility equipment.

(5) All authorized state-funded services are implemented in accordance with Oklahoma Department of Human Services (OKDHS) purchasing and contract policy and procedures. Authorization of services is contingent upon the availability of adequate resources.

(b) DDS case managers may implement services that are:

(1) generic non-specialized services accessed when possible;

(2) approved for DDS payment;

(3) identified in the service recipient's POC.

(A) The amount of HCBS Waiver services must not exceed service specific utilization limitations and comply with related OHCA policy.

(B) Total expense of HCBS Waiver services must not exceed the statewide congregate average annual cost of HCBS Waiver services per service recipient.

(C) The total POC cost must not exceed annual per capita limitations, if any, established in the applicable HCBS Waiver; and

(4) State funds are approved to meet critical needs when there is no other resolution and funds are necessary to resolve an emergency, such as necessary utilities, clothing, furniture, food and shelter. Funds cannot exceed \$750.00 per event.

(c) The DDS area manager or designee must review and approve implementation of expenditures for:

(1) HCBS Waiver services prescribed for a service recipient on the POC, exceeding the statewide, congregate average annual HCBS Waiver expenditure by 35% or less per year; and

(2) short term emergency services required to meet critical needs and ensure the continuity of care when no other resolution exists.

(d) The DDS director or designee must review and approve implementation of:

(1) expenditures for HCBS Waiver services exceeding the statewide, congregate average annual cost of HCBS Waiver services by more than 35%; and

(2) support or habilitative services not otherwise authorized by OKDHS policy, subject to approval by OKDHS Director, Oklahoma Commission for Human Services or both.

(e) Service recipients:

(1) maintain the right to appeal service eligibility determinations as stipulated by the Oklahoma State Medicaid Plan and OKDHS policy; and

(2) are provided literature and an understandable explanation describing procedures for exercising this right.

[Source: Amended at 8 Ok Reg 2163, eff 5-13-91 (emergency); Amended at 9 Ok Reg 1549, eff 4-27-92 ; Amended at 11 Ok Reg 4107, eff 6-29-94 (emergency); Amended at 12 Ok Reg 1761, eff 6-12-95 ; Amended at 26 Ok Reg 922, eff 5-15-09]

**340:100-3-33.1. Criteria to establish service necessity**

(a) The goal of service delivery is to promote the independence of persons with developmental disabilities. The purpose of publicly funded supports is to strengthen the individual's capacity for self-care and self-sufficiency and to lead to a lesser reliance on paid supports. Because of the unpredictable nature of government funding, promoting reliance on publicly funded supports is often not in the person's best interest. In order to minimize dependence on public funds, Developmental Disabilities Services Division (DDSD) staff use the criteria given in subsection (b) of this Section to determine the necessity of publicly funded supports.

(b) Services provided through DDSD must meet all of the requirements given in this subsection.

- (1) Services appropriate to meet the individual's need are not available from another funding source.
- (2) Services are authorized only to the extent necessary to achieve, maintain, or promote functional capacity.
- (3) Services provided are consistent with accepted practice standards and guidelines.
- (4) Services must be necessary to achieve a specific outcome and must be required for other than the convenience of the client, family, staff, or provider.
- (5) Documentation submitted to request a service must contain objective evidence supporting the need, including evidence to support orders or prescriptions for the service.
- (6) Services must be delivered in the most cost-effective manner and most appropriate setting.
- (7) Services must be based on reasonable and predictable outcomes.
- (8) Services are not provided to meet hypothetical situations.

[Source: Added at 19 Ok Reg 2991, eff 7-31-02 (emergency); Added at 20 Ok Reg 936, eff 6-1-03]

**340:100-3-33.2. Provision of waiver services by legally responsible persons and other family members or guardians**

**(a) Legally responsible persons.**

(1) Persons who are legally responsible for the care of service recipients are prohibited from providing Developmental Disabilities Services Division (DDSD) Home and Community-Based Waiver Services to service recipients for whom they are responsible.

(2) For purposes of OAC 340:100-3-33.2, a person who is legally responsible is:

- (A) a biological or adoptive parent(s) of a minor child;

- (B) a legal guardian of a minor child;
  - (C) a spouse of a service recipient; or
  - (D) anyone deemed legally responsible by court order.
- (b) **Family members or guardians not legally responsible.** Family members or guardians who are not legally responsible for the care of service recipients:
  - (1) may provide Home and Community-Based Services (HCBS) under specific circumstances when they:
    - (A) are qualified per applicable Oklahoma Department of Human Services (OKDHS) and Oklahoma Health Care Authority (OHCA) rules; and
    - (B) meet specific service provider requirements;
  - (2) must be employed by provider agencies, except per OAC 340:100-3-33.2(b)(3). Provider agencies must:
    - (A) provide supervision and oversight of such employees; and
    - (B) ensure claims are submitted only for services rendered;
  - (3) are prohibited from being paid as direct contract providers of DDSD HCBS, except when such persons are:
    - (A) the only available provider of covered services due to geographic remoteness; or
    - (B) uniquely qualified to provide covered services due to considerations such as language; and
  - (4) may provide services, such as:
    - (A) audiology;
    - (B) dental;
    - (C) respite;
    - (D) agency companion;
    - (E) assistive technology;
    - (F) homemaker;
    - (G) habilitation training specialist;
    - (H) nutrition;
    - (I) occupational therapy;
    - (J) physical therapy;
    - (K) speech therapy;
    - (L) transportation; and
    - (M) specialized foster care.
- (c) **Volunteer guardians.** Volunteer guardians appointed by the court, per OAC 340:100-3-5.1, are prohibited from providing DDSD HCBS to their wards.

[Source: Added at 24 Ok Reg 1046, eff 5-11-07 ; Amended at 42 Ok Reg, Number 5, effective 10-10-24 (emergency)]

### **340:100-3-34. Incident reporting**

(a) **Reporting requirement.** Contract provider staff and Developmental Disabilities Services (DDS) staff must report critical and non-critical incidents involving the health and welfare of any person receiving DDS services, excluding Family Support Assistance Payment Program recipients per Oklahoma Administrative Code (OAC) 340:100-13.

(b) **Critical incidents.** Critical incidents include:

- (1) suspected maltreatment including abuse, verbal abuse, sexual abuse, neglect, financial neglect, exploitation, or sexual exploitation of a vulnerable adult per Section 10-103 of Title 43A of the Oklahoma Statutes (43A O.S. § 10-103) or abuse, neglect, sexual abuse, or sexual exploitation of children per 10A O.S. § 1-1-105;
- (2) threatened or attempted suicide by a service recipient;
- (3) death of a service recipient;
- (4) an unplanned hospital admission of a service recipient;
- (5) a medication event resulting in emergency medical treatment for a service recipient;
- (6) law enforcement involvement in a situation concerning a service recipient;
- (7) property loss of more than \$500 involving a service recipient;
- (8) a service recipient who is missing; and
- (9) a highly restrictive procedure used on a service recipient, such as:

- (A) p.r.n. medication for behavioral control; or
- (B) physical hold.

(c) **Non-critical incidents.** Non-critical incidents include:

- (1) an injury or an unplanned health-related event involving a service recipient;
- (2) physical aggression by a service recipient;
- (3) fire setting by a service recipient;
- (4) deliberate harm to an animal by a service recipient;
- (5) property loss of less than \$500 involving a service recipient;
- (6) a vehicle accident involving a service recipient;
- (7) the suspension, termination, or removal of a service recipient's program, including employment; and
- (8) a medication event involving a service recipient, including:
  - (A) a dose at the wrong time;
  - (B) a missed dose;
  - (C) a wrong dose;
  - (D) the wrong medicine;
  - (E) the wrong route;
  - (F) an incorrect medicine label or instructions;
  - (G) a medication refused by the service recipient;
  - (H) incorrect medication documentation; or
  - (I) any other significant occurrence involving medication.

(d) **Incident notification requirements.**

- (1) For Waiver funded service recipients, contract provider staff:
  - (A) report incidents electronically via the DDS Provider Reporting System for all critical and non-critical incidents;
  - (B) program coordination staff:
    - (i) review and submit reports of all critical incidents per OAC 340:100-3-34(b) within one business day of the incident; and
    - (ii) review and submit reports of all non-critical incidents per OAC 340:100-3-34(c) within three business days of the occurrence.

- (C) notify the service recipient's family or guardian, in accordance with provider policies;
  - (D) notify other persons or entities as required by law or regulation, including:
    - (i) when a service recipient dies per OAC 340:100-3-35; and
    - (ii) investigative authorities immediately in cases of suspected maltreatment, including:
      - (I) Office of Client Advocacy per OAC 340:2-3-33;
      - (II) Adult Protective Services per 43A O.S. § 10-104; or
      - (III) Child Protective Services per 10A O.S. § 1-1-105.
- (2) For critical incidents involving state funded service recipients, contract provider staff submits Form 06MP046E, Incident Report, to DDS State Office within one business day of the incident. For non-critical incidents, contract provider staff maintains a copy of Form 06MP046E per OAC 340:100-3-40.

[Source: Amended at 8 Ok Reg 2163, eff 5-13-91 (emergency); Amended at 9 Ok Reg 1549, eff 4-27-92 ; Amended at 17 Ok Reg 550, eff 11-24-99 (emergency); Amended at 17 Ok Reg 1314, eff 5-11-00 ; Amended at 24 Ok Reg 1046, eff 5-11-07 ; Amended at 29 Ok Reg 822, eff 7-1-12 ; Amended at 32 Ok Reg 1906, eff 9-15-15 ; Amended at 42 Ok Reg, Number 5, effective 10-10-24 (emergency)]

### **340:100-3-35. Death of a DDS service recipient**

- (a) **Death of a DDS service recipient.** Upon the death of a DDS service recipient, the DDS area manager, public intermediate care facility for the mentally retarded (ICF-MR) administrator, or their designee ensures immediate notification of the DDS division administrator or designee.
- (b) **Death of a person receiving residential services.** If a person receiving community residential supports per OAC 340:100-5-22.1, public ICF-MR services, or waiver funded group home services dies, the area manager, public ICF-MR administrator or their designee implements procedures, as appropriate, to ensure immediate notification of:
- (1) the service recipient's family member(s), guardian, or both by case management staff or provider agency staff;
  - (2) the office of the Chief Medical Examiner, per Section 938 of Title 63 of the Oklahoma Statutes;
  - (3) the County Sheriff's office or the city police department, in the event of accidental, suicidal, or homicidal death;
  - (4) the Children and Family Services Division if the service recipient was under the age of 18 and there is suspicion the death was the result of abuse or neglect per OAC 75:3-9.1;
  - (5) the Office of Client Advocacy in the event of the death of a Hisson class member or a resident of a public ICF-MR;
  - (6) the state office of Adult Protective Services, if the person is a vulnerable adult and there is suspicion the death was a result of abuse or neglect; and

(7) the state office of DDS Quality Assurance for administrative inquiry per OAC 340:100-5-27, if there is any concern the death could pose a risk to others served by the agency.

(c) **Mortality review.** A mortality review is a systematic review of circumstances surrounding the death of a service recipient receiving community residential supports, public ICF-MR services, or waiver funded group home services and is conducted to:

- (1) identify areas of concern related to the health and safety of service recipients;
- (2) identify practices or rules in need of revision; and
- (3) recommend strategies for quality improvement on a local or statewide basis.

(d) **Mortality reviewer.** When a person receiving community residential supports, public ICF-MR services, or waiver funded group home services dies, the area manager, public ICF-MR administrator, or their designee assigns a reviewer from a designated pool of trained DDS mortality reviewers.

(e) **Provider agency policies.** Each provider agency establishes and implements policies and procedures that describe actions taken in response to the death of a service recipient, including notification of the DDS area manager or designee.

(f) **Provider agency responsibilities.** Each residential service provider, including specialized foster care providers:

- (1) immediately notifies the DDS area manager, or designee;
- (2) immediately notifies the service recipient's family member(s), guardian or both;
- (3) assists the DDS area manager, resource center administrator, or designee, if requested, in notification of authorities, as described in this Section;
- (4) immediately relinquishes to DDS the residential record, or supplies a legible, complete photocopy;
- (5) secures written witness statements from all staff who worked with the service recipient 24 hours prior to the death unless otherwise specified by the mortality reviewer;
- (6) assists the DDS reviewer in coordinating witness interviews and other needs;
- (7) preserves the scene of death; and
- (8) completes Form 06MP046E per OAC 340:100-3-34.

(g) **Law enforcement.** DDS staff and contract providers cooperate fully with law enforcement authorities in the investigation of the death of the service recipient.

[Source: Amended at 8 Ok Reg 2163, eff 5-13-91 (emergency); Amended at 9 Ok Reg 1549, eff 4-27-92 ; Amended at 14 Ok Reg 79, eff 10-10-96 (emergency); Amended at 14 Ok Reg 1399, eff 5-12-97 ; Amended at 16 Ok Reg 3376, eff 5-11-99 (emergency); Amended at 17 Ok Reg 1314, eff 5-11-00 ; Amended at 26 Ok Reg 922, eff 5-15-09]

### **340:100-3-36. Emergency first aid for employees and visitors [REVOKED]**

[Source: Added at 23 Ok Reg 1910, eff 6-11-06 ; Revoked at 40 Ok Reg 1005, eff 9-15-23]

### **340:100-3-37. Employee and provider rights and responsibilities [REVOKED]**

[Source: Amended at 8 Ok Reg 2163, eff 5-13-91 (emergency); Amended at 9 Ok Reg 1549, eff 4-27-92 ; Amended at 15 Ok Reg 3934, eff 7-14-98 (emergency); Amended at 16 Ok Reg 1056, eff 4-26-99 ; Revoked at 24 Ok Reg 1046, eff 5-11-07]

### **340:100-3-38. Training requirements for community staff**

(a) **Application.** Oklahoma Administrative Code (OAC) 340:100-3-38 sets forth training requirements for Developmental Disabilities Services (DDS) staff, specialized foster care (SFC) providers, and agencies contracting for delivery of residential supports, per OAC 340:100-5-22.1, habilitation training services, group home services, assisted living services, employment services, or in-home supports through DDS state funds or a Home and Community-Based Services Waiver, per OAC 317:40-1-1. DDS staff, provider agency staff, and SFC providers complete a course of instruction specific to applicable job duties in accordance with:

- (1) residential supports and group home services per OAC 340:100-3-38.1;
- (2) employment services per OAC 340:100-3-38.2, excluding job coaching services through contracts with industry, per OAC 317:40-7-18. The job coach, per OAC 317:40-7-18, completes contracts with industry job coach curriculum, approved by the DDS director or designee, within 30 days of assignment as job coach;
- (3) supports in the family's or service recipient's home through Community Waiver or Homeward Bound Waiver, other than residential supports, per OAC 340:100-3-38.3;
- (4) SFC per OAC 340:100-3-38.4;
- (5) supports in the family's or service recipient's home through an In-Home Supports Waiver per OAC 340:100-3-38.5;
- (6) DDS case management services per OAC 340:100-3-38.6;
- (7) program coordination services per OAC 340:100-3-38.7;
- (8) employment program manager services per OAC 340:100-3-38.8;
- (9) DDS or provider agency supervisory or management support per OAC 340:100-3-38.9;
- (10) respite, homemaker, or homemaker respite services per OAC 340:100-3-38.12; and
- (11) supports in alternative group homes per OAC 340:100-3-38.13.

(b) **Training curricula.**

- (1) To fulfill the training requirements of OAC 340:100-3-38, any training course or curriculum must be approved by the DDS director or designee unless the course is:
  - (A) designed and offered by a professional training or education organization to enhance the management skills of supervisors; or



(B) offered by a regional, state, or national professional organization, such as:

- (i) The Association for Persons with Severe Handicaps (TASH);
- (ii) The Council on Quality and Leadership (CQL);
- or
- (iii) the American Association on Intellectual and Developmental Disabilities (AAIDD).

(2) In-services to staff and meetings pertaining to agency policies and practices are not subject to approval by the DDS director or designee.

(3) Trainers of approved courses must be licensed, certified, or otherwise qualified based on requirements of the course or by approval of the DDS director or designee.

(4) Competency-based courses require a specified level of proficiency to receive credit for satisfactory completion. Competencies are based upon specific identified outcomes. The trainer of each course communicates the required level of proficiency to participants at the beginning of each course.

(5) Each curriculum developed or sponsored by DDS is reviewed at least every two years to ensure the curriculum is:

- (A) reflective of current best practice;
- (B) aligned with Oklahoma Human Services (OKDHS) rules; and
- (C) reflective of changes in the service delivery system.

(c) **Classroom expectations.** DDS training staff and contract training staff are authorized to dismiss a participant or observer from a class for the reasons in (1) through (5) of this subsection.

(1) Dismissal from a training class may occur for:

- (A) sleeping in class;
- (B) disruptive behavior, such as:
  - (i) inappropriate comments during class that are considered rude, insensitive, or derogatory;
  - (ii) whispering or talking to other participants during class;
  - (iii) conducting activities unrelated to the class topic;
  - (iv) being called out of class frequently; or
  - (v) leaving class frequently other than at designated break times;
- (C) tardiness or absence.

- (i) Tardiness, such as:
  - (I) arriving at class more than 30 minutes after class begins on the first day;
  - (II) arriving at class more than 15 minutes after class begins on subsequent days; or
  - (III) missing a total of more than 30 minutes of any day's presentation.
- (ii) Participants may be granted no more than 30 minutes the first day of class to allow for difficulty in locating the building or parking, except in

courses that require a specific number of training hours to meet certification requirements;

(D) incomplete preparation. Dismissal from class occurs for any participant who has not completed required prerequisite courses, tasks, or preparatory materials prior to attending; and

(E) violating confidentiality requirements, per OAC 340:100-3-2 and other applicable rules.

(2) If dismissal from class occurs, the trainer notifies the participant's agency and trainer's supervisor as soon as possible and maintains a brief written summary of the incident.

(A) Dismissed participants do not receive credit for the class and are required to re-enroll and satisfactorily complete the entire course or module to receive credit.

(B) The trainer must give approval before re-enrollment is allowed. Appeal of the trainer's decision is made to the DDS director or designee.

(3) No children, friends, or family members of participants may attend class unless enrolled as participants.

(4) Service recipients family members, advocates, DDS staff, and provider agency staff may observe training classes unless they engage in activities disruptive to the class. Service recipients who wish to participate in training and who need staff support must be accompanied by a staff not enrolled in the training.

(5) When other persons attend class in place of enrolled participants, or in addition to enrolled participants, they are allowed to remain, if the trainer determines there are adequate materials and space.

(d) **Online Training Expectations.** Online training courses may be used as an alternative to classroom instruction.

(1) Online courses must be approved by the DDS director or designee.

(2) Provider agencies participating in online training have responsibility for preventing misuse of online training.

(3) Provider agencies participating in online training develop protocols governing use of online training. The protocols include, but are not limited to the following:

(A) supervision of employees completing online training;

(B) provision of technical assistance to learners;

(C) mentoring and assisting learners; and

(D) completion of on-the-job components of the courses including maintaining documentation of completion.

(4) DDS and provider agency staff sign Form 06MP050E, Notice of Responsibilities Regarding Online Training, prior to taking online courses that have been approved to meet the training requirements per OAC 340:100-3-38.

(e) **Virtual Training Expectations.** Virtual training may be used as an alternative to both classroom and online training as referenced in this Section. Virtual training is an instructor-led, interactive, online learning experience with participants who are connected from geographically dispersed locations. This does not include telehealth services, webinars,

webcasts, virtual meetings, or other similar platforms. Participants are expected to actively participate and engage with the trainer and the group during group discussions and activities. Refer to (c)(1) of this Section regarding reasons for dismissal from virtual training. During virtual training participants:

(1) have their camera on at all times. All participants are visible and have adequate audio capability to both hear and be heard. When participants need to turn off the camera and leave the training momentarily, participants notify the instructor(s) using the chat function;

(2) check Internet capabilities prior to the training to allow for relocation if needed;

(3) ensure their dress, appearance, and behavior are appropriate for the circumstances;

(4) are in an environment as free from distractions as possible.

This includes but is not limited to minimizing:

(A) external noise;

(B) the presence of people who are not registered participants; and

(C) use of electronic devices unless being used to participate in the class;

(5) may not participate while driving;

(6) may use a library, community parking lot, or a government building as needed for adequate Internet reception. In an area with external noise, headphones or ear buds are used to block out external noise, and the distractions in (e)(5) of this Section are minimized as much as possible;

(7) ensure that identifying client information is not visible or discussed; and

(8) are not working or responsible for other duties during training.

(f) **Course availability.** The DDS training unit and contract trainers work to ensure the availability of all courses by taking into account:

(1) location;

(2) time of day; and

(3) day of the week.

(g) **Class closings due to inclement weather.**

(1) For a live training, if the public schools in the town where the class is held are closed or OKDHS has closed the local offices due to bad weather, class is canceled and the DDS trainer notifies affected provider agencies. The provider agency is responsible to enroll the staff in the next available class.

(2) If provider agency staff plans to attend an out-of-town class, but the schools are closed at the staff's work location, the agency may determine that it is not safe for staff to travel.

(A) The agency is responsible for contacting the DDS training unit the next work day to notify the training provider of this decision.

(B) The DDS training unit enrolls the staff in the next available class, and the staff is not penalized for not attending.

(C) The email confirming re-enrollment serves as notification of the next available class.

(3) If a provider agency or staff is uncertain about weather conditions or cancellations, they must contact the DDS training unit. .

(h) **Quality assurance.** To ensure consistency with state laws and regulations and current best practices, training provided by DDS staff, service providers, or contract agents, and other classes required by DDS are observed and monitored on a regular basis.

(1) The components of the monitoring system are listed in (A) through (E).

(A) The DDS director or designee attends and monitors training classes on a random basis throughout the calendar year.

(B) Contract training coordinators observe each trainer directly under their supervision at least twice a calendar year.

(i) At least one review must include foundation training, if applicable.

(ii) Each review is at least one-half training day, which is three hours in length.

(iii) The reviews:

(I) cover the range of primary training topics each trainer offers;

(II) are conducted in both metropolitan and rural areas of Oklahoma, when applicable; and

(III) include announced and unannounced observations.

(iv) The DDS training program manager or contract training coordinator reviews the training classes as a participant rather than as an observer, when possible.

(v) Direct feedback is given to the trainer following the class in both written and verbal form.

(vi) A copy of the written review is sent to the DDS director or designee.

(vii) If significant areas of concern are noted, the contract training coordinator and trainer develop a specific plan of correction that may include retraining, increased supervision of classes, or co-training. A copy of the plan of correction is sent to the DDS director or designee.

(viii) The DDS director or designee or contract training coordinator may request an unannounced review by another supervisor, coordinator, or trainer.

(ix) Exceptional performance is noted in writing with a copy to:

(I) the trainer's personnel file; and

(II) DDS director or designee.

(C) Provider agencies notify DDS area training staff at least the day before the class of the location and time when offering in-house training courses to meet requirements per OAC 340:100-3-38. DDS may provide unannounced monitoring at any time.

(D) To ensure contract trainers support the DDS mission, values, and philosophies, as well as demonstrate mastery of the subject matter and good training skills, the DDS director or designee assigns each DDS trainer to monitor a contract trainer as needed.

(i) Each DDS trainer:

(I) is assigned to monitor contract trainers based upon the DDS trainer's areas of expertise and interest;

(II) reviews each assigned contract trainer at least one time per calendar year for a minimum of one-half training day, which is three hours. The review is unannounced; and

(III) provides written and oral feedback to the contract trainer following the class.

(ii) A copy of the written report is provided to the contract trainer, contract trainer's supervisor, and DDS director or designee.

(iii) If significant areas of concern are noted, the contract trainer and immediate supervisor develop a specific plan of correction that may include retraining, increased supervision of classes, or co-training. A copy is sent to the DDS director or designee.

(iv) Exceptional performance is noted in writing with a copy to:

(I) trainer's personnel file; and

(II) DDS director or designee .

(v) DDS training staff reviews the primary training programs and other sensitive training programs contract training staff provides.

(E) Service recipients, family members, and advocates, as well as organizations with expertise in disability issues or training may be invited to review training classes or portions of classes.

(i) These reviews may be announced or unannounced.

(ii) Service recipients, family members, friends, advocates and legal guardians, or organizations provide feedback to the trainer, trainer's supervisor, and DDS director or designee.

(2) Training found to violate requirements of OAC 340:100-3-38, including material covered, testing procedures, or DDS rule requirements may result in:

(A) corrective discipline for OKDHS employees;

- (B) revocation of approval to provide training;
  - (C) supervised retraining; or
  - (D) sanctions against the provider per OAC 340:100-3-27.
- (3) Any participant or agency with concerns about course content, a course instructor, or availability of a course immediately notifies the supervisor of the course or instructor. If resolution of the issue does not occur, the participant or agency notifies the DDS director or designee.
- (4) Each class used to fulfill training requirements, per OAC 340:100-3-38, offered by DDS, contract training agents, or provider agencies offers participants the opportunity to provide feedback. Feedback options include:
- (A) end-of-class evaluation forms;
  - (B) periodic surveys; or
  - (C) focus group discussions.
- (5) DDS case managers and providers report to the DDS director or designee any training system issues inhibiting fulfillment of requirements per OAC 340:100-3-38.

**(i) Documentation.**

- (1) Provider agencies maintain documentation of completion of required training as defined in OAC 340:100-3-38. Staff who attend training may request the DDS trainer verify and sign completion verification the provider agency provides. Staff also may request verification of live and virtual training from the DDS training unit. The agency maintains a copy of such documents.
- (2) DDS case managers monitor training completion through review of progress reports from service providers per OAC 340:100-5-52 and follow up when issues are noted.

[Source: Added at 15 Ok Reg 3934, eff 7-14-98 (emergency); Added at 16 Ok Reg 1056, eff 4-26-99 ; Amended at 19 Ok Reg 2948, eff 8-1-02 (emergency); Amended at 20 Ok Reg 936, eff 6-1-03 ; Amended at 22 Ok Reg 882, eff 5-12-05 ; Amended at 23 Ok Reg 1910, eff 6-11-06 ; Amended at 25 Ok Reg 986, eff 5-15-08 ; Amended at 28 Ok Reg 897, eff 6-1-11 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

**340:100-3-38.1. Training requirements for staff providing residential supports**

(a) **Applicability.** Oklahoma Administrative Code (OAC) 340:100-3-38.1 sets forth training requirements for staff, volunteers, and direct supervisors providing either full- or part-time direct supports for a service recipient receiving:

- (1) daily living supports (DLS), per OAC 317:40-5-150;
  - (2) Prader-Willi Syndrome services;
  - (3) agency companion services (ACS), per Part 1 of OAC 317:40-5;
- or
- (4) group home services, per OAC 340:100-6.

(b) **New employee training.** No later than 30-calendar days following the hire date, staff providing direct supports or supervising the delivery of direct supports at any level must complete the online or first available Developmental Disabilities Services (DDS)-approved foundation training course and effective teaching course. The first available class is the first unfilled class held within 60 miles of the staff's work location following

the staff's hire date.

(c) **First aid and cardio-pulmonary resuscitation (CPR).** Direct support staff must be certified in an approved course of first aid and CPR before providing services alone or with other untrained staff.

(1) First aid and CPR certification of each staff must occur within 90-calendar days following the staff's hire date.

(2) The service recipient's Personal Support Team (Team) may determine, based on the service recipient's needs, that staff must receive first aid and CPR certification in less than 90-calendar days.

(d) **Medication administration training.** Staff must be certified in an approved medication administration course per OAC 340:100-3-38.10 before administering medication to a service recipient or assisting with a service recipient's medication support plan.

(e) **Individual-specific in-service training.** Individual-specific in-service training is identified for direct support staff in the service recipient's Individual Plan (Plan).

(1) Training requirements are based on the service recipient's identified needs through Team discussion and review of available assessment information.

(2) A service recipient's Team specifies required completion time frames for individual-specific in-service training. When time frames are not identified in the Plan, required individual-specific in-service training must be completed before working with the service recipient.

(3) As the service recipient's needs require changes in supports or programs, the Team documents in the Plan or in addenda to the Plan, any new or additional in-service training required, with completion time frames.

(4) Individual-specific training is provided by the person or persons designated by the Team and identified by position in the Plan, per rule, statute, and professional practice regulations, when applicable.

(5) The responsible Team member verifies staff has knowledge and skills necessary to provide the identified services. Videos may be used when approved by the Team.

(f) **Job-specific training.**

(1) Staff must complete:

(A) within 90-calendar days after assignment date:

(i) Health course; and

(ii) Ethical and Legal Issues course; and

(B) within six months after assignment date:

(i) Communication course;

(ii) Skill Building course;

(iii) Connections course; and

(iv) Nuts and Bolts course.

(2) Staff who works in both residential and employment or other settings must meet the job-specific training requirements of both jobs. Transfers to avoid required training completion are prohibited.

(g) **Specialized training.** Additional specialized training may be required for direct support staff working with service recipients who have significant health, physical and behavior support issues.

(1) Staff supporting a service recipient with a protective intervention protocol (PIP) that includes non-restrictive intervention techniques must be trained on these techniques before use.

(2) Completion of an approved behavior support course is required for staff supporting a service recipient with a PIP that:

(A) addresses challenging behavior that places the service recipient's physical safety, environment, relationships, or community participation at serious risk; and

(B) contains one or more of these procedures:

(i) physical guidance to overcome resistance;

(ii) physical guidance to move to safety; or

(iii) physical hold to restrict movement.

(3) Staff must complete the approved:

(A) behavior support course before working alone or with other untrained staff, but no later than 60-calendar days after starting work with the service recipient; and

(B) physical management course before using any technique of physical management identified in the PIP.

(i) All staff must complete foundation training with the approved effective teaching course and behavior support course.

(ii) Staff working with the service recipient implements the positive components of the PIP, as well as non-intrusive procedures to assist the service recipient during a crisis.

(iii) The PIP must be reviewed and approved by the Statewide Human Rights and Behavior Review Committee.

(iv) Only staff and staff supervisors providing support to the service recipient are trained on the use of a physical management procedure.

(v) Staff formally trained to use physical management procedures does not use those techniques with other service recipients, except in emergencies per OAC 340:100-5-57.

(vi) Training curricula regarding behavior support are approved by the DDS human resource development and behavioral supports director.

(4) Training regarding physical management procedures must be obtained from trainers approved by the DDS human resource development director.

(5) Staff must complete annual retraining on physical management or physical restraint procedures in the approved PIP.

(h) **Ongoing training.** Direct support staff employed by provider agencies completes eight hours of approved annual training.

(1) Annual training may come from:



- (A) required re-certification classes in first aid, CPR, or medication administration training;
  - (B) courses per OAC 340:100-3-38(b)(1);
  - (C) courses, conferences, or workshops approved by the DDS human resource development director;
  - (D) individual-specific training; or
  - (E) agency-specific in-services.
- (2) Direct support staff who supervises other staff must take 12 hours of supervisory training annually that may be included in the hours required per this Section.
- (3) Direct support staff may challenge or test out of required annual recertification when an approved option is available. Training completion hours are granted equal to the number of hours for the standard recertification class.
- (i) **Exceptions.** Exceptions to training requirements per this Section may be made by the DDS director or designee.

[Source: Added at 19 Ok Reg 2948, eff 8-1-02 (emergency); Added at 20 Ok Reg 936, eff 6-1-03 ; Amended at 25 Ok Reg 986, eff 5-15-08 ; Amended at 28 Ok Reg 897, eff 6-1-11 ; Amended at 34 Ok Reg 1598, eff 9-15-17]

#### **340:100-3-38.10. Medication administration training**

- (a) **General requirements.** Staff must be certified in a medication administration-training course approved by the Developmental Disabilities Services (DDS) human resource development director before administering medication(s) to a person receiving services or assisting with a person's medication support plan.
- (1) The DDS human resource development director may approve medication administration certification from another state when supplied with a copy of an acceptable course curriculum.
  - (2) A licensed nurse who maintains a current, unrestricted license is exempt from the training requirements of this paragraph.
    - (A) Licensed practical nurses (LPNs) and registered nurses (RNs) may administer medications in accordance with training.
    - (B) The employer must maintain a copy of the nurse's license in the nurse's personnel file or make the license available for review.
  - (3) Certification or re-certification to administer medications is valid for two- calendar years from the date of issuance, as long as the person administered medications as a paid, certified staff within the two-calendar year period.
    - (A) When a person allows his or her medication administration certification to expire, he or she cannot administer medication(s) or assist with a medication support plan. When the person's certification was expired for less than 60-calendar days, the person's certification is renewed by taking the one-day update training.
    - (B) When the person's medication administration certification was expired for 60-calendar days or more, the person does not administer medication(s) or assist with a

medication support plan and must complete an approved initial medication administration class.

(4) All provider agencies must:

- (A) establish written rules that ensure compliance with this Section and with applicable federal and state laws;
- (B) provide documentation that staff were given an in-service training in agency-specific practices including, but not limited to, medication storage requirements, documentation forms, and procedures for a medication event, per Oklahoma Administrative Code (OAC) 340:100-3-34; and
- (C) maintain a copy of each employee's current certification in his or her personnel file.

**(b) Medication administration training provided by provider**

**agencies.** DDS provider agencies may conduct medication administration training under the conditions listed in this subsection.

(1) Any provider agency planning to conduct medication administration training or re-certification classes must submit the prospective trainer's credentials to the DDS human resource development director for approval. The provider agency is responsible for ensuring the instructor adheres to the rules in this Section.

(A) The prospective instructor must be an RN or LPN working under the supervision of an RN.

(i) The nurse's license must be current and active through the Oklahoma State Board of Nursing.

(ii) Any exception to the requirement that the instructor be an RN or LPN must be approved in writing by the DDS human resource development director.

(B) Potential instructors with other types of medical experience or licensure may seek approval to teach medication administration training classes by submitting credentials to the DDS human resource development director.

(C) Each instructor must request and receive approval every two years to teach medication administration training.

(2) The DDS human resource development director must approve or deny the agency's request in writing. A letter designating approval of an instructor to conduct medication administration training must be maintained in the instructor's personnel file at the agency.

(3) Approved instructors only use course materials approved by the DDS human resource development director.

(4) Each participant in an initial medication training course receives an approved training manual.

(5) Each agency approved to provide medication administration training must implement an internal monitoring system to review and document the consistency of the training and use of the approved curriculum that is subject to DDS random review.

(6) All medication administration training must be conducted according to the specific requirements of the course, the rules in this Section, and DDS training rules per OAC 340:100-3-38.

(7) Instructors provide signed verification of completion for each participant based on the competency criteria provided in this paragraph.

(A) Each person must satisfactorily complete the course with a minimum passing score of 85 percent for each test or subtest. When a person does not achieve a score of at least 85 percent after taking the exam two times, he or she must repeat the class.

(B) The instructor is responsible for administering a written test to each participant and directly observing test completion.

(8) The agency providing the training maintains documentation of completed medication administration training. Documentation must include the:

(A) name of the agency providing the training;

(B) name(s) of the instructor(s);

(C) name of the training, include whether it is an initial medication administration training or update training;

(D) training date(s);

(E) participant names;

(F) agency name employing each participant; and

(G) each participant's pass or fail status.

(9) The DDS human resource development director may revoke an instructor's approval to provide medication training for violating rules in this Section.

[Source: Added at 19 Ok Reg 2948, eff 8-1-02 (emergency); Added at 20 Ok Reg 936, eff 6-1-03 ; Amended at 28 Ok Reg 897, eff 6-1-11 ; Amended at 30 Ok Reg 695, eff 7-1-13 ; Amended at 34 Ok Reg 1598, eff 9-15-17]

### **340:100-3-38.11. Training tracking system [REVOKED]**

[Source: Added at 19 Ok Reg 2948, eff 8-1-02 (emergency); Added at 20 Ok Reg 936, eff 6-1-03 ; Revoked at 28 Ok Reg 897, eff 6-1-11]

### **340:100-3-38.12. Training requirements for direct support staff providing respite, homemaker, or homemaker respite services**

(a) **Applicability.** Oklahoma Administrative Code (OAC) 340:100-3-38.12 sets forth training requirements for staff, volunteers, and direct supervisors providing only respite, homemaker, or homemaker respite services through the Community Waiver, an In-Home Supports Waiver (IHSW), or Homeward Bound Waiver in the family's or service recipient's home or in any community setting as specified per the service recipient's Individual Plan (Plan).

(1) When Form 06IS037E, In-Home Supports Waiver - Certificate of Competency, is in place for IHSW participants per OAC 340:100-3-38.5, staff does not have to meet this Section's requirements.

(2) Direct support staff providing services beyond respite, homemaker, or homemaker respite services completes training appropriate to staff jobs per OAC 340:100-3-38.

(b) **New employee training.** No later than 30-calendar days following the hire date, staff providing direct supports or supervising the delivery of direct supports at any level must complete the online or first available Developmental Disabilities Services (DDS)-approved foundation training course and effective teaching course. The first available class is the first unfilled class held within 60 miles of the staff's work location following the staff's hire date.

(c) **First aid and cardio-pulmonary resuscitation (CPR).** Direct support staff must be currently certified in an approved course of first aid and CPR before providing services alone or with other untrained staff.

(1) First aid and CPR certification of each staff must occur within 90-calendar days following the staff's hire date.

(2) The service recipient's Personal Support Team (Team) may determine, based on the service recipient's needs, that staff must receive first aid and CPR certification in less than 90-calendar days.

(d) **Medication administration training.** Staff must be certified in an approved medication administration course per OAC 340:100-3-38.10 before administering medication to a service recipient or assisting with a service recipient's medication support plan.

(e) **Individual-specific in-service training.** Individual-specific in-service training is identified for direct support staff in the service recipient's Individual Plan (Plan).

(1) Training requirements are based on the service recipient's identified needs through team discussion and review of available assessment information.

(2) A service recipient's Team specifies required time frames for individual-specific in-service training completion. When time frames are not identified in the Plan, required individual-specific in-service training must be completed before working with the service recipient.

(3) As the service recipient's needs require changes in supports or programs, the Team documents in the Plan or in addenda to the Plan, any new or additional in-service training required, with completion time frames.

(4) Individual-specific training is provided by the person or persons designated by the Team and identified by position in the Plan, per rules, statute, and professional practice regulations, when applicable.

(5) The responsible Team member verifies staff has knowledge and skills necessary to provide the identified services. Videos may be used when approved by the Team.

(f) **Ongoing training.** Direct support staff employed by provider agencies completes eight hours of approved annual training.

(1) Annual training may come from:

(A) required re-certification classes in first aid, CPR, and medication administration training;

(B) courses per OAC 340:100-3-38(b)(1);

- (C) courses, conferences, or workshops approved by the DDS human resource development director;
  - (D) individual-specific training; or
  - (E) agency-specific in-services.
- (2) Direct support staff may challenge or test out of required annual recertification when an approved option is available. Training completion hours are granted equal to the number of hours for the standard recertification class.
- (g) **Exceptions.** Exceptions to training requirements per this Section may be made by the DDS director or designee.

[Source: Added at 21 Ok Reg 888, eff 4-24-04 ; Amended at 25 Ok Reg 986, eff 5-15-08 ; Amended at 26 Ok Reg 922, eff 5-15-09 ; Amended at 28 Ok Reg 897, eff 6-1-11 ; Amended at 34 Ok Reg 1598, eff 9-15-17]

### **340:100-3-38.13. Training requirements for staff providing supports in alternative group homes**

- (a) **Applicability.** Oklahoma Administrative Code (OAC) 340:100-3-38.13 sets forth training requirements for staff, volunteers, and direct supervisors providing direct supports for a service recipient in an alternative group home per OAC 340:100-5-22.6.
- (b) **New employee training.** No later than 30-calendar days following the hire date, staff providing direct supports or supervising the delivery of direct supports at any level must complete the online or first available Developmental Disabilities Services DDS-approved foundation training course and effective teaching course. The first available class is the first unfilled class held within 60 miles of the staff's work location following the staff's hire date.
- (c) **First aid and cardio-pulmonary resuscitation (CPR).** Direct support staff must be certified in an approved course of first aid and CPR before providing services alone or with other untrained staff.
- (1) First aid and CPR certification of each staff must occur within 90-calendar days following the staff's hire date.
  - (2) The service recipient's Personal Support Team (Team) may determine, based on the service recipient's needs, that staff must receive first aid and CPR certification in less than 90-calendar days.
- (d) **Medication administration training.** Staff must be certified in an approved medication administration course per OAC 340:100-3-38.10 before administering medication to a service recipient or assisting with a service recipient's medication support plan.
- (e) **Individual-specific in-service training.** Individual-specific in-service training is identified for direct support staff in the service recipient's Individual Plan (Plan).
- (1) Training requirements are based on the service recipient's identified needs through Team discussion and review of available assessment information.
  - (2) A service recipient's Team specifies required completion time frames for individual-specific in-service training. When time frames are not identified in the Plan, required individual-specific in-service training must be completed before working with the

service recipient.

(3) As the service recipient's needs require changes in supports or programs, the Team documents in the Plan or in addenda to the Plan, any new or additional in-service training required, with completion time frames.

(4) Individual-specific training is provided by the person or persons designated by the Team and identified by position in the Plan per rule, statute, and professional practice regulations, when applicable.

(5) The responsible Team member verifies staff has knowledge and skills necessary to provide the identified services. Videos may be used when approved by the Team.

**(f) Job-specific training.**

(1) Staff must complete:

(A) within 90-calendar days after assignment date:

(i) Health course; and

(ii) Ethical and Legal Issues course; and

(B) within six months after date of assignment:

(i) Communication course; and

(ii) Skill Building course.

(2) Staff who work in both residential and employment or other settings must meet job-specific training requirements of both jobs. Transfers to avoid required training completion are prohibited.

**(g) Specialized training.** Additional specialized training is required for each direct support staff working with service recipients in an alternative group home.

(1) Staff supporting a service recipient with a protective intervention protocol (PIP) that includes non-restrictive intervention techniques must be trained on these techniques before use.

(2) Completion of an approved behavior support course is required for staff supporting a service recipient with a PIP that:

(A) addresses challenging behavior that places the service recipient's physical safety, environment, relationships, or community participation at serious risk; and

(B) contains one or more of these procedures:

(i) physical guidance to overcome resistance;

(ii) physical guidance to move to safety; or

(iii) physical hold to restrict movement.

(3) Staff must complete the approved:

(A) behavior support course before working alone or with other untrained staff, but no later than 60-calendar days after starting work with the service recipient; and

(B) physical management course before using any technique of physical management identified in the PIP.

(i) Staff working with the service recipient implements the positive components of the Plan, as well as non-intrusive procedures to assist the service recipient during a crisis prior to using physical management techniques.

- (ii) Only staff and staff supervisors providing support to the service recipient are trained on the use of a physical management procedure.
  - (iii) Training curricula regarding behavior support are approved by the DDS human resource development and behavioral supports director.
- (4) Training regarding physical management procedures must be obtained from DDS trainers approved by the DDS human resource development director.
- (5) Staff must complete:
  - (A) an annual retraining on the physical management or physical restraint procedures in the approved protective intervention plan; and
  - (B) the DDS approved orientation specific to community protection issues within 60-calendar days of starting work with the service recipient.
- (h) **Ongoing training.** Direct support staff employed by provider agencies complete 12 hours of approved annual training.
  - (1) Annual training may come from:
    - (A) required re-certification classes in first aid, CPR, and medication administration training;
    - (B) courses per OAC 340:100-3-38(b)(1);
    - (C) courses, conferences, or workshops approved by the DDS human resource development director;
    - (D) individual-specific training; or
    - (E) agency-specific in-services.
  - (2) Direct support staff supervising other staff must take 12 hours of supervisory training annually that may be included in the hours required per this Section.
  - (3) Direct support staff may challenge or test out of required annual recertification when an approved option is available. Training completion hours are granted equal to the number of hours for the standard recertification class.
- (i) **Exceptions.** Exceptions to training requirements per this Section may be made by the DDS director or designee.

[Source: Added at 25 Ok Reg 986, eff 5-15-08 ; Amended at 28 Ok Reg 897, eff 6-1-11 ; Amended at 34 Ok Reg 1598, eff 9-15-17]

#### **340:100-3-38.14. Training requirements for staff providing extensive residential supports (ERS)**

[Source: Added at 42 Ok Reg, Number 5, effective 10-10-24 (emergency)]

#### **340:100-3-38.2. Training requirements for staff providing employment services**

(a) **Applicability.** Oklahoma Administrative Code (OAC) 340:100-3-38.2 sets forth training requirements for provider agency staff, volunteers, and direct supervisors providing either full- or part-time direct supports for a service recipient receiving:

- (1) center-based services;

- (2) community-based services;
- (3) sheltered workshop services;
- (4) job coaching services, excluding services per OAC 317:40-7-8;
- or
- (5) other supported employment services.

(b) **New employee training.** No later than 30-calendar days following the hire date, staff providing direct supports or supervising the delivery of direct supports at any level must complete the online or first available Developmental Disabilities Services (DDS)-approved foundation training course and effective teaching course. The first available class is the first unfilled class held within 60 miles of the staff's work location following the staff's hire date.

(c) **First aid and cardio-pulmonary resuscitation (CPR).** Direct support staff must be certified in an approved course of first aid and CPR before providing services alone or with other untrained staff.

(1) First aid and CPR certification of each staff must occur within 90-calendar days following the staff's hire date.

(2) The service recipient's Personal Support Team (Team) may determine, based on the service recipient's needs, that staff must receive first aid and CPR certification in less than 90-calendar days.

(d) **Medication administration training.** Staff must be certified in an approved medication administration course per OAC 340:100-3-38.10 before administering medication to a service recipient or assisting with a service recipient's medication support plan.

(e) **Individual-specific in-service training.** Individual-specific in-service training is identified for direct support staff in the service recipient's Individual Plan (Plan).

(1) Training requirements are based on the service recipient's identified needs through team discussion and review of available assessment information.

(2) The service recipient's Team specifies required completion time frames of individual-specific in-service training. When time frames are not identified in the Plan, required individual-specific in-service training must be completed before working with the service recipient.

(3) As the service recipient's needs require changes in supports or programs, the Team documents in the Plan or in addenda to the Plan, any new or additional in-service training required, with completion time frames.

(4) Individual-specific training is provided by the person or persons designated by the Team and identified by position in the Plan, per rule, statute, and professional practice regulations, when applicable.

(5) The responsible Team member verifies staff has knowledge and skills necessary to provide the identified services. Videos may be used when approved by the Team.

(f) **Job-specific training.**

(1) Staff must complete:

(A) general employment training within 90-calendar days after assignment date; and



(B) employment specialist training within six months after assignment date as job coach or other position providing supported employment service.

(2) Staff who works in both residential and employment or other settings must meet the job-specific training requirements of both jobs. Transfers to avoid required training completion are prohibited.

(g) **Specialized training.** Additional specialized training may be required for direct support staff working with service recipients who have significant health, physical, or behavior support issues.

(1) Staff supporting a service recipient with a protective intervention protocol (PIP) that includes non-restrictive intervention techniques must be trained on these techniques before use.

(2) Completion of an approved behavior support course is required for staff supporting a service recipient with a PIP that:

(A) addresses challenging behavior that places the service recipient's physical safety, environment, relationships, or community participation at serious risk; and

(B) contains one or more of these procedures:

(i) physical guidance to overcome resistance;

(ii) physical guidance to move to safety; or

(iii) physical hold to restrict movement.

(3) The approved behavior support course is identified in the Plan and must be completed before working alone or with other untrained staff, but no later than 60-calendar days after starting work with the service recipient.

(4) Staff must complete the approved physical management course before using any technique of physical management identified in a PIP.

(A) All staff must complete foundation training with the approved effective teaching course and behavior support course.

(B) Staff working with the service recipient implements the positive components of the PIP and non-intrusive procedures to assist the service recipient during a crisis.

(C) The PIP must be reviewed and approved by the Statewide Human Rights and Behavior Review Committee.

(D) Training in physical management procedures occurs only within the requirements of this subsection.

(E) Only staff and staff supervisors who provide support to the service recipient are trained on the use of a physical management procedure.

(F) Staff formally trained to use physical management procedures, does not use those techniques with other service recipients, except in emergencies per OAC 340:100-5-57.

(G) Training curricula regarding behavior support are approved by the DDS human resource development and behavioral supports director.

- (5) Training regarding physical management procedures must be obtained from trainers approved by the DDS human resource development director.
- (6) Staff must complete an annual retraining on the physical management or physical restraint procedures in the approved PIP.
- (h) **Ongoing training.** Direct support staff employed by provider agencies completes 12 hours of approved annual training.
- (1) Annual training may come from:
- (A) required re-certification classes in first aid, CPR, and medication administration training;
  - (B) courses per OAC 340:100-3-38(b)(1);
  - (C) courses, conferences, or workshops approved by the DDS human resource development director;
  - (D) individual-specific training; or
  - (E) agency-specific in-services.
- (2) Direct support staff who supervises other staff must take 12 hours of supervisory training annually that may be included in the hours required per this Section.
- (3) Direct support staff may challenge or test out of required annual recertification when an approved option is available. Training completion hours are granted equal to the number of hours for the standard recertification class.
- (i) **Exceptions.** Exceptions to training requirements per this Section may be made by the DDS director or designee.

[Source: Added at 19 Ok Reg 2948, eff 8-1-02 (emergency); Added at 20 Ok Reg 936, eff 6-1-03 ; Amended at 25 Ok Reg 986, eff 5-15-08 ; Amended at 28 Ok Reg 897, eff 6-1-11 ; Amended at 34 Ok Reg 1598, eff 9-15-17]

### **340:100-3-38.3. Training requirements for staff providing supports in family's or service recipient's home through Community Waiver or Homeward Bound Waiver, other than residential supports**

- (a) **Applicability.** Oklahoma Administrative Code (OAC) 340:100-3-38.3 sets forth training requirements for provider agency staff, volunteers, and direct supervisors providing direct supports funded through the Community Waiver or Homeward Bound Waiver in the family's or service recipient's home. Staff providing:
- (1) services through an In-Home Supports Waiver must complete training per OAC 340:100-3-38.5; and
  - (2) residential supports per OAC 340:100-5-22.1 must complete training per OAC 340:100-3-38.1.
- (b) **New employee training.** No later than 30-calendar days following the hire date, staff providing direct supports or supervising the delivery of direct supports at any level must complete the online or first available Developmental Disabilities Services (DDS)-approved foundation training course and effective teaching course. The first available class is the first unfilled class held within 60 miles of the staff's work location following the staff's hire date.
- (c) **First aid and cardio-pulmonary resuscitation (CPR).** Direct support staff must be certified in an approved course of first aid and CPR

before providing services alone or with other untrained staff.

(1) First aid and CPR certification of each staff must occur within 90-calendar days following the staff's hire date.

(2) The service recipient's Personal Support Team (Team) may determine, based on the needs of the service recipient, that staff must receive first aid and CPR certification in less than 90-calendar days.

(d) **Medication administration training.** Staff must be certified in an approved medication administration course per OAC 340:100-3-38.10 before administering medication to a service recipient or assisting with a service recipient's medication support plan.

(e) **Individual-specific in-service training.** Individual-specific in-service training is identified for direct support staff in the service recipient's Individual Plan (Plan).

(1) Training requirements are based on the service recipient's identified needs through team discussion and review of available assessment information.

(2) The service recipient's Team specifies required completion time frames for individual-specific in-service training. When time frames are not identified in the Plan, required individual-specific in-service training must be completed before working with the service recipient.

(3) As the service recipient's needs require changes in supports or programs, the Team documents in the Plan or in addenda to the Plan, any new or additional in-service training required, with completion time frames.

(4) Individual-specific training is provided by the person or persons designated by the Team and identified by position in the Plan, per rule, statute, and professional practice regulations, when applicable.

(5) The responsible Team member verifies staff has knowledge and skills necessary to provide the identified services. Videos may be used when approved by the Team.

(f) **Job-specific training.** Staff must complete:

(1) within 90-calendar days after assignment date, Health course; and

(2) within six months after assignment date:

(A) Skill Building course; and

(B) Communication course.

(g) **Specialized training.** Additional specialized training may be required for direct support staff working with service recipients who have significant health, physical, or behavior support issues.

(1) Staff supporting a service recipient with a protective intervention protocol (PIP) that includes non-restrictive intervention techniques must be trained on these techniques before use.

(2) Completion of an approved behavior support course is required for staff supporting a service recipient with a PIP that:

(A) addresses challenging behavior that places the service recipient's physical safety, environment, relationships, or community participation at serious risk; and

- (B) contains one or more of these procedures:
    - (i) physical guidance to overcome resistance;
    - (ii) physical guidance to move to safety; or
    - (iii) physical hold to restrict movement.
- (3) The approved behavior support course must be completed before working alone or with other untrained staff, but no later than 60-calendar days after starting work with the service recipient.
- (4) Staff must complete the approved physical management course before using any technique of physical management identified in a PIP.
  - (A) All staff must complete foundation training with the approved effective teaching course and behavior support course.
  - (B) Staff working with the service recipient implements the positive components of the PIP, as well as non-intrusive procedures to assist the service recipient during a crisis.
  - (C) The PIP must be reviewed and approved by the Statewide Human Rights and Behavior Review Committee.
  - (D) Training in physical management procedures occurs only within the requirements per this subsection.
  - (E) Only staff and staff supervisors who provide support to the service recipient are trained on use of a physical management procedure.
  - (F) Staff formally trained to use physical management procedures does not use those techniques with other service recipients, except in emergencies per OAC 340:100-5-57.
  - (G) Training curricula regarding behavior support are approved by the DDS human resource development and behavioral supports director.
- (5) Training regarding physical management procedures must be obtained from trainers approved by the DDS human resource development director.
- (6) Staff must complete an annual retraining on the physical management or physical restraint procedures in the approved PIP.
- (h) **Ongoing training.** Direct support staff employed by provider agencies completes eight hours of approved annual training.
  - (1) Annual training may come from:
    - (A) required re-certification classes in first aid, CPR, and medication administration training;
    - (B) courses per OAC 340:100-3-38(b)(1);
    - (C) courses, conferences, or workshops approved by the DDS human resource development director;
    - (D) individual-specific training; or
    - (E) agency-specific in-services.
  - (2) Direct support staff who supervises other staff must take 12 hours of supervisory training annually that may be included in the hours required per this Section.
  - (3) Direct support staff may challenge or test out of required annual re-certification when an approved option is available.

Training completion hours are granted equal to the number of hours for the standard recertification class.

(i) **Exceptions.** Exceptions to training requirements per this Section may be made by the DDS director or designee.

[Source: Added at 19 Ok Reg 2948, eff 8-1-02 (emergency); Added at 20 Ok Reg 936, eff 6-1-03 ; Amended at 25 Ok Reg 986, eff 5-15-08 ; Amended at 28 Ok Reg 897, eff 6-1-11 ; Amended at 34 Ok Reg 1598, eff 9-15-17]

#### **340:100-3-38.4. Training requirements for persons providing specialized foster care**

(a) **Applicability.** Oklahoma Administrative Code (OAC) 340:100-3-38.4 sets forth training requirements for persons providing specialized foster care (SFC).

(b) **Initial training.** Prior to the contractual agreement with the Oklahoma Health Care Authority (OHCA), SFC providers must complete the:

- (1) online or first available Developmental Disabilities Services (DDS) approved foundation training course and effective teaching course. The first available class is the first unfilled class held within 60 miles of the SFC provider's work location; and
- (2) SFC orientation training as approved by the DDS director of human resource development.

(c) **First aid and cardio-pulmonary resuscitation (CPR).** Prior to the contractual agreement with OHCA, SFC providers must be certified in an approved course of first aid and CPR.

(d) **Medication administration training.** Prior to the contractual agreement with OHCA, SFC providers must be certified in an approved medication administration course per OAC 340:100-3-38.10.

(e) **Individual-specific in-service training.** Individual-specific in-service training is identified for direct support staff in the service recipient's Individual Plan (Plan).

- (1) Training requirements are based on the service recipient's identified needs through team discussion and review of available assessment information.
- (2) A service recipient's Team specifies required completion time frames of individual-specific in-service training. When time frames are not identified in the Plan, required individual-specific in-service training must be completed before working with the service recipient.
- (3) As the service recipient's needs require changes in supports or programs, the Team documents in the Plan or in addenda to the Plan, any new or additional in-service training required, with completion time frames.
- (4) Individual-specific training is provided by the person or persons designated by the Team and identified by position in the Plan, in accordance with rule, statute, and professional practice regulations, when applicable.
- (5) The responsible Team member verifies staff has knowledge and skills necessary to provide the identified services. Videos may be used when approved by the Team.

(f) **Job-specific training.** SFC providers working in both residential and employment or other settings must meet the job-specific training requirements of both jobs. The SFC provider must complete:

(1) within 90-calendar days after receipt of the approved OHCA contractual agreement:

- (A) Health course;
- (B) Ethical and Legal Issues course; and

(2) within six months after receipt of the approved OHCA contractual agreement:

- (A) Communication course;
- (B) Skill Building course;
- (C) Connections course; and
- (D) Nuts and Bolts course.

(g) **Specialized training.** Additional specialized training courses may be required for SFC providers working with service recipients who have significant health, physical, or behavior support issues.

(1) Staff supporting a service recipient with a protective intervention protocol (PIP) that includes non-restrictive intervention techniques must be trained on these techniques before use.

(2) Completion of an approved behavior support course is required for SFC providers supporting a service recipient with a PIP that:

- (A) addresses challenging behavior that places the service recipient's physical safety, environment, relationships, or community participation at serious risk; and
- (B) contains one or more of these procedures :
  - (i) physical guidance to overcome resistance;
  - (ii) physical guidance to move to safety; or
  - (iii) physical hold to restrict movement.

(3) The SFC provider must complete the approved:

- (A) behavior support course before working alone or with other untrained staff, but no later than 60-calendar days after starting work with the service recipient; and
- (B) physical management course before using any technique of physical management identified in a PIP.

- (i) The SFC provider implements the positive components of the Plan, as well as non-intrusive procedures to assist the person during a crisis.
- (ii) The PIP must be reviewed and approved by the Statewide Human Rights and Behavior Review Committee.
- (iii) Training in physical management procedures occurs only within the requirements of this subsection.
- (iv) Only SFC providers who provide support to the service recipient are trained on use of a physical management procedure.
- (v) The SFC provider formally trained to use physical management procedures does not use those techniques with other service recipients,

except in emergencies per OAC 340:100-5-57.

(vi) Training curricula regarding behavior support are approved by the DDS human resource development and behavioral supports director.

(4) Training regarding physical management procedures must be obtained from trainers approved by the DDS human resource development director.

(5) The SFC provider must complete an annual retraining on the physical management or physical restraint procedures in the approved PIP.

(h) **Ongoing training.** All SFC providers complete 12 hours of approved annual training.

(1) Annual training may come from:

(A) required re-certification classes in first aid, CPR, and medication administration training;

(B) courses per OAC 340:100-3-38(b)(1);

(C) courses, conferences, or workshops approved by the DDS human resource development director;

(D) individual-specific training; or

(E) Oklahoma Department of Human Services in-services.

(2) Direct support staff may challenge or test out of required annual recertification when an approved option is available.

Training completion hours are granted equal to the number of hours for the standard recertification class.

(i) **Exceptions.** Exceptions to training requirements per this Section may be made by the DDS director or designee.

[Source: Added at 19 Ok Reg 2948, eff 8-1-02 (emergency); Added at 20 Ok Reg 936, eff 6-1-03 ; Amended at 25 Ok Reg 986, eff 5-15-08 ; Amended at 28 Ok Reg 897, eff 6-1-11 ; Amended at 34 Ok Reg 1598, eff 9-15-17]

### **340:100-3-38.5. Training requirements for staff providing supports in family's or service recipient's home through an In-Home Supports Waiver**

(a) **Applicability.** Oklahoma Administrative Code (OAC) 340:100-3-38.5 sets forth training requirements for staff providing direct supports funded through an In-Home Supports Waiver (IHSW) in the family's or service recipient's home. Staff providing employment supports must complete training per OAC 340:100-3-38.2.

(b) **New employee training.** No later than 30-calendar days following the hire date, staff providing direct supports or supervising at any level the delivery of direct supports must complete the online or first available Developmental Disabilities Services (DDS)-approved foundation training course and effective teaching course. The supervisory staff training requirement does not apply to the service recipient or representative who is self-directing services per OAC 317:40-9-1. The person directing services per OAC 317:40-9-1 must complete the approved self-directed services training course. The first available class is the first unfilled class held within 60 miles of staff's work location following staff's hire date.

(c) **First aid and cardio-pulmonary resuscitation (CPR).** Direct support staff must be certified in an approved course of first aid and CPR

before providing services alone or with other untrained staff.

(1) First aid and CPR certification of staff must occur within 90-calendar days following the staff's hire date.

(2) The service recipient's Personal Support Team (Team) may determine, based on the service recipient's needs, that staff must receive first aid and CPR certification in less than 90-calendar days.

(d) **Medication administration training.** Staff must be certified in an approved medication administration course per OAC 340:100-3-38.10 before administering medication to a service recipient or assisting with a service recipient's medication support plan.

(e) **Individual-specific in-service training.** Individual-specific in-service training is identified for direct support staff in the service recipient's Individual Plan (Plan).

(1) Training requirements are based on the service recipient's identified needs through team discussion and review of available assessment information.

(2) The service recipient's Team specifies required completion time frames of individual-specific in-service training. When time frames are not identified in the Plan, required individual-specific in-service training must be completed before working with the service recipient.

(3) As the service recipient's needs require changes in supports or programs, the Team documents in the Plan or in addenda to the Plan, any new or additional in-service training required, with completion time frames.

(4) The Team identifies the person responsible for providing individual-specific training and verifies staff has knowledge and skills necessary to provide the identified services. Videos may be used when approved by the Team.

(f) **Job-specific training.** Staff must complete:

(1) within 90-calendar days after assignment date, Health course; and

(2) within six months after assignment date:

(A) Communication course; and

(B) Skill Building course.

(g) **Specialized training.** Additional specialized training courses may be required for direct support staff working with service recipients who have significant health, physical or behavior support issues.

(1) Staff supporting a service recipient with a protective intervention protocol (PIP) that includes non-restrictive intervention techniques must be trained on these techniques before use.

(2) Completion of an approved behavior support course is required for staff supporting a service recipient with a PIP that:

(A) addresses challenging behavior that places the service recipient's physical safety, environment, relationships, or community participation at serious risk; and

(B) contains one or more of these procedures:

(i) physical guidance to overcome resistance;

(ii) physical guidance to move to safety; or



(iii) physical hold to restrict movement.

(3) The approved behavior support course must be completed before working alone or with other untrained staff, but no later than 60-calendar days after starting work with the service recipient.

(4) Staff must complete the approved physical management course before using any technique of physical management identified in a PIP.

(A) All staff must complete foundation training with the approved effective teaching course and behavior support course.

(B) Staff working with the service recipient implements the positive components of the Plan, as well as non-intrusive procedures to assist the service recipient during a crisis.

(C) The PIP must be reviewed and approved by the Statewide Human Rights and Behavior Review Committee.

(D) Training in physical management procedures occurs only within the requirements per this subsection.

(E) Only staff and staff supervisors providing support to the service recipient are trained on use of a physical management procedure.

(F) Staff formally trained to use physical management procedures does not use those techniques with other service recipients, except in emergencies per OAC 340:100-5-57.

(G) Training curricula regarding behavior support are approved by the DDS human resource development director and behavioral supports director.

(5) Training regarding physical management procedures must be obtained from trainers approved by the DDS human resource development director.

(6) Staff must complete annual retraining on the physical management or physical restraint procedures in the approved PIP.

(h) **Ongoing training.** Direct support staff employed by approved provider agencies that provide services funded through an IHSW complete 12 hours of annual training.

(1) Annual training may come from:

(A) required re-certification classes in first aid, CPR, and medication administration training;

(B) courses per OAC 340:100-3-38(b)(1);

(C) courses, conferences, or workshops approved by the DDS human resource development director;

(D) individual-specific training; or

(E) agency-specific in-services.

(2) Direct support staff may challenge or test out of required annual recertification when an approved option is available.

Training completion hours are granted equal to the number of hours for the standard recertification class.

(i) **Certification of competency.** When the service recipient, if applicable, legal guardian, or parent(s) of a minor service recipient

determines the person chosen to provide services demonstrated competency in providing care to the service recipient, the service recipient, legal guardian, or parent(s) may exempt the person from training requirements, per this Section, by signing Form 06IS037E, In-Home Supports Waiver - Certificate of Competency.

(1) The exemption from training is intended to allow a friend, neighbor, family member, or other person who has been trained and deemed competent by the service recipient, or if applicable, legal guardian or parent(s) of a minor service recipient to provide services.

(A) No person may coerce or in any way influence a service recipient, legal guardian, or family member to sign Form 06IS037E.

(B) Violation of this prohibition may result in sanctions per OAC 340:100-3-27.

(2) When a service recipient, if applicable, legal guardian, or parent(s) of a minor service recipient chooses to exempt staff from training, neither the Oklahoma Department of Human Services (DHS) nor the employing contract agency is liable in the event of harm attributable to lack of training, to the service recipient while in the care of contract agency staff.

(3) When an adult service recipient without a legal guardian chooses to exempt staff from training, training requirements are not waived without written concurrence, on Form 06IS038E, In-Home Supports Waiver - Family Member's Statement, from a parent(s) or family member closest to the service recipient.

(4) The provider agency employing the staff may require training not included in the exemption.

(5) All staff, regardless of signed Form 06IS037E, must successfully complete:

(A) certification in first aid and CPR before working alone or with untrained staff, but no later than 90-calendar days after starting work with the service recipient;

(B) an approved medication administration course per OAC 340:100-3-38.10; and

(C) individual-specific in-service training per (e) of this Section.

(6) Form 06IS037E:

(A) is valid for no longer than one year from the signature date; and

(B) may be withdrawn at any time by the service recipient, if applicable, legal guardian, or parent(s) of a minor service recipient by writing to the DDS case manager and provider agency.

(7) DHS may withdraw the exemption from training at any time.

(j) **Exceptions.** Exceptions to training requirements per this Section may be made by the DDS director or designee.

**340:100-3-38.6. Training requirements for Developmental Disabilities Services Division case managers and case management supervisors**

- (a) **Applicability.** OAC 340:100-3-38.6 sets forth training requirements for Developmental Disabilities Services Division (DDSD) case managers and case management supervisors.
- (b) **New employee training.** No later than 30 days following the date of hire, all DDSD case managers must complete the first available DDSD approved foundation training course and effective teaching course. The first available class is the first unfilled class held within 60 miles of the case manager's work location following the case manager's date of hire.
- (c) **Case management training.** Within the first 12 months of employment, all DDSD case managers complete Form 06TR061E, Case Management Competency Checklist.
- (d) **Ongoing case manager training.** All DDSD case managers and case management supervisors complete at least 20 hours of annual training through courses, workshops, conferences, or other sources, per OAC 340:100-3-38(b)(1).
- (e) **Exceptions.** Exceptions to training requirements per OAC 340:100-3-38.6 may be made by the DDSD director or designee.

[Source: Added at 19 Ok Reg 2948, eff 8-1-02 (emergency); Added at 20 Ok Reg 936, eff 6-1-03 ; Amended at 25 Ok Reg 986, eff 5-15-08]

**340:100-3-38.7. Training requirements for program coordinators**

- (a) **Applicability.** OAC 340:100-3-38.7 sets forth training requirements for persons employed by a provider agency to meet the program coordination requirements per OAC 340:100-5-22.1 and OAC 340:100-6-55, or to supply supervision, guidance, and oversight of paraprofessional staff providing direct supports. If providing fill-in direct support services, the program coordinator must complete applicable training per OAC 340:100-3-38.1, 340:100-3-38.3, 340:100-3-38.5, or 340:100-3-38.13.
- (b) **New employee training.** No later than 30 days following the date of hire, persons performing program coordination duties must complete the online or first available Developmental Disabilities Services Division (DDSD) approved foundation training course and effective teaching course. The first available class is the first unfilled class held within 60 miles of the program coordinator's primary work location following the program coordinator's date of hire.
- (c) **Job-specific training.** Each program coordinator must complete:
- (1) within one week after date of assignment, health care coordinator training;
  - (2) within 60 days after date of assignment, Health course;
  - (3) within 90 days after date of assignment:
    - (A) case management Individual Plan module;
    - (B) case management Quality Assurance module; and
    - (C) an approved medication administration course per OAC 340:100-3-38.10; and

- (4) within one year after date of assignment, at least 12 hours of supervisory training when supervising direct support staff.
- (d) **Individual-specific training.** The program coordinator ensures direct support staff are trained as specified in the service recipient's Individual Plan.
- (e) **Specialized training.** The program coordinator completes the approved behavior support course if required for service recipients served by the program coordinator within 90 days after date of assignment.
- (f) **Ongoing training.** All program coordinators complete at least 20 hours of annual training through courses, workshops, conferences, or other sources, per OAC 340:100-3-38(b)(1). The annual training requirement includes at least 12 hours of supervisory training if the employee supervises other staff. Program coordination staff may challenge or test out of required annual recertification when an approved option is available. Training completion hours will be granted equal to the number of hours for the standard recertification class.
- (g) **Exceptions.** Exceptions to training requirements per OAC 340:100-3-38.7 may be made by the DDS director or designee.

[Source: Added at 19 Ok Reg 2948, eff 8-1-02 (emergency); Added at 20 Ok Reg 936, eff 6-1-03 ; Amended at 25 Ok Reg 986, eff 5-15-08 ; Amended at 28 Ok Reg 897, eff 6-1-11]

#### **340:100-3-38.8. Training requirements for employment services program managers**

- (a) **Applicability.** OAC 340:100-3-38.8 sets forth training requirements for persons employed to meet the program manager requirements per OAC 317:40-7-20. If providing fill-in direct support services, the program manager must complete direct support staff training per OAC 340:100-3-38.2.
- (b) **New employee training.** No later than 30 days following the date of hire, each program manager must complete the online or first available Developmental Disabilities Services Division (DDSD) approved foundation training course and effective teaching course. The first available class is the first unfilled class held within 60 miles of the program manager's primary work location following the program manager's date of hire.
- (c) **Job-specific training.** The program manager must complete:
- (1) prior to assuming program manager duties, the job coach certification training;
  - (2) within 60 days after date of assignment:
    - (A) advanced employment specialist training; and
    - (B) program manager training; and
  - (3) within 90 days after date of assignment:
    - (A) case management Individual Plan module;
    - (B) case management Quality Assurance module; and
    - (C) an approved medication administration course per OAC 340:100-3-38.10.
- (d) **Individual-specific training.** The program manager ensures direct support staff are trained as specified in the service recipient's Individual Plan (Plan).

(e) **Specialized training.** The program manager completes the approved behavior support course if required for service recipients served by the program manager within 90 days after date of assignment.

(f) **Ongoing training.** All program managers complete at least 20 hours of annual training through courses, workshops, conferences, or other sources, per OAC 340:100-3-38(b)(1). The annual training requirement includes at least 12 hours of supervisory training if the employee supervises other staff. Program managers may challenge or test out of required annual recertification when an approved option is available. Training completion hours are granted equal to the number of hours for the standard recertification class.

(g) **Exceptions.** Exceptions to training requirements per OAC 340:100-3-38.8 may be made by the DDS director or designee.

[Source: Added at 19 Ok Reg 2948, eff 8-1-02 (emergency); Added at 20 Ok Reg 936, eff 6-1-03 ; Amended at 25 Ok Reg 986, eff 5-15-08 ; Amended at 28 Ok Reg 897, eff 6-1-11]

#### **340:100-3-38.9. Training requirements for all Developmental Disabilities Services Division (DDSD) and provider agency supervisory staff**

(a) **Applicability.** Staff members providing supervision of other staff members in a provider agency or DDSD are required to complete training as explained in this Section.

(b) **New employee training.** No later than 30 days following the date of hire, provider agency staff supervising at any level the delivery of direct supports and all DDSD staff must complete the first available DDSD-approved foundation training course and the approved effective teaching course. The first available class is the first unfilled class held within 60 miles of the staff person's work location following the person's date of hire.

(c) **Supervisory training.** All DDSD supervisory staff and provider agency staff in supervisory or management positions complete 12 hours of supervisory or management training:

- (1) within 60 days of assuming supervisory duties; and
- (2) each year.

(d) **Exceptions.** Exceptions to the training requirements given in this Section may be made by the DDSD director or designee.

[Source: Added at 19 Ok Reg 2948, eff 8-1-02 (emergency); Added at 20 Ok Reg 936, eff 6-1-03]

#### **340:100-3-39. Pre-employment screening for community services workers**

(a) **Legal basis.** Section 1025.1 et seq. of Title 56 of the Oklahoma Statutes (56 O.S. §§1025.1 et seq.) requires Oklahoma Human Services (OKDHS) to establish and maintain a registry listing the names of community services workers against whom a final investigative finding of maltreatment involving a service recipient, was made by OKDHS or an administrative law judge. Providers of community services:

- (1) are required to conduct criminal history records and OKDHS Community Services Worker Registry (Registry) searches prior to

any community services worker's permanent employment; and  
(2) must not hire, contract with, or use as a volunteer, a person whose name is listed in the Registry or who has a criminal background, per Oklahoma Administrative Code (OAC) 340:100-3-39(e)(1)(G).

(b) **Applicability.** The requirements set forth in OAC 340:100-3-39 apply to all community services providers who contract with, are licensed or funded by OKDHS, or who contract with the Oklahoma Health Care Authority (OHCA) to provide residential or employment services to service recipients through Developmental Disabilities Services (DDS) Home and Community-Based Services (HCBS) Waivers.

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

(1) **"Community services provider"** means a community-based program, corporation, or person who contracts with, is licensed or funded by OKDHS, or who contracts with OHCA to provide residential or employment services to a service recipient through DDS HCBS Waivers.

(2) **"Community services worker"** means any person who:

(A) contracts with OHCA to provide specialized foster care, habilitation training specialist services, or homemaker services to persons with developmental disabilities; or

(B) is not a licensed health professional; and

(C) is employed by, or under contract with a community services provider, for compensation or as a volunteer, to provide:

(i) health-related services;

(ii) training; or

(iii) supportive assistance.

(3) **"Good cause"** means the failure of a community services worker to make a timely response for reconsideration of a confirmed finding of maltreatment due to:

(A) a death within the community services worker's immediate family;

(B) hospitalization of the community services worker; or

(C) an equally meritorious reason, determined within the sound discretion of the administrative law judge or other OKDHS staff as authorized, per OAC 340:100-3-39 and 340:2-3-39, as applicable, to determine such cause.

(4) **"Habilitation training specialist services"** means the HCBS as defined in the 1915(c) Waiver approved by the Centers for Medicare and Medicaid Services (CMS).

(5) **"Health related services"** means assistance provided to a service recipient that includes, but is not limited to:

(A) personal hygiene;

(B) transferring;

(C) range of motion;

(D) supervision or assistance in activities of daily living; or

(E) basic nursing care, such as:

- (i) taking temperature, pulse, or respiration;
  - (ii) positioning;
  - (iii) incontinent care; or
  - (iv) identification of signs and symptoms of disease;
- and

(F) certain tasks that may be performed as basic nursing care by community services workers and require appropriate training provided or approved by OKDHS, written agreement by the service recipient's Personal Support Team, and the primary care physician's acknowledgement and specific order related to the task. Under such circumstances, basic nursing care may include, but is not limited to:

- (i) nutrition, including meals by gastrostomy tube or jejunostomy tube;
- (ii) blood glucose monitoring;
- (iii) ostomy bag care;
- (iv) oral suctioning; and
- (v) administration of oral metered dose inhalers and nebulizers.

(6) **"Homemaker services"** means the HCBS as defined in the 1915(c) Waiver approved by CMS.

(7) **"Maltreatment"** means abuse, verbal abuse, sexual abuse, neglect, financial neglect, exploitation, or sexual exploitation of vulnerable adults, per Section 10-103 of Title 43A of the Oklahoma Statutes (43A O.S. § 10-103); or abuse, neglect, sexual abuse, or sexual exploitation of children, per 10A O.S. § 1-1-105.

(8) **"Specialized foster care"** means the HCBS as defined in the 1915(c) Waiver approved by the CMS.

(9) **"Supportive assistance"** means service rendered sufficient to enable the service recipient to meet an adequate level of daily living including, but not limited to:

- (A) training;
- (B) supervision;
- (C) assistance in housekeeping;
- (D) assistance in meal preparation; and
- (E) assistance in personal care and activities of daily living necessary for the health and comfort of the service recipient.

(d) **OKDHS duties.** When OHCA contracts directly with a specialized foster care provider, habilitation training specialist services provider, or a homemaker services provider to provide services through DDS HCBS Waivers, OKDHS follows the screening procedures required for community services providers.

(e) **Community services provider duties.**

(1) **Provider pre-employment responsibilities.** Each community services provider conducts a search of criminal history records and the Registry for every potential employee who is not a licensed health professional and who will provide, for compensation or as a volunteer, on a full- or part-time basis, health-related services, training, or supportive assistance to a

service recipient. This requirement also applies to applicants for supervisory, management, or administrative positions, when the applicant is to provide, on a full-or part-time basis, supportive assistance, health-related services, or training to a service recipient. The provider:

- (A) uses Form 06PE039E, Employment Application Supplement, to formally advise each applicant of the:
  - (i) required criminal history records search, the Registry, and Restricted Registry, as applicable, per 10 O.S. § 405.3;
  - (ii) potential consequences of background checks, including the provider's prohibition from hiring any person whose name appears in the Registry, or who has a prohibited criminal conviction, per OAC 340:100-3-39(e)(1)(G);
  - (iii) requirement that the community services worker's employment must be terminated if his or her name appears in the Registry, even though the applicant's name may not have appeared in the Registry at the time of application or hiring;
  - (iv) requirement to report all current and previous employers who provide services to children or to vulnerable adults;
  - (v) fact that giving false information regarding current and previous employers results in termination of employment; and
  - (vi) requirement of criminal prosecution for having sexual contact with a person in his or her care, per 10 O.S. § 1430.3 and 43A O.S. § 10-113.

(B) contacts all previous employers engaged in delivery of services to children or vulnerable adults, per 43A O.S. § 10-103, requesting information on investigations or findings of maltreatment;

(C) when contacted by a potential employer, gives accurate information regarding investigations of maltreatment reported to Adult Protective Services (APS), Office of Client Advocacy (OCA), or Child Protective Services (CPS);

(D) requests a criminal history records search from the Oklahoma State Bureau of Investigation (OSBI) prior to employment of, or offer of employment to, any applicant, except as provided in OAC 340:100-3-39(e)(1)(F) and (G).

- (i) The provider must secure the criminal history records search and cannot accept documents provided by the applicant.
- (ii) When the provider uses a contractor to secure the criminal history records search, the contractor attaches the document received from OSBI to any report given to the provider;

(E) investigates discrepancies in the criminal record information received from OSBI.



(i) When discrepancies exist between criminal history information and information reported by the applicant, such as convictions not reported by the applicant, the provider secures a written explanation of the discrepancy from the applicant, which is sent to OKDHS when the provider is requesting a waiver, per OAC 340:100-3-39(f).

(ii) When OSBI information reports inconclusive data, such as reporting the case was referred to another law enforcement agency, the provider secures documentary evidence of the outcome;

(F) may choose to make an offer of temporary employment to an applicant, pending the results of the OSBI criminal history records search.

(i) The provider submits a request for a criminal history records search to OSBI within 72 hours of the applicant's acceptance of any offer of temporary employment.

(ii) Temporary employment of any applicant does not extend longer than the time necessary to receive the results of the criminal history records search and Registry review, not to exceed 30-calendar days.

(iii) During any period of temporary employment the temporary employee may not work alone nor work solely with other temporary employees; and

(G) when the OSBI search reveals the applicant was convicted, pled guilty or nolo contendere to misdemeanor assault and battery or a felony, the provider does not hire or contract with the person, and immediately cancels any temporary employment arrangement. When a waiver is requested, per OAC 340:100-3-39(f), the community services worker is relieved of responsibilities working directly with service recipients until the provider receives a written OKDHS decision.

(2) **Provider duties during an investigation.** Upon receiving notification of an investigation of an allegation of maltreatment involving an employee, the provider chief executive officer or designee:

(A) ensures protection and the health and safety for any and all persons receiving services from the provider;

(B) notifies the community services worker, in a face-to-face conference, of the upcoming investigation; and

(C) explains the rights and responsibilities of the community services worker, using Form 15IV015E, Rights and Responsibilities of Accused Caretakers, Community Services Workers, and Persons Responsible for the Childs' Health, Safety, and Welfare of Interest (PRFCI), before the community services worker is interviewed by the investigator, including:

- (i) the investigation outcome notice is mailed to the community services worker's address on Form 15IV015E; and
- (ii) the community services worker's right to request due process per procedures provided in the notice.

**(3) Provider responsibilities regarding due process**

**procedures.** When an employee of a provider is called as a witness in a hearing, the provider:

- (A) directs the employee to attend the hearing to give testimony;
- (B) accommodates his or her work schedule; and
- (C) when written records are required, submits the required records or certified copies. Failure to comply with these responsibilities may result in sanctions, per OAC 340:100-3-27.2.

**(f) Waiver of requirement not to hire based on criminal history records search.** When the criminal history records search reveals a criminal background the provider believes will not place a service recipient at risk of harm and will not affect the quality of services provided by the applicant, the provider may request a waiver from OKDHS.

(1) The provider sends a written request for a waiver to the DDS director. The request includes:

- (A) the applicant's:
  - (i) full name;
  - (ii) Social Security number; and
  - (iii) date of birth;
- (B) a legible copy of the criminal history records search that is no more than 30-calendar days old;
- (C) the criminal history record information request; and
- (D) an explanation of all factors or circumstances the provider wants to be considered.

(2) A waiver is not granted, under any circumstance, for employment of an applicant who was convicted of, pled guilty, or nolo contendere to:

- (A) a felony count of:
  - (i) aggravated assault and battery;
  - (ii) homicide;
  - (iii) murder;
  - (iv) attempted murder;
  - (v) rape;
  - (vi) incest; or
  - (vii) sodomy; or
- (B) abuse, neglect, or exploitation of any person entrusted to the applicant's care.

(3) No waiver is granted for offenses resulting in a conviction, plea of guilty, or plea of nolo contendere to a felony that occurred less than five-calendar years from the date of the request.

(4) Factors considered in the OKDHS decision to grant or deny a waiver include:

- (A) his or her other convictions;
- (B) responsibility evidenced since conviction;
- (C) time lapse since the conviction;
- (D) his or her age upon conviction;
- (E) nature and underlying circumstances of his or her offense;
- (F) evidence of efforts made by him or her toward rehabilitation, including job training or educational programs in which he or she participated;
- (G) his or her prior employment record; and
- (H) the nature and location of the position he or she seeks.

(5) OKDHS:

- (A) may grant a Waiver for applicants who will provide services through DDS HCBS Waivers only upon concurrence by OHCA; and
- (B) assumes no responsibility for the actions of a person employed by a provider subsequent to a Waiver. The provider indemnifies and holds OKDHS harmless for any damages or attorney fees resulting from a claim an employee of the provider subsequently abused, neglected, exploited, or otherwise injured a service recipient.

(g) **Procedures for notice and due process.** The procedures for maltreatment investigations and the Registry are found at OAC 340:2-3-36 and OAC 340:2-3-39.1.

(h) **Disclosure requirements for Registry.**

(1) The Registry information includes, but is not limited to the:

- (A) community services worker's:
  - (i) full name;
  - (ii) Social Security number; and
  - (iii) date of birth;
- (B) date the community services worker's name was placed in the Registry; and
- (C) final investigative finding regarding the community services worker.

(2) The provider requesting Registry information on an applicant or employing a community services worker alleged to have committed maltreatment is notified when the community services worker's or applicant's name is entered in the Registry. When more than one community services worker is named as an accused caretaker, a separate letter is sent to the provider for each community services worker.

(i) **Public access to Registry.** Access to the Registry is available to the public at [www.OKDHS.org](http://www.OKDHS.org).

[Source: Added at 16 Ok Reg 2915, eff 7-12-99 ; Amended at 18 Ok Reg 404, eff 12-8-00 (emergency); Amended at 18 Ok Reg 1254, eff 5-11-01 ; Amended at 24 Ok Reg 1046, eff 5-11-07 ; Amended at 26 Ok Reg 922, eff 5-15-09 ; Amended at 28 Ok Reg 897, eff 6-1-11 ; Amended at 32 Ok Reg 1906, eff 9-15-15 ; Amended at 38 Ok Reg 2317, eff 9-15-21]

### **340:100-3-40. Community records**

(a) **Purpose.** Oklahoma Administrative Code (OAC) 340:100-3-40 sets forth requirements for:

- (1) contract provider records maintenance;
- (2) document transfer to a history file for service recipient records the contract provider maintains;
- (3) information transfer when a service recipient changes contract providers;
- (4) maintenance of an official electronic record for each service recipient receiving services through a Home and Community Based Services waiver.

(A) All service recipient information and records are confidential and released only to individuals or provider agencies who have proper authorization from the service recipient or his or her legal representative.

(B) It is the legal responsibility of Oklahoma Human Services (OKDHS) employees and contract providers to protect clients' privacy and to ensure the protection of confidential information.

(C) Developmental Disabilities Services (DDS) ensures service-recipient records are protected from loss, defacement, tampering, destruction, and violation of confidentiality.

(D) DDS personnel obtain individualized, time-limited, informed consent, prior to securing service recipient information or records from provider agencies who do not have a current OKDHS contract; and

(5) formatting, use, and retention of electronic records and signatures generated, sent, communicated, received, or stored by DDS, in conformity with the Uniform Electronic Transaction Act, found at Section 15-101 et seq. of Title 12A of the Oklahoma Statutes (12A O.S. §§ 15-101 et seq.).

(A) Only individual providers or employees designated by the provider's agency may make entries in the member's record. All entries in the member's record must be dated and authenticated with a method established to identify the author. The identification method may include computer keys, Private/Public Key Infrastructure (PKIs), voice authentication systems that use a personal identification number (PIN) and voice authentication, or other codes. Providers must have a process in place to deactivate within one working day an employee's access to records upon termination of employment of the designated employee.

(B) When PKIs, computer key codes, voice authentication systems, or other codes are used, the provider agency's employee completes a signed statement documenting that the chosen method is under the sole control of the person using it and further demonstrate that:

- (i) a list of PKIs, computer key codes, voice authentication systems or other codes can be verified;

- (ii) all adequate safeguards are maintained to protect against improper or unauthorized use of PKIs, computer keys, or other codes for electronic signatures; and
- (iii) sanctions are in place for improper or unauthorized use of computer key codes, PKIs, voice authentication systems or other code types of electronic signatures.

(C) There must be a specific action by the author to indicate that the entry is verified and accurate. Systems requiring an authentication process include, but are not limited to:

- (i) computerized systems that require the provider's employee to review the document online and indicate that it has been approved by entering a unique computer key code capable of verification;
- (ii) a system in which the provider's employee signs off against a list of entries that must be verified in the member's records;
- (iii) a mail system that sends transcripts to the provider's employee for review;
- (iv) a postcard identifying and verifying the accuracy of the record(s) signed and returned by the provider's employee; or
- (v) a voice authentication system that clearly identifies the author by a designated PIN or security code.

(D) Auto-authentication systems that authenticate a report prior to the transcription process do not meet the stated requirements and are not an acceptable method for the authentication process.

(E) The signature and date entry are the authentication of an electronic record and are expected on the day the record is completed.

(F) The individual provider or designated administrators within the provider agency may edit records. Edits must be in the form of a correcting entry which preserves entries from the original record. Edits must be completed prior to claims submission or no later than 45-calendar days after the date of service, whichever occurs first.

(G) Use of the electronic signature for documentation constitutes a signature and has the same effect as a written signature on the documentation. The section of the electronic record documenting the service provided must be authenticated by the employee or individual who provided the described service.

(H) Any authentication method for electronic signatures must:

- (i) be unique to the person using it;
- (ii) identify the individual signing the document by name and title;

- (iii) be capable of verification, assuring that the documentation cannot be altered after the signature has been affixed;
- (iv) be under the sole control of the person using it;
- (v) be linked to the data in such a manner that if the data is changed, the signature is invalidated; and
- (vi) provide strong and substantial evidence that make it difficult for the signer to claim that the electronic representation is not valid.

(I) Failure to properly maintain or authenticate records with the signature and date entry may result in the denial or recoupment of payments.

(J) Providers must retain electronic records and have access to the records per guidelines found at OAC 317:30-3-15.

(K) The provisions of the Electronic Transaction Act apply to the time and place of sending and receipt. When a power failure, internet interruption, or internet virus occur, confirmation by the receiving party is required to establish receipt.

(L) Any person who fraudulently represents facts in an electronic transaction, acts without authority, or exceeds his or her authority to perform an electronic transaction may be prosecuted under all applicable criminal and civil laws.

(b) **General requirements.** Records, electronic or paper, the contract provider maintains are indexed, orderly, well-maintained, readily accessible, and current. Records contain adequate documentation of services rendered.

(1) All service recipient records are available for the service recipient, his or her legal guardian, contract provider staff, and OKDHS authorized agents to review upon request.

(2) The service recipient record is maintained with:

- (A) an index;
- (B) the service recipient's name on the record and on each page;
- (C) discernable section tabs; and
- (D) documents secured in the record.

(3) All entries in the record:

- (A) are made per OAC 317:30-3-15;
- (B) are in chronological order;
- (C) are legible;
- (D) include the date and time of each entry, with legible identification of the person making the entry; and
- (E) include, when the entry is health-related:
  - (i) a description of the concern; and
  - (ii) action taken.

(4) The provider ensures compliance, per OAC 340:2-8-1 through OAC 340:2-8-13 and OAC 340:100-3-2, pertaining to personal information protection, use, and release. The provider holds

personal information regarding service recipients, including names, addresses, photographs, evaluation records, and all other records confidential. Information is not disclosed, directly or indirectly, unless the adult service recipient or legal guardian consent in writing.

**(c) Home record for service recipients receiving community residential supports, group home services, or non-residential habilitation training specialist (HTS) services.** The in-home contract provider maintains a current service record for each service recipient receiving community residential supports, per OAC 340:100-5-22.1; group home service, per OAC 340:100-6; or non-residential HTS services, per OAC 340:100-5-35.

(1) Documents contained in each home record are not removed and include:

(A) guardianship documents and other legal documents;  
(B) current Individual Plan packet and addendum copies;  
(C) applicable health-related documents including, but not limited to:

(i) Form 06HM005E, Referral Form for Examination or Treatment, physician orders, discharge summaries, and emergency room reports;  
(ii) special instructions or the Health Care Plan;  
(iii) individually-identified data forms relevant to the service recipient's current health status;  
(iv) a Dyskinesia Identification System: Condensed User Scale or Abnormal Involuntary Movement Scale, when required, per OAC 340:100-5-29;  
(v) current immunization record;  
(vi) current medication administration records;  
(vii) the most recent lab, x-ray, and consultation reports, and pharmacological evaluation, when applicable;  
(viii) miscellaneous health-related consultations and correspondence; and  
(ix) Form 06HM073E, Referral Form for Psychiatric Treatment or Examination;

(D) miscellaneous documents relating to the service recipient including, but not limited to:

(i) observation notes;  
(ii) Form 06CB035E, Site Visit Report, completed by all professional contract providers;  
(iii) standing medical orders and protocols;  
(iv) applicable data collection sheets; and  
(v) documentation of program coordination staff home visits;

(E) quarterly residential progress reports; and

(F) Form 06MP070E, Access to Home Record and Verification of Monitoring Requirement, certifying that all authorized persons accessing the service recipient information contained within the home record were

informed and understand the penalties for misuse of confidential and protected information, per 21 O.S. § 1533.1.

(2) In unusual circumstances, at the Personal Support Team's (Team) request, and with DDS field administrator's written approval, a service recipient's home record or specified document types from the record may be maintained at a location other than the service recipient's home.

(d) **Retention.** Each contract provider retains a record for each service recipient receiving services from the provider.

(1) There is a yearly transfer of all documents more than three months old from the provider agency's records to a history file, unless otherwise specified, per OAC 340:10-3-40.

(2) The provider agency retains original records for a six-year period or until any pending litigation involving the service recipient is completed, whichever occurs last.

(e) **Transfers between agencies.** When a service recipient changes provider agencies, within seven-calendar days of the transfer, the agency provides the new agency with a paper or electronic copy of the current home record and any health documents the Team requests.

(f) **Other provider records.** The provider maintains service records that substantiate service provision, service recipient eligibility, and outcome of services.

(1) Records are maintained for a six-year period after OKDHS makes the final payment and all pending matters are closed.

(2) The provider maintains copies of all claims, substantiating documents, and records regarding agency fiscal status within corporate offices in Oklahoma.

[Source: Added at 17 Ok Reg 3102, eff 6-7-00 (emergency); Added at 18 Ok Reg 1254, eff 5-11-01 ; Amended at 25 Ok Reg 986, eff 5-15-08 ; Amended at 28 Ok Reg 897, eff 6-1-11 ; Amended at 29 Ok Reg 822, eff 7-1-12 ; Amended at 36 Ok Reg 1880, eff 9-16-19 ; Amended at 39 Ok Reg 1807, eff 9-15-22 ; Amended at 40 Ok Reg 1005, eff 9-15-23]

### **340:100-3-40.1. Continuous medical record [REVOKED]**

[Source: Added at 17 Ok Reg 3102, eff 6-7-00 (emergency); Added at 18 Ok Reg 1254, eff 5-11-01 ; Amended at 25 Ok Reg 986, eff 5-15-08 ; Revoked at 39 Ok Reg 1807, eff 9-15-22]

### **340:100-3-41. Telehealth**

(a) **Applicability and scope.** Telehealth services do not expand services covered through Developmental Disabilities Services (DDS) Home and Community-Based Services (HCBS) waivers. Telehealth services are a delivery option for certain covered services. Telehealth services apply to contract professional services, including speech therapy, physical therapy, occupational therapy, audiology, psychology, nutrition, family training, family counseling, nursing, and dental care.

(1) When there are technological difficulties in performing an objective or a thorough assessment, or there are problems in the service recipient's understanding of telehealth, hands-on-assessment, in-person care, or both is provided for the service



recipient.

(2) Any service delivered using telehealth technology is appropriate for telehealth delivery and meets the same quality level and is otherwise on par with the same service delivered in person.

(3) A telehealth encounter maintains the confidentiality and security of protected health information in accordance with applicable state and federal law, including, but not limited to, Section 1-109 of Title 43A of the Oklahoma Statutes, Part 2 of Title 42 of the Code of Federal Regulations (42 C.F.R., Part 2), and 45 C.F.R., Parts 160 and 164.

(4) For purposes of DDS HCBS waiver reimbursement, telehealth is the use of interactive audio, video, or other electronic media for the purpose of diagnosis, consultation, or treatment that occurs in real-time and when the service recipient is actively participating during the transmission.

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

(1) **"Remote patient monitoring"** means using digital technologies to collect medical and other forms of health data, such as vital signs, weight, blood pressure, and blood sugar, from individuals in one location, and electronically transmitting that information securely to health care providers in a different location for assessment and recommendations.

(2) **"Store and forward"** means transmitting a service recipient's medical information from an originating site to the health care provider at a distant site. Photographs provided through a telecommunications system are specific to the service recipient's medical condition and adequate for furnishing or confirming a diagnosis or treatment plan. Store and forward technologies do not include:

- (A) consultations provided by telephone audio-only communication;
- (B) electronic mail;
- (C) text message or instant messaging conversation;
- (D) website questionnaire;
- (E) non-secure video conference; or
- (F) facsimile transmission.

(3) **"Telehealth"** means the practice of health care delivery, diagnosis, consultation, evaluation and treatment, transfer of medical data or exchange of medical education information through two-way, real-time interactive communication. This definition does not exclude store and forward technologies. Telehealth occurs between a service recipient and a health care provider with access to the service recipient's relevant clinical information prior to the telemedicine visit. Telehealth does not include website questionnaires, non-secure video conference, or facsimile transmission.

(c) **Requirements.** The following requirements apply to all services rendered via telehealth.

(1) Audio and video telecommunications are compliant with the Interactive Health Insurance Portability and Accountability Act (HIPAA), permitting encryption. The telecommunication service is secure and adequate to protect the confidentiality and integrity of the telehealth information transmitted. As a payment condition, the service recipient is an active participant in the telehealth visit.

(2) The telehealth equipment and transmission speed and image is technologically sufficient to support the service billed. Contract providers involved in the telehealth visit are trained in the use of the telehealth equipment and are competent in its operation.

(3) The medical or behavioral health related service is provided at an appropriate site for telehealth service delivery.

(A) An appropriate telehealth site is one that has the proper security measures in place and appropriate administrative, physical, and technological safeguards to ensure the confidentiality, integrity, and security of electronic protected health information.

(B) The room location for the encounter ensures comfort, privacy, and confidentiality on both ends. There is both visual and audio privacy, and the room's placement and selection takes this into consideration.

(C) Appropriate telehealth equipment and networks are used considering factors such as appropriate screen size, resolution, and security.

(D) Providers, service recipients, or both, may provide or receive telehealth services outside of Oklahoma when medically necessary; however, prior authorization may be required, per Oklahoma Administrative Code 317:30-3-89 through 317:30-3-91.

(4) The provider is contracted with DDS and SoonerCare when required, appropriately licensed or certified, and in good standing. Services provided are within the scope of the provider's license or certification. If the provider is outside of Oklahoma, the provider complies with all laws and regulations of the provider's location, including health care and telehealth requirements.

(5) The service recipient retains the right to withdraw from telehealth services at any time.

(6) All telehealth activities comply with Oklahoma Health Care Authority policy, and all other applicable state and federal laws and regulations, including, but not limited to, 59 O.S. § 478.1.

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

(8) The service recipient's image and personal information is not disseminated to other entities without written consent from the service recipient or legal guardian, or a minor service recipient's parent or legal guardian.

(9) A telehealth service is subject to the same DDS HCBS waiver program restrictions, limitations, and coverage that exist for the service when not provided through telehealth, as only certain telehealth codes are reimbursable through a DDS HCBS waiver.

(e) **Reimbursement.** Telehealth services are billed with the appropriate modifier.

(f) **Documentation.**

(1) The service provider maintains documentation to substantiate the services rendered.

(2) Documentation indicates the services were rendered via telehealth and the location of the services.

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

(A) chart notes;

(B) start and stop times;

(C) service provider credentials; and

(D) service provider signature.

(g) **Final authority.** DDS has discretion and the final authority to approve or deny any telehealth services based on DDS's or the service recipient's needs.

[Source: Added at 39 Ok Reg 1807, eff 9-15-22]

## **SUBCHAPTER 5. CLIENT SERVICES**

### **PART 1. ADMISSION AND SAFEGUARDS**

#### **340:100-5-1. Admission [REVOKED]**

[Source: Amended at 8 Ok Reg 2163, eff 5-13-91 (emergency); Amended at 9 Ok Reg 1549, eff 4-27-92 ; Amended at 12 Ok Reg 429, eff 1-1-95 (emergency); Amended at 12 Ok Reg 3460, eff 7-1-95 (emergency); Amended at 13 Ok Reg 2203, eff 6-14-96 ; Revoked at 18 Ok Reg 3436, eff 6-28-01 (emergency); Revoked at 19 Ok Reg 1168, eff 5-13-02]

#### **340:100-5-2. Service safeguards [REVOKED]**

[Source: Amended at 8 Ok Reg 2163, eff 5-13-91 (emergency); Amended at 9 Ok Reg 1549, eff 4-27-92 ; Revoked at 39 Ok Reg 1807, eff 9-15-22]

#### **340:100-5-3. Emergency Services**

(a) **General information.** Emergency Services are support services that provide short-term relief to individuals and their families or caregivers to prevent out-of-home placement, and to ensure the health and welfare of the individual.

(1) Emergency Services are provided to resolve an emergency situation and only after all other resources have been exhausted.

(2) The use of Emergency Services is intended to eliminate identified issues that jeopardize health, safety, or continued home residence of the individual.

(3) The rules in this Section do not apply to individuals who receive services through a Home and Community-Based Waiver (HCBW).

(b) **Services provided.** Emergency Services include:

(1) habilitation training specialist (HTS) services;

- (2) homemaker services;
  - (3) respite services;
  - (4) transportation services;
  - (5) adaptive equipment;
  - (6) medical supplies, medications, or food supplements;
  - (7) utilities; and
  - (8) other services as requested and approved on an individual basis.
- (c) **Eligibility.** Emergency Services may be offered to an individual who:
- (1) is an Oklahoma resident;
  - (2) has been determined to have mental retardation or a related condition per OAC 340:100-1-2;
  - (3) is age six or older;
  - (4) is not receiving services funded through the HCBW;
  - (5) is not residing in a nursing facility, or intermediate care facility for persons with mental retardation (ICF/MR); and
  - (6) has no financial resources or other means of resolution to the emergency.
- (d) **Service requirements.** Emergency Services are:
- (1) based on need;
  - (2) individualized; and
  - (3) flexible in meeting the needs of the person.
- (e) **Administration.** Emergency Services are:
- (1) authorized in writing prior to service delivery by the Developmental Disabilities Services Division (DDSD) programs administrator for Community Services or designee;
  - (2) funded through the State of Oklahoma without federal subsidy;
  - (3) initiated by DDSD area office intake staff who identify persons who:
    - (A) meet the eligibility requirements in this Section; and
    - (B) have needs that can be resolved through use of Emergency Services;
  - (4) evaluated individually by the DDSD division administrator or designee;
  - (5) not an entitlement to services from the Oklahoma Department of Human Services;
  - (6) provided contingent upon availability of resources; and
  - (7) authorized for up to a 90-day period for a total amount not exceeding \$750. Extension of services beyond 90 days or in excess of \$750 may be authorized by the DDSD division administrator or designee on an individual basis upon receipt of a written request that includes justification for the extension as set forth in subsection (a) of this Section.

[Source: Added at 17 Ok Reg 92, eff 9-7-99 (emergency); Added at 17 Ok Reg 1314, eff 5-11-00 ; Amended at 27 Ok Reg 838, eff 7-1-10]

### **PART 3. SERVICE PROVISIONS**

### **340:100-5-15. Developmental Disabilities Services Division case manager activities**

Each person receiving Developmental Disabilities Services Division (DDSD) Home and Community Based Services (HCBS) Waivers is assigned a case manager who ensures that individual needs are met through linkage, assessment, brokerage, advocacy, and monitoring activities. . The DDSD case manager:

- (1) completes or arranges necessary assessments to identify service recipient needs;
- (2) has overall responsibility for developing and updating the service recipient's Individual Plan (IP), per OAC 340:100-5-50 through 340:100-5-58, and Plan of Care;
- (3) describes service options in sufficient detail to ensure the service recipient, or parent or guardian, as applicable, is able to make an informed choice regarding services;
- (4) assists service recipients in gaining access to needed medical, social, educational, and other services and supports;
- (5) coordinates and monitors services delivered to determine their effectiveness in meeting the service recipient's needs;
- (6) has the authority to implement approved services prescribed in the service recipient's IP and access emergency or crisis services, per OAC 317:40 and OAC 340:100; and
- (7) documents case management services in Client Contact Manager (CCM).

[Source: Amended at 8 Ok Reg 2163, eff 5-13-91 (emergency); Amended at 9 Ok Reg 1549, eff 4-27-92 ; Amended at 22 Ok Reg 882, eff 5-12-05 ; Amended at 24 Ok Reg 1046, eff 5-11-07]

### **340:100-5-16. Individual Habilitation Plan [REVOKED]**

[Source: Revoked at 15 Ok Reg 2136, eff 5-5-98 (emergency); Revoked at 16 Ok Reg 1056, eff 4-26-99]

### **340:100-5-17. Habilitation services - professional and paraprofessional [REVOKED]**

[Source: Amended at 8 Ok Reg 1131, eff 1-24-92 (emergency); Amended at 9 Ok Reg 2759, eff 7-13-92 ; Revoked at 26 Ok Reg 922, eff 5-15-09]

### **340:100-5-18. Employment services [REVOKED]**

[Source: Amended at 8 Ok Reg 2163, eff 5-13-91 (emergency); Amended at 9 Ok Reg 1549, eff 4-27-92 ; Amended at 10 Ok Reg 4353, eff 7-21-93 (emergency); Amended at 11 Ok Reg 2303, eff 5-26-94 ; Revoked at 15 Ok Reg 1309, eff 3-1-98 (emergency); Revoked at 16 Ok Reg 1056, eff 4-26-99]

### **340:100-5-19. Support services [REVOKED]**

[Source: Amended at 13 Ok Reg 3715, eff 4-29-96 (emergency); Amended at 14 Ok Reg 1399, eff 5-12-97 ; Revoked at 24 Ok Reg 1046, eff 5-11-07]

### **340:100-5-20. Respite Voucher Program**

(a) **Applicability.** The rules in this Section apply to the respite voucher program operated by the Oklahoma Department of Human Services DHS Developmental Disabilities Services (DDS). When funding resources are sufficient, DDS may use funds for the provision of respite vouchers. For the purpose of this Section, respite is defined as temporary relief for a caregiver who is caring for a person with a developmental disability, known as the care recipient.

(b) **Eligibility.**

(1) Respite vouchers may be issued to caregivers of a care recipient who:

- (A) has a developmental disability per Section 1408 of Title 10 of the Oklahoma Statutes;
- (B) is a United States citizen or a qualified alien;
- (C) is in DHS custody living in a family home;
- (D) is in DHS custody and placed in kinship foster family care per Oklahoma Administrative Code (OAC) 340:75-7-2;
- (E) receives less than 20 hours per week of state funded services, such as:

- (i) Sheltered Workshop;
- (ii) Community Integrated Employment; or
- (iii) Adult Day;

(F) does not receive:

- (i) services through a DDS Home and Community-Based Services (HCBS) Waiver;
- (ii) services through the Advantage Waiver;
- (iii) respite services funded through any other state or federal program or service; or
- (iv) the Family Support Assistance Payment; and

(G) does not live:

- (i) in an assisted living facility;
- (ii) independently; or
- (iii) in a drug or alcohol treatment facility.

(2) The caregiver is the voucher applicant and:

- (A) must live in Oklahoma;
- (B) must reside with and provide at least eight hours per day of care to an eligible care recipient;
- (C) must not receive respite services funded through any other state or federal program or service on behalf of an eligible care recipient;
- (D) may receive a DHS Child Care Subsidy per OAC 340:40-7-1 on behalf of an eligible care recipient;
- (E) may receive an adoption subsidy on behalf of an eligible care recipient; and
- (F) has an adjusted gross income of less than \$75,000 from the most recent federal tax return.

(c) **Respite voucher application.**

(1) Applications for respite vouchers are available through DDS area offices.

(2) A completed application must include:

- (A) a signed copy of the caregiver's most recent federal income tax return. When married and filing separately,

send returns for the caregiver and the caregiver's spouse;  
(B) when the caregiver is employed and did not complete a tax return, a statement from the employer indicating the average number of hours worked per week, the hourly rate, and usual schedule worked each week;  
(C) a copy of the caregiver's most recent Social Security Administration award letter, when applicable;  
(D) a copy of the caregiver's Social Security card; and  
(E) a copy of the documentation that verifies the care receiver's disability that includes, but is not limited to:

- (i) a psychological evaluation;
- (ii) the portion of an Interdisciplinary Education Plan titled, Multidisciplinary Evaluation and Eligibility Group Summary, also known as "MEEGS" or "MEETS";
- (iii) the portion of an Interdisciplinary Education Plan titled, Review of Existing Data, also known as the "RED";
- (iv) an evaluation from a licensed therapist indicating a condition related to a developmental disability; or
- (v) a copy of the SoonerStart developmental evaluation documenting scores indicating:
  - (I) a 50 percent delay in one domain; or
  - (II) a 25 percent delay in two or more domains.

(3) Incomplete applications are returned to the applicant for correction.

(4) Respite voucher applications are considered in chronological order of receipt of a completed application. DDS provides a written determination to the applicant within 60 calendar days.

(d) **Issuance of respite voucher.** Authorization for the respite voucher program is valid for one calendar year from the date the application or annual review is approved. Issuance of a respite voucher is subject to the continued availability of funding. When an application or annual review is approved, respite vouchers are issued:

(1) to the caregiver applicant and are valid for 90 calendar days from the date of issuance;

(2) in sets of three. The applicant must submit to the DDS State Office Respite Voucher program staff Form 06RP002E, Request for Additional Respite Vouchers, to request additional vouchers;

(3) in the amount of:

(A) \$500 when the caregiver's adjusted gross income is \$0 through \$59,999.99;

(B) \$400 when the caregiver's adjusted gross income is \$60,000.00 through \$74,999.99;

(C) \$100 for each additional eligible care recipient with a maximum payment of \$800 per 90 calendar-day period when the caregiver's adjusted gross income is \$0 through \$59,999.99; or

(D) \$100 for each additional eligible care recipient with a maximum payment of \$700 per 90 calendar-day period when the caregiver's adjusted gross income is \$60,000.00 through \$74,999.99.

(e) **Caregiver responsibilities.** Caregivers are responsible for:

- (1) interviewing and selecting the respite provider;
- (2) setting an hourly rate;
- (3) training the provider;
- (4) ensuring proper payment for services; and
- (5) tracking the total amount claimed against the voucher.

(f) **Submitting voucher for payment.** The caregiver and the respite care provider complete and sign the respite voucher and submit it to DHS Financial Services for payment.

(g) **Fair hearing.** Any person who has been denied a voucher, except for denials based on insufficient funding, may request a hearing per OAC 340:2-5.

[Source: Amended at 8 Ok Reg 2163, eff 5-13-91 (emergency); Amended at 9 Ok Reg 1549, eff 4-27-92 ; Amended at 12 Ok Reg 3460, eff 7-1-95 (emergency); Amended at 13 Ok Reg 2203, eff 6-14-96 ; Revoked at 25 Ok Reg 986, eff 5-15-08 ; Added at 27 Ok Reg 838, eff 7-1-10 ; Amended at 29 Ok Reg 822, eff 7-1-12 ; Amended at 32 Ok Reg 1906, eff 9-15-15]

### **340:100-5-21. Family training and counseling [REVOKED]**

[Source: Amended at 8 Ok Reg 2163, eff 5-13-91 (emergency); Amended at 9 Ok Reg 1549, eff 4-27-92 ; Revoked at 26 Ok Reg 922, eff 5-15-09]

### **340:100-5-22. Residential services**

Residential services are provided contingent upon the availability of funding and resources. Provision of services may be determined by government regulations or the judiciary. Service recipients who require residential supports are provided services determined by the Personal Support Team (Team), per OAC 340:100-5-52, to represent the least restrictive appropriate setting possible.

- (1) All referrals for residential services are processed per OAC 317:30 and OAC 317:40 or OAC 340:100.
- (2) All service recipients must meet eligibility requirements per OAC 340:100 for residential services.
- (3) The service recipient, family member, and, if applicable, guardian are included as part of the Team to identify residential service needs.
- (4) Residential services include:
  - (A) assisted living services per OAC 340:100-5-22.2;
  - (B) group home services per OAC 340:100-6;
  - (C) home- and community-based services options per OAC 340:100-5-22.1 and group home services per OAC 317:40-5-152;
  - (D) private intermediate care facility for the mentally retarded (ICF/MR);
  - (E) public ICF/MR programs at Northern Oklahoma Resource Center of Enid (NORCE) and Southern



Oklahoma Resource Center (SORC) per OAC 317:30-5-122. Service recipients who meet ICF/MR level of care requirements may be admitted to public ICFs/MR for residential services when their individual circumstances indicate placement in a public ICF/MR is the least restrictive, most appropriate residential environment available.

(i) Service recipients who are able to receive services that meet their needs in less restrictive environments than a state-operated facility are not eligible for admission.

(ii) This does not preclude the provision of respite services or other emergency interventions that may require service recipients reside at NORCE or SORC for a time-limited period; and

(F) specialized public ICF/MR program at Robert M. Greer Center (Greer) per OAC 340:100-11.

(5) No service recipient may move from NORCE or SORC without adequate supports in place as determined by the service recipient's Team.

(6) Oklahoma Health Care Authority (OHCA) establishes eligibility and certifies level of care need for admission to private and public ICFs/MR per OHCA policy. Admission to public ICFs/MR must be approved by the Oklahoma Department of Human Services Director or designee.

(7) Continued eligibility for appropriateness of services is addressed by the Team during annual development of the Individual Plan (Plan).

(8) Specific residential support needs are determined through the Team process and documented in the service recipient's Plan. The services provided must be identified in the approved Plan.

(9) The Developmental Disabilities Services Division (DDSD) case manager, agency program coordinator, or both ensure residential services are coordinated with all other services provided to the service recipient.

(10) Contract providers are reimbursed for residential services at rates established by Oklahoma Commission for Human Services or OHCA.

(11) Programs and facilities are monitored on a regular basis to ensure continued compliance with all applicable contract conditions, rules, and regulations. Monitoring reports documenting compliance with regulatory standards are maintained and used as a basis for contract renewal or termination.

(12) Provider agencies are informed, and provided an opportunity to correct deficiencies that may result in contract termination per OAC 340:100-3-27.1.

### **340:100-5-22.1. Community residential supports**

(a) **Applicability.** Community residential supports are funded through contracts with the Oklahoma Department of Human Services DHS, Oklahoma Health Care Authority (OHCA), or both, and must meet standards per this Section.

(1) A service recipient is considered receiving community residential supports when the service recipient receives:

- (A) daily living supports (DLS), per Oklahoma Administrative Code (OAC) 317:40-5-150;
- (B) Prader-Willi Syndrome services;
- (C) agency companion services (ACS), per Part 1 of OAC 317:40-5; or
- (D) specialized foster care (SFC), per Part 5 of OAC 317:40-5.

(2) This Section does not apply to:

- (A) group home services, per OAC 340:100-6; or
- (B) services provided to service recipients who receive assisted living services, per OAC 340:100-5-22.2.

### **(b) General information.**

(1) Services for children are provided in family settings unless approved by the Developmental Disabilities Services DDS Community Services Unit programs administrator or designee.

(2) In addition to OAC 340:100-5-50 through 340:100-5-58, the DDS case manager ensures each Personal Support Team (Team) assesses and addresses the service recipient's needs regarding:

- (A) safety in the home, including:
  - (i) storage of toxic chemicals, cleaning supplies, and combustibles; and
  - (ii) use of a tempering valve or other anti-scald device or lowered, hot water tank temperature to control water temperature;
- (B) financial issues in addition to OAC 340:100-3-4, including:
  - (i) a household budget that provides adequate resources for housing, food, clothing, furnishings, personal supplies, and recreational opportunities; and
  - (ii) assistance needed by the service recipient in money management;
- (C) selection, adaptation, and maintenance of a home;
- (D) community inclusion and access to work, recreation, and therapies;
- (E) transportation; and
- (F) water safety.

(3) Each service recipient is responsible for his or her room and board expenses, including recreational activities, clothing, furnishings, food, and other expenses for services or supports not funded through DHS, except as:

- (A) provided to members of the Homeward Bound class; or

(B) approved in emergency circumstances per OAC 340:100-3-33 or 340:100-5-3.

(c) **Homes.** Community residential supports are provided in the service recipient's home. The provider agency ensures:

(1) the home and yard are clean, well-maintained, safe, hazard free, and adapted to the service recipient's needs;

(2) the home has:

(A) utility service and adequate heating, cooling, and plumbing;

(B) safety items in operating condition located in strategic locations in the home, such as a:

(i) flashlight;

(ii) smoke detector;

(iii) carbon monoxide detector;

(iv) first aid kit;

(v) fire extinguisher; and

(vi) tempering valve or other anti-scald device, when determined by the Team necessary to ensure the service recipient's safety;

(C) phone service is available and accessible to the service recipient. Emergency numbers are available at each phone, including:

(i) the DDS toll-free number;

(ii) the fire, police, ambulance, hospital, and poison control, when not in a 911 area;

(iii) a physician name and number; and

(iv) a nursing agency number, when applicable;

(D) at least two means of exit;

(E) a bedroom of at least 80 square feet for each service recipient living in the home. When a service recipient shares a bedroom with another individual, the bedroom must have 120 square feet or more;

(F) adequate enclosed storage space available for personal items;

(G) laundry equipment, when in the home, located in a safe, well ventilated, and clean area, with dryers vented to the outside;

(H) an address clearly visible from the street;

(I) a bathroom that:

(i) includes a:

(I) flush toilet;

(II) fixed basin; and

(III) shower or bath tub that meets the service recipient's needs;

(ii) is in proper working order;

(iii) provides privacy;

(iv) is adapted when needed; and

(v) provides hot and cold running water; and

(J) a kitchen and equipment to store, prepare, and serve food in a sanitary manner;

(3) dangerous or deadly weapons are not permitted in the home, except as provided in OAC 317:40-5-40. Provider agency staff is prohibited from assisting any service recipient to obtain or possess dangerous or deadly weapons. Dangerous or deadly weapons include, but are not limited to:

- (A) guns, BB guns, air rifles, or other firearms;
- (B) crossbows;
- (C) paint guns;
- (D) arrows;
- (E) explosives;
- (F) stun guns; and
- (G) knives, except cooking and eating utensils; and

(4) illegal substances are not permitted in the home.

(d) **Pre-service requirements.** The DDS case manager and service recipient, or, when applicable, legal guardian, complete and approve steps (1) through (3) when community residential supports are initiated, when the service recipient changes provider agencies, and before the service recipient moves to a new home. The documentation of such is maintained in the home record and the case manager record.

(1) Prior to service delivery, the provider completes an emergency housing back-up plan for review and approval by the service recipient's Team per OAC 340:100-5-52.

(A) The back-up plan contains the:

- (i) service recipient's name;
- (ii) description of the living arrangement;
- (iii) name and phone number for back-up staff;
- (iv) back-up housing location;
- (v) written agreement by the:
  - (I) service recipient or legal guardian;
  - (II) direct provider of service, when an ACS or SFC provider;
  - (III) agency program coordination staff (PCS), as applicable;
  - (IV) provider agency administrative representative, as applicable; and
  - (V) DDS case manager;
- (vi) dates for provider review of back-up plan, required quarterly and as changes occur; and
- (vii) review date by the DDS case manager.

(B) When the location for the back-up plan is a hotel or motel, the provider agency is responsible for including a plan to pay the cost without additional reimbursement from DHS.

(C) DHS must complete a home profile on a private home prior to the Team's identification of the home in the back-up plan or use of the home to provide back-up services to the service recipient. A home profile is not required when the service recipient stays in the private home of a relative, per (f)(4)(A) of this Section.

(D) The ACS or SFC provider is responsible for re-establishing a residence when his or her home becomes

uninhabitable.

(2) The provider agency cooperates with the service recipient and Team to establish and maintain a household budget based on the service recipient's earned and unearned income.

(A) Expenses associated with supporting the household are maintained in an auditable fashion sufficient to track the use of money collected from the service recipient by the contract provider.

(B) Upon request, the contract provider furnishes to the service recipient, service recipient's family, and legal guardian:

(i) a record of all funds collected from the service recipient;

(ii) documentation of how the money was used; and

(iii) the amount of remaining money held by the provider.

(C) Upon termination of residential supports from the contract provider, unused funds are returned to the service recipient within 10-calendar days of service termination date.

(3) Form 06CB034E, Residential Pre-Service Checklist, is completed and this Section's requirements are satisfied.

(e) **Service requirements.**

(1) Unless the service recipient demonstrates the ability under varying conditions to independently and appropriately respond to emergency situations, the provider agency assists in conducting fire drills at least quarterly and weather emergency drills twice a year. The dates, times, and outcomes of the drills are available in the home for review.

(2) The provider:

(A) ensures all financial information necessary for maintaining the service recipient's financial eligibility is provided to DHS in a timely manner;

(B) when serving as payee, ensures the service recipient maintains financial eligibility for benefits and services by notifying appropriate authorities of a change in the service recipient's income;

(C) when a change of payee is necessary, cooperates to ensure the change is made in a timely manner;

(D) establishes a written financial agreement with the service recipient or legal guardian that defines financial responsibilities of the provider's and service recipient's financial responsibilities. The financial agreement:

(i) accurately reflects the ongoing financial arrangement between the provider and service recipient;

(ii) clearly defines who purchases personal items;

(iii) is renewed annually and when changes occur; and

(iv) is available to the service recipient, legal guardian, Office of Client Advocacy advocate, and

DDS case manager;

(E) as a member of the service recipient's Team, assists in determining safeguards necessary to protect the service recipient's assets;

(F) allows service recipients to select stores for the purchase of food, clothing, and personal items;

(G) implements the service recipient's Individual Plan (Plan);

(H) provides necessary assistance, including staff support for each service recipient's active participation in community life;

(I) assists the service recipient in maintaining an adequate supply of seasonal clothing that fits appropriately, personal grooming materials, and linens. All items are maintained in good condition;

(J) promotes the service recipient's health and welfare, including providing meals that meet the service recipient's nutritional needs;

(K) promotes visitation and contact with each service recipient's natural family, legal guardian, and friends, according to the service recipient's desires;

(L) promotes friendships with neighbors, co-workers, and peers, according to the service recipient's desires;

(M) when the service recipient, legal guardian, or provider wants to discontinue services, cooperates in securing alternative services and continues to serve the service recipient until the Team confirms all essential services are in place;

(N) while providing services, ensures staff is engaged at all times in purposeful activity that directly or indirectly benefits the service recipient;

(O) ensures the service recipient attends scheduled medical and therapy appointments.

(i) Transportation to the appointment is provided.

(ii) Adequate records, needed materials, and equipment accompany the service recipient to the appointment.

(iii) When the service recipient requires support in describing illness, issues, or concerns to the health care provider, knowledgeable staff accompanies the service recipient;

(P) ensures the service recipient's prescriptions are filled and administered as prescribed, per OAC 340:100-5-32;

(Q) ensures the Plan in a positive manner addresses issues related to maintaining the home per (c) of this Section;

(R) ensures the service recipient has transportation to programs and services.

(i) Transportation is provided to and from:

(I) medical or therapy appointments;

(II) personal shopping;

(III) leisure or recreational activities;

- (IV) vocational or employment activities;
- (V) religious or cultural activities;
- (VI) Team meetings;
- (VII) appointments necessary to secure or maintain needed services; and
- (VIII) voting.

(ii) All vehicles used to transport the service recipient meet local and state licensing, inspection, insurance, and capacity requirements.

(iii) A vehicle used to transport a service recipient with physical disabilities is adapted to meet the service recipient's needs.

(iv) Drivers of vehicles have valid and appropriate driver licenses.

(S) ensures the hot water temperature for the home is set to no more than 120 degrees Fahrenheit. The provider tests the hot water temperature of the home at least annually, after any servicing of the home's water system, and any time the water temperature is believed to have increased above 120 degrees Fahrenheit. The provider maintains test documentation and the documentation at minimum includes the test date and the home's hot water temperature. The documentation is maintained in the home and available for inspection. The provisions within this paragraph will henceforth be known as the Julie Teenor Anti-Scald Protocol; and

(T) ensures reasonable precautions are employed for safety with hot food, cooking oils, and other hot liquids.

(f) **Provider agency policies, practices, and procedures.** The provider agency develops and maintains written policies and procedures that are consistent with DHS rules and govern all aspects of service provision.

(1) Provider agency policies are made available to each service recipient, the service recipient's parent(s), legal guardian, or advocate, provider agency staff, and DHS.

(2) Provider agency policies and procedures include, but are not limited to:

- (A) service recipient rights protection;
- (B) services provided;
- (C) admission and discharge criteria;
- (D) grievance procedures;
- (E) prevention and reporting of abuse, neglect, and/or exploitation;
- (F) confidentiality;
- (G) emergency management;
- (H) fees paid by service recipient;
- (I) health and safety precautions; and
- (J) safeguarding service recipient funds.

(3) The provider agency designates one person who, in the absence of the agency administrator, is responsible for the administration of the agency and is empowered to act on behalf of the provider agency.

(4) The provider agency is responsible for recruitment, screening, training, and supervision of staff or volunteers providing direct services, ensuring direct support staff:

- (A) is not supervised by a relative or person living in the staff's home. A relative includes wife, husband, children, parents, stepparents, parents-in-law, grandchildren, grandparents, brothers, sisters, stepchildren, brothers-in-law, sisters-in-law, sons-in-law, daughters-in-law, aunts, uncles, nieces, nephews, first cousins or any such person with whom the employee shares a foster relationship;
- (B) who provides back-up services is available and has received training per OAC 340:100-3-38;
- (C) is at least 18 years of age;
- (D) is present in sufficient numbers to ensure the service recipient's health and welfare, as authorized by the service recipient's Plan of Care;
- (E) is physically able and mentally alert to carry out the job duties;
- (F) implements and follows the service recipient's Plan;
- (G) does not take the service recipient to visit staff's home unless the Team has provided prior written approval; and
- (H) must meet requirements of OAC 317:40-5-40 when overnight visits are going to occur.

(5) The provider agency ensures the Program Coordinator Staff (PCS) supervises, guides, and oversees all aspects of programming associated with receipt of community residential supports.

(A) The PCS must:

- (i) get to know the service recipient and his or her needs;
- (ii) make announced and unannounced visits to the service recipient's home. The PCS makes a minimum of three face-to-face visits per month, to monitor the service recipient's needs and for staff supervision. Agency administration staff meeting (f)(5)(A)(xii) requirements of this Section, may complete these visits in addition to program coordination staff. At least two of the three visits must be unannounced. Of the unannounced visits:
  - (I) at least one visit each month must occur on Saturday or Sunday; or
  - (II) between 8:00 p.m. and 7:00 a.m. on a weekday;
- (iii) Monthly visits may be reduced to one unannounced face-to-face visit to the service recipient's home when the home:
  - (I) has fully trained staff;
  - (II) has had no turn-over for the past year;
  - (III) does not require restrictive or intrusive procedures; and



(IV) has had no medication errors during the previous calendar year.

(iv) provide support and assistance to any service recipient who is experiencing an emotional, behavioral, or medical crisis;

(v) be accessible to direct service staff 24 hours per day and available to respond, in person when necessary, to an emergency;

(vi) supervise direct contact staff to promote achievement of outcomes in the Plan;

(vii) ensure staffing levels meet the requirements of the service recipient's Plan, with staff trained per OAC 340:100-3-38;

(viii) ensure records are maintained according to DDS community records per OAC 340:100-3-40;

(ix) ensure basic household requirements are always in place, including:

(I) utilities and phone service;

(II) furniture;

(III) food supplies that meet the service recipient's nutritional needs;

(IV) linens;

(V) personal items;

(VI) adaptive equipment; and

(VII) prescription medications;

(x) assist the DDS case manager as requested to prepare for and implement the Plan and its revisions per OAC 340:100-5-50 through 340:100-5-58;

(xi) ensure applicable DHS and OHCA rules are followed;

(xii) complete necessary training per OAC 340:100-3-38; and

(xiii) have a minimum of four years of any combination of college level education or full-time equivalent experience in serving persons with disabilities, or full-time equivalent experience in a supervisory position, unless this requirement is waived in writing by the DDS director or designee.

(B) Provider agencies ensure that residential PCS caseloads do not exceed 27 with the following calculations:

(i) calculate one for persons receiving community residential supports and group home services; and

(ii) calculate one for every five persons receiving In-home Supports Waiver services, assisted living services, or any other non-residential service on the PCS caseload.

(C) Provider agencies providing community residential supports for less than one calendar year ensure the caseload of each PCS numbers no more than 15 service

recipients when the PCS serves service recipients receiving community residential supports.

(D) The DDS director may grant a written exception to the PCS ratios per this Section upon written request and adequate justification from the provider.

(E) Provider agencies who fail to meet program coordination requirements per this subsection may be required to provide a reduced PCS ratio in accordance with sanctions per OAC 340:100-3-27.

(6) Staff, who assist a service recipient with bathing or showering, must ensure the water temperature is safe and comfortable for the service recipient. The requirements of this paragraph are enforced even when an anti-scald device is used. Staff:

(A) tests the water temperature by touch or with a thermometer designed to test hot liquids, before the service recipient enters the water. The water must be determined safe and comfortable for the service recipient, not merely comfortable for the staff;

(B) is trained by his or her employer in the unique needs of each service recipient including tolerance to water temperature and bathing or showering needs; and

(C) does not leave a service recipient who is unable to attend to safety considerations alone in the bath or shower.

[Source: Reserved at 17 Ok Reg 550, eff 11-24-99 (emergency); Reserved at 17 Ok Reg 1314, eff 5-11-00 ; Added at 17 Ok Reg 2265, eff 5-11-00 (emergency); Added at 18 Ok Reg 681, eff 1-10-01 (emergency); Added at 18 Ok Reg 1254, eff 5-11-01 ; Amended at 19 Ok Reg 2948, eff 8-1-02 (emergency); Amended at 20 Ok Reg 936, eff 6-1-03 ; Amended at 23 Ok Reg 1026, eff 5-11-06 ; Amended at 25 Ok Reg 986, eff 5-15-08 ; Amended at 26 Ok Reg 922, eff 5-15-09 ; Amended at 28 Ok Reg 897, eff 6-1-11 ; Amended at 34 Ok Reg 1598, eff 9-15-17 ; Amended at 42 Ok Reg, Number 5, effective 10-10-24 (emergency)]

### **340:100-5-22.2. Assisted Living without Waiver supports**

(a) **General information.** Assisted Living without Waiver supports:

(1) is provided to individuals with intellectual disabilities who:

(A) do not receive Homeand Community-Based Waiver services; and

(B) require minimal staff supports to live safely in their own homes; and

(2) includes, but is not limited to, service coordination, advocacy, linking with generic resources, assistance with transportation, and emergency response.

(b) **Requirements.** Access by service recipients to Assisted Living supports is contingent upon:

(1) availability of sufficient resources;

(2) a determination of eligibility per Oklahoma Administrative Code (OAC) 340:100-3-1; and

(3) a determination by the provider agency of the person's appropriateness for Assisted Living supports per (c) of this Section.

(c) **Pre-placement requirements.** Prior to service initiation, the provider agency assesses the consumer's ability to live safely with minimal staff supports.

(1) In determining an individual's ability to participate in the Assisted Living program, all potential resources are considered to ensure the individual can financially maintain his or her home.

(A) Availability of financial resources, such as food benefits, rental subsidy, income from employment, and public assistance is considered.

(B) The provider agency assesses sources of transportation and leisure activities, such as family, friends, and public transportation.

(C) The provider agency assists the individual to the extent necessary to establish and maintain an affordable household budget based on the individual's earned and unearned income. The provider agency considers living expenses that provide adequate housing, food, and clothing.

(2) The provider agency documents efforts to ensure housing occupied by the individual:

(A) meets local building codes;

(B) remains in safe and sanitary condition;

(C) meets the person's accessibility requirements;

(D) has at least two means of exit;

(E) is equipped with a:

(i) telephone;

(ii) flashlight;

(iii) first aid kit;

(iv) smoke detector; and

(v) carbon monoxide detector.

(3) The provider agency ensures the individual has the ability to:

(A) safely self-administer any necessary medication; and

(B) reorder medications with available assistance.

(4) The provider agency ensures the individual is competent in basic home safety skills, such as locking doors, asking identification of persons desiring admittance, use of appliances, and use of toxic cleaning substances.

(5) The provider agency ensures the individual has:

(A) the ability to contact appropriate persons in case of fire, burglary, illness, or other emergency;

(B) necessary emergency contact numbers available by the telephone; and

(C) an identified back-up plan should the home become uninhabitable.

(6) The provider agency determines the individual possesses basic food preparation skills.

(d) **Governing principles.** Services provided through Assisted Living without Waiver supports are developed around the needs and desires of the person receiving supports and conform to the principles listed in this subsection.

(1) Assisted Living supports do not include funding for rent and food expenses. Each individual is responsible for his or her room and board expenses, as well as all daily living expenses, recreational activities, clothing, furnishing, and other services or supports not authorized and funded through DDS.

(2) No more than four persons receiving services may share a home.

(3) Family members and guardians are allowed announced and unannounced visits, in accordance with the rights and wishes of the person receiving services.

(4) The Oklahoma Department of Human Services (DHS) provides ongoing monitoring through visits with at least a 30 minute notice by DDS staff as well as others deemed appropriate by DHS.

(5) Services promote and use age-appropriate, natural, and informal community supports including family, friends, and other non-paid citizens.

(6) The provider agency provides necessary assistance to the individual in:

(A) identifying as many natural and informal supports and resources as are available to the individual;

(B) obtaining transportation to and from community activities, vocational activities, and needed community services including, but not limited to, the grocery store, bank, medical clinic, and department store.

(i) When the provider agency transports the individual, drivers hold applicable Oklahoma licenses and appropriate insurance.

(ii) The provider agency ensures any vehicle used to transport a person receiving services:

(I) is licensed and operated per local, state, and federal laws, regulations, and ordinances; and

(II) is maintained in a safe condition;

(C) securing the supports necessary for the individual to participate in regular recreational and leisure activities at home and in the community;

(D) maintaining an adequate supply of food, medication(s), clothing, personal grooming materials, linens, and furnishings;

(E) obtaining medical coverage through private insurance, Medicaid, or employer's group plan;

(F) establishing and maintaining a checking account, savings account, or both, with a bank convenient to the person receiving services;

(G) locating a relative or friend to act as the individual's advocate as needed;

(H) practicing the basic principles of financial management, such as budgeting, making purchases, and discretion in releasing financial information. When the provider is the person's payee, the provider adheres to all rules per OAC 340:100-3-4;

- (I) making and keeping appointments for any needed supports or services;
- (J) maintaining the person's residence per (c)(2) of this Section; and
- (K) maintaining utility service.

(7) The provider agency maintains records for each person receiving services that contain:

- (A) demographic information including, but not limited to, date of birth, Social Security number, finding address, phone number, landlord's address and phone, emergency contact, and family phone number(s);
- (B) names and contact information of relatives, friends, staff, and legal guardian, when the person has a guardian;
- (C) name, address, and telephone number of the person's doctor or clinic, dentist, and the hospital of the individual's choice;
- (D) updated medical information, including allergies and current medication;
- (E) appropriate assessments;
- (F) current Individual Plan and implementation strategies; and
- (G) documentation of service delivery, including the date, time, and summary of support provided.

(8) When the consumer leases or subleases a home from the provider agency or an individual associated with the provider agency, the guidelines in this paragraph are followed.

- (A) The provider agency ensures the individual has choice in selecting a home to rent, including providing support necessary for the person receiving services to consider homes not owned or leased by the provider agency or an individual associated with the provider agency.
- (B) The provider agency and the person receiving services or legal guardian enter into a written lease agreement.
- (C) The provider agency ensures the home is leased at fair market value or below, and is affordable for the person receiving services.
- (D) If financially able to do so, the individual is free to:
  - (i) move from the house leased from the provider:
    - (I) for health and safety concerns; or
    - (II) per Section 102 et seq. of Title 41 of the Oklahoma Statutes; or
  - (ii) renew the lease.

- (E) The provider agency ensures the home owned by the provider or an individual associated with the provider agency meets all guidelines provided in this Section.
- (F) The provider cannot condition receipt of Assisted Living Services on leasing, or continuing to lease, the provider's home.

(9) If the provider determines the person needs additional services or supports and the need(s) can no longer be met through Assisted Living Services, the provider assists the

individual to find other appropriate services.

[Source: Added at 17 Ok Reg 550, eff 11-24-99 (emergency); Added at 17 Ok Reg 1314, eff 5-11-00 ; Amended at 32 Ok Reg 1906, eff 9-15-15]

### **340:100-5-22.3. Authorization for community residential supports [REVOKED]**

[Source: Added at 17 Ok Reg 550, eff 11-24-99 (emergency); Added at 17 Ok Reg 1314, eff 5-11-00 ; Amended at 18 Ok Reg 681, eff 1-10-01 (emergency); Amended at 18 Ok Reg 1254, eff 5-11-01 ; Revoked at 23 Ok Reg 1026, eff 5-11-06]

### **340:100-5-22.4. Residential options for Homeward Bound class members**

(a) Persons who are members of the class certified in Case Number 85-C-437-E, United States District Court for the Northern District of Oklahoma, have the right to choose either:

- (1) independent living;
- (2) natural home;
- (3) agency companion services, as described in OAC 317:40-5-3;
- (4) supported living services, as described in OAC 340:100-5-22.5;
- (5) group home services, as described in OAC 340:100-6, in a home serving six or fewer individuals; or
- (6) intermediate care facility services for persons with mental retardation, as described in Title 42 Code of Federal Regulations, Part 442, in a facility serving six or fewer individuals.

(b) Property replacement reimbursement in accordance with OAC 340:100-5-22.5(e) is available to class members receiving agency companion services, as described in OAC 317:40-5-3.

(c) Class members may live alone or with a roommate(s) if they so choose.

[Source: Added at 20 Ok Reg 544, eff 1-21-03 (emergency); Added at 20 Ok Reg 936, eff 6-1-03]

### **340:100-5-22.5. Supported living services**

(a) **Eligibility.** To ensure the daily living requirements of the class members are met, Oklahoma Human Services (OKDHS) provides a payment to the contract residential provider agency serving each person who:

- (1) is a member of the class certified in Case Number 85-C-437-E, United States District Court for the Northern District of Oklahoma; and
- (2) receives Daily Living Supports services, per Oklahoma Administrative Code (OAC) 317:40-5-153.

(b) **Service expectations.** The provider agency ensures that:

- (1) all applicable OKDHS and Oklahoma Health Care Authority (OHCA) rules are met, including:
  - (A) community residential supports, per OAC 340:100-5-22.1;
  - (B) daily living supports, per OAC 317:40-5-153;

(C) the Developmental Disabilities Services (DDS) mission statement and guiding principles, per OAC 340:100-1-3.1;  
(D) community records rules, per OAC 340:100-3-40;  
(E) individual plan rules, per OAC 340:100-5-50 through 340:100-5-58; and

(F) health services rules, per OAC 340:100-5-26; and  
(2) the class member's expenses for housing, food, clothing, recreation, utilities, medical services, property replacement, and transportation, per OAC 340:100-5-22.5.

(c) **Room and board payment.** The room and board payments support the class member's housing, food, clothing, recreation, and utility costs per this subsection.

(1) Each class member contributes an amount determined annually by DDS, not to exceed 90 percent of his or her income, up to a maximum of 90 percent of the current Supplemental Security Income (SSI) monthly payment for a single individual.

(A) The maximum SSI monthly payment may be exceeded by prior written agreement between the individual served or his or her guardian and the provider agency with the written approval of the DDS director or designee.

(B) OKDHS pays a supplement, equal to 90 percent of the SSI monthly payment for a single individual minus 90 percent of the class member's income, on behalf of each class member whose income and resources are insufficient for the person to contribute the maximum room and board payment explained in this paragraph.

(2) To supplement the individual's funds for meeting daily living requirements, OKDHS provides a room and board provider payment per the supported living contract.

(3) The provider agency completes a written financial agreement with the class member and chosen advocate(s) or the legal guardian, per OAC 340:100-5-22.1.

(4) Room and board revenues must be accounted for separately from other provider agency funds.

(A) Room and board revenues from OKDHS are managed by the provider to meet the needs of all individuals living in supported living arrangements.

(B) Payments from OKDHS mentioned in (2) of this subsection are provider payments. They are not income to the class member and must not be deposited in the class member's bank account; nor is the provider required to account to the class member or Personal Support Team (Team) regarding their use.

(C) Room and board payments from individuals served are used only to meet the needs of that individual.

(5) Unless written approval is secured in advance from the DDS director or designee, room and board revenues are solely used for:

(A) housing costs and utilities;

(B) groceries;

(C) household maintenance;

(D) recreation;

- (E) personal items and clothing;
- (F) household property insurance;
- (G) yard care; and
- (H) furnishings and appliances.

(6) Room and board payments are authorized as long as the provider agency supports the individual to maintain a household.

(7) Room and board payments cannot be used to support a roommate who does not receive DDS services, nor can the payment be used to modify or improve the home for the use or comfort of an existing or potential roommate who is not a DDS services recipient. Any roommate must contribute a fair share to the cost of operating the household.

(8) Room and board payments are used only to support a service recipient in one household and residence at any given time, except for a transition with a timeframe not to exceed 45-calendar days.

(d) **Medical supplement.** OKDHS reimburses the provider agency for the cost of necessary medical services not covered through Medicaid (SoonerCare), Medicare, or other insurance; or for persons listed in Case Number 85-C-437-E, who are not Medicaid or Medicare eligible. The medical supplement is not paid at a rate higher than allowed through the Oklahoma Medicaid Fee-for-Service Program unless approved by the area DDS field administrator in writing.

(1) Co-payments for medical services are not covered by the medical supplement. Co-payments are the responsibility of the class member.

(2) Over-the-counter medications are not covered by the medical supplement. These are the responsibility of the class member.

(e) **Property replacement supplement.** DDS provider agencies are reimbursed for replacement of unusable furnishings or necessary furnishings or appliances for class members per the supported living contract addendum. Necessary furnishings and appliances include: refrigerators, stoves, washers, dryers, dining tables and chairs, sofas or love seats, recliners, lamps when there is no fixed lighting in the room, beds, dressers or chests of drawers, bookshelves, phones, and safety items, per OAC 340:100-5-22.1.

(1) The provider agency submits a written property replacement request to the case manager that includes the:

- (A) furnishing or appliance to be purchased;
- (B) reason the item is necessary; and
- (C) age of the furnishing or appliance to be replaced.

(2) The case manager reviews the written request and submits it to the area field administrator or designee within 14-calendar days with the case manager's assessment of the need for the furnishing or appliance.

(3) The area field administrator or designee reviews and responds to the request and assessment, within five-calendar days after considering:

- (A) whether the request includes necessary information;
- (B) whether the case manager assessment indicates need;



- (C) whether the household has or disposed of usable items to meet the need; and
  - (D) that items less than five years old are repaired whenever feasible; with the exception of lamps, phones, or safety items.
- (4) Expenditures for property purchased with the property replacement supplement must not be reported as expenses against the room and board payment.
- (5) No reimbursement for replacement of worn out furnishings may occur during the first year of service.
- (6) The disposal of any furnishings purchased for class members under this supplement meets the requirements of this paragraph.
  - (A) Any furnishings purchased through this supplement become the property of the class member.
  - (B) Any funds received from the disposal of property belong to the class member.
  - (C) The provider must document the disposal of furnishings in detail.
  - (D) When the provider believes that the disposal of property is not in the class member's best interest, the issue is referred to the Team for resolution.
  - (E) The replacement of usable appliances and furnishings disposed of is the class member's responsibility.
- (f) **Transportation supplement.** OKDHS pays a transportation supplement only when the provider agency supplies a vehicle for the exclusive use of each household and the combined mileage for all persons residing in the household totals less than 30 miles per day, per the supported living addendum to the contract for services. Waiver transportation is authorized, per OAC 317:40-5-103.
- (g) **Fiscal accountability.** The provider agency follows fiscal accountability standards established in this subsection.
  - (1) The provider agency expends all payment supplied, per OAC 340:100-5-22.5, on the specific activities for which the payment was provided.
    - (A) Any funds expended for purposes other than the authorized activities are repaid to OKDHS.
    - (B) The room and board fund balance at the end of the fiscal year cannot exceed five percent of the total supported living revenues. Any fund balance in excess of five percent is repaid to OKDHS.
  - (2) The provider agency maintains copies of all claims, substantiating documents, and records regarding provider agency fiscal status within corporate offices in Oklahoma.
  - (3) Supported living expenditures must:
    - (A) be documented;
    - (B) not include administrative costs of the provider agency; and
    - (C) be audited annually, per OAC 340:100-3-27.5.

**340:100-5-22.6. Alternative group home**

(a) **Legal basis.** Authority to operate alternative group homes is based on the Group Homes for Persons with Developmental or Physical Disabilities Act per Section 1430.1 through 1430.41 of Title 10 of the Oklahoma Statutes (10 O.S. §§ 1430.1 through 1430.41). Administrative and program requirements for alternative group homes are described in Oklahoma Administrative Code (OAC) 317:40-5-152, this Section, and OAC 340:100-6.

(b) **General information.** Alternative group homes:

- (1) serve up to four service recipients who:
  - (A) have serious behavioral or emotional challenges or community protection issues in addition to intellectual disabilities and require continuous supervision and assistance to remain in the community; or
  - (B) were charged with a felony, determined by the district court as incompetent to stand trial due to intellectual disability, formerly known as mental retardation, and dangerous, and placed by the district court in the custody of the public guardian; and
- (2) provide for the development of skills to assist service recipients to lead healthy, independent, and productive lives to the fullest extent possible.

(c) **Provider approval criteria.** In addition to OAC 340:100-6-12 requirements, prospective providers of alternative group home services must demonstrate a history of effective services and supports to persons with serious behavioral or emotional challenges or community protection issues. Provider approval requires review of historical information, when available, from Developmental Disabilities Services (DDS) Quality Assurance Unit and area office. The DDS director or designee must approve the location of the alternative group home prior to the implementation of services. Each prospective provider submits written documentation of:

- (1) a history of services to persons who present serious behavioral or emotional challenges or community protection issues, including:
  - (A) past experience;
  - (B) number of persons served;
  - (C) provider's perspective on the greatest challenges in serving persons eligible for alternative group home services; and
  - (D) provider's philosophy for service provision;
- (2) financial viability through fiscal information when requested, including the anticipated budget related to the rate for alternative group home services;
- (3) service provision plans, including:
  - (A) anticipated number of homes;
  - (B) location;
  - (C) floor plans;
  - (D) gender to be served;

- (E) population to be served; and
- (F) availability of psychological, psychiatric, and vocational services in the proposed location;
- (4) plans for staffing and program coordination; and
- (5) staff qualifications, including any additional training to be provided.

(d) **Eligibility to receive services.** To be eligible for services in an alternative group home, the person must:

- (1) be in the custody of the public guardian per 22 O.S. § 1175.6b or 1175.6c; or
- (2) meet the criteria for an intermediate care facility for individuals with intellectual disabilities level of care; and
  - (A) require 24-hour, on-site, awake staff supervision to ensure safety; and
  - (B) be found by the DDS director or designee to have serious behavioral or emotional challenges or community protection issues, such as:
    - (i) evidence of commitment of a sexually violent offense, sexually predatory act, or crime of sexual violence including, but not limited to:
      - (I) rape;
      - (II) lewd or indecent acts or proposals made to a child, per 21 O.S. § 1123; or
      - (III) forcible sodomy, per 21 O.S. § 888;
    - (ii) history of stalking or opportunistic behavior that demonstrates a likelihood to commit a sexually violent or predatory act;
    - (iii) documented pattern of acts of violence toward others;
    - (iv) experience ongoing, highly disruptive behavioral episodes that:
      - (I) are dangerous per 22 O.S. § 1175.1; and
      - (II) require close supervision and frequent intervention by staff;
    - (v) evidence of commitment of one or more violent offenses, such as:
      - (I) murder or manslaughter;
      - (II) attempted murder;
      - (III) arson;
      - (IV) assault;
      - (V) kidnapping; or
      - (VI) use of a weapon to commit a crime; or
    - (vi) severe ongoing self-injurious behavior.

(e) **Services provided.** Services provided are designed to assist service recipients in acquiring, retaining, and improving self-help, socialization, and adaptive skills necessary to reside successfully in a home and community-based setting.

- (1) Services include supports to meet each service recipient's needs including, but not limited to:
  - (A) residential habilitation, such as assistance with the acquisition, retention, or improvement of skills related to

activities of daily living, such as:

- (i) personal grooming and cleanliness;
- (ii) bed-making and household chores;
- (iii) eating and food preparation; and
- (iv) social and adaptive skills necessary to enable the service recipient to reside in a shared home;

(B) program supervision and oversight including 24-hour availability of response staff to meet schedules or unpredictable needs in a way that promotes maximum dignity and independence, while providing for supervision and safety. In addition to requirements in OAC 340:100-6-55, program coordination staff (PCS) must:

- (i) serve no more than 18 service recipients;
- (ii) ensure staffing levels meet (1)(H) of this subsection requirements; and
- (iii) ensure records are maintained per OAC 340:100-3-40;

(C) implementation of community protection precautions and individual program plans per (f) of this Section;

(D) recreational and leisure activities, including individual and group activities;

(E) assistance in money management;

(F) health care services provided per OAC 340:100-5-26 and OAC 340:100-5-26.3;

(G) medication administration per OAC 340:100-5-32; and

(H) management of staffing levels that provides supervision to ensure the safety of the service recipient, community, staff, other service recipients, and implementation of each service recipient's Individual Plan (Plan).

- (i) An average of 14 hours of staffing per service recipient must be provided per billable day prior to filing a claim for habilitation training staff authorized per OAC 317:40-5-152.

- (I) At least two awake-staff must be on duty during daytime and evening hours when service recipients are in the home.

- (II) This requirement may be reduced to one awake-staff, when there are only one or two service recipients in the home.

- (ii) Sufficient daytime staffing must be provided to:

- (I) ensure adequate supervision in the home and community; and

- (II) implement the Plan, except during the time the service recipient is in an authorized employment, vocational, or day services program that provides the needed supervision, security, and support identified in the Plan. Staff is trained per OAC 340:100-3-38.

- (iii) At least one awake-staff must be on duty during hours when service recipients are asleep.
  - (I) The provider agency must have a provision to immediately provide additional staff in the home when the need arises.
  - (II) Staff on duty must be physically able and mentally alert to carry out the duties of the job.

- (iv) The provider must:
  - (I) have staff available to provide necessary support and supervision when the service recipient needs to return from employment or other day services;
  - (II) provide activity options and supervision during all times when the service recipient is not participating in authorized employment activities; and
  - (III) ensure effective transition and coordination of supervision between alternative group home and employment programs or other authorized absences from the alternative group home program.

(2) In addition to the services in (1) of this subsection, services for wards of the public guardian are designed to ensure the service recipient is not dangerous to self or others.

(f) **Alternative group home program requirements.** In addition to compliance with applicable Oklahoma Human Services (OKDHS) and Oklahoma Health Care Authority (OHCA) rules, the provider ensures:

- (1) staff implements security precautions protecting the service recipient, neighbors, children, vulnerable adults, animals, and others;
- (2) staff implements outcomes and action steps detailed in the Plan to assist service recipients to function safely in the community and avoid criminal activity;
- (3) collaboration and coordination occur with DDS staff, employment providers, therapists, and other entities and persons, such as law enforcement, corrections officers, schools, employers, mental health workers, and, when appropriate, the public guardian;
- (4) written provider agency policies comply with OKDHS and OHCA rules;
- (5) effective security and supervision of service recipients in the residence and community are provided;
- (6) contingency plans are developed and implemented for:
  - (A) emergency relocation of a service recipient who created a danger or who is in danger;
  - (B) emergency staffing in the event changes are required to protect staff or others;
  - (C) general emergencies requiring evacuation of the entire home, such as fire or weather emergencies, per OAC 340:100-6-45; and

(D) elopement;

(7) legal and court requirements are followed, including adherence to Oklahoma laws governing registered sexual offenders;

(8) the health care coordinator (HCC) or other knowledgeable staff accompanies the service recipient to each medical or psychiatric appointment, taking current data summaries that indicate the rate of occurrence of medication-responsive symptoms or behaviors over the last one to three months. For visits to the physician prescribing psychotropic medication, the HCC presents Form 06HM073E, Referral Form for Psychiatric Treatment or Examination, per OAC 340:100-5-26;

(9) specific offense patterns are considered and addressed when determining appropriate program locations; and

(10) any modifications to the Plan including restrictive or intrusive procedures is supported by a specific, assessed need, and justified in the person-centered plan per OAC 317:40-1-3(b).

When the Personal Support Team (Team) determines restrictive or intrusive procedures are essential for safety, the Team must develop a protective intervention protocol per OAC 340:100-5-57.

(g) **Weapons.** Dangerous or deadly weapons are not permitted in the alternative group home or on the premises. Providers are prohibited from assisting any service recipient to obtain or possess dangerous or deadly weapons including, but not limited to:

- (1) guns, BB guns, air rifles, or other firearms;
- (2) crossbows;
- (3) paint guns;
- (4) arrows;
- (5) explosives;
- (6) stun guns; and
- (7) knives, except cooking and eating utensils.

(h) **Substances and items prohibited in alternative group homes are:**

- (1) illegal substances; and
- (2) alcohol.

(i) **SoonerCare eligibility.** The service recipient and guardian, with necessary support from the provider, establish and maintain SoonerCare eligibility, when possible.

(j) **Natural supports.** Persons who agree to provide natural supports to a service recipient living in an alternative group home must:

- (1) work with the Team to develop a schedule, support strategies, and agreement for support. Each Plan contains a description of any natural support provided that ensures the safety and welfare of the service recipient and community. No arrangement is made for natural supports that violate existing court orders, security arrangements, or the Plan;
- (2) keep commitments made, regarding supports; and
- (3) document or report to the program coordinator or DDS case manager regarding supports provided.

(k) **Refusal to participate.** When a service recipient or guardian refuses to participate in service delivery described in the Plan:

- (1) the provider:
  - (A) continues to implement the Plan as written; and
  - (B) immediately notifies the DDS case manager of the need for a Team meeting;
- (2) the DDS case manager takes immediate action to convene the Team to address the situation; and
- (3) steps in OAC 340:100-3-11 are followed.

(l) **Record keeping.** In addition to requirements of OAC 340:100-3-40, records of service recipients must include documentation of:

- (1) the service recipient's registration with appropriate law enforcement authorities, when required, and documentation of subsequent registration notification to DDS;
- (2) all agreements or plans with other agencies or persons who support the service recipient, including the guardian and family members that specifies the service recipient's supervision requirements when staff is not present; and
- (3) any refusal by the service recipient to follow conditions of the Plan, protective intervention protocols, or treatment recommendations.

(m) **Training.** Staff or volunteers providing direct supports for service recipients in an alternative group home are required to complete necessary training requirements per OAC 340:100-3-38.13.

(n) **Transportation.** Providers of alternative group home services must ensure transportation is:

- (1) available as needed for medical emergencies, appointments, day programs, and community activities per OAC 317:40-5-103; and
- (2) supervised per this Section in accordance with each service recipient's needs.

(o) **Emergency temporary alternative group home supports.**

Emergency temporary alternative group home supports are described in this section. Alternative group homes may serve additional service recipients when the DDS director or designee determines he or she requires alternative group home level of care and there are no other resolutions to the emergency.

(1) When an emergency situation exists in which the Team requests temporary alternative group home supports, the case manager submits a request and justification for the services to the DDS director or designee. The request must include:

- (A) a description of outcomes the service recipient and his or her guardian desires, when appropriate, and the services and supports necessary to achieve these outcomes;
- (B) objective evidence supporting the need for the alternative group home placement; and
- (C) criteria of what must occur for the service recipient to return to a less restrictive placement

(2) Within the first two weeks of the service recipient's admission to an alternative group home, the Team develops a transition plan with action steps or methods to achieve the transition including the names of persons or provider agency positions responsible for

implementing assigned responsibilities.

(p) **Transition.** Teams plan for a service recipient's transition to appropriate services when it is determined the alternative group home program is no longer necessary.

(1) Within three months of the service recipient's admission to an alternative group home, the Team develops reasonable criteria for the service recipient's transition to a less restrictive environment that are:

(A) included in a written plan submitted to designated DDS State Office staff; and

(B) reviewed at least annually by the Team.

(2) All transitions from alternative group homes must be approved by designated DDS State Office staff. DDS State Office staff may adjust the transition date when necessary.

(q) **DDS-initiated transition.** The DDS director or designee may initiate the transition process for a person receiving alternative group home services who can be effectively served in another residential environment.

[Source: Added at 23 Ok Reg 1910, eff 6-11-06 ; Amended at 24 Ok Reg 1046, eff 5-11-07 ; Amended at 27 Ok Reg 838, eff 7-1-10 ; Amended at 28 Ok Reg 897, eff 6-1-11 ; Amended at 34 Ok Reg 1598, eff 9-15-17 ; Amended at 40 Ok Reg 1005, eff 9-15-23]

#### **340:100-5-22.7. Supplemental room and board funding for persons receiving Home and Community-Based Services (HCBS) Waivers**

(a) **Applicability.** This Section applies to services funded through Medicaid HCBS Waivers, per Oklahoma Administrative Code (OAC) 317:35-9-5, and Section 1915(c) of the Social Security Act. Specific Waivers include service recipients who receive:

(1) daily living supports, per OAC 317:40-5-150; or

(2) group home services, per OAC 317:40-5-152.

(b) **General Information.** In an effort to support participation in community life Oklahoma Human Services Developmental Disabilities Services (DDS) may supplement room and board costs for service recipients with income insufficient to meet the costs of the items listed in (b)(1)(A) through (H). Room and board costs are not a reimbursable waiver expense, per the HCBS service regulations. The provider may request a supplemental room and board payment when room and board expenses in a residential setting exceeds income. DDS State Fund supplemental payments permit a provider to be reimbursed for room and board costs beyond a service recipient's ability to pay with personal benefits income.

(1) Allowable room and board costs are actual monthly expenses that include:

(A) rent;

(B) food;

(C) housing supplies;

(D) utilities;

(E) basic cable or television;

(F) telephone;



(G) repair and maintenance that are not an obligation of another entity; and

(H) insurance.

(2) Room and board reimbursement is authorized, per OAC 340-3-33.1. When the need for a supplemental payment is expected to continue, cost effective community living arrangements are considered and documented in the Individual Plan. The supplemental room and board payment must meet all of the requirements in (A) through (E) of this paragraph.

(A) Funding to meet the service recipient's needs are not available through another source.

(B) The service recipient's room and board expenses are consistent with fair market values for properties in the general area.

(C) The supplemental payment must be necessary to support community living and must be required for other than the preference of the service recipient, family, or provider.

(D) The provider must provide detailed expenses including but not limited to mortgage detail and status. The mortgage may not be a loan with business debt that is greater than the properties fair market value or non-routine costs for non-physical plant excluding the normal escrow items such as taxes and insurance.

(E) The provider must disclose common ownership interests between the provider and mortgage holder or lessor.

(3) The service recipient's Personal Support Team (Team) ensures individuals have a minimum of \$100 of personal spending money each month unless the DDS director or designee approves a lesser amount.

(4) When possible, the Team develops a plan to resolve the room and board deficiency by identifying lower cost housing options or seeking roommates when there are additional bedrooms available.

(c) **Room and board payment.** Each service recipient contributes an amount the provider determines, not to exceed actual expenses. The service recipient retains at least \$100 a month in personal spending money. The service recipient contributes employment income to meet his or her room and board costs.

(1) To ensure Waiver funding is not used for room and board costs when the service recipient has exceptionally low income, a room and board supplement is provided. The supplement is provided when he or she:

(A) does not have adequate income to meet his or her room and board expenses;

(B) is awaiting a medical decision from the Social Security Administration for Supplemental Security income eligibility; or

(C) is unable to achieve sustained employment resulting in a room and board income deficit.

- (2) Each month the provider submits:
  - (A) OKDHS Form 06CL001E, Room and Board Supplement Claim Form, for reimbursement within three-months of the last date of service;
  - (B) an invoice with:
    - (i) the date of service;
    - (ii) a unique invoice number;
    - (iii) an itemized description of services and total amount that matches Form 06CL001E; and
    - (iv) name and address of the vendor that matches the contract name and address.
- (3) Proof of payment for all claim expenditures is included.
- (d) **Provider requirements.** The provider establishes a written financial agreement with the service recipient or legal guardian that defines the provider and service recipient's responsibilities, per OAC 340:100-5-22.1.
  - (1) The provider ensures:
    - (A) service recipient expenses accrue on a monthly basis and are actual expenses;
    - (B) the Social Security Administration is contacted to review the service recipient's benefits when his or her personal benefits are low; and
    - (C) the service recipient is employed an average of 30 hours per week. When the service recipient does not participate in 30 hours per week of employment services, the Team develops a plan to address the situation, per OAC 317:40-7-15.
  - (2) The provider notifies the DDS case manager when the service recipient's room and board, income, or expenditures change significantly.
- (e) **Service recipient requirements.** DDS may request that the service recipient reimburse OKDHS for the approved room and board expenses when he or she receives a Social Security Disability Benefits back payment. DDS may request reimbursement when:
  - (1) making the requested reimbursement does not cause the service recipient to be in debt; and
  - (2) the service recipient or his or her legal guardian completes OKDHS Form 06AD010E, Service Recipient Room and Board Reimbursement.

[Source: Added at 38 Ok Reg 586, eff 2-1-21 (emergency); Added at 39 Ok Reg 1807, eff 9-15-22 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:100-5-23. Specialized foster care contracted by individuals [REVOKED]**

[Source: Amended at 8 Ok Reg 2163, eff 5-13-91 (emergency); Amended at 9 Ok Reg 1549, eff 4-27-92 ; Amended at 11 Ok Reg 1935, eff 6-21-94 (emergency); Amended at 12 Ok Reg 1761, eff 6-12-95 ; Revoked at 16 Ok Reg 555, eff 12-31-98 (emergency); Revoked at 16 Ok Reg 1056, eff 4-26-99]

## **340:100-5-24. Adult Companion Services contracted by individuals [REVOKED]**

[Source: Amended at 11 Ok Reg 1935, eff 6-21-94 (emergency); Amended at 12 Ok Reg 1761, eff 6-12-95 ; Revoked at 16 Ok Reg 555, eff 12-31-98 (emergency); Revoked at 16 Ok Reg 1056, eff 4-26-99]

### **340:100-5-24.1. Companion Services/Adult Foster Care contracted by agency [REVOKED]**

[Source: Added at 11 Ok Reg 1935, eff 6-21-94 (emergency); Added at 12 Ok Reg 1761, eff 6-12-95 ; Revoked at 16 Ok Reg 555, eff 12-31-98 (emergency); Revoked at 16 Ok Reg 1056, eff 4-26-99]

### **340:100-5-24.2. Guidelines for Department staff for Agency Companion/Adult Foster Care programs [REVOKED]**

[Source: Added at 11 Ok Reg 1935, eff 6-21-94 (emergency); Added at 12 Ok Reg 1761, eff 6-12-95 ; Revoked at 16 Ok Reg 555, eff 12-31-98 (emergency); Revoked at 16 Ok Reg 1056, eff 4-26-99]

## **340:100-5-25. Service authorization/client services/service provisions/residential services [REVOKED]**

[Source: Amended at 8 Ok Reg 2163, eff 5-13-91 (emergency); Amended at 9 Ok Reg 1549, eff 4-27-92 ; Amended at 12 Ok Reg 429, eff 1-1-95 (emergency); Amended at 12 Ok Reg 3460, eff 7-1-95 (emergency); Amended at 13 Ok Reg 2203, eff 6-14-96 ; Revoked at 24 Ok Reg 2201, eff 6-25-07]

## **340:100-5-26. Health and wellness**

(a) **Scope and applicability.** Oklahoma Administrative Code (OAC) 340:100-5-26 applies to service recipients receiving services funded by Developmental Disabilities Services (DDS) or Home and Community-Based Services (HCBS) Waivers that promote health and well-being.

(1) Oklahoma State Department of Health (OSDH) guidelines for universal precautions, and infection control practices are used to prevent the transmission of communicable diseases.

(2) DDS staff and contract providers implement procedures to promote the health and wellness of each service recipient, including procedures related to:

- (A) accessing emergency medical intervention;
- (B) initiating first aid and cardio pulmonary resuscitation (CPR), unless a Do-Not-Resuscitate Consent Form is signed, per Section 3131.1 et. seq. of Title 63 of the Oklahoma Statutes;
- (C) promoting disease prevention;
- (D) addressing issues associated with aging;
- (E) medication administration, per OAC 340:100-5-32;
- (F) health related services, per OAC 340:100-5-26.3;
- (G) assisting the service recipient to access medical and dental services when needed; and
- (H) identifying and addressing service recipient needs, per OAC 340:100-5-50 through 340:100-5-58.

(b) **Service recipient responsibilities.**

(1) The right of a service recipient to refuse service is respected, per OAC 340:100-3-11. However the:

- (A) Personal Support Team (Team) meets to discuss the service recipient's decision;
- (B) service recipient must cooperate with eligibility assessments and provide documents necessary to continue HCBS Waiver services;
- (C) service recipient must cooperate with the case manager and provider to obtain necessary assessments and health care provider orders when assistance by a paid HCBS Waiver provider is identified in the Individual Plan (Plan); and
- (D) except as provided for in OAC 340:100-5-22.5, the service recipient is responsible for health and medical costs including:

- (i) over-the-counter medications and other medications not covered by insurance;
- (ii) health insurance co-payments;
- (iii) dental treatments and appliances not covered by dental insurance or within the allowable annual limits of the HCBS Waiver, when eligible;
- (iv) medical treatments not covered by health insurance;
- (v) dietary supplements including, but not limited to:
  - (I) vitamins; and
  - (II) herbal and dietary treatments;
- (vi) treatment supplies not medically necessary for:
  - (I) nutrition;
  - (II) incontinence;
  - (III) respirator or ventilator care;
  - (IV) decubitus care;
  - (V) catheterization;
  - (VI) health conditions; or
  - (VII) infection control; and
- (vii) treatments and supplies outside the allowable limits of the HCBS Waiver.

(2) The service recipient or his or her family assumes the responsibility for making appointments when residing in his or her own home or family home, unless a health care coordinator (HCC), per OAC 340:100-5-26(e)(3)(F), is required and identified in the Plan.

(c) **Assessment of needs.** The DDS case manager ensures an individual assessment is completed for each service recipient, per OAC 340:100-5-51.

(d) **Planning and implementation requirements.**

(1) Health and wellness support and services and the roles of various individuals are specifically noted in the service recipient's Plan, per OAC 340:100-5-50 through 340:100-5-58.

(2) For a service recipient who receives minimal services to maintain residence in his or her own home or family home or to

maintain employment, the service recipient and his or her Team determines the appropriate roles for members of the Team per applicable policy.

(3) For a service recipient who receives residential, group home, or extensive health supports to remain in his or her own home or family home or maintain employment, the Team identifies specific roles and protocols necessary to provide support as listed in (A) - (I) of this paragraph.

(A) The Team identifies desired health care outcomes or necessary supports through the Team process.

(B) Health issues identified through health care evaluations and assessments that impact the service recipient's life are incorporated and integrated by the Team into the Plan.

(C) When assessing health care services or implementation strategies involving discipline-specific services, a representative from that discipline participates in a consulting role.

(D) For service recipients who receive HCBS Waiver community residential supports or group home services, invasive procedures are reviewed by the Team, including participation from any other service provider as appropriate. Consent is assessed, per OAC 340:100-3-5.

(i) An invasive procedure is a procedure or surgery that requires moderate to deep sedation or general anesthesia, changes the service recipient's functional level following the procedure, or requires changes to the Plan.

(ii) Invasive procedures reviewed by the Team comprise both scheduled and emergency procedures.

(iii) Team review of a scheduled invasive procedure occurs prior to implementation of the proposed procedure and includes, but is not limited to, a discussion of risk, benefit, and possible alternatives. For both scheduled and emergency invasive procedures the Team assesses service and support needs to promote healing or rehabilitation.

(E) The community residential supports or group home provider is responsible for providing health care coordination.

(F) For a service recipient who requires extensive health supports to remain in his or her own home or maintain employment, the HCC is identified in the Plan when the HCC is a paid support.

(G) The Team identifies a HCC to ensure implementation and coordination of health care services for the service recipient. The HCC:

(i) is a person who has an understanding of the service recipient's health care needs and lifestyle, and may be the service recipient, service

recipient's family member, foster parent, companion, residential provider staff, or other person who is familiar with the service recipient's needs;

(ii) receives DDS required training;

(iii) documents that health concerns are addressed, monitored, and communicated;

(iv) supports the person to directly communicate to the health care provider the reason for the medical consultation whenever possible, or communicate on the service recipient's behalf;

(v) keeps the health care provider advised of medical status and data regarding any target symptoms;

(vi) communicates health care provider orders to core Team members and other service providers as appropriate;

(vii) presents Form 06HM005E, Referral Form for Examination or Treatment, for HCBS Waiver recipients to the health care provider at the time of the visit ensuring:

(I) Form 06HM005E is completed by the HCC prior to the visit; and

(II) the health care provider completes a short written summary of the findings;

(viii) presents Form 06HM073E, Referral Form for Psychiatric Examination or Treatment, for HCBS Waiver recipients to the psychiatric health care provider at the time of the visit ensuring:

(I) Form 06HM073E is completed by the HCC prior to the visit; and

(II) the psychiatric health care provider completes a short written summary of the findings; and

(ix) when employed by a contract provider, the employer develops and implements a procedure to ensure appropriate backup if the HCC is unable, for any reason, to perform these duties.

(H) For service recipients who receive HCBS Waiver community residential supports or group home services, the DDS case manager submits a referral for a clinical pharmacist review:

(i) when requested by a Team member or clinician participating with the Team;

(ii) when a review performed by the assigned DDS case manager or nurse determines a referral is indicated;

(iii) annually or as needed when the service recipient:

(I) receives five or more routine medications;

(II) is experiencing potential medication-related issues not resolved through other medical intervention;

(III) uses a p.r.n. medication routinely for more than three months with an average use of three per week or 10 per month;

(IV) takes two or more psychotropic medications, per OAC 340:100-5-26.1; or

(V) takes three or more anticonvulsant medications; or

(iv) when a service recipient receives an order for a medication administered p.r.n for behavioral control, per OAC 340:100-5-26.1.

(I) The Team meets to review pharmacy recommendations within 30-business days of receipt of a completed clinical pharmacy review.

(J) For service recipients who receive community residential supports or group home services and are hospitalized the DDS case manager identifies preventative measures, and reviews needed services and supports.

When the service recipient is admitted to a:

(i) non-psychiatric hospital the Team holds a discharge planning meeting; or

(ii) psychiatric facility a review is completed, per OAC 340:100-5-57. A Team meeting is held if changes to the Plan are identified.

**(e) Implementation procedures for HCBS Waiver skilled nursing services.**

(1) Skilled nursing services are implemented, per OAC 317:30-5-390 through 317:30-5-393.

(2) Community service workers are trained and carry out implementation strategies addressing health care outcomes.

(3) Accurate and current medical and program information is maintained in the home record by the residential provider and is available for review by authorized Oklahoma Human Services staff.

**(f) Case management monitoring responsibilities for HCBS Waiver service recipients.**

(1) The case manager monitors implementation of the Plan, per OAC 340:100-5-52 and 340:100-3-27.

(2) For the purpose of monitoring and evaluation, designated DDS staff has access at all times to the service recipient's medical and programmatic information.

(3) The case manager monitors the service recipient's access to medical and dental services.

(4) The case manager may assist the service recipient in locating health care providers.

### **340:100-5-26.1. Psychotropic medication**

(a) Oklahoma Administrative Code (OAC) 340:100-5-26.1 applies to service recipients receiving:

- (1) community residential supports per OAC 340:100-5-22.1;
- (2) group home services per OAC 340:100-6; or
- (3) behavioral supports in Level D group homes.

(b) A psychotropic medication is a drug used to treat a mental disorder or any drug prescribed to stabilize or improve mood, mental status, or behavior per OAC 340:100-1-2.

(c) Medication is not used as punishment, for staff's convenience, as a substitute for a program, or in quantities that interfere with a service recipient's participation in programming.

(d) The service recipient's Personal Support Team (Team) obtains a description of data to be collected to evaluate the psychotropic medication's effectiveness, from the prescribing healthcare provider.

(1) The Team:

- (A) identifies a method for collecting necessary data; and
- (B) specifies a routine method for reporting this data to the prescribing healthcare provider.

(2) When psychotropic medication is changed, the Team obtains new instructions for additional or different data needed to evaluate the effectiveness of the new medication, from the prescribing healthcare provider.

(e) The Team monitors for side effects, such as tardive dyskinesia per OAC 340:100-5-29.

(f) The Team reviews the use of psychotropic medication annually during the individual planning process per OAC 340:100-5-53.

(g) The Team must develop a protective intervention protocol per OAC 340:100-5-57 to address behavioral symptoms being treated by the psychotropic medication.

(h) Developmental Disabilities Services (DDS) defines the use of p.r.n. medication for behavioral control to be a highly-restrictive procedure per OAC 340:100-3-34. Medication is considered for behavioral control when it is prescribed to achieve a desired behavioral outcome. When a medication is ordered to be administered p.r.n. for behavioral control:

(1) the Team:

- (A) ensures there is a specific, written protocol for the administration of the p.r.n. medication from the prescribing healthcare provider as part of a protective intervention protocol per OAC 340:100-5-57;
- (B) notifies the DDS director of pharmacy services and requests a pharmacy review within five-business days; and
- (C) meets to incorporate the protocol in the individual plan within 30-calendar days; and

(2) the contract provider agency staff follows critical incident reporting requirements per OAC 340:100-3-34.



[Source: Added at 19 Ok Reg 2948, eff 8-1-02 (emergency); Added at 20 Ok Reg 936, eff 6-1-03 ; Amended at 25 Ok Reg 986, eff 5-15-08 ; Amended at 28 Ok Reg 897, eff 6-1-11 ; Amended at 35 Ok Reg 1698, eff 9-17-18 ; Amended at 40 Ok Reg 1005, eff 9-15-23]

### **340:100-5-26.2. End-of-life issues**

(a) **Purpose.** Rules in this Section are established to support the decisions of persons receiving services from Developmental Disabilities Services (DDS) regarding end-of-life issues. DDS affirms life and regards dying as a normal process. DDS encourages each person to fully exercise his or her rights and make decisions about end-of-life issues that allow the person to live with dignity and comfort.

(b) **Applicability.** Rules in this Section apply to DDS staff and contracted service providers licensed or funded through DDS Home and Community-Based Services Waivers or DDS state services and serve a person who is certified by a physician to be terminally ill. A person is considered terminally ill when he or she has a medical prognosis of life expectancy of six months or less.

(c) **End-of-life services.** When a person is diagnosed by a physician with a terminal illness, referred for hospice services, or a Do-Not-Resuscitate Consent Form is signed per Section 3131.1 et.seq. of Title 63 of the Oklahoma Statutes, the case manager holds a Personal Support Team (Team) meeting within five working days to review the person's needs, services, and supports.

(d) **DDS Case manager responsibilities.** When the person, guardian, or next of kin elects hospice care, the case manager:

- (1) identifies resources, including funding available, prior to selection of a hospice provider;
- (2) notifies the DDS state office programs administrator or designee and assigned DDS nurse, when applicable, that hospice care is elected;
- (3) arranges to meet with Team members and the hospice provider to develop a treatment plan;
- (4) integrates the hospice treatment plan into the Individual Plan (Plan) and amends the plan of care to terminate services no longer needed and add needed services; and
- (5) ensures DDS does not duplicate services provided by hospice.

(e) **DDS nurse role.** When the person, guardian, or next of kin elects hospice care, the DDS nurse is available, upon request, to:

- (1) assist the Team with identification of available hospice providers; and
- (2) assist hospice and residential providers to ensure medications are administered per Oklahoma Administrative Code (OAC) 340:100-5-32.

[Source: Added at 20 Ok Reg 1078, eff 4-10-03 (emergency); Added at 21 Ok Reg 888, eff 4-26-04 ; Amended at 38 Ok Reg 2317, eff 9-15-21]

### **340:100-5-26.3. Health-related services**

(a) **Scope and applicability.** The rules in this Section apply to persons with mental retardation who:

- (1) receive Home and Community-Based Waiver Services or state-funded Developmental Disabilities Services Division (DDSD) services; and
- (2) have a need for health-related service or supportive assistance that the Personal Support Team (Team) has identified according to OAC 340:100-3-33.1 and 340:100-5-50 through 340:100-5-58.

(b) **Supportive assistance.** Supportive assistance services are those services rendered to a person with developmental disabilities that are sufficient to enable the service recipient to meet an adequate level of daily living. Supportive assistance services include:

- (1) training;
- (2) supervision;
- (3) assistance in housekeeping;
- (4) assistance in the preparation of meals; and
- (5) assistance in activities of daily living (ADLs) as necessary for the health and comfort of the service recipient. ADLs include those personal care and normal routine activities in a person's life that provide for the health and comfort of the service recipient.

(c) **Health-related services.** Health-related services are those services provided by community service providers or community service workers, direct support staff, to persons with developmental disabilities that include, but are not limited to:

- (1) mobility and transferring including, but not limited to:
  - (A) prosthetics application;
  - (B) splint application; and
  - (C) positioning and comfort;
- (2) range of motion; and
- (3) basic nursing care.
  - (A) Basic nursing care includes:
    - (i) taking temperature, pulse, and respiration;
    - (ii) positioning;
    - (iii) incontinent care; and
    - (iv) identification of signs and symptoms of disease.
  - (B) Other basic nursing care tasks that may be performed by direct support staff if the staff member has completed appropriate training provided or approved by the Oklahoma Department of Human Services (OKDHS), the service recipient's Team has agreed in writing to the performance of the task, and the service recipient's physician has given acknowledgement and a specific order related to the task are:
    - (i) nutrition, including but not limited to:
      - (I) instilling medications or nutrition through a gastrostomy tube or jejunostomy tube;
      - (II) maintenance of the tube and the site; and
      - (III) fluid support, including documentation of intake and output;
    - (ii) blood and urine dip stick glucose monitoring;
    - (iii) hygiene including, but limited to:

- (I) stoma care;
- (II) ostomy bag care;
- (III) wound care, non-sterile dressing changes; and
- (IV) oral and dental care including suctioning;
- (iv) elimination including, but not limited to:
  - (I) application of external catheter;
  - (II) administration of enema; and
  - (III) stool and urine collection; and
- (v) health and safety needs including, but not limited to:
  - (I) pulse oxygen reading for data collection and reporting of signs and symptoms or concerns to a health professional;
  - (II) suctioning of the opening of a tracheostomy tube;
  - (III) administration of oral metered dose inhalers and nebulizers;
  - (IV) non-sterile catheterization;
  - (V) oxygen administration;
  - (VI) chest physiotherapy and positioning for postural drainage; and
  - (VII) vagal nerve stimulator activation.

**(d) Provision of health related services and supportive assistance services.** The service recipient's Team develops a Plan of Care that incorporates the service recipient's needs, based on the physical status review (PSR) as described in OAC 340:100-5-26, professional evaluations, and team recommendations.

- (1) Each community service worker completes competency-based classroom training and any individual-specific training as specified in OAC 340:100-3-38.
- (2) When a licensed professional trains specific tasks to a community service worker, the licensed professional monitors and supervises that community service worker in accordance with the professional's licensing requirements.
  - (A) The licensed professional validates the community service worker's ability to safely and accurately perform the specific health-related service through documented hands-on return demonstration.
  - (B) The licensed professional who is responsible for the service or task must:
    - (i) assess the service recipient's care needs prior to the competency-based training and delegation;
    - (ii) develop a service plan;
    - (iii) using prudent judgment, make the final decision as to which services are trained or delegated, within the specific scope of the licensed professional's judgment;
    - (iv) implement the plan; and
    - (v) evaluate the outcome of the services.

(C) The degree of supervision required must be determined by the licensed professional after evaluation of appropriate factors involved, including but not limited to, the:

- (i) stability of the condition of the service recipient;
- (ii) training and capability of the community service worker;
- (iii) nature of the task; and
- (iv) proximity and availability of the licensed professional to the community service worker when performing the task.

(3) The community service worker's performance of health-related and supportive assistance services is monitored and supervised by the identified community worker's employing community services provider agency.

(e) **Quality assurance.** Quality assurance procedures in the provision of health-related services are detailed in this subsection.

(1) The DDS registered nurse's (RN) health review provides monitoring to determine if the health and comfort needs of a service recipient are met in accordance with the service recipient's identified health concerns. The DDS RN health review identifies problems and makes recommendations to the provider agency and the case manager for appropriate action, including the problem resolution process described in OAC 340:100-3-27, if necessary.

(2) DDS Quality Assurance staff monitor services in accordance with OAC 340:100-3-27.

[Source: Added at 23 Ok Reg 1026, eff 5-11-06]

### **340:100-5-27. Skilled nursing services**

The DHS provides skilled nursing services in the community to those individuals determined to be in need of such services as a result of the interdisciplinary team process. These services will be provided contingent upon availability of adequate resources.

(1) The skilled nursing services provided include but are not limited to:

- (A) Continuous, consistent and accurate assessments documenting any changes in the patients physical or mental status;
- (B) Reports of all significant observations or changes in physical or mental status or needs of the individual and maintenance of the plan of care based on these reports;
- (C) Administers medication only as ordered and specified by the attending physician;
- (D) Documentation of medication administration, responses, adverse reactions or explanations;
- (E) Current and accurate medication records;
- (F) Current and daily documentation of individual's status and duties as outlined in the nurse care plan;

- (G) Annual nursing assessments and any needed interim written nursing assessments;
  - (H) Implementation of written plan of care;
  - (I) Consistently high standards of professionalism and initiative contributing to the quality of care; and
  - (J) Leadership, supervision, training, motivation and initiative.
- (2) Skilled Nursing Services shall be rendered in such a manner as to provide the individual as much autonomy as possible.
- (3) These services shall be flexible and responsive to changes in the individual's needs.
- (4) Providers are expected to participate in annual interdisciplinary meetings and other team meetings as required.
- (5) The skilled nursing services providers must insure consistent high quality of care.
- (6) The provider must provide supervision and services as identified in the Individual Habilitation Plan.
- (7) The provider must provide continuous services as prescribed in the plan of care.
- (8) Appropriate supervisory staff shall be available to oversee the provision of Skilled Nursing Services.
- (9) Service providers shall be Registered or Licensed Practical Nurses Who are graduates of an accredited school of nursing and currently licensed to practice in the State of Oklahoma. They should demonstrate an understanding and appreciation of individuals with mental retardation. They must be a mature and stable individual, free of any communicable disease and physically able to perform all duties appropriate to their profession.
- (10) The provider must notify case manager or other appropriate representatives of the Department in the case of an emergency. Emergencies warranting notification of the Department shall include, but not be limited to:
- (A) fire,
  - (B) storm damage,
  - (C) death,
  - (D) missing persons, and
  - (E) other critical incidents which would cause a significant disruption of services.

[Source: Added at 8 Ok Reg 2163, eff 5-13-91 (emergency); Added at 9 Ok Reg 1549, eff 4-27-92]

### **340:100-5-28. Community health services [REVOKED]**

[Source: Added at 9 Ok Reg 2215, eff 5-18-92 (emergency); Added at 10 Ok Reg 1403, eff 4-26-93 ; Amended at 10 Ok Reg 2505, eff 5-24-93 (emergency); Revoked at 11 Ok Reg 177, eff 10-11-93 (emergency); Revoked at 11 Ok Reg 2303, eff 5-26-94]

### **340:100-5-29. Monitoring for tardive dyskinesia**

(a) **Scope and applicability.** Developmental Disabilities Services (DDS) provides training for staff to regularly assess, monitor, and inform service recipients who are at risk for tardive dyskinesia (TD). Monitoring for TD

applies to all service recipients who receive medication associated with a risk of TD. Providers of residential services funded by Oklahoma Human Services DDS or Oklahoma Health Care Authority have primary responsibility for implementation of OAC 340:100-5-29. Providers of other types of supports inform service recipients and encourage the implementation of OAC 340:100-5-29. Providers are required to meet standards per OAC 340:100-3-27. Service recipients:

- (1) prescribed medication associated with a risk of developing TD are regularly assessed and monitored for symptoms of TD. The service recipient who is prescribed such medication, parent(s) of a minor service recipient, or, if applicable, service recipient's legal guardian is regularly informed about the risk of TD;
- (2) assessed with signs or symptoms of TD are referred to the prescribing healthcare provider for further evaluation;
- (3) diagnosed with TD by a healthcare provider, parent(s) of a minor service recipient, or, if applicable, legal guardian are informed of the diagnosis; and
- (4) diagnosed with TD continue to receive regular assessments and monitoring regarding the status of the diagnosis.

(b) **Assessment and monitoring requirements.** A trained rater or the prescribing healthcare provider or designee complete assessments using a standardized assessment scale. The Dyskinesia Identification System: Condensed User Scale (DISCUS) is the preferred assessment scale. DDS trains staff service providers identify to be DISCUS raters at no charge to the service provider. Identified staff may be contract staff or employees of the service provider. When rater training is needed, the service provider notifies DDStraining staff.

- (1) Service provider staff maintains information about service recipient exposure to medication associated with a risk of developing TD.
- (2) Copies of assessment scales completed by provider staff, or documentation of assessment completion by a healthcare provider or designee, are filed in the service recipient's record per OAC 340:100-3-40.

(c) **Service recipients requiring assessments.** Service recipients:

- (1) with an unknown history of medication exposure receive an initial DISCUS assessment. When the initial assessment:
  - (A) has a total score less than five, further assessments are not needed; or
  - (B) has a total score of five or more, items in (i) and (ii) must occur.
    - (i) A referral is made to the prescribing healthcare provider for additional evaluation.
    - (ii) Assessments continue to be completed every six months until a DISCUS score less than 5 is obtained. The assessment is repeated in one month and, if the score remains less than 5, further assessments are not needed;
- (2) who are prescribed medication that may cause TD are assessed before medication is started or within 30-calendar days of medication initiation.

(A) Service recipients are routinely assessed every six months while receiving medication associated with a risk of TD.

(B) Assessments may be done more frequently if medications are changed or side effects are suspected or identified;

(3) who have medications discontinued which are associated with a risk of TD are assessed monthly as described in (A) through (C) of this paragraph.

(A) After four months with DISCUS scores of 5 or greater, monthly assessments are stopped, and assessments are repeated every six months.

(B) If a DISCUS score less than 5 is reported, assessments are completed monthly until two additional scores less than 5 are reported.

(C) After two, assessments with a score less than 5 are reported, assessments are discontinued.

(4) who have medications introduced again that may cause TD are monitored according to OAC 340:100-5-29.

[Source: Added at 10 Ok Reg 2505, eff 5-24-93 (emergency); Added at 11 Ok Reg 2303, eff 5-26-94 ; Amended at 23 Ok Reg 1026, eff 5-11-06 ; Amended at 25 Ok Reg 986, eff 5-15-08 ; Amended at 40 Ok Reg 1005, eff 9-15-23]

### **340:100-5-30. Adult day care**

(a) Adult day care services are provided for eligible individuals 18 years of age or older who were certified on or before February 29, 2000, in a sheltered workshop under a day care provider contract administered by the Family Support Services Division. New individuals will not be added to the program.

(b) Day care services are provided for adults to:

- (1) enable the person's usual caretaker to receive education or training, or to obtain or retain employment;
- (2) provide special training and supervision to adults with developmental disabilities;
- (3) provide a protective environment when necessary;
- (4) enable the person with mental retardation to experience a social development process not available in the home; or
- (5) help prevent unnecessary institutionalization.

(c) The adult day care plan in the person's Individual Plan:

- (1) describes needs of the person receiving services;
- (2) defines how day care staff will meet the identified needs;
- (3) describes how the individual will arrive at and depart from the facility; and
- (4) includes a notation of the person's specific diet, if applicable, and that the facility is able to provide the diet.

(d) Services are monitored as a part of the routine sheltered workshop surveys described in OAC 340:100-3-27, Quality Assurance.

(e) The rate paid is not to exceed \$10 per day per individual for more than four hours of attendance per day and \$6 per day per individual for four hours or less of attendance per day.

[Source: Added at 17 Ok Reg 2464, eff 7-1-00]

### **340:100-5-31. [RESERVED]**

[Source: Reserved at 19 Ok Reg 2948, eff 8-1-02 (emergency); Reserved at 20 Ok Reg 936, eff 6-1-03]

### **340:100-5-32. Medication administration**

(a) **Purpose.** OAC 340:100-5-32 sets forth requirements that enable service recipients to receive medication in the safest possible manner.

(b) **Applicability.** OAC 340:100-5-32 applies to Developmental Disabilities Services Division (DDSD) staff and service providers who are contracted, licensed, or funded through a Home and Community-Based Services Waiver or DDSD state funds and their employees who administer medication or assist with a medication support plan for a service recipient receiving community services, including employment service providers.

(c) **General requirements.** Administration of medication is managed in accordance with applicable Oklahoma Department of Human Services (OKDHS) rules and federal and state laws.

- (1) Every service recipient is free from unnecessary use of medication.



- (2) No medication is used for the convenience of staff or as a substitute for positive supports or program.
- (3) Use of psychotropic medications and associated medication reviews must follow requirements per OAC 340:100-5-26.1.
- (4) Form 06MP046E, Incident Report, and follow-up must be completed when a medication event occurs, per OAC 340:100-3-34. The service recipient's Personal Support Team (Team) reviews all medication incident reports and revises the service recipient's medication support plan when needed.

(d) **Individual medication support plan.** Each service recipient's Team may develop an individual medication support plan to identify participation by the service recipient in his or her medication administration and specify supports needed by the service recipient for administering, storing, and monitoring medication.

(1) The Team completes an assessment that identifies the service recipient's demonstrated ability to:

- (A) understand and follow medication label directions;
- (B) properly identify the medication;
- (C) remember to take the medication at the correct time;
- (D) take the correct dosage;
- (E) administer his or her medication without supervision;
- and
- (F) demonstrate ability to address problems, including asking staff for help.

(2) The Team may develop a medication support plan if the service recipient desires training in administering his or her medication, individualization of the medication support program, or both.

(A) The service recipient's medication support plan ensures the service recipient's involvement, together with the designed supports implemented by staff, result in a safe program of medication administration.

(B) The Team revises the medication support plan to provide safety and meet the service recipient's medication support needs if a medication change or monitoring by the DDS case manager, program coordinator, nurse or quality assurance staff, or other person reveals a concern with the service recipient's medication supports.

(C) The provider is responsible to ensure:

- (i) the medication support plan clearly specifies staff responsibilities in the administration of medication; and
- (ii) staff implements the medication support plan as developed by the Team.

(D) The service recipient's medication support plan may address either or both of:

- (i) the service recipient's administration of his or her medication. If the service recipient is not independent per OAC 340:100-5-32(d)(1), and he or she desires to achieve greater independence in medication administration, the medication support

plan documents:

- (I) service recipient's ability to administer medication;
- (II) staff assistance that must be provided;
- (III) any adaptations or reminder systems used;
- (IV) documentation requirements to ensure accountability;
- (V) monitoring requirements, including compliance with requirements of the medication review process per OAC 340:100-5-26; and
- (VI) staff responsible for implementation and monitoring of the medication training program; or

(ii) modifications to the medication administration responsibilities of staff, per OAC 340:100-5-32(e).

(E) Each medication support plan must address medication safety issues affecting each household member.

(e) **Medication administration.** Items (1) through (9) must be implemented unless the service recipient's medication support plan identifies a specific alternative. The service recipient's medication support plan may modify only those rules that state the plan may address an exception.

(1) **Prescription medication.** Prescription medication, per OAC 340:100-1-2, is administered or used only with a written order by a licensed physician, dentist, advanced practice nurse, physician assistant, or optometrist.

(A) Prescription medication must only be administered to or used by the service recipient for whom the medication is ordered.

(B) All prescription medication is clearly labeled with:

- (i) first and last name of the service recipient for whom the medication is prescribed;
- (ii) prescribing physician's name;
- (iii) prescription number;
- (iv) name of medication;
- (v) strength of medication;
- (vi) dosage;
- (vii) directions for use;
- (viii) date of issue;
- (ix) quantity; and
- (x) name, address, and phone number of pharmacy or physician who dispensed the medication.

(C) All labels on containers must be legible and firmly affixed by the pharmacy or ordering physician.

(D) No one is permitted to alter the label on a prescription container.

(i) If a medication dosage change is made by the physician:

(I) the container must be flagged or prominently identified; and  
(II) a label change must be made by the dispensing pharmacy or doctor within three business days of receiving the prescription change. If the service recipient uses a system of medication supply that precludes meeting the three-day requirement, that requirement may be modified in the service recipient's medication support plan.

(ii) The container may be marked or otherwise adapted to support a service recipient's independence as described in the medication support plan.

(E) Sample medications must be:

(i) accompanied by a physician's written order including the length of time the medication is to be taken;

(ii) labeled with the service recipient's name; and

(iii) used for no longer than 30 days, unless reviewed prior to the end of the 30 days by the DDS nurse and case manager, per OAC 340:100-5-26.

(F) Prior to the initial administration, if the medication name on the doctor's order and the generic or trade name of the medication on the label are different, staff responsible for medication administration documents on the medication administration record the reason for the difference and source of the information.

(G) At an employment site, the labeled pharmacy container is considered the written order for a prescription medication.

(2) **Medication count.** Each prescription medication must be documented upon receipt from the pharmacy, and an inventory record maintained.

(A) All new or refilled prescription medication must be:

(i) counted upon receipt, following infection control procedures, unless the service recipient's medication support plan defines another method of inventorying new medication; and

(ii) documented in the service recipient's medication record noting the reason for which the medication is prescribed.

(B) Each prescription medication is counted, following infection control procedures, and documented at least weekly. The service recipient's medication support plan may provide for counting at least monthly. Specialized foster care (SFC) and agency companion services (ACS) providers count and document prescription medications at least monthly.

(C) Any staff responsible for administering, storing, monitoring or documenting controlled medications, listed in Schedule II of the current Oklahoma Bureau of Narcotics and Dangerous Drugs (OBNDD) schedule, is required to count and document controlled medications each time the responsibility for medication administration is transferred to another person, but at least monthly.

(D) Any discrepancy in the medication count must be reported immediately to the program coordinator, and then followed up with an incident report per OAC 340:100-3-34. A SFC provider reports the discrepancy to the DDS case manager and completes Form 06MP046E.

(3) **Non-prescription medication.** Approval for a service recipient to use or be administered a non-prescription medication, per OAC 340:100-1-2, is received in writing at least annually from the service recipient's primary care physician.

(A) Items used for personal care or hygiene are not considered medications.

(B) The service recipient's medication record must document:

- (i) condition for which the non-prescription medication is used;
- (ii) dosage;
- (iii) frequency with which the non-prescription medication may be administered; and
- (iv) any specific instructions related to the medication.

(C) Each non-prescription medication must have the service recipient's name clearly marked on the container when more than one service recipient lives in the home or works at the employment site.

(D) Administration of a non-prescription medication does not differ from the recommended dosage as noted by package directions, unless ordered in writing by a licensed physician, dentist, advanced practice nurse, physician assistant, or optometrist.

(4) **Medication storage.**

(A) All medications must be:

- (i) secured under proper conditions of temperature and light; and
- (ii) kept in a locked medication area, unless the service recipient's medication support plan specifies other storage arrangements.

(B) Each provider agency is responsible for developing and enforcing written policies that ensure medication security in the absence of a service recipient medication support plan.

(C) Schedule II medications, per current OBNDD schedule, must be secured separate from other medications.

(D) Medication requiring refrigeration must be:

- (i) secured, unless this requirement is modified in the service recipient's medication support plan;
- (ii) kept in the temperature range according to label directions; and
- (iii) separated from food and other non-drug items.

(E) Hazardous or dangerous materials must not be kept in the secured medication area.

(F) Each service recipient's medication must be stored separately from the medication of other persons.

(G) Externally applied medications must be stored separately from medications taken internally.

(5) **Medication administration.** Only staff who complete an approved training program in medication administration per OAC 340:100-3-38 are permitted to administer medications.

(A) Staff responsible for medication administration must personally:

- (i) read the medication label;
- (ii) prepare the dosage;
- (iii) give the medication as ordered;
- (iv) observe the person using the medication as ordered; and
- (v) document the medication administration immediately, but no longer than 30 minutes after administration.

(B) The person responsible for medication administration must know the purpose for each medication administered.

(C) All medications must be administered according to label directions unless flagged, prominently identified, for change in accordance with OAC 340:100-5-32(e)(1)(D). A medication with a flagged container is administered according to the change made on the medication sheet in accordance with the physician's orders.

(D) No contract provider or DDS staff is permitted to transfer medications from the original container to any other container. The service recipient's medication support plan cannot modify this requirement.

(E) The ultimate user may transfer medication from one container to another container that clearly identifies the medication, in accordance with criteria established in the service recipient's medication support plan. The ultimate user is:

- (i) the service recipient for whom the medication is prescribed, if assessed by the Team as able to carry out each step in OAC 340:100-5-32(d)(1);
- (ii) an adult member of the service recipient's family, as identified in the medication support plan;
- (iii) the service recipient's SFC provider; or
- (iv) the service recipient's ACS provider.

(F) No one, other than the ultimate user who transferred the medication to the new container, is allowed to administer medications transferred from the original

container. The service recipient's medication support plan cannot modify this requirement.

(G) Each medication must be administered at the specified time.

(i) When circumstances prevent administration at the specified time, the medication must be administered no more than one hour before or after the specified administration time.

(ii) Any time medication is administered more than one hour before or after the scheduled administration time, Form 06MP046E is completed according to OAC 340:100-3-34.

(iii) Orders requiring medication administration two, three, or four times a day, unless specific times are ordered by the physician, must be evenly spaced through the day and are required to accommodate the service recipient's schedule.

(H) The person administering medication must be able to access information to identify common side effects of the medication administered.

(I) If there is an adverse reaction, a significant change in behavior, or any other significant indication of a problem that may be related to medication currently administered to or by a service recipient, immediate action and notification is required according to written provider agency protocols.

(6) **p. r.n.medications.** Medication prescribed on a p.r.n. basis must have a physician's order identifying the medication, amount, route, time requirements, and under what circumstances the medication is administered.

(A) The decision to actually administer a p.r.n. medication, except per OAC 340:100-5-32(e)(6)(C), must be made by the service recipient's health care coordinator unless another person is designated by the Team in the medication support plan.

(B) The results or the service recipient's responses to p.r.n. medications must be documented for the physician to determine whether continuation of the medication is required.

(C) DDS defines the use of p.r.n. medication for behavioral control to be a highly restrictive procedure per OAC 340:100-3-34. In cases where a medication is ordered to be administered p.r.n. for behavioral control, the service recipient's Team ensures there is a written protocol for the administration of the p.r.n. medication from the prescribing physician as part of the protective intervention planning per OAC 340:100-5-57, and contract provider agency staff will follow critical incident reporting requirements per OAC 340:100-3-34.

(D) Service recipients receiving Hospice services are exempt from the requirements for p.r.n. medications per

OAC 340:100-5-32.

(7) **Medication documentation.** An accurate written record of the administration of the service recipient's medication or implementation of the service recipient's medication support plan must be maintained.

(A) Unless the service recipient is independent in medication administration per OAC 340:100-5-32(d)(2)(D)(i), the service recipient's medication administration record must specify:

- (i) service recipient's first and last name;
- (ii) name and strength of the medication as written on the label;
- (iii) dosage and frequency to be administered;
- (iv) date and time medication is administered, including a.m. or p.m. for each entry;
- (v) service recipient's medication allergies and other known allergies;
- (vi) results or the service recipient's response to p.r.n. medications and other treatment;
- (vii) name of person administering the medication or implementing the medication support plan, or initials supported by signature;
- (viii) route of administration, if specified on the label;
- (ix) any special orders about the timing of the medication administration, if specified on the label; and
- (x) reason for the medication's use, if specified on the label.

(B) If the service recipient is independent in medication administration per OAC 340:100-5-32(d)(2)(B)(i), the medication support plan documents monitoring and documentation needs.

(8) **Medication away from home.** When a service recipient goes on an outing, vacation, home with family, or otherwise leaves the location where he or she typically takes medication, accountability for the medication is maintained.

(A) When medication is taken from the location:

- (i) the documented medication count confirms the amount of medication taken and returned, with signatures of the responsible party receiving the medication and staff responsible for medication administration who releases the medication;
- (ii) any discrepancy in the count is documented on Form 06MP046E, and any necessary action is taken; and
- (iii) medication is sent from the home and returned to the home only in the original container.

(B) The ultimate user, per OAC 340:100-5-32(e)(5)(E), may remove medication from the location in the original container or another container that fully identifies the

medication, if the ultimate user also administers the medication.

(C) Although the medication administration record is not removed, medication administration or implementation of the medication support plan is documented while away from the home.

**(9) Discontinued medication, expired medication, and medication destruction.**

(A) Discontinued medication:

- (i) may be kept up to 90 days, unless the time period is adjusted in the service recipient's medication support plan; and
- (ii) must be secured separately from current medications.

(B) Expired or discontinued medications are safely disposed of in compliance with provider agency policy, Environmental Protection Agency recommendations, local, state, and applicable federal requirements.

(C) Scheduled medication are disposed of in compliance with OBNDD and Oklahoma State Bureau of Investigation requirements.

(D) When a service recipient dies, unused medication is kept for at least 30 days or longer if part of an ongoing investigation.

(E) The provider agency develops and enforces written policy regarding the disposal of any medication without an expiration date.

[Source: Added at 19 Ok Reg 2948, eff 8-1-02 (emergency); Added at 20 Ok Reg 936, eff 6-1-03 ; Amended at 25 Ok Reg 986, eff 5-15-08 ; Amended at 28 Ok Reg 897, eff 6-1-11]

**340:100-5-33. Medication events**

(a) Contract provider staff completes Form 06MP046E, Incident Report, when there is a medication event per OAC 340:100-3-34.

(b) The service recipient's health care coordinator completes a monthly summary of medication events on Form 06HM006E, Health Status and Medication Review.

(c) The Developmental Disabilities Services Division (DDSD) registered nurse (RN) health review:

- (1) provides oversight to determine whether the service recipient's health care needs are met in accordance with the service recipient's identified health concerns; and
- (2) identifies problems and makes recommendations to the provider agency and DDSD case manager for appropriate action.

(d) DDSD quality assurance staff:

- (1) monitors medications in person-centered evaluations and annual contract surveys;
- (2) may conduct administrative inquiries of medication events; and
- (3) notifies the provider agency and DDSD case manager of problems identified, for appropriate action.



(e) Provider agencies develop and maintain internal policies and procedures that must meet the approval of DDSD Medical Services Unit for the review and reporting of medication events.

(f) Providers failing to effectively correct identified problems with medication events are subject to sanction procedures per OAC 340:100-3-27.2.

(g) At least annually, DDSD Medical Services Unit compiles, reviews, and analyzes data on medication events and makes recommendations to the DDSD director and other appropriate program areas.

[Source: Added at 19 Ok Reg 2948, eff 8-1-02 (emergency); Added at 20 Ok Reg 936, eff 6-1-03 ; Amended at 25 Ok Reg 986, eff 5-15-08]

### **340:100-5-34. Services for persons with Prader-Willi Syndrome (PWS)**

(a) **Legal basis.** Section 1020 of Title 56 of the Oklahoma Statutes authorizes the Oklahoma Department of Human Services (DHS) to provide community services for persons with PWS.

(b) **Applicability.** The rules in this Section apply to services provided through (DHS) and Developmental Disabilities Services (DDS) to persons with PWS through funds appropriated by the Oklahoma Legislature.

(c) **General information.** Services for persons with PWS are intended to meet the service recipients' specialized needs. DHS provides a monthly payment to the contracted-residential provider to:

- (1) ensure each service recipient participates in regular recreation, leisure, and exercise activities at home and in the community;
- (2) provide program coordination staff who serve no more than 12 service recipients within a 40-mile radius. The program coordinator must visit each home at least four times per month when the service recipient is present, and one of the visits must occur during night-time hours;
- (3) assess the service recipient's progress and challenges related to activities of daily living and safety and provide a written summary to the case manager 30-calendar days prior to the annual Individual Plan (Plan) meeting;
- (4) ensure program coordination staff attend an annual PWS conference and provide the direct service staff at least one hour per month of PWS-related training;
- (5) ensure service recipients are provided specialized diets, per his or her Plan;
- (6) ensure the service recipient's exercise program is implemented and he or she is provided access to exercise equipment and classes, per his or her Plan;
- (7) work with the service recipient and his or her team to develop a plan to replace property damaged by a service recipient at no cost to DHS;
- (8) assist service recipients to conduct safety and evacuation drills, per Oklahoma Administrative Code (OAC) 340:100-5-22.1; and

(9) ensure the service recipient's home is safe and secured, per his or her plans.

(d) **Eligibility.** To be eligible for PWS services, each person must:

(1) provide documentation from a licensed physician that confirms the diagnosis of PWS as evidenced by the deoxyribonucleic acid (DNA) Methylation Analysis of the PWS region of chromosome 15; or

(2) provide documentation that he or she has a condition closely related to PWS, except for mental illness. The DDS director or his or her designee may grant an exception to the confirmed PWS DNA Methylation analysis when the service recipient provides documentation containing objective evidence that he or she has a condition closely related to PWS. The condition:

(A) results in challenging behaviors that create serious

risk of physical injury or harm to the service recipient;

(B) results in substantial impairments;

(C) is likely to continue indefinitely;

(D) requires treatment or services similar to those required for persons with PWS;

(E) requires strict control of access to food and limitation of daily caloric intake required for the individual's normal growth; and

(F) requires services and supports that are not available from another source;

(3) be receiving Home and Community Based Waiver Services (HCBS) or be on the Request for Waiver Services List, per OAC 317:40-1-1 and determined eligible for HCBS unless admitted to the program prior to July 1, 1997; and

(4) be 18 years of age.

(e) **Waiting list.** When resources are unavailable to offer services through the PWS program, applicant names are maintained on a statewide waiting list.

(1) The statewide waiting list is maintained by the DDS residential programs manager or his or her designee.

(2) The statewide waiting list is maintained in chronological order based on the date of receipt of a written request for PWS services.

(3) The statewide waiting list is administered by DDS uniformly throughout the state.

(4) An applicant is removed from the statewide waiting list, when he or she:

(A) is determined ineligible for services;

(B) cannot be located by DDS;

(C) does not provide DHS-requested information or fails to respond;

(D) is not an Oklahoma resident at the requested Waiver approval date; or

(E) declines an offer of PWS services and indicates he or she does not want to remain on the statewide waiting list.

(5) When an applicant is offered PWS services but declines because he or she is not at least 18 years of age, the applicant

maintains his or her position on the statewide waiting list.  
(f) **Scope.** PWS services reimbursement is provided at a DHS-approved rate within the program capacity determined by legislative appropriation.  
(g) **Service expectations.** The contracted-residential provider ensures that:

(1) all applicable DHS and the Oklahoma Health Care Authority rules are met, including OAC:

- (A) 340:100-3-27;
- (B) 340:100-3-34;
- (C) 340:100-3-38;
- (D) 340:100-3-40;
- (E) 340:100-5-22.1;
- (F) 340:100-5-26;
- (G) 340:100-5-32; and
- (H) 340:100-5-50 through OAC 340:100-5-58;

(2) each service recipient is weighed at least weekly;

(3) all food and money are safeguarded to ensure a proper diet and health maintenance;

(4) transportation to and from vocational activities, community outings, and medical appointments is provided, per the service recipient's Plan;

(5) staff implements periodic room, clothing, and baggage searches as necessary to ensure that food and money are not present, per the service recipient's Plan; and

(6) the staffing ratio is appropriate to ensure the service recipient's safety, per his or her Plan. Staff is trained to meet the PWS service recipient's needs.

(h) **Room and board.** Each service recipient is responsible for room and board, per OAC 340:100-3-4.

(1) When the home is owned or leased by the service recipient or his or her family or guardian, the contracted-residential provider develops a financial agreement for payment of household expenses by the service recipient, per OAC 340:100-5-22.1.

(2) When the home is owned or leased by the contracted-residential provider, the contracted-residential provider may charge a room and board payment of all but \$100 per month of the service recipient's income, up to a maximum of 90 percent of the current Social Security Supplemental income rate. In these circumstances the contracted-residential provider must comply with OAC 340:100-6.

[Source: Added at 28 Ok Reg 897, eff 6-1-11 ; Amended at 37 Ok Reg 1853, eff 9-15-20]

### **340:100-5-35. Non-Residential Habilitation Training Specialist (HTS) services**

(a) **Applicability.** Habilitation Training Specialist (HTS) services, per OAC 317:30-5-482, are authorized per OAC 317:40-5-110 or 317:40-5-111 and OAC 340:100-3-33 and applies to nonresidential HTS services provided to service recipients not receiving community residential or group home services, per OAC 340:100-5-22.1 or OAC 340:100-6.

**(b) General information.**

- (1) Non-residential HTS services are authorized:
  - (A) as a result of needs identified by the Developmental Disabilities Services (DDS) Personal Support Team (Team) and informed selection by the service recipient;
  - (B) only during periods when staff are engaged in purposeful activity that directly or indirectly benefits the service recipient;
  - (C) when directed toward the development or maintenance of a skill in order to achieve a specifically stated outcome; and
  - (D) when the service provided is not a function that the parent would provide for the individual without charge as a matter of course in the relationship among members of the nuclear family when the member resides in a family home.
- (2) Non-residential HTS services are not authorized when a service recipient is in need of:
  - (A) sleep time supervision; or
  - (B) assistance responding to emergencies, in which case a residential alternative, per OAC 317:40-1-2, must be selected, unless unpaid natural supports are available to meet these needs and identified in the Individual Plan (Plan).
- (3) Non-residential HTS services are not authorized for:
  - (A) services provided in the home of the HTS, unless the service recipient and the HTS reside in the same home;
  - (B) employment supports that are provided, per OAC 317:40-7;
  - (C) respite services provided, per OAC 317:30-5-517;
  - (D) homemaker services provided, per OAC 317:30-5-537;
  - (E) adult day services provided, per OAC 317:40-5-113;
  - (F) child care services; or
  - (G) services provided by the legal guardian, biological or adoptive parent of a minor child, per OAC 340:100-3-33.2.
- (4) In accordance with OAC 340:100-3-33.1, services must be provided in the most cost effective manner. When the need for HTS services is expected to continue to exceed an average of nine hours daily, cost effective community residential services must be considered and requested, per OAC 317:40-1-2. For adults, continuation of non-residential services in excess of nine hours per day for more than one plan of care year is not authorized except:
  - (A) when needed for members who receive services through the Homeward Bound Waiver;
  - (B) when determined by the division administrator or designee to be the most cost effective option; or
  - (C) as a transition period of 120-calendar days or less to allow for identification of and transition to a cost effective residential option. Members who do not want to receive residential services are assisted to identify options that

meet their needs within an average of nine hours daily.

(5) Non-residential HTS providers may not perform any job duties associated with other employment, including on call duties at the same time they are providing HTS services.

(6) Non-residential HTS services are limited to no more than 40 hours per week for the household when the HTS resides in the same home as the service recipients. When one or more service recipient lives in the same household, services provided by individuals living in the home may not exceed a total of 40 hours per week. If additional hours of service are needed, they must be provided by someone living outside the home. Exceptions may be authorized when needed for service recipients who receive services through the Homeward Bound Waiver.

(7) When the service recipient also receives nursing or Homemaker services or is out of the home for school, work, adult day services, or other non-HTS supported activities, the total number of hours of non-residential HTS, Homemaker, and hours away from the home cannot exceed 12 hours per day, unless an exception is granted, per OAC 317:40-5-110.

**(c) Service location.**

(1) Non-residential HTS services are provided in the:

- (A) service recipient's home; or
- (B) community.

(2) Non-residential HTS services are not provided in:

- (A) a school;
- (B) a nursing facility;
- (C) an intermediate care facility for persons with intellectual disabilities (ICF/ID);
- (D) an unlicensed facility-based program;
- (E) a private home except the service recipient's home or the home of a relative, unless the home was approved, per OAC 317:40-5-40; or
- (F) the service recipient's employment setting or any other employment setting.

**(d) Backup plan.** Prior to service delivery, an emergency backup plan must be developed and specify how the service recipient's needs will be met when paid staff are unavailable. The emergency backup plan is included in the Plan.

**(e) Service requirements.**

(1) The provider:

- (A) implements the service recipient's Plan;
- (B) promotes community inclusion;
- (C) promotes the service recipient's health and welfare, increased independence, self-sufficiency; and
- (D) cooperates in securing alternative services while continuing to provide services when the service recipient, legal guardian, or provider wants to discontinue services until the Team confirms all essential services are in place.

(2) The provider develops and maintains written policies and procedures that are consistent with Oklahoma Human Services (OKDHS) rules and govern all aspects of service provision, with

the exception of services provided, per OAC 317:40-9-1.

(A) Provider agency policies are made available to each service recipient, service recipient's parent(s), legal guardian, advocate, provider agency staff, and OKDHS.

(B) Provider agency policies and procedures include, but are not limited to:

- (i) service recipient rights protection;
- (ii) services provided;
- (iii) admission and discharge criteria;
- (iv) grievance procedures;
- (v) prevention and reporting of abuse, neglect, and exploitation;
- (vi) confidentiality;
- (vii) emergency management;
- (viii) fees paid by service recipient;
- (ix) health and safety precautions;
- (x) safeguarding service recipient funds;
- (xi) medication administration; and
- (xii) incident reporting.

(3) The provider agency designates one person who, in the absence of the agency administrator, is responsible for the administration of the agency and is empowered to act on behalf of the provider agency, with the exception of services provided, per OAC 317:40-9-1.

(4) The provider agency is responsible for recruitment, screening, training, and supervision of staff or volunteers providing direct services, and ensuring direct support staff:

(A) are not supervised by a relative or person living in the staff's home. A relative includes wife, husband, children, parents, stepparents, parents-in-law, grandchildren, grandparents, brothers, sisters, stepchildren, brothers-in-law, sisters-in-law, sons-in-law, daughters-in-law, aunts, uncles, nieces, nephews, first cousins or any such person with whom the employee shares a foster relationship;

(B) who provide backup services are available and have received training, per OAC 340:100-3-38;

(C) are at least 18 years of age;

(D) are present as specified in the Plan and as authorized by the service recipient's Plan of Care;

(E) are physically able and mentally alert to carry out the job duties;

(F) implement and follow the service recipient's Plan; and

(G) do not take the service recipient to visit staff's home, unless the Team provided advance written approval of any visit with the purpose specified in the Plan.

(5) The provider agency ensures supervision, guidance, and oversight of all aspects of programming associated with receipt of non-residential HTS supports.

(A) The program coordination staff (PCS) must:

- (i) ensure staff are familiar with Plan requirements;

- (ii) make supervisory visits to the service site. The PCS makes a minimum of one monitoring visit per:
  - (I) month, when a service recipient receives an average of 30 or more hours of HTS weekly; or
  - (II) quarter based on calendar year quarters, when a service recipient receives an average of 29 or fewer hours of HTS weekly;
- (iii) supervise direct contact staff to promote achievement of Plan outcomes;
- (iv) ensure staffing levels meet the requirements of the service recipient's Plan, with staff trained, per OAC 340:100-3-38;
- (v) ensure records are maintained, per OAC 340:100-3-40;
- (vi) assist the DDS case manager as requested to prepare for and implement the Plan and its revisions, per OAC 340:100-5-50 through 340:100-5-58;
- (vii) ensure applicable OKDHS and Oklahoma Health Care Authority (OHCA) rules are followed;
- (viii) complete necessary training, per OAC 340:100-3-38; and
- (ix) have a minimum of four years of any combination of college level education or full-time equivalent experience in serving persons with disabilities, or full-time equivalent experience in a supervisory position, unless this requirement is waived in writing by the DDS director or designee.

(B) Provider agencies assign PCS caseloads, per OAC 340:100-5-22.1.

(6) Staff, when assisting a service recipient with bathing or showering, must ensure the water temperature is safe and comfortable for the service recipient. The requirements of this paragraph are enforced even when an anti-scald device is used. Staff:

- (A) tests the water temperature by touch or with a thermometer designed to test hot liquids, before the service recipient enters the water. The water must be determined safe and comfortable for the service recipient, not merely comfortable for the staff.
- (B) is trained by his or her employer in the unique needs of each service recipient, including tolerance to water temperature and bathing or showering needs; and
- (C) does not leave a service recipient who is unable to attend to safety considerations, alone in the bath or shower.

**340:100-5-35.1. Habilitation training specialist (HTS) services in acute care hospitals**

(a) **Applicability.** HTS services, per Oklahoma Administrative Code (OAC) 317:30-5- 482, are authorized, per OAC 317:40-5-110 or 317:40-5-111, and OAC 340:100-3-33; and apply to HTS services provided to service recipients receiving community residential supports, group home services, and in non-residential settings, per OAC 340:100-5-22.1, 340:100-6, and 340:100-5-35.

(b) **General information.**

(1) HTS services are authorized in an acute care hospital per the 21st Century Cares Act when the service is:

- (A) identified in an individual's person-centered plan of services and supports;
- (B) provided to meet needs of the individual that are not met through the provision of hospital services;
- (C) not a substitute for services the hospital is obligated to provide through its conditions of participation or under federal or state law; and
- (D) designed to ensure smooth transitions between acute care settings and home and community-based settings, and to preserve the individual's functions.

(2) HTS services are available in an acute care hospital for no more than 14- consecutive, calendar days per event, not to exceed 60-calendar days per Plan of Care year, up to the following limits no more than:

- (A) 16 hours per day for those receiving daily living supports (DLS), per OAC 317:40-5- 150 or 317:40-5-153;
- (B) 24 hours per day for those receiving services for Prader-Willi Syndrome, per OAC 340:100-5-34;
- (C) nine hours per day for those receiving agency companion services, per OAC 317:40-5;
- (D) nine hours per day for those receiving specialized foster care, per OAC 317:40-5;
- (E) nine hours per day for those receiving group home services, per OAC 340:100-6;
- (F) 24 hours per day for those receiving alternative group home services, per OAC 340:100-5-22.6;
- (G) nine hours per day for those who do not receive community residential supports, per OAC 340:100-5-22.1; group home services, per OAC 340:100-6; or alternative group home services, per OAC 340:100-5-22.6.

(3) The Developmental Disabilities Services (DDS) director or designee may authorize exceptions to the nine hours per day limit when needed for service recipients who require additional supports. The DDS director or designee may authorize HTS services provided in psychiatric facilities when required for admission to address issues such as significant daily living, communication and other needs.

(4) HTS services in an acute care hospital are:



- (A) only authorized during times the service recipient is typically awake. HTS services are used during normal sleep hours when the service recipient demonstrates a pattern of not sleeping at night;
- (B) not intended to provide more than one Waiver funded staff at a time;
- (C) not provided by the service recipient's agency companion, per OAC 317:40-5; and
- (D) not provided at the same time as DLS therapeutic leave, per OAC 317:40-5-150 or 317:40-5-153.

[Source: Added at 38 Ok Reg 2317, eff 9-15-21 ; Amended at 40 Ok Reg 1005, eff 9-15-23]

### **340:100-5-36. Community maintenance services**

(a) **Supplemental property replacement.** When funding is available, a maximum of \$300 per service recipient per fiscal year is reimbursed for replacement of unusable, necessary furniture or appliances. Necessary furniture and appliances include refrigerators, stoves, washers, dryers, dining tables and chairs, sofas, love seats, chairs and recliners, beds, dressers, or chests of drawers. The Oklahoma Department of Human Services (DHS) provides a payment to the contracted residential provider agency to establish and maintain community households per Section 331 of Title 61 of the Oklahoma Statutes (61 O.S. § 331). To be eligible the service recipient must receive community residential supports services per Oklahoma Administrative Code 340:100-5-22.1.

- (1) The provider agency submits a written property replacement request to the case manager that includes:
  - (A) the furniture or appliance to be purchased;
  - (B) the reason the item is necessary;
  - (C) the age of the furniture or appliance to be replaced;
  - and
  - (D) verification that other resources are not available to purchase the item.
- (2) The case manager reviews the written request, submits it to the area manager or designee within five-business days of receipt from the provider agency, and includes a statement of the need for the furniture or appliance.
- (3) The area manager or designee reviews the written request and when the request meets the criteria in this Section, submits it to the DDS director or designee within five-business days of receipt from the case manager.
- (4) The DDS director or designee reviews and responds to the request within five-business days of receipt from the area manager or designee after considering if:
  - (A) funding is available;
  - (B) the request includes the required information;
  - (C) the case manager assessment indicates need;
  - (D) the household unnecessarily disposed of usable items that may have otherwise met the need for which the payment is requested;

(E) other resources are available to provide the necessary item; and

(F) items less than five years old can feasibly be repaired.

(5) No reimbursement for replacement of worn out furniture may occur during the first year of service.

(b) **Goods and services.** When funding is available, DHS provides a payment to the contracted residential provider agency to purchase necessary goods and services to establish and maintain community households per 61 O.S. § 331. Goods and services are incidental, non-routine goods and services that promote the service recipients' health, safety, self-care, and daily living skills needed to reside successfully in the community, and do not duplicate other services authorized in the member's plan of care.

[Source: Added at 34 Ok Reg 1598, eff 9-15-17]

## **PART 5. INDIVIDUAL PLANNING**

### **340:100-5-50. Principles of individual planning**

The intent of Developmental Disabilities Services (DDS) is to secure services and supports for persons with developmental disabilities to live, work, and participate in their communities. The principles in this Section provide direction and purpose in designing services and supports for persons with developmental disabilities.

(1) Understanding the ways a person with a developmental disability communicates with others is critical. Case managers, program coordinators, and other involved Personal Support Team (Team) members must actively solicit, listen to, and respond to the person's needs, ideas, and choices, whether communicated verbally or non-verbally.

(2) DDS employs a person-centered planning process that is an individually focused approach identifying the needs, preferences, goals, and desired outcomes of the person receiving services.

(3) The Individual Plan (Plan) process ensures people receiving services have access to quality services and supports that foster:

(A) independence, learning, and growth;

(B) choices in everyday life;

(C) meaningful relationships with family, friends, and neighbors;

(D) presence and full participation in his or her community;

(E) dignity and respect;

(F) positive approaches focused on skill enhancement; and

(G) health and safety.

(4) The case manager ensures the Team makes maximum use of services available to all citizens.

(5) Services and supports are provided, based on assessed needs per Oklahoma Administrative Code (OAC) 340:100-5-51.

- (6) The case manager ensures the services and supports developed by the Team support the person's network of natural resources. The willing efforts of family members or friends to support areas of the person's life are not replaced with paid supports.
- (7) Planning focuses on the needs and outcomes the person receiving services wants to achieve. The Team first considers the preferences of the person receiving services and family, friends, and advocates secondarily.
- (8) Each person served has a single, unified Plan. All services and supports are integrated parts of the Plan. Programs involving professional and specialized services are jointly developed to ensure integration of service outcomes. The Team ensures services and supports:
- (A) are important for the person to meet the needs identified through an assessment of functional need;
  - (B) are important to the person with regard to preferences for service delivery;
  - (C) are commensurate with the person's level of need and the scope of services available through Home and Community-Based Services (HCBS) Waivers;
  - (D) are integrated into the person's daily living;
  - (E) take advantage of every opportunity for social inclusion;
  - (F) reflect positive approaches focused on skill enhancement; and
  - (G) use the least intrusive and restrictive options.
- (9) The case manager ensures the Team identifies needed services and supports.
- (A) When services and supports are unavailable near the person's home community, the case manager submits a list of such services and supports to the area manager for resource development.
  - (B) When the Team identifies a lack of available services and supports as a barrier, the Team develops alternative strategies, using available services and supports, pending the development of additional resources.
  - (C) When an identified service is not within the scope of the State's programs, the Team creatively seeks methods to meet the need.

[Source: Added at 15 Ok Reg 2136, eff 5-5-98 (emergency); Added at 16 Ok Reg 1056, eff 4-26-99 ; Amended at 19 Ok Reg 2948, eff 8-1-02 (emergency); Amended at 20 Ok Reg 936, eff 6-1-03 ; Amended at 33 Ok Reg 1668, eff 9-15-16]

### **340:100-5-51. Individual assessment**

An individual assessment process forms the basis for developing an Individual Plan (Plan).

- (1) Psychological, medical, social, and functional assessments are completed prior to the development of an initial Plan.

(2) The medical, social, and functional assessments are reviewed and updated at least annually.

(3) Consistent with the service recipient-directed focus of planning, the Developmental Disabilities Services (DDS) case manager ensures completion or update of a person-centered assessment, and necessary assessments to support the need for services, with the service recipient at least annually, to form the basis for developing the Plan of Care.

(A) Assessments address the service recipient's needs and choices for supports and services related to:

- (i) personal relationships;
- (ii) home;
- (iii) employment, education, or both;
- (iv) transportation;
- (v) health and safety;
- (vi) leisure;
- (vii) social skills; and
- (viii) communication.

(B) The DDS case manager ensures early intervention and prevention by the Personal Support Team when changes occur. Events, such as the loss of a loved one, change in roommates, staff, schedules, health changes, or loss of a job prompt a reassessment of needs, services, and supports.

[Source: Added at 15 Ok Reg 2136, eff 5-5-98 (emergency); Added at 16 Ok Reg 1056, eff 4-26-99 ; Amended at 19 Ok Reg 2948, eff 8-1-02 (emergency); Amended at 20 Ok Reg 936, eff 6-1-03 ; Amended at 25 Ok Reg 986, eff 5-15-08 ; Amended at 33 Ok Reg 1668, eff 9-15-16]

### **340:100-5-52. Personal Support Team (Team)**

(a) The Team is composed of people selected by the service recipient who know and work with the service recipient or whose participation is necessary to achieve the service recipient's desired outcomes.

(1) To respect the service recipient's dignity and privacy, the Team is no larger than is necessary to plan and implement the services needed to achieve the service recipient's desired outcomes. The Team is large enough to possess the expertise and capacity necessary to address the service recipient's needs, but not as large as to intimidate the service recipient or to stifle the service recipient's participation or that of his or her representatives.

(2) The core Team includes the service recipient, his or her case manager, the legal guardian, and advocate(s), when applicable and, who may be a parent, family member, friend, or another individual who knows the service recipient well. The service recipient is assured of his or her opportunity to select an individual to serve as an advocate.

(3) Depending on the service recipient's needs and the issues addressed, the Team may include others. The selection of these additional Team members reflects the service recipient's choices.

(b) The Team role is detailed in this subsection.

(1) Team members implement responsibilities identified in the Individual Plan (Plan) or in the Oklahoma Human Services (OKDHS) or Oklahoma Health Care Authority (OHCA) rules. Implementation of the Plan may only be delegated to persons who are appropriately qualified and trained.

(2) The Team develops the Plan and reviews and approves strategies, protocols, and guidelines developed to implement services or supports.

(3) The service recipient or his or her guardian participate in the development of the Plan and provide written, informed consent for the Plan's implementation.

(4) The Team implements the Plan upon approval of the Plan of Care, and inclusion of service providers' signatures on the Plan signature sheet.

(5) A copy of the Plan is maintained, per Oklahoma Administrative Code (OAC) 340:100-3-40. All staff implementing the Plan must be knowledgeable about its contents and have access to a copy of the Plan.

(6) Each Team member responsible for services identified in the Plan sends a quarterly summary of progress on assigned outcomes and action steps to the case manager.

(A) The quarterly summary of progress is due by the 10th of:

(i) April for services rendered in January, February, and March;

(ii) July for services rendered in April, May, and June;

(iii) October for services rendered in July, August, and September; and

(iv) January for services rendered in October, November, and December, unless an alternative schedule is specified in the Plan.

(B) The quarterly summary of progress includes:

(i) whether services were provided per the Plan, and if not why; and

(ii) if the outcomes were achieved; or

(iii) the outcome progress status, if not achieved.

(c) The case manager role is detailed in this subsection.

(1) Prior to the initial and annual Team meeting, the case manager meets with the service recipient and his or her advocate or legal guardian, when applicable, to review the individual situation, including the service recipient's vision and progress attaining the vision. Among the questions explored are whether the service recipient is satisfied with the results of the Plan and whether outcomes need to be revised, based on the progress achieved, or on changing circumstances in the service recipient's life. This review provides a clear agenda for the Team meeting and ensures the service recipient's input and participation.

(2) The case manager identifies available service providers for selection by the service recipient or legal guardian.

(3) The case manager ensures the size and composition of the Team support the person-centered planning process.

(A) The case manager plans for the participation of people whom the service recipient wants on the Team, people whose services are needed to achieve identified outcomes, and people who know the service recipient best. The case manager sends Team members written or electronic notice of the meeting, at least 30-calendar days in advance of the annual Team meeting.

(B) Planning may occur in Team meetings or through individual or small group consultation according to the service recipient's wants and needs.

(C) The case manager notifies a Team member by letter when his or her services on the Team are no longer required:

(i) at the request of the service recipient or the legal guardian; or

(ii) when the Team member's performance reveals a course of action that:

(I) is not in the service recipient's best interest;

(II) is destructive toward the Team's collaborative process; or

(III) violates OKDHS or OHCA rules or accepted standards of professional practice.

(4) Unless the service recipient elects to chair his or her own meetings, the case manager serves as Team chair.

(5) The case manager empowers and supports the service recipient in setting the direction for the Team and in actively participating in Team meetings.

(6) The case manager writes or revises the Plan based on input from the Team.

(7) The case manager assists the Team in developing strategies, protocols, and guidelines to achieve the service recipient's preferred or needed outcomes.

(8) The case manager monitors all aspects of the Plan's implementation, per OAC 340:100-3-27.

(9) The case manager routinely asks the service recipient, his or her family, guardian, or advocate about their satisfaction with services and supports, and initiates appropriate action to identify and resolve barriers to consumer satisfaction.

(10) The case manager convenes Team meetings as needed.

(A) The Team evaluates if the Plan and its components are meeting the service recipient's objectives.

(B) The case manager may convene a Team meeting at the request of any Team member.

(C) Meetings are held at times and locations convenient for the service recipient.

(11) Case manager responsibilities are carried out by provider-agency program coordination staff when the service recipient receives state-funded employment, state-funded group home, or

assisted living services without Waiver supports. Each person filling this role in a provider agency must have a minimum of four years of any combination of college level education and full-time equivalent experience in serving persons with disabilities, unless this requirement is waived in writing by the DDS director or designee.

(12) The planning process must:

- (A) reflect the service recipient's cultural considerations;
- (B) be provided in plain language in an accessible manner; and
- (C) provide needed language services or aids.

(13) In order to avoid a conflict of interest, DDS staff including the case manager, case management supervisor, and plan of care reviewer must not:

- (A) be related by blood or marriage to the service recipient, or any paid service provider for the service recipient;
- (B) be financially responsible for the service recipient;
- (C) be empowered to make financial or health related decisions for the service recipient; or
- (D) hold a financial interest in any entity paid to provide care for the service recipient.

[Source: Added at 15 Ok Reg 2136, eff 5-5-98 (emergency); Added at 16 Ok Reg 1056, eff 4-26-99 ; Amended at 19 Ok Reg 2948, eff 8-1-02 (emergency); Amended at 20 Ok Reg 936, eff 6-1-03 ; Amended at 23 Ok Reg 1026, eff 5-11-06 ; Amended at 27 Ok Reg 838, eff 7-1-10 ; Amended at 28 Ok Reg 897, eff 6-1-11 ; Amended at 33 Ok Reg 1668, eff 9-15-16 ; Amended at 38 Ok Reg 2317, eff 9-15-21]

### **340:100-5-53. Individual Plan**

(a) The Individual Plan (Plan) is a written document that describes the services necessary for the health and welfare, the outcomes desired by the service recipient and the services and supports necessary to achieve those outcomes. Each Plan includes:

- (1) basic demographic information, including emergency information and health and safety concerns;
- (2) assessment information;
- (3) description of services and supports identified by the Personal Support Team;
- (4) outcomes to be achieved;
- (5) action steps or methods to achieve the outcomes, including:
  - (A) means to assess progress; and
  - (B) names of persons or agency positions responsible for implementing each part of the Plan;
- (6) community participation strategies and activities;
- (7) identification of needed individual-specific staff training, with required time frames for completion, per OAC 340:100-3-38; and
- (8) medication support plan, per OAC 340:100-5-32.

(b) The Plan is updated as required by ongoing assessment of progress and needs.

(c) A copy of the service recipient's Plan is provided to the:

- (1) service recipient; and

- (2) service recipient's family, legal guardian, and designated advocate.
- (d) Relevant portions of the Plan are provided to persons or agencies who provide support or services to the service recipient.
- (e) The Developmental Disabilities Services Division case manager develops a Plan of Care that is consistent with the Plan to authorize payment for services.

[Source: Added at 15 Ok Reg 2136, eff 5-5-98 (emergency); Added at 16 Ok Reg 1056, eff 4-26-99 ; Amended at 19 Ok Reg 2948, eff 8-1-02 (emergency); Amended at 20 Ok Reg 936, eff 6-1-03 ; Amended at 25 Ok Reg 986, eff 5-15-08 ; Amended at 26 Ok Reg 922, eff 5-15-09 ; Amended at 27 Ok Reg 838, eff 7-1-10]

### **340:100-5-54. Planning for obstacles**

Occasionally people may encounter obstacles that interfere with their ability to grow and participate in the community. All people have problems, conflicts, and other challenges from time to time. Learning to handle these challenges in a manner that is constructive and not self-destructive or harmful to others is essential. DDS is committed to early intervention and prevention when behavioral or emotional challenges occur, to prevent the escalation of these problems.

- (1) Events such as the loss of a loved one, change in roommates, staff or schedules, or the loss of a job may trigger a crisis. The case manager and program coordinator anticipate the reaction of a person receiving services to such a crisis and provide immediate assistance which may include:

- (A) linking the person with immediate support or assistance to resolve or cope with the crisis.
- (B) referring the person or family to a counselor or family service agency to help them cope with the loss of a loved one during the grieving process.
- (C) using problem-solving skills to identify and resolve factors contributing to the crisis.
- (D) discussing and facilitating adjustments in the person's life and reflecting those changes in the Individual Plan.
- (E) increasing the number of contacts with the person to help him or her cope with transition to new staff, places, programs, or providers.
- (F) identifying and arranging for productive and fulfilling ways to fill the person's time when jobs or other vocational activities are terminated.

- (2) The Individual Plan is updated in anticipation of foreseeable significant changes or life events.

[Source: Added at 15 Ok Reg 2136, eff 5-5-98 (emergency); Added at 16 Ok Reg 1056, eff 4-26-99]

### **340:100-5-55. Person-centered assessment [REVOKED]**

[Source: Added at 15 Ok Reg 2136, eff 5-5-98 (emergency); Added at 16 Ok Reg 1056, eff 4-26-99 ; Revoked at 19 Ok Reg 2948, eff 8-1-02 (emergency); Revoked at 20 Ok Reg 936, eff 6-1-03]



### **340:100-5-56. Risk assessment**

The personal support team (Team) completes an assessment that identifies:

- (1) potential areas where the service recipient's safety is at risk, including physical, emotional, medical, financial, legal risks, or risk to community participation; and
- (2) when, where, and how often the risk to safety may occur;
- (3) the approaches, supports, services, and the actions needed or used to reduce or eliminate the risk, including:
  - (A) assisting the service recipient in having as much control and decision-making abilities as possible;
  - (B) changes in the environment to reduce stressors;
  - (C) communication between team members;
  - (D) consistency of provider-agency support staff;
  - (E) daily activities;
  - (F) frequency and quality of supervision;
  - (G) offering positive activities;
  - (H) prescribing staff training when additional training is needed;
  - (I) recognition of early signs or indicators of potential risks;
  - (J) skill building;
  - (K) supporting the individual in communicating choices;
  - (L) teaching coping skills;
  - (M) temporarily avoiding situations too difficult or uncomfortable for the service recipient; and
  - (N) understanding how and what the person is communicating.

[Source: Added at 15 Ok Reg 2136, eff 5-5-98 (emergency); Added at 16 Ok Reg 1056, eff 4-26-99 ; Amended at 20 Ok Reg 97, eff 10-16-02 (emergency); Amended at 20 Ok Reg 936, eff 6-1-03 ; Amended at 33 Ok Reg 1668, eff 9-15-16]

### **340:100-5-57. Protective intervention protocol (PIP)**

(a) **Purpose.** The purpose of a PIP is to ensure the service recipient's safety, when physical, emotional, medical, financial, legal, or community participation issues place him or her at risk.

(b) **PIP elements.** The PIP is part of the Individual Plan (Plan) developed with the participation of the service recipient and Personal Support Team (Team). The PIP:

- (1) uses the least restrictive approaches necessary to address safety risks identified in the safety risk assessment per Oklahoma Administrative Code (OAC) 340:100-5-56;
- (2) identifies the early signs, clues, or other indicators of potential safety risks;
- (3) describes preventative supports, services, and actions to take in order to reduce or eliminate safety risks;
- (4) describes detailed instructions and procedures taken by staff and Team members during a situation that places the safety of the service recipient or others at risk, including procedures to:

- (A) keep the service recipient and others as safe as possible;
- (B) defuse, reduce, or eliminate harm or injury; and
- (C) secure Team or provider agency staff assistance;
- (5) includes outcomes targeting skill enhancement, health improvement, choice making, meaningful relationship development, and community participation;
- (6) describes teaching methods in sufficient detail to provide clear direction to provider agency support staff to assist the service recipient to learn relevant skills;
- (7) identifies methods and time frames to evaluate the PIP's effectiveness;
- (8) is revised when circumstances change or the PIP is no longer effective;
- (9) treats the service recipient with dignity and is reasonable, humane, practical, not controlling, and the least restrictive alternative; and
- (10) is reviewed by the Team to determine if the PIP meets OAC 340:100-5-57 requirements. Team review and approval is documented in the Plan.

(c) **Serious risk or dangerous behavior.** When a PIP addresses challenging behaviors that create serious risk of physical injury or harm to the service recipient or others, risk of involvement in civil or criminal processes, or places the service recipient's physical safety, environment, relationships, or community participation at serious risk, the PIP must be developed and overseen by the Team and an appropriately-licensed professional or a family trainer approved by Developmental Disabilities Services (DDS) with the assistance of the positive support field specialist.

(d) **Restrictive or intrusive procedures.** When the Team determines restrictive or intrusive procedures, per OAC 340:100-1-2 are essential for safety, the Team must develop a PIP with a DDS positive support field specialist's assistance. In addition to the requirements in (b) of this Section, the Team must:

- (1) describe the severity and frequency of the risk or dangerous behavior;
- (2) address any limitations placed on the service recipient's access to goods, services, and activities and document the Team's plan to restore access to such;
- (3) identify positive approaches used prior to implementing the restrictive or intrusive procedure;
- (4) ensure the procedure does not harm the service recipient;
- (5) describe methods to help the service recipient develop skills that serve the same function as, or reduce or eliminate the possibility of, the dangerous behavior or serious risk. These methods must be individualized and provide clear direction to provider agency support staff to develop the service recipient's pro-social and coping skills;
- (6) submit the protocol to the Statewide Human Rights Behavior Review Committee (SHRBRC) per OAC 340:100-3-14 for initial approval and any time additional restrictive or intrusive procedures are requested; and

(7) document annual review and continued PIP approval.

(e) **Physical management.** A physical management hold per OAC 340:100-1-2 is only used to prevent physical injury. Physical management holds are allowed when supported by a specific assessed need and are documented in the person-centered Plan. Person-centered Plan documentation includes requirements per OAC 317:40-1-3(b)(8)(A) through (H). Prompting that does not restrict the service recipient's movement or choice is not considered physical management. Any PIP that includes a physical management hold requires the Team, to:

(1) ask the service recipient's physician to assess whether the service recipient has any health concerns related to the use of the physical management procedure;

(2) ask the service recipient's physician to assess whether the current medication regimen poses any risk for the service recipient due to the stress of the physical management procedure;

(3) include a DDS approved trainer of physical management procedures in the planning sessions.

(A) The trainer:

(i) makes recommendations about the effectiveness and safety of the physical management procedure in particular environments;

(ii) assists the Team in identifying alternative approaches when standard procedures do not appear appropriate for the service recipient or the situation; and

(iii) identifies existing physical obstacles to the implementation of the procedure for particular staff.

(B) The Team includes the trainer's recommendations in the development of the PIP;

(4) identify any situation in which physical management procedures cannot be used because they are unsafe or ineffective per this subsection; and

(5) comply with (f) of this Section.

(f) **Emergency intervention.** Emergency intervention is the use of a restrictive or intrusive procedure not included in a PIP, in response to an unanticipated and unpredictable situation or event or the sudden occurrence of an event so severe and dangerous urgent action precludes less restrictive measures. Physical management per OAC 340:100-1-2 is only used during emergencies to ensure physical safety and prevent injury.

(1) Emergency intervention:

(A) cannot be used as a substitute for positive approaches or a PIP; and

(B) is used for no longer than necessary to eliminate the clear and present danger of serious physical harm to the service recipient or others.

(2) Physical management must be terminated as soon as the service recipient is calm or the threat ended with attempts to release every two minutes to ensure the safety of the service

recipient.

(3) When responding to an emergency, no one may authorize or use an amount of force that exceeds what is reasonable and necessary under the circumstances to protect the service recipient or others.

(4) Any person who has reason to believe abuse occurred is responsible to contact the appropriate authorities.

(g) **Temporary approval of restrictive or intrusive procedures.** After the first use of an emergency restrictive or intrusive procedure, when the Team in consultation with the positive support field specialist determine the use of a restrictive or intrusive procedure must be continued to ensure the safety of the service recipient or others, the positive support field specialist or DDS director of psychological and behavioral supports may provide temporary immediate approval for continued use of restrictive or intrusive procedures.

(1) The DDS case manager contacts the positive support field specialist to request temporary approval of restrictive or intrusive procedures to protect the service recipient or others from serious physical harm.

(2) The positive support field specialist approves or denies the request for use of emergency interventions using Form 06MP042E, Request for Temporary Approval of Restrictive or Intrusive Procedures.

(A) When the temporary request is approved, the positive support field specialist assists the Team in ensuring needed structure and training are in place for safe and proper implementation of the emergency interventions.

(B) Temporary approval lasts no longer than 60-calendar days.

(3) Form 06MP042E must be completed and sufficient information provided to demonstrate positive supports were attempted, and that the danger of severe harm still exists.

(4) When physical management procedures are authorized, training is obtained from an approved or certified trainer.

(5) To continue using the temporarily-approved restrictive or intrusive procedure, the Team must submit within 60-calendar days following approval, a PIP that incorporates the requested procedures to SHRBRC. When the submitted PIP does not receive SHRBRC approval, SHRBRC may extend the temporary approval for a maximum of an additional 60-calendar days.

(h) **Review and revision of the Plan.** The Plan is reviewed and, as necessary, revised when an unexpected high risk event occurs.

(1) Review and revision to the Plan is appropriate, when the:

(A) service recipient was recently seen in a hospital emergency room due to a behavioral crisis;

(B) service recipient was recently admitted to a psychiatric facility for stabilization;

(C) police were called to intervene because the service recipient is displaying challenging behavior; or

(D) service recipient was placed in police custody as the result of his or her challenging behavior.

- (2) Team planning must include, at a minimum:
- (A) consultation with the positive support field specialist;
  - (B) a review of recent events, including challenging behaviors;
  - (C) identification of the signs or behaviors indicating the event may reoccur;
  - (D) assisting the service recipient to develop an individualized safety plan;
  - (E) detailed action steps for provider agency support staff to follow to reduce reoccurrence; and
  - (F) consultation with other professional services, when appropriate.
- (3) When a high risk event occurs, the Team reviews the event to determine if additional action is needed to prevent further occurrence.
- (4) When psychiatric hospital admission occurs, the Team begins planning upon notification of a discharge date. A review is held within five-business days following discharge to meet the requirements of this Section, and address medication changes per OAC 340:100-5-26.1(d)(2).

(i) **Mechanical restraint in a medical context.** Restraints and mechanical supports used in a medical context are exempt from (d) of this Section. These exemptions include, but are not limited to:

- (1) sedation prescribed by a physician or dentist prior to a medical or dental procedure;
- (2) restraints used to control the movement of the service recipient during a time sensitive and necessary medical or dental procedure;
- (3) time-limited restraints to promote healing following a medical procedure or injury;
- (4) devices prescribed by a physician, physical therapist, or an occupational therapist to maintain body alignment or otherwise support or position a service recipient;
- (5) devices normally used for safety reasons, such as car seats or seat belts;
- (6) helmets used to protect a service recipient from injury during or following a seizure;
- (7) bed rails used to keep a service recipient from falling out of bed; or
- (8) wheelchair brakes, unless used for the purpose of restricting mobility.

[Source: Added at 15 Ok Reg 2136, eff 5-5-98 (emergency); Added at 16 Ok Reg 1056, eff 4-26-99 ; Amended at 20 Ok Reg 97, eff 10-16-02 (emergency); Amended at 20 Ok Reg 936, eff 6-1-03 ; Amended at 25 Ok Reg 986, eff 5-15-08 ; Amended at 33 Ok Reg 1668, eff 9-15-16 ; Amended at 35 Ok Reg 1698, eff 9-17-18]

### **340:100-5-57.1. Reporting and monitoring use of restrictive or intrusive procedures or emergency interventions [REVOKED]**

[Source: Added at 20 Ok Reg 97, eff 10-16-02 (emergency); Added at 20 Ok Reg 936, eff 6-1-03 ; Amended at 25 Ok Reg 986, eff 5-15-08 ; Revoked at 39 Ok Reg 1807, eff 9-15-22]

### **340:100-5-58. Prohibited procedures**

- (a) Corporal punishment, defined as the application of painful stimuli to the body as a penalty including, but not limited to, hitting, pinching, or other infliction of pain, is prohibited.
- (b) The use of words, sounds, or other forms of communication to humiliate, intimidate, or cause fear, embarrassment, shame, or degradation to the person receiving services is prohibited, including shouting, screaming, swearing, name calling, threatening, making demeaning gestures, and any other activity damaging to a person's self-respect.
- (c) Seclusion, defined as the placement of a person alone in a locked room, is prohibited.
- (d) Totally enclosed cribs are prohibited.
- (e) Persons receiving services do not discipline other people receiving services.
- (f) Aversive conditioning procedures, such as the application of unpleasant, startling, or painful stimuli that have a potentially noxious effect, including shock, ammonia, or Tabasco sauce, are prohibited.
- (g) Withholding meals, breaks, sleep, or the opportunity to maintain personal hygiene is prohibited.
- (h) Involuntary forfeiture of money or personal property is prohibited.
- (i) Physical restraint procedures are prohibited in community services.
- (j) Use of exclusionary time out or time out rooms is prohibited, except by written permission of the director of the Developmental Disabilities Services Division (DDSD) for specific individuals residing at the Greer Center.
- (k) Face-down physical restraint is prohibited.
- (l) Mechanical restraints are prohibited, except as a medical restraint when absolutely necessary to promote healing or prevent injury during or following a medical procedure.
  - (1) Medical mechanical restraints are prescribed by a physician.
  - (2) Physician orders for medical mechanical restraints are time-limited to:
    - (A) 12 hours for a person served in a resource center.
    - (B) 12 hours in programs other than a resource center or the Greer Center, unless a longer period is authorized by the physician.
  - (3) Use of mechanical restraints is reviewed by the DDSD registered nurse every 24 hours.
  - (4) Exceptions to the policy regarding the use of mechanical restraints may only be approved in writing by the director of DDSD or designee following review and approval in accordance with OAC 340:100-3-14.

[Source: Added at 15 Ok Reg 2136, eff 5-5-98 (emergency); Added at 15 Ok Reg 3934, eff 7-14-98 (emergency); Added at 16 Ok Reg 1056, eff 4-26-99 ; Amended at 20 Ok Reg 97, eff 10-16-02 (emergency); Amended at 20 Ok Reg 936, eff 6-1-03]

## **SUBCHAPTER 6. GROUP HOME REGULATIONS**

## PART 1. GENERAL PROVISIONS

### 340:100-6-1. Purpose [REVOKED]

[Source: Added at 12 Ok Reg 409, eff 11-17-94 (emergency); Added at 12 Ok Reg 2491, eff 6-26-95 ; Revoked at 24 Ok Reg 1046, eff 5-11-07]

### 340:100-6-2. Legal base, purpose, and definitions

(a) **Legal base.** Section 1430.1 et seq. of Title 10 of the Oklahoma Statutes, Group Homes for Persons with Developmental or Physical Disabilities Act, mandates Oklahoma Department of Human Services (OKDHS) to establish licensure requirements for such group homes and to otherwise implement the requirements of this Act.

(b) **Purpose.** OAC 340:100-6 sets forth licensure requirements, standards, and provisions for group homes for persons with developmental or physical disabilities.

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

(1) **"Abuse"** means causing or permitting:

(A) infliction of physical pain, injury, sexual abuse, sexual exploitation, unreasonable restraint or confinement, or mental anguish; or

(B) deprivation of nutrition, clothing, shelter, health care, or other care or services without which serious physical or mental injury is likely to occur to a resident of a group home by a caretaker or other person providing services to a resident of a group home.

(2) **"Administrator"** means the person designated by the provider who has authority and responsibility for the programs and operation of a group home.

(3) **"Advocate"** means an adult designated in writing selected by the resident to assist the resident in exercising the rights of such resident.

(4) **"Exploitation"** means the unjust or improper use of the resources of a resident of a group home for the profit or advantage, pecuniary or otherwise, of a person other than such resident through the use of:

(A) undue influence;

(B) coercion;

(C) harassment;

(D) duress;

(E) deception;

(F) false representation; or

(G) false pretense.

(5) **"Group home for persons with developmental or physical disabilities"** means any establishment:

(A) for not more than 12 residents who:

(i) are 18 years of age or older; and

- (ii) have developmental or physical disabilities;
- (B) that offers or provides supervision, residential accommodations, food service, and training and skill development opportunities designed to lead to increased independence of the residents and supportive assistance to any of the residents requiring supportive assistance; and
- (C) that is not:
  - (i) a residential care home;
  - (ii) a nursing facility;
  - (iii) an assisted living facility;
  - (iv) a home in which agency companion services or specialized foster care is provided; or
  - (v) a home owned or leased by the service recipient or his or her legal guardian.

(6) **"Indecent exposure"** means forcing or requiring a resident of a group home to:

- (A) look upon the body or private parts of another person or upon sexual acts performed in the presence of the resident; or
- (B) touch or feel the body or private parts of another.

(7) **"Neglect"** means:

- (A) failure to provide protection for a resident of a group home who is unable to protect his or her own interests;
- (B) failure to provide a resident of a group home with adequate shelter, nutrition, health care, or clothing; or
- (C) negligent acts or omissions that result in harm or the unreasonable risk of harm to a resident of a group home through the action, inaction, or lack of supervision by a caretaker providing direct services.

(8) **"Physical disability"** means a condition that:

- (A) causes restricted use of extremities by or affects other bodily functions of a person; and
- (B) requires specialized training or habilitation or rehabilitation services provided by a group home.

(9) **"Provider"** means a person, corporation, partnership, limited liability company, association, or other entity that contracts with OKDHS Developmental Disabilities Services Division (DDSD) or Oklahoma Health Care Authority or is licensed to operate a group home for persons with developmental or physical disabilities.

(10) **"Resident" or "service recipient"** means a person receiving services in a group home for persons with developmental or physical disabilities.

(11) **"Service recipient" or "resident"** means a person receiving services in a group home for persons with developmental or physical disabilities.

(12) **"Sexual abuse"** means:

- (A) oral, anal, or vaginal penetration of a resident of a group home by or through the union with the sexual organ of a caretaker or other person providing services to the resident, or the anal or vaginal penetration of a resident



by a caretaker or other person providing services to the resident with any other object;

(B) for the purpose of sexual gratification, the touching, feeling, or observation of the body or private parts of a resident of a group home by a caretaker or other person providing services to the resident; or

(C) indecent exposure by a caretaker or other person providing services to the resident of a group home.

(13) "**Sexual exploitation**" means, but is not limited to, a caretaker causing, allowing, permitting, or encouraging a resident of a group home to engage in prostitution or in the lewd, obscene, or pornographic photographing, filming, or depiction of the resident as those acts are defined by Oklahoma law.

(14) "**Supportive assistance**" means service rendered to a resident of a group home that is sufficient to enable the resident to meet an adequate level of daily living including, but not limited to:

(A) training;

(B) supervision;

(C) assistance in housekeeping;

(D) assistance in meal preparation;

and

(E) assistance in activities of daily living necessary for the health and comfort of such person.

(15) "**Verbal abuse**" means the use of words, sounds, or other communication including, but not limited to:

(A) gestures;

(B) actions; or

(C) behaviors by a caretaker or other person providing services to a resident of a group home that is likely to cause a reasonable person to experience humiliation, intimidation, fear, shame, or degradation.

[Source: Added at 12 Ok Reg 409, eff 11-17-94 (emergency); Added at 12 Ok Reg 2491, eff 6-26-95 ; Amended at 24 Ok Reg 1046, eff 5-11-07]

## **PART 3. STANDARDS**

### **340:100-6-10. License or contract required**

(a) It is unlawful for any person or organization to operate a group home per Sections 1430.1 through 1430.41 of Title 10 of the Oklahoma Statutes (10 O.S. §§ 1430.1 through 1430.41) without a license from Oklahoma Human Services (OKDHS) Developmental Disabilities Services (DDS). Providers who have a current contract to provide:

(1) group home services with OKDHS DDS; or

(2) Home and Community-Based Waiver group home services with Oklahoma Health Care Authority are deemed licensed.

(b) A license to operate a group home may be issued upon completion of an approved application and inspection. The license must include, but is

not limited to:

- (1) maximum bed capacity for which the license is granted;
- (2) kind of program the licensee is certified to operate;
- (3) date license was issued;
- (4) expiration date of license; and
- (5) address of the home for which the license is issued.

(c) A license is issued only for the premises named on the application and is neither transferable nor assignable.

(d) DDS Community Services staff maintains a record of each group home deemed licensed, including:

- (1) maximum bed capacity;
- (2) type of group home operated; and
- (3) address of group home.

(e) The group home license expires 12 months from the date of issuance.

(f) DDS may issue a conditional license to any group home in which it finds a violation exists. The issuance of a conditional license revokes any license the group home holds.

(1) Prior to the issuance of a conditional license, DDS:

- (A) reviews and approves a written plan of correction;
- (B) specifies the violations that prevent full licensure and establishes a time schedule for correction of the deficiencies; and
- (C) sends notice of the decision to issue a conditional license to the provider with the proposed plan of correction. The notice informs the provider of the right to an appeal per Oklahoma Administrative Code (OAC) 340:100-3-27.

(2) DDS provides notice and due process for the holder of a conditional license per 10 O.S. § 1430.17.

(g) Any person or organization desiring to operate a group home must request a licensure packet from DDS, Group Home Licensure, P.O. Box 25352, Oklahoma City, OK 73125.

(h) An applicant for license, license renewal, or contract to operate a group home must submit to DDS a completed application along with the documents DDS requires to determine whether the applicant:

- (1) is 21 years of age or older and of reputable and responsible character;
- (2) demonstrates the skill and fitness to provide the necessary services;
- (3) has appropriate business experience; and
- (4) has professional experience with the population to be served.

(i) An application for a license or contract to operate a group home must include documentation that the state fire marshal or representative has inspected and approved the home. A contract provider who wishes to open an additional group home must also provide this documentation.

(1) After the initial state fire marshal inspection, each group home must be inspected as required by ordinance per local or state fire marshal and found in compliance with fire safety regulations prior to re-issuance of a license or contract.

(2) All group home inspections are subject to state fire marshal fees, citations, and penalties.

(j) Prior to opening, the provider must obtain for each group home a licensed:

- (1) plumber or municipal building inspector's report; and
- (2) electrician or municipal building inspector's report.

(k) An approval letter from the local zoning authority must accompany all initial license applications or contractor requests for each particular address.

(l) No person who is ineligible for employment as a community services worker, per OAC 340:100-3-39, is eligible to:

- (1) be licensed; or
- (2) receive a contract to become a provider. If the applicant, licensee, or contractor is a firm, partnership, limited liability company or corporation, the applicant is not eligible to:
  - (A) be licensed; or
  - (B) receive a contract if any person in (i) through (iv) is ineligible for employment as a community services worker.
    - (i) A member of the firm;
    - (ii) A major member of the limited liability company or manager;
    - (iii) A major partner of the partnership; or
    - (iv) An officer or major stockholder of the corporation.

(m) A license or a contract to operate a group home is not transferable. Ownership of a group home may only be changed from the provider named in the application to another provider who has a current group home license or contract, and only upon prior written approval of DDS.

- (1) The current group home provider must:
  - (A) notify the DDS director or designee in writing of the change no less than 30-calendar days prior to the effective date of the change;
  - (B) remain responsible for the operation of the home until the change in ownership is complete; and
  - (C) remain liable for all penalties assessed for violations occurring prior to change of ownership.
- (2) Any citations, problems DDS identifies prior to the change in ownership, or outstanding deficiencies remaining after the change in ownership are the responsibility of the new owner of the group home to correct.

(n) Any licensed or contracted group home provider, per OAC 340:100-6, must give 90-calendar days notice prior to closing a home or to closing any part of a home that would require the transfer or discharge of more than ten percent of the residents.

- (1) Notice must be given to:
  - (A) DDS director or designee;
  - (B) any resident who requires transfer or discharge from the group home; and
  - (C) the resident's legal guardian, family, or advocate.
- (2) Notice must state the proposed date of closing and reason for closing.
- (3) The group home provider must offer to assist the resident in securing alternative placement.

(4) The DDS director or designee must be notified if there is need for relocation assistance.

[Source: Added at 12 Ok Reg 409, eff 11-17-94 (emergency); Added at 12 Ok Reg 2491, eff 6-26-95 ; Amended at 24 Ok Reg 1046, eff 5-11-07 ; Amended at 40 Ok Reg 1005, eff 9-15-23]

### **340:100-6-11. Types of licenses [REVOKED]**

[Source: Added at 12 Ok Reg 409, eff 11-17-94 (emergency); Added at 12 Ok Reg 2491, eff 6-26-95 ; Amended at 24 Ok Reg 1046, eff 5-11-07 ; Revoked at 40 Ok Reg 1005, eff 9-15-23]

### **340:100-6-12. Application for group home license, license renewal, or contract [REVOKED]**

[Source: Added at 12 Ok Reg 409, eff 11-17-94 (emergency); Added at 12 Ok Reg 2491, eff 6-26-95 ; Amended at 24 Ok Reg 1046, eff 5-11-07 ; Amended at 28 Ok Reg 897, eff 6-1-11 ; Revoked at 40 Ok Reg 1005, eff 9-15-23]

### **340:100-6-13. Inspections**

- (a) Each group home must be inspected at least annually by a duly appointed representative of Oklahoma Human Services (OKDHS). At least one inspection per group home must be unannounced.
- (b) Any holder of or applicant for a license or contract is deemed to have given consent to any authorized employee or agent of OKDHS to enter and inspect the home.
- (c) The provider receives results of the inspection and corrects identified concerns per Oklahoma Administrative Code (OAC) 340:100-3-27.1.
- (d) OKDHS may revoke, deny, or refuse to renew any group home license found in violation of Section 1430.1 et seq. of Title 10 of the Oklahoma Statutes (10 O.S. § 1430.1 et seq.), Group Homes for Persons with Developmental or Physical Disabilities Act, or OKDHS rules.
- (e) Per 10 O.S. § 1430.32, any person OKDHS determines to have violated any provision of 10 O.S. § 1430.1 et seq. or any OKDHS rule or court order issued pursuant thereto may be liable for an administrative penalty of not more than \$100 for each day the violation continues. The maximum administrative penalty may not exceed \$10,000 for any related series of violations.
- (f) OKDHS may:
  - (1) withhold payments due for group home services until corrections are made or OKDHS approves a plan of correction for all deficiencies; or
  - (2) initiate other action per OAC 340:100-3-27.2.

[Source: Added at 12 Ok Reg 409, eff 11-17-94 (emergency); Added at 12 Ok Reg 2491, eff 6-26-95 ; Amended at 24 Ok Reg 1046, eff 5-11-07 ; Amended at 40 Ok Reg 1005, eff 9-15-23]

### **340:100-6-14. Sanctions [REVOKED]**

[Source: Added at 12 Ok Reg 409, eff 11-17-94 (emergency); Added at 12 Ok Reg 2491, eff 6-26-95 ; Amended at 24 Ok Reg 1046, eff 5-11-07 ; Revoked at 40 Ok Reg 1005, eff 9-15-23]

### **340:100-6-15. Records and reports**

- (a) Every provider of group home services:
- (1) makes available to residents, employees, and visitors:
    - (A) the current license or contract to provide group home services between the provider and Oklahoma Department of Human Services (OKDHS) or Oklahoma Health Care Authority (OHCA);
    - (B) resident rights per OAC 340:100-6-95;
    - (C) OKDHS-approved grievance procedures, including name, address, and phone number of the local grievance coordinator and of a person authorized by OKDHS to receive complaints regarding potential contract violations; and
    - (D) a copy of any order currently in effect pertaining to the group home issued by a court; and
  - (2) retains for public inspection:
    - (A) a complete copy of every inspection report of the group home received from OKDHS during the past three years with resident-identifying information removed;
    - (B) copy of correspondence pertaining to the group home issued by OKDHS, OHCA, or a court during the past three years with resident-identifying information removed;
    - (C) description of services provided by the group home and rates charged for those services and items for which a resident may be separately charged;
    - (D) statement of ownership, including names and addresses of board members and major stockholders; and
    - (E) a complete copy of any current license or contract between the provider and OKDHS or OHCA.
- (b) Reports of communicable disease must be made by the group home provider in accordance with Section 1-502 et seq. of Title 63 of the Oklahoma Statutes.
- (c) Service recipient records are maintained in accordance with OAC 340:100-3-40 and 340:100-3-40.1.

[Source: Added at 12 Ok Reg 409, eff 11-17-94 (emergency); Added at 12 Ok Reg 2491, eff 6-26-95 ; Amended at 24 Ok Reg 1046, eff 5-11-07]

### **340:100-6-16. Resident records [REVOKED]**

[Source: Added at 12 Ok Reg 409, eff 11-17-94 (emergency); Added at 12 Ok Reg 2491, eff 6-26-95 ; Revoked at 24 Ok Reg 1046, eff 5-11-07]

### **340:100-6-17. Resident council [REVOKED]**

[Source: Added at 12 Ok Reg 409, eff 11-17-94 (emergency); Added at 12 Ok Reg 2491, eff 6-26-95 ; Revoked at 24 Ok Reg 1046, eff 5-11-07]

### **340:100-6-18. Complaints**

Any person who has personal knowledge or substantial specific information that Section 1430.1 et seq. of Title 10 of the Oklahoma Statutes or rules in OAC 340:100-6 may have been violated, may register

a complaint and request an investigation. The complaint is made to Oklahoma Department of Human Services Developmental Disabilities Services Division (DDSD) State Office Quality Assurance Unit in accordance with OAC 340:100-3-27.1. DDSD takes steps to protect the identity of the complainant, provided that such complainant is:

- (1) a service recipient;
- (2) a representative of a service recipient; or
- (3) an employee of a group home.

[Source: Added at 12 Ok Reg 409, eff 11-17-94 (emergency); Added at 12 Ok Reg 2491, eff 6-26-95 ; Amended at 24 Ok Reg 1046, eff 5-11-07]

#### **340:100-6-19. Abuse, neglect, and exploitation**

(a) Each group home provider must implement a written policy that expressly prohibits abuse, neglect, and exploitation, per Section 10-103 of Title 43A of the Oklahoma Statutes, of service recipients.

(b) Any person who suspects abuse, neglect, or exploitation of a service recipient must report the matter immediately to the Oklahoma Department of Human Services (OKDHS), 1-800-522-3511, or local OKDHS office.

(c) The group home provider who suspects abuse, neglect, or exploitation must take steps necessary to protect the health, safety, and welfare of the residents.

(d) Each group home provider follows requirements of OAC 340:100-3-39 regarding staff members who are found by OKDHS to have a final administrative finding, per OAC 340:100-3-39, of abuse, neglect, or exploitation.

[Source: Added at 12 Ok Reg 409, eff 11-17-94 (emergency); Added at 12 Ok Reg 2491, eff 6-26-95 ; Amended at 24 Ok Reg 1046, eff 5-11-07]

#### **340:100-6-20. Change of ownership [REVOKED]**

[Source: Added at 12 Ok Reg 409, eff 11-17-94 (emergency); Added at 12 Ok Reg 2491, eff 6-26-95 ; Amended at 24 Ok Reg 1046, eff 5-11-07 ; Revoked at 40 Ok Reg 1005, eff 9-15-23]

#### **340:100-6-21. Closing of group home [REVOKED]**

[Source: Added at 12 Ok Reg 409, eff 11-17-94 (emergency); Added at 12 Ok Reg 2491, eff 6-26-95 ; Amended at 24 Ok Reg 1046, eff 5-11-07 ; Revoked at 40 Ok Reg 1005, eff 9-15-23]

### **PART 5. PHYSICAL PLANT REQUIREMENTS**

#### **340:100-6-30. General criteria for physical plant**

(a) Plans for construction or remodeling must be submitted to Oklahoma Human Services and state fire marshal for review and approval prior to the start of construction.

(b) Mobile homes are not approved.

(c) Within the corporate limits of a municipality, any new group home must be at least 1200 feet from any other group home and from any

similar community residential facility serving persons in drug, alcohol, juvenile, child, parole, and other programs of treatment, care, supervision, or rehabilitation in a community setting, per Section 863 of Title 60 of the Oklahoma Statutes.

(d) The group home must have interior and exterior features compatible with other residences in the surrounding neighborhood.

(e) A group home must be located:

(1) in an area where the local fire department responds to emergencies; and

(2) adjacent to an all-weather road.

(f) Each group home provider ensures that resident rooms and areas are clean, comfortable, orderly, and provide reasonable privacy.

(1) Each single resident bedroom must contain a minimum of 80 square feet of floor space.

(2) All resident bedrooms must contain a minimum of 60 square feet per person for double or triple occupancy. All new group homes must limit the number of service recipients occupying a bedroom to two.

(3) Each resident bedroom must include:

(A) a clothes closet or armoire;

(B) additional space as needed to accommodate bedside assistance and the use and storage of mobility devices and prosthetic equipment;

(C) at least one outside operable window of adequate size installed in a vertical wall that can be used as an emergency exit, unless otherwise approved by the state fire marshal or representative;

(D) windows that have adjustable coverings to provide privacy;

(E) direct access to exits and other areas of the home without passing through another resident's bedroom, a bathroom, or outside; and

(F) a full door that can be closed to provide privacy.

(4) Each resident must have:

(A) an individual bed of proper size with an adequate mattress, pillow, and bed linens that are clean and in good condition;

(B) a bedside table;

(C) a bureau, or its equivalent, for storing personal belongings;

(D) a chair; and

(E) an adequate supply of clean towels and wash cloths, and individual soap.

(5) Male and female residents are not housed in the same or connected bedrooms, that do not have a full floor-to-ceiling partition and door that can be closed and locked, except a husband and wife may occupy the same bedroom.

(6) Residents are encouraged to reflect their personal preferences in decorating and furnishing the group home.

(g) Each group home must provide at least one full-size bathroom for resident use.

- (1) A home for six or more residents must have at least two full-size bathrooms for resident use.
- (2) Bathrooms must:
  - (A) include a stool, sink, and tub or shower; and
  - (B) provide privacy.
- (h) All licensed group homes must provide common living areas with seating for all residents, excluding the dining room area.
- (i) Tobacco use of any sort is prohibited within the group home. Cigarette butts are properly disposed of in designated areas located outside the home.
- (j) Each group home and its yard must be clean, well-maintained, safe, free from hazards, and adapted to meet the needs of all service recipients.
  - (1) Surroundings must be kept clean and free from accumulated rubbish, weeds, ponded water, refuse, discarded furniture, old newspaper, or other items of a similar nature that may create a health hazard.
  - (2) The group home provider employs effective methods to prevent the entrance and harborage of insects, spiders, and rodents.
  - (3) All garbage must be properly stored and safely disposed of per local ordinance.
    - (A) Trash cans in service recipient areas must be kept clean.
    - (B) Outdoor garbage waste containers must be covered and insect and rodent resistant.
    - (C) Outside storage of garbage in plastic bags is prohibited.
    - (D) Sanitary garbage disposal must be provided.
  - (4) Sanitary sewage disposal must be provided per Oklahoma State Department of Health (OSDH) rules.
  - (5) The interior of the group home must be safe, clean, well-maintained, free of hazards, and adapted to meet the needs of all service recipients.
    - (A) The home must be free from offensive odors, accumulation of dirt, rubbish, dust, and safety hazards.
    - (B) Floors and floor coverings must be clean and in good condition. Floor polishes must provide for a non-slip finish.
    - (C) Walls and ceilings must be in good condition and cleaned regularly. All group homes must have walls capable of being cleaned.
    - (D) Deodorizers must not be used to cover up odors caused by unsanitary conditions or poor housekeeping practices.
    - (E) Combustibles, such as cleaning rags and compounds, must be kept in closed metal containers in areas away from living areas.
    - (F) No items may be stored in the hot water heater closet or furnace closet.
    - (G) General laundry must be placed in linen hampers or carts.



(H) Linens or clothing soiled with human body fluids must be placed in bags or nonporous containers with lids tightly closed.

(6) The group home must have:

(A) a kitchen and equipment to store, prepare, and serve food in a sanitary manner;

(B) utility service and adequate heating, cooling, and plumbing;

(C) lighting that is adequate for the service recipient's activities in each room;

(D) safe water supply per OSDH rules; and

(E) temperature extremes not less than 65 degrees Fahrenheit nor more than 85 degrees Fahrenheit for all areas service recipients occupy.

(7) Each service recipient's bedroom must have at least one electrical outlet.

[Source: Added at 12 Ok Reg 409, eff 11-17-94 (emergency); Added at 12 Ok Reg 2491, eff 6-26-95 ; Amended at 24 Ok Reg 1046, eff 5-11-07 ; Amended at 40 Ok Reg 1005, eff 9-15-23]

### **340:100-6-31. Plumbing and electrical system [REVOKED]**

[Source: Added at 12 Ok Reg 409, eff 11-17-94 (emergency); Added at 12 Ok Reg 2491, eff 6-26-95 ; Revoked at 24 Ok Reg 1046, eff 5-11-07]

### **340:100-6-32. Location, general requirements [REVOKED]**

[Source: Added at 12 Ok Reg 409, eff 11-17-94 (emergency); Added at 12 Ok Reg 2491, eff 6-26-95 ; Revoked at 24 Ok Reg 1046, eff 5-11-07]

### **340:100-6-33. Building elements [REVOKED]**

[Source: Added at 12 Ok Reg 409, eff 11-17-94 (emergency); Added at 12 Ok Reg 2491, eff 6-26-95 ; Revoked at 24 Ok Reg 1046, eff 5-11-07]

### **340:100-6-34. Resident rooms and areas [REVOKED]**

[Source: Added at 12 Ok Reg 409, eff 11-17-94 (emergency); Added at 12 Ok Reg 2491, eff 6-26-95 ; Revoked at 24 Ok Reg 1046, eff 5-11-07]

### **340:100-6-35. Lounge area [REVOKED]**

[Source: Added at 12 Ok Reg 409, eff 11-17-94 (emergency); Added at 12 Ok Reg 2491, eff 6-26-95 ; Revoked at 24 Ok Reg 1046, eff 5-11-07]

## **PART 7. ENVIRONMENTAL HEALTH, SAFETY, AND SANITATION REQUIREMENTS**

### **340:100-6-40. Control of premises [REVOKED]**

[Source: Added at 12 Ok Reg 409, eff 11-17-94 (emergency); Added at 12 Ok Reg 2491, eff 6-26-95 ; Revoked at 24 Ok Reg 1046, eff 5-11-07]

### **340:100-6-41. Access to premises [REVOKED]**

[Source: Added at 12 Ok Reg 409, eff 11-17-94 (emergency); Added at 12 Ok Reg 2491, eff 6-26-95 ; Amended at 24 Ok Reg 1046, eff 5-11-07 ; Amended at 35 Ok Reg 1698, eff 9-17-18 ; Revoked at 40 Ok Reg 1005, eff 9-15-23]

### **340:100-6-42. Insect and rodent control [REVOKED]**

[Source: Added at 12 Ok Reg 409, eff 11-17-94 (emergency); Added at 12 Ok Reg 2491, eff 6-26-95 ; Revoked at 24 Ok Reg 1046, eff 5-11-07]

### **340:100-6-43. Garbage disposal [REVOKED]**

[Source: Added at 12 Ok Reg 409, eff 11-17-94 (emergency); Added at 12 Ok Reg 2491, eff 6-26-95 ; Revoked at 24 Ok Reg 1046, eff 5-11-07]

### **340:100-6-44. Housekeeping and environment [REVOKED]**

[Source: Added at 12 Ok Reg 409, eff 11-17-94 (emergency); Added at 12 Ok Reg 2491, eff 6-26-95 ; Amended at 24 Ok Reg 1046, eff 5-11-07 ; Revoked at 40 Ok Reg 1005, eff 9-15-23]

### **340:100-6-45. Health and safety**

(a) The group home provider acts immediately to remedy any situation that poses a risk to the health, well-being, safety, or provision of specified services to any service recipient.

(1) In the event of such a threat, the provider immediately notifies Developmental Disabilities Services Division (DDSD):

(A) of the nature of the situation; and

(B) upon resolution of the threatening situation.

(2) The provider completes and regularly reviews incident and injury reports per OAC 340:100-3-40.

(3) In the event of the death of a service recipient, the provider complies with OAC 340:100-3-35.

(b) An evacuation plan must be developed for each group home. Fire drills must be conducted at least quarterly and severe weather drills must be conducted two times annually.

(c) The group home must have a written plan for temporary living arrangements in case of fire, climatic conditions that warrant evacuation, or other natural disasters that may render the facility unsuitable.

(d) Dangerous or deadly weapons are not permitted in the home.

Provider agency staff is prohibited from assisting any service recipient to obtain or possess dangerous or deadly weapons. Dangerous or deadly weapons include, but are not limited to:

(1) guns or other firearms;

(2) crossbows;

(3) paint guns;

- (4) arrows;
  - (5) explosives;
  - (6) stun guns; and
  - (7) knives, except cooking and eating utensils.
- (e) Illegal substances are not permitted in the group home.
- (f) Adequate enclosed storage space in the group home must be provided for items belonging to service recipients.
- (g) Laundry equipment must be:
  - (1) provided in the group home and housed in a safe, well ventilated, and clean area; and
  - (2) kept clean with the clothes dryer vented to the outside.
- (h) All group home doors and windows opening to the outside for ventilation must have screens that are well fitted and in good repair.
- (i) Phone service must be available within the group home and accessible to the service recipient in accordance with his or her Individual Plan.
- (j) Linen storage areas must be clean and organized.
- (k) Any bulk cleaning supplies must be stored in a separate, clean area of the group home.
- (l) The address of each group home must be clearly visible from the street.
- (m) Items required to be in operating condition and accessible for use in the group home are:
  - (1) flashlights;
  - (2) smoke detectors;
  - (3) first aid kit;
  - (4) fire extinguisher; and
  - (5) carbon monoxide detectors.
- (n) Medication administration is performed in accordance with OAC 340:100-5-32.
- (o) Group home staff who assist a resident with bathing or showering must ensure the water temperature is safe and comfortable before allowing a member to enter water by touch or with a thermometer designed to test hot liquids for the resident being bathed, including when an anti-scald or tempering device is used.
- (p) The group home provider ensures that the hot water temperature for the home is set to no more than 120 degrees Fahrenheit. The group home provider tests the hot water temperature of the home at least annually, after any servicing of the home's water system, and any time the water temperature is believed to have increased above 120 degrees Fahrenheit. The group home provider will maintain documentation of tests performed, and this documentation will at minimum include the date of the test and the temperature of the home's hot water. The documentation is maintained in the home and available for inspection. The provisions within this Subsection will henceforth be known as the Julie Teenor Anti-Scald Protocol.

[Source: Added at 24 Ok Reg 1046, eff 5-11-07 ; Amended at 26 Ok Reg 922, eff 5-15-09]

## **PART 9. DIETARY REQUIREMENTS**

**340:100-6-50. Food service**

(a) A group home provider must:

- (1) have available a minimum of three meals per day, constituting a nutritionally adequate general diet; and
- (2) provide safe and sanitary storage, preparation, and serving of food.

(b) Fresh drinking water and ice must be available and easily accessible to each service recipient.

(c) Meal plans are:

- (1) written in advance for one week;
- (2) dated; and
- (3) kept in the home for six months.
  - (i) Grocery receipts are available to document food purchases.
  - (ii) Substitutions from planned meals are noted.

(d) A four-day supply of food must be in the home at all times, including cold storage.

(e) The dining room must be sufficiently large to simultaneously seat all service recipients and staff on duty.

(f) A group home provider serving service recipients requiring special diets prescribed by a physician documents effective steps to ensure each service recipient receives the correct diet modifications.

[Source: Added at 12 Ok Reg 409, eff 11-17-94 (emergency); Added at 12 Ok Reg 2491, eff 6-26-95 ; Amended at 24 Ok Reg 1046, eff 5-11-07]

## **PART 11. PROGRAM STANDARDS**

**340:100-6-55. Staffing requirements**

Group homes must employ sufficient staff who are appropriately qualified and trained to provide the essential services of the home.

(1) **Sufficient staff.** The provider agency designates one person who, in the absence of the agency administrator, is responsible for the administration of the agency and is empowered to act on behalf of the provider agency.

(A) There must be at least one designated person in charge of the home and its operation available for each home when service recipients are present. Staff support and supervision must be provided as needed for each service recipient in the home. Staff must be physically able and mentally alert to carry out the duties of the job.

(B) In addition to direct support staff, each service recipient in a group home must have a staff person who serves as program coordinator. In addition to duties required by Oklahoma Administrative Code (OAC) 340:100-5-52, program coordination staff must:

- (i) get to know the service recipient and the service recipient's needs;

(ii) make announced and unannounced visits to the group home that include a minimum of three monitoring visits per month, to monitor the service recipient's needs and staff's need for supervision. The visits occur at times when it would reasonably be anticipated that the majority of the residents are home. Agency administration staff meeting the requirements of this Section may complete these visits in addition to program coordination staff. At least two of the visits must be unannounced, unless the:

- (I) home has fully trained staff;
- (II) home had no turn-over for the past year;
- (III) service recipients do not require restrictive or intrusive procedures; and
- (IV) there were no medication errors for the previous year, in which case the unannounced visits may be reduced to one per month. Of the unannounced visits, at least one visit must occur each month on Saturday or Sunday or between 8:00 p.m. and 7:00 a.m. on a weekday;

(iii) provide support and assistance to any service recipient who is experiencing an emotional, behavioral, or medical crisis;

(iv) be accessible to direct support staff 24 hours per day and available to respond, in person when necessary, to an emergency;

(v) supervise direct support staff to promote achievement of outcomes in the service recipient's Individual Plan (Plan);

(vi) ensure staffing levels meet the requirements of the service recipient's Plan, with staff trained per OAC 340:100-3-38;

(vii) ensure each service recipient's needs are always met including, but not limited to:

- (I) utilities and phone service;
- (II) furniture;
- (III) food supplies that meet the service recipient's nutritional needs;
- (IV) linens;
- (V) personal items;
- (VI) adaptive equipment; and
- (VII) prescription medications;

(viii) assist the Developmental Disabilities Services (DDS) case manager as requested to prepare for and implement the service recipient's Plan and its revisions per OAC 340:100-5-50 through 340:100-5-58;

(ix) ensure Oklahoma Department of Human Services and Oklahoma Health Care Authority

rules are followed; and

(x) complete necessary training per OAC 340:100-3-38.

(C) Service recipients do not supervise other service recipients.

**(2) Staff qualifications.**

(A) The group home has an administrator and program coordinator who must:

(i) be at least 21 years of age; and

(ii) have a minimum of four years of any combination of college level course work or full-time equivalent experience in serving persons with disabilities or full-time equivalent experience in a supervisory position, unless this requirement is waived in writing by the DDS director or designee. Both roles may be filled by the same person.

(B) All other staff must be at least 18 years of age.

(C) The provider agency is responsible for recruitment, screening, training, and supervision of staff or volunteers providing direct services, ensuring direct support staff is not supervised by a relative or person living in the staff's home. A relative includes a wife, husband, child, parent, stepparent, parent-in-law, grandchild, grandparent, brother, sister, stepchild, brother-in-law, sister-in-law, son-in-law, daughter-in-law, aunt, uncle, niece, nephew, first cousin, or any such person with whom the employee shares a foster relationship.

(D) The provider agency must comply with OAC 340:100-3-39 regarding pre-employment screening for community services workers.

**(3) Staff training.** To ensure all providers achieve and maintain a level of competency necessary to meet the needs of each service recipient in the group home, provider agency staff must complete training per OAC 340:100-3-38.

[Source: Added at 12 Ok Reg 409, eff 11-17-94 (emergency); Added at 12 Ok Reg 2491, eff 6-26-95 ; Amended at 24 Ok Reg 1046, eff 5-11-07 ; Amended at 26 Ok Reg 922, eff 5-15-09 ; Amended at 28 Ok Reg 897, eff 6-1-11 ; Amended at 32 Ok Reg 1906, eff 9-15-15 ; Amended at 34 Ok Reg 1598, eff 9-15-17]

**340:100-6-56. Provider policies and procedures**

(a) Each group home provider must:

(1) develop and maintain written policies and procedures, as approved by Oklahoma Department of Human Services, that govern all aspects of service provision; and

(2) make written policies available to each person involved with the service recipient, including parent, legal guardian, advocate, and provider staff.

(b) Group home provider staff must be knowledgeable regarding relevant policies including, but not limited to, service recipient:

(1) rights;

(2) services;

- (3) grievance procedures;
  - (4) abuse and neglect prevention and reporting;
  - (5) confidentiality; and
  - (6) emergencies.
- (c) Each service recipient has a voice in the development of any policies affecting residents of the group home.

[Source: Added at 24 Ok Reg 1046, eff 5-11-07]

## **PART 13. INDIVIDUAL PLAN, TRAINING, AND SERVICES**

### **340:100-6-60. Individual Plan, service recipient training, and services**

- (a) Each service recipient residing in a group home has a single, comprehensive, written Individual Plan (Plan) conforming to OAC 340:100-5-50 through 340:100-5-58.
- (b) Training methods and materials must be culturally normative and age-appropriate.
- (c) When specified in the Plan, the group home provider is responsible for programs designed to teach service recipients to clean and maintain their own living areas.
- (1) Other household duties may be shared by service recipients on a rotational basis, provided the duties are in keeping with normal routines of daily living and not for the convenience of staff or as work for the group home.
  - (2) Regular participation in activities, such as meal planning, food purchasing, dish washing, doing laundry, housekeeping, and yard work, that leads to the service recipient's greater independence is not considered work for the group home.
- (d) Each service recipient's Team annually assesses his or her abilities related to remaining in the home in the absence of on-site staff.
- (1) All situations in which the service recipient may remain in the home without staff must be documented in the Plan.
  - (2) Programs must be implemented for each service recipient to reduce his or her dependence on staff supervision, including identifying problems and getting assistance.
- (e) The provider must assist service recipients residing in a group home to access needed professional and generic services.
- (f) In addition to requirements in OAC 340:100-5-50 through 340:100-5-58, the Team assesses and addresses the service recipient's needs regarding:
- (1) safety in the home;
  - (2) assistance with money management in addition to requirements in OAC 340:100-3-4;
  - (3) community inclusion and access to work, employment or day services, leisure, recreation, transportation, and therapies; and
  - (4) health care per OAC 340:100-5-26.

(g) The group home provider must assist service recipients to access necessary services and supports.

(h) The group home provider establishes a written agreement with the service recipient or legal guardian that defines the financial responsibilities of the provider and service recipient, including a room and board payment.

(1) The agreement:

(A) accurately reflects the ongoing financial arrangement between the provider and service recipient;

(B) clearly defines who purchases personal items;

(C) is renewed annually and when changes occur;

(D) is available to the service recipient, legal guardian, Office of Client Advocacy advocate, and Developmental Disabilities Services Division case manager; and

(E) reflects that the services to be provided are described in the service recipient's Plan.

(2) The room and board payment may include all but \$100 per month of the service recipient's income up to a maximum of 90% of the current Supplemental Security Income rate.

[Source: Added at 12 Ok Reg 409, eff 11-17-94 (emergency); Added at 12 Ok Reg 2491, eff 6-26-95 ; Amended at 24 Ok Reg 1046, eff 5-11-07]

### **340:100-6-61. Training of the residents [REVOKED]**

[Source: Added at 12 Ok Reg 409, eff 11-17-94 (emergency); Added at 12 Ok Reg 2491, eff 6-26-95 ; Revoked at 24 Ok Reg 1046, eff 5-11-07]

### **340:100-6-62. Services [REVOKED]**

[Source: Added at 12 Ok Reg 409, eff 11-17-94 (emergency); Added at 12 Ok Reg 2491, eff 6-26-95 ; Revoked at 24 Ok Reg 1046, eff 5-11-07]

## **PART 15. MEDICATION STORAGE AND ADMINISTRATION [REVOKED]**

### **340:100-6-70. Medications [REVOKED]**

[Source: Added at 12 Ok Reg 409, eff 11-17-94 (emergency); Added at 12 Ok Reg 2491, eff 6-26-95 ; Amended at 19 Ok Reg 2948, eff 8-1-02 (emergency); Amended at 20 Ok Reg 936, eff 6-1-03 ; Revoked at 24 Ok Reg 1046, eff 5-11-07]

## **PART 17. RESIDENTS' FUNDS [REVOKED]**

### **340:100-6-75. Resident's contract [REVOKED]**

[Source: Added at 12 Ok Reg 409, eff 11-17-94 (emergency); Added at 12 Ok Reg 2491, eff 6-26-95 ; Revoked at 24 Ok Reg 1046, eff 5-11-07]



### **340:100-6-76. Protection of resident's funds [REVOKED]**

[Source: Added at 12 Ok Reg 409, eff 11-17-94 (emergency); Added at 12 Ok Reg 2491, eff 6-26-95 ; Amended at 23 Ok Reg 1910, eff 6-11-06 ; Revoked at 24 Ok Reg 1046, eff 5-11-07]

## **PART 19. INVOLUNTARY TRANSFER OR DISCHARGE OF SERVICE RECIPIENT**

### **340:100-6-85. Transfer or discharge**

(a) A group home provider must not involuntarily transfer or discharge a service recipient residing in a group home except for:

- (1) medical reasons;
- (2) the service recipient's safety or the safety of other residents;
- (3) violations of the agreement between the service recipient and group home provider; or
- (4) nonpayment for the service recipient's stay unless limited by the federal Social Security Act.

(b) Involuntary transfer or discharge of a service recipient for violations of the agreement must be subject to:

- (1) review of the agreement and notification to the service recipient of specific violations;
- (2) discharge only after all appropriate attempts are made to resolve violations. Attempts must be documented in the service recipient's record.

(c) When a service recipient changes provider agencies, only the outgoing provider agency claims for services provided on the day the service recipient moves.

(d) Involuntary transfer or discharge of a service recipient from a group home must be preceded by a minimum written notice of 30-calendar days. The notice must inform the service recipient and service recipient's legal guardian or advocate:

- (1) of the right to request an administrative inquiry, per Oklahoma Administrative Rules 340:1003-27.1 if the service recipient is aggrieved by the decision; and
- (2) how such a request is made.

(e) The 30-calendar day requirement does not apply when:

- (1) an emergency transfer or discharge is:
  - (A) mandated by the service recipient's health care needs; and
  - (B) per the written orders and medical justification of the attending physician; or
- (2) the transfer or discharge is necessary due to imminent risk to the lives or health of other residents as documented in the service recipient's record.

(f) Oklahoma Human Services (OKDHS) may initiate the transfer or discharge of a service recipient when:

- (1) the service recipient's health care needs are not being met according to a licensed medical authority;

(2) the transfer or discharge is necessary for the physical safety of other residents as observed or documented in the records, including incident reports, case management records, or other documentation the group home provider maintains; or

(3) it is determined, per applicable OKDHS rules, that a service recipient's rights have been violated or the service recipient has been abused, neglected, or exploited.

(g) The service recipient's wishes, in all situations, are given careful consideration in determining whether the health and safety aspects involved outweigh the wishes of a service recipient being transferred or discharged.

(h) A group home provider may not deny appropriate care on the basis of the resident's source of payment.

[Source: Added at 12 Ok Reg 409, eff 11-17-94 (emergency); Added at 12 Ok Reg 2491, eff 6-26-95 ; Amended at 24 Ok Reg 1046, eff 5-11-07 ; Amended at 34 Ok Reg 1598, eff 9-15-17 ; Amended at 40 Ok Reg 1005, eff 9-15-23]

### **340:100-6-86. Notice of involuntary transfer or discharge [REVOKED]**

[Source: Added at 12 Ok Reg 409, eff 11-17-94 (emergency); Added at 12 Ok Reg 2491, eff 6-26-95 ; Amended at 24 Ok Reg 1046, eff 5-11-07 ; Revoked at 40 Ok Reg 1005, eff 9-15-23]

### **340:100-6-87. Hearing on involuntary transfer or discharge [REVOKED]**

[Source: Added at 12 Ok Reg 409, eff 11-17-94 (emergency); Added at 12 Ok Reg 2491, eff 6-26-95 ; Revoked at 24 Ok Reg 1046, eff 5-11-07]

### **340:100-6-88. Transfer by OKDHS [REVOKED]**

[Source: Added at 12 Ok Reg 409, eff 11-17-94 (emergency); Added at 12 Ok Reg 2491, eff 6-26-95 ; Amended at 24 Ok Reg 1046, eff 5-11-07 ; Revoked at 40 Ok Reg 1005, eff 9-15-23]

## **PART 21. RESIDENT RIGHTS AND RESPONSIBILITIES**

### **340:100-6-95. Resident rights and responsibilities**

(a) Each resident is responsible for making a room and board payment to the group home provider in accordance with the financial agreement.

(b) Unless otherwise indicated in the resident's Individual Plan, each resident is responsible for participation in meaningful activities including employment, vocational training, or adult day services that occur outside the group home for a minimum of five hours per weekday.

(c) Each group home develops a statement of rights and responsibilities which includes, but is not limited to, each resident's right to:

(1) civil and religious liberties, including the right to independent personal decisions and knowledge of available choices that must not be infringed. The provider must encourage and assist in the exercise of these rights;

(2) private communications and consultations with the resident's physician or attorney or any other person of the resident's choice including sending and promptly receiving unopened personal mail;

(3) without fear of reprisal, present grievances and join with other residents or persons within or outside of the group home to work for improvements in resident care;

(4) manage his or her financial affairs, unless the resident delegates the responsibility in writing, to the provider. The resident must have at least a quarterly accounting of any personal financial transactions the group home provider undertakes on the resident's behalf during any period of time the resident delegates such responsibilities to the provider;

(5) receive adequate and appropriate medical care consistent with established and recognized medical practice standards within the community. Each resident:

(A) must be fully informed by the attending physician of his or her medical condition and proposed treatment in terms and language the resident understands; and

(B) has the right to refuse medication and treatment after being fully informed of, and understanding the consequences of such actions;

(6) respect and privacy in the resident's medical care program.

(A) Discussion, consultation, examination, and treatment must remain confidential and be conducted discreetly.

(B) Personal and medical records must be confidential;

(7) retain and use personal clothing and possessions, unless prohibited by law, and security in the storage and use of such clothing and possessions;

(8) be treated courteously and respectfully;

(9) be free from mental and physical abuse, and free from physical and chemical restraints, except for those physical and chemical restraints a health care professional authorizes in writing, per Oklahoma Human Services (OKDHS) rules, for a specified period of time;

(10) receive a statement of the group home provider guidelines and an explanation of the resident's responsibility to comply with all reasonable group home regulations and to respect other resident's personal rights and private property;

(11) receive a statement, when adjudicated incapacitated, stating the rights and responsibilities per this Section which must be exercised by a court-appointed guardian;

(12) privacy for conjugal visits. A resident may share a room with a spouse, when the spouse resides in the same group home;

(13) all rights specified in Oklahoma Administrative Code (OAC) 340:100-3-1.2; and

(14) not perform services for a group home provider, except for normal, shared household tasks.

(d) Upon admission of a resident and at least annually thereafter, or upon request, each resident and resident's advocate or legal guardian must be provided a copy of:

- (1) the resident's rights; and
  - (2) procedures for grievances and appeal, per OAC 340:2-3-54.
- (e) The rights enumerated in this Section may be limited for residents of an alternative group home.
- (f) A service recipient has a right to visitors of his or her choosing at any time per OAC 317:40-1-3(b)(6). Any modification of a service recipient's right to visitors is permitted only when requirements per OAC 317:40-1-3(b)(8) are met.
- (1) Visitors are not permitted to enter the immediate living area of any service recipient without first identifying themselves and receiving permission from the service recipient to enter.
  - (2) The rights of other service recipients present in the room must be respected.
  - (3) A service recipient may terminate a visit at any time.
- (g) OAC 340:100-6-41 does not limit the power of OKDHS or any other public agency otherwise permitted or required by law to enter and inspect a group home.

[Source: Added at 12 Ok Reg 409, eff 11-17-94 (emergency); Added at 12 Ok Reg 2491, eff 6-26-95 ; Amended at 24 Ok Reg 1046, eff 5-11-07 ; Amended at 34 Ok Reg 1598, eff 9-15-17 ; Amended at 40 Ok Reg 1005, eff 9-15-23]

#### **340:100-6-96. Statement contents [REVOKED]**

[Source: Added at 12 Ok Reg 409, eff 11-17-94 (emergency); Added at 12 Ok Reg 2491, eff 6-26-95 ; Revoked at 24 Ok Reg 1046, eff 5-11-07]

#### **340:100-6-97. Denial of care [REVOKED]**

[Source: Added at 12 Ok Reg 409, eff 11-17-94 (emergency); Added at 12 Ok Reg 2491, eff 6-26-95 ; Amended at 24 Ok Reg 1046, eff 5-11-07 ; Revoked at 40 Ok Reg 1005, eff 9-15-23]

#### **340:100-6-98. Written plan and training [REVOKED]**

[Source: Added at 12 Ok Reg 409, eff 11-17-94 (emergency); Added at 12 Ok Reg 2491, eff 6-26-95 ; Revoked at 24 Ok Reg 1046, eff 5-11-07]

### **SUBCHAPTER 7. STANDARDS AND GUIDELINES FOR SPECIALIZED FOSTER HOMES [REVOKED]**

#### **340:100-7-1. Standards for MR/DD specialized foster homes [REVOKED]**

[Source: Revoked at 16 Ok Reg 555, eff 12-31-98 (emergency); Revoked at 16 Ok Reg 1056, eff 4-26-99]

#### **340:100-7-2. Guideline for study [REVOKED]**

[Source: Revoked at 16 Ok Reg 555, eff 12-31-98 (emergency); Revoked at 16 Ok Reg 1056, eff 4-26-99]

## **SUBCHAPTER 9. CASE MANAGEMENT SERVICES [REVOKED]**

### **340:100-9-1. Purpose [REVOKED]**

[Source: Revoked at 15 Ok Reg 2136, eff 5-5-98 (emergency); Revoked at 16 Ok Reg 1056, eff 4-26-99]

### **340:100-9-2. Mission statement [REVOKED]**

[Source: Revoked at 15 Ok Reg 2136, eff 5-5-98 (emergency); Revoked at 16 Ok Reg 1056, eff 4-26-99]

### **340:100-9-3. Rights of the person [REVOKED]**

[Source: Revoked at 15 Ok Reg 2136, eff 5-5-98 (emergency); Revoked at 16 Ok Reg 1056, eff 4-26-99]

### **340:100-9-4. Introduction to case management [REVOKED]**

[Source: Revoked at 15 Ok Reg 2136, eff 5-5-98 (emergency); Revoked at 16 Ok Reg 1056, eff 4-26-99]

### **340:100-9-5. The role of the case manager [REVOKED]**

[Source: Revoked at 15 Ok Reg 2136, eff 5-5-98 (emergency); Revoked at 16 Ok Reg 1056, eff 4-26-99]

### **340:100-9-6. Services available through DDS [REVOKED]**

[Source: Revoked at 15 Ok Reg 2136, eff 5-5-98 (emergency); Revoked at 16 Ok Reg 1056, eff 4-26-99]

### **340:100-9-7. Community based services for children ages 0-6 years [REVOKED]**

[Source: Revoked at 15 Ok Reg 2136, eff 5-5-98 (emergency); Revoked at 16 Ok Reg 1056, eff 4-26-99]

### **340:100-9-8. "Developmentally Delayed" defined [REVOKED]**

[Source: Revoked at 15 Ok Reg 2136, eff 5-5-98 (emergency); Revoked at 16 Ok Reg 1056, eff 4-26-99]

### **340:100-9-9. Case management standards [REVOKED]**

[Source: Revoked at 15 Ok Reg 2136, eff 5-5-98 (emergency); Revoked at 16 Ok Reg 1056, eff 4-26-99]

### **340:100-9-10. Referral information for Rehabilitation Services [REVOKED]**

[Source: Revoked at 15 Ok Reg 2136, eff 5-5-98 (emergency); Revoked at 16 Ok Reg 1056, eff 4-26-99]

### **340:100-9-11. Educational services [REVOKED]**

[Source: Revoked at 15 Ok Reg 2136, eff 5-5-98 (emergency); Revoked at 16 Ok Reg 1056, eff 4-26-99]

### **340:100-9-12. Claims payment issues [REVOKED]**

[Source: Revoked at 15 Ok Reg 2136, eff 5-5-98 (emergency); Revoked at 16 Ok Reg 1056, eff 4-26-99]

### **340:100-9-13. Accessing services through other programs [REVOKED]**

[Source: Revoked at 15 Ok Reg 2136, eff 5-5-98 (emergency); Revoked at 16 Ok Reg 1056, eff 4-26-99]

### **340:100-9-14. Psychological services [REVOKED]**

[Source: Revoked at 15 Ok Reg 2136, eff 5-5-98 (emergency); Revoked at 16 Ok Reg 1056, eff 4-26-99]

### **340:100-9-15. Dental services [REVOKED]**

[Source: Revoked at 15 Ok Reg 2136, eff 5-5-98 (emergency); Revoked at 16 Ok Reg 1056, eff 4-26-99]

### **340:100-9-16. Services not otherwise available [REVOKED]**

[Source: Revoked at 15 Ok Reg 2136, eff 5-5-98 (emergency); Revoked at 16 Ok Reg 1056, eff 4-26-99]

### **340:100-9-17. Guardianship [REVOKED]**

[Source: Revoked at 15 Ok Reg 2136, eff 5-5-98 (emergency); Revoked at 16 Ok Reg 1056, eff 4-26-99]

### **340:100-9-18. Procedures for monitoring [REVOKED]**

[Source: Revoked at 15 Ok Reg 2136, eff 5-5-98 (emergency); Revoked at 16 Ok Reg 1056, eff 4-26-99]

### **340:100-9-19. Monitoring requirements [REVOKED]**

[Source: Revoked at 15 Ok Reg 2136, eff 5-5-98 (emergency); Revoked at 16 Ok Reg 1056, eff 4-26-99]

### **340:100-9-20. Effective monitoring [REVOKED]**

[Source: Revoked at 15 Ok Reg 2136, eff 5-5-98 (emergency); Revoked at 16 Ok Reg 1056, eff 4-26-99]

### **340:100-9-21. Individual Habilitation Plan and Interdisciplinary Team Meeting tips [REVOKED]**

[Source: Revoked at 15 Ok Reg 2136, eff 5-5-98 (emergency); Revoked at 16 Ok Reg 1056, eff 4-26-99]

## **SUBCHAPTER 11. ADMISSION TO ROBERT M. GREER CENTER**

### **340:100-11-1. Purpose [REVOKED]**

[Source: Revoked at 39 Ok Reg 1807, eff 9-15-22]

### **340:100-11-2. Intake, Diagnosis and Evaluation Process**

(a) **Legal basis.** Section 1414.1 of Title 10 of the Oklahoma Statutes (10 O.S. § 1414.1) requires Oklahoma Human Services (OKDHS) Developmental Disabilities Services (DDS) to provide care for individuals with a primary intellectual disability diagnosis and a secondary mental illness diagnosis. The Robert M. Greer Center (Greer) was established for this purpose and serves individuals through a contract with OKDHS.

(b) **Admission criteria.** All admissions are consistent with Part 483.440(b) of Title 42 of the Code of Federal Regulations, regarding intermediate care facility admissions, transfers, and discharges.

(1) Admission criteria for an individual served through Greer includes:

(A) clinical evidence the applicant has challenging behaviors placing his or her physical safety, environment, relationships, and community participation at risk, or creates a risk of involvement in civil or criminal processes; and

(B) clear evidence documenting why the applicant cannot receive appropriate treatment in his or her current environment or through less restrictive community supports. The DDS director or designee approves Greer admissions.

(2) A referral packet is submitted to the DDS director or designee and contains, when available:

(A) a physical examination within one-calendar year of referral;

(B) a list of current prescribed medications;

(C) information regarding hospitalizations in the last two-calendar years, including the reason for admission and prognosis;

(D) physician orders and progress notes up to one-calendar year;

(E) nursing notes up to one-calendar year;

(F) medical records up to one-calendar year;

(G) guardianship or legal papers;

(H) social history and recent social evaluation;

(I) psychological evaluation conducted at 16 years of age or older, by a licensed psychologist, which includes:

(i) intellectual disability diagnosis based on testing that yields a full scale intelligence quotient;

(ii) functional and or adaptive assessment; and

- (iii) a statement noting the age of onset of the disability;
  - (J) dental records;
  - (K) immunization record;
  - (L) multi-disciplinary progress notes or assessments up to one-calendar year for:
    - (i) physical therapy;
    - (ii) occupational therapy;
    - (iii) speech therapy and hearing services;
    - (iv) nutritional services;
    - (v) vocational; and
    - (vi) educational records for enrolled students; and
  - (M) behavioral incident reports;
  - (N) direct care notes; and
  - (O) current Individual Plan or treatment plan to include behavioral support plans.
- (c) **Admission.** Individuals considered for Greer admission are 18 years of age and older. When an applicant is 17 and a half and in need of treatment, the DDS director or designee may grant an exception to the age limit. Former Greer residents are eligible for re-admission on the same basis as individuals initially seeking services. Admission is based on a referral packet review that includes:
- (1) clinical evidence of mental illness, behavioral, or emotional problems, per the current edition of the Diagnostic and Statistical Manual of Mental Disorders, revised and published by the American Psychiatric Association;
  - (2) documented attempts, and reasons for failure, of techniques and supports applied in the applicant's current environment; and
  - (3) consideration of other available and appropriate community or Wavier services. Placement at Greer constitutes the least restrictive alternative to provide effective treatment to meet the applicant's needs when compared to other available options.
- (d) **Discharge.** Greer is a short-term treatment facility and residents are transitioned out of the facility when they meet criteria to safely live in a less restrictive placement. When Greer determines a resident is stable and no longer meets criteria to remain, a discharge referral is provided to the DDS director or designee. Discharge planning includes:
- (1) a review of pertinent Greer information, including data to support progress made;
  - (2) discussion with facility staff regarding community supports needed to maintain the resident's stability; and
  - (3) a referral to the area DDS transition coordinators to initiate the search for potential homes in the community with necessary supports.
- (e) **Post discharge activities.** Greer staff is available after discharge to consult with the individual's community personal support team.



### **340:100-11-3. Criteria [REVOKED]**

[Source: Revoked at 39 Ok Reg 1807, eff 9-15-22]

### **340:100-11-4. Admission to the Greer Center [REVOKED]**

[Source: Revoked at 39 Ok Reg 1807, eff 9-15-22]

### **340:100-11-5. Admission and post-admission activities [REVOKED]**

[Source: Revoked at 39 Ok Reg 1807, eff 9-15-22]

### **340:100-11-6. Discharge procedures [REVOKED]**

[Source: Revoked at 39 Ok Reg 1807, eff 9-15-22]

### **340:100-11-7. Waiting list procedures [REVOKED]**

[Source: Revoked at 39 Ok Reg 1807, eff 9-15-22]

## **SUBCHAPTER 13. FAMILY SUPPORT PROGRAMS**

### **340:100-13-1. Family Support Assistance Payment Program**

(a) **Scope and applicability.** Per Section 601 et seq. of Title 56 of the Oklahoma Statutes (56 O.S. § 601 et seq.), Oklahoma Family Support Act, and within the constraints of funding appropriated to Oklahoma Department of Human Services (OKDHS), Developmental Disabilities Services Division (DDSD) provides a family support assistance payment for children with severe developmental disabilities who reside in their family homes and who meet other required eligibility criteria. The family assistance payment is intended to:

- (1) keep families together;
- (2) facilitate the return of children with developmental disabilities from out-of-home placements to their families' homes; and
- (3) prevent or delay out-of-home placement of children with severe developmental disabilities who reside in their families' homes.

(b) **Eligibility criteria - child.** To receive family support assistance payment, the child must:

- (1) be younger than 18 years of age;
- (2) have mental retardation or other developmental disability per 10 O.S. § 1408;
- (3) reside with the family, per OAC 340:100-13-1(c); and
- (4) not receive services through a Home and Community-Based Services (HCBS) Waiver.

(c) **Eligibility criteria - family.** The family with whom the eligible child is residing must:

- (1) live in Oklahoma;
- (2) have an annual gross adjusted income that does not exceed \$45,000; and
- (3) be headed by a biological parent, adoptive parent, or legal guardian of the eligible child. A child living with an adoptive parent(s) who receives adoption assistance from any source is not eligible for the Family Support Assistance Payment Program.

(d) **Application.** Applications for the Family Support Assistance Payment Program are available via OKDHS county offices, DDS area offices, and [www.okdhs.org](http://www.okdhs.org). The family making application to the Family Support Assistance Payment Program must complete and return Form 06DA031E, Family Support Assistance Payment Services Application, and required verification of information.

- (1) Form 06DA031E is:
  - (A) complete when signed with required verification attached; and
  - (B) returned to the applicant when missing information is identified.
- (2) Completed Form 06DA031E is date stamped upon receipt in the DDS State Office or area office.
  - (A) This date establishes chronological placement on the waiting list for this program.
  - (B) An exception to the receipt date is described in OAC 340:100-13-1(f).
- (3) The number of applications approved is determined by available funding.

(e) **Payment of family support assistance.** When Form 06DA031E is approved, a family support assistance payment:

- (1) of \$250 per month for the first eligible child is paid. For families who have more than one eligible child, increments of \$50 are made for each additional eligible child with a maximum payment of \$400 per month per family home;
- (2) is paid to the parent(s) or legal guardian on behalf of the eligible child;
- (3) is considered a benefit to the child and is used to meet the special needs of the family associated with the eligible child; and
- (4) is to complement, not supplant, public assistance or other social service benefits based on economic need that are available through governmental programs.

(f) **Out-of-home placement advanced payment.** The parent(s) or legal guardian of a child who is in an out-of-home placement at the time the application is considered may receive a one-time, lump sum advance payment of twice the monthly family support assistance amount to meet the special needs of the family in preparation for the placement or return of the child to in-home care.

- (1) The child and family must meet all eligibility criteria per OAC 340:100-13-1(b) and (c), excluding (b)(3).
- (2) Verification of current placement of the child is required.
- (3) A written plan for the child's return home is submitted to DDS State Office before advance payment is made.

(4) Authorization for ongoing payment does not begin until DDS State Office verifies the eligible child has returned to the family home.

(g) **Continuation of payment.** Each family annually completes Form 06DA032E, Annual Review and Report, prior to the review due date that is the last day of the birth month of the eligible child.

(1) DDS sends Form 06DA032E 60 days prior to the review due date.

(2) When Form 06DA032E and requested verification are not provided by the last day of the birth month of the eligible child, the family support assistance payment for the child is terminated.

(3) When a family support assistance payment is made for more than one child in the family, the annual review due date is the birth date of the youngest child for which the assistance payment is made, unless otherwise specified.

(4) Form 06DA032E requires:

(A) reverification of the family's annual income;

(B) redetermination of disability for the child younger than seven years of age. For children seven and older, disability review is required every three years or when determined necessary by the Family Support Assistance Payment Program programs manager; and

(C) determination of how the assistance payment is used.

(h) **Relation to HCBS eligibility.** A family may not receive both HCBS and a family support assistance payment.

(1) When a child receives HCBS and applies for the family support assistance payment, DDS State Office notifies the assigned DDS case manager of the request.

(2) The assigned DDS case manager:

(A) schedules a home visit to inform the family that all services through HCBS terminate effective the month the assistance payment is approved;

(B) informs the family that when HCBS is terminated, eligibility for other services may also be affected;

(C) explains Form 06DA033E, Affidavit of Understanding Regarding Family Assistance/Home and Community Based Waiver Services; and

(D) secures the signature of the parent(s) or guardian on Form 06DA033E.

(3) When a child is on the waiting list for HCBS, the child's application status is not affected by applying for or receiving the family support assistance payment.

(4) If an eligible child is placed in specialized foster care (SFC) through HCBS and the request for advance payment is made, the family may receive the one-time advance payment while the child remains in SFC.

(A) A written plan for the child's return home is submitted to DDS State Office before advance payment is made.

(B) Authorization for ongoing payment does not begin until DDS State Office verifies the eligible child has returned to the family home and Form 06DA033E is signed.

(5) When the family chooses to terminate HCBS for the Family Support Assistance Payment Program, the family may choose to reapply for HCBS.

(i) **Required reports.** The parent(s) or legal guardian who receives a family support assistance payment reports in writing:

- (1) annually, with a statement or supporting documentation that the family support assistance payment was used to meet the special needs of the family;
- (2) immediately, if the parent(s) or legal guardian requests termination of the family support assistance; and
- (3) immediately, upon occurrence of any event listed in OAC 340:100-13-1(j).

(j) **Termination of payment.**

- (1) OKDHS notifies the family no less than ten days prior to the effective date of termination of the family support assistance payment.
- (2) Family support assistance payment terminates when:
  - (A) the eligible child dies;
  - (B) the child no longer meets eligibility criteria per OAC 340:100-13-1(b);
  - (C) the family no longer meets eligibility criteria per OAC 340:100-13-1(c);
  - (D) annual reports or verifications required for continuation of the family support assistance payment are not made timely per OAC 340:100-13-1(g) and (i); or
  - (E) reports or verifications required to approve initial eligibility or determine continued eligibility are determined false.

(k) **Fair hearings.** The parent(s) or legal guardian of the child who is affected may request, in writing, a hearing by OKDHS, per OAC 340:2-5, within 30 days of the date on the notification of denial of an application or termination of the family support assistance payment.

- (1) If the hearing is requested within ten days of the date of the notice of adverse action, the assistance payment may be continued pending the outcome of the hearing.
  - (A) The family must request continuation of the assistance payment on the hearing request.
  - (B) If the family does not indicate on the hearing request their preference for continuation of assistance payments, the payments are stopped on the effective date stated in the written notice to the family.
- (2) When a hearing is requested because termination is due to aging out of the program or death of the eligible child, continuation of assistance payment is not an option pending the decision on the appeal.
- (3) If assistance payment is continued and the hearing decision is not in the family's favor, a claim is made against the family for all payments received during the period between the notice of termination and hearing.

(l) **Overpayments.** If a change is not reported immediately per OAC 340:100-13-1(i)(3) and a family support assistance payment is made for

which the family or child did not meet eligibility requirements, an overpayment occurs. In such instances, the family is required to repay all overpayment amounts.

[Source: Added at 10 Ok Reg 2505, eff 5-24-93 (emergency); Added at 11 Ok Reg 2303, eff 5-26-94 ; Amended at 15 Ok Reg 955, eff 1-1-98 (emergency); Amended at 15 Ok Reg 1666, eff 5-11-98 ; Amended at 25 Ok Reg 986, eff 5-15-08]

## **SUBCHAPTER 15. DEVELOPMENTAL DISABILITIES SERVICES (DDS) PREADMISSION SCREENING AND RESIDENT REVIEW (PASRR)**

### **340:100-15-1. Nursing facility services for members with intellectual disability or related condition**

(a) The purpose of this Subchapter is to provide criteria by which Oklahoma Human Services, Developmental Disabilities Services , hereafter referred to as the Intellectual Disabilities (ID) Authority, determines the need for nursing facility services in contrast to other services and the need for specialized services for individuals with intellectual disabilities or related conditions. The provisions of this Subchapter apply to all Medicaid certified nursing facilities and to departmental staff responsible for evaluating individuals suspected of having intellectual disabilities or related conditions receiving or seeking to receive services in Medicaid certified nursing facilities.

(b) In order for the determination to be made that an individual with intellectual disabilities or related conditions needs services only available in a nursing facility but does not need specialized services, the individual must:

(1) require licensed nursing interventions at least once daily or require licensed nursing monitoring and observation on a frequent basis daily for maintenance of health or basic life support; and

(2) meets meet one or more of the following:

(A) be in a comatose state;

(B) require convalescent care;

(C) have a terminal illness;

(D) be at least 65 years of age, unless similar aging process characteristics are evident at age 50; or

(E) have a serious medical condition which requires ongoing medical care and licensed nursing intervention services monitoring or observation. These conditions include but are not limited to:

(i) neurological disorders or malformations which includes muscle wasting diseases that are progressive, dementias, hydrocephalus, meningomyelocele, brain damage secondary to birth trauma, anoxia, cardiac arrest or other causes of cerebral anoxia that are severe enough to induce a comatose state. Cerebral or peripheral

nerve damage secondary to central nervous system infection or trauma or other disorders or malfunctions inconsistent with normal functioning;

(ii) pulmonary disorder, with either congenital or acquired pulmonary disorders that leave the individual unable to adequately oxygenate, therefore, requiring respiratory support;

(iii) cardiac dysfunction or malformation which includes individuals with either congenital or acquired heart disease such as myocarditis, that are in persistent or intractable heart failure, have cardiac rhythms that are life threatening, are persistently cyanotic enough to require supplemental oxygen to survive or are otherwise liable to cardiac arrest, either primarily or secondarily. These individuals are identified by a physician as being unable to survive unless immediate skilled medical and nursing intervention is available;

(iv) circulatory dysfunction which includes individuals with either hypotension or hypertension with a central or unknown etiology that require frequent licensed nursing intervention or monitoring and medication or stimulation. It also includes individuals whose orthopedic or postural malformations require meticulous skin care;

(v) endocrine or metabolic disorder which includes individuals with hypothyroidism or hyperthyroidism, or diabetes with its associated problems including, but not limited to, circulation, skin care, infection, etc., aminoaciduria with secondary intellectual disabilities, glycogen storage disease or other abnormalities of lipid metabolism, and other genetic disorders limiting normal metabolism;

(vi) gastrointestinal disorder or malfunction which includes individuals with primary or secondary disorders of absorption of normal nutrients and vitamins that do not allow adequate calorie sustenance without supplementation by artificial means, those with congenital malformations of the gastrointestinal tract that require, despite surgical intervention, continuing supplementation with special diets and those whose nutritional requirements cannot be met without intravenous supplementation; or

(vii) renal and bladder dysfunction or malformation which includes individuals with severe polycystic kidney disease, hydronephrosis, those with kidney failure secondary to either congenital malformation, trauma or infection requiring

frequent intravenous supplementation, and those in whom kidney or bladder malformations require surgical externalization with need for significant nursing and other management.

(c) The individual must be determined by the ID Authority to be unable to benefit from specialized service for intellectual disabilities or related conditions.

(d) It remains the responsibility of the nursing facility to provide services to improve the physical, mental, and psychosocial development of the individual.

(e) In order for the disposition to be made that an individual with intellectual disabilities or related conditions requires nursing facility services and specialized services, the individual must:

- (1) meet the requirements in (b) of this Section; and
- (2) be determined by the ID Authority to be able to benefit from specialized services for intellectual disabilities or related conditions.

(f) In order for the disposition to be made that an individual with intellectual disabilities or related conditions does not need nursing facility services but does need specialized services the individual must;

- (1) be able to benefit from a program of specialized services for intellectual disabilities or related conditions, and
- (2) not meet the criteria for nursing facility services identified in Oklahoma Administrative Code (OAC) 340:100-15-3.

(g) Long term residents meeting the criteria listed in (a) of this Section are offered a choice of remaining in the facility or of receiving services in an alternative appropriate setting.

(h) Short term residents meeting the criteria listed in (a) of this Section may not be considered appropriate for continued placement and must be discharged.

(i) The ID Authority does not make advance categorical dispositions that specialized services are needed. Such determinations are based on an extensive individualized evaluation to determine the exact nature of the specialized services that are needed. The ID Authority does make categorical determinations that nursing facility level of care is needed in the categories listed in (1) and (2) of this subsection.

(1) Individuals with a terminal illness as defined for hospice purposes are granted a categorical determination for nursing facility level of care and a negative specialized services determination by the ID Authority. Hospice criteria include late stage disease process with a life expectancy of six months or less and must be physician referred and certified.

(2) Individuals requiring convalescent care or extended hospital discharge as certified by a physician that are likely to require 30-calendar days are granted a categorical determination for nursing facility level of care and a negative specialized services determination by the ID Authority.

(j) Each individual has a unique prescriptive plan of specialized services based on professional assessments. The plan addresses identified needs and enhancement of independence. Assessments address self-care skills, communication skills, motor and mobility skills, and educational,

recreational and leisure skills. The plan includes:

- (1) behavioral objectives stated in measurable terms directed at skill acquisition;
- (2) identification of additional services and supports necessary for skill acquisition to occur such as:
  - (A) adaptive, corrective, orthotic, mobility, and other types of equipment and devices;
  - (B) specific nursing care plan objectives relative to significant medical condition;
  - (C) Identification of persons responsible for service needs external to the facility such as vocational services or counseling; and
- (3) specific methods, strategies, or steps relative to the behavioral objectives to ensure consistency of training;
- (4) identification of persons responsible for training, obtaining and maintaining equipment, and providing health related services; and
- (5) methods of data collection.

(k) The plan must be monitored by a designated nursing facility staff member on a monthly basis to ensure that training of behavioral objectives is occurring in a consistent manner and progress is being shown, necessary equipment is available and in good repair, all significant health issues are being addressed, and necessary modifications to the plan occur as needed.

(l) For individuals with both an intellectual disability or related condition and mental illness, individuals with dual diagnoses, a joint disposition is required from the ID Authority and Mental Illness Authorities. The Mental Illness Authority is administered through the Oklahoma Department of Mental Health and Substance Abuse Services. This disposition is based on independent assessment information from both authorities. The disposition determines which authority assumes responsibility for serving the individual or if the individual is served by both.

(m) Any individual believed to have been adversely affected by a preadmission screening and resident review disposition made in the context of either a preadmission screening or a resident review may appeal that disposition consistent with OAC 317:35-19-16.

- (1) Special case determinations may be required for individuals with intellectual disabilities or a related condition(s) who would benefit from nursing facility level of care due to unusual circumstances other than medical needs.
- (2) To make a special case determination ID Authority staff must:
  - (A) consider all factors including:
    - (i) the individual circumstances presented;
    - (ii) the individual's mental and emotional support needs;
    - (iii) all available assessment information;
    - (iv) any other relevant information; and
    - (v) availability of other formal and informal supports; and



(B) provide written specific rationale in support of the exception noting the unique and individualized circumstances of the case.

[Source: Added at 11 Ok Reg 4119, eff 6-21-94 (emergency); Added at 12 Ok Reg 1761, eff 6-12-95 ; Amended at 40 Ok Reg 1005, eff 9-15-23]

#### **340:100-15-2. Application [REVOKED]**

[Source: Added at 11 Ok Reg 4119, eff 6-21-94 (emergency); Added at 12 Ok Reg 1761, eff 6-12-95 ; Revoked at 40 Ok Reg 1005, eff 9-15-23]

#### **340:100-15-3. Criteria for determining that an individual requires nursing facility services but not specialized services [REVOKED]**

[Source: Added at 11 Ok Reg 4119, eff 6-21-94 (emergency); Added at 12 Ok Reg 1761, eff 6-12-95 ; Revoked at 40 Ok Reg 1005, eff 9-15-23]

#### **340:100-15-4. Criteria for determining that an individual requires nursing facility services and specialized services [REVOKED]**

[Source: Added at 11 Ok Reg 4119, eff 5-21-94 (emergency); Added at 12 Ok Reg 1761, eff 6-12-95 ; Revoked at 40 Ok Reg 1005, eff 9-15-23]

#### **340:100-15-5. Criteria for determining that an individual does not require nursing facility services but does require specialized services [REVOKED]**

[Source: Added at 11 Ok Reg 4119, eff 6-21-94 (emergency); Added at 12 Ok Reg 1761, eff 6-12-95 ; Revoked at 40 Ok Reg 1005, eff 9-15-23]

#### **340:100-15-6. Categorical determinations regarding need of nursing facility and specialized services [REVOKED]**

[Source: Added at 11 Ok Reg 4119, eff 6-21-94 (emergency); Added at 12 Ok Reg 1761, eff 6-12-95 ; Revoked at 40 Ok Reg 1005, eff 9-15-23]

#### **340:100-15-7. Specialized services [REVOKED]**

[Source: Added at 11 Ok Reg 4119, eff 6-21-94 (emergency); Added at 12 Ok Reg 1761, eff 6-12-95 ; Revoked at 40 Ok Reg 1005, eff 9-15-23]

#### **340:100-15-8. Joint disposition for persons who have mental retardation or related conditions and mental illness [REVOKED]**

[Source: Added at 11 Ok Reg 4119, eff 6-21-94 (emergency); Added at 12 Ok Reg 1761, eff 6-12-95 ; Amended at 15 Ok Reg 3934, eff 7-14-98 (emergency); Amended at 16 Ok Reg 1056, eff 4-26-99 ; Revoked at 40 Ok Reg 1005, eff 9-15-23]

#### **340:100-15-9. Appeal process [REVOKED]**

[Source: Added at 11 Ok Reg 4119, eff 6-21-94 (emergency); Added at 12 Ok Reg 1761, eff 6-12-95 ; Amended at 15 Ok Reg 3934, eff 7-14-98 (emergency); Amended at 16 Ok Reg 1056, eff 4-26-99 ; Revoked at 40 Ok Reg 1005, eff 9-15-23]

## **340:100-15-10. Special case determinations [REVOKED]**

[Source: Added at 15 Ok Reg 3934, eff 7-14-98 (emergency); Added at 16 Ok Reg 1056, eff 4-26-99 ; Revoked at 40 Ok Reg 1005, eff 9-15-23]

# **SUBCHAPTER 17. EMPLOYMENT SERVICES**

## **PART 1. GENERAL EMPLOYMENT EXPECTATIONS**

### **340:100-17-1. Scope and applicability of employment services**

The employment needs of service recipients are addressed through the prescription and implementation of services directed toward the service recipient's entry into the work force.

- (1) The service recipient and a desired family member, representative, or legal guardian have an active role in identifying employment needs.
- (2) All service recipients receiving employment services meet eligibility requirements as established by the Oklahoma Department of Human Services (OKDHS) or the Oklahoma Health Care Authority (OHCA).
- (3) All provider agencies meet the criteria established by federal and state regulations.
- (4) Specific employment needs are determined through the team process and are documented in the Individual Plan (IP). The services provided are those necessary to meet needs identified in the IP.
- (5) Employment services are coordinated with all other services provided to the service recipient.
- (6) Reimbursement for employment services is provided under established rates or contract provisions approved by the Oklahoma Commission for Human Services or OHCA, within program capacities as determined by budgetary constraints.
- (7) Programs are monitored on a regular basis to ensure compliance with the Fair Labor Standards Act (FLSA), as amended, and applicable contract conditions, rules, and regulations. Documentation is maintained as a basis for contract renewal.
- (8) Provider agencies are informed of, and provided an opportunity to correct, deficiencies which may result in the imposition of sanctions, which may include contract termination and have the right to appeal actions taken by the Developmental Disabilities Services Division (DDSD) with which they disagree in accordance with OAC 340:100-3-27.2.

[Source: Added at 15 Ok Reg 1309, eff 3-1-98 (emergency); Added at 16 Ok Reg 1056, eff 4-26-99 ; Amended at 22 Ok Reg 882, eff 5-12-05]

### **340:100-17-2. Overview of employment services**

(a) In the past, people receiving services were usually either fully employed, idle, or involved in nonproductive activities. There are many employment service options available. The options given in this subsection are not a continuum, but are prioritized as most desirable by people with and without disabilities. Provider agencies assess each service recipient in maximizing employment options.

(1) The optimum goal is full-time employment at prevailing wage in business or industry at an occupation of the service recipient's choice with natural supports. If prevailing wage is not available, then employment is at minimum wage with or without paid supports.

(2) If a service recipient cannot secure enough work hours through a single job of the service recipient's choice, then two part-time jobs or a job that is not the service recipient's first preference may need to be sought to equal a full-time job.

(3) If a fully integrated placement is not currently available, employment of the service recipient's choice in an enclave in a business or industry, with or without paid supports, is an option.

(4) If there are no paid jobs to be found, temporary unpaid training or volunteer service in accordance with United States Department of Labor regulations, with or without paid supports, may be an option for the purpose of resume building or job exploration, or temporary participation in real work in a center-based setting can be obtained.

(b) The provider agency makes available those supports needed, within the scope of the contract for services, for the service recipient to achieve employment.

(c) Employment services are prescribed in accordance with this Subchapter and OAC 340:100-3-33.1.

[Source: Added at 15 Ok Reg 1309, eff 3-1-98 (emergency); Added at 16 Ok Reg 1056, eff 4-26-99 ; Amended at 22 Ok Reg 882, eff 5-12-05]

### **340:100-17-3. Selection of a primary vocational provider [REVOKED]**

[Source: Added at 15 Ok Reg 1309, eff 3-1-98 (emergency); Added at 16 Ok Reg 1056, eff 4-26-99 ; Revoked at 22 Ok Reg 882, eff 5-12-05]

### **340:100-17-4. Data collection in Vocational Services [REVOKED]**

[Source: Added at 15 Ok Reg 1309, eff 3-1-98 (emergency); Added at 16 Ok Reg 1056, eff 4-26-99 ; Revoked at 22 Ok Reg 882, eff 5-12-05]

## **PART 3. STATE-FUNDED EMPLOYMENT (SHELTERED WORKSHOP) SERVICES**

### **340:100-17-10. General state-funded employment (sheltered workshop) expectations**

(a) Access to state-funded (sheltered workshop) employment services is contingent upon sufficient resources and a determination of eligibility of the service recipient, per Oklahoma Administrative Code 340:100-3-1. A person is not eligible for state-funded employment services when he or she:

- (1) receives Home and Community-Based Services funded by the Oklahoma Health Care Authority; or
- (2) resides in a private intermediate care facility for individuals with intellectual disabilities (ICF/IID).

(b) State-funded (sheltered workshop) employment services are provided by private agencies that have a current contract with Oklahoma Human Services.

(c) State-funded (sheltered workshop) employment services serve eligible persons with developmental disabilities who are 16 years of age and older. Individuals between the ages of 16 and 21 who have not completed eligibility for services provided through Individuals with Disabilities Education Act (IDEA) may receive state-funded employment services during times when school is not in session, when not participating in an Individual Education Program (IEP) that includes extended school year services through the school system.

(d) The provider agency ensures service recipients participate in meaningful work-related activities for the entire service day, five hours per day, unless determined otherwise by the service recipient's Team and justified in the Individual Plan (IP).

(e) State-funded (sheltered workshop) employment services include:

- (1) evaluation;
- (2) training;
- (3) supportive assistance; and
- (4) paid employment.

(f) The services allow the service recipient to engage in meaningful work or participate in training activities that are age appropriate, work related, and consistent with the service recipient's IP.

(1) The work day is devoted to paid employment, evaluation, or specific job task activities for which the service recipient is remunerated per the United States Department of Labor Wage and Hour regulations and the Fair Labor Standards Act.

(2) During periods in which no paid work is available for service recipients, despite the good faith efforts of the provider to secure such work, the employment provider agency ensures that each service recipient participates in training activities that are age appropriate, work related, and consistent with the IP. Such activities may include, but are not limited to:

- (A) resume development and application writing;

- (B) work attire selection;
  - (C) job interview training and practice;
  - (D) job safety and evacuation training;
  - (E) personal or social skills training; and
  - (F) stamina and wellness classes.
- (3) Activities that do not contribute to the service recipient's work experience, skills, or knowledge are not appropriate services.
- (g) The provider agency submits a monthly attendance record to DDS to receive payment for state-funded employment (sheltered workshop) services. Claims for services rendered to service recipients must be submitted within 90-calendar days of the provision of services. Supporting encumbrances may be canceled upon a lapse of six months from the actual provision of services.
- (h) The provider agency maintains documentation available for review that documents the:
  - (1) service recipient's:
    - (A) legal name;
    - (B) case number or Social Security number;
    - (C) date of birth;
    - (D) progress toward outcomes;
    - (E) wages earned; and
    - (F) hours worked;
  - (2) type of service provided; and
  - (3) date(s) of service delivery.

[Source: Added at 15 Ok Reg 1309, eff 3-1-98 (emergency); Added at 16 Ok Reg 1056, eff 4-26-99 ; Amended at 22 Ok Reg 882, eff 5-12-05 ; Amended at 38 Ok Reg 2317, eff 9-15-21]

### **340:100-17-11. Changing vocational providers [REVOKED]**

[Source: Added at 15 Ok Reg 1309, eff 3-1-98 (emergency); Added at 16 Ok Reg 1056, eff 4-26-99 ; Revoked at 22 Ok Reg 882, eff 5-12-05]

### **340:100-17-12. Termination of state funded employment (sheltered workshop) services to a service recipient**

- (a) An employment provider may terminate state funded sheltered workshop services for the:
  - (1) service recipient's safety;
  - (2) safety of other service recipients; or
  - (3) service recipient's chronic and consistent violation of workplace rules.
- (b) Termination occurs only after:
  - (1) systematic programmatic supports to resolve the problem(s) have proven unsuccessful; and
  - (2) the termination has been discussed by the service recipient's Team.
- (c) Termination of services must be consistent with the provider agency's policies regarding terminations and due process.
- (d) Termination of employment services to a service recipient requires proper notification.

(1) The service recipient and legal guardian or advocate are notified in writing of specific violations and of the provider agency's grievance procedure.

(A) Termination of employment services is preceded by a minimum written notice of 30 days.

(B) The 30-day notice requirement does not apply when:

(i) an emergency termination is mandated by the service recipient's health care needs; or

(ii) the termination is necessary due to imminent risk to the lives or health of other service recipients as documented in the service recipient's record.

(2) Termination occurs only after reasonable attempts have been made to resolve the issue(s). Attempts to reconcile concerns are documented in the service recipient's record.

(e) Terminations or proposed terminations may be reviewed by the Oklahoma Department of Human Services (OKDHS) to determine compliance with this Section.

[Source: Added at 15 Ok Reg 1309, eff 3-1-98 (emergency); Added at 16 Ok Reg 1056, eff 4-26-99 ; Amended at 22 Ok Reg 882, eff 5-12-05]

#### **340:100-17-13. Physical plant expectations for state-funded employment services (sheltered workshops)**

(a) The physical facilities present no hazards to the safety and welfare of service recipients and assure a degree of comfort sufficient to ensure the well-being of service recipients.

(b) Ventilation is provided, and the air is circulated to assure an environment that does not jeopardize the health or safety of service recipients.

(c) The premises have the general appearance of similar businesses.

(d) The premises are kept:

(1) clean;

(2) neat; and

(3) free from accumulated rubbish, weeds, ponded water, or other characteristics of a similar nature, which would create a health hazard.

(e) The physical facilities comply with all applicable Occupational Safety and Health Administration (OSHA) and United States Department of Labor regulations.

(f) The physical facilities are accessible to service recipients and comply with the requirements of the Architectural Barriers Act of 1968, the Uniform Accessibility Standards and their implementing regulations in Subpart 101-19 of Part 101 of Title 41 of the Code of Federal Regulations, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973.

[Source: Added at 15 Ok Reg 1309, eff 3-1-98 (emergency); Added at 16 Ok Reg 1056, eff 4-26-99 ; Amended at 22 Ok Reg 882, eff 5-12-05]

**340:100-17-14. Personnel expectations for state-funded employment (sheltered workshop)**

- (a) The agency providing state-funded employment (sheltered workshop) services employs sufficient personnel who are appropriately qualified and trained to provide the essential employment services to service recipients as described in each Individual Plan (IP).
- (b) There is one person who is administratively responsible for the entire program.
- (c) All staff have completed the required training as specified by OAC 340:100-3-38 as well as additional specific training requirements identified in the service recipients' IPs.
- (d) Service recipients do not supervise other service recipients.

[Source: Added at 15 Ok Reg 1309, eff 3-1-98 (emergency); Added at 16 Ok Reg 1056, eff 4-26-99 ; Amended at 22 Ok Reg 882, eff 5-12-05]

**340:100-17-15. Requirements for agencies providing state-funded employment (sheltered workshop) services**

- (a) State-funded employment services provider agencies comply with all applicable United States Department of Labor rules and regulations that govern the employment of workers with disabilities under special certificates.
- (b) Within the first 30 days of service delivery, the provider agency ensures that all service recipients have an individualized employment assessment represented in the Individual Plan (IP) specifying short term and long term employment outcomes and action steps. The IP is reviewed and updated at least annually.
- (c) The provider agency has a clearly articulated mission statement and promulgates policy and procedures consistent with the Oklahoma Department of Human Services (OKDHS) policies regarding:
  - (1) services and programs;
  - (2) service recipient rights;
  - (3) grievances and appeals;
  - (4) involuntary discharge and due process;
  - (5) confidentiality;
  - (6) abuse and neglect prevention and reporting; and
  - (7) advocacy.

[Source: Added at 15 Ok Reg 1309, eff 3-1-98 (emergency); Added at 16 Ok Reg 1056, eff 4-26-99 ; Amended at 22 Ok Reg 882, eff 5-12-05]

**340:100-17-16. State-funded employment (sheltered workshop) reimbursement**

Agencies providing state-funded employment (sheltered workshop) services for eligible service recipients receive a flat daily rate.

- (1) When a service recipient is unable to work five hours per day, the provider agency may receive prorated reimbursement when recommended by the service recipient's Personal Support Team (Team). Team review and approval is documented in the Individual Plan (IP). When a service recipient is unable to

participate a full five hours, other eligible service recipients can fill the balance of the work day.

(2) State-funded employment services for eligible service recipients must be included in the service recipient's IP.

(3) Payment is only disbursed following the delivery of authorized services to eligible service recipients.

[Source: Added at 15 Ok Reg 1309, eff 3-1-98 (emergency); Added at 16 Ok Reg 1056, eff 4-26-99 ; Amended at 22 Ok Reg 882, eff 5-12-05 ; Amended at 36 Ok Reg 1880, eff 9-16-19]

#### **340:100-17-17. Billing for state-funded employment (sheltered workshop) services [REVOKED]**

[Source: Added at 15 Ok Reg 1309, eff 2-25-98 (emergency); Added at 16 Ok Reg 1056, eff 4-26-99 ; Amended at 22 Ok Reg 882, eff 5-12-05 ; Amended at 25 Ok Reg 986, eff 5-15-08 ; Revoked at 38 Ok Reg 2317, eff 9-15-21]

### **PART 4. COMMUNITY INTEGRATED EMPLOYMENT SERVICES**

#### **340:100-17-25. Community integrated employment services**

(a) Community integrated employment (CIE) services promote independence through paid work and training activities. CIE services allow service recipients to engage in gainful integrated employment. CIE services are:

(1) delivered in integrated settings in the community by contract providers;

(2) provided to eligible service recipients 16 years of age and older who are not:

(A) eligible for reimbursement by Oklahoma Health Care Authority through Home and Community-Based Services Waiver employment services; or

(B) residing in a private intermediate care facility for individuals with intellectual disabilities; and

(3) available to service recipients 16 to 21 years of age who have not completed eligibility for services provided through Individuals with Disabilities Education Act. The service recipient may receive CIE services when school is not in session, when he or she is not participating in an Individual Education Program that includes extended school year services through his or her school.

(b) Access to CIE services is contingent upon sufficient Oklahoma Human Services (OKDHS) resources and written eligibility determination, per OAC 340:100-3-1.

(c) The provider agency:

(1) may use, prior to placement, up to 20 hours for assessment and up to 40 hours for job development;

(2) after placement, provides, as needed, job site training, technical assistance to the employer, job adaptation, participation in Personal Support Team meetings, benefits planning, and transportation to and from the work site. These services are



reimbursed when the job coach is with the service recipient;  
(3) ensures the service recipient is paid per United States Department of Labor (USDOL) wage and hour regulations for work performed;

(4) ensures the service recipient's employment plan includes specific employment outcomes and action steps;

(5) ensures all CIE services are provided by job coaches who complete required training, per OAC 340:100-3-38;

(6) may bill for CIE services rendered prior to eligibility determination when CIE services are authorized in an employment plan and the service recipient is ultimately determined eligible; and

(7) receives reimbursement for providing CIE services to only one service recipient at a given time. This does not preclude CIE services from being provided to service recipients in group settings, such as one job coach simultaneously providing CIE services to three service recipients for three hours, in this case, the job coach may only claim three reimbursement units, not nine.

(d) CIE services include reimbursement for securing individual gainful employment, individual follow-along, and group placements.

(1) The provider agency secures gainful employment in a job paying at least minimum wage for service recipients, in accordance with the current contract for CIE services.

(2) Follow-along services are available to service recipients who successfully placed in CIE services or who completed stabilization in Oklahoma Department of Rehabilitation Services supported employment program during the prior contract year. Reimbursement for follow-along services cannot exceed amounts specified in the contract for CIE services.

(3) The provider agency may provide integrated group placements of two or more service recipients in gainful integrated group employment and claim per the contract for CIE services. Group placements:

(A) may pay at or more than minimum wage or commensurate wages per USDOL wage and hour regulations; and

(B) cannot exceed eight service recipients.

(e) Payment for CIE services is only disbursed following the delivery of authorized CIE service to eligible service recipients.

(1) To receive payment, the provider agency submits a claim for CIE services rendered , along with any supporting documentation required by OKDHS, to the Developmental Disabilities Services State Office. Claims may be submitted on the provider agency's invoice or on Form 10AD012E, Claim Form, and include the:

(A) service recipient's:

- (i) legal name;
- (ii) case number;
- (iii) date of birth; and
- (iv) Social Security number; and

(B) category, amount, rate, and date of CIE service delivered to the service recipient.

(2) The provider agency maintains documentation available for review that documents the:

(A) service recipient's:

- (i) legal name;
- (ii) case number or Social Security number;
- (iii) date of birth;
- (iv) progress toward outcomes;
- (v) wages earned; and
- (vi) hours worked; and

(B) type and date of CIE service delivered to the service recipient.

(3) Claims for CIE service reimbursement are submitted within 90-calendar days of service provision. Supporting encumbrances may be cancelled upon a lapse of six months from the actual provision of CIE services.

[Source: Added at 22 Ok Reg 882, eff 5-12-05 ; Amended at 25 Ok Reg 986, eff 5-15-08 ; Amended at 38 Ok Reg 2317, eff 9-15-21 ; Amended at 39 Ok Reg 1807, eff 9-15-22]

## **PART 5. OTHER STATE FUNDED EMPLOYMENT SERVICES [REVOKED]**

### **340:100-17-30. Other state funded employment services [REVOKED]**

[Source: Added at 15 Ok Reg 1309, eff 3-1-98 (emergency); Added at 16 Ok Reg 1056, eff 4-26-99 ; Amended at 24 Ok Reg 1046, eff 5-11-07 ; Amended at 26 Ok Reg 922, eff 5-15-09 ; Amended at 27 Ok Reg 838, eff 7-1-10 ; Revoked at 36 Ok Reg 1880, eff 9-16-19]

## **SUBCHAPTER 18. LICENSING**

### **340:100-18-1. Board Certified Behavior Analyst (BCBA) license and Board Certified Assistant Behavior Analyst (BCaBA) certification**

(a) **Authority.** Section 1928 of Title 59 of the Oklahoma Statutes (59 O.S. § 1928) directs Oklahoma Human Services (OKDHS) Developmental Disabilities Services (DDS) to provide for licensing of BCBAs and certification of BCaBAs.

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

(1) **"Applied behavior analysis"** means the process of systematically applying interventions based upon the principles of learning theory to improve socially significant behaviors to a meaningful degree, and to demonstrate that the interventions employed are responsible for the improvement in behavior.

(2) **"Behavior Analyst Certification Board (BACB)"** means the national-accrediting Behavior Analyst Certification Board or its

successor.

(3) **"Board Certified Assistant Behavior Analyst (BCaBA)"** means an individual who is certified by the BACB as a Board Certified Assistant Behavior Analyst and practices under the close, ongoing supervision of a BCBA .

(4) **"Board Certified Behavior Analyst (BCBA)"** means an individual who is certified by the BACB as a Board Certified Behavior Analyst .

(5) **"Human services professional"** means an individual licensed or certified in Oklahoma as a licensed:

(A) physical therapist or physical therapist assistant;

(B) occupational therapist or occupational therapist assistant;

(C) clinical social worker;

(D) masters social worker;

(E) social work associate;

(F) psychologist or health service psychologist;

(G) speech pathologist;

(H) audiologist;

(I) professional counselor or professional counselor candidate;

(J) marital and family therapist or marital and family therapist candidate; or

(K) behavioral practitioner or behavioral practitioner candidate.

(6) **"Oklahoma Certified Assistant Behavior Analyst (OCABA)"** means a BCaBA who is certified by OLBAB under authority of OKDHS DDS to provide applied behavior analysis services in Oklahoma.

(7) **"Oklahoma Licensed Behavior Analyst Board (OLBAB)"** means the state board responsible for licensing behavior analysts, certifying assistant behavior analysts and regulating the practice of applied behavior analysis professionals.

(8) **"Oklahoma Licensed Behavior Analyst (OLBA)"** means a BCBA who is licensed by OLBAB under authority of OKDHS DDS to provide applied behavior analysis services in Oklahoma.

(9) **"Registered behavior technician (RBT)"** means a paraprofessional who is certified by the BACB and practices under the close, ongoing supervision of a BCBA. The RBT works under the license number of a BCBA and is primarily responsible for the direct implementation of BCBA designed and prescribed behavior-analytic services.

(10) **"Supervisee"** means a BCaBA , RBT, or Behavior Analyst in training who acts under the authority and supervision of a BCBA to provide applied behavior analysis services or a BCaBA or RBT candidate in training to provide such services in accordance with the requirements and procedures of the BACB.

(A) The supervisee does not design intervention or assessment plans but may assist the BCBA performing those tasks to the extent the BACB allows. It is the supervising BCBA's responsibility to determine which

other tasks the supervisee may perform as a function of his or her training, experience, and competence.

(B) The BCBA is responsible for the supervisee's work on the cases he or she is overseeing.

(C) A BCBA, BCaBA, RBT or Behavior Analyst in training as a guardian or parent, may not provide services to his or her own child or ward.

(11) **"Supervision"** means at least two face-to-face, real time contacts with at least one occurring during the provision of service by a BCBA, BCaBA, RBT or Behavior Analyst in training.

**(c) Qualifications.**

(1) Each person wishing to practice as a BCBA or BCaBA in Oklahoma applies to DDS using Form 06LC001E, Application for BCBA License and BCaBA Certification, and furnishes evidence that he or she:

(A) passed the Board examination and is certified by the BACB as a BCBA or as a BCaBA, as applicable; and

(B) has not had a professional license or state certification refused, revoked, suspended, or restricted and does not have a complaint, allegation, or investigation pending in any regulatory jurisdiction in the United States or in another country for reasons that relate to unprofessional conduct unless DDS finds that the conduct was corrected or that mitigating circumstances exist that prevent resolution.

(2) No person may claim the title of or hold himself or herself out as being an OLBA or OCABA unless he or she meets the applicable requirements and obtains a license or certification, per this Section.

(A) Supervisees provide applied behavior analysis under the supervision of an OLBA.

(B) This Section does not restrict the practice of applied behavior analysis by human services professionals, provided such individuals are working within the scope of their professions and the practice of applied behavior analysis is commensurate with their level of training and experience and provided such professionals do not hold themselves out as being an OLBA, OCABA, BCBA, or BCaBA if they do not possess such credentials.

(C) This Section does not prohibit the practice of applied behavior analysis by a family member, guardian or caregiver of a person implementing a plan for that person acting under the extended authority and direction of an OLBA or OCABA.

(D) This Section does not apply to persons employed by a school district who provide services solely to the school district under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C., Section 1400 et seq., provided they do not claim the title of an OLBA, OCABA, BCBA, BCaBA, or RBT unless they are in compliance with the requirements for the RBT as promulgated and

administered by the BACB.

(E) OKDHS Legal Services may file and seek injunctive relief against any person who wrongfully holds himself or herself out as an OLBA, OCABA, BCBA, or BCaBA, and does not in fact meet the applicable requirements set forth above, or who is not licensed or certified as this policy requires. The injunctive relief set forth in this Section is filed in the district court for any county wherein which the person holding himself or herself out as an OLBA, OCABA, BCBA or BCaBA.

(F) The term supervisee includes:

- (i) a matriculated graduate student or postdoctoral fellow whose activities are part of a defined behavior analysis program of study, practicum, or intensive practicum, provided that the practice under this exemption is directly supervised by a licensed behavior analyst in this state or an instructor in a course sequence approved by the certifying entity; or
- (ii) an unlicensed individual pursuing experience in behavior analysis consistent with the experience requirements of the certifying entity, provided such experience is supervised by a licensed behavior analyst in the state.

(H) A violation of this subsection is punishable by a fine of not more than \$500, the suspension or revocation of a license or certification issued per this Section, or both fine, and loss of licensure or certification.

(d) **Application.** Oklahoma licenses and certificates are issued for two-year terms following the initial OLBAB certification period.

(1) **Licensure.** A person requesting licensure provides for:

(A) an initial request:

- (i) a current copy of BACB certification; and
- (ii) Form 06LC001E;

(B) a renewal:

- (i) a current copy of BACB certification; and
- (ii) Form 06LC001E.

(2) **Certification.** A person requesting certification provides for:

(A) an initial request:

- (i) a current copy of BACB certification; and
- (ii) Form 06LC001E;

(B) re-certification:

- (i) a current copy of BACB certification; and
- (ii) Form 06LC001E.

(3) **Post-military personnel.** Pursuant to the Post-Military Service Occupation, Education and Credentialing Act, 59 O.S. § 4100.1, issuance of an Oklahoma license or certificate to post-military service members and spouses is expedited upon receipt of required application materials and verification of BACB certification.

(4) **Temporary License.** OLBAB may issue a temporary license to practice behavior analysis in Oklahoma for 30-calendar days or less in a calendar year. For a temporary license to be issued, the person must be licensed to practice behavior analysis in another state whose requirements are substantially equivalent to Oklahoma requirements, per 59 O.S. § 1928(B) and this Section.

(5) **Licensure Requirements.** OLBAB may issue a license to a person who:

- (A) holds a valid license or certificate from another state;
- (B) meets the requirements specified in 59 O.S. § 1928(B) and this Section;
- (C) meets any additional licensing requirements contained in administrative regulation promulgated by OLBAB; and
- (D) has no imposed or pending disciplinary actions.

(e) **Licensure and certification.** A person licensed or certified :

- (1) maintain active status and fulfill all requirements of certification or recertification with the BACB;
- (2) conduct professional activities in accordance with the ethical and professional standards of the BACB available on its website at [www.bacb.com](http://www.bacb.com); and
- (3) applies for license or certification renewal on or before April 30 of each odd-numbered year to continue practicing in Oklahoma.

(f) **Fees.**

(1) OLBA licensure fees:

- (A) for initial licensing are pro-rated on a rounded average of \$50 for each full- calendar year remaining on the BACB certification; and
- (B) \$100 for each two-year license thereafter.

(2) OCABA certification fees:

- (A) for initial certification are pro-rated on a rounded average of \$25 for each full-calendar year remaining on the BACB certification; and
- (B) \$50 for each two-year certification thereafter.

(g) **Requirements of supervision.** An OCABA or RBT works under the supervision of an OLBA. The OLBA follows the supervision guidelines of the BACB.

(h) **OLBAB.**

(1) OLBAB has at least five members consisting of:

- (A) at least three OLBAs appointed by the OKDHS Director or designee, one of whom may be employed by OKDHS, and two who are recommended by the:
  - (i) largest nonprofit professional association for behavior analysts in the state; or
  - (ii) OLBAB;
- (B) at least one OCABA or RBT who may be employed by OKDHS appointed to the OLBAB by the OKDHS Director or designee; and
- (C) one member of the public who is, or in the last five years has been, a consumer of behavior analytic services, or family member of a consumer of behavior analytic

services provided or supervised by an OLBA.

(2) The OKDHS Director or designee appoints the chair of OLBAB .

(3) Upon OLBAB's request or at the Director's own determination, and before an OLBAB member's term expires, the OKDHS Director or designee may remove an OLBAB member for malfeasance, neglect of duty, or incompetency, or revoke or suspend the member's license.

(4) If an OLBAB member resigns appointment, or a board seat is otherwise vacated prior to completion of term, the OKDHS Director or designee appoints a replacement member to complete the term.

(5) The OKDHS Director or designee may reappoint OLBAB members for additional two year terms.

(6) DDS staff provides administrative support of the OLBAB.

(7) OLBAB meets a minimum of four times per calendar year. All meetings are subject to the Open Meetings Act, per 25 O.S. § 301-314.

(8) Travel expenses for members of OLBAB are reimbursed, per 74 O.S. § 500.4.

(9) Money received for the licensure or certification of behavior analysts and assistant behavior analysts, and any penalties, fines, appropriations, gifts, grants or donations received for purposes relating to the duties of OLBAB are deposited in a fund and are used exclusively for OLBAB operations and administration of 59 O.S. § 1928.

(10) Each new member of OLBAB completes orientation training provided by DDS within 60 calendar days after his or her appointment to OLBAB. Orientation includes, but is not limited to:

(A) the purpose of OLBAB and the duties of OLBAB members; and

(B) any applicable laws and regulations including the provisions of the governing law and regulations of OLBAB, administrative hearing requirements, confidentiality requirements, complaint investigation, and disposition procedures.

(11) Appointees to OLBAB are free of conflict of interest in performing the duties of OLBAB. OLBAB Members adhere to the ethical standards of OKDHS in executing duties of OLBAB. No OLBAB member participates in any matter before OLBAB in which the member has a pecuniary interest or other conflict of interest.

(12) OLBAB maintains a list of all persons licensed or certified to provide behavior analytic services in Oklahoma and provides copies to interested persons upon written request.

**(i) Ethics.**

(1) Any person licensed or certified by DDS as either an OLBA or OCABA reports to OLBAB within five-business days of any sanction, denial of initial or renewal certification, revocation, suspension, or any other limitation of license or certification or

combination of BACB sanctions. When a person loses BACB licensure or certification for any reason, he or she immediately forfeits the Oklahoma license or certification and must notify OLBAB within five-business days of such BACB action and immediately stops providing BCBA or BCaBA services in Oklahoma.

(2) All persons licensed or certified, per 59 O.S. § 1928(D)(2), complies with the BACB Standards for Supervision and Ethics Code for Behavior Analysts, and OLBAB may investigate any complaints and impose sanctions for any violations of these provisions or the applicable BACB ethics and supervision requirements in effect at the time of the relevant conduct or occurrence.

(3) Grounds for disciplinary action including denial, suspension, forfeiture, or non-renewal of a license or certification for practice in Oklahoma. Other disciplinary or remedial action include:

(A) obtaining or attempting to obtain a license or certification by making a false or misleading statement, failure to make a required statement, or fraud or deceit in any communication to OLBAB;

(B) violations of the BACB professional and ethical compliance codes;

(C) aiding and abetting the unlawful practice of behavior analysis;

(D) failing to cooperate with or respond promptly, completely, and honestly to OLBAB requests in connection with licensing, certifying, investigative, or disciplinary activities;

(E) gross or repeated negligence, incompetence, misconduct, or malpractice in professional work including, but not limited to:

(i) any physical or mental condition that currently impairs competent professional performance or poses a substantial risk to the recipient of behavior analysis services;

(ii) professional conduct that constitutes an extreme and unjustified deviation from the customary standard of practice accepted in the applied behavior analytic community and creates a serious risk of harm to or deception of service recipients;

(iii) abandonment of a service recipient resulting in the termination of imminently needed care without adequate notice or provision for transition;

(iv) professional record keeping or data collection that constitutes an extreme and unjustified deviation from the customary standard of practice for the field, or deceptively altering service recipient's records or data;

(v) engaging in blatant fraud, deception, misrepresentation, false promise or pretense,



intimidation in the practice of applied behavior analysis, or in solicitation of service recipients; or  
(vi) the unauthorized material disclosure of confidential service recipient information;

(F) limitation, sanction, revocation, or suspension by a health care organization, professional organization, or other private or governmental body, relating to behavior analysis practice, public health or safety, or behavior analysis certification;

(G) any conviction of a felony or misdemeanor directly relating to behavior analysis practice or public health or safety; or

(H) failure to adequately supervise or be supervised in accordance with the BACB Standards for Supervision.

(4) Applicants and persons holding a current license or certificate report to the OLBAB within 30-calendar days of occurrence:

(A) a change in name, address, or other vital information;

(B) the filing of any criminal or civil charges;

(C) the initiation of any disciplinary charges, investigations, findings, or sanctions by a health care organization, federal or state agency, or other professional association; and

(D) any other change in information provided by the applicant or person holding a current license or certificate .

(5) RBTs providing services in Oklahoma abide by the BACPs RBT Ethics Code. When OLBAB becomes aware of a potential code violation, a referral is made to the BACB that has the responsibility for investigating and initiating disciplinary action, when determined necessary.

(j) **Complaint investigation.** All complaints regarding unprofessional conduct of a BCBA or BCaBA are submitted to OLBAB in writing. The DDS Quality Assurance programs administrator assists with investigations upon request and reports any findings to the OLBAB for action.

(1) A complaint is defined as the receipt of any information by OLBAB indicating that there may be grounds for disciplinary action against a licensed behavior analyst or a licensed assistant behavior analyst, an individual claiming to be a licensed behavior analyst or a certified assistant behavior analyst, or an individual practicing without a license or certificate.

(2) Complaints may be initiated by any person or by OLBAB on its own initiative.

(3) Complaints sent to OLBAB:

(A) are addressed as confidential;

(B) are in writing;

(C) clearly identify the person against whom the complaint is being made;

(D) contain the date;

(E) identify, by signature, the person initiating the complaint; and

- (F) contain a clear and concise statement of the facts giving rise to the complaint.
- (4) At the next regularly scheduled meeting of OLBAB, or as soon as practicable, OLBAB determines whether the complaint warrants further investigation.
- (5) If OLBAB determines that a complaint warrants further investigation, OLBAB notifies the licensee or applicant against whom the complaint has been made by certified mail. The notice includes a:
  - (A) notice that a complaint has been filed;
  - (B) statement of the nature of the complaint;
  - (C) reference to the particular Section(s) of the statutes, administrative code, or ethical standards that may be involved; and
  - (D) request for cooperation in obtaining a full understanding of the circumstances.
- (6) The respondent provides OLBAB a written response to the initiating complaint within 30-calendar days.
- (7) During the investigation phase, OLBAB may communicate with the complainant and the respondent in an effort to seek resolution of the complaint without a formal hearing.
- (8) If a satisfactory resolution cannot be identified in the investigation phase, or OLBAB determines that the circumstances may warrant the denial, revocation, or suspension of a license, OLBAB initiates a formal hearing. The purpose of the hearing is to determine:
  - (A) if the respondent committed certain acts or omissions and whether those acts or omissions violated one or more of the following:
    - (i) 59 O.S. § 1928;
    - (ii) the professional and ethical compliance code for behavior analysts of the certifying entity; or
    - (iii) prior conditions OLBAB imposed regarding the respondent; and
  - (B) appropriate disciplinary action.
- (9) Upon final resolution of a complaint submitted pursuant to this process, OLBAB notifies the complainant and respondent of the outcome of OLBAB's actions.
- (10) OLBAB has the authority to determine that a formal hearing should be initiated immediately on any complaint.
- (k) **Sanctions.** OLBAB determines sanctions.
  - (1) After notice to the respondent, and an opportunity for a hearing conducted before a majority of OLBAB members, OLBAB may:
    - (A) refuse to license or certify any applicant;
    - (B) refuse to renew the license or certificate of any person;
    - (C) suspend or revoke or place on probation the license or certificate of any person;
    - (D) impose restrictions on the scope of practice or conditions of practice, including additional supervisory requirements, professional education, treatment

requirements or physical or mental examination requirements or other practice conditions or limitations of any person;

(E) issue a letter of censure to any person;

(F) issue an administrative reprimand to any person;

(G) issue a written or verbal admonishment to any person;

or

(H) impose fines for violations, not to exceed \$500.

(2) OLBAB may temporarily suspend a license or certificate prior to the hearing referenced in (j)(8). If OLBAB determines the licensee poses a substantial risk to the individual or individuals receiving applied behavior analysis services. The temporary suspension remains effective until the:

(A) hearing referenced in (j)(8) is conducted; or

(B) matter is otherwise resolved prior to the hearing as set forth in Section (j)(8) of this rule.

**[Source:** Added at 28 Ok Reg 51, eff 8-13-10 (emergency); Added at 28 Ok Reg 897, eff 6-1-11 ; Amended at 36 Ok Reg 1880, eff 9-16-19 ; Amended at 37 Ok Reg 79, eff 9-17-19 (emergency); Amended at 37 Ok Reg 1853, eff 9-15-20 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

## **APPENDIX A. APPLICATION FOR DEVELOPMENTAL DISABILITIES [REVOKED]**

**[Source:** Revoked at 16 Ok Reg 555, eff 12-31-98 (emergency); Revoked at 16 Ok Reg 1056, eff 4-26-99]

## **APPENDIX B. RESIDENTIAL SERVICES AGREEMENT [REVOKED]**

[**Source:** Revoked at 16 Ok Reg 555, eff 12-31-98 (emergency); Revoked at 16 Ok Reg 1056, eff 4-26-99]

## **APPENDIX C. CASE MANAGEMENT PROCESS [REVOKED]**

**[Source:** Revoked at 16 Ok Reg 555, eff 12-31-98 (emergency); Revoked at 16 Ok Reg 1056, eff 4-26-99]

## **APPENDIX D. DYSKINESIA IDENTIFICATION SYSTEM [REVOKED]**

[**Source:** Added at 10 Ok Reg 2505, eff 5-24-93 (emergency); Added at 11 Ok Reg 2303, eff 5-26-94 ;  
Revoked at 23 Ok Reg 1026, eff 5-11-06]

**APPENDIX E. DEVELOPMENTAL DISABILITIES  
SERVICES FAMILY SUPPORT ASSISTANCE PAYMENT  
SERVICES APPLICATION APPENDIX [REVOKED]**

[**Source:** Added at 10 Ok Reg 2505, eff 5-24-93 (emergency); Added at 11 Ok Reg 2303, eff 5-26-94 ;  
Revoked at 15 Ok Reg 955, eff 1-1-98 (emergency); Revoked at 15 Ok Reg 1666, eff 5-11-98]



**APPENDIX F. DEVELOPMENTAL DISABILITIES  
SERVICES FAMILY SUPPORT ASSISTANCE PAYMENT  
PROGRAM ANNUAL REVIEW AND REPORT APPENDIX  
[REVOKED]**

[**Source:** Added at 10 Ok Reg 2505, eff 5-24-93 (emergency); Added at 11 Ok Reg 2303, eff 5-26-94 ;  
Revoked at 15 Ok Reg 955, eff 1-1-98 (emergency); Revoked at 15 Ok Reg 1666, eff 5-11-98]

**APPENDIX G. FAMILY SUPPORT ASSISTANCE  
PAYMENT PROGRAM AFFIDAVIT OF UNDERSTANDING  
REGARDING FAMILY ASSISTANCE/HOME AND  
COMMUNITY BASED WAIVER SERVICES [REVOKED]**

**[Source:** Added at 10 Ok Reg 2505, eff 5-24-93 (emergency); Added at 11 Ok Reg 2303, eff 5-26-94 ;  
Revoked at 15 Ok Reg 955, eff 1-1-98 (emergency); Revoked at 15 Ok Reg 1666, eff 5-11-98]

## **APPENDIX H. FOSTER HOME/COMPANION PROGRAM APPLICATION [REVOKED]**

[**Source:** Added at 11 Ok Reg 1935, eff 6-21-94 (emergency); Added at 12 Ok Reg 1761, eff 6-12-95 ;  
Revoked at 16 Ok Reg 555, eff 12-31-98 (emergency); Revoked at 16 Ok Reg 1056, eff 4-26-99]

## **APPENDIX J. APPLICATION FOR VOLUNTEER GUARDIANSHIP [REVOKED]**

[**Source:** Added at 11 Ok Reg 4107, eff 6-29-94 (emergency); Added at 12 Ok Reg 1761, eff 6-12-95 ;  
Revoked at 23 Ok Reg 1026, eff 5-11-06]

## **APPENDIX K. VOLUNTEER REFERENCE LETTER [REVOKED]**

[**Source:** Added at 11 Ok Reg 4107, eff 6-29-94 (emergency); Added at 12 Ok Reg 1761, eff 6-12-95 ;  
Revoked at 23 Ok Reg 1026, eff 5-11-06]

## **APPENDIX L. FOSTER HOME/COMPANION ASSESSMENT [REVOKED]**

**[Source:** Added at 11 Ok Reg 1935, eff 6-21-94 (emergency); Added at 12 Ok Reg 1761, eff 6-12-95 ;  
Revoked at 16 Ok Reg 555, eff 12-31-98 (emergency); Revoked at 16 Ok Reg 1056, eff 4-26-99]

**APPENDIX M. FOSTER HOME/COMPANION  
ASSESSMENT MEDICAL EXAMINATION REPORT  
[REVOKED]**

**[Source:** Added at 11 Ok Reg 1935, eff 6-21-94 (emergency); Added at 12 Ok Reg 1761, eff 6-12-95 ;  
Revoked at 16 Ok Reg 555, eff 12-31-98 (emergency); Revoked at 16 Ok Reg 1056, eff 4-26-99]

## **APPENDIX N. FAMILY HEALTH HISTORY [REVOKED]**

[**Source:** Added at 11 Ok Reg 1935, eff 6-21-94 (emergency); Added at 12 Ok Reg 1761, eff 6-12-95 ;  
Revoked at 16 Ok Reg 555, eff 12-31-98 (emergency); Revoked at 16 Ok Reg 1056, eff 4-26-99]



## **APPENDIX O. REFERENCE LETTER [REVOKED]**

**[Source:** Added at 11 Ok Reg 1935, eff 6-21-94 (emergency); Added at 12 Ok Reg 1761, eff 6-12-95 ;  
Revoked at 16 Ok Reg 555, eff 12-31-98 (emergency); Revoked at 16 Ok Reg 1056, eff 4-26-99]

## **APPENDIX P. CORRECTIVE ACTION PLAN [REVOKED]**

[**Source:** Added at 11 Ok Reg 1935, eff 6-21-94 (emergency); Added at 12 Ok Reg 1761, eff 6-12-95 ;  
Revoked at 16 Ok Reg 555, eff 12-31-98 (emergency); Revoked at 16 Ok Reg 1056, eff 4-26-99]

## **CHAPTER 105. AGING SERVICES**

[**Authority:** KLA. CONST. art XXV; Older Americans Act of 1965, as amended; 42 U.S.C., § 3056 et seq.; 20 CFR, Part 641; P.L. 93-87; P.L. 114-144; 22 O.S.; 30 O.S.; 43A O.S., §§ 10-101 through 10-110]  
[**Source:** Codified 12-31-91]

### **SUBCHAPTER 1. AGING SERVICES DIVISION**

#### **340:105-1-1. Purpose**

The purpose of this Chapter is to describe the programs of Aging Services Division of the Department of Human Services.

[**Source:** Amended at 19 Ok Reg 1170, eff 5-13-02]

#### **340:105-1-2. Overall responsibility**

The responsibility of Aging Services Division (ASD) of the Oklahoma Department of Human Services is to administer Title III of the Older Americans Act of 1965, as amended, and the Safe, Accountable, Flexible, and Efficient Transportation Equity Act - A Legacy for Users (SAFETEA-LU), Section 5310 of the Federal Transit Administration, as amended under Section 5310(a)(2) of Title 49 of the United States Code.

(1) ASD is designated by the Governor and the Oklahoma State Legislature as the sole state agency for administering the Older Americans Act and the SAFETEA-LU programs in Oklahoma.

(2) ASD places special emphasis on serving older persons in the greatest social and economic need and in promoting services that avoid unnecessary institutionalization of older persons, allowing them to remain in their own homes and preserving their independence and personal dignity.

[**Source:** Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 24 Ok Reg 1325, eff 6-1-07]

#### **340:105-1-3. Background**

The Oklahoma Department of Human Services (OKDHS) set up the Special Unit on Aging in 1963, by executive order of Governor Bellmon, to work with local groups to extend already existing programs and develop new services for older Oklahomans.

(1) After Congress established the Administration on Aging to administer the Older Americans Act (OAA) of 1965, the Governor designated the OKDHS Special Unit on Aging, now called Aging Services Division (ASD), as the sole state agency to implement Title III of the OAA, coordinate state programs and activities related to the purposes of the OAA, and receive and administer funds made available to the state.

(2) Amendments in 1972 authorized the Nutrition Program for the Elderly, then Title VII of the OAA, which provided funding for congregate nutrition programs, home delivered meals, nutrition education, and outreach services.

(3) Amendments in 1973 resulted in the division of the state into planning and service areas and the designation of Area Agencies

on Aging (AAAs) within these planning and service areas. A three tiered system of federal, state, and local entities is referred to as the aging network.

(4) Amendments in 1975 designated transportation services, home services, legal services, and home repair and renovation services as priority services.

(5) Amendments in 1978 consolidated Title III, regarding social services; Title V, regarding senior centers; and Title VII, regarding nutrition services. Separate authorizations within Title III provided for social services, including senior centers, congregate meals, and home delivered meals. The 1978 amendments placed increased emphasis upon advocacy for older persons and more assertive involvement in the area of long-term care.

(6) In May 1975 the OKDHS Special Unit on Aging was designated to administer Section 16(b)(2) of the Urban Mass Transportation Act as amended by Public Law 93-87, now the Safe, Accountable, Flexible, and Efficient Transportation Equity Act - A Legacy for Users (SAFETEA-LU), Section 5310 of the Federal Transit Administration, which provides capital assistance to private non-profit organizations for the special transportation needs of older persons and persons with disabilities in areas of the state where existing or proposed services of public and private transit operators are not adequate.

(7) Amendments in 1984 emphasized that states and AAAs give particular attention to the needs of low income and minority older persons.

(8) Amendments in 1987 added separate authorizations of appropriations for several new programs, including disease prevention and health promotion services, in-home services for frail older persons, and prevention of elder abuse, neglect, and exploitation; and increased protections and visibility for the State Long-Term Care Ombudsman Program.

(9) Amendments in 1992 restructured the OAA to create a new Title VII designated to consolidate and expand programs that focus on protection of the rights of vulnerable older persons.

(10) The 2000 amendments consolidated programs under Part B, Supportive Services, retained the targeting provision for low income minorities and added focus on older persons residing in rural areas, and added the National Family Caregiver Support Program as a means of addressing growing needs of the nation's caregivers.

[Source: Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 24 Ok Reg 1325, eff 6-1-07]

#### **340:105-1-4. Aging Services (AS) responsibilities**

(a) **Objective.** The AS objective is to assist older Oklahomans secure and maintain economic and personal independence and dignity by working toward a comprehensive and coordinated system of delivery of services.

(b) **Responsibilities.** Specific responsibilities are to:

- (1) ensure the proper and efficient administration of programs administered by AS;
- (2) provide fiscal support and technical assistance for programs administered by AS;
- (3) develop and implement a State Plan on Aging with the assistance of the State Council on Aging;
- (4) provide consultation and assistance to agencies and individuals in developing services for older Oklahomans;
- (5) conduct studies and assessments to determine needs of older Oklahomans;
- (6) serve as a clearinghouse for information and ideas pertinent to older Oklahomans;
- (7) improve coordination among federal, state, and local agencies;
- (8) inform the public about the needs of older Oklahomans; and
- (9) enlist support and resources within the private sector to assist the aging network to provide needed services to older Oklahomans, and technical assistance in services development and delivery.

(c) **Cross reference.** Oklahoma Administrative Code 340:105-10-13.

[Source: Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 23 Ok Reg 1062, eff 7-15-06 ; Amended at 38 Ok Reg 2337, eff 9-15-21]

#### **340:105-1-5. Description of programs administered**

(a) **Title III - General description of Aging Services Division (ASD) responsibilities.** Under Title III of the Older Americans Act (OAA), as amended, ASD provides funding to 11 Area Agencies on Aging (AAAs) for administration of certain direct services and for the planning, development, and implementation of a variety of services to older persons by means of grants or contracts between the AAAs and local private or public organizations. The AAA is responsible for monitoring and evaluating the performance of the grantee and contractor on a regular and continuous basis to ensure adequate performance and compliance with applicable standards.

(1) The performance of a project is evaluated by measuring actual project achievements or accomplishments in comparison to goals and objectives set forth in project grants or contracts, using standard assessment tools, and evaluating project compliance with applicable regulations and policies.

(2) ASD monitors and evaluates AAA performance in a similar manner, using standard assessment tools and compliance with applicable policies and procedures to ensure satisfactory progress toward and completion of Area Plan goals and objectives. ASD reviews funded projects on a regular basis as a part of its responsibility under Title III of the OAA.

(b) **Title III-B, supportive services.** Supportive services are designed to maximize the informal support provided by caregivers and to enhance the capacity of older persons to remain self-sufficient. Supportive services funding leverages resources to provide home- and community-based care. Supportive services fall under three broad categories:

- (1) access services such as transportation, outreach, information and assistance, and case management;
- (2) in-home services, including supportive services for families of older persons who are victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction; and
- (3) legal assistance.

(c) **Title III-C, nutrition services.** Nutrition services are provided under congregate nutrition services, Part C-1 of OAA and home delivered nutrition services, Part C-2 of OAA. The two services are targeted to different populations of older persons. Meals are the primary service provided. Ancillary services include nutrition education, counseling, and outreach.

- (1) Meals must comply with the Dietary Guidelines for Americans and provide at least 33 percent of the recommended dietary allowances in each meal served.
- (2) Service providers are encouraged to expand meals service to more than one meal per day and more than five days a week to those persons with increased needs.
- (3) Older participants are not charged a fee, but are encouraged to contribute through volunteering and financial donations to help defray the cost of services.
- (4) Financial contributions are used by local projects to expand services.
- (5) Volunteers perform essential tasks such as delivering meals and record keeping. (6) Nutrition intervention and nutrition services provide programs based on individual needs to ensure older persons remain in their homes and communities.

(d) **Title III-D, disease prevention and health promotion services.** Title III-D funds are used to leverage other resources to increase public understanding of how healthy lifestyle choices throughout life reduce the risk of chronic health conditions in later years. AAAs allocate funds to organizations , such as public health, education, community-based agencies, hospitals and medical institutions, and senior centers. Title III-D funds provide programs and services , including:

- (1) routine health screening;
- (2) physical fitness programs;
- (3) health promotion programs on chronic disabling conditions;
- (4) nutrition screening and educational services on preventive health services;
- (5) health risk assessments or information on age related diseases and chronic disabling conditions;
- (6) mental health screening, education, and referral;
- (7) home injury control services;
- (8) counseling regarding social services and follow up health services; and
- (9) gerontological counseling.

(e) **Title III-E, National Family Caregiver Support Program.** The National Family Caregiver Support Program defines eligible caregivers as family caregivers of older adults and grandparents or relative caregivers of children not older than 18 years of age. The AAAs make grants to local community service providers to support family caregivers

through services that include:

- (1) information to caregivers about available services;
- (2) assistance to caregivers in gaining access to supportive services;
- (3) individual counseling, support groups, and caregiver training to caregivers to assist the caregiver in making decisions and solving problems relating to the role of caregiver;
- (4) respite care to enable caregivers to be temporarily relieved from their caregiving responsibilities; and
- (5) supplemental services, on a limited basis, to complement the care provided by caregivers.

[Source: Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 24 Ok Reg 1325, eff 6-1-07]

### **340:105-1-6. Area agencies on aging**

(a) **AAA designation.** In accordance with Title III provisions for designation of planning and service areas (PSA) and area agencies on aging (AAAs), the state is divided into 11 sub-state districts, each of which has a designated AAA which is funded by Aging Services Division (ASD). Levels of funding are determined by ASD based upon a formula that considers the number of older persons, number of minority older persons, and number of low income older persons in the PSA. AAAs are private or public non-profit organizations or function independently within a large private or public non-profit organization.

(b) **AAA responsibilities.** Each AAA is responsible for carrying out planning, coordination, administrative, and programmatic functions within the respective PSA, as prescribed by state and federal laws and regulations and standards promulgated by ASD.

(c) **Area Plans.** AAAs annually develop an Area Plan for the delivery of services within their PSA. Area Plans are submitted to ASD with an application for funding. Area Plans set forth specific goals and objectives that indicate how an AAA implements its responsibilities under the Older Americans Act during the period of time the plan encompasses. ASD works with each AAA to ensure coordination and consistency between the State and Area Plans, and to maximize use of available resources.

(d) **AAA activities.** AAAs survey the older population of their respective PSA on a regular and ongoing basis to determine the needs of older persons and the priorities of those needs, and coordinate services to meet the needs based upon available financial and other resources.

(1) The AAA is responsible for planning, development, and administration of grants within its PSA, consistent with existing needs and available resources, and within applicable regulations and guidelines.

(2) Services are provided by private or public organizations pursuant to grants from, or contracts with, the AAA.

(3) Information and assistance services may be provided as a direct service of the AAA or pursuant to a grant or contract. AAAs may provide other limited direct services, subject to approval by ASD.

(e) **Monitoring of AAAs.** AAAs are regularly monitored and assessed by ASD with regard to their performance based upon adherence to the goals of their Area Plan, completion of goals and objectives, compliance with applicable laws, regulations, and policies, and progress in implementation of an effective comprehensive and coordinated system of service delivery within their PSA.

(1) If the AAA is not in compliance with applicable standards or is not pursuing goals and objectives satisfactorily, the non-compliance or deficiency is recorded at the State Office. The AAA is notified of the non-compliance or deficiency and given a due date for re-evaluation or assessment.

(2) If the AAA is unable or refuses to respond adequately to the notice of non-compliance or deficiency within the specified time period, ASD may withdraw designation of the agency as an AAA after reasonable notice and opportunity for a hearing, or may take other administrative action as deemed appropriate by ASD.

[Source: Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 24 Ok Reg 1325, eff 6-1-07]

### **340:105-1-7. Advocacy assistance**

(a) **Long-Term Care Ombudsman Program.** The Older Americans Act (OAA), Title 42 United States Code, Section 3001 through 3058, mandates establishment of an Office of the State Long-Term Care Ombudsman (Office) and a statewide Long-Term Care Ombudsman Program which provides advocacy services to older residents of long-term care facilities, including nursing home, residential care and other similar adult care homes. The Office is located within Aging Services Division (ASD), and operates under the general direction of the state long-term care ombudsman.

(1) Advocacy is provided through mandated activities including, but not limited to:

- (A) receive, investigate, and resolve complaints;
- (B) collect and analyze complaints and other data;
- (C) monitor the development and implementation of federal, state, and local laws, regulations, and policies;
- (D) make recommendations to address issues identified as affecting the quality of care and quality of life of residents; and
- (E) provide information to the public and to public officials.

(2) The Office of the State Long-Term Care Ombudsman works through area ombudsman staff and volunteers at the local level, to assist in the improvement of the quality of life and quality of care available to long-term care facility residents, and has the authority to recommend courses of action.

(3) Statutory authority for access to facilities and residents, receipt of inspection and complaint reports, and participation of ombudsmen as observers in inspections is provided in the Oklahoma Nursing Home Care Act [63, O.S. § 1-1901 through 1-1943] and the Residential Care Act [63, O.S. § 1-820 through 1-



840]. Creation of the Office, protection for program representatives and complainants, and establishment of an advisory committee are provided in the Long-Term Care Ombudsman Act. [63 O.S. § 1-2211] Specific policies relating to the operation of the program are located in the Rules for Implementing the OAA of 1965, as amended.

(b) **Legal Services Development Program.** The responsibility of ASD under federal and state law is to provide the services of an individual hired on a full-time basis with other personnel as needed, known as the state legal services developer, to ensure:

- (1) leadership to secure and maintain the legal rights of older individuals;
- (2) the capacity to coordinate the provision of legal assistance;
- (3) the capacity to provide technical assistance, training, and other supportive functions to Area Agencies on Aging, legal assistance providers, ombudsmen, and other persons, as appropriate;
- (4) the capacity to promote financial management services to older individuals at risk of guardianship;
- (5) the capacity to assist older individuals in understanding their rights, exercising choices, benefiting from services and opportunities authorized by law, and to maintain the rights of older individuals at risk of guardianship;
- (6) the capacity to improve the quality and quantity of legal services provided to older individuals;
- (7) capacity to analyze, comment on, monitor, develop, and promote federal, state, and local laws, rules and regulations, and other government policies and actions; and
- (8) capacity to provide such information as necessary to public and private agencies, legislators, and other persons.

[Source: Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 42 Ok Reg, Number 5, effective 10-10-24 (emergency)]

### **340:105-1-8. SAFETEA-LU, Section 5310**

(a) **Purpose.** The Safe, Accountable, Flexible, and Efficient Transportation Equity Act - A Legacy for Users (SAFETEA-LU), Section 5310 of the Federal Transit Administration, as amended under Section 5310(a)(2) of Title 49 of the United States Code, provides for the payment of 83 percent of the cost of capital equipment for transportation programs for older persons and persons with disabilities.

(b) **Application.** Private non-profit organizations are eligible applicants for participation in this program. All applications for such equipment are made to Aging Services Division (ASD). Certification of the organization's incorporation within Oklahoma from the Secretary of State accompanies each application. If the application is approved, ASD submits the request for purchase of the equipment to the Department of Central Services for acquisition through state bidding procedure. When acquired, the title to the equipment is vested in the name of the private non-profit organization with ASD on the title as the lien holder.

(c) **Vehicle purchase.** Vehicles acquired under this program are graded for the purpose of providing transportation services to older persons and persons with disabilities. Use of the vehicle by any other group of riders is not permissible unless such use is infrequent and incidental to the regular use of the vehicle in its normal service.

(1) Vehicles acquired under this program are handicapped accessible unless the grantee can conclusively demonstrate that the existing transportation system:

- (A) meets all demands for service by disabled persons;
- (B) provides generally equal services to the disabled; and
- (C) will continue to provide these services after the acquisition of a vehicle(s) under this program.

(2) If all conditions in (1) of this subsection are met, ASD considers issuance of a waiver of the requirement that the vehicle applied for is accessible to the handicapped.

(3) To apply for funds under Section 5310, private non-profit organizations:

- (A) determine in a general way whether there is a transportation problem for the community's older persons and persons with disabilities;
- (B) identify a potential local private non-profit sponsor;
- (C) contact ASD to discuss application procedures;
- (D) contact local, regional, or state planning agencies for planning assistance;
- (E) conduct coordination meetings with local transportation system operators;
- (F) provide 17 percent local matching funds and prepare a preliminary application for review by ASD; and
- (G) prepare and submit the final application to ASD.

[Source: Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 20 Ok Reg 938, eff 6-1-03 ; Amended at 24 Ok Reg 1325, eff 6-1-07]

### **340:105-1-9. Appeals procedure**

Under any of the programs administered by Aging Services Division, the division provides an opportunity for a hearing to any prospective or existing grantee when:

- (1) an application for the funding is denied;
- (2) a grantee is suspended or terminated prior to the end of an approved budget year; or
- (3) designation as a planning and service area or Area Agency on Aging has been denied. [OAC 340:2-5]

[Source: Amended at 11 Ok Reg 835, eff 12-14-93 (emergency); Amended at 11 Ok Reg 2743, eff 6-13-94 ; Amended at 19 Ok Reg 1170, eff 5-13-02]

### **340:105-1-10. State Council on Aging**

(a) **Purpose.** The purpose, function, and rules of the State Council on Aging (Council) are delineated in the Council bylaws. The bylaws provide that the Council advises the Aging Services (AS) director on all matters pertaining to the development, implementation, and administration of AS

programs to assist AS in identifying the needs and representing the interests of older Oklahomans.

- (1) Over 50 percent of the Council must be 60 years of age or older, the remainder being representative of public and private service organizations or agencies.
- (2) Meetings must be held four times per year, but special meetings may be held when deemed necessary.
- (3) AS is responsible for providing staff assistance to the Council to ensure effective operation.
- (4) Members are appointed by the Oklahoma Human Services (OKDHS) Director, upon the AS director's recommendation, serve staggered, three-year terms, and may be reappointed for only one additional, consecutive term.
- (5) Former members may be appointed following one year's absence from Council service.

(A) communicating older Oklahomans' needs, conditions, and concerns to entities, including the:

- (i) OKDHS Director and AS director;
- (ii) State of Oklahoma Governor's Office;
- (iii) Oklahoma State Legislature;
- (iv) United States Oklahoma Congressional Delegates;
- (v) applicable state agencies;
- (vi) applicable federal agencies; and
- (vii) general public;

(B) reviewing and commenting on all rules and policies, budget appropriations, planning regulations, and legislation that benefit or adversely impact older Oklahomans, and advocating for their concerns and issues while maintaining high visibility and a strong voice;

(C) monitoring and evaluating the provision of services to older Oklahomans;

(D) conducting public forums and seeking input on the needs, conditions, programs, or issues involving older Oklahomans; and

(E) advising the AS director on all matters pertaining to:

- (i) development and implementation of policies, budget appropriations, planning, regulations, and standards;
- (ii) effective and efficient administration of division programs;
- (iii) development of training and educational programs; and
- (iv) administration of AS functions.

(b) **State Council on Aging Duties.** State Council on Aging duties include:

(c) **Cross reference.** Refer to Oklahoma Administrative Code 340:105-10-12.

## **SUBCHAPTER 3. ADULT PROTECTIVE SERVICES [REVOKED]**

### **PART 1. PHILOSOPHY AND PURPOSE [REVOKED]**

#### **340:105-3-1. Introduction [REVOKED]**

[Source: Amended at 14 Ok Reg 3612, eff 7-25-97 (emergency); Amended at 15 Ok Reg 1692, eff 5-11-98 ; Amended at 16 Ok Reg 2927, eff 7-12-99 ; Revoked at 20 Ok Reg 938, eff 6-1-03]

#### **340:105-3-2. Definitions [REVOKED]**

[Source: Amended at 14 Ok Reg 3612, eff 7-25-97 (emergency); Amended at 15 Ok Reg 1692, eff 5-11-98 ; Amended at 16 Ok Reg 2927, eff 7-12-99 ; Revoked at 20 Ok Reg 938, eff 6-1-03]

#### **340:105-3-3. Legal base [REVOKED]**

[Source: Amended at 16 Ok Reg 2927, eff 7-12-99 ; Revoked at 20 Ok Reg 938, eff 6-1-03]

### **PART 3. REPORTS OF ALLEGED ABUSE NEGLECT, OR EXPLOITATION [REVOKED]**

#### **340:105-3-20. The report of a need for protective services [REVOKED]**

[Source: Amended at 14 Ok Reg 3612, eff 7-25-97 (emergency); Amended at 15 Ok Reg 1692, eff 5-11-98 ; Amended at 16 Ok Reg 2927, eff 7-12-99 ; Revoked at 20 Ok Reg 938, eff 6-1-03]

#### **340:105-3-21. Abuse hotline 1-800-522-3511 [REVOKED]**

[Source: Amended at 14 Ok Reg 3612, eff 7-25-97 (emergency); Amended at 15 Ok Reg 1692, eff 5-11-98 ; Amended at 16 Ok Reg 2927, eff 7-12-99 ; Revoked at 20 Ok Reg 938, eff 6-1-03]

#### **340:105-3-22. Reports received by the county office [REVOKED]**

[Source: Amended at 14 Ok Reg 3612, eff 7-25-97 (emergency); Amended at 15 Ok Reg 1692, eff 5-11-98 ; Amended at 16 Ok Reg 2927, eff 7-12-99 ; Revoked at 20 Ok Reg 938, eff 6-1-03]

#### **340:105-3-23. Reports regarding nursing facility residents [REVOKED]**

[Source: Amended at 14 Ok Reg 3612, eff 7-25-97 (emergency); Amended at 15 Ok Reg 1692, eff 5-11-98 ; Amended at 16 Ok Reg 2927, eff 7-12-99 ; Revoked at 20 Ok Reg 938, eff 6-1-03]

#### **340:105-3-24. Reports regarding residential care facilities and assisted living facilities [REVOKED]**

[Source: Amended at 14 Ok Reg 3612, eff 7-25-97 (emergency); Amended at 15 Ok Reg 1692, eff 5-11-98 ; Revoked at 20 Ok Reg 938, eff 6-1-03]

### **340:105-3-25. Reports involving residents of Northern and Southern Oklahoma Resource Centers [REVOKED]**

[Source: Amended at 14 Ok Reg 3612, eff 7-25-97 (emergency); Amended at 15 Ok Reg 1692, eff 5-11-98 ; Revoked at 20 Ok Reg 938, eff 6-1-03]

#### **340:105-3-25.1. Reports involving persons in hospitals, rehabilitation facilities, and private psychiatric hospitals [REVOKED]**

[Source: Added at 14 Ok Reg 3612, eff 7-25-97 (emergency); Added at 15 Ok Reg 1692, eff 5-11-98 ; Amended at 16 Ok Reg 2927, eff 7-12-99 ; Revoked at 20 Ok Reg 938, eff 6-1-03]

#### **340:105-3-25.2. Reports involving local, state, or federal facilities [REVOKED]**

[Source: Added at 14 Ok Reg 3612, eff 7-25-97 (emergency); Added at 15 Ok Reg 1692, eff 5-11-98 ; Revoked at 16 Ok Reg 2927, eff 7-12-99]

#### **340:105-3-25.3. Reports involving other types of personal care providers [REVOKED]**

[Source: Added at 14 Ok Reg 3612, eff 7-25-97 (emergency); Added at 15 Ok Reg 1692, eff 5-11-98 ; Revoked at 16 Ok Reg 2927, eff 7-12-99]

#### **340:105-3-25.4. Reports involving persons receiving non-hospital services from Department of Mental Health and Substance Abuse Services (DMHASAS) or its contracted service providers [REVOKED]**

[Source: Added at 16 Ok Reg 2927, eff 7-12-99 ; Revoked at 20 Ok Reg 938, eff 6-1-03]

#### **340:105-3-25.5. Reports involving Medicaid recipients other than nursing facility residents [REVOKED]**

[Source: Added at 16 Ok Reg 2927, eff 7-12-99 ; Revoked at 20 Ok Reg 938, eff 6-1-03]

#### **340:105-3-25.6. Reports involving local, state, or federal facilities [REVOKED]**

[Source: Added at 16 Ok Reg 2927, eff 7-12-99 ; Revoked at 20 Ok Reg 938, eff 6-1-03]

#### **340:105-3-25.7. Reports involving other types of personal care providers [REVOKED]**

[Source: Added at 16 Ok Reg 2927, eff 7-12-99 ; Revoked at 20 Ok Reg 938, eff 6-1-03]

### **340:105-3-26. Complaints regarding a person with developmental disabilities [REVOKED]**

[Source: Amended at 14 Ok Reg 3612, eff 7-25-97 (emergency); Amended at 15 Ok Reg 1692, eff 5-11-98 ; Amended at 16 Ok Reg 2927, eff 7-12-99 ; Revoked at 20 Ok Reg 938, eff 6-1-03]

### **340:105-3-27. Reports involving group homes and sheltered workshops for adults [REVOKED]**

[Source: Amended at 14 Ok Reg 3612, eff 7-25-97 (emergency); Amended at 15 Ok Reg 1692, eff 5-11-98 ; Amended at 16 Ok Reg 2927, eff 7-12-99 ; Revoked at 20 Ok Reg 938, eff 6-1-03]

### **340:105-3-28. Persons remanded to DHS [REVOKED]**

[Source: Amended at 14 Ok Reg 3612, eff 7-25-97 (emergency); Amended at 15 Ok Reg 1692, eff 5-11-98 ; Amended at 16 Ok Reg 2927, eff 7-12-99 ; Revoked at 20 Ok Reg 938, eff 6-1-03]

### **340:105-3-29. Reports regarding a deceased person [REVOKED]**

[Source: Amended at 14 Ok Reg 3612, eff 7-25-97 (emergency); Amended at 15 Ok Reg 1692, eff 5-11-98 ; Amended at 16 Ok Reg 2927, eff 7-12-99 ; Revoked at 20 Ok Reg 938, eff 6-1-03]

### **340:105-3-30. Reports involving domestic violence [REVOKED]**

[Source: Amended at 14 Ok Reg 3612, eff 7-25-97 (emergency); Amended at 15 Ok Reg 1692, eff 5-11-98 ; Amended at 16 Ok Reg 2927, eff 7-12-99 ; Revoked at 20 Ok Reg 938, eff 6-1-03]

### **340:105-3-31. Reports involving DHS employees and immediate families [REVOKED]**

[Source: Amended at 14 Ok Reg 3612, eff 7-25-97 (emergency); Amended at 15 Ok Reg 1692, eff 5-11-98 ; Amended at 16 Ok Reg 2927, eff 7-12-99 ; Revoked at 20 Ok Reg 938, eff 6-1-03]

### **340:105-3-32. Reports involving substance abusers and persons with a mental illness [REVOKED]**

[Source: Amended at 14 Ok Reg 3612, eff 7-25-97 (emergency); Amended at 15 Ok Reg 1692, eff 5-11-98 ; Amended at 16 Ok Reg 2927, eff 7-12-99 ; Revoked at 20 Ok Reg 938, eff 6-1-03]

### **340:105-3-33. Reports involving members of Indian tribes residing on tribal land [REVOKED]**

[Source: Amended at 14 Ok Reg 3612, eff 7-25-97 (emergency); Amended at 15 Ok Reg 1692, eff 5-11-98 ; Amended at 16 Ok Reg 2927, eff 7-12-99 ; Revoked at 20 Ok Reg 938, eff 6-1-03]

### **340:105-3-34. Investigation and evaluation of report [REVOKED]**

[Source: Amended at 14 Ok Reg 3612, eff 7-25-97 (emergency); Amended at 15 Ok Reg 1692, eff 5-11-98 ; Amended at 16 Ok Reg 2927, eff 7-12-99 ; Revoked at 20 Ok Reg 938, eff 6-1-03]

### **340:105-3-35. Unsubstantiated reports [REVOKED]**

[Source: Amended at 14 Ok Reg 3612, eff 7-25-97 (emergency); Amended at 15 Ok Reg 1692, eff 5-11-98 ; Amended at 16 Ok Reg 2927, eff 7-12-99 ; Revoked at 20 Ok Reg 938, eff 6-1-03]

### **340:105-3-36. Substantiated reports [REVOKED]**

[Source: Amended at 14 Ok Reg 3612, eff 7-25-97 (emergency); Amended at 15 Ok Reg 1692, eff 5-11-98 ; Amended at 16 Ok Reg 2927, eff 7-12-99 ; Revoked at 20 Ok Reg 938, eff 6-1-03]

### **340:105-3-37. Closure of adult protective services [REVOKED]**

[Source: Amended at 14 Ok Reg 3612, eff 7-25-97 (emergency); Amended at 15 Ok Reg 1692, eff 5-11-98 ; Amended at 16 Ok Reg 2927, eff 7-12-99 ; Revoked at 20 Ok Reg 938, eff 6-1-03]

## **SUBCHAPTER 5. HOME MAINTENANCE AIDE (HMA) PROGRAM [REVOKED]**

### **340:105-5-1. Home Maintenance Aide Program (HMA) [REVOKED]**

[Source: Amended at 8 Ok Reg 3417, eff 7-25-91 (emergency); Amended at 9 Ok Reg 2923, eff 7-13-92 ; Amended at 10 Ok Reg 1333, eff 3-21-93 (emergency); Amended at 11 Ok Reg 2745, eff 6-13-94 ; Amended at 11 Ok Reg 4123, eff 6-29-94 (emergency); Amended at 12 Ok Reg 1441, eff 5-26-95 ; Revoked at 15 Ok Reg 3548, eff 6-4-98 (emergency); Revoked at 16 Ok Reg 1058, eff 4-26-99]

### **340:105-5-2. Referrals and requests for HMA [REVOKED]**

[Source: Amended at 8 Ok Reg 3417, eff 7-25-91 (emergency); Amended at 9 Ok Reg 2923, eff 7-13-92 ; Revoked at 15 Ok Reg 3548, eff 6-4-98 (emergency); Revoked at 16 Ok Reg 1058, eff 4-26-99]

### **340:105-5-3. Monitoring the delivery of services [REVOKED]**

[Source: Amended at 8 Ok Reg 3417, eff 7-25-91 (emergency); Amended at 9 Ok Reg 2923, eff 7-13-92 ; Revoked at 15 Ok Reg 3548, eff 6-4-98 (emergency); Revoked at 16 Ok Reg 1058, eff 4-26-99]

### **340:105-5-4. Re-evaluation [REVOKED]**

[Source: Revoked at 15 Ok Reg 3548, eff 6-4-98 (emergency); Revoked at 16 Ok Reg 1058, eff 4-26-99]

### **340:105-5-5. Termination/suspension of HMA services [REVOKED]**

[Source: Amended at 8 Ok Reg 3417, eff 7-25-91 (emergency); Amended at 9 Ok Reg 2923, eff 7-13-92 ; Revoked at 15 Ok Reg 3548, eff 6-4-98 (emergency); Revoked at 16 Ok Reg 1058, eff 4-26-99]

### **340:105-5-6. Vendor payment rate and claim processing [REVOKED]**

[Source: Amended at 8 Ok Reg 3417, eff 7-25-91 (emergency); Amended at 9 Ok Reg 2923, eff 7-13-92 ; Revoked at 15 Ok Reg 3548, eff 6-4-98 (emergency); Revoked at 16 Ok Reg 1058, eff 4-26-99]

### **340:105-5-7. Fair/administrative hearings [REVOKED]**

[Source: Revoked at 15 Ok Reg 3548, eff 6-4-98 (emergency); Revoked at 16 Ok Reg 1058, eff 4-26-99]

### **340:105-5-8. Overpayments [REVOKED]**

[Source: Revoked at 15 Ok Reg 3548, eff 6-4-98 (emergency); Revoked at 16 Ok Reg 1058, eff 4-26-99]

### **340:105-5-9. Legal basis [REVOKED]**

[Source: Added at 15 Ok Reg 3548, eff 6-4-98 (emergency); Added at 16 Ok Reg 1058, eff 4-26-99 ; Revoked at 16 Ok Reg 3378, eff 7-1-99 (emergency); Revoked at 17 Ok Reg 1320, eff 5-11-00]

### **340:105-5-10. Definition [REVOKED]**

[Source: Added at 15 Ok Reg 3548, eff 6-4-98 (emergency); Added at 16 Ok Reg 1058, eff 4-26-99 ; Revoked at 16 Ok Reg 3378, eff 7-1-99 (emergency); Revoked at 17 Ok Reg 1320, eff 5-11-00]

### **340:105-5-11. Eligibility [REVOKED]**

[Source: Added at 15 Ok Reg 3548, eff 6-4-98 (emergency); Added at 16 Ok Reg 1058, eff 4-26-99 ; Revoked at 16 Ok Reg 3378, eff 7-1-99 (emergency); Revoked at 17 Ok Reg 1320, eff 5-11-00]

### **340:105-5-12. Home maintenance aide - vendor [REVOKED]**

[Source: Added at 15 Ok Reg 3548, eff 6-4-98 (emergency); Added at 16 Ok Reg 1058, eff 4-26-99 ; Revoked at 16 Ok Reg 3378, eff 7-1-99 (emergency); Revoked at 17 Ok Reg 1320, eff 5-11-00]

### **340:105-5-13. Referrals [REVOKED]**

[Source: Added at 15 Ok Reg 3548, eff 6-4-98 (emergency); Added at 16 Ok Reg 1058, eff 4-26-99 ; Revoked at 16 Ok Reg 3378, eff 7-1-99 (emergency); Revoked at 17 Ok Reg 1320, eff 5-11-00]

### **340:105-5-14. Home Maintenance Aide Agreement and Care Plan [REVOKED]**

[Source: Added at 15 Ok Reg 3548, eff 6-4-98 (emergency); Added at 16 Ok Reg 1058, eff 4-26-99 ; Revoked at 16 Ok Reg 3378, eff 7-1-99 (emergency); Revoked at 17 Ok Reg 1320, eff 5-11-00]

### **340:105-5-15. Service certification period [REVOKED]**

[Source: Added at 15 Ok Reg 3548, eff 6-4-98 (emergency); Added at 16 Ok Reg 1058, eff 4-26-99 ; Revoked at 16 Ok Reg 3378, eff 7-1-99 (emergency); Revoked at 17 Ok Reg 1320, eff 5-11-00]

### **340:105-5-16. Liability in transport of clients [REVOKED]**

[Source: Added at 15 Ok Reg 3548, eff 6-4-98 (emergency); Added at 16 Ok Reg 1058, eff 4-26-99 ; Revoked at 16 Ok Reg 3378, eff 7-1-99 (emergency); Revoked at 17 Ok Reg 1320, eff 5-11-00]



### **340:105-5-17. Training [REVOKED]**

[Source: Added at 15 Ok Reg 3548, eff 6-4-98 (emergency); Added at 16 Ok Reg 1058, eff 4-26-99 ; Revoked at 16 Ok Reg 3378, eff 7-1-99 (emergency); Revoked at 17 Ok Reg 1320, eff 5-11-00]

### **340:105-5-18. Home maintenance aide contract [REVOKED]**

[Source: Added at 15 Ok Reg 3548, eff 6-4-98 (emergency); Added at 16 Ok Reg 1058, eff 4-26-99 ; Revoked at 16 Ok Reg 3378, eff 7-1-99 (emergency); Revoked at 17 Ok Reg 1320, eff 5-11-00]

### **340:105-5-19. Days of service [REVOKED]**

[Source: Added at 15 Ok Reg 3548, eff 6-4-98 (emergency); Added at 16 Ok Reg 1058, eff 4-26-99 ; Revoked at 16 Ok Reg 3378, eff 7-1-99 (emergency); Revoked at 17 Ok Reg 1320, eff 5-11-00]

### **340:105-5-20. Claims [REVOKED]**

[Source: Added at 15 Ok Reg 3548, eff 6-4-98 (emergency); Added at 16 Ok Reg 1058, eff 4-26-99 ; Revoked at 16 Ok Reg 3378, eff 7-1-99 (emergency); Revoked at 17 Ok Reg 1320, eff 5-11-00]

### **340:105-5-21. Monitoring the delivery of services [REVOKED]**

[Source: Added at 15 Ok Reg 3548, eff 6-4-98 (emergency); Added at 16 Ok Reg 1058, eff 4-26-99 ; Revoked at 16 Ok Reg 3378, eff 7-1-99 (emergency); Revoked at 17 Ok Reg 1320, eff 5-11-00]

### **340:105-5-22. Re-evaluation [REVOKED]**

[Source: Added at 15 Ok Reg 3548, eff 6-4-98 (emergency); Added at 16 Ok Reg 1058, eff 4-26-99 ; Revoked at 16 Ok Reg 3378, eff 7-1-99 (emergency); Revoked at 17 Ok Reg 1320, eff 5-11-00]

### **340:105-5-23. Overpayments [REVOKED]**

[Source: Added at 15 Ok Reg 3548, eff 6-4-98 (emergency); Added at 16 Ok Reg 1058, eff 4-26-99 ; Revoked at 16 Ok Reg 3378, eff 7-1-99 (emergency); Revoked at 17 Ok Reg 1320, eff 5-11-00]

### **340:105-5-24. Termination or suspension of HMA services [REVOKED]**

[Source: Added at 15 Ok Reg 3548, eff 6-4-98 (emergency); Added at 16 Ok Reg 1058, eff 4-26-99 ; Revoked at 16 Ok Reg 3378, eff 7-1-99 (emergency); Revoked at 17 Ok Reg 1320, eff 5-11-00]

### **340:105-5-25. Fair hearings [REVOKED]**

[Source: Added at 15 Ok Reg 3548, eff 6-4-98 (emergency); Added at 16 Ok Reg 1058, eff 4-26-99 ; Revoked at 16 Ok Reg 3378, eff 7-1-99 (emergency); Revoked at 17 Ok Reg 1320, eff 5-11-00]

## **SUBCHAPTER 7. ADULT DAY SERVICES**

### **340:105-7-1. Adult day services for older adults**

(a) **Program.** Adult day services is a community-based program designed to meet the needs of functionally impaired older persons, age 60 and older, through an individualized plan of care.

(1) The program is structured, comprehensive, and provides health, social, and related support services in a protective setting for some portion of a day.

(2) Participants attend on a planned basis during specified hours.

(3) The program includes the day services provider, the participant, the participant's family, and other community resources in a plan that allows the participant to remain in the community, and avoid institutionalization, and enables families and other caregivers to continue caring for the participant at home.

(b) **Purpose.** Adult day services goals are to:

(1) promote the participant's maximum level of independence;

(2) maintain the participant's present level of functioning as long as possible, preventing or delaying further deterioration;

(3) restore and rehabilitate the participant to the highest level of functioning possible;

(4) provide support, respite, and education for families and other caregivers;

(5) foster socialization and peer interaction; and

(6) serve as an integral part of the community service network and long-term care continuum.

(c) **Responsibilities.**

(1) **County office.** Local social services staff:

(A) determines applicant eligibility; and

(B) assists interested persons to locate and utilize adult day services facilities that hold a current valid contract with the Oklahoma Department of Human Services (OKDHS).

(2) **ASD.** ASD staff:

(A) develops adult day services policy;

(B) provides technical assistance to communities, organizations, and persons interested in the development of adult day services;

(C) provides local staff with training and guidance pertaining to the adult day services program;

(D) provides applications for contracts to provide adult day services;

(E) performs site evaluations to ensure that applicant facilities meet OKDHS requirements; and

(F) provides ongoing monitoring and evaluation of facilities contracted with OKDHS.

(d) **Legal basis.** The legal basis and authority for the adult day services program is the Social Services Block Grant Act, as amended, [42 U.S.C. § 1397] which was enacted as part of the Omnibus Budget Reconciliation Act of 1981, Public Law 97-35, administered by the Department of Health and Human Services.

[Source: Amended at 9 Ok Reg 1727, eff 4-20-92 (emergency); Amended at 9 Ok Reg 2917, eff 7-13-92 ; Amended at 15 Ok Reg 1316, eff 3-1-98 (emergency); Amended at 16 Ok Reg 1058, eff 4-26-99 ; Amended at 18 Ok Reg 2138, eff 6-11-01 ; Amended at 24 Ok Reg 1325, eff 6-1-07]

### **340:105-7-2. Eligibility for adult day services**

#### **(a) Application process.**

(1) An application for adult day services is initiated by a request from an adult wishing to participate, a person responsible for the care of the adult, or by a referral from an adult day services vendor. The application is documented on Form 02AS003E, Adult Day Services Referral/Application.

(2) Applicants for adult day services are referred to the ADvantage Waiver or the Developmental Disabilities Services Division (DDSD) Home and Community-Based Services (HCBS) Waiver, as appropriate. Adult day services may be received while the application for waived services is pending.

(3) All adult day services participants must be determined ineligible for either the ADvantage Waiver or the DDSD HCBS Waiver or be placed on the DDSD waiting list.

(A) If the participant is not determined ineligible in four months, the participant may not continue in Oklahoma Department of Human Services (OKDHS) funded adult day services. The authorization is closed and services are terminated.

(B) An exception or extension of the four months rule must be requested.

(4) The service opening date is no earlier than the date on Form 02AS003E or the date of the oral request. If the participant does not sign Form 02AS003E at the time of request, a staff person completes the form and explains on the signature line why the participant did not sign, such as an oral request.

(A) If the services are court-ordered and there is no Form 08AP001E, Adult Protective Services Referral, the service opening date is the date of the court order.

(B) If the day services facility makes the referral by sending Form 02AS003E, the service opening date is the date the form is stamped "received" in the county office.

(5) An application must be processed within 30 days for public assistance cases and 45 days for non-public assistance cases. The application is:

(A) certified or approved when a participant is determined eligible;

(B) denied when a participant is determined ineligible; or

(C) canceled when a participant requests cancellation prior to other disposition.

(6) In determining eligibility for adult day services, the participant must:

(A) receive services in a facility that holds a valid contract with OKDHS for provision of adult day services; and

(B) meet need, age, and income requirements.

(b) **Need for adult day services.** Adult day services are appropriate for persons who are physically or mentally unable to function totally independently but do not require 24-hour care.

(1) To qualify for adult day services, one of the conditions in (A) and (B) of this paragraph must be met.

(A) Adult day services provide respite or time needed to maintain employment for an adult's primary caregiver.

(B) Adult day services provide beneficial socialization and access to needed therapy for a functionally impaired adult.

(2) If the participant is receiving state-funded 24-hour care, adult day services are not approved.

(c) **Age.** Adult day services are available to impaired adults age 60 years and older. An age waiver may be requested, and is granted by Aging Services Division (ASD) for a person younger than 60 if one of the conditions in (1) and (2) of this paragraph is met.

(1) The adult is suffering from Alzheimer's disease, any other form of dementia, or another degenerative condition, either physical or mental.

(2) The adult has recently sustained a stroke, fracture, paralysis, or other incapacitating condition and the services offered in an adult day services program aid the adult in maintaining or returning to as much of an independent lifestyle as possible, avoiding institutionalization.

(d) **Income.** Sources of income considered, verification, and computation of income for the adult day services program are described in this subsection. Co-payment and maximum allowable income are shown on OKDHS Appendix M-105, Eligibility Schedule/Rates for Adult Day Services. OKDHS Appendix M-105 reflects the sliding fee scale based upon the United States Bureau of Census, National Poverty Guidelines, as printed in the Federal Register. The schedule is subject to change.

(1) **Predetermined eligible.** Persons are predetermined eligible based on receipt of Public Assistance, Supplemental Security Income (SSI), or Refugee Assistance. If services are requested by Adult Protective Services (APS), the participant is universally approved for 60 days only without regard to income. For APS participants, no co-payment is considered during the 60 calendar days.

(2) **Income eligible.** Income eligibility determination is based upon the amount of the family's gross income and family's size. Family income includes income from predetermined eligible members.

(A) Anticipated income is never included in determining eligibility until it is available to and under the control of the participant.

(B) Income is computed on a monthly basis. If income is received every two weeks, the weekly rate is determined and multiplied by 4.3 to compute the monthly income. When income is received twice a month, for example, 1st and 15th, it is multiplied by two.

(C) Any income that is received regularly, but in amounts that vary greatly, or income received irregularly is

averaged over a six-month period. Examples are overtime pay, sporadic second jobs, irregular child support, and other occasional changes in the monthly gross child support or other monthly gross income.

(D) When one or both persons of a married couple is in adult day services, the total gross income of both is considered and eligibility is computed based on one half of the total income.

**(3) Determination of co-payments for persons not**

**predetermined eligible.** In determining the co-payment for persons not predetermined eligible, the guidelines are:

(A) married couple, one spouse in adult day services, the total gross income of both spouses is considered, with the co-payment computed on one half of the total income;

(B) married couple, both in adult day services, the total gross income is divided equally between the two, with the co-payment for each based on the computed individual amount of income; or

(C) single person in adult day services, only the total gross income of that person is considered.

**(4) Sources of income considered.** The sources of income considered in determining monthly gross income are:

(A) wages, such as total money earnings received for work performed as an employee, including armed forces pay, commissions, tips, piece-rate payments, on-the-job training programs, cash bonuses, bonds, pensions, union dues, credit union payments, garnishments, and similar purposes. Tips are not considered part of the wages for Temporary Assistance for Needy Families (TANF) recipients who are participating in the Work Supplementation Program;

(B) net income from self-employment, farm and non-farm, determined by taking 50 percent of the gross income.

When a participant:

(i) rents a house to someone else, the net income amount considered is 50 percent of the rent. The other 50 percent is allowed for expenses;

(ii) rents a room in his or her house to someone else, the net income amount considered is 75 percent of the rent; and

(iii) provides room and board in his or her home, the net income amount considered is 50 percent of the gross amount charged;

(C) pensions, SSI, survivors' benefits, and Social Security Administration permanent disability insurance, prior to deductions for medical insurance, and Railroad Retirement Insurance;

(D) dividends, interest, and income from estates, trusts, and mineral rights. If this income varies or is received irregularly, it is averaged over six months;

(E) pensions and annuities or retirement benefits paid to a retired person or his or her survivors by a former employer or by a union, either directly or through an insurance company, and periodic receipts from annuities or insurance;

(F) unemployment compensation received from government unemployment insurance agencies or private companies during periods of unemployment and any strike benefits received from union funds;

(G) workers' compensation received periodically from private or public insurance companies for injuries incurred at work. The cost of this insurance must have been paid by the employer and not by the participant;

(H) alimony;

(I) child support;

(J) veterans' compensations and pensions paid periodically by Veterans Affairs to disabled members of the armed forces or to survivors of deceased veterans, as subsistence allowances paid to veterans for veterans' education and on-the-job training, and to ex-servicemen as GI insurance premiums called refunds;

(K) contributions in the form of money received regularly from anyone; and

(L) income of minor children. If the adult in an adult day services program has minor children living in the same home, the children's income is considered.

(5) **Sources of income not considered.** The sources of income not considered monthly gross income are:

(A) per capita payments to or funds held in trust for any individual in satisfaction of a judgment of the Indian Claims Commission of the Court of Claims;

(B) payments made pursuant to the Alaska Native Claims Settlement Act, to the extent that such payments are exempt from taxation under Section 21(a) of the Act;

(C) money received from sale of a resource, such as stocks, bonds, land, house, or car. If the person is in the business of selling such property, the net proceeds are counted as income from self-employment;

(D) withdrawals of bank deposits;

(E) tax refunds, including the Earned Income Credit Advance payment which is received monthly;

(F) gifts or money received occasionally, such as at birthdays, anniversaries, and Christmas;

(G) lump sum inheritances, insurance payments, or one-time lump sum payments;

(H) capital gain;

(I) the value of the food benefit allotment under the Food Stamp Act of 1977, as amended;

(J) any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

- (K) loans and grants obtained and used under conditions that preclude their use for current living costs;
- (L) money received as reimbursement for expenses because of participation in a component of the TANF Work Program;
- (M) home produce utilized for household consumption; and
- (N) the income of adult children or other relatives residing in the same home as the adult day services participant.

(e) **Resources.** Resources are not considered in determining eligibility for adult day services.

(f) **Notification.** A ten-day notice is required for any adverse action. Notification to the participant is required and is computer-generated when:

- (1) a decision regarding initial eligibility or continued eligibility is made;
- (2) there is a change in the participant's income or co-payment; and
- (3) the participant is no longer eligible or requests termination of adult day services.

[Source: Amended at 9 Ok Reg 1727, eff 4-20-92 (emergency); Amended at 9 Ok Reg 2917, eff 7-13-92 ; Amended at 15 Ok Reg 1316, eff 3-1-98 (emergency); Amended at 16 Ok Reg 1058, eff 4-26-99 ; Amended at 16 Ok Reg 3383, eff 5-11-99 (emergency); Amended at 17 Ok Reg 1320, eff 5-11-00 ; Amended at 18 Ok Reg 2138, eff 6-11-01 ; Amended at 23 Ok Reg 393, eff 11-8-05 (emergency); Amended at 23 Ok Reg 1062, eff 7-15-06 ; Amended at 24 Ok Reg 1325, eff 6-1-07]

### **340:105-7-3. Redetermination of eligibility**

Eligibility for services is redetermined at least annually. More frequent redetermination is made when the worker has obtained information about changes in the client's situation. The worker redetermines eligibility within ten days after information is obtained that changes have occurred.

[Source: Amended at 9 Ok Reg 1727, eff 4-20-92 (emergency); Amended at 9 Ok Reg 2917, eff 7-13-92 ; Amended at 15 Ok Reg 1316, eff 3-1-98 (emergency); Amended at 16 Ok Reg 1058, eff 4-26-99]

### **340:105-7-4. Termination of authorization**

(a) Authorization for payment of adult day services for a participant is terminated when:

- (1) the participant's income is found to exceed the maximum shown in Oklahoma Department of Human Services (OKDHS) Appendix M-105, Eligibility Schedule/Rates for Adult Day Services;
- (2) it is determined that adult day services are no longer appropriate to meet the participant's needs;
- (3) termination is requested by the participant, authorized representative, or vendor;
- (4) it is determined that the participant is a danger to self or others;
- (5) members of the participant's family or the authorized representative are verbally abusive or otherwise pose a threat to

the safety and well-being of the staff or participants of the center or to official representatives of OKDHS; or

(6) the participant, family member, or authorized representative fails to cooperate with the adult day services delivery Plan of Care, including failure to pay any applicable co-payments for which the participant is responsible.

(b) Notification of termination is made in accordance with OAC 340:105-7-2(f).

[Source: Amended at 9 Ok Reg 1727, eff 4-20-92 (emergency); Amended at 9 Ok Reg 2917, eff 7-13-92 ; Amended at 15 Ok Reg 1316, eff 3-1-98 (emergency); Amended at 16 Ok Reg 1058, eff 4-26-99 ; Amended at 24 Ok Reg 1325, eff 6-1-07]

### **340:105-7-5. Fair hearings**

All applicants and clients are entitled to a fair hearing when they disagree with the action taken by the Department. The client or responsible party must request a hearing at the county office within 30 days from the date of adverse action notice.

[Source: Amended at 8 Ok Reg 3417, eff 7-25-91 (emergency); Amended at 9 Ok Reg 2923, eff 7-13-92 ; Amended at 15 Ok Reg 1316, eff 3-1-98 (emergency); Amended at 16 Ok Reg 1058, eff 4-26-99]

### **340:105-7-6. Overpayments and underpayments**

(a) **Determinations.** An overpayment occurs and is established against an adult day services client or vendor when it is discovered that a payment(s) has been made on behalf of a client to which he or she is not entitled. The overpayment must also have a determination made as to whether the client or vendor met his or her responsibilities in accordance with the adult day services policies and procedures. When it is determined that an overpayment exists, a determination of due diligence must be made in accordance with (1)–(5) of this subsection. A determination of due diligence is made to determine whether:

(1) a periodic redetermination of eligibility was completed within the time limits set by the Department and a decision made at the next possible effective date.

(2) a decision regarding case action was completed within ten days after the information was obtained indicating a change in the client's circumstances.

(3) the case record contains a signed application, Adult Day Services Referral/Application Form, which advises the client of his or her reporting responsibilities.

(4) the adult day services vendor was notified of any change affecting the authorization of day services, including co-payment changes, on behalf of a client and that the case record reflects prompt notification.

(5) the vendor was kept abreast of Department policy regarding rates, claims procedures, and daily attendance recording.

(b) **Client error.** It is the responsibility of the client, when the Department has informed him or her of the conditions of eligibility which must be met, to notify the county office within ten days of any change in his or her circumstances to include income, address, phone number, and



authorized representative. Failure of the client to report changes may result in an overpayment.

(c) **Vendor error.** When the Department has authorized payments on behalf of the client and notified the vendor of any applicable co-payments, it is the responsibility of the adult day services vendor to submit accurate and correct day services claims in accordance with the authorization. The vendor claims only after the provision of the adult day services and deducts any co-payments as authorized.

[Source: Amended at 8 Ok Reg 3417, eff 7-25-91 (emergency); Amended at 9 Ok Reg 2923, eff 7-13-92 ; Amended at 15 Ok Reg 1316, eff 3-1-98 (emergency); Amended at 16 Ok Reg 1058, eff 4-26-99]

#### **340:105-7-6.1. Repayment of client or vendor overpayments or underpayments**

If an error by the vendor has occurred, the county office notifies the Aging Services Division of the overpayment by memo. After written notification to the vendor of its intentions to collect the overpayment, Aging Services Division deducts monies owed the Department by the vendor from future claims. If an underpayment has occurred, after written notification to the vendor, Aging Services Division adjusts future claims to repay the debt to the vendor. If an overpayment has occurred and is classified as a client error, a memorandum explaining the overpayment is submitted to the State Office, FSSD, Overpayment Unit. A copy of the memorandum is sent to the Aging Services Division. Any further collection activity is then the responsibility of the State Office, Overpayment Unit. If the overpayment has occurred and is classified as a county office error, correction of the error is made at the time of discovery to minimize any hardship to the client.

[Source: Added at 15 Ok Reg 1316, eff 3-1-98 (emergency); Added at 16 Ok Reg 1058, eff 4-26-99]

#### **340:105-7-7. Adult day services vendor contracts**

(a) **Licensure of facility.** According to Section 1-873 of Title 63 of Oklahoma Statutes, all adult day services centers must be licensed by the Oklahoma State Department of Health. Failure to comply with state law is grounds for immediate termination of the contract or denial of a contract application.

(b) **Application.** Applications for a contract to provide adult day services to Oklahoma Department of Human Services (OKDHS) participants are obtained from Aging Services Division (ASD), Attention: Adult Day Services.

(c) **Application process.** When the completed application packet is received by ASD, a visit is arranged with the facility to conduct a site evaluation. For facilities holding a current contract and applying for renewal, no site evaluation is required.

(d) **Facility approved.** If a facility meets all minimum standards and requirements, and funding is available, a contract is offered. The facility accepts the offer by returning the properly signed contract within 15 days of the offer. When a contract number is assigned, ASD notifies the facility and the OKDHS county office where the facility is located.

(e) **Facility not approved.** If an applicant facility fails to meet OKDHS minimum standards and requirements, ASD staff notifies the facility by mail via a letter that includes:

- (1) a description of the area(s) in which the facility failed to meet standards and requirements;
- (2) an offer of technical assistance concerning steps needed to comply with the requirements; and
- (3) a statement the facility may reapply when the operator corrects the deficiencies.

(f) **Contract monitoring.** ASD staff visits each contracted facility at least once annually to monitor the facility's compliance with the contractual agreement. ASD staff discusses with the operator any areas that require improvement. If deficiencies are not corrected or showing substantial improvement within that period, procedures for contract termination are initiated. A summary of the findings of each monitoring visit is prepared and a copy is sent to the facility.

(g) **Contract reapplication.** Performance-based contracts for provision of adult day services automatically terminate at the end of the state fiscal year. In April, ASD staff provides new application packets to each contracted vendor. Applications are evaluated in accordance with subsection (c) of this Section. Procedures for approval or disapproval are followed as outlined in subsections (e) and (f) of this Section. A site visit and evaluation is required when a facility changes location or undergoes major renovation.

(h) **Procedures for suspension or termination of contract.** If at any point during the contract term a facility fails to meet minimum standards or other contractual requirements, and fails to correct the deficiency within 30 calendar days after notification, contract suspension, or termination procedures are initiated.

[Source: Amended at 9 Ok Reg 1727, eff 4-20-92 (emergency); Amended at 9 Ok Reg 2917, eff 7-13-92 ; Amended at 15 Ok Reg 1316, eff 3-1-98 (emergency); Amended at 16 Ok Reg 1058, eff 4-26-99 ; Amended at 18 Ok Reg 2138, eff 6-11-01 ; Amended at 23 Ok Reg 1062, eff 7-15-06 ; Amended at 24 Ok Reg 1325, eff 6-1-07]

### **340:105-7-8. Adult day services rates and claims payment**

(a) **Rates.** A facility that contracts to provide adult day services for Oklahoma Department of Human Services (OKDHS) participants agrees to the reimbursement rate approved by the Oklahoma Commission for Human Services. The current rate is shown in OKDHS Appendix M-105, Eligibility Schedule/Rates for Adult Day Services. The facility:

- (1) is reimbursed only for days a participant is actually in attendance;
- (2) may set up a sliding fee scale for private pay participants;
- (3) may not charge the public less than the rate charged OKDHS; and
- (4) must post all rates in the facility.

(b) **Claims.** Claims for reimbursement for OKDHS-purchased adult day services are made on Form 02AS001E, Adult Day Service Invoice, attached to Form 02AS004E, Service/Attendance/Claim Record. The vendor prepares and attaches Form 02AS004E for each participant for

whom payment is claimed and submits it to Aging Services Division,  
Attention: Adult Day Services.

[Source: Amended at 8 Ok Reg 3417, eff 7-25-91 (emergency); Amended at 9 Ok Reg 1727, eff 4-20-92 (emergency); Amended at 9 Ok Reg 2923, eff 7-13-92 ; Amended at 15 Ok Reg 1316, eff 3-1-98 (emergency); Amended at 16 Ok Reg 1058, eff 4-26-99 ; Amended at 18 Ok Reg 2138, eff 6-11-01 ; Amended at 23 Ok Reg 1062, eff 7-15-06 ; Amended at 24 Ok Reg 1325, eff 6-1-07]

### **340:105-7-9. Program development grants**

As funds are available, the Oklahoma Department of Human Services announces a request for proposal (RFP) soliciting proposals for funding of new or expanding adult day services programs. Proposals for program expansion are considered only when the expansion provides additional services to a significant sector of the adult day services population, for example, specialized Alzheimer's programs.

(1) **Selection process.** An RFP selection committee is set up within the Aging Services Division (ASD) to score the proposals. Proposals are rated and scores are considered along with need for the services in the applicant's service area of the state to determine which proposals will be funded. After the selection committee scoring is completed, ASD staff makes a site visit. All contracts are then offered based on availability of funds.

(2) **Monitoring grant contracts.** Grant contracts are monitored both through the monthly claims process and periodic site visits.

(3) **Renewal of grant contracts.** Grant contracts are awarded on a fiscal year basis and must be renewed each July 1. An original grant is renewable for up to three years. Grantees must submit the required reapplication materials to ASD by a date determined annually. Renewals are awarded only where a grantee has met the previous year's contractual obligations as determined by monitoring throughout the year.

[Source: Amended at 9 Ok Reg 1727, eff 4-20-92 (emergency); Amended at 9 Ok Reg 2917, eff 7-13-92 ; Amended at 15 Ok Reg 1316, eff 3-1-98 (emergency); Amended at 16 Ok Reg 1058, eff 4-26-99 ; Amended at 18 Ok Reg 2138, eff 6-11-01 ; Amended at 24 Ok Reg 1325, eff 6-1-07]

### **340:105-7-10. Vendor fair hearing [REVOKED]**

[Source: Added at 15 Ok Reg 1316, eff 3-1-98 (emergency); Added at 16 Ok Reg 1058, eff 4-26-99 ; Revoked at 18 Ok Reg 2138, eff 6-11-01]

## **SUBCHAPTER 9. GUIDELINES AND STANDARDS [REVOKED]**

### **340:105-9-1. Guidelines for investigations of neglect, abuse or exploitation of adults [REVOKED]**

[Source: Revoked at 14 Ok Reg 3612, eff 7-25-97 (emergency); Revoked at 15 Ok Reg 1692, eff 5-11-98]

**340:105-9-2. Minimum standards for adult day care centers providing geriatric day care services [REVOKED]**

[Source: Revoked at 19 Ok Reg 1170, eff 5-13-02]

**340:105-9-3. Guide for use in the study of day care centers for adults [REVOKED]**

[Source: Revoked at 19 Ok Reg 1170, eff 5-13-02]

**SUBCHAPTER 10. POLICIES AND PROCEDURES  
MANUAL FOR TITLE III OF THE OLDER AMERICANS  
ACT OF 1965, AS AMENDED**

**PART 1. INTRODUCTION**

**340:105-10-1. Purpose**

The purpose of this Subchapter is to provide written policy for programs operating under Title III of the Older Americans Act of 1965, as amended. In the State of Oklahoma, Title III is administered by Aging Services Division of the Department of Human Services. [OAC 340:105-1]

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 19 Ok Reg 1170, eff 5-13-02]

**340:105-10-2. Background**

The Older Americans Act (OAA) was passed by Congress in 1965 to provide assistance to states in the development of comprehensive coordinated systems of services to older persons. These services are to maintain the dignity of older citizens while providing services to them in the least restrictive environment. The OAA provides for a network of organizations which assess the needs of older persons and provide services to meet those needs. In the state of Oklahoma, Aging Services Division (ASD) has been designated as the State Agency which acts as a focal point for all services related to older persons. ASD has designated 11 Area Agencies on Aging (AAAs) to assess the needs of older persons in each planning and service area of the state, and to develop and advocate for services to meet those needs. As part of this task, AAAs provide funding to local agencies and organizations for the provision of direct services. The rules in this Subchapter outline operating policy for each level of the network including ASD, the 11 AAAs, and the local Title III projects.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 19 Ok Reg 1170, eff 5-13-02]

**340:105-10-3. Definitions**

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

(i) **"Abuse"** means the willful:

- (A) infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm or pain or mental anguish; or
- (B) deprivation by a person, including a caregiver, of goods or services necessary to avoid physical harm, mental anguish, or mental illness.

(i) **"Act"** means the Older Americans Act (OAA) of 1965 as amended.

(i) **"Activities of daily living (ADL)"** means:

- (A) eating;
- (B) dressing;
- (C) bathing;
- (D) toileting;
- (E) transferring in and out of bed or chair; and
- (F) walking.

(i) **"Aging and Disability Resource Center"** means an entity established by the State as part of the state system of coordinated long-term care to provide:

- (A) comprehensive information on the full range of available public and private long-term care programs, options, service providers, and resources within a community, including information on the availability of integrated long-term care;
- (B) personal counseling to assist a person assess existing or anticipated long-term care needs; and
- (C) access to publicly-supported long-term care programs for which a person may be eligible, by serving as a convenient point of entry for such programs.

(i) **"Area Agency on Aging (AAA)"** means a designated agency per Section 305(a)(2)(A) of the OAA, or the State Agency performing the functions of an AAA per Section 305(b)(5) of the OAA.

(i) **"Assistive device"** means an assistive technology device that has the same meaning given in Section 3 of the Assistive Technology Act of 1998. [29 U.S.C. 3002]

(i) **"At risk for institutional placement"** means that an older person is unable to perform at least two activities of daily living without substantial assistance such as verbal reminding, physical cuing, or supervision and is determined by the State to be in need of placement in a long-term care facility.

(i) **"CFR"** means Code of Federal Regulations in the Federal Register published by the United States (U.S.) Department of Health and Human Services, Office of Human Development, and Administration on Aging (AoA).

(i) **"Caregiver"** means an adult family member, or another person, who is an informal provider of in-home and community care to a person 60 years of age or older.

() **"Case management service"** means a service provided to an older person, at the direction of the older person or a family member of the older person:

- (A) by a person who is trained or experienced in the case management skills required to deliver the services and coordination described in (B) of this paragraph;
- (B) to assess the needs, and arrange, coordinate, and monitor an optimum package of services to meet the needs of the older person; and
- (C) including services and coordination, such as:
  - (i) comprehensive assessment of the older person's physical, psychological, and social needs;
  - (ii) development and implementation of a service plan with the older person to mobilize the formal and informal resources and services identified in the assessment to meet the needs of the older person, including coordination of the resources and services with:
    - (I) other plans existing for various formal services such as hospital discharge plans; and
    - (II) the information and assistance services funded by Title III of OAA;
  - (iii) monitoring formal and informal service delivery to ensure services specified in the plan are provided;
  - (iv) periodic reassessment and revision of the status of the older person with:
    - (I) the older person; or
    - (II) if necessary, a primary caregiver or family member of the older person; and
  - (v) advocacy on behalf of the older person for needed services or resources in accordance with the wishes of the older person.

() **"Child"** means a person :

- (A) with a grandparent or other relative as a caregiver; and
- (B) not older than 18 years of age; or
- (C) a person 19-59 years of age who has a severe disability and lives with a grandparent or older person who is a relative caregiver.

() **"Civic engagement"** means a person or a collective action designed to address a public concern or an unmet human, educational, health care, environmental, or public safety need.

() **"Comprehensive and coordinated system"** means a system for providing all necessary supportive services, including nutrition services in a manner designed to:

- (A) facilitate accessibility to and utilization of all supportive services and nutrition services provided within the geographic area served by such system by any public or private agency or organization;

- (B) develop and make the most efficient use of supportive services and nutrition services in meeting the needs of older persons;
- (C) use available resources efficiently and with a minimum of duplication; and
- (D) encourage and assist public and private entities having unrealized potential for meeting the service needs of older persons to assist the older persons on a voluntary basis.

() **"Construction"** with respect to multipurpose senior centers, means building a new facility, including the costs of land acquisition and architectural and engineering fees or making modifications to or in connection with an existing facility in excess of double the square footage of the original facility and all physical improvements.

() **"Department"** means United States Department of Health and Human Services (DHHS).

() **"Direct services"** means any activity performed to provide services directly to an older person by the staff of a service provider, AAA, or State Agency in a single planning and service area.

() **"Disability"** means a mental or physical impairment or a combination of mental and physical impairments, resulting in substantial functional limitations in one or more major life activity areas such as:

- (A) self-care;
- (B) receptive and expressive language;
- (C) learning;
- (D) mobility;
- (E) self-direction;
- (F) capacity for independent living;
- (G) economic self-sufficiency;
- (H) cognitive functioning; or
- (I) emotional adjustment.

() **"Disease prevention and health promotion services"** means providing:

- (A) health risk assessments;
- (B) routine health screening such as hypertension, glaucoma, cholesterol, cancer, vision, hearing, diabetes, bone density, oral health, or nutrition screening;
- (C) nutritional counseling and educational services for an older person and his or her primary caregivers;
- (D) evidence-based health promotion programs, including programs related to prevention and mitigation of effects of chronic disease such as:
  - (i) osteoporosis;
  - (ii) hypertension;
  - (iii) obesity;
  - (iv) diabetes;
  - (v) cardiovascular disease;
  - (vi) oral or dental disease;
  - (vii) alcohol and substance abuse reduction;

- (viii) smoking cessation;
- (ix) weight loss and control;
- (x) stress management;
- (xi) falls prevention;
- (xii) physical activity; and
- (xiii) improved nutrition;
- (E) programs regarding physical fitness, group exercise, and music, art, and dance movement therapy, including programs for multigenerational participation provided by:
  - (i) an institution of higher education;
  - (ii) a local educational agency, as defined in Section 1471 of the Elementary and Secondary Education Act of 1965; or
  - (iii) a community-based organization;
- (F) home injury control services, including screening of high risk home environments and provision of educational programs on injury prevention such as fall and fracture prevention;
- (G) screening for the prevention of depression, coordination of community mental health services, provision of educational activities, and referral to psychiatric and psychological services;
- (H) educational programs on the availability, benefits, and appropriate use of preventive health services covered under Title XVIII of the Social Security Act;
- (I) medication management screening and education to prevent incorrect medication and adverse drug reactions;
- (J) information concerning diagnosis, prevention, treatment, and rehabilitation of age related diseases and chronic disabling conditions, including:
  - (i) osteoporosis;
  - (ii) cardiovascular disease;
  - (iii) diabetes; and
  - (iv) Alzheimer's disease and related disorders with neurological and organic brain dysfunction;
- (K) gerontological counseling; and
- (L) counseling regarding social services and follow-up health services based on any of the services described in (A) through (K) of this subsection.

( ) "**Elder abuse**" means abuse of an older person.

( ) "**Eldercare (National Campaign)**" means the AoA sponsored program to establish and promote public and private partnerships addressing the needs of the growing population of older persons and their caregivers.

( ) "**Elder justice**" means efforts to:

- (A) prevent, detect, treat, intervene in, and respond to elder abuse, neglect, and exploitation;
- (B) protect older persons with diminished capacity while maximizing their autonomy; and
- (C) recognize a person's rights, including the right to be free of abuse, neglect, and exploitation.



( ) **"Elderly client"** means a person:

(A) eligible or receiving OAA services; and

(B) 60 years of age or older; or

(C) less than 60 years of age with a diagnosis of early onset dementia.

( ) **"Exploitation"** means the fraudulent or otherwise illegal, unauthorized, or improper act or process of a person, including a caregiver or fiduciary using the resources of an older person for monetary or personal benefit, profit, or gain, or that result in depriving an older person of rightful access to, or use of, benefits, resources, belongings, or assets. Within this definition, a caregiver is a person who has the responsibility for the care of an older person, either voluntarily, by contract, receipt of payment for care, or as a result of the operation of law and is a family member or other person providing, on behalf of the person or of a public or private agency, organization, or institution, compensated or uncompensated care to an older person.

( ) **"Fiduciary"** means a person or entity with the legal responsibility to make decisions on behalf of and for the benefit of another person and to act in good faith and with fairness and includes a trustee, guardian, conservator, executor, agent under a financial power of attorney or health care power of attorney, or a representative payee.

( ) **"Focal point"** means a facility established to encourage the maximum collocation and coordination of services for older persons.

( ) **"Frail"** means a condition of functionally impaired determined because the older person:

(A) is unable to perform at least two activities of daily living without substantial human assistance, including verbal reminding, physical cueing, or supervision; or

(B) due to a cognitive or other mental impairment, requires substantial supervision because the person behaves in a manner posing a serious health or safety hazard to self or another person.

( ) **"Grandparent or older person who is a relative caregiver"** means a grandparent or a stepgrandparent of a child or a relative of a child by blood, marriage, or adoption who is 55 years of age or older and:

(A) lives with the child;

(B) is the primary caregiver of the child because the biological or adoptive parents are unable or unwilling to serve as the primary caregiver of the child; and

(C) has a legal relationship to the child such as legal custody or guardianship or is raising the child informally.

( ) **"Grantee agency"** means an agency that receives funds granted or awarded by the sponsoring agency. The AAAs are grantees of the State Agency and the service providers are grantees of the AAAs.

( ) **"Grantor agency"** means an agency that grants or awards funds to another entity. The State Agency is the grantor agency

for the AAAs and the AAAs are the grantor agencies for the service providers.

() **"Greatest economic need"** means the need resulting from an income level, at or below the poverty line.

() **"Greatest social need"** means the need caused by non-economic factors, including physical and mental disabilities, language barriers, and cultural, geographical, or social isolation, including racial or ethnic status that restricts the person's ability to perform normal daily tasks or threatens the person's capacity to live independently.

() **"Hispanic-serving institution"** means the same as in Section 502 of the Higher Education Act of 1965 [20 U.S.C. 1101a].

() **"Impairment in activities of daily living"** means the inability to perform one or more of the six impairments in activities of daily living (ADL) without personal or stand-by assistance, supervision, or cues.

() **"Impairment in instrumental activities of daily living"** means the inability to perform one or more of the eight instrumental activities of daily living (IADL) without personal or stand-by assistance, supervision, or cues.

() **"Informal care"** means care not provided as part of a public or private formal service program.

() **"Information and assistance (I & A)"** means a service for older persons that:

(A) provides older persons current information on services available within their communities including information relating to assistive technology;

(B) links older persons with the opportunities and services available within their communities;

(C) establishes adequate follow-up procedures to the maximum extent practicable; and

(D) serves the entire community of older persons, particularly those with greatest social and economic need and those at risk for institutional placement.

() **"In-home service"** means:

(A) services of homemakers and home health aides;

(B) visiting and telephone reassurance;

(C) chore maintenance;

(D) in-home respite care for families, including adult day care as a respite service for families;

(E) minor modification of homes necessary to facilitate the ability of older persons to remain at home, and not available under other programs. Not more than \$250 per client may be expended annually for such modification; and

(F) personal care services.

() **"Instrumental activities of daily living (IADL)"** means:

(A) preparing meals;

(B) shopping for personal items;

(C) managing medication;

(D) managing money;

- (E) using the telephone;
- (F) doing heavy housework;
- (G) doing light housework; and
- (H) making use of available transportation without assistance.

(I) **"Integrated long-term care"** means items and services:

(A) with respect to long-term care:

- (i) items or services provided under a State plan for medical assistance under the SoonerCare program established under Title XIX of the Social Security Act [42 U.S.C. 1396 et seq.], including nursing facility services, home and community-based services, personal care services, and case management services provided under the plan; and
- (ii) any other supports, items, or services that are available under any federally funded long-term care program;

(B) with respect to other health care, items and services covered under:

- (i) the Medicare program established under Title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.];
- (ii) the State plan for medical assistance under the SoonerCare program; or
- (iii) any other federally funded health care program; and

(C) including such items or services that are provided under a public or private managed care plan or through any other service provider.

(J) **"Legal assistance"** means legal advice and representation by an attorney to an older person who has economic or social needs and includes, to the extent feasible, counseling or other appropriate assistance by a paralegal or law student under the supervision of an attorney and counseling or representation by a non-lawyer where permitted by law.

(K) **"Living alone"** means a one person household, using the census definition of household, where the householder lives by himself or herself in an owned or rented place of residence in a non-institutional setting, including board and care facilities, assisted living units, and group homes.

(L) **"Low income minority elderly"** means a minority older person with annual income at or below the federally established poverty line.

(M) **"Low income non-minority elderly"** means an older person who is not a minority with an annual income at or below the federally established poverty line.

(N) **"Means testing"** means the use of an older person's income or resource to deny or limit the person's receipt of services.

(O) **"Minority elderly"** means a person 60 years of age or older who is:

- (A) American Indian or Alaskan Native;

- (B) Asian;
- (C) Black or African American;
- (D) Hispanic or Latino; or
- (E) Native Hawaiian or other Pacific Islander.

() **"Multipurpose senior center"** means a community facility for the organization and provision of a broad spectrum of services including the provision of health such as mental health, social, nutritional, and educational services and facilities for recreational activities for older persons.

() **"NAPIS"** means the National Aging Program Information System.

() **"Neglect"** means the failure of a caregiver or fiduciary to provide the goods or services necessary to maintain the health or safety of an older person or self-neglect.

() **"Nonprofit"** means an agency, institution, or organization owned or operated by one or more corporations or associations having no part of the net earnings or benefit of any private shareholder or individual.

() **"OAA"** means the Older Americans Act of 1965, as amended.

() **"OKDHS"** means Oklahoma Department of Human Services.

() **"Older person"** or **"older individual"** means anyone 60 years of age or older.

() **"Periodic"** as used in the OAA with respect to evaluations of and public hearings on activities carried out under state and area plans, means at a minimum, once each fiscal year.

() **"Planning and service area (PSA)"** means an area designated by the State Agency under Section 305(a)(1)(E) of the OAA, as amended for the purposes of developing and coordinating service systems.

() **"Poverty"** means the income level defined each year by the Office of Management and Budget (OMB) and adjusted by the DHHS Secretary in accordance with subsection 673(2) of the Community Services Block Grant Act. The annual DHHS Poverty Guidelines provide dollar thresholds representing poverty levels for various size households.

() **"Poverty line"** means the official poverty line as defined by OMB per Section 673(2) of the Community Services Block Grant Act and Section 9902(2) of Title 42 of the U.S. Code.

() **"Project"** as used in Section 306(a)(1) of the OAA with respect to the provision of supportive and nutrition services, means an entity awarded a subgrant or contract from an AAA to provide services under the Area Plan.

() **"Race or ethnicity status"** reflects the requirements of OMB for obtaining information from persons regarding their self-identification of race and ethnicity.

(A) Race includes:

- (i) American Indian or Alaskan Native: a person having origins in any of the original peoples of North America, including Central America, and who maintains tribal affiliation or community attachment;

- (ii) Asian: a person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent, including Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam;
- (iii) Black or African American: a person having origins in any of the black racial groups of Africa;
- (iv) Native Hawaiian or Other Pacific Islander: a person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands; and
- (v) White: a person having origins in any of the peoples of Europe, the Middle East, or North Africa.

(B) Ethnicity includes:

- (i) Hispanic or Latino: a person of Cuban, Mexican, Puerto Rican, Central or South American, or other Spanish culture or origin, regardless of race; and
- (ii) Not Hispanic or Latino.

() "**Rural**" means an area not defined as urban by AoA.

() "**Rural counties**" means counties not considered urban as defined by AoA.

() "**Rural elderly**" means older persons not considered living in urban counties as defined by AoA.

() "**SUOA**" means Special Unit on Aging, a unit of Oklahoma Department of Human Services (OKDHS) Aging Services Division (ASD).

() "**Self-directed care**" means an approach to providing services, including programs, benefits, supports, and technology under the OAA intended to assist a person with activities of daily living, in which:

(A) services, including the amount, duration, scope, provider, and location of such services are planned, budgeted, and purchased under the direction and control of the person;

(B) a person is provided with information and assistance as are necessary and appropriate to make informed decisions about care options;

(C) the needs, capabilities, and preferences of a person with respect to such services are assessed by the AAA, or other agency designated by the AAA, involved;

(D) based on the assessment, the AAA, or other agency designated by the AAA, develops together with the person and the person's family, caregiver, or legal representative:

(i) a plan of services for the person that specifies the services the person will be responsible for directing;

(ii) a determination of the role of family members, and others the person wants to participate, in providing services under the plan; and

(iii) a budget for such services; and

(E) the AAA or State Agency provides for oversight of self-directed receipt of services, including steps to ensure the quality of services provided and the appropriate use of funds under the OAA.

() **"Self-neglect"** means an adult's inability due to physical or mental impairment or diminished capacity, to perform essential self-care tasks including:

(A) obtaining essential food, clothing, shelter, and medical care;

(B) obtaining goods and services necessary to maintain physical health, mental health, or general safety; or

(C) managing one's own financial affairs.

() **"Service provider"** as used in Section 306(a)(1) of the OAA with respect to the provision of supportive and nutrition services, means an entity awarded a subgrant or contract from an AAA to provide services under the area plan.

() **"Severe disability"** as used to carry out the provisions of the OAA, means a severe chronic disability attributable to mental or physical impairment of a person that:

(A) is likely to continue indefinitely; and

(B) results in substantial functional limitation in three or more of the major life activities of:

(i) self-care;

(ii) receptive and expressive language;

(iii) learning;

(iv) mobility;

(v) self-direction;

(vi) capacity for independent living; and

(vii) economic self-sufficiency.

() **"Sponsoring agency"** means a multipurpose or umbrella organization of a grantee.

() **"State Agency"** means the agency designated by the State under Section 305(a)(1) of the OAA, as amended. In Oklahoma, the State Agency is OKDHS ASD.

() **"State system of long-term care"** means the federal, state, and local programs and activities administered by a state providing support, or facilitating access to long-term care for persons in the state.

() **"Subgrantee"** means an agency that subcontracts with a grantee agency. Subgrantee usually refers to the service provider, but it is possible for a service provider to subcontract with another entity.

() **"Taxonomy"** means the uniform set of service definitions and service unit measures adopted by AoA for national reporting on programs and activities under Title III of the OAA.

() **"Unit of general purpose local government"** means:

(A) a political subdivision of the state having general authority and not limited to only one function or combination of related functions; or

(B) an Indian tribal organization.

() **"Urban"** means areas defined by AoA comprised of an:

- (A) urbanized area, a central place and its adjacent densely settled territories with a combined minimum population of 50,000; or
- (B) incorporated place or census designated place with 20,000 or more inhabitants.

(I) **"Urban counties"** means urban areas as defined by AoA.

Counties in Oklahoma considered urban are:

- (A) Canadian;
- (B) Cleveland;
- (C) Comanche;
- (D) Creek;
- (E) Garfield;
- (F) Logan;
- (G) McClain;
- (H) Oklahoma;
- (I) Osage;
- (J) Pottawatomie;
- (K) Rogers;
- (L) Sequoyah;
- (M) Tulsa; and
- (N) Wagoner.

(b) **Authority.** The authority for this Section is OMB Notice of Action 0985-0008.

[**Source:** Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 15 Ok Reg 249, eff 10-9-97 (emergency); Amended at 15 Ok Reg 1692, eff 5-11-98 ; Amended at 16 Ok Reg 281, eff 11-3-98 (emergency); Amended at 16 Ok Reg 1983, eff 6-11-99 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 22 Ok Reg 897, eff 5-12-05 ; Amended at 23 Ok Reg 1062, eff 7-15-06 ; Amended at 25 Ok Reg 1754, eff 6-1-08 (emergency); Amended at 26 Ok Reg 2221, eff 7-1-09 ; Amended at 29 Ok Reg 638, eff 7-1-12]

#### **340:105-10-4. Use of Oklahoma Administrative Code for Title III of the Older Americans Act of 1965, as amended**

(a) The Oklahoma Administrative Code for Title III of the Older Americans Act of 1965, as amended, is presented in Parts 1, 3, 5, 7, and 9. Part 1 provides an introduction. Parts 3, 5, and 7 outline the policies of operation for, and the responsibilities of, the three levels of Oklahoma's aging network: the State Agency, the Area Agencies on Aging (AAAs), and the local Title III projects. Part 9 outlines fiscal rules for AAAs and the local Title III projects.

(b) Each rule is named and numbered separately. A statement of each rule is followed by a citation(s) of the major referencing authorities, such as the Older Americans Act (OAA), Code of Federal Regulations (CFR), Oklahoma Administrative Code (OAC), or Oklahoma Statute (OS). Also listed for each rule are procedures for implementing the rule and cross references to other related rules within the manual.

[**Source:** Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 19 Ok Reg 1170, eff 5-13-02]

## **PART 3. STATE AGENCY**

### **340:105-10-10. Designation of State Agency**

(a) **Policy.** Any state wishing to participate in Older Americans Act (OAA) programs must designate a sole state agency to serve as that state's State Agency on Aging (State Agency). It may be either an agency with the single purpose is to administer programs for older persons, or a multipurpose human services agency with a designated single organizational unit to carry out the provisions of the OAA.

(b) **Authority.** The authority for this Section is Section 305 of the OAA of 1965, as amended.

(c) **Procedures.** In 1963, the Special Unit on Aging was created as a part of the Department of Human Services to serve as Oklahoma's State Agency. In 1983, the Department of Human Services created the Division of Aging Services, now known as Aging Services Division, which placed the Special Unit on Aging with other programs within the Department that serve primarily the elderly. On July 26, 1988, the Governor of Oklahoma, through Executive Order 88-13, authorized and designated the Oklahoma Commission for Human Services, acting through the Department of Human Services and its Aging Services Division, to be the sole agency of the State of Oklahoma to administer and supervise the administration of the OAA programs.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 19 Ok Reg 1170, eff 5-13-02]

### **340:105-10-11. State Agency responsibilities**

(a) **Policy.** The State Agency has responsibilities related to the provisions of the Older Americans Act (OAA) to:

- (1) develop a State Plan on Aging as prescribed by the Administration for Community Living;
- (2) administer the State Plan on Aging;
- (3) coordinate all state activities related to the OAA purposes and actively pursue resource development at all levels of the aging network;
- (4) serve as an effective and visible advocate for older Oklahomans;
- (5) divide the state into planning and service areas for the purpose of designating Area Agencies on Aging (AAA);
- (6) serve as a clearinghouse for the exchange of information pertinent to older Oklahomans;
- (7) provide consultation, technical assistance, and training to AAAs and Title III project staffs related to their responsibilities under Title III of the OAA;
- (8) develop rules and program standards, as appropriate, to carry out the mission of the OAA at all levels of the Title III aging networkby:
  - (A) convening intra and interagency task forces to review program issues and make recommendations for policy development;
  - (B) submitting proposed policy for review and comment to the appropriate:



- (i) Title III aging network entities; and
  - (ii) Oklahoma Human Services staff; and
- (C) distributing the codified rules to the Title III aging network; and
- (9) determine election regarding nutrition services incentive program (NSIP) cash payments in lieu of agricultural commodities and products purchased by the United States Secretary of Agriculture for all or any portion thereof.
- (b) **Authority.** The authority for this Section are Sections 305(a)(1) and 311(d)(1) of the OAA of 1965, as amended.
- (c) **Procedures.** Procedures are outlined separately in this Part for areas of responsibility identified in (a) of this Section.
- (d) **Cross references.** Refer to Oklahoma Administrative Code 340:105-10-13 through 340:105-10-25.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 13 Ok Reg 1561, eff 4-2-96 (emergency); Amended at 14 Ok Reg 1407, eff 5-12-97 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 23 Ok Reg 1062, eff 7-15-06 ; Amended at 38 Ok Reg 2337, eff 9-15-21]

#### **340:105-10-12. State Council on Aging**

- (a) **Policy.** The State of Oklahoma has a State Council on Aging meeting the requirements for the Older Americans Act (OAA), and Aging Services (AS) need for statewide representation of older Oklahomans and service providers.
- (b) **Authority.** The authority for this Section is Section 305 of the OAA of 1965, as amended and the Oklahoma State Council on Aging Bylaws.
- (c) **Cross reference.** Refer to Oklahoma Administrative Code 340:105-1-10.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 23 Ok Reg 1062, eff 7-15-06 ; Amended at 25 Ok Reg 1754, eff 6-1-08 (emergency); Amended at 26 Ok Reg 2221, eff 7-1-09 ; Amended at 28 Ok Reg 898, eff 6-1-11 ; Amended at 32 Ok Reg 1927, eff 9-15-15 ; Amended at 38 Ok Reg 2337, eff 9-15-21]

#### **340:105-10-13. State Plan on Aging**

- (a) **Policy.** In order to receive Older Americans Act (OAA) funding, the State Agency must have a developed and approved State Plan on Aging (State Plan). The State Plan must be on file with the Administration for Community Living (ACL) and available for public review.
- (b) **State Plan.** The Oklahoma Human Services (OKDHS) Aging Services (AS) State Plan encompasses and delineates the programmatic commitments that AS, as the designated State Unit on Aging, administers, coordinates, or supervises during a given multi-year period. AS develops the State Plan for approval by the Governor of Oklahoma and for gubernatorial submission to the Assistant Secretary for Aging.
- (c) **State Plan Requirements.** At a minimum, the State Plan must include:
  - (1) identification of the state agency designated to develop and administer the State Plan;
  - (2) statewide program objectives to implement requirements under Title III of the OAA and objectives established by the

Assistant Secretary for Aging through the rulemaking process;  
(3) a resource allocation plan and budget, indicating the proposed use of all Title III funds administered by the State Agency and the distribution of Title III funds to each planning and service area (PSA);

(4) identification of PSA and of Area Agencies on Aging (AAA) geographic boundaries;

(5) prior federal fiscal year information related to the:

(A) number of low-income, minority older Oklahomans;

(B) methods used to attempt to satisfy the service needs of such minority older Oklahomans; and

(C) methods used to attempt to satisfy the service needs of older Oklahomans residing in rural areas;

(6) all assurances and provisions in the OAA and regulations ensure:

(A) preference is given to older Oklahomans in the greatest economic and social need and to older Oklahomans at risk for institutional placement with particular attention given to those residing in rural areas; low-income, minority older Oklahomans; and older Oklahomans with limited English proficiency in the provision of services under the plan;

(B) all services under the OAA are provided without use of any means tests;

(C) all services provided under Title III meet existing state and local health and safety licensing requirements for the provision of those services;

(D) older Oklahomans are provided opportunities to voluntarily contribute to the cost of services; and

(E) other such assurances as are needed for compliance with OAA, regulations, other applicable federal and state laws; and

(7) the State Council on Aging membership and responsibilities.

(d) **State Plan Objectives.** The State Plan identifies the objectives AS proposes to achieve during the multi-year period and the plan(s) of action implemented in order to meet the identified objectives.

(1) The State Plan:

(A) identifies the manner in which the state is divided into planning and service areas and the designation of AAAs; and

(B) sets forth the resource allocations under the program by providing information regarding the methods, data, and rationale used in developing the State Plan and formulating planning priorities.

(2) Prior to submitting the State Plan to the Governor, AS holds a public hearing(s) on the proposed State Plan, per Part 1321.27 of Title 45 of the Code of Federal Regulations (45 C.F.R. Part 1321.27). Public notice of each hearing is provided as required. A summary of the State Plan is available for review. The complete State Plan is available through AS.

- (A) The State Council on Aging and the public have an opportunity to review and comment on the State Plan.
- (B) AS revises the State Plan as appropriate, following State Council on Aging and public comments.
- (C) AS submits the State Plan to the Governor.
- (e) **Authority.** The authority for this Section is Section 307 of the OAA and 45 C.F.R. Part 1321.17.
- (f) **Cross references.** Refer to Oklahoma Administrative Code 340:105-10-14 and 340:105-1-4.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 25 Ok Reg 1754, eff 6-1-08 (emergency); Amended at 26 Ok Reg 2221, eff 7-1-09 ; Amended at 38 Ok Reg 2337, eff 9-15-21]

#### **340:105-10-14. State Plan amendments**

- (a) **Policy.** The State Agency may amend the State Plan whenever necessary to reflect:
  - (1) new or revised federal statutes or regulations;
  - (2) a material change in any law, organization, policy or State Agency operation; or
  - (3) information required annually by Section 307(a)(15) of the Older Americans Act, as amended.
- (b) **Authority.** The authority for this Section is Title 45 of the Code of Federal Regulations, Part 1321.19.
- (c) **Procedures.** State Plan amendments are submitted to the State Council on Aging, Department of Human Services Executive Office, and Governor for approval prior to being submitted to the Administration on Aging regional office for final approval. Amendments to the State Plan, which have the potential for substantially impacting older Oklahomans, go through the public hearing process as outlined in OAC 340:105-10-13(c)(10) through (13).
- (d) **Cross references.** See OAC 340:105-10-13.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 19 Ok Reg 1170, eff 5-13-02]

#### **340:105-10-15. State Plan administration - Title III compliance monitoring**

- (a) **Policy.** The State Agency has responsibility for carrying out all activities under the State Plan on Aging.
- (b) **Authority.** The authority for this Section is Section 303(c)(1) and (2) of the Older Americans Act of 1965, as amended and Parts 1321.7(b) and (c) and 1321.11(b) of Title 45 of the Code of Federal Regulations.
- (c) **Procedures.** The State Agency carries out its responsibilities under the State Plan on Aging by:
  - (1) developing and monitoring a management plan for the State Plan on Aging that includes:
    - (A) overall goals of the plan;
    - (B) measurable objectives outlining what is done to reach the goal;

- (C) action steps describing how each objective is accomplished, such as specific tasks;
  - (D) staff assignments of responsibility for each objective; and
  - (E) a format for tracking accomplishment of action steps and objectives;
- (2) submitting to the Administration on Aging regional office all required program and fiscal reports related to State Plan activities;
  - (3) developing and updating a statewide policies and procedures manual for the administration of Title III Older Americans Act programs;
  - (4) developing a format for Area Plans and providing technical assistance for the plans to Area Agencies on Aging (AAAs);
  - (5) reviewing and approving all Area Plans;
  - (6) monitoring AAA program and fiscal reports;
  - (7) annually conducting two desk reviews and a minimum of one on-site assessment of each AAA and forwarding written reports to the AAA;
  - (8) providing technical assistance to the AAAs, as appropriate;
  - (9) conducting quality assurance activities related to State Agency functions; and
  - (10) utilizing probationary status, suspension of funding, or other appropriate action when the AAA fails to achieve compliance with outlined requirements.
- (d) **Cross references.** See OAC 340:105-10-11(a)(7), 340:105-10-15, and 340:105-10-21.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 15 Ok Reg 249, eff 10-9-97 (emergency); Amended at 15 Ok Reg 1692, eff 5-11-98 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 23 Ok Reg 1062, eff 7-15-06]

### **340:105-10-16. Coordination and resource development**

- (a) **Policy.** The State Agency shall carry out activities which ensure maximum availability of services to the State's elderly population.
- (b) **Authority.** The authority for OAC 340:105-10-16 is 45 CFR Part 1321.7; Section 305(1)(C), Older Americans Act.
- (c) **Procedures.** The State Agency ensures maximum availability of services to the State's elderly via the following coordination and resource development activities:
  - (1) Identifying national and state programs which impact or could impact the elderly;
  - (2) Participating in intra and interagency organizations developed for purposes of information sharing, joint planning and service delivery;
  - (3) Establishing public/private coalitions to address the growing needs of the elderly;
  - (4) Entering into cooperative agreements with state agencies and organizations in order to clearly outline respective responsibilities and expected outcomes;

- (5) Extending opportunities for participation in State Agency sponsored training to state health and social service agencies who serve and/or advocate for the elderly;
- (6) Extending opportunities for participation in State Agency sponsored training to businesses and other private entities; and
- (7) Participating in training sponsored by other state agencies/ organizations or businesses which improve the skills of State Agency staff and/or otherwise further the interests/needs of Oklahoma's elderly.

(d) **Cross references.** See OAC 340:105-10-11(a)(3).

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-10-17. Advocacy**

- (a) **Policy.** The State Agency on Aging serves as a visible and effective advocate for older Oklahomans.
- (b) **Authority.** The authority for this Section is Section 1321.13 of Title 45 of the Code of Federal Regulations; and Section 305(1)(D) of the Older Americans Act of 1965, as amended.
- (c) **Procedures.** The State Agency on Aging serves as a visible and effective advocate for older Oklahomans by:
  - (1) reviewing, monitoring, evaluating, and commenting on federal, state and local plans, budgets, regulations, programs, laws, levies, hearings, policies, and actions that affect or may affect older persons and recommending any changes the State Agency considers appropriate;
  - (2) providing technical assistance to agencies, organizations, associations, or individuals representing older persons; and
  - (3) reviewing and commenting, upon request, on applications to state and federal agencies for assistance relating to meeting the needs of older persons.
- (d) **Cross references.** See OAC 340:105-10-11(a)(4).

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 24 Ok Reg 1325, eff 6-1-07]

### **340:105-10-18. Designation of planning and service areas**

- (a) **Policy.** The State Agency divides the state of Oklahoma into distinct planning and service areas (PSAs) in accordance with guidelines issued by the Administration on Aging.
  - (1) The factors to be considered in designating PSAs include, but are not limited to:
    - (A) the geographical distribution of older individuals in the state;
    - (B) the incidence of the need for supportive services, nutrition services, multipurpose senior centers, and legal assistance;
    - (C) the distribution of older individuals who have the greatest economic need, with particular attention to low income minority individuals, and older individuals residing

in rural areas in service areas;  
(D) the distribution of older individuals who have the greatest social need, with particular attention to low income minority individuals, and older individuals residing in rural areas in service areas;  
(E) the distribution of older individuals who are Native Americans residing in service areas;  
(F) the distribution of resources available to provide such services or centers;  
(G) the boundaries of existing areas within the state which are drawn for the planning or administration of supportive services programs;  
(H) the location of units of general purpose local government within the state; and  
(I) any other relevant factors.

(2) In determining PSAs the State Agency may designate:

(A) any unit of general purpose local government which has a population of 100,000 or more;  
(B) any region within the state recognized for purposes of area wide planning which includes one or more such units of general purpose local government when the state determines that the designation of such regional PSA is necessary and enhances the effective administration of programs authorized under Title III of the Older Americans Act (OAA); or  
(C) areas which were designated for the planning or administration of supportive services programs.

(3) The State Agency may include in any designated PSAs such additional areas adjacent to the unit of general purpose local government or region so designated as the State Agency determines to be necessary and enhances the effective administration of programs authorized under Title III of the OAA.

(b) **Authority.** The authority for this Section is Title 45 of the Code of Federal Regulations, Parts 1321.29 and 1321.31 and Sections 305(a)(1) (E), 305(b)(1), and 305(b)(5) of the OAA of 1965, as amended.

(c) **Procedures.** The State Agency implements the designation of PSAs by:

(1) considering the factors outlined in subsection (a)(1) - (3);  
(2) determining the boundaries for PSAs; and  
(3) providing an opportunity for appeal to any applicant denied PSA designation who submits a written request for a hearing within 30 days of the notice of denial of designation.

(d) **Cross references.** See OAC 340:105-10-11(a)(5), 340:105-10-19, 340:105-10-20, and 340:105-10-21.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 15 Ok Reg 249, eff 10-9-97 (emergency); Amended at 15 Ok Reg 1692, eff 5-11-98 ; Amended at 19 Ok Reg 1170, eff 5-13-02]

**340:105-10-19. Revising the boundaries of planning and service areas**

(a) **Policy.** The State Agency establishes appropriate procedures for providing due process to affected parties when the State Agency initiates action to:

- (1) designate an additional planning and service area(s) (PSA(s) in the state;
- (2) divide the state into different PSAs; or
- (3) otherwise affect the boundaries of the PSAs.

(b) **Authority.** The authority for this Section is Section 305(b)(5) of the Older Americans Act of 1965, as amended.

(c) **Procedures.**

(1) The State Agency:

- (A) provides written notice of the proposed action or proceeding affecting PSA boundaries to existing PSAs, and to any other affected parties, including clear documentation of the need for proposed action;
- (B) conducts a public hearing on the proposed action or proceeding;
- (C) invites the participation at the public hearing of affected Area Agencies on Aging (AAAs), Title III service projects, and older persons; and
- (D) requests written comments from the affected AAAs, Title III service projects, and older persons.

(2) An adversely affected party involved in the action or proceeding may bring an appeal to the Assistant Secretary for Aging of the Administration on Aging (AoA) on the basis of:

- (A) the facts and merits of the matter that are the subject of the action or proceeding; or
- (B) procedural grounds.

(3) The procedure for appeal includes the:

- (A) State Agency notifies affected parties of the right to appeal in all written notices of the proposed action; and
- (B) affected party may appeal in writing to the Assistant Secretary for Aging of the AoA within 30 days of the State Agency decision. Written requests must state:
  - (i) the decision(s) for which an appeal is being made; and
  - (ii) legal name(s), address(es), and telephone number(s) of appellant(s).

(d) **Cross references.** See OAC 340:105-10-11(a)(5), 340:105-10-18, 340:105-10-20, and 340:105-10-21.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 15 Ok Reg 249, eff 10-9-97 (emergency); Amended at 15 Ok Reg 1692, eff 5-11-98 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 23 Ok Reg 1062, eff 7-15-06]

### **340:105-10-20. Designation of Area Agencies on Aging**

(a) **Policy.** The State Agency annually designates Area Agencies on Aging (AAAs) to carry out the mission of the Older Americans Act (OAA) at the substate level. The State Agency may not designate any regional or local office of the state as an AAA. When the State Agency designates a new AAA, it gives the right of first refusal to a unit of general purpose local

government if such unit can meet the requirements of Section 305(c) of the OAA, and the boundaries of such a unit and the boundaries of the designated planning and service area (PSA) are reasonably contiguous. In addition to units of general purpose local government, other entities may be considered for AAA designation to include:

- (1) an established office of aging which is operating within a designated PSA;
- (2) any office or agency of a unit of general purpose local government which is designated to function only for the purpose of serving as an area agency by the chief elected official of such unit;
- (3) any office or agency designated by the appropriate chief elected officials of any combination of units of general purpose local government to act only on behalf of such combination for such purpose;
- (4) any public or nonprofit private agency in a PSA, or any separate organizational unit within such agency, which is under the supervision or direction for this purpose of the designated State Agency and engages only in the planning or provision of a broad range of supportive services, or nutrition services within such PSA; or
- (5) in the case of a state being designated as a single PSA, the State Agency.

(b) **Authority.** The authority for this Section is Title 45 of the Code of Federal Regulations, Part 1321.33 and Section 305(c) of the OAA of 1965, as amended.

(c) **Procedures.** Prior to the annual designation of AAAs, the State Agency conducts activities to include:

- (1) publishing a Local Project Funding Contract Announcement in the Oklahoma Register which outlines the:
  - (A) description of the project;
  - (B) amount of funds available;
  - (C) applicant eligibility criteria;
  - (D) application deadline; and
  - (E) contact person's name, address, and telephone number;
- (2) accepting and reviewing applications based on a published Area Plan format;
- (3) providing appropriate technical assistance to applicants regarding application deficiencies;
- (4) awarding Title III funding to those applicants who best demonstrate their ability to carry out the functions of an AAA; and
- (5) providing an opportunity for appeal to any applicant denied AAA designation who submits a written request for a hearing within 30 days of the notice of denial.

(d) **Cross references.** See 340:105-10-10, OAC 340:105-10-11(a)(5), 340:105-10-30, 340:105-10-31 and 340:105-10-33.



**340:105-10-21. Withdrawal of Area Agency on Aging designation**

(a) **Policy.** The State Agency may withdraw the area agency on aging (AAA) designation when it, after reasonable notice and opportunity for a hearing, finds that:

- (1) the AAA does not meet the requirements of this Part;
- (2) the area plan or plan amendment is not approved;
- (3) there is substantial failure in the provisions or administration of the approved area plan to comply with any provision of the Older Americans Act (OAA), applicable regulations, or policies and procedures established and published by the State Agency in the Oklahoma Administrative Code; or
- (4) activities of the AAA are inconsistent with the statutory mission prescribed in the OAA that it function only as an AAA.

(b) **Authority.** The authority for this Section is Part 1321.35 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.**

- (1) Prior to withdrawing the AAA designation, the State Agency:
  - (A) notifies the AAA in writing of cause for withdrawal of designation;
  - (B) conducts a public hearing on proposed withdrawal of AAA designation;
  - (C) invites participation in the public hearing of the affected AAA, Title III or Title VII service projects, and older persons;
  - (D) requests written comments from the affected AAA, Title III or Title VII service projects, and older persons in the planning and service area;
  - (E) notifies the AAA in writing of the decision to withdraw AAA designation; and
  - (F) provides to any affected party an opportunity for an appeal of the decision to the Assistant Secretary for Aging of the Administration on Aging, following the procedures in this subparagraph. The State Agency:
    - (i) notifies the AAA and all other affected parties of the right to appeal in all written notices of the proposed action;
    - (ii) accepts and processes all requests for appeal that are submitted in writing to the State Agency within 30 days of the conduct of the public hearing on the proposed action. The written request must outline the:
      - (I) decision for which the appeal is being made;
      - (II) legal name, address, and telephone number of the appellant(s); and
      - (III) documented information regarding how the AAA withdrawal will affect the appellant(s); and
    - (iii) forwards the appeal request and all supporting documentation to the Assistant Secretary for Aging

- within 14 days of receipt.
- (2) After completing withdrawal of AAA designation procedures, the State Agency:
- (A) provides a plan for the continuity of AAA functions and services in the affected planning and service area;
  - (B) timely designates a new AAA; and
  - (C) for a period of up to 180 days after final notice of withdrawal of AAA designation, may, if necessary to ensure continuity of the services in a planning and service area:
    - (i) perform the responsibilities of the AAA; or
    - (ii) assign the responsibilities of the AAA to another AAA in the planning and service area.
- (3) The Assistant Secretary for Aging may extend the 180-day period when the State Agency:
- (A) notifies the Assistant Secretary for Aging in writing of its action;
  - (B) requests an extension; and
  - (C) demonstrates to the satisfaction of the Assistant Secretary for Aging a need for the extension.
- (d) **Cross references.** See OAC 340:105-10-20 and 340:105-10-30.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 23 Ok Reg 1062, eff 7-15-06]

#### **340:105-10-22. Clearinghouse of information**

- (a) **Policy.** The State Agency on Aging shall be a clearinghouse of information on elderly issues.
- (b) **Authority.** The authority for OAC 340:105-10-22 is 45 CFR Part 1321.7.
- (c) **Procedures.** The State Agency serves as a clearinghouse of information on elderly issues through the following activities:
- (1) Maintaining a library with a variety of materials dealing with older persons and their needs;
  - (2) Maintaining access to national information resources; and
  - (3) Responding to requests for information from individuals, agencies, organizations, etc.
- (d) **Cross references.** See OAC 340:105-10-11(a)(6).

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94]

#### **340:105-10-23. Consultation, technical assistance, and training to Title III staff**

- (a) **Policy.** The State Agency provides consultation, technical assistance, and training to Title III staff throughout the State in order to further the mission of the Older Americans Act, as amended.
- (b) **Authority.** The authority for OAC 340:105-10-23 is 45 CFR Part 1321.7.
- (c) **Procedures.** The State Agency on Aging provides consultation, technical assistance, and training to Title III staff throughout the State

via the following activities:

- (1) Information and policy memos;
- (2) On-site visits;
- (3) Surveys of training needs;
- (4) Organized training sessions, workshops, etc.;
- (5) Dissemination of training materials; and
- (6) Telephone consultation.

(d) **Cross references.** See OAC 340:105-10-11(a)(7).

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94]

#### **340:105-10-24. Policy and program standards [REVOKED]**

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 23 Ok Reg 1062, eff 7-15-06 ; Revoked at 38 Ok Reg 2337, eff 9-15-21]

#### **340:105-10-25. Commodity and cash in lieu election**

(a) **Policy.** The State Agency determines election regarding nutrition services incentive program (NSIP) cash payments in lieu of agricultural commodities and products purchased by the United States (U.S.) Secretary of Agriculture for all or any portion thereof.

(b) **Authority.** The authority for this Section is Section 311(d)(1) of the Older Americans Act of 1965, as amended.

(c) **Procedures.** The State Agency elects to receive agricultural commodities and products purchased by the U.S. Secretary of Agriculture or cash payments in lieu for all or any portion by:

- (1) determining the capacity level of nutrition programs to utilize commodities;
- (2) determining if there is any monetary advantage in utilizing commodities;
- (3) determining if there is an adequate variety of commodities, efficient distribution, and storage facilities;
- (4) determining the views of the Area Agencies on Aging and local nutrition projects; and
- (5) submitting election to the federal agency.

(d) **Cross references.** See OAC 340:105-10-11(a)(9).

[Source: Added at 13 Ok Reg 1561, eff 4-2-96 (emergency); Added at 14 Ok Reg 1407, eff 5-12-97 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 23 Ok Reg 1062, eff 7-15-06]

## **PART 5. AREA AGENCIES ON AGING**

#### **340:105-10-30. Designation of Area Agencies on Aging**

(a) **Policy.** An entity applying for designation as an Area Agency on Aging (AAA) must be an agency whose single purpose is to administer programs for older persons or a separate organizational unit within a multipurpose agency which functions only for purposes of serving as the AAA. Once designated, the AAA is responsible for providing adequate and qualified staff to perform all functions of the AAA. A designated AAA continues to

function in that capacity until the AAA informs the State Agency that it no longer wishes to carry out the responsibilities of an AAA, or until the State Agency withdraws the designation of the AAA as provided for in OAC 340:105-10-21.

(b) **Authority.** The authority for this Section is Title 45 of the Code of Federal Regulations, Part 1321.55.

(c) **Procedures.** To apply for designation as an AAA, an entity described in (a) of this Section must respond in the State Agency prescribed Area Plan format as provided in OAC 340:105-10-33 to the Local Funding Contract Announcement published annually in the Oklahoma Register. Application packets and technical assistance may be obtained from Aging Services Division, Department of Human Services at P. O. Box 25352, Oklahoma City, OK 73125, (405) 521-2281.

(d) **Cross references.** See OAC 340:105-10-20, 340:105-10-21, 340:105-10-31 and 340:105-10-33.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 19 Ok Reg 1170, eff 5-13-02]

### **340:105-10-31. Responsibilities of area agencies on aging**

(a) **Policy.** Area agencies on aging (AAAs) are responsible for activities related to the development or enhancement of comprehensive and coordinated community-based systems of services in the planning and service areas (PSAs), including:

- (1) establishing and maintaining an AAA advisory council;
- (2) developing an Area Plan on Aging as prescribed by the State Agency on Aging;
- (3) administering the Area Plan on Aging;
- (4) coordinating all area activities related to the purposes of the Older Americans Act, and actively pursuing resource development at the local and area levels;
- (5) targeting resources to older persons in greatest social and economic need;
- (6) developing, coordinating, and administering an Emergency Preparedness Plan;
- (7) serving as a visible and effective advocate for older persons in the PSA;
- (8) granting funding to local sponsors for the provision of direct Title III services;
- (9) designating one or more focal points on aging in each community for the maximum collocation and coordination of services for older persons;
- (10) monitoring and evaluating the local service projects; and
- (11) providing technical assistance and training to Title III project staff related to responsibilities under Title III of the Older Americans Act.

(b) **Authority.** The authority for this Section is Sections 1321.53 and 1321.61 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** Procedures are outlined separately in this Part for each area of responsibility identified in (a) of this Section.

(d) **Cross references.** See OAC 340:105-10-33 through 340:105-10-45.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 24 Ok Reg 1325, eff 6-1-07]

### **340:105-10-32. Area Agency on Aging advisory council**

(a) **Policy.** Each Area Agency on Aging (AAA) establishes and maintains an advisory council. The council carries out advisory functions that further the AAA's mission of developing and coordinating community-based systems of services for all older Oklahomans in the planning and service area.

- (1) The advisory council is separate and distinct from the AAA governing board and is composed of:
  - (A) more than 50 percent older Oklahomans, including minority persons who are participants or who are eligible to participate in Title III programs, and family caregivers of such persons;
  - (B) representatives of older Oklahomans;

- (C) representatives of health care provider organizations, including providers of veterans' health care, when appropriate;
- (D) representatives of supportive services providers;
- (E) persons with leadership experience in the private and voluntary sectors;
- (F) local elected officials;
- (G) the general public; and
- (H) representatives of each county within the service area.

(2) The advisory council may not be composed of:

- (A) State Agency staff or governing board members;
- (B) AAA staff or governing board members;
- (C) Title III project staff or governing board members; or
- (D) other persons that may give an appearance of a potential conflict of interest.

(b) **Authority.** The authority for this Section is Title 45 of the Code of Federal Regulations, Part 1321.57.

(c) **Procedures.**

(1) The advisory council is responsible for advising the AAA in regard to:

- (A) developing and administering the Area Plan;
- (B) conducting public hearings;
- (C) representing the interests of older Oklahomans; and
- (D) reviewing and commenting on all community policies, programs, and actions that affect older persons with the intent of assuring maximum coordination and responsiveness to older Oklahomans.

(2) The AAA is responsible for supporting the efforts of the advisory council. The AAA:

- (A) schedules meetings of the full council at least quarterly and provides staff assistance to same;
- (B) keeps the council informed of all matters relating to Area Plan development and administration;
- (C) maintains close contact with advisory council officers;
- (D) assists the council in developing bylaws. The bylaws, at a minimum, address the:
  - (i) size and composition of the council;
  - (ii) tenure and selection procedures for members;
  - (iii) frequency of meetings; and
  - (iv) functions of the council;
- (E) provides reimbursement for travel and other allowable expenses to council members, as appropriate;
- (F) submits the Area Plan and subsequent amendments to the council for review and comment before they are submitted to the State Agency for approval; and
- (G) conducts annual training for advisory council members to provide orientation to the rights and responsibilities of advisory council members.

(d) **Cross references.** Refer to Oklahoma Administrative Code 340:105-10-31(a)(1).

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 20 Ok Reg 938, eff 6-1-03 ; Amended at 25 Ok Reg 1754, eff 6-1-08 (emergency); Amended at 26 Ok Reg 2221, eff 7-1-09 ; Amended at 38 Ok Reg 2337, eff 9-15-21]

### **340:105-10-33. Area Plan on Aging**

(a) **Policy.** In order to receive or continue Area Agency on Aging (AAA) designation, the applicant agency must develop an Area Plan for a two, three, or four year period as determined by the State Agency, with annual adjustments as may be necessary. The format for the Area Plan is predetermined by the State Agency and includes, at a minimum:

- (1) a mission statement of the AAA;
- (2) an overview of the Older Americans Act (OAA) and the aging network;
- (3) a listing of the AAA advisory council members and their responsibilities;
- (4) a summary of the needs and priorities of older persons in the planning and service area (PSA) and in each respective county within the PSA;
- (5) goals and measurable objectives that reflect the identified needs and priorities of older persons in the PSA and comply with state and federal mandates;
- (6) a financial management plan;
- (7) a description of emergency preparedness efforts in the PSA;
- (8) a listing of all designated focal points in the PSA;
- (9) all provisions and assurances required by the OAA, related regulations, and State Agency policy; and
- (10) a summary of the public hearing conducted on the proposed Area Plan.

(b) **Authority.** The authority for this Section is Section 306 of the OAA of 1965, as amended.

(c) **Procedures.** To implement the policy for the Area Plan development, the AAA staff:

- (1) obtains the Area Plan guide and format from State Agency;
- (2) outlines the Area Plan development timeline;
- (3) develops a data profile on older Oklahomans in the PSA through the use of census data and other appropriate information;
- (4) conducts needs assessment and service evaluation activities in the PSA, including an annual evaluation of outreach services and periodic evaluations of activities carried out under the Area Plan. Specific needs assessment and service evaluation methodologies include, but are not limited to:
  - (A) public hearings; or
  - (B) administration of survey instruments to older consumers, service providers, advocates, and other interested persons;
- (5) analyzes the results of needs assessment activities, and outlines identified priority needs in the PSA;
- (6) evaluates special targeting needs and program initiatives, considering all state and federal mandates;

- (7) designates and lists community focal points;
- (8) outlines and evaluates the existing service delivery system, including services, coordination, advocacy, and training activities;
- (9) presents a summary of needs and priorities to the AAA advisory council and solicits input for Area Plan goals and objectives;
- (10) develops the draft summary of the Area Plan, including:
  - (A) summary of the OAA of 1965, as amended;
  - (B) profile of older persons in the PSA;
  - (C) listing of the identified priority needs of older persons in the PSA;
  - (D) description and evaluation of the current service system;
  - (E) Area Plan goals and objectives;
  - (F) AAA advisory council membership and responsibilities; and
  - (G) financial management plan that includes:
    - (i) a resource allocation plan that outlines the allotment of Title III funds for administration, direct services, and subgranted services as outlined in OAC 340:105-10-95;
    - (ii) an outline of the amount of funds expended for Title III-B priority services during the fiscal year most recently concluded as outlined in OAC 340:105-10-96;
    - (iii) a budget justification;
    - (iv) the AAA funding formula as outlined in OAC 340:105-10-100; and
    - (v) a summary of the process used to award funds as outlined in OAC 340:105-10-40, 340:105-10-100, and 340:105-10-101;
- (11) submits the Area Plan summary to State Agency, AAA advisory council, board of directors, and other interested entities at least two weeks prior to conducting a public hearing(s) on the Area Plan;
- (12) arranges to hold the public hearing(s) in a facility that is accessible to persons with disabilities, and secures the services of interpreters as needed for persons who are hearing impaired and for other languages spoken in the PSA;
- (13) publicizes the public hearing(s) at least two weeks prior to holding it, outlining dates, times, and locations, and ensures that older persons, public officials, and other interested persons have reasonable opportunities to participate. Publicity efforts must include:
  - (A) a variety of media utilized in order to reach all persons in the PSA, with particular emphasis on reaching minorities, rural residents, and persons with disabilities;
  - (B) media notices that are repeated, where feasible, to ensure that all persons in the PSA are reached;
  - (C) written notification posted in places frequented by older persons, such as nutrition sites, banks, post offices,



- grocery stores;
  - (D) media notices that include information concerning availability and location of the complete Area Plan for review by interested parties prior to the public hearing(s); and
  - (E) media notices that include information regarding the availability of interpreter services, upon request;
  - (14) conducts the public hearing(s) in a manner that allows a reasonable number of persons, if not all, to comment on the proposed Area Plan verbally or in writing;
  - (15) incorporates written and verbal comments from the hearing(s) into the revised Area Plan, as appropriate;
  - (16) submits to the AAA advisory council for approval the revised and completed Area Plan, including all parts outlined in the Area Plan guide;
  - (17) submits the revised and completed Area Plan to the AAA board of directors for approval and signatures; and
  - (18) submits the final and completed Area Plan to State Agency for approval at least two months prior to its effective date.
- (d) **Cross references.** See OAC 340:105-10-31(a)(2), 340:105-10-34, 340:105-10-35, 340:105-10-36, 340:105-10-40, 340:105-10-95, 340:105-10-96, 340:105-10-100, and 340:105-10-101.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 24 Ok Reg 1325, eff 6-1-07]

#### **340:105-10-34. Amendments to the Area Plan**

- (a) **Policy.** An Area Agency on Aging (AAA) amends its Area Plan when circumstances include:
- (1) a new or amended state or federal statute or regulation requiring a new provision or conflicting with any existing plan provisions;
  - (2) an United States Supreme Court decision changing the interpretation of a statute or regulation;
  - (3) the AAA proposing to add, substantially modify, or delete any Area Plan objective(s);
  - (4) the AAA proposing to substantially modify its budget;
  - (5) new or amended State Agency policy requiring a new provision or conflicting with any existing plan provisions; or
  - (6) annually revising information required by Section 307(a) of the Older Americans Act, as amended.
- (b) **Authority.** The authority for this Section is Title 45 of the Code of Federal Regulations, Parts 1321.11 and 1321.59.
- (c) **Procedures.** Proposed amendments to the Area Plan must be documented on those Area Plan exhibits affected by the revision(s) and submitted with written rationale to the State Agency for approval. All Area Plan amendments must be subject to review and comment in accordance with the public hearing procedure outlined in OAC 340:105-10-33, except in cases where the State Agency requires technical revisions, or an objective is modified or deleted because it cannot be attained due to factors beyond the control of the AAA. The State Agency

may waive the public hearing requirement only after considering the public interest relative to the amendment. All Area Plan amendments, including annual updates, must follow procedures outlined in OAC 340:105-10-33. The AAA follows additional State Agency guidance, as provided, regarding annual Area Plan updates.

(d) **Cross references.** See OAC 340:105-10-33, 340:105-10-35, and 340:105-10-36.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 19 Ok Reg 1170, eff 5-13-02]

### **340:105-10-35. Area Plan Management Plan**

(a) **Policy.** The Area Agency will develop an annual Management Plan to outline the actions necessary to accomplish the Area Plan goals and objectives. A format for the Management Plan shall be provided by the State Agency.

(b) **Authority.** The authority for 340:105-10-35 is 45 CFR Part 1321.11.

(c) **Procedures.** The Area Agency will consider each of its Area Plan objectives and will outline the specific actions necessary to complete them on a format provided or approved by the State Agency. The Area Agency must submit its completed Management Plan to the State Agency for review at least six weeks prior to its effective date. The Area Agency will include the following in the Management Plan:

- (1) Area Plan goals and objectives;
- (2) Specific action steps planned to carry out each objective;
- (3) Target dates for the completion of each action step; and
- (4) Staff person(s) responsible for accomplishing each action step.

(d) **Cross references.** See OAC 340:105-10-33, 340:105-10-34, and 340:105-10-36.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-10-36. Area Plan administration**

(a) **Policy.** The Area Agency on Aging (AAA) carries out all activities under the Area Plan on Aging.

(b) **Authority.** The authority for this Section is Section 306 and Section 212(b)(1) of the Older Americans Act, as amended, and Parts 1321.61 and 1321.53 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** The AAA:

- (1) develops and monitors a management plan for the Area Plan on Aging which includes:

- (A) overall plan goals;
- (B) measurable objectives outlining the plan to reach goals;
- (C) action steps that describe how each objective is accomplished, such as specific tasks;
- (D) staff assignments of responsibility for each objective; and
- (E) target completion dates for action steps; and

- (2) submits all required program and fiscal reports related to Area Plan activities to Oklahoma Human Services Community Living, Aging and Protective Services;
- (3) develops a Title III request for proposal (RFP) package and provides technical assistance on the applications to prospective grantees;
- (4) reviews and approves Title III RFPs;
- (5) monitors Title III project programs and fiscal reports in the planning and service area (PSA);
- (6) conducts on-site or virtual quarterly assessments with each Title III project and forwards follow-up written reports to each project;
- (7) provides technical assistance to the Title III projects as appropriate; and
- (8) develops a policy and procedures manual for Title III projects in the PSA.

(d) **Cross references.** See Oklahoma Administrative Code 340:105-10-31(a)(3), 340:105-10-33, and 340:105-10-34.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 25 Ok Reg 1754, eff 6-1-08 (emergency); Amended at 26 Ok Reg 2221, eff 7-1-09 ; Amended at 39 Ok Reg 1824, eff 9-15-22]

### **340:105-10-37. Coordination and resource development**

(a) **Policy.** The Area Agency on Aging (AAA) performs activities which maximize the availability of all services to older persons in the planning and service area (PSA), and reduce duplication of effort. Particular effort is made to coordinate with:

- (1) organizations providing child care services for children, assistance to older persons caring for relatives who are children, and respite for families to provide opportunities for older persons to aid or assist on a voluntary basis;
- (2) organizations established for the benefit of victims of Alzheimer's disease;
- (3) the State Agency and the Oklahoma Department of Mental Health and Substance Abuse Services to:
  - (A) increase public awareness of mental health disorders;
  - (B) remove barriers to diagnosis and treatment; and
  - (C) coordinate mental health services, including mental health screenings, provided with funds expended by the AAA with mental health services provided by community health centers and by other public agencies and nonprofit private organizations;
- (4) job training and partnership programs;
- (5) Title II programs of the Domestic Volunteer Service Act of 1973;
- (6) Titles XVI, XVIII, XIX, and XX programs of the Social Security Act;
- (7) federal housing programs, United States Housing Act of 1937 or Section 202 of the Housing Act of 1959;

- (8) Title I programs of the Housing and Community Development Act of 1974;
- (9) adult education programs, Title I of the Higher Education Act of 1965 or Adult Education Act;
- (10) transportation programs, Section 5310 of the Transportation Equity Act;
- (11) public health programs, Title XIX of the Public Health Service Act;
- (12) energy assistance programs, Low-Income Home Energy Assistance Act of 1981;
- (13) weatherization assistance for low income persons, Part A of the Energy Conservation in Existing Buildings Act of 1976;
- (14) programs funded by the Community Services Block Grant Act; and
- (15) trained volunteers providing direct services to older persons and persons with disabilities working when possible with organizations that have experience in providing training, placement, and stipends for volunteers or participants in community services settings such as organizations carrying out federal service programs administered by the Corporation for National and Community Service.

(b) **Authority.** The authority for this Section is Section 306(a)(6) of the Older Americans Act of 1965, as amended and Part 1321.53 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** The AAA ensures maximum availability of services to older persons in the PSA, and reduces duplication of effort for all agencies and organizations serving older persons . The AAA staff:

- (1) identify federal, state, and local programs which impact or could impact the older persons in the PSA and provide information in order to justify the allocation of funds for aging programs;
- (2) make application for alternative sources of funding where appropriate, such as grant writing;
- (3) participate in interagency organizations developed for purposes of information sharing, joint planning, and service delivery;
- (4) establish public and private coalitions to address the growing needs of older persons in the PSA;
- (5) enter into cooperative written agreements with local agencies and organizations in order to clearly outline respective responsibilities and expected outcomes;
- (6) extend opportunities for participation in AAA sponsored training to:
  - (A) local health and social services agencies who serve or advocate for older persons;
  - (B) businesses; and
  - (C) other private entities; and
- (7) participate in training sponsored by other local agencies, organizations, and businesses which improve the skills of AAA staff or otherwise further the interests or needs of older persons in the PSA.

(d) **Cross references.** See OAC 340:105-10-31(a)(4).

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 25 Ok Reg 1754, eff 6-1-08 (emergency); Amended at 26 Ok Reg 2221, eff 7-1-09]

**340:105-10-38. Targeting resources to older persons in greatest economic or social need**

(a) **Policy.** The Area Agency on Aging (AAA) takes a leadership role in assisting communities throughout the planning and service area (PSA) to target resources from all appropriate sources to meet the needs of older persons with greatest economic or social need, with particular attention to low income minority individuals. In addition to low income minority older persons, the groups of older persons targeted for special consideration under this Section include older:

- (1) persons residing in rural or isolated areas;
- (2) persons with severe disabilities;
- (3) persons with limited English proficiency;
- (4) persons at risk for institutional placement;
- (5) persons with Alzheimer's disease and related disorders with neurological and organic brain dysfunction and the caretakers of such persons; and
- (6) Native Americans.

(b) **Authority.** The authority for this Section is Section 306(a)(1) and (4) of the Older Americans Act of 1965, as amended, and Part 1321.61(c) of Title 45 of the Code Of Federal Regulations.

(c) **Procedures.** The AAA carries out its mandate to target resources to older persons with greatest economic or social need, with particular emphasis on low income minority persons and older persons residing in rural areas . The AAA:

- (1) locates services in areas where older persons in greatest economic or social need reside or congregate;
- (2) funds and advocates for specialized services which meet the unique needs of those in greatest economic or social need;
- (3) includes representatives of older persons in greatest economic or social need in the planning of services for these groups . The AAA:

- (A) appoints representatives from the target groups to the AAA advisory council;
- (B) requires Title III projects to appoint representatives from the target groups to the project advisory councils;
- (C) includes leaders of the targeted groups in the annual needs assessment process;
- (D) includes sources of minority, disability, and bilingual professionals in recruitment efforts for AAA staff positions, such as recruitment announcements in publications with large minority and readership with disabilities, or recruitment announcements at minority colleges and universities; and
- (E) maintains written agreements with minority and disability entities;

(4) provides Title III services to low income minority older persons according to their need, to the maximum extent possible.

At a minimum, the AAA must:

(A) determine the numbers and the specialized needs of low income minority older persons in the PSA through its annual needs assessment activities;

(B) require Title III grantees to outline specific objectives to serve the low income minority older persons in each PSA; and

(C) monitor program reports to ensure that low income minority older persons are receiving services in at least as great a proportion as their numbers bear to the total population of older persons in the PSA;

(5) provides sufficient outreach services to the targeted groups; and

(6) provides appropriate training for AAA and Title III project staff to improve their ability to outreach and serve the targeted groups.

(d) **Cross references.** See OAC 340:105-10-31(a)(5), 340:105-10-33, 340:105-10-51(a)(3), 340:105-10-52(a)(1)(A), 340:105-10-58(a), 340:105-10-60(c), and 340:105-10-62(c).

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 25 Ok Reg 1754, eff 6-1-08 (emergency); Amended at 26 Ok Reg 2221, eff 7-1-09]

### **340:105-10-39. Advocacy**

(a) **Policy.** The Area Agency on Aging (AAA) serves as the public advocate for the development or enhancement of comprehensive and coordinated community-based systems of services in each community throughout the planning and service area (PSA).

(b) **Authority.** The authority for this Section is Title 45 of the Code of Federal Regulations, Part 1321.61, and Section 306(a)(6)(B) of the Older Americans Act of 1965, as amended.

(c) **Procedures.** In carrying out its advocacy responsibility, the AAA:

(1) monitors, evaluates, and, when appropriate, comments on all policies, programs, hearings, levies, and community actions which affect older persons in the PSA;

(2) solicits comments from the public on the needs of older persons;

(3) represents the interests of older persons to local level and executive branch officials, public and private agencies or organizations;

(4) consults with and supports the state's Long-Term Ombudsman Program; and

(5) undertakes on a regular basis, activities designed to facilitate the coordination of plans and activities with all other public and private organizations, including units of general purpose local government, with responsibilities affecting older persons in the PSA to promote new or expanded benefits and opportunities for older persons.

(d) **Cross references.** See OAC 340:105-10-31(a)(6).

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 19 Ok Reg 1170, eff 5-13-02]

**340:105-10-40. Funding local sponsors for the provision of direct Title III services**

(a) **Policy.** The Area Agency on Aging (AAA) awards all Title III of the Older Americans Act (OAA) of 1965 service funds by grant or contract to community services provider agencies and organizations, except where a direct service waiver(s) has been granted by the State Agency, per OAC 340:105-10-41, for the purpose of developing or enhancing a comprehensive and coordinated community-based system of services for older persons in the planning and service area (PSA). OAC 340:105-10-50.1 lists the services that may be funded under Title III.

(b) **Authority.** The authority for this Section is Section 306(a) and Section 212(b)(1) of the OAA of 1965, as amended, and Section 1321.63(b) of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** The AAA staff, advisory council, and board of directors follow the procedures in this Section prior to awarding Title III funds.

(1) AAA staff:

- (A) conducts a needs assessment and identifies priority needs in the PSA;
- (B) evaluates the current service system and identifies any gaps in the system;
- (C) establishes a funding formula that describes the systematic procedure the AAA follows in allocating funds for services within the PSA, per OAC 340:105-10-100;
- (D) develops the request for proposal (RFP) packages for all Title III services to be funded, per OAC 340:105-10-101;
- (E) publicly announces the RFP and distributes RFP packages to potential grantees;
- (F) reviews proposals for required documents and provides feedback and technical assistance, as appropriate, to potential grantees; and
- (G) rates each proposal using approved review criteria.

(2) AAA advisory council evaluates and rates all proposals.

(3) AAA board of directors, or a subcommittee:

- (A) reviews and evaluates all proposals, except for-profit applications that must be reviewed and approved by the State Agency; and
- (B) considers the ratings of the AAA staff and advisory council, and the review findings of the board of directors, and awards funds for the proposals that best meet RFP specifications.

(d) **Cross references.** See OAC 340:105-10-31(a)(7), 340:105-10-41, 340:105-10-50.1, 340:105-10-100, and 340:105-10-101.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 24 Ok Reg 1325, eff 6-1-07 ; Amended at 25 Ok

**340:105-10-41. Title III direct services waivers**

(a) **Policy.** Provisions under the Older Americans Act (OAA), including subsequent amendments, specify which Title III direct services are authorized or prohibited under the law. Direct services otherwise prohibited by OAA may be permitted by the State Agency if, in the State Agency's judgment, provision of the services is:

- (1) necessary to ensure an adequate supply of the services;
- (2) related to the administrative functions of the Area Agency on Aging (AAA); or
- (3) more economical and of comparable quality.

(b) **Authority.** The authority for this Section is Section 307(a)(8) of the OAA of 1965, as amended.

(c) **Procedures.** A recipient of a direct service waiver (DSW) must employ a minimum of one staff person dedicated to a waived service, for at least 40 hours per week. Exceptions to the 40 hours per week requirement may be considered by the State Agency on an individual case by case basis. State Agency denial may result in the issuance of a revised request for proposal by the AAA. The State Agency determines that one or more of the criteria listed in (a) of this Section are met for an AAA to provide direct services when the requirement of:

- (1) the necessity to ensure an adequate supply of services is considered met. The AAA can document that it did not receive any proposals to deliver a service in all, or a portion of the planning and service area, after the AAA carried out the request for proposals (RFP) process, per Oklahoma Administrative Code (OAC) 340:105-10-101;
- (2) services related to AAA administrative functions is considered met. Services consist of advocacy, assessment and screening, follow-up and evaluation, information and assistance (I&A), and placement. The State Plan on Aging:
  - (A) indicates all AAAs are allowed to directly provide I&A services; and
  - (B) names the AAAs allowed to directly provide case management services; or
- (3) more economical and of comparable quality is considered met. The AAA service grant application substantiates that, according to AAA standard RFP evaluation criteria, it proposes to provide a priority service more cost effective and of a comparable quality. The cost is calculated on a per unit of service basis.

(d) **Competitive bidding process.** Sub-contracting with a third party entity to provide services under the DSW appears to side-step the competitive bidding process and is not allowed.

(e) **Cross references.** Refer to OAC 340:105-10-40 and 340:105-10-101.



### **340:105-10-42. Designation of community focal points**

(a) **Policy.** The Area Agency shall designate, where feasible, a focal point for comprehensive service delivery in each community in the planning and service area, giving special consideration to designating multipurpose senior centers as such focal points. These focal points shall be established to encourage the maximum collocation and coordination of services for older persons. The Area Agency must undertake all necessary efforts to assure that services financed under the Older Americans Act, as amended, in, or on behalf of, each community will be either based at, linked to or coordinated with the designated focal point.

(b) **Authority.** The authority for OAC 340:105-10-42 is Section 306(a)(3) of the Older Americans Act, as amended, and 45 CFR Part 1321.53(c).

(c) **Procedures.** The Area Agency will designate and implement community focal points by carrying out the following activities:

(1) The Area Agency, with the approval of the State Agency, will define "community" for the purposes of this Section. Factors to be considered in the definition must include:

- (A) The delivery pattern of services funded under the Older Americans Act and funded from other sources;
- (B) The geographic boundaries of communities and neighborhoods;
- (C) The location of multipurpose senior centers, nutrition sites, and other facilities suitable for designation; and
- (D) The geographic areas with greatest economic and social need.

(2) The Area Agency, in consultation with local elected officials, will designate one or more focal points (facilities) in each defined community, giving special consideration to multipurpose senior centers. The following factors must be considered for such designation:

- (A) The facility's ability, current or potential, to accommodate the collocation of various services in the community;
- (B) The facility's geographic accessibility to older persons in the community; and
- (C) The facility's physical accessibility for disabled persons according to Americans With Disabilities Act (ADA) standards.

(3) The Area Agency will implement the collocation and coordination of services at each focal point via the following activities:

- (A) The Area Agency will work with each identified focal point to develop a work plan for achieving full capacity for collocation of services;
- (B) The Area Agency will develop a work plan for assuring that all services funded under the Older Americans Act, as amended, in, or on behalf of each community, are either based at, linked to, or coordinated with that community's focal point(s);

(C) The Area Agency will work with each community's leadership to negotiate written agreements with other agencies/organizations serving the elderly which will outline each agency/organization's intent to either base its service(s) in, link its service(s) to, or coordinate its service(s) with the community's identified focal point(s); and  
(D) The Area Agency will work with each community's leadership to establish operating schedules for focal point services which are convenient for the older persons in the community.

(d) **Cross references.** See OAC 340:105-10-31(a)(8).

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94]

**340:105-10-43. Monitoring and evaluation of Title III projects**

(a) **Policy.** The Area Agency on Aging (AAA) monitors and evaluates all funded Title III projects ensuring services are provided in accordance with federal and state policy and service grant or contract objectives are met.

(b) **Authority.** The authority for Oklahoma Administrative Code (OAC) 340:105-10-43 is Part 1321.65 and Section 1321.53(a) of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** Except on specific projects where the State Agency has agreed for the AAA to provide a service, the AAA fulfills its responsibility to monitor and evaluate Title III projects by carrying out the activities described in this subsection. The AAA:

(1) develops a policy and procedures manual for Title III projects that includes all federal and state mandates;

(2) monitors the program and fiscal reports of Title III projects;

(3) conducts quarterly program assessments with each Title III project during the first year of operation and semi-annual assessments thereafter when funding is continued. Assessments include evaluation of the extent to which:

(A) the proposed service output, as outlined in the project grant or contract, is met, such as numbers of persons served, units of each service provided, and expenditures by source and service;

(B) each objective and related action steps, are completed by the targeted dates, as indicated in the grant or contract;

(C) provider responsibilities regarding general Title III service standards, outlined in OAC 340:105-10-51, are met;

(D) service specific standards are met; and

(E) federal, state, and local laws and regulations, such as Civil Rights Act and Americans with Disabilities Act, are followed; and

(4) conducts semi-annual fiscal assessments with each Title III project during the first year of operation and annually thereafter

if funding is continued. OAC 340:105-10-114 through 340:105-10-116 describe rules regarding Title III project financial management, procurement, and property management standards ;

(5) forwards written results of all assessments and monitoring visits to projects in a timely fashion, with remedial actions and compliance due dates outlined;

(6) follows up with projects on remedial action compliance; and

(7) uses termination, suspension of funding, or other appropriate action when a project fails to achieve compliance with outlined requirements.

(d) **Cross references.** See OAC 340:105-10-31(a)(10), 340:105-10-36(c)(5) through (8), 340:105-10-51, and 340:105-10-114 through 340:105-10-116.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 22 Ok Reg 20, eff 8-15-04 (emergency); Amended at 22 Ok Reg 915, eff 5-12-05 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

#### **340:105-10-44. Provision of technical assistance and training to Title III projects**

(a) **Policy.** The Area Agency on Aging (AAA) provides technical assistance and training to Title III projects related to all aspects of the project's responsibilities as Title III grantees. As funding permits, the AAA enters into grants and contracts with providers of education and training services that can demonstrate the capacity to provide such services.

(b) **Authority.** The authority for this Section is Title 45 of the Code of the Federal Regulations, Part 1321.53 and Section 306 of the Older Americans Act (OAA) of 1965, as amended.

(c) **Procedures.** The AAA carries out its responsibility to provide technical assistance and training by:

(1) providing and arranging for orientation of each Title III staff person on:

(A) the OAA and related regulations;

(B) the State of Oklahoma Title III Policies and Procedures Manual, including general Title III service standards, OAC 340:105-10-51, and service specific standards;

(C) AAA Title III policy and procedures manual;

(D) all program and fiscal reports, as appropriate;

(E) assessment procedures; and

(F) the aging network;

(2) providing ongoing telephone, written, and on-site technical assistance to the projects, as needed and as requested; and

(3) developing and implementing training objectives for Title III projects staff, and providing annual updates, as appropriate.

(d) **Cross references.** See OAC 340:105-10-31(a)(10) and 340:105-10-51.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 19 Ok Reg 1170, eff 5-13-02]

### **340:105-10-45. Area agency on aging disaster planning**

(a) **Policy.** The area agency on aging (AAA) makes arrangements for the availability of services to older persons, where feasible and appropriate, in weather related emergencies and other disasters, including local and national emergencies, such as terrorist acts and flu pandemics.

(b) **Authority.** The authority for this Section is Section 1321.65(e) of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** In order to ensure the availability of needed services to older persons during weather related emergencies and other disasters, the AAA:

- (1) designates a staff person who is responsible for disaster related activities;
- (2) identifies the community persons responsible for disaster planning and services in the planning and service area (PSA), for example, Civil Defense officials, American Red Cross, Salvation Army, Mennonite Disaster Services, and Interfaith Task Forces, and informs these officials of the role of the AAA in disaster planning;
- (3) informs disaster officials of the aging services available throughout the PSA and transmits resource directories, as appropriate;
- (4) negotiates written agreements with Civil Defense officials or other appropriate officials, and outlines specific coordination efforts to be carried out prior to, during, and following a disaster;
- (5) develops a written disaster plan that incorporates the activities outlined in agreements with disaster officials and includes:
  - (A) the types of disasters most prevalent in the PSA;
  - (B) the capabilities and limitations of the AAA;
  - (C) the disaster plans and responsibilities of the State Agency and the Administration on Aging; and
  - (D) the need for the AAA to assume a greater responsibility for disaster plan implementation for non-federally declared disasters;
- (6) submits a copy of the disaster plan to the State Agency for review and approval;
- (7) annually reviews the disaster plan and written agreements with disaster officials for possible updating;
- (8) implements the disaster plan when notified by state or local officials that a disaster has occurred or has been officially declared, and follows the procedure in this paragraph. The AAA:
  - (A) determines the impact of the disaster on AAA facilities and utilities, including telephone service;
  - (B) makes immediate arrangements to handle incoming calls from disaster officials and older persons and their families;
  - (C) contacts appropriate disaster officials to determine the impact of the disaster on older persons in the PSA;
  - (D) reports to the Aging Services Division Special Unit on Aging by telephone or e-mail within 24 hours after a

disaster, to include information on the:

- (i) number of older persons affected;
- (ii) number of nursing homes, assisted living facilities, and residential care homes affected;
- (iii) number of fatalities of older persons;
- (iv) number of older persons injured; and
- (v) extent of damage to the property of older persons.

(E) determines the special needs of older disaster victims and the resources available to meet those needs;

(F) provides information and makes referrals to incoming inquiries, as appropriate;

(G) provides outreach and transportation services, as appropriate;

(H) consults with Civil Defense officials in cases of federally declared disasters to determine the need for on-site AAA staff assistance at disaster centers; and

(I) provides follow-up to older disaster victims, as appropriate; and

(9) submits a summary report to the State Agency on the disaster related activities.

(d) **Cross references.** There are no cross references for AAA disaster planning.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 15 Ok Reg 249, eff 10-9-97 (emergency); Amended at 15 Ok Reg 1692, eff 5-11-98 ; Amended at 24 Ok Reg 1325, eff 6-1-07]

## **PART 7. PROGRAM STANDARDS FOR SERVICES FUNDED UNDER TITLE III OF THE OLDER AMERICANS ACT OF 1965, AS AMENDED**

### **340:105-10-50. Title III and VII services taxonomy [REVOKED]**

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Revoked at 16 Ok Reg 1983, eff 6-11-99]

#### **340:105-10-50.1. Title III services taxonomy**

(a) **Rule.** Parts B, C, D, and E of Title III of the Older Americans Act (OAA) of 1965, as amended, authorize the development of a variety of services to meet the needs of qualified older participant. A comprehensive list of services that may be funded, service definitions, and service units are included in (1) through (18) of this subsection.

(1) Personal care - one hour; provides personal assistance, stand-by assistance, supervision, or cues.

(2) Homemaker - one hour, or partial hours may be reported to two decimal places, for example 0.25 hours; provides light housekeeping tasks in a qualified older participant's home and possibly other community settings. Tasks may also include

preparing meals, shopping for personal items, or using the phone.

(3) Chore - one hour, or partial hours may be reported to two decimal places, for example 0.25 hours; provides heavy housework tasks in a qualified older participant's home and possibly other community settings. Tasks may also include, yard work, or sidewalk maintenance.

(4) Home delivered meal - one meal provided to a participant by a qualified nutrition project provider at his or her residence, served by a program administered by the State Unit on Aging or Area Agency on Aging (AAA), and meeting all OAA and legal requirements. Each meal:

(A) complies with the most recent Dietary Guidelines for Americans published by the Secretaries of the Department of Health and Human Services and the United States Department of Agriculture;

(B) provides, when one meal is served, a minimum of 33 and 1/3 percent of the current dietary reference intakes (DRI) as established by the Food and Nutrition Board of the Institute of Medicine of the National Academy of Sciences;

(C) provides, when two meals are served together, a minimum of 66 and 2/3 percent of the DRI allowances; and

(D) provides, when three meals are served together, 100 percent of the DRI allowances.

(5) Adult day care or adult day health - one hour; provides personal care for dependent adults in a supervised, protective, and congregate setting during some portion of a day. Services offered in conjunction with adult day care or adult day health typically include social and recreational activities, training, counseling, and services, such as rehabilitation, medication assistance, and home health aide services for adult day health.

(6) Case management - one hour; provides assistance either in the form of access or care coordination in circumstances where the participant is experiencing diminished functioning capacities, personal conditions, or other characteristics requiring service provision from formal providers or family caregivers. Case management activities include:

(A) assessing needs;

(B) developing care plans;

(C) authorizing and coordinating services among providers; and

(D) providing follow-up and reassessment, as required.

(7) Congregate meal - one meal provided to a participant by a qualified nutrition project provider in a congregate or group setting, served by a program administered by the State Unit on Aging or Area Agency on Aging (AAA), and meeting all OAA and legal requirements. Each meal:

(A) complies with the most recent Dietary Guidelines for Americans, published by the Secretaries of the Department of Health and Human Services and the United States Department of Agriculture;

(B) provides, when one meal is served, a minimum of 33 and 1/3 percent of the DRI as established by the Food and Nutrition Board of the Institute of Medicine of the National Academy of Sciences;

(C) provides, when two meals are served together, a minimum of 66 and 2/3 percent of the DRI allowances; and

(D) provides, when three meals are served together, 100 percent of the DRI allowances.

(8) Nutrition counseling - one hour, or partial hours may be reported to two decimal places, for example 0.25 hours; provides individualized guidance as defined by the Academy of Nutrition and Dietetics (AND) to a participant, or to his or her caregiver, when the qualified person is at nutritional risk because of health or nutrition history, dietary intake, medication use, or chronic illnesses. A registered dietitian provides one-on-one counseling and addresses the options and methods for improving nutrition status with a measurable goal.

(9) Assisted transportation - one one-way trip; provides services or activities that provide or arrange for travel, including travel costs for individuals from one location to another. This service includes escort or other appropriate assistance for a qualified older participant who has difficulties, physical or cognitive, using regular vehicular transportation.

(10) Transportation - one one-way trip; provides participants with services or activities that provide or arrange for travel, including travel costs, from one location to another and does not include any other activity.

(11) Legal assistance - one hour, or partial hours may be reported to two decimal places, for example 0.25 hours; an attorney provides legal advice and representation to qualified older participants with economic or social needs. Includes, to the extent feasible, counseling or other appropriate assistance by a paralegal or law student under a lawyer's direct supervision, and a non-lawyer's representation or counseling where permitted by law.

(12) Nutrition education - one session per participant; a dietitian or an individual with comparable experience oversees a targeted program that promotes better health by providing accurate and culturally sensitive nutrition, physical fitness, or health information consistent with the current Dietary Guidelines for Americans, and provides instruction to participants, caregivers, or both in a group setting. This service:

(A) is approved by a registered dietitian who answers participant questions related to nutrition education;

(B) occurs at least once per month;

(C) is provided to congregate and home delivered meal participants; and

(D) is documented on the Dietary Consultant's Report.

(13) Information and assistance - one contact; a one-on-one contact between a service provider and participant, caregiver or person on behalf of participant or caregiver. Activities involving

contact with multiple current or potential participants or caregivers, such as publications, publicity campaigns, and other mass media activities are not counted as a unit of service. Internet website hits are counted only when information is requested and supplied. This service for older Oklahomans:

- (A) provides current information on opportunities and services available within their communities, including information relating to assistive technology;
- (B) assesses the participant's problems and capacities;
- (C) links them to available opportunities and services;
- (D) ensures, to the maximum extent practicable, qualified older participants receive the services they need, and are aware of the opportunities available to them, by establishing adequate follow-up procedures; and
- (E) serves the entire community of older individuals, particularly those
  - (i) with greatest social need;
  - (ii) with greatest economic need; and
  - (iii) at risk for institutional placement.

(14) Outreach - one contact; provides participant with intervention initiated by an agency or organization for the purpose of identifying potential qualified older participants or their caregivers and encouraging their use of existing services and benefits. Outreach is a one-on-one contact between a service provider and a participant or caregiver. Activities involving contact with multiple current or potential participants or caregivers, such as publications, publicity campaigns, and other mass media activities, are not counted as a unit of service.

(15) Health promotion - Evidence Based - one event; Title III-D programs or services are Community Living, Aging and Protective Services (CAP) approved prior to implementation. Title III-D Evidence Based programs and activities meet highest-level criteria and include activities related to:

- (A) preventing and mitigating the effects of chronic disease , including:
  - (i) osteoporosis;
  - (ii) hypertension;
  - (iii) obesity;
  - (iv) diabetes, and
  - (v) cardiovascular disease; and
- (B) alcohol and substance abuse reduction;
- (C) smoking cessation;
- (D) weight loss and control;
- (E) stress management;
- (F) falls prevention;
- (G) physical activity; and
- (H) improved nutrition.

(16) Health promotion non-evidence based one event; activities related to health promotion and disease prevention that do not meet the Administration on Aging or Administration for Community Living definition for an evidence based program.



Activities may include:

- (A) health risk assessments;
- (B) routine health screening;
- (C) nutritional counseling;
- (D) programs regarding physical fitness and therapy;
- (E) home injury control services;
- (F) screening for mental and behavioral health issue prevention;
- (G) educational programs on preventive health services;
- (H) medication management screening and education;
- (I) information concerning age-related diseases and chronic disabling conditions;
- (J) gerontological counseling; and
- (K) counseling.

(17) National Family Caregiver Support Program service categories are listed in (A) through (H) of this paragraph:

(A) Assistance: case management - one hour, or partial hours may be reported to two decimal places, for example 0.25 hours; a service provided to a caregiver, and at his or her direction. Service is provided by a qualified case manager who delivers and coordinates the services.

Caregiver case management includes:

- (i) a comprehensive assessment of the caregiver's physical, psychological, and social needs;
- (ii) the development and implementation of a service plan to mobilize and monitor the caregiver's formal and informal resources and services to meet the caregiver's identified needs.

Caregiver case managers:

- (I) coordinate caregiver resources and services with any other plans existing for various formal services;
- (II) coordinate caregiver resources and services with the information and assistance services provided under the OAA;
- (III) periodically reassess the caregiver's status and revises his or her plan; and
- (V) advocates on the caregiver's behalf, according to his or her wishes, for needed services or resources.

(B) Assistance: information and assistance - one contact - this service:

- (i) provides the individuals with current information about opportunities and services available to the individuals within their communities, including information relating to assistive technology;
- (ii) assesses the problems and capacities of the individuals;

(iii) links the individuals to the available opportunities and services;

(iv) ensures, to the maximum extent practicable, individuals receive needed services and are aware of available opportunities by establishing adequate follow-up procedures; and

(v) serves the entire community of older individuals.

(vi) refers to individual, one-on-one contacts between a caregiver provider and an older client or caregiver. An activity that involves a contact with several current or potential clients or caregivers is not counted as a unit of information and assistance. Internet website hits are counted only when information is requested and supplied.

(C) Counseling - one hour, or partial hours may be reported to two decimal places, for example 0.25 hours; a service designed to support caregivers and assist them in their decision-making and problem solving. Counselors are service providers with degrees or credentials as required by state policy. Counselors are trained to work with older adults and families understanding and addressing complex physical, behavioral, and emotional problems related to caregiver roles. Counseling is a separate function apart from support group activities or training and includes counseling in individual or group sessions.

(D) Information services - per activity - a public and media activity that conveys information to caregivers about available services and can include in-person interactive presentations to the public; a booth or exhibit at a fair, conference, or other public event; and radio, TV, or website events. Information services are activities directed to large audiences of current or potential caregivers, such as disseminating publications, conducting media campaigns, and other similar activities.

(E) Respite care - one hour, or partial hours may be reported to two decimal places, for example 0.25 hours; this service provides temporary, substitute supports or living arrangements for qualified older participants to provide a brief period of caregiver relief or rest. When the specific service units purchased via a direct payment, such as cash or voucher can be tracked or estimated, the service unit is reported by hour or partial hour. Types of respite care include:

- (i) in-home respite service provided in the caregiver's or care receiver's home and allows the caregiver time away to do other activities;
- (ii) out of home respite service provided in settings other than the caregiver's or care receiver's home, such as in adult day care, a senior center or in other non-residential settings where an overnight

stay does not occur; and

(iii) out of home overnight respite service provided in facilities such as nursing homes, assisted living facilities, and adult foster homes;

(F) Supplemental services - units and service in this category are determined by CAP and provides goods and services on a limited basis to complement the care provided by caregivers. The AAA contacts CAP prior to this category's use.

(G) Support groups - per session - a service that is led by a trained individual, moderator, or professional, as required by state policy, to facilitate caregivers to discuss their common experiences and concerns and to develop a mutual support system. Support groups are typically held on a regularly scheduled basis and may be conducted in person, over the telephone, or online.

(H) Training - one hour , or partial hours may be reported to two decimal places, for example 0.25 hours - a service that provides family caregivers with instruction to improve knowledge and performance of specific skills relating to their caregiving roles and responsibilities. Skills may include activities related to health, nutrition, and financial management; providing personal care; and communicating with health care providers and other family members. Training may include using evidence-based programs and is conducted in-person or online in individual or group settings.

(18) Funded "Other" category - unit varies per service - a service provided using OAA funds under Title III-B in whole or in part, that do not fall into previously defined service categories and may include assistive technology, durable equipment, emergency response, consumable supplies, home modifications or repairs, elder abuse prevention, elder rights, health, outreach, public education, socialization, access not reported elsewhere, and others.

(A) Advocacy or representation - one hour; provides action taken on behalf of a participant to secure the person's rights or benefits. Advocacy or representation includes receiving, investigating, and working to resolve disputes or complaints. It does not include services provided by an attorney or person under the supervision of an attorney.

(B) Education or training - one session; provides formal and informal opportunities for participants to acquire knowledge, experience, or skills individually or in group events designed to increase awareness.

(C) Wellness checks - one contact; individualized contact between two people via phone, text, email, webinar, video chat, or other means to provide a well-being check, reassurance, or socialization to a qualified older participant or family caregiver. The provider successfully converses with the older adult is spoken to in order for the

contact to be counted, regardless of the length of contact.  
(D) Home repair - one job; provides minor repairs, modifications, or maintenance on a home owned and occupied by an eligible participant, up to \$250 annually, per participant.

(E) Coordination of services - unit to be determined by CAP; provides for the administration or delivery of a service not directly funded by Title III. The AAA contacts CAP regarding use of this category.

(b) **Authority.** The authority for this Section is the Older Americans Act.

(c) **Procedures.** The AAA:

(1) incorporates rule provisions into AAA policies and procedures manual;

(2) provides technical assistance to prospective service project applicants regarding the rule in the development of services; and

(3) utilizes the rule as an indicator in the service project proposal evaluation.

(d) **Cross references.** Refer to Oklahoma Administrative Code 340:105-10-40 and 340:105-10-51.

[Source: Added at 16 Ok Reg 1983, eff 6-11-99 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 22 Ok Reg 897, eff 5-12-05 ; Amended at 25 Ok Reg 1754, eff 6-1-08 (emergency); Amended at 26 Ok Reg 2221, eff 7-1-09 ; Amended at 29 Ok Reg 638, eff 7-1-12 ; Amended at 31 Ok Reg 1848, eff 9-15-14 ; Amended at 38 Ok Reg 2337, eff 9-15-21 ; Amended at 39 Ok Reg 1824, eff 9-15-22]

### **340:105-10-51. General Title III service standards**

(a) **Policy.** Parts B, C, D, and E of Title III of the Older Americans Act of 1965, as Amended(OAA), provide funding for a variety of services to meet the needs of older persons. All services meet service specific standards and general standards in this subsection.

(1) Projects, who are recipients of grant awards, serve all eligible persons in the project service area (PSA) and do not limit participation to their own membership or residents, such as church memberships or residents of a day care program. Project sponsors demonstrate to the Area Agency on Aging (AAA) a capacity for effective delivery of nutrition, supportive services, or both through the PSA. Projects may be:

(A) public;

(B) private for-profit, or nonprofit agencies or organizations;

(C) institutions;

(D) political subdivisions of the state; or

(E) Indian tribal organizations.

(2) Project services are provided to persons 60 years of age and older unless otherwise allowed in the eligibility requirements of a specific service.

(3) Project services are located in communities with the greatest occurrence of older persons in greatest economic and social need with particular attention to those who are low income minority persons and those residing in rural or isolated areas. The project sponsor documents in the written grant agreement with the AAA:

(A) assurance that, to the extent possible, the project serves low income minority and older persons residing in rural or isolated areas according to their service needs;  
(B) specific objectives outlining how the project satisfies qualified older participants' service needs of low income minority persons and older persons residing in rural or isolated areas served by the project. These objectives reflect the Area Plan objectives for targeting these persons;

(C) information on the extent the project met its objectives for serving low income minority persons and older persons residing in rural or isolated areas during the previous fiscal year, if previously funded; and

(D) other targeting activities required for specific funded services, as appropriate, such as targeting activities for outreach services.

(4) Projects provide qualified older participants the opportunity to contribute to service cost, with the guidelines in (A) through (G) of this paragraph.

(A) Contributions are voluntary, and no otherwise eligible person is denied service because he or she chooses not to or cannot contribute to the service cost.

(B) Participants are advised of the opportunity to contribute to the program cost through:

(i) individual consultation upon program entry, including a written suggested contribution schedule;

(ii) written brochures about the program and written schedules of program activities; and

(iii) signs posted at the project site.

(C) Participants' privacy regarding contributions is protected at all times.

(D) The project advisory council develops a suggested contribution schedule for funded services taking into consideration income ranges of older persons in the community and the project's other income means. Means testing is not used to determine suggested contributions.

(E) Congregate and home delivered meal participants are allowed to use United States (U.S.) Department of Agriculture food benefits to contribute toward their meal costs.

(F) The project uses appropriate procedures to safeguard and account for all contributions.

(G) The project uses the participant contributions to expand the respective service for which the participant contributed to. For example, if a congregate site (C1) contribution was made, funds are used to expand that service.

(5) Projects conform to Title III fiscal accounting and program reporting systems as implemented by Community Living, Aging and Protective Services (CAP) and AAAs. All records are managed

according to the guidelines in (A) through (E) of this paragraph.  
OAA grantees:

(A) maintain adequate and separate accounting and fiscal records, and account for all funds provided by any source to pay for OAA funded project costs;

(B) permit audit, examination, or both, of all such records, procedures, and accounts at any reasonable time by authorized personnel of the U.S. Department of Health and Human Services, Oklahoma Human Services (OKDHS), the state Auditor and Inspector, and other appropriate state entities;

(C) allow authorized personnel open and complete access to the grantees' accounting records and practices, and to any other service provider items pertinent to grant performance or payment in order to audit, examine, and make excerpts of records;

(D) retain for at least seven years all financial and program records, supporting documents, statistical records, and other records pertaining to Title III services.

(i) In the case of litigation, claim negotiation, audit, or other pending action before the end of the seven year period, the records are retained until such action is completed and until all issues have been resolved, or until the end of the regular seven year period, whichever is later.

(ii) Permanent records are maintained at the project office; and

(E) provide appropriate security, confidentiality, and accommodations for proper maintenance and organization of program records and reports.

(6) Where feasible and appropriate, projects make arrangements for service availability to persons in weather related emergencies and other local and national emergencies, including terrorist acts and pandemics.

(7) Projects assist participants to take advantage of benefits or services under other programs.

(8) Project staff reports any situation that places the participant, participant's household, or both, in imminent danger to the appropriate officials.

(9) Project staff ensures signage is posted appropriately informing all persons, except law enforcement, no firearms are permitted within the project office, maintenance buildings, and all nutrition site-dining areas.

(10) Projects coordinate Title III services with other appropriate services in the community, including Title VI Native American nutrition programs. Appropriate coordination efforts include:

(A) joint planning;

(B) information sharing; and

(C) written agreement negotiation.

(11) Projects establish and maintain an advisory council to advise the projects on all matters relating to project services delivery,

per Oklahoma Administrative Code (OAC) 340:105-10-52.

(12) Projects ensure appropriate intake information to provide the appropriate Title III service(s) and ensures participant safety and well-being is gathered on each participant.

(A) For participants receiving Title III:

(i) personal care, homemaker, chore, home repair, home delivered meals, adult day health or adult day care, outreach or case management services, information is gathered on Title III Program Registration and includes at minimum the participant's:

(I) name, address, and phone number;

(II) age, sex, race, ethnicity, minority status, and date of birth with signature verification;

(III) emergency contact's name, address, and phone number;

(IV) household status, including whether the participant lives alone or lives with others;

(V) special dietary needs when requesting home delivered meals;

(VI) ability to perform activities of daily living (ADL) and instrumental activities of daily living (IADL);

(VII) Nutrition Screening Checklist;

(VIII) support system;

(IX) signature or witness signature when participant is unable to sign;

(X) explanation of donation system;

(XI) information release authorization; and

(XII) status related to poverty level;

(ii) congregate meals, nutrition counseling, or assisted transportation, information is gathered on, Title III Program Registration and includes at minimum the participant's:

(I) name, address, and phone number;

(II) age, sex, race, ethnicity, minority status, and date of birth with signature verification;

(III) emergency contact's name, address, and phone number;

(IV) household status including whether the participant lives alone or lives with others;

(V) special dietary needs when requesting congregate meals;

(VII) Nutrition Screening Checklist;

(VIII) signature or witness signature when participant is unable to sign;

(IX) explanation of donation system;

(X) information release authorization; and

(XI) status related to poverty level;  
(iii) National Family Caregiver Support Program services information is gathered on Title III Program Registration for both caregiver and care recipient, and includes at minimum:

- (I) the family caregiver's identifying information;
- (II) the caregiver's relationship to the care receiver;
- (III) the care receiver's identifying information; and
- (IV) a written description of the caregiver's current situation, including the care receiver's need for assistance due to inability to perform specific ADLs or the need for supervision due to Alzheimer's disease or other dementia.

(B) Project staff:

- (i) ensures assessment procedures are conducted in a confidential manner, with only the intake person, the participant, and other persons approved by the participant in attendance; and
- (ii) conducts an assessment of each participant upon the participant's entry into a Title III service with, at minimum, annual reassessments.

(C) Income source information is not required to receive Title III services and may only be used to assist the participant in determining eligibility for programs with income guidelines.

(13) Projects have procedures, approved by AAA, to ensure strict confidentiality is maintained regarding all participant information. Projects ensure identifying participant information is disclosed only when staff obtains the informed consent of the participant or the participant's legal representative. Exceptions to the rules in this paragraph include court orders, reporting possible neglect, abuse, or both, and monitoring project records by federal, state, and AAA officials.

(14) Project staff posts grievance procedures in a public area in the project facility and complies with AAA grievance procedures for Title III participants.

(15) Projects comply with the Americans with Disabilities Act, Section 504 of The Rehabilitation Act of 1973, and Title VI of The Civil Rights Act of 1964. A public notice of civil rights compliance is posted in a public area in all project facilities and offices.

(16) Projects comply with the Oklahoma Open Meetings Act when conducting public meetings. Public meetings are held in handicap accessible facilities with provisions for interpreters, as needed.

(17) Project staff conducts ongoing public information activities to ensure the general public is aware of each project and the services it provides. All materials produced by or for the project include a statement that:



(A) the project makes no distinctions on the grounds of race, color, sex, age, ancestry, national origin, religion, or disability; and

(B) a portion of the project costs are met by state and federal OAA funds from AAA and OKDHS CAP.

(18) Project staff provides or arranges for orientation and ongoing training for all staff engaged in project implementation. Training is designed to enhance staff performance as related to each staff person's specific job responsibilities. Projects authorize staff time to attend AAA and CAP sponsored training as funds permit.

Minimum orientation or training topics include:

(A) the OAA, as amended, and related regulations;

(B) the OKDHS Policies and Procedures Manual for Title III of the OAA, as amended;

(C) the AAA Title III policies and procedures manual;

(D) all program and fiscal reports, as appropriate;

(E) assessment procedures;

(F) the aging network; and

(G) specific job duties.

(19) Project staff participates in regularly scheduled AAA assessments and evaluations.

(A) The AAA schedules assessments at least 30-calendar days in advance at a time mutually convenient for the AAA and the project.

(B) The AAA informs the project director of areas covered during the assessment.

(C) The project director makes arrangements for site visits as AAA requests.

(20) The project allows AAA to make unscheduled or unannounced visits for the purposes of:

(A) investigating alleged problems;

(B) monitoring corrective action; or

(C) evaluating the projects normal daily activity.

(b) **Authority.** The authority for this Section is Sections 1321.11, 1321.51, 1321.63(b), 1321.65, 1321.67 and 75.307 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** The AAA is required to:

(1) incorporate the standards into the AAA policies and procedures manual;

(2) provide training on the standards to Title III project directors and other appropriate staff;

(3) monitor the compliance of Title III projects with the standards; and

(4) provide ongoing technical assistance to Title III projects regarding the standards.

(d) **Cross references.** Refer to OAC 340:105-10-40, 340:105-10-50.1, and 340:105-10-52.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 13 Ok Reg 495, eff 11-14-95 (emergency); Amended at 13 Ok Reg 3009, eff 7-11-96 ; Amended at 16 Ok Reg 1983, eff 6-11-99 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 20 Ok Reg 938, eff 6-1-03 ; Amended at 21 Ok Reg 898, eff 4-26-04 ; Amended at 22 Ok Reg 897, eff 5-12-05 ;

### **340:105-10-52. Title III Project Advisory Council**

(a) **Policy.** Each Title III project establishes and maintains an advisory council to advise the project staff on all matters relating to the delivery of project services.

(1) The composition of the council is described in (A) and (B).

(A) The advisory council is separate and distinct from the Title III project governing board and composed of:

- (i) more than 50 percent older persons, including minority individuals, who are participants or eligible to participate in Title III programs;
- (ii) local government officials;
- (iii) representatives of public and private agencies or organizations that address aging issues in the service area; and
- (iv) other persons who are knowledgeable and experienced in the special needs of older persons.

(B) The advisory council may not be composed of:

- (i) State Agency staff or governing board members;
- (ii) Area Agencies on Aging (AAA) staff or governing board members;
- (iii) Title III project staff or governing board members; or
- (iv) any other individuals who may give an appearance of a potential conflict of interest.

(2) The council operates under a set of bylaws approved by the AAA. The council bylaws, at a minimum, address:

- (A) size and composition of the council;
- (B) tenure and selection procedures for members;
- (C) frequency of meetings; and
- (D) functions of the council.

(b) **Authority.** The authority for this Section is Title 45 of the Code of Federal Regulations, Part 1321.11.

(c) **Procedures.**

(1) The AAA:

- (A) incorporates the provision of this Section into its Title III policies and procedures manual; and
- (B) provides orientation to project staff regarding the policy.

(2) Projects:

- (A) establish and convene advisory councils within the first quarter of the project year;
- (B) provide orientation to new council members regarding their functions;
- (C) assist councils in developing bylaws;
- (D) submit bylaws and amendments to the AAA for approval;
- (E) schedule meetings of the councils at least quarterly and provide staff assistance at meetings; and

(F) seek input from the council at scheduled meetings and informally, as needed, on all matters relating to the delivery of the funded Title III service(s).

(d) **Cross references.** See OAC 340:105-10-51(10).

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 20 Ok Reg 938, eff 6-1-03]

#### **340:105-10-53. Political and sales activities at Title III projects**

(a) **Policy.** The Area Agency shall develop policy related to political and sales activities at Title III funded service sites, e.g. multipurpose senior centers, congregate meal sites, etc.

(b) **Authority.** The authority for OAC 340:105-10-53 is 45 CFR Part 1321.11.

(c) **Procedures.** The Area Agency shall develop written policy for political and sales activities at Title III Project sites within the following guidelines:

(1) Title III program activities may not endorse or oppose a candidate, solicit campaign funds or include any activity designed to influence the results of a partisan election;

(2) Title III program participants may not be required to participate in any political or sales activities conducted at or through the project site;

(3) Sales or political activities may not be conducted during the serving or eating of meals. The protected time for meals shall be from one to one and one-half hours depending on the number of meal participants;

(4) Political materials may be distributed at Title III project sites by/for a candidate for elective office;

(5) Formal or group presentations on behalf of a candidate/issue shall be permitted only if all candidates are offered equal opportunity and time, and/or if all sides of an issue are presented; and

(6) Program participants and advisory council members shall have input into the development of sales activities guidelines as well as any additional restrictions on political activities, as appropriate. Salespersons shall be denied access to the project site if the participants do not wish to have the activity or, if there is reasonable evidence (as judged by the project management) that the salesperson and/or product may exploit or cause harm to the participants.

(d) **Cross references.** There are no cross references for political and sales activities at Title III Projects.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94]

#### **340:105-10-54. Supportive services**

(a) **Policy.** The Area Agency on Aging (AAA) makes grants to local agencies or organizations for the provision of supportive services to older persons. Providers of any such service must comply with all standards

outlined in this Subchapter relating to the service(s) provided.

Supportive services, for purposes of this Section, include:

- (1) health, including mental health, education and training, welfare, informational, recreational, homemaker, counseling, or referral services;
- (2) transportation services to facilitate access to supportive services or nutrition services, and services provided by an AAA in conjunction with local transportation service providers, public transportation agencies, and other local government agencies that result in increased provision of such transportation services for older persons;
- (3) services designed to encourage and assist older persons to use the facilities and services, including information and assistance services, and language translation services to assist older persons with limited English speaking ability to obtain services;
- (4) services designed to:
  - (A) assist older persons obtain adequate housing, including minor residential repair and renovation projects, up to \$250 annually per client, designed to enable older persons maintain their homes in conformity with minimum housing standards;
  - (B) adapt homes to meet the needs of older persons who have physical disabilities;
  - (C) prevent unlawful entry into residences of older persons, through the installation of security devices and structural modifications or alterations of such residences;
  - or
  - (D) assist older persons in obtaining housing for which assistance is provided under programs of the Department of Housing and Urban Development;
- (5) services designed to assist older persons avoid institutionalization and assist persons in long-term care institutions who are able to return to their communities, including:
  - (A) client assessments, case management, and development and coordination of community services;
  - (B) supportive activities to meet the special needs of caregivers, including caregivers who provide in-home services to frail older persons; and
  - (C) in-home services and other community services, including home health, homemaker, and chore services to assist older persons to live independently in a home environment;
- (6) services designed to provide to older persons legal assistance and other counseling services and assistance, including:
  - (A) tax counseling and assistance, financial counseling, and counseling regarding appropriate health and life insurance coverage;
  - (B) representation of persons who are wards, or are allegedly incapacitated, and in guardianship proceedings of older persons who seek to become guardians, if other

adequate representation is unavailable in the proceedings;  
(C) provision, to older persons who provide uncompensated care to their adult children with disabilities, of counseling to assist such older persons with permanency planning for such children;

(7) services designed to enable older persons to attain and maintain physical and mental well-being through programs of regular physical activity, exercise, music therapy, art therapy, and dance movement therapy;

(8) services designed to provide health screening, including mental health screening, to detect or prevent illnesses, or both, that occur most frequently in older persons;

(9) services designed to provide for older persons, pre-retirement counseling and assistance in planning for and assessing future post-retirement needs with regard to public and private insurance, public benefits, lifestyle changes, relocation, legal matters, leisure time, and other appropriate matters;

(10) services of an ombudsman at the state level to receive, investigate, and act on complaints by older persons who are residents of long-term care facilities and to advocate for the well-being of such persons;

(11) provision of services and assistive devices, including provision of assistive technology services and assistive technology devices, designed to meet the unique needs of older persons with disabilities and older persons who provide uncompensated care to their adult children with disabilities;

(12) services to encourage the employment of older workers, including job and second career counseling, and where appropriate, job development, referral, and placement, and including the coordination of the services with programs administered by or receiving assistance from the Department of Labor, including programs carried out under the Workforce Investment Act of 1998, Section 2801 of Title 29 of the United States Code ;

(13) crime prevention services and victim assistance programs for older persons;

(14) a program, to be known as Senior Opportunities and Services, designed to identify and meet the needs of older persons who are poor, 60 years of age or older, in one or more of the areas of:

(A) development and provision of new volunteer services;

(B) effective referral to existing health, including mental health, employment, housing, legal, consumer, transportation, and other services;

(C) stimulation and creation of additional services and programs to remedy gaps and deficiencies in presently existing services and programs; and

(D) other services as the Assistant Secretary for Aging of the Administration on Aging may determine are necessary or especially appropriate to meet the needs of older persons who are poor and ensure them greater self-

sufficiency;

(15) services for the prevention of abuse of older persons in accordance with Section 307(a)(12) of the Older Americans Act (OAA) of 1965, as amended;

(16) in-service training and state leadership for legal assistance activities;

(17) health and nutrition education services, including information concerning prevention, diagnosis, treatment, and rehabilitation of age related diseases and chronic disabling conditions;

(18) services designed to enable mentally impaired older persons to attain and maintain emotional well-being and independent living through a coordinated system of support services;

(19) services designed to support family members and other persons providing voluntary care to older persons who need long-term care services;

(20) services designed to provide information and training for persons who are or may become guardians or representative payees of older persons, including information on the powers and duties of guardians and representative payees and alternatives to guardianships;

(21) services to encourage and facilitate regular interaction between students and older persons, including services for older persons with limited English proficiency and visits in long-term care facilities, multipurpose senior centers, and other settings;

(22) in-home services defined by the State Agency in the State Plan submitted under Section 307 of the OAA, taking into consideration the age, economic need, and noneconomic and nonhealth factors contributing to the frail condition and need for service of the persons described in this paragraph, and in-home services defined by an AAA in the Area Plan submitted under Section 306 of the OAA;

(23) services designed to support States, AAAs, and local service providers in carrying out and coordinating activities for older persons with respect to mental health services, including outreach for, education concerning, and screening for such services, and referral to such services for treatment;

(24) activities to promote and disseminate information about life-long learning programs, including opportunities for distance learning; and

(25) any other services necessary for the general welfare of older persons, if the services meet standards prescribed by the Assistant Secretary for Aging and are necessary for the general welfare of older persons.

(b) **Authority.** The authority for this Section is Section 321 of the OAA of 1965, as amended.

(c) **Procedures.** The AAA:

(1) incorporates the provisions in this Section into the Title III policies and procedures manual;

(2) provides technical assistance to prospective service project applicants regarding the policy in the development of Title III-B

services; and

(3) utilizes the policy as an indicator in the evaluation of Title III-B service project proposals.

(d) **Cross references.** See OAC 340:105-10-40, 340:105-10-50.1 and 340:105-10-51.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 23 Ok Reg 1062, eff 7-15-06 ; Amended at 25 Ok Reg 1754, eff 6-1-08 (emergency); Amended at 26 Ok Reg 2221, eff 7-1-09]

### **340:105-10-55. Priority supportive services [REVOKED]**

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 16 Ok Reg 1983, eff 6-11-99 ; Revoked at 19 Ok Reg 1170, eff 5-13-02]

### **340:105-10-56. Senior centers [REVOKED]**

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Revoked at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:105-10-57. Outreach service standards**

(a) **Policy.** Outreach services seek out and identify older individuals eligible for assistance under the Older Americans Act and other programs, both public and private, and informs them of assistance availability. All outreach service providers comply with standards outlined in this Section and in Oklahoma Administrative Code (OAC) 340:105-10-51, 340:105-10-58 and 340:105-10-60.

(b) **Authority.** The authority for this Section is Section 306(4)(B) and Title 45 of the Code of Federal Regulations, Part 1321.17.

(c) **Procedures.** This Section is implemented by the Area Agency on Aging. The AAA is required to:

- (1) incorporate the policy into its Title III policy and procedures manual;
- (2) provide orientation to outreach staff on the policy;
- (3) monitor compliance with the policy; and
- (4) provide ongoing technical assistance to Title III projects regarding the policy.

(d) **Cross references.** See OAC 340:105-10-50.1(a)(14), 340:105-10-51, 340:105-10-54(a)(3), 340:105-10-58, 340:105-10-59, and 340:105-10-60.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 39 Ok Reg 1824, eff 9-15-22]

### **340:105-10-58. Outreach service eligibility**

(a) **Policy.** All individuals age 60 years of age and older are eligible to receive outreach services. Special targeting objectives are developed to reach individuals:

- (1) residing in rural areas or isolated;
- (2) with greatest economic need, with particular attention to low income minority individuals;

- (3) with greatest social need, with particular attention to low income minority individuals;
- (4) with severe disabilities;
- (5) with limited English speaking ability;
- (6) with Alzheimer's disease or related disorders with neurological and organic brain dysfunction and the caretakers of such individuals;
- (7) at risk for institutional placement, such as unable to perform at least two activities of daily living without substantial assistance including verbal reminding, physical cuing, or supervision, specifically including Holocaust survivors;
- (8) living alone; and
- (9) with impairments in activities of daily living, instrumental activities of daily living, or both.

(b) **Authority.** The authority for this Section is Section 306(a)(4) of the Older Americans Act of 1965, as amended.

(c) **Cross references.** See OAC 340:105-10-50.1(a)(14), 340:105-10-51, 340:105-10-54(a)(3), 340:105-10-57, 340:105-10-59, and 340:105-10-60.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 16 Ok Reg 1983, eff 6-11-99 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 39 Ok Reg 1824, eff 9-15-22]

### **340:105-10-59. Outreach service assessment**

(a) **Policy.** Outreach services are defined as a one contact intervention the agency or organization initiates with individuals for the purpose of identifying potential participants or their caregivers and encouraging their use of existing services and benefits. Each potential participant who wants to receive Older Americans Act services completes Title III Program Registration. The outreach specialist provides information about public and private non-Title III services, available assistance, outreach services, and other Title III of the Older Americans Act (OAA) of 1965 services. The outreach specialist obtains necessary information to better serve the potential participant's needs.

(b) **Procedures.** At the initial interview, the outreach specialist:

- (1) discusses all aspects of program participation, including the opportunity to contribute to outreach costs and other Title III services, as appropriate;
- (2) obtains the potential participant's assessment information:
  - (A) name, address, and phone number;
  - (B) age, sex, race, ethnicity, minority status, and date of birth with signature verification;
  - (C) emergency contact's name, address, and phone number;
  - (D) household status, including whether the potential participant lives alone or with others;
  - (E) special dietary needs, only when the potential participant is applying for congregate meals or home delivered meals services;
  - (F) accommodations required for disabilities;



- (G) transportation resources;
- (H) Title III services requested or needed;
- (I) reasons for requesting outreach or other Title III services;
- (J) need for additional community resources;
- (K) income sources. Income source information is not required to receive Older Americans Act Title III services and may only be used to assist the potential participant in determining eligibility for non-Title III programs with income guidelines; and
- (L) status related to poverty level.

(3) The outreach specialist conducts a face-to-face, person-centered assessment interview with the potential participant.

(c) **Authority.** The authority for this Section is Section 1321.11(a) of Title 45 of the Code of Federal Regulations.

(d) **Cross references.** See Oklahoma Administrative Code 340:105-10-50.1(a)(14), 340:105-10-51, 340:105-10-54(a)(3), 340:105-10-57, 340:105-10-58, and 340:105-10-60.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 16 Ok Reg 1983, eff 6-11-99 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 23 Ok Reg 1062, eff 7-15-06 ; Amended at 24 Ok Reg 1325, eff 6-1-07 ; Amended at 39 Ok Reg 1824, eff 9-15-22]

### **340:105-10-60. Outreach methods**

(a) **Policy.** The outreach service is implemented and carried out in such a manner as to ensure the maximum participation of eligible older individuals in Title III programs and all other programs which may benefit them. Special targeting efforts are carried out to ensure the maximum number of individuals outlined in OAC 340:105-10-58(a) are reached. Services to low income minority individuals and individuals residing in rural areas are provided in accordance with their need for services, as feasible.

(b) **Authority.** The authority for this Section is Section 306(a)(4) of the Older Americans Act of 1965, as amended.

(c) **Procedures.** The procedures for implementing this Section include the outreach service:

- (1) targeting service funding to those communities in the planning and service area (PSA) that have the greatest proportion of individuals outlined in OAC 340:105-10-58(a);
- (2) developing and carrying out specific objectives for reaching the individuals outlined in OAC 340:105-10-58(a);
- (3) providing services to persons of limited English speaking ability by utilizing outreach workers who are fluent in the language of such individuals when a substantial number of such persons reside in the PSA;
- (4) maintaining current resource information regarding services, programs, and organizations which benefit older persons and the target groups outlined in OAC 340:105-10-58(a);
- (5) publicizing the availability of outreach services through;

- (6) providing auxiliary aids and interpreters for disabled individuals;
  - (7) utilizing a variety of outreach methods; and
  - (8) developing community resources where there are identified gaps by utilizing volunteers, civic groups, and the like.
- (d) **Cross references.** See OAC 340:105-10-50(a)(14), 340:105-10-51, 340:105-10-54(a)(3), 340:105-10-57, 340:105-10-58, and 340:105-10-59.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 19 Ok Reg 1170, eff 5-13-02]

#### **340:105-10-61. Information and assistance services**

(a) **Policy.** All information and assistance (I & A) providers comply with standards listed in Oklahoma Administrative Code (OAC) 340:105-10-50.1(a)(13), 340:105-10-51 and 340:105-10-61 through 340:105-10-63. I & A services include:

- (1) providing participants with current information on opportunities and services available within their communities, including information relating to assistive technology;
- (2) assessing the participant's problems and capacities;
- (3) linking the participant to available opportunities and services
- (4) establishing adequate follow-up procedures, to the maximum extent practicable, ensuring participants receive the services needed and are aware of opportunities available; and
- (5) serving the entire community of older individuals, particularly those:
  - (A) with greatest social need;
  - (B) with greatest economic need; and
  - (C) at risk for institutional placement.

(b) **Authority.** The authority for this Section is the Office of Management and Budget Notice of Action 0985-0008 and Section 102(29) of the Older Americans Act of 1965, as amended.

(c) **Procedures.** The Area Agency on Aging implements this Section by:

- (1) incorporating the provisions in this Section into its Title III policies and procedures manual;
- (2) providing technical assistance to prospective service project applicants regarding the policy in service development; and
- (3) utilizing the policy as an indicator in the evaluation of service project proposals.

(d) **Cross references.** See OAC 340:105-10-50.1(a)(13), 340:105-10-51, 340:105-10-54(a)(3), 340:105-10-62, and 340:105-10-63.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 22 Ok Reg 897, eff 5-12-05 ; Amended at 39 Ok Reg 1824, eff 9-15-22]

#### **340:105-10-62. Information and assistance eligibility**

(a) **Policy.** All individuals, age 60 years of age and older and their caregivers are eligible to receive information and assistance (I & A) services. A person under the age of 60 may participate under special conditions.

(b) **Authority.** The authority for this Section is Section 306(a)(4)(A) of the Older Americans Act of 1965, as amended.

(c) **Procedures.**

(1) Providers of I & A services list specific objectives in the project grant application which outline how the provider targets individuals who are:

- (A) in greatest economic need;
- (B) in greatest social need;
- (C) low income minorities; and
- (D) residing in rural areas.

(2) Persons who request I & A services cooperate in the completion of procedures outlined in OAC 340:105-10-63.

(d) **Cross references.** See OAC 340:105-10-50.1(a)(13), 340:105-10-51, 340:105-10-54(a)(3), 340:105-10-61, and 340:105-10-63.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 15 Ok Reg 249, eff 10-9-97 (emergency); Amended at 15 Ok Reg 1692, eff 5-11-98 ; Amended at 19 Ok Reg 1170, eff 5-13-02]

### **340:105-10-63. Information and assistance (I & A) methods**

(a) **Policy.** The Area Agency on Aging (AAA) establishes and maintains information and assistance (I & A) services in sufficient numbers to ensure that all older persons within the planning and service area have reasonably convenient access to such services.

(b) **Authority.** The authority for this Section is Section 102(29) of the Older Americans Act of 1965, as amended.

(c) **Cross references.** See OAC 340:105-10-50.1(a)(13), 340:105-10-51, 340:105-10-54(a)(3), 340:105-10-61, and 340:105-10-62.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 18 Ok Reg 1270, eff 5-11-01 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 23 Ok Reg 1062, eff 7-15-06]

#### **340:105-10-64. Legal services**

(a) **Policy.** Legal services include the provision of legal advice, counseling, and representation by attorneys, or by paralegals or interns supervised by an attorney. All legal service providers must comply with standards outlined in this Section and OAC 340:105-10-51, 340:105-10-65, and 340:105-10-66.

(b) **Authority.** The authority for this Section is Section 102 (33) of the Older Americans Act of 1965, as amended.

(c) **Procedures.** This Section is implemented by the Area Agency on Aging:

- (1) incorporating this Section into its Title III policies and procedures manual;
- (2) providing technical assistance to prospective service project applicants regarding policy in services development; and
- (3) utilizing policy as an indicator in service project proposal evaluations.

(d) **Cross references.** Refer to OAC 340:105-10-50.1(a)(11), 340:105-10-51, 340:105-10-54(a)(6), 340:105-10-65, and 340:105-10-66.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 28 Ok Reg 898, eff 6-1-11]

#### **340:105-10-65. Legal services eligibility**

(a) **Policy.** All individuals, age 60 years of age and older are eligible to receive legal services. Special efforts are made to provide services to those older persons in greatest social or economic need.

(b) **Authority.** The authority for this Section is Section 102(35) and 307(a)(11)(B) of the Older Americans Act of 1965, as amended and Title 45 of Code of Federal Regulations, Part 1321.71(d) and (e).

(c) **Procedures.** Procedures for implementing this Section include:

- (1) providers of legal services list specific objectives in the project grant application which outline how the provider targets those older persons in greatest economic or social need; and
- (2) persons who request legal services complete intake procedures approved by the Area Agency on Aging. Provider's intake procedures may not require that the participant provide income or resources information. Income and resources information may be obtained only as a process of providing legal services to the participant, and for the purposes of identifying additional resources or benefits for which the participant may be entitled.

(d) **Cross references.** See OAC 340:105-10-50.1(a)(11), 340:105-10-51, 340:105-10-54(a)(6), 340:105-10-64, and 340:105-10-66.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 19 Ok Reg 1170, eff 5-13-02]

#### **340:105-10-66. Legal services methods**

(a) **Policy.** The Area Agency on Aging (AAA) enters into contracts with providers of legal assistance which can demonstrate the experience or

capacity to deliver legal assistance.

(b) **Authority.** The authority for this Section is Section 307(a)(11) of the Older Americans Act (OAA) of 1965, as amended and Title 45 of the Code of Federal Regulations, Part 1321.71.

(c) **Procedures.**

- (1) Each legal services project, at a minimum, provides:
  - (A) client service delivery consisting of a broad range of services including:
    - (i) legal counseling;
    - (ii) brief services;
    - (iii) referral after legal assessment; and
    - (iv) representation before judicial, administrative, and legislative bodies;
  - (B) community education;
  - (C) outreach to identify and assist potential clients;
  - (D) training for project staff;
  - (E) coordination with other social service providers;
  - (F) coordination with the private bar with emphasis on securing pro bono or reduced fee services for older individuals; and
  - (G) coordination with Legal Services Corporation grantees in the planning and service area, if the legal services sponsor is not a Legal Services Corporation grantee, in order to concentrate the use of Title III-B legal services funds on individuals in greatest social or economic need.
- (2) Legal services providers ensure that services provided through Title III-B funds are in addition to any legal assistance for older persons being furnished with funds from other sources.
- (3) Legal services providers give priority to services related to income, health care, long-term care, nutrition, housing, utilities, protective services, defense of guardianship, abuse, neglect, and age discrimination, and employ staff with expertise in these fields.
- (4) Legal services providers provide effective administrative and judicial representation in the areas of law affecting older persons with economic and social need.
- (5) Legal services providers provide support to other advocacy efforts including the Long-Term Care Ombudsman Program.
- (6) Legal services providers provide services to institutionalized, isolated, and homebound older individuals, as appropriate.
- (7) Legal services providers provide service in the principal language spoken by participants in areas where a significant number of participants do not speak English as their principal language.
- (8) Legal services providers establish procedures for the referral of fee generating cases. A fee generating case is one which, if undertaken on behalf of an eligible participant by an attorney in private practice, reasonably may be expected to result in a fee for legal services from an award to a client, from public funds, or from the opposing party.
- (9) Title III-B funds are only used to provide services in fee generating cases when there is an emergency requiring

immediate legal action or when other adequate representation is unavailable. Other adequate representation is deemed unavailable when:

- (A) recovery of damages is not the principal object of the client;
- (B) a court appoints a provider or an employee of a provider pursuant to a statute or a court rule or practice of equal applicability to all attorneys in the jurisdiction; or
- (C) an eligible participant is seeking benefits under Title II of the Social Security Act, Federal Old Age, Survivors, and Disability Insurance Benefits, or Title XVI of the Social Security Act, Supplemental Security Income for Aged, Blind, and Disabled.

(10) When a legal services provider does represent a participant in any of the circumstances outlined in (9) of this subsection, the provider may seek and accept a fee awarded or approved by a court or administrative body, or included in a settlement. When such a case results in a recovery of damages, other than statutory benefits, a provider may accept reimbursement for out-of-pocket costs and expenses incurred in connection with the case or matter.

(11) Legal services providers, employees of the providers, or staff attorneys shall not engage in prohibited political activities to include:

- (A) contributing or making available OAA funds, personnel, or equipment to any political party or association or to the campaign of any candidate for public or party office, or for use in advocating or opposing any ballot measure, initiative, or referendum;
- (B) intentionally identifying the Title III program or provider with any partisan or nonpartisan political activity, or with the campaign of any candidate for public or party office; and
- (C) engaging in any political activity, while engaged in legal assistance activities supported under the OAA.

(12) No funds made available under the OAA are used for lobbying activities, including but not limited to, any activities intended to influence any decision or activity by any nonjudicial federal, state, or local individual or body. Nothing in this Section is intended to prohibit a legal services employee from:

- (A) communicating with a governmental agency for the purpose of obtaining information, clarification, or interpretation of the agency's rules, regulations, practices, or policies;
- (B) informing a client about a new or proposed statute, executive order, or administrative regulation;
- (C) responding to an individual client's request for advice only with respect to the client's own communications to officials unless otherwise prohibited by the OAA, Title III regulations, or other applicable law. This provision does not authorize publication of lobbying materials or training

of clients on lobbying techniques or the composition of a communication for the client's use;  
(D) making direct contact with the AAA for any purpose;  
(E) providing a client with administrative representation in adjudicatory or rulemaking proceedings or negotiations, directly affecting that client's legal rights in a particular case, claim, or application;  
(F) communicating with an elected official for the sole purpose of bringing a client's legal problem to the attention of that official; or  
(G) responding to the request of a public official or body for testimony, legal advice, or other statements on legislation or other issues related to aging, provided that no such action will be taken without first obtaining the written approval of the responsible AAA.

(13) While carrying out legal assistance activities and while using resources provided under the OAA, no legal services provider or its employees:

(A) participates in any public demonstration, picketing, boycott, or strike, except as permitted by law in connection with the employee's own employment situation;  
(B) encourages, directs, or coerces others to engage in such activities; or  
(C) at any time, engages in or encourages others to engage in any:  
(i) illegal activity; or  
(ii) intentional identification of programs funded under the OAA, recipient or provider, with any political activity.

(14) None of the funds made available under the OAA may be used to pay dues exceeding \$100 per recipient or provider per annum to any organization, other than a bar association, for a purpose or function of which is to engage in activities prohibited under these rules unless such dues are not used to engage in activities for which OAA funds cannot be used directly.

(d) **Cross references.** See OAC 340:105-10-50.1(a)(11), 340:105-10-51, 340:105-10-54(a)(6), 340:105-10-64, and 340:105-10-65.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 19 Ok Reg 1170, eff 5-13-02]

### **340:105-10-67. Corporate eldercare programs [REVOKED]**

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 15 Ok Reg 249, eff 10-9-97 (emergency); Amended at 15 Ok Reg 1692, eff 5-11-98 ; Revoked at 17 Ok Reg 2465, eff 6-26-00]

### **340:105-10-68. Congregate meals service standards**

(a) **Policy.** The congregate meals service includes the provision of nutrition education and at least one hot or other appropriate meal five or

more days per week, at least 250 days per year. The congregate meals service:

(1) is located at congregate settings, including adult day care facilities and multigenerational meal sites, except in rural areas where such frequency is not feasible as defined by the Assistant Secretary for Aging;

(2) provides at least 25 meals per day, including home delivered meals, at each site unless a written waiver is received from the State Agency on this requirement.

(A) Funding for a site serving less than 25 meals per day may be withdrawn and reallocated when the site does not have a waiver approved from Aging Services (AS). A waiver request must be submitted annually. An AS approved waiver may be withdrawn when a congregate meals site is not determined viable.

(B) A congregate meals site serving less than 25 meals per day is reviewed annually for continued viability by the congregate meals project and Area Agency on Aging (AAA). AS is notified by the AAA in writing when a congregate meals site consistently serves 25 or more meals per day; and

(3) complies with standards outlined in this Section, and Oklahoma Administrative Code (OAC) 340:105-10-51, and 340:105-10-69 through 340:105-10-80.

(b) **Authority.** The authority for this Section is Section 331 of the Older Americans Act, and Part 1321.11(a) of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** The procedures for implementing this Section include the AAA:

(1) incorporating the provisions in this Section into the Title III policies and procedures manual;

(2) providing orientation to congregate meals service staff on the policy;

(3) monitoring compliance with the policy;

(4) providing ongoing technical assistance to Title III projects regarding the policy;

(5) constructing a list of all cooking and satellite meal sites annually serving less than 25 meals per day;

(6) submitting the list and a written request for a waiver at least 30-calendar days prior to awarding funding for any nutrition project that proposes in the grant application to provide less than 25 meals per day at any site and, does not have an AS approved waiver on file. The written request includes:

(A) the status of each site, such as cooking or satellite;

(B) the average number of eligible meals served per site, per day;

(C) the average number of other meals served per site, per day;

(D) documentation of the rural nature of the site;

(E) pertinent demographics; and

(F) other factors that justify the waiver; and



- (7) maintaining approved waiver requests on file at the AAA and congregate meals project office for review by auditors.
- (d) **Cross references.** Refer to OAC 340:105-10-50.1(a)(4), (7), and (12); 340:105-10-51; 340:105-10-69 through 340:105-10-80; and 340:105-10-86.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 23 Ok Reg 1062, eff 7-15-06 ; Amended at 38 Ok Reg 2337, eff 9-15-21]

### **340:105-10-69. Congregate meals service eligibility**

(a) **Policy.** Individuals are eligible to participate in the congregate meals service in one of the categories listed in (1) - (2) of this subsection.

(1) Persons eligible to participate in the congregate meals program with an opportunity to contribute to the cost of meals include:

(A) persons 60 years of age and older and their spouses of any age;

(B) persons with a disability younger than 60 years of age who reside with persons 60 years of age and older, when the care and maintenance of the person with a disability otherwise prevents the older person from participating in the program and, when the participation of such individuals does not prevent the participation of older persons and their spouses. The person with a disability must accompany the eligible older participant to the site and must be determined by nutrition project management to pose no threat to the wellbeing of the older participants;

(C) persons with a disability younger than 60 years of age who reside in housing facilities occupied primarily by older persons and where congregate nutrition services are provided, when the participation of such individuals does not pose a threat to the wellbeing of the older participants, and when such participation does not prevent the participation of older persons and their spouses;

(D) persons younger than 60 years of age who provide meal-related volunteer services, when the participation of such individuals does not prevent the participation of older persons and their spouses; and

(E) nutrition program staff members, who are 60 years of age and older, when such participation does not prevent the participation of other older persons and their spouses.

(2) Other persons who may participate in the program but must pay the full cost of meals include:

(A) nutrition program staff members, who are younger than 60 years of age, when such participation does not prevent the participation of older persons and their spouses;

(B) visitors when such participation does not prevent the participation of older persons and their spouses; and

(C) older persons who are in the care of an agency or organization that is receiving reimbursement for the cost of the participant's meal, such as nursing homes, residential care facilities, and adult day care programs. In this situation, the agency or organization is billed for the full cost of the participant's meal. The agency or organization is also responsible for making meal reservations and for providing attendant assistance, as needed.

(b) **Authority.** The authority for this Section is Section 339(2)(H) and (I) of the Older Americans Act, and Title 45 of the Code of Federal Regulations, Part 1321.17(f)(12).

(c) **Cross references.** Refer to Oklahoma Administrative Code 340:105-10-50.1(a)(7), 340:105-10-51, 340:105-10-68, and 340:105-10-70.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 16 Ok Reg 1983, eff 6-11-99 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 38 Ok Reg 2337, eff 9-15-21]

### **340:105-10-70. Congregate meals service assessment**

(a) **Policy.** Each person who desires to participate in the congregate meals service must complete and sign Title III Program Registration. Title III Program Registration provides the potential participant with service information and allows staff to obtain necessary information to better serve the potential participant's needs.

(b) **Procedure.**

(1) At the initial interview, the outreach specialist or site manager discusses all aspects of program participation, including the opportunity to contribute to meal cost and possible eligibility for home delivered meals.

(2) The outreach specialist or site manager assists the potential participant in completing Title III Program Registration. The project does not require legal or formal verification of age eligibility unless project management has reasonable cause to question the accuracy of the potential participant's reported age. Potential participant assessment information includes:

(A) name, address, and phone number;

(B) age, sex, race, ethnicity, minority status, and date of birth with signature verification;

(C) emergency contact's name, address, and phone number;

(D) the potential participant's household status, including whether he or she lives alone or lives with others;

(E) special dietary needs;

(F) accommodations required for disabilities;

(G) reasons for requesting congregate meals service;

(H) transportation resources;

(I) need for additional community resources;

(J) income sources. Income source information is not required to receive Older Americans Act Title III services and may only be used to assist the potential participant in

determining eligibility for programs with income guidelines; and

(K) status related to poverty level.

(3) The project conducts a face-to-face annual assessment interview with the participant.

(c) **Authority.** The authority for this Section is Section 1321.11(a) of Title 45 of the Code of Federal Regulations.

(d) **Cross references.** See Oklahoma Administrative Code 340:105-10-50.1(a)(7), 340:105-10-51, 340:105-10-68, 340:105-10-69, 340:105-10-71 through 340:105-10-80, and 340:105-10-86.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 16 Ok Reg 1983, eff 6-11-99 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 23 Ok Reg 1062, eff 7-15-06 ; Amended at 24 Ok Reg 1325, eff 6-1-07 ; Amended at 39 Ok Reg 1824, eff 9-15-22]

### **340:105-10-71. Congregate meals service facilities**

(a) **Policy.** Each congregate meals service provider secures and maintains adequate facilities for the preparation and delivery of the meals service, nutrition education, and funded supportive services.

(b) **Authority.** The authority for this Section is Section 307 and 331 of the Older Americans Act, Part 1321.11(a) of Title 45 of the Code of Federal Regulations, Section 1247 of Title 21 of the Oklahoma Statutes, as amended (21 O.S. § 1247), and 56 O.S. §163.1.

(c) **Procedures.**

(1) The grantee agency locates congregate meals service sites in areas accessible to the target group of eligible persons in a community and, where possible, within walking distance from where such persons congregate.

(A) There is a minimum of at least one Title III congregate nutrition site per county at all times.

(B) When there is one Title III congregate nutrition site in a county, good-faith efforts are made to provide transportation assistance to potential participants from other parts of the county to that site, when feasible.

(2) The grantee agency arranges for all applicable health, fire, safety, and sanitation inspections for project offices and congregate meals sites in the manner described in (A) through (F) of this paragraph.

(A) The fire and safety inspections are conducted annually by local fire officials or another designated local official in the absence of a local fire marshal using established local standards.

(B) In the absence of local standards, standards developed and adopted by Oklahoma Human Services, with the cooperation of the state fire marshal and the Oklahoma State Department of Health, are applicable.

(C) Standards are based on the site's use and occupancy by Title III funded projects and are adequate to protect the health and safety of participants.

(D) County health department sanitation inspections are completed at least annually.

(E) All inspection reports are on file with the grantee agency.

(F) The grantee agency responds, as directed by the inspecting agency, to all cited deficiencies.

(3) The Area Agency on Aging conducts assessment for Americans with Disabilities Act (ADA) compliance at all congregate meal sites and at project offices when a service is provided directly at that location or when participants apply for services at that location. The grantee agency ensures that project facilities comply with 21 O.S. § 1247, as amended, that mandates all public facilities be smoke free and posts such designation as required by law.

(A) A full ADA assessment is required when opening a new building or relocating to a different building.

(B) A partial ADA assessment specific to the changes is required after construction, remodeling, or furniture and fixture changes.

(C) When there are no changes from the previous ADA assessment, an updated ADA assessment is not required.

(4) The project separates dining and food preparation areas at sites where food is prepared and served in the same facility.

(5) Where feasible, the project provides ample space and time for the provision of supportive services, per Oklahoma Administrative Code (OAC) 340:105-10-54.

(6) The project provides appropriate furnishings for older persons, including sturdy tables and chairs, and arranges the furnishings to provide adequate aisle space for persons using mobility aids, such as walkers and wheelchairs.

(7) The project provides table settings that are approved by the project advisory council. When disposable dinnerware is used, it is sturdy to prevent spillage, leakage, and breakage.

(8) The project posts, in conspicuous locations, information regarding:

(A) participants' right to equal opportunity and equal access to services;

(B) the meal's full cost ineligible persons pay, such as visitors younger than 60 years of age, who are served meals;

(C) suggested participant contribution toward the meal's cost, as the project or site advisory council determines. All participant contributions are for the meal cost and are not solicited for other items, such as utilities and coffee;

(D) menus for a minimum of one week in advance;

(E) participant grievance procedures;

(F) an evacuation plan;

(G) a toll-free information and assistance phone number;

(H) a current health inspection certificate from the local health department;

(I) a Smoke Free Facility sign;

- (J) a summary of the site or project, if applicable; and
- (K) an emergency management plan including at minimum, the location of the nearest emergency shelter(s) available to participants.

(d) **Cross references.** Refer to OAC 340:105-10-50.1(a)(7), 340:105-10-51, 340:105-10-54, 340:105-10-68 through 340:105-10-70, 340:105-10-72 through 340:105-10-80, and 340:105-10-86.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Amended at 11 Ok Reg 3645, eff 6-6-94 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 12 Ok Reg 1441, eff 5-26-95 ; Amended at 15 Ok Reg 249, eff 10-9-97 (emergency); Amended at 15 Ok Reg 1692, eff 5-11-98 ; Revoked at 18 Ok Reg 1270, eff 5-11-01 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 25 Ok Reg 1754, eff 6-1-08 (emergency); Amended at 26 Ok Reg 2221, eff 7-1-09 ; Amended at 38 Ok Reg 2337, eff 9-15-21 ; Amended at 39 Ok Reg 1824, eff 9-15-22 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:105-10-72. Congregate meals project staffing requirements**

(a) **Policy.** Each congregate meals project maintains sufficient staff to carry out the required service activities.

(b) **Authority.** The authority for this Section is Section 1321.11 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** The congregate meals project complies with guidelines in (1) through (4) of this subsection.

(1) A full-time director is employed who is empowered with authority to conduct the project's daily management and administrative functions;

(2) The project obtains nutrition consultation services from a licensed registered dietitian (RD) as either an employee or independent consultant, unless provided by the Area Agency on Aging (AAA) or through a statewide contract.

(A) A paid caterer or certified dietary manager is not acceptable in this position. If obtaining the services of a licensed RD consultant exceeds three months, the nutrition project or AAA:

(i) provides documentation of hiring efforts in the form of newspaper advertisements and job announcements to Community Living, Aging and Protective Services (CAP);

(ii) requests in writing a temporary waiver for an additional time period, not to exceed three months; and

(iii) submits a revised budget reflecting the reallocation of funds not used while the position was vacant.

(B) AAA notifies CAP contract monitor(s) within 72 hours following the loss of RD services by project or AAA.

(C) The state RD is contacted to approve menu substitutions in the absence of an RD.

(D) The RD verifies by signature on the Dietary Consultant's Report performance of required consultation activities, including:

(i) limiting site visits to one per day per RD;

- (ii) visiting each site at least every other month for a minimum total of six site visits per year;
- (iii) monitoring food service, including food temperature and portion measurement, and assessing food quality and adherence to contract specifications;
- (iv) training staff and volunteers in areas of food service management, nutrition, food safety, and sanitation;
- (v) assessing participant satisfaction and preferences;
- (vi) reviewing menu and commodity utilization;
- (vii) approving and coordinating monthly nutrition education programs;
- (viii) monitoring perpetual inventory;
- (ix) documenting site recommendations for improvement;
- (x) documenting on the site visit date the number of:

- (I) reservations;
- (II) meals prepared;
- (III) meals served;
- (IV) full meals leftover; and
- (V) menu substitutions; and

- (xi) providing nutrition counseling for participants whose total nutrition score on the Title III Program Registration form is six or more.

- (I) Counseling for congregate meals participants is provided with the participant's approval, and may be provided for home delivered meals participants where feasible.
- (II) Counseling may be provided upon participant request where feasible.

(3) A nutrition project consultation is provided at least quarterly that includes:

- (A) assessing food preferences;
- (B) preparing menus and documenting nutrition analysis to meet one third recommended dietary allowance for each meal.

(4) Determine appropriate staffing patterns for each meal site in the project service area. AAAs are the final authority on appropriate staffing patterns in the Title III projects.

(d) **Cross references.** See Oklahoma Administrative Code 340:105-10-50.1(a)(4) and (7), 340:105-10-51, 340:105-10-68 through 340:105-10-71, 340:105-10-73 through 340:105-10-80, and 340:105-10-86.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 19 Ok Reg 2273, eff 6-27-02 ; Amended at 20 Ok Reg 938, eff 6-1-03 ; Amended at 21 Ok Reg 898, eff 4-26-04 ; Amended at 22 Ok Reg 20, eff 8-15-04 (emergency); Amended at 22 Ok Reg 915, eff 5-12-05 ; Amended at 23 Ok Reg 1062, eff 7-15-06 ; Amended at 24 Ok Reg 1325, eff 6-1-07 ; Amended at 29 Ok Reg 638, eff 7-1-12 ; Amended at 39 Ok Reg 1824, eff 9-15-22]

**340:105-10-73. Congregate meals project advisory council**

(a) **Policy.** Each congregate meals project establishes and maintains an advisory council to advise the project on all matters relating to the delivery of project services. Site councils may be established at the discretion of the project director.

(1) The composition of the council is described in (A) and (B).

(A) The advisory council is separate and distinct from the congregate meals project governing board and composed of:

- (i) more than 50 percent of the council is made up of project participants, with each site electing one representative to the project council. Disabled and minority representatives are included on the council where projects are serving such individuals and where such individuals are willing to serve;
- (ii) representatives of public and private agencies or organizations in the service area that address aging issues;
- (iii) local government officials; and
- (iv) other persons who are knowledgeable and experienced in the special needs of older persons.

(B) The advisory council may not be composed of:

- (i) State Agency staff or governing board members;
- (ii) Area Agency on Aging (AAA) staff or governing board members;
- (iii) congregate meal project staff or governing board members; or
- (iv) any other individuals who may give an appearance of a potential conflict of interest.

(2) The council has approval authority over:

- (A) suggested contribution schedules;
- (B) general types of menus that meet the guidelines outlined in OAC 340:105-10-75(c)(9);
- (C) days and hours of project operations where feasible; and
- (D) decor and furnishings of the meal sites.

(3) The council advises the project in all other matters related to the delivery of nutrition and supportive services, including:

- (A) preparation of the project's operating budget;
- (B) evaluation of project effectiveness and achievement of objectives;
- (C) determination of existing and proposed services offered by the project; and
- (D) determination of a new site selection.

(4) All decisions and recommendations of the council take into consideration all applicable federal and state statutes and policies, as well as the project budget.

(5) The council is organized and activated within 60 days after the initiation of meal service. Where feasible, target group eligible individuals are involved in the preparation of the initial project

proposal.

(6) Council bylaws and meeting minutes are on file at the sites and available to the participants, AAA, and State Agency staff for review.

(b) **Authority.** The authority for this Section is Title 45 of the Code of Federal Regulations, Part 1321.11.

(c) **Procedures.**

(1) The AAA:

(A) incorporates the provision of this Section into its Title III policy and procedures manual; and

(B) provides orientation to projects regarding the policy.

(2) Projects:

(A) establish project councils according to required composition;

(B) provide orientation to new council members regarding their functions;

(C) assist councils in developing bylaws;

(D) submit bylaws and amendments to the AAA for approval;

(E) schedule meetings of the councils at least quarterly and provide staff assistance at said meetings; and

(F) seek input from the council at scheduled meetings and informally, as needed, on all matters relating to the delivery of congregate meals and supportive services.

(d) **Cross references.** See OAC 340:105-10-50.1(a)(4) and (7), 340:105-10-51, 340:105-10-70 through 340:105-10-72, 340:105-10-74 through 340:105-10-80, and 340:105-10-86.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 20 Ok Reg 938, eff 6-1-03]

### **340:105-10-74. Nutrition education**

(a) **Policy.** The congregate and home delivered meals programs provide formal nutrition education to project participants.

(b) **Authority.** The authority for this Section is Sections 331(3) and 339(2)(J) of the Older Americans Act of 1965, as amended.

(c) **Procedures.** Nutrition education is registered dietitian (RD) approved and:

(1) at least once per month;

(2) provided to congregate and home delivered meals participants;

(3) documented on Form 02AG025E, Dietary Consultant's Report; and

(4) participant questions related to the nutrition education are responded to by the RD.

(d) **Cross references.** See OAC 340:105-10-50.1(a)(4) and (7), 340:105-10-51, 340:105-10-70 through 340:105-10-73, and 340:105-10-75 through 340:105-10-80.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 15 Ok Reg 249, eff 10-9-97 (emergency); Amended at 15 Ok Reg 1692, eff 5-11-98 ;



### **340:105-10-75. Congregate meals planning**

(a) **Policy.** The congregate meals project conducts appropriate meal planning for the congregate meals service and consults with persons competent in the fields of nutrition, food service, and the needs of older persons.

(b) **Authority.** The authority for this Section is Section 339 of the Older Americans Act of 1965, as Amended and Section 1321.11 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.**

(1) A registered dietitian (RD) prepares and approves congregate meals project menus and considers the project participants' special needs when doing so. The RD ensures each meal served contains at least:

(A) one-third of the dietary reference intakes as established by the Food and Nutrition Board of the Institute of Medicine of the National Academy of Sciences; and

(B) 600 or more calories. The recommended level is 750 to 850 calories.

(2) Menus are planned on a three or six month basis with a minimum four-week cycle with seasonal changes based on either meal pattern plan portions or weekly average nutritional analysis. The RD reviews menus for minimum nutrient or meal pattern standards, depending on the chosen menu plan option. Only one method of meal plan option is accepted per three or six-month period.

(A) Project participants' optimal nutritional status is maintained through menus that have moderate fat, salt, and simple sugar levels and are high in fiber.

(B) The Project Menu Plan - Nutrition Program for the Elderly is submitted quarterly to the Area Agency on Aging (AAA) and is available to the Community Living, Aging and Protective Services (CAP) RD for review upon request;

(3) The RD signs menus and posts them at the nutrition site.

(4) Menus reflect:

(A) to the maximum extent practicable, special diets to meet the participants' medical needs. When special diets are provided:

(i) a valid written physician's order is on file for each participant receiving a special diet. The physician's order indicates whether the participant is restricted to the special diet and the duration of the special diet. If the participant is consuming a liquid supplement in addition to a meal, the supplement is not reimbursed through the Nutrition Services Incentive Program as a separate meal; and

- (ii) special diets are planned and prepared under RD supervision; and
  - (B) where feasible, religious, ethnic, cultural, or regional dietary requirements or preferences of a major portion of the group of participants at a congregate meals site.
- (5) Meals are served per the planned menu unless the RD reviews and approves an appropriate substitution before meals are served. A complete menu move from one day to another in the same calendar week does not constitute a substitution. When substitutions are made, the project maintains and submits to CAP at the end of each month the:
  - (A) substitution date;
  - (B) original menu item(s);
  - (C) substituted menu item(s); and
  - (D) method of RD confirmation. Confirmation is accepted by phone, in-person signature, or email.
- (6) Menus are based on accurate production forecasting that does not include a margin for oversized portions or second helpings. Staff, participants, and volunteers do not take leftover foods from the kitchen; however, food already on the line or steam table is offered as second helpings to participants on clean trays. Participants may take the remainder of their meals from the dining site in their own containers;
- (7) Servings of milk are included on menus and the serving size is one-half pint equivalent of fortified whole, skim, or low fat milk or buttermilk. A variety of milks are provided where feasible.
- (8) Menus may include, where feasible, provisions to celebrate special occasions for participants, such as birthdays and holidays.
- (9) Food items within the meat, vegetable and fruit, bread, and dessert groups are allowed to vary for the same days of the week, from week-to-week, to provide a variety of foods and nutrients.
- (d) **Cross references.** Refer to Oklahoma Administrative Code 340:105-10-50.1(a)(4) and (7), 340:105-10-51, 340:105-10-68 through 340:105-10-74, 340:105-10-76 through 340:105-10-80, and 340:105-10-86.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 15 Ok Reg 249, eff 10-9-97 (emergency); Amended at 15 Ok Reg 1692, eff 5-11-98 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 21 Ok Reg 898, eff 4-26-04 ; Amended at 23 Ok Reg 1062, eff 7-15-06 ; Amended at 24 Ok Reg 1325, eff 6-1-07 ; Amended at 25 Ok Reg 1754, eff 6-1-08 (emergency); Amended at 26 Ok Reg 2221, eff 7-1-09 ; Amended at 29 Ok Reg 638, eff 7-1-12 ; Amended at 31 Ok Reg 1848, eff 9-15-14 ; Amended at 39 Ok Reg 1824, eff 9-15-22]

### **340:105-10-76. Congregate meals food procurement**

- (a) **Policy.** All food procurement for the Congregate Meals Program complies with applicable provisions of state or local laws. [Oklahoma Health Code, Section 2-101 and 2-102]
- (b) **Authority.** The authority for this Section is Section 339(2)(F) of the Older Americans Act of 1965, as amended and the Oklahoma Health Code, Section 2-101 and 2-102.
- (c) **Procedures.** Procedures to implement this Section include:
  - (1) all food purchases are through approved commercial sources;

- (2) all foods contributed to the project must meet the quality, sanitation, and safety standards of foods purchased commercially; and
- (3) home prepared foods, such as canned, frozen, or pot luck dishes are not used.

(d) **Cross references.** See OAC 340:105-10-50.1(a)(4) and (7), 340:105-10-51, 340:105-10-68 through 340:105-10-75, 340:105-10-77 through 340:105-10-80, and 340:105-10-86.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 19 Ok Reg 1170, eff 5-13-02]

### **340:105-10-77. Congregate meals food preparation and service**

(a) **Policy.** All preparation and food service for the Congregate Meals Program meet all applicable state and local fire, health, sanitation, and safety regulations. Food preparation and delivery is performed in the most cost-efficient manner possible.

(b) **Authority.** The authority for this Section is Section 339 of the Older Americans Act of 1965, as amended and the Oklahoma State Department of Health Food Service Establishment Regulations per Oklahoma Administrative Code (OAC) 310:257.

(c) **Procedures.**

- (1) Projects with multiple serving sites make every effort to consolidate all meal preparation at one facility. Such consolidation is undertaken only when delivery distances and holding times make it feasible.
- (2) The project director or designee arranges for all appropriate fire, health, safety, and sanitation inspections and responds appropriately to all identified deficiencies.
- (3) A certified food handler supervises all food preparation staff and ensures the application of hygienic techniques and practices in food preparation and service.
- (4) Tested, quality recipes, adjusted to yield the number of servings needed, are used to achieve the consistent and desirable quality and quantity of meals. Uniform, standardized recipes that provide for required amounts per serving are used when feasible.
- (5) Meal service is designed so that hot food is available for at least one-half hour after serving begins to enable participants who arrive late to receive a meal.
- (6) Time and temperature control guidelines are followed per OAC 310:257-5-59 through 310:257-5-62.
- (7) Temperatures are taken and documented daily before foods are removed from the stove or oven. Satellite nutrition sites record food temperatures immediately upon arrival at the site.
- (8) Daily temperatures of hot and cold foods are documented in writing and kept at the Title III senior nutrition site and made available for random review by the project director, site manager, Area Agency on Aging staff, consulting dietitian, and state dietitian.

(d) **Cross references.** Refer to OAC 340:105-10-50.1(a)(4) and (7), 340:105-10-51, 340:105-10-68 through 340:105-10-76, 340:105-10-78

through 340:105-10-80, and 340:105-10-86.

[**Source:** Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 15 Ok Reg 249, eff 10-9-97 (emergency); Amended at 15 Ok Reg 1692, eff 5-11-98 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 32 Ok Reg 1927, eff 9-15-15 ; Amended at 40 Ok Reg 1030, eff 9-15-23]

### **340:105-10-78. Supplemental Nutrition Assistance Program (SNAP) benefit assistance for project participants**

(a) **Policy.** Each nutrition project takes all necessary steps to ensure the maximum number of older persons within the project area benefit from the United States Department of Agriculture (USDA) SNAP as members of households certified for such assistance under USDA regulations.

(b) **Authority.** The authority for this Section is Section 202(a)(17) of the Older Americans Act of 1965, as amended and Title 45 of the Code of Federal Regulations, Part 1321.11.

(c) **Cross references.** See Oklahoma Administrative Code 340:105-10-50.1(a)(4) and (7), 340:105-10-51, 340:105-10-68 through 340:105-10-77, and 340:105-10-79 through 340:105-10-80.

[**Source:** Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:105-10-79. Nutrition Services Incentive Program (NSIP)**

(a) **Policy.** NSIP rewards, through cash or commodities, Title III-C nutrition projects for efficiently delivering nutritious meals to participants. Title III-C nutrition projects maintain certification of eligible participants for NSIP.

(b) **Authority.** The authority for this Section is Section 311 of the Older Americans Act of 1965, as amended.

(c) **Procedures.** The requirements for implementing this Section are outlined in this subsection.

(1) Projects and their respective vendors apply to the appropriate state distributing agency for certification as eligible participants in NSIP.

(2) Vendors and projects accept, store, and use donated food commodities as supplied to them. Donated commodities, and cash in lieu of commodities, are only used in meal preparation funded through Title III-C.

(A) Vendors allow credit for the amount of commodities used during each billing period.

(B) Community Living, Aging and Protective Services (CAP) and Support Services Commodity Distribution Unit (CDU) of Oklahoma Human Services (OKDHS) determines the amount of credit per pound.

(3) Projects develop management procedures pertaining to handling food commodities.

(4) Documenting recruitments include:

(A) NSIP foods utilized in each day's menu;

(B) participant eligibility, on required OKDHS forms, to obtain NSIP support for eligible meals. Eligible meals are

those meals served to eligible participants, per Oklahoma Administrative Code (OAC) 340:105-10-69(a)(1) and 340:105-10-83(a). The participant's eligibility and meal reimbursement documentation is recorded on:

- (i) Title III Program Registration
- (ii) Nutrition Project Attendance Form or comparable CAP pre-approved form; and
- (iii) activity roster generated by current nutritional participants in the database;

(C) the number of meals served at nutrition sites entered into the database with all required documentation no later than the fifteenth day of the month following the report month; and

(D) age eligibility, only when project management has reasonable cause to question the accuracy of age the participant or the participant's representative provides on Title III Program Registration.

(5) CAP provides projects with NSIP cash or cash and commodity allocations of food commodities based on the number of eligible meals actually served in the previous year in relationship to the total number of meals actually served by all Title III-C projects.

OKDHS CDU distributes commodities to the projects.

(d) **Cross references.** See OAC 340:105-10-50.1(a)(4) and (7), 340:105-10-51, 340:105-10-68 through 340:105-10-78, and 340:105-10-80.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 21 Ok Reg 898, eff 4-26-04 ; Amended at 23 Ok Reg 1062, eff 7-15-06 ; Amended at 24 Ok Reg 1325, eff 6-1-07 ; Amended at 39 Ok Reg 1824, eff 9-15-22]

### **340:105-10-80. Supportive social services for nutrition projects**

(a) **Policy.** Each nutrition project provides all supportive services feasible within the project's resources but must include, at minimum, nutrition education for each nutrition site. Other services that may be provided are transportation, health screenings, consumer education, benefits counseling, recreation, and similar services. The project refers participants to other community services, as appropriate.

(b) **Authority.** The authority for this Section is Sections 305(2)(F), 307(a)(16), and 321(a), of the Older Americans Act of 1965, as amended.

(c) **Cross references.** See Oklahoma Administrative Code 340:105-10-50.1(a)(4) and (7), 340:105-10-51, and 340:105-10-68 through 340:105-10-79.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 16 Ok Reg 1983, eff 6-11-99 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 39 Ok Reg 1824, eff 9-15-22]

### **340:105-10-81. Agreements for sponsored meals [REVOKED]**

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 15 Ok Reg 249, eff 10-9-97 (emergency); Amended at 15 Ok Reg 1692, eff 5-11-98 ; Revoked at 18 Ok Reg 1270, eff 5-11-01]

### **340:105-10-82. Home delivered meals service standards**

(a) **Policy.** The home delivered meals service includes providing at least one hot or other appropriate meal to eligible homebound persons in their own home five or more days per week. Possible exceptions in rural areas where such frequency is not feasible are defined by the Assistant Secretary for Aging of the Administration for Community Living by regulation, and Oklahoma Human Services approves a lesser frequency. All home delivered meals service providers comply with applicable standards outlined in Oklahoma Administrative Code (OAC) 340:105-10-51, 340:105-10-68, and 340:105-10-74 through 340:105-10-79.

(b) **Authority.** The authority for this Section is Section 336 of the Older Americans Act of 1965, as amended.

(c) **Procedures.** The procedures for implementing this Section include the Area Agency on Aging:

- (1) incorporating the provisions in this Section into the Title III policies and procedures manual;
- (2) providing orientation on the policy to home delivered meals service staff;
- (3) monitoring compliance with the policy; and
- (4) providing ongoing technical assistance to Title III projects regarding the policy.

(d) **Cross references.** See OAC 340:105-10-50.1(a)(4), 340:105-10-51, 340:105-10-68, 340:105-10-70, 340:105-10-74 through 340:105-10-79, and 340:105-10-83 through 340:105-10-86.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 23 Ok Reg 1062, eff 7-15-06 ; Amended at 39 Ok Reg 1824, eff 9-15-22]

### **340:105-10-83. Home delivered meals service eligibility**

(a) **Policy.** The Area Agency on Aging (AAA) establishes eligibility requirements for home delivered meals participants which include, at minimum:

- (1) persons age 60 years or older who have a disability, are homebound, and have no one available to provide meal preparation assistance. Homebound means a person is unable to leave home without another person's assistance;
- (2) persons with a disability who are under 60 years of age who and reside with eligible participants; and
- (3) spouses of home delivered meals participants when, according to AAA criteria, receipt of the meals is in the best interest of participants.

(b) **Authority.** The authority for this Section is Title 45 of the Code of Federal Regulations, Part 1321.11.

(c) **Cross references.** See Oklahoma Administrative Code 340:105-10-50.1(a)(4), 340:105-10-51, 340:105-10-68, 340:105-10-70, 340:105-10-74 through 340:105-10-79, 340:105-10-82, and 340:105-10-84 through 340:105-10-86.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 16 Ok Reg 1983, eff 6-11-99 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 39 Ok

#### **340:105-10-84. Home delivered meals planning**

(a) **Policy.** The home delivered meals service conducts appropriate meal planning with the consultation of persons competent in the field of nutrition, food service, and the needs of older persons.

(b) **Authority.** The authority for this Section is Part 1321.11 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** Procedures to implement this Section include the home delivered meals:

- (1) service complies with the congregate meals planning standards outlined in OAC 340:105-10-75;
- (2) service makes arrangements for the availability of meals in weather related emergencies, where feasible;
- (3) numbers served are determined by the Area Agency on Aging based on needs assessment information, allocation of Title III-C(2) funds, and service unit costs;
- (4) may be hot, cold, frozen, dried, or canned with a satisfactory storage life and must conform to procurement standards outlined in OAC 340:105-10-76; and
- (5) service may include the delivery of more than one meal for each day's consumption provided that proper storage and heating facilities are available in the recipient's home.

(d) **Cross references.** See OAC 340:105-10-50.1(a)(4), 340:105-10-51, 340:105-10-68, 340:105-10-70, 340:105-10-74 through 340:105-10-79, 340:105-10-82, 340:105-10-83, 340:105-10-85, and 340:105-10-86.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 23 Ok Reg 1062, eff 7-15-06]

#### **340:105-10-85. Home delivered meals packaging and delivery**

(a) **Policy.** Home delivered meals are packaged and delivered to ensure temperature control and prevent contamination and spillage.

(b) **Authority.** The authority for this Section is Oklahoma State Department of Health Food Service Establishment Regulations Oklahoma Administrative Code (OAC) 310:257-5-9, 310:257-5-52, and 310:257-5-62 and Section 1321.11 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** This Section is implemented by including procedures for:

- (1) packaging and handling up to the point of delivery of the meals.
  - (A) Hot foods are maintained at a minimum of 135 degrees Fahrenheit. Temperatures of hot food items are checked upon completion of cooking and when they arrive at satellite sites when prepared at a central kitchen and is at a minimum of 135 degrees Fahrenheit.
  - (B) Cold foods are maintained at a maximum temperature of 41 degrees Fahrenheit. Temperatures of cold food items are checked upon completion of cooking and when they arrive at satellite sites when prepared at a central kitchen and is at a maximum of 41 degrees Fahrenheit.

- (C) Frozen foods are maintained frozen and hard;
  - (2) performing temperature checks at least quarterly on a random basis to ensure food is delivered at the proper temperature. Documentation of these checks is maintained by the provider and monitored by the Area Agency on Aging;
  - (3) packaging and packing cold, hot, and frozen foods separately;
  - (4) packaging meals individually and in secondary insulated food carriers to meet established safety and sanitation standards;
  - (5) delivering meals within four hours of last documented temperature check;
  - (6) dating all disposable meal containers with the packaging date;
  - (7) marking individual meals with an expiration date by which they are consumed, refrigerated, or discarded; and
  - (8) providing instructions with all home delivered meals regarding reheating or chilling if needed before consumption.
- (d) **Cross references.** Refer to OAC 340:105-10-50.1(a)(4), 340:105-10-51, 340:105-10-68, 340:105-10-70, 340:105-10-74 through 340:105-10-79, 340:105-10-82 through 340:105-10-84, and 340:105-10-86.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 22 Ok Reg 897, eff 5-12-05 ; Amended at 24 Ok Reg 1325, eff 6-1-07 ; Amended at 32 Ok Reg 1927, eff 9-15-15 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:105-10-86. Congregate and home delivered meals site change of status**

- (a) **Policy.** Any site status change , such as a permanent site opening, closing, or relocating, or a temporary emergency status change in the congregate and home delivered meals programs is based upon objective, quantifiable, sociodemographic, and needs assessment data.
- (b) **Authority.** The authority for this Section is Section 1321.11 of Title 45 of the Code of Federal Regulations.
- (c) **Procedures.** The requirements for implementing this Section are outlined in this subsection.
- (1) 30-calendar days prior to a nutrition site's status change, the Area Agency on Aging (AAA) submits required documentation outlined in (A) through (E) of this paragraph to Community Living, Aging and Protective Services (CAP) .
    - (A) When a new site is opened, AAA submits a completed Change of Status Request and new, approved health and fire inspections for the site .
    - (B) When an existing site is closed, AAA submits a completed Change of Status Request.
    - (C) When an existing site experiences a temporary emergency, AAA submits a completed Change of Status Request, documentation of the type of emergency, and a plan of action within three-business days.
    - (D) When an existing site is relocated within the local area , AAA submits a completed Change of Status Request and new, approved health and fire inspections for the site .



(E) When an existing site is relocated to another county, AAA submits a completed Change of Status Request, including sociodemographic data for both locations and new, approved health and fire inspections for the new site.

(2) The Change of Status Request for new site requests, relocation requests, and closure requests includes for each proposed change:

(A) justifications;

(B) existing meal services for older persons in the planning and service area (PSA) or local area;

(C) all potentially eligible unserved areas within the PSA , when opening or relocating outside the local area;

(D) a list and ranking of all unserved areas in priority order for future funding, when opening or relocating outside the local area;

(E) the number and proportion of minority, low income, and older persons in greatest economic or social need for each currently served and currently unserved area;

(F) the total number of persons 60 years or older in the total PSA, and in each current and prospective service area;

(G) a revised grant including budget justification . The budget justification includes, at minimum, the number of meals funded and served, a thorough explanation regarding substantial over or under serving of meals, and a meal cost evaluation;

(H) the proposed date of each change;

(I) transportation services available for older persons affected ;

(J) nutrition project advisory council and governing board recommendations ; and

(K) any other information necessary to evaluate the proposed status change.

(3) After reviewing the analysis, CAP may disapprove or conditionally approve the request for site change.

(A) When a site is conditionally approved, the new site passes an Americans with Disabilities Act (ADA) inspection, conducted by AAA or CAP, to complete the approval process. AAA provides a copy of the ADA inspections to CAP prior to approval.

(B) Site closures, due to declining attendance or increased operational costs, require prior approval from the President Pro Tempore of the Oklahoma State Senate and the Speaker of the Oklahoma House of Representatives.

(4) The Change of Status Request for temporary emergency status changes includes for each proposed change:

(A) justification(s);

(B) existing meal services for qualified older participants in the PSA or local area;

(C) all potentially eligible unserved areas within the PSA, when opening or relocating outside of the local area;

- (D) the number and proportion of minority, low income, and older persons in greatest economic or social need for each currently served and currently unserved area;
- (E) the proposed date of each change;
- (F) transportation services available for older persons affected by each change; and
- (G) any other information necessary to evaluate the proposed status change.

(5) Temporary emergency status changes are only approved for 30-calendar days. Prior to the end of the approved 30-calendar days, participants may submit a written extension request to CAP for up to an additional 30-calendar days. The written request includes an update regarding efforts taken to resolve the issue causing the temporary emergency status change. No more than two extensions of the original approval are permitted for a total of 90-calendar days, with the exceptions in (A) and (B) of this paragraph.

(A) When additional time is needed, a new Change of Status Request is completed and submitted for consideration.

(B) When an approved temporary emergency status change needs to change to a permanent status change, a new Change of Status Request is completed and submitted.

(d) **Cross references.** See Oklahoma Administrative Code 340:105-10-50.1(a)(4) and (7), 340:105-10-51 through 340:105-10-52, 340:105-10-68, 340:105-10-71, 340:105-10-74 through 340:105-10-79, and 340:105-10-82 through 340:105-10-85.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 18 Ok Reg 1270, eff 5-11-01 ; Amended at 19 Ok Reg 2273, eff 6-27-02 ; Amended at 20 Ok Reg 938, eff 6-1-03 ; Amended at 21 Ok Reg 898, eff 4-26-04 ; Amended at 24 Ok Reg 1325, eff 6-1-07 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:105-10-87. In home services for frail older persons [REVOKED]**

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 15 Ok Reg 249, eff 10-9-97 (emergency); Amended at 15 Ok Reg 1692, eff 5-11-98 ; Amended at 16 Ok Reg 281, eff 11-3-98 (emergency); Amended at 16 Ok Reg 1058, eff 4-26-99 ; Revoked at 19 Ok Reg 1170, eff 5-13-02]

### **340:105-10-88. Assistance for special unmet needs [REVOKED]**

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Revoked at 19 Ok Reg 1170, eff 5-13-02]

### **340:105-10-89. Disease prevention and health promotion services**

(a) **Policy.** The Area Agency on Aging (AAA) awards grants to local entities to provide disease prevention and health promotion services and information at multipurpose senior centers, congregate meal sites, through home delivered meals programs, or other appropriate sites.

Disease prevention and health promotion services include:

- (1) health risk assessments;
- (2) routine health screening, such as hypertension, glaucoma, cholesterol, cancer, vision, hearing, diabetes, bone density, oral health, and nutrition screening;
- (3) nutritional counseling and educational services for older persons and their primary caregivers;
- (4) health promotion programs, including programs relating to preventing and reducing the effects of chronic disabling conditions, such as osteoporosis or cardiovascular disease; and promoting dental care, alcohol and substance abuse reduction, smoking cessation, weight loss and control, and stress management;
- (5) programs regarding physical fitness, group exercise, and music, art, and dance movement therapy, including multigenerational participation programs provided by a:
  - (A) higher education institution;
  - (B) local educational agency, as defined in Section 1471 of the Elementary and Secondary Education Act of 1965; or
  - (C) community-based organization; and
- (6) home injury control services, including high-risk home environment screenings and educational programs on fall, fracture, or other injury prevention;
- (7) depression prevention screening, community mental health services coordination, provision of educational activities, and psychiatric and psychological services referral;
- (8) educational programs on the availability, benefits, and appropriate use of preventive health services covered under Title XVIII of the Social Security Act;
- (9) medication management screening and education to prevent incorrect medication and adverse drug reactions;
- (10) information concerning diagnosis, prevention, treatment, and rehabilitation concerning age related diseases and chronic disabling conditions, including osteoporosis, cardiovascular diseases, diabetes, and Alzheimer's disease and related disorders with neurological and organic brain dysfunction;
- (11) gerontological counseling; and
- (12) social services counseling and follow-up health services based on any of the services described in (1) through (11) of this subsection.

(b) **Authority.** The authority for this Section is Sections 102(12), 361, and 362 of the Older Americans Act of 1965, as Amended.

(c) **Procedures.** The requirements for implementing this Section are outlined in this subsection. AAA:

- (1) receives input from other entities in the planning and service area (PSA) involved with disease prevention and health promotion regarding targeting AAA funds;
- (2) considers using funds to expand successful disease prevention and health promotion activities currently funded by Title III-B or other sources in the community, such as annual health fairs or periodic health screenings at nutrition sites;

(3) seeks technical assistance, as appropriate, from Oklahoma Human Services (OKDHS) Community Living, Aging and Protective Services (CAP) staff;

(4) submits a plan to OKDHS CAP to include:

(A) services funded. Services funded do not include those for which payment is made under Titles XVIII and XIX of the Social Security Act;

(B) projected expenditures for each service; and

(C) specific objectives to target services to the medically underserved older persons in the PSA. The definition of medically underserved, which is used to allocate the funding, is stated in the area plan and chosen from:

(i) the definition outlined by the Public Health Service Bureau of Health Care Delivery,

Department of Health and Human Services;

(ii) a definition developed by the Oklahoma State Department of Health; or

(iii) any other definition in keeping with the intent of assisting medically underserved older persons; and

(5) ensures Title III-D disease prevention and health promotion programs or services meet the minimum requirements in this paragraph.

(A) The program meets the requirements of the Administration for Community Living Evidence-Based definition including:

(i) demonstrated effectiveness through evaluation in improving health and wellbeing or reducing disease, disability or injury among older adults;

(ii) proven effectiveness with older adult population, using experimental or quasi-experimental design;

(iii) published research results in a peer-reviewed journal;

(iv) full translation in one or more community sites; and

(v) developed dissemination products that are available to the public.

(B) The program is considered an evidenced-based program by any operating division of the United States Department of Health and Human Services and is shown to be effective and appropriate for older adults.

(d) **Cross references.** See Oklahoma Administrative Code 340:105-10-50.1(a)(15-16) and 340:105-10-51.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 21 Ok Reg 898, eff 4-26-04 ; Amended at 22 Ok Reg 897, eff 5-12-05 ; Amended at 40 Ok Reg 1030, eff 9-15-23 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:105-10-90. Supportive activities for caretakers who provide in-home services to frail older persons [REVOKED]**

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Revoked at 19 Ok Reg 1170, eff 5-13-02]

#### **340:105-10-90.1. National Family Caregiver Support Program**

(a) **Policy.** The Area Agency on Aging (AAA) awards grants to entities to provide supportive services, including information and assistance (I & A), counseling, support groups, respite, and other home and community-based services to families caring for their frail older members. The National Family Caregiver Support Program (NFCSP) also recognizes the needs of a grandparent, step-grandparent, or other older person who is a relative caregiver of a child or person not more than 18 years of age or who is a person with a disability. NFCSP services include:

- (1) caregiver assistance: case management;
- (2) caregiver assistance: I & A;
- (3) counseling;
- (4) information services;
- (5) respite care, including:
  - (A) in-home respite;
  - (B) out-of-home respite; and
  - (C) out-of-home overnight respite; and
- (6) supplemental services;
- (7) support groups; and
- (8) training.

(b) **Authority.** The authority for this Section is Sections 371 through 374 of the Older Americans Act of 1965, as amended,

(c) **Procedures.** AAA requirements for implementing this Section are outlined in (1) through (9) of this subsection.

- (1) Provisions of this Section are incorporated into the Title III policies and procedures manual.
- (2) Technical assistance is provided to prospective and funded Title III projects regarding this rule.
- (3) AAA monitors Title III project compliance according to Oklahoma Administrative Code (OAC) 340:105-10-43, except on specific projects where Oklahoma Human Services has agreed with the AAA to provide a direct service or a direct service waiver and in that case the AAA is not required to monitor compliance. The project:
  - (A) gathers information on an approved intake form, including, at a minimum:
    - (i) the family caregiver's identifying information;
    - (ii) the caregiver's relationship to the care receiver;
    - (iii) the care receiver's identifying information; and
    - (iv) a written description of the caregiver's current situation, including the care receiver's need for assistance due to inability to perform specific activities of daily living (ADLs) or need for supervision due to Alzheimer's disease or other

neurological and organic brain dysfunction or disability; and

(B) conducts a reassessment of NFCSP service recipients annually, at minimum, to evaluate service provision and update participant status;

(C) ensures participant safety and protection; and

(D) receives in-service training each fiscal year specifically designed to increase the project's knowledge and understanding of the programs and participants served.

(4) Services are targeted to caregivers who are older persons in greatest social and economic need, priority is given to:

(A) family caregivers providing care for persons with Alzheimer's disease and related disorders with neurological and organic brain dysfunction; and

(B) grandparents or older persons who are relative caregivers providing care for a person or child with a severe disability.

(5) Supportive services may be provided to caregivers providing care for frail older family members who are 60 years or older and who have difficulty with ADLs or instrumental activities of daily living (IADLs) or cognitive or other mental impairment requiring substantial supervision because the individual behaves in a manner that poses a serious health or safety hazard to the individual or to another individual.

(A) ADLs include:

(i) dressing;

(ii) bathing;

(iii) eating;

(iv) transferring;

(v) toileting; and

(vi) walking.

(B) IADLs include:

(i) preparing meals;

(ii) shopping for personal items;

(iii) managing medication;

(iv) managing money;

(v) using the telephone;

(vi) doing heavy housework;

(vii) doing light housework; and

(viii) making use of available transportation without assistance.

(6) Supportive services may be provided on a limited basis to grandparents and older persons who are relative caregivers of a child who is 18 years of age or younger.

(A) Child means a person who is not older than 18 years of age or who is a person with a disability.

(B) Grandparent or older person who is a relative caregiver means a grandparent or step-grandparent of a child, or a relative of a child by blood, marriage, or adoption who is 55 years of age or older and:

(i) lives with the child;

- (ii) is the child's primary caregiver because the biological or adoptive parents are unable or unwilling to serve as the child's primary caregiver; and
- (iii) has a legal relationship to the child, such as legal custody or guardianship, or is raising the child informally.

(7) AAA ensures the cost of carrying out the program meets the requirement of a minimum non-federal share of 25 percent. The non-federal share is provided from state and local sources.

(8) Funds are not used to supplant, replace, or substitute, any funds expended under any federal, state, or local law for the same purposes, such as Medicaid ADvantage program, Lifespan Respite, Developmental Disabilities Services respite program.

(9) AAA considers awarding funds to expand successful caregiver activities currently in communities, such as respite providers, support groups, outreach, I & A, adult day services, counseling, and case management.

(d) **Cross references.** See OAC 340:105-10-37, 340:105-10-38, 340:105-10-40, 340:105-10-41, 340:105-10-43, 340:105-10-44, and 340:105-10-50.1(a)(17).

[Source: Added at 18 Ok Reg 2324, eff 5-7-01 (emergency); Added at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 21 Ok Reg 898, eff 4-26-04 ; Amended at 22 Ok Reg 897, eff 5-12-05 ; Amended at 23 Ok Reg 1062, eff 7-15-06 ; Amended at 25 Ok Reg 1754, eff 6-1-08 (emergency); Amended at 26 Ok Reg 2221, eff 7-1-09 ; Amended at 39 Ok Reg 1824, eff 9-15-22 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:105-10-91. Homemaker service standards**

(a) **Policy.** The homemaker service provides assistance to persons 60 years of age or older with:

- (1) preparing a meal;
- (2) shopping for personal items;
- (3) using the telephone; or
- (4) doing light housework, which is limited to:
  - (A) dusting;
  - (B) vacuuming;
  - (C) mopping floors;
  - (D) cleaning bathroom and kitchen;
  - (E) making beds; and
  - (F) maintaining safe environment.

(b) **Authority.** The authority for this Section is the Federal Register Office of Management and Budget Notice of Action 0985-0008 and Section 1321.11 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** The requirements for implementing the homemaker service standards are outlined in this subsection.

- (1) The Area Agency on Aging:
  - (A) incorporates the homemaker service standards into the Title III policies and procedures manual;
  - (B) provides technical assistance to homemaker service providers regarding the standards; and

(C) utilizes the standards as an indicator in service provider proposal evaluation and in assessment of funded projects.

(2) The service provider:

(A) verifies, by completing Title III Program Registration, participants who receive homemaker services have:

- (i) functional, physical, or mental impairments, or limitations preventing them from providing the service for themselves; and
- (ii) an unavailable or insufficient informal support network, for example, family, friends, or neighbors, capable of meeting their needs;

(B) initiates a written service plan for each participant based on Title III Program Registration results;

(C) ensures all staff receives in-service training at least twice each fiscal year specifically designed to increase their knowledge and understanding of the program and participants and to improve their skills at service provision tasks. Comprehensive records identifying dates of training and topics covered are maintained in each employee's personnel file. An individualized in-service training plan is developed for each staff, when performance evaluations indicate a need;

(D) conducts home visits to each participant at least twice each fiscal year to evaluate service provision; and

(E) checks references on all homemakers.

(d) **Cross references.** See Oklahoma Administrative Code 340:105-10-50.1(a)(2), and 340:105-10-51.

[Source: Added at 15 Ok Reg 249, eff 10-9-97 (emergency); Added at 15 Ok Reg 1692, eff 5-11-98 ; Amended at 16 Ok Reg 1983, eff 6-11-99 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 22 Ok Reg 897, eff 5-12-05 ; Amended at 23 Ok Reg 1062, eff 7-15-06 ; Amended at 24 Ok Reg 1325, eff 6-1-07 ; Amended at 39 Ok Reg 1824, eff 9-15-22]

### **340:105-10-92. Chore service standards**

(a) **Policy.** The chore service provides assistance to persons 60 years of age or older who have difficulty with one or more of the instrumental activities of daily living (IADL), which are: heavy housework, yard work, or sidewalk maintenance.

(b) **Authority.** The authority for this Section is Section 1321.11 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.**

(1) **Service provider.** The service provider:

(A) verifies the participant receiving chore service has a functional, physical, or mental impairment that prevents the participant from providing the IADL for his or her self, and that an informal support network, for example, family, friends, or neighbors capable of meeting the participant's needs, is unavailable or insufficient. This information is verified by completing Title III Program Registration;



(B) initiates a written service plan for each participant based on the results of Title III Program Registration;  
(C) conducts home visits to each participant at least twice each fiscal year to evaluate service provision;  
(D) ensures participant safety and protection at all times in chore service provision, for example, not spraying chemicals around a participant who has breathing problems;  
(E) may use up to \$150 per participant annually from funds awarded for the chore service program to purchase materials and disposable supplies for completion of chore tasks;  
(F) ensures all staff receives in-service training at least twice each fiscal year specifically designed to increase their knowledge and understanding of the program and participants and improve their skills at service provision tasks.

(i) Comprehensive records identifying dates of training and topics covered are maintained in each staff person's personnel file.

(ii) An individualized in-service training plan is developed for each staff when performance evaluations indicate a need; and

(G) checks references on all chore service staff.

(2) **Area Agency on Aging (AAA).** The AAA:

(A) incorporates the chore service standards into the AAA Title III policies and procedures manual;

(B) provides technical assistance to chore service providers regarding the standards; and

(C) uses the standards as an indicator in the service provider proposal evaluation and in assessment of funded projects.

(d) **Cross references.** See Oklahoma Administrative Code 340:105-10-50.1(a)(3) and 340:105-10-51.

[Source: Added at 15 Ok Reg 249, eff 10-9-97 (emergency); Added at 15 Ok Reg 1692, eff 5-11-98 ; Amended at 16 Ok Reg 1983, eff 6-11-99 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 24 Ok Reg 1325, eff 6-1-07 ; Amended at 39 Ok Reg 1824, eff 9-15-22]

### **340:105-10-93. Personal care service standards**

(a) **Policy.** The personal care service provides hands on assistance, stand by assistance, supervision, or cues for persons 60 years of age or older who have difficulties with one or more activities of daily living, which include eating, dressing, grooming, bathing, toileting, and mobility, including walking, using a wheelchair, or transferring from one place to another. Personal care services may only be provided by licensed home health care agencies or otherwise licensed or certified health agencies.

(b) **Authority.** The authority for this Section is Section 1321.11 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.**

(1) **Personal care service provider.** The personal care service provider:

(A) verifies that the participant receiving personal care service has a functional, physical, or mental impairment preventing the participant from providing the service for his or her self, and that an informal support network, for example, family, friends, or neighbors capable of meeting the participant's needs, is unavailable or insufficient. This information is verified by completing Title III Program Registration; and

(B) initiates a written service plan for each participant based on the results of Title III Program Registration.

(2) **Area agency on aging (AAA).** The AAA:

(A) incorporates the personal care standards into the AAA Title III policies and procedures manual;

(B) provides technical assistance to personal care service providers regarding the standards; and

(C) uses the standards as an indicator in the service provider proposal evaluation and in the funded projects assessment.

(d) **Cross references.** See Oklahoma Administrative Code 340:105-10-50.1(a)(1) and 340:105-10-51.

[Source: Added at 15 Ok Reg 249, eff 10-9-97 (emergency); Added at 15 Ok Reg 1692, eff 5-11-98 ; Amended at 16 Ok Reg 1983, eff 6-11-99 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 24 Ok Reg 1325, eff 6-1-07 ; Amended at 39 Ok Reg 1824, eff 9-15-22]

#### **340:105-10-94. State Funded Senior Centers [REVOKED]**

[Source: Added at 15 Ok Reg 249, eff 10-9-97 (emergency); Added at 15 Ok Reg 1692, eff 5-11-98 ; Revoked at 22 Ok Reg 897, eff 5-12-05]

## **PART 9. FISCAL AND ADMINISTRATIVE POLICIES FOR AREA AGENCIES ON AGING AND TITLE III PROJECTS**

#### **340:105-10-95. Intrastate funding formula**

(a) **Policy.** In consultation with Area Agencies on Aging (AAAs) and in accordance with guidelines issued by the Assistant Secretary for Aging of the Administration on Aging (AoA), the State Agency uses the best available data to develop and publish for review and comment a formula for distribution within the state of funds received under Title III that takes into account:

- (1) the geographical distribution of older persons in the state; and
- (2) the distribution among planning and service areas (PSAs) of older persons with greatest economic need and older persons with greatest social need, with particular attention to low income minority older persons.

(b) **Authority.** The authority for this Section is Section 305 of the Older Americans Act (OAA) of 1965, as amended and Part 1321.37 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** The State Agency implements this Section by:

(1) obtaining input from the AAA, including demographic data, for use in developing the intrastate funding formula;

(2) following guidelines from the regional office of AoA regarding development of the intrastate funding formula;

(3) considering the geographic distribution among PSAs of persons 60 years of age and older in the development of the intrastate funding formula;

(4) considering the distribution among PSAs of older persons in greatest economic need, based on older persons at or below the poverty level as defined by the United States Bureau of Census. Particular attention is paid to low income minority older persons and older persons residing in rural areas, in the development of the intrastate funding formula;

(5) considering the distribution among PSAs of older persons in greatest social need. [OAC 340:105-10-3] Particular attention is paid to low income minority older persons and older persons residing in rural areas, in the development of the intrastate funding formula;

(6) developing an intrastate funding formula that includes:

(A) funds retained for state and AAA administration, and for the State Long-Term Care Ombudsman Program, including:

(i) no more than five percent of Oklahoma's allocation of OAA Title III funds or \$300,000, whichever is greater, retained by the State Agency for State Agency administrative costs, unless the total OAA Title III allocation to all states under Section 303 of the OAA exceeds \$800,000,000, in which case the State Agency retains five percent of the state's Title III allocation, or \$500,000, whichever is greater;

(ii) no more than ten percent of the funds remaining after providing for State Agency administrative costs are awarded for meeting AAA administrative costs. In awarding administrative funds, each PSA is apportioned a minimum of \$37,500 unless available funds are insufficient to provide for such an apportionment, in which case the available funds are distributed among the PSAs in equal shares. AAA administrative funds remaining, if any, after making this apportionment are allotted among PSAs in the same proportion as each PSA's age 60 and older population bears to the total state population age 60 and older; and

(iii) no less than one percent of Oklahoma's OAA Title III, Part B allocation is retained for the Long-Term Care Ombudsman Program of the State Agency;

(B) 50 percent of the funds remaining after providing for state and AAA administrative costs and for the Long-Term

Care Ombudsman Program are apportioned among PSAs in the same proportion as each PSA's age 60 and older population bears to the total state population age 60 and older;

(C) 50 percent of the funds remaining after the apportionment described in (B) of this paragraph are apportioned among PSAs in the same proportion as each PSA's age 60 and older population living at or below the poverty level bears to the total state population age 60 and older living at or below the poverty level;

(D) all of the funds remaining after the apportionment described in (C) of this paragraph apportioned among PSAs in the same proportion as each PSA's age 60 and older population of minority racial descent bears to the total state population age 60 and older of minority racial descent;

(E) PSAs containing no medically underserved areas are ineligible to receive funds appropriated specifically for disease prevention and health promotion services. Medically underserved areas mean medically underserved areas designated by the United States Department of Health and Human Services, Public Health Service Bureau of Health Care Delivery and Assistance, Office of Shortage Designation;

(F) allotting each PSA no less than two percent of the sum of the funds apportioned in (B) through (D) of this paragraph;

(G) allotting each PSA sufficient funds to meet the requirements of Section 307(a)(3)(B) of the OAA. Not less than the total of federal fiscal year 2000 expenditures were allotted to rural areas. Rural areas are defined as those counties not included in Standard Metropolitan Statistical Areas (SMSA), as determined by the United States Census Bureau. The amounts necessary to meet this requirement are:

- (i) Areawide AAA - \$0;
- (ii) Association of South Central Oklahoma Governments (ASCOG) AAA - \$914,127;
- (iii) Central Oklahoma Economic Development District (COEDD) AAA - \$803,399;
- (iv) Eastern Oklahoma Development District (EODD) AAA - \$1,149,319;
- (v) Grand Gateway AAA - \$876,072;
- (vi) Kiamichi Economic Development District of Oklahoma (KEDDO) AAA - \$812,873;
- (vii) Northern Oklahoma Development Authority (NODA) AAA - \$578,108;
- (viii) Oklahoma Economic Development Authority (OEDA) AAA - \$252,781;
- (ix) Southern Oklahoma Development Authority (SODA) AAA - \$900,213;

- (x) South Western Oklahoma Development Authority (SWODA) AAA - \$441,543; and
- (xi) Tulsa AAA - \$0;
- (7) publishing the formula listed in this subsection for review and comment by the public. The publication includes:
  - (A) a descriptive statement of the formula's assumptions and goals;
  - (B) documentation regarding the application of greatest economic need;
  - (C) documentation regarding the application of greatest social need;
  - (D) a numerical statement of the actual funding formula to be used;
  - (E) a listing of the population, economic, and social data used for each PSA; and
  - (F) a demonstration of the allocation of funds to each PSA, pursuant to the funding formula;
- (8) submitting the formula to the federal Assistant Secretary for Aging for approval; and
- (9) implementing the formula in allocating all federal OAA funds.
- (d) **Cross reference.** See OAC 340:105-10-3.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 20 Ok Reg 938, eff 6-1-03 ; Amended at 23 Ok Reg 1062, eff 7-15-06 ; Amended at 42 Ok Reg, Number 5, effective 10-10-24 (emergency)]

### **340:105-10-96. Title III-B priority supportive services**

(a) **Policy.** The Area Agency on Aging (AAA) ensures that an adequate proportion of its federal allotment for Title III-B services is expended for priority services unless the AAA has been granted a waiver on this rule by the State Agency per OAC 340:105-10-97. The Title III-B priority services include:

- (1) access services:
  - (A) transportation;
  - (B) outreach;
  - (C) information and assistance;
  - (D) assisted transportation;
  - (E) case management; and
  - (F) health services, including mental health services;
- (2) in-home services:
  - (A) homemaker;
  - (B) chore;
  - (C) personal care; and
  - (D) home repair; and
- (3) legal assistance services:
  - (A) legal counseling and representation;
  - (B) community education on legal matters; and
  - (C) information and assistance on legal matters.
- (b) **Authority.** The authority for this Section is Section 306(a)(2) of the Older Americans Act of 1965, as amended.

(c) **Procedures.** The AAA develops its annual budget in consultation with the State Agency and incorporates the allocations listed in (1) - (3) of this subsection into the budget. The AAA:

- (1) expends at least 30 percent of its federal Title III-B funds overall for the three priority service categories, and not less than five percent of these funds for any single priority service;
- (2) expends at least as much federal funds in any given fiscal year for the priority services categories as the AAA expended for the priority services in the previous fiscal year; unless the AAA allocation of these funds is reduced, in which case, the AAA priority services expenditure is reduced proportional to the AAA reduction in Title III-B funds; and
- (3) allocates federal funds to legal assistance services in accordance with minimum funding levels established by the State Agency and issued annually under State memo.

(d) **Cross references.** See OAC 340:105-10-97.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 16 Ok Reg 1983, eff 6-11-99 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 25 Ok Reg 1754, eff 6-1-08 (emergency); Amended at 26 Ok Reg 2221, eff 7-1-09]

### **340:105-10-97. Priority supportive services waiver**

(a) **Policy.** The State Agency grants a waiver of the priority supportive services funding requirement, per OAC 340:105-10-96, for any category of services being furnished sufficiently to meet the need for such services in the planning and service area (PSA), as demonstrated by the Area Agency on Aging (AAA).

(b) **Authority.** The authority for this Section is Section 306(b) of the Older Americans Act of 1965, as amended.

(c) **Procedures.**

- (1) The AAA conducts a public hearing regarding its intent to request a waiver on funding a priority supportive services category. Regarding the public hearing, the AAA:
  - (A) notifies all interested parties in the area of the nature, date, time, and location of the public hearing;
  - (B) furnishes the interested parties an opportunity to testify; and
  - (C) prepares a record of the public hearing, including:
    - (i) names and addresses of persons in attendance;
    - (ii) all testimony;
    - (iii) changes made to the AAA's waiver request secondary to testimony; and
    - (iv) date, time, location, and duration of hearing.
- (2) The AAA submits its written request for a waiver to the State Agency. The waiver request includes the:
  - (A) categories of services for which the waiver is requested;
  - (B) name, address, and telephone number of the agency(ies) or organization(s) currently providing the service in the PSA;

- (C) number of persons currently receiving the service in the PSA;
- (D) units of service currently being provided in the PSA;
- and
- (E) record of the public hearing as outlined in (1) of this subsection.

(3) The State Agency reviews the waiver request. If the State Agency determines that a waiver should be granted, the State Agency:

- (A) publishes the intention to grant such a waiver, together with the justification for the waiver, at least 30 days prior to the effective date of the decision to grant the waiver;
- and
- (B) provides an opportunity for a hearing to any affected person or service provider from the PSA.

(4) The State Agency makes a final determination regarding the waiver request. If the State Agency grants the waiver request, the State Agency provides to the Assistant Secretary for Aging a:

- (A) report regarding such waiver that includes the AAA waiver request document; and
- (B) copy of the record of any hearing conducted by the State Agency at the request of an affected person or service provider.

(d) **Cross reference.** See OAC 340:105-10-96.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 23 Ok Reg 1062, eff 7-15-06]

### **340:105-10-98. Funding local sponsors for the provision of direct Title III Services [REVOKED]**

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Revoked at 19 Ok Reg 1170, eff 5-13-02]

### **340:105-10-99. Direct services waivers [REVOKED]**

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Revoked at 19 Ok Reg 1170, eff 5-13-02]

### **340:105-10-100. Area Agency on Aging funding formula for the allocation of Title III funds**

(a) **Policy.** The Area Agency on Aging (AAA) establishes a funding formula for the allocation of all Title III funds. The formula must be included in the Area Plan and updated in the Area Plan if revised during the Area Plan year. The funding formula has a provision for allocating additional funds and for reprogramming funds awarded, but not utilized. The formula also outlines the process to be followed when there is a reduction in state or federal funding during the Area Plan year. The funding formula must be approved by the AAA Board of Directors. A mathematical formula is not required.

(b) **Authority.** The authority for this Section is Section 306(a) of the Older Americans Act of 1965, as amended and Title 45 of the Code of Federal Regulations, Part 1321.11.

(c) **Procedures.** The AAA implements this Section by:

- (1) drafting a formula which considers the:
  - (A) number of persons age 60 years of age and older;
  - (B) number of older persons in greatest economic need;
  - (C) number of older persons in greatest social need;
  - (D) number of low income minorities;
  - (E) need for and availability of priority services identified in the needs assessment process;
  - (F) availability of local resources, including volunteers;
  - (G) collocation of services and the development of community focal points; and
  - (H) state and federal mandates;
- (2) including in the formula provisions for the:
  - (A) allocation of additional funds received after the initial grant award from the State Agency;
  - (B) reprogramming of funds awarded by the AAA to Title III projects but not utilized; and
  - (C) reductions in state or federal funds during the Area Plan year;
- (3) submitting the draft funding formula to its advisory council for review;
- (4) submitting its draft funding formula to its board of directors for approval; and
- (5) publishing the funding formula in the Area Plan and updating the formula in the Area Plan, as appropriate.

(d) **Cross reference.** See OAC 340:105-10-40.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 19 Ok Reg 1170, eff 5-13-02]

### **340:105-10-101. Request for proposal procedures**

(a) **Policy.** All Older Americans Act pass through funds are awarded in an open, competitive, and fair manner via the request for proposal (RFP) process. Awards are made to applicants whose proposals include all components of the service(s) outlined in the RFP and who best meet RFP specifications.

- (1) The Area Agency on Aging (AAA) board of directors:
  - (A) is directly responsible for reviewing proposals and awarding funds. This responsibility may not be delegated;
  - (B) may not award funds to the AAA or to another subdivision of the sponsoring agency under the auspices of the same board of directors; and
  - (C) may not award funds to board members or agencies or organizations they represent.
- (2) Awarding funds through the RFP process during the plan year is required when:
  - (A) funds are allocated to the AAA at the beginning of the fiscal year;



- (B) there is significant expansion of a service(s) already funded;
- (C) funding a new service(s); or
- (D) funding of an existing service is transferred from a defunct or terminated grantee.

(b) **Authority.** The authority for this Section is Section 1321.11 of Title 45 of the Code of Federal Regulations and Section 212(b)(1) of the Older Americans Act of 1965, as amended.

(c) **Procedures.** The requirements for implementing this Section are outlined in this subsection.

(1) To initiate RFP, the AAA:

- (A) develops specifications for each service to be procured clearly defining the service and how units of service are measured. The specifications include the minimum units of services to be provided, the minimum unduplicated number to be served, if required, and geographic service areas as appropriate;
- (B) develops an RFP guide and grant application package;
- (C) announces funding availability and documents the announcement in newspapers or approved electronic formats in the planning and service area (PSA), and concurrently sends a news release to the editor of at least three newspapers and to existing and potential service providers known to the AAA in the PSA.

(i) The announcement runs at least two times in daily papers or two weeks in weekly papers prior to closing the application period and in a sufficient number of papers to ensure complete coverage within the PSA.

(ii) The announcement begins at least 21-calendar days prior to closing the application period and is repeated at least once no less than five-calendar days prior to the date of the proposers' conference.

(iii) All announcements include:

- (I) a listing of services funding is available for and the geographic areas that are covered for each service;
- (II) the address where service specifications and the proposal guide may be obtained;
- (III) the closing date and time for application submittal;
- (IV) the name and phone number of a person to contact for additional information; and
- (V) the date, time, and location of the proposers' conference, and notification that attendance at the conference is required to be considered for funding; and

(D) mails copies of the RFP guide upon request;

(E) conducts a conference for proposers prior to the deadline for submitting applications and requires

applicants to attend the conference to be considered for funding. At minimum, the information discussed during the conference includes:

- (i) the RFP guide and all requirements pertaining to submitting an application; and
- (ii) all responsibilities associated with accepting Title III funds, including applicable federal and state statute, policy, certifications, and assurances;

(F) provides other reasonable technical assistance to applicants who request assistance, in writing, no later than seven-calendar days prior to the application period closing;

(G) informs Oklahoma Human Services Aging Services (OKDHS) Community Living, Aging and Protective Services (CAP) following the proposers' conference closing when there are no applicants for a service; and

(H) at the close of the application period, evaluates and rates all proposals according to standard criteria based on requirements of the RFP guide. The AAA disqualifies incomplete proposals from evaluation and funding.

(2) The AAA advisory council reviews the proposals and makes recommendations on funding to the AAA board of directors. All decisions related to funding recommendations are conducted in accordance with applicable state and federal conflict of interest laws. The advisory council review is conducted during a scheduled meeting with a quorum present.

(3) The AAA board of directors:

(A) or a subcommittee of the board, reviews all proposals and the recommendations of the AAA staff and advisory council;

(B) approves funding of proposals that best meet or exceed the service specifications and the requirements of the RFP guide. All decisions related to granting awards are made in accordance with applicable state and federal conflict of interest laws, and documented through signed resolutions and meeting minutes. All decisions are acted on as a board with at least a quorum present at a meeting. The AAA board of directors may not delegate its responsibilities related to granting awards;

(C) issues notification of grant awards (NGAs) to applicants who are approved for funding; and

(D) provides an opportunity for applicants to appeal denied proposals for funding, per Oklahoma Administrative Code (OAC) 340:105-10-102.

(4) When no complete proposals are submitted for a service(s) or when the AAA board of directors determines that no proposals for a service(s) meet the specifications of the RFP, the AAA, with OKDHS CAP approval, has the option of:

(A) reprogramming the funds and issuing a new RFP for a different service(s); or

- (B) requesting authority to provide a direct service as provided in OAC 340:105-10-41; or
- (C) revising the initial specifications for the same service(s) and reissuing a new RFP; and
- (D) initiating community development activities to create a potential service provider as specified in the RFP and, in the interim, requesting approval from OKDHS CAP to temporarily provide the service as a direct service.

(5) When an Older Americans Act Title III funded project elects to voluntarily terminate the contract before the end of a grant year, procedures are followed as outlined on the Voluntary Withdrawal of Title III Project. The Voluntary Withdrawal of Title III Project is acknowledged, signed, and included as part of the original grant application.

(d) **Cross references.** See OAC 340:105-10-40, 340:105-10-102, and 340:105-10-104(c)(7).

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 15 Ok Reg 249, eff 10-9-97 (emergency); Amended at 15 Ok Reg 1692, eff 5-11-98 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 21 Ok Reg 898, eff 4-26-04 ; Amended at 22 Ok Reg 20, eff 8-15-04 (emergency); Amended at 22 Ok Reg 915, eff 5-12-05 ; Amended at 23 Ok Reg 1062, eff 7-15-06 ; Amended at 24 Ok Reg 1325, eff 6-1-07 ; Amended at 25 Ok Reg 1754, eff 6-1-08 (emergency); Amended at 26 Ok Reg 2221, eff 7-1-09 ; Amended at 39 Ok Reg 1824, eff 9-15-22]

### **340:105-10-102. Appeal procedures for Title III service providers**

(a) **Policy.** The Area Agency on Aging (AAA) grants an appeal opportunity to existing or potential grantee or contractor when an application for Older Americans Act funds is denied or when a grant or contract is suspended or terminated prior to the approved budget year-end.

(b) **Authority.** The authority for this Section is Part 1321.11 of the Code of Federal Regulations.

(c) **Procedures.** The requirements for implementing this Section are outlined in this subsection.

(1) Within 30 days of the complainant's receipt of notice of the adverse action, the complainant submits a written request for hearing to the AAA board of directors. The written request includes a detailed explanation of the complainant's grievance.

(2) The AAA:

- (A) schedules a hearing within 20 days of the AAA receipt of the request for the hearing and notifies the complainant of the date, time, and location of the hearing; and
- (B) prepares written testimony for the hearing outlining the appealed action and the data on which it is based. Eight calendar days prior to the hearing a copy of this written testimony is provided to the complainant and submitted during the hearing as evidence.

(3) board of directors, or a committee appointed by the board of directors, conducts the hearing within 30 days of the AAA receipt of the complainant's request. The hearing includes:

- (A) an opportunity for the complainant to:
  - (i) review all pertinent evidence relating to the appealed action;

- (ii) present written and verbal testimony;
    - (iii) be represented by counsel;
    - (iv) present witnesses and documentary evidence;
    - and
    - (v) cross-examine witnesses;
  - (B) a presiding officer appointed by the board of directors who conducts the hearing and has had no part in the appealed action; and
  - (C) a record of the hearing proceedings, taken by the presiding officer appointed by the board of directors, and maintained on file for public viewing.
- (4) Within 60 days of the completion of the hearing the AAA board of directors issues a written hearing decision to the complainant.
- (A) The decision letter includes:
    - (i) a notice of the complainant's right to appeal the decision to the Aging Services Division (ASD); and
    - (ii) instructions on how to initiate the appeal.
  - (B) Within 30 days after the complainant receives notice of an adverse AAA decision the complainant submits a written request for a hearing to ASD.
- (5) When the appeal process is not resolved prior to the start of the new project year, the AAA, through its board of directors, may enter into a temporary grant with a service provider to avoid cessation of those services affected by the appeal.
- (d) **Cross references.** Refer to OAC 340:105-10-101(c)(3)(D) and OAC 340:2-5-44.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 21 Ok Reg 898, eff 4-26-04 ; Amended at 28 Ok Reg 898, eff 6-1-11]

### **340:105-10-103. Budget revisions for Area Agencies and Title III Projects**

- (a) **Policy.** The following types of budget revisions will require the approval of the grantor agency by a revised notification of grant award (NGA), and a revised Title III Project or Area Agency budget:
- (1) A budget increase of more than ten percent in any single line approved line item;
  - (2) A change in the cost sharing ratio;
  - (3) A change in the project period and budget year dates;
  - (4) A change in the recipient of award; and
  - (5) Any change in the Personnel or Equipment line items.
- (b) **Authority.** The authority for OAC 340:105-10-103 is 45 CFR Part 1321.11.
- (c) **Procedures.** The procedures for implementing this Section are as follows:
- (1) The grantee agency (the Title III Project or the Area Agency) submits a proposed budget (with any of the outlined revisions listed in (a) of this Section) to the grantor agency (the Area Agency or the State Agency) for approval;
  - (2) If the revision(s) is approved, the grantor agency issues a revised NGA; and

- (3) The grantee agency revises the budget as approved.
- (d) **Cross References.** There are no cross references for budget revisions for Area Agencies and Title III Projects.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94]

**340:105-10-104. Unexpended grant funds and carry-over policy**

(a) **Policy.** Area Agencies on Aging (AAAs) and their grantees are allowed to carry-over unexpended grant funds from the most recently completed budget year into the current program budget under prescribed circumstances. Unexpended funds are funds that are obligated and encumbered but not yet disbursed by the AAAs or their grantees at the end of the budget year, and remain unliquidated for more than 30 days after the end of the period for which they were granted.

(b) **Authority.** The authority for this Section is Part 1321.11 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** The requirements for implementing this Section are outlined in this subsection.

(1) The grantee agency, the Title III project or the AAA, submits for approval to the grantor agency, the AAA or the State Agency, a final financial report for the most recently completed program or Area Plan year, which includes documentation of unexpended funds.

(2) The grantee agency submits to the grantor agency, for approval, a budget amendment outlining the proposed disposition of the unexpended funds.

(3) The grantor agency issues a notification of grant award (NGA) to the grantee agency authorizing the obligation, or carry-over, of the unexpended funds into the current program or Area Plan year.

(4) Only Title III Older Americans Act (OAA) federal funds are eligible for carry-over.

(5) Grantees may not carry-over Nutrition Services Incentive Program (NSIP) cash in lieu of commodities funds. Unexpended NSIP funds revert to the NSIP.

(6) Grantees may not carry-over state funds. Unexpended state funds revert to the State of Oklahoma.

(7) Unexpended AAA Title III-B administrative and direct service funds may not be carried over as direct service funds. Such funds may be reverted to Title III-B service funds, or passed through, which may be sub-granted by the AAA via the request for proposals process, per OAC 340:105-10-101.

(8) The AAA may request a carry-over of no more than two percent of the AAA federal OAA allotments. Unexpended funds in excess of this amount result in a reduction of the current Area Plan state funds on a one dollar for one dollar ratio. This reduction in state funds may be waived if, in the judgment of the State Agency, the excessive unexpended funds are:

- (A) directly attributable to greatly increased and unforeseen project income;

- (B) directly attributable to factors beyond the reasonable control of the AAA or the Title III project; or
- (C) otherwise explained to the satisfaction of the State Agency in a narrative justification.

(9) In cases of repeated and unjustified unexpended Area Plan funds, the State Agency may elect to reduce the percentage of total state Title III-B funds available for use in the AAA's administration and direct service budgets.

(d) **Cross reference.** See OAC 340:105-10-101.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 21 Ok Reg 898, eff 4-26-04]

### **340:105-10-105. Entrepreneurial activities of Area Agencies on Aging and Title III Projects [REVOKED]**

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Revoked at 17 Ok Reg 2465, eff 6-26-00]

#### **340:105-10-105.1. Commercial and contractual activities of Area Agencies on Aging and Title III projects**

(a) **Policy.** Area Agencies on Aging (AAAs) and Title III projects may engage in commercial and contractual activities compatible with the development or enhancement of comprehensive and coordinated service delivery systems for older persons. Commercial and contractual activities do not include activities the AAA or Title III project performs pursuant to the Older Americans Act (OAA) program. This Section applies to Title III projects only when Title III facilities and staff are utilized in the performance of commercial and contractual activities. The AAA or Title III project performing commercial or contractual activities provides assurances to:

(1) demonstrate:

- (A) a loss or diminution in the quantity or quality of OAA services provided, or to be provided, by the agency has not resulted and will not result from such contract or relationship; and
- (B) the quantity or quality of OAA services to be provided will be enhanced as a result of such contract relationship;

(2) disclose:

- (A) the identity of each nongovernmental entity with which the agency has a contract or commercial relationship relating to providing services to older persons;
- (B) the nature of such contract or relationship; and
- (C) all sources and expenditures of funds the agency receives or expends to provide services to older persons for the purpose of monitoring compliance with the OAA, including conducting an audit;

(3) maintain the integrity and public purpose of OAA services provided;

(4) not use OAA funds received to pay any part of a cost, including an administrative cost, incurred to carry out a contract or

commercial relationship.

(A) Final payment for non-OAA services may not be from OAA funds. Contract income above the computed cost, including the allocated administrative cost, of the non-OAA service does not fall under the provision of Section 315 of the OAA.

(B) AAAs require OAA service providers to submit annual verification of the OAA and the non-OAA service cost computed in accordance with General Accepted Accounting Principles by a non-biased, qualified person, such as a certified public accountant (CPA).

(C) AAAs review the OAA and the non-OAA service cost methodology annually in accordance with General Accepted Accounting Principles using a qualified person, such as a CPA, to either approve it or disapprove it and work with the service provider to obtain suitable information. The final computation of the OAA and non-OAA service cost methodology, once approved by the AAA, is submitted to Aging Services Division annually in the AAA approved grants; and

(5) not give preference in receiving OAA services to particular older persons as a result of a contract or commercial relationship.

(b) **Authority.** The authority for this Section is Sections 306(a)(13) through (16) of the Older Americans Act, as amended.

(c) **Cross references.** There are no cross references for commercial and contractual activities.

[Source: Added at 17 Ok Reg 2465, eff 6-26-00 ; Amended at 22 Ok Reg 897, eff 5-12-05 ; Amended at 23 Ok Reg 2668, eff 7-15-06]

### **340:105-10-106. Audits for Title III projects and Area Agencies on Aging**

(a) **Policy.** The Assistant Secretary for Aging and the Comptroller General of the United States (U.S.), authorized personnel of the U.S. Department of Health and Human Services; State Auditor and Inspector; and other appropriate state entities or any of their duly authorized representatives have open and complete access to any books, documents, papers, records, and any other items of the Older Americans Act grantee pertinent to the performance or payments of grants or contracts received through the State Agency or the Area Agency on Aging. Grantees arrange for independent audits or fiscal reviews of Older Americans Act and state funds as required by federal and state law and State Agency rules.

(b) **Authority.** The authority for this Section is the Single Audit Act Amendments of 1996, Public Law 104-156; Office of Management and Budget Circular A-133; and Part 1321.11 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** The procedures for implementing this Section are outlined in OAC 340:105-10-107 through 340:105-10-113.

(d) **Cross references.** See OAC 340:105-10-107 through 340:105-10-113.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 22 Ok Reg 897, eff 5-12-05]

### **340:105-10-107. Audits of grantees receiving state funds only**

(a) **Policy.** Audit and fiscal review policy for grantees receiving state funds only are the same as for grantees receiving federal funds except the State Agency reserves the right to modify such policy as appropriate. Factors considered in the modification of audit and fiscal review policies are:

- (1) source of state funding;
- (2) amount of funding award;
- (3) availability of other grantee audits of award funds;
- (4) purpose, scope, and duration of the Title III project or Area Agency on Aging (AAA) service;
- (5) number and nature of transactions involved in the Title III project or AAA service; and
- (6) availability of audit funds.

(b) **Authority.** The authority for this Section is Part 1321.11 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** Procedures for implementing this Section are described in this subsection. The grantor:

- (1) considers the factors outlined in (a) of this Section; and
- (2) outlines audit policy for state funds in the grant or contract agreement.

(d) **Cross references.** See OAC 340:105-10-106 and 340:105-10-108 through 340:105-10-113.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 22 Ok Reg 897, eff 5-12-05]



**340:105-10-108. Audits of government entities and nonprofits receiving less than \$50,000 in federal and state funds from all sources**

- (a) **Policy.** Government entities and other nonprofits receiving less than \$50,000 in federal and state funds from all sources are monitored by the Area Agency on Aging (AAA) or pass through agency.
- (b) **Authority.** The authority for this Section is the Office of Management and Budget Circular A-133.
- (c) **Procedures.** Procedures to implement this Section are described in this subsection.

- (1) Agencies subject to this Part receive a monitoring visit from the AAA or pass through agency to include, at a minimum:
- (A) testing of a minimum of ten percent of all project expenditures for the period under review;
  - (B) testing of items listed in the current fiscal assessment tool;
  - (C) preparation of a report to include a narrative description of project operations;
  - (D) verification of the scope and review period;
  - (E) a description of the findings regarding internal controls, accounting methods, and procedures;
  - (F) schedules of:
    - (i) balance sheet;
    - (ii) budget compared to actual revenue and costs; and
    - (iii) findings, questioned costs, and recommendations; and
  - (G) an account of the grantee's response to findings, questioned costs, and recommendations.
- (2) Monitoring visits are conducted within 30 days after each project year.

- (d) **Cross references.** Refer to OAC 340:105-10-106 through 340:105-10-107, and 340:105-10-109 through 340:105-10-113.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 22 Ok Reg 897, eff 5-12-05 ; Amended at 28 Ok Reg 898, eff 6-1-11]

**340:105-10-109. Audits of profit-making grantees**

- (a) **Policy.** Each profit-making grantee of Older Americans Act (OAA) funds obtains an annual audit of OAA funds to meet the Office of Management and Budget (OMB) Circular A-133 standards for a program audit or limited scope audit.
- (b) **Authority.** The authority for this Section is OMB Circular A-133 and the contract between the pass through agency and the for-profit grantees.
- (c) **Procedures.** Procedures for implementing this Section are described in this subsection. The audit:
- (1) period is the same as the project's fiscal year;
  - (2) report is specific to the grant-funded project, and is not a single audit of the entire grantee agency;

- (3) is conducted by a Certified Public Accountant according to generally accepted government auditing standards; and
- (4) cost is not charged to federal funds and is not used to meet match requirements.

(d) **Cross references.** See OAC 340:105-10-106 through 340:105-10-108 and 340:105-10-110 through 340:105-10-113.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 22 Ok Reg 897, eff 5-12-05]

**340:105-10-110. Audits of local governments and nonprofit organizations expending \$500,000 or more in federal funds from all sources**

(a) **Policy.** Local governments and nonprofit organizations expending \$500,000 or more in federal funds from all sources in a year are required to obtain annual audits on such funds unless the grantee has a constitutional or statutory requirement for less frequent audits. All audits and accompanying reports must comply with the appropriate Federal Register Office of Management and Budget (OMB) Circular, as described in (c) of this Section.

(b) **Authority.** The authority for this Section is OMB Circular A-133; the Single Audit Act Amendments of 1996, Public Law 104-156; and Section 212A of Title 74 of the Oklahoma Statutes.

(c) **Procedures.** Audits:

- (1) are subject to the provisions of OMB Circular A-133 and the Single Audit Act Amendments of 1996. Each audit states it is made in accordance with the provisions of OMB Circular A-133;
- (2) meet the content and format requirements of Circular A-133;
- (3) are arranged by following the procurement standards of OMB Circular A-102, Grants and Cooperative Agreements with State and Local Governments or Circular A-110, Uniform Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations;
- (4) are made by a certified public accountant (CPA) who meets the independence standards specified in government auditing standards. Selected auditors are registered with the office of the Oklahoma Accountancy Board and have a current permit to practice;
- (5) are made in accordance with generally accepted government auditing standards covering financial and compliance audits;
- (6) encompass the grantee's fiscal year; and
- (7) are supported by working papers available for review by the Oklahoma Department of Human Services.

(d) **Cross references.** See OAC 340:105-10-106 through 340:105-10-109 and 340:105-10-110.1 through 340:105-10-113.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 15 Ok Reg 249, eff 10-9-97 (emergency); Amended at 15 Ok Reg 1692, eff 5-11-98 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 22 Ok Reg 897, eff 5-12-05]

**340:105-10-110.1. Audits of government entities and nonprofit agencies receiving between \$50,000 and \$500,000 in federal and state funds from all sources**

(a) **Policy.** Government entities and nonprofit agencies receiving more than \$50,000 in federal and state funds and less than \$500,000 in federal funds from all sources are required to obtain annual audits on such funds unless the grantee has a constitutional or statutory requirement for less frequent audits.

(b) **Authority.** The authority for this Section is Section 212A of Title 74 of the Oklahoma Statutes and the contract between the Area Agency on Aging and the subgrantee.

(c) **Procedures.**

(1) The audit:

(A) is a certified independent audit of the grantee's entire operations conducted in accordance with generally accepted government auditing standards;

(B) includes financial statements prepared in accordance with generally accepted accounting principles;

(C) includes a Supplementary Schedule of State and Federal Awards listing all state and federal revenues and expenditures by contract;

(D) covers the period the contract was in effect;

(E) is performed by a certified public accountant or public accountant with a valid and current permit to practice accountancy in Oklahoma; and

(F) is not charged to federal funds or to meet match requirements.

(2) The Oklahoma Department of Human Services retains the right to examine and audit paperwork.

(d) **Cross references.** Refer to OAC 340:105-10-106 through 340:105-10-113.

[Source: Amended at 15 Ok Reg 249, eff 10-9-97 (emergency); Amended at 15 Ok Reg 1692, eff 5-11-98 ; Amended at 22 Ok Reg 897, eff 5-12-05 ; Amended at 28 Ok Reg 898, eff 6-1-11]

**340:105-10-111. Fraud, abuse, or illegal acts**

(a) **Policy.** All fraud, abuse or illegal acts, including all questioned costs found as the result of these acts, shall be immediately reported to the appropriate officials.

(b) **Authority.** The authority for OAC 340:105-10-111 is 45 CFR Part 1321.11.

(c) **Procedures.** The procedures for implementing this Section are:

(1) All fraud, abuse or illegal acts shall be documented in a written report separate from the audit report;

(2) The report shall be submitted with the audit report according to the timetable described in OAC 340:105-10-112;

(3) Prompt notice of illegal acts or other irregularities shall be given by the auditor to grantee management officials above the level of the involvement;

- (4) The grantee, in turn, shall promptly notify the cognizant agency;
  - (5) Any illegal acts or irregularities involving grant programs either at the AAA or Title III Project level are to be reported in writing to the State Agency within ten days of the date on which the recipient becomes aware of such illegal acts or irregularities.
- (d) **Cross references.** See OAC 340:105-10-106 through 340: 105-10-110, 340: 105-10-112 and 340: 105-10-113.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94]

#### **340:105-10-112. Audit report and fiscal review report distribution**

- (a) **Policy.** Audit reports of Area Agencies on Aging (AAAs) and audit and fiscal review reports of Title III projects are transmitted to the State Agency within 150 days after the end of the fiscal year being audited or within 30 days after the completion of the audit or fiscal review report, whichever comes first.
- (b) **Authority.** The authority for this Section is Section 1321.11 of Title 45 of the Code of Federal Regulations.
- (c) **Procedures.** The procedures for implementing this Section are described in this subsection.
- (1) Each audit or fiscal review report submitted to the State Agency is accompanied by completed Form 02AG026E, Audit Report Transmittal. This form is completed in a format prescribed by the State Agency.
  - (2) Each audit report is accompanied by properly executed copies of equipment, food, and food supplies inventories, as appropriate.
  - (3) Multiple copies of AAA and Title III project audit and fiscal review reports are submitted to the State Agency in quantities prescribed.
  - (4) Audit and fiscal review reports are submitted by the auditor to the organization audited, and to those requiring or arranging for the audit or fiscal review.
  - (5) Grantees submit copies of audit or fiscal review reports to their grantor agency.
  - (6) Audit and fiscal review reports are made available for public inspection within 30 days after completion of the report.
  - (7) A request for time extension is submitted to the State Agency when the audit report or fiscal review report cannot be submitted within 150 days after the fiscal year end.
- (d) **Cross references.** See OAC 340:105-10-106 through 340:105-10-111 and 340:105-10-113.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 22 Ok Reg 897, eff 5-12-05 ; Amended at 24 Ok Reg 1325, eff 6-1-07]

#### **340:105-10-113. Resolution of findings**

- (a) **Policy.** Clearance of audit reports and resolution of audit findings on Area Agencies on Aging (AAAs) and Title III projects is the responsibility of the grantor agency.

(b) **Authority.** The authority for this Section is Part 1321.11 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** The procedures for implementing this Section are described in this subsection.

(1) The AAA or Title III project submits audit and fiscal review reports as outlined in OAC 340:105-10-112.

(2) The grantor agency provides written acknowledgement to the AAA or Title III project of the receipt of audit and fiscal review reports.

(3) The grantor agency monitors the compliance of the grantee agency with audit and fiscal review findings or recommendations within six months of the completion of the audit or fiscal review.

(4) The grantor agency monitors the compliance of the grantee with Office of Management and Budget Circular A-133.

(5) The State Agency regularly reviews the audit clearance activities of each AAA.

(6) The State Agency reserves the right to suspend funds or to effect de-designation of any AAA demonstrating unwillingness or inability to resolve reasonable audit or fiscal review recommendations concerning Title III projects within a six month period after the completion of the audit or fiscal review.

(d) **Cross references.** See OAC 340:105-10-106 through 340:105-10-112.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 22 Ok Reg 897, eff 5-12-05]

#### **340:105-10-114. Financial management standards for area agencies on aging and Title III projects**

(a) **Policy.** Each area agency on aging (AAA) and Title III project maintains an accounting system that is in compliance with generally accepted accounting principles. All Title III funds and state and local funds expended to earn or match such funds must be accounted for in accordance with the federal standards outlined in the authorities listed in (b) of this Section.

(b) **Authority.** The authority for this Section is Part 74 of Title 45 of the Code of Federal Regulations and Federal Register Office of Management and Budget (OMB) Circulars A-87 and A-122.

(c) **Procedures.** AAAs and Title III projects implement financial management standards in accordance with the federal standards outlined in the authorities in (b) of this Section.

(1) The Oklahoma Department of Human Services (OKDHS) Aging Services Division monthly reviews and reconciles AAA actual monthly expenditure reports for the prior month and adjusts for discrepancies in the following month's payments.

(2) The grantee agency may use OKDHS forms or computer-generated versions. Any computer-generated form must:

(A) include all of the information on the OKDHS forms that is pertinent to the grantee agency's reporting requirements; and

(B) be submitted to the grantor agency for approval prior to use.

(d) **Cross references.** See OAC 340:105-10-115 and 340:105-10-116.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 23 Ok Reg 393, eff 11-8-05 (emergency); Amended at 23 Ok Reg 1062, eff 7-15-06 ; Amended at 24 Ok Reg 1325, eff 6-1-07]

#### **340:105-10-115. Procurement standards for Area Agencies on Aging and Title III Projects**

(a) **Policy.** Area Agencies and Title III Projects shall follow applicable federal policy governing the procurement of supplies, equipment, construction, and other services whose cost is borne in whole or in part by Title III funds.

(b) **Authority.** The authority for OAC 340:105-10-115 is 45 CFR Part 1321.11, Title 45 Part 74, and OMB Circular A-110.

(c) **Procedures.** Area Agencies and Title III Projects shall implement procurement standards as outlined in Title 45 Part 74 and OMB Circular A-110. In addition:

(1) Area Agencies on Aging shall ensure free and open competition for all service providers via the Area Agency's standard Request for Proposals process (see OAC 340:105-10-101); and

(2) Area Agencies on Aging and Title III Projects shall make positive effort to utilize small business, women, and minority-owned businesses as sources of supplies and services.

(d) **Cross references.** See OAC 340:105-10-114 and 340:105-10-116.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94]

#### **340:105-10-116. Property management standards for area agencies on aging and Title III projects**

(a) **Policy.** Area agencies on aging (AAAs) and Title III projects follow federal policy governing title, use, and disposition for real and tangible personal property whose acquisition cost was borne in whole or in part as a direct charge to Title III funds.

(b) **Authority.** The authority for this Section is Subpart D of Part 75 of Title 45 of the Code of Federal Regulations (C.F.R.) § 320 and Federal Register Office of Management and Budget (OMB) Circular A-110.

(c) **Procedures.** AAAs and Title III projects:

(1) follow all rules outlined in 45 C.F.R. 75, Subpart D;

(2) follow all rules outlined in OMB Circular A-110; and

(3) use Form 02AG013E, Equipment Inventory, to maintain a physical inventory of equipment purchased with Title III funds at a minimum cost of \$1,000.

(A) The AAA may use Form 02AG013E or a computer-generated version. The computer-generated form includes all information on Form 02AG013E that is pertinent to the AAA's reporting requirements.

(B) All computer-generated forms are submitted to the State Agency for approval prior to use.

(d) **Cross references.** See Oklahoma Administrative Code 340:105-10-114 and 340:105-10-115.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 24 Ok Reg 1325, eff 6-1-07 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

**340:105-10-117. Employment policies and procedures**

(a) **Policy.** Each Area Agency on Aging (AAA) and Title III project, or grantee, maintains a system of personnel administration approved by the grantor agency, and complies with all state and federal statutes.

(b) **Authority.** The authority for this Section is Sections 2 and 208 of the Inter-governmental Personnel Act of 1970 and Part 1321.11 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** The procedures for implementing this Section require the grantee agency to:

(1) recruit, select, and advance employees on their relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment.

(A) The grantee agency promptly notifies the grantor agency of an AAA director or project director vacancy.

(B) The grantor agency monitors the grantee's ability to sustain the continuity of operation during any transition and ensures the vacancy is filled in a fair and equitable manner.

(C) The grantor agency may participate in the interview process for the AAA director or project director vacancy;

(2) provide equitable and adequate compensation to all employees;

(3) provide training to employees, as needed, to ensure quality performance;

(4) retain employees on the basis of the adequacy of their performance, separating from employment employees whose inadequate performance cannot be corrected;

(5) ensure fair treatment of applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, national origin, sex, religion, age, or disability and with proper regard for their privacy and constitutional rights as citizens. This fair treatment principle includes compliance with all federal equal employment opportunity and non-discrimination laws, such as Civil Rights Act and Americans with Disabilities Act;

(6) protect employees from coercion for partisan political purposes and prohibit employees from using their official authority for the purpose of interfering with or affecting the result of an election or a nomination for office;

(7) provide reasonable grievance procedures to applicants and employees and post the procedures in a public place; and

(8) develop personnel policies that include:

(A) work schedules;

(B) leave;

(C) compensation for overtime;

- (D) employee code of conduct;
- (E) disciplinary procedures;
- (F) travel and reimbursement;
- (G) benefits, such as insurance and retirement;
- (H) training;
- (I) political activity;
- (J) recruitment, appointment, and advancement;
- (K) appeal procedures;
- (L) lobbying prohibition;
- (M) Civil Rights Act requirements;
- (N) Rehabilitation Act and Americans with Disabilities Act requirements;
- (O) nepotism regarding related employees and grantor or contractor prohibitions; and
- (P) Family and Medical Leave Act of 1993.

(d) **Cross references.** See OAC 340:105-10- 120 through 340:105-10-122.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 21 Ok Reg 898, eff 4-26-04 ; Amended at 22 Ok Reg 20, eff 8-15-04 (emergency); Amended at 22 Ok Reg 915, eff 5-12-05]

### **340:105-10-118. Recruitment of Area Agency on Aging or Title III project personnel [REVOKED]**

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 21 Ok Reg 898, eff 4-26-04 ; Revoked at 22 Ok Reg 20, eff 8-15-04 (emergency); Revoked at 22 Ok Reg 915, eff 5-12-05]

### **340:105-10-119. Selection of Area Agency on Aging and Title III project staff [REVOKED]**

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 21 Ok Reg 898, eff 4-26-04 ; Revoked at 22 Ok Reg 20, eff 8-15-04 (emergency); Revoked at 22 Ok Reg 915, eff 5-12-05]

### **340:105-10-120. Area Agency on Aging and Title III project job descriptions**

(a) **Policy.** Area Agencies on Aging (AAAs) and Title III projects utilize job descriptions approved by the grantor agency.

(b) **Authority.** The authority for OAC 340:105-10-120 is Part 1321.11 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** The procedures for implementing this Section are outlined in this subsection.

(1) AAAs and Title III projects develop job descriptions relevant to their local needs. Job descriptions meet minimum qualifications set by the State Agency, found in Appendix M-14, Job Descriptions for Older Americans Act Network Employees. Duties may be combined between job descriptions to meet local needs.

(2) Except as otherwise specifically stated elsewhere for full-time AAA director, full-time Title III project director, and 40 hours per week information and assistance specialist, AAAs and Title III



projects determine the number of positions and types of positions based on local need. Each AAA and Title III project maintains sufficient staff to carry out the required service activities.

(d) **Cross references.** See OAC 340:105-10-117, 340:105-10-121, and 340:105-10-122.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 22 Ok Reg 20, eff 8-15-04 (emergency); Amended at 22 Ok Reg 915, eff 5-12-05 ; Amended at 23 Ok Reg 1062, eff 7-15-06]

### **340:105-10-121. Area Agency on Aging and Title III project salaries**

(a) **Policy.** Area Agencies on Aging (AAA) and Title III projects develop staff to competently perform programmatic and financial duties based on local needs, available funding, and market value. Persons with comparable job family descriptors (JFD) are not paid more than the midpoint of the salary range of a JFD paid within the Oklahoma Department of Human Services (OKDHS) salary cap. The total administration costs charged to the Title III grant may not exceed the maximum provided in federal law.

(b) **Authority.** The authority for this Section is Part 1321.11 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** The requirements for implementing this Section are outlined in this subsection.

(1) AAAs and Title III projects determine starting salaries for positions based on local needs, available funding, and market value, provided persons with comparable JFDs may not be paid more than the midpoint of the salary range paid by the OKDHS for the JFD most like the job in question.

(2) Salary increases are based on acceptable work performance. The AAA may disapprove salary increases due to uncertain funding allocations and levels. The Aging Services Division may disapprove salary advances of AAAs if it causes the AAA to exceed the federal maximum administrative cost allowed.

(3) Longevity payments may be made to all AAA and Title III employees using a longevity schedule that is:

- (A) fair and equitable to all employees;
- (B) consistently applied to both federal and non-federal activities;
- (C) based on available funding;
- (D) included in AAA and Title III budgets; and
- (E) provided for in the AAA policies and procedures manual.

(d) **Cross references.** Refer to OAC 340:105-10-117, 340:105-10-120, and 340:105-10-122.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 21 Ok Reg 898, eff 4-26-04 ; Amended at 22 Ok Reg 20, eff 8-15-04 (emergency); Amended at 22 Ok Reg 915, eff 5-12-05 ; Amended at 23 Ok Reg 1062, eff 7-15-06 ; Amended at 28 Ok Reg 898, eff 6-1-11]

**340:105-10-122. Fair labor practices for Area Agencies on Aging and Title III projects**

(a) **Policy.** Area Agencies on Aging and Title III projects comply with fair labor practices as outlined in applicable state and federal statutes.

(b) **Authority.** The authority for this Section is Part 1321.11 of Title 45 and Part 553.20 of Title 29 of the Code of Federal Regulations.

(c) **Procedures.** The requirements for implementing this Section are outlined in (1) through (10) of this subsection.

(1) An employee is compensated for hours worked at the appropriate wage unless the position is an exempt executive, administrative, or professional position.

(2) An employee may not perform volunteer activities for an employer that are the same or similar to the employee's job duties. Such activities are compensated as hours worked.

(3) The employer is responsible for:

(A) assigning employee work hours and supervising employee start and end times; and

(B) compensating the employee for all hours the supervisor assigns to the employee and has reasonable knowledge that the employee works.

(4) A non-exempt employee who is full-time is given at least a 30 minute uninterrupted break from compensated work time for a meal. An employee is offered a 15 minute break during compensated work time for every four hour period worked. Break time is considered compensated work time and may not be used for arriving late, leaving early, or extending the lunch period.

(5) A non-exempt employee of a public agency who works in excess of 40 hours within a seven day work period is compensated with one and one-half hours of compensatory time per hour of overtime or paid at a rate of one and one-half times the hourly wage for each hour of overtime. A public agency is a state, political subdivision of a state, or interstate governmental agency.

(6) A non-exempt employee of a private agency who works in excess of 40 hours within a seven day work period is compensated with one and one-half hours of pay at a rate of one and one-half times the hourly wage for each hour of overtime. A private agency may not replace overtime in one work week with compensatory time in another week.

(7) All overtime is approved in advance by the employee's supervisor. The supervisor may adjust the employee's regular work schedule to avoid having the employee work in excess of 40 hours in a seven day work period. Employee work shifts may exceed eight hours per day.

(8) Employers of public agencies require the employee to use compensatory time within 180 days, or pay the employee at the appropriate overtime rate.

(9) An employee who fails to adhere to assigned working hours, does not keep accurate time sheets, or claims unauthorized overtime is subject to disciplinary action by the employer, which could result in termination of employment.

(10) Employers who base employees out of their own homes do not give out the employee's home telephone number to the general public. Arrangements are made to have a telephone number at a convenient location for the employee to take calls. An emergency response telephone number and procedure are established to avoid having persons contacting employees during non-working hours. The employee reports to the employer all contacts during non-working hours that are business related.

(d) **Cross references.** See OAC 340:105-10-117, 340:105-10-120, and 340:105-10-121.

[Source: Added at 11 Ok Reg 673, eff 11-29-93 (emergency); Added at 11 Ok Reg 2771, eff 6-13-94 ; Amended at 21 Ok Reg 898, eff 4-26-04 ; Amended at 22 Ok Reg 20, eff 8-15-04 (emergency); Amended at 22 Ok Reg 915, eff 5-12-05]

## **SUBCHAPTER 11. STATE LONG-TERM CARE OMBUDSMAN PROGRAM**

### **PART 1. INTRODUCTION AND OVERVIEW [REVOKED]**

#### **340:105-11-1. Purpose [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

#### **340:105-11-2. Definitions [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

#### **340:105-11-3. Older Americans Act-Summary of Titles [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **PART 3. STATE AGENCY [REVOKED]**

#### **340:105-11-10. Designation and function of State Agency [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

#### **340:105-11-11. State plan [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-12. Title III Compliance-monitoring and assessment of Area Agencies [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-13. Financial and resource development [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

## **PART 5. MISSION OF AAA [REVOKED]**

### **340:105-11-20. Area Agency designation [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-21. Organization of the Area Agency [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-22. State Agency criteria for waiver [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2421, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-23. Area plans [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-24. Management plans [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-25. Area plan development [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-26. Amendments to the area plan [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-27. Disapproval of area plan and plan amendments [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-28. Scope of evaluations [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-29. Area Agency goals of the advocacy efforts [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-30. Priority setting [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-31. Abuse, neglect and exploitation [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-32. Designation of community focal points [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-33. Financial resource development [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-34. Monitoring and assessment of service providers [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-35. Development of social and nutrition service requirements [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-36. Policies and procedures manual [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-37. Needs assessment [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-38. Disaster response plan [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-39. Area Agency Advisory Councils [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

## **PART 7. GENERAL GRANT AWARD PROVISION [REVOKED]**

### **340:105-11-45. Basic provisions [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-46. Criteria for recipients of awards [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-47. Eligibility requirements [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-48. Residency prohibition [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-49. Definition of greatest social need [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-50. Definition of greatest economic need [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-51. Privacy of donation [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-52. Promotion of contributions [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-53. Coordination with community service providers [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-54. Advisory Council [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-55. Participant rights [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-56. Handicap accessible facilities [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-57. Open Meetings Act/Conferences [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-58. Mass media [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-59. Administrative responsibilities [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

## **PART 9. TITLE III, PARTS B AND C SUPPORTIVE SERVICES AND SENIOR CENTERS [REVOKED]**

### **340:105-11-65. Multipurpose senior center standards [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-66. Approval of renovation, acquisition and construction grants [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-67. Priority supporting services [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-68. Allowable services under Part B [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-69. Allowable services under Part C, Subpart 1 [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-70. Allowable services under Part C, Subpart 2 [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-71. Competitive process [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

## **PART 11. TITLE III, PART D, STATE ELIGIBILITY CRITERIA [REVOKED]**

### **340:105-11-75. Scope [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]



### **340:105-11-76. Services [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-77. Eligibility criteria (targeting) [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-78. Suggested contribution schedule [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-79. Coordination [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-80. Maintenance of effort [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

## **PART 13. DISASTER RELIEF [REVOKED]**

### **340:105-11-85. Services eligible for disaster relief reimbursement [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-86. Reimbursement [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

## **PART 15. UNIFORM SERVICE TAXONOMY [REVOKED]**

### **340:105-11-90. Uniform service taxonomy [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

## **PART 17. ELDERCARE [REVOKED]**

### **340:105-11-95. Eldercare policy [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-96. Eldercare purpose [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-97. Direct service waiver [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-98. Statutory mission of Area Agency [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-99. Public versus private resources [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-100. Eldercare resource [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-101. Fee for service programs [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-102. Quality of service [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-103. Exclusivity of agreements [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-104. Client confidentiality [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-105. Reporting requirements [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-106. Fiscal controls [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

## **PART 19. REQUIREMENTS [REVOKED]**

### **340:105-11-110. Housekeeping [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-111. Publicity [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-112. Legal assistance requirements [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-113. Coordination with Legal Services Corporation [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-114. Prioritizing cases [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-115. Project service requirements [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-116. Planning and service area coverage [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

## **PART 21. CONGREGATE NUTRITION SERVICES [REVOKED]**

### **340:105-11-120. Purpose [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-121. Project administration [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-122. Project scope [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-123. Criteria for recipients of awards [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-124. Project council [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-125. Nutrition project personnel [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-126. Congregate meal site criteria [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-127. Contract meals [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-128. Donations for nutrition services and other Title III projects services [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-129. Participant records and reports [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-130. Nutrition standards [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-131. Food procurement [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-132. Food preparation and delivery [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-133. Additional requirements for home-delivered meal providers [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-134. Eligibility [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-135. USDA food assistance programs [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

## **PART 23. SUPPORTING SOCIAL SERVICES [REVOKED]**

### **340:105-11-140. Statewide outreach coverage [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-141. Home-delivered nutrition services [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

**340:105-11-142. Minimum requirements for personal care  
[REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ;  
Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

**PART 25. FISCAL AND ADMINISTRATIVE POLICIES  
[REVOKED]**

**340:105-11-150. Purpose [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ;  
Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

**340:105-11-151. Intrastate funding formula [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ;  
Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

**340:105-11-152. Title III B priority services [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ;  
Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

**PART 27. AREA AGENCY ON AGING AWARD  
PROCEDURE [REVOKED]**

**340:105-11-160. Funding formulas [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ;  
Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

**340:105-11-161. Request for proposals procedure [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ;  
Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

**340:105-11-162. Requests for proposal specifications [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ;  
Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

**340:105-11-163. Narrative proposal [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ;  
Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-164. Advertising [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-165. Proposal evaluation [REVOKED]**

[Source: Added at 9 Ok Reg 2431, eff 6-25-92 ; Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-166. Allowance or denial of proposals [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 24312, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-167. Hearings (Appeals procedures for service providers) [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

## **PART 29. FUNDS AND FUNDRAISING [REVOKED]**

### **340:105-11-175. Reprogramming funds [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-176. Program income for Title III OAA recipient agencies [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-177. Carry-over policy [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-178. Entrepreneurial activities of Area Agencies on Aging or projects [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

## **PART 31. AUDIT POLICIES FOR TITLE III OLDER AMERICANS ACT RECIPIENT AGENCIES [REVOKED]**

### **340:105-11-185. Purpose [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-186. Supersession [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-187. Scope [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-188. Report frequency [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-189. Selection of auditors [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-190. Audit report content [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-191. Audit report distribution [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-192. Resolution of audit findings [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-193. Appeal [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-194. Financial management standards [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]



### **340:105-11-195. Procurement standards [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-196. Property management [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-197. State Agency approval of Area Agency subgrants or contracts [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-198. Direct provision of services by States and Area Agencies [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-199. Management information system [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

## **PART 33. EMPLOYMENT POLICIES AND PROCEDURES [REVOKED]**

### **340:105-11-205. Administration [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-206. Recruitment (Area Agencies and projects) [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-207. Selection process [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

### **340:105-11-208. Job specifications and compensation schedules [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

**340:105-11-209. Aging program employee general prohibitions  
[REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

**340:105-11-210. Employee job description [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

**340:105-11-211. Personnel policies and procedures [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

**340:105-11-212. Political activity prohibition [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

**340:105-11-213. Lobbying prohibition [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

**340:105-11-214. Related employees and contractors prohibition  
[REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

**PART 35. SANCTIONS, DISCLAIMERS AND  
ACKNOWLEDGEMENTS [REVOKED]**

**340:105-11-220. Program sanctions [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

**340:105-11-221. Civil rights disclaimer [REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

**340:105-11-222. Acknowledgment of state and federal funds  
[REVOKED]**

[Source: Added at 9 Ok Reg 265, eff 11-12-91 (emergency); Added at 9 Ok Reg 2431, eff 6-25-92 ; Revoked at 11 Ok Reg 673, eff 11-29-93 (emergency); Revoked at 11 Ok Reg 2771, eff 6-13-94]

**PART 37. STATE LONG-TERM CARE OMBUDSMAN  
PROGRAM**

**340:105-11-230. Purpose**

The purpose of this Part is to describe the rules pertaining to the Office of the State Long-Term Care Ombudsman.

[Source: Added at 9 Ok Reg 2431, eff 6-25-92]

**340:105-11-231. Definitions**

The following words and terms when used in this Subchapter shall have the following meaning unless the context clearly indicates otherwise:

**"Assistant Secretary"** means the Assistant Secretary for Aging; the administrative head of the Administration on Aging of the United States Department of Health and Human Services.

**"Business day"** means a consecutive eight-hour period of time when the Office of the State Long-Term Care Ombudsman (Office) is open for business.

**"Confidential information"** means all information that relates to specific individuals who live in long-term care facilities, complainants, and other informants including, but not limited to, names, identifying information, and all problem and complaint documentation.

**"Deputy state long-term care ombudsman"** or **"deputy ombudsman"** an individual employed by the Office to assist with management and operations and supervised by the State Long-Term Care Ombudsman (Ombudsman).

**"Designated entity"** means an agency, not-for profit business, or organization that the Ombudsman has designated in writing to host Office representatives.

**"Designation"** means the appointment of an agency, individual, or both, as the official Office representative.

**"Immediate family"** means a member of the household or a relative with whom there is a close personal or significant financial relationship.

**"Leave of absence"** means an ombudsman volunteer's excused absence from official duties not to exceed three months.

**"Long-term care facility"** means any nursing facility, specialized facility, residential care home, or assisted living center per Sections 1-820, 1-890.2, and 1-1902 of Title 63 of the Oklahoma Statutes (O.S. 63 §§ 1-820, 1-890.2, and 1-1902).

(A) **"Nursing facility"** means a home, establishment, or institution primarily engaged in providing:

- (i) skilled nursing care and related services for residents;
- (ii) rehabilitation services; or
- (iii) on a regular basis, health-related care and services to individuals who because of mental or physical conditions require care and services beyond the level of care provided by a residential care home per 63 O.S. § 1-1902(9).

(B) **"Residential care home"** means any establishment or institution other than an adult companion home, group home, hotel, motel, fraternity or sorority house, or college or university dormitory that offers, provides, or supports residential accommodations, food service, and supportive assistance to any of its residents; or houses any resident requiring supportive assistance who is not related to the owner or administrator of the home by blood or marriage. The resident must be ambulatory and essentially capable of participating in his or her own activities of daily living, and not routinely requiring nursing services per 63 O.S. § 1-820.12.

(C) **"Specialized facility"** means any home, establishment, or institution that offers or provides inpatient long-term care services on a 24-hour basis to a limited category of persons requiring such services including, but not limited to, a facility providing health or habilitation services for persons who are living with intellectual or developmental disabilities per 63 O.S. § 1-1902(11).

(D) **"Assisted living center"** means any home or establishment offering, coordinating, or providing services to two or more persons who:

- (i) are domiciled therein;
- (ii) are unrelated to the operator;
- (iii) by choice or because of functional impairments, need assistance with personal care or nursing supervision;
- (iv) may need intermittent or unscheduled nursing care;
- (v) may need medication assistance; and/or
- (vi) may need assistance with transfer, ambulation, or both per 63 O.S. § 1-890.2.

**"Long-term care ombudsman"** means a person who receives and resolves complaints made by or on behalf of residents of long-term care facilities and is trained and designated as an official representative by the Office.

**"Office of the State Long-Term Care Ombudsman (Office)"** means the office created within the Oklahoma Department of Human Services (DHS) that carries out the Long-Term Care Ombudsman Program per the Older Americans Act (OAA) of 1965, as Amended, and per federal regulations under the auspices and general direction of the state long-term care ombudsman.

**"Planning and Service Area (PSA)"** means a geographic area specified by DHS per Section 305(a)(1)(E) of the Older Americans Act (OAA) of 1965, as Amended for purposes of planning for and serving the needs of individuals 60 years of age and above.

**"Representative"** means the employee or volunteer designated by the Ombudsman to fulfill duties per Oklahoma Administrative Code (OAC) 340:105-11-234, whether personnel supervision is provided by the Ombudsman or designees or by an agency hosting a local ombudsman entity designated by the Ombudsman per OAC 340:105-11-234.

**"Resident representative"** means:

- (A) an individual chosen by the resident to act on his or her behalf in order to support the resident in decision-making; accessing the resident's:
  - (i) medical, social, or other personal information;
  - (ii) managing financial matters; or
  - (iii) receiving notifications;
- (B) a person authorized by state or federal law including, but not limited to, agents under power of attorney, representative payees, and other fiduciaries to act on the resident's behalf in order to support him or her in:
  - (i) decision-making;
  - (ii) accessing the resident's medical, social, or other personal information; and/or
  - (iii) managing financial matters; or receiving notifications;
- (C) a legal representative as used in Section 712 of the OAA; or
- (D) the resident's court-appointed guardian or conservator. This definition is not intended to expand the authority of any resident representative beyond that specifically authorized by the resident, state or federal law, or a court of competent jurisdiction.

**"State long-term care ombudsman"** or **"Ombudsman"** means the individual who heads the Office and is personally responsible or responsible through Office representatives to fulfill the functions, responsibilities, and duties per OAC 340:105-11-232 and 340:105-11-233.

**"State Long-Term Care Ombudsman Program"** or **"Program"** means the program carried out and consisting of the Ombudsman, Office, and Office representatives.

**"Willful interference"** means actions or inactions taken by an individual in an attempt to intentionally prevent, interfere with, or attempt to impede the Ombudsman or Office representative from performing any program functions or responsibilities per O.S. 63 § 1-2215 or duties per OAC 340:105-11.

[Source: Added at 9 Ok Reg 2431, eff 6-25-92 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 34 Ok Reg 1624, eff 9-15-17]

**340:105-11-232. Oklahoma Department of Human Services (DHS)  
Office of the State Long-Term Care Ombudsman responsibilities**

(a) The DHS Office of the State Long-Term Care Ombudsman (Office) establishes and operates a statewide Long-Term Care Ombudsman Program consistent with the Older Americans Act and Oklahoma Long-Term Care Ombudsman Act requirements. DHS provides monitoring including, but not limited to, fiscal monitoring where the Office and/or local ombudsman entity is organizationally located within, under contract, or by other arrangement. DHS monitors and ensures the State Long-Term Care Ombudsman (Ombudsman) is the head of a unified statewide State Long-Term Care Ombudsman Program (Program). With DHS assistance, the Office:

- (1) identifies, investigates, and resolves complaints made by, or on behalf of, residents of long-term care facilities that relate to action, inaction, or decisions of providers, or long-term care services provider representatives, public agencies, or health and social services agencies that may adversely affect the health, safety, welfare, or residents' rights including the welfare and rights of residents with respect to the appointment and activities of guardians and representative payees;
- (2) informs residents about obtaining services provided by the Program;
- (3) ensures residents have regular and timely access to the services provided through the Program;
- (4) ensures residents and complainants receive timely responses from Office representatives on information and complaint requests;
- (5) represents residents' interests before governmental agencies;
- (6) ensures individual residents have access to and can pursue, as the Ombudsman determines necessary and consistent with resident interests, administrative, legal, and other remedies to protect the resident's health, safety, and welfare;
- (7) provides administrative and technical assistance to Office representatives and agencies hosting local ombudsman entities;
- (8) analyzes, comments on, and monitors the development and implementation of federal, state, and local laws, regulations, and other governmental policies and actions that pertain to the health, safety, welfare, and resident's rights with respect to long-term care facilities and services in the state. The Office:
  - (A) recommends changes in such laws, regulations, policies, and actions as appropriate;
  - (B) facilitates public comment on the laws, regulations, policies, and actions; and
  - (C) provides leadership to statewide systems advocacy efforts on behalf of long-term care facility residents including coordination of systems advocacy efforts carried out by Office representatives;
- (9) provides information to public and private agencies, legislators, the media, and others, as deemed necessary by the Office, regarding the problems and concerns of individuals residing in long-term care facilities including recommendations related to such. Such determinations and positions are those of the Office and do not necessarily represent DHS determinations

or positions;

(10) when carrying out systems advocacy efforts on behalf of long-term care facility residents and pursuant to the receipt of grant funds under the Older Americans Act, the provision of information, recommendations of changes in law to legislators, and recommendations of changes in regulations and policies to government agencies by the Ombudsman or Office representatives does not constitute lobbying activities per Part 93 of Title 45 of the Code of Federal Regulations;

(11) coordinates with and promotes the development of citizen organizations consistent with the residents' interests;

(12) promotes and provides technical support for the development of ongoing support requested by residents and family councils to protect the residents' well-being and rights;

(13) provides training for staff and volunteers and promotes the development of citizen organizations to participate in the Program;

(14) carries out other activities consistent with the requirements of this Part the Assistant Secretary for Aging determines appropriate;

(15) establishes procedures for appropriate access by the Ombudsman and designated representatives to long-term care facilities, appropriate private access to residents, and appropriate access to residents' personal and medical records;

(16) establishes procedures to protect the confidentiality of records and ensures that the identity of any resident or complainant is not disclosed without the resident's or complainant's consent, or upon court order;

(17) establishes a statewide uniform reporting system to collect and analyze information on complaints and conditions in long-term care facilities for the purpose of identifying and resolving significant problems. The Ombudsman must submit this information to the state agency responsible for licensing or certifying long-term care facilities and to the Assistant Secretary for Aging in the manner prescribed;

(18) independently develops and provides final approval of an annual report describing the activities carried out by the Office in the year for which the report is prepared. The annual report:

(A) contains data and findings regarding the types of problems experienced and complaints made by or on behalf of individuals residing in long-term care facilities;

(B) provides policy, regulatory, and legislative recommendations to solve problems and complaints, to improve the quality of care and life in long-term care facilities;

(C) includes analysis of the Program's success and success in providing services to residents of long-term care facilities;

(D) describes barriers that prevent optimal Program operation;

(E) is available to the public and is submitted to:

- (i) the Assistant Secretary for Aging;
  - (ii) the state chief executive officer;
  - (iii) the state legislature;
  - (iv) the state agency responsible for licensing or certifying long-term care facilities; and
  - (v) other appropriate governmental entities;
- (19) ensures that no officer, employee, or designated representative is subject to a conflict of interest; and
- (20) plans and operates the Program, considering the stakeholders' views.

(b) DHS ensures:

- (1) the Office is a distinct entity, separately identifiable, and located within or connected to DHS;
- (2) the Ombudsman serves on a full-time basis. Oklahoma Administrative Code 340:105-11 constitutes the entirety of the ombudsman's work that provides Office leadership and management, functions, responsibilities, and duties;
- (3) the Office and its representatives are not required or requested to be responsible for leading, managing, or performing the work of non-ombudsman services or programs except on a time-limited, intermittent basis;
- (4) individuals involved in the designation of the Ombudsman, by appointment or otherwise, or the designation of the head of any subdivision of the Office are not subject to conflicts of interest;
- (5) mechanisms are in place to identify and remedy any conflicts, such as conflicts of interest;
- (6) adequate legal counsel, free from conflict of interest is available to the Office for advice and consultation. legal representation is provided to Office representatives against whom suit or other legal action is brought in connection with the performance of such representative's official duties;
- (7) the Office has the ability to pursue administrative, legal, and other appropriate remedies on behalf of long-term care facility residents;
- (8) the Ombudsman meets minimum qualifications that include, but are not limited to, demonstrated expertise in:
  - (A) long-term services and supports or other direct services for older persons or individuals with disabilities;
  - (B) consumer-oriented public policy advocacy;
  - (C) leadership and program management skills; and
  - (D) negotiation and problem resolution skills;
- (9) the Ombudsman has authority to recommend policies and procedures. DHS policies and practices do not prohibit the Ombudsman from performing functions and responsibilities per federal law and rules;
- (10) entities hosting a local ombudsman must not have personnel policies or practices that prohibit Office representatives from performing Program duties or from adhering to federal or state laws and rules;
- (11) the Ombudsman monitors the performance of local entities designated to carry out Program duties;



- (12) processes are in place by which the agencies hosting local ombudsman entities coordinate with the Ombudsman in the employment or appointment of Office representatives;
- (13) standards are in place to prioritize abuse, neglect, exploitation, and time-sensitive complaints and consider the severity of the risk to the resident, the imminence of the threat of harm to the resident, and the opportunity for mitigating harm to the resident through Program services; and
- (14) procedures are in place clarifying appropriate fiscal responsibilities of the local ombudsman entity including, but not limited to, clarifications regarding access to programmatic fiscal information by appropriate Office representatives.

[Source: Added at 9 Ok Reg 2431, eff 6-25-92 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 34 Ok Reg 1624, eff 9-15-17]

### **340:105-11-233. Office of the State Long-Term Care Ombudsman policies and procedures**

Per the Older Americans Act of 1965, as Amended, the Office of the State Long-Term Care Ombudsman (Office) is established within the Oklahoma Department of Human Services (DHS) to carry out a statewide Long-Term Care Ombudsman Program (Program) under DHS direct supervision and administration.

- (1) Office consists of the State Long-Term Care Ombudsman (Ombudsman) and program and support staff.
- (2) Specific staffing requirements for each area Program are in accordance with DHS administrative and funding procedures.
- (3) The area entity designated to provide ombudsman services must provide an adequate allocation of funds to operate the local program. Costs incurred include, but are not limited to:
  - (A) reimbursement of ombudsman supervisors' and ombudsman volunteers' travel costs, including travel to and from assigned facilities and required meetings;
  - (B) identification badges; and
  - (C) incidental costs related to trainings and meetings including awards and certificates.
- (4) Designated area ombudsman staff representatives are organizationally-located within public or non-profit private entities.
- (5) Selection of area ombudsman staff representatives is made by the director of the designated area ombudsman entity, with input and recommendations from state Ombudsman staff during the interview process, and subject to Ombudsman approval.
  - (A) For the purpose of review of qualifications, criminal background checks, and conflict of interest issues, the Office has access to applications, resumes, and other personnel information related to applicants and incumbents in area ombudsman staff positions.
  - (B) State Ombudsman staff is involved at the Ombudsman's discretion in applicant interviews for area ombudsman staff positions as members of an interviewing

team. Upon conclusion of the interview process, there is opportunity for discussion and recommendations.

(C) Merit hiring standards are adhered to throughout the hiring process per Part 900 of Title 5 of the United States Code.

(D) Employment of area ombudsman staff is probationary pending the individual's satisfactory training completion.

(6) The Ombudsman investigates allegations of misconduct by Office representatives in the performance of Program duties and, as applicable, coordinates investigations with DHS, the agency hosting the local ombudsman entity, and/or the local ombudsman entity.

(7) The Ombudsman determines the use of the fiscal resources appropriated or otherwise available to operate the Office. The Ombudsman approves the allocations of federal and state funds provided to such entities, subject to applicable federal and state laws and policies. The Ombudsman determines Program budgets and expenditures and those local ombudsman entities are compliant with laws, policies, and procedures governing the Program.

[Source: Added at 9 Ok Reg 2431, eff 6-25-92 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 23 Ok Reg 1062, eff 7-15-06 ; Amended at 34 Ok Reg 1624, eff 9-15-17]

### **340:105-11-233.1. Grievance process**

The Office of the State Long-Term Care Ombudsman (Office) per Part 1327.11 of Title 42 of the Code of Federal Regulations establishes a grievance process for the receipt and review of grievances regarding the determinations or actions of the State Long-Term Care Ombudsman (Ombudsman) and Office representatives.

(1) Long-term care residents or legal representatives of residents who lack capacity to provide informed consent may ask the Ombudsman to review and reconsider complaint findings of designated representatives by submitting a request in writing or verbally to the Ombudsman or deputy ombudsman within 30-calendar days of the completion of an investigation. The Ombudsman or deputy ombudsman:

(A) completes a record review within 30-calendar days of the formal request;

(B) determines if the representative followed complaint processes per Oklahoma Administrative Code (OAC) 340:105-11-237 and 340:105-11-237.1;

(C) places notation in the case record of his or her findings, initiates any needed action for resolution, and completes any warranted changes to the case documentation; and

(D) provides a copy of the findings to the resident or the resident's legal representative.

(2) When any grievance is related to the refusal or withdraw of designation by the ombudsman entity or staff representative, the resident or the resident's legal representative has a right to

request a hearing within 10-calendar days of the written notice per OAC 340:105-11-234(e).

[Source: Added at 34 Ok Reg 1624, eff 9-15-17]

**340:105-11-234. Designation of area programs and area representatives including staff and volunteers**

(a) The Office of the State Long-Term Care Ombudsman (Office) officially designates agencies serving as area or local subdivisions of the Office through an annual designation process, per Oklahoma Department of Human Services (DHS) administrative funding procedures.

(1) Area program staff and volunteer representatives are officially designated in writing by the State Long-Term Care Ombudsman (Ombudsman).

(2) Designation as an Office representative:

(A) for area staff is based on criteria necessary for satisfactory performance including, but not limited to:

- (i) being free from any conflict of interest as defined by this rule and in compliance with federal and state statutes; and does not stand to gain financially through an action or potential action brought on behalf of the residents he or she serves;
- (ii) meeting minimum Office job qualifications and screening standards; and
- (iii) satisfactorily completing training prescribed by the Ombudsman; and

(B) as an ombudsman volunteer is accomplished through a designation process, and is based on the individual meeting criteria necessary to satisfactory performance in the position including, but not limited to, the person:

- (i) being free from any conflict of interest as required by statute and defined by this Part and he or she does not stand to gain financially through an action or potential action brought on behalf of residents the ombudsman serves;
- (ii) meets screening criteria set in this Part;
- (iii) satisfactorily completes training prescribed by the Ombudsman; and
- (iv) completes and signs:

(I) Form 02OM003E, Ombudsman Volunteer Application, agreeing to accept supervision and follow Program rules and guidelines; and

(II) the Registry and criminal history record check consent and release form for the Oklahoma National Fingerprint Background Check Program, authorizing the Office to conduct a national fingerprint background and registry checks.

(b) The Ombudsman has authority to refuse to designate:

(1) an individual, staff or volunteer, as an Office representative for any reasonable cause related to unsatisfactory performance in the position including, but not limited to:

- (A) an unresolved or unresolvable conflict of interest;
- (B) failure to satisfactorily complete training; and
- (C) failure to meet screening standards for volunteers and staff including a national fingerprint background and registry check or minimum job qualifications; and

(2) an entity as a subdivision of the Office for any reasonable cause that prevents satisfactory operation of the State Long-Term Care Ombudsman Program (Program) including, but not limited to:

- (A) an unresolved or unresolvable conflict of interest;
- (B) failure to provide adequate assurances that Program guidelines can be met; and
- (C) failure to provide assurances that the Program can be adequately funded.

(c) The Ombudsman has the authority to withdraw designation as:

(1) a subdivision of the Office from a designated entity when there is:

- (A) an unresolved or unresolvable conflict of interest;
- (B) a breach of the confidentiality requirement caused by the action of any staff of the designated entity as a local subdivision of the Office or of that designated entity's sponsoring agency;
- (C) failure to adhere to Office policies, Federal Administration on Aging regulations, federal or state law; or
- (D) any other unreasonable or prejudicial conduct substantially affecting the Program; and

(2) an Office representative from a staff person or volunteer when there is:

- (A) an unresolved or unresolvable conflict of interest;
- (B) breach of the confidentiality requirement;
- (C) failure to adhere to Office policies or federal or state law;
- (D) failure to accept program supervision from the Office; or
- (E) when the prospective representative is determined to be ineligible by the Oklahoma State Department of Health National Fingerprint Background Check Program.

(d) The Ombudsman may also withdraw designation of an ombudsman volunteer when he or she:

- (1) fails to file monthly reports with the ombudsman supervisor for three consecutive months, unless on approved leave of absence;
- (2) fails to attend three consecutive monthly meetings, unless on approved leave of absence;
- (3) fails to initiate resident visitation in assigned facility within two months after designation;
- (4) misuses the "ombudsman volunteer" title or badge; or

(5) without specific authorization by the Ombudsman, represents himself or herself either verbally or by wearing a badge as an ombudsman for a facility for which the volunteer is not designated.

(e) An agency that is refused designation or from which designation is withdrawn as an designated entity or an individual refused designation or from whom designation is withdrawn as an area ombudsman staff representative may appeal the decision.

(1) Designation is not withdrawn until reasonable notice and opportunity for a hearing is provided.

(2) Notification of the right to appeal and appeal procedures are included in the letter notifying the agency or staff person of a decision to refuse or withdraw designation.

(3) A request for hearing must be submitted within 10-calendar days of the receipt of the letter of notification of the decision to refuse or withdraw designation.

(4) Hearings are conducted by the DHS Appeals Unit.

(5) The Ombudsman has authority to suspend a designated ombudsman entity or staff representative from engaging in any and all Program duties pending the conclusion of a hearing.

(6) In a case where findings of the hearing officer are contrary to federal law or rules, as determined by the Ombudsman, the Ombudsman retains the authority to refuse or withdraw designation regardless of the findings of the hearing officer.

[Source: Added at 9 Ok Reg 2431, eff 6-25-92 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 23 Ok Reg 1062, eff 7-15-06 ; Amended at 24 Ok Reg 1325, eff 6-1-07 ; Amended at 34 Ok Reg 1624, eff 9-15-17]

#### **340:105-11-234.1. Responsibilities of agencies hosting local ombudsman representatives**

(a) The designated entity in which a local Office of the State Long-Term Care Ombudsman (Office) Program (Program) is organizationally-located is responsible for the personnel management, but not programmatic oversight of Office representatives including employees and volunteer representatives.

(b) The designated entity in which a local program is organizationally located does not have personnel policies or practices that prohibit Office representatives from performing the duties or from adhering to the access, confidentiality, and disclosure requirements of federal and state laws and regulations.

(1) Host agencies may not have policies, procedures, or practices including personnel management practices that the State Long-Term Care Ombudsman (Ombudsman) determines conflictive with the laws or policies governing the Program.

(2) Any policy, procedure, or practice the Ombudsman determines to be in violation of federal or state laws and regulations is sufficient grounds for the refusal, suspension, or removal of the designation of local ombudsman entity by the Ombudsman.

(3) Nothing in this provision prohibits the host agency from requiring that Office representatives adhere to the personnel

policies and procedures of the agency that are otherwise lawful.

[Source: Added at 34 Ok Reg 1624, eff 9-15-17]

**340:105-11-234.2. Duties of representatives of the Office of the State Long-Term Care Ombudsman (Office)**

The State Long-Term Care Ombudsman (Ombudsman) may designate an entity as a local ombudsman entity and may designate an employee or volunteer of the local ombudsman entity as an Office representative. Office representatives may also be designated employees or volunteers within the Office. An individual designated as an Office representative per Oklahoma Department of Human Services (DHS) and Office policies and procedures:

- (1) identifies, investigates, and resolves complaints made by or on behalf of residents that relate to action, inaction, or decisions that may adversely affect the health, safety, welfare, or rights of the residents;
- (2) provides assistance to protect the health, safety, welfare, and rights of residents;
- (3) ensures residents in the local ombudsman entity service area have regular and timely access to the services provided through the State Long-Term Care Ombudsman Program and that residents and complainants receive timely responses to requests for information and complaints;
- (4) represents the interests of residents before government agencies and ensures individual residents have access to and pursue, as the representative determines necessary and consistent with resident interest, administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;
- (5) reviews, and when necessary, comments on any existing and proposed laws, regulations, and other government policies and actions pertaining to residents' rights and well-being;
- (6) facilitates public comment on the laws, regulations, policies, and actions;
- (7) promotes and provides technical support for development and ongoing support when requested by resident and family councils; and
- (8) carries out other activities the Ombudsman determines to be appropriate.

[Source: Added at 34 Ok Reg 1624, eff 9-15-17]

**340:105-11-235. Conflict of interest**

(a) An officer, employee, volunteer, or other representative of the Office of the State Long-Term Care Ombudsman (Office) may not be subject to a conflict of interest that has the potential to impair his or her official duties in an impartial manner and may not stand to gain financially through an action or potential action brought on behalf of persons the State Long-Term Care Ombudsman Program (Program) serves.

- (b) A conflict of interest exists when any organizational or supervisory relationship, policy, action, or individual ombudsman's personal relationship, immediate familial relationship, or action conflicts with or impairs his or her responsibilities to investigate, resolve, or refer complaints or otherwise advocate for long-term care facility residents.
- (c) No persons involved in the designation of the State Long-Term Care Ombudsman (Ombudsman), by appointment or otherwise, or the designation of the head of any designated entity may be subject to a conflict of interest.
- (d) Freedom from conflict of interest is established through interview of prospective Ombudsman staff and volunteers and through a signed statement in a form prescribed by the Office and other appropriate means.
- (e) Persons listed in this paragraph must complete and sign Form 02OM001E, Conflict of Interest Statement and Ethical Guidelines, annually and when there is any change of facility or area assignment by:
- (1) prospective and current Office staff;
  - (2) prospective and current ombudsman volunteers; and
  - (3) any other person involved in the direct operation of the Program.
- (f) Agencies must annually review Form 02OM002E, Freedom from Conflict of Interest Assurances, which must be signed annually by:
- (1) directors of designated entities or those seeking designation as local ombudsman entities; and
  - (2) directors of sponsoring agencies.

[Source: Added at 9 Ok Reg 2431, eff 6-25-92 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 24 Ok Reg 1325, eff 6-1-07 ; Amended at 34 Ok Reg 1624, eff 9-15-17]

#### **340:105-11-235.1. Organizational conflict of interest**

- (a) The Oklahoma Department of Human Services (DHS) and the Office of the State Long-Term Care Ombudsman (Office) State Long-Term Care Ombudsman (Ombudsman) consider the organizational conflicts that may impact the effectiveness and credibility of the work of the Office. Organizational conflicts of interest include, but are not limited to, placement of the Office or requiring that an Ombudsman or Office representative perform conflicting activities in an organization that:
- (1) is responsible for licensing, surveying, or certifying long-term care facilities;
  - (2) is an association or an affiliate of such an association, of long-term care facilities or of any other residential facilities for older individuals or individuals with disabilities;
  - (3) has ownership or investment interest, represented by equity, debt, or other financial relationship in, or receives grants or donations from, a long-term care facility;
  - (4) has governing board members with any ownership, investment, or employment interest in long-term care facilities;
  - (5) provides long-term care to residents of long-term care facilities including the provision of personnel for long-term care facilities or the operation of programs that control access to or services for long-term care facilities;

- (6) provides long-term care coordination or case management for residents of long-term care facilities;
- (7) sets reimbursement rates for long-term care facilities;
- (8) provides adult protective services;
- (9) is responsible for eligibility determinations for residents of long-term care facilities regarding Medicaid or other public benefits;
- (10) conducts preadmission screening for long-term care facility placements;
- (11) makes admission or discharge decisions for individuals to or from long-term care facilities; or
- (12) provides guardianship, conservatorship, or other fiduciary or surrogate decision-making services for residents of long-term care facilities.

(b) Removing or remedying organizational conflicts. DHS and the Ombudsman identify and take steps to remove or remedy conflicts of interest between the Office and DHS or another entity carrying out the Ombudsman Program (Program).

(1) The Ombudsman identifies organizational conflicts of interest in the Program and describes steps taken to remove or remedy conflicts within the annual report submitted to the Assistant Secretary for Aging through the National Ombudsman Reporting System.

(2) When the Office is located within or otherwise organizationally-connected to DHS, DHS:

(A) takes reasonable steps to avoid internal conflicts of interest;

(B) reviews and identify internal conflicts;

(C) takes steps to remove or remedy conflicts;

(D) ensures that no individual, or member of the immediate family of an individual, involved in the designating, appointing, otherwise selecting or terminating the Ombudsman is subject to a conflict of interest; and

(E) ensures the Ombudsman disclosed such conflicts and described steps taken to remove or remedy conflicts within the annual report submitted to the Assistant Secretary for Aging through the National Ombudsman Reporting System.

(3) When DHS is unable to adequately remove or remedy a conflict, the Program is carried out by contract or other arrangement with a public agency or nonprofit private organization, per Section 712(4)(a) of the Older Americans Act, as Amended.

(4) DHS may not enter into a contract or other arrangement to carry out the Program or operate the Office when the other entity:

(A) is responsible for licensing, surveying, or certifying long-term care facilities;

(B) is an association or an affiliate of such an association of long-term care facilities, or of any other residential facilities for older individuals or individuals with



disabilities; or  
(C) has any ownership, operational, or investment interest, represented by equity, debt, or other financial relationship in a long-term care facility.

[Source: Added at 34 Ok Reg 1624, eff 9-15-17]

### **340:105-11-236. Conflict of interest remedies**

(a) **Volunteers.** When a conflict of interest is identified before designation, the volunteer is not certified in any facility in which the conflict of interest could be expected to affect performance. When a conflict of interest or potential conflict of interest involving a certified volunteer is identified, the ombudsman supervisor promptly notifies the Office of the State Long-Term Care Ombudsman (Office) to recommend withdrawal of designation, reassignment of the volunteer, or other appropriate action.

(b) **Paid ombudsman representatives.** No applicant for a paid ombudsman position, at any level of the program, is selected to fill that position when a conflict of interest is identified during any stage of the application or hiring process. When a conflict of interest or potential conflict of interest is identified involving a designated representative, action must be taken to remedy the conflict within 30-calendar days. Remedies may range from elimination of the conflict to withdrawal of the individual's designation.

(c) **Directors of sponsoring agencies and designated entities.** When a conflict of interest or potential conflict of interest is identified action must be taken to remedy the conflict of interest within 30-calendar days. Remedies may include:

- (1) removal or resolution of the conflict of interest;
- (2) withdrawal of the agency's designation as an area ombudsman entity;
- (3) withdrawal of designation of the agency as an Area Agency on Aging; or
- (4) other reasonable action.

[Source: Added at 9 Ok Reg 2431, eff 6-25-92 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 34 Ok Reg 1624, eff 9-15-17]

### **340:105-11-237. Complaint investigation**

The State Long-Term Care Ombudsman Program (Program) complaint mechanism functions at all levels with procedures for receipt, investigation, and resolution of problems and complaints.

(1) The Office of the State Long-Term Care Ombudsman (Office) staff:

- (A) receive complaints from all sources, including referrals from enforcement agencies and complaints from area ombudsman programs;
- (B) refer complaints to area ombudsman supervisors when appropriate;
- (C) investigate complaints directly or with ombudsman supervisors;

- (D) refer unresolved formal complaints to a regulatory or law enforcement agency, when appropriate;
  - (E) assist other agencies in complaint resolution;
  - (F) follow-up on complaint resolution and closure; and
  - (G) may decline to investigate any complaint when:
    - (i) the complaint is frivolous or not made in good faith;
    - (ii) the complaint was made so long after the incident that it is no longer reasonable to conduct an investigation;
    - (iii) an adequate investigation cannot be conducted because of insufficient funds, insufficient staff, lack of staff expertise, or any other reasonable factor that would result in an inadequate investigation despite a good faith effort; or
    - (iv) an investigation by the Office would create a real or apparent conflict of interest.
- (2) Area ombudsman supervisors:
- (A) receive complaints from all sources;
  - (B) investigate complaints through on-site, unannounced visits to the facility or refer the complaints to ombudsman volunteers;
  - (C) resolve complaints or refer the complaint in writing to State Long-Term Care Ombudsman (Ombudsman) staff when correction cannot be achieved at the area level, or when a regulatory or law enforcement agency's assistance is needed; and
  - (D) follow-up on conditions identified through the complaint process.
- (3) Ombudsman volunteers:
- (A) receive complaints and learn of problems from all sources;
  - (B) investigate complaints through on-site, unannounced, routine weekly visitation to the assigned facility or refer complaints to an ombudsman supervisor for investigation;
  - (C) resolve problems or complaints within the facility or refer to an ombudsman supervisor for resolution; and
  - (D) follow-up on conditions through routine, weekly visitation with residents in the assigned facility.

[Source: Added at 9 Ok Reg 2431, eff 6-25-92 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 34 Ok Reg 1624, eff 9-15-17]

### **340:105-11-237.1. Complaint processing**

(a) Regardless of the source of the complaint the Office of the State Long-Term Care Ombudsman (Office), State Long-Term Care Ombudsman (Ombudsman), and Office representatives serve long-term care facility residents to identify, investigate, and resolve complaints. The Ombudsman or Office representative investigates complaints including, but not limited to, abuse, neglect, or exploitation for the purposes of resolving the complaint to the resident's satisfaction and to protect the

resident's health, safety, welfare, and rights. The Ombudsman or Office representative may identify, investigate, and resolve a complaint impacting multiple or all facility residents.

(b) Regardless of the source of the complaint, including when the source is the Ombudsman or Office representative, the Ombudsman or Office representative must support and maximize resident participation in the complaint resolution process.

(1) The Ombudsman or Office representative must offer the resident privacy for confidentially purposes, when providing information and hearing, investigating, and resolving complaints.

(2) The Ombudsman or Office representative must discuss the complaint with the resident and resident representative when the resident is unable to communicate informed consent, to:

(A) determine his or her perspective;

(B) request informed consent to investigate the complaint;

(C) determine the resident's or his or her representative's perspective on complaint resolution including if the allegations are reported and, when so, if the Ombudsman or Office representative releases resident identifying information or other relevant information to the facility and/or appropriate agencies. Such report and disclosure is consistent with (b)(3) of this Section;

(D) advise the resident and resident representative of the resident's rights, when applicable;

(E) work with the resident or resident representative to develop a plan of action to resolve the complaint, when applicable;

(F) investigate the complaint to determine if the complaint can be verified; and

(G) determine if the complaint is resolved to the resident's or resident representative's satisfaction.

(3) When the resident is unable to communicate and does not have a representative to provide informed consent the Ombudsman or Office representative:

(A) takes appropriate steps to investigate and works to resolve the complaint in order to protect the resident's health, safety, welfare, and rights; and

(B) determines if the complaint was resolved to the complainant's satisfaction.

(4) To determine whether to rely on a resident representative to communicate or make determinations on the resident's behalf for complaint processing, the Ombudsman or Office representative ascertains the extent of the authority granted to the resident's representative under court order, by power of attorney, or other document the resident used to grant authority to the representative.

(c) The Ombudsman or Office representative may provide information regarding the complaint to another agency in order to substantiate the facts for regulatory, protective services, law enforcement, or other purposes so long as the Ombudsman or Office representative adheres to the disclosure requirements per Oklahoma Administrative Code 340:105-

11-243. When the resident or resident representative:

- (1) seeks regulatory, protective services, or law enforcement action and the Ombudsman or Office representative determines the resident or resident representative communicated informed consent to the Office, the Office assists the resident or resident's representative contact the appropriate agency and/or discloses the resident or resident's representative consent for such purposes; and
- (2) is served by disclosing information to a facility representative and/or referrals to an entity other than those referenced in (c)(1) of this Section and the Ombudsman or Office representative determines the resident or resident representative communicated informed consent to the State Long-Term Care Ombudsman Program (Program), the Ombudsman or Office representative may:
  - (A) assist the resident or resident representative contact the appropriate facility representative or the entity;
  - (B) provide information on how a resident or representative may obtain a facility or entity contact information; and/or
  - (C) disclose the information the resident or resident's representative provided consent for to an appropriate facility representative or entity, consistent with Ombudsman Program procedures.

[Source: Added at 34 Ok Reg 1624, eff 9-15-17]

### **340:105-11-237.2. Complaint investigation timeframes**

(a) All complaints investigated by a designated ombudsman require a face-to-face visit with the resident the complaint involves. The time frames for the initial attempt at a face-to-face visit must occur within five business days of the receipt of the complaint unless:

- (1) the complaint includes an allegation of abuse, neglect, or exploitation; then the time frame for initial face-to-face contact with resident occurs within three business days; or
- (2) the complaint involves an actual or threatened discharge from a facility, the time frame for initial face-to-face contact with resident is no later than the last day the resident has a right to appeal the discharge or within five business days, whichever comes first.

(b) There is no time frame for the determination of the final disposition of a complaint but it is determined when the ombudsman has enough evidence to complete the investigation. In the event the final disposition of a complaint exceeds 90 days, the Ombudsman representative assigned to investigate the complaint submits the case to the Ombudsman or Deputy Ombudsman for review and the reason the case will remain open is documented in the case record.

(c) In rare instances weather, illness, or other unforeseen, serious circumstances may delay on-site investigation. When a delay occurs, the ombudsman representative consults with and seeks consent from the

State Long-Term Care Ombudsman or deputy ombudsman to:

- (1) initiate a phone response.
  - (A) Contact with the resident and/or the complainant is attempted.
  - (B) Resolution of the complaint may be sought, in accordance with the resident's wishes, through phone calls to persons that may be able to resolve or mitigate the situation, such as the facility administrator, facility staff, or another agency;
- (2) complete comprehensive documentation regarding the cause(s) for delay and the response to the complaint in:
  - (A) hard copy case notes, when used;
  - (B) electronic documentation, such as a journal entry titled, "Delayed Response" documenting the:
    - (i) follow-up date;
    - (ii) delaying factor(s); and
    - (iii) steps taken to resolve the complaint;
- (3) an on-site visit follow-up with the resident is required even when the complaint was resolved by phone. The follow-up visit occurs immediately following the unforeseen circumstance; and
- (4) complete the follow-up visit with comprehensive documentation in:
  - (A) hard copy case notes, when used; or
  - (B) electronic documentation, such as a journal entry titled, "Delayed Response" documenting the:
    - (i) follow-up date;
    - (ii) any remaining issues or additional complaints to be resolved; and
    - (iii) resident's satisfaction with the resolution.

[Source: Added at 34 Ok Reg 1624, eff 9-15-17]

**340:105-11-238. Systems Advocacy, monitoring laws, regulations, and policies**

(a) The Office of the State Long-Term Care Ombudsman (Office) is required and authorized to:

- (1) analyze, comment on, and monitor the development and implementation of federal, state, and local laws, regulations, and other government policies and actions that pertain to long-term care facilities and services;
- (2) monitor the health, safety, welfare, and rights of residents; and
- (3) recommend changes in such laws, regulations, and policies as the Office determines appropriate.

(b) Office staff:

- (1) acquire and share with area programs, citizen organizations, and individuals copies of proposed and enacted laws, regulations, and policies that may affect long-term care facility residents;
- (2) give testimony and written comments as appropriate and assist others learn of comment opportunities;

- (3) attend or conduct public hearings;
  - (4) request comments from area ombudsman staff; and
  - (5) investigate complaints and take action as necessary to monitor the development and implementation of laws, rules, and policies.
- (c) Area ombudsman staff:
- (1) review proposed and enacted laws, regulations, and policies that may affect long-term care facility residents in the planning and service area (PSA), as provided by Office staff;
  - (2) give testimony and written comments, and attend or conduct public hearings, as appropriate;
  - (3) investigate complaints; and
  - (4) communicate concerns identified through the above activities to Office staff.
- (d) The Office makes determinations and establishes positions of the Office independently. Those determinations or positions may or may not represent the determinations or positions of the Oklahoma Department of Human Services (DHS) and are not subject to approval by DHS.

[Source: Added at 9 Ok Reg 2431, eff 6-25-92 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 34 Ok Reg 1624, eff 9-15-17]

### **340:105-11-239. Provision of information**

The Office of the State Long-Term Care Ombudsman (Office), State Long-Term Care Ombudsman (Ombudsman), and designated staff provide information to public and private agencies, legislators, the media, and other persons regarding the problems and concerns of residents and recommendations related to the problems and concerns. The provision of information includes, but is not limited to:

- (1) Office staff:
  - (A) developing administrative and legislative proposals as needed, relating to significant problems of residents in long-term care facilities, based on complaint investigation data and other sources;
  - (B) developing working relationships with state legislators and policy makers in order to inject concerns of long-term care facility residents directly into the policy making process;
  - (C) providing information on conditions affecting and the needs of long-term care facility residents, upon request, to individuals, agencies, organizations, and others; and
  - (D) meeting at least quarterly with the State Council on Aging's Advisory Committee for the State Long-Term Care Ombudsman Program (Program) to discuss Program operation, issues affecting the population served by the Program, and strategies to address identified concerns.
- (2) Area ombudsman staff provide:
  - (A) information to individuals, agencies, committees, and organizations concerning the general problems and issues affecting residents in long-term care facilities; and
  - (B) community education on needs and issues affecting long-term care facility residents through publicity

including monthly press releases, public speaking, and other means.

[Source: Added at 9 Ok Reg 2431, eff 6-25-92 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 34 Ok Reg 1624, eff 9-15-17]

### **340:105-11-240. Training**

The Office of the State Long-Term Care Ombudsman (Office) prohibits investigation of any complaint by Office staff or an ombudsman volunteer, unless the person satisfactorily completed training required by the Office, and is approved by the State Long-Term Care Ombudsman (Ombudsman) as qualified to investigate complaints.

(1) Office staff:

- (A) orients and trains ombudsman staff representatives and determines satisfactory completion of prescribed training;
- (B) develops and periodically updates training core curriculum;
- (C) assists area ombudsman staff train ombudsman volunteers;
- (D) provides on a quarterly basis, a minimum of 40 hours of continuing education and training to ombudsman supervisors per year;
- (E) provides community education with area staff;
- (F) officially certifies newly-trained, ombudsman volunteers who met screening criteria; and
- (G) assists in the development of citizen organizations to participate in the State Long-Term Care Ombudsman Program.

(2) Area ombudsman staff:

- (A) holds public workshops for community education and volunteer recruitment;
- (B) trains ombudsman volunteer applicants using the Office-prescribed core training format;
- (C) submits the name, facility assignment, and original signed Form 02OM003E, Ombudsman Volunteer Application, of each volunteer recommended for designation;
- (D) accompanies each newly-certified ombudsman volunteer on at least one introductory visit to the assigned facility to reinforce training and ensure the ombudsman volunteer's understanding of the ombudsman role; and
- (E) holds monthly meetings for continued training and supervision of designated ombudsman volunteers to annually achieve a minimum of 18 hours per volunteer of continuing education relevant to the care of older persons and persons with disabilities.

[Source: Added at 9 Ok Reg 2431, eff 6-25-92 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 23 Ok Reg 1062, eff 7-15-06 ; Amended at 24 Ok Reg 1325, eff 6-1-07 ; Amended at 34 Ok Reg 1624, eff 9-15-17]

**340:105-11-241. Assistant Secretary for Aging's initiatives**

(a) The State Agency implements any additional program requirements deemed necessary by the Assistant Secretary for Aging and provides guidelines for the Area Agencies on Aging (AAAs) for implementation of such additional requirements.

(b) The AAAs or other designated local ombudsman entity complies with such additional requirements initiated by the Assistant Secretary for Aging, based on guidelines provided by the State Agency.

[Source: Added at 9 Ok Reg 2431, eff 6-25-92 ; Amended at 19 Ok Reg 1170, eff 5-13-02]

**340:105-11-242. Access**

(a) **Access to facilities and residents.** The Office of the State Long-Term Care Ombudsman (Office) procedures for access to long-term care facilities and facility residents are in Sections 1-829-F, 1-1902, 1-1919, and 1-2213-D of Title 63 of the Oklahoma Statutes. An Office or local ombudsman, as that term is defined by Oklahoma Department of Human Services Aging Services, is authorized to enter any facility licensed per the Oklahoma Nursing Home Care Act, the Oklahoma Residential Care Act, and the Continuum of Care and Assisted Living Act to communicate privately and without unreasonable restriction with any resident who consents to the communication, to seek consent to communicate, and to observe all areas of the facility that directly pertain to the care of the resident, without infringing upon the privacy of other residents without their consent.

(1) Area ombudsman staff and trained, designated ombudsman volunteers have the same right of access to licensed long-term care facilities and residents as Office staff.

(2) Any ombudsman staff or volunteer asked to leave the premises of any licensed facility for any reason does so and immediately reports the incident to the Office.

(b) Access to resident's records. The State Long-Term Care Ombudsman (Ombudsman) and Office staff have access to:

(1) review the resident's medical and social records when the:

(A) Office representative has the resident's or the resident's legal representative's permission; or

(B) resident is unable to consent to the review, has no legal representative, and the Office representative obtains Ombudsman approval;

(2) the records as necessary to investigate a complaint when:

(A) a resident's legal guardian refuses to give permission;

(B) an Office representative has reasonable cause to believe the guardian is not acting in the resident's best interests; and

(C) the representative obtains Ombudsman approval;

(3) the administrative records, policies, and documents of long-term care facilities, to which the residents or the general public have access; and

(4) copies of all licensing and certification records maintained by the Oklahoma State Department of Health or any state agency



with respect to long-term care facilities. Ombudsman volunteers must obtain a resident's legal representative's, ombudsman supervisor's, Ombudsman's, or deputy ombudsman's consent before accessing medical or social records of a resident who does not have the capacity to grant informed consent.

(5) The Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule, Part 160 of Title 45 of the Code of Federal Regulations (C.F.R.) and 45 C.F.R. Part 164 Subparts A and E does not preclude release by covered entities of resident private health information or other resident identifying information to the State Long-Term Care Ombudsman Program including, but not limited to, residents' medical, social, or other records, a list of resident names and room numbers, or information collected in the course of a federal or state survey or inspection process.

[Source: Added at 9 Ok Reg 2431, eff 6-25-92 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 34 Ok Reg 1624, eff 9-15-17]

### **340:105-11-243. Records, confidentiality, and disclosure**

The Office of the Long-Term Care Ombudsman (Office) manages the Office State Long-Term Care Ombudsman Program (Program) files, records, and information, in physical, electronic, or other formats including information maintained by Office representatives and local ombudsman entities pertaining to Program cases and activities. Such files, records, and information are the property of the Office. Office and area ombudsman staff, ombudsman volunteers, and designated agencies uphold policies listed in this Section.

(1) No complaint, other confidential information, or records maintained by the Program may be disclosed unless the State Long-Term Care Ombudsman (Ombudsman) authorizes the disclosure.

(2) The Ombudsman or ombudsman representative does not disclose the identity of any complainant or resident unless the complainant or resident, or his or her legal representative consents:

(A) in writing to the disclosure and specifies to whom the identity may be disclosed;

(B) verbally and the Ombudsman documents the consent at the time consent is given; or through the use of auxiliary aids and services communication of informed consent may be made:

(i) in writing; or

(ii) verbally or visually; and

(iii) such consent must be documented

contemporaneously by the Ombudsman or Office representative; or

(C) a court orders the disclosure.

(3) In accordance with federal law and regulation, the Ombudsman and Office representatives do not report suspected abuse, neglect, or exploitation of a resident when a resident has

not communicated informed consent to such report. Except the Ombudsman or Office representative may refer confidential information and disclose resident-identifying information to the appropriate agency or agencies for regulatory oversight; protective services; access to administrative, legal, or other remedies; and/or law enforcement action when the circumstances in (4) of this Section are met.

(4) When a resident is unable to communicate his or her informed consent to the Ombudsman or Office representative, the Office may rely on the resident's designated representative's consent, so long as the Ombudsman or Office representative does not have reasonable cause to believe the resident representative is not acting in the resident's best interests or is the alleged perpetrator of the abuse, neglect, or exploitation.

(5) Inspection dates provided to the Program at any level, including Oklahoma State Department of Health inspections, are confidential per Section 1395i-3(g)(5)(B) of Title 42 of the United States Code (U.S.C.).

(A) Inspection dates and dates of other unannounced visits to facilities, including visits for the purpose of complaint investigation, are not posted or otherwise revealed.

(B) Federal law provides for a \$2,000 penalty for release of inspection dates per 42 U. S. C. § 1395i-3(g)(2) (A) (1) and Section 488.307 of Title 42 of the Code of Federal Regulations.

(6) Privacy is provided for complaint receipts by mail, phone, or personal interview to maintain confidentiality.

(7) All mail addressed to an ombudsman by name or title is delivered to the ombudsman unopened.

(8) Locked files are used to maintain confidential records. Access to such files is limited to designated area ombudsman representatives and Office staff.

[Source: Added at 9 Ok Reg 2431, eff 6-25-92 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 34 Ok Reg 1624, eff 9-15-17]

### **340:105-11-243.1. Procedures related to the disclosure of witnessed abuse, neglect, or exploitation**

(a) When the Office of the State Long-Term Care Ombudsman (Office) State Long-Term Care Ombudsman (Ombudsman) or Office representative (representative) personally witnesses suspected abuse, gross neglect, or exploitation of a resident, the Ombudsman or representative seeks communication of informed consent from such resident to disclose resident-identifying information to appropriate agencies.

(1) When the resident is able to communicate informed consent or has a resident representative available to provide informed consent, the Ombudsman or representative follows the resident's or resident representative's direction.

(2) When the resident is unable to communicate informed consent and has no resident representative available to provide informed

consent, the Ombudsman or representative opens a case with the Ombudsman or representative as the complainant, follows the Office's program complaint resolution procedures, refers the matter, and discloses the resident's identifying information to facility management where the resident resides and/or to the appropriate agency or agencies for substantiation of abuse, gross neglect, or exploitation in the following circumstances the:

(A) Ombudsman or representative has no evidence indicating the resident would not want a referral to be made;

(B) Ombudsman or representative has reasonable cause to believe disclosure is in the resident's best interest; and

(C) representative obtains Ombudsman or deputy ombudsman approval.

(3) In addition, the Ombudsman or representative, following Office policies and procedures per Oklahoma Administrative Code 340:105-11-243 (3) (i) - (vi) may report suspected abuse, gross neglect, or exploitation to other appropriate agencies for regulatory oversight; protective services; access to administrative, legal, or other remedies; and/or law enforcement action.

(4) The decision to grant or deny Ombudsman or deputy ombudsman approval for confidential information disclosure related to abuse, neglect, or exploitation is made and conveyed to the requesting ombudsman in one business day.

[Source: Added at 34 Ok Reg 1624, eff 9-15-17]

### **340:105-11-244. Reporting system**

(a) Office of the State Long-Term Care Ombudsman staff:

(1) identify significant problems by establishing a statewide reporting system including the collection and analysis of quarterly reports from area ombudsman staff;

(2) receive and analyze reports from all state agencies receiving complaints on, or conducting surveys or inspections of long-term care facilities, in order to identify significant problems;

(3) develop administrative and legislative proposals to resolve significant problems of residents, as reflected in complaint investigation and other data;

(4) provide information and recommendations to involved agencies on significant issues, after monitoring conditions of long-term care facilities through the area program and collection and analysis of data; and

(5) compile information and annually prepare and disseminate a Long-Term Care Ombudsman Program annual report. The report contains data and findings regarding the types of problems experienced and complaints received by or on behalf of individuals residing in long-term care facilities, and provides policy, regulatory and legislative recommendations to resolve such problems and complaints and improve the quality of care

and life in long-term care facilities.

(b) Area ombudsman staff:

- (1) collect and compile data from volunteer monthly reports and from other required Ombudsman Program activities into quarterly reports, which are submitted to state ombudsman staff;
- (2) monitor conditions in certain facilities for informal reporting on a follow up basis to state ombudsman staff; and
- (3) respond to requests from state ombudsman staff for reports or updates on local conditions relating to specific issues being addressed statewide.

[Source: Added at 9 Ok Reg 2431, eff 6-25-92 ; Amended at 19 Ok Reg 1170, eff 5-13-02]

**340:105-11-245. Facility visitation**

(a) Designated area entity ombudsman staff makes periodic visits to all long-term care facilities in the area covered by the designated area ombudsman entity to ensure State Long-Term Care Ombudsman Program (Program) services are available to the residents.

(1) Residents of each facility are visited a minimum of four times each fiscal year.

(A) Visits made by appointment including in-service training for facility staff, are not counted toward the ombudsman staff's four visits per year.

(B) When the ombudsman visits residents as a citizen observer during Oklahoma State Department of Health (OSDH) inspections, the visit may be counted.

(C) Visits made to resolve complaints are counted when multiple residents are visited.

(2) Visits are documented on Office of the State Long-Term Care Ombudsman (Office) approved forms and are protected according to Program confidentiality requirements. Visits are:

(A) unannounced and dates are kept confidential; and

(B) not posted or revealed to any person other than the Area Agency on Aging director, designated as the area ombudsman entity who safeguards them.

(3) State Long-Term Care Ombudsman (Ombudsman) staff:

(A) accompanies each newly-designated ombudsman volunteer to the volunteer's assigned facility, by appointment, for an introductory visit to:

(i) introduce the volunteer to the facility administrator, residents, and facility; and

(ii) explain or clarify the ombudsman volunteer role;

(B) conducts at least one supervisory visit with each designated ombudsman volunteer at his or her assigned facility annually to:

(i) assess skills, relationships, and understanding of appropriate role; and/or

(ii) assist the volunteer with a complaint or other problem; and

- (C) offers and conducts in-service training for staff of long-term care facilities on residents' rights, elder abuse prevention, and other topics of importance to residents.
- (b) The designated ombudsman volunteer visits residents in his or her assigned facility, at least two hours per week to assist residents resolve or prevent problems or complaints. Each visit is documented.
  - (1) Volunteers may not officially begin visitation and other duties in a facility as a designated ombudsman volunteer until he or she:
    - (A) receives written notice of designation from the Office; and
    - (B) is accompanied by Office staff on an introductory visit to the assigned facility.
  - (2) A volunteer who is temporarily unable to fulfill visitation or other program responsibilities may request or be placed on leave of absence. As defined in this Part, leave of absence may be granted due to:
    - (A) illness or family illness;
    - (B) vacation or extended travel; or
    - (C) a reason approved by the ombudsman supervisor.
  - (3) Leave of absence must not exceed three months duration. When the volunteer is unable to resume official duties by the end of the three-month period, the area supervisor notifies the Office and the volunteer's designation is withdrawn.
  - (4) The volunteer may request voluntary designation withdrawal from the Program at any time and be designated again when requirements are met.
  - (5) A volunteer that returns to service within one year of withdrawal of designation is not required to complete the initial two-day volunteer training but must be screened for potential conflicts of interests and complete the OSDH National Fingerprint Background Check.
- (c) Ombudsman participation as a citizen observer in unannounced inspections by OSDH is allowed by the Oklahoma Nursing Home Care Act, the Oklahoma Residential Care Act, and the Federal Nursing Home Reform Act.
  - (1) Office staff and designated ombudsman volunteers may participate.
  - (2) Inspection schedule information is kept in a locked file and access is restricted to Office staff.
  - (3) The location of the inspection is shared by Office staff only with the area ombudsman supervisor.
  - (4) The ombudsman facility volunteer may be notified, but notification is made no earlier than the inspection date.
  - (5) Early notification to a facility is strictly prohibited. Penalties are set in federal statutes for early facility notifications per Section 1395i-3(g)(2)(A)(1) of the United States Code and Section 488.307 of Title 42 of the Code of Federal Regulations.
- (d) When entering a facility for a visit, Office staff and volunteers notify the administrator or other charge person of their presence. If a charge person is not located, any staff person may be notified. This requirement is not intended to delay an ombudsman from proceeding promptly with a

complaint investigation or resident visitation.

[Source: Added at 9 Ok Reg 2431, eff 6-25-92 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 23 Ok Reg 1062, eff 7-15-06 ; Amended at 24 Ok Reg 1325, eff 6-1-07 ; Amended at 34 Ok Reg 1624, eff 9-15-17]

#### **340:105-11-246. Liability and legal counsel**

The Older Americans Act of 1965, as amended, and Section 1-2214 of Title 63 of the Oklahoma Statutes provide protections for designated representatives of the Office of State Long-Term Care Ombudsman (Office).

- (1) For purposes of the Governmental Tort Claims Act, any state, area, or local volunteer long-term care ombudsman is deemed to be an employee of this state and not personally liable for any act or omission made within the scope of employment, as such term is defined by the Governmental Tort Claims Act.
- (2) The Oklahoma Department of Human Services ensures that adequate legal counsel is available to the Office for advice and consultation.
- (3) Legal representation is provided to any representative of the Office against whom suit or other legal action is brought in connection with any act or omission of a representative made within the scope of employment.
- (4) Any representative of the Office who wishes to request legal advice, consultation, or representation contacts the Office.

[Source: Added at 9 Ok Reg 2431, eff 6-25-92 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 24 Ok Reg 1325, eff 6-1-07]

#### **340:105-11-247. Other policies**

(a) The rules in this Part reflect compliance with Older Americans Act requirements under authority of state statute. Section 1-2215 of Title 63 of the Oklahoma Statutes provides that:

- (1) no person shall willfully interfere with a representative of the Office of the State Long-Term Care Ombudsman (Office) in the performance of official duties;
- (2) no person shall engage in retaliation or reprisal against any resident or employee of a long-term care facility or other entity for having filed a complaint with or provided information to the Office; and
- (3) any person convicted of violating any of these prohibitions shall be guilty of a misdemeanor.

(b) Any complaint alleging willful interference or retaliation or reprisal received by the Office shall be referred to the appropriate law enforcement entity, after consultation with legal counsel.

[Source: Added at 9 Ok Reg 2431, eff 6-25-92 ; Amended at 19 Ok Reg 1170, eff 5-13-02]

#### **340:105-11-248. Ombudsman volunteer rules and guidelines**

The designated ombudsman volunteer observes the requirements of the State Long-Term Care Ombudsman (Ombudsman) State Long-Term

Care Ombudsman Program (Program). The ombudsman volunteer:

- (1) completes and signs Forms:
  - (A) 02OM003E, Ombudsman Volunteer Application;
  - (B) 02OM001E, Conflict of Interest Statement and Ethical Guidelines; and
  - (C) 04AD003E, Request for Background Check;
- (2) completes the two-day ombudsman volunteer training program to be designated by Program staff;
- (3) accepts supervision by the ombudsman supervisor;
- (4) respects privacy and confidentiality.
  - (A) The volunteer does not disclose information regarding any complainants or participant's name, condition, or situation, except to the ombudsman supervisor or State Long-Term Care Ombudsman (Office) staff, without the written permission of the complainant, participant, or legal representative.
  - (B) Supervisory approval is secured before any information is released;
- (5) visits weekly with residents in the assigned facility;
- (6) attends monthly ombudsman volunteer meetings for continuing education, program updates, and group supervision;
- (7) submits monthly reports to the ombudsman supervisor;
- (8) wears the badge issued by the designated entity ombudsman supervisor when visiting the facility or attending functions as an ombudsman volunteer;
- (9) is available to the facility residents, hears their concerns, and assists them with, and follows-up on problem-solving;
- (10) meets with the facility administrator to establish and maintain a cooperative working relationship;
- (11) is familiar with facility policies and procedures established for its operation;
- (12) is designated as an ombudsman volunteer, limited to the facility named in the designation letter, unless authorized in advance by the Ombudsman;
- (13) is clear in understanding the ombudsman volunteer role on behalf of the residents; and
- (14) does not perform direct care services, such as lifting, feeding, or transporting residents.

[Source: Added at 9 Ok Reg 2431, eff 6-25-92 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 23 Ok Reg 1062, eff 7-15-06 ; Amended at 24 Ok Reg 1325, eff 6-1-07 ; Amended at 34 Ok Reg 1624, eff 9-15-17]

### **340:105-11-249. Area Agency on Aging ombudsman supervisor I**

(a) **Definition.** Under the program supervision of the Office of the State Long-Term Care Ombudsman and the general direction of the director of an Area Agency on Aging, the ombudsman supervisor I provides leadership in development, coordination, and implementation of the Long-Term Care Ombudsman Program and receives, investigates, and resolves complaints made by or on behalf of residents of long-term care facilities.

(b) **Examples of duties.** Examples of duties include:

- (1) recruiting, screening, training, and supervising ombudsman volunteers using guidelines provided by state ombudsman staff;
- (2) publicizing the services of the State Long-Term Care Ombudsman Program and issues affecting older residents of long-term care facilities through media releases, public speaking, and other means;
- (3) coordinating with state ombudsman staff in complaint investigation and resolution, identification of priority issues, and certification of new ombudsman volunteers;
- (4) maintaining confidentiality of files and other information pertaining to complaints and complainants;
- (5) keeping the director of the designated area ombudsman entity informed of the current situation and needs at the local level, recommending plans for meeting needs, and advising the director of resources required for their implementation;
- (6) being available to residents of long-term care facilities in the planning and service areas (PSA), visiting each facility regularly, and working cooperatively with administrators and staff; and
- (7) serving as a consultant to community organizations and agencies on issues and needs affecting older long-term care facility residents, techniques of working with these older people, and the solution of special problems.

(c) **Education and experience.** The required education and experience is graduation from an accredited four-year college or university with major course work in social work, gerontology, sociology, general social sciences, or a related field including, but not limited to, health care. Any ombudsman employed as an ombudsman supervisor I prior to this effective date is deemed as eligible for the position.

(d) **Salary range.** The comparable job family descriptor for this position is Adult Protective Services Specialist, #H26A. A person in this position may not be hired at a salary more than the midpoint, nor paid more than the maximum of the approved salary range. For the purpose of determining annual salary longevity pay is not considered.

[Source: Added at 9 Ok Reg 2431, eff 6-25-92 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 23 Ok Reg 1062, eff 7-15-06 ; Amended at 29 Ok Reg 638, eff 7-1-12 ; Amended at 38 Ok Reg 2337, eff 9-15-21 ; Amended at 42 Ok Reg, Number 5, effective 10-10-24 (emergency)]

### **340:105-11-250. Area Agency on Aging ombudsman supervisor II**

(a) **Definition.** Under the program supervision of the Office of the State Long-Term Care Ombudsman and the general direction of the director of an Area Agency on Aging, the ombudsman supervisor II provides leadership in development, coordination, and implementation of the Long-Term Care Ombudsman Program and receives, investigates, and resolves complaints made by, or on behalf of, residents of long-term care facilities.

(b) **Examples of duties.** Examples of duties include:

- (1) recruiting, screening, training, and supervising ombudsman volunteers using guidelines provided by state ombudsman staff;



- (2) publicizing the services of the State Long-Term Care Ombudsman Program and issues affecting older residents of long-term care facilities through media releases, public speaking, and other means;
- (3) coordinating with state ombudsman staff in complaint investigation and resolution, identification of priority issues, and certification of new ombudsman volunteers;
- (4) maintaining confidentiality of files and other information pertaining to complaints and complainants;
- (5) keeping the director of the designated area ombudsman entity informed of the current situation and needs at the local level, recommending plans for meeting needs, and advising the director of resources required for their implementation;
- (6) being available to residents of long-term care facilities in the planning and service areas (PSA), visiting each facility regularly, and working cooperatively with administrators and staff; and
- (7) serving as a consultant to community organizations and agencies on issues and needs affecting older long-term care facility residents, techniques of working with these older people, and the solution of special problems.

(c) **Education and experience.** The required education and experience is:

- (1) graduation from an accredited four year college or university with major course work in social work, health, gerontology, general social sciences, or related field and one year of fulltime ombudsman or other applicable advocacy experience; or
- (2) after one year of employment, an ombudsman supervisor I may promote to a level II position.

(d) **Salary range.** The comparable job family descriptor for this position is an Adult Protective Services Specialist, #H26B. A person in this position may not be hired at a salary more than the midpoint nor paid more than the maximum of the approved salary range. For the purpose of determining annual salary longevity pay is not considered.

[Source: Added at 9 Ok Reg 2431, eff 6-25-92 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 23 Ok Reg 1062, eff 7-15-06 ; Amended at 29 Ok Reg 638, eff 7-1-12 ; Amended at 38 Ok Reg 2337, eff 9-15-21]

### **340:105-11-251. Screening criteria for ombudsman**

(a) Criteria for subjective screening of potential ombudsman staff and volunteers is reviewed in addition to standard education and work experience questions.

(b) Persons who are not eligible for ombudsman volunteer designation include any individual who:

- (1) was terminated from employment in a facility where he or she wants to volunteer;
- (2) is a relative of a current employee of the facility where he or she wants to volunteer;
- (3) lacks the ability to be objective or hold confidences;
- (4) is a current employee or has any financial interest in a facility where he or she wants to volunteer. The person may volunteer in

another facility located in a separate planning and services area;  
(5) is a paid sitter, private duty nurse or aide in the facility where the person wants to volunteer. If a competitive facility is chosen, the placement is accepted by the chosen facility;  
(6) is involved in a pending law suit against a facility, until the legal process is completed and acceptance of the person as a volunteer is made by the selected facility administrator;  
(7) stands to gain financially through an action or potential action brought on behalf of persons the State Long-Term Care Ombudsman Program serves; or  
(8) was determined to be ineligible by the Oklahoma State Department of Health National Fingerprint Background Check Program.

[Source: Added at 9 Ok Reg 2431, eff 6-25-92 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 23 Ok Reg 1062, eff 7-15-06 ; Amended at 34 Ok Reg 1624, eff 9-15-17]

#### **340:105-11-252. Conflict of interest statement and ethical guidelines**

(a) The Older Americans Act of 1965, as Amended, requires assurances that there are no conflicts of interest within the State Long-Term Care Ombudsman Program. Mechanisms to identify and remedy any conflicts are mandated. State Long-Term Care (Office) staff and volunteers study the rules in this Section and sign Form 02OM001E, Conflict of Interest Statement and Ethical Guidelines, when able to provide assurances and meet ethical guidelines. The designated ombudsman:

- (1) and any member of the ombudsman's immediate family may not own, operate, control, or have interest, voting rights, or outstanding indebtedness to or be employed by any company or facility or person investigated by the ombudsman;
- (2) may not solicit or accept from any person or organization, directly or indirectly, money or anything of value if it could reasonably be expected to influence the ombudsman's official actions or judgment or could reasonably be considered a reward for any official action or omission on the part of the ombudsman;
- (3) who is assigned or acts as an official representative of a designated entity in the presentation of papers, talks, demonstrations, or making appearances does not solicit or accept fees, honoraria, or reimbursement of expenses for personal gain. Any fees or honoraria offered in connection with these activities are paid to the designated entity;
- (4) is alert to anything that impairs ability to objectively investigate complaints. The ombudsman avoids conflict of interest in the establishment of personal relationships that affect impartiality on the job;
- (5) may be involved in serving as an officer or board member of a social, fraternal, or religious organization for which the ombudsman receives no compensation or anything of value, provided the organization is not affected by exercise of the ombudsman's discretion;

- (6) may not use or disclose information gained in the course of, or by reason of, the ombudsman's official position or activities in any way without the express consent of the resident or complainant;
- (7) discloses all past and current appointments, involvement, membership, or interest that affect or could reasonably be expected to affect the ombudsman's ability to investigate and resolve complaints in an objective and independent manner;
- (8) may not effectively recommend or decide to hire or promote another person who is a member of the ombudsman's immediate family;
- (9) may not give preferential or favorable treatment in provision of service to a resident who is a member of the ombudsman's family;
- (10) may not serve as guardian, conservator, or in another fiduciary or surrogate decision-making capacity for a resident of a long-term care facility where he or she is assigned or investigates complaints;
- (11) may not be assigned, investigate complaints, or serve residents of a facility in where his or her immediate family member resides; and
- (12) may not conduct business in restaurants or other public places where a public observer might reasonably conclude that confidences could be breached due to lack of privacy.

(b) In no circumstance will the Oklahoma Department of Human Services or a local ombudsman entity appoint or employ an individual, nor will the State Long-Term Care Ombudsman designate an individual as an Office representative who:

- (1) has direct involvement in the licensing or certification of a long-term care facility;
- (2) has an ownership or investment interest represented by equity, debt, or other financial relationship in a long-term care facility. Divestment within a reasonable period may be considered an adequate remedy to this conflict;
- (3) receives, directly or indirectly, remuneration in cash or in kind under a compensation arrangement with an owner or operator of a long-term care facility; or
- (4) is employed by or participating in the management of a long-term care facility.

(c) Any entity that appoints or employs Office representatives make efforts to avoid appointing or employing an individual as an Office representative who was employed by or participating in the management of a long-term care facility within the previous 12 months. Where such an individual is appointed or employed, steps are taken to remedy the conflict.

[Source: Added at 9 Ok Reg 2431, eff 6-25-92 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 23 Ok Reg 1062, eff 7-15-06 ; Amended at 24 Ok Reg 1325, eff 6-1-07 ; Amended at 34 Ok Reg 1624, eff 9-15-17]

### **340:105-11-253. Freedom from conflict of interest assurances**

The Older Americans Act as amended requires assurances of freedom from conflict of interest for the officially designated area program as a subdivision of the Office of the State Long-Term Care Ombudsman (Office). Directors of designated area ombudsman entities and sponsoring agency directors are asked to read, review with staff and sponsors, and sign Form 02OM002E, Area Ombudsman Assurance Form, if assurances can be provided as described in this Section.

- (1) Assurance is provided that the agency:
  - (A) is not a part of an entity responsible for licensing or certifying long-term care facilities, or part of a provider organization;
  - (B) does not hold interest in, manage, own, or contract with a long-term care facility;
  - (C) does not stand to gain financially through an action or potential action brought on behalf of persons the ombudsman serves; and
  - (D) is not located within an organization that may impair or inhibit the ability of the ombudsman to objectively and independently investigate and resolve complaints.
- (2) Assurance is provided that the ombudsman will be free to:
  - (A) take action on behalf of residents;
  - (B) publicly represent the concerns of residents;
  - (C) bring together persons who have the authority to solve problems;
  - (D) make recommendations to boards, committees, and task forces in developing long-term care policy, or similar situations;
  - (E) forward unresolved formal complaints to the Office according to program policy; and
  - (F) publicize the State Long-Term Care Ombudsman Program and issues affecting older persons who are institutionalized.
- (3) There are inherent conflicts in the role of the ombudsman. The agency supports the role and goals of the State Long-Term Care Ombudsman Program and the ombudsman staff through any conflict associated with their official duties.

[Source: Added at 9 Ok Reg 2431, eff 6-25-92 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 24 Ok Reg 1325, eff 6-1-07]

### **340:105-11-254. Ombudsman complaint handling guidelines [REVOKED]**

[Source: Added at 9 Ok Reg 2431, eff 6-25-92 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Revoked at 34 Ok Reg 1624, eff 9-15-17]

### **340:105-11-255. Office of the State Long-Term Care (Office) ombudsman staff and volunteer training**

- (a) **Paid ombudsman staff training curriculum.** New ombudsman staff training includes 90 hours of introductory education in:
  - (1) the Long-Term Care Ombudsman Program (Program);

- (2) Program policies and procedures;
- (3) the complaint investigation and response system;
- (4) the long-term care regulatory system;
- (5) residents' rights;
- (6) characteristics of long-term care facilities and residents;
- (7) aging processes;
- (8) communication skills;
- (9) legal and ethical issues;
- (10) a visitation practicum;
- (11) mediation or negotiation skills;
- (12) community resources or services;
- (13) volunteer management;
- (14) reporting and record keeping;
- (15) adult abuse, neglect, and exploitation investigations; and
- (16) testing to determine an understanding of the curriculum.

(b) **Volunteer ombudsman training curriculum.** Ombudsman volunteer training includes 12 hours of introductory education in:

- (1) the Program;
- (2) the ombudsman volunteer role, including activities and responsibilities;
- (3) problem-solving and complaint investigation;
- (4) aging processes;
- (5) characteristics of long-term care facilities and residents;
- (6) communication and interviewing skills;
- (7) Oklahoma's Nursing Home Care Act, Residential Care Act, or Assisted Living Act, as appropriate;
- (8) residents' rights in long-term care facilities;
- (9) long-term care regulation;
- (10) confidentiality;
- (11) reporting and record keeping; and
- (12) a visitation practicum.

[Source: Added at 9 Ok Reg 2431, eff 6-25-92 ; Amended at 19 Ok Reg 1170, eff 5-13-02 ; Amended at 20 Ok Reg 938, eff 6-1-03 ; Amended at 23 Ok Reg 1062, eff 7-15-06 ; Amended at 34 Ok Reg 1624, eff 9-15-17]

## **SUBCHAPTER 12. SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM (SCSEP)**

### **PART 1. INTRODUCTION**

#### **340:105-12-1. Purpose**

This Subchapter provides Senior Community Service Employment Program (SCSEP) administration rules, per the Community Service Senior Opportunities Act (CSSOA), per Section 3056 et seq. of Title 42 of the United States Code (42 U.S.C. §§ 3056, et seq.; and Public Law 114-144, Part 641 of Title 20 of the Code of Federal Regulations operating under Title V of the Older Americans Act. The Governor designated Oklahoma Human Services Aging Services (AS) in July 2014, to

administrator SCSEP. The rules in this Subchapter outline operating policy for each level of the program including AS and sub-grantees.

[Source: Added at 38 Ok Reg 2337, eff 9-15-21]

### **340:105-12-2. Background**

The Older American Act was passed by Congress in 1965 to provide assistance to states in the development of comprehensive coordinated systems of services to older persons. The Senior Community Service Employment Program (SCSEP) is the only federally-sponsored employment and training program targeted specifically to low-income older individuals who want to enter or re-enter the workforce. SCSEP was established to foster individual economic self-sufficiency and promote useful opportunities in community services activities for unemployed, low-income persons who are 55 years of age and older, particularly persons who have poor employment prospects, and to increase the number of persons who may enjoy the benefits of unsubsidized employment in both the public and not-for-profit sectors.

[Source: Added at 38 Ok Reg 2337, eff 9-15-21]

### **340:105-12-3. Definitions**

The following words and terms, when used in this Subchapter, shall have the following meanings as applicable to the Senior Community Service Employment Program (SCSEP), per Section 641.140 of Title 20 of the Code of Federal Regulations (20 C.F.R. § 641.140), unless the context clearly indicates otherwise:

**"Additional indicators"** means retention in unsubsidized employment for one year; participant satisfaction, employers, and host agencies per the services provided; and other indicators of performance that the United States (U.S.) Department of Labor (DOL) Secretary (Secretary) determines appropriate to evaluate services and performance, per Section 513(b)(2) of the Older Americans Act (OAA § 513(b)(2)).

**"At risk for homelessness"** means an individual is likely to become homeless and he or she lacks the resources and support networks needed to obtain housing.

**"Authorized position level"** means the number of SCSEP enrollment opportunities that can be supported for a 12-month period based on the average national unit cost. The authorized position level is derived by dividing the total amount of funds appropriated for a program year by the national average unit cost per participant for that program year as determined by the United States (U.S.) Department of Labor (DOL). The national average unit cost includes all costs of administration, other participant costs, and participant wage and benefit costs as defined in OAA § 506(g).

**"Co-enrollment"** means any individual who meets the qualifications for SCSEP participation and is also enrolled as a participant in Workforce Innovation and Opportunity Act (WIOA) or another employment and training program, as provided in the Individual

Employment Plan.

**"Community service"** means:

- (A) social, health, welfare, and educational services including literacy tutoring, legal and other counseling services and assistance, including tax counseling and assistance and financial counseling, and library, recreational, and other similar services;
- (B) conservation, maintenance, or restoration of natural resources;
- (C) community betterment or beautification;
- (D) antipollution and environmental quality efforts;
- (E) weatherization activities;
- (F) economic development; and
- (G) other such services essential and necessary to the community as the Secretary determines by rule to be appropriate.

**"Community service assignment"** means part-time, temporary employment paid with grant funds in projects at host agencies through which eligible individuals are engaged in community service and receive work experience and job skills that can lead to unsubsidized employment.

**"Core indicators"** means hours, in the aggregate, of community service employment; entry into unsubsidized employment; retention in unsubsidized employment for six months; earnings; the number of eligible individuals served; and most-in-need.

**"Core services"** means services described in Section 134(d)(2) of the Workforce Innovation and Opportunity Act (WIOA).

**"Department"** or **"DOL"** means the U.S. Department of Labor, including its agencies and organizational units.

**"Disability"** means a disability attributable to a mental or physical impairment, or a combination of mental and physical impairments that results in substantial functional limitations in one or more areas of major life activity, per Section 3002(13) of Title 42 of the United States Code (42 U.S.C. § 3002(13)) The areas are:

- (A) self-care;
- (B) receptive and expressive language;
- (C) learning;
- (D) mobility;
- (E) self-direction;
- (F) capacity for independent living;
- (G) economic self-sufficiency;
- (H) cognitive functioning; and
- (I) emotional adjustment.

**"Equitable distribution report"** means a report based on the latest available Census or other reliable data that lists the optimum number of participant positions in each designated area in the state, and the number of authorized participant positions each sub-grantee serves in that area, taking into account the needs of underserved counties and incorporated cities as necessary. This report provides a basis for improving the distribution of SCSEP positions.

**"Frail"** means an individual 55 years of age and older who is determined to be functionally impaired because he or she is unable to

perform at least two activities of daily living without substantial human assistance, including verbal reminding, physical cueing, or supervision; or at the option of the State, is unable to perform at least three such activities without such assistance; or due to a cognitive or other mental impairment, requires substantial supervision because the individual behaves in a manner that poses a serious health or safety hazard to the individual or to another individual.

**"Grant period," "project period," or "award period"** means the time period between the effective date of the grant award and the ending date of the award, including any modifications extending the period of performance, whether by the DOL's exercise of options contained in the grant agreement or otherwise.

**"Greatest economic need"** means the need resulting from an income level at or below the poverty guidelines established by the U.S. Department of Health and Human Services and approved by the Office of Management and Budget (OMB).

**"Greatest social need"** means the need caused by non-economic factors that include physical and mental disabilities; language barriers; and cultural, social, or geographical isolation, including isolation caused by racial or ethnic status, which restricts the ability of an individual to perform normal daily tasks or threatens the capacity of the individual to live independently.

**"Homeless"** means, per 42 U.S.C. § 11302(a), an individual who lacks a fixed, regular, and adequate nighttime residence; and an individual who has a primary nighttime residence that is

(A) a supervised publicly or privately operated shelter designed to provide temporary living accommodations, including welfare hotels, congregate shelters, and transitional housing for the mentally ill;

(B) an institution that provides a temporary residence for individuals intended to be institutionalized; or

(C) a public or private place not designed for, or ordinarily used as, regular sleeping accommodations for human beings.

**"Host agency"** means a public agency or a private nonprofit organization exempt from taxation under 501(c)(3) of the Internal Revenue Code of 1986 that provides a training work site and supervision for one or more participants. Political parties cannot be host agencies. A host agency may be a religious organization as long as the projects in which participants are trained do not involve the construction, operation, or maintenance of any facility used, or to be used, as a place for sectarian religious instruction or worship.

**"Individual employment plan (IEP)"** means a plan for a participant based on his or her job assessment conducted by the sub-grantee or sub-recipient, or a recent assessment or plan developed by another employment and training program, and a related service strategy.

**"Intensive services"** means services authorized by Section 134(d)(3) of the Workforce Investment Act (WIA § 134(d)(3)).

**"Jobs for Veterans Act"** means Public Law 107-288 (2002). Section 2(a) of the Jobs for Veterans Act, codified at 38 U.S.C. § 4215(a),



provides a priority of service DOL employment and training programs for veterans, and certain spouses of veterans, who otherwise meet the eligibility requirements for participation. Priority is extended to veterans. Priority is also extended to the spouse of a veteran who died of a service-connected disability; the spouse of a member of the Armed Forces on active duty who has been listed for a total of more than 90-calendar days as missing in action, captured in the line of duty by a hostile force, or forcibly detained by a foreign government or power; the spouse of any veteran who has a total disability resulting from a service connected disability; and the spouse of any veteran who died while a disability was in existence, per 20 C.F.R. § 641.520(b).

**"Job ready"** means individuals who do not require further education or training to perform work that is available in their labor market.

**"Limited English proficiency"** means individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English.

**"Local Board"** means a Local Workforce Investment Board established, per WIA § 117.

**"Local Workforce Investment Area"** or **"local area"** means an area designated by the Governor of Oklahoma, per WIA § 116.

**"Low employment prospects"** means the likelihood that an individual will not obtain employment without the assistance of SCSEP or another workforce development program. Persons with low employment prospects have a significant barrier to employment. Significant barriers to employment may include, but are not limited to, lacking a substantial employment history, basic skills, or English-language proficiency; lacking a high school diploma or the equivalent; having a disability; being homeless; or residing in socially and economically, isolated rural or urban areas where employment opportunities are limited.

**"Low literacy skills"** means the individual computes or solves problems, reads, writes, or speaks at or below the eighth grade level or is unable to compute or solve problems, read, write, or speak at a level necessary to function on the job, in the individual's family, or in society.

**"Most-in-need"** means participants with one or more of the characteristics in (A) through (M). Participants who:

- (A) have a severe disability;
- (B) are frail;
- (C) are 75 years of age and older;
- (D) are age-eligible, but are not receiving benefits under Title II of the Social Security Act;
- (E) reside in an area with persistent unemployment and have severely limited employment prospects;
- (F) have limited English proficiency;
- (G) have low literacy skills;
- (H) have a disability;
- (I) reside in a rural area;
- (J) are veterans;
- (K) have low employment prospects;
- (L) have failed to find employment after using services provided per Title I of the WIOA of 2016, per 29 U.S.C. §

2801 et seq.; or

(M) are homeless or at risk for homelessness, per OAA § 513(b)(1)(E).

**"National sub-grantee"** means a public or non-profit private agency or organization, or Tribal organization, that receives a grant, per Title V of the OAA 42 U.S.C. § 3056 et seq. to administer a SCSEP project, per OAA § 506(g)(5).

**"Native American"** means a person who is a member of a Native American tribe.

**"Native American tribe"** means any tribe, band, nation, or other organized group or community of Native Americans, including an Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. §§1601 et seq., per 42 U.S.C. § 3002(27) that is:

- (A) recognized as eligible for the special programs and services provided by the United States to Native Americans because of their status as Native Americans; or
- (B) located on, or in proximity to, a Federal or State reservation or rancheria.

**"OAA"** means the Older Americans Act, 42 U.S.C. §§ 3001 et seq., as amended.

**"One-Stop Center"** means the One-Stop Center system in a WIOA local area that must include a comprehensive One-Stop Center through which One-Stop partners provide applicable core services and provides access to other programs and services carried out by the One-Stop partners, per WIOA § 134(c)(2).

**"One-Stop delivery system"** means a system under which employment and training programs, services, and activities are available through a network of eligible One-Stop partners, ensuring information about, and access to, core services is available regardless of where the individuals initially enter the workforce investment system, per WIOA § 134(c)(2).

**"One-Stop partner"** means an entity described in the WIOA § 121(b)(1), such as required partners, or an entity described in WIOA § 121(b)(2).

**"Other participant (enrollee) costs"** means the costs of participant training, including the payment of reasonable costs to instructors, classroom rental, training supplies, materials, equipment, and tuition, that may be provided before or during a community service assignment, in a classroom setting, or under other appropriate arrangements; job placement assistance, including job development and job search assistance; participant supportive services to enable a participant to successfully participate in a project, including the payment of reasonable costs of transportation, health care and medical services, special job-related or personal counseling, incidentals, such as work shoes, badges, uniforms, eyeglasses, and tools, child and adult care, temporary shelter, and follow-up services; and outreach, recruitment and selection, intake orientation, and assessments, per OAA § 502(c)(6)(A)(ii)-(v).

**"Pacific Island Americans and Asian Americans"** means Americans having origins in any of the original peoples of the Far East,

Southeast Asia, the Indian Subcontinent, or the Pacific Islands, per OAA § 518(a)(5).

**"Participant"** means an individual who is determined to be eligible for SCSEP, is given a community service assignment, and is receiving any service funded by the program.

**"Persistent unemployment"** means the annual average unemployment rate for a county or city is more than 20 percent higher than the national average for two out of the last three years.

**"Poor employment prospects"** means the significant likelihood that an individual will not obtain employment without the assistance of the SCSEP or another workforce development program. Persons with poor employment prospects have a significant barrier to employment; significant barriers to employment include, but are not limited to:

- (A) lacking a substantial employment history, basic skills, or English-language proficiency;
- (B) lacking a high school diploma or the equivalent;
- (C) having a disability;
- (D) being homeless; or
- (E) residing in socially and economically isolated rural or urban areas where employment opportunities are limited.

**"Program operator"** means a sub-grantee or sub-recipient that receives SCSEP funds from a SCSEP sub-grantee or a higher-tier SCSEP sub-recipient and performs the activities in (A) through (C) for all its participants. The activities are:

- (A) eligibility determination;
- (B) participant assessment; and
- (C) development of and placement into community service assignments.

**"Program Year"** means the one-year period beginning on July 1 and ending on June 30.

**"Project"** means an undertaking by a sub-grantee or sub-recipient in accordance with a grant or contract agreement that provides service to communities and training and employment opportunities to eligible individuals.

**"Recipient"** means sub-grantee. As used here, "recipient" includes "recipient" as defined in 2 C.F.R. § 200 (gg) and "sub-grantee" as defined in 2 C.F.R. § 200.

**"Residence"** means an individual's declared dwelling place or address as demonstrated by appropriate documentation.

**"Rural"** means an area not designated as a metropolitan statistical area by the Census Bureau; segments within metropolitan counties identified by codes 4 through 10 in the Rural Urban Commuting Area (RUCA) system; and RUCA codes 2 and 3 for census tracts that are larger than 400 square miles and have population density of less than 30 people per square mile.

**"SCSEP"** means the Senior Community Service Employment Program authorized under Title V of the OAA.

**"Secretary"** means the Secretary of the U.S. Department of Labor.

**"Service area"** means the geographic area served by a local SCSEP project in accordance with a grant agreement.

**"Severe disability"** means a severe, chronic disability attributable to mental or physical impairment, or a combination of mental and physical impairments, per 42 U.S.C. 3002(48):

- (A) is likely to continue indefinitely; and
- (B) results in substantial, functional limitation in three or more of the areas of major life activity in (i) through (vii) that are:
  - (i) self-care;
  - (ii) receptive and expressive language;
  - (iii) learning;
  - (iv) mobility;
  - (v) self-direction;
  - (vi) capacity for independent living; and
  - (vii) economic self-sufficiency.

**"Severely limited employment prospects"** means the substantial likelihood that an individual will not obtain employment without the assistance of the SCSEP or another workforce development program. Persons with severely limited employment prospects have more than one significant barrier to employment; significant barriers to employment may include, but are not limited to:

- (A) lacking a substantial employment history, basic skills, and/or English-language proficiency;
- (B) lacking a high school diploma or the equivalent;
- (C) having a disability;
- (D) being homeless; or
- (E) residing in socially and economically isolated rural or urban areas where employment opportunities are limited.

**"State sub-grantee"** means the entity designated by the Governor, or the highest government official, to enter into a grant with the Department to administer a State or Territory SCSEP project under the OAA. Except as applied to funding distributions, per OAA §506, this definition applies to the 50 States, Puerto Rico, the District of Columbia, and Territories: Guam, American Samoa, U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

**"State Plan"** means a Plan that the Governor, or the highest government official, of a state must submit to the Secretary that outlines a four-year strategy, and describes the planning and implementation process, for the statewide provision of community service employment and other authorized activities for eligible individuals, per SCSEP, 20 C.F.R. § 641.300.

**"Sub-grantee"** means an entity receiving financial assistance directly from the Department to carry out SCSEP activities. The sub-grantee is the legal entity that receives the award and is legally responsible for carrying out the SCSEP, even if only a particular component of the entity is designated in the grant award document. Sub-grantees include public and nonprofit private agencies and organizations, state agencies, tribal organizations, and Territories, that receive SCSEP grants from the Department. As used here, "sub-grantee" includes "sub-grantee" as defined in 2 C.F.R. § 200 and "recipient" as defined in 2 C.F.R. § 200 (gg).

**"Sub-recipient"** means the legal entity to which a sub-award of financial assistance is made by the sub-grantee, or by a higher-tier sub-recipient, and that is accountable to the sub-grantee for the use of the funds provided. As used here, "sub-recipient" includes "sub-grantee" as defined in 2 C.F.R. § 200 and "sub-recipient" as defined in 2 C.F.R. § 200.

**"Supportive services"** means services, such as transportation, health and medical services, special job-related or personal counseling, incidentals, such as work shoes, badges, uniforms, eyeglasses, and tools, child and adult care, housing, including temporary shelter, follow up services, and needs-related payments, which are necessary to enable an individual to participate in activities authorized under the SCSEP OAA §§ 502(c)(6)(A)(iv) and 518(a)(7).

**"Title V of the OAA"** means 42 U.S.C. §§ 3056 et seq., as amended.

**"Training services"** means those services authorized by WIOA § 134(d)(4).

**"Tribal organization"** means the recognized governing body of any Native American tribe, or any legally established organization of Native Americans that is controlled, sanctioned, or chartered by such governing body 42 U.S.C. 3002(54).

**"Unemployed"** means an individual who is without a job and who wants and is available for work, including an individual who may have occasional employment that does not result in a constant source of income, per OAA § 518(a)(8).

**"Veteran"** means an individual who is a "covered person" for purposes of the Jobs for Veterans Act, per 38 U.S.C. 4215(a)(1).

**"Workforce Innovation and Opportunity Act (WIOA)"** means Workforce Innovation and Opportunity Act of 2014, Public Law 114-144 and WIOA 29 U.S.C. 3101 et seq.

[Source: Added at 38 Ok Reg 2337, eff 9-15-21]

## **PART 2. STATE AGENCY**

### **340:105-12-4. State plan**

Oklahoma Human Services is required to have a State Plan in place. The Governor, or the highest designee, must submit a plan to the United States Department of Labor Secretary that outlines a four-year strategy, and describes the planning and implementation process for the statewide provision of community service employment and other authorized activities for eligible individuals, per Senior Community Service Employment Program Section 641.300 of the Older Americans Act.

[Source: Added at 38 Ok Reg 2337, eff 9-15-21]

### **340:105-12-5. State Agency responsibilities**

Oklahoma Human Services Aging Services is responsible under Title V Senior Community Service Employment Program (SCSEP) to:

- (1) develop and implement the state SCSEP plan with the assistance of sub-grantees and National SCSEP providers;
- (2) have an equitable distribution of authorized positions in the aggregate;
- (3) adhere to provisions set forth in the Older Americans Act and federal regulations promulgated under the Act;
- (4) enroll and serve minority, eligible participants in proportion to the minority eligible participants' numbers within the geographical jurisdiction of the program;
- (5) provide a sub-grantee with:
  - (A) technical assistance related to SCSEP;
  - (B) SCSEP information required to accomplish the sub-grantee's agreement responsibilities; and
  - (C) monthly SCSEP monitoring of programmatic and the financial systems and expenditures, including sub-recipients and local project operators on a regular basis to ensure compliance with cost allocations as specified in the regulations;
- (6) monitor the performance of the sub-grantees for compliance with the terms, conditions, and performance criteria included within the sub-grantee agreement, such as accurate and timely financial reports, and maintaining all requirements for customer and employee satisfaction surveys;
- (7) submit required SCSEP narrative reports quarterly to the United States (U.S.) Department of Labor (DOL);
- (8) review performance measures on a quarterly basis and relay that information to sub-recipient;
- (9) allocate SCSEP funds to a sub-recipient; and
- (10) monitor the sub-recipient:
  - (A) for use of the allocated funds; and
  - (B) to ensure the non-federal share of total SCSEP costs are used for in-kind services at a fair market value to services and facilities contributed; and
- (11) to adhere to performance measures and indicators as determined annually by the U.S. DOL;
- (12) to collaborate with all authorized grantees with minimal disruption to participants;
- (13) to select sub-grantees giving consideration to areas with a substantial population of individuals with barriers to employment. Special consideration is given to organizations with demonstrated expertise in serving individuals with barriers to employment, including former recipients of national grants; and
- (14) corrective action and follow-up procedures for sub-recipients and local project operators to remedy identified problems.

[Source: Added at 38 Ok Reg 2337, eff 9-15-21]

### **340:105-12-6. Contract withdrawal**

(a) Oklahoma Department of Human Services (OKDHS) terminates the contract in whole or in part for convenience when it is OKDHS' best

interest. OKDHS terminates the contract by delivering to the contractor, a Notice of Termination for Convenience, specifying the terms and effective date of contract termination. The contract termination date is a minimum of 30-calendar days from the date OKDHS issues the Notice of Termination for Convenience.

(b) The sub-grantee may terminate the contract for default or other just cause with a 30-calendar day written request. OKDHS may terminate the contract for default or any other just cause upon written notification to the contractor.

(c) Notice of termination must be in writing, and electronic notification is sufficient.

(d) When the contract is terminated, OKDHS is liable only for products and services delivered and accepted and for costs and expenses, exclusive of profit, reasonably incurred prior to the date upon which the notice was received.

[Source: Added at 38 Ok Reg 2337, eff 9-15-21]

### **340:105-12-7. Coordination and resource development**

Oklahoma Human Services and sub-grantees collaborate with other organizations to maximize opportunities for participants to obtain workforce development, education, and supportive services to help them move into unsubsidized employment. These organizations may include, but are not limited to, workforce investment boards, American Job Centers (One-Stop Centers), vocational rehabilitation providers, disability networks, basic education and literacy providers, and community colleges.

[Source: Added at 38 Ok Reg 2337, eff 9-15-21]

## **PART 3. PROGRAM STANDARDS FOR SERVICES FUNDED UNDER TITLE V - SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM OF THE OLDER AMERICANS ACT**

### **340:105-12-8. Participant**

An individual is determined to be eligible for the program after being assessed by Senior Community Service Employment Program staff and assigned to a community service assignment to receive services funding and legally filling an authorized position.

[Source: Added at 38 Ok Reg 2337, eff 9-15-21]

### **340:105-12-9. Program eligibility and data validation**

To be eligible for Senior Community Service Employment Program (SCSEP) the following criteria is met and documentation is kept in the participant's paper case file.

(1) Applicants must be 55 years of age and older at the time of enrollment. Age is calculated from the eligibility-determination date. Acceptable documentation to prove age is:

- (A) a driver license;
- (B) a federal, state, or local government identification card;
- (C) a hospital record of birth;
- (D) a birth certificate;
- (E) a passport;
- (F) school records or an identification (ID) card;
- (G) Form DD-214, Report of Separation or Discharge Paper;
- (H) tribal records;
- (I) a baptismal record;
- (J) a work permit;
- (K) a cross-match with Oklahoma Department of Vital Statistics;
- (L) public assistance or social services records; or
- (M) a Social Security award letter;

(2) Applicants must be Oklahoma residents.

(A) Residence is defined as an individual's declared dwelling place or address as demonstrated by appropriate documentation. No minimum length of residence is required.

(B) A homeless individual is considered a resident of the state in which she or he is applying.

(C) Residents of other states may be accepted if there is an approved multi-state agreement.

(D) Documentation of residence is required. Residence is verified based on any of the documents in (i) through (xi).

The documents are:

- (i) a lease or rental agreement;
- (ii) an approved cross-border of multi-state agreements;
- (iii) a state, federal, or tribal ID card;
- (iv) a driver license;
- (v) a home utility bill or other billing statement, such as a cell phone bill providing documentation of residence or mailing address, when different than the address on a license or ID;
- (vi) a document from a public or private institution, such as an independent-living housing, community-based residential facility, or assisted living, or from the Housing Authority;
- (vii) an official government, mail dated within the last 30-calendar days;
- (viii) Social Security statement;
- (ix) bank statement;
- (x) homeowners or rental insurance policy or statement; or
- (xi) voter registration card.



- (3) Applicants must be legally eligible to work in the United States (U.S.).
  - (A) U.S. citizenship is not a requirement for enrollment; however, an Employment Eligibility Verification Form (I-9) is required by law for all citizens and non-citizens.
  - (B) Documentation of eligibility to work is required.
- (4) Applicants must be currently unemployed.
  - (A) An individual may be considered unemployed when without a job, when he or she wants and is available for work, including an individual who may have occasional employment that does not result in a constant source of income.
  - (B) Documentation of the individual's unemployed status is required.
  - (C) Unemployment is verified based on self-attestation documentation.
- (5) Applicants must meet revised income inclusions and exclusions for determining eligibility.
- (6) Recertification of income eligibility of each individual is at least once every 12 months, or more frequently when circumstances warrant.

[Source: Added at 38 Ok Reg 2337, eff 9-15-21]

### **340:105-12-10. Applicant recruitment and selection process**

Sub-grantees:

- (1) develop and implement methods to recruit and select eligible participants to ensure maximum participation in the program;
- (2) use income definitions and income inclusions and exclusions for Senior Community Service Employment Program (SCSEP) eligibility to determine and document participant eligibility;
- (3) develop and implement methods to recruit minority populations to ensure at least proportional representation in assigned service areas; and
- (4) develop and implement strategies to recruit applicants who have priority of service as defined in OAA Section 518(b) (1)-(2) and by the Jobs for Veterans Act (JVA). Individuals with priority include those who:
  - (A) are covered persons in accordance with the JVA, covered persons who are SCSEP-eligible must receive services instead of or before non-covered persons;
  - (B) are 65 years of age and older;
  - (C) have a disability;
  - (D) have limited English proficiency;
  - (E) have low literacy skills;
  - (F) reside in a rural area;
  - (G) have low employment prospects;
  - (H) have failed to find employment after utilizing services provided through the One-Stop Delivery System; or
  - (I) are homeless or are at risk for homelessness.

[Source: Added at 38 Ok Reg 2337, eff 9-15-21]

### **340:105-12-11. Senior Community Service Employment Program (SCSEP) orientation**

- (a) Sub-grantees provide orientation for SCSEP host agencies and participants, including information regarding:
  - (1) project goals and objectives;
  - (2) participant rights and responsibilities;
  - (3) customer service agencies or host agencies;
  - (4) training opportunities;
  - (5) available supportive services; and
  - (6) availability of free physical examinations.
- (b) Sub-grantees must address the topics listed in (a)(1) - (5) and provide sufficient orientation to applicants and participants regarding:
  - (1) SCSEP goals and objectives;
  - (2) grantee and local project roles, policies, and procedures;
  - (3) documentation requirements;
  - (4) holiday and sick leave;
  - (5) assessment process;
  - (6) development and implementation of Individual Employment Plans;
  - (7) participant progress evaluation;

- (8) health and safety issues related to each participant's assignment;
- (9) supervisors and host agency roles;
- (10) maximum individual duration policy, including the possibility of a waiver, when applicable;
- (11) termination policy; and
- (12) grievance procedure.

[Source: Added at 38 Ok Reg 2337, eff 9-15-21]

### **340:105-12-12. Assessment and Individual Employment Program (IEP)**

The sub-grantee:

- (1) assesses participants at least twice per 12-month period;
- (2) uses assessment information to determine the most appropriate community service assignments (CSAs) for participants;
- (3) establishes an initial goal of unsubsidized employment for all participants;
- (4) updates the IEP at least as frequently as assessments occur, twice per 12-month period;
- (5) modifies the IEP as necessary to reflect other approaches to self-sufficiency when it becomes clear that unsubsidized employment is not feasible;
- (6) includes an IEP provision to transition to other services for participants who reach the individual durational limit or would not otherwise achieve unsubsidized employment;
- (7) rotates participants to a new host agency, or a different assignment within the host agency, based on a rotation policy approved by United States Department of Labor in the grant agreement and, only when an individualized determination concludes that the rotation is in the participant's best interest. Such rotation must further the acquisition of skills listed in the IEP; and
- (8) develops a system to transition participants to unsubsidized employment or other assistance before each participant's maximum enrollment duration expires.

[Source: Added at 38 Ok Reg 2337, eff 9-15-21]

### **340:105-12-13. Participant wages**

The sub-grantee provides participants with the highest applicable required federal, state, or local minimum wage for time spent in orientation, training, and community service assignments.

[Source: Added at 38 Ok Reg 2337, eff 9-15-21]

### **340:105-12-14. Required participant benefits**

The sub-grantee ensures rules and procedures are in place regarding benefits provided to participants. Sub-grantees:

- (1) provide the cost of physical examinations;
- (2) offer physical examinations to participants upon program entry, and each year thereafter, as a benefit of enrollment;
- (3) obtain a written waiver from each participant who declines a physical examination;
- (4) do not obtain a copy or use the results of the physical examination to establish eligibility or for any other purpose;
- (5) provide workers' compensation benefits equal to those provided by federal or state law;
- (6) cover unemployment compensation, when required by state law;
- (7) establish written policies relating to compensation for scheduled work hours during which the participant's host agency is closed for federal holidays, which are:
  - (A) New Year's Day;
  - (B) Dr. Martin Luther King, Jr. Day;
  - (C) President's Day;
  - (D) Memorial Day;
  - (E) Independence Day;
  - (F) Labor Day;
  - (G) Columbus Day;
  - (H) Veterans Day;
  - (I) Thanksgiving; and
  - (J) Christmas;
- (8) establish written policies relating to approved breaks in participation and any necessary administrative and sick leave that is not part of an accumulated sick leave program;
- (9) do not use grant funds to pay the cost of pension benefits, annual leave, accumulated sick leave, or bonuses; or
- (10) follow procedures for payroll and workers' compensation to include:
  - (A) making all required payments for participant payroll and pay workers' compensation premiums on a timely basis; and
  - (B) ensuring host agencies do not pay workers' compensation costs for participants.

[Source: Added at 38 Ok Reg 2337, eff 9-15-21]

### **340:105-12-15. Prohibited participant benefits**

Participants may not carry over allowable benefits or unused sick leave and holidays from one program year to the next.

[Source: Added at 38 Ok Reg 2337, eff 9-15-21]

### **340:105-12-16. Participant leave of absence**

(a) Participant leave of absence is not considered part of the durational limits of program participation when correctly entered into SCSEP Performance and Results QPR (SPARQ) unless otherwise notified by the United States Department of Labor (DOL).

(b) Leave of absence of any kind is unpaid leave unless otherwise notified by DOL.

[Source: Added at 38 Ok Reg 2337, eff 9-15-21]

### **340:105-12-17. Workforce Innovation and Opportunity Act coordination**

(a) A Memorandum of Understanding (MOU) and Infrastructure Agreement are established for each service area. The sub-grantee operating a Senior Community Service Employment Program (SCSEP) project in a local area is involved in the MOU negotiation with the Local Workforce Investment Board.

(b) MOU details the SCSEP sub-grantee's involvement in the One-Stop delivery system.

[Source: Added at 38 Ok Reg 2337, eff 9-15-21]

### **340:105-12-18. Collaboration and leveraged resources**

Collaboration with other organizations is essential to maximize opportunities for participants to obtain workforce development, education, and supportive services to help them move into unsubsidized employment. These organizations may include, but are not limited to, workforce investment boards, American Job Centers (One-Stop Centers), vocational rehabilitation providers, disability networks, basic education and literacy providers, and community colleges.

[Source: Added at 38 Ok Reg 2337, eff 9-15-21]

### **340:105-12-19. Supportive services**

Sub-grantees are responsible for supportive and follow-up services.

(1) **Supportive services.** Sub-grantees:

(A) provide supportive services, as needed, to help participants participate in their community service assignment and to obtain and retain unsubsidized employment; and

(B) establish criteria to assess the need for supportive services and to determine when participants will receive supportive services, including after obtaining, unsubsidized employment.

(2) **Follow-up.** To ensure continued successful employment and to verify mandated core performance measures, such as earnings and retention in unsubsidized employment for six months, SCSEP staff provides follow-up services within the first 180-calendar days of entry into unsubsidized employment. Staff:

(A) determines if the job is an appropriate match for the participant and the employer;

(B) maintains contact with the participant within the first 180-calendar days of entry into unsubsidized employment in order to verify retention in unsubsidized employment for six months;

- (C) documents wages earned by at least one of the methods in (i) - (iii) that are:
  - (i) a written statement from the employer;
  - (ii) pay stubs; or
  - (iii) detailed case notes indicating the name of the employer, the timeframe worked, and the wage; and
- (D) may reconsider a participant for reenrollment when it is determined during the follow-up process that the former participant became unemployed.

[Source: Added at 38 Ok Reg 2337, eff 9-15-21]

### **340:105-12-20. Customer Service Assignment (CSA) and host agencies**

The sub-grantee:

- (1) bases the initial CSA on the assessment done at enrollment;
- (2) selects only designated 501(c)(3) organizations or public agencies as host agencies;
- (3) puts in place procedures to ensure adequate supervision of participants at host agencies;
- (4) ensures safe and healthy working conditions at CSA through annual monitoring;
- (5) ensures methods to recruit and develop new host agencies develop and implement methods for recruiting new host agencies and provides training options that enable participants to increase skill level and transition to unsubsidized employment; and
- (6) ensures maintenance of effort conditions when selecting a new host agency.

[Source: Added at 38 Ok Reg 2337, eff 9-15-21]

### **340:105-12-21. Maintenance of effort**

The sub-grantee ensures that Customer Service Assignments (CSA) do not reduce the number of employment opportunities or vacancies that would otherwise be available to individuals who are not Senior Community Service Employment Program participants. The sub-grantee specifically ensures that CSAs do not:

- (1) displace currently employed workers, including partial displacement, such as a reduction in non-overtime work, wages, or employment benefits;
- (2) impair existing contracts or result in the substitution of federal funds for other funds in connection with work that would otherwise be performed; or
- (3) assign, or continue to assign, a participant to perform the same work or substantially the same work, as that performed by an individual who is on layoff.

[Source: Added at 38 Ok Reg 2337, eff 9-15-21]

### **340:105-12-22. Durational limits**

(a) **Average project duration.** An average project duration of 27 months or less is maintained, unless Educational Training Administration (ETA) approves an extension to 36 months.

(b) **Individual durational limits.** Unless otherwise notified by the United States Department of Labor, participants are allowed to participate in the program for no longer than 48 consecutive or inconsecutive months, unless approved policy allows for an extension and the participant meets extension criteria.

(1) The individual durational limit of 48 months does not automatically entitle participants to remain in the program for the entire 48 months.

(2) Participants are notified of policy pertaining to the maximum duration requirement, including the possibility of an extension if applicable, at the time of enrollment and each year thereafter, and whenever ETA has approved a change of policy.

(3) Participants are terminated when reaching the 48-month durational limit and are provided a written 30-day notice prior to the program exit.

(4) Eligibility and other programmatic considerations, such as the participant's Individual Employment Program, are taken into account.

(5) Approved leave of absence does not count toward the aggregate limits for the average project durational limit, nor the individual durational limit. Participants do not receive pay during approved breaks.

[Source: Added at 38 Ok Reg 2337, eff 9-15-21]

### **340:105-12-23. Performance data validation**

Participant data is collected via the SCSEP Performance and Results QPR (SPARQ) system only for its respective service area to comply with the requirements of the Senior Community Service Employment Program (SCSEP) Data Collection and SCSEP Data Validation Handbooks. Participant paper case files and information entered into SPARQ are used to verify compliance with data validation.

[Source: Added at 38 Ok Reg 2337, eff 9-15-21]

### **340:105-12-24. Right of return and reenrollment**

Participants must meet eligibility criteria for reenrollment as required for initial enrollment, per Oklahoma Administrative Code 340:105-12-15.

[Source: Added at 38 Ok Reg 2337, eff 9-15-21]

### **340:105-12-25. OKjobMatch.com and SCSEP Performance and Results QPR (SPARQ)**

The United States Department of Labor requires the use of the SCSEP Performance and Results QPR (SPARQ) system. Data obtained from the SPARQ system is used to track program performance. Sub-grantees ensure all participant and program information is entered in SPARQ, updated on a regular basis, and all participants must be registered in OKjobMatch.com to assist with job search activities. SPARQ is utilized to track the average durational limit for the sub-grantee and individual durational limits reflected in the QPR and management reports. Approved leave of absences do not count toward the aggregate limits for both the project and the individual when properly entered into SPARQ.

[Source: Added at 38 Ok Reg 2337, eff 9-15-21]

#### **340:105-12-26. Case file documentation requirements**

Sub-grantees maintain:

- (1) documentation of waivers of physical examinations by participants;
- (2) documentation of the provision of complaint procedures to participants;
- (3) documentation of eligibility determinations and recertification;
- (4) records of grievances and outcomes;
- (5) records required for data validation; and
- (6) documentation of monitoring reports for sub-grantees and host agencies.

[Source: Added at 38 Ok Reg 2337, eff 9-15-21]

### **PART 4. FISCAL AND ADMINISTRATIVE POLICIES FOR TITLE V SUB-GRANTEES**

#### **340:105-12-27. Maintenance of files and privacy information**

Sub-grantees are responsible for:

- (1) record retention and:
- (2) maintaining participant files for three-program years after the program year in which the participant received final follow-up activity;
- (3) ensuring that all participant records are securely stored by the grantee or sub-recipient and access is limited to appropriate staff in order to safeguard personal identifying information;
- (4) ensuring all participant medical records are securely stored separately by the grantee or sub-recipient from all other participant records and access is limited to authorized staff for authorized purposes;
- (5) establishing safeguards to preclude tampering with electronic media, such as personal identification numbers (PINs) and SCSEP Performance and Results QPR (SPARQ) logins;
- (6) ensuring that the Educational Training Administration and national office are immediately notified by the grantee in the



event of any potential security breach of PINs, whether electronic files, paper files, or equipment are involved; and  
(7) complying with, and ensure that authorized users under its grant comply with, all SPARQ access and security rules.

[Source: Added at 38 Ok Reg 2337, eff 9-15-21]

### **340:105-12-28. Data collection and reporting**

The sub-grantee:

- (1) ensures the collection and reporting of all required data according to specified time schedules;
- (2) ensures the use of United States Department of Labor approved data collection forms and the SCSEP Performance and Results QPR (SPARQ) system;
- (3) ensures those capturing and recording data are familiar with the latest instructions for data collection, including Educational Training Administration issuances, such as Training and Educational Guidance Letters, Data Collection and Data Validation Handbooks, and the Older Worker Community of Practice;
- (4) ensures data is entered directly into the Web Data Collection System (WDCS)/SPARQ;
- (5) presents complete data files in the specified electronic format, as well as hard copy case files, to the grantee when the sub-grantee ceases to administer the program; and
- (6) enters complete data related to any participants acquired upon becoming sub-grantee, including participants who are in the follow-up period.

[Source: Added at 38 Ok Reg 2337, eff 9-15-21]

### **340:105-12-29. Termination**

- (a) The sub-grantee provides a 30-calendar day written notice for all terminations that states the reason for termination and informs the participants of grievance procedures and rights to appeal.
- (b) The participant can be involuntarily terminated for:
  - (1) fraud in providing eligibility information;
  - (2) the grantee or sub-recipient incorrectly determines a participant is eligible;
  - (3) ineligibility at recertification;
  - (4) reaching the individual durational limit and not qualify for an extension, when available;
  - (5) becoming employed, but not notifying the grantee or sub-recipient;
  - (6) refusing to accept a reasonable number of job offers or referrals, with no extenuating circumstances with approval from the United States Department of Labor (DOL); and
  - (7) cause with DOL approval.
- (c) The participant is given an opportunity to correct behavior or conduct, or failure to comply with the Individual Employment Program

requirements, except in cases involving serious harm or imminent threat to health, safety, or property. If at any point, the participant makes a positive effort or his or her lack of action is justified, corrective action is discontinued.

[Source: Added at 38 Ok Reg 2337, eff 9-15-21]

### **340:105-12-30. Grievance procedures**

(a) **General.** Senior Community Service Employment Program (SCSEP) sub-grantee employees, participants, and applicants are provided the opportunity to make complaints involving alleged violations of federal law or SCSEP operating procedures to the sub-grantee and Oklahoma Human Services (OKDHS) Community Living, Aging and Protective Services (CAP). SCSEP grievance policy is based on the principle that, when possible, complaints are resolved at the lowest level. This policy includes three components described as requirements of, and actions taken by:

- (1) CAP as the grantee;
- (2) sub-grantees; and
- (3) the United States (U.S.) Department of Labor (DOL).

(b) **Sub-grantee requirements and actions.** All sub-grantee employees, participants, and applicants are informed of their rights to file complaints directly with the sub-grantee and OKDHS CAP, and their appeal rights.

- (1) Sub-grantees have written grievance procedures, compliant with this policy, for complaint resolution that are used to resolve SCSEP employees, participants, and applicant grievances.
- (2) Procedures are consistently and fairly applied. Complaints are addressed timely.
- (3) Sub-grantee procedures provide a definition of grievance, specify any complaints that do not constitute a grievance under its procedures, and include an appeals process.
- (4) A copy of the grievance procedures is included in the participant handbook and receipt of these procedures is documented with the *Participant Handbook Acknowledgement*.
- (5) Sub-grantee grievance procedures include (A) and (B) of this paragraph.

(A) **Informal meeting.** The grievant is given an opportunity to meet with the SCSEP project coordinator, immediate supervisor, or other appropriate sub-grantee-designated personnel to present the grievance informally to resolve the problem. The grievant presents the complaint within 30-calendar days of the incident or occurrence.

- (i) An informal meeting is scheduled and conducted with the parties within 15-calendar days of receipt of the complaint. Proceedings are documented in writing and copies are submitted to both parties.
- (ii) A supervisor, coordinator, or designated personnel provides a written grievance response to

participants within 10-calendar days of the informal meeting.

(iii) The written response advises the grievant that if he or she is not satisfied with the informal meeting decision, he or she has the right to appeal it in writing to the sub-grantee's executive director within five calendar days.

(iv) The sub-grantee's executive director's contact information is provided to the grievant with the written response to the informal meeting.

(B) **Formal meeting.** When the informal meeting does not resolve the issue, a formal process is followed. The formal meeting must occur within 15-calendar days after the receipt of the grievant's written appeal.

(6) Procedure requirements for implementing this Section are that the:

(A) grievance is presented in writing to the sub-grantee's executive director. The sub-grantee documents the receipt of a written grievance. Copies of written statements relevant to the grievance are made available to both parties;

(B) sub-grantee's executive director, or a panel designated by the executive director, such as the board of directors, hear from representatives of each party. Minutes are made of the hearing;

(C) sub-grantee's executive director or grievance panel render a decision and submit it in writing to the parties involved within 15-calendar days of the formal meeting by certified mail;

(D) minutes, along with written statements and other documentation presented at the hearing, are maintained in the sub-grantee's files for at least five years after the final disposition of the grievance; and

(E) decision of the sub-grantee's executive director or panel may be appealed to CAP.

(c) **Time limit for resolution of sub-grantee level grievance resolution.**

Sub-grantee level grievances are resolved within 60-calendar days of the sub-grantee receiving the complaint.

(d) **Filing grievances directly to OKDHS CAP and sub-grantee grievance resolution appeals to OKDHS CAP.**

Grievances filed directly to OKDHS CAP or sub-grantee grievance resolution appeals are in accordance with OKDHS per Oklahoma Administrative Code 340:2-5-43 and 340:2-5-44.

(e) **U.S. DOL requirements and actions.** Grievants, who are dissatisfied with CAP grievance resolution and appeals process results, may appeal to DOL. Per Section 641.910(b) of Title 20 Part 641 of the Code of Federal Regulations, DOL does not review final determinations made under OKDHS CAP SCSEP grievance procedures, except to determine if procedures were followed or to review alleged federal law investigation violations other than those related to nondiscrimination requirements of Title VI of the Civil Rights Act of 1964; Rehabilitation Act

of 1974 § 504; Workforce Investment Act of 1998 § 188, or their implementing regulations. When a participant is not satisfied with the final grievance determination and the alleged violation does not relate to the Civil Rights Act, he or she may file an appeal within 30 days of the determination. Appeals are directed to Director, Division of National Programs, Tools & Technical Assistance, Employment and Training Administration, U.S. Department of Labor 200 Constitution Avenue NW, Washington DC 20210.

**(f) Civil Rights Act or Rehabilitation Act questions or complaints.**

Questions about, or complaints alleging a violation of, the administrative requirements of Title VI of the Civil Rights Act of 1964; the Rehabilitation Act of 1973 § 504; or their implementing regulations are directed or mailed to the Director, Civil Rights Center, U.S. Department of Labor, Room N-4123, 200 Constitution Avenue, NW., Washington, DC 20210.

[Source: Added at 38 Ok Reg 2337, eff 9-15-21 ; Amended at 40 Ok Reg 1030, eff 9-15-23]

**340:105-12-31. Optional United States Department of Labor (DOL) policy requests**

(a) Grantees that wish to make optional requests must submit each request in a separate, clearly-titled document. To receive Employment and Training Administration (ETA) approval, requests must adhere to the statute and regulations and provide a substantive rationale such as improved program management, better service to participants, or least disruption possible to participants. DOL provides guidance in the most current Training and Employment Guidance Letter regarding instructions. Approvals for optional requests expire at the end of each program year, and grantees must submit a new request to exercise these options.

(b) Optional policy requests are made to DOL only by the grantee. Policy requests include, but are not limited to:

- (1) change 48-Month Individual Durational Limit (IDL) per Section 641.570(a)(3) of Title 20 of the Code of Federal Regulations (20 C.F.R. § 641.570(a)(3);
- (2) additional Funds for Participant Training and Supportive Services (ATSS) per Section 502(c)(6)(C) of the Older Americans Act;
- (3) increase in Administrative Cost Limitations per 20 C.F.R. § 641.870;
- (4) Rotational Policy per 20 C.F.R. § 641.575;
- (5) Cross-Border Agreements per 20 C.F.R. § 641.515(c); or
- (6) on the job experience.

[Source: Added at 38 Ok Reg 2337, eff 9-15-21]

**340:106-12-32. Required United States Department of Labor (DOL) forms**

(a) Sub-grantees use DOL forms for the Senior Community Service Employment Program to include the:

- (1) Participant Handbook Acknowledgment;

- (2) Family Size Verification;
  - (3) Family Income Worksheet;
  - (3) Host Agency Agreement;
  - (4) Host Agency Orientation; and
  - (5) Job Search Activity Documentation.
- (b) The DOL Participant Handbook or completion of forms do not constitute a contract or a guarantee to obtain work.

[Source: Added at 38 Ok Reg 2337, eff 9-15-21]

### **340:105-12-33. Budget revisions for Title V sub-grantees**

- (a) **Policy.** The following budget revisions require grantor-agency approval by a revised notification of grant award (NGA). Revisions are:
- (1) a budget increase of more than 10 percent in any single-line, approved line item;
  - (2) a change in the cost sharing ratio;
  - (3) a change in the project period and budget year dates;
  - (4) a change in the award recipient; and
  - (5) any change in the personnel or equipment line items.
- (b) **Authority.** The authority for this section is Part 641 of Title 42 of the Code of Federal Regulations.
- (c) **Procedures.** The procedures for implementing this Section are:
- (1) the sub-grantee submits a proposed budget, with any of the outlined revisions listed in (a) of this Section, to the grantor-agency for approval;
  - (2) if the revision is approved, the grantor-agency issues a revised NGA; and
  - (3) the grantee-agency revises the budget as approved.

[Source: Added at 38 Ok Reg 2337, eff 9-15-21]

### **340:105-12-34. Fiscal and project performance monitoring and reporting requirements**

- (a) **Data.** Accurate data is entered daily and submitted by the 15th of the month following the end of each quarter, (October 15th, January 15th, April 15th, and July 15th), to SCSEP Performance and Results QPR (SPARQ), as required. Those capturing and recording data must:
- (1) be familiar with the latest instructions for data collection, including the United States Department of Labor administrative issuances, such as Older Workers Bulletins, Training and Employment Guidance Letters, Data Collection Handbook, and internet postings;
  - (2) safeguard personal identification numbers (PIN);
  - (3) notify the Oklahoma grantee immediately in the event of any potential PIN security breach;
  - (4) ensure users comply with all SPARQ access and security rules; and
  - (5) turn over complete data files for DAIL and SCSEP databases (SPARQ), and hard copy case files, when the second party ceases to administer SCSEP.

(b) **Administration costs.** The sub-recipient's administration costs cannot exceed the approved level of administration funding for SCSEP funds received for a program year. Administrative costs are the allocable portion of necessary and reasonable allowable costs associated with performing general administrative and coordination functions, including:

- (1) accounting, budgeting, financial, and cash management;
- (2) procurement and purchasing;
- (3) property management;
- (4) payroll;
- (5) coordinating the resolution of findings arising from audits, reviews, investigations, and incident reports;
- (6) audit;
- (7) general legal services;
- (8) preparing administrative reports; and
- (9) other activities necessary for general administration.

(c) **Enrollee wage or fringe (EWF).** Sub-recipients must assign participants' wage and benefits costs to EWF. A minimum percentage of SCSEP funds must be used to pay for wages and benefits in accordance with federal guidelines. Failure to meet performance standards may lead to a disallowance in administration and other enrollee costs. EWF costs include, but are not limited to, the costs of:

- (1) participant wages, such benefits as are required by law, compensation for scheduled work hours during which a host agency is closed for a federal holiday, and necessary sick leave that is not part of an accumulated sick leave program; and
- (2) participant training, per Section 641.540 of Title 20 of the Code of Federal Regulations (20 C.F.R. § 641.540);

(d) **Other enrollee costs.** Sub-recipient's other enrollee costs may include the allocable portion of necessary and reasonable allowable costs associated with:

- (1) costs related to instructors, classroom rental, training supplies, materials, equipment, and tuition provided in a classroom setting or under other appropriate arrangements;
- (2) job placement assistance, including job development and job search assistance;
- (3) supportive services, including the reasonable costs of transportation, health care and medical services; special job-related or personal counseling; incidentals, such as work shoes, badges, uniforms, eyeglasses, and tools; child and adult care; temporary shelter; and follow-up service;
- (4) outreach;
- (5) recruitment and selection; and
- (6) intake orientation and assessment.

(e) **Match requirements.** Non-federal share is required and is cash or in-kind. Sub-recipients:

- (1) determine the non-federal share of costs per 29 C.F.R. § 97.24 for governmental units or 29 C.F.R. § 95.23 for nonprofit and commercial organizations;
- (2) follow the uniform allowable cost requirements that apply to their organization; and

(3) must meet all match requirements as specified in their sub-award.

[Source: Added at 38 Ok Reg 2337, eff 9-15-21]

## **PART 5. SUB-GRANTEE RESPONSIBILITIES**

### **340:105-12-35. Coordination and resource**

Each sub-grantee is expected to work and collaborate with its local Workforce Innovation and Opportunity Act (WIOA) One Stop, and American Job Center (AJC) office and to further collaborate with local and regional providers for supportive services that may alleviate barriers to employment for participants.

[Source: Added at 38 Ok Reg 2337, eff 9-15-21]

### **340:105-12-36. Equitable distribution**

Sub-grantees must manage slot allotment within equitable distribution guidelines set by the United States Department of Labor, to the extent feasible, providing potential participants with equal access to the program. Over-enrollment must be managed to minimize impact on participants and avoid layoffs.

[Source: Added at 38 Ok Reg 2337, eff 9-15-21]

**340:105-12-37. Title V host agency monitoring and evaluation**

(a) Prior to a host agency acting as a training site for participants, a host agency must understand and agree to:

- (1) bear the cost of any training materials, background checks, and required health screenings;
- (2) provide a safety orientation to all assigned participants;
- (3) inform the project office of any changes to a participant's work schedule or training responsibilities;
- (4) notify the project office if the participant's supervisor is paid with federal funds by checking the appropriate box on the host agency agreement;
- (5) consider qualified participants for permanent positions within the agency as they become available;
- (6) adhere to the sub-grantee's right to set participant training hours based on the available budget and other program considerations in the county where the participant is assigned; and
- (7) ensure participants are not unsupervised or left alone at any time.

(b) The sub-grantee is responsible to provide technical assistance and training when required by the grantee or requested by host agency, and to annually monitor each host agency for safety conditions, documenting findings in the host agency file.

[Source: Added at 38 Ok Reg 2337, eff 9-15-21]

**340:105-12-38. National or state emergencies or mandates**

(a) Sub-grantees are responsible for ensuring host agencies have disaster and emergency action plans in place.

(b) When, due to a national or state emergency or mandate and a change to the individual durational limit is directed, participants are eligible for continued program participation for the length of time specified by the mandate. When there is not an active host agency assignment available for the participant, he or she is entered into an unpaid approved break in participation until he or she is able to be placed in a paid training activity. The approved break in participation is not counted against the new durational limit. At the time a participant resumes active training, his or her additional participation count begins. Remaining eligibility is only calculated for time spent in the paid training or community service assignment. Participants are notified of the option for continued eligibility. If the participant opts for continued Senior Community Service Employment Program services, he or she is provided their 12-month transitional notice with their new eligibility expiration date.

(c) When the Department of Labor provides flexibilities regarding policy requirements, information will be conveyed to participants and sub-grantees as needed.

[Source: Added at 38 Ok Reg 2337, eff 9-15-21]



## **APPENDIX A. NON-TECHNICAL MEDICAL CARE PROVIDER AGREEMENT [REVOKED]**

[**Source:** Revoked and reenacted at 10 Ok Reg 3475, eff 6-7-93 (emergency); Revoked and reenacted at 11 Ok Reg 2745, eff 6-13-94 ; Revoked at 19 Ok Reg 1170, eff 5-13-02]

**APPENDIX B. CERTIFICATION OF PERSON  
RENDERING NON-TECHNICAL MEDICAL CARE  
[REVOKED]**

[Source: Revoked at 19 Ok Reg 1170, eff 5-13-02]

## **APPENDIX C. CLAIM FOR NON-TECHNICAL MEDICAL CARE IN OWN HOME [REVOKED]**

[**Source:** Revoked and reenacted at 10 Ok Reg 4357, eff 7-15-93 (emergency); Revoked and reenacted at 11 Ok Reg 2745, eff 6-13-94 ; Revoked at 19 Ok Reg 1170, eff 5-13-02]

## **APPENDIX D. CLIENT CONSENT FOR THE PROVISION OF PROTECTIVE SERVICES [REVOKED]**

[Source: Revoked at 19 Ok Reg 1170, eff 5-13-02]

## **APPENDIX E. HOME MAINTENANCE AIDE AGREEMENT AND CARE PLAN [REVOKED]**

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action revoking an Appendix, the last effective permanent text of the Appendix is reinstated. Therefore, on 7-15-99 (after the 7-14-99 expiration of the emergency action), the text of Appendix E reverted back to the permanent text that was effective prior to enactment of the emergency action on 6-4-98, as was last published in the 1996 Edition of the OAC, and remained as such until revoked by permanent action on 5-11-00.*

[**Source:** Revoked at 15 Ok Reg 3548, eff 6-4-98 through 7-14-99 (emergency)<sup>1</sup>; Revoked at 17 Ok Reg 1320, eff 5-11-00]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action revoking an Appendix, the last effective permanent text of the Appendix is reinstated. Therefore, on 7-15-99 (after the 7-14-99 expiration of the emergency action), the text of Appendix E reverted back to the permanent text that was effective prior to enactment of the emergency action on 6-4-98, as was last published in the 1996 Edition of the OAC, and remained as such until revoked by permanent action on 5-11-00.*

## APPENDIX F. HOME MAINTENANCE AIDE CONTRACT [REVOKED]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action revoking an Appendix, the last effective permanent text of the Appendix is reinstated. Therefore, on 7-15-99 (after the 7-14-99 expiration of the emergency action), the text of Appendix F reverted back to the permanent text that became effective 6-13-94, as was last published in the 1996 Edition of the OAC, and remained as such until revoked by permanent action on 5-11-00.*

[**Source:** Revoked and reenacted at 11 Ok Reg 1003, eff 4-30-93 (emergency); Revoked and reenacted at 11 Ok Reg 2745, eff 6-13-94 ; Revoked at 15 Ok Reg 3548, eff 6-4-98 through 7-14-99 (emergency)<sup>1</sup>; Revoked at 17 Ok Reg 1320, eff 5-11-00]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action revoking an Appendix, the last effective permanent text of the Appendix is reinstated. Therefore, on 7-15-99 (after the 7-14-99 expiration of the emergency action), the text of Appendix F reverted back to the permanent text that became effective 6-13-94, as was last published in the 1996 Edition of the OAC, and remained as such until revoked by permanent action on 5-11-00.*

## APPENDIX G. HOME MAINTENANCE AIDE CLAIM FORM [REVOKED]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action revoking an Appendix, the last effective permanent text of the Appendix is reinstated. Therefore, on 7-15-99 (after the 7-14-99 expiration of the emergency action), the text of Appendix G reverted back to the permanent text that was effective prior to enactment of the emergency action on 6-4-98, as was last published in the 1996 Edition of the OAC, and remained as such until revoked by permanent action on 5-11-00.*

[**Source:** Revoked at 15 Ok Reg 3548, eff 6-4-98 through 7-14-99 (emergency)<sup>1</sup>; Revoked at 17 Ok Reg 1320, eff 5-11-00]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action revoking an Appendix, the last effective permanent text of the Appendix is reinstated. Therefore, on 7-15-99 (after the 7-14-99 expiration of the emergency action), the text of Appendix G reverted back to the permanent text that was effective prior to enactment of the emergency action on 6-4-98, as was last published in the 1996 Edition of the OAC, and remained as such until revoked by permanent action on 5-11-00.*

## **APPENDIX H. NON-TECHNICAL MEDICAL CARE HEALTH PLAN [REVOKED]**

[Source: Revoked at 19 Ok Reg 1170, eff 5-13-02]



## **APPENDIX I. NON-TECHNICAL MEDICAL CARE PROVIDER SERVICE RECORD [REVOKED]**

[Source: Revoked at 19 Ok Reg 1170, eff 5-13-02]

## **APPENDIX J. APPLICATION FOR REFERRAL AS A NON- TECHNICAL MEDICAL CARE PROVIDER [REVOKED]**

[**Source:** Revoked and reenacted at 10 Ok Reg 3475, eff 6-7-93 (emergency); Revoked and reenacted at 11 Ok Reg 2745, eff 6-13-94 ; Revoked at 19 Ok Reg 1170, eff 5-13-02]

## **APPENDIX K. VOLUNTARY ACTION OF CASE CLOSURE [REVOKED]**

[Source: Revoked at 19 Ok Reg 1170, eff 5-13-02]

**APPENDIX L. SERVICE/ATTENDANCE CLAIM FORM  
[REVOKED]**

## **APPENDIX M. ELIGIBILITY SCHEDULE/RATES FOR GERIATRIC DAY CARE [REVOKED]**

[**Source:** Added at 9 Ok Reg 1727, eff 4-20-92 (emergency); Added at 9 Ok Reg 2917, eff 7-13-92 ; Revoked and reenacted at 15 Ok Reg 433, eff 10-21-97 (emergency); Revoked and reenacted at 15 Ok Reg 1692, eff 5-11-98 ; Revoked at 17 Ok Reg 1320, eff 5-11-00 ; Revoked at 19 Ok Reg 1170, eff 5-13-02]

## **APPENDIX N. NON-TECHNICAL MEDICAL CARE CLIENT'S PROVIDER AGREEMENT [REVOKED]**

[Source: Added at 10 Ok Reg 2297, eff 6-11-93 ; Revoked at 19 Ok Reg 1170, eff 5-13-02]

## **APPENDIX O. NTMC UNTRAINED PROVIDER CLASS NOTICE [REVOKED]**

[**Source:** Added at 10 Ok Reg 3475, eff 6-7-93 (emergency); Added at 11 Ok Reg 2745, eff 6-13-94 ;  
Revoked at 19 Ok Reg 1170, eff 5-13-02]

## **APPENDIX P. NTMC PROVIDER APPLICANT CLASS NOTICE [REVOKED]**

[**Source:** Added at 10 Ok Reg 3475, eff 6-7-93 (emergency); Added at 11 Ok Reg 2745, eff 6-13-94 ;  
Revoked at 19 Ok Reg 1170, eff 5-13-02]



**APPENDIX Q. NON-TECHNICAL MEDICAL CARE  
FAMILY MEMBER PROVIDER AGREEMENT  
[REVOKED]**

[Source: Added at 10 Ok Reg 3475, eff 6-7-93 (emergency); Added at 11 Ok Reg 2745, eff 6-13-94 ;  
Revoked at 19 Ok Reg 1170, eff 5-13-02]

## **APPENDIX R. PROJECT FINANCIAL CHART [REVOKED]**

**[Source:** Added at 11 Ok Reg 675, eff 11-15-93 (emergency); Added at 11 Ok Reg 2745, eff 6-13-94 ;  
Revoked at 19 Ok Reg 1170, eff 5-13-02]

**APPENDIX S. MONTHLY SUMMARY OF CASH  
TRANSACTIONS FEDERAL AND STATE CASH ONLY  
[REVOKED]**

[**Source:** Added at 10 Ok Reg 4477, eff 8-5-93 (emergency); Added at 11 Ok Reg 2745, eff 6-13-94 ;  
Revoked at 19 Ok Reg 1170, eff 5-13-02]

## **APPENDIX T. CASH RECEIPTS JOURNAL [REVOKED]**

[**Source:** Added at 11 Ok Reg 675, eff 11-15-93 (emergency); Added at 11 Ok Reg 2745, eff 6-13-94 ;  
Revoked at 19 Ok Reg 1170, eff 5-13-02]

## **APPENDIX U. CASH DISBURSEMENTS JOURNAL [REVOKED]**

[**Source:** Added at 11 Ok Reg 675, eff 11-15-93 (emergency); Added at 11 Ok Reg 2745, eff 6-13-94 ;  
Revoked at 19 Ok Reg 1170, eff 5-13-02]

## **APPENDIX V. CASH DISBURSEMENTS JOURNAL [REVOKED]**

[**Source:** Added at 11 Ok Reg 675, eff 11-15-93 (emergency); Added at 11 Ok Reg 2745, eff 6-13-94 ;  
Revoked at 19 Ok Reg 1170, eff 5-13-02]

## **APPENDIX W. EQUIPMENT INVENTORY [REVOKED]**

[**Source:** Amended at 11 Ok Reg 1473, eff 3-24-94 (emergency); Amended at 12 Ok Reg 1441, eff 5-26-95 ; Revoked at 19 Ok Reg 1170, eff 5-13-02]

## **APPENDIX X. AREA AGENCY QUARTERLY SUMMARY OF PROGRAM INCOME [REVOKED]**

[**Source:** Amended at 11 Ok Reg 1473, eff 3-24-94 (emergency); Amended at 12 Ok Reg 1441, eff 5-26-95 ; Revoked at 19 Ok Reg 1170, eff 5-13-02]



## **CHAPTER 110. LICENSING SERVICES**

[**Authority:** Civil Rights Act of 1964; Adoption and Safe Families Act of 1997; Consumer Product Safety Improvement Act of 2008; Child Care Development Block Grant of 2014; Family First Prevention Services Act; P.L. 105-89; P.L. 115-123; P.L. 113-186; 16 C.F.R. §§ 1219 and 1220; 10 O.S., §§ 401 et seq. and § 7501-1.1 et seq.; 21 O.S., §§ 846 and 870; 56 O.S., § 162]  
[**Source:** Codified 12-31-91]

### **SUBCHAPTER 1. GENERAL PROVISIONS**

#### **PART 1. LICENSING SERVICES - CHILD CARE**

##### **340:110-1-1. Purpose [REVOKED]**

[**Source:** Amended at 10 Ok Reg 2369, eff 6-11-93 ; Amended at 11 Ok Reg 385, eff 10-15-93 (emergency); Amended at 11 Ok Reg 2773, eff 6-13-94 ; Revoked at 40 Ok Reg 1033, eff 9-15-23]

##### **340:110-1-2. Definitions [REVOKED]**

[**Source:** Amended at 9 Ok Reg 3623, eff 7-23-92 (emergency); Amended at 10 Ok Reg 2369, eff 6-11-93 ; Amended at 11 Ok Reg 385, eff 10-15-93 (emergency); Amended at 11 Ok Reg 2773, eff 6-13-94 ; Amended at 13 Ok Reg 325, eff 5-18-95 (emergency); Amended at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 14 Ok Reg 2174, eff 5-14-97 (emergency); Amended at 15 Ok Reg 1727, eff 5-11-98 ; Amended at 16 Ok Reg 2527, eff 7-1-99 ; Revoked at 18 Ok Reg 2144, eff 6-11-01]

##### **340:110-1-3. Legal base and authority [REVOKED]**

[**Source:** Amended at 10 Ok Reg 2369, eff 6-11-93 ; Amended at 11 Ok Reg 385, eff 10-15-93 (emergency); Amended at 11 Ok Reg 2773, eff 6-13-94 ; Amended at 13 Ok Reg 499, eff 11-14-95 (emergency); Amended at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 14 Ok Reg 2174, eff 5-14-97 (emergency); Amended at 15 Ok Reg 1727, eff 5-11-98 ; Amended at 16 Ok Reg 2527, eff 7-1-99 ; Amended at 18 Ok Reg 2144, eff 6-11-01 ; Amended at 19 Ok Reg 221, eff 11-1-01 (emergency); Amended at 19 Ok Reg 1171, eff 5-13-02 ; Amended at 24 Ok Reg 1351, eff 7-1-07 ; Revoked at 40 Ok Reg 1033, eff 9-15-23]

##### **340:110-1-4. Roles and responsibilities**

(a) The staff members responsible for licensing child care facilities are under the supervision of Licensing Services within Oklahoma Child Care Services (OCCS). The licensing staff makes recommendations on all case actions to the licensing supervisor. The statewide licensing coordinator or designee is responsible for the final approval of all licensing recommendations.

(b) Official licensing records for child care programs are maintained in the licensing staff's office. These records are open to the public upon request and the procedures in 340:110-1-14 are followed.

(c) In addition to licensing child care facilities, licensing staff:

- (1) communicate with local fire and health officials within their assigned area regarding licensing policy, requirements, inspections, and other issues related to a specific facility or child care in general;
- (2) refer facilities to local city officials regarding local ordinances and related compliance;

- (3) assist parents in identifying child care options and providing information on choosing quality care;
  - (4) facilitate or sponsor training for child care providers; and
  - (5) promote the availability of quality, affordable child care within the licensing staff's assigned area.
- (d) When possible, a licensing staff member is not assigned to the facility where the staff member's child is in care.
- (e) All media requests for information regarding the licensing process, procedures, or case specific information are immediately forwarded to the licensing supervisor. The licensing supervisor forwards media contact information to the statewide licensing coordinator or designee, who provides the information to the Office of Communications per OAC 340:2-37-1.

[Source: Amended at 10 Ok Reg 2369, eff 6-11-93 ; Amended at 11 Ok Reg 385, eff 10-15-93 (emergency); Amended at 11 Ok Reg 2773, eff 6-13-94 ; Amended at 13 Ok Reg 499, eff 11-14-95 (emergency); Amended at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 16 Ok Reg 2527, eff 7-1-99 ; Amended at 16 Ok Reg 3511, eff 7-13-99 through 7-14-00 (emergency)<sup>1</sup>; Amended at 18 Ok Reg 2144, eff 6-11-01 ; Amended at 19 Ok Reg 2274, eff 6-27-02 ; Amended at 22 Ok Reg 1304, eff 6-1-05 ; Amended at 24 Ok Reg 1351, eff 7-1-07 ; Amended at 25 Ok Reg 1962, eff 7-1-08 ; Amended at 28 Ok Reg 1669, eff 7-1-11]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency amendatory action, the last effective permanent text of the Section is reinstated. Therefore, on 7-15-00 (after the 7-14-00 expiration of this emergency action), the text of 340:110-1-4 reverted back to the permanent text that became effective 7-1-99, as was last published in the 1999 OAC Supplement, and remained as such until amended again by permanent action on 6-11-01.*

#### **340:110-1-4.1. Forms [REVOKED]**

[Source: Added at 13 Ok Reg 325, eff 5-18-95 (emergency); Added at 13 Ok Reg 499, eff 11-14-95 (emergency); Added at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 13 Ok Reg 3225, eff 6-29-96 (emergency); Amended at 14 Ok Reg 1408, eff 5-12-97 ; Amended at 14 Ok Reg 2174, eff 5-14-97 (emergency); Amended at 15 Ok Reg 1727, eff 5-11-98 ; Amended at 16 Ok Reg 2527, eff 7-1-99 ; Amended at 18 Ok Reg 2144, eff 6-11-01 ; Amended at 19 Ok Reg 221, eff 11-1-01 (emergency); Amended at 19 Ok Reg 1171, eff 5-13-02 ; Amended at 21 Ok Reg 910, eff 6-1-04 ; Amended at 23 Ok Reg 1092, eff 6-1-06 ; Amended at 24 Ok Reg 1351, eff 7-1-07 ; Amended at 25 Ok Reg 1962, eff 7-1-08 ; Amended at 26 Ok Reg 415, eff 11-20-08 (emergency); Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 27 Ok Reg 48, eff 10-1-09 (emergency); Amended at 27 Ok Reg 1869, eff 7-1-10 ; Amended at 28 Ok Reg 1669, eff 7-1-11 ; Amended at 30 Ok Reg 695, eff 7-1-13 ; Revoked at 32 Ok Reg 704, eff 1-1-16 (emergency); Revoked at 33 Ok Reg 1678, eff 9-15-16]

#### **340:110-1-5. Inquiries [REVOKED]**

[Source: Amended at 10 Ok Reg 2369, eff 6-11-93 ; Amended at 11 Ok Reg 385, eff 10-15-93 (emergency); Amended at 11 Ok Reg 2773, eff 6-13-94 ; Amended at 13 Ok Reg 499, eff 11-14-95 (emergency); Amended at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 14 Ok Reg 2174, eff 5-14-97 (emergency); Amended at 15 Ok Reg 1727, eff 5-11-98 ; Amended at 16 Ok Reg 2527, eff 7-1-99 ; Amended at 18 Ok Reg 2144, eff 6-11-01 ; Amended at 20 Ok Reg 1259, eff 6-01-03 ; Amended at 22 Ok Reg 1304, eff 6-1-05 ; Amended at 23 Ok Reg 1092, eff 6-1-06 ; Amended at 25 Ok Reg 1962, eff 7-1-08 ; Amended at 26 Ok Reg 415, eff 11-20-08 (emergency); Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 28 Ok Reg 1669, eff 7-1-11 ; Amended at 36 Ok Reg 181, eff 12-17-18 (emergency); Amended at 36 Ok Reg 1892, eff 9-16-19 ; Revoked at 40 Ok Reg 1033, eff 9-15-23]

### **340:110-1-6. Inquiries and request for license process**

(a) **Inquiries.** Child care program, residential program, or child-placing agency license inquiries are referred to the appropriate Licensing staff. Licensing determines licensure necessity per, Oklahoma Child Care Facilities Licensing Act, Section 403 of Title 10 of the Oklahoma Statutes (10 O.S. § 403). Programs exempt from licensure may request licensure.

(b) **Licensing exemptions.** Program exemptions include (1) through (3) of this subsection.

(1) **Tribal reservation, Indian country, and federal facilities.**

Facilities located on tribal reservations or in Indian country and federal child care facilities not requiring a state license that may request licensure are:

- (A) on Indian tribal land;
- (B) licensed by a tribe, with a Child Care Services (CCS) cooperative Licensing agreement; and
- (C) operating on military bases or federal property.

(2) **In-home caregiver.** Adult and Family Services (AFS) Child Care Subsidy approves contracted child care when care is provided in the child's own home and no license is required.

(3) **Additional exemptions.** Programs not designed or intended for child care include:

- (A) programs operating less than 10 weeks annually;
- (B) summer programs operating less than eight hours per day;
- (C) programs serving children 3 years of age and older, offering elementary education in kindergarten through third grade;
- (D) summer youth camps, summer programs, or after-school programs for children who are at least 4 years of age, accredited by a national standard-setting agency or church camp accreditation program or are accredited by, chartered by, or affiliated with a national non-profit organization;
- (E) programs providing care and supervision for school-aged children only in a center-based program for 21 or fewer hours per week and located in a county with a population of less than 100,000, per the latest Federal Decennial Census;
- (F) programs where children are limited from enrolling in multiple sessions because of the type of activity or ages accepted;
- (G) programs where children are not enrolled by the parents and free to come and go;
- (H) child care facilities including family child care homes providing care and supervision for 15 or fewer hours per week;
- (I) sponsors operating two or more programs in the same building when each operates 15 hours or less per week; and

(J) programs where children attend on a drop-in basis and parents are on the premises and readily accessible.

(c) **Request for licensing information.** When the inquirer indicates an interest in becoming licensed or licensure is required, Licensing staff:

(1) documents the name, address, phone number, and type of care the program is providing or planning to provide; and

(2) provides the inquirer with:

(A) the applicable Licensing requirements;

(B) appropriate request for license packet; and

(C) referrals to other agencies involved in regulating child care facilities, such as the fire department, health department, and local city regulatory offices, when applicable;

(3) follows procedures in Oklahoma Administrative Code (OAC) 340:110-1-13 or 340:110-1-54.1, when the program is currently providing child care, residential care, or child-placing activity.

Licensing informs the inquirer not to provide child care, residential care, or child-placing activity without permission to operate from CCS, per (h) of this Section; and

(4) ascertains the inquirer's qualifications for program or agency operation.

(d) **Request for license.** When Form 07LC004E, Request for License - Child Care Program; or Form 07LC040E, Request for License Child-Placing Agency and Residential Child Care, is received, Licensing staff:

(1) verifies Form 07LC004E or Form 07LC040E is complete;

(2) verifies proof of ownership is provided, per OKDHS Appendix L-7, Ownership Proof Chart; and

(3) when appropriate, issues a permit within 45-calendar days or completes Form 07LC080E, Licensing Services Supplemental Information, documenting timeframe extension circumstances.

(e) **Incomplete request for license.** An incomplete request for license is returned to the applicant.

(f) **Withdrawal of request for license.** When an applicant:

(1) requests to withdraw the request for license request prior to initial permit issuance, Licensing staff:

(A) documents the withdrawal request on Form 07LC080E, Licensing Services Supplemental Information;

(B) confirms no children or residents are in care or no child-placing activity is conducted; and

(C) may close the case, unless negative action is warranted; and

(2) has not had children or residents in care or no child-placing activity for more than 12 months, the applicant is requested to withdraw the request for license. When the applicant:

(A) agrees to withdraw the request, Licensing staff:

(i) documents this discussion on Form 07LC080E;

(ii) provides a letter confirming the discussion and notifying the applicant of request for license withdrawal; and

(iii) proceeds with case closure; or

(B) does not agree to withdraw the request, Licensing staff:

- (i) documents this discussion on Form 07LC080E;
- (ii) provides a letter notifying the applicant of case closure within 10-calendar days of receipt of letter; and
- (iii) proceeds with case closure.

(g) **Application monitoring visit.** Licensing staff conducts a monitoring visit to determine compliance with requirements. Licensing staff:

- (1) provides program consultation regarding quality care and quality rating and improvement (QRIS) criteria;
- (2) discusses Oklahoma Human Service (OKDHS) subsidy contract opportunities and documents that contract information was provided to the applicant, when applicable; and
- (3) issues a permit, per OAC 340:110-1-8 or 340:110-1-46, when applicable.

(h) **Permission to operate.** The program may be granted permission to operate on application status when the Licensing staff determines an applicant is temporarily unable to comply with all Licensing requirements, but the services are needed and the non-compliance does not place children or residents at risk of imminent harm.

- (1) These situations are discussed with the regional programs manager or programs manager.
- (2) Permission to operate cannot exceed 30-calendar days.
- (3) When permission to operate is or was not granted, phone contact is made every two months and documented on Form 07LC080E, Licensing Services Supplemental Information.

(i) **Primary caregiver and spouse license issuance.** When requested, a license may be issued to a primary caregiver and his or her spouse. References are obtained for both individuals, and both must demonstrate requirement compliance. A primary caregiver must be identified and meet all primary caregiver requirements.

(j) **Alternative residence.** Care may be provided in a location other than the primary caregiver's residence.

(k) **Reopening a family child care home.** When a family child care home was closed for less than 12 months and had a record of compliance prior to closure, Licensing staff obtains a new Form 07LC004E, Request for License - Child Care Program, and may recommend license issuance after one compliant monitoring visit. Previous references are utilized. Prior to license issuance, background investigations are conducted, per OAC 340:110-1-8.1.

(l) **Reopening a child care center, day camp, drop-in, out-of-school time, part-day program, or program for sick children.** When a program was closed and the same owner requests to reopen, a new Form 07LC004E, Request for License - Child Care Program, is completed.

- (1) Fire and health inspections completed within the last 12 months, are utilized unless concerns exist.
- (2) When the program was closed less than 12 months:
  - (A) previously obtained director references are utilized;
  - (B) background investigations are conducted, per OAC 340:110-1-8.1; and

(C) with a record of compliance prior to closure, Licensing staff may recommend license issuance after one compliant monitoring visit.

(m) **Reopening a residential program or child-placing agency.** When a residential program or child-placing agency was closed and the same owner requests to reopen, a new Form 07LC040E, Request for License Child-Placing Agency and Residential Child Care, is completed.

(1) Fire and health inspections completed within the last 12 months, are utilized unless concerns exist.

(2) When the program was closed less than 12 months:

(A) background investigations are conducted, per OAC 340:110-1-8.1; and

(B) with a record of compliance prior to closure, the Licensing staff may recommend license issuance after one compliant monitoring visit.

(n) **Family child care homes approved to provide foster care.** A primary caregiver approved to provide foster care may be licensed as a family child care home. The primary caregiver cannot be licensed when approved for therapeutic foster care, per OAC 340:75-7-19. The approval for dual service is made by the Licensing supervisor prior to each child placement, based on the recommendation of Licensing staff and OKDHS foster care staff. Licensing staff completes Form 07LC099E, Dual Approval Request for Foster Care Placement. When a joint consensus is not achieved, either division may request a review by the dual approval committee for a final decision. The decision for approval is:

(1) based on the number, ages, and children's specific needs potentially eligible for child care and foster care and a written agreement from the primary caregiver stating the individual(s) from whom the child was removed will not be present during the child care hours;

(2) documented in the case record; and

(3) reviewed with the primary caregiver and foster care worker at least once every 12 months or when concerns exist.

[Source: Amended at 10 Ok Reg 2369, eff 6-11-93 ; Amended at 11 Ok Reg 385, eff 10-15-93 (emergency); Amended at 11 Ok Reg 2773, eff 6-13-94 ; Amended at 13 Ok Reg 325, eff 5-18-95 (emergency); Amended at 13 Ok Reg 499, eff 11-14-95 (emergency); Amended at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 14 Ok Reg 2174, eff 5-14-97 (emergency); Amended at 15 Ok Reg 1727, eff 5-11-98 ; Amended at 16 Ok Reg 285, eff 11-3-98 (emergency); Amended at 16 Ok Reg 1080, eff 4-26-99 ; Amended at 16 Ok Reg 2527, eff 7-1-99 ; Amended at 18 Ok Reg 2144, eff 6-11-01 ; Amended at 19 Ok Reg 658, eff 2-1-02 (emergency); Amended at 19 Ok Reg 1171, eff 5-13-02 ; Amended at 20 Ok Reg 1259, eff 6-1-03 ; Amended at 21 Ok Reg 910, eff 6-1-04 ; Amended at 22 Ok Reg 1304, eff 6-1-05 ; Amended at 23 Ok Reg 1092, eff 6-1-06 ; Amended at 24 Ok Reg 1351, eff 7-1-07 ; Amended at 25 Ok Reg 1962, eff 7-1-08 ; Amended at 26 Ok Reg 415, eff 11-20-08 (emergency); Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 27 Ok Reg 48, eff 10-1-09 (emergency); Amended at 27 Ok Reg 1869, eff 7-1-10 ; Amended at 29 Ok Reg 1229, eff 7-1-12 ; Amended at 34 Ok Reg 1640, eff 9-15-17 ; Amended at 40 Ok Reg 1033, eff 9-15-23]

### **340:110-1-6.1. Appendices [REVOKED]**

[Source: Added at 9 Ok Reg 3679, eff 7-23-92 (emergency); Added at 10 Ok Reg 2911, eff 6-25-93 ; Amended at 11 Ok Reg 385, eff 10-15-93 (emergency); Amended at 11 Ok Reg 2773, eff 6-13-94 ; Amended at 11 Ok Reg 3649, eff 6-14-94 (emergency); Amended at 13 Ok Reg 325, eff 5-18-95 (emergency); Amended at 12 Ok Reg 1447, eff 5-26-95 ; Amended at 13 Ok Reg 499, eff 11-14-95 (emergency); Amended at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 13 Ok Reg 3225, eff 6-29-96 (emergency); Amended at 14 Ok Reg 1408, eff 5-12-97 ; Amended at 16 Ok Reg 2527, eff 7-1-99 ;

Revoked at 18 Ok Reg 2144, eff 6-11-01]

### **340:110-1-7. Disposition of application [REVOKED]**

[**Source:** Amended at 10 Ok Reg 2369, eff 6-11-93 ; Amended at 11 Ok Reg 385, eff 10-15-93 (emergency); Amended at 11 Ok Reg 2773, eff 6-13-94 ; Revoked at 13 Ok Reg 325, eff 5-18-95 (emergency); Revoked at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 24 Ok Reg 1351, eff 7-1-07]

### **340:110-1-8. Types of issuance**

(a) **Six-month permit.** New child care centers, day camps, drop-ins, out-of-school time, part-day programs, programs for sick children, and family child care homes may be issued a six-month permit. The six-month permit provides Oklahoma Department of Human Services (DHS) Child Care Services (CCS) Licensing staff an opportunity to evaluate the program's compliance with Licensing requirements on an ongoing basis, and provides a basis to contract with DHS for child care subsidy, and receive Child and Adult Care Food Program reimbursement. The owner's Licensing compliance history is considered.

(1) Licensing staff may recommend a permit when the program is in compliance with Licensing requirements regarding:

- (A) completed criminal history review results for all required individuals;
- (B) number of qualified personnel;
- (C) professional development, including current cardio-pulmonary resuscitation (CPR) and first aid certifications;
- (D) hazards indoors or outdoors;
- (E) liability insurance coverage;
- (F) adequate equipment;
- (G) fencing and playground safety;
- (H) fire safety; and
- (I) other areas affecting children's safety.

(2) Licensing staff conducts a full-monitoring visit documenting compliance with Licensing requirements no more than 60-calendar days prior to six-month permit issuance.

#### **(b) Documentation for six-month permit.**

(1) **Child care centers, day camps, drop-ins, out-of-school time, part-day programs, and programs for sick children.**

Items required on file for six-month permit issuance, include:

- (A) completed Form 07LC004E, Request for License Child Care Program, and proof of ownership;
- (B) approved director credential verification and required master teachers, when applicable;
- (C) Form 07LC002E, Personnel Summary;
- (D) Form 07LC041E, Personnel Information, for each personnel;
- (E) Form 07LC057E, Physical Plant, including drawing and calculation;
- (F) adequate equipment for the recommended capacity;
- (G) fire department approval documentation within the previous 12 months;

- (H) health approval documentation, within the previous 12 months, when meals are prepared and served; and
- (I) all required background investigations documentation, per Oklahoma Administrative Code (OAC) 340:110-1-8.1, including completed criminal history review results for all required individuals.

(2) **Family child care homes.** The items required on file for a six-month permit issuance include:

- (A) completed Form 07LC004E, Request for License Child Care Program, and proof of ownership;
- (B) Form 07LC041E, Personnel Information, for primary caregiver and prior to employment for assistants and substitutes;
- (C) fire department approval documentation within the previous 12 months for a large family child care home operating in a mobile home; and
- (D) all required background investigations documentation per OAC 340:110-1-8.1, including completed criminal history review results for all required individuals.

(c) **Second and subsequent six-month permits.** When subsequent permits are recommended, the procedures in this subsection are followed.

- (1) Assistant licensing coordinator approval is needed for subsequent permits when programs are recommended for, or are in the process of, a consent agreement or request for license denial.
- (2) Licensing staff consults with the Licensing supervisor prior to recommending a second permit.
- (3) The Licensing supervisor consults with the licensing regional programs manager (RPM) before recommending a third permit.
- (4) The RPM consults with the statewide licensing coordinator or designee before recommending a fourth or subsequent permit.
- (5) Licensing staff provides a letter to the applicant notifying him or her each time a second or subsequent permit is recommended. The reason for the recommendation is clearly stated in the letter, with each non-compliance area listed separately.
- (6) When a subsequent permit is issued due to numerous, repeated, or serious non-compliance with Licensing requirements, Licensing staff monitors the facility at least monthly, and is accompanied by a witness, when possible. When the non-compliance indicates the program is unable or unwilling to meet Licensing requirements, the statewide licensing coordinator or designee is consulted.
- (7) When Licensing requirements per (a)(1) of this Section are met prior to the second or subsequent six-month permit expiration, license issuance may be recommended.
- (8) When children were not in care on a regular basis during the previous 12 months, the applicant is requested to withdraw the request for license, per OAC 340:110-1-6.

(d) **Issuance of license.** A license is issued after Licensing evaluates the applicant's activities and standards of care, determines the applicant



meets all Licensing requirements identified in (a) and (b) of this Section, and demonstrates substantial compliance with all other Licensing requirements, including entry-level professional development requirements for child care personnel, when required per Licensing requirements.

(1) Prior to recommending license issuance, Licensing staff completes at least three monitoring visits, and an equipment inventory, when required per Licensing requirements, in child care centers, day camps, drop-ins, out-of-school time and part-day programs, and programs for sick children.

(2) Children in care must be observed during at least one monitoring visit.

(3) A monitoring visit must be conducted within 60-calendar days of the issuance date.

(4) A license is in effect unless revoked or the program voluntarily closes.

(e) **Documentation for license issuance.**

(1) **Child care centers, day camps, drop-ins, out-of-school time and part-day programs, and programs for sick children.** In addition to the items in (a) through (b)(1) of this Section for six-month permit issuance, items required on file before license issuance include:

(A) a daily program schedule;

(B) current Form 07LC002E, Personnel Summary;

(C) an outdoor play schedule, when applicable;

(D) Form 07LC006E, Equipment Inventory for Child Care Programs, as required per Licensing requirements;

(E) a statement of completed compliance review, when applicable;

(F) director's references;

(G) a one-week sample menu of program provided meals and snacks;

(H) fire department approval documentation within the previous 24 months;

(I) health approval documentation within the previous 24 months when meals are prepared and served; and

(J) a statement of water test results when not on public water supply.

(i) When the test indicates the bacteria, nitrates, or lead level is too high for safe use, the director may sign a statement agreeing to use bottled water for drinking, cooking and, when applicable, children's bathing.

(ii) When there is a high bacteria or lead level, boiled or bottled water must be used for hand washing and dish washing.

(iii) When programs are licensed for 25 or more children, Department of Environmental Quality (DEQ) approval is required, when not on a public water supply system.

(2) **Family child care homes.** In addition to the items in (a) through (b)(2) of this Section for six-month permit issuance, the items required on file before license issuance include:

- (A) a one-week sample menu;
- (B) references; and
- (C) a statement of water test results, when not on public water supply.
  - (i) When the test indicates the bacteria, nitrates, or lead level is too high for safe use, the caregiver may sign a statement agreeing to use bottled water for drinking, cooking, and, when applicable, children's bathing.
  - (ii) When there is a high bacteria or lead level, boiled or bottled water must be used for hand washing and dish washing.

**(f) Evaluation and disposition.**

- (1) The Licensing supervisor reviews Licensing staff's case action recommendation before forwarding to the statewide licensing coordinator or designee.
- (2) The statewide licensing coordinator or designee reviews all case action recommendations. When a license or permit is approved, owner notification is provided.

[Source: Amended at 10 Ok Reg 2369, eff 6-11-93 ; Amended at 11 Ok Reg 385, eff 10-15-93 (emergency); Amended at 11 Ok Reg 2773, eff 6-13-94 ; Amended at 13 Ok Reg 325, eff 5-18-95 ; Amended at 13 Ok Reg 499, eff 11-14-95 (emergency); Amended at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 14 Ok Reg 80, eff 11-1-96 (emergency); Amended at 14 Ok Reg 1408, eff 5-12-97 ; Amended at 14 Ok Reg 2174, eff 5-14-97 (emergency); Amended at 15 Ok Reg 1727, eff 5-11-98 ; Amended at 16 Ok Reg 2527, eff 7-1-99 ; Amended at 18 Ok Reg 2144, eff 6-11-01 ; Amended at 19 Ok Reg 221, eff 11-1-01 (emergency); Amended at 19 Ok Reg 658, eff 2-1-02 (emergency); Amended at 19 Ok Reg 2274, eff 6-27-02 ; Amended at 21 Ok Reg 910, eff 6-1-04 ; Amended at 22 Ok Reg 1304, eff 6-1-05 ; Amended at 23 Ok Reg 1092, eff 6-1-06 ; Amended at 24 Ok Reg 1351, eff 7-1-07 ; Amended at 25 Ok Reg 1962, eff 7-1-08 ; Amended at 26 Ok Reg 415, eff 11-20-08 (emergency); Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 27 Ok Reg 48, eff 10-1-09 (emergency); Amended at 27 Ok Reg 1869, eff 7-1-10 ; Amended at 28 Ok Reg 1669, eff 7-1-11 ; Amended at 33 Ok Reg 1683, eff 11-1-16 ; Amended at 36 Ok Reg 1907, eff 11-1-19]

### **340:110-1-8.1. Background investigations**

**(a) Criminal history review-program process.**

- (1) **Criminal history review requests and results for programs.** Programs request criminal history reviews from the Oklahoma Department of Human Services (DHS) Office of Background Investigations (OBI), per Oklahoma Administrative Code (OAC) 340:2-46-4.
- (2) **Criminal history restriction waiver process.** The process in (A) - (D) of this paragraph is followed when a program requests a criminal history restriction waiver.
  - (A) The decision to grant or deny a criminal history restriction waiver is made by the restriction waiver review committee consisting of three Child Care Services (CCS) staff. The committee decision is based on documentation indicating that the health, safety, and well-being of children will not be endangered. The granting of a restriction waiver requires unanimous committee decision.

Criteria considered include the:

- (i) types of crimes or offenses the individual was convicted of or disposition, including a plea of guilty or nolo contendere (no contest), or a finding made;
- (ii) nature of the offense(s);
- (iii) individual's age at the time of the offense(s);
- (iv) circumstances surrounding commission of the offense(s) demonstrating whether the individual will re-offend;
- (v) number of offenses the individual was convicted of or findings made;
- (vi) length of time elapsed since the last conviction or disposition including a plea of guilty or nolo contendere (no contest), or a finding made;
- (vii) relationship of the offense(s) to the individual's ability to care for children;
- (viii) evidence of rehabilitation or education activities since the offense was committed, such as counseling;
- (ix) statement from the individual having the criminal history; and
- (x) references of community members concerning the individual documented on Form 07LC090E, Criminal History Restriction Waiver Reference, including the reference's name, address, and phone number.

(B) CCS State Office provides programs with written notice of the decision.

(C) Licensing staff monitors:

- (i) criminal history restriction waiver notification posting in the facility and placement in the compliance file, when required; and
- (ii) any additional program instructions.

(D) A criminal history restriction waiver may be rescinded at the discretion of the criminal history restriction waiver review committee.

**(b) Additional background investigations.**

(1) **DHS database searches.** Licensing staff searches DHS databases for involvement that may impact the individual's ability to meet requirements. Searches are conducted:

- (A) on all adults with the exception of directors, who are not owners or responsible entities, who sign Forms 07LC004E, Request for License - Child Care Program, or 07LC040E, Request for License - Child-Placing Agency and Residential Child Care;
- (B) prior to authorization to operate; and
- (C) annually.

(2) **Docket searches.** Licensing staff conducts docket searches for prior criminal activity. Searches are conducted annually on all adults who sign Form 07LC004E or Form 07LC040E.

(3) **Background investigations for children 14 years of age and older living in a facility.** When Licensing has concerns or receives a report of criminal or delinquent activity, Licensing may request a criminal history investigation, including a juvenile justice information system review. However, this does not apply to residents receiving services from a residential child care program.

(4) **Treating medical personnel statement.** When concerns exist, Licensing staff may request information from the provider by requiring provider's signature on Form 08HI003E, Authorization to Disclose Medical Records. All medical information is confidential.

**(c) Oklahoma State Bureau of Investigation (OSBI) Record of Arrest and Prosecution (RAP) Back process.**

(1) **Definition.** RAP Back is an OSBI notification of subsequent Oklahoma arrests of previously-fingerprinted individuals.

(2) **RAP Back criminal history review results.** This process is followed when RAP Back is received.

(A) OBI simultaneously disseminates RAP Back criminal history review results to:

- (i) program(s) where the individual is associated; and
- (ii) CCS for determination of appropriate action.

(B) Within 24 hours of receiving RAP Back from OBI, excluding weekends or holidays when the program is closed, Licensing staff contacts the program, to:

- (i) determine what action the program is taking to protect children; and
- (ii) inform the program of required actions.

**(d) Qualified entity (QE) - CCS.**

(1) **QE definition.** QE means an entity meeting the criteria and complying with federal and state laws and policies. QE standards govern the security and confidentiality of national fingerprint results.

(2) **Agreement compliance.** CCS maintains QE standards, per the user agreement with OSBI.

(3) **Agreement revisions.** CCS submits a revised agreement to OSBI when DHS Director or CCS contact individual(s) changes.

**(e) QE violations.** Licensing staff reports QE standard violations to OBI.

[Source: Added at 13 Ok Reg 325, eff 5-18-95 (emergency); Added at 13 Ok Reg 499, eff 11-14-95 (emergency); Added at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 14 Ok Reg 80, eff 11-1-96 (emergency); Amended at 14 Ok Reg 1408, eff 5-12-97 ; Amended at 14 Ok Reg 2174, eff 5-14-97 (emergency); Amended at 15 Ok Reg 1727, eff 5-11-98 ; Amended at 16 Ok Reg 2527, eff 7-1-99 ; Amended at 18 Ok Reg 2144, eff 6-11-01 ; Amended at 19 Ok Reg 2274, eff 6-27-02 ; Amended at 22 Ok Reg 1304, eff 6-1-05 ; Amended at 23 Ok Reg 1092, eff 6-1-06 ; Amended at 24 Ok Reg 1351, eff 7-1-07 ; Amended at 25 Ok Reg 1962, eff 7-1-08 ; Amended at 26 Ok Reg 415, eff 11-20-08 (emergency); Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 27 Ok Reg 48, eff 10-1-09 (emergency); Amended at 27 Ok Reg 1869, eff 7-1-10 ; Amended at 31 Ok Reg 154, eff 11-1-13 (emergency); Amended at 31 Ok Reg 1854, eff 9-15-14 ; Amended at 32 Ok Reg 704, eff 1-1-16 (emergency); Amended at 33 Ok Reg 1678, eff 9-15-16 ; Amended at 35 Ok Reg 475, eff 1-31-18 (emergency); Amended at 35 Ok Reg 1705, eff 9-17-18]

**340:110-1-8.10. Program evaluation for continuous quality improvement criteria**

(a) **Two-, three-, four-, and five-star center criteria.** Program evaluation criteria in this subsection are required for centers.

- (1) Personnel and families are surveyed annually identifying program strengths and weaknesses and evaluating effectiveness in meeting children's, families', and personnel's needs.
- (2) Part-day programs annually conduct an equipment inventory using the appropriate Oklahoma Human Services (OKDHS) form. Equipment inventories are maintained on file at the program.

(b) **Three-, four-, and five-star center criteria.** Program evaluation criteria in (a) of this Section are required. In addition, program evaluation methods described in (1) through (4) of this subsection are completed within one year of receiving three-, four-, or five-star level and repeated as required.

- (1) The program is assessed annually using an assessment tool approved by Child Care Services (CCS). This assessment is not required for:
  - (A) programs accredited by a CCS-approved, national accrediting organization; or
  - (B) Head Start grantees compliant with Head Start Program Performance Standards.
- (2) Program goals are established and updated annually considering information gathered from completed family and personnel surveys, equipment inventories, physical environment checklists, and a CCS-approved assessment tool, or approved national accreditation assessment tool, when applicable. The program may also use any program-completed needs assessments.
- (3) The program has a written plan and program policy and procedures for meeting established goals, including professional development and educational needs for personnel.
- (4) Personnel participate in program evaluation and the established goals for continuous quality improvement are shared with personnel.

(c) **Two-, three-, four-, and five-star home criteria.** Program evaluation criteria in this subsection are required for family child care homes.

- (1) Health and safety checklists for both indoor and outdoor spaces are completed annually and maintained on file at the program.
- (2) Personnel and families are surveyed annually identifying program strengths and weaknesses and evaluating effectiveness in meeting children's, families', and personnel's needs.

(d) **Three-, four-, and five-star home criteria.** Program evaluation criteria in this subsection are completed within one year of receiving three-, four-, or five-star level and repeated as required.

- (1) The program is assessed annually using an assessment tool approved by Child Care Services (CCS). This assessment is not required for programs accredited by a CCS-approved, national

accrediting organization.

(2) Program goals are established and updated annually considering information gathered from completed health and safety checklists, family and personnel surveys, and a CCS-approved assessment tool, or approved national accreditation assessment tool, when applicable. The program may also use any program-completed needs assessments.

(3) The program has a written plan and program policy and procedures for meeting established goals, including professional development and educational needs for the primary caregiver and assistant.

(4) Personnel participate in program evaluation and the established goals for continuous quality improvement are shared with personnel.

[Source: Added at 29 Ok Reg 1229, eff 7-1-12 ; Amended at 33 Ok Reg 1683, eff 11-1-16 ; Amended at 35 Ok Reg 475, eff 1-31-18 (emergency); Amended at 35 Ok Reg 1705, eff 9-17-18 ; Amended at 37 Ok Reg 1858, eff 11-1-20 ; Amended at 40 Ok Reg 1033, eff 9-15-23]

### **340:110-1-8.11. Additional four- and five-star criteria**

(a) **Center criteria.** Centers accredited by a Child Care Services (CCS)-approved national accrediting organization or a Head Start grantee and compliant with Head Start Program Performance Standards complete (1) of this subsection. All other programs complete (1) and (2) of this subsection.

(1) **Additional four- and five-star center professional development criteria.** Professional development criteria in this subsection are required for centers. Four-star centers implement one additional professional development criteria, and five-star centers implement two additional professional development criteria.

(A) The director obtains three college credits or 40-clock hours of job-related professional development annually, per Professional Development Ladder (PDL) certification year.

(B) The director has a current gold or higher level certificate, per Oklahoma Director's Credential.

(C) The director obtains at least one additional certification, such as:

(i) Director's Leadership Academy;

(ii) Oklahoma Director's Certificate of Mastery;

(iii) National Administrator Credential;

(iv) Director's Advanced Training;

(v) Oklahoma Director's Certificate of Completion;

or

(vi) Oklahoma Director's Pathway to Program Administration.

(D) Required number of master teachers obtain two college credits or 30-clock hours of job-related professional development annually, per PDL certification year.

(E) The program utilizes ongoing, evidence-based classroom coaching.

(F) Director and required number of master teachers complete all Pyramid Model Infant/Toddler, Preschool, or Birth to Five modules.

**(2) Additional four- and five-star center program criteria.**

Four-star centers implement three program criteria, and five-star centers implement five program criteria. Out-of-school time four-star centers implement two program criteria, and five-star out-of-school time centers implement three program criteria.

(A) **Curriculum coordinator.** The center utilizes a curriculum coordinator assisting with lesson plan implementation and mentoring classroom teachers. Curriculum coordinators may be assigned other program responsibilities.

(B) **Family orientation.** The center conducts a formal intake process for new families, and the process is addressed in the parent policy. Four-star centers implement one program criteria, and five-star centers implement (i) and (ii) of this paragraph. Family orientation includes:

- (i) parent orientation; and
- (ii) child orientation to teaching personnel, classroom, and routine.

(C) **Family partnership.** The center implements a written process involving families in children's education and development. Family partnership examples may include:

- (i) participation on family advisory board;
- (ii) volunteering in classroom; or
- (iii) program-conducted home visits at least twice annually.

(D) **Continuity of care.** A written plan ensures children 3 years of age and younger are placed with consistent teaching personnel for at least one year, promoting stronger personnel and child relationships.

(E) **Child learning assessment.** Programs implement child learning assessment and document children's progress annually.

(F) **Health and safety.** Four-star centers implement two health and safety criteria, and five-star centers implement four criteria. The program:

- (i) utilizes a health consultant as needed;
- (ii) implements daily playground safety checklists;
- (iii) conducts annual personnel emergency plan and procedure training;
- (iv) participates in Child and Adult Care Food Program (CACFP) or National School Lunch Program (NSLP);
- (v) obtains quality initiative certifications, such as Oklahoma State Department of Health Certified Healthy Early Childhood Program; or

(vi) collaborates with schools, with parental permission, regarding individual children's health and wellness, such as developmental screenings and individualized educational plans (IEP).

(G) **Child developmental assessment.** Programs offer evidence-based child developmental assessments or screenings by trained personnel. Programs communicate results with families, and provide referral information when indicated.

(b) **Home criteria.** Homes accredited by a CCS-approved national accrediting organization complete (1) of this subsection. All other programs complete (1) and (2) of this subsection.

(1) **Additional four- and five-star home professional development.** Professional development criteria in this subsection are required for homes. Four-star homes implement one additional professional development criteria, and five-star homes implement two additional professional development criteria.

(A) The primary caregiver maintains a current PDL Level 5 or higher.

(B) The primary caregiver obtains two college credits or 30-clock hours of job-related professional development annually, per PDL certification year.

(C) The primary caregiver completes Family Child Care Home Leadership Academy.

(D) The assistant caregiver obtains two college credits or 30-clock hours of job-related professional development annually, per PDL certification year.

(E) The program utilizes ongoing, evidence-based coaching to caregiving practices.

(F) The primary caregiver completes all Pyramid Model Infant/Toddler, Preschool, or Birth to Five modules.

(2) **Additional four- and five-star home criteria.** Homes implement additional program criteria.

(A) **Family orientation.** The program conducts a formal intake process for new families. Four-star homes implement one family orientation criteria, and five-star programs implement (i) and (ii) of this subparagraph.

Family orientation includes:

(i) parent orientation; and

(ii) child orientation to caregiver, home, and routine.

(B) **Health and safety.** Four-star homes implement two health and safety criteria, and five-star homes implement four criteria. The program:

(i) offers evidence-based developmental assessments or screenings by trained personnel. The program communicates results with families, and provides referral information when indicated;

(ii) utilizes a health consultant as needed;

(iii) implements daily playground safety checklists;



- (iv) conducts annual personnel emergency plan and procedure training, when applicable;
- (v) participates in CACFP;
- (vi) obtains quality initiative certifications, such as Oklahoma State Department of Health Certified Healthy Early Childhood Program; or
- (vii) collaborates with schools, with parental permission, regarding individual children's health and wellness, such as developmental screenings and IEPs.

[Source: Added at 40 Ok Reg 1033, eff 9-15-23]

### **340:110-1-8.2. Procedures for Day Care Provider Contract, OAC 340:70, Appendix I [REVOKED]**

[Source: Added at 13 Ok Reg 499, eff 11-14-95 (emergency); Added at 13 Ok Reg 2663, eff 6-28-96 ; Revoked at 16 Ok Reg 285, eff 11-3-98 (emergency); Revoked at 16 Ok Reg 1080, eff 4-26-99]

### **340:110-1-8.3. Certification of programs to receive a quality rating and improvement level**

(a) **Purpose.** The quality rating and improvement system (QRIS) provides a framework for building strong early care and education programs. This systematic approach assesses, improves, and communicates quality levels in early care and out-of-school time education programs. The QRIS quality components include:

- (1) management and administration;
- (2) workforce qualifications and professional development;
- (3) learning and development;
- (4) family partnerships; and
- (5) program evaluation and continuous quality improvement.

(b) **Criteria for child care centers and homes certification levels.**

The certification process and quality rating and improvement criteria for child care programs are described in Oklahoma Administrative Code (OAC) 340:110-1-8.3 through 340:110-1-8.11.

(c) **Request for star certification process.** The process in (1) through (4) of this subsection is required for certification.

(1) **One-star center and home criteria.** A program operating on a permit or license is automatically designated as a one-star program.

(2) **Two-star center and home criteria.** For approval as a two-star program, the owner and director or primary caregiver, when applicable, complete and submit Form 07LC025E, Request for Child Care Center Star Certification, or Form 07LC027E, Request for Family Child Care Home Star Certification, and:

- (A) meet all criteria described in (b) of this Section; and
- (B) when licensed as a child care center, meet at least the minimum number of master teachers as required, per star level and are not eligible for master teacher probationary periods.

(3) **Three-star center and home criteria.** For approval as a three-star program, the owner and director or primary caregiver, when applicable, complete and submit the appropriate request for star certification, and meet:

- (A) all star criteria described in (b) of this Section; or
- (B) Licensing status and compliance, per OAC 340:110-1-8.4, and provide documentation the program is:
  - (i) accredited by a Child Care Service (CCS)-approved national accrediting organization; or
  - (ii) a Head Start grantee and compliant with Head Start Program Performance Standards.

(4) **Four- and five-star center and home criteria.** For approval, the owner and director or primary caregiver, when applicable, must

complete and submit the appropriate request for star certification and:

- (A) meet all criteria described in (b) of this Section; or
- (B) meet all criteria described in OAC 340:110-1-8.3 through 340:110-1-8.10 and specified criteria described in OAC 340:110-1-8.11; and be:
  - (i) accredited by a CCS-approved national accrediting organization; or
  - (ii) a Head Start grantee and compliant with Head Start Program Performance Standards.

(d) **Effective June 1, 2022.** Programs certified as one-star plus or higher prior to June 1, 2022, are required to reapply for star level certifications.

(1) Applications must be received by December 1, 2022.

(2) On January 1, 2023, programs will be reassigned;

(A) the appropriate star level based on the criteria being met; or

(B) a one-star level when an application is not received by December 1, 2022.

(e) **Center and home certification approval.** The procedures in this subsection are followed for initial approval and requests for higher star certification level.

(1) The owner and director or primary caregiver, when applicable, submit the appropriate request for star certification and required documentation to CCS.

(2) The stars outreach specialist determines when certification criteria are met by reviewing the case file and submitted documentation. When it has been four months since the last monitoring visit, the stars outreach specialist requests Licensing staff conducts a full-monitoring visit. Prior to approval, the stars outreach specialist reviews all information consulting with Licensing staff and the stars program administrator or designee as needed.

(A) The monitoring visits and substantiated complaints for the last 24 months of operation are reviewed for criteria compliance determination. The request may be denied when the program has:

- (i) numerous, repeated, or serious non-compliance, per OAC 340:110-1-8.4;
- (ii) a single serious incident resulting in injury or imminent risk of harm to a child within the 24-month period;
- (iii) an Emergency Order or notice of proposed request for license denial or license revocation issued;
- (iv) a serious substantiated complaint;
- (v) failed to employ a qualified director for six months or more; or
- (vi) a consent agreement, per OAC 340:110-1-9.5.

(B) When the program meets the criteria, the stars outreach specialist provides a letter confirming the approval and the effective date, and updates the database. When numerous, repeated, or serious non-compliance was identified during case review for the star certification request, the letter states these non-compliances are considered, and may result in star certification reduction when subsequent serious non-compliances occur.

(C) When the program fails to meet the criteria, the stars outreach specialist provides a letter identifying criteria not met. The request for star certification is also reviewed determining when another star certification level can be met and updating the database accordingly.

(D) The owner and director or primary caregiver, when applicable, may reapply when criteria are met. When the request for a higher star certification level is denied due to numerous, repeated, or serious non-compliance with Licensing requirements, the program is not approved for a higher star certification level prior to six months after the program receives the denial letter by certified mail. The regional programs manager (RPM) may reduce the six-month waiting period based on case file evaluation, corrective action written documentation, and Licensing staff observation and documentation of substantial compliance improvement. The RPM provides the program written notification regarding reduced timeframes.

(E) The owner may withdraw the request for star certification prior to denial.

(F) The owner may request a reduction in star certification level. The request is made in writing to CCS. Quality rating and improvement system (QRIS) personnel or the designee provides a letter to the owner documenting the reduction request, including the new star certification level effective date, and updates the database with the program's new star certification level. A reduction request does not constitute a reduction in star certification level, per (h) of this Section, and the right to request an administrative review is waived.

(f) **Complaint investigations.** Pending complaint investigations may impact star certification request approval.

(g) **Ongoing review.** The procedures in this subsection are followed for ongoing review.

(1) **Program notification to CCS.** The owner, director, or primary caregiver is required to notify CCS within five program-business days of changes affecting the program's star certification level. The case is reviewed by Licensing staff, determining whether criteria continue being met.

(2) **Periodic certification reviews.** Licensing staff completes a minimum of three reviews annually. The three reviews consist of two partial- and one full-star certification criteria reviews.

(A) For programs having a licensed capacity of fifty or more, the annual criteria review may be scheduled at least one week in advance, when requested by the program owner or director.

(B) Programs:

(i) operating less than a full-year or having a cooperative licensing agreement with a tribal program are required to have a minimum of one partial- and one full-star certification reviews annually; and

(ii) exempt from state licensure including federal or tribal programs, have all applicable stars criteria reviewed at least annually.

(3) **Master teacher change.** When an individual not meeting master teacher educational qualifications replaces a master teacher:

(A) Form 07LC031E, Probationary Master Teacher Agreement, is completed;

(B) the probationary master teacher is granted a one-year probationary period to fulfill the master teacher educational qualifications per applicable QRIS criteria; and

(C) Licensing may extend the probationary period for a second year, providing the probationary master teacher is actively pursuing educational qualifications as identified on Form 07LC031E.

(4) **Non-compliance.** The star certification level of a program may be reduced, when a program has:

(A) serious non-compliance with Licensing requirements, within a 24-month period;

(B) a serious incident resulting in injury or imminent risk of harm to a child;

(C) an Emergency Order or notice of proposed request for license denial or license revocation issued;

(D) a serious substantiated complaint;

(E) failed to employ a qualified director for six months or more; or

(F) other star certification criteria violations.

(5) **Violations.** When violations of certification criteria are documented, or the program notifies CCS of criteria changes, the procedures in (A) through (E) of this paragraph are followed.

(A) Licensing staff provides written notification documenting the violations, including a statement that a reduction in the star certification level may occur, when the program has:

- (i) serious non-compliances with Licensing requirements;
- (ii) a serious incident occurs resulting in injury or imminent risk of harm to a child;
- (iii) an Emergency Order or notice of proposed request for license denial or license revocation issued;
- (iv) a serious substantiated complaint;
- (v) failed to employ a qualified director for six months or more; or
- (vi) star criteria violations not corrected in the agreed on time frame.

(B) Licensing staff documents a plan of correction indicating a specific agreed on correction time frame:

- (i) for each star criteria violation documented during a criteria review; or
- (ii) when a program notifies Licensing of star criteria violations.

(C) When previous star criteria violations were not corrected in the agreed on time frame, an additional plan of correction may be documented indicating a reduced correction time frame.

(D) When the program fails to meet additional plans of correction, Licensing staff may submit a referral for star certification reduction or notify the program of a request for extension of time to comply, including timeframes.

(E) When the program does not apply for an extension of time to comply, there is no acceptable plan of correction; Licensing staff may submit a referral for star certification reduction.

(6) **Follow-up of star criteria violations.** Licensing staff is responsible for verifying star certification criteria violations are corrected as determined by the approved plan of correction.

(7) **Written notice.** Licensing staff provides written notice that star certification criteria are not being met, when a program has:

- (A) serious non-compliance with requirements, per OAC 340:110-1-8.4;
- (B) a serious incident resulting in injury or imminent risk of harm;
- (C) a serious, substantiated complaint;
- (D) failed to employ a qualified director for six months or more; or
- (E) star criteria violation.

(h) **Extension of time to comply.**

- (1) A request for an extension of time to comply may be submitted when violations of star criteria cannot be corrected within the agreed on plan of correction time frame.
- (2) A request for an extension of time to comply to meet Licensing requirements, such as director qualifications, is not approved.
- (3) The owner, director, or primary caregiver submits Form 07LC074E, Request for Extension of Time to Comply, no later than 10-calendar days after the plan of correction expires.
- (4) The decision to approve or deny an extension of time to comply is made by the stars program administrator or designee. One or more discretionary extensions of time to comply may be granted. Approval of an extension of time to comply does not set a precedent and each request is independently evaluated. The owner and director or primary caregiver, when applicable, is notified in writing of the decision.

**(i) Reduction in star certification levels.**

- (1) A reduction occurs when CCS issued a written Emergency Order or notice of proposed request for license denial or license revocation.
- (2) A reduction may occur, when the program has:
  - (A) numerous, repeated, or serious non-compliance with Licensing requirements within a 24-month time frame;
  - (B) a serious incident resulting in injury or imminent risk of harm to a child;
  - (C) a serious, substantiated complaint;
  - (D) violations not corrected within the agreed on time frame; or
  - (E) failed to employ a qualified director for six months or more.
- (3) The procedures in this subsection are followed when a reduction is warranted.
  - (A) Licensing staff reviews the case with the supervisor and RPM. The decision to make a referral to the stars program administrator or designee is made by the RPM and referrals are made in writing to the stars program administrator or designee. The RPM may offer or accept a request from the owner of a licensed program for an alternative settlement in lieu of reduction. The alternative settlement documents how the program will go above and beyond minimum Licensing requirements and ensure a higher standard or quality of care. It is the RPM's decision to accept or deny the alternative settlement.
  - (B) When a reduction is warranted, the stars program administrator or designee provides the owner and director or primary caregiver, when applicable, a letter sent by certified mail documenting the reduction in star certification level and notifying the program of the right to request an administrative review of the decision.
  - (C) The certified mail delivery receipt card is addressed to return to the CCS director or designee.

(D) In order to receive an administrative review, the owner submits a written request to the CCS director or designee within 15-calendar days of reduction notification letter receipt.

(E) The request includes written documentation stating the program's grounds for administrative review.

(4) QRIS personnel or a designee updates changes in the star certification level and payment rate following verification of certified letter receipt and the administrative review, when requested.

(5) The administrative review process includes determining when a star certification level reduction was in accordance with Oklahoma Human Services (OKDHS) rules and substantially supported by the evidence. The procedures in (A) through (C) of this paragraph are followed when an administrative review is requested.

(A) Within 30-calendar days of receiving the request for an administrative review, a letter is provided notifying the owner and program of the administrative review. Prior to the administrative review, the owner is provided at least a 14-calendar day written notice. All correspondence indicates the administrative review date, time, and location. The owner may submit written documentation prior to, or at the beginning of the administrative review, with copies provided to all representatives.

(B) The administrative review panel:

(i) provides review;

(ii) consists of one OKDHS staff not involved in the decision to reduce the star certification level; and

(iii) includes two Child Care Advisory Committee (CCAC) members, one being a center owner or operator, per OAC 340:110-1-17.

(C) The stars review panel makes a determination affirming or reversing the CCS decision at the administrative review. Time constraints or the complexity of issues may require the panel to take a matter under advisement. The determination decision is completed within 10-calendar days from the panel review date.

(6) The owner and director or primary caregiver, when applicable, may reapply for a higher star certification level when criteria are met. When the star certification level is reduced due to serious non-compliance with Licensing requirements, the program is not approved for a higher star certification level for six months after receiving the reduction letter, sent by certified mail.

(j) **Change in ownership.** When there is a change in program ownership or form of business entity, the case is closed and the star certification level is removed, unless otherwise determined, per OAC 340:110-1-9. For approval as a higher star certification level, the new owner and director or primary caregiver, when applicable, completes and submits the appropriate star certification request, meeting all the criteria applicable to the requested star certification level.

(k) **Transitional change of ownership.** When a program requests a transitional change of ownership (1) through (7) of this subsection are followed.

(1) Licensing staff conducts a full-star criteria review within five-OKDHS business days:

(A) verifying all applicable criteria are met; and

(B) obtaining the appropriate request for star certification completed by the prospective owner and director or primary caregiver, when applicable.

(2) The stars outreach specialist reviews the request for star certification completed by the prospective owner and verifies star level certification criteria are met, per (d) of this Section.

(3) Transitional change of ownership procedures are followed, per OAC 340:110-1-9.

(4) Periodic and ongoing criteria reviews are conducted and maintained, per (f) of this Section.

(5) All star certification criteria reviews and correspondence are provided to both the current and prospective owners.

(6) Change of ownership procedures are followed, per (i) of this Section by the end of 90-calendar days, when applicable.

(7) When programs notify Licensing that transitional change of ownership is no longer proceeding, Licensing staff verifies program operation status and consults with the supervisor for appropriate action.

(l) **Inactive status.** When a program is determined inactive, per OAC 340:110-1-9, all applicable star certification criteria is reviewed prior to resuming care.

(m) **Address change.** When the program's address changes, Licensing staff completes the appropriate star certification review, verifying compliance with criteria at the new address. Licensing staff determines when a partial- or full-star certification review is conducted.

(n) **Record-keeping.** Periodic certification review, request forms, and supporting documentation are maintained in the case file or in a separate open-record file. Any confidential information, including children's photographs is maintained, per OAC 340:110-1-14.

[Source: Added at 15 Ok Reg 1204, eff 2-1-98 (emergency); Added at 15 Ok Reg 1727, eff 5-11-98 ; Amended at 15 Ok Reg 3491, eff 8-1-98 (emergency); Amended at 16 Ok Reg 3491, eff 8-1-98 (emergency); Amended at 16 Ok Reg 1080, eff 4-26-99 ; Amended at 16 Ok Reg 2527, eff 7-1-99 ; Amended at 16 Ok Reg 3511, eff 7-13-99 (emergency); Amended at 17 Ok Reg 3104, eff 7-1-00 (emergency); Amended at 18 Ok Reg 2607, eff 6-26-01 ; Amended at 19 Ok Reg 236, eff 1-1-02 (emergency); Amended at 19 Ok Reg 2274, eff 6-27-02 ; Amended at 20 Ok Reg 1259, eff 6-1-03 ; Amended at 21 Ok Reg 910, eff 6-1-04 ; Amended at 22 Ok Reg 1304, eff 6-1-05 ; Amended at 23 Ok Reg 1092, eff 6-1-06 ; Amended at 24 Ok Reg 1351, eff 7-1-07 ; Amended at 25 Ok Reg 1962, eff 7-1-08 ; Amended at 26 Ok Reg 415, eff 11-20-08 (emergency); Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 27 Ok Reg 1869, eff 7-1-10 ; Amended at 29 Ok Reg 1229, eff 7-1-12 ; Amended at 33 Ok Reg 1683, eff 11-1-16 ; Amended at 35 Ok Reg 475, eff 1-31-18 (emergency); Amended at 35 Ok Reg 1705, eff 9-17-18 ; Amended at 36 Ok Reg 181, eff 12-17-18 (emergency); Amended at 36 Ok Reg 1892, eff 9-16-19 ; Amended at 38 Ok Reg 2359, eff 9-15-21 ; Amended at 40 Ok Reg 1033, eff 9-15-23]

#### **340:110-1-8.4. Licensing status and compliance criteria**

(a) **Two-, three-, four-, and five-star licensing status criteria.** For star certification, programs have a license or permit.



(b) **Two-, three-, four-, and five-star compliance criteria.** The monitoring visits and substantiated complaints for the last 24 months of operation are reviewed. The Licensing file from the applicant's previous licenses is considered. Numerous, repeated, and serious non-compliance, per Oklahoma Administrative Code (OAC) 340:110-1-9.3 are considered when approving or denying star certification. The request for star certification may be denied or the level reduced, when:

- (1) there are numerous, repeated, or serious non-compliance with applicable Licensing requirements;
- (2) a serious incident occurs resulting in injury or imminent risk of harm to a child;
- (3) an Emergency Order or notice of proposed request for license denial or license revocation is issued;
- (4) a serious substantiated complaint occurs;
- (5) the program fails to employ a qualified director for six months or more; or
- (6) star certification level criteria are not met.

[Source: Added at 29 Ok Reg 1229, eff 7-1-12 ; Amended at 33 Ok Reg 1683, eff 11-1-16 ; Amended at 35 Ok Reg 1732, eff 11-1-18 ; Amended at 37 Ok Reg 1858, eff 11-1-20 ; Amended at 40 Ok Reg 1033, eff 9-15-23]

#### **340:110-1-8.5. Administrative criteria**

(a) **Two-, three-, four-, and five-star center criteria.** Administrative criteria listed in (1) - (6) of this subsection are required.

(1) At least annually, the director or supervising personnel evaluates personnel in writing utilizing the Oklahoma Core Competencies and assists personnel in developing the educational professional development plan.

(2) Personnel policies are provided to personnel upon employment and when revisions are made. These policies include information on:

- (A) personnel hiring and termination;
- (B) job duties and responsibilities for each position;
- (C) professional development requirements, including minimum professional development hours required;
- (D) personnel attendance policy;
- (E) the program's mission or vision statement;
- (F) organizational structure;
- (G) professional and ethical conduct;
- (H) children's transition plans for:
  - (i) daily activity transitions;
  - (ii) new teaching personnel or classroom; and
  - (iii) transition to a new child care program, Head Start, or school; and
- (I) continuity of care plans, per Oklahoma Administrative Code (OAC) 340:110-1-8.8(b)(5).

(3) Personnel policies are maintained on site.

(4) Programs are registered as a direct care organization with the Oklahoma Professional Development Registry (OPDR) by following and maintaining all items listed in the Direct Care

Facility Handbook.

(5) Program personnel counted in staff-child ratio and the director are OPDR members having current Professional Development Ladder (PDL) certificates. New personnel counted in staff-child ratio and directors must be verified on OPDR having current PDL certificates within 12 months of employment.

(6) Personnel meetings are conducted, at least:

- (A) twice annually for two-star programs;
- (B) quarterly for three-star programs;
- (C) every other month for four-star programs; and
- (D) monthly for five-star programs.

(b) **Three-, four-, and five-star center criteria.** In addition to administrative criteria in (a) of this Section, programs maintain a written policy regarding children's assignments to teaching personnel, per OAC 340:110-1-8.8.

(c) **Four- and five-star center criteria.** Programs implement personnel benefits and resources for well-being and personnel retention. Four-star programs implement at least two benefits, and five-star programs implement at least four benefits. Benefits are listed in the personnel policy, and examples may include:

- (1) personnel salary scale based on PDL level, position responsibilities, experience, or longevity;
- (2) fully- or partially-paid health insurance;
- (3) on-going employee wellness activities;
- (4) paid sick and vacation days;
- (5) coaching and reflection release time;
- (6) employer contribution to retirement plan;
- (7) designated break and lunch times away from program responsibilities;
- (8) personnel break room;
- (9) free or discounted child care;
- (10) professional development or educational financial aid;
- (11) annual Adverse Childhood Experience and resiliency training;
- (12) health and wellness education presented quarterly at personnel meetings; or
- (13) paid gym memberships.

(d) **Two-, three-, four-, and five-star home criteria.** Administrative criteria listed in (1) through(3) of this subsection are required.

(1) The primary caregiver is an OPDR member having a current PDL certificate.

(2) Programs are registered as a direct care organization with the OPDR by following and maintaining all items listed in the Direct Care Facility Handbook.

(3) Assistant caregivers are OPDR members having current PDL certificates. New assistant caregivers are verified on OPDR having current PDL certificates within 12 months of employment.

(e) **Three-, four-, and five-star home criteria.** Administrative criteria listed in (c) of this Section and (1) through(3) of this subsection are required. The owner or primary caregiver:

- (1) maintains assistant caregivers' written job descriptions and responsibilities;
- (2) evaluates assistant caregivers in writing annually, including developing the educational professional development plan; and
- (3) maintains a written policy regarding children's transition plans, for:
  - (A) daily activity transitions;
  - (B) new caregivers; and
  - (C) transition to a new child care program, Head Start, or school.

[Source: Added at 29 Ok Reg 1229, eff 7-1-12 ; Amended at 33 Ok Reg 1683, eff 11-1-16 ; Amended at 35 Ok Reg 1732, eff 11-1-18 ; Amended at 40 Ok Reg 1033, eff 9-15-23]

#### **340:110-1-8.6. Director, personnel, and primary caregiver qualification criteria**

##### **(a) Two-, three-, four-, and five-star master teacher qualifications.** Required criteria include:

- (1) a current Oklahoma Professional Development Ladder (OPDL) certificate of Level 4 or higher;
- (2) completed training in Oklahoma's Early Learning Guidelines (ELG); however, new master teachers or probationary master teachers hired or assuming the responsibilities after certification are trained within 90-calendar days; and
- (3) employment on-site, full-time; however, out-of-school time master teachers are on-site at least 50 percent of weekly-operating hours.

##### **(b) Master teacher ratio for two-, three-, four-, and five-star centers.** There is a full-time master teacher for every:

- (1) 50 children of the licensed capacity for two-star centers;
- (2) 40 children of the licensed capacity for three-star centers;
- (3) 30 children of the licensed capacity for four-star centers; or
- (4) 20 children of the licensed capacity for five-star centers.

##### **(c) Master teacher ratio for two-, three-, four-, and five-star programs licensed as out-of-school time programs and day camps.** There is a full-time master teacher for every:

- (1) 60 children of the licensed capacity for two-star out-of-school time programs and day camps;
- (2) 50 children of the licensed capacity for three-star out-of-school time programs and day camps;
- (3) 40 children of the licensed capacity for four-star out-of-school time programs and day camps; or
- (4) 30 children of the licensed capacity for five-star out-of-school time programs and day camps.

##### **(d) Additional master teacher requirements for two-, three-, four- and five-star centers.** An individual is not counted as a master teacher, probationary master teacher, or primary caregiver in more than one program, unless the scheduled hours of employment in each program do not overlap at any given time.

- (1) When an individual replaces a master teacher and does not meet educational qualifications, refer to Oklahoma Administrative

Code (OAC) 340:110-1-8.3(g)(3).

(2) When approved, a probationary master teacher also completes training in ELG in (a)(2) of this Section.

(e) **Director as master teacher.** The director may be counted as a master teacher when meeting master teacher qualifications in (a) of this Section, regardless of the program's licensed capacity.

(f) **Master teacher responsibilities.** Master teachers are responsible for:

- (1) direct care of children; and
- (2) supporting other teaching personnel and program management with:
  - (A) planning and implementing lesson plans;
  - (B) classroom arrangement;
  - (C) planning and implementing family communication and engagement; and
  - (D) providing program development and evaluation feedback.

(g) **Director responsibilities.** An individual is not counted as director in more than one program.

(h) **Three-, four-, and five-star primary caregiver qualifications.**

Required criteria include:

- (1) a current OPDL certificate of Level 4 or higher;
- (2) completed training in ELG; however, new primary caregivers hired or assuming the responsibilities after certification are trained within 90-calendar days; and
- (3) employment on-site, full-time.

(i) **Additional primary caregiver requirements for two-, three-, four-, and five-star homes.** An individual is not counted as a primary caregiver, master teacher, or probationary master teacher in more than one program, unless the scheduled hours of employment in each program do not overlap at any given time.

[Source: Added at 29 Ok Reg 1229, eff 7-1-12 ; Amended at 33 Ok Reg 1683, eff 11-1-16 ; Amended at 35 Ok Reg 1732, eff 11-1-18 ; Amended at 36 Ok Reg 181, eff 12-17-18 (emergency); Amended at 36 Ok Reg 1892, eff 9-16-19 ; Amended at 37 Ok Reg 1858, eff 11-1-20 ; Amended at 40 Ok Reg 1033, eff 9-15-23]

### **340:110-1-8.7. Professional development criteria**

(a) **Two-, three-, four-, and five-star center director professional development criteria.** No more than six hours of informal professional development, per Professional Development Ladder (PDL) certification may be counted in total hours. Director qualifications listed in (1) through(4) of this subsection are required.

- (1) Prior to star certification, the director has documentation of:
  - (A) at least two college credits or 30-clock hours of job-related professional development within the last 12 months or within current PDL certification, when applicable; and
  - (B) Quality Rating and Improvement System (QRIS) orientation.

(2) When a new director is hired, the director has documentation of at least two college credits or 30-clock hours of job-related professional development within the last 12 months prior to employment. A new director also completes QRIS orientation within 90-calendar days of hire date.

(3) When the new director does not have two college credits or 30-clock hours of professional development, the program is required to submit a written plan to Licensing staff for correcting the violation within 90-calendar days of hire date.

(4) In subsequent years, the director maintains documentation of at least two college credits or 30-clock hours of job-related professional development, per PDL certification.

**(b) Two-, three-, four-, and five-star center personnel professional development criteria.** No more than six hours of informal professional development, per PDL certification may be counted in total hours. Personnel qualifications listed in (1) through (3) of this subsection are required for all centers.

(1) At application, personnel employed at the program for at least 12 months and counted in staff-child ratio has at least two college credits or 20-clock hours of job-related professional development, per PDL certification.

(2) After initial certification approval, the professional development criteria of at least two college credits or 20-clock hours of job-related professional development is met within the personnel's PDL certification.

(3) Part-time personnel and substitutes having worked at the program more than 80 hours meet professional development requirements. Personnel performing only auxiliary duties, such as cooking, transportation, or maintenance are exempt from this professional development requirement.

**(c) Two-, three-, four-, and five-star primary caregiver professional development.** No more than six hours of informal professional development, per PDL certification may be counted in total hours. Primary caregiver qualifications listed in (1) through (3) of this subsection are required for homes.

(1) Prior to star certification request, the primary caregiver has documentation of:

(A) at least two college credits or 20-clock hours of job-related professional development within the last 12 months or within current PDL certification, when applicable; and

(B) QRIS orientation. New primary caregivers also complete QRIS orientation within 90-calendar days of hire date.

(2) After certification approval, the professional development criteria is met within the primary caregiver's PDL certification.

(3) The primary caregiver has a written educational professional development plan reviewed annually, updated as needed, and maintained on file at the program.

**(d) Two-, three-, four-, and five-star home assistant caregiver professional development.** No more than six hours of informal

professional development, per PDL certification may be counted in total hours. Assistant caregiver qualifications listed in (1) and (2) of this subsection are required.

(1) Assistant caregivers employed for at least 12 months have documentation of at least two college credits or 20-clock hours of job-related professional development, per PDL certification.

(2) The assistant caregiver has a written educational professional development plan reviewed annually, updated as needed, and maintained on file at the program.

[Source: Added at 29 Ok Reg 1229, eff 7-1-12 ; Amended at 33 Ok Reg 1683, eff 11-1-16 ; Amended at 35 Ok Reg 1732, eff 11-1-18 ; Amended at 40 Ok Reg 1033, eff 9-15-23]

### **340:110-1-8.8. Learning and development criteria**

(a) **Two-, three-, four-, and five-star center criteria.** Criteria in (1) through(5) of this subsection are required for all star levels.

(1) Television or other screen time is not used for children 1 year of age and younger.

(2) Out-of-school time programs and programs licensed as day camps may have required interest areas set up throughout the program as long as children are supervised and have accessible free choice to all required areas.

(3) At least two interest areas are available outdoors for children 2 years of age and older.

(4) Classroom schedules are predictable and responsive to children's needs, balancing child-initiated play and teacher-guided activities.

(5) Teaching personnel prepare children for transitions. A written plan is maintained, per Oklahoma Administrative Code (OAC) 340:110-1-8.5.

(b) **Three-, four-, and five-star center criteria.** Criteria in (a) of this Section and (1) through(5) of this subsection are required. Programs licensed as out-of-school programs are exempt from (5) of this subsection.

(1) Space is arranged in clearly-defined and well-equipped interest areas in each classroom facilitating a variety of activities also including math and science or nature for children 2 years of age and older.

(2) The program implements developmentally appropriate curriculum in each classroom aligning with Oklahoma Early Learning Guidelines (ELG) or Oklahoma Academic Standards. Curriculum may be self-developed, published, or lesson plans.

(A) Curriculum or lesson plans:

(i) reflect the program philosophy and goals;

(ii) are based on child development and appropriate practice;

(iii) provide for children's various ages, abilities, developmental stages, and special needs;

(iv) provide for children's physical, cognitive, language, literacy, and social-emotional development; and

(v) incorporate music and songs into children's activities at multiple times of the day.

(B) Programs establish methods for providing curriculum information to families. Methods may include:

- (i) parent handbooks;
- (ii) newsletters;
- (iii) orientation; or
- (iv) family meetings.

(C) Curriculum and goals for children are reflected in every day practice, as indicated on written lesson plans.

(3) All lesson plans are reviewed by the director, master teacher, or other program personnel trained in ELG. ELG standards or Oklahoma Academic Standards are identified on lesson plans.

(4) Teaching personnel lead and participate in at least two developmentally- appropriate physical activities daily for all children.

(5) For continuity of care, children remain with specific teaching personnel throughout the majority of the day, and are not regularly assigned to another group. A written plan is maintained, per OAC 340:110-1-8.5.

(c) **Four- and five-star center criteria.** Criteria in (a) and (b) of this Section and (1) and (2) of this subsection are required.

(1) Criteria includes (A) through (E) of this paragraph. Programs licensed as out-of-school time programs are exempt from (A) and (B) of this paragraph.

(A) Learning opportunities are planned for each child using observation documentation.

(B) Lesson plans are individualized for each child's needs, including age, ability, developmental stage, social-emotional development, special needs, and interests.

(C) Master teachers and teaching personnel evaluate lesson plans for effectiveness after implementation.

(D) Teaching personnel have weekly scheduled, paid, planning time outside of the classroom.

(E) Children have access to visual or pictorial classroom schedule.

(2) In addition to interest areas, curriculum, and lesson plans, children 2 years of age and older are given the opportunity to join enhancement activities promoting basic skills and higher level thinking.

(A) Enhancement activities:

- (i) are conducted routinely throughout the year;
- (ii) are documented on the lesson plan; and
- (iii) may be rotated based on children's needs and interests.

(B) Four-star programs implement two or more enhancement activities, and five-star programs implement four or more enhancement activities. Examples may include:

- (i) additional outdoor interest areas;
- (ii) additional indoor interest areas;

- (iii) invitations to play helping children reflect on and extend their learning;
- (iv) nature-related activities;
- (v) social studies;
- (vi) community involvement;
- (vii) health and physical wellness;
- (viii) nutrition;
- (ix) foreign language;
- (x) theater;
- (xi) sign language;
- (xii) child- or adult-led clubs;
- (xiii) cooking lessons;
- (xiv) science, technology, engineering, art, and math (STEAM);
- (xv) on-site contracted activities, such as dance lessons, gymnastics lessons, or sports;
- (xvi) life skills; or
- (xvii) activities promoting Native American culture and language.

(d) **Two-, three-, four-, and five-star home criteria.** Criteria in (1) through (4) of this subsection are required.

- (1) A written daily schedule reflecting a balanced program of opportunities for learning, physical activity, indoor and outdoor play, rest periods, and meals is followed with flexibility meeting children's individual needs. Learning activities balance child-initiated play and caregiver-guided activities.
- (2) The daily schedule is posted.
- (3) Children are read to for a minimum of 15 minutes each day.
- (4) Television or other screen time is not used for children 1 year of age and younger.
- (5) Caregivers prepare children for transitions. A written plan is maintained, per OAC 340:110-1-8.5.

(e) **Four- and five-star home criteria.** Criteria in (d) of this Section and in (1) through (5) of this subsection are required.

- (1) Children have access to art, block building, book reading, dramatic play, manipulative play, and music and movement.
- (2) The program implements lesson plans with developmentally appropriate activities aligning with ELG or Oklahoma Academic Standards. Lesson plans identify ELG or Oklahoma Academic Standards and are shared with families.
- (3) Curriculum or lesson plans provide for the children's various ages, abilities, developmental stages, social-emotional development, special needs, and interests.
- (4) Caregivers lead and participate daily in at least two developmentally-appropriate physical activities for all children.
- (5) In addition to curriculum or lesson plans, children 2 years of age and older are given the opportunity to join enhancement activities promoting basic skills and higher level thinking.

(A) Enhancement activities:

- (i) are conducted routinely throughout the year;
- (ii) documented on the lesson plan; and



(iii) may be rotated based on children's needs and interests.

(B) Four-star homes implement one or more enhancement activities, and five-star homes implement two or more enhancement activities. Examples may include:

- (i) outdoor interest areas;
- (ii) indoor interest areas;
- (iii) invitations to play helping children reflect on and extend their learning;
- (iv) nature-related activities;
- (v) social studies;
- (vi) community involvement;
- (vii) health and physical wellness;
- (viii) nutrition;
- (ix) foreign language;
- (x) theater;
- (xi) sign language;
- (xii) cooking lessons;
- (xiii) science, technology, engineering, art, and math (STEAM);
- (xiv) on-site contracted activities, such as dance lessons, gymnastics lessons, or sports;
- (xv) life skills; or
- (xvi) activities promoting Native American culture and language.

[Source: Added at 29 Ok Reg 1229, eff 7-1-12 ; Amended at 33 Ok Reg 1683, eff 11-1-16 ; Amended at 35 Ok Reg 1732, eff 11-1-18 ; Amended at 37 Ok Reg 1858, eff 11-1-20 ; Amended at 40 Ok Reg 1033, eff 9-15-23]

### **340:110-1-8.9. Family partnership criteria**

(a) **Two-, three-, four-, and five-star center criteria.** Family partnership criteria in (1) through (7) of this subsection are required for all star levels.

(1) A system is established and maintained for sharing and communicating with families any confidential information specific to the child's physical and emotional state.

(2) A system is established and maintained for sharing and communicating program information to families. Programs inform families using at least two methods in (A) through (E) of this paragraph. Methods are:

- (A) a bulletin board;
- (B) a newsletter;
- (C) a parent handbook;
- (D) a website, specific to each program location; or
- (E) email, social media, or other electronic communication.

(3) Families are welcomed in the program at all times, such as mealtimes and classroom observation or volunteering.

(4) Individual family conferences are offered and encouraged, at least annually, discussing children's progress, challenges, and

accomplishments, and establishing goals. Documentation is maintained with the child's records. Out-of-school time programs offer conferences when needed or requested.

(5) Programs provide a family resource area with books, pamphlets, or parenting articles and community resources and, provide referral information, when indicated. When provided electronically, resources are easily accessible and printable. Resources are available in languages representing the program's families.

(6) At least two family events with guest speakers or special activities are conducted annually, such as open houses, brown bag lunches, family pot-luck dinners, and children's programs. These events may be held in conjunction with individual family conferences.

(7) Children and families' home languages and cultures are respected by adapting communication methods.

(b) **Four- and five-star center criteria.** Family partnership criteria in (a) of this Section are required. In addition:

(1) individual family conferences are offered and encouraged at least twice annually. Programs operating only part-year offer and encourage at least one individual parent conference annually. A written report regarding the child is provided to families and maintained in the child's file. Out-of-school time programs offer conferences when needed or requested; and

(2) at least four family events with guest speakers or special activities are conducted annually, such as open houses, brown bag lunches, family pot-luck dinners, and children's programs. These events may be held in conjunction with individual family conferences.

(c) **Two-, three-, four-, and five-star home criteria.** Family partnership criteria in (1) through (7) of this subsection are required. The primary caregiver:

(1) maintains a signed contract on file for each family including, but not limited to, policy concerning hours, fees, payment schedules, vacations, and terminations;

(2) encourages family visitation when children are present and provides access to all child care areas;

(3) offers and encourages individual family conferences at least annually, discussing children's progress, accomplishments, and challenges, and establishing children's goals. Documentation is maintained with the child's records;

(4) provides at least two family involvement opportunities annually;

(5) has information available regarding common childhood issues including health care, education, nutrition, and family counseling services, and provides referral information when indicated; and

(6) ensures applicable Licensing requirements are available to families; and

(7) respects children's and families' home languages and cultures by adapting communication methods.

(d) **Four- and five-star home criteria.** Family partnership criteria in (c) of this Section and (1) and (2) of this subsection are required. The primary caregiver:

- (1) provides families at least two non-relative references, including contact information;
- (2) establishes and maintains a system for sharing and communicating with families information specific to the child's physical and emotional state; and
- (3) provides at least three family involvement opportunities annually.

[Source: Added at 29 Ok Reg 1229, eff 7-1-12 ; Amended at 33 Ok Reg 1683, eff 11-1-16 ; Amended at 35 Ok Reg 1732, eff 11-1-18 ; Amended at 37 Ok Reg 1858, eff 11-1-20 ; Amended at 40 Ok Reg 1033, eff 9-15-23]

### **340:110-1-9. Case management**

(a) **Periodic monitoring visits.** Licensing staff conducts a minimum of three, unannounced monitoring visits to programs operating a full-year, and two, unannounced monitoring visits annually to programs operating less than a full-year. Licensing staff varies the monitoring visit times, including a lunch observation and an evening visit to child care centers with extended hours.

(b) **Ongoing monitoring.** During monitoring visits, Licensing staff observes the entire facility, including the outdoor play space and transportation vehicles, when available. At, or subsequent to each monitoring visit, Licensing staff verifies:

- (1) compliance with Licensing requirements;
- (2) compliance with stars criteria, per Oklahoma Administrative Code (OAC) 340:110-1-8.3;
- (3) new personnel records including personnel sheets and compliance with background investigations, per OAC 340:110-1-8.1;
- (4) personnel professional development records;
- (5) the Oklahoma Department of Human Services (DHS) database on applicable individuals, per OAC 340:110-1-8.1;
- (6) fire and health inspections within the last 24 months, when applicable;
- (7) Form 07LC092E, Insurance Verification, within the last 12 months, or posting of Form 07LC093E, Insurance Exception Notification; and
- (8) other documentation requiring renewal.

(c) **Technical assistance and consultation.** Licensing staff provides:

- (1) technical assistance to licensees assisting them in meeting minimum requirements; and
- (2) consultation on various aspects of quality child care.

(d) **Agreements with tribal licensing programs and other monitoring agencies.**

DHS may enter into a cooperative licensing agreement with a tribal licensing program or other monitoring agency.

(e) **Equipment inventory.** Licensing staff completes Form 07LC006E, Equipment Inventory for Child Care Programs, prior to license issuance. Licensing staff or the program may complete the appropriate equipment

inventory prior to a change in class and prior to a capacity increase in a child care center, day camp, drop-in, out-of-school time, part-day program, or program for sick children. Inventories document the available equipment and the items needed to comply with the equipment requirements. Licensing staff may conduct a complete inventory when concern exists about the availability of required equipment.

**(f) Address change.**

- (1) When a program moves to a new address, Licensing staff:
  - (A) obtains an updated Form 07LC004E, Request for License Child Care Program;
  - (B) conducts a monitoring visit verifying that the new location meets Licensing requirements;
  - (C) obtains new fire and health inspections for a child care center, day camp, drop-in, out-of-school time, part-day program, or program for sick children, when applicable;
  - (D) obtains Oklahoma Department of Environmental Quality approval, when applicable;
  - (E) completes Form 07LC057E, Physical Plant, with required calculations; and
  - (F) requests a permit or license issuance reflecting the address change.
- (2) When an address change involves care provided in a location other than the primary caregiver's residence, refer to OAC 340:110-1-6(a)(3).

**(g) Program name change.** When there is a program name change, Licensing staff verifies there is no ownership change, and documents the name change in the case file and database. A new Form 07LC004E, Request for License Child Care Program, reflecting the program name change is completed. Licensing staff requests a permit or license issuance reflecting the new program name.

**(h) Director change.** When there is a director change, Licensing staff:

- (1) verifies the new director meets qualifications;
- (2) obtains the applicable page of Form 07LC004E, Request for License Child Care Program, completed by the new director;
- (3) obtains references;
- (4) obtains an appropriate, completed Form 07LC117E, Compliance Review for Child Care Programs, from the director, when the director has no previous director experience;
- (5) notifies the new director of current personnel, who are granted waivers; and
- (6) documents the information on Form 07LC080E, Licensing Services Supplemental Information.

**(i) Master teacher change.** When an individual replaces a master teacher:

- (1) Form 07LC031E, Probationary Master Teacher Agreement, is completed;
- (2) the probationary master teacher is granted a one-year probationary period to fulfill the master teacher educational qualifications per applicable Licensing requirements and Quality Rating and Improvement System (QRIS) criteria, when applicable; and

(3) Licensing may extend the probationary period for a second year, providing the probationary master teacher is actively pursuing educational qualifications as identified on Form 07LC031E.

(j) **Primary caregiver change.** When there is a primary caregiver change, Licensing staff:

- (1) verifies the primary caregiver meets qualifications;
- (2) obtains the applicable page of Form 07LC004E, Request for License Child Care Program, completed by the new primary caregiver;
- (3) obtains references;
- (4) notifies the new primary caregiver of current personnel, who are granted waivers; and
- (5) documents the information on Form 07LC080E, Licensing Services Supplemental Information.

(k) **Facility household change.** Facility household changes are documented on the monitoring summary. Form 07LC096E, Criminal History Review Request for Programs, must be submitted prior to a new adult residing in the facility. When there is a new adult residing in a facility, the required documentation includes:

- (1) the applicable page of Form 07LC004E, Request for License Child Care Program, completed by the new adult;
- (2) background investigations, per OAC 340:110-1-8.1; and
- (3) a DHS database search.

(l) **Change in ownership.** When there is a change in ownership or a change in the form of business organization of a child care program, the case is closed and a new Form 07LC004E, Request for License Child Care Program, is obtained. Prior to permit or license issuance, the program must be in compliance with background investigations, per OAC 340:110-1-8.1. A permit may be issued when a monitoring visit without numerous, repeated, or serious non-compliances was conducted within the past 60-calendar days. A full-monitoring visit is conducted within 14-calendar days of change of ownership verifying the new owner meets minimum Licensing requirements.

(m) **Transitional change of ownership.** When a program requests a transitional change of ownership (1) through (6) of this subsection are followed.

(1) Licensing staff conducts a monitoring visit within five DHS-business days, verifying compliance with Licensing requirements and, obtains:

- (A) Form 07LC015E, Transitional Change of Ownership, completed by the current and prospective owners;
- (B) Form 07LC004E, Request for License Child Care Program, completed by the prospective owner; and
- (C) updated program personnel information on Form 07LC002E, Personnel Summary, verifying that the prospective owner employs the same personnel as the current owner, at the time of transitional change of ownership.

(2) Transitional change of ownership procedures for star certification are met, per OAC 340:110-1-8.3; when applicable.

(3) Periodic and ongoing monitoring is maintained, per (a) and (b) of this Section.

(4) All Licensing monitoring and correspondence are provided to both the current and prospective owners.

(5) Change of ownership procedures are followed, per (l) of this Section by the end of 90-calendar days, when applicable.

(6) When programs notify Licensing that transitional change of ownership is no longer proceeding, Licensing staff verifies program operation status and consults with the supervisor for appropriate action.

(n) **Change in class.** When a program requests a change in class, procedures in (1) through (2) of this subsection are followed.

(1) The case is closed and a new Form 07LC004E, Request for License Child Care Program, is required, when a:

(A) family child care home converts to a child care center, day camp, drop-in, out-of-school time, part-day program, or program for sick children; or

(B) child care center, day camp, drop-in, out-of-school time, part-day program, or program for sick children converts to a family child care home.

(2) Other requests for change in class do not require case closure and, documentation includes:

(A) a request in writing from the owner;

(B) a new Form 07LC004E, Request for License Child Care Program, with updated information;

(C) documentation that the program meets the requirements for the requested class type;

(D) the appropriate equipment inventory, when applicable;

(E) a current, approved fire inspection, when applicable;

(F) a current, approved health inspection, when applicable; and

(G) appropriate class and monitoring frequency plan database updates.

(o) **Capacity increase or decrease.** When a program requests a capacity increase or decrease, it is documented on Form 07LC080E, Licensing Services Supplemental Information, and must be approved by the supervisor. The program must not have a history of numerous, repeated, or serious non-compliance, and provide:

(1) the reason for the increase;

(2) an updated floor plan on Form 07LC057E, Physical Plant, reflecting adequate indoor and outdoor space, toilets, and sinks for the increase and other changes;

(3) fire department approval of space not previously inspected;

(4) health approval of additional food preparation space not previously inspected;

(5) an updated equipment inventory reflecting adequate equipment for the increase; and

(6) verification of the required number of master teachers.

(p) **Inactive programs.** A program is in inactive status when care was not provided for more than 90-calendar days.

(1) A program remaining open after 90-calendar days submits a request in writing, including a statement that the owner will notify Licensing prior to resuming care. Licensing staff verifies compliance with requirements prior to resuming care.

(2) The program is contacted by Licensing staff, a minimum of every four months by phone, letter, or email to update program status including new household members or other program changes, per (k) of this Section.

(3) Voluntary closure is discussed with the owner and an agreement to close is reached, when possible.

(4) Licensing staff visits the inactive program, at least once during the 12-month timeframe verifying compliance with Licensing requirements until closure is final or the program resumes care.

(5) When an address change occurs when a program is in inactive status, a monitoring visit is required and address change procedures are followed per (f) of this Section.

(q) **Inactive program closure.** Procedures (1) - (4) of this subsection are followed when closing an inactive program.

(1) To verify program status, Licensing staff contacts the owner during the 12th month of inactive status.

(2) Licensing documents program status on Form 07LC080E, Licensing Services Supplemental Information, and notifies the owner the case will be closed when care does not resume, prior to the end of the 12th month.

(3) When care was not provided for 12-consecutive months or more, Licensing staff provides a letter notifying the owner of case closure within 10-calendar days of letter receipt, unless Licensing is notified care resumed.

(4) The case is closed and the owner must reapply and be approved for a new license prior to resuming care, per OAC 340:110-1-6.

(r) **Response to a child death.** When notified of a child death while in child care, Licensing staff:

(1) completes Form 07LC079E, Child Death Report, and forwards it to the statewide licensing coordinator or designee; and

(2) visits the program as soon as possible, unless advised otherwise by law enforcement officials.

(s) **Serious incident reports.** The supervisor submits serious incident reports to the regional programs manager, county director, and statewide licensing coordinator.

(t) **Self-reported incidents.** When a provider self-reports a non-compliance incident, Form 07LC080E, Licensing Services Supplemental Information, is completed and the Licensing database is updated.

[Source: Amended at 10 Ok Reg 2369, eff 6-11-93 ; Amended at 11 Ok Reg 385, eff 10-15-93 (emergency); Amended at 11 Ok Reg 2773, eff 6-13-94 ; Amended at 12 Ok Reg 433, eff 11-17-94 (emergency); Amended at 12 Ok Reg 1447, eff 5-26-95 ; Amended at 13 Ok Reg 499, eff 11-14-95 (emergency); Amended at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 14 Ok Reg 2174, eff 5-14-97 (emergency); Amended at 15 Ok Reg 1727, eff 5-11-98 ; Amended at 16 Ok Reg 285, eff 11-3-98 (emergency); Amended at 16 Ok Reg 1080, eff 4-26-99 ; Amended at 16 Ok Reg 2527, eff 7-1-99 ; Amended at 16 Ok Reg 3511, eff 7-13-99 through 7-14-00 (emergency)<sup>1</sup>; Amended at 18 Ok Reg 2144, eff 6-11-01 ; Amended at 19 Ok Reg 221, eff 11-1-01 (emergency); Amended at 19 Ok Reg 2274, eff 6-27-

02 ; Amended at 20 Ok Reg 1259, eff 6-1-03 ; Amended at 21 Ok Reg 910, eff 6-1-04 ; Amended at 22 Ok Reg 1304, eff 6-1-05 ; Amended at 23 Ok Reg 1092, eff 6-1-06 ; Amended at 24 Ok Reg 1351, eff 7-1-07 ; Amended at 25 Ok Reg 1962, eff 7-1-08 ; Amended at 26 Ok Reg 415, eff 11-20-08 (emergency); Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 27 Ok Reg 48, eff 10-1-09 (emergency); Amended at 27 Ok Reg 1869, eff 7-1-10 ; Amended at 28 Ok Reg 1669, eff 7-1-11 ; Amended at 29 Ok Reg 1229, eff 7-1-12 ; Amended at 32 Ok Reg 704, eff 1-1-16 through 9-14-16 (emergency)<sup>2</sup>; Amended at 33 Ok Reg 1683, eff 11-1-16 ; Amended at 34 Ok Reg 1640, eff 9-15-17 ; Amended at 35 Ok Reg 475, eff 1-31-18 (emergency); Amended at 35 Ok Reg 1705, eff 9-17-18 ; Amended at 36 Ok Reg 181, eff 12-17-18 (emergency); Amended at 36 Ok Reg 1892, eff 9-16-19]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency amendatory action, the last effective permanent text of the Section is reinstated. Therefore, on 7-15-00 (after the 7-14-00 expiration of this emergency action), the text of 340:110-1-9 reverted back to the permanent text that became effective 7-1-99, as was last published in the 1999 OAC Supplement and republished in the 2000 OAC Supplement, and remained as such until amended by permanent action on 6-11-01.*

**Editor's Note:** <sup>2</sup>*This emergency action expired before being superseded by a permanent action. Upon expiration of an emergency amendatory action, the last effective permanent text of the Section is reinstated. Therefore, on 9-15-16 (after the 9-14-16 expiration of this emergency action), the text of 340:110-1-9 reverted back to the permanent text that became effective 7-1-12, as was last published in the 2015 OAC Supplement, and remained as such until amended by permanent action on 11-1-16.*

### **340:110-1-9.1. Certification of child care facilities to receive increased reimbursement rate for the care of children with disabilities**

(a) **Purpose.** Certification is the process through which Child Care Services (CCS) licensing staff documents a child care program meets certification requirements for a child with disabilities.

(1) Certification is required for a provider to receive the child care rate for a child with disabilities.

(2) To qualify for the higher rate the:

(A) program must be licensed, have a provider contract, and be certified to care for the child;

(B) child's family must be eligible for Oklahoma Department of Human Services (DHS) subsidized child care services; and

(C) child must be receiving benefits from at least one source listed in (i) - (iii) of this subparagraph.

(i) Supplemental Security Income (SSI) benefits;

(ii) SoonerStart, early intervention program for children birth to 3 years of age; or

(iii) Special Education Services, public school program for children 3 years of age and older.

(b) **Initial approval for certification.** For initial approval for certification the procedures contained in this subsection are followed.



(1) Upon receipt of Form 08AD006E, Certification for Special Needs Child Care Rate for Licensed Child Care Homes and Centers, the licensing staff contacts the program by phone within five DHS business days when a monitoring visit has been made in the last four months. When a monitoring visit has not been made within the last four months the licensing staff visits the child care program within 10 DHS business days.

(2) Approval for certification is based upon verification:

(A) the program director or primary caregiver has completed Form 08AD006E, agreeing to meet the individual needs of the child;

(B) the program has a previous record of compliance with minimum licensing requirements. A program on a six-month permit may be certified when currently in compliance with licensing requirements; and

(C) the program personnel who work with the child have received on-site consultation regarding the nature of the child's disability and the development of a child care plan, to include staffing, equipment, and specialized professional development needs. The consultant provides resource materials to the program for future reference. After initial certification, the program personnel who work with the child must conduct and document annual conferences with the child's parent or guardian to review the needs of the child. When the child's needs have changed, the procedures in (4) of this subsection are followed; and

(D) within six months of certification, appropriate personnel obtain six hours of specialized professional development in areas addressing care of children with disabilities.

(i) The program director and at least one personnel or primary caregiver who works directly with the child must receive specialized professional development. It is preferable all personnel who work with the child are trained.

(ii) First aid, CPR, or informal professional development is not counted to meet the specialized professional development requirement.

(iii) Recommended specialized professional development includes SoonerStart training, specialized workshops, or conferences addressing the care of children with special needs.

(3) Upon completion of Form 08AD006E, the licensing staff sends the form to the Adult and Family Services (AFS) Child Care Subsidy state office staff. Copies of Form 08AD006E and the monitoring checklist and summary are sent to the licensing supervisor, and copies are maintained in the program's file.

(4) Once the child is approved for one of the special needs rates, a new Form 08AD006E is required when:

(A) the child's needs change;

- (B) the child moves to a different child care program;
- (C) the child stops attending the program approved for the special needs rate for more than six months; or
- (D) licensing staff withdraw the provider's special needs certification per (d) of this Section and the provider subsequently demonstrates compliance.

(5) When the licensing staff documents certification requirements have not been met, the licensing supervisor reviews the documentation and approves the denial. The licensing staff inform the provider in writing within 30 calendar days of the initial receipt of Form 08AD006E of the certification criteria that have not been met and the right to request an administrative review.

(6) A request for an administrative review must be submitted in writing to the statewide licensing coordinator or designee within 10 calendar days of notification. An administrative review is conducted within 10 calendar days of receipt of the request.

(7) The administrative review committee consists of the statewide licensing coordinator or designee and two staff from CCS.

(8) The program and AFS are notified in writing by the statewide licensing coordinator of the administrative review decision.

(c) **Ongoing monitoring.** The procedure for ongoing monitoring contained in this subsection is followed.

(1) **Periodic monitoring visits.** During periodic monitoring visits, the licensing staff completes Form 07LC008E, Special Needs Rate Monitoring Report, and verifies certification requirements are met for each child certified, including:

- (A) annual conference with the child's parent or guardian;
- (B) director and personnel or primary caregiver have specialized professional development relative to care of children with disabilities; and
- (C) observations indicating the program is meeting the individual needs of the child as recorded on Form 08AD006E.

(2) **Violations.** All violations observed are documented on Form 07LC080E, Licensing Services Supplemental Information, and a plan of correction is developed with agreed-upon time frames for correction of violations. When there are serious or ongoing violations of certification requirements, a letter is sent to the operator documenting the violations, plan of correction, and a copy is sent to the parent(s) of the child with special needs who is affected by the violation(s).

(3) **Changes in program personnel.** As personnel changes occur, a new director, personnel, or primary caregiver who work directly with the child must obtain specialized professional development within six months of that assignment.

(d) **Withdrawal of certification.** Withdrawal of certification occurs when there is documentation of serious or ongoing violations of certification requirements or when DHS has issued an Emergency Order or a notice of proposed denial or revocation of license. Violations of certification requirements are different from non-compliance with licensing requirements, although they may involve the same issue, for

example, understaffing. When violations are not corrected and represent a potential risk to the child, such as serious understaffing in the child's room or personnel without first aid training, the procedure in this subsection is followed.

- (1) The licensing staff reviews the case with his or her supervisor.
- (2) An office conference is held with the provider at which time the provider is notified certification is being withdrawn and has the right to request an administrative review of the decision.
- (3) A letter is sent to the provider documenting withdrawal of certification and the right to request an administrative review of the decision. When the provider did not attend the office conference, the letter is sent by certified mail. A copy of the letter is sent to the appropriate county office staff responsible for child care assistance who is responsible for notifying the parent and provider of the rate change and its effective date.
- (4) A request for an administrative review must be submitted in writing by the program to the statewide licensing coordinator or designee within seven calendar days of receipt of the letter. An administrative review is conducted within 10 calendar days of receipt of the request.
- (5) The administrative review committee consists of the statewide licensing coordinator or designee and two staff from CCS.
- (6) The program and AFS Child Care Subsidy are notified in writing by the statewide licensing coordinator or designee of the administrative review decision.
- (7) A provider may reapply for certification when compliance with certification requirements has been reestablished.

[Source: Added at 13 Ok Reg 325, eff 5-18-95 (emergency); Added at 13 Ok Reg 499, eff 11-14-95 (emergency); Added at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 16 Ok Reg 2527, eff 7-1-99 ; Amended at 16 Ok Reg 3511, eff 7-13-99 through 7-14-00 (emergency)<sup>1</sup>; Amended at 18 Ok Reg 165, eff 12-1-00 (emergency); Amended at 18 Ok Reg 2144, eff 6-11-01 ; Amended at 19 Ok Reg 2274, eff 6-27-02 ; Amended at 20 Ok Reg 1259, eff 6-1-03 ; Amended at 21 Ok Reg 910, eff 6-1-04 ; Amended at 22 Ok Reg 1304, eff 6-1-05 ; Amended at 23 Ok Reg 1092, eff 6-1-06 ; Amended at 24 Ok Reg 1351, eff 7-1-07 ; Amended at 25 Ok Reg 1962, eff 7-1-08 ; Amended at 28 Ok Reg 1669, eff 7-1-11 ; Amended at 29 Ok Reg 1229, eff 7-1-12 ; Amended at 32 Ok Reg 704, eff 1-1-16 (emergency); Amended at 33 Ok Reg 1678, eff 9-15-16]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency amendatory action, the last effective permanent text of the Section is reinstated. Therefore, on 7-15-00 (after the 7-14-00 expiration of this emergency action), the text of 340:110-1-9.1 reverted back to the permanent text that became effective 7-1-99, as was last published in the 1999 OAC Supplement, and remained as such until amended again by emergency action on 12-1-00.*

### **340:110-1-9.2. Complaint investigations**

(a) **Legal basis.** The Oklahoma Child Care Facilities Licensing Act (Act), Section 406 of Title 10 of the Oklahoma Statutes (10 O.S. § 406), mandates that Oklahoma Human Services conduct a full complaint investigation alleging violation against the Act or Licensing

requirements.

(b) **Complaint receipt.** Complaints may be made to Licensing in writing, in person, by phone, or electronically.

(c) **Complaint information.** Licensing staff obtains as much relevant information as possible from the complainant.

(d) **Screening complaints.** Licensing staff accepts a complaint for investigation when alleging:

- (1) non-compliance with Licensing requirements;
- (2) violation of the Act;
- (3) unlicensed facility operation; or
- (4) abuse or neglect of a child in care.

(e) **Duplicate complaint.** Allegations received by a different complainant regarding a previously reported incident may be considered a duplicate complaint.

(1) Duplicate complaints:

- (A) must involve the same child(ren), program personnel, and incident date and time;
- (B) require supervisory approval before proceeding with duplicate complaint processes;
- (C) received during a pending investigation are documented on the existing Form 07LC012E, Licensing Complaint, and considered part of the initial complaint; and
- (D) received after the investigation is complete are documented on Form 07LC080E, Licensing Services Supplemental Information, and included with the initial complaint investigation documentation; regardless of the duplicate allegation receipt timeframe.

(2) When a duplicate complainant provides additional allegations:

- (A) during a pending investigation, allegations are investigated with the initial complaint allegations; or
- (B) after investigation completion, the allegations are investigated as a new complaint and documented on Form 07LC012E.

(3) Prior to investigation completion, Licensing informs licensed programs when a duplicate complaint is reported and when additional allegations are investigated.

(4) Allegations of an unlicensed facility operation may be considered a duplicate complaint.

(f) **Complaint risk levels.** Licensing staff determine risk levels based on the degree of harm or danger to children in care. Risk levels are used to ensure investigations occur timely .

(1) **Risk level I complaints.** Risk level I complaints indicate a child is in imminent risk of serious physical harm. The risk level is not influenced by the removal of a child from the facility when other children remain in care. Investigations are initiated immediately or no later than 24 hours after receipt by Licensing unless awaiting a Child Welfare Services (CWS) or local law enforcement investigation; excluding weekends and holidays when the facility is closed. Non-compliances with licensing requirements include, but are not limited to:

- (A) alleged physical or sexual abuse;
- (B) the presence or use of illegal drugs while children are in care;
- (C) drug distribution;
- (D) children left in the facility or in a vehicle without anyone present;
- (E) facility temperatures;
- (F) infant sleep environments and safe-sleep training;
- (G) caregiver's threatening or impaired behavior;
- (H) severe understaffing or severe over licensed capacity;
- (I) child passenger restraints;
- (J) Emergency Order violation;
- (K) required staff without current cardio-pulmonary resuscitation and first aid training;
- (L) failure to obtain background investigations; or
- (M) knowingly permitting access to children by individuals identified as restricted or Restricted Registry registrants.

(2) **Risk level II complaints.** Risk level II complaints do not indicate there is imminent risk of harm, but without intervention, a child may not be safe. Investigations are initiated within 10-calendar days of receipt by Licensing, unless requested to delay the investigation by CWS or local law enforcement. Non-compliances with licensing requirements include, but are not limited to:

- (A) leaving children with underage personnel;
- (B) alleged physical abuse from personnel no longer working in the facility;
- (C) inappropriate discipline, when no injury is reported;
- (D) diapering or toileting;
- (E) hazardous equipment;
- (F) transporting without a valid driver license, liability insurance, or parent permissions;
- (G) lack of supervision; or
- (H) minor understaffing or minor over licensed capacity.

(3) **Risk level III complaints.** Risk level III complaints do not indicate imminent risk of harm and there are no injuries alleged. Serious non-compliances, per Oklahoma Administrative Code (OAC) 340:110-1-9.3 are not considered risk level III complaints. Investigations are initiated within 15-calendar days of receipt by Licensing; including when a phone investigation is appropriate, per (g) of this Section. Non-compliances with licensing requirements include, but are not limited to:

- (A) inadequate meal service;
- (B) lack of play equipment;
- (C) quarterly vehicle maintenance;
- (D) program records and documentation;
- (E) inappropriate television or media use; or
- (F) facility cleanliness.

(g) **The investigation.** Licensing staff conducts a full investigation, obtaining sufficient information to determine a finding.

(h) **Phone investigation.** With supervisory approval, Licensing staff may investigate a complaint by phone. The investigation discussion is documented on Form 07LC080E, Licensing Services Supplemental Information, including an agreed-upon plan of correction, when necessary, and provided to the operator. A complaint is investigated by phone only when:

- (1) the alleged non-compliance does not place children at risk of harm, such as, the facility did not serve milk one day or children have head lice;
- (2) the facility has not had numerous, repeated, or serious non-compliance within the previous 12 months from complaint receipt; and
- (3) a monitoring visit was conducted in the last three months with substantial compliance documented.

(i) **Unlicensed facility investigations.** When a complaint alleging operation of an unlicensed facility is received, the procedure, per OAC 340:110-1-13, is also followed.

(j) **Child abuse and neglect complaints.** On receipt of abuse or neglect allegations of a child in care, Licensing staff immediately notifies the Licensing supervisor and submits a CWS referral. When the allegation involves child abuse or neglect or a report indicating a child is in imminent risk of serious physical harm, the regional programs manager is also notified.

(k) **Findings.** After investigation completion, the Licensing staff, in consultation with the supervisor, as appropriate, determines the complaint finding as substantiated or unsubstantiated.

(1) **Substantiated.** A substantiated finding is determined when some credible evidence indicates the facility violated Licensing requirements or the Act.

(2) **Unsubstantiated.** An unsubstantiated finding is determined when:

- (A) insufficient evidence exists to fully determine whether a violation occurred; or
- (B) no violation of Licensing requirements or the Act occurred.

(l) **Documentation of findings.** Upon investigation completion, Licensing staff:

- (1) documents the findings;
- (2) notifies the provider of complaint allegations and findings by providing:
  - (A) a complaint findings cover letter;
  - (B) Form 07LC081E, Licensing Complaint Report Summary; and
  - (C) Form 04CP004E, Child Welfare Investigative Summary Notification to Child Care Licensing Services, when applicable; and
- (3) updates the Licensing database and closes the complaint. Licensing staff and a supervisor complete the complaint review checklist.

(m) **Heinous and shocking abuse findings.** Per 10 O.S. § 406, when Licensing receives notification from CWS of heinous and shocking abuse

findings by a person responsible for the child's health, safety, or welfare as defined, per 10A O.S. §1-1-105, Licensing contacts the program by email immediately or not later than one-business day after the substantiated finding notification.

(n) **Notice to Comply.** When a complaint allegation is substantiated, Licensing staff advises the facility to correct the violations immediately and requests the facility complete Form 07LC037E, Notice to Comply, per OAC 340:110-1-9.3(d)(7). Licensing staff updates the Licensing database with plan of correction information.

(o) **Summary of facts.** Licensing provides facility directors and owners or primary caregivers a summary of the facts used to evaluate and determine the complaint findings.

(p) **Complaint overview.** Licensing staff completes an overview of completed complaint investigations on Form 07LC080E, Licensing Services Supplemental Information. This overview provides an investigation summary of how the complaint findings were determined and is maintained in the case record's confidential section.

[Source: Added at 13 Ok Reg 325, eff 5-18-95 (emergency); Added at 13 Ok Reg 499, eff 11-14-95 (emergency); Added at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 16 Ok Reg 2527, eff 7-1-99 ; Amended at 18 Ok Reg 2144, eff 6-11-01 ; Amended at 19 Ok Reg 221, eff 11-1-01 (emergency); Amended at 19 Ok Reg 1171, eff 5-13-02 ; Amended at 21 Ok Reg 910, eff 6-1-04 ; Amended at 22 Ok Reg 1304, eff 6-1-05 ; Amended at 24 Ok Reg 1351, eff 7-1-07 ; Amended at 25 Ok Reg 1962, eff 7-1-08 ; Amended at 26 Ok Reg 415, eff 11-20-08 (emergency); Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 27 Ok Reg 1869, eff 7-1-10 ; Amended at 28 Ok Reg 1669, eff 7-1-11 ; Amended at 30 Ok Reg 1376, eff 7-1-13 ; Amended at 37 Ok Reg 1858, eff 11-1-20 ; Amended at 40 Ok Reg 1033, eff 9-15-23 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:110-1-9.3. Non-compliance with requirements**

(a) **Non-compliance documentation.** Licensing staff clearly and concisely documents areas of non-compliance on the monitoring checklist and summary, including operator discussion.

(1) A plan of correction, including a specific agreed-on time period for non-compliance correction is documented on the monitoring summary. When a previous non-compliance was not corrected by the agreed-on time period, the non-compliance is documented again with a shorter plan of correction date.

(2) Immediate correction is required when the non-compliance directly impacts children's health, safety, or well-being.

(3) Licensing staff requests the operator's signature on the monitoring summary, explaining the signature indicates acknowledgment of recorded information.

(4) When the operator or individual in charge refuses to sign, the refusal is documented on the monitoring summary.

(5) The operator is provided a monitoring summary copy.

(6) Timeframes for filing a grievance are provided on the monitoring summary. Refer to grievance procedures, per Oklahoma Administrative Code (OAC) 340:110-1-15.

(b) **Referrals to fire and health officials.** When non-compliance regarding fire or health requirements places children at risk or remains uncorrected, Licensing staff requests an inspection by a fire, health, or Oklahoma Department of Environmental Quality official. When there is non-compliance regarding smoke detectors, the child care provider is

provided a copy of the Smoke Detector Law, Section 324.11A of Title 74 of the Oklahoma Statutes (74 O.S. § 324.11A). When the non-compliance is not corrected by the third monitoring visit or is repeated, copies of the monitoring summaries are provided with a cover letter to the appropriate fire official.

(c) **Numerous, repeated, and serious non-compliance.**

(1) Numerous non-compliance is monitoring visits with:

- (A) five or more Licensing requirement sections documented as non-compliant on the monitoring checklist for a family child care home or large child care home;
- (B) six or more Licensing requirement sections documented as non-compliant on the monitoring checklist for a child care center, day camp, drop-in, out-of-school time, part-day program, or program for sick children with a licensed capacity of less than 60; or
- (C) seven or more Licensing requirement sections for a child care center, day camp, drop-in, out-of-school time, part-day program, or program for sick children with a licensed capacity of 60 or more.

(2) Repeated non-compliance is three or more documented incidents of non-compliance with the same requirement within the last 12 months. Missing immunizations are considered a repeated non-compliance when regarding the same child.

(3) Serious non-compliance is non-compliance with Licensing requirements exposing children to conditions presenting an imminent risk of harm based on the child's age, the amount of time the operator was out of compliance, and the operator's efforts to mitigate the risk. Serious non-compliance is identified through Licensing observations, confirmed complaint investigations, and/or self-reported incidences. Failure to comply with licensing requirements that may be considered as serious non-compliance include:

- (A) staff-child ratio;
- (B) child supervision;
- (C) infant sleep environments and safe-sleep training;
- (D) prohibited disciplinary actions;
- (E) licensed capacity;
- (F) transportation;
- (G) water activities;
- (H) pools and other water hazards;
- (I) multiple hazards;
- (J) weapons;
- (K) failure to report child abuse or human trafficking;
- (L) knowingly permitting access to children by individuals identified as restricted or Restricted Registry registrants;
- (M) failure to obtain background investigations or Restricted Registry searches;
- (N) medication administration;
- (O) room temperatures;
- (P) heat sources and/or loss of any utility service; and
- (Q) cardio-pulmonary resuscitation and first aid training.



(d) **Case management responses to non-compliant facilities.** One or more responses in this subsection are used when there is numerous, repeated, or serious non-compliance.

(1) **Technical assistance.** Licensing staff offers technical assistance, including referrals to consultants or professional development resources, assisting the operator in meeting and maintaining Licensing requirements.

(2) **Follow-up phone call to the program.** Phone calls are documented on Form 07LC080E, Licensing Services Supplemental Information, and a copy provided to the program.

(3) **Non-compliance letters.** A non-compliance letter may be written to the operator. Licensing staff provides a monitoring summary copy with the non-compliance letter to the owner or registered agent, when applicable.

(4) **Return monitoring visit.** A return monitoring visit may be conducted when there is numerous, repeated, or serious non-compliance with Licensing requirements or when non-compliance places children at imminent risk of harm. When the non-compliance is associated with a specific time of day, such as understaffing after school or a lack of early morning supervision, the return monitoring visit is conducted at the approximate time.

(5) **Use of witnesses.** A witness may accompany Licensing staff when the program had numerous, repeated, or serious non-compliance or is considered for request for license denial or license revocation. The witness may be an Oklahoma Department of Human Services (DHS) employee or a representative from the health or fire department, or law enforcement. The witness signs the monitoring summary.

(6) **Increased monitoring visits.** Licensing staff may increase monitoring frequency plans when there were numerous, repeated, or serious non-compliance or when the need for additional technical assistance is indicated.

(7) **Notice to comply.** Licensing staff provides the operator with Form 07LC037E, Notice to Comply, and the operator documents the plan of correction. Immediate correction may be required when the non-compliance places children's health, safety, or well-being at risk.

(A) When the plan submitted is unacceptable to Licensing staff, Licensing staff negotiates a revised plan, and requests resubmission within 10-calendar days.

(B) When Form 07LC037E, Notice to Comply, is not submitted within the specified time period, Licensing staff contacts the operator and documents the conversation.

(C) When non-compliances continue to place children at risk, Licensing staff provides a letter stating the non-compliances and/or continued failure to correct non-compliances may result in request for license denial, license revocation, filing of an injunction, or Emergency Order.

(8) **Office conference.** Licensing staff may schedule an office conference with the owner and/or operator. The Licensing

supervisor is present at the office conference. The regional programs manager (RPM) is informed of the office conference and may be present, when necessary.

(A) Program status, areas of non-compliance and progress toward meeting the plan(s) of correction are reviewed and technical assistance is offered.

(B) The office conference is documented on Form 07LC080E, Licensing Services Supplemental Information, and is signed by Licensing staff, the operator, and witnesses. This documentation includes a list of individuals present, conference purpose, and re-verification of ownership documentation.

(C) Form 07LC037E, Notice to Comply, is completed when one addressing these issues was not previously completed.

(9) **Consent agreement.** Child Care Services (CCS) and the program owner may enter into a consent agreement when the program owner agrees to specific conditions in lieu of request for license denial or license revocation, per OAC 340:110-1-9.5.

(10) **Revocation or denial.** Licensing staff may recommend the request for license be denied or license revoked when numerous, repeated, or serious non-compliance with requirements was observed and documented or the program failed to adequately protect children, per OAC 340:110-1-10.

(11) **Voluntary cease care.** With CCS State Office approval, the owner is asked to voluntarily cease caring for children. The RPM is notified of every situation involving a request for voluntary cease care.

(12) **Voluntary closure.** With CCS State Office approval, the owner is asked to voluntarily close the facility, per OAC 340:110-1-11.

(e) **Case management responses when children are at risk.** When Licensing staff documents non-compliance with requirements or is investigating a complaint that may place children's health, safety, or well-being at imminent risk of harm, options to consider with the operator and licensing supervisor are outlined in this subsection.

(1) The operator is asked to immediately correct the non-compliance, such as, program personnel will not be present or work alone with children at the facility pending the outcome of an investigation.

(2) With CCS State Office approval, the owner is asked to voluntarily cease child care until the non-compliance is corrected or the investigation is complete.

(3) With CCS State Office approval, the owner is asked to voluntarily close the facility.

(4) When immediate action is needed to protect children, Licensing staff requests an Emergency Order, per OAC 340:110-1-9.4.

(5) The owner and CCS agrees to enter into a consent agreement when the program owner agrees to specific conditions in lieu of request for license denial or license revocation, per OAC 340:110-1-9.5.

(6) Licensing staff may recommend the request for license be denied or license be revoked when numerous, repeated, or serious non-compliance with requirements was observed and documented or the program failed to adequately protect children, per OAC 340:110-1-10.

(7) An injunction may be requested when a child care program is:

- (A) unlicensed;
- (B) on request for license status;
- (C) licensed;
- (D) violating an Emergency Order;
- (E) operating during an appeal following request for license denial or license revocation and children are at risk; or
- (F) violating the notice to cease and desist care following request for license denial or license revocation.

(f) **Notification to supervisor when children are at risk.** During a monitoring visit when Licensing staff is concerned children's health, safety, or well-being is at imminent risk, the Licensing supervisor or CCS State Office staff is contacted immediately.

(g) **Alternative method of compliance.** CCS may approve an alternative method of compliance to a minimum Licensing requirement. An alternative method of compliance may be authorized when Licensing determines the alternative method of compliance offers equal protection of children's health, safety, and well-being, meets the requirement's basic intent for the requested alternative compliance, and does not violate statutory requirements.

(1) An applicant or licensee submits a written request with supporting documentation on Form 07LC061E, Alternative Compliance Request, to Licensing staff. A separate alternative method of compliance request is submitted for each requirement identified.

(2) Licensing staff completes Form 07LC105E, Alternative Compliance Referral, and submits all documentation to the statewide licensing coordinator or designee.

(3) Approval of an alternative method of compliance does not set a precedent, and is independently evaluated on the merits of each request.

(4) The program's compliance record is considered when determining approval.

(5) An alternative method of compliance is not authorized for requirements affecting children's health and safety, such as exceeding licensed capacity or staff-child ratios, fire safety, or behavior and guidance.

(6) Form 07LC075E, Notice of Alternative Compliance, stating the nature of the exception, is posted with the license.

[Source: Added at 13 Ok Reg 499, eff 11-14-95 (emergency); Added at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 16 Ok Reg 2527, eff 7-1-99 ; Amended at 18 Ok Reg 2144, eff 6-11-01 ; Amended at 19 Ok Reg 221, eff 11-1-01 (emergency); Amended at 19 Ok Reg 2274, eff 6-27-02 ; Amended at 20 Ok Reg 1259, eff 6-1-03 ; Amended at 21 Ok Reg 910, eff 6-1-04 ; Amended at 22 Ok Reg 1304, eff 6-1-05 ; Amended at 23 Ok Reg 1092, eff 6-1-06 ; Amended at 24 Ok Reg 1351, eff 7-1-07 ; Amended at 25 Ok Reg 1962, eff 7-1-08 ; Amended at 26 Ok Reg 415, eff 11-20-08 (emergency); Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 27 Ok Reg 1869, eff 7-1-10 ; Amended at 28 Ok Reg 1669, eff 7-1-11 ;

#### **340:110-1-9.4. Emergency Order**

(a) **Purpose.** An Emergency Order directing the closure of a child care facility and/or immediate removal of children may be issued by the Oklahoma Department of Human Services (OKDHS) when there is a direct and serious hazard to the health, safety or welfare of any child cared for by the facility. Examples of serious hazardous situations may include, but is not limited to, circumstances:

- (1) that result in the serious injury or death of a child;
- (2) that place a child at a high risk for death or injury;
- (3) when compelling evidence of child abuse or neglect exists;
- (4) when a child leaves a facility without the staff's knowledge;
- (5) when a child is left at a location away from the facility;
- (6) when a child is left unattended in a vehicle;
- (7) when a child is left alone in a facility;
- (8) when there are serious non-compliance issues;
- (9) when a person is on the premises whose health or behavior would endanger the health, safety, or well-being of children;
- (10) when there is compelling evidence of the presence of illegal drugs and/or drug paraphernalia; or
- (11) continued operation of an unlicensed facility.

(b) **Issuance of Emergency Order.** If the operator is unable or unwilling to correct the hazardous situation and/or refuses to voluntarily cease care of children:

- (1) the licensing specialist or the licensing supervisor submits a request for an Emergency Order to the licensing regional programs manager or assistant licensing coordinator, or statewide licensing coordinator;
- (2) the licensing regional programs manager may contact the operator by phone to determine if the operator will voluntarily cease care of children. A voluntary cease care agreement by the operator does not prohibit the issuance of an Emergency Order; and
- (3) a request for an Emergency Order is considered by the licensing regional programs manager, assistant licensing coordinator, or licensing coordinator within one facility business day. The decision to issue an Emergency Order may be made by the licensing regional programs manager. Upon making a decision, the official will:
  - (A) issue a written Emergency Order, signed by the approving official and notify the licensing specialist, the licensing supervisor, the assistant licensing coordinator, and statewide licensing coordinator; or
  - (B) submit a written denial notice to the licensing specialist, the licensing supervisor, the assistant licensing coordinator, and the statewide licensing coordinator.

(c) **Provisions of the Emergency Order.** The Emergency Order shall provide for:

- (1) basis for the Emergency Order;

- (2) if the facility is to close;
- (3) if children are to be removed from the facility;
- (4) the Emergency Order is effective immediately;
- (5) the Emergency Order remains in effect until modified or rescinded; and
- (6) the right to have a hearing on the Emergency Order.

(d) **Serving of the Emergency Order.** The procedures for serving an Emergency Order are:

- (1) prior to delivery, the licensing specialist contacts law enforcement and requests assistance in serving the Emergency Order on the operator; and
- (2) an Emergency Order is served on the operator within one business day of issuance, or an alternate date, if approved by an assistant licensing coordinator or statewide licensing coordinator.

(e) **Removal of children.** If there is a threat of a direct and serious hazard to the health, safety and welfare of children and the operator is unable or unwilling to correct the situation and immediate removal from the child care facility is indicated, a licensing regional programs manager, assistant licensing coordinator, or statewide licensing coordinator may give verbal approval for removal of children. Parents are provided Form 07LC088E, Notice of Emergency Order, explaining the Emergency Order and how to locate other child care programs. Two options available are:

- (1) the operator and parents are told that the child care facility will not reopen on the following day; or
- (2) parents are contacted and advised to pick up their children immediately. If every effort has been made to contact the parents, and children are at imminent risk of harm, the licensing staff contacts law enforcement to request children be taken into protective custody.

(f) **Duration of Emergency Order.**

- (1) The facility remains closed and care of children by the operator is prohibited pending a hearing on the Emergency Order.
- (2) A review of the Emergency Order is conducted. If the decision to deny or to issue an Emergency Order is made by a licensing regional programs manager, an assistant licensing coordinator reviews all requests for an Emergency Order within three business days from the date of the decision by the licensing regional programs manager. The assistant licensing coordinator provides written notification to the licensing specialist, licensing supervisor, regional programs manager, and statewide licensing coordinator that they:

- (A) concur with the issuance of the Emergency Order;
- (B) issue a modified Emergency Order; or
- (C) rescind the Emergency Order.

(3) Modification or rescission of Emergency Order may occur when there is documentation that the direct and serious hazard has been corrected, or that children are no longer at imminent risk of serious harm.

(4) Licensing staff verify compliance with Emergency Order for a period of 30 days after the action becomes final, unless the

Emergency Order is rescinded within that timeframe.

(g) **Violation of the Emergency Order.** If an operator violates the conditions set forth in the Emergency Order, the licensing specialist, after consultation with the approving official, contacts a CLEET-certified officer for assistance.

(h) **Citation request.** A referral is made on Form 07LC097E, Citation Request, for the assistance of a CLEET-certified officer. The following procedures are followed:

(1) Licensing staff contacts a CLEET-certified officer to schedule a visit to the facility.

(2) Upon violations of conditions set forth in the Emergency Order, a citation may be issued by the CLEET-certified officer for not less than \$100 nor more than \$500 for every day the facility maintains and receives children.

(3) Licensing staff and a CLEET-certified officer monitor the facility until care of children has ceased.

(i) **Referral to the District Attorney (DA).** If violation of Emergency Order occurs, licensing staff consults with regional programs manager for the necessity of a referral to DA. Should a referral be necessary, licensing staff complete Form 07LC098E, District Attorney Referral, that includes documentation of the facts of the case. A copy is sent to the statewide licensing coordinator who informs the OKDHS Legal Division of the referral.

(j) **Referral to the Attorney General.** If no action is taken by a DA of the county where the facility is operating, a referral may be made to the Attorney General by the statewide licensing coordinator or designee.

[Source: Added at 13 Ok Reg 499, eff 11-14-95 (emergency); Added at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 16 Ok Reg 2527, eff 7-1-99 ; Amended at 16 Ok Reg 3511, eff 7-13-99 through 7-14-00 (emergency)<sup>1</sup>; Amended at 18 Ok Reg 2144, eff 6-11-01 ; Amended at 19 Ok Reg 221, eff 11-1-01 (emergency); Amended at 19 Ok Reg 2274, eff 6-27-02 ; Amended at 20 Ok Reg 1259, eff 6-1-03 ; Amended at 24 Ok Reg 1351, eff 7-1-07 ; Amended at 25 Ok Reg 1962, eff 7-1-08 ; Amended at 26 Ok Reg 415, eff 11-20-08 (emergency); Amended at 26 Ok Reg 2239, eff 7-1-09]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency amendatory action, the last effective permanent text of the Section is reinstated. Therefore, on 7-15-00 (after the 7-14-00 expiration of this emergency action), the text of 340:110-1-9.4 reverted back to the permanent text that became effective 7-1-99, as was last published in the 1999 OAC Supplement, and remained as such until amended again by permanent action on 6-11-01.*

### **340:110-1-9.5. Consent agreement**

(a) **Purpose.** The Oklahoma Department of Human Services (OKDHS) may offer to enter into a consent agreement with a facility in lieu of license denial or revocation. If such action has already taken place, a consent agreement may be used during the appeal process if the facility comes into compliance with licensing requirements. The use of a consent agreement is not required prior to denying or revoking a license.

(b) **Process.** When the documented evidence reflects that the facility operator is unable or unwilling to comply with minimum requirements, the Oklahoma Child Care Services (OCCS) licensing staff discusses the use and terms of a consent agreement with the licensing supervisor. If the licensing regional programs manager and the statewide licensing coordinator or designee concur with this action, a meeting is scheduled with the operator.

(1) The operator is asked to provide the names and addresses of all children currently enrolled at the facility.

(2) During the meeting, areas of non-compliance and the terms of the agreement are discussed. The meeting is documented on Form 07LC080E, Licensing Services Supplemental Information, and is signed by the operator, licensing staff, and any witness present. A copy is provided to the operator.

(3) An agreement is written by the statewide licensing coordinator or designee. Terms and time frames of the agreement are based upon the nature and severity of the non-compliance. The agreement may include voluntary restrictions, such as a ban on future admissions of children to the facility, a restriction on the ages of children cared for in the facility, a reduction in the number of children attending the facility or the number of hours the facility may operate each day, specific staff training, drug testing, and medical or psychological evaluation. Time frames to initiate and conclude the terms of the agreement are established and may be extended upon approval of the statewide licensing coordinator or designee and the OKDHS Legal Division.

(4) The operator is advised to prominently post a copy of the consent agreement in the child care facility. During the next monitoring visit, the licensing staff verifies that the consent agreement is posted. If it is not posted, the licensing staff documents it as a violation of the terms of the consent agreement.

(5) The licensing staff mails a copy of the consent agreement, with a cover letter, to parents of children currently enrolled at the facility. Upon enrollment of new children, the facility must provide those names and addresses to licensing staff. Licensing staff mails a copy of the consent agreement and cover letter upon receipt of this information. If the operator has not provided children's names and addresses, the licensing staff records the information from the children's records during the next monitoring visit.

(c) **Violations of the terms of the consent agreement.** Any violation of the terms of the consent agreement is considered grounds for proceeding with license revocation, denial, or refusal to renew.

(d) **Appeals.** The child care facility is not entitled to an appeal of the terms of the consent agreement, as participation in the agreement is voluntary.

[Source: Added at 16 Ok Reg 2527, eff 7-1-99 ; Amended at 18 Ok Reg 2144, eff 6-11-01 ; Amended at 19 Ok Reg 221, eff 11-1-01 (emergency); Amended at 19 Ok Reg 2274, eff 6-27-02 ; Amended at 20 Ok Reg 1259, eff 6-1-03 ; Amended at 21 Ok Reg 910, eff 6-1-04 ; Amended at 22 Ok Reg 1304, eff 6-1-05 ; Amended at 24 Ok Reg 1351, eff 7-1-07 ; Amended at 25 Ok Reg 1962, eff 7-1-08]

### **340:110-1-10. Revocation or denial of license**

(a) **Failure to meet requirements.** When numerous, repeated, or serious non-compliance with licensing requirements is observed and documented, or the facility fails to adequately protect the health and safety of children, the Oklahoma Department of Human Services (OKDHS) may deny the application for license or revoke the license.

(1) **Denial of application for license.** If a facility has filed an application for an initial license, OKDHS may deny the application for licensure.

(2) **Revocation of license.** If a license or provisional license is currently in effect, the licensing staff may recommend that the license be revoked.

(b) **Licensing staff recommendation.** The licensing staff consults with the licensing supervisor regarding his or her recommendation for revocation or denial. If the licensing supervisor concurs with the recommendation, the decision is discussed with the licensing RPM, and the statewide licensing coordinator, or designee. If they concur with the decision, licensing staff prepares the case for review by the statewide licensing coordinator or designee. Licensing staff submits the complete case record to the licensing supervisor who reviews the case to ensure all monitoring visits, complaints, correspondence, and relevant documents are included. The facility is notified in writing that the case has been referred to the statewide licensing coordinator.

(c) **Approval of recommendation and notification.** The case record and summary are reviewed by the statewide licensing coordinator or designee. Licensing staff's recommendation of revocation or denial is either approved, disapproved, or the decision delayed pending further investigation.

(1) When the recommendation is approved by the statewide licensing coordinator, it is submitted to OKDHS Legal Division for review of the legal adequacy of the notice of pending action that is mailed to the owner. The director of Child Care Services or designee has final approval of the revocation or denial.

(2) The statewide licensing coordinator sends a written notice of the pending action to the owner by certified mail at least 30 days prior to the effective date of the action. The notice includes:

(A) a copy of the summary;

(B) a statement regarding the owner's right to appeal the decision;

(C) a statement that the law requires written notification to parents of the action taken, and instruction to the owner to submit the names and addresses of children currently enrolled;

(D) a sign providing notice of proposed revocation or denial that is required to be prominently posted in the facility; and

(E) a statement regarding the facility's reduction in Stars status, if applicable.

(3) During the next monitoring visit, the licensing staff and a witness verify that the sign providing notice of proposed



revocation or denial is posted. If the sign is not posted, the licensing staff sends a letter to the owner documenting the violation of the legal notice.

(4) If the owner does not provide children's names and addresses, the licensing staff records the information from the children's records during the next monitoring visit.

(5) Questions from the owner regarding the action and appeal process are referred to the statewide licensing coordinator or designee.

(6) If the owner does not appeal the decision within the designated time period, the statewide licensing coordinator sends a letter to the owner giving notice of the denial or revocation and stating the effective date. The closure date is entered into the database by the statewide licensing coordinator or designee. A copy of the correspondence is sent to the licensing staff and to the licensing records office for potential restricted registration procedures per OAC 340:110-1-10.1.

(7) The licensing staff conducts a follow-up visit to confirm that child care has been discontinued. The statewide licensing coordinator or designee is notified of the visit.

(8) If the owner continues to maintain and operate the facility for child care after a final decision revoking or denying licensure, after consultation with RPM, licensing staff contacts a Council on Law Enforcement Education and Training (CLEET)-certified officer for assistance and submits a referral to the district attorney (DA) on Form 07LC098E, District Attorney Referral, for further action.

(9) **Citation Request.** A referral is made on Form 07LC097E, Citation Request, for the assistance of a CLEET-certified officer. The following procedures are followed:

(A) Licensing staff contacts a CLEET-certified officer to schedule a visit to the facility.

(B) Upon violations of conditions set forth in the Emergency Order, or following the revocation, or denial of a license, a citation may be issued by the CLEET-certified officer for not less than \$100, nor more than \$500 for every day the facility maintains and receives children.

(C) Licensing staff and a CLEET-certified officer monitor the facility until care of children has ceased.

(10) **Referral to the District Attorney (DA).** If violation of an Emergency Order occurs, licensing staff consults with RPM for the necessity of a referral to DA. Should a referral be necessary, licensing staff complete Form 07LC098E, District Attorney Referral, that includes documentation of the facts of the case. A copy is sent to the statewide licensing coordinator who informs the OKDHS Legal Division of the referral.

(11) **Referral to the Attorney General.** If no action is taken by a DA of the county where the facility is operating, a referral may be made to the Attorney General by the statewide licensing coordinator or designee.

(d) **Appeal process.** The appeal process regarding denial of application or revocation of license is described in this subsection.

(1) The appeal is submitted to the Oklahoma Commission for Human Services by the owner within 30 days of receipt of the notice.

(2) If the owner appeals, a hearing is scheduled by the OKDHS Appeals Unit.

(3) The facility may continue to operate during any appeal process unless an Emergency Order is in effect. The licensing staff conducts monitoring visits at least once a month, unless advised otherwise by the statewide licensing coordinator or designee, and is accompanied by the same witness whenever possible. If at any time during the appeal process OKDHS believes that the health, safety, or well-being of children cannot be ensured:

(A) an Emergency Order is requested; or

(B) following consultation with the statewide licensing coordinator or designee, the licensing supervisor contacts the DA and requests that an injunction be filed.

(4) If the decision of OKDHS to revoke or deny a license is upheld during all appeals, the statewide licensing coordinator sends a letter to the owner that child care must immediately cease. A copy of the cease and desist letter is forwarded to the licensing records office for potential restricted registration procedures per OAC 340:110-1-10.1. The licensing staff conducts a follow-up visit to confirm that child care has been discontinued. If the owner continues to operate the child care facility, the licensing field staff, in consultation with the statewide licensing coordinator or designee, may request that the local DA pursue an injunction or initiate criminal proceedings, or the statewide licensing coordinator may pursue legal action through the Attorney General.

(5) If the decision of OKDHS to revoke or deny a license is not upheld, OKDHS takes action to implement the decision within ten calendar days.

(6) When OKDHS denies or revokes a facility's license, the responsible entity can not make application for a new child care facility license within Oklahoma for five years following notification to the responsible entity of the license denial or revocation and during an appeal process.

(e) **Change in ownership during appeal process.** If there is a change in ownership during the appeal process, the owner must provide documentation verifying the change. This information is reviewed by the RPM. The statewide licensing coordinator may proceed with the previous owner's denial or revocation.

[Source: Amended at 10 Ok Reg 2369, eff 6-11-93 ; Amended at 11 Ok Reg 385, eff 10-15-93 (emergency); Amended at 11 Ok Reg 2773, eff 6-13-94 ; Amended at 13 Ok Reg 499, eff 11-14-95 (emergency); Amended at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 16 Ok Reg 2527, eff 7-1-99 ; Amended at 16 Ok Reg 3511, eff 7-13-99 through 7-14-00 (emergency)<sup>1</sup>; Amended at 18 Ok Reg 2144, eff 6-11-01 ; Amended at 19 Ok Reg 221, eff 11-1-01 (emergency); Amended at 19 Ok Reg 1171, eff 5-13-02 ; Amended at 19 Ok Reg 2274, eff 6-27-02 ; Amended at 20 Ok Reg 1259, eff 6-1-03 ; Amended at 21 Ok Reg 910, eff 6-1-04 ; Amended at 22 Ok Reg 1304, eff 6-1-05 ; Amended at 24 Ok Reg 1351, eff 7-1-07 ; Amended at 25 Ok Reg 1962, eff 7-1-08 ; Amended at 26 Ok Reg 415, eff 11-20-08 (emergency);

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### **340:110-1-10.1. Restricted Registry**

(a) **Legal basis.** The Oklahoma Child Care Facilities Licensing Act, Section 405.3 of Title 10 of the Oklahoma Statutes (10 O.S. § 405.3) requires Oklahoma Human Services (OKDHS) to establish and maintain a Restricted Registry, also known as Joshua's List. Individuals recorded on the Restricted Registry are identified as registrants and are prohibited from licensure, ownership, employment, unsupervised access to children, or residence in a facility or program licensed, certified, operated or contracted by, or with, OKDHS or the Office of Juvenile Affairs (OJA). The Restricted Registry search is required, per 10 O.S. § 404.1, and Oklahoma Administrative Code (OAC) 340:2-46-5.

(b) **Registrants.** Registration may result after review by the Restricted Registry Review Committee and after all appeals are exhausted, when:

(1) a substantiated finding of abuse or neglect, per 10A O.S. § 1-1-105, by an individual, when the abuse or neglect occurred to a child while in the care of a facility licensed, certified, operated, or contracted by, or with, OKDHS or OJA;

(2) a denial or revocation of a child care program license;

(3) a specified criminal history for individuals who have entered a plea of guilty, nolo contendere (no contest), or a conviction for felony offenses of:

(A) child abuse or neglect;

(B) a crime against a child; or

(C) a crime involving violence including, but not limited to, rape, sexual assault, or homicide; or

(4) a specified criminal history for individuals who have entered a plea of guilty, nolo contendere (no contest), or a conviction prior to or after the request for license date and ownership, employment, unsupervised access to children, or residence, for the felony offenses of:

(A) domestic abuse; or

(B) a drug or alcohol-related offense; or

(5) an individual required to register, per the Sex Offender Registration Act or the Mary Rippy Violent Crime Offenders Act.

(c) **Restricted Registry search for program owners.** When the owner is a:

(1) registrant, Licensing contacts the owner and documents discussion regarding his or her registration on Form 07LC080E,

Licensing Services Supplemental Information; or

(2) non-registrant, procedures for processing a request for license are followed, per OAC 340:110-1-6 .

**(d) Restricted Registry online search for child care program owners, personnel, individuals with unsupervised access, and residents.** The OKDHS Office of Background Investigation (OBI) verifies programs conduct a Restricted Registry online search within 30-calendar days of submission, per OAC 340:2-46-5.

**(e) Registration as a result of findings of abuse or neglect investigations by Child Welfare Services (CWS).** OKDHS staff notifies Restricted Registry staff of receipt of substantiated or confirmed findings when the abuse or neglect occurred to a child while in the care of a facility licensed, certified, operated or contracted by, or with, OKDHS or OJA. Restricted Registry staff verifies CWS appeal status before requesting additional information on potential registrants. Investigation information is forwarded to the Restricted Registry Review Committee for consideration, per (k) of this Section.

**(f) Registration as a result of findings of abuse or neglect investigations by Office of Client Advocacy (OCA).** OCA submits abuse or neglect findings to the residential licensing programs supervisor who reviews the information. Information meeting Restricted Registry registration criteria, per (b)(1) of this Section, are forwarded to Restricted Registry staff. Investigation information is forwarded to the Restricted Registry Review Committee for consideration, per (k) of this Section. Restricted Registry staff verifies OCA appeal status before requesting further review.

**(g) Registration as a result of findings of OJA abuse or neglect investigations.** OJA Office of Public Integrity personnel submits abuse or neglect findings to Restricted Registry staff. Information meeting Restricted Registry registration criteria, per (b)(1) of this Section, are forwarded to Restricted Registry staff. Investigation information is forwarded to the Restricted Registry Review Committee for consideration, per (k) of this Section. Restricted Registry staff verifies OJA appeal status before requesting further review.

**(h) Registration as a result of a denial or revocation.** Procedures regarding the request for license denial or revocation are followed, per OAC 340:110-1-10 or 340:110-1-52. The statewide licensing coordinator or designee forwards copies of the cease and desist letter and denial or revocation letter to Restricted Registry staff. Documentation relating to the denial and revocation is forwarded to the Restricted Registry Review Committee for consideration, per (k) of this Section.

**(i) Registration as a result of a specified criminal history.** When OBI conducts a criminal history review, including Record of Arrest and Prosecution (RAP) Back, and the review reveals an individual is a potential registrant, per (b)(3) - (5) of this Section, and a criminal history restriction waiver was rescinded or not granted, all criminal background information is forwarded to the Restricted Registry Review Committee for consideration, per (k) of this Section.

**(j) Insufficient registry referral information.** When sources submit insufficient or incomplete investigation, denial, or revocation information, per (e) through (i) of this Section, Restricted Registry staff completes and

forwards Form 07LC033E, Notice of Incomplete Restricted Registry Referral Information. If requested information is not received within 60-calendar days from form receipt, the referral information is incomplete and further registration review is not conducted.

(k) **Restricted Registry Review Committee.** The Restricted Registry Review Committee consists of six OKDHS staff and one OJA staff who make a registration determination within 30-calendar days of receipt of necessary information.

(1) Criteria considered for Restricted Registry registration include, the:

- (A) individual's age at the time of the offense(s);
- (B) length of time since the offense(s) occurred;
- (C) number and types of offenses the individual was convicted for, or for findings made;
- (D) circumstances surrounding commission of the offense(s), demonstrating willful intent;
- (E) likelihood the individual will re-offend; and
- (F) other documentation submitted indicating children's health, safety, and well-being are, or are not, endangered.

(2) The Restricted Registry Review Committee determines Restricted Registry registration by clear and convincing evidence; including consideration of:

- (A) the individual's history of behavior likely to create a reasonable risk of harm to children; and
- (B) if children are unsafe with the individual, either alone or in a group.

(3) The Restricted Registry Review Committee's determination requires a majority decision and is based on the members' review, discussion of documentation, and consideration of registration criteria as listed.

(4) When the Restricted Registry Review Committee recommends registration by a majority decision, information is forwarded to Restricted Registry staff.

(l) **Restricted Registry legal review.** Restricted Registry staff submits registration information to OKDHS Legal Services (LS) for registration review. LS responds within 60-calendar days to provide a registration decision indicating:

- (1) legal adequacy for Restricted Registry placement;
- (2) information does not meet legal adequacy for Restricted Registry placement; or
- (3) additional information is required.

(m) **Restricted Registry notification.** Within five OKDHS-business days of receipt of OKDHS LS review, Restricted Registry staff notifies the potential registrant on Form 07LC115E, Restricted Registry Notification. The notification:

- (1) advises the potential registrant:
  - (A) of the right to appeal within 30-calendar days of receipt of notice;
  - (B) failure to request a hearing, within the time frame specified, may result in Restricted Registry registration, per (o) of this Section; and

- (C) of the responsibility for notifying restricted registry staff of changes in mailing address; and
- (2) is mailed to the most recent address of record the potential registrant provided through request for license, personnel documents, criminal background requests, or interviews; and
- (3) is delivered by regular and certified mail, with return receipt requested.

(n) **Restricted Registry appeal process.** A request for an appeal is forwarded to Restricted Registry staff. Appeal requests are forwarded to OKDHS LS.

(o) **Registration.** When an appeal is not requested within the specified timeframe, or when an administrative decision becomes final, Restricted Registry staff:

- (1) mails Form 07LC114E, Restricted Registry Final Notification, to the registrant's last known address of record on file;
- (2) mails Form 07LC113E, Restricted Registry Program Notification, to the program where registrant is associated;
- (3) notifies the appropriate CWS Resource Unit, OJA, or Licensing staff regarding Restricted Registry registration; and
- (4) enters registrant information on the Restricted Registry database.

(p) **District Court appeal process.** Registrants aggrieved by the Restricted Registry Committee decision upheld during an administrative hearing may appeal to the District Court of the county where the facility is maintained and operated. Registrants file a verified petition with the court clerk within 10-calendar days after the decision. Within 20-calendar days of the filing of the appeal in District Court, the registrant also files the administrative hearings transcript with the court clerk.

(q) **Request for registration removal.** A registrant may request removal after 60 months from the date of Restricted Registry registration. A request for removal from the Restricted Registry is forwarded to the Restricted Registry staff for submission to the Restricted Registry Review Committee. The Restricted Registry Review Committee makes a determination within 30-calendar days of receipt of notice from the Restricted Registry staff.

- (1) Criteria considered for removal includes, but is not limited to, (k)(1)(A) through (F) of this Section, and:

- (A) a current criminal background review, when applicable, conducted within 60-calendar days;
- (B) since registration, consideration of:
  - (i) work and training histories; and
  - (ii) character behavioral references; and
- (C) a personal statement of rehabilitative efforts; and
- (D) reason for original placement and the length of time on the Restricted Registry.

(2) A decision to remove a registrant from the Restricted Registry is based on a Restricted Registry Review Committee majority decision. The Restricted Registry Review Committee decision is final and an appeal process is not available.

(3) Restricted Registry staff notifies the registrant of the Restricted Registry Review Committee decision.

- (4) When continued placement is:
- (A) recommended, Restricted Registry staff informs the registrant that subsequent requests of removal from the Restricted Registry may be requested 12 months from the date of committee decision; or
  - (B) not recommended, Restricted Registry staff removes the registrant from the Restricted Registry database.

[Source: Added at 27 Ok Reg 1869, eff 7-1-10 ; Amended at 27 Ok Reg 2646, eff 6-21-10 (emergency); Amended at 28 Ok Reg 1669, eff 7-1-11 ; Amended at 29 Ok Reg 1229, eff 7-1-12 ; Amended at 31 Ok Reg 154, eff 11-1-13 (emergency); Amended at 31 Ok Reg 1854, eff 9-15-14 ; Amended at 35 Ok Reg 475, eff 1-31-18 (emergency); Amended at 35 Ok Reg 1705, eff 9-17-18 ; Amended at 37 Ok Reg 1858, eff 11-1-20 ; Amended at 40 Ok Reg 1033, eff 9-15-23 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:110-1-11. Voluntary case closures**

(a) **Child care centers, part-day children's programs, and school-age programs.** When a facility is sold to a new owner or discontinues providing child care, the case record is closed, unless the case has been recommended for revocation or denial. A facility's case is closed when care has not been provided for more than 12 consecutive months in accordance with OAC 340:110-1-9(n). State Office is consulted for appropriate action. A license is not transferable.

(b) **Family child care home.** A family child care home case is closed when the caregiver discontinues care or care has not been provided for more than 12 consecutive months in accordance with OAC 340:110-1-9(o). When a family child care home is sold to a new owner, the case record is closed, unless the case has been recommended for revocation or denial. State Office is consulted for appropriate action.

(c) **Reopening a closed family child care home.** Policy regarding reopening a family child care home is at OAC 340:110-1-6(c).

[Source: Amended at 10 Ok Reg 2369, eff 6-11-93 ; Amended at 11 Ok Reg 385, eff 10-15-93 (emergency); Amended at 11 Ok Reg 2773, eff 6-13-94 ; Amended at 13 Ok Reg 499, eff 11-14-95 (emergency); Amended at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 14 Ok Reg 2174, eff 5-14-97 (emergency); Amended at 15 Ok Reg 1727, eff 5-11-98 ; Amended at 16 Ok Reg 285, eff 11-3-98 (emergency); Amended at 16 Ok Reg 1080, eff 4-26-99 ; Amended at 16 Ok Reg 2527, eff 7-1-99 ; Amended at 18 Ok Reg 2144, eff 6-11-01 ; Amended at 21 Ok Reg 910, eff 6-1-04 ; Amended at 23 Ok Reg 1092, eff 6-1-06 ; Amended at 24 Ok Reg 1351, eff 7-1-07 ; Amended at 25 Ok Reg 1962, eff 7-1-08 ; Amended at 26 Ok Reg 2239, eff 7-1-09]

### **340:110-1-12. OAC 340:70, Appendix I, Day Care Provider Contract [REVOKED]**

[Source: Amended at 10 Ok Reg 2369, eff 6-11-93 ; Amended at 11 Ok Reg 385, eff 10-15-93 (emergency); Amended at 11 Ok Reg 2773, eff 6-13-94 ; Revoked at 13 Ok Reg 499, eff 11-14-95 (emergency); Revoked at 13 Ok Reg 2663, eff 6-28-96]

### **340:110-1-13. Unlicensed facilities**

(a) **Legal basis and authority.** Pursuant to Section 405 of Title 10 of the Oklahoma Statutes, no child care facility may be operated or maintained in this state, unless licensed or given permission to operate by the Oklahoma Department of Human Services (OKDHS).

(b) **Procedure for investigating the operation of an unlicensed facility.** When information is received regarding the operation of an

unlicensed facility, staff conducts a full monitoring visit no later than three facility business days to assess the necessity of a license.

(1) If care is being provided, staff informs the facility they have not been given permission to operate and they are in violation of the Oklahoma Child Care Facilities Licensing Act. During the visit the facility is informed on Form 07LC095E, Notice Regarding Unlicensed Care, that:

(A) care must cease by the end of the current business day unless imminent risk indicates the need for the facility to cease care immediately; or

(B) permission to operate may be granted when the facility:

(i) is in compliance with health and safety requirements without serious non-compliances as referenced in OAC 340:110-1-9.3;

(ii) has submitted a completed application in accordance with OAC 340:110-1-6;

(iii) provides all required background information per OAC 340:110-1-8.1; and

(iv) has staff present who meet the following licensing requirements:

(I) documented current cardio-pulmonary resuscitation and first aid certification;

(II) required health and safety training completed; and

(III) minimum educational qualifications for the position held.

(2) If a facility is not granted permission to operate, a follow-up visit is conducted within one facility business day to verify the termination of care and The follow-up visit timeframe may be extended up to five days with supervisory approval and is documented on Form 07LC080E, Licensing Services Supplemental Information. When care of children has not ceased, staff proceed per OAC 340:110-1-9.4.

(3) When the necessity of a license is not required, licensing staff documents the investigation of unlicensed operation on Form 07LC080E.

(c) **Documentation of Findings.** Following the unlicensed complaint investigation licensing staff proceed with procedures in OAC 340:110-1-9.2(k). All case staffings and discussions of case actions are documented on Form 07LC080E and maintained in the case file.

[Source: Amended at 10 Ok Reg 2369, eff 6-11-93 ; Amended at 11 Ok Reg 385, eff 10-15-93 (emergency); Amended at 11 Ok Reg 2773, eff 6-13-94 ; Amended at 13 Ok Reg 499, eff 11-14-95 (emergency); Amended at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 16 Ok Reg 2527, eff 7-1-99 ; Amended at 18 Ok Reg 2144, eff 6-11-01 ; Amended at 19 Ok Reg 2274, eff 6-27-02 ; Amended at 24 Ok Reg 1351, eff 7-1-07 ; Amended at 26 Ok Reg 415, eff 11-20-08 (emergency); Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 27 Ok Reg 1869, eff 7-1-10 ; Amended at 28 Ok Reg 1669, eff 7-1-11 ; Amended at 29 Ok Reg 1229, eff 7-1-12]

## **340:110-1-14. Public inspection of licensing files**



(a) **Legal basis.** The Oklahoma Department of Human Services (OKDHS) is subject to the Oklahoma Open Records Act, Section 24A.1 et seq. of Title 51 of the Oklahoma Statutes (O.S.), which mandates that public records are open for public inspection unless they are required by law to be kept confidential.

(b) **Licensing records.** All OKDHS records of facilities required to be licensed under 10 O.S. § 401 et seq. that are considered public records are open and available for public inspection during reasonable hours. Information obtained concerning a report of a violation of a licensing requirement is confidential pursuant to 10 O.S. § 406 with the exception of a summary of allegations and findings of an investigation involving a child care facility that does not disclose identities but that permits the public to evaluate the facility.

(c) **Location of case records.** Child care facility licensing records are located and inspected in the OKDHS Human Service Center where licensing staff reside. If a parent resides in another county, the licensing staff makes the record available in that county.

(d) **Preparation of case files for inspection.** The licensing staff carefully reviews the entire record and removes confidential information.

(e) **Records of complaints.** To allow persons inspecting a licensing record to have access to information regarding complaints, Form 07LC081E, Licensing Complaint Report Summary, is included in the file. Form 07LC012E, Licensing Complaint, is removed from the file that is open for public inspection. If information regarding a complaint is requested prior to completion of the investigation, the licensing staff explains that information regarding the allegation and findings is released after the investigation is complete.

(f) **Supervision of files during inspection.** Facility records are inspected in the presence of OKDHS staff persons who are available to provide clarification on licensing policy and requirements.

(g) **Fees for photocopying.** Guidelines for photocopying fees are provided per OAC 340:2-21-16.

(h) **Release of confidential information.**

(1) A complete case file that includes confidential information is not released to the public, and may be provided only to certain persons according to applicable laws and regulations, for example, OKDHS Legal Division, Children and Family Services Division, law enforcement officials, and upon order of a court of competent jurisdiction.

(2) The name or other identifying information of a complainant listed on Form 07LC012E is confidential and released only upon order of a court of competent jurisdiction.

(i) **Computer licensing record.** A summary of the facility licensing record maintained on the OKDHS Web site as recorded in public view may be provided upon request at no charge. A cover letter is sent with the licensing summary that notes that the summary does not include the complete case record, and that the complete case record may be reviewed in the OKDHS Human Service Center where the facility is located.

(j) **Release of information over the telephone.** Information on public view may be released over the telephone, including completed complaint

information. If more information is requested, the file may be viewed at the county office.

[Source: Amended at 10 Ok Reg 2369, eff 6-11-93 ; Amended at 11 Ok Reg 385, eff 10-15-93 (emergency); Amended at 11 Ok Reg 2773, eff 6-13-94 ; Amended at 13 Ok Reg 499, eff 11-14-95 (emergency); Amended at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 14 Ok Reg 2174, eff 5-14-97 (emergency); Amended at 15 Ok Reg 1727, eff 5-11-98 ; Amended at 16 Ok Reg 2527, eff 7-1-99 ; Amended at 18 Ok Reg 2144, eff 6-11-01 ; Amended at 19 Ok Reg 221, eff 11-1-01 (emergency); Amended at 19 Ok Reg 2274, eff 6-27-02 ; Amended at 21 Ok Reg 910, eff 6-1-04 ; Amended at 22 Ok Reg 1304, eff 6-1-05 ; Amended at 24 Ok Reg 1351, eff 7-1-07 ; Amended at 25 Ok Reg 1962, eff 7-1-08 ; Amended at 27 Ok Reg 1869, eff 7-1-10 ; Amended at 28 Ok Reg 1669, eff 7-1-11]

### **340:110-1-15. Grievance policy and procedure**

(a) **Grievance policy.** The child care or residential program, or child placing agency owner , director, or administrator may submit a grievance regarding the application of any written or unwritten policy, rule, or regulation of Child Care Services (CCS) or a CCS employee decision affecting the program or child-placing agency. Grievances must be received within 30-calendar days of the documented non-compliance, star criteria violation, or substantiated complaint allegation. A grievance is not accepted concerning an Emergency Order, request for license denial, license revocation, or Restricted Registry registration.

(b) **Grievance procedure.** Individuals wanting to submit a grievance are encouraged to seek informal resolution of his or her concerns by contacting the appropriate Licensing supervisor or programs supervisor for residential programs and child-placing agencies, who attempts to resolve the matter. Each grievance review level may have assigned designees.

(1) When a resolution cannot be reached at the local level or through verbal conversation with CCS State Office staff, the grievant is instructed to submit one written grievance request with the Licensing supervisor or programs supervisor. Grievances must be received within 15-calendar days of this communication. Written grievances are forwarded when additional reviews are requested.

(2) Licensing supervisor and regional programs manager (RPM) grievance level review processes for child care programs are in (A) through (B) of this paragraph.

(A) The Licensing supervisor:

- (i) notifies the RPM and statewide licensing coordinator that a formal grievance was received and efforts made to resolve the issue;
- (ii) responds to written grievances within 10-Oklahoma Human Services (OKDHS) business days of receipt; and
- (iii) informs the grievant additional review requests must be received within 15-calendar days of the correspondence date.

(B) When the grievant is not satisfied with the proposed resolution, he or she may request RPM review. The RPM:

- (i) responds to written grievances within 10-OKDHS business days of receipt; and

(ii) informs the grievant additional review requests must be received within 15-calendar days of the correspondence date.

(3) For residential programs or child-placing agency grievance review at the programs supervisor level, the programs supervisor:

(A) notifies the statewide licensing coordinator a formal grievance was received and efforts were made to resolve the issue;

(B) responds to written grievances within 10-OKDHS business days of receipt; and

(C) informs the grievant additional review requests must be received within 15-calendar days of the correspondence date.

(4) When the grievant is not satisfied with the proposed resolution, per (2) or (3) of this subsection, he or she may request statewide licensing coordinator review. The grievant is informed he or she may request Child Care Advisory Committee (CCAC) Peer Review Board review, prior to statewide licensing coordinator review. The statewide licensing coordinator forwards information to the Peer Review Board, when applicable or proceeds with the review.

(5) When applicable, the Peer Review Board responds to the statewide licensing coordinator with resolution advisement within 10-OKDHS business days of receipt.

(6) The statewide licensing coordinator notifies the grievant of the CCS decision within 10-OKDHS business days or, when applicable, 10-OKDHS business days of Peer Review Board advisement receipt. The grievant is informed additional review requests must be received within 15-calendar days of the correspondence date.

(7) When the grievant is not satisfied with the proposed resolution, he or she may request review by the CCS director, Senior Director of Child Services, and OKDHS Director (Director), or assigned designees respectively. The CCS director, Senior Director of Child Services, and Director or assigned designees each respond within 10-OKDHS business days of receipt. The grievant is informed additional review requests must be received within 15-calendar days of the correspondence date. The Director's or assigned designee's decision is final.

(c) **Grievance procedures against a CCS employee.** A child care or residential program, and child-placing agency may submit a grievance regarding a CCS employee who retaliated against a program or child-placing agency, or the employees. Grievances must be received within 30-calendar days of the alleged incident. Reports are investigated regardless of the grievant's decision to remain anonymous.

(1) The grievant is referred to the appropriate supervisor or programs supervisor, who attempts to resolve the matter.

(2) When the grievant is not satisfied with the proposed resolution at the supervisory level, the grievant is referred to the assistant licensing coordinator and, when applicable, not within the line of supervision of the involved Licensing staff. The assistant licensing

coordinator:

- (A) requests the allegations be submitted in writing; however, written submission is not required;
- (B) investigates the allegations; and
- (C) provides written investigation results to the grievant, when contact information is available.

(3) The assistant licensing coordinator's decision is final; however, the grievant may request the CCS director review the finding.

[Source: Amended at 10 Ok Reg 2369, eff 6-11-93 ; Amended at 11 Ok Reg 385, eff 10-15-93 (emergency); Amended at 11 Ok Reg 2773, eff 6-13-94 ; Amended at 13 Ok Reg 499, eff 11-14-95 (emergency); Amended at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 16 Ok Reg 2527, eff 7-1-99 ; Amended at 16 Ok Reg 3511, eff 7-13-99 through 7-14-00 (emergency)<sup>1</sup>; Amended at 18 Ok Reg 2144, eff 6-11-01 ; Amended at 19 Ok Reg 221, eff 11-1-01 (emergency); Amended at 19 Ok Reg 2274, eff 6-27-02 ; Amended at 24 Ok Reg 1351, eff 7-1-07 ; Amended at 27 Ok Reg 1869, eff 7-1-10 ; Amended at 29 Ok Reg 1229, eff 7-1-12 ; Amended at 32 Ok Reg 704, eff 1-1-16 (emergency); Amended at 33 Ok Reg 1678, eff 9-15-16 ; Amended at 34 Ok Reg 1640, eff 9-15-17 ; Amended at 36 Ok Reg 181, eff 12-17-18 (emergency); Amended at 36 Ok Reg 1892, eff 9-16-19 ; Amended at 37 Ok Reg 1858, eff 11-1-20 ; Amended at 40 Ok Reg 1033, eff 9-15-23]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency amendatory action, the last effective permanent text of the Section is reinstated. Therefore, on 7-15-00 (after the 7-14-00 expiration of this emergency action), the text of 340:110-1-15 reverted back to the permanent text that became effective 7-1-99, as was last published in the 1999 OAC Supplement and republished in the 2000 OAC Supplement, and remained as such until amended by permanent action on 6-11-01.*

#### **340:110-1-16. Certification of child care facilities to care for children with special needs [REVOKED]**

#### **340:110-1-16.<sup>1</sup> Certification of child care facilities to care for children with special needs [REVOKED]**

[Source: Added at 9 Ok Reg 3583, eff 7-20-92 (emergency); Added at 10 Ok Reg 2369, eff 6-11-93 ; Amended at 11 Ok Reg 385, eff 10-15-93 (emergency); Amended at 11 Ok Reg 2773, eff 6-13-94 ; Revoked at 13 Ok Reg 325, eff 5-18-95 (emergency); Revoked at 13 Ok Reg 2663, eff 6-28-96]

**Editor's Note:** <sup>1</sup>*Two different emergency rules were promulgated at this number (340:110-1-16) in 1992. One of the rules called "Child Care Advisory Committee by-laws" was later superseded by a permanent rule numbered at 340:110-1-17.*

#### **340:110-1-17. Child Care Advisory Committee bylaws**

(a) **Purpose.** The Child Care Advisory Committee's (CCAC) purpose is to:

(1) carry out the provisions of the Oklahoma Child Care Facilities Licensing Act (Licensing Act), Section 404 of Title 10 of the Oklahoma Statutes (10 O.S. § 404) to:

- (A) ensure minimum standards maintenance for children's care and protection away from their homes, including:
  - (i) constructive programs and services meeting each child's and family's needs;

- (ii) personnel having good moral character and ability of caring for children;
- (iii) adequate and safe housing, sanitation, and equipment;
- (iv) good health care;
- (v) full educational and religious opportunities;
- (vi) good community relationships;
- (vii) essential records and administrative methods; and
- (viii) sufficient funds for sound operation;
- (B) encourage and assist child care facilities toward maximum standards; and
- (C) work for sufficient and adequate child care services development through public and private agency partnerships;
- (2) recommend child care program minimum requirements and standards for Oklahoma Department of Human Services (DHS) rule promulgation. Rules are promulgated after consultation with:
  - (A) the Oklahoma State Department of Health (OSDH);
  - (B) the Oklahoma State Department of Education (OSDE);
  - (C) the Oklahoma State Bureau of Investigation (OSBI);
  - (D) the Office of the Oklahoma State Fire Marshal (OSFM);
  - (E) the Oklahoma Commission on Children and Youth (OCCY);
  - (F) the Oklahoma Department of Mental Health and Substance Abuse Services (ODMHSAS); and
  - (G) other agencies deemed necessary by DHS;
- (3) serve in an advisory capacity to DHS for developing quality child care programs and services; and
- (4) educate the public and consumers regarding quality child care.

(b) **Function.** The CCAC function is to:

- (1) become informed of DHS programs and policies regarding children;
- (2) express community's and the State of Oklahoma's needs and concerns relating to children's care and treatment; and
- (3) express change recommendations, including minimum requirement revisions and encouraging child care maximum standards.

(c) **Membership.**

(1) **Representation.** CCAC provides names for consideration of new appointments and reappointments of members to the Child Care Services (CCS) director. The CCS director in consultation with the OCCY representative provides membership recommendations to the DHS Director. Members are appointed to serve at the pleasure of the DHS Director, based on child care expertise, experience, and leadership.

- (A) CCAC, at a minimum, consists of 18 members.
- (B) The majority are DHS-licensed program representatives.

(C) Other members include at least one representative from OSDH; OSDE; OSFM; tribal agencies; and CCS.

These representatives are exempt from term limits.

(D) Other members include associations and agencies as recommended to the DHS Director, such as the Oklahoma Child Care Association, Oklahoma Children's Agencies and Residential Enterprises Incorporated (OK-CARE), ODMHSAS, OSBI, Oklahoma Association of Youth Services, Office of Juvenile Affairs, Early Childhood Association of Oklahoma, and Head Start.

(E) An OCCY representative serves as an ex-officio member.

**(2) Terms of office.**

(A) CCAC member terms are for three years with a two-consecutive-term limit.

(B) Members may be recommended for reappointment after completing the first office term.

**(3) Officers.** CCAC officers include chairperson, vice-chairperson, and secretary.

(A) **Chairperson.** The chairperson is responsible for:

(i) presiding over all meetings;

(ii) planning the meeting agenda, at least 14-calendar days in advance, in coordination with CCS;

(iii) appointing subcommittee members, in consultation with the CCS director and OCCY representative; and

(iv) serving as CCAC spokesperson.

(B) **Vice-Chairperson.** The vice-chairperson works closely with the chairperson, assumes chairperson responsibilities in his or her absence, and attends public hearings.

(C) **Secretary.** The secretary position is held by the CCS representative. The secretary is responsible for recording meeting minutes and providing them to members prior to the next meeting. A permanent copy of the minutes is maintained by CCS.

**(4) Election of officers and terms of office.**

(A) Upon office vacancy, the chairperson and vice-chairperson are elected by a majority member vote present during the next quarterly meeting following the office vacancy. Officers assume duties during the meeting when the election is held.

(B) Office terms are for one year. Officers may be elected to serve in one office for a maximum of three terms.

**(5) Standing Subcommittees.**

(A) Standing subcommittees expand child care operator opportunity to identify quality improvement resources, express industry concerns, and recommend issues for CCAC consideration.

(i) The chairpersons of four standing subcommittees are CCAC members and are

appointed by CCAC chairperson. Standing subcommittees represent:

- (I) family child care homes;
- (II) child care centers, day camp, drop-in, out-of-school time, part-day programs, and programs for sick children;
- (III) residential and child-placing agencies; and
- (IV) the quality rating and improvement system (QRIS) program.

(ii) Standing subcommittee members are identified and recruited by the standing subcommittee chairpersons with CCS and OCCY consultation. Membership meets representation, per 10 O.S. § 404.

(iii) Standing subcommittees meet a minimum of twice annually.

(iv) The standing subcommittee chairperson provides a written report to CCAC, at least twice annually.

(v) CCS state office staff attends standing subcommittee meetings and serves as a resource.

(B) A standing membership subcommittee helps to ensure broad licensed program representation is included within CCAC. The OCCY representative serves on the standing membership subcommittee and consults with the CCS director identifying appropriate CCAC members.

(i) The standing membership subcommittee chairperson works closely with other CCAC officers and provides the standing membership subcommittee oversight.

(ii) The membership subcommittee meetings are held at least quarterly, prior to CCAC meetings.

(iii) The membership subcommittee chairperson provides a written quarterly report to CCAC.

(iv) The membership subcommittee recommends to CCAC:

- (I) the names for new appointments;
- (II) the re-appointment of existing members based on attendance and participation on CCAC subcommittees; and
- (III) a slate of officers.

(6) **Peer Review Board.** CCAC identifies members to serve on the Peer Review Board and participate in the DHS grievance process per Oklahoma Administrative Code (OAC) 340:110-1-15 and 340:110-1-54. A majority of the Peer Review Board are representatives of licensed child care facilities.

(7) **QRIS Administrative Review.** CCAC identifies two members to serve on QRIS administrative reviews per OAC 340:110-1-8.3

(h)(5)(B), with one member being a center owner or operator.

(d) **Meetings.**

(1) **Frequency.** CCAC meets quarterly. Additional meetings may be called or regular meetings cancelled by the chairperson and CCS representative.

(2) **Quorum.** A minimum of one third plus one member or designee, of currently appointed members, must be present for a quorum.

(3) **Voting.** All members or designees must receive CCAC orientation prior to voting.

(4) **Attendance.** Committee members or designees must attend at least two CCAC meetings annually or may be removed from the committee at CCAC or DHS Director's discretion.

(5) **Active participation.** CCAC members or designees are required to serve on subcommittees annually.

(6) **Guidelines.** CCAC practices are compatible with the Licensing Act.

(7) **Rules of order.** *Robert's Rules of Order*, as amended, are used to govern the meetings.

(e) **Change of bylaws.** CCS prepares bylaw revisions based on CCS and CCAC input and recommendations. Proposed rulemaking is presented to CCAC for comment and submitted for approval through the Administrative Procedures Act rulemaking process.

[Source: Added at 9 Ok Reg 3249, eff 6-15-92 (emergency)<sup>1</sup>; Added at 10 Ok Reg 2369, eff 6-11-93 ; Amended at 13 Ok Reg 499, eff 11-14-95 (emergency); Amended at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 16 Ok Reg 2527, eff 7-1-99 ; Amended at 16 Ok Reg 3511, eff 7-13-99 through 7-14-00 (emergency)<sup>2</sup>; Amended at 18 Ok Reg 2144, eff 6-11-01 ; Amended at 19 Ok Reg 2274, eff 6-27-02 ; Amended at 22 Ok Reg 1304, eff 6-1-05 ; Amended at 23 Ok Reg 1092, eff 6-1-06 ; Amended at 24 Ok Reg 1351, eff 7-1-07 ; Amended at 25 Ok Reg 1962, eff 7-1-08 ; Amended at 26 Ok Reg 415, eff 11-20-08 (emergency); Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 33 Ok Reg 1683, eff 11-1-16 ; Amended at 34 Ok Reg 197, eff 11-22-16 (emergency); Amended at 34 Ok Reg 1652, eff 9-15-17 ; Amended at 36 Ok Reg 181, eff 12-17-18 (emergency); Amended at 36 Ok Reg 1892, eff 9-16-19]

**Editor's Note:** <sup>1</sup>*In 1992, two different emergency rules were added at the same section number (340:110-1-16). One of these rules was later superseded by a permanent rule numbered at this number (340:110-1-17).*

**Editor's Note:** <sup>2</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency amendatory action, the last effective permanent text of the Section is reinstated. Therefore, on 7-15-00 (after the 7-14-00 expiration of this emergency action), the text of 340:110-1-17 reverted back to the permanent text that became effective 7-1-99, as was last published in the 1999 OAC Supplement and republished in the 2000 OAC Supplement, and remained as such until amended again by permanent action on 6-11-01.*

### **340:110-1-18. Criminal background checks [REVOKED]**

[Source: Added at 11 Ok Reg 385, eff 10-15-93 (emergency); Added at 11 Ok Reg 2773, eff 6-13-94 ; Revoked at 13 Ok Reg 325, eff 5-18-95 (emergency); Revoked at 13 Ok Reg 2663, eff 6-28-96]



### **340:110-1-19. Emergency order [REVOKED]**

[Source: Added at 11 Ok Reg 385, eff 10-15-93 (emergency); Added at 11 Ok Reg 2773, eff 6-13-94 ; Revoked at 13 Ok Reg 499, eff 11-14-95 (emergency); Revoked at 13 Ok Reg 2663, eff 6-28-96]

### **340:110-1-20. Professional development of OCCS staff**

(a) **Licensing staff training.** All Oklahoma Child Care Services (OCCS) licensing staff are required to receive job-related training on an annual basis. This includes the new worker licensing training required for all new licensing staff. An annual training plan is developed for each employee with the employee's supervisor.

(b) **Professional development of OCCS staff.** OCCS may award scholarships for coursework leading to a master's degree in early childhood education at an Oklahoma public university. The program may be discontinued at any time based on unavailability of funding.

(1) Scholarships are awarded to employees based upon supervisory recommendation and selection by the OCCS Education Assistance Committee. Preference is given to staff who have three years of Oklahoma Department of Human Services (OKDHS) employment.

(2) Applications are not accepted for participants while in probationary status or a trial period or during any level of corrective discipline. Once approved, any continued participation is based upon supervisory approval, satisfactory job performance appraisal, and OCCS Education Assistance Committee approval.

(3) Participation is limited to two courses per semester per person.

(c) **Scholarship requirements.**

(1) **Mandatory service requirement.** The OCCS Education Assistance Committee establishes conditions of a mandatory service requirement for participants in the scholarship program. The service requirement is included in a written contract between OCCS and the participant.

(2) **Grade report.** At the end of each semester, scholarship recipients submit a copy of their grades to their supervisor and to the OCCS Education Assistance Committee.

(3) **Reimbursement requirement.** Exceptions to the reimbursement requirement may be granted, at the discretion of the OCCS Education Assistance Committee, for serious illness, injury, or a personal situation requiring the recipient to withdraw from school. The OCCS Education Assistance Committee specifies and includes the terms of reimbursement in a contract between OCCS and the participant. Unless an exception is granted by the OCCS Education Assistance Committee, reimbursement to OKDHS for the cost of tuition, books, fees, and other expenses incurred is required and a recipient is not permitted to enroll in further courses until the debt is paid in full when a recipient:

(A) withdraws from a class;

(B) earns a grade below "C" in any class;

- (C) receives a grade of "incomplete" that is not converted to an acceptable grade during the next semester; or
  - (D) is removed from the program by the university.
- (4) **Use of leave.** With supervisory approval, scholarship recipients may use educational leave up to 160 hours per year. Such requests are submitted and approved in accordance with OKDHS:2-1-42. Attendance at night or weekend classes does not qualify the recipient for compensatory time.
- (5) **Application.** Applications and supporting documentation for the scholarship program are submitted within the designated time frames. Upon scholarship award, a contract is signed by the recipient to indicate an understanding of and commitment to the scholarship requirements.

[Source: Added at 16 Ok Reg 2527, eff 7-1-99 ; Amended at 18 Ok Reg 2144, eff 6-11-01 ; Amended at 20 Ok Reg 1259, eff 6-1-03 ; Amended at 21 Ok Reg 910, eff 6-1-04 ; Amended at 24 Ok Reg 1351, eff 7-1-07 ; Amended at 25 Ok Reg 1962, eff 7-1-08]

### **340:110-1-21. Child Care Services (CCS) program evaluation**

CCS is responsible for Licensing program evaluation.

- (1) The quality assurance (QA) manager is responsible for program evaluation activities, including QA reviews and CCS employee and child care industry feedback surveys.
- (2) CCS establishes a method for continuously improving the internal review program through feedback and recommendations from all concerned parties. The review:
  - (A) determines Licensing requirement, rule, and procedure implementation;
  - (B) evaluates CCS program's effectiveness; and
  - (C) provides objective evidence supporting the reduction, elimination, and prevention of inconsistent rules and Licensing requirement interpretation.

[Source: Added at 16 Ok Reg 2527, eff 7-1-99 ; Amended at 18 Ok Reg 2144, eff 6-11-01 ; Amended at 22 Ok Reg 1304, eff 6-1-05 ; Amended at 24 Ok Reg 1351, eff 7-1-07 ; Amended at 25 Ok Reg 1962, eff 7-1-08 ; Amended at 33 Ok Reg 1683, eff 11-1-16 ; Amended at 40 Ok Reg 1033, eff 9-15-23]

## **PART 3. LICENSING SERVICES - RESIDENTIAL CARE AND AGENCIES**

### **340:110-1-40. Purpose [REVOKED]**

[Source: Added at 11 Ok Reg 399, eff 10-15-93 (emergency); Added at 11 Ok Reg 2773, eff 6-13-94 ; Amended at 17 Ok Reg 462, eff 10-19-99 (emergency); Amended at 17 Ok Reg 1339, eff 5-11-00 ; Amended at 20 Ok Reg 1274, eff 6-1-03 ; Amended at 25 Ok Reg 1962, eff 7-1-08 ; Revoked at 40 Ok Reg 1033, eff 9-15-23]

### **340:110-1-41. Definitions [REVOKED]**

[Source: Added at 11 Ok Reg 399, eff 10-15-93 (emergency); Added at 11 Ok Reg 2773, eff 6-13-94 ; Amended at 17 Ok Reg 462, eff 10-19-99 (emergency); Amended at 17 Ok Reg 1339, eff 5-11-00 ;

Amended at 20 Ok Reg 1274, eff 6-1-03 ; Revoked at 40 Ok Reg 1033, eff 9-15-23]

### **340:110-1-42. Legal base and authority [REVOKED]**

[Source: Added at 11 Ok Reg 399, eff 10-15-93 (emergency); Added at 11 Ok Reg 2773, eff 6-13-94 ; Amended at 17 Ok Reg 462, eff 10-19-99 (emergency); Amended at 17 Ok Reg 1339, eff 5-11-00 ; Amended at 18 Ok Reg 2144, eff 6-11-01 ; Amended at 19 Ok Reg 221, eff 11-1-01 (emergency); Amended at 19 Ok Reg 1171, eff 5-13-02 ; Amended at 20 Ok Reg 1274, eff 6-1-03 ; Amended at 25 Ok Reg 1962, eff 7-1-08 ; Revoked at 40 Ok Reg 1033, eff 9-15-23]

### **340:110-1-43. Roles and responsibilities of licensing staff**

(a) Licensing staff for residential child care and child-placing agencies conducts onsite visits, documents findings, provides technical assistance and consultation in the licensing staff's assigned areas, and makes recommendations on all case actions to the programs manager. The programs manager or designee is responsible for final approval of all licensing recommendations.

(b) Official licensing records for child care programs are maintained in the licensing staff's office and are open to the public upon request.

(c) In addition to licensing facilities and agencies, licensing staff:

- (1) communicate with local fire and health officials within the licensing staff's assigned area regarding licensing rules and policy, requirements, inspections, and other issues related to a specific facility or child care in general;
- (2) refer facilities to local city officials regarding local ordinances and related compliance;
- (3) facilitate or sponsor training for child care providers; and
- (4) coordinate with other regulatory and investigative state entities in promoting quality care in residential settings within the licensing staff's assigned area.

[Source: Added at 11 Ok Reg 399, eff 10-15-93 (emergency); Added at 11 Ok Reg 2773, eff 6-13-94 ; Amended at 17 Ok Reg 462, eff 10-19-99 (emergency); Amended at 17 Ok Reg 1339, eff 5-11-00 ; Amended at 18 Ok Reg 2144, eff 6-11-01 ; Amended at 19 Ok Reg 2274, eff 6-27-02 ; Amended at 20 Ok Reg 1274, eff 6-1-03 ; Amended at 24 Ok Reg 1351, eff 7-1-07 ; Amended at 25 Ok Reg 1962, eff 7-1-08 ; Amended at 28 Ok Reg 1669, eff 7-1-11]

#### **340:110-1-43.1. Forms [REVOKED]**

[Source: Added at 17 Ok Reg 462, eff 10-19-99 (emergency); Added at 17 Ok Reg 1339, eff 5-11-00 ; Amended at 18 Ok Reg 2144, eff 6-11-01 ; Amended at 19 Ok Reg 221, eff 11-1-01 (emergency); Amended at 19 Ok Reg 1171, eff 5-13-02 ; Amended at 20 Ok Reg 1274, eff 6-1-03 ; Amended at 22 Ok Reg 1304, eff 6-1-05 ; Amended at 24 Ok Reg 1351, eff 7-1-07 ; Amended at 25 Ok Reg 1962, eff 7-1-08 ; Amended at 26 Ok Reg 415, eff 11-20-08 (emergency); Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 27 Ok Reg 48, eff 10-1-09 (emergency); Amended at 27 Ok Reg 1869, eff 7-1-10 ; Amended at 28 Ok Reg 1669, eff 7-1-11 ; Revoked at 32 Ok Reg 704, eff 1-1-16 (emergency); Revoked at 33 Ok Reg 1678, eff 9-15-16]

#### **340:110-1-43.2. Appendices [REVOKED]**

[Source: Added at 17 Ok Reg 462, eff 10-19-99 (emergency); Added at 17 Ok Reg 1339, eff 5-11-00 ; Revoked at 18 Ok Reg 2144, eff 6-11-01]

### **340:110-1-44. Inquiries [REVOKED]**

[Source: Added at 11 Ok Reg 399, eff 10-15-93 (emergency); Added at 11 Ok Reg 2773, eff 6-13-94 ; Amended at 17 Ok Reg 462, eff 10-19-99 (emergency); Amended at 17 Ok Reg 1339, eff 5-11-00 ; Amended at 20 Ok Reg 1274, eff 6-1-03 ; Amended at 26 Ok Reg 415, eff 11-20-08 (emergency); Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 28 Ok Reg 1669, eff 7-1-11 ; Amended at 29 Ok Reg 1229, eff 7-1-12 ; Revoked at 40 Ok Reg 1033, eff 9-15-23]

### **340:110-1-45. Request for license process [REVOKED]**

[Source: Added at 11 Ok Reg 399, eff 10-15-93 (emergency); Added at 11 Ok Reg 2773, eff 6-13-94 ; Amended at 17 Ok Reg 462, eff 10-19-99 (emergency); Amended at 17 Ok Reg 1339, eff 5-11-00 ; Amended at 18 Ok Reg 2144, eff 6-11-01 ; Amended at 20 Ok Reg 1274, eff 6-1-03 ; Amended at 22 Ok Reg 1304, eff 6-1-05 ; Amended at 24 Ok Reg 1351, eff 7-1-07 ; Amended at 25 Ok Reg 1962, eff 7-1-08 ; Amended at 26 Ok Reg 415, eff 11-20-08 (emergency); Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 27 Ok Reg 48, eff 10-1-09 (emergency); Amended at 27 Ok Reg 1869, eff 7-1-10 ; Amended at 34 Ok Reg 1640, eff 9-15-17 ; Revoked at 40 Ok Reg 1033, eff 9-15-23]

### **340:110-1-46. Types of issuances**

(a) **Six-month permit.** New residential child care programs or child-placing agencies may be issued a six-month permit. When the program was previously licensed at another location and had a pattern of compliance, the six-month permit may be waived. The owner's Licensing compliance history is considered.

(1) Licensing staff may recommend a permit when the program is in compliance with Licensing requirements, regarding:

- (A) the number of qualified personnel;
- (B) completed criminal history review results for all required individuals;
- (C) professional development, including current cardio-pulmonary resuscitation (CPR) and first aid certifications;
- (D) hazards indoors and outdoors;
- (E) liability insurance coverage;
- (F) fire safety; and
- (G) other areas affecting children's safety.

(2) Licensing staff conducts a full-monitoring visit documenting compliance with Licensing requirements no more than 60-calendar days, prior to six-month permit issuance.

(b) **Documentation for six-month permit.**

(1) The items required on file for a six-month permit issuance include:

- (A) Form 07LC040E, Request for License Child-Placing Agency and Residential Child Care;
- (B) proof of ownership;
- (C) current personnel list;
- (D) Form 07LC041E, Personnel Information, for each personnel;
- (E) required background investigations documentation, per Oklahoma Administrative Code (OAC) 340:110-1-8.1, including completed criminal history review results for all required individuals;
- (F) State Fire Marshal's approval for residential programs within the previous 12 months;

- (G) health department approval for residential programs within the previous 12 months, when meals are prepared and served;
- (H) Form 07LC057E, Physical Plant, for residential programs;
- (I) completed applicable compliance review questionnaire with supporting documentation; and
- (J) applicable policy per applicable Licensing requirements.

(2) During the six-month permit period, at least three monitoring visits are completed to document Licensing requirements are met, and observe child care or child-placing activity where applicable.

(c) **Second and subsequent six-month permits.** When subsequent permits are recommended, the procedures in this subsection are followed.

(1) Programs manager approval is needed for subsequent permits when programs are recommended for, or are in the process of, a consent agreement or request for license denial.

(2) Licensing staff consults with the programs manager prior to recommending a second or subsequent permit.

(3) Licensing staff provides a letter to the applicant notifying him or her each time a second or subsequent permit is recommended. The reason for the recommendation is clearly stated in the letter, with each non-compliance area listed separately.

(4) When the subsequent permit is due to repeated or serious non-compliance with Licensing requirements, Licensing staff monitors the program, at least monthly and is accompanied by a witness, when possible. When the non-compliance indicates the program is unable or unwilling to meet Licensing requirements, the programs manager is consulted.

(5) When requirements are met prior to the second or subsequent six-month permit expiration, license issuance may be recommended per (a)(1) of this Section.

(6) When children were not in care on a regular basis or no child-placing activity occurred during the previous 12 months, the applicant is requested to withdraw the request for license, per OAC 340:110-1-45.

(d) **License issuance.** When Licensing staff determines the program or agency is operating in compliance with the program's or agency's own policy and procedures and in compliance with Licensing requirements, a recommendation is made to issue a license. Prior to recommending license issuance, Licensing staff completes at least three monitoring visits. A monitoring visit must be conducted within 60-calendar days of the issuance date, and children in care must be observed during at least one monitoring visit, when applicable. A license is in effect unless revoked or the program voluntarily closes.

(e) **Documentation for license issuance.** In addition to the items listed in (a) thru (c)(6) of this Section for permit issuance, the items required on file before license issuance include an updated personnel list.

(f) **Evaluation and disposition.**

- (1) The programs manager reviews Licensing staff case action recommendations before forwarding to the statewide licensing coordinator or designee.
- (2) The statewide licensing coordinator or designee reviews all case action recommendations. When a license or permit is approved, owner notification is provided.

[Source: Added at 11 Ok Reg 399, eff 10-15-93 (emergency); Added at 11 Ok Reg 2773, eff 6-13-94 ; Amended at 17 Ok Reg 462, eff 10-19-99 (emergency); Amended at 17 Ok Reg 1339, eff 5-11-00 ; Amended at 18 Ok Reg 2144, eff 6-11-01 ; Amended at 19 Ok Reg 221, eff 11-1-01 (emergency); Amended at 19 Ok Reg 1171, eff 5-13-02 ; Amended at 20 Ok Reg 1274, eff 6-1-03 ; Amended at 22 Ok Reg 1304, eff 6-1-05 ; Amended at 24 Ok Reg 1351, eff 7-1-07 ; Amended at 25 Ok Reg 1962, eff 7-1-08 ; Amended at 26 Ok Reg 415, eff 11-20-08 (emergency); Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 27 Ok Reg 48, eff 10-1-09 (emergency); Amended at 27 Ok Reg 1869, eff 7-1-10 ; Amended at 28 Ok Reg 1669, eff 7-1-11 ; Amended at 29 Ok Reg 1229, eff 7-1-12 ; Amended at 32 Ok Reg 704, eff 1-1-16 through 9-14-16 (emergency)<sup>1</sup>; Amended at 33 Ok Reg 1683, eff 11-1-16 ; Amended at 36 Ok Reg 1907, eff 11-1-19]

**Editor's Note:** <sup>1</sup>*This emergency action expired before being superseded by a permanent action. Upon expiration of an emergency amendatory action, the last effective permanent text of the Section is reinstated. Therefore, on 9-15-16 (after the 9-14-16 expiration of this emergency action), the text of 340:110-1-46 reverted back to the permanent text that became effective 7-1-12, as was last published in the 2015 OAC Supplement, and remained as such until amended by permanent action on 11-1-16.*

### **340:110-1-47. Case management**

#### **(a) Periodic visits.**

- (1) Licensing staff conducts monitoring visits documenting compliance with requirements. Required monitoring visits annually include two:
  - (A) unannounced and one announced, to residential programs; and
  - (B) announced, to child-placing agencies
- (2) When caseloads prevent Licensing staff from conducting the required monitoring visits, the programs manager consults with Licensing staff on case management, and the required monitoring visits may be reduced. This adjustment is approved and documented in the case file by the programs manager.
- (3) During each monitoring visit, Licensing staff:
  - (A) observes the entire facility, including outdoor play space and transportation, when available; and
  - (B) verifies:
    - (i) compliance with Licensing requirements;
    - (ii) resident files, when applicable;
    - (iii) new personnel records including personnel sheets and compliance with background investigations, per Oklahoma Administrative Code (OAC) 340:110-1-8.1;
    - (iv) the Oklahoma Department of Human Services (DHS) database on applicable individuals, per OAC

340:110-1-8.1;

(v) Form 07LC092E, Insurance Verification, within the previous 12 months;

(vi) fire and health inspections within the previous 12 months, when applicable; and

(vii) other documentation requiring renewal.

(b) **Consultation and technical assistance.** Licensing staff provides technical assistance to operators to meet and maintain minimum requirements. Consultation is provided to parties interested in licensure and to licensed programs, and includes suggestions for improving the quality of care and for exceeding minimum requirements.

(c) **Address change.** When a program moves to a new address, Licensing staff follows procedures in this subsection to document the change.

(1) **Child-placing agency.** When a child-placing agency moves its office, Licensing staff:

(A) obtains an updated Form 07LC040E, Request for License Child-Placing Agency and Residential Child Care; and

(B) requests a permit or license be issued reflecting the address change.

(2) **Residential program.** When a residential program moves, Licensing staff:

(A) obtains an updated request for license;

(B) conducts a monitoring visit verifying the new location meets Licensing requirements;

(C) obtains new fire and health inspection approvals, when applicable;

(D) obtains Oklahoma Department of Environmental Quality approval, when applicable;

(E) completes an updated physical plant drawing with required calculations; and

(F) requests a permit or license be issued reflecting the address change.

(d) **Satellite office.** When a child-placing agency adds a satellite office, Licensing staff:

(1) documents each office location; and

(2) requests needed files from satellite locations.

(e) **Program or agency name change.** When Licensing staff verifies there is a name change but no ownership change, the name change is documented in the case file and the database is updated. A new Form 07LC040E, Request for License Child-Placing Agency and Residential Child Care, reflecting the name change is completed. Licensing staff requests permit or license issuance reflecting the new program or agency name.

(f) **Executive or program director change.** When there is a director change, Licensing staff:

(1) verifies the new director meets qualifications;

(2) obtains the applicable page of Form 07LC040E, Request for License Child-Placing Agency and Residential Child Care, completed by the new director;

(3) obtains an appropriate, Form 07LC056E, Compliance Review-Residential Child Care Facility; or Form 07LC043E, Child Placing Agency Compliance Review, completed by the executive or program director;

(4) notifies the new director of current personnel granted a waiver; and

(5) documents the information on Form 07LC080E, Licensing Services Supplemental Information.

(g) **Capacity increase or decrease.** When a program requests a capacity increase or decrease, it is documented on Form 07LC080E, Licensing Services Supplemental Information, and must be approved by the programs manager. When the increase involves new construction, architectural plans approved by the State Fire Marshal are submitted to Licensing for approval prior to construction. When the request to increase capacity is due to additional physical space, the required documentation includes:

(1) the reason for the increase;

(2) fire department approval;

(3) health department approval of additional food preparation space not previously inspected;

(4) a physical plant drawing indicating required calculations; and

(5) the request for additional personnel, when applicable.

(h) **Inactive programs.** A program is inactive when care or child-placing agency activity was not provided for more than 90-calendar days.

(1) A program remaining open after 90-calendar days submits a request in writing including a statement the owner will notify Licensing prior to resuming care or child-placing agency activity. Licensing staff verifies compliance with requirements prior to resuming care.

(2) The program is contacted by Licensing staff, a minimum of every four months for residential programs; and a minimum of every six months for child-placing agencies by phone, letter, or email to update the program status including changes in personnel, household members, or other program changes.

(3) Voluntary closure is discussed with the owner and an agreement to close is reached, when possible.

(4) Licensing staff monitors the inactive program, at least once during the 12-month timeframe verifying compliance with Licensing requirements until closure is final or the program resumes care.

(5) When an address change occurs during the time a program is in inactive status, a monitoring visit is required and address change is followed per (c) of this Section.

(i) **Inactive program closure.** Procedures in (1) through (4) of this subsection are followed when closing an inactive residential program or child-placing agency.

(1) To verify program status, Licensing staff contacts the program or agency owner during the 12th month of inactive status.

(2) Licensing documents program status on Form 07LC080E, Licensing Services Supplemental Information, and notifies the owner the case will be closed when care or child-placing activity



does not resume prior to the end of the 12th month.

(3) When care was not provided for 12-consecutive months or longer, Licensing staff provides a letter notifying the owner of case closure within 10-calendar days of letter receipt, unless Licensing is notified care or child-placing activity resumed.

(4) The case is closed and the owner must reapply and be approved for a new license prior to resuming care, per OAC 340:11-1-45.

(j) **Change in ownership.** When there is a change in ownership or a change in the business organization of a residential program or child-placing agency, the case is closed, and the program must apply for a new license. Prior to permit or license issuance, the program must comply with background investigations, per OAC 340:110-1-8.1. A permit may be issued when a monitoring visit without numerous, repeated, or serious non-compliances was conducted within the past 60-calendar days. A full-monitoring visit is conducted within 14-calendar days of ownership change, verifying the new owner is able to meet minimum Licensing requirements.

(k) **Transitional change of ownership.** When a residential program or child-placing agency requests a transitional change of ownership (1) through (5) of this subsection are followed.

(1) Licensing staff conducts a monitoring visit within five DHS-business days, verifying compliance with Licensing requirements and, obtains:

(A) Form 07LC015E, Transitional Change of Ownership, completed by the current and prospective owners;

(B) Form 07LC040E, Request for License Child-Placing Agency and Residential Child Care, completed by the prospective owner; and

(C) a current personnel list, verifying the prospective owner employs the same personnel as the current owner, at the time of transitional change of ownership.

(2) Periodic and ongoing monitoring is maintained, per (a) of this Section.

(3) All Licensing monitoring and correspondence are provided to both the current and prospective owners.

(4) Change of ownership procedures are followed, by the end of 90-calendar days, when applicable, per (j) of this Section.

(5) When programs notify Licensing the transitional change of ownership is no longer proceeding, Licensing staff verifies program operation or child-placing activity status and consults with the programs manager for appropriate action.

(l) **Response to a child death.** When notified of a child death while in care, Licensing staff:

(1) completes Form 07LC079E, Child Death Report, and forwards it to the statewide licensing coordinator or designee; and

(2) visits the residential program as soon as possible, and contacts the child-placing agency unless advised otherwise by local law enforcement officials.

(m) **Serious incident reports.** Licensing staff submits a serious incident report to the programs manager. Serious incidents include at least,

incidents:

- (1) resulting in the serious injury or child death, such as a:
  - (A) shaken baby;
  - (B) drowning or near drowning; or
  - (C) traffic accident resulting in serious injury;
- (2) placing a child at a high risk for death or injury, such as when a child is left:
  - (A) at a location away from the facility;
  - (B) unattended in a vehicle; or
  - (C) alone in a facility; or
- (3) resulting in significant facility damage, such as:
  - (A) fire;
  - (B) flood; or
  - (C) tornado.

(n) **Coordination with state agencies.** Licensing staff works cooperatively with the DHS Office of Client Advocacy and Child Welfare Services, the Oklahoma Commission on Children and Youth, the Oklahoma Health Care Authority, and local law enforcement.

[Source: Added at 11 Ok Reg 399, eff 10-15-93 (emergency); Added at 11 Ok Reg 2773, eff 6-13-94 ; Amended at 17 Ok Reg 462, eff 10-19-99 (emergency); Amended at 17 Ok Reg 1339, eff 5-11-00 ; Amended at 18 Ok Reg 2144, eff 6-11-01 ; Amended at 19 Ok Reg 221, eff 11-1-01 (emergency); Amended at 19 Ok Reg 1171, eff 5-13-02 ; Amended at 20 Ok Reg 1274, eff 6-1-03 ; Amended at 22 Ok Reg 1304, eff 6-1-05 ; Amended at 24 Ok Reg 1351, eff 7-1-07 ; Amended at 25 Ok Reg 1962, eff 7-1-08 ; Amended at 26 Ok Reg 415, eff 11-20-08 (emergency); Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 27 Ok Reg 48, eff 10-1-09 (emergency); Amended at 27 Ok Reg 1869, eff 7-1-10 ; Amended at 28 Ok Reg 1669, eff 7-1-11 ; Amended at 33 Ok Reg 1683, eff 11-1-16 ; Amended at 35 Ok Reg 475, eff 1-31-18 (emergency); Amended at 35 Ok Reg 1705, eff 9-17-18 ; Amended at 37 Ok Reg 1858, eff 11-1-20]

### **340:110-1-47.1. Complaint investigations**

(a) **Legal basis.** The Oklahoma Child Care Facilities Licensing Act (Act), Section 406 of Title 10 of the Oklahoma Statutes (10 O.S. § 406), mandates that Oklahoma Human Services (OKDHS) conduct a full complaint investigation alleging violation against the Act or Licensing requirements.

(b) **Complaint receipt.** Complaints may be made to Licensing, in writing, in person, by phone, or electronically.

(c) **Complaint information.** Licensing staff obtains as much relevant information as possible from the complainant.

(d) **Screening complaints.** Licensing staff accepts a complaint for investigation when alleging:

- (1) non-compliance with Licensing requirements;
- (2) violation of the Act;
- (3) unlicensed program operation; or
- (4) abuse or neglect of a child in care.

(e) **Disposition of complaints.** On receipt of a complaint, Licensing staff determines a disposition, as described in (1) through (7) of this subsection.

- (1) A complaint not meeting the criteria in (d) of this Section is discussed with the complainant and, when appropriate, a referral is submitted to another entity, such as local law enforcement, the Office of Juvenile Affairs (OJA), the Office of Client Advocacy

(OCA), Child Welfare Services (CWS), or the Office for Civil Rights.

(2) When a screened-out Child Abuse and Neglect Hotline (Hotline) referral without non-compliance with licensing requirements is received, a complaint investigation is not conducted, and Form 07LC080E, Licensing Services Supplemental Information, is completed.

(3) A complaint alleging non-compliance with Licensing requirements or unlicensed program operation is investigated by Licensing.

(4) A complaint alleging child abuse or neglect is immediately referred to the Hotline with Form 07LC012E, Licensing Complaint. The referral is documented on the form. When an immediate response is not received, Licensing staff follows up the next OKDHS-business day to obtain a response.

(5) When a complaint alleges illegal activity by program personnel, including illegal drug activity in the child care facility, all referral information, including the complainant's name, is immediately referred to the OKDHS Office of Inspector General and local law enforcement where the program is located.

(A) Referral follow ups are documented and maintained in the program case record, and the programs supervisor is notified.

(B) Licensing staff follows-up with local law enforcement officials to determine and document the investigation's outcome.

(C) The referral is documented on Form 19MP001E, Office of Inspector General (OIG) Referral Form.

(6) Information in a complaint received from another division within OKDHS or an agency responsible for monitoring residential child care programs or child-placing agencies, such as the Oklahoma Commission on Children and Youth , OCA, the local health, or fire department, may be deemed valid when documented in writing by the agency representative. Licensing staff determines when the observation is a non-compliance. The program is advised of the report, requested to complete Form 07LC037E, Notice to Comply, when applicable, per Oklahoma Administrative Code (OAC) 340:110-1-47.2, and given an opportunity to respond.

(7) The programs supervisor is notified of a complaint when:

(A) the alleged non-compliance caused or could cause imminent risk of harm to a child in care;

(B) the program has repeated or serious non-compliance with requirements;

(C) the alleged non-compliance was addressed in a previous Form 07LC037E, Notice to Comply;

(D) referred to the Hotline or local law enforcement; or

(E) receiving special attention, such as from the media or a legislator.

(f) **Duplicate complaint.** Allegations received by a different complainant regarding a previously reported incident or allegation may

be considered a duplicate complaint.

(1) Duplicate complaints:

- (A) must involve the same resident(s), program personnel, or incident date and time;
- (B) require supervisory approval before proceeding with duplicate complaint processes; and
- (C) received during a pending investigation are documented on Form 04K1001E, Referral Information Report, or Form 07LC012E, Licensing Complaint, and are part of the initial complaint; or
- (D) received after the investigation completion are documented on Form 07LC080E, Licensing Services Supplemental Information, and included with the initial complaint investigation documentation; regardless of the duplicate allegation receipt timeframe.

(2) When a duplicate complainant provides additional allegations:

- (A) during a pending investigation, allegations are investigated with the initial complaint allegations; or
- (B) after investigation completion, the allegations are investigated as a new complaint and documented on Form 04K1001E or Form 07LC012E.

(3) Prior to complaint investigation completion, Licensing informs licensed programs when a duplicate complaint is reported and when additional allegations are investigated.

(4) Allegations of an unlicensed program operation may be considered a duplicate complaint.

(g) **Complaint risk levels.** Licensing staff determines risk levels based on the degree of harm or danger to children in care. Risk levels are used to ensure investigations occur timely .

(1) **Risk level I complaints.** Risk level I complaints indicate a child is in imminent risk of serious physical injury. The risk level is not influenced by the removal of a child from the program when other children remain in care. Investigations are initiated immediately or no later than 24-hours after receipt by Licensing unless awaiting OCA or local law enforcement investigation; excluding weekends and holidays when the program or agency is closed. Examples of non-compliances with licensing requirements may include:

- (A) alleged physical or sexual abuse;
- (B) presence or use of illegal drugs while children are in care;
- (C) drug distribution;
- (D) children alone in the facility or in a vehicle without anyone present;
- (E) facility temperatures;
- (F) infant sleep environments;
- (G) caregiver's threatening or impaired behavior;
- (H) severe understaffing or severe over licensed capacity;
- (I) child passenger restraints;
- (J) Emergency Order violation;

- (K) required personnel without current cardio-pulmonary resuscitation and first aid training;
- (L) failure to obtain background investigations; or
- (M) knowingly permitting access to children by individuals identified as prohibited, restricted, or Restricted Registry registrants.

(2) **Risk level II complaints.** Risk level II complaints do not indicate there is imminent danger of injury, but without intervention a child may not be safe. Investigations are initiated within 10-calendar days of receipt by Licensing, unless requested by OCA or local law enforcement to delay the investigation.

Examples of non-compliances with requirements may include:

- (A) leaving children with underage personnel;
- (B) alleged physical abuse from personnel no longer working in the program;
- (C) inappropriate discipline where no injury is reported;
- (D) diapering or toileting;
- (E) hazardous equipment;
- (F) transporting without a valid driver license or liability insurance;
- (G) lack of supervision, including resident sexual behavior;
- or
- (H) minor understaffing or minor over licensed capacity.

(3) **Risk level III complaints.** Risk level III complaints do not indicate imminent danger and there are no injuries alleged. Serious non-compliances, per OAC 340:110-1-47.2, are not considered risk level III complaints. Investigations are initiated within 15-calendar days of receipt by Licensing including when a phone investigation is appropriate, per (h) of this Section.

Examples of non-compliances with requirements may include:

- (A) inadequate meal service;
- (B) quarterly vehicle maintenance;
- (C) program or agency records and documentation;
- (D) inappropriate use of television or videos; or
- (E) inadequate facility cleanliness.

(h) **The investigation.** Licensing staff conducts a full investigation, obtaining sufficient information to determine a finding.

(i) **Phone or written investigation.** With supervisory approval, Licensing staff may investigate a complaint by phone or written correspondence. The investigation discussion is documented on Form 07LC080E, Licensing Services Supplemental Information, including an agreed-on plan of correction, when necessary and provided to the operator.

(j) **Unlicensed program investigations.** When a complaint alleging operation of an unlicensed program is received, procedures, per OAC 340:110-1-54.1, are also followed.

(k) **Child abuse and neglect complaints.** On receipt of abuse or neglect allegations of a child in care, Licensing staff immediately notifies the programs supervisor and submits a referral to the Hotline.

(l) **Findings.** After investigation completion, Licensing staff, in consultation with the programs supervisor, as appropriate, determines

the complaint finding as substantiated or unsubstantiated.

(1) **Substantiated.** A substantiated finding is determined when some credible evidence indicates the program violated a Licensing requirement or the Act.

(2) **Unsubstantiated.** An unsubstantiated finding is determined when:

(A) insufficient evidence exists to fully determine whether a violation occurred; or

(B) no violation of a Licensing requirement or the Act occurred.

(m) **Documentation of findings.** Upon investigation completion, Licensing staff:

(1) informs the programs supervisor the complaint investigation is ready for review;

(2) documents the findings; and

(3) notifies the provider of the findings in writing including:

(A) a summary of facts, per (p) of this Section; and

(B) Form 07LC037E, Notice to Comply; when applicable.

(n) **Heinous and shocking abuse findings.** Per 10 O.S. § 406, when Licensing receives notification from OCA or CWS of heinous and shocking abuse findings by a person responsible for a child's health, safety, or welfare as defined, per 10A O.S. § 1-1-105, Licensing contacts the program or child-placing agency by email immediately or not later than one-business day after the substantiated finding notification.

(o) **Notice to Comply.** When a complaint allegation is substantiated, Licensing staff advises the program to correct the violations immediately, using Form 07LC037E, following procedure, per OAC 340:110-1-47.2(c)

(7). Licensing staff updates the Licensing database with plan of correction information.

(p) **Summary of facts.** Licensing provides program directors or agency owners a summary of the facts used to evaluate and determine the complaint findings.

(q) **Complaint overview.** Licensing staff completes an overview of completed complaint investigations in the Licensing database. This overview provides an investigation summary of how the complaint findings were determined, and is maintained in the case record's confidential section.

[Source: Added at 20 Ok Reg 1274, eff 6-1-03 ; Amended at 22 Ok Reg 1304, eff 6-1-05 ; Amended at 24 Ok Reg 1351, eff 7-1-07 ; Amended at 25 Ok Reg 1962, eff 7-1-08 ; Amended at 26 Ok Reg 415, eff 11-20-08 (emergency); Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 27 Ok Reg 1869, eff 7-1-10 ; Amended at 28 Ok Reg 1669, eff 7-1-11 ; Amended at 30 Ok Reg 1376, eff 7-1-13 ; Amended at 32 Ok Reg 704, eff 1-1-16 (emergency); Amended at 33 Ok Reg 1678, eff 9-15-16 ; Amended at 37 Ok Reg 1858, eff 11-1-20 ; Amended at 40 Ok Reg 1033, eff 9-15-23 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:110-1-47.2. Non-compliance with requirements**

(a) **Non-compliance documentation.** Licensing staff clearly and concisely documents non-compliance areas on the monitoring checklist and summary, including operator discussion.

(1) A plan of correction, including a specific agreed-on time period for non-compliance correction is documented on the

monitoring summary. Each non-compliance or documentation indicates a plan of correction will be submitted by the executive or program director. When a previous non-compliance was not corrected by the agreed-on time period, the non-compliance is documented again with a shorter plan of correction date.

(2) Immediate correction is required when the non-compliance directly impacts children's health, safety, or well-being.

(3) Licensing staff requests the operator's signature on the monitoring summary, explaining the signature indicates acknowledgment of recorded information.

(4) When the operator or individual in charge refuses to sign, the refusal is documented on the monitoring summary.

(5) The operator is provided a monitoring summary copy.

(6) Timeframes for filing a grievance regarding non-compliance with requirements are provided on the monitoring summary. Refer to grievance procedures, per Oklahoma Administrative Code (OAC) 340:110-1-54.

(b) **Referrals to fire and health officials.** When non-compliance regarding fire or health requirements places children at risk of harm or remains uncorrected, Licensing staff requests an inspection by a fire, health, or Oklahoma Department of Environmental Quality official.

(c) **Repeated and serious non-compliance.**

(1) Repeated non-compliance is three or more documented incidents of non-compliance with the same requirement within the last 12 months.

(2) Serious non-compliance is non-compliance with Licensing requirements exposing children to conditions presenting an imminent risk of harm based on the child's age, the amount of time the program or agency was out of compliance, and the program or agency efforts to mitigate the risk. Serious non-compliance is identified through Licensing observations, and/or confirmed complaint investigations. Failure to comply with licensing requirements that may be considered as serious non-compliance include:

(A) when applicable, staff-child ratio;

(B) child supervision;

(C) infant sleep environments;

(D) prohibited disciplinary actions;

(E) licensed capacity;

(F) transportation;

(G) water activities;

(H) pools and other water hazards;

(I) multiple hazards;

(J) weapons;

(K) failure to report child abuse or human trafficking;

(L) knowingly permitting access to children by individuals identified as restricted or Restricted Registry registrants;

(M) failure to obtain background investigations or Restricted Registry searches;

(N) medication administration;

(O) room temperatures;

- (P) heat sources and/or loss of any utility service;
- (Q) cardio-pulmonary resuscitation and first aid training;
- or
- (R) required behavior management training.

(d) **Case management responses to non-compliant facilities.** One or more responses in this subsection are used when there is repeated or serious non-compliance.

(1) **Technical assistance.** Licensing staff offers technical assistance, including referrals to consultants or professional development resources, assisting the operator in meeting and maintaining Licensing requirements.

(2) **Follow-up phone call to the program.** Phone calls are documented on Form 07LC080E, Licensing Services Supplemental Information, and a copy provided to the program.

(3) **Non-compliance letter.** A non-compliance letter may be written to the operator. Licensing staff provides a monitoring summary copy with the non-compliance letter to the governing board or owner, when applicable.

(4) **Return monitoring visit.** A return monitoring visit may be conducted when there is repeated or serious non-compliance with Licensing requirements or when non-compliance places children at imminent risk of harm. When the non-compliance is associated with a specific time of day, such as understaffing after school or a lack of early morning supervision, the return monitoring visit is conducted at the approximate time.

(5) **Use of witnesses.** A witness may accompany Licensing staff when the program had repeated or serious non-compliance or considered for request for license denial or license revocation. The witness may be an Oklahoma Department of Human Services employee, a representative from the fire or health department, or law enforcement. The witness signs the monitoring summary.

(6) **Increased monitoring visits.** Licensing staff may increase monitoring frequency plans when there was repeated or serious non-compliance or when the need for additional technical assistance is indicated.

(7) **Notice to comply.** Licensing staff provides the operator with Form 07LC037E, Notice to Comply, and the operator documents the plan of correction. Immediate correction may be required when the non-compliance places children's health, safety, or well-being at risk.

(A) When the plan submitted is unacceptable, Licensing staff negotiates a revised plan and requests submission within 10-calendar days.

(B) When Form 07LC037E, Notice to Comply, is not submitted within the specified time period, Licensing staff contacts the operator and documents the conversation.

(C) When non-compliances continue to place children at risk, Licensing staff provides a letter stating non-compliances and/or continued failure to correct non-compliances may result in request for license denial, license revocation, filing of an injunction, or issuance of an



Emergency Order.

(8) **Office conference.** Licensing staff may schedule an office conference with the program owner or operator. The programs manager is present at the office conference. Program status, non-compliance areas, and progress toward meeting the plan(s) of correction are reviewed and technical assistance is offered. The office conference is documented on Form 07LC080E, Licensing Services Supplemental Information and signed by Licensing staff, the operator, and witnesses. This documentation includes a list of individuals present, conference purpose, and re-verification of ownership documentation. Form 07LC037E, Notice to Comply, is completed when one addressing these issues was not previously completed.

(9) **Consent agreement.** Child Care Services (CCS) and the program owner may enter into a consent agreement when the program owner agrees to specific conditions in lieu of request for license denial or license revocation, per OAC 340:110-1-52.

(10) **Revocation or denial.** Licensing staff may recommend the request for license be denied or license revoked when repeated or serious non-compliance with requirements was observed and documented or the program failed to adequately protect children, per OAC 340:110-1-52.

(11) **Voluntary cease care.** With CCS State Office approval, the owner is asked to voluntarily cease caring for children or child-placing activity. The programs manager is notified of every situation involving a request for voluntary cease care or child-placing activity.

(12) **Voluntary closure.** With CCS State Office approval, the owner is asked to voluntarily close the program.

(e) **Case management responses when children are at risk.** When Licensing staff documents non-compliance with requirements or is investigating a complaint that children may be at imminent risk of harm, options to consider with the operator and the programs manager are outlined in this subsection.

(1) The operator is asked to immediately correct the non-compliance; such as, the personnel will not be present or work alone with children at the program pending the outcome of an investigation.

(2) With CCS State Office approval, the owner is asked to voluntarily cease care until the non-compliance is corrected or the investigation is complete.

(3) With CCS State Office approval, the owner is asked to voluntarily close the program.

(4) When immediate action is needed to protect children, Licensing staff requests an Emergency Order, per OAC 340:110-1-52.

(5) CCS and the owner may enter into a consent agreement when the program owner agrees to specific conditions in lieu of request for license denial or license revocation, per OAC 340:110-1-52.

(6) Licensing staff may recommend the request for license be denied or license be revoked when repeated or serious non-

compliance with requirements was observed and documented or the program failed to adequately protect children, per OAC 340:110-1-52.

(7) An injunction may be requested when the residential program or child-placing agency is:

- (A) unlicensed;
- (B) on request for license status;
- (C) licensed;
- (D) violating an Emergency Order;
- (E) operating during an appeal following request for license denial or license revocation and children are at risk of harm; or
- (F) violating the notice to cease and desist care following request for license denial or license revocation.

**(f) Notification to programs manager when children are at risk.**

When during a monitoring visit Licensing staff is concerned the children's health, safety, or well-being is at imminent risk, the programs manager or CCS State Office staff is contacted immediately.

**(g) Alternative method of compliance.** CCS may approve an alternative method of compliance to a minimum Licensing requirement. An alternative method of compliance may be authorized when Licensing determines the alternative method of compliance offers equal protection of children's health, safety, or well-being, meets the requirement's basic intent for the requested alternative compliance, and does not violate statutory requirements.

(1) An applicant or licensee submits a written request with supporting documentation on Form 07LC061E, Alternative Compliance Request, to Licensing staff. A separate alternative method of compliance request is submitted for each requirement identified.

(2) Licensing staff completes Form 07LC105E, Alternative Compliance Referral, and submits all documentation to the statewide licensing coordinator or designee.

(3) Approval of an alternative method of compliance does not set a precedent, and is independently evaluated on the merits of each request.

(4) The program's compliance record is considered when determining approval.

(5) An alternative method of compliance is not authorized for requirements affecting children's health and safety, such as exceeding licensed capacity of a residential program, staff-child ratios, fire safety, or behavior and guidance.

(6) Form 07LC075E, Notice of Alternative Compliance, stating the nature of the exception, is posted with the license.

[Source: Added at 20 Ok Reg 1274, eff 6-1-03 ; Amended at 22 Ok Reg 1304, eff 6-1-05 ; Amended at 24 Ok Reg 1351, eff 7-1-07 ; Amended at 25 Ok Reg 1962, eff 7-1-08 ; Amended at 26 Ok Reg 415, eff 11-20-08 (emergency); Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 28 Ok Reg 1669, eff 7-1-11 ; Amended at 29 Ok Reg 1229, eff 7-1-12 ; Amended at 30 Ok Reg 1376, eff 7-1-13 ; Amended at 33 Ok Reg 1683, eff 11-1-16 ; Amended at 34 Ok Reg 1640, eff 9-15-17 ; Amended at 36 Ok Reg 1907, eff 11-1-19]

### **340:110-1-48. Change of address [REVOKED]**

[Source: Added at 11 Ok Reg 399, eff 10-15-93 (emergency); Revoked and reenacted at 11 Ok Reg 2773, eff 6-13-94 ; Revoked at 17 Ok Reg 462, eff 10-19-99 (emergency); Revoked at 17 Ok Reg 1339, eff 5-11-00]

### **340:110-1-49. Increase in licensed capacity [REVOKED]**

[Source: Added at 11 Ok Reg 399, eff 10-15-93 (emergency); Added at 11 Ok Reg 2773, eff 6-13-94 ; Revoked at 17 Ok Reg 462, eff 10-19-99 (emergency); Revoked at 17 Ok Reg 1339, eff 5-11-00]

### **340:110-1-50. Decrease in capacity [REVOKED]**

[Source: Added at 11 Ok Reg 399, eff 10-15-93 (emergency); Added at 11 Ok Reg 2773, eff 6-13-94 ; Revoked at 17 Ok Reg 462, eff 10-19-99 (emergency); Revoked at 17 Ok Reg 1339, eff 5-11-00]

### **340:110-1-51. Background investigations [AMENDED AND RENUMBERED TO 340:110-1-8.1]**

[Source: Added at 11 Ok Reg 399, eff 10-15-93 (emergency); Added at 11 Ok Reg 2773, eff 6-13-94 ; Amended at 17 Ok Reg 462, eff 10-19-99 (emergency); Amended at 17 Ok Reg 1339, eff 5-11-00 ; Amended at 18 Ok Reg 2144, eff 6-11-01 ; Amended at 20 Ok Reg 1274, eff 6-1-03 ; Amended at 22 Ok Reg 1304, eff 6-1-05 ; Amended at 24 Ok Reg 1351, eff 7-1-07 ; Amended at 25 Ok Reg 1962, eff 7-1-08 ; Amended at 26 Ok Reg 415, eff 11-20-08 (emergency); Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 27 Ok Reg 48, eff 10-1-09 (emergency); Amended at 27 Ok Reg 1869, eff 7-1-10 ; Amended and renumbered to 340:110-1-8.1 at 31 Ok Reg 154, eff 11-1-13 (emergency); Amended and renumbered to 340:110-1-8.1 at 31 Ok Reg 1854, eff 9-15-14]

### **340:110-1-52. Legal actions**

(a) **Failure to meet requirements.** When numerous, repeated, or serious non-compliance with licensing requirements is observed and documented, or when an operator is unable to comply with the requirements, or fails to protect the health and safety of children, the Oklahoma Department of Human Services (OKDHS) may deny or revoke the license. Denial or revocation of a license is based on observation, investigation, and documentation that the operator is unable or unwilling to comply with minimum requirements.

(1) Denial of a license is recommended for a facility or agency that has filed an application for license.

(2) Revocation of a license is recommended for a facility or agency that is currently licensed.

(b) **Consent agreement.** OKDHS may offer to enter into a consent agreement with a facility in lieu of license denial or revocation. If such action has already taken place, a consent agreement may be used during the appeal process if the facility comes into compliance with licensing requirements. The use of a consent agreement is not required prior to denying or revoking a license.

(1) An office conference with the operator is scheduled to develop the consent agreement. The programs manager is present at the meeting. The operator may bring legal representation.

(A) The programs manager determines the minimum terms that are acceptable to avoid negative sanctions. Terms and time frames of the agreement are based upon the nature

and severity of the non-compliance.

(B) The agreement may include emergency voluntary restrictions, such as a ban on future admissions of children to the facility, a restriction on the ages of children cared for in the facility, a reduction in the number of children attending the facility, and specific staff training, drug testing, and medical or psychological evaluation.

(C) Time frames to initiate and conclude the terms of the agreement are established and may be extended upon approval of the programs manager and the OKDHS Legal Division.

(2) The operator is required to prominently post a copy of the consent agreement in the residential facility or child-placing agency. During the next monitoring visit, the licensing staff verifies that the consent agreement is posted. If it is not posted, the licensing staff documents it as a violation of the terms of the consent agreement.

(3) The licensing staff mails a copy of the consent agreement, with a cover letter to parents or guardians of children currently housed at the facility. If the operator has not provided children's names and addresses, the licensing staff records the information from the children's records during the next monitoring visit.

(4) The licensing staff conducts monitoring visits at least monthly while the consent agreement is in effect. The same witness accompanies the licensing staff on monitoring visits whenever possible.

(5) Any violation of the terms of the consent agreement is:

(A) documented on Form 07LC080E, Licensing Services Supplemental Information; and

(B) considered grounds for proceeding with license revocation or denial.

(6) The residential child care facility or child-placing agency is not entitled to an appeal of the terms of the consent agreement, as participation in the agreement is voluntary.

(c) **Denial or revocation of license.** The licensing staff consults with the programs manager regarding the denial or revocation recommendation.

(1) The licensing staff prepares a summary of non-compliance and submits it to the programs manager for review, with a recommendation to approve, disapprove, or delay decision pending further investigation.

(2) When the programs manager approves the denial or revocation, it is reviewed by the OKDHS Legal Division. The director of Child Care Services or designee has final approval of denial or revocation.

(3) Notification of proposed denial or revocation is sent by certified mail to the operator, and to the OKDHS Legal Division, at least 30 days prior to the effective date of the proposed action, and includes a:

(A) copy of the recommendation summary;

(B) notice of the operator's right to appeal the decision;

(C) statement that the law requires notice in writing of the denial or revocation be given to parents or custodians of children attending the facility. The operator is instructed to submit to OKDHS the names and addresses of currently enrolled children; and

(D) sign providing notice of proposed denial or revocation that must be prominently posted in the facility.

**(d) Appeal.**

(1) An appeal of the decision to deny or revoke license must be submitted to the Oklahoma Commission for Human Services by the operator within 30 days of receipt of the notice. If the operator does not appeal the decision within the time period, the programs manager sends to the operator by regular mail a notice of denial or revocation that includes the effective date. This is also forwarded to the licensing records office for potential restricted registration procedures per OAC 340:110-1-10.1.

(2) If an appeal is made by an operator to OKDHS, a hearing is scheduled by the OKDHS Appeals Unit. The operator is notified of the hearing by personal service, or by delivery to the proper address by certified mail, at least two weeks prior to the date of the hearing.

(3) If the administrative hearing officer upholds the OKDHS decision, the hearing officer provides a written notice at the conclusion of the hearing, which contains an explanation of appeal rights.

(4) The facility may continue to operate during any appeal process unless an Emergency Order is in effect.

(A) The licensing staff conducts monitoring visits at least once a month, unless advised otherwise in writing by the programs manager or designee, and is accompanied by the same witness whenever possible.

(B) If at any time during the appeal process OKDHS believes the health, safety, or well-being of children is at risk:

(i) an Emergency Order is requested; or

(ii) following consultation with the programs manager or designee, the licensing staff contacts the district attorney (DA) of the local county or Attorney General and requests that an injunction be filed.

**(e) Child care discontinued.**

(1) If the decision of OKDHS to deny or revoke is upheld during all appeals, the programs manager informs the operator in a letter that child care must immediately cease. This is also forwarded to the licensing records office for potential restricted registration procedures per OAC 340:110-1-10.1.

(A) The licensing staff conducts a follow-up visit to confirm that child care has been discontinued. The programs manager or designee is notified of the visit.

(B) If the operator continues to maintain and operate the residential child care facility or child-placing agency after

a final decision to deny or revoke license, the licensing staff consult with the programs manager regarding following procedures in (i) - (l) of this Section.

(2) If the OKDHS decision to deny or revoke is not upheld, OKDHS takes action to implement the decision within ten days.

(3) When OKDHS denies or revokes a facility's license, the responsible entity can not make application for a new residential child care facility or child-placing agency license within Oklahoma for five years.

(f) **Emergency Order.** An Emergency Order may be issued by OKDHS when immediate action is needed to protect the health, safety, or well-being of children in a child care facility or served by a child-placing agency.

(1) If the operator is unwilling to voluntarily correct the hazardous situation, the licensing staff notifies the programs manager of the circumstances. If the programs manager agrees that an Emergency Order is warranted, all supporting documentation is given to the director of Oklahoma Child Care Services (OCCS) for review. The written order is issued and signed by the programs manager. If the risk is such that children must be immediately removed from the residential facility or placement through a child-placing agency, the director of OCCS may give verbal approval for removal of children.

(A) The administrator or director and parents or custodians are told that the facility will not be open on the following day; or parents or custodians are contacted to pick up their children immediately.

(B) If every effort has been made to reach the parents or custodians, and children are at immediate risk of harm, the programs manager contacts law enforcement to remove the children.

(2) The Emergency Order states the existence of an emergency and sets forth remedies such as removal of children from the facility or closure of a facility. The order is effective immediately and includes the right to appeal the decision.

(3) Licensing staff verify compliance with Emergency Order for a period of 30 days after the action becomes final, unless the Emergency Order is rescinded within that timeframe.

(4) The Emergency Order may be rescinded when the programs manager verifies correction of the hazardous situation. Upon receipt of such documentation, the director of OCCS notifies the operator in writing that the order has been rescinded.

(5) The operator may request a hearing by filing a written request within ten days of receipt of the Emergency Order. The hearing is conducted within ten days from receipt of the operator's request.

(6) If operator disagrees with the results of the administrative hearing, the operator may appeal to the district court within 30 days of the decision of the administrative hearing officer.

(g) **Rescinding the order.** The Emergency Order may be rescinded when the licensing staff verifies correction of the hazardous situation. Upon receipt of such documentation, the programs manager notifies the

operator in writing that the order has been rescinded.

(h) **Hearing process.**

(1) The operator may request a hearing by filing a written request within ten days of receipt of the Emergency Order. The hearing is conducted within ten days from receipt of the operator's request. An OKDHS hearing officer conducts the hearing.

(2) If the results of the OKDHS hearing are disputed, the operator may file an appeal in district court within ten days of the decision.

(i) **Violation of the Emergency Order.** If an operator violates the conditions set forth in the Emergency Order, the licensing specialist, after consultation with the programs manager, contacts a Council on Law Enforcement Education and Training (CLEET)-certified officer for assistance and makes a referral to the DA for further action.

(j) **Citation Request.** A referral is made on Form 07LC097E, Citation Request, for the assistance of a CLEET-certified officer. Procedures regarding citation request are:

(1) Licensing staff contacts a CLEET-certified officer to schedule a visit to the facility.

(2) Upon violations of conditions set forth in the Emergency Order, or following the revocation, or denial of a license, a citation may be issued by the CLEET-certified officer for not less than \$100, nor more than \$500 for every day the facility maintains and receives children.

(3) Licensing staff and a CLEET-certified officer monitor the facility until care of children has ceased.

(k) **DA referral.** If violation of an Emergency Order occurs, licensing staff consults with Programs Manager for the necessity of a referral to DA. Should a referral be necessary, licensing staff completes Form 07LC098E, District Attorney Referral, which includes documentation of the facts of the case. A copy is sent to the statewide licensing coordinator who informs the OKDHS Legal Division of the referral.

(l) **Referral to the Attorney General.** If no action is taken by a DA of the county where the facility is operating, a referral may be made to the Attorney General by the statewide licensing coordinator or designee.

[Source: Added at 11 Ok Reg 399, eff 10-15-93 (emergency); Added at 11 Ok Reg 2773, eff 6-13-94 ; Amended at 17 Ok Reg 462, eff 10-19-99 (emergency); Amended at 17 Ok Reg 1339, eff 5-11-00 ; Amended at 18 Ok Reg 2144, eff 6-11-01 ; Amended at 19 Ok Reg 221, eff 11-1-01 (emergency); Amended at 19 Ok Reg 2274, eff 6-27-02 ; Amended at 20 Ok Reg 1274, eff 6-1-03 ; Amended at 24 Ok Reg 1351, eff 7-1-07 ; Amended at 25 Ok Reg 1962, eff 7-1-08 ; Amended at 26 Ok Reg 415, eff 11-20-08 (emergency); Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 27 Ok Reg 1869, eff 7-1-10]

### **340:110-1-53. Case closures**

(a) A case is closed when:

(1) the residential child care facility or child-placing agency is sold to a new owner unless a case is in the appeal process;

(2) care of children is discontinued, or in a child-placing agency, operation is discontinued unless the case is in the appeal process;  
or

(3) the license is revoked or the application for license is denied.

(b) When a licensed child care facility closes of its own accord, the licensing staff updates the database and submits to the licensing

programs manager a narrative and a copy of the letter sent to the facility verifying closure.

(c) If the case is closed because of denial or revocation, the facility may not make application for a new child care facility license in Oklahoma for five years following closure of the facility.

[Source: Added at 11 Ok Reg 399, eff 10-15-93 (emergency); Added at 11 Ok Reg 2773, eff 6-13-94 ; Amended at 17 Ok Reg 462, eff 10-19-99 (emergency); Amended at 17 Ok Reg 1339, eff 5-11-00 ; Amended at 18 Ok Reg 2144, eff 6-11-01 ; Amended at 19 Ok Reg 221, eff 11-1-01 (emergency); Amended at 19 Ok Reg 1171, eff 5-13-02 ; Amended at 20 Ok Reg 1274, eff 6-1-03 ; Amended at 24 Ok Reg 1351, eff 7-1-07 ; Amended at 25 Ok Reg 1962, eff 7-1-08]

### **340:110-1-54. Grievance policy and procedure [REVOKED]**

[Source: Added at 11 Ok Reg 399, eff 10-15-93 (emergency); Added at 11 Ok Reg 2773, eff 6-13-94 ; Amended at 17 Ok Reg 462, eff 10-19-99 (emergency); Amended at 17 Ok Reg 1339, eff 5-11-00 ; Amended at 18 Ok Reg 2144, eff 6-11-01 ; Amended at 19 Ok Reg 2274, eff 6-27-02 ; Amended at 20 Ok Reg 1274, eff 6-1-03 ; Amended at 22 Ok Reg 1304, eff 6-1-05 ; Amended at 29 Ok Reg 1229, eff 7-1-12 ; Amended at 32 Ok Reg 704, eff 1-1-16 (emergency); Amended at 33 Ok Reg 1678, eff 9-15-16 ; Amended at 34 Ok Reg 1640, eff 9-15-17 ; Amended at 36 Ok Reg 181, eff 12-17-18 (emergency); Amended at 36 Ok Reg 1892, eff 9-16-19 ; Amended at 37 Ok Reg 1858, eff 11-1-20 ; Revoked at 40 Ok Reg 1033, eff 9-15-23]

#### **340:110-1-54.1. Unlicensed facilities**

(a) **Legal basis and authority.** Pursuant to Section 405 of Title 10 of the Oklahoma Statutes, no child care facility may be operated or maintained in this state, unless licensed or given permission to operate by the Oklahoma Department of Human Services (OKDHS).

(b) **Procedures for investigating the operation of an unlicensed residential facility.** When information is received regarding the operation of an unlicensed residential facility, staff conducts a full monitoring visit no later than three facility business days to assess the necessity of license.

(1) If care is being provided, staff informs the facility they have not been given permission to operate and they are in violation of the Oklahoma Child Care Facilities Licensing Act (Act). During the visit the facility is informed on Form 07LC095E, Notice Regarding Unlicensed Care, that:

(A) care must cease by the end of the current business day unless imminent risk indicates the need for the facility to cease care immediately; or

(B) permission to operate may be granted when the facility:

(i) is in compliance with health and safety requirements without serious non-compliances as referenced in OAC 340:110-1-46(a)(1);

(ii) has submitted a completed application in accordance with OAC 340:110-1-45;

(iii) provides all required background information per OAC 340:110-1-51; and

(iv) has staff present who meet the following licensing requirements:

(I) documented current cardio-pulmonary resuscitation and first aid certification;



- (II) completed behavioral intervention training; and
- (III) minimum educational qualifications for the position held.

(2) If a facility is not granted permission to operate, a follow-up visit is conducted within one facility business day to verify the termination of care. The follow-up visit timeframe may be extended up to five days with programs manager approval and is documented on Form 07LC080E, Licensing Services Supplemental Information. When care of children has not ceased, staff proceed per OAC 340:110-1-52(f).

(3) When the necessity of a license is not required, licensing staff documents the investigation of unlicensed operation on Form 07LC080E.

**(c) Procedures for investigating the operation of an unlicensed child placing agency.** When information is received regarding the operation of an unlicensed child placing agency, staff makes contact with the agency representative within three agency business days to assess the necessity of license.

(1) If child placing activity is being provided, staff informs the agency they have not been given permission to operate and they are in violation of the Oklahoma Child Care Facilities Licensing Act (Act). Licensing staff document on Form 07LC080E:

- (A) child placing activity must cease by the end of the current business day, unless imminent risk indicates the need for the agency to cease operation immediately; or
- (B) permission to operate may be granted when the agency:

- (i) has submitted a completed application per OAC 340:110-1-45;
- (ii) provides all required background information per OAC 340:110-1-51; and
- (iii) has staff who meet minimum educational qualifications for the position held.

(2) If an agency is not granted permission to operate, a follow-up visit is conducted within one agency business day to verify the termination of child placing activity. The follow-up visit timeframe may be extended up to five days with programs manager approval and is documented on Form 07LC080E. When child placing activity has not ceased, staff proceed per OAC 340:110-1-52(f).

(3) When the necessity of a license is not required, licensing staff documents the investigation of an unlicensed operation on Form 07LC080E.

**(d) Documentation of Findings.** Following the unlicensed complaint investigation, licensing staff proceed with procedures in OAC 340:110-1-47.1(l). All case staffings and discussions of case action are documented on Form 07LC080E and maintained in the case file.

**(e) Procedures for investigating unlicensed out of state child-placing agencies.**

(1) The licensing staff mails to the owner the licensing requirements and a letter that includes information about

licensure and a request for a response within 14 days.

(2) If a response is not received within 14 days, several contacts are made or attempted to encourage the owner of an unlicensed facility to comply with the Act.

(3) If the owner fails to apply for licensure as required by the Act, the licensing staff consults with the programs manager and statewide licensing coordinator for appropriate action which could include the issuance of an Emergency Order.

[Source: Added at 26 Ok Reg 415, eff 11-20-08 (emergency); Added at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 27 Ok Reg 1869, eff 7-1-10 ; Amended at 28 Ok Reg 1669, eff 7-1-11 ; Amended at 29 Ok Reg 1229, eff 7-1-12]

### **340:110-1-55. Public inspection of licensing files**

(a) **Legal basis.** The Oklahoma Department of Human Services (OKDHS) is subject to the Oklahoma Open Records Act, Section 24A.1 et seq. of Title 51 of the Oklahoma Statutes, which mandates that public records are open for public inspection unless they are required by law to be kept confidential.

(b) **Licensing records.** All OKDHS records of facilities required to be licensed under Sections 401 through 410 of Title 10 of the Oklahoma Statutes that are considered public records are open and available for public inspection during reasonable hours. However, information obtained concerning a report of a violation of a licensing requirement is confidential pursuant to Section 406 of Title 10 with the exception of a summary of allegations and findings of an investigation involving a child care facility that does not disclose identities but that permits the public to evaluate the facility.

(c) **Location of case records.** Child care facility licensing records are located in the OKDHS Human Service Center of the licensing staff and are inspected at that location. Licensing records may be inspected by the public in the presence of licensing staff.

(d) **Preparation of case files for inspection.** The licensing staff carefully reviews the entire record and removes confidential information.

(e) **Fees for photocopying.** For photocopy fee information refer to OAC 340:2-21-16.

(f) **Release of confidential information.** A complete case file that includes confidential information may be provided only to certain persons according to applicable laws and regulations, such as the OKDHS Legal Division and Division of Children and Family Services, law enforcement officials, and upon order of a court of competent jurisdiction.

(g) **Computer licensing record.** A summary of the facility licensing record maintained on the computer database may be provided upon request at no charge. A cover letter is sent with the licensing summary that notes the summary does not include the complete case record, and the complete case record may be reviewed in the OKDHS Human Service Center where the facility is located.

[Source: Added at 17 Ok Reg 462, eff 10-19-99 (emergency); Added at 17 Ok Reg 1339, eff 5-11-00 ; Amended at 18 Ok Reg 2144, eff 6-11-01 ; Amended at 19 Ok Reg 221, eff 11-1-01 (emergency); Amended at 19 Ok Reg 1171, eff 5-13-02 ; Amended at 20 Ok Reg 1274, eff 6-1-03 ; Amended at 25 Ok Reg 1962, eff 7-1-08 ; Amended at 27 Ok Reg 1869, eff 7-1-10]

## **PART 5. CHILD CARE SERVICES**

### **340:110-1-70. Purpose [REVOKED]**

[Source: Added at 11 Ok Reg 519, eff 11-15-93 (emergency); Added at 11 Ok Reg 2773, eff 6-13-94 ; Amended at 17 Ok Reg 1347, eff 5-11-00 ; Revoked at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:110-1-71. Definitions [REVOKED]**

[Source: Added at 11 Ok Reg 519, eff 11-15-93 (emergency); Added at 11 Ok Reg 2773, eff 6-13-94 ; Amended at 13 Ok Reg 341, eff 5-18-95 (emergency); Amended at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 17 Ok Reg 1347, eff 5-11-00 ; Amended at 18 Ok Reg 2144, eff 6-11-01 ; Revoked at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:110-1-72. Legal base and authority [REVOKED]**

[Source: Added at 11 Ok Reg 519, eff 11-15-93 (emergency); Added at 11 Ok Reg 2773, eff 6-13-94 ; Amended at 17 Ok Reg 1347, eff 5-11-00 ; Revoked at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:110-1-73. Overall responsibility as required by state and federal law [REVOKED]**

[Source: Added at 11 Ok Reg 519, eff 11-15-93 (emergency); Added at 11 Ok Reg 2773, eff 6-13-94 ; Amended at 17 Ok Reg 1347, eff 5-11-00 ; Revoked at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:110-1-74. Office of Child Care Advisory Council [REVOKED]**

[Source: Added at 11 Ok Reg 519, eff 11-15-93 (emergency); Added at 11 Ok Reg 2773, eff 6-13-94 ; Revoked at 17 Ok Reg 1347, eff 5-11-00]

### **340:110-1-75. Dependent care planning and development grant funds [REVOKED]**

[Source: Added at 11 Ok Reg 519, eff 11-15-93 (emergency); Added at 11 Ok Reg 2773, eff 6-13-94 ; Revoked at 17 Ok Reg 1347, eff 5-11-00]

### **340:110-1-76. Child Care and Development Fund (CCDF)**

(a) **Purpose.** This Part provides CCDF administrative rules and procedure guidelines. CCDF is a federal grant awarded annually to states and tribes for child care improvement.

(b) **Legal basis and authority.** Oklahoma Human Services (OKDHS) is the Lead Agency administering the CCDF. OKDHS designates responsibility to Child Care Services (CCS) to develop and implement the state child care plan to qualify for the federal CCDF.

(c) **State Plan.** CCS submits a state plan to the Administration for Children and Families . The state plan establishes goals and objectives addressing quality child care needs for children birth through age 13.

(d) **State and federal law requirements.** The state and federal law requirements include:

- (1) overseeing state and federal fund distribution;

- (2) complying with approved state plan provisions, CCDF rules, and requirements;
- (3) submitting state plan amendments and requesting waivers;
- (4) responding to regional or federal office requests;
- (5) coordinating financial inquiries, questions, and responses with Financial Services; and
- (6) assuming program review responsibility.

(e) **Contracting procedures.** CCS cooperates with Office of Management and Enterprise Services ensuring contracting and purchasing regulations and policies are followed.

(f) **Monitoring procedures.** At least annually, CCS monitors program and fiscal aspects of contracts, request for proposals, or agreements with state agencies, funded through CCS. Monitoring:

- (1) verifies state statute compliance;
- (2) evaluates contract or agreement compliance; and
- (3) provides technical assistance for improved services through additional visits, when applicable.

(g) **Local projects.** CCDF allows CCS project implementation enabling child care providers to receive funding. This ensures access to affordable quality child care for Oklahoma's children and parents. Local projects accomplishing specific goals meeting a documented community need are funded through CCS. The contract process ensures available funds are awarded to applicants with proposals best addressing the documented need.

[Source: Added at 11 Ok Reg 519, eff 11-15-93 (emergency); Added at 11 Ok Reg 2773, eff 6-13-94 ; Amended at 17 Ok Reg 1347, eff 5-11-00 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:110-1-77. Contracting procedures [REVOKED]**

[Source: Added at 11 Ok Reg 519, eff 11-15-93 (emergency); Added at 11 Ok Reg 2773, eff 6-13-94 ; Amended at 18 Ok Reg 2144, eff 6-11-01 ; Revoked at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:110-1-78. Monitoring procedures [REVOKED]**

[Source: Added at 11 Ok Reg 519, eff 11-15-93 (emergency); Added at 11 Ok Reg 2773, eff 6-13-94 ; Amended at 18 Ok Reg 2144, eff 6-11-01 ; Revoked at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:110-1-79. Local projects [REVOKED]**

[Source: Added at 13 Ok Reg 341, eff 5-18-95 (emergency); Added at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 17 Ok Reg 1347, eff 5-11-00 ; Revoked at 41 Ok Reg, Number 23, effective 9-16-24]

## **SUBCHAPTER 3. LICENSING STANDARDS FOR CHILD CARE FACILITIES**

### **PART 1. REQUIREMENTS FOR CHILD CARE CENTERS**

### **340:110-3-1. Purpose [REVOKED]**

[Source: Amended at 10 Ok Reg 2943, eff 6-25-93 ; Amended at 12 Ok Reg 1151, eff 3-16-95 (emergency); Amended at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 14 Ok Reg 875, eff 1-24-97 (emergency); Amended at 14 Ok Reg 1408, eff 5-12-97 ; Amended at 20 Ok Reg 1866, eff 7-1-03 (emergency); Amended at 21 Ok Reg 952, eff 4-26-04 ; Revoked at 32 Ok Reg 704, eff 1-1-16 (emergency); Revoked at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-2. Definitions [AMENDED AND RENUMBERED TO 340:110-3-275]**

[Source: Amended at 10 Ok Reg 2943, eff 6-25-93 ; Amended at 12 Ok Reg 1151, eff 3-16-95 (emergency); Amended at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 14 Ok Reg 875, eff 1-24-97 (emergency); Amended at 14 Ok Reg 1408, eff 5-12-97 ; Amended at 16 Ok Reg 2527, eff 7-1-99 ; Amended at 18 Ok Reg 2144, eff 6-11-01 ; Amended at 20 Ok Reg 1866, eff 7-1-03 (emergency); Amended at 21 Ok Reg 952, eff 4-26-04 ; Amended at 27 Ok Reg 1869, eff 7-1-10 ; Amended at 27 Ok Reg 2646, eff 6-21-10 (emergency); Amended at 28 Ok Reg 1669, eff 7-1-11 ; Amended at 31 Ok Reg 154, eff 11-1-13 (emergency); Amended at 31 Ok Reg 1854, eff 9-15-14 ; Amended and renumbered to 340:110-3-275 at 32 Ok Reg 704, eff 1-1-16 (emergency); Amended and renumbered to 340:110-3-275 at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-3. Necessity and issuance of license [AMENDED AND RENUMBERED TO 340:110-3-276]**

[Source: Amended at 10 Ok Reg 2943, eff 6-25-93 ; Amended at 12 Ok Reg 1151, eff 3-16-95 (emergency); Amended at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 14 Ok Reg 875, eff 1-24-97 (emergency); Amended at 14 Ok Reg 1408, eff 5-12-97 ; Amended at 16 Ok Reg 2527, eff 7-1-99 ; Amended at 20 Ok Reg 1866, eff 7-1-03 (emergency); Amended at 21 Ok Reg 952, eff 4-26-04 ; Amended at 26 Ok Reg 415, eff 11-20-08 (emergency); Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 27 Ok Reg 1869, eff 7-1-10 ; Amended at 31 Ok Reg 154, eff 11-1-13 (emergency); Amended at 31 Ok Reg 1854, eff 9-15-14 ; Amended and renumbered to 340:110-3-276 at 32 Ok Reg 704, eff 1-1-16 (emergency); Amended and renumbered to 340:110-3-276 at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-4. Requirements [REVOKED]**

[Source: Amended at 10 Ok Reg 2943, eff 6-25-93 ; Amended at 12 Ok Reg 1151, eff 3-16-95 (emergency); Amended at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 14 Ok Reg 875, eff 1-24-97 (emergency); Amended at 14 Ok Reg 1408, eff 5-12-97 ; Revoked at 20 Ok Reg 1866, eff 7-1-03 (emergency); Revoked at 21 Ok Reg 952, eff 4-26-04]

### **340:110-3-5. Organization [REVOKED]**

[Source: Amended at 10 Ok Reg 2943, eff 6-25-93 ; Amended at 12 Ok Reg 1151, eff 3-16-95 (emergency); Amended at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 14 Ok Reg 875, eff 1-24-97 (emergency); Amended at 14 Ok Reg 1408, eff 5-12-97 ; Amended at 20 Ok Reg 1866, eff 7-1-03 (emergency); Amended at 21 Ok Reg 952, eff 4-26-04 ; Amended at 25 Ok Reg 22, eff 10-1-07 (emergency); Amended at 25 Ok Reg 1962, eff 7-1-08 ; Amended at 26 Ok Reg 415, eff 11-20-08 (emergency); Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 27 Ok Reg 48, eff 10-1-09 (emergency); Amended at 27 Ok Reg 1869, eff 7-1-10 ; Amended at 31 Ok Reg 154, eff 11-1-13 (emergency); Amended at 31 Ok Reg 1854, eff 9-15-14 ; Revoked at 32 Ok Reg 704, eff 1-1-16 (emergency); Revoked at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-5.1. Policy and procedure [AMENDED AND RENUMBERED TO 340:110-3-278]**

[Source: Added at 12 Ok Reg 1151, eff 3-16-95 (emergency); Added at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 14 Ok Reg 875, eff 1-24-97 (emergency); Amended at 14 Ok Reg 1408, eff 5-12-97 ; Amended at 20 Ok Reg 1866, eff 7-1-03 (emergency); Amended at 21 Ok Reg 952, eff 4-26-04 ; Amended at 25 Ok Reg 22, eff 10-1-07 (emergency); Amended at 25 Ok Reg 1962, eff 7-1-08 ; Amended at 26 Ok Reg 415, eff 11-20-08 (emergency); Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 27 Ok Reg 48,

eff 10-1-09 (emergency); Amended at 27 Ok Reg 1869, eff 7-1-10 ; Amended and renumbered to 340:110-3-278 at 32 Ok Reg 704, eff 1-1-16 (emergency); Amended and renumbered to 340:110-3-278 at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-6. Records [AMENDED AND RENUMBERED TO 340:110-3-281.2]**

[**Source:** Amended at 10 Ok Reg 2943, eff 6-25-93 ; Amended at 12 Ok Reg 1151, eff 3-16-95 (emergency); Amended at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 14 Ok Reg 875, eff 1-24-97 (emergency); Amended at 14 Ok Reg 1408, eff 5-12-97 ; Amended at 18 Ok Reg 2144, eff 6-11-01 ; Amended at 19 Ok Reg 658, eff 2-1-02 (emergency); Amended at 19 Ok Reg 1171, eff 5-13-02 ; Amended at 20 Ok Reg 1866, eff 7-1-03 (emergency); Amended at 21 Ok Reg 952, eff 4-26-04 ; Amended at 26 Ok Reg 415, eff 11-20-08 (emergency); Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 27 Ok Reg 48, eff 10-1-09 (emergency); Amended at 27 Ok Reg 1869, eff 7-1-10 ; Amended at 31 Ok Reg 154, eff 11-1-13 (emergency); Amended at 31 Ok Reg 1854, eff 9-15-14 ; Amended and renumbered to 340:110-3-281.2 at 32 Ok Reg 704, eff 1-1-16 (emergency); Amended and renumbered to 340:110-3-281.2 at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-7. Staff [REVOKED]**

[**Source:** Amended at 10 Ok Reg 2943, eff 6-25-93 ; Revoked at 12 Ok Reg 1151, eff 3-16-95 (emergency); Revoked at 13 Ok Reg 2663, eff 6-28-96]

### **340:110-3-7.1. Requirements for child care center employees [AMENDED AND RENUMBERED TO 340:110-3-284]**

[**Source:** Added at 12 Ok Reg 1151, eff 3-16-95 (emergency); Added at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 14 Ok Reg 875, eff 1-24-97 (emergency); Amended at 14 Ok Reg 1408, eff 5-12-97 ; Amended at 16 Ok Reg 2527, eff 7-1-99 ; Amended at 18 Ok Reg 2144, eff 6-11-01 ; Amended at 19 Ok Reg 658, eff 2-1-02 (emergency); Amended at 19 Ok Reg 1171, eff 5-13-02 ; Amended at 20 Ok Reg 1866, eff 7-1-03 (emergency); Amended at 21 Ok Reg 952, eff 4-26-04 ; Amended at 22 Ok Reg 1304, eff 6-1-05 ; Amended at 26 Ok Reg 415, eff 11-20-08 (emergency); Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 27 Ok Reg 48, eff 10-1-09 (emergency); Amended at 27 Ok Reg 1869, eff 7-1-10 ; Amended at 31 Ok Reg 154, eff 11-1-13 (emergency); Amended at 31 Ok Reg 1854, eff 9-15-14 ; Amended and renumbered to 340:110-3-284 at 32 Ok Reg 704, eff 1-1-16 (emergency); Amended and renumbered to 340:110-3-284 at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-8. Staff training [REVOKED]**

[**Source:** Revoked at 12 Ok Reg 1151, eff 3-16-95 (emergency); Revoked at 13 Ok Reg 2663, eff 6-28-96]

### **340:110-3-9. Tuberculosis testing [REVOKED]**

[**Source:** Revoked at 12 Ok Reg 1151, eff 3-16-95 (emergency); Revoked at 13 Ok Reg 2663, eff 6-28-96]

### **340:110-3-9.1. Supervision of children [AMENDED AND RENUMBERED TO 340:110-3-287]**

[**Source:** Added at 12 Ok Reg 1151, eff 3-16-95 (emergency); Added at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 14 Ok Reg 875, eff 1-24-97 (emergency); Amended at 14 Ok Reg 1408, eff 5-12-97 ; Amended at 20 Ok Reg 1866, eff 7-1-03 (emergency); Amended at 21 Ok Reg 952, eff 4-26-04 ; Amended and renumbered to 340:110-3-287 at 32 Ok Reg 704, eff 1-1-16 (emergency); Amended and renumbered to 340:110-3-287 at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-10. Parent - staff communication [AMENDED AND RENUMBERED TO 340:110-3-293]**

[Source: Amended at 10 Ok Reg 2943, eff 6-25-93 ; Amended at 12 Ok Reg 1151, eff 3-16-95 (emergency); Amended at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 14 Ok Reg 875, eff 1-24-97 (emergency); Amended at 14 Ok Reg 1408, eff 5-12-97 ; Amended at 20 Ok Reg 1866, eff 7-1-03 (emergency); Amended at 21 Ok Reg 952, eff 4-26-04 ; Amended at 31 Ok Reg 154, eff 11-1-13 (emergency); Amended at 31 Ok Reg 1854, eff 9-15-14 ; Amended and renumbered to 340:110-3-293 at 32 Ok Reg 704, eff 1-1-16 (emergency); Amended and renumbered to 340:110-3-293 at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-11. Physical facilities [AMENDED AND RENUMBERED TO 340:110-3-300]**

[Source: Amended at 10 Ok Reg 2943, eff 6-25-93 ; Amended at 12 Ok Reg 1151, eff 3-16-95 (emergency); Amended at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 14 Ok Reg 875, eff 1-24-97 (emergency); Amended at 14 Ok Reg 1408, eff 5-12-97 ; Amended at 20 Ok Reg 1866, eff 7-1-03 (emergency); Amended at 21 Ok Reg 952, eff 4-26-04 ; Amended and renumbered to 340:110-3-300 at 32 Ok Reg 704, eff 1-1-16 (emergency); Amended and renumbered to 340:110-3-300 at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-12. Safety and sanitation [REVOKED]**

[Source: Amended at 10 Ok Reg 2943, eff 6-25-93 ; Revoked at 12 Ok Reg 1151, eff 3-16-95 (emergency); Revoked at 13 Ok Reg 2663, eff 6-28-96]

### **340:110-3-13. Licensed capacity [REVOKED]**

[Source: Revoked at 12 Ok Reg 1151, eff 3-16-95 (emergency); Revoked at 13 Ok Reg 2663, eff 6-28-96]

### **340:110-3-14. Indoor equipment [AMENDED AND RENUMBERED TO 340:110-3-302]**

[Source: Amended at 10 Ok Reg 2943, eff 6-25-93 ; Amended at 12 Ok Reg 1151, eff 3-16-95 (emergency); Amended at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 14 Ok Reg 875, eff 1-24-97 (emergency); Amended at 14 Ok Reg 1408, eff 5-12-97 ; Amended at 20 Ok Reg 1866, eff 7-1-03 (emergency); Amended at 21 Ok Reg 952, eff 4-26-04 ; Amended at 30 Ok Reg 1386, eff 7-1-13 ; Amended and renumbered to 340:110-3-302 at 32 Ok Reg 704, eff 1-1-16 (emergency); Amended and renumbered to 340:110-3-302 at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-15. Minimum equipment and supplies [REVOKED]**

[Source: Revoked at 12 Ok Reg 1151, eff 3-16-95 (emergency); Revoked at 13 Ok Reg 2663, eff 6-28-96]

### **340:110-3-16. Minimum equipment and supplies for each group of four infants [REVOKED]**

[Source: Amended at 10 Ok Reg 2943, eff 6-25-93 ; Revoked at 12 Ok Reg 1151, eff 3-16-95 (emergency); Revoked at 13 Ok Reg 2663, eff 6-28-96]

### **340:110-3-17. Minimum equipment and supplies for each group of six toddlers [REVOKED]**

[Source: Amended at 10 Ok Reg 2943, eff 6-25-93 ; Revoked at 12 Ok Reg 1151, eff 3-16-95 (emergency); Revoked at 13 Ok Reg 2663, eff 6-28-96]

### **340:110-3-18. Minimum equipment and supplies for each group of eight 2-year-old's [REVOKED]**

[Source: Amended at 10 Ok Reg 2943, eff 6-25-93 ; Revoked at 12 Ok Reg 1151, eff 3-16-95 (emergency); Revoked at 13 Ok Reg 2663, eff 6-28-96]

### **340:110-3-19. Minimum equipment and supplies for each group of 12 three-year-old's [REVOKED]**

[Source: Amended at 10 Ok Reg 2943, eff 6-25-93 ; Revoked at 12 Ok Reg 1151, eff 3-16-95 (emergency); Revoked at 13 Ok Reg 2663, eff 6-28-96]

### **340:110-3-20. Minimum equipment and supplies for each group of 15 four- and five-year old's [REVOKED]**

[Source: Amended at 10 Ok Reg 2943, eff 6-25-93 ; Revoked at 12 Ok Reg 1151, eff 3-16-95 (emergency); Revoked at 13 Ok Reg 2663, eff 6-28-96]

### **340:110-3-21. Minimum equipment and supplies for each group of 20 children age six and older [REVOKED]**

[Source: Amended at 10 Ok Reg 2943, eff 6-25-93 ; Revoked at 12 Ok Reg 1151, eff 3-16-95 (emergency); Revoked at 13 Ok Reg 2663, eff 6-28-96]

### **340:110-3-22. Outdoor safety and play equipment [AMENDED AND RENUMBERED TO 340:110-3-301]**

[Source: Amended at 10 Ok Reg 2943, eff 6-25-93 ; Amended at 12 Ok Reg 1151, eff 3-16-95 (emergency); Amended at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 14 Ok Reg 875, eff 1-24-97 (emergency); Amended at 14 Ok Reg 1408, eff 5-12-97 ; Amended at 20 Ok Reg 1866, eff 7-1-03 (emergency); Amended at 21 Ok Reg 952, eff 4-26-04 ; Amended and renumbered to 340:110-3-301 at 32 Ok Reg 704, eff 1-1-16 (emergency); Amended and renumbered to 340:110-3-301 at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-23. Program [REVOKED]**

[Source: Amended at 10 Ok Reg 2943, eff 6-25-93 ; Revoked at 12 Ok Reg 1151, eff 3-16-95 (emergency); Revoked at 13 Ok Reg 2663, eff 6-28-96]

### **340:110-3-24. Suggested full-day program [REVOKED]**

[Source: Amended at 10 Ok Reg 2943, eff 6-25-93 ; Revoked at 12 Ok Reg 1151, eff 3-16-95 (emergency); Revoked at 13 Ok Reg 2663, eff 6-28-96]

### **340:110-3-25. Care of infants, toddlers, and two-year-olds [REVOKED]**

[Source: Amended at 10 Ok Reg 2943, eff 6-25-93 ; Amended at 12 Ok Reg 1151, eff 3-16-95 (emergency); Amended at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 14 Ok Reg 875, eff 1-24-97 (emergency); Amended at 14 Ok Reg 1408, eff 5-12-97 ; Amended at 20 Ok Reg 1866, eff 7-1-03 (emergency); Amended at 21 Ok Reg 952, eff 4-26-04 ; Revoked at 32 Ok Reg 704, eff 1-1-16 (emergency); Revoked at 33 Ok Reg 1678, eff 9-15-16]



### **340:110-3-25.1. Care of preschool children [AMENDED AND RENUMBERED TO 340:110-3-289]**

[Source: Added at 12 Ok Reg 1151, eff 3-16-95 (emergency); Added at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 14 Ok Reg 875, eff 1-24-97 (emergency); Amended at 14 Ok Reg 1408, eff 5-12-97 ; Amended at 20 Ok Reg 1866, eff 7-1-03 (emergency); Amended at 21 Ok Reg 952, eff 4-26-04 ; Amended and renumbered to 340:110-3-289 at 32 Ok Reg 704, eff 1-1-16 (emergency); Amended and renumbered to 340:110-3-289 at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-25.2. Care of school-age children [AMENDED AND RENUMBERED TO 340:110-3-290]**

[Source: Added at 12 Ok Reg 1151, eff 3-16-95 (emergency); Added at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 14 Ok Reg 875, eff 1-24-97 (emergency); Amended at 14 Ok Reg 1408, eff 5-12-97 ; Amended at 20 Ok Reg 1866, eff 7-1-03 (emergency); Amended at 21 Ok Reg 952, eff 4-26-04 ; Amended and renumbered to 340:110-3-290 at 32 Ok Reg 704, eff 1-1-16 (emergency); Amended and renumbered to 340:110-3-290 at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-25.3. Care of children with disabilities [AMENDED AND RENUMBERED TO 340:110-3-281.4]**

[Source: Added at 12 Ok Reg 1151, eff 3-16-95 (emergency); Added at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 14 Ok Reg 875, eff 1-24-97 (emergency); Amended at 14 Ok Reg 1408, eff 5-12-97 ; Amended at 20 Ok Reg 1866, eff 7-1-03 (emergency); Amended at 21 Ok Reg 952, eff 4-26-04 ; Amended and renumbered to 340:110-3-281.4 at 32 Ok Reg 704, eff 1-1-16 (emergency); Amended and renumbered to 340:110-3-281.4 at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-25.4. Water activities [AMENDED AND RENUMBERED TO 340:110-3-291]**

[Source: Added at 12 Ok Reg 1151, eff 3-16-95 (emergency); Added at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 14 Ok Reg 875, eff 1-24-97 (emergency); Amended at 14 Ok Reg 1408, eff 5-12-97 ; Amended at 20 Ok Reg 1866, eff 7-1-03 (emergency); Amended at 21 Ok Reg 952, eff 4-26-04 ; Amended and renumbered to 340:110-3-291 at 32 Ok Reg 704, eff 1-1-16 (emergency); Amended and renumbered to 340:110-3-291 at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-25.5. Rest time [AMENDED AND RENUMBERED TO 340:110-3-296]**

[Source: Added at 12 Ok Reg 1151, eff 3-16-95 (emergency); Added at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 14 Ok Reg 875, eff 1-24-97 (emergency); Amended at 14 Ok Reg 1408, eff 5-12-97 ; Amended at 19 Ok Reg 658, eff 2-1-02 (emergency); Amended at 19 Ok Reg 1171, eff 5-13-02 ; Amended at 20 Ok Reg 1866, eff 7-1-03 (emergency); Amended at 21 Ok Reg 952, eff 4-26-04 ; Amended and renumbered to 340:110-3-296 at 32 Ok Reg 704, eff 1-1-16 (emergency); Amended and renumbered to 340:110-3-296 at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-25.6. Night-time care [AMENDED AND RENUMBERED TO 340:110-3-286]**

[Source: Added at 12 Ok Reg 1151, eff 3-16-95 (emergency); Added at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 14 Ok Reg 875, eff 1-24-97 (emergency); Amended at 14 Ok Reg 1408, eff 5-12-97 ; Amended at 20 Ok Reg 1866, eff 7-1-03 (emergency); Amended at 21 Ok Reg 952, eff 4-26-04 ; Amended and renumbered to 340:110-3-286 at 32 Ok Reg 704, eff 1-1-16 (emergency); Amended and renumbered to 340:110-3-286 at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-26. Behavior and guidance [AMENDED AND RENUMBERED TO 340:110-3-288]**

[Source: Amended at 10 Ok Reg 2943, eff 6-25-93 ; Amended at 12 Ok Reg 1151, eff 3-16-95 (emergency); Amended at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 14 Ok Reg 875, eff 1-24-97 (emergency); Amended at 14 Ok Reg 1408, eff 5-12-97 ; Amended at 20 Ok Reg 1866, eff 7-1-03 (emergency); Amended at 21 Ok Reg 952, eff 4-26-04 ; Amended and renumbered to 340:110-3-288 at 32 Ok Reg 704, eff 1-1-16 (emergency); Amended and renumbered to 340:110-3-288 at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-27. Health [AMENDED AND RENUMBERED TO 340:110-3-294]**

[Source: Amended at 10 Ok Reg 2943, eff 6-25-93 ; Amended at 12 Ok Reg 1151, eff 3-16-95 (emergency); Amended at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 14 Ok Reg 875, eff 1-24-97 (emergency); Amended at 14 Ok Reg 1408, eff 5-12-97 ; Amended at 20 Ok Reg 1866, eff 7-1-03 (emergency); Amended at 21 Ok Reg 952, eff 4-26-04 ; Amended at 25 Ok Reg 22, eff 10-1-07 (emergency); Amended at 25 Ok Reg 1962, eff 7-1-08 ; Amended and renumbered to 340:110-3-294 at 32 Ok Reg 704, eff 1-1-16 (emergency); Amended and renumbered to 340:110-3-294 at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-28. Food and nutrition [AMENDED AND RENUMBERED TO 340:110-3-298]**

[Source: Amended at 12 Ok Reg 1151, eff 3-16-95 (emergency); Amended at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 14 Ok Reg 875, eff 1-24-97 (emergency); Amended at 14 Ok Reg 1408, eff 5-12-97 ; Amended at 20 Ok Reg 1866, eff 7-1-03 (emergency); Amended at 21 Ok Reg 952, eff 4-26-04 ; Amended and renumbered to 340:110-3-298 at 32 Ok Reg 704, eff 1-1-16 (emergency); Amended and renumbered to 340:110-3-298 at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-29. Transportation [AMENDED AND RENUMBERED TO 340:110-3-305]**

[Source: Amended at 12 Ok Reg 1151, eff 3-16-95 (emergency); Amended at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 14 Ok Reg 875, eff 1-24-97 (emergency); Amended at 14 Ok Reg 1408, eff 5-12-97 ; Amended at 20 Ok Reg 1866, eff 7-1-03 (emergency); Amended at 21 Ok Reg 952, eff 4-26-04 ; Amended at 22 Ok Reg 28, eff 10-1-04 (emergency); Amended at 22 Ok Reg 921, eff 5-12-05 ; Amended at 23 Ok Reg 1092, eff 6-1-06 ; Amended and renumbered to 340:110-3-305 at 32 Ok Reg 704, eff 1-1-16 (emergency); Amended and renumbered to 340:110-3-305 at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-30. Night time care [REVOKED]**

[Source: Revoked at 12 Ok Reg 1151, eff 3-16-95 (emergency); Revoked at 13 Ok Reg 2663, eff 6-28-96]

### **340:110-3-31. Food service and sanitation requirements [AMENDED AND RENUMBERED TO 340:110-3-299]**

[Source: Amended at 10 Ok Reg 2943, eff 6-25-93 ; Amended at 12 Ok Reg 1151, eff 3-16-95 (emergency); Amended at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 14 Ok Reg 875, eff 1-24-97 (emergency); Amended at 14 Ok Reg 1408, eff 5-12-97 ; Amended at 20 Ok Reg 1866, eff 7-1-03 (emergency); Amended at 21 Ok Reg 952, eff 4-26-04 ; Amended and renumbered to 340:110-3-299 at 32 Ok Reg 704, eff 1-1-16 (emergency); Amended and renumbered to 340:110-3-299 at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-32. Building, equipment, utilities and grounds [REVOKED]**

[Source: Amended at 10 Ok Reg 2943, eff 6-25-93 ; Revoked at 12 Ok Reg 1151, eff 3-16-95 (emergency); Revoked at 13 Ok Reg 2663, eff 6-28-96]

### **340:110-3-33. Fire safety [AMENDED AND RENUMBERED TO 340:110-3-279]**

[Source: Amended at 10 Ok Reg 2943, eff 6-25-93 ; Amended at 12 Ok Reg 1151, eff 3-16-95 (emergency); Amended at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 14 Ok Reg 875, eff 1-24-97 (emergency); Amended at 14 Ok Reg 1408, eff 5-12-97 ; Amended at 20 Ok Reg 1866, eff 7-1-03 (emergency); Amended at 21 Ok Reg 952, eff 4-26-04 ; Amended and renumbered to 340:110-3-279 at 32 Ok Reg 704, eff 1-1-16 (emergency); Amended and renumbered to 340:110-3-279 at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-33.1. Requirements for drop-in centers [AMENDED AND RENUMBERED TO 340:110-3-308]**

[Source: Added at 12 Ok Reg 3586, eff 7-6-95 (emergency); Added at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 14 Ok Reg 875, eff 1-24-97 (emergency); Amended at 14 Ok Reg 1408, eff 5-12-97 ; Amended at 20 Ok Reg 1866, eff 7-1-03 (emergency); Amended at 21 Ok Reg 952, eff 4-26-04 ; Amended and renumbered to 340:110-3-308 at 32 Ok Reg 704, eff 1-1-16 (emergency); Amended and renumbered to 340:110-3-308 at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-33.2. Requirements for child care centers for sick children [AMENDED AND RENUMBERED TO 340:110-3-311]**

[Source: Added at 16 Ok Reg 2527, eff 7-1-99 ; Amended at 31 Ok Reg 154, eff 11-1-13 (emergency); Amended at 31 Ok Reg 1854, eff 9-15-14 ; Amended and renumbered to 340:110-3-311 at 32 Ok Reg 704, eff 1-1-16 (emergency); Amended and renumbered to 340:110-3-311 at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-33.3. Requirements for day camps [REVOKED]**

[Source: Added at 18 Ok Reg 2144, eff 6-11-01 ; Revoked at 32 Ok Reg 704, eff 1-1-16 (emergency); Revoked at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-34. Guidelines for use in the study of day care centers [REVOKED]**

[Source: Amended at 10 Ok Reg 2943, eff 6-25-93 ; Revoked at 16 Ok Reg 2527, eff 7-1-99]

## **PART 2. REQUIREMENTS FOR PART-DAY CHILDREN'S PROGRAMS [REVOKED]**

### **340:110-3-35. Purpose and policy of the law [REVOKED]**

[Source: Added at 12 Ok Reg 2511, eff 6-26-95 ; Revoked at 32 Ok Reg 704, eff 1-1-16 (emergency); Revoked at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-36. Definitions [REVOKED]**

[Source: Added at 12 Ok Reg 2511, eff 6-26-95 ; Amended at 27 Ok Reg 1869, eff 7-1-10 ; Amended at 27 Ok Reg 2646, eff 6-21-10 (emergency); Amended at 28 Ok Reg 1669, eff 7-1-11 ; Amended at 31 Ok Reg 154, eff 11-1-13 (emergency); Amended at 31 Ok Reg 1854, eff 9-15-14 ; Revoked at 32 Ok Reg 704, eff 1-1-16 (emergency); Revoked at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-37. Necessity and issuance of license [REVOKED]**

[Source: Added at 12 Ok Reg 2511, eff 6-26-95 ; Amended at 16 Ok Reg 2527, eff 7-1-99 ; Amended at 26 Ok Reg 415, eff 11-20-08 (emergency); Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 27 Ok Reg 1869, eff 7-1-10 ; Amended at 28 Ok Reg 1669, eff 7-1-11 ; Amended at 31 Ok Reg 154, eff 11-1-13 (emergency); Amended at 31 Ok Reg 1854, eff 9-15-14 ; Revoked at 32 Ok Reg 704, eff 1-1-16 (emergency); Revoked at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-38. Requirements [REVOKED]**

[Source: Added at 12 Ok Reg 2511, eff 6-26-95 ; Revoked at 32 Ok Reg 704, eff 1-1-16 (emergency); Revoked at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-39. Organization [REVOKED]**

[Source: Added at 12 Ok Reg 2511, eff 6-26-95 ; Amended at 25 Ok Reg 22, eff 10-1-07 (emergency); Amended at 25 Ok Reg 1962, eff 7-1-08 ; Amended at 26 Ok Reg 415, eff 11-20-08 (emergency); Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 27 Ok Reg 48, eff 10-1-09 (emergency); Amended at 27 Ok Reg 1869, eff 7-1-10 ; Amended at 31 Ok Reg 154, eff 11-1-13 (emergency); Amended at 31 Ok Reg 1854, eff 9-15-14 ; Revoked at 32 Ok Reg 704, eff 1-1-16 (emergency); Revoked at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-40. Policy and procedure [REVOKED]**

[Source: Added at 12 Ok Reg 2511, eff 6-26-95 ; Amended at 25 Ok Reg 22, eff 10-1-07 (emergency); Amended at 25 Ok Reg 1962, eff 7-1-08 ; Amended at 26 Ok Reg 415, eff 11-20-08 (emergency); Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 27 Ok Reg 48, eff 10-1-09 (emergency); Amended at 27 Ok Reg 1869, eff 7-1-10 ; Revoked at 32 Ok Reg 704, eff 1-1-16 (emergency); Revoked at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-41. Records [REVOKED]**

[Source: Added at 12 Ok Reg 2511, eff 6-26-95 ; Amended at 16 Ok Reg 2527, eff 7-1-99 ; Amended at 19 Ok Reg 658, eff 2-1-02 (emergency); Amended at 19 Ok Reg 1171, eff 5-13-02 ; Amended at 26 Ok Reg 415, eff 11-20-08 (emergency); Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 27 Ok Reg 48, eff 10-1-09 (emergency); Amended at 27 Ok Reg 1869, eff 7-1-10 ; Amended at 31 Ok Reg 154, eff 11-1-13 (emergency); Amended at 31 Ok Reg 1854, eff 9-15-14 ; Revoked at 32 Ok Reg 704, eff 1-1-16 (emergency); Revoked at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-42. Requirements for part-day program employees [REVOKED]**

[Source: Added at 12 Ok Reg 2511, eff 6-26-95 ; Amended at 16 Ok Reg 2527, eff 7-1-99 ; Amended at 19 Ok Reg 658, eff 2-1-02 (emergency); Amended at 19 Ok Reg 1171, eff 5-13-02 ; Amended at 26 Ok Reg 415, eff 11-20-08 (emergency); Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 27 Ok Reg 48, eff 10-1-09 (emergency); Amended at 27 Ok Reg 1869, eff 7-1-10 ; Amended at 31 Ok Reg 154, eff 11-1-13 (emergency); Amended at 31 Ok Reg 1854, eff 9-15-14 ; Revoked at 32 Ok Reg 704, eff 1-1-16 (emergency); Revoked at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-43. Supervision of children [REVOKED]**

[Source: Added at 12 Ok Reg 2511, eff 6-26-95 ; Revoked at 32 Ok Reg 704, eff 1-1-16 (emergency); Revoked at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-44. Physical facilities [REVOKED]**

[Source: Added at 12 Ok Reg 2511, eff 6-26-95 ; Revoked at 32 Ok Reg 704, eff 1-1-16 (emergency); Revoked at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-45. Indoor equipment [REVOKED]**

[Source: Added at 12 Ok Reg 2511, eff 6-26-95 ; Amended at 30 Ok Reg 1386, eff 7-1-13 ; Revoked at 32 Ok Reg 704, eff 1-1-16 (emergency); Revoked at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-46. Outdoor safety and play equipment [REVOKED]**

[Source: Added at 12 Ok Reg 2511, eff 6-26-95 ; Revoked at 32 Ok Reg 704, eff 1-1-16 (emergency); Revoked at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-47. Care of infants, toddlers and two-year-olds [REVOKED]**

[Source: Added at 12 Ok Reg 2511, eff 6-26-95 ; Revoked at 32 Ok Reg 704, eff 1-1-16 (emergency); Revoked at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-48. Learning experiences [REVOKED]**

[Source: Added at 12 Ok Reg 2511, eff 6-26-95 ; Revoked at 32 Ok Reg 704, eff 1-1-16 (emergency); Revoked at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-49. Water activities [REVOKED]**

[Source: Added at 12 Ok Reg 2511, eff 6-26-95 ; Revoked at 32 Ok Reg 704, eff 1-1-16 (emergency); Revoked at 33 Ok Reg 1678, eff 9-15-16]

#### **340:110-3-49.1. Rest time [REVOKED]**

[Source: Added at 12 Ok Reg 2511, eff 6-26-95 ; Amended at 19 Ok Reg 658, eff 2-1-02 (emergency); Amended at 19 Ok Reg 1171, eff 5-13-02 ; Revoked at 32 Ok Reg 704, eff 1-1-16 (emergency); Revoked at 33 Ok Reg 1678, eff 9-15-16]

#### **340:110-3-49.2. Behavior and guidance [REVOKED]**

[Source: Added at 12 Ok Reg 2511, eff 6-26-95 ; Revoked at 32 Ok Reg 704, eff 1-1-16 (emergency); Revoked at 33 Ok Reg 1678, eff 9-15-16]

#### **340:110-3-49.3. Health [REVOKED]**

[Source: Added at 12 Ok Reg 2511, eff 6-26-95 ; Amended at 25 Ok Reg 22, eff 10-1-07 (emergency); Amended at 25 Ok Reg 1962, eff 7-1-08 ; Revoked at 32 Ok Reg 704, eff 1-1-16 (emergency); Revoked at 33 Ok Reg 1678, eff 9-15-16]

#### **340:110-3-49.4. Food and nutrition [REVOKED]**

[Source: Added at 12 Ok Reg 2511, eff 6-26-95 ; Revoked at 32 Ok Reg 704, eff 1-1-16 (emergency); Revoked at 33 Ok Reg 1678, eff 9-15-16]

#### **340:110-3-49.5. Transportation [REVOKED]**

[Source: Added at 12 Ok Reg 2511, eff 6-26-95 ; Amended at 22 Ok Reg 28, eff 10-1-04 (emergency); Amended at 22 Ok Reg 921, eff 5-12-05 ; Amended at 23 Ok Reg 1092, eff 6-1-06 ; Revoked at 32 Ok Reg 704, eff 1-1-16 (emergency); Revoked at 33 Ok Reg 1678, eff 9-15-16]

#### **340:110-3-49.6. Food service and sanitation requirements [REVOKED]**

[Source: Added at 12 Ok Reg 2511, eff 6-26-95 ; Revoked at 32 Ok Reg 704, eff 1-1-16 (emergency); Revoked at 33 Ok Reg 1678, eff 9-15-16]

#### **340:110-3-49.7. Fire safety [REVOKED]**

[Source: Added at 12 Ok Reg 2511, eff 6-26-95 ; Revoked at 32 Ok Reg 704, eff 1-1-16 (emergency); Revoked at 33 Ok Reg 1678, eff 9-15-16]

### **PART 3. JUVENILE DETENTION FACILITIES [REVOKED]**

#### **340:110-3-50. Purpose and policy of the law [REVOKED]**

[Source: Revoked at 14 Ok Reg 1408, eff 5-12-97]

#### **340:110-3-51. License [REVOKED]**

[Source: Revoked at 14 Ok Reg 1408, eff 5-12-97]

#### **340:110-3-52. Legal base [REVOKED]**

[Source: Amended at 9 Ok Reg 3567, eff 7-20-92 (emergency); Amended at 10 Ok Reg 2381, eff 6-11-93 ; Revoked at 14 Ok Reg 1408, eff 5-12-97]

#### **340:110-3-53. Type of facilities [REVOKED]**

[Source: Amended at 9 Ok Reg 3567, eff 7-20-92 (emergency); Amended at 10 Ok Reg 2381, eff 6-11-93 ; Revoked at 14 Ok Reg 1408, eff 5-12-97]

#### **340:110-3-54. Requirements [REVOKED]**

[Source: Amended at 9 Ok Reg 3567, eff 7-20-92 (emergency); Amended at 10 Ok Reg 2381, eff 6-11-93 ; Revoked at 14 Ok Reg 1408, eff 5-12-97]

### **340:110-3-55. Organization, administration and finances [REVOKED]**

[Source: Amended at 9 Ok Reg 3567, eff 7-20-92 (emergency); Amended at 10 Ok Reg 2381, eff 6-11-93 ; Amended at 10 Ok Reg 4481, eff 8-5-93 (emergency); Amended at 11 Ok Reg 2773, eff 6-13-94 ; Revoked at 14 Ok Reg 1408, eff 5-12-97]

### **340:110-3-56. Policy and procedure manual [REVOKED]**

[Source: Amended at 9 Ok Reg 3567, eff 7-20-92 (emergency); Amended at 10 Ok Reg 2381, eff 6-11-93 ; Revoked at 14 Ok Reg 1408, eff 5-12-97]

### **340:110-3-57. Admission procedure and criteria [REVOKED]**

[Source: Amended at 9 Ok Reg 3567, eff 7-20-92 (emergency); Amended at 10 Ok Reg 2381, eff 6-11-93 ; Revoked at 14 Ok Reg 1408, eff 5-12-97]

### **340:110-3-58. Records [REVOKED]**

[Source: Amended at 9 Ok Reg 3567, eff 7-20-92 (emergency); Amended at 10 Ok Reg 2381, eff 6-11-93 ; Revoked at 14 Ok Reg 1408, eff 5-12-97]

### **340:110-3-59. Release policy and procedure [REVOKED]**

[Source: Amended at 9 Ok Reg 3567, eff 7-20-92 (emergency); Amended at 10 Ok Reg 2381, eff 6-11-93 ; Revoked at 14 Ok Reg 1408, eff 5-12-97]

### **340:110-3-60. Juvenile rights [REVOKED]**

[Source: Amended at 9 Ok Reg 3567, eff 7-20-92 (emergency); Amended at 10 Ok Reg 2381, eff 6-11-93 ; Revoked at 14 Ok Reg 1408, eff 5-12-97]

### **340:110-3-61. Staff requirements [REVOKED]**

[Source: Amended at 9 Ok Reg 3567, eff 7-20-92 (emergency); Amended at 10 Ok Reg 2381, eff 6-11-93 ; Amended at 10 Ok Reg 4481, eff 8-5-93 (emergency); Amended at 11 Ok Reg 2773, eff 6-13-94 ; Revoked at 14 Ok Reg 1408, eff 5-12-97]

### **340:110-3-62. Security and control [REVOKED]**

[Source: Amended at 9 Ok Reg 3567, eff 7-20-92 (emergency); Amended at 10 Ok Reg 2381, eff 6-11-93 ; Amended at 10 Ok Reg 4481, eff 8-5-93 (emergency); Amended at 11 Ok Reg 2773, eff 6-13-94 ; Revoked at 14 Ok Reg 1408, eff 5-12-97]

### **340:110-3-63. Program/services [REVOKED]**

[Source: Amended at 9 Ok Reg 3567, eff 7-20-92 (emergency); Amended at 10 Ok Reg 2381, eff 6-11-93 ; Revoked at 14 Ok Reg 1408, eff 5-12-97]

### **340:110-3-64. Physical plant/facility [REVOKED]**

[Source: Amended at 9 Ok Reg 3567, eff 7-20-92 (emergency); Amended at 10 Ok Reg 2381, eff 6-11-93 ; Revoked at 14 Ok Reg 1408, eff 5-12-97]

### **340:110-3-65. Food service, sanitation and hygiene [REVOKED]**

[Source: Amended at 9 Ok Reg 3567, eff 7-20-92 (emergency); Amended at 10 Ok Reg 2381, eff 6-11-93 ; Revoked at 14 Ok Reg 1408, eff 5-12-97]

### **340:110-3-66. Safety and emergency [REVOKED]**

[Source: Amended at 9 Ok Reg 3567, eff 7-20-92 (emergency); Amended at 10 Ok Reg 2381, eff 6-11-93 ; Revoked at 14 Ok Reg 1408, eff 5-12-97]

## **PART 5. REQUIREMENTS FOR FAMILY CHILD CARE HOMES AND LARGE FAMILY CHILD CARE HOMES**

### **340:110-3-80. Purpose and policy of the law**

It is the declared purpose and policy of the Oklahoma Child Care Facilities Licensing Act to ensure maintenance of minimum standards for the care and protection of children away from their own homes, to encourage and assist the child care facility in attaining maximum standards, and to work for the development of sufficient and adequate services for child care. These requirements are presented as minimum requirements and safeguards to ensure the well-being of children. They have been developed from existing knowledge of child development and experience in child care.

[Source: Amended at 10 Ok Reg 107, eff 10-13-92 (emergency); Amended at 10 Ok Reg 2287, eff 6-11-93]

### **340:110-3-81. Definitions**

The following words and terms, when used in this Part , have the following meaning unless the context clearly states otherwise:

**"Assistant caregiver"** means an individual at least 16 years of age assisting in caring for children.

**"Child"** means an individual younger than 18 years of age

**"Department"** means Oklahoma Human Services (OKDHS).

**"Family child care home"** means a family home that provides care and supervision for seven or fewer children for part of the 24-hour day.

**"Hazard"** means anything that may inflict injury or cause harm.

**"Inaccessible"** means children are unable to access an item or area due to the use of a lock or child-proof barrier or the item is too high for children to easily reach.

**"Infant"** means a child from birth up to 12 months of age.

**"Large family child care home"** means a residential family home that provides care and supervision for eight to 12 children for part of the 24-hour day.



**"Locked"** means the use of a secure device that can only be opened by a key, combination, or code.

**"Parent"** means an individual legally responsible for the child, such as a mother, father, legal custodian, or legal guardian.

**"Primary caregiver"** means the caregiver who is present in the child care home and responsible for day-to-day program operation.

**"Relative"** means an individual with the relationship, whether by marriage, blood, or adoption, of:

- (A) parent;
- (B) grandparent;
- (C) brother;
- (D) sister;
- (E) step-parent;
- (F) step-sister;
- (G) step-brother;
- (H) uncle;
- (I) aunt; or
- (J) cousin.

**"Specialized service professional"** means an individual from an academic discipline or field of expertise providing individualized services to a child, such as behavioral or physical therapists.

**"Substitute caregiver"** means an individual designated by the primary caregiver to provide substitute child care for short periods of time.

**"Toddler"** means a child 12 through 23 months of age.

**"Unsupervised access to children"** means an individual being present with children without personnel present who have a complete criminal history review.

[Source: Amended at 10 Ok Reg 107, eff 10-13-92 (emergency); Amended at 10 Ok Reg 2287, eff 6-11-93 ; Amended at 11 Ok Reg 189, eff 10-6-93 (emergency); Amended at 11 Ok Reg 2773, eff 6-13-94 ; Amended at 17 Ok Reg 1607, eff 5-25-00 ; Amended at 25 Ok Reg 22, eff 10-1-07 (emergency); Amended at 25 Ok Reg 1962, eff 7-1-08 ; Amended at 27 Ok Reg 1869, eff 7-1-10 ; Amended at 27 Ok Reg 2646, eff 6-21-10 (emergency); Amended at 28 Ok Reg 1669, eff 7-1-11 ; Amended at 31 Ok Reg 154, eff 11-1-13 (emergency); Amended at 31 Ok Reg 1854, eff 9-15-14 ; Amended at 40 Ok Reg 1033, eff 9-15-23]

### **340:110-3-82. Necessity and issuance of license**

(a) **License required.** No child care program may be legally operated or maintained in the State of Oklahoma after June 20, 1964, unless licensed by the Oklahoma Department of Human Services (DHS).

(b) **Application for license.** Application for license is made on DHS provided forms and in the manner prescribed.

(c) **License issued.** In order to provide care for children in a child care program, a license is obtained from DHS that is issued on the basis of meeting minimum requirements essential for the health, safety, and well-being of the children in care.

- (1) Children are not accepted into care until DHS permission is obtained.
- (2) The license granted applies to the ownership and location specified at the time the license is issued. When ownership or location changes, DHS is notified.
- (3) The license is not transferable.

(4) Per Section 401 et seq. of Title 10 of the Oklahoma Statutes (10 O.S. § 401 et seq.), Oklahoma Child Care Facilities Licensing Act (Licensing Act), persons identified as registrants on the Restricted Registry are prohibited from:

- (A) licensure as a child care program;
- (B) ownership of a child care program;
- (C) employment in a child care program;
- (D) having unsupervised access to children; and/or
- (E) residing in a child care facility.

(d) **Application denied or license revoked.** DHS may deny an application or revoke a license if the applicant or licensee violates any provision of the Licensing Act.

(1) No application is denied or license revoked unless the licensee is given a 30 day notice in writing of the grounds for the proposed denial or revocation.

(2) If the denial or revocation is protested within 30 days of receipt of the written notice, a hearing is conducted.

(3) When DHS denies an application or revokes a license, the owner, business entity, or responsible entity cannot make application for a new child care program license within Oklahoma for five years following notification to the owner, business entity, or responsible entity of the application denial or license revocation; and during the appeal process.

[Source: Amended at 10 Ok Reg 107, eff 10-13-92 (emergency); Amended at 10 Ok Reg 2287, eff 6-11-93 ; Amended at 11 Ok Reg 189, eff 10-6-93 (emergency); Amended at 11 Ok Reg 2773, eff 6-13-94 ; Amended at 17 Ok Reg 1607, eff 5-25-00 ; Amended at 25 Ok Reg 22, eff 10-1-07 (emergency); Amended at 25 Ok Reg 1962, eff 7-1-08 ; Amended at 26 Ok Reg 415, eff 11-20-08 (emergency); Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 27 Ok Reg 1869, eff 7-1-10 ; Amended at 31 Ok Reg 154, eff 11-1-13 (emergency); Amended at 31 Ok Reg 1854, eff 9-15-14]

### **340:110-3-83. Family day care home standards [REVOKED]**

[Source: Revoked at 10 Ok Reg 107, eff 10-13-92 (emergency); Revoked at 10 Ok Reg 2287, eff 6-11-93]

### **340:110-3-84. Ages and number of children**

(a) **Total number of children.** The maximum number of children in care at one time, on or off of the premises, does not exceed the number of children specified on the license.

(1) The total number of children in care is limited to:

- (A) seven children, for a family child care home;
- (B) twelve children, for a large family child care home; and
- (C) includes children in (2) and (3) of this subsection.

(2) The total number of children in care includes:

- (A) children younger than 5 years of age living in the home and present while children are in care;
- (B) foster children 12 years of age and younger living in the home and present while children are in care; and
- (C) the substitute's or assistant caregiver's children present while children are in care.

(3) When the primary caregiver is licensed in an alternative residence other than his or her primary residence, the total

number of children in care includes children 12 years of age and younger not residing in the alternative residence.

**(b) One caregiver.**

(1) When only one caregiver is present, the total number and ages of children in care at any one time are:

- (A) seven children, with no more than two children younger than 2 years of age;
- (B) six children, with no more than three children younger than 2 years of age; or
- (C) five children of any age.

(2) Examples of number and ages of children are described in this paragraph.

(A) When one caregiver has seven children in care, the program may care for:

- (i) seven children two years of age and older, and no children younger than two years of age;
- (ii) one child younger than two years of age, and six children two years of age and older; or
- (iii) two children younger than two years of age, and five children two years of age and older.

(B) When one caregiver has six children in care, the program may care for three children younger than two years of age, and three children two years of age and older.

(C) When one caregiver has five children in care, the program may care for:

- (i) four children under two years of age and one child two years of age and older; or
- (ii) five children all younger than two years of age, and no children two years of age and older.

**(c) Two caregivers.** Two caregivers are required to provide care when:

- (1) seven children are in care and more than two children are younger than 2 years of age; or
- (2) six children are in care and more than three children are younger than 2 years of age.

(d) Additional staff provisions are made for enrollment of children with disabilities requiring individual attention.

[Source: Amended at 10 Ok Reg 107, eff 10-13-92 (emergency); Amended at 10 Ok Reg 2287, eff 6-11-93 ; Amended at 17 Ok Reg 1607, eff 5-25-00 ; Amended at 25 Ok Reg 22, eff 10-1-07 (emergency); Amended at 25 Ok Reg 1962, eff 7-1-08 ; Amended at 37 Ok Reg 1858, eff 11-1-20]

**340:110-3-85. Caregiver requirements**

**(a) Caregiver responsibilities.** Caregiver responsibilities in (1) through (15) of this subsection are met.

(1) **Primary caregiver.** The primary caregiver is present in the home at least 80 percent of weekly-operating hours and is responsible for the day-to-day program operation. The sole proprietor is the primary caregiver.

(2) **Care and supervision.** The caregiver provides children's care and supervision at all times, both indoors and outdoors.

(A) Caregivers prevent and respond to allergies and life-threatening conditions by:

- (i) being aware of children's known food and life-threatening allergies;
- (ii) knowing the location of life-threatening condition medications; and
- (iii) ensuring life-threatening condition medications, such as epinephrine pens and rescue inhalers, are in close proximity to the child for immediate administration when needed, including outdoors when the child is outside, during transportation, or on field trips. However, medications are inaccessible to children.

(B) Supervision of children means observing, overseeing, and guiding a child or group of children, including:

- (i) awareness of, and responsibility for, each child's ongoing activity and, being near enough to intervene when needed;
- (ii) observation of infants at least every 15 minutes while awake or sleeping; and
- (iii) observation of children 1 year of age and older at least every 15 minutes while in cribs and playpens.

(3) **Outdoor play supervision.** In addition to the requirements in (2) of this subsection, the caregiver remains outdoors with children at all times when:

- (A) there is a potentially hazardous situation, such as a pool on the premises or a trampoline in the outdoor play area;
- (B) there is access to a dog(s) outdoors;
- (C) there are children 3 years of age and younger present;
- or
- (D) the outdoor area is not completely fenced.

(4) **Overnight care supervision.** When children are in care overnight and more than one caregiver is required due to the children's ages and number, at least one caregiver is awake at all times.

(5) **Assistant and substitute caregivers.** When the primary caregiver employs an individual to assist with or provide children's care and supervision in the primary caregiver's absence, the primary caregiver ensures the assistant or substitute caregiver is qualified, understands and complies with requirements, and has current cardio-pulmonary resuscitation (CPR) and first aid certification documentation, per Oklahoma Administrative Code (OAC) 340:110-3-85(h).

(A) **Required records.** Prior to employment, a personnel information form provided by Oklahoma Human Services (OKDHS) is completed. Relative references are not accepted. Assistant and substitute personnel records are maintained at the home and available to Licensing on request.

(B) **Assistant caregiver.** When an assistant caregiver is employed to meet the required staff to child ratio, the assistant caregiver is a responsible, mature, and healthy individual at least 16 years of age. The caregiver is prohibited from leaving children alone in the care of individuals younger than 18 years of age.

(C) **Substitute caregiver.** A substitute caregiver, at least 18 years of age, is available to provide care for short periods of time in the caregiver's absence.

(i) The substitute caregiver may be used in emergency situations and occasionally in non-emergency situations. In non-emergency situations, the caregiver notifies parents in advance when the substitute will be providing care.

(ii) The substitute's name, address, and phone number are provided to Licensing and posted with the other required emergency numbers.

(6) **Criminal history investigation verification.** The family child care owner or primary caregiver is responsible for submitting to OKDHS Office of Background Investigations (OBI), criminal history investigations and obtaining dispositions on any charges shown on the report lacking dispositions.

(7) **Realistic expectations.** The caregiver demonstrates a capacity for setting realistic behavior and performance expectations based on the children's ages, abilities, and special needs.

(8) **Constructive influence.** The caregiver's family members and others living in the home accept the children in care and provide constructive influence. There is an indication of a stable and harmonious home life.

(9) **Hazards.** The caregiver recognizes and acts to correct hazards to children's safety, both indoors and outdoors.

(10) **Child abuse and human trafficking reporting.** Reporting requirements in (A) and (B) of this paragraph are met.

(A) Any person who has reason to believe a child was abused or neglected, per Section 1-1-105 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-1-105) is required to report the matter promptly to the OKDHS Child Abuse and Neglect Hotline at 1-800-522-3511, per 10A O.S. § 1-2-101. Failure to report is a misdemeanor offense and upon conviction is punishable by law. Failure to report with prolonged knowledge, six months or more, of ongoing abuse or neglect is a felony offense.

(B) Per 21 O.S. § 870, every person having reason to believe that a person or child-placing agency is engaging in the crime of human trafficking in children, per 21 O.S. § 866, reports the matter promptly to the Oklahoma Bureau of Narcotics and Dangerous Drugs Control.

(11) **Licensing notification.** The primary caregiver notifies Licensing within:

(A) 24-hours of a child death while in care;

- (B) 24-hours of accidents involving transportation unless there were no injuries and only minor vehicle damage;
- (C) 24-hours of changes in liability insurance coverage;
- (D) 24-hours of a phone number change;
- (E) 24-hours of an unscheduled temporary or permanent program closure or relocation;
- (F) 24-hours of a child's injury requiring emergency medical attention;
- (G) 24-hours of an incident exposing children to an imminent risk of harm, such as a child leaving the premises without caregiver knowledge or being left alone on- or off-site or in a vehicle;
- (H) 24-hours of remodeling, changes, or physical facility damage affecting compliance with licensing requirements;
- (I) 24-hours of known arrests, criminal investigations, criminal charges, or child abuse investigations involving individuals living in the home, providing care, or assisting with children's care;
- (J) 24-hours of any legal action against a caregiver involving or affecting a child in care or program operation;
- (K) 24-hours when an animal bites a child and the skin is broken;
- (L) 24-hours of any disease or illness requiring prompt local or Oklahoma State Department of Health (OSDH) notification, per OAC 340:110-3-90(c)(2)(A).
- (M) five-calendar days of an individual moving into the home; and
- (N) 30-calendar days in advance of moving from one residence to another, unless an emergency exists. The new home complies with licensing requirements.

(12) **Heinous and shocking abuse notification.** OKDHS notifies programs of a substantiated finding of heinous and shocking abuse by a person responsible for a child's health, safety, or welfare, as defined per 10A O.S. § 1-1-105. Upon receiving the notice, the facility owner or primary caregiver provides notification to parents or legal guardians of children attending the facility using an OKDHS-provided form.

(A) Notification is:

- (i) immediately attempted but not later than 72 hours of notice receipt from OKDHS; and
- (ii) provided by certified mail; and

(B) The program maintains the list of notified parents and legal guardians for at least 12 months.

(13) **License posting.** The permit or license is displayed in the home, including the denial or revocation notice, when applicable.

(14) **Other employment.** The caregiver is prohibited from conducting business in the home during the hours children are in care. The primary caregiver is not employed outside the home during child care hours.

(15) **Foster care.** The caregiver may not provide therapeutic foster care. The caregiver may provide foster care only with prior

written approval from Licensing for each child placement.

(A) The written approval includes the number and ages of foster children.

(B) Foster children 12 years of age and younger are counted in the license capacity.

(16) **Inactive care.** A primary caregiver is in inactive status when care was not provided for more than 90-consecutive calendar days.

(A) Prior to resuming care, the caregiver notifies Licensing to verify compliance with licensing requirements.

(B) When care was not provided for more than 12-consecutive months, the family child care home is closed. Prior to resuming care, the caregiver must reapply and be approved for a license.

(b) **Caregiver qualifications.** Caregiver qualifications are described in this subsection.

(1) **General.** The caregiver is a responsible, mature, healthy adult capable of understanding and complying with licensing requirements, and meeting children's needs. The caregiver demonstrates prudent and responsible behavior reasonably ensuring children's health, safety, and well-being. Caregivers interact with children without physical, psychological, or emotional punishment, mistreatment, neglect, or abuse.

(A) Primary caregivers are at least 21 years of age.

(B) Primary caregivers applying for a license after October 1, 2007, have obtained a high school diploma or General Educational Development credential (GED).

(C) Caregivers left alone with children have the ability to read and write for keeping required records, reading the licensing requirements, and administering medication.

(D) Caregivers cooperate with Licensing during monitoring visits and OKDHS investigations.

(2) **Primary caregivers licensed or employed before June 1, 2022.** Primary caregivers obtain a current Level 1 or higher Oklahoma Professional Development Ladder (OPDL) certificate, per OAC 340 Appendix FF - Oklahoma Professional Development Ladder, by June 1, 2023.

(3) **Primary caregivers licensed or employed on or after June 1, 2022.** Prior to or within 12 months of licensure or employment, primary caregivers obtain and maintain a current Level 1 or higher OPDL certificate, per OAC 340 Appendix FF - Oklahoma Professional Development Ladder.

(4) **Health.** The requirements relating to the caregiver's, assistant caregiver's, and household members' health in (A) through (C) of this paragraph are met.

(A) **General health.** Caregivers and household members where licensed care is provided are in good physical, mental, and emotional health. When it is reported or observed that a caregiver or household member has a physical, mental, or emotional condition that could negatively impact children's care, a licensed physician's

statement is requested.

(B) **Tuberculosis testing.** The need for personnel tuberculin skin testing is based upon a local identified tuberculosis exposure, the degree of transmission risk of latent tuberculosis infection, the impact to public health and safety, and OSDH specific recommendations.

(C) **Immunizations.** There is documentation verifying children living in the home have or are in the process of obtaining the required immunizations at the medically appropriate time, per OAC 340 Appendix II - Immunizations.

(5) **References.** The primary caregiver submits to Licensing the names of three non-relative references that may include a licensed personal or family physician.

(c) **Background investigations - general.**

(1) **Required individuals.** Background investigations are required, per the Oklahoma Child Care Facilities Licensing Act (Licensing Act), 10 O.S. § 404.1, unless an exception, per (3) of this subsection applies for:

(A) owners, prior to authorization to operate;

(B) responsible entities, prior to authorization to operate and, when there is a change in a responsible entity;

(C) personnel applicants, prior to hire; however, the program may hire individuals, when:

(i) the program has submitted a criminal history review request to OBI;

(ii) only awaiting the national criminal history records search, based on fingerprint submission;

(iii) criminal history review results from OBI are received by the program. However, until complete results are received, the individual does not have unsupervised access to children; and

(iv) coming from another licensed program owned by the same business entity. Individuals are not required to repeat the background investigation process, unless required, per (2) of this subsection, with the exception of criminal history restriction waivers, provided there is no break in employment from the business entity; and

(D) individuals with unsupervised access to children, prior to having access to children, unless an exception, per (3) of this subsection applies;

(E) adults living in the facility, prior to authorization to operate or moving into the facility of an existing program. This includes children, who become 18 years of age while living in the facility; and

(F) individuals having access to, or review of, fingerprint results, prior to access to or review of results.

(2) **Resubmission of criminal history reviews as of November 2, 2017.** Effective November 2, 2017, programs request a criminal history review process, excluding



fingerprinting, for required individuals every five years. However criminal history reviews requested prior to November 2, 2017, are resubmitted by November 1, 2022.

(3) **Non-required individuals.** Background investigations are not required for:

- (A) specialized service professionals who are not program personnel, provided parent releases are obtained, per OAC 340:110-3-88(c);
- (B) volunteer drivers transporting children on an irregular basis and not filling another position, provided parent releases are obtained, per OAC 340:110-3-88(c);
- (C) contracted drivers not filling another position or having unsupervised access to children; and
- (D) contracted non-personnel not having unsupervised access to children, such as when the program contracts for special activities or facility repair.

(d) **Background investigations - Restricted Registry.** The program conducts an online search of the Restricted Registry, also known as Joshua's List, when required, per (c) of this Section.

(1) **Non-registrants.** Non-registrants are individuals not recorded on the Restricted Registry.

(2) **Registrants.** Registrants are individuals recorded on the Restricted Registry who are prohibited from licensure, ownership, employment, unsupervised access to children, or facility residence, and prohibited individuals, per (e) of this Section.

(e) **Background investigations - criminal history.** The program and required individuals complete the criminal history review process. The program receives the completed criminal history review results from OBI, when required, per (c) of this Section.

(1) **Criminal history prohibitions.** Individuals with criminal history prohibitions are prohibited, per (f) of this Section.

Criminal history prohibitions include:

(A) required registration under the:

- (i) Sex Offenders Registration Act, including state and national repositories; or
- (ii) Mary Rippey Violent Crime Offenders Registration Act; or

(B) pleas of guilty or nolo contendere (no contest), or convictions of felonies involving:

- (i) murder, as defined in Section 1111 of Title 18 of United States Code;
- (ii) child abuse or neglect;
- (iii) crimes against children, including child pornography;
- (iv) spousal abuse;
- (v) crimes involving rape or sexual assault;
- (vi) kidnapping;
- (vii) arson;
- (viii) physical assault or battery; or
- (ix) a drug-related offense committed during the preceding five years, unless a criminal history

restriction waiver, per (2) of this subsection, is granted; or

(C) pleas of guilty or nolo contendere (no contest), or convictions of violent misdemeanors committed as adults against a child involving:

(i) child abuse or child endangerment; or

(ii) sexual assault; or

(D) pleas of guilty or nolo contendere (no contest), or convictions of misdemeanors involving child pornography.

(2) **Criminal history restrictions.** Individuals with criminal history restrictions are prohibited, per (f) of this Section, unless a criminal history restriction waiver is granted. Criminal history restrictions include pending charges, pleas of guilty or nolo contendere (no contest), or convictions of criminal activity involving:

(A) gross irresponsibility or disregard for the safety of others;

(B) violence against an individual;

(C) sexual misconduct;

(D) child abuse or neglect;

(E) animal cruelty;

(F) illegal drug possession, sale, or distribution; or

(G) a pattern of criminal activity.

(3) **Criminal history restriction waivers.** Restriction waivers are described in (A) through (C) of this paragraph.

(A) Restriction waivers may be requested for individuals having criminal history restrictions. The owner, responsible entity, or primary caregiver completes requests on an OKDHS form.

(B) Restriction waivers are not requested or granted for:

(i) Restricted Registry registrants;

(ii) individuals with criminal history prohibitions; or

(iii) individuals whose sentence has not expired for criminal history restrictions, per (2) of this subsection.

(C) Individuals identified in pending or denied restriction waiver requests are prohibited, per (f) of this Section.

**(f) Prohibited individuals.**

(1) **Background investigation of required individuals.** The program does not allow a required individual to be the owner or responsible entity, to be employed, to live in the facility, or have:

(A) access to children, such as being present at the facility during the hours of operation or present with the children in care while off-site, when the individual has:

(i) criminal history prohibitions;

(ii) criminal history restrictions, unless a criminal history restriction waiver is granted. Individuals identified in a pending or denied restriction waiver request are prohibited; or

(iii) a substantiated heinous and shocking abuse finding; or

(B) unsupervised access to children, when the individual is a Restricted Registry registrant.

(2) **Background investigation statements and consents.**

Individuals are prohibited to be the owner or responsible entity, to be employed, or to live in the facility, when:

(A) the individual refuses to consent to background investigations, per (c) of this Section; or

(B) knowingly makes a materially-false statement in connection with criminal background investigations.

(3) **Child endangerment.** An individual whose health or behavior would endanger children's health, safety, or well-being is not permitted to live in the home or be on the premises when children are in care.

(4) **Alcohol, drugs, and medication.** When children are in care, no caregiver is under the influence of:

(A) alcohol or illegal drugs; or

(B) medication impairing his or her functioning.

(g) **Child abuse and neglect-OKDHS database.** An OKDHS database search is conducted on individuals signing the request for license. A confirmed or substantiated allegation of child abuse or neglect is considered when evaluating the applicant's qualifications and children's safety and well-being.

(h) **Professional development requirements.** Caregiver professional development requirements in (1) through (5) of this subsection are met.

(1) **General.** The primary caregiver is required to complete 12 clock-hours of professional development annually through workshops, training, videos, or individual position-related readings. Only six clock-hours of videos or individual position-related readings are counted annually toward the required 12 clock-hours. Effective June 1, 2023, professional development meets requirements, per (5) of this paragraph.

(2) **CPR and first aid certification.** CPR and first aid requirements in (A) through (C) of this subsection are met.

(A) CPR and first aid are age-appropriate for the children's ages accepted into care and from approved sources listed on the Oklahoma Professional Development Registry (OPDR) website.

(B) Current CPR and first aid certification is required for:

(i) the primary caregiver, prior to permission to operate or initial permit issuance;

(ii) individuals caring for children alone, on or off of the premises, including during transportation; and

(iii) other caregivers, included in the adult-child ratio. CPR and first aid certification is obtained within three months of beginning child care.

(C) CPR and first aid certification is kept current, approved by Licensing, and maintained at the facility.

(3) **Health and safety training.** Prior to caring for children, caregivers obtain professional development in:

- (A) the prevention and control of infectious disease and injury prevention measures;
- (B) fire extinguisher use;
- (C) the prevention of shaken baby syndrome and abusive head trauma;
- (D) reducing the risks of sudden infant death syndrome (SIDS) and other sleep-related causes of infant death;
- (E) use of infant safe sleep practices;
- (F) car seat and transportation precautions and safety;
- (G) building and physical premise safety including identification of, and protection from, hazards that can cause bodily injury, such as electrical hazards, bodies of water, or vehicular traffic;
- (H) the handling and storage of hazardous materials and appropriate bio-contaminant disposal;
- (I) emergency preparedness and response planning for emergencies resulting from a natural disaster or human-caused event addressing continuity of planning and all situations, per OAC 340:110-3-86.1;
- (J) immunizations;
- (K) medication administration, consistent with standards for parental consent;
- (L) the prevention of, and response to, emergencies due to food and allergic reactions;
- (M) the definition, identification, and mandatory reporting of child abuse and neglect;
- (N) behavior, guidance, and child maltreatment prevention methods; and
- (O) child development.

(4) **Safe-sleep training.** Prior to caring for infants, the primary caregiver and individuals caring for infants alone, obtain two or more clock-hours of professional development in safe-sleep practices from an OPDR-approved training organization.

(5) **Continuing professional development effective June 1, 2023.** Ongoing professional development is required.

(A) Primary caregivers obtain at least the required number of professional development clock-hours to maintain a current Level 1 or higher OPDL certificate, per OAC 340 Appendix FF - Oklahoma Professional Development Ladder. However, informal professional development clock-hours are limited.

(B) Formal professional development is:

- (i) a course or training event of two or more clock-hours from an OPDR-approved training organization; and
- (ii) OPDR-approved college credit hours.

(C) Informal professional development is:

- (i) a course or training event of less than two clock-hours from an OPDR-approved training organization;

- (ii) any number of clock-hours from an OPDR non-approved training organization; and
- (iii) any training from electronic media, such as videos or DVDs.

(D) Reading and television programs do not count toward required clock-hours.

[Source: Amended at 10 Ok Reg 107, eff 10-13-92 (emergency); Amended at 10 Ok Reg 2287, eff 6-11-93 ; Amended at 11 Ok Reg 189, eff 10-6-93 (emergency); Amended at 11 Ok Reg 2773, eff 6-13-94 ; Amended at 17 Ok Reg 1607, eff 5-25-00 ; Amended at 19 Ok Reg 658, eff 2-1-02 (emergency); Amended at 19 Ok Reg 1171, eff 5-13-02 ; Amended at 25 Ok Reg 22, eff 10-1-07 (emergency); Amended at 25 Ok Reg 1962, eff 7-1-08 ; Amended at 26 Ok Reg 415, eff 11-20-08 (emergency); Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 27 Ok Reg 48, eff 10-1-09 (emergency); Amended at 27 Ok Reg 1869, eff 7-1-10 ; Amended at 31 Ok Reg 154, eff 11-1-13 (emergency); Amended at 31 Ok Reg 1854, eff 9-15-14 ; Amended at 34 Ok Reg 200, eff 11-22-16 (emergency); Amended at 34 Ok Reg 1652, eff 9-15-17 ; Amended at 35 Ok Reg 475, eff 1-31-18 (emergency); Amended at 35 Ok Reg 1705, eff 9-17-18 ; Amended at 37 Ok Reg 1858, eff 11-1-20 ; Amended at 40 Ok Reg 1033, eff 9-15-23]

### **340:110-3-86. Home environment**

#### **(a) Physical conditions.**

- (1) **Licensing accessibility.** All areas of the home are accessible to Licensing.
- (2) **Indoor space.** There is minimum indoor space available for children's routine use of not less than 35 square feet per child excluding hallways, bathrooms, kitchen, and space not intended for children's use. Rooms used exclusively for napping are not included in the capacity.
- (3) **Maintenance.** The home is in a good state of repair, clean and sanitary, and has operable utilities.
- (4) **Phones.** The home has an operable landline or cellular phone.
- (5) **Toilet facilities.** The home has:
  - (A) a sink with comfortably warm or tempered running water not to exceed 120 degrees Fahrenheit;
  - (B) an operable toilet available for children's use;
  - (C) soap for hand-washing and individual towels; and
  - (D) toilet paper within easy reach of children.
- (6) **Hazards.** The premises are free of hazards, indoor and out.
  - (A) All medicines, cleaning products, hazardous items, and tobacco or simulated tobacco materials are inaccessible to children.
  - (B) The premises are free of illegal drugs and paraphernalia.
  - (C) Clear glass doors are plainly marked at the child's eye level to avoid accidental impact.
  - (D) Play equipment and home furnishings accessible to children do not pose tipping hazards.
  - (E) All stairways with four or more steps have a railing. Indoor stairways are made inaccessible when infants and toddlers are in care.
- (7) **Weapons.** All weapons are stored unloaded in a locked container, cabinet, or closet. Ammunition is stored in a locked area separate from weapons.

(8) **Lighting and ventilation.** Rooms used by children are lighted enough to accommodate activities with comfort and allow the caregiver to see children's facial features at all times. Rooms used by children are ventilated.

(9) **Tobacco products.** When children are in care, smoking and simulated tobacco use is prohibited inside the home and in the presence of children. Other tobacco products are not used in the presence of children or in areas designated for children's use. Parents are informed upon enrollment of smoking and simulated tobacco use in the home.

(10) **Indoor temperature.** The indoor areas are maintained between 65 and 80 degrees Fahrenheit.

(11) **Screens.** Opened windows or doors maintain screens to minimize the entry of insects.

(12) **Outdoor play safety.** There is an outdoor play area on the premises with at least 75 square feet per child.

(A) This area must be hazard free, away from traffic, water, and other dangers.

(B) A fence beginning at ground level and in good repair is required. Licensing may grant an exception when children's safety can be ensured.

(13) **Outdoor play.** Children play outdoors daily when weather conditions do not pose a significant health risk.

(14) **Fire safety.** The home complies with all fire safety requirements, per Oklahoma Administrative Code (OAC) 340:110-3-97.

(15) **Water supply and waste disposal.** Water supply, sewage disposal, and solid waste disposal meet local city ordinances and Oklahoma Department of Environmental Quality regulations.

(16) **Water testing.** When not on a public water supply, water is tested initially and annually for lead, bacteria, and nitrates.

(17) **Questionable conditions.** When the fire, safety, or health conditions are questionable, the appropriate state or local agency is requested to inspect the home.

(b) **Water safety.**

(1) **Supervision.** Any play activity involving water is supervised constantly.

(2) **Accessibility of ponds, pools, and hot tubs.** No ponds, pools, or hot tubs are accessible to children.

(3) **Fencing.** Pools are fenced to prevent unsupervised access. All doors and gates leading to the pool are locked. There is a:

(A) sturdy fence at least four feet high and cannot be easily climbed; or

(B) fence connecting to the top of an above-ground pool and extending two feet above the pool.

(4) **Wading pools.** Portable wading pool use is prohibited.

(5) **Swimming.** Swimming pools used by the child care home are considered public bathing places and must meet water quality, occupancy, and fencing standards, per Design Standards and Operational Criteria for Public Bathing Places, Oklahoma State Department of Health Engineering Bulletin. This includes wading

pools, water parks, in-ground pools, and above-ground pools.

When children swim in a pool:

- (A) the caregiver is at or in the water and appropriately dressed to enter the water at any time;
- (B) an individual with a Community Water Safety Certificate or a Licensing-approved comparable certificate is in attendance at all times; and
- (C) the adult to child ratio for:
  - (i) infants and toddlers is one adult to one child.  
This adult:
    - (I) is not counted in any other adult-child ratios; and
    - (II) remains in direct physical contact with infants at all times during swimming or wading; and
  - (ii) children 2 years of age and older meets requirements, per OAC 340:110-3-84(a) through (d) for family child care homes and OAC 340:110-3-97.1(f) for large family child care homes; and
  - (iii) four or more children 2 years of age through 3 years of age, requires one additional adult.

**(6) Restrictions.**

- (A) Hot tub use by children in care is prohibited. The hot tub must be equipped with a hard cover.
- (B) Swimming and wading is not permitted at a lake, pond, or other body of water.

**(c) Animals and household pets.**

- (1) Parents are advised of animal presence.
- (2) Animals are in good health, do not show evidence of carrying disease, are friendly, and do not pose a health or safety risk.
- (3) All contact between animals and children is supervised by a caregiver close enough to remove the child or animal immediately if the animal shows distress signs or the child shows signs of treating the animal inappropriately.
- (4) Current rabies vaccination administered by a licensed veterinarian for dogs and cats is documented and maintained on the premises.
- (5) Ferrets, turtles, and any wild or dangerous animals are in an area inaccessible to children.
- (6) Reptiles, such as crocodiles, alligators, poisonous snakes and lizards, pythons, and boa constrictors, are not on the premises.
- (7) Animals are restricted from areas where food is prepared or served and from children's sleeping surfaces.
- (8) Animal litter boxes are not located in food preparation areas and are not easily accessible to children in other areas of the home.
- (9) Outdoor play areas are cleaned of animal waste before children play outside.
- (10) When an animal bites a child and the skin is broken, the child's parent is contacted immediately. Licensing and the local or Oklahoma State Department of Health are notified within 24

hours.

(d) **Overnight care.** Overnight care is only provided by a licensed caregiver at his or her primary residence.

[Source: Amended at 10 Ok Reg 107, eff 10-13-92 (emergency); Amended at 10 Ok Reg 2287, eff 6-11-93 ; Amended at 17 Ok Reg 1607, eff 5-25-00 ; Amended at 22 Ok Reg 35, eff 10-1-04 (emergency); Amended at 22 Ok Reg 921, eff 5-12-05 ; Amended at 25 Ok Reg 22, eff 10-1-07 (emergency); Amended at 25 Ok Reg 1962, eff 7-1-08 ; Amended at 34 Ok Reg 200, eff 11-22-16 (emergency); Amended at 34 Ok Reg 1652, eff 9-15-17 ; Amended at 40 Ok Reg 1033, eff 9-15-23]

### **340:110-3-86.1. Emergency preparedness**

(a) **General.** All caregivers are familiar with emergency plans and procedures. Written plans and procedures are:

- (1) developed by the primary caregiver;
- (2) maintained on site;
- (3) individualized to the program and operating hours; and
- (4) followed, unless children's safety is at risk or emergency personnel provide alternative instructions during an emergency.

(b) **Emergency medical care plans.** Emergency medical care plans include:

- (1) a planned source of medical care, such as a hospital emergency room, clinic, or other medical facility or physician acceptable to parents; and
- (2) available emergency transportation.

(c) **Situations.** Emergency plans and procedures are maintained in a readily available and portable manner and include procedures for:

- (1) serious injuries;
- (2) serious illnesses;
- (3) poison exposure;
- (4) communicable disease outbreaks, including pandemic influenza;
- (5) weather conditions, including tornados, floods, blizzards, and ice storms;
- (6) fires, including wildfires;
- (7) man-made disasters, including chemical and industrial accidents;
- (8) human threats, including individuals with threatening behaviors, bomb threats, and terrorist attacks;
- (9) lost or abducted children;
- (10) other natural or man-made disasters that could create facility structural damage or pose health hazards; and
- (11) utility disruption.

(d) **Child location and considerations.** Emergency plans include procedures:

- (1) accounting for each child's location during an emergency; and
- (2) addressing each child's considerations, with additional considerations for children:
  - (A) 2 years of age and younger; and
  - (B) with special needs or chronic medical conditions.

(e) **Shelter-in-place.** Emergency plans include procedures for short and extended stay situations requiring children stay inside the home, such as tornados or other weather emergencies.



(f) **Lock-down.** Emergency plans and procedures for situations threatening children and adults' safety include:

- (1) notifying adults present in the home;
- (2) keeping children in designated safe locations inside the home;
- (3) encouraging children to remain calm and quiet;
- (4) securing home entrances;
- (5) preventing unauthorized individuals from entering the home;
- and
- (6) responding when outdoors and on field trips.

(g) **Evacuation.** Emergency plans include procedures for situations, such as a fire, requiring children leave the home and meet at pre-determined locations.

(h) **Relocation.** Emergency plans include procedures for situations requiring children move to an alternate location, such as bomb threats and wildfires, and include:

- (1) pre-determined primary and secondary alternate locations, with prior approval from the contact individual at alternate locations;
- (2) relocating children, including a pre-determined transportation plan; and
- (3) reuniting parents and children.

(i) **Reporting.** Emergency plans include procedures for notifying:

- (1) emergency authorities, including the poison control center, when necessary;
- (2) parents, including a method and backup method for how and when parents are notified; and
- (3) Licensing.

(j) **Posted emergency information.** Emergency information posted next to the phone or in a prominent place includes:

- (1) the home's address;
- (2) a licensed physician or clinic;
- (3) the fire department;
- (4) the police department;
- (5) poison control, 1-800-222-1222; and
- (6) a substitute caregiver.

(k) **First aid supplies.** First aid supplies are available but made inaccessible to children. Supplies are stored together in a portable container .

(1) Supplies in the home at least include:

- (A) non-glass, non-mercury thermometer;
- (B) disposable non-porous, latex-free gloves;
- (C) blunt-tipped scissors;
- (D) tweezers;
- (E) bandage tape;
- (F) sterile gauze pads;
- (G) rolled flexible or stretch gauze;
- (H) non-medicated adhesive strips; and
- (I) current first aid guide.

(2) In addition, the first aid supplies in vehicles at least include:

- (A) a cold pack;

- (B) liquid soap and water or individually packaged moist, disposable towelettes for cleaning wounds;
  - (C) hand sanitizer and moist disposable towelettes for hand hygiene;
  - (D) plastic bags for disposal of items contaminated with blood or other body fluids; and
  - (E) a pen or pencil and note pad.
- (l) **Poisoning.** The caregiver immediately contacts poison control, 1-800-222-1222, with any suspected child poisonings.
- (m) **Emergency supply kit.** Records and supplies available during an emergency include:
  - (1) **Emergency records.** Records at least include the:
    - (A) emergency plans and procedures, alternate location addresses, phone numbers, and contacts;
    - (B) emergency contacts for all caregivers and enrolled children; and
    - (C) full names of children and caregivers currently in attendance; and
  - (2) **Emergency supplies.** Supplies gathered at the time of an emergency or maintained in a portable container at all times at least include:
    - (A) first aid supplies; and
    - (B) children's prescribed medications, including life-threatening condition medications.
- (n) **Drills.** Drills are conducted, documented, and follow the pre-determined emergency plans and procedures.
  - (1) **Monthly.** Monthly drills include:
    - (A) fire drills conducted by evacuating and meeting at pre-determined locations; and
    - (B) tornado drills conducted by sheltering in pre-determined on-site locations.
  - (2) **Annual.** Annual drills conducted include:
    - (A) locking-down by sheltering in pre-determined on-site locations;
    - (B) relocating according to preparation procedures but physical relocation is not required;
    - (C) sheltering-in-place, requiring children stay inside the home, such as tornados and other weather emergencies; and
    - (D) evacuating and meeting at pre-determined locations.
- (o) **Emergency plans and procedures reviews.** The primary caregiver updates, when necessary, and reviews emergency plans and procedures:
  - (1) at least once every 12 months;
  - (2) when children with special needs or chronic medical conditions enroll;
  - (3) after a drill when procedural issues are identified; and
  - (4) after an emergency, as identified in this Section.

### **340:110-3-87. Transportation**

(a) **Driver qualifications.** All drivers must:

- (1) be at least 21 years of age;
- (2) have an operator's license for the specific vehicle type and valid in the driver's state of residence;
- (3) have no conviction of driving under the influence of alcohol or drugs or other impaired driving offense within the last five years; and
- (4) when driving a vehicle designed to transport ten or more passengers, complete training specific to the vehicle's safe operation within three months of providing child transportation.

(b) **Written permission.** The primary caregiver maintains written transportation permission from the parent or guardian.

(c) **Verifications.** The vehicle is covered by liability insurance.

(d) **Records.** The driver is provided the names of children being transported and a method to contact children's parents or guardians in case of an emergency.

(e) **Passenger restraints and seating.** Children remain properly secured in a child passenger restraint system, such as car or booster seat or individual seat belt, per Section 11-1112 of Title 47 of the Oklahoma Statutes (47 O.S. § 11-1112). Children do not share a seat belt.

(1) The car and booster seats are:

- (A) federally approved;
- (B) installed, per manufacturer's instructions;
- (C) appropriate to the child's height, weight, and physical condition, per manufacturer's instructions; and
- (D) properly maintained, such as not expired or previously involved in a vehicle accident.

(2) Each seat belt:

- (A) is properly anchored to the vehicle; and
- (B) fits the child appropriately.

(3) Children 12 years of age and younger are prohibited from sitting in the front seat of an airbag equipped passenger vehicle unless an airbag cut off switch is installed and activated or when the vehicle has airbags equipped with weight sensitive devices. If a child 12 years of age or younger must be placed in front of an air bag, because all other positions are taken, it must be a child whose age and weight requires a forward facing harness seat.

(4) Adult passengers, including the driver, remain properly secured in an individual seat belt unless unable due to medical reasons documented by a licensed physician.

(5) Vehicle maximum capacity and seating space, per manufacturer's designations, is not exceeded.

(6) Children are not transported in vehicles or parts of vehicles not designed for transporting individuals, such as truck beds, campers, and trailers.

(f) **Vehicle requirements.** All vehicles used to transport children are maintained in a safe operating condition and meet all applicable state laws. Vehicles have:

- (1) door locks. Vehicle door locks are activated when the vehicle is moving;
- (2) a first aid kit , per Oklahoma Administrative Code (OAC)340:110-3-86.1(k); and
- (3) an operable heater maintaining an interior temperature of at least 65 degrees Fahrenheit ; and
- (4) a ventilation system, such as air conditioning or operable windows.

(g) **Supervision and safety.** Supervision and safety requirements are met.

- (1) Children are never left unattended.
- (2) Before leaving the vehicle, the caregiver conducts vehicle inspections to ensure no children are remaining.
- (3) An operable phone is in each vehicle transporting children.
- (4) While transporting children, drivers do not use a phone or wireless communication device, including hands-free technology:
  - (A) when the vehicle is in motion, with the exception of a navigational system or global positioning system device; and
  - (B) unless emergency communication is necessary and the vehicle is secured in park before devices are used.
- (5) Tobacco or simulated tobacco use is prohibited while transporting children.
- (6) Safe conduct to and from vehicles and safe off-street loading space is provided to protect children from:
  - (A) backing vehicles;
  - (B) being between vehicles; and
  - (C) traffic hazards.

[Source: Amended at 10 Ok Reg 107, eff 10-13-92 (emergency); Amended at 10 Ok Reg 2287, eff 6-11-93 ; Amended at 17 Ok Reg 1607, eff 5-25-00 ; Amended at 22 Ok Reg 28, eff 10-1-04 (emergency); Amended at 22 Ok Reg 921, eff 5-12-05 ; Amended at 23 Ok Reg 1092, eff 6-1-06 ; Amended at 25 Ok Reg 22, eff 10-1-07 (emergency); Amended at 25 Ok Reg 1962, eff 7-1-08 ; Amended at 40 Ok Reg 1033, eff 9-15-23]

### **340:110-3-88. Records**

- (a) **General requirements.** Children's records are maintained on Oklahoma Human Services (OKDHS) provided forms or on forms containing the same information. Records are current and easily accessible. OKDHS staff are allowed access to all records.
- (b) **Caregiver records.** Primary caregiver, assistant caregiver, and substitute caregiver records are completed and maintained in the home. Records include:

- (1) personnel information forms provided by OKDHS and submitted to Licensing within two weeks of employment;
- (2) criminal history investigations with records maintained in a confidential manner;
- (3) professional development documentation;
- (4) caregiver attendance, indicating days and hours worked , maintained on file for 12 months; and
- (5) documentation of requests and results of criminal history reviews.

(c) **Children's records.** Children's records are maintained as required in (1) through (3) of this subsection.

(1) Identification and health records include:

- (A) the child's name, birth date, parents' names, home addresses, places of employment, and phone numbers;
- (B) the names and phone numbers of persons to contact in an emergency when a parent cannot be located promptly;
- (C) parent permission authorizing the caregiver to transport the child to emergency medical care;
- (D) names and relationships of persons authorized for child pick-up;
- (E) health information, including immunization records;
- (F) the child's licensed physician's name, address, and phone number;
- (G) when applicable, medication and transportation permission; and
- (H) the date the child entered care.

(2) When a volunteer driver or specialized service professional does not have a criminal history review, per OAC 340:110-3-85(c), parent releases indicating understanding are signed and dated prior to unsupervised access to children for each volunteer driver or professional.

(3) Daily attendance records, including children's arrival and departure times, are maintained and on file a minimum of 12 months.

(d) **Public access to records - Compliance Posting.** Compliance posting requirements in (1) and (2) of this subsection are met.

(1) OKDHS-provided "Notice to Parents" is posted in a conspicuous location in clear view at the main facility entrance.

(2) Child welfare investigative summary with confirmed or substantiated findings for 120-calendar days from the investigation completion is posted in clear view of the main facility entrance.

(e) **Compliance file.** A compliance file is accessible to personnel, parents, and others. Items are originals or copies and are maintained together, with the most recent on top and all child-identifying information removed. The compliance file includes items within the last 120-calendar days, at a minimum, from the date on the document or the investigation completion date on the form, unless requirements specifically state otherwise. The compliance file only contains:

(1) compliance monitoring from Licensing, Stars, and tribal agencies, such as;

- (A) monitoring visit forms. Include most recent visit; and
- (B) case status information, such as forms and correspondence regarding:
  - (i) issuance of permits and licenses;
  - (ii) non-compliances and Stars violations;
  - (iii) notices to comply;
  - (iv) complaint findings;
  - (v) office conferences with Licensing, Stars, and tribal agencies;

- (vi) Stars alternative settlements and reductions;  
and
- (vii) consent agreements, denials of a request for a license, and revocations of a license; and
- (2) child welfare investigative summary, regardless of findings. However, confirmed or substantiated findings are maintained in the file for 12 months;
- (3) granted criminal history restriction waiver notifications. However, notification is maintained in the file for as long as the individual is employed or is living in the facility; and
- (4) other documents indicating placement in the compliance file.

[Source: Amended at 10 Ok Reg 107, eff 10-13-92 (emergency); Amended at 10 Ok Reg 2287, eff 6-11-93 ; Amended at 17 Ok Reg 1607, eff 5-25-00 ; Amended at 25 Ok Reg 22, eff 10-1-07 (emergency); Amended at 25 Ok Reg 1962, eff 7-1-08 ; Amended at 26 Ok Reg 415, eff 11-20-08 (emergency); Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 27 Ok Reg 48, eff 10-1-09 (emergency); Amended at 27 Ok Reg 1869, eff 7-1-10 ; Amended at 31 Ok Reg 154, eff 11-1-13 (emergency); Amended at 31 Ok Reg 1854, eff 9-15-14 ; Amended at 34 Ok Reg 200, eff 11-22-16 (emergency); Amended at 34 Ok Reg 1652, eff 9-15-17 ; Amended at 40 Ok Reg 1033, eff 9-15-23]

### **340:110-3-89. School [REVOKED]**

[Source: Revoked at 10 Ok Reg 107, eff 10-13-92 (emergency); Revoked at 10 Ok Reg 2287, eff 6-11-93]

#### **340:110-3-89.1. Parent communication**

(a) **Policy.** The caregiver provides written business policy to parents at least including:

- (1) compliance file location;
- (2) days and hours of operation, including days closed, such as holidays;
- (3) procedure for:
  - (A) receiving and releasing children, including methods for caller identification authorizing child pick-up and of an individual who picks up a child;
  - (B) notifying parents when a child does not arrive on his or her own at the facility as scheduled;
  - (C) handling illness and injuries;
  - (D) storing and administering children's medication;
  - (E) field trip notification; and
  - (F) transporting children;
- (4) care of ill children;
- (5) mandatory reporting of suspected child abuse and neglect;
- (6) behavior and guidance policy;
- (7) expulsion policy;
- (8) relevant emergency plans and procedures information; and
- (9) infant safe sleep environment description.

(b) **Physical and emotional well-being.** The caregiver informs parents of the child's physical and emotional well-being.

(c) **Quality child care information.** Oklahoma Human Services (OKDHS) Publication No. 87-91, The Parents' Guide to Selecting Quality Child Care, is made available to parents upon child's enrollment.

(d) **Home access.** During child care hours, parents are provided access to all areas of the home used for child care.

(e) **Insurance.** A child care facility maintains liability insurance ,per Section 404.3 of Title 10 of the Oklahoma Statutes (10 O.S. § 404.3).

(1) When liability insurance is maintained, Form 07LC092E, Insurance Verification, including a certificate of insurance obtained from the insurance agent, is completed annually, maintained at the facility, and made available to Licensing.

(2) When liability insurance is not maintained or the program reports they are self-insured, Form 07LC093E, Insurance Exception Notification, is posted in a conspicuous location in clear view of the main entrance to the facility.

(f) **Parent notifications.** Parents are provided information regarding liability insurance and the compliance file.

(1) Parents complete OKDHS Forms 07LC045E, Insurance Notification, and 07LC046E, Compliance File Notification, every 12 months. Forms are maintained at the facility.

(2) When the child is enrolled, parents are provided copies of OKDHS Forms 07LC093E, Insurance Exception Notification, and 07LC084E Notice to Parents.

[Source: Added at 10 Ok Reg 107, eff 10-13-92 (emergency); Added at 10 Ok Reg 2287, eff 6-11-93 ; Amended at 17 Ok Reg 1607, eff 5-25-00 ; Amended at 25 Ok Reg 22, eff 10-1-07 (emergency); Amended at 25 Ok Reg 1962, eff 7-1-08 ; Amended at 26 Ok Reg 415, eff 11-20-08 (emergency); Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 27 Ok Reg 48, eff 10-1-09 (emergency); Amended at 27 Ok Reg 1869, eff 7-1-10 ; Amended at 34 Ok Reg 200, eff 11-22-16 (emergency); Amended at 34 Ok Reg 1652, eff 9-15-17 ; Amended at 40 Ok Reg 1033, eff 9-15-23]

### **340:110-3-90. Child health**

(a) **Immunizations.** Per Oklahoma Administrative Code (OAC) 340 Appendix II - Immunizations, an immunization record or exemption is obtained prior to the first day of attendance and is updated when the child receives additional vaccines.

(b) **Medication.** Medication requirements are met.

(1) **Original container.** Medications , including prescriptions and over-the-counter medications, are provided by the parent in the original container and clearly labeled with the child's full name and instructions.

(2) **Diaper creams.** Diaper creams are considered medications.

(3) **Insect repellents and sunscreens.** Insect repellents and sunscreens are not considered medications.

(4) **Parental permission.** Signed parent permission for each medication is obtained prior to administration and includes the exact dosage and times to be administered.

(A) Parent instructions are the same as:

(i) the container instructions; or

(ii) a licensed physician's written statement regarding over-the-counter medication instructions that differ from the container instructions.

(B) For chronic medical conditions, permission may be obtained for 12 months or less at a time, provided specific instructions include when administration is needed, such

as diaper cream and inhalers.

(5) **Records.** To avoid duplication, each dosage administered, excluding diaper cream, is immediately documented by the caregiver on an OKDHS or program form containing the same information, and the record is readily available to parents.

(6) **Storage.** All medications are properly stored separately from food and inaccessible to children.

(7) **Medication injections.** When medication is administered by injection, the requirements in this paragraph apply.

(A) Syringes, needles, and lancets are only used one time.

(B) Approved sharps containers are used for any medical waste that is sharp or could cause a cut, puncture, or wound, including syringes, needles, and lancets used to administer insulin or test blood sugar.

(C) When the container is full, disposal arrangements are made with the local pharmacy or health department, licensed physician, or other community organization.

(c) **Ill children.** Health procedures and precautions are required.

(1) **Contagious illness.** Any child showing symptoms of contagious illness is separated from the group.

(2) **Disease control.** The local or Oklahoma State Department of Health (OSDH) is notified, per requirements in (A) through (C) of this paragraph.

(A) **Promptly.** The primary caregiver promptly notifies the local or OSDH of a known case in individuals associated with the family child care home, of:

(i) Measles;

(ii) meningococcal invasive disease; and

(iii) an outbreak of two or more cases within the home of:

(I) COVID-19;

(II) influenza; or

(III) varicella (chicken pox).

(B) **Next business day.** The primary caregiver notifies the local or OSDH by the next health department-business day of a known case in individuals associated with the family child care home, of:

(i) Campylobacteriosis;

(ii) cryptosporidiosis;

(iii) E. coli O157:H7 or Shiga toxin-producing E. coli (STEC);

(iv) Haemophilus influenzae invasive disease;

(v) hepatitis A;

(vi) mumps;

(vii) rubella;

(viii) salmonellosis;

(ix) shigellosis;

(x) tuberculosis; or

(xi) whooping cough (pertussis).

(C) **OSDH guidelines.** The primary caregiver follows all guidelines and recommendations per local or OSDH



authorities.

(3) **Parent notification.** Parents are notified as symptoms develop or change.

(4) **Allergy exposure.** The caregiver promptly notifies parents when a child has a suspected allergic reaction, including ingestion of, or contact with, allergens, even when a reaction did not occur.

(5) **Decision to provide care.** The primary caregiver determines whether to provide care for ill children based upon the degree of illness, other children present, and the caregiver's ability to provide care.

(d) **Cleanliness.** Hygiene practices are implemented.

(1) **Handwashing - caregivers.** Caregivers wash hands with soap and running water:

- (A) prior to food preparation;
- (B) before feeding children or eating;
- (C) after diapering or toileting;
- (D) after touching or cleaning up body fluids, including wiping noses; and
- (E) after handling or feeding pets.

(2) **Handwashing - children.** Caregivers ensure children wash hands with soap and running water:

- (A) before eating;
- (B) after toileting;
- (C) after handling pets;
- (D) after playing outdoors; and
- (E) after wiping their noses.

(3) **Handwashing supplies.** Soap and clean individual or paper towels are easily accessible to the caregiver and children.

(4) **Children's clothing.** A child's clothing is changed immediately following a toileting accident or when clothing becomes unsanitary. Soiled clothing is placed in a sealed, moisture-proof bag and sent home or laundered.

[Source: Amended at 10 Ok Reg 107, eff 10-13-92 (emergency); Amended at 10 Ok Reg 2287, eff 6-11-93 ; Amended at 17 Ok Reg 1607, eff 5-25-00 ; Amended at 25 Ok Reg 22, eff 10-1-07 (emergency); Amended at 25 Ok Reg 1962, eff 7-1-08 ; Amended at 40 Ok Reg 1033, eff 9-15-23]

### **340:110-3-91. Daily routine and equipment**

(a) **Program.** The caregiver provides a balanced program with opportunities for learning, indoor and outdoor play, rest time, and meals.

(b) **Media use.** When used, television, videos, computers, electronic games, cell phones, social media, and other types of media are chosen with discretion, selectivity, and are:

- (1) non-violent;
- (2) non-vulgar;
- (3) non-sexually explicit;
- (4) culturally sensitive; and
- (5) age-appropriate, according to accepted rating systems.

(c) **Play equipment.** A variety of indoor and outdoor play equipment meeting children's varied developmental needs and interests is readily

accessible.

- (1) Equipment is available from categories including:
    - (A) art supplies;
    - (B) books;
    - (C) large muscle equipment;
    - (D) musical equipment;
    - (E) blocks and accessories;
    - (F) dramatic play materials;
    - (G) manipulative toys; and
    - (H) science materials.
  - (2) Equipment is maintained in good working condition, and is clean, safe, and free from rough edges, sharp corners, pinch and crush points, splinters, and exposed nails or bolts.
  - (3) Outdoor equipment, such as swings, slides, and climbing apparatus is not located on a hard surface.
  - (4) Equipment not designed to be portable is anchored firmly to the ground.
  - (5) All equipment is placed in a safe location.
- (d) **Tables and chairs.** Tables and chairs that ensure children's safety and comfort are provided for meals and snacks.
- (e) **Prohibited equipment.** Children in care are prohibited from use of:
- (1) infant walkers;
  - (2) heavy metal or molded plastic swings, such as animal figures; and
  - (3) swinging gates used as play equipment
  - (4) trampolines, except for mini-trampolines or mini-rebounders:
    - (A) having a diameter of three feet or less, padded handle, and safety pad cover; and
    - (B) used only by children 3 years of age and older with adult supervision.

[Source: Amended at 10 Ok Reg 107, eff 10-13-92 (emergency); Amended at 10 Ok Reg 2287, eff 6-11-93 ; Amended at 17 Ok Reg 1607, eff 5-25-00 ; Amended at 19 Ok Reg 658, eff 2-1-02 (emergency); Amended at 19 Ok Reg 1171, eff 5-13-02 ; Amended at 25 Ok Reg 22, eff 10-1-07 (emergency); Amended at 25 Ok Reg 1962, eff 7-1-08 ; Amended at 37 Ok Reg 1858, eff 11-1-20 ; Amended at 40 Ok Reg 1033, eff 9-15-23]

### **340:110-3-91.1. Rest time**

(a) **Place to rest.**

- (1) Each child has an appropriately sized, individual place to rest, such as a crib, playpen, play yard, bed, cot, or mat, with clean, individual bedding. The place to rest is maintained in a clean, sanitary condition, and in good repair.
  - (2) Waterbeds, sofas, soft mattresses, inflatable mats, bassinets, stacked cribs, pillows, beanbag chairs, and other soft surfaces are prohibited as infant sleeping surfaces.
- (b) **Mats.** Mats are not used for overnight care. When used for rest time, each mat is at least one-inch thick and covered with a fitted, durable, washable, waterproof material.
- (c) **Cribs, play yards, and playpens.** A crib, port-a-crib, play yard, or playpen with a properly-fitted firm waterproof mattress or pad and a tight-fitting sheet is used for each child younger than 1 year of age.

**(d) Crib, port-a-crib playpen, and play yard safety features and sleep environments.** Infants sleep in appropriate rest equipment and environments described in (1) through (9) of this subsection.

(1) Cribs, including portable cribs that can be folded or collapsed without being disassembled, meet the current Consumer Product Safety Commission (CPSC) full-size and non-full size crib standards, per Sections 1219 and 1220 of Title 16 of the Code of Federal Regulations.

(2) Verification of compliance with CPSC standards is maintained for duration of crib use.

(3) Mattresses are tight-fitting with no more than one inch between the mattress and crib.

(4) Pillows, covers, blankets, quilts, comforters, sheepskins, bumper pads, stuffed toys, and other soft products or bedding, are not permitted inside and on the side of infant rest equipment.

(5) While in rest equipment:

(A) only pacifiers without attachments are used, and pacifiers are not attached to the infant or his or her clothing; and

(B) bibs are not placed around the infant's neck.

(6) Sleep positioners and elevated mattresses are prohibited, unless a medical reason documented by a licensed physician is provided. Documentation is maintained at the child care home.

(7) Play equipment, and other items, except for pacifiers, are not placed inside, above, or attached to the sides of infant rest equipment, unless there is a medical reason documented by a licensed physician for a monitor or other device. Documentation is maintained at the facility. Mobiles may be securely attached or hung above the crib provided no part of the mobile is within the child's reach.

(8) When an infant arrives asleep or falls asleep in inappropriate rest equipment, the infant is immediately moved to appropriate rest equipment.

(9) Infants are protected from overheating by adjusting room temperature and clothing.

**(e) Sleep positioning.**

(1) To reduce the risk of Sudden Infant Death Syndrome (SIDS), infants younger than 12 months of age are placed on their back for sleeping unless a medical reason is documented by a licensed physician requesting the infant not sleep in this position. Documentation is maintained at the facility.

(2) Infants able to turn themselves over are placed initially on their back for sleeping but allowed to sleep in a position they prefer.

(3) Children's heads and faces are not covered.

**(f) Swaddling.** Infants, birth through three months of age, may be swaddled with an infant-sized, thin fabric, such as a receiving blanket, only when:

(1) the infant is not mobile enough to move the fabric over his or her face; and

(2) requested in writing by the parents. Requests are maintained by the caregiver.

(g) **After resting.** Once children have rested, they are not forced to remain on the rest equipment and are provided quiet activities until rest time is over.

[Source: Added at 25 Ok Reg 22, eff 10-1-07 (emergency); Added at 25 Ok Reg 1962, eff 7-1-08 ; Amended at 30 Ok Reg 1386, eff 7-1-13 ; Amended at 34 Ok Reg 200, eff 11-22-16 (emergency); Amended at 34 Ok Reg 1652, eff 9-15-17 ; Amended at 37 Ok Reg 1858, eff 11-1-20 ; Amended at 40 Ok Reg 1033, eff 9-15-23]

### **340:110-3-92. Discipline and behavior guidance**

(a) **Positive guidance.** Discipline and behavior guidance is developmentally appropriate, responsive to the circumstances, constructive, and provides learning opportunities. The caregiver:

- (1) recognizes and encourages acceptable behavior;
- (2) teaches by example and uses fair and consistent rules in a relaxed atmosphere with discipline relevant to the child's behavior;
- (3) supervises with an attitude of understanding and firmness;
- (4) redirects children by stating alternatives when behavior is unacceptable;
- (5) when necessary, intervenes as quickly as possible ensuring the safety of all children;
- (6) gives clear directions and provides guidance appropriate to the child's development;
- (7) speaks so children understand his or her feelings are acceptable but unacceptable action or behavior is not;
- (8) encourages children to control his or her own behavior, cooperate with others, and solve problems by talking things out;
- (9) uses safe, natural, and logical consequences to address inappropriate behavior; and
- (10) uses time-out or time-away when other discipline methods are ineffective.

(A) Caregivers use this method only with children 2 years of age and older when:

- (i) necessary for the child to regain self-control;
- (ii) the child has the ability to learn from it; and
- (iii) appropriate supervision is maintained.

(B) The child may sit quietly or participate in an individual activity.

(C) Time-out is limited to one minute or less for each year of age. However, when self-control is regained in less time, the child may rejoin an ongoing activity.

(b) **Acts prohibited.** The caregiver is prohibited from:

- (1) subjecting children to punishment of a physical nature, such as shaking, hitting, striking with an object, spanking, biting, swatting, thumping, pinching, popping, shoving, spitting, yanking, hair pulling, slamming, excessive or forced exercise, or any cruel treatment that may cause pain;

- (2) subjecting children to punishment of a psychological nature, such as rejecting, neglecting, or humiliating a child, making derogatory or sarcastic remarks about children or families, or using harsh or profane language, or making actual or implied threats of physical punishment;
- (3) punishing or threatening children in association with :
  - (A) education, such as writing repetitive sentences and homework; and
  - (B) physical needs, such as:
    - (i) withdrawing, denying, or forcing food, rest, or toileting; and
    - (ii) withdrawing or denying outdoor play or a weather alternate activity; and
- (4) putting anything in or on a child's mouth as punishment;
- (5) exposure to extreme temperatures;
- (6) seeking or accepting parental permission to use any punishment or act prohibited , per this subsection;
- (7) restraining or trying to restrict a child's movement by any means other than holding. Holding is used only as long as is necessary for the child to regain control;
- (8) isolating a child without supervision or placing the child in a dark area;
- (9) permitting a child to discipline other children; and
- (10) punishing an entire group due to the actions of a few children.

[Source: Amended at 10 Ok Reg 107, eff 10-13-92 (emergency); Amended at 10 Ok Reg 2287, eff 6-11-93 ; Amended at 17 Ok Reg 1607, eff 5-25-00 ; Amended at 25 Ok Reg 22, eff 10-1-07 (emergency); Amended at 25 Ok Reg 1962, eff 7-1-08 ; Amended at 40 Ok Reg 1033, eff 9-15-23]

### **340:110-3-93. Infants, toddlers, and two-year-olds**

(a) **Responding to needs.** The caregiver holds, cuddles, talks, and sings to infants and toddlers , while understanding and responding to the child's particular needs.

(b) **Daily routine.** The daily routine is adapted to each infant and toddler's individual needs, accommodating the schedule set by the parent, as much as possible.

(1) The daily schedule is accessible and followed with reasonable regularity.

(2) Awake children do not remain for more than 20 minute increments in equipment restricting freedom of movement, such as rest equipment, swings, high chairs, or stationary activity centers, except while eating in high chairs or similar stationary equipment.

(c) **Bottle-feeding.** Bottles are not propped by any means at any time.

(1) Infants six months of age and younger are held while bottle-fed.

(2) Infants seven months of age and older are held while bottle-fed until able to hold bottles securely without assistance.

(3) Children are not given bottles in cribs or moving swings due to increased risk of choking, ear infections, and tooth decay.

- (4) Breast milk is refrigerated or frozen until immediately before feeding.
- (5) Bottles of premixed formula are refrigerated until immediately before feeding.
- (6) Breast milk is not reused after two hours from serving.
- (7) Formula is not reused after one hour from serving.
- (8) Bottles of formula or breast milk are not warmed in a microwave.
- (d) **Chokeable, unsafe, and new foods.** For safety:
  - (1) the caregiver works closely with parents to introduce new foods;
  - (2) infants are not fed honey or peanut butter;
  - (3) children 1 year of age are fed thinly spread peanut butter, if served; and
  - (4) children 1 year of age and younger are:
    - (A) not fed foods that may cause choking, such as candies, gum, marshmallows, raw carrots, raw peas, celery, whole grapes, nuts, seeds, popcorn, rice cakes, and chips; and
    - (B) fed other foods cut into small pieces no larger than:
      - (i) 1/4 inch cubes for infants; and
      - (ii) 1/2 inch cubes for 1-year-olds.
- (e) **Diaper-changing.** Diapers are changed promptly when wet or soiled.
  - (1) A clean nonporous surface or pad is used for diaper changes and sanitized after each use. Care is taken to prevent spread of germs.
  - (2) Caregivers wash hands thoroughly with soap and warm running water after each diaper change.
  - (3) Children are not left unattended on a diaper-changing surface.
- (f) **Availability and disposal of diapers.** For proper hygiene:
  - (1) sufficient quantities of clean diapers are available; and
  - (2) a closed container for soiled diapers is used.
- (g) **Toilet learning.** Toilet learning is a relaxed, pleasant activity.
  - (1) Parents are informed of the child's toilet learning progress.
  - (2) Training pants or underwear are changed promptly when wet or soiled.
  - (3) Fecal content may be disposed of in a toilet, but soiled diapers or training pants are not rinsed in the toilet.
  - (4) Children are encouraged by regular use of a toilet or potty chair for short periods of time not exceeding 10 minutes.
- (h) **Potty chairs.** Potty chair contents and rinse water are emptied into the toilet. After each use, potty chairs are cleaned and disinfected in a sanitary manner.
- (i) **Infant car seats.** Infants are not permitted in infant car seats except during emergency drills, transportation, and arrival and departure with parents.

[Source: Amended at 10 Ok Reg 107, eff 10-13-92 (emergency); Amended at 10 Ok Reg 2287, eff 6-11-93 ; Amended at 17 Ok Reg 1607, eff 5-25-00 ; Amended at 25 Ok Reg 22, eff 10-1-07 (emergency); Amended at 25 Ok Reg 1962, eff 7-1-08 ; Amended at 34 Ok Reg 200, eff 11-22-16 (emergency); Amended at 34 Ok Reg 1652, eff 9-15-17 ; Amended at 40 Ok Reg 1033, eff 9-15-23]

### **340:110-3-94. Food and nutrition**

- (a) **Daily requirement.** Children, excluding infants, remaining in the family child care home for longer than a four-hour period are served a balanced meal providing at least one-third of the child's total daily nutritive requirement; per current State Department of Education (OSDE) Child and Adult Care Food Program (CACFP) guidelines.
- (b) **Snacks.** Snacks are provided mid-morning and mid-afternoon when the interval between regular meals is four hours or longer.
- (c) **Food provision.** Food is provided, per (1) and (2) of this subsection.
- (1) The caregiver provides food for all children able to eat regular food. The caregiver may require parents to provide food for an infant or child requiring a special diet.
  - (2) Second servings are available for children.
- (d) **Encouraging new foods.** Children are encouraged to try new food but are not forced to eat or punished for not eating.
- (e) **Menus.** Weekly menus are planned in advance, readily available, and closely followed, with reasonable substitutions permitted.
- (f) **Water.** Water is offered to children at various times throughout the day.
- (g) **Prohibited foods.** Foods not served or offered to children are:
- (1) home-canned foods; however, parents may provide homemade baby foods;
  - (2) raw seed sprouts;
  - (3) prepackaged unpasteurized juices, milk, or juices displaying a warning label;
  - (4) unpasteurized milk from animals;
  - (5) raw or undercooked animal foods, such as hamburger, fish, or eggs; or
  - (6) lightly cooked or uncooked foods containing raw shell eggs, such as meringue, eggnog, ice cream, or egg beverages.
- (h) **Food storage.** Food is covered and protected from contamination and spoilage while being obtained, stored, prepared, or served.
- (1) All equipment and surfaces are maintained in a clean and sanitary condition.
  - (2) Refrigerated foods are maintained at 41 degrees Fahrenheit or below. Stored frozen foods are maintained frozen. A thermometer is located in the refrigerator, unless equipped with functioning built-in thermometers.
  - (3) Chemicals and toxins are not stored in the food storage area.
  - (4) Dishes washed by hand are sanitized and air-dried.
- (i) **Dishes, cups, and eating utensils.** Each child is provided with clean individual dishes, cups, and eating utensils. Disposable items are used only one time.

[Source: Amended at 10 Ok Reg 107, eff 10-13-92 (emergency); Amended at 10 Ok Reg 2287, eff 6-11-93 ; Amended at 11 Ok Reg 189, eff 10-6-93 (emergency); Amended at 11 Ok Reg 2773, eff 6-13-94 ; Amended at 17 Ok Reg 1607, eff 5-25-00 ; Amended at 25 Ok Reg 22, eff 10-1-07 (emergency); Amended at 25 Ok Reg 1962, eff 7-1-08 ; Amended at 40 Ok Reg 1033, eff 9-15-23]

### **340:110-3-95. Equipment [REVOKED]**

[Source: Revoked at 10 Ok Reg 107, eff 10-13-92 (emergency); Revoked at 10 Ok Reg 2287, eff 6-11-93]

### **340:110-3-96. References [REVOKED]**

[Source: Revoked at 10 Ok Reg 107, eff 10-13-92 (emergency); Revoked at 10 Ok Reg 2287, eff 6-11-93]

### **340:110-3-97. Fire safety**

(a) **General requirements.** The primary caregiver ensures compliance with construction and equipment requirements in this subsection. State or local fire officials are consulted as needed.

(1) Any building licensed as a family child care home meets local minimum building codes. In localities where a building code does not exist, construction conforms to current state adopted building code.

(2) If care is provided on the second floor of a multi-family dwelling, the structure meets the life safety code provisions for multi-family occupancies.

(3) Electrical wiring is installed , per state and local codes or ordinances.

(4) All heating and air conditioning equipment is installed , per state and local building codes.

(5) Water heaters are equipped with a pressure-relief valve.

(b) **Exits.**

(1) Each room used for child care has at least two means of escape, and at least one escape is a door leading to an unobstructed path to the outside. The second escape may be an unobstructed, operable window not less than 820 square inches and large enough to allow all adults and children to escape.

(2) Security bars must be hinged with a quick release mechanism inside the home with one motion to operate, or be unlocked during child care hours.

(3) Child care, including naptime, is not provided for children 3 years of age and younger on any floor above ground level.

(4) No story above the second level, excluding basements, is used for child care.

(5) When care is provided on the second level, the second route of escape must be a safe means to ground level.

(6) Space accessible only by a ladder, folding stairs, or through a trap door is not used for child care.

(7) When child care is permitted on the floor below ground level, basement, at least one exit is a door leading directly to the outside at ground level. The second means of escape may be an unobstructed, operable window not less than 820 square inches and large enough to allow all adults and children to escape. Child care is not provided more than one story below the ground.

(8) Every stairway is maintained free of obstructions and provides safe passage.



(9) Stairways within the exits with four or more steps have a railing.

(c) **Doors.**

(1) Each door providing a means of exiting the home opens without a key and is no less than 28 inches wide.

(2) Every closet door latch enables children to open the door from inside the closet.

(3) Every bathroom door lock enables opening of the locked door from the outside with a readily accessible opening device.

(d) **Smoke detectors.**

(1) There is at least one operable smoke detector on each level of the home located at the top of any stairs.

(2) Any room used for children's playing or sleeping, except the kitchen, has a smoke detector.

(3) Smoke detectors are tested monthly, and documentation is maintained.

(e) **Carbon monoxide detectors.**

(1) One operable carbon monoxide detector is installed, per manufacturer instructions, when there is a fuel burning appliance in the home.

(2) Carbon monoxide detectors are tested monthly, and documentation is maintained.

(f) **Fire extinguishers.**

(1) A portable fire extinguisher, Class ABC or BC, with a gauge is readily accessible for the cooking area.

(2) Disposable fire extinguishers with a gauge are acceptable.

(3) Extinguishing devices are UL-approved.

(4) All fire extinguishers are replaced or serviced and tagged by a state licensed authority every three years. Replacement or service is also required when the seal is broken.

(g) **Heating equipment.**

(1) Unvented, ventfree, or open-face heaters are not used while children are in care.

(2) Portable heaters are not used while children are in care, with the exception of electric oil-filled space heating units.

(3) A guard is provided, protecting children from hot surfaces and open flames.

(4) Fireplaces in use while children are in care have solid doors that are kept closed.

(5) A stove or combustion heater is not located where it would prevent escape in case of malfunctioning.

(6) Heating equipment not specifically designed or installed as a normal heating source is not used.

(h) **Electrical services.**

(1) The use of temporary wiring or extension cords as permanent wiring is prohibited.

(2) Electrical outlet covers are used in all areas occupied by children.

(3) Electrical device charging cords are inaccessible to 3-year-olds and younger.

(4) An operable flashlight is available at all times.

(i) **Mobile homes.**

(1) Current compliance documentation with Housing and Urban Development (HUD) standards is required for family child care homes licensed in a mobile home manufactured after June 25, 1976.

(2) The mobile home is anchored and enclosed to ground level with a wind-resistant material.

[Source: Amended at 10 Ok Reg 107, eff 10-13-92 (emergency); Amended at 10 Ok Reg 2287, eff 6-11-93 ; Amended at 17 Ok Reg 1607, eff 5-25-00 ; Amended at 25 Ok Reg 22, eff 10-1-07 (emergency); Amended at 25 Ok Reg 1962, eff 7-1-08 ; Amended at 40 Ok Reg 1033, eff 9-15-23]

**340:110-3-97.1. Requirements for large family child care homes**

(a) **Large family child care home.** A large family child care home is a residential family home providing care and supervision for eight to 12 children for part of the 24 hour day.

(b) **Requirements.** Large family child care homes meet required rules, per Oklahoma Administrative Code (OAC) 340:110-3-81 through 340:110-3-97, except as otherwise provided in this Section.

(c) **Mobile homes.** Prior to caring for children, large family child care homes operated in a mobile home are required to obtain an approved state or local fire inspection.

(d) **Capacity.** Large family child care homes are required to meet the rules, per OAC 340:110-3-84(a), and the total number of children in care in a large family child care home is limited to 12.

(e) **Supervision of outdoor play.** Large family child care homes meet the rules in OAC 340:110-3-85(a)(3) pertaining to outdoor play supervision, except when two or more personnel are needed to meet the required adult-child ratio. At least one personnel is present with children outdoors at all times.

(f) **Required number of caregivers.** Large family child care homes are exempt from the requirements regarding the number of caregivers, per OAC 340:110-3-84(b) and (c). The number of caregivers required in a large family child care home is described in this subsection.

(1) **One caregiver.** One caregiver may care for up to:

(A) five children of any age;

(B) six children, with no more than three children younger than 2 years of age;

(C) seven children, with no more than two children younger than 2 years of age;

(D) seven children, when the children are 2 years of age and older;

(E) eight children, when the children are 3 years of age and older;

(F) 10 children, when the children are 4 years of age and older; or

(G) 12 children, when the children are 5 years of age and older.

(2) **Two caregivers.** Two caregivers may care for up to:

(A) eight children younger than 2 years of age; or

(B) 12 children, with no more than six children younger than 2 years of age.

(3) **Three caregivers.** Three caregivers may care for up to 12 children of mixed ages, with no more than eight children younger than 2 years of age. When only children younger than 2 years of age are in care, three caregivers may care for up to 12 children.

(g) **Caregiver qualifications.** Primary, assistant, and substitute caregivers at large family child care homes are required to meet qualifications, per OAC 340:110-3-85(a) and (b), except as otherwise described in (1) through (3) of this subsection.

(1) **Primary caregiver.** The primary caregiver or individuals substituting for the primary caregiver are at least 21 years of age. For individuals applying after October 1, 2007, the primary caregiver has:

(A) six months of satisfactory experience as the primary caregiver in a licensed family child care home in Oklahoma;

(B) a high school diploma or General Educational Development (GED) credential; and

(C) a current Level 4 or higher Oklahoma Professional Development Ladder (OPDL) certificate, per OAC 340 Appendix FF – Oklahoma Professional Development Ladder.

(2) **Assistant caregiver.** The assistant caregiver or individuals substituting for the assistant caregiver meet requirements in (A) through (C) of this paragraph.

(A) Caregivers are at least 16 years of age. Children are not left alone in the care of any individual younger than 21 years of age.

(B) Caregivers have current cardio-pulmonary resuscitation (CPR) and first aid certification documentation, per OAC 340:110-3-85(h).

(C) Assistant caregivers obtain and maintain a current Level 1 or higher OPDL certificate, per OAC 340 Appendix FF – Oklahoma Professional Development Ladder, prior to or within 12 months of employment.

(3) **Substitute caregiver.** Individuals substituting for the primary caregiver are at least 21 years of age and have current CPR and first aid certification documentation, per OAC 340:110-3-85(h).

(h) **Professional development requirements.** The primary caregiver and assistant caregiver at large family child care homes are required to meet the professional development requirements, per OAC 340:110-3-85(h), except as otherwise described in (1) and (2) of this subsection.

(1) The primary caregiver:

(A) completes and documents all health and safety training, per OAC 340:110-3-85(h)(3), within two years prior to request for license;

(B) registers the program as a direct care organization and maintains information on the Oklahoma Professional Development Registry (OPDR); and

- (C) completes 20-clock hours of professional development annually.
- (2) The assistant caregiver meets professional development requirements in (A) through (D) of this paragraph.
  - (A) The assistant caregiver completes 12-clock hours of professional development annually.
  - (B) Formal professional development is:
    - (i) a course or training event of two or more clock-hours from an OPDR-approved training organization; or
    - (ii) OPDR-approved college credit hours.
  - (C) Informal professional development clock-hours are limited. Informal professional development is:
    - (i) a course or training event of less than two clock-hours from an OPDR-approved training organization;
    - (ii) any number of clock-hours from an OPDR non-approved training organization; or
    - (iii) any training from electronic media, such as videos or DVDs.
  - (D) Reading and television programs do not count toward required clock-hours.
- (i) **Outdoor play space.** The requirements regarding outdoor play space, per OAC 340:110-3-86(a)(12), are met. The outdoor play space is enclosed by a building or a fence beginning at ground level, at least four feet high, and in good repair. Fencing exceptions are not granted by Licensing.

[Source: Added at 17 Ok Reg 1607, eff 5-25-00 ; Amended at 25 Ok Reg 22, eff 10-1-07 (emergency); Amended at 25 Ok Reg 1962, eff 7-1-08 ; Amended at 31 Ok Reg 154, eff 11-1-13 (emergency); Amended at 31 Ok Reg 1854, eff 9-15-14 ; Amended at 34 Ok Reg 200, eff 11-22-16 (emergency); Amended at 34 Ok Reg 1652, eff 9-15-17 ; Amended at 37 Ok Reg 1858, eff 11-1-20 ; Amended at 40 Ok Reg 1033, eff 9-15-23 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:110-3-98. Guidelines for use in the study of family day care homes [REVOKED]**

[Source: Amended at 10 Ok Reg 107, eff 10-13-92 (emergency); Amended at 10 Ok Reg 2287, eff 6-11-93 ; Revoked at 16 Ok Reg 2527, eff 7-1-99]

## **PART 7. STANDARDS FOR EMERGENCY SHELTERS [REVOKED]**

### **340:110-3-115. Purpose and policy of the law [REVOKED]**

[Source: Revoked at 9 Ok Reg 3679, eff 7-23-92 (emergency); Revoked at 10 Ok Reg 2911, eff 6-25-93]

### **340:110-3-116. Definition [REVOKED]**

[Source: Revoked at 9 Ok Reg 3679, eff 7-23-92 (emergency); Revoked at 10 Ok Reg 2911, eff 6-25-93]

### **340:110-3-117. License [REVOKED]**

[Source: Revoked at 9 Ok Reg 3679, eff 7-23-92 (emergency); Revoked at 10 Ok Reg 2911, eff 6-25-93]

### **340:110-3-118. Standards for shelters [REVOKED]**

[Source: Revoked at 9 Ok Reg 3679, eff 7-23-92 (emergency); Revoked at 10 Ok Reg 2911, eff 6-25-93]

### **340:110-3-119. Organization [REVOKED]**

[Source: Revoked at 9 Ok Reg 3679, eff 7-23-92 (emergency); Revoked at 10 Ok Reg 2911, eff 6-25-93]

### **340:110-3-120. Administration [REVOKED]**

[Source: Revoked at 9 Ok Reg 3679, eff 7-23-92 (emergency); Revoked at 10 Ok Reg 2911, eff 6-25-93]

### **340:110-3-121. Finances [REVOKED]**

[Source: Revoked at 9 Ok Reg 3679, eff 7-23-92 (emergency); Revoked at 10 Ok Reg 2911, eff 6-25-93]

### **340:110-3-122. Personnel and staffing policies [REVOKED]**

[Source: Revoked at 9 Ok Reg 3679, eff 7-23-92 (emergency); Revoked at 10 Ok Reg 2911, eff 6-25-93]

### **340:110-3-123. Admissions and discharge [REVOKED]**

[Source: Revoked at 9 Ok Reg 3679, eff 7-23-92 (emergency); Revoked at 10 Ok Reg 2911, eff 6-25-93]

### **340:110-3-124. Records and reports [REVOKED]**

[Source: Revoked at 9 Ok Reg 3679, eff 7-23-92 (emergency); Revoked at 10 Ok Reg 2911, eff 6-25-93]

### **340:110-3-125. Child care and development [REVOKED]**

[Source: Revoked at 9 Ok Reg 3679, eff 7-23-92 (emergency); Revoked at 10 Ok Reg 2911, eff 6-25-93]

### **340:110-3-126. Construction and fire safety [REVOKED]**

[Source: Revoked at 9 Ok Reg 3679, eff 7-23-92 (emergency); Revoked at 10 Ok Reg 2911, eff 6-25-93]

### **340:110-3-127. Health standards [REVOKED]**

[Source: Revoked at 9 Ok Reg 3679, eff 7-23-92 (emergency); Revoked at 10 Ok Reg 2911, eff 6-25-93]

## **PART 8. REQUIREMENTS FOR CHILDREN'S SHELTERS [REVOKED]**

### **340:110-3-130. Purpose and policy of the Law [REVOKED]**

[Source: Added at 9 Ok Reg 3679, eff 7-23-92 (emergency); Added at 10 Ok Reg 2911, eff 6-25-93 ; Revoked at 24 Ok Reg 2203, eff 7-1-07]

### **340:110-3-131. Definitions [REVOKED]**

[Source: Added at 9 Ok Reg 3679, eff 7-23-92 (emergency); Added at 10 Ok Reg 2911, eff 6-25-93 ; Revoked at 24 Ok Reg 2203, eff 7-1-07]

### **340:110-3-132. License [REVOKED]**

[Source: Added at 9 Ok Reg 3679, eff 7-23-92 (emergency); Added at 10 Ok Reg 2911, eff 6-25-93 ; Revoked at 24 Ok Reg 2203, eff 7-1-07]

### **340:110-3-133. Public access to records [REVOKED]**

[Source: Added at 9 Ok Reg 3679, eff 7-23-92 (emergency); Added at 10 Ok Reg 2911, eff 6-25-93 ; Revoked at 24 Ok Reg 2203, eff 7-1-07]

### **340:110-3-134. Complaint investigation [REVOKED]**

[Source: Added at 9 Ok Reg 3679, eff 7-23-92 (emergency); Added at 10 Ok Reg 2911, eff 6-25-93 ; Revoked at 24 Ok Reg 2203, eff 7-1-07]

### **340:110-3-135. Revocation of license or refusal to renew [REVOKED]**

[Source: Added at 9 Ok Reg 3679, eff 7-23-92 (emergency); Added at 10 Ok Reg 2911, eff 6-25-93 ; Revoked at 24 Ok Reg 2203, eff 7-1-07]

### **340:110-3-136. Organization and administration [REVOKED]**

[Source: Added at 9 Ok Reg 3679, eff 7-23-92 (emergency); Added at 10 Ok Reg 2911, eff 6-25-93 ; Revoked at 24 Ok Reg 2203, eff 7-1-07]

### **340:110-3-137. Personnel [REVOKED]**

[Source: Added at 9 Ok Reg 3679, eff 7-23-92 (emergency); Added at 10 Ok Reg 2911, eff 6-25-93 ; Amended at 11 Ok Reg 189, eff 10-6-93 (emergency); Amended at 11 Ok Reg 2773, eff 6-13-94 ; Revoked at 24 Ok Reg 2203, eff 7-1-07]

### **340:110-3-138. Program requirements [REVOKED]**

[Source: Added at 9 Ok Reg 3679, eff 7-23-92 (emergency); Added at 10 Ok Reg 2911, eff 6-25-93 ; Revoked at 24 Ok Reg 2203, eff 7-1-07]

### **340:110-3-139. Direct service management [REVOKED]**

[Source: Added at 9 Ok Reg 3679, eff 7-23-92 (emergency); Added at 10 Ok Reg 2911, eff 6-25-93 ; Revoked at 24 Ok Reg 2203, eff 7-1-07]

### **340:110-3-140. Food and nutrition [REVOKED]**

[Source: Added at 9 Ok Reg 3679, eff 7-23-92 (emergency); Added at 10 Ok Reg 2911, eff 6-25-93 ; Revoked at 24 Ok Reg 2203, eff 7-1-07]

### **340:110-3-141. Physical environment and safety [REVOKED]**

[Source: Added at 9 Ok Reg 3679, eff 7-23-92 (emergency); Added at 10 Ok Reg 2911, eff 6-25-93 ; Revoked at 24 Ok Reg 2203, eff 7-1-07]

### **340:110-3-142. Transportation [REVOKED]**

[Source: Added at 9 Ok Reg 3679, eff 7-23-92 (emergency); Added at 10 Ok Reg 2911, eff 6-25-93 ; Revoked at 24 Ok Reg 2203, eff 7-1-07]

### **340:110-3-143. Construction and fire safety [REVOKED]**

[Source: Added at 9 Ok Reg 3679, eff 7-23-92 (emergency); Added at 10 Ok Reg 2911, eff 6-25-93 ; Revoked at 24 Ok Reg 2203, eff 7-1-07]

### **340:110-3-144. Health regulations [REVOKED]**

[Source: Added at 9 Ok Reg 3679, eff 7-23-92 (emergency); Added at 10 Ok Reg 2911, eff 6-25-93 ; Revoked at 24 Ok Reg 2203, eff 7-1-07]

## **PART 9. REQUIREMENTS FOR RESIDENTIAL CHILD CARE FACILITIES**

### **340:110-3-145. Purpose and policy of the law**

It is the declared purpose and policy of the Oklahoma Child Care Facilities Licensing Act [10 O.S. § 401 through 410] to ensure maintenance of minimum standards for the care and protection of children away from their own homes, to encourage and assist the child care facility to attain maximum standards, and to work for the development of sufficient and adequate services for child care.

[Source: Amended at 10 Ok Reg 3663, eff 7-12-93 ; Amended at 18 Ok Reg 3331, eff 10-1-01 (emergency); Amended at 19 Ok Reg 1171, eff 5-13-02]

### **340:110-3-146. Definitions**

The following words and terms, when used in this Part, shall have the following meaning, unless the context clearly states otherwise:

**"Advisory board"** means the entity offering advice and counsel on program operation.

**"Age or developmentally appropriate"** means per Section 1-1-105 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-1-105) suitable, developmentally appropriate activities for children of a certain age or maturity level based on the development of cognitive, emotional, physical, and behavioral capacities typical for the age group and the individual child.

**"Basement"** means an area of a building or structure having one-half or more of its clear height below grade level.

**"Behavior management"** means guidance providing a learning experience for the child contributing to developing the capacity for self-control, self-direction, and understanding of behavioral consequences.

**"Chemical restraint"** means medication prescribed by a health professional used to control behavior or to restrict freedom of movement and is not a standard treatment for the child's medical or psychiatric condition.

**"Child"** means an individual younger than 18 years of age.

**"Child care personnel"** means personnel, including part-time, on-call, and substitute personnel, providing direct care and supervision of residents. To be counted in ratios, personnel must be engaged in providing care and meeting the minimum qualifications.

**"Children's services"** means an educational program, child welfare agency, child-serving institution, child-placing agency, foster family home, hospital, or mental health treatment program serving children.

**"Children's shelter"** means a non-secure public or private residential program providing temporary care and supervision for children.

**"Contracted personnel"** means individuals performing program services not having an employee relationship with the program.

**"Custodian"** means the adult or agency legally responsible for the child, but does not mean the Oklahoma Department of Human Services (DHS).

**"Department"** means DHS.

**"Family-style living program"** means a residential program providing sustained care and supervision to residents in a home like environment not located in a building used for commercial activity.

**"Food"** means a raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use in whole or in part for human consumption.

**"Governing board"** means the entity with ultimate responsibility and authority for overall operation of a private, nonprofit program.

**"Grievance process"** means an identified procedure followed when a parent, child, or individual acting in the child's behalf, desires to document dissatisfaction regarding program operation.

**"Health care professional"** means a licensed physician, nurse practitioner, or physician's assistant, as defined by the appropriate state licensing board.

**"House parent"** means an individual or couple providing care and supervision, while meeting the physical, emotional, and social needs of residents residing in a family-style living program.



**"Interstate Compact on the Placement of Children (ICPC)"**

means the process of ensuring protection and services to children placed across state lines.

**"Licensed mental health professional"** means an individual possessing the training, qualifications, and professional recognition in a mental health-related field having a license issued by the appropriate state board.

**"Licensed social worker"** means a social worker having a license issued by the State Board of Licensed Social Workers.

**"Licensing requirements for residential child care facilities"** means the regulations specified in this Part constituting the minimum requirements for residential programs.

**"Mechanical restraint"** means a device restricting movement or function of a child or portion of a child's body.

**"On-call,"** or **"substitute personnel"** means personnel available to work during the absence of regular part-time or full-time personnel.

**"Organizational structure"** means the program legal basis or ownership.

**"OSDH"** means the Oklahoma State Department of Health.

**"Parent"** means an individual legally responsible for the child, such as a mother, father, legal custodian, or legal guardian.

**"Physical restraint"** means using the body to restrict movement or function of a child or portion of a child's body.

**"Potentially hazardous foods"** means food containing milk or milk products, eggs, meat, poultry, fish, shellfish, crustacean, or other ingredients in a form capable of supporting rapid and progressive growth of harmful microorganisms.

**"Privately operated program"** means a program owned and operated by an individual, partnership, corporation, or association that may be operated on a profit or nonprofit basis.

**"Proprietary program"** means a program operating on a for-profit basis.

**"Psychotropic medications"** means medications with well-demonstrated efficacy in the treatment of mental disorders through the modification of behavior, mood, and emotions.

**"Publicly operated program"** means a program operated by a governmental entity.

**"Qualified Substance Abuse Professional (QSAP)"** means an individual meeting the criteria established by the Oklahoma Department of Mental Health and Substance Abuse Services.

**"Reasonable and prudent parent standard"** means per 10A O.S. § 1-1-105, the standard characterized by careful and sensible parental decisions maintaining the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child and is used in determining whether to allow a child to participate in extracurricular, enrichment, cultural, and social activities. This standard is used by a representative of a group home where a child has been placed or a designated official for a residential child care facility where a child in foster care has been placed.

**"Regimented residential program"** means a military-style training program where residents are subject to a controlled and

regimented environment affirming dignity of self and respect for others and includes physical training and discipline.

**"Restricted Registry"** also named **"Joshua's List"** means a registry for individuals who are prohibited from licensure, ownership, employment, having unsupervised access to children, and/or residence in child care facilities per 10 O.S. § 405.3.

**"Residential child care facility"** means a 24-hour residential program where children live together with, or are supervised by, adults other than the child's parents or relatives.

**"Residential treatment facility"** means a program that cares for children under 24-hour medical care who have emotional, psychological, or mental disorders.

**"Seclusion"** means the involuntary confinement of a child in a room or area where the child is physically prevented from leaving.

**"Secure care facility"** means a program that cares for and supervises adjudicated children in a building where entering and exiting is prohibited through the use of internal or external locks or through secure fencing around the perimeter.

**"Separation"** means removing a child from the group or group activity as a method of behavior management.

**"Serious incident"** means any non-routine occurrence that has an impact on the care, supervision, or treatment of a child.

**"Service plan"** means a comprehensive individualized program of action based on the child's needs.

**"Social services"** means services that may include, but are not limited to, admission assessments, placement services, counseling, casework services to residents and the residents' families, service planning, and discharge planning.

**"Social services staff"** means program employees who provide social services.

**"Specialized service professional"** means an individual from an academic discipline or field of expertise who provides individualized services to a child, such as behavioral or physical therapists.

**"Staff member"** means an individual employed by or working for or with a residential child care facility on a regularly scheduled basis. This includes full-time, part-time, on-call, and substitute staff, whether paid or unpaid.

**"Supervision of residents"** means overseeing and guiding residents including awareness of and responsibility for the ongoing activity of each child.

**"Support staff"** means clerical staff, cooks, building custodians, and other personnel who provide support services to the program.

**"Unsupervised access to children"** means an individual being present with children without personnel present who has a complete criminal history review.

**"Volunteer"** means an individual who provides services to the program without compensation.

[Source: Amended at 10 Ok Reg 3663, eff 7-12-93 ; Amended at 18 Ok Reg 3331, eff 10-1-01 (emergency); Amended at 19 Ok Reg 1171, eff 5-13-02 ; Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 27 Ok Reg 1869, eff 7-1-10 ; Amended at 27 Ok Reg 2646, eff 6-21-10 (emergency); Amended at 28 Ok Reg 1669, eff 7-1-11 ; Amended at 31 Ok Reg 154, eff 11-1-13 (emergency); Amended

at 31 Ok Reg 1854, eff 9-15-14 ; Amended at 33 Ok Reg 146, eff 11-2-15 (emergency); Amended at 33 Ok Reg 1678, eff 9-15-16 ; Amended at 35 Ok Reg 1732, eff 11-1-18]

### **340:110-3-147. License**

Request for license is submitted on Oklahoma Department of Human Services (DHS) provided forms. A license to operate a residential child care program is granted when the program meets minimum requirements. Children are not accepted into care until DHS authorization is obtained. The license is not transferable and is posted prominently in the facility including the denial or revocation notice, when applicable. When the program changes ownership or location, a new license is obtained. Per the Oklahoma Child Care Facilities Licensing Act, Section 405.3 of Title 10 of the Oklahoma Statutes, persons identified as registrants on the Restricted Registry are prohibited from:

- (1) licensure as a child care program;
- (2) ownership of a child care program;
- (3) employment in a child care program;
- (4) having unsupervised access to children; and/or
- (5) residing in a child care facility.

[Source: Amended at 18 Ok Reg 3331, eff 10-1-01 (emergency); Amended at 19 Ok Reg 1171, eff 5-13-02 ; Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 27 Ok Reg 1869, eff 7-1-10 ; Amended at 31 Ok Reg 154, eff 11-1-13 (emergency); Amended at 31 Ok Reg 1854, eff 9-15-14 ; Amended at 37 Ok Reg 1858, eff 11-1-20]

### **340:110-3-148. Technical assistance**

In addition to monitoring compliance with requirements, licensing representatives offer technical assistance and consultation. An applicant or licensee may at any time request help with questions about the requirements or facility compliance.

[Source: Amended at 10 Ok Reg 3663, eff 7-12-93 ; Amended at 18 Ok Reg 3331, eff 10-1-01 (emergency); Amended at 19 Ok Reg 1171, eff 5-13-02]

### **340:110-3-149. Complaint investigation**

Upon receipt of a complaint that a facility is in noncompliance with requirements, the licensing representative notifies the administrator of the facility and conducts a thorough investigation. The name of the complainant is kept confidential. The administrator of the facility and the chair of the governing board are advised of the outcome of the investigation. Allegations of child abuse, neglect, or mistreatment are investigated by the Office of Client Advocacy or its designee.

[Source: Amended at 10 Ok Reg 3663, eff 7-12-93 ; Amended at 18 Ok Reg 3331, eff 10-1-01 (emergency); Amended at 19 Ok Reg 1171, eff 5-13-02]

### **340:110-3-150. Denial or revocation of license**

When a program is unable or unwilling to comply with requirements or has failed to adequately protect the health and safety of children, the Oklahoma Department of Human Services (DHS) can deny the application or revoke the license. The applicant or licensee receives a 30 day notice in writing of the decision and the grounds for such

proposed action. The applicant or licensee may protest the decision within 30 days of receipt of the notice. An administrative hearing will be held at which an opportunity is given to the applicant or licensee to present testimony and confront witnesses. If the decision from the administrative hearing is to uphold the DHS recommendation, the applicant or licensee may appeal the decision to the district court of the county where the program is maintained within 10 days. In the event the applicant or licensee does not appeal the decision, the program must cease operation on the effective date of the action. The owner, business entity, or responsible entity may not make application for a new child care program license within Oklahoma for five years following notification to the owner, business entity, or responsible entity of the license revocation or denial and during an appeal process.

[Source: Amended at 10 Ok Reg 3663, eff 7-12-93 ; Amended at 18 Ok Reg 3331, eff 10-1-01 (emergency); Amended at 19 Ok Reg 1171, eff 5-13-02 ; Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 31 Ok Reg 154, eff 11-1-13 (emergency); Amended at 31 Ok Reg 1854, eff 9-15-14]

### **340:110-3-151. Public records**

Files of residential child care facilities maintained by the Oklahoma Department of Human Services (OKDHS) are public records and are open for public inspection. [Oklahoma Public Records Act, 51 O.S. § 24A et seq.] Information obtained by OKDHS from any applicant or licensee regarding children, their parents, or other relatives is deemed confidential and privileged communication. The names of any complainants and information regarding a child abuse report or investigation is kept confidential.

[Source: Amended at 10 Ok Reg 3663, eff 7-12-93 ; Amended at 18 Ok Reg 3331, eff 10-1-01 (emergency); Amended at 19 Ok Reg 1171, eff 5-13-02 ; Amended at 26 Ok Reg 2239, eff 7-1-09]

### **340:110-3-152. Organization and administration**

(a) **Intent statement.** The residential child care program purpose or function is clearly defined in a statement filed with Oklahoma Human Services (OKDHS). The statement includes the:

- (1) program philosophy;
- (2) program goals and objectives;
- (3) ages and characteristics of children accepted for care;
- (4) geographical area served; and
- (5) services provided.

(b) **Organizational structure.** The residential child care program legal basis or ownership is fully documented and submitted to OKDHS.

(1) **Publicly operated program.** Documentation identifies the program's statutory basis and the operating governmental entity administrative framework.

(2) **Privately operated program.** A privately operated program submits, the:

- (A) charter, partnership agreement, constitution, articles of incorporation, or resolution authorizing the program's operation, as applicable; and
- (B) names, titles, addresses, and phone numbers for:

- (i) association members or corporate officers for a nonprofit program; and
- (ii) owners, partners, or corporate officers for a proprietary program.

(3) **Changes in ownership and program name.** OKDHS is notified at least 30-calendar days prior to changes in the legal entity for operation, ownership, or program name.

(c) **Governing and advisory board.** A private, nonprofit program establishes a governing board and may also have an advisory board.

(1) **Meetings.** The governing board meets at least twice annually, maintaining accurate meeting minutes.

(2) **Governing board responsibility.** The governing board maintains ultimate responsibility for governing but may delegate program administration responsibility to the executive director.

(A) The board assumes joint responsibility with the executive director for general program and policy, funding, and minimum requirement compliance.

(B) The responsibilities and relationship between the board and the executive director are defined in the constitution and bylaws and submitted to OKDHS.

(3) **Governing board members.** Governing board members' names, titles, addresses, and phone numbers are submitted to OKDHS.

(4) **Board composition.** The governing board represents the community's diversity.

(A) The board is comprised of a minimum of three members.

(B) A majority reside in Oklahoma. Multi-state operations; however, may have a governing board outside of Oklahoma when establishing local advisory boards meeting requirements in (5) of this subsection.

(C) Program personnel cannot comprise a majority of the board's voting members.

(D) Upon appointment, board members receive board responsibility orientation.

(5) **Advisory board.** A private, proprietary program not meeting governing board requirements in (1) through (4) of this subsection establishes an advisory board.

(A) The advisory board meets at least twice annually.

(B) The advisory board provides program advice and counsel on policies and program operation, reflects local concerns, and represents the program to the community.

(C) Advisory board member names, addresses, and phone numbers are submitted to OKDHS.

(D) Program personnel cannot comprise a majority of the advisory board's voting members.

(E) A majority reside in Oklahoma.

(d) **Administrative policy.** Policy is clearly written, current, and available for residents, parents or legal custodians, personnel, and Licensing review. The governing board reviews policy annually. Policy at least, includes areas governing:

- (1) admission and discharge;
- (2) personnel;
- (3) volunteers;
- (4) programs;
- (5) grievance procedures approved by OKDHS Office of Client Advocacy (OCA);
- (6) behavior management;
- (7) mandatory child abuse reporting;
- (8) suicide awareness and protocol;
- (9) medical services;
- (10) medication administration and dosage;
- (11) records confidentiality;
- (12) a resident absent without permission;
- (13) emergency procedures; and
- (14) reasonable and prudent parent standard application, when approving resident activities.

(e) **Records and reports.** Records and reports maintained at the program and available for Licensing review are:

- (1) resident's records;
- (2) personnel records;
- (3) criminal history investigation records;
- (4) orientation and professional development records;
- (5) residents' food menus;
- (6) fire and tornado drill records;
- (7) planned recreational, leisure, or physical exercise activities schedules;
- (8) visitation records;
- (9) transportation records; and
- (10) resident's grievance records. These records are maintained for three years following the resident's discharge and in a confidential manner separate from resident's records, per OCA.

(f) **Notifications.** The program complies with the notification requirements in this subsection.

- (1) The program notifies Licensing on the next OKDHS-business day of:
  - (A) temporary or permanent program closure;
  - (B) executive or program director change;
  - (C) liability insurance coverage changes;
  - (D) facility premises damage caused by fire, accident, or elements seriously affecting services provided;
  - (E) legal action against a program or personnel involving a resident or program operation;
  - (F) any time a resident receives emergency medical treatment by a licensed health care professional;
  - (G) incidents involving law enforcement, excluding residents absent without permission; or
  - (H) a resident death or near death, per Section 1-6-105 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-6-105).
- (2) Any person who has reason to believe a child was abused or neglected, per 10A O.S. § 1-1-105, is required to report the matter promptly to the OKDHS Child Abuse and Neglect Hotline at 1-

800-522-3511, per 10A O.S. § 1-2-101. Failure to report is a misdemeanor offense and upon conviction is punishable by law. Failure to report with prolonged knowledge, six months or more, of ongoing abuse or neglect is a felony offense.

(3) Per 21 O.S. § 870, every person having reason to believe that a person or child-placing agency is engaging in the crime of trafficking in children, per 21 O.S. § 866, reports the matter promptly to the Oklahoma Bureau of Narcotics and Dangerous Drugs Control.

(4) OKDHS notifies programs of a substantiated finding of heinous and shocking abuse by a person responsible for a child's health, safety, or welfare, as defined, per 10A O.S. § 1-1-105. Upon receiving the notice, the facility owner or operator provides notification to parents or legal guardians of children attending the facility using an OKDHS-provided form.

(A) Notification is:

- (i) immediately attempted but not later than 72 hours of notice receipt from OKDHS; and
- (ii) provided by certified mail.

(B) The program maintains the list of notified parents and legal guardians for at least 12 months.

(5) When a resident is absent without permission, the resident's parents or legal custodian are immediately notified.

[Source: Amended at 10 Ok Reg 3663, eff 7-12-93 ; Amended at 15 Ok Reg 1489, eff 3-30-98 (emergency); Amended at 16 Ok Reg 1080, eff 4-26-99 ; Amended at 18 Ok Reg 3331, eff 10-1-01 (emergency); Amended at 19 Ok Reg 1171, eff 5-13-02 ; Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 33 Ok Reg 146, eff 11-2-15 (emergency); Amended at 33 Ok Reg 1678, eff 9-15-16 ; Amended at 35 Ok Reg 1732, eff 11-1-18 ; Amended at 40 Ok Reg 1033, eff 9-15-23 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:110-3-153. Finances**

(a) **Evidence of sufficient funds.** The program demonstrates evidence of sufficient funds.

(1) A new program submits a letter to Licensing from a certified public accountant documenting the procedures in place for operating the fiscal management system so the program's financial statements can be audited at the first fiscal operational year end.

(2) A new program submits a budget for the first 12 months of operation including predictable funds, as well as reserve funds.

(3) The program maintains a written financing plan projecting sufficient funds to carry out the program's defined purposes and provide proper care for children.

(b) **Fiscal responsibility.** The program demonstrates fiscal responsibility.

(1) The executive director maintains complete financial records of all income and disbursements.

(2) When cash funds are received, the executive director requires individuals with cash handling responsibilities be bonded.

(c) **Accountability.** The program demonstrates financial accountability.

(1) Program financial records are audited by a certified public accountant, who is not program personnel or a board member, or audited, per the governmental funding source.

(2) When completed, a copy of the auditor's letter, including a statement verifying the program's financial records accurately reflect its financial operations, per generally accepted accounting principles, is submitted to Licensing.

(d) **Insurance.** The program maintains insurance. Insurance policies are available for Licensing review.

(1) The program is covered by property casualty insurance, unless operated by a government entity that is self-insured, per state law.

(2) The program is covered by general liability insurance, unless exempt by state law. Coverage is at least \$200,000 for each occurrence of negligence. Form 07LC092E, Insurance Verification, that includes a certificate of insurance obtained from the insurance agent is completed annually, maintained at the facility, and made available to Licensing.

(3) Vehicles used to transport children are covered by liability and medical insurance.

[Source: Amended at 10 Ok Reg 3663, eff 7-12-93 ; Amended at 18 Ok Reg 3331, eff 10-1-01 (emergency); Amended at 19 Ok Reg 1171, eff 5-13-02 ; Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 27 Ok Reg 48, eff 10-1-09 (emergency); Amended at 27 Ok Reg 1869, eff 7-1-10 ; Amended at 37 Ok Reg 1858, eff 11-1-20]

### **340:110-3-153.1. Personnel**

(a) **Personnel policy.** Personnel policy includes defining personnel, essential position functions, qualifications, and authority lines.

(b) **Personnel and responsibilities.** The program recruits personnel with specialized skills, knowledge, and the cultural understanding and competencies necessary for quality residential care services. Personnel demonstrate responsible behavior reasonably ensuring residents' care and safety. Personnel cooperate with Oklahoma Human Services (OKDHS) staff, including monitoring visits and investigations.

(1) **Executive director.** The program employs an executive director, superintendent, or administrator; and in his or her absence, an individual is designated in charge.

(A) The executive director, superintendent, or administrator is responsible for employing individuals possessing adequate education, professional development, and experience to perform assigned positions' essential functions.

(B) The executive director is responsible for implementing the policies adopted by the governing board and ongoing program operation.

(C) When acting as program director, the executive director meets the requirements in (b)(2) of this Section.

(2) **Program director.** The program director is responsible for implementing and supervising programs and services. The program director is also responsible for the day-to-day program



operation.

(A) The executive director may also serve as the program director, when meeting the qualifications in (d)(2) of this Section.

(B) The program director, including the executive director acting as program director, does not serve as program director at more than one facility location.

(3) **Social services personnel.** Social services personnel are responsible for admission assessments, placement services, counseling, residents' and his or her families' casework services, service plans, service plan reviews, and discharge plans.

(4) **Child care personnel.** Child care personnel are responsible for meeting residents' needs, taking in account the residents' ages, physical and mental conditions, and other factors affecting the amount of attention indicated.

(5) **Support personnel.** Support personnel are responsible for providing support duties.

(6) **On-call and part-time personnel.** On-call and part-time personnel are responsible for the position duties they are assigned.

(7) **On-site official.** There is an on-site official authorized to apply the reasonable and prudent parent standard.

(8) **Contracted personnel.** When the program contracts for a service and the individual or agency personnel fills a position, per (1) through (7) of this subsection, the requirements for the position(s) are met.

(c) **Volunteers.** When a program uses volunteers, the program maintains current, written volunteer policy. Volunteers:

(1) counted in ratios meet all child care personnel requirements;

(2) do not have unsupervised resident access unless background investigations are completed, per (h)(1)(D) of this Section;

(3) receive orientation prior to resident contact; and

(4) work under the executive director's or designated personnel's direct supervision.

(d) **Executive director and program director qualifications.** The executive director, superintendent, or administrator, and program director possess adequate education, professional development, and experience to perform the positions' essential functions.

(1) In a program where the executive director operates primarily as an administrator and employs a program director, an executive director hired after June 15, 1990, has a minimum of a bachelor's degree from an accredited college or university.

(2) Individuals solely responsible for direct program supervision, when filling executive director or program director positions, meet at a minimum, one of the qualifications in (A) through (D) of this paragraph:

(A) a bachelor's degree from an accredited college or university with at least nine-college credit hours in family focus, individual function and interaction, child development, sociology, social work, or a closely related subject, and 36 months children's services experience;

(B) a master's degree in social work, psychology, guidance and counseling, sociology, child development, human relations, behavioral science or other closely related subject from an accredited college or university and 24 months children's services experience;

(C) a doctorate in medicine, social work, psychology, guidance and counseling, sociology, child development, human relations, or closely related subject from an accredited college or university and 12 months children's services experience; or

(D) for programs specializing in substance abuse treatment, certification as a Qualified Substance Abuse Professional (QSAP).

(e) **Child care and supervisory personnel qualifications.** Child care and supervisory personnel possess adequate education, professional development, and experience to perform the position's essential functions.

(1) Child care personnel are at least 21 years of age.

(2) Personnel hired after June 15, 1990, have a high school diploma or equivalent within 12 months of employment.

(3) Personnel hired on or after November 1, 2024, have a high school diploma, General Education Development (GED), or Licensing-approved equivalent.

(f) **Social services personnel qualifications.** Social services personnel or contractors possess adequate education, professional development, and experience to perform the position's essential functions.

(1) Social services supervisory personnel responsible for developing and implementing the social services program, meet at a minimum, one of the qualifications in (A) through (D) of this paragraph, including a bachelor's degree:

(A) in social work from an accredited college or university;

(B) in behavioral science, social science, or other related subject from an accredited college or university and 12 months children's services experience;

(C) with at least nine-college credit hours in family focus, individual function and interactions, child development, sociology, social work, or a closely related subject, and 48 months children's services experience; or

(D) for programs specializing in substance abuse treatment, when social services personnel are supervised by a QSAP.

(2) Social services personnel hired after June 15, 1990, providing only casework services have a bachelor's degree in a related subject from an accredited college or university.

(g) **Employment requirements.** Personnel meet requirements in (1) through (3) of this subsection.

(1) **References.** The program obtains three references for personnel prior to employment. Copies are maintained in the employee's personnel record.

(2) **Tuberculin test.** Tuberculosis testing is not required routinely. Programs comply with the Oklahoma State Department

of Health recommendation regarding tuberculin skin testing, when there is a local identified tuberculin exposure.

(3) **Performance evaluation.** A written performance evaluation is updated at least annually and maintained in the employee's personnel record.

(h) **Background investigations - general.**

(1) **Required individuals.** Background investigations are required, per the Oklahoma Child Care Facilities Licensing Act, Section 404.1 of Title 10 of the Oklahoma Statutes, unless an exception, per (3) of this subsection applies for:

- (A) owners, prior to authorization to operate;
- (B) responsible entities, prior to authorization to operate and, when there is a change in a responsible entity;
- (C) personnel applicants, prior to hire; however, the program may hire individuals, when:
  - (i) the program has submitted a criminal history review request to the Office of Background Investigations (OBI) and received a preliminary approval indicating the fingerprint results are received from OBI;
  - (ii) criminal history review results from the OBI are received by the program. However, until complete results are received, the individual does not have unsupervised access to residents; and
  - (iii) coming from another licensed program owned by the same business entity. Individuals are not required to repeat the background investigation process, unless required, per (2) of this subsection, with the exception of criminal history restriction waivers, provided there is no break in employment from the business entity; and
- (D) individuals with unsupervised resident access, prior to having resident access, unless an exception, per (3) of this subsection applies;
- (E) adults living in the facility prior to authorization to operate or moving into the facility of an existing program. This includes residents, who become 18 years of age while living in the facility, unless exempt as a resident receiving services from the program; and
- (F) individuals having access to, or review of, fingerprint results, prior to access to or review of results.

(2) **Resubmission of criminal history reviews as of November 2, 2017.** Effective November 2, 2017, programs request a criminal history review process, excluding fingerprinting, for required individuals every five years. However, criminal history reviews requested prior to November 2, 2017, are resubmitted by November 1, 2022.

(3) **Non-required individuals.** Background investigations are not required for:

- (A) specialized service professionals who are not program personnel, provided parent releases are obtained, per

Oklahoma Administrative Code (OAC) 340:110-3-154(a)(4)  
(E);

(B) volunteer drivers transporting residents irregularly and not filling another position, provided parent releases are obtained, per OAC 340:110-3-154(a)(4)(E);

(C) contracted drivers not filling another position or having unsupervised resident access;

(D) contracted non-personnel not having unsupervised resident access, such as when the program contracts for special activities or facility repair;

(E) individuals who are not program personnel and have contact with residents as part of family, community, and social activities, education, or employment, provided administrative and program policies are met including policy regarding trips away from the facility; and

(F) residents who become 18 years of age while living in the facility and continue to receive program services.

(i) **Background investigations - Restricted Registry.** The program conducts an online search of the Restricted Registry, also known as Joshua's List, when required, per (h) of this Section.

(1) **Non-registrants.** Non-registrants are individuals not recorded on the Restricted Registry.

(2) **Registrants.** Registrants are individuals recorded on the Restricted Registry, who are prohibited from licensure, ownership, employment, unsupervised-resident access, facility residence, and prohibited individuals, per (j) of this Section.

(j) **Background investigations - criminal history.** The program and required individuals complete the criminal history review process. The program receives the completed criminal history review results from OBI, when required, per (h) of this Section.

(1) **Criminal history prohibitions.** Individuals with criminal history prohibitions are prohibited, per (k) of this Section.

Criminal history prohibitions include:

(A) required registration under the:

(i) Sex Offenders Registration Act, including state and national repositories; or

(ii) Mary Rippey Violent Crime Offenders Registration Act; or

(B) pleas of guilty or nolo contendere (no contest), or convictions of felonies involving:

(i) murder, as defined in Section 1111 of Title 18 of United States Code;

(ii) child abuse or neglect;

(iii) crimes against children, including child pornography;

(iv) spousal abuse;

(v) crimes involving rape or sexual assault;

(vi) kidnapping;

(vii) arson;

(viii) physical assault or battery; or

(ix) a drug-related offense committed during the preceding five years, unless a criminal history restriction waiver, per (2) of this subsection is granted; or

(C) pleas of guilty or nolo contendere (no contest), or convictions of violent misdemeanors committed as adults against a child involving:

- (i) child abuse or child endangerment; or
- (ii) sexual assault; or

(D) pleas of guilty or nolo contendere (no contest), or convictions of misdemeanors involving child pornography.

**(2) Criminal history restrictions.** Individuals with criminal history restrictions are prohibited, per (k) of this Section, unless a criminal history restriction waiver is granted. Criminal history restrictions include pending charges, pleas of guilty or nolo contendere (no contest), or conviction of criminal activity involving:

- (A) gross irresponsibility or disregard for the safety of others;
- (B) violence against an individual;
- (C) sexual misconduct;
- (D) child abuse or neglect;
- (E) animal cruelty;
- (F) illegal drug possession, sale, or distribution; or
- (G) a pattern of criminal activity.

**(3) Criminal history restriction waivers.** Restriction waivers are described in (A) through (C) of this paragraph.

(A) Restriction waivers may be requested for individuals having criminal history restrictions. The owner, responsible entity, or director completes requests on an OKDHS form.

(B) Restriction waivers are not requested or granted for:

- (i) Restricted Registry registrants;
- (ii) individuals with criminal history prohibitions; or
- (iii) individuals whose sentence has not expired for criminal history restrictions.

(C) Individuals identified in pending or denied restriction waiver requests are prohibited, per (k) of this Section.

**(k) Prohibited individuals.**

**(1) Background investigation of required individuals.** The program does not allow a required individual to be the owner or responsible entity, to be employed, live in the facility, or have:

(A) resident access, such as being present at the facility during the hours of operation or present with the residents in care while off-site, when the individual has:

- (i) criminal history prohibitions;
- (ii) criminal history restrictions, unless a criminal history restriction waiver is granted. Individuals identified in a pending or denied restriction waiver request are prohibited; or

(iii) a substantiated heinous and shocking abuse finding; or

(B) unsupervised resident access, when the individual is a Restricted Registry registrant.

**(2) Background investigation statements and consents.**

Individuals are prohibited to be the owner or responsible entity, to be employed, or to live in the facility, when:

(A) the individual refuses to consent to background investigations, per (h) of this Section; or

(B) knowingly makes a materially-false statement in connection with criminal background investigations.

**(3) Alcohol, drugs, and medication.** When residents are in care, no individual employed by the program or providing program services may use or be under the influence of:

(A) alcohol or illegal drugs; or

(B) medication impairing his or her functioning.

**(4) Child endangerment.** An individual whose health or behavior would endanger residents' health, safety, or well-being is prohibited from living in or being on the premises when residents are in care.

**(5) Criminal allegations.** When personnel is alleged to have committed an act, per (j) of this Section, the program's executive director determines and documents when the personnel is removed from resident contact until the allegation is resolved. However, when criminal charges are filed, the accused is removed from resident contact until the charges are resolved.

**(6) Deferred sentences.** Individuals having a deferred sentence for charges in (j)(2) of this Section are removed from resident contact for the deferment duration.

**(l) Orientation.** Personnel receive orientation after employment date and within 30-calendar days of employment.

(1) Personnel receive orientation prior to assignment as the primary personnel responsible for residents.

(2) Orientation includes, at least:

(A) confidentiality;

(B) resident grievance process;

(C) fire and disaster plans;

(D) suicide awareness and protocol;

(E) emergency medical procedures;

(F) organizational structure;

(G) program philosophy;

(H) personnel policy and procedures;

(I) mandatory child abuse reporting; and

(J) administrative policy and procedure regarding behavior management.

(3) OKDHS Publication No. 86-78, Licensing Requirements for Residential Child Care Facilities, is part of the orientation process and available to personnel at all times.

(4) Orientation counts toward total professional development hours for the first 12 months.

(m) **Personnel professional development.** Professional development the program schedules is obtained on or after personnel's employment date. Personnel meet professional development requirements in (1) through (7) of this subsection.

(1) **Professional development for the administrator and program director.** The administrator and program director obtain at least 12-clock hours of professional development annually. Hours are prorated at one hour per month for personnel not employed for a full-calendar year. The content pertains to position roles and responsibilities.

(2) **Professional development for social services personnel.** Social services personnel, including licensed mental health professionals and those providing casework services, obtain at least 12-clock hours professional development annually. Hours are prorated at one hour per month for personnel not employed for a full-calendar year. The content pertains to the position roles and responsibilities.

(3) **Professional development for child care personnel.** Child care personnel receive professional development.

(A) Full-time child care personnel obtain at least 24-clock hours of professional development courses annually.

Hours are prorated at two hours per month for personnel not employed for a full-calendar year.

(B) Part-time child care personnel obtain at least 12-clock hours of professional development courses annually.

(C) On-call or substitute child care personnel obtain at least six-clock hours of professional development courses annually.

(D) The child care personnel professional development is relative to the assigned positions, roles, and responsibilities.

(E) When residents are in care on the facility premises or on a program-sponsored field trip, at least one personnel is present with current age-appropriate first aid and cardio-pulmonary resuscitation (CPR) documentation. All other child care personnel obtain and maintain age-appropriate first aid and CPR within 90-calendar days of employment. CPR and first aid training are conducted by a certified instructor from an OKDHS-approved source.

(F) Child care personnel with a current nursing certification or degree are exempt from the first aid certification requirement.

(4) **Professional development for support personnel.** Support personnel providing occasional instruction or professional development to residents obtain at least six-clock hours of professional development courses annually. The content is relative to the position, role, and responsibility or resident interactions.

(5) **Behavioral intervention techniques.** Within 90-calendar days of employment, and prior to being solely responsible for residents, child care personnel and support personnel providing

occasional instruction to residents provide current certification in OKDHS-approved behavioral intervention techniques, to include:

- (A) rules and appropriate consequences of various interventions;
- (B) techniques for early de-escalation and preventive intervention;
- (C) team approaches to behavior management;
- (D) verbal crisis intervention; and
- (E) safe and appropriate physical restraint, when applicable, per program policy.

(6) **Reasonable and prudent parent standard professional development.** A designated, on-site official authorized to apply the reasonable and prudent parent standard receives professional development on the use of reasonable and prudent parent standards.

(7) **Contracted personnel professional development.**

Contracted personnel not providing direct care or counted in the supervision ratio are exempt from meeting the personnel professional development requirements in (m)(1) through (6) of this Section.

(n) **Documentation.** Orientation and professional development hours are documented and available for Licensing review. Documentation includes personnel names attending, course titles and descriptions, dates, hours attended, and trainer or facilitator names.

(o) **Personnel records.** Programs maintain personnel records for each employee.

(1) The program submits to Licensing at the time of request for license:

- (A) a current employee list; and
- (B) an OKDHS-provided personnel information sheet, for each employee.

(2) The program maintains written personnel information for each employee. The personnel file includes:

- (A) an OKDHS-provided personnel information sheet, completed for each personnel upon employment and submitted to Licensing within two weeks of his or her employment;
- (B) an application, resume, or personnel information sheet documenting position specific qualifications;
- (C) criminal history review requests and results documentation;
- (D) other applicable criminal history records;
- (E) three references;
- (F) annual performance evaluation reports and notes relating to the individual's program employment;
- (G) the employment date;
- (H) the date and reason for leaving employment; and
- (I) program required health records.

(3) Personnel records are maintained for at least 12 months following the last employment date, unless the requirements specifically state otherwise.



(4) Licensing has access to personnel records and other confidential documents relevant to personnel.

[Source: Added at 18 Ok Reg 3331, eff 10-1-01 (emergency); Added at 19 Ok Reg 1171, eff 5-13-02 ; Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 27 Ok Reg 48, eff 10-1-09 (emergency); Amended at 27 Ok Reg 1869, eff 7-1-10 ; Amended at 31 Ok Reg 154, eff 11-1-13 (emergency); Amended at 31 Ok Reg 1854, eff 9-15-14 ; Amended at 33 Ok Reg 146, eff 11-2-15 (emergency); Amended at 33 Ok Reg 1678, eff 9-15-16 ; Amended at 35 Ok Reg 475, eff 1-31-18 (emergency); Amended at 35 Ok Reg 1705, eff 9-17-18 ; Amended at 37 Ok Reg 1858, eff 11-1-20 ; Amended at 38 Ok Reg 2359, eff 9-15-21 ; Amended at 40 Ok Reg 1033, eff 9-15-23 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:110-3-153.2. Ratios and resident supervision**

(a) The program employs an adequate number of child care personnel meeting resident's needs, considering residents' ages, physical and mental condition, and other factors affecting the amount of attention and supervision required. Supervision is the function of overseeing and guiding residents, including awareness of, and responsibility for, each resident's ongoing activities.

(b) Programs meet minimum ratios in (1) through (4) of this subsection. Based on individual program or resident needs, per (a) of this Section, additional program personnel may be required.

(1) The program maintains a ratio of one personnel for 10 residents (1:10) during awake hours.

(2) The program maintains a ratio of one personnel for 12 residents (1:12) during sleeping hours.

(3) A maternity program maintains a ratio of one personnel for 12 mothers (1:12). Each mother is responsible for the care of her own child.

(4) In a program accepting mothers and their children, each mother is responsible for the care of her own child. Mothers' own children do not count in the program's ratio.

(c) Personnel's own children living in the residential facility are included when determining personnel to resident ratios.

[Source: Added at 18 Ok Reg 3331, eff 10-1-01 (emergency); Added at 19 Ok Reg 1171, eff 5-13-02 ; Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:110-3-154. Social services**

(a) **Admission.** The program involves the resident and parents in the admission process.

(1) On admission, a resident assessment is completed indicating the placement is appropriate. The admission assessment is documented and available for Licensing review. An assessment includes the resident's:

(A) name, address, phone number, Social Security number, sex, race, religion, and birth date and place;

(B) circumstances leading to the referral;

(C) family member description and relationships including other significant adults and children;

(D) current and past behavior description, including both appropriate and maladaptive behavior;

- (E) immunization record, medical and dental histories, including current medical problems;
- (F) school history, including the current educational level, special achievements, and school problems;
- (G) placement history outside of the home, including placement reasons;
- (H) mental health history; and
- (I) record documentation indicating efforts obtaining identifying information in (A) through (H) of this paragraph, when not obtainable.

(2) A program only accepts residents 4 years of age and younger when maintaining a sibling group, maintaining a child with a parent, or requiring special services, such as:

- (A) medical care or monitoring;
- (B) awake supervision; or
- (C) crisis intervention, assessment, or treatment.

(3) When a resident 4 years of age and younger is in the program's care, the admission assessment and service plan document why this placement is in his or her best interest.

(4) Individuals 19 years of age and older are not admitted to the program. A program may continue serving a resident placed prior to his or her 19th birthday through the service plan completion.

(5) On admission, the program obtains the parents' signature, for:

- (A) authority to provide care;
  - (B) authority to provide medical care;
  - (C) financial agreement, when a fee is required for the resident's care;
  - (D) authority to use the resident or the resident's picture in publicity, when applicable; and
  - (E) a release indicating understanding that volunteer drivers or specialized service professionals are not required to complete the criminal history review, per Oklahoma Administrative Code (OAC) 340:110-3-153.1.
- Specific activities or events are identified in the release.

(6) Residents receive a medical examination by a licensed health care professional within 60-calendar days prior to admission or within 30-calendar days following admission. However, a documented medical exam performed within the 12 months prior to admission is acceptable when a resident is transferred from another licensed program.

(7) On admission, the program advises the resident of program rules and regulations.

(8) Program policies provided to residents and parents include:

- (A) resident's rights;
- (B) grievance procedures;
- (C) behavior management policies;
- (D) trips away from the program;
- (E) use of volunteers; and
- (F) frequency of parent reports.

(9) Acceptance of out-of-state residents is made, per the Interstate Compact on the Placement of Children.

(b) **Service planning.** The service plan is available for Licensing review.

(1) **Comprehensive service plan.** A written service plan is developed and documented for residents within 30-calendar days of admission.

(A) The program involves the resident and parents in service plan development. Reasons for parental non-participation are documented.

(B) The service plan identifies and includes, the:

(i) resident's needs, such as counseling, education, physical health needs, medical care, or recreation, in addition to basic needs for food, shelter, clothing, routine care, and supervision;

(ii) strategies for meeting the resident's needs, including instructions to personnel. Individual health needs are addressed in the program's medical plan, per OAC 340:110-3-154.3;

(iii) estimated length of stay;

(iv) goals and anticipated plans for discharge;

(v) program's parent involvement plan, including visitation guidelines; and

(vi) names and dated signatures of those participating in service plan development.

(2) **Service plan review.** Service plan reviews are available for Licensing review.

(A) The service plan is reviewed within 90-calendar days after development and at least every six months thereafter.

(B) The program involves the resident and parents in the service plan review.

Reasons for parental non-participation are documented.

(C) The service plan review includes:

(i) an evaluation of progress toward meeting identified needs;

(ii) new needs, identified since the plan development or last review, along with strategies of meeting needs, including instructions to personnel;

(iii) an estimated length-of-stay update and discharge plans;

(iv) a placement assessment evaluation

determining when the resident may:

(I) return home;

(II) be placed in foster care;

(III) transfer to care better suited for his or her development; or

(IV) remain in the residential program; and

(v) names and dated signatures of review

participants.

(c) **Services.** The program provides or facilitates services meeting service plan goals.

(d) **Resident's records.** A written resident record is maintained and available for Licensing review.

(1) The record includes:

- (A) admission assessment;
- (B) required authorizations, per (a)(4) of this Section;
- (C) medical records;
- (D) comprehensive service plan and reviews;
- (E) educational information;
- (F) serious incident reports documenting incident nature, date and time, individuals involved, and surrounding circumstances. Serious incidents include but are not limited to;
  - (i) suicide attempts;
  - (ii) injuries requiring medical treatment;
  - (iii) resident absent without permission;
  - (iv) crimes committed and abuse allegations, neglect; or
  - (v) allegations of behavior management violations, per OAC 340:110-3-154.2. ; and
- (G) reports of separation, physical restraint use, and other restrictions; and
- (H) signed documentation the resident and parents were provided program policies.

(2) Resident's records are confidential as defined by federal and state laws.

(e) **Discharge procedures and records.** The program involves the resident, parents or legal custodian, and personnel in discharge planning.

(1) Except in an emergency, a resident is not discharged to an individual other than the resident's parents or legal custodian without written authorization.

(2) An emergency discharge occurs when a resident presents a danger to self or others. On emergency discharge, the program informs the parents or legal custodian immediately.

(3) The individual to whom the resident is discharged provides photographic identification and signs the discharge form before leaving with the resident.

(4) In addition to items in (d) of this subsection, the resident record includes:

- (A) discharge summary;
- (B) discharge date, time, destination, and circumstances; and
- (C) the individual's name, address, and relationship to whom the resident is discharged.

(5) The resident's record is retained for three years following the resident's discharge and available for Licensing review.

[Source: Amended at 10 Ok Reg 3663, eff 7-12-93 ; Amended at 18 Ok Reg 3331, eff 10-1-01 (emergency); Amended at 19 Ok Reg 1171, eff 5-13-02 ; Amended at 22 Ok Reg 1304, eff 6-1-05 ; Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 31 Ok Reg 154, eff 11-1-13 (emergency); Amended at 31 Ok Reg 1854, eff 9-15-14 ; Amended at 35 Ok Reg 1732, eff 11-1-18 ; Amended at 40 Ok Reg 1033, eff 9-15-23 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:110-3-154.1. Program**

(a) **Resident's rights.** The program maintains current, written clients' rights policy supporting and protecting residents. Policy is available for residents, parents or custodians, personnel, and licensing staff to review.

(1) The program provides policies and procedures regarding residents' rights to residents and families in the family's commonly used language.

(2) Residents have a right to an individualized care or treatment plan focusing on the program's services meeting resident's needs. Residents have the right to participate in plan development.

(3) The program ensures resident's rights and responsibilities are protected regarding items in (A) through (Q) of this paragraph.

(A) **Personal finances.** Residents are given the opportunity to have and handle money for personal use, per the resident's service plan.

(B) **Personal possessions.** Residents are allowed to bring personal possessions to the facility and acquire personal belongings as permitted, per program policy and procedure.

(C) **Personal care and hygiene.** Residents are provided facilities and personal care, hygiene, and grooming supplies.

(D) **Clothing.** Residents are provided adequate, clean, well-fitting, and seasonable clothing, and safe clothing storage is available.

(E) **Community activities.** Residents have the right to community contacts and local community participation opportunities, per the resident's service plan.

(F) **Phone contacts.** Residents have phone access to initiate and receive uncensored personal calls, per program policy and procedure. Residents have access to an attorney and referring agency authorized representative.

(G) **Mail.** Resident's letters, both incoming and outgoing, are not opened unless there is suspicion of contraband. When correspondence is opened, the resident is informed in advance, and is present when the letter is opened. This action is documented.

(H) **Restrictions.** Restrictions placed on communications are explained to the resident and clearly documented.

(I) **Publicity.** Resident and parent or custodian consent is obtained prior to resident-related program publicity.

(i) Residents are not caused embarrassment by publicity or promotional materials.

(ii) Residents are not forced to acknowledge dependency on or gratitude toward the program.

(J) **Grievance.** Residents and parents or custodians have the right to file a grievance.

(K) **Religious training.** Residents are provided opportunities for religious service participation.

(L) **Work.** Residents are taught good work habits and is provided with a variety of tasks. Whenever possible, residents earn money through employment. Residents are not substituted for program personnel.

(M) **Safety.** Adequate measures are taken preventing accidents and avoiding health and safety hazards.

(N) **Activities.** The program provides each resident regular opportunities to engage in age appropriate or developmentally appropriate activities.

(O) **Recreation.** Residents are given time to pursue talents, hobbies, and chosen interests, per the resident's service plan.

(i) The program provides a balanced on- or off-grounds recreational program.

(ii) A written schedule of planned recreational, leisure, or physical exercise activities is developed with input from personnel and residents .

Schedules are maintained in the case file and available for licensing staff review.

(P) **Sleep.** The program provides adequate time and facilities for proper rest and sleep appropriate for each resident's age, health needs, safety, and activities.

(Q) **Sexual behavior.** Residents are protected from personnel behavior of a sexual nature. Personnel address resident inappropriate sexual behavior.

(b) **Visitation.** The program provides the residents and parents or custodian the opportunity for on- or off-campus visits, per each resident's service plan.

(1) A visit record is maintained.

(2) Reasons for visitation restrictions are explained to the resident and parents or custodian, documented in the resident's record, and reviewed every six months.

(3) Residents have access to his or her attorney and the referring agency authorized representative.

(c) **Education.** The program has a clearly written policy describing plans for meeting residents' educational needs.

(1) Training and education meet each resident's abilities.

(2) The program ensures school-age residents receive the educational instruction they are entitled under provisions of federal and state education laws and regulations.

(3) Education is provided in or by a public school or a private school.

(4) Residents legally not attending school are:

(A) gainfully employed ;

(B) enrolled in a high school equivalent General Education Development (GED) program; or

(C) attending a life skills or job acquisition training program.

(5) Tutoring is provided or arranged by the program for residents, as needed.

(d) **Care of children younger than 5 years of age.** Programs caring for children younger than 5 years of age provide age or developmentally appropriate activities and equipment. Personnel responsible for child care receive age or developmentally appropriate practice professional development.

[Source: Added at 18 Ok Reg 3331, eff 10-1-01 (emergency); Added at 19 Ok Reg 1171, eff 5-13-02 ; Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 33 Ok Reg 146, eff 11-2-15 (emergency); Amended at 33 Ok Reg 1678, eff 9-15-16 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:110-3-154.2. Behavior management**

(a) **Behavior management policy.** Behavior management policy includes:

- (1) the program's behavior management goals and purposes;
- (2) behavior management methods;
- (3) personnel authorized to administer the behavior management policy; and
- (4) behavior management monitoring and documentation methods .

(b) **Prohibitions.** Except as otherwise authorized , per Oklahoma Administrative Code (OAC) 340:110-3-168 and 340:110-3-169, program policy prohibits:

- (1) behaviors that could cause physical pain, such as shaking, striking, spanking, grabbing, yanking, pulling, pushing, choking, threatening, or other cruel treatment;
- (2) threatening, harsh, humiliating, cruel, abusive, or degrading language;
- (3) making or allowing derogatory or sarcastic remarks regarding a resident or his or her family, race, gender, religion, or cultural background;
- (4) food, water, or sleep denial;
- (5) work tasks degrading, unnecessary, or inappropriate to the resident's age and ability;
- (6) denial of private familial and significant other contact, including visits, phone calls, and mail, as punishment;
- (7) chemical agent use, including tear gas, mace, or similar agents;
- (8) seclusion;
- (9) extreme or excessive exercise or forced physical punishment;
- (10) residents disciplining other residents;
- (11) chemical restraint;
- (12) mechanical restraint;
- (13) punishing an entire resident group due to the actions of one or a few residents;
- (14) violating a resident's rights, per OAC 340:110-3-154.1; and
- (15) enticing or allowing residents to engage in verbal or physical altercation.

(c) **Separation.** A resident may be removed from the group or group activity as behavior management. The resident remains alone, but within

adult hearing, in an unlocked, safe, clean, well-lighted, and well-ventilated area. The separation does not exceed one hour.

(d) **Physical restraint.** Restraint is used only when less restrictive interventions, per program policy, were attempted or when an immediate intervention is required to protect the resident, a personnel member, or others. The restraint technique used must be the least restrictive intervention that is effective to protect the resident or others from harm.

Restraint is discontinued at the earliest possible time. A written incident report is completed within 24-hours following each physical restraint use.

[Source: Added at 18 Ok Reg 3331, eff 10-1-01 (emergency); Added at 19 Ok Reg 1171, eff 5-13-02 ; Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:110-3-154.3. Health and medical services**

(a) **Medical plan.** The program maintains an operational plan meeting individual resident's medical needs based on:

- (1) admission assessment information;
- (2) physical examination by a health care professional; and
- (3) observation during placement.

(b) **Physical examination.** Residents receive a physical examination annually, or more frequently as recommended by a health care professional.

(c) **Medical care.** Residents receive proper medical and dental care. When a serious injury or illness occurs , the program takes the necessary emergency action and notifies the parents or legal custodian immediately.

(d) **Immunizations.** Residents are immunized against communicable diseases , per Oklahoma State Department of Health guidelines.

(e) **Medication.** The program maintains current, written medication policy.

(1) On each shift, a personnel is designated ensuring compliance with the program's medication policy.

(2) Medications are:

(A) authorized by parents, legal custodian, licensed physician, or, when applicable, resident's agency representative;

(B) only administered by the designated personnel; and

(C) documented when administered, including:

- (i) the resident's full name;
- (ii) the name of the medication;
- (iii) the dosage, date and time administered, and signature of the individual administering the medication;
- (iv) reason the medication was administered; and
- (v) any unusual reaction. The resident, parents or legal custodian, and all personnel responsible for the resident are informed of the medication side effects.

(3) Prescription medications are administered , per container instructions, including only administering when the medication is part of a prescribed therapeutic treatment and only to the



resident whose full name is on the container label.

(4) Over-the-counter medications are administered, per:

(A) container instructions; or

(B) licensed physician instructions.

(5) Medications are stored in a locked container and under the supervision of the designated personnel.

(6) Unused or expired medication is disposed of, per program policy.

(f) **First aid supplies.** The program maintains first aid supplies.

[Source: Added at 18 Ok Reg 3331, eff 10-1-01 (emergency); Added at 19 Ok Reg 1171, eff 5-13-02 ; Amended at 22 Ok Reg 35, eff 10-1-04 (emergency); Amended at 22 Ok Reg 1304, eff 6-1-05 ; Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

#### **340:110-3-154.4. Food and nutrition**

(a) **Menu planning.** Menus are planned at least one week in advance. Menus are dated, posted, and maintained for 12 months. Substitutions are documented on the menu.

(b) **Meal frequency and quality.** Meals meet the residents' nutritional needs.

(1) The program provides or arranges for breakfast, lunch, and dinner, and one or more snacks from food selected, stored, prepared, and served in a sanitary manner. On weekends and holidays, programs may make mealtime exceptions provided all residents' nutritional needs are met.

(2) Each meal contains a sufficient amount for every resident and additional servings are available .

(3) Cool, safe drinking water is available at all times.

(c) **Special diets.** Programs recognize residents' religious, cultural, and health needs when planning, preparing, and serving food.

(1) The program provides, as necessary, alternate food choices due to special diets or religious beliefs.

(2) The program follows individualized diets and feeding schedules prescribed by the resident's licensed physician.

(d) **Meals.** Programs recognize residents' social and emotional needs during mealtime.

(1) Residents and personnel eating together are served the same food, with the exception of tea and coffee, unless differences exist in age or special dietary needs .

(2) Personnel only eat in front of residents during meal or snack times.

(3) Residents are not embarrassed or ridiculed for food or utensil etiquette.

[Source: Added at 18 Ok Reg 3331, eff 10-1-01 (emergency); Added at 19 Ok Reg 1171, eff 5-13-02 ; Amended at 37 Ok Reg 1858, eff 11-1-20 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

#### **340:110-3-154.5. Transportation**

(a) **Vehicle requirements.** Residential child care facilities comply with the vehicle requirements described in (1) - (5) of this subsection. A vehicle used to transport residents:

- (1) conforms to all applicable state motor vehicle laws and regulations;
- (2) is maintained in a safe operating condition;
- (3) has written documentation of regular maintenance of all facility vehicles to include quarterly inspection of tire wear and pressure, brakes, lights, and functioning seat belts;
- (4) has door locks. The driver is responsible for keeping the doors locked when the vehicle is moving; and
- (5) has an operable heater that is capable of maintaining a temperature of 65 degrees Fahrenheit in the vehicle, and a ventilation system.

(b) **Driver requirements.** Facilities comply with driver requirements described in (1) and (2) of this subsection. Program staff that drive a vehicle used to transport residents:

- (1) are 21 years of age or older;
- (2) possess a valid driver's license appropriate for the type of vehicle driven;
- (3) do not transport more passengers than the manufacturer's designated capacity for the vehicle;
- (4) have no conviction within the last three years of driving under the influence of alcohol, drugs, or other impaired driving offense; and
- (5) designed to transport 10 or more passengers, complete training specific to the safe operation of that type of vehicle within three months of transporting residents.

(c) **Safety practices.** Facilities comply with the safety practices described in this subsection.

- (1) The interior of each vehicle is maintained in a clean, safe condition with clear passage to operable doors.
- (2) Residents who are transported are properly secured in a child passenger restraint system or individual seat belt. The facility has policies to ensure the safety of residents involved in farm and ranch work. Buses with a capacity of ten or more passengers that meet state and federal requirements for school buses are exempt from this requirement.

(A) Children are transported in compliance with applicable state law. [47 O.S. § 11-1112]

(B) The child passenger restraint system is:

- (i) federally approved;
  - (ii) installed according to the manufacturer's instructions;
  - (iii) appropriate to the height, weight, and physical condition of the child, according to the manufacturer's instructions; and
  - (iv) properly maintained.
- (3) Each seat belt is properly anchored to the vehicle and fits snugly across the child's hips or securely anchors car seats.
  - (4) In accordance with state law, all adult passengers, except those in a full-size school bus, and the driver are properly secured by individual seat belts unless the driver or passenger has written verification from a doctor licensed in Oklahoma that the

individual is unable to use a seat belt for medical reasons.

(5) Effective June 2007, programs providing transportation for children younger than six years of age must have one staff person with current documentation of training in an OKDHS approved child passenger safety course. Information from the training is shared with all other staff that transport children. After May 2007, any staff used to meet this requirement have 60 days to obtain this training.

(6) Vehicles containing residents younger than age 12 are never left without adult supervision.

(7) Children age 12 years and younger are prohibited from sitting in the front seat of an airbag equipped passenger vehicle unless an airbag cut off switch is installed and activated or if the vehicle has airbags equipped with weight sensitive devices. If a child 12 years or younger must be placed in front of an air bag, because all other positions are taken, it must be a child whose age and weight requires a forward facing harness seat.

(8) A first aid kit is available in the vehicle at all times.

(9) Safe conduct to and from all vehicles and safe off-street loading space is provided to protect children from:

(A) backing vehicles;

(B) being between vehicles; and

(C) all traffic hazards.

(d) **Transportation records.** Facilities maintain transportation records.

(1) The facility maintains on file the name of each driver who transports residents and a copy of the valid driver license for that person.

(2) In accordance with state law, insurance verification is kept in the vehicle used to transport residents.

(e) **Insurance.** If the facility's transportation services are provided by a private individual, a firm under contract, or by another arrangement, the facility maintains on file a copy of the individual's or firm's insurance coverage.

(f) **Emergency planning.** The facility has a plan for transporting residents in case of emergency.

[Source: Added at 18 Ok Reg 3331, eff 10-1-01 (emergency); Added at 19 Ok Reg 1171, eff 5-13-02 ; Amended at 22 Ok Reg 28, eff 10-1-04 (emergency); Amended at 22 Ok Reg 921, eff 5-12-05 ; Amended at 23 Ok Reg 1092, eff 6-1-06 ; Amended at 26 Ok Reg 2239, eff 7-1-09]

### **340:110-3-155. Personnel [REVOKED]**

[Source: Amended at 10 Ok Reg 3663, eff 7-12-93 ; Revoked at 18 Ok Reg 3331, eff 10-1-01 (emergency); Revoked at 19 Ok Reg 1171, eff 5-13-02]

### **340:110-3-156. Staff training [REVOKED]**

[Source: Amended at 10 Ok Reg 3663, eff 7-12-93 ; Revoked at 18 Ok Reg 3331, eff 10-1-01 (emergency); Revoked at 19 Ok Reg 1171, eff 5-13-02]

### **340:110-3-157. Physical facility and equipment**

(a) **New construction.** Special consideration is given for new construction site location for firefighting water availability and building area rescue access.

(b) **Square footage.** Living areas meet (1) through (4) of this subsection, not including offices, bathrooms, kitchens, laundries, hallways, furnaces, or utility areas.

(1) There is a total of 150 square feet of living area, including sleeping area, for the first resident and 100 square feet for each additional resident.

(2) Each sleeping area for more than one resident has 70 square feet for the first resident and 50 square feet for each additional resident.

(3) Each sleeping area intended for one resident contains 90 square feet.

(4) Habitable areas have a seven feet, six inch minimum ceiling height.

(c) **Basements.** Basements cannot be used for sleeping areas.

(d) **Mobile homes.** Facilities cannot be located in mobile homes.

(e) **Personal belongings storage.** Adequate storage space for each residents' personal belongings is provided.

(f) **Personnel sleeping areas.** Personnel sleeping areas are separated from resident sleeping areas, but near enough to ensure supervision.

(g) **Personnel space.** Facilities provide sufficient space separate from program space and treatment activities for administrative activities, individual counseling sessions, and other personnel program functions.

(h) **Bathrooms.** Bathrooms are maintained in a clean and sanitary condition with adequate ventilation.

(1) At least one flush toilet, hand sink, and bathtub or shower in good working condition is available for every six residents. Bathrooms are convenient to sleeping areas, living, and recreation areas.

(2) Flush urinals may be substituted for not more than one-half the required toilet number when serving males only.

(3) Hand sinks, bathtubs, and showers have cold and hot water with temperatures between 100 and 120 degrees Fahrenheit.

(4) Toilet paper, soap, and individual sanitary towels are within easy resident access.

(i) **Diaper changing.** A non-porous changing pad in good repair is used when changing diapers. The diaper-changing surface is used only for diaper changing and sanitized after each diaper change. Personnel wash hands with dispensable soap and warm running water after each diaper change.

(j) **Sanitation and safety.** All areas are clean, sanitary, and hazard-free.

(1) Harmful substances and objects not essential to facility operation are prohibited on the premises. Other poisonous, flammable, or harmful materials are locked when not under adult supervision.

(2) Weapon definition and storage meet (A) and (B) of this paragraph.

(A) A weapon includes, but is not limited to, a:

- (i) firearm, such as a pistol, revolver, shotgun, or rifle from which a projectile is fired by gunpowder, gas, or other means of rocket propulsion;
- (ii) cap pistol, air-powered BB or pellet gun;
- (iii) bow and arrow; or
- (iv) knife, including any dagger or blade automatically released from the handle by pressure applied to a button, latch, or other mechanism, excluding kitchen knives.

(B) Any weapons and ammunition are inaccessible. In addition:

- (i) weapons are kept unloaded in locked containers, cabinets, or closets;
- (ii) ammunition is kept in locked containers, cabinets, or closets, separate from weapons; and
- (iii) keys, combinations, and codes used for locked storage are inaccessible.

(C) Program personnel are responsible for ensuring resident safety when participating in high risk activities, per Oklahoma Administrative Code (OAC) 340:110-3-165.1.

- (3) Closet doors can be opened from the inside.
- (4) Bathroom door locks can be unlocked from the outside in an emergency. The opening device is readily accessible to personnel.
- (5) Indoor resident areas are maintained between 65 and 85 degrees Fahrenheit.
- (6) Indoor and outdoor recreational equipment and supplies are in good condition, and play areas are hazard-free.
- (7) Floors, walls, ceilings, doors, and windows are in good condition.
- (8) The exterior foundation, roof, and walls are weather-proofed and in good condition.
- (9) Resident areas are well-lighted.
- (10) The program is responsible for the safety and sanitary conditions of house parent quarters.

(k) **Furnishings and decor.** The program supplies comfortable furniture, as appropriate, for all living areas. Resident furniture is sufficient in quantity and developmentally-appropriate.

- (1) Residents have individual and appropriately-sized beds with mattresses and bedding.
- (2) Cribs, including portable cribs that can be folded or collapsed without being disassembled, meet the current Consumer Product Safety Commission (CPSC) full-size and non-full size crib standards, per Sections 1219 and 1220 of Title 16 of the Code of Federal Regulations.

(A) CPSC compliance verification is maintained for duration of crib use.

(B) Crib or port-a-crib mattresses fit snugly with no more than one inch between the mattress and crib.

- (3) Bedroom and bathroom windows have window treatments for privacy.

(4) Broken, defective, or recalled furnishings and equipment are repaired or replaced.

(5) During mealtimes, each resident is provided table space with a chair or a rotation schedule is followed.

(l) **Phones.** Each living unit has a readily-accessible, operable phone for emergency use.

(m) **Health regulations.** The program complies with buildings, utilities, grounds, and food service sanitation requirements, per OAC 340:110-3-163 and 340:110-3-164, and is inspected annually by the appropriate state agency.

(n) **Fire safety.** The program complies with the state fire marshal's office regulations for construction and fire safety and is inspected annually by the state fire marshal's office or its designee.

(o) **Environmental quality.** A facility having non-public water and sewage supply systems is inspected annually by the Oklahoma Department of Environmental Quality.

[Source: Amended at 10 Ok Reg 3663, eff 7-12-93 ; Amended at 18 Ok Reg 3331, eff 10-1-01 (emergency); Amended at 19 Ok Reg 1171, eff 5-13-02 ; Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 30 Ok Reg 1386, eff 7-1-13 ; Amended at 40 Ok Reg 1033, eff 9-15-23 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:110-3-158. Program [REVOKED]**

[Source: Amended at 10 Ok Reg 3663, eff 7-12-93 ; Revoked at 18 Ok Reg 3331, eff 10-1-01 (emergency); Revoked at 19 Ok Reg 1171, eff 5-13-02]

### **340:110-3-159. Health and medical services [REVOKED]**

[Source: Amended at 10 Ok Reg 3663, eff 7-12-93 ; Revoked at 18 Ok Reg 3331, eff 10-1-01 (emergency); Revoked at 19 Ok Reg 1171, eff 5-13-02]

### **340:110-3-160. Food and nutrition [REVOKED]**

[Source: Amended at 10 Ok Reg 3663, eff 7-12-93 ; Revoked at 18 Ok Reg 3331, eff 10-1-01 (emergency); Revoked at 19 Ok Reg 1171, eff 5-13-02]

### **340:110-3-161. Transportation [REVOKED]**

[Source: Amended at 10 Ok Reg 3663, eff 7-12-93 ; Revoked at 18 Ok Reg 3331, eff 10-1-01 (emergency); Revoked at 19 Ok Reg 1171, eff 5-13-02]

### **340:110-3-162. Behavior management [REVOKED]**

[Source: Amended at 10 Ok Reg 3663, eff 7-12-93 ; Revoked at 18 Ok Reg 3331, eff 10-1-01 (emergency); Revoked at 19 Ok Reg 1171, eff 5-13-02]

### **340:110-3-163. Buildings, utilities, and grounds regulations**

The requirements in this Section apply to residential child care facilities constructed after June 15, 1990. Licensed facilities in operation June 15, 1990, continue compliance with construction and safety regulations applicable to license issuance.

(1) **Building.** Buildings used for residential child care facilities are structurally sound. Structures comply with the building and fire codes of the local or state governmental authority having jurisdiction and applicable at permit or license issuance. Structures also comply with plumbing code, mechanical code, and fuel gas code adopted by the Oklahoma Uniform Building Code Commission and American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE) Standards.

(A) Exterior and interior surfaces are maintained in sound condition and free of holes, peeling paper, and paint.

(B) Windows and doors are in good repair and free of broken glass or hazards.

(C) Floors are cleanable and in good repair.

(D) Uncovered floors, including concrete and wood floors, are sealed.

(2) **Premises.** The premises are maintained per requirements included in this paragraph.

(A) The premises are free of insects, and vermin.

(B) Safe, effective measures minimize the presence of, and protect against, insects, rodents, and other vermin entry.

(C) The premises are free of hazards.

(D) The premises and vehicles used to transport residents are free of illegal drugs and paraphernalia.

(E) Materials preventing resident's egress, such as barbed wire, electrical fencing, and razor and concertina wire are prohibited.

(3) **Tobacco use.** Tobacco use includes simulated tobacco products. The program prohibits tobacco use:

(A) by residents;

(B) in buildings used by residents; or

(C) in resident's presence.

(4) **Screening.** Windows, exterior doors, or similar devices are in working condition and good repair. When protecting against mosquitoes, flies, and other flying insects, doors and windows are provided with a 16-mesh, properly fitting screen. Air conditioned areas are adequate to meet this requirement when properly operated unless rodents or other vermin are able to enter to such extent a nuisance or hazard is created.

(5) **Ventilation.** Rooms are ventilated. Ventilation systems and windows comply with building and fire codes of the local or state governmental authority having jurisdiction. Non-habitable areas, such as bathrooms and food preparation areas, may provide other approved ventilation systems in lieu of windows or skylights. Adequately designed, maintained, and operated heating and cooling systems meet the ventilation requirements.

(6) **Lighting.** Resident areas are well-lighted.

(7) **Windows.** Effective July 1, 2009, any new construction or existing space not previously licensed as resident's sleeping quarters have an exterior window for natural lighting.

(8) **Laundry.** Laundry areas are maintained in a clean and safe condition. Equipment installation meets safety requirements.

(9) **Water supply.** The water supply is adequate, safe and sanitary ; meeting state quality standards, and approved by the Oklahoma Department of Environmental Quality (DEQ).

(A) When not on a public water supply, such as well water, water meets local and state testing requirements and is tested annually.

(B) Areas where food is prepared or equipment, utensils, or containers are used have hot and cold water under pressure.

(10) **Sewage disposal.** Sewage, including mop water, is disposed in a public sewage system or manner approved by DEQ.

(11) **Plumbing.** Plumbing is sized, installed, and maintained in a safe manner, per the Oklahoma Plumbing License Act.

(A) Plumbing constructed after June 1, 1987, is installed, per the International Plumbing Code or applicable local ordinances.

(B) Cross-connection between the potable water supply and nonpotable or questionable water supply, or pollution source where the potable water supply may become contaminated is prohibited.

(C) Water closets, sinks, bathtubs, and showers are properly connected to a water and sewer system approved by the Construction Industry Board and in good working condition.

(D) Sinks, bathtubs, and showers are supplied with hot and cold water.

(12) **Electrical.** The electrical distribution system is sized, installed, and maintained in a safe manner, per the Oklahoma Electrical Licensing Act. Portions of the electrical system constructed, repaired, or replaced after June 1, 1987, are installed, per the current National Electrical Code.

(13) **Garbage and rubbish disposal.** Prior to disposal, garbage and rubbish containing food wastes or diapers are stored in leak-proof, non-absorbent containers and covered with tight-fitting lids when filled, stored, or not in continuous use.

(A) The containers are adequate for food waste storage and rubbish.

(B) Each container is thoroughly cleaned when soiled.

(C) Garbage disposal units, when used, are of suitable construction and installed per state and local standards.

(D) Garbage and rubbish are disposed of frequently and in a manner to prevent a nuisance.

(E) Hazardous material is properly disposed.

(14) **Swimming pools.** Swimming pools used by residents are considered public bathing places and meet Design Standards and Operational Criteria for Public Bathing Places of Oklahoma State Department of Health (OSDH).

(A) When a private swimming pool is used, it is considered a public pool and meets OSDH requirements.

(B) Portable pool use is prohibited.



(C) A certified life guard or individual having a current water safety certificate or comparable certificate with cardio-pulmonary resuscitation and first aid is in attendance at all times during pool use.

(15) **Animals.**

(A) Local ordinances regarding animals are followed.

(B) Animals are kept on the premises only when the animal and resident's health and safety can be reasonably ensured.

(C) Animals having resident contact are maintained in good health and free of diseases communicable to humans.

(D) Programs maintain current dog and cat vaccinations administered by a licensed veterinarian.

(E) Confinement areas are cleaned of excrement regularly. Animals are maintained in a visibly clean manner.

(F) The OSDH is immediately notified when a resident is bitten by an animal.

[**Source:** Amended at 10 Ok Reg 3663, eff 7-12-93 ; Amended at 18 Ok Reg 3331, eff 10-1-01 (emergency); Amended at 19 Ok Reg 1171, eff 5-13-02 ; Amended at 22 Ok Reg 35, eff 10-1-04 (emergency); Amended at 22 Ok Reg 921, eff 5-12-05 ; Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 40 Ok Reg 1033, eff 9-15-23]

### **340:110-3-164. Food service requirements**

All residential child care facilities comply with the following regulations adapted from the Oklahoma State Department of Health Rules and Regulations pertaining to food service establishments.

(1) **General.** Food service requirements are listed in this paragraph.

(A) Food is protected at all times from any contamination including cross-contamination between raw and cooked foods, toxic substances, or contamination by insects or rodents while being stored, prepared, displayed, dispensed, packaged or transported.

(B) Equipment and utensils used for food storage, preparation, and serving are maintained in a sanitary condition.

(2) **Food supplies.** The requirements regarding food supplies are contained in this paragraph.

(A) **Food sources.** Food is in sound condition, free from spoilage, contamination, filth, adulteration, misbranding, and safe for human consumption.

(B) **Home-canned and hermetically sealed food.**

Individually home-canned food or use of food in hermetically sealed containers that was not prepared in a food processing establishment is prohibited.

(C) **Milk products.** Requirements pertaining to milk products include:

(i) only Grade A pasteurized fluid milk and fluid milk products for drinking are permitted;

- (ii) pasteurized dry milk or evaporated milk may be used for cooking purposes only;
- (iii) milk and milk products are stored at 41 degrees Fahrenheit or below;
- (iv) milk is stored in the original carton; and
- (v) milk may be transferred from the original container to pitchers for serving. However, milk removed from the original container may not be returned to the original container or stored for later use.

(D) **Meat, poultry, and fish.** Meat, poultry, and fish are obtained from approved sources and have been inspected by appropriate governmental authorities. Raw or undercooked animal foods such as rare ground meat, shellfish, or steak are prohibited.

(E) **Ice.** Ice used for any purpose is made from water which comes from an approved source and was manufactured, stored, transported, and handled in a sanitary manner.

(F) **Juice.** Apple juice, apple cider, and beverages containing apple juice are pasteurized or commercially sterile. Juices that bear a warning label are prohibited.

(G) **Sprouts.** Raw seed sprouts are prohibited.

(3) **Potentially hazardous foods.** Requirements pertaining to potentially hazardous foods are contained in this paragraph.

(A) **Cooking.** Potentially hazardous foods are cooked according to food regulations adopted by OSDH.

(B) **Egg products.** Only clean, whole-shell eggs without cracks, which meet applicable grade standards and are held at 41 degrees Fahrenheit during storage, or pasteurized shell eggs or pasteurized liquid, frozen, or dry eggs are permitted.

(i) Raw unpasteurized eggs are not used in uncooked food, for example, ice cream or eggnog.

(ii) Eggs are cooked to at least 145 degrees Fahrenheit for 15 seconds. Soft-cooked unpasteurized eggs are prohibited.

(C) **Reheating foods.** Before being served, potentially hazardous foods that have been cooked and then refrigerated are reheated rapidly throughout to 165 degrees Fahrenheit or higher before being served.

(4) **Food protection.** Foods are covered and protected from contamination while being stored, prepared, displayed, or transported.

(A) Medicines and other hazardous items are stored in a manner that prevents contamination of food.

(B) Refrigeration units and insulated facilities are required to assure maintenance of all food at 41 degrees Fahrenheit or below except during preparation and service.

(C) A thermometer is located in a conspicuous place in each refrigerator and freezer.

(D) All perishable foods, including fruits and vegetables, are stored at temperatures that will protect against spoilage.

(E) A suitable small-diameter probe thermometer is available to check food temperatures.

(F) All potentially hazardous foods are maintained at safe temperatures, 41 degrees Fahrenheit or below or 135 degrees Fahrenheit or above, except during necessary periods of preparation and service.

(G) Raw eggs are not to be cracked and combined unless used immediately.

(H) Use of unlabeled cans is prohibited.

(I) Use of damaged cans that are bulging or have a broken seal are prohibited.

(J) Frozen food is kept at 10 degrees Fahrenheit or below except when being thawed at refrigerator temperature of 41 degrees Fahrenheit, or under cool, potable running water at 70 degrees Fahrenheit or below, or microwaved as part of the cooking process.

(K) Cased food in water proof containers may be stored on a floor that is clean and not exposed to moisture.

(5) **Food preparation.** Food is prepared with a minimum of manual contact on food-contact surfaces and with clean, sanitized utensils.

(A) Whenever there is a change in processing between raw beef, pork, poultry, or seafood, or a change in processing from raw to ready-to-eat foods, each new operation begins with clean, sanitized food-contact surfaces and utensils.

(B) Raw fruits and vegetables are thoroughly washed with potable water before being cooked or served.

(6) **Use of food.** Individual or family-style portions of food once served are not served again. Prepared and unserved food may be properly stored for later service. Wrapped food that remains properly stored and has not been unwrapped may be served again.

(7) **Transporting food.** The requirements for storage, display, and general protection against contamination contained in this Section apply to all food that is transported from one location to another for service.

(A) During transportation, potentially hazardous food is kept at 41 degrees Fahrenheit or below, or at 140 degrees Fahrenheit or above.

(B) During transportation, all food is in covered containers or completely wrapped or packaged to protect it from contamination.

(8) **Catering services.** When catering services are used:

(A) meals are obtained from a food service establishment approved by the health department; and

(B) procedures and equipment for transporting meals are approved by the health department.

(9) **Health and hygiene.** The health and hygiene requirements are listed in (A) - (C) of this paragraph.

(A) Individuals are prohibited from working in any capacity in any area of food service if diagnosed with Salmonella Typhi, Shigella spp., Enterohemorrhagic or Shiga toxin-producing Escherichia coli, Hepatitis A virus; or Norovirus.

(B) Individuals are restricted from working in any area of food service if diagnosed with or a carrier of any communicable disease, or while afflicted with boils, infected wounds, sores, an acute respiratory infection, vomiting, fever, sore throat with fever, or diarrhea.

(C) All individuals wear clean outer garments, maintain a high degree of personal cleanliness, and conform to hygienic practices while on duty.

(i) Individuals thoroughly wash their hands and the exposed portions of their arms with dispensed soap and warm water for at least 20 seconds before starting work, during work as often as necessary to keep them clean, after handling raw food products and after eating, drinking, using the toilet or returning from other areas of the facility, or any other contamination.

(ii) Individuals keep their fingernails trimmed, filed, and maintained so the edges and surfaces are cleanable and not rough.

(10) **Food equipment, utensils, and storage items.** All equipment and utensils are designed and constructed of safe, non-toxic materials and are smooth, non-absorbent, easily cleaned, durable, and in good repair.

(A) All equipment is installed to facilitate cleaning of the equipment and adjacent areas.

(B) Adequate food service utensils are provided to ensure complete food service for one meal for the licensed capacity of the facility.

(C) Tableware is washed, rinsed, and sanitized after each use and stored in a clean area.

(D) To prevent cross-contamination, kitchenware, utensils, and food contact surfaces of equipment are washed, rinsed, and sanitized after each use.

(E) Cooking devices are cleaned as often as necessary and are free of encrusted grease deposits and other soils.

(F) Non-food contact surfaces of all equipment, including tables, counters, and shelves, are cleaned as often as necessary to keep them free of accumulations of dust, dirt, food particles, and other debris.

(11) **Cleaning and sanitizing equipment and utensils.**

Equipment, utensils, and service items are maintained in a sanitary condition by use of one of the methods listed in this paragraph.

(A) **Dishwashing machines.** Commercial or domestic dishwashing machines are acceptable if heat or chemical sanitizing cycles are properly installed and if operated in a manner that allows completion of a sanitizing cycle without opening the machine. Adequacy of the sanitizing cycle is 180 degrees Fahrenheit by heat or 50 parts per million by sanitizer in accordance with United States Environmental Protection Agency (EPA)-approved labels.

(B) **Manual cleaning.** Requirements for manual cleaning are in this subparagraph.

(i) If a three-compartment sink or automatic dishwasher is not available, a two-compartment, domestic-type sink may be used when additional vessels are provided to ensure the rinsing and sanitizing of all equipment, utensils, and tableware.

(ii) Equipment, utensils, and tableware are washed, rinsed, and sanitized in the sequence listed in this subparagraph.

(I) Sinks are cleaned prior to use.

(II) In the first compartment, items are thoroughly washed with a detergent in a solution that is kept clean.

(III) In the second compartment, equipment items are rinsed with clean water until they are free of detergent and abrasives.

(IV) In the third compartment, items are sanitized.

(iii) Food-contact surfaces of all equipment and utensils are sanitized by immersion in a clean solution containing any chemical sanitizing agent.

(iv) All items are air-dried in a self-draining position before being stored. No cloth drying is permitted.

(C) **Use of single-service articles.** Facilities that do not have adequate and effective facilities for cleaning and sanitizing utensils use single-service articles for both preparation and service.

(i) Single-service articles are stored in closed cartons or containers which protect them from contamination.

(ii) Single-service articles are used only once.

(12) **Storage area.** Storage areas meet the requirements contained in this paragraph.

(A) Adequate space is provided for the storage of sanitized equipment, utensils, and service items.

(B) Items are stored above the floor in a clean, dry location to protect food contact surfaces from splash, dust, and other contamination.

(C) Only poisonous and toxic materials that are required to maintain sanitary conditions and for sanitation purposes are used or stored in the food preparation area.

(D) Poisonous and toxic materials are identified and used only in accordance with manufacturer's use directions and under conditions that do not contaminate food or constitute a hazard.

(13) **Food service hand-washing facilities.** Separate hand-washing facilities equipped with hot and cold running water with a mixed-valve faucet are provided in the food preparation area in any facility licensed or remodeled after October 1, 2001 and have a minimum of 100 degrees Fahrenheit at hand-washing sinks. In cottage-type and domestic type residential housing licensed prior to July 11, 1978, hand-washing facilities in a bathroom on the same floor as the kitchen are deemed convenient and adequate.

(A) Dispensed cleansing soap or detergent and sanitary towels, or other hand-drying devices are provided.

(B) Facilities are kept clean and in good repair.

(C) Food preparation and dishwashing sinks are not used for hand-washing purposes.

(14) **Food preparation and service areas.** Food preparation and service areas meet the requirements listed in this paragraph.

(A) **Floors.** The floor surface in all rooms or areas in which food is stored or prepared is of smooth, non-absorbent materials.

(i) Unsealed concrete and carpet are not permitted.

(ii) Floors are constructed so that they are easily cleaned and are kept in good repair.

(B) **Walls and ceilings.** Walls and ceilings, in areas in which food is prepared or utensils or hands are washed, are kept in good repair, easily cleaned, and have washable surfaces up to the highest level reached by splash or spray.

(C) **Lighting.** The requirements addressing lighting are contained in this subparagraph.

(i) All areas in which food is prepared or stored, as well as hand-washing areas, toilet rooms, and garbage and rubbish storage areas, are lit as per International Electrical code.

(ii) All lighting fixtures are shielded.

(D) **Ventilation.** Rooms are properly ventilated as per International Plumbing Code.

(i) All rooms have sufficient ventilation to keep them free from heat, steam, vapors, obnoxious odors, smoke, and fumes.

(ii) Ventilation systems comply with applicable state and local fire prevention requirements and, when ventilated to the outside air, discharge in such a manner as to not create a nuisance.

(E) **Housekeeping.** All areas where food is prepared and served are kept clean, neat, and free from litter and rubbish.

(i) Cleaning operations are conducted in a manner that minimizes contamination of food and food-

contact surfaces.

(ii) Soiled linens, coats, and aprons are kept in containers until removed for laundering.

(iii) Live birds or animals are not allowed in any area used for food service operations.

[Source: Amended at 10 Ok Reg 3663, eff 7-12-93 ; Amended at 18 Ok Reg 3331, eff 10-1-01 (emergency); Amended at 19 Ok Reg 1171, eff 5-13-02 ; Amended at 26 Ok Reg 2239, eff 7-1-09]

### **340:110-3-165. Construction and fire safety**

The requirements in this Section establish minimum construction and fire safety requirements for residential child care facilities, which are enforced by the State Fire Marshal.

(1) **Approval of residential facilities.** The Office of the State Fire Marshal is responsible for approval of all residential child care facilities.

(A) Current state-adopted codes [74 O.S § 317 through 324.21] are enforced for all new construction including additions or major alterations of existing licensed facilities and conversion of buildings not previously licensed as residential child care facilities.

(B) Licensed facilities in operation on the effective date of these regulations comply with the construction and fire safety codes applicable to the issuance of their license.

(C) Clarification regarding codes and enforcement is available from the Office of the State Fire Marshal.

(2) **Minimum construction requirements.** The facility complies with the construction requirements described in (A) - (E) of this subsection.

(A) Architectural plans are submitted to and approved by Licensing Services and the State Fire Marshal or designee before proceeding with construction.

(B) When choosing the site for new construction, special consideration is given to available water for fire fighting and access to all areas of the building for rescue.

(C) Facilities meet local building, electrical, plumbing, and fire prevention codes. In localities where a building code or Life Safety Code does not exist, construction conforms to the current state-adopted codes.

(D) Building separation and property line setbacks meet requirements of local ordinances. In the absence of such ordinances, the state adopted building code applies.

(E) A mobile home, whether mobile or permanently situated, is not permitted as a residential child care facility.

(3) **Administration.** The facility complies with the requirements contained in (A) - (E) of this subsection.

(A) **Fire protection plan.** The facility has a written fire protection plan for all persons in the event of fire and evacuation from the building. The plan is the basis of regular fire drills and includes procedures followed under

all specific types of emergencies.

(i) All supervisory personnel have a copy of the facility's fire protection plan.

(ii) Each employee is familiar with locations and use of portable fire extinguishers.

(iii) Each staff member is familiar with evacuation procedures and routes.

(B) **Evacuation plan.** Evacuation plans are posted in prominent locations on all floors in each building.

(C) **Emergency numbers.** Emergency telephone numbers are conspicuously posted at the telephone.

(D) **Housekeeping.** The facility:

(i) prohibits areas under stairs from being used for combustible storage; and

(ii) ensures that accumulations of papers or trash are removed from the building as soon as possible.

(4) **Exits.** The residential child care facility complies with the requirements pertaining to exits described in (A) - (B) of this paragraph.

(A) Exits are not blocked.

(B) Means of exit are adequately lighted by natural or electric light at all times to permit safe evacuation of occupants.

(5) **Fire protection equipment.** Equipment is installed and maintained as required by codes adapted by the Office of the State Fire Marshal.

(A) **Smoke detectors.** The residential child care facility has operable smoke detectors located according to NFPA 72 as adapted by the state fire marshal. The detector is powered by battery, alternating current, or other power source. Upon inspection, a battery operated detector found inoperable is replaced immediately with an operable system. For facilities licensed after October 1, 2001 a hard-wired system is installed.

(B) **Fire extinguishers.** Fire extinguishers are provided in accordance with current adapted NFPA standard #10 "Portable Fire Extinguisher."

(i) All fire extinguishers are inspected, serviced, and tagged annually by a trained individual.

(ii) Disposable fire extinguishers are prohibited.

(6) **Maintenance of equipment.** All safety equipment, including emergency lighting, commercial stove hoods, sprinkler systems, and any other required safety equipment, is maintained in compliance with current codes or manufacturer's instructions.

(7) **Interior.** The interior of the facility complies with the requirements contained in (A) - (F) of this subsection.

(A) Changes to interior finish or floor covering meet current codes regarding flame spread rating.

(B) Furnishings or decorations with an explosive or highly flammable characteristic are prohibited.



- (C) Use of open-face space heaters, unvented space heaters, and portable heating devices is prohibited.
- (D) Heaters, including floor furnaces, are enclosed by a guard when necessary to protect children from hot surfaces.
- (E) The use of temporary wiring or extension cords as permanent wiring is strictly prohibited. Extension bars are acceptable if there is documentation that a circuit breaker or fuse is built into the unit.
- (F) Electrical outlets, which are not in use, are covered with safety devices when children under five years of age are in care.

(8) **Exterior.** Exterior areas are free of trash and tall grass.

[Source: Amended at 10 Ok Reg 3663, eff 7-12-93 ; Amended at 18 Ok Reg 3331, eff 10-1-01 (emergency); Amended at 19 Ok Reg 1171, eff 5-13-02 ; Amended at 26 Ok Reg 2239, eff 7-1-09]

### **340:110-3-165.1. Safety and emergency preparedness**

This Section establishes residential child care safety and emergency preparedness requirements.

- (1) **Fire drills.** Residents participate in fire drills at least six times annually on a bi-monthly basis with at least two drills conducted at night during sleeping hours.
- (2) **Tornado drills.** Residents participate in tornado drills conducted each spring.
- (3) **Fire and tornado drill records.** Facilities maintain fire and tornado drill logs.
- (4) **High-risk activities.** When residents engage in activities, such as horseback riding, archery, gymnastics, karate, or using weapons, a written plan ensuring the residents' health and safety is maintained at the program. The plan includes:
  - (A) activity supervisor's qualifications;
  - (B) personnel qualifications necessary for supervision;
  - (C) number of personnel needed for supervision;
  - (D) conditions for resident participation, such as age and skill level;
  - (E) special equipment, such as life jackets or helmets, including the supply and condition; and
  - (F) safety practices.
- (5) **Water activities.** When residents engage in recreational water activities, safety precautions are followed. An individual with a current water safety certificate or comparable certificate is in attendance at all times. This person is in the water or prepared to enter the water at any time.
- (6) **Disaster planning.** The program maintains a written plan for:
  - (A) reporting and protecting from outside threats;
  - (B) fire evacuation;
  - (C) flood, tornado, blizzard, power failure; or
  - (D) other natural or man-made disaster causing facility structural damage or posing health hazards.

(7) **Sleep positioning.** To reduce the risk of Sudden Infant Death Syndrome, infants younger than 12 months of age are placed on their backs for sleeping unless there is a medical reason documented by a licensed physician indicating the infant not sleep in this position. Documentation is maintained at the program.

(A) Infants who turn themselves over are initially placed on their backs for sleeping but are allowed to sleep in a position they prefer.

(B) Infants' and toddlers' heads and faces are not covered.

(8) **Infant safe sleep environment.** Infant safe sleep environments are maintained.

(A) Infants sleep in cribs or portable cribs meeting requirements, per Oklahoma Administrative Code 340:110-3-157(k).

(B) Infants sleep directly on a tight-fitting sheet covering the mattress.

(C) Only pacifiers without attachments are in rest equipment with infants. Bibs are not placed around infants' necks when in rest equipment.

(D) Infants, birth through three months of age, may be swaddled with an infant-sized, thin fabric, such as a receiving blanket, only when the infant is not mobile enough to move the fabric over his or her face.

(E) When an infant falls asleep in equipment other than appropriate rest equipment, he or she is immediately moved to appropriate rest equipment.

(F) Soft products, such as blankets, quilts, comforters, sheepskins, pillows, stuffed toys, and bumper pads are prohibited inside and on the side of the infant rest equipment.

(G) Sleep positioners and elevated mattresses are prohibited, unless there is a medical reason documented by a licensed physician.

(H) Play equipment and other items are not placed inside, above, or attached to the sides of the infant rest equipment, unless there is a medical reason for a monitor or other device documented by a licensed physician.

However, mobiles may be securely attached or hung above the crib, provided no part of the mobile is within infant's reach.

[Source: Added at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 40 Ok Reg 1033, eff 9-15-23]

### **340:110-3-166. Requirements for regimented residential programs**

(a) **Regimented residential programs.** A regimented residential program is a military style training program under which residents are subject to a controlled and regimented environment that affirms dignity of self and respect for others, and includes physical training and

discipline.

(b) **Requirements.** Regimented residential programs comply with the rules contained in OAC 340:110-3-145 through 340:110-3-165.1, except as otherwise provided in this Section.

(c) **Administrative policy.** Regimented residential programs comply with the rule contained in OAC 340:110-3-152(d) regarding developing policies. In addition, policy includes guidelines for physical exercise, which ensures the health and safety of residents.

(d) **Executive director qualifications.** The person responsible for program supervision, whether the executive director or the program director, is exempt from meeting the qualifications contained in OAC 340:110-3-153.1(d)(2). One of the qualifications listed in (1) - (3) of this subsection, however, must be met:

(1) a bachelor's degree in a behavioral science or other related area of study from an accredited college or university and three years experience in children's services. Military experience may substitute for up to two years of experience in children's services;

(2) a master's degree in social work, psychology, guidance and counseling, sociology, child development, human relations, or other related area of study from an accredited college or university, and two years experience in children's services. Military experience may substitute for up to one year of experience in children's services; or

(3) a doctorate in medicine, social work, psychology, guidance and counseling, sociology, child development, human relations, or other related area of study from an accredited college or university and one year of experience in children's services. Military experience may substitute for experience in children's services.

(e) **Supervision of residents.** Regimented residential programs comply with the rule contained in OAC 340:110-3-153.2 regarding supervision of residents. When adjudicated juveniles are in care, however, the facility maintains a staff-child ratio of one to eight (1:8) during waking hours and one to twelve (1:12) during sleeping hours. Staff meeting the 1:12 ratio remain awake.

(f) **Physical examination.** Regimented residential programs are exempt from the rule contained in OAC 340:110-3-154(a)(5) regarding physical examinations within 30 days following admission. Prior to beginning intense physical exercise, however, each child has a physical examination by a health professional who states that the child may participate in a high-impact program.

(g) **Physical facility.** Regimented residential programs are exempt from the rule contained in OAC 340:110-3-157(b)(2) - (3) pertaining to square footage in sleeping rooms. Facilities, however, meet the requirements contained in (1) - (2) of this subsection.

(1) Each sleeping room intended for one resident contains 80 square feet.

(2) Facilities using barracks for sleeping have a minimum of 40 square feet per resident with no less than three feet between beds.

(h) **Staff sleeping quarters.** A regimented residential program operating with barracks-type sleeping rooms is exempt from the rule contained in OAC 340:110-3-157(f) pertaining to separate sleeping quarters for staff if the staff in the sleeping quarters is the same gender as the residents.

(i) **Toilets, sinks, and bathtubs or showers.** Regimented residential programs are exempt from the rules contained in OAC 340:110-3-157(h) (1). Programs, however, meet the requirements contained in (1) - (3) of this subsection.

(1) At least one flush toilet is available for each 12 males in male facilities and eight females in female facilities.

(2) At least one wash basin is available for each 12 residents.

(3) At least one shower or bathtub is available for each eight residents.

[Source: Added at 15 Ok Reg 763, eff 11-10-97 (emergency); Added at 15 Ok Reg 1727, eff 5-11-98 ; Amended at 18 Ok Reg 3331, eff 10-1-01 (emergency); Amended at 19 Ok Reg 1171, eff 5-13-02 ; Amended at 26 Ok Reg 2239, eff 7-1-09]

### **340:110-3-167. Requirements for children's shelters**

(a) **Children's shelter.** A children's shelter is a non-secure public or private residential program that provides temporary care and supervision for children.

(b) **Requirements.** Children's shelters comply with the rules contained in OAC 340:110-3-145 through 340:110-3-165.1, except as otherwise provided in this section.

(c) **Tuberculin test.** Children's shelters comply with the rules contained in OAC 340:110-3-153.1(g)(2) regarding tuberculin tests.

(d) **Supervision of residents.** Children's shelters are exempt from the rules contained in OAC 340:110-3-153.2 pertaining to supervision of residents. The shelter, however, employs an adequate number of staff as child care workers to meet the needs of the residents. All staff members on duty are awake and accessible at all times.

(1) For residents ages 0 to five years of age, the facility maintains a ratio of one staff person for four residents (1:4).

(2) For residents ages six to 11 years of age, the facility maintains a ratio of one staff person for six residents (1:6).

(3) For residents ages 12 - to 18 year of age, the facility maintains a ratio of one staff person for eight residents (1:8).

(e) **Admission.** Children's shelters are exempt from the rules contained in OAC 340:110-3-154(a)(1) - (5) regarding admission. Shelters, however, meet the requirements contained in (1) - (7) of this subsection in addition to OAC 340:110-3-154 (a)(5) - (7).

(1) Persons 18 years of age and older are not admitted to a shelter. A shelter may continue to serve a person who entered the shelter prior to his or her eighteenth birthday through the completion of his or her placement plan.

(2) The shelter admits only those children for which it has an established operational program.

(3) If a child is admitted by anyone other than a parent or custodian, the shelter documents the attempts to contact the

parent or custodian.

(4) Each child and parent or custodian entering the shelter is asked if the child is in good health and taking any type of medication.

(5) Each child in a shelter receives a health screening by an RN or LPN by the child's eighth day of care. However, a documented medical exam performed within the 12 months prior to admission is acceptable when a child is transferred from another licensed facility.

(6) If a resident shows symptoms of illness or injury, the parent or custodian is notified for appropriate action.

(7) Upon admission, the facility documents:

(A) child's name, date of birth, Social Security number, sex, race, tribal affiliation, address, and telephone number;

(B) name of parents or custodian, address, phone number, and place of employment;

(C) date and time of admission;

(D) name, phone number, and address of person responsible for bringing the child to the shelter;

(E) reason for referral;

(F) name of staff person on duty at admission;

(G) school the child attends and grade;

(H) description of the child's physical and emotional condition; and

(I) comments that relate to any circumstances concerning the child's placement.

(f) **Service plan.** Children's shelters are exempt from the rules contained in OAC 340:110-3-154(b)(1) regarding service plans. A written service plan is developed and documented for each resident within three days of admission. Children's shelters meet the guidelines contained in OAC 340:110-3-154(b)(1)(A) - (B).

(g) **Physical facility.** Children's shelters are exempt from the rules contained in OAC 340:110-3-157(b) regarding square footage. Shelters, however, meet the requirements contained in (1) - (5) of this subsection.

(1) Habitable living areas are provided as stated in (2) - (5) of this subsection. This does not include offices, bathrooms, hallways, kitchen, laundry, furnace, utility, or office areas.

(2) There is a total of 100 square feet of habitable living area per resident, including sleeping space.

(3) Each sleeping room for more than one resident contains 50 square feet per occupant.

(4) Each sleeping room intended for one resident contains 80 square feet.

(5) All areas counted as habitable space have a minimum ceiling height of seven feet, six inches.

[Source: Added at 18 Ok Reg 3331, eff 10-1-01 (emergency); Added at 19 Ok Reg 1171, eff 5-13-02 ; Amended at 26 Ok Reg 2239, eff 7-1-09]

### **340:110-3-168. Requirements for residential treatment facilities**

(a) **Residential treatment facilities.** A residential treatment program cares for children under 24-hour medical care with emotional, psychological, or mental disorders.

(b) **Requirements.** The program complies with Oklahoma Administrative Code (OAC) 340:110-3-145 through 340:110-3-165.1, except as otherwise provided in this Section.

(c) **Personnel.** The program:

(1) complies with the rules regarding personnel, per OAC 340:110-3-153.1; and

(2) employs a psychiatrist and adequate medical personnel meeting residents' medical needs.

(d) **Ratios and resident supervision.** The program is exempt from the rules, per OAC 340:110-3-153.2, regarding residents' supervision.

(1) The program employs a sufficient number of child care personnel to adequately supervise and meet residents' needs. Supervision is the function of overseeing and guiding residents, including awareness of, and responsibility for, each resident's ongoing activities. Personnel are awake and accessible at all times.

(2) The program maintains a ratio of one personnel for:

(A) six residents (1:6) during awake hours; and

(B) eight residents (1:8) during sleeping hours.

(3) Personnel may only count in ratio while directly caring for residents. Personnel performing other duties may not count in ratio.

(4) The doors may be locked when psychiatric residential treatment admission is ordered by a licensed psychiatrist or physician.

(e) **Admission.** Within 24-hours of admission, a health care professional reviews and approves the admission assessment.

(f) **Service planning.** The program is exempt from the rules, per OAC 340:110-3-154(b)(1) and (2), regarding service plans.

(1) The program meets the requirements in:

(A) (1) and (2) of this subsection; and

(B) OAC 340:110-3-154(b)(1)(A) and (B) and (b)(2)(B) and (C).

(2) A written service plan for each resident is:

(A) developed and documented within seven-program business days after admission; and

(B) reviewed at least every 30-calendar days thereafter unless required by other licensing or contracted entities.

(g) **Portable pools.** The program is exempt from the rules, per OAC 340:110-3-163(14)(B). Therapeutic water activities are permitted when prescribed by an attending licensed physician, included in a treatment plan, and provisions are made to ensure hygienic practices. When portable pools are used as a therapeutic activity, residents, are directly supervised at all times. Portable pools are:

(1) no larger than six feet in diameter; and

(2) contain no more than six inches water depth.

(h) **Discharge procedures.** The program meets the rules, per OAC 340:110-3-154(d), regarding discharge procedures. The program:

- (1) supplies the resident with two weeks' worth of prescribed medication, when appropriate; and
- (2) documents in the resident's file at least one scheduled outpatient follow-up contact within two weeks of discharge.

(i) **Visitation.** The program is exempt from the rules, per OAC 340:110-3-154.1(b)(2), regarding visitation restriction reviews. Visitation restrictions are:

- (1) explained to the resident and parents or legal guardian;
- (2) documented in the resident's records; and
- (3) reviewed every seven-calendar days.

(j) **Behavior management.** The program is exempt from the rules, per OAC 340:110-3-154.2(b)(7) and (10), regarding seclusion and restraint. If the program uses seclusion and chemical restraint, requirements in (1) through (5) of this subsection are met.

(1) **Seclusion.** Seclusion is only used when less-restrictive interventions, per program policy, were attempted or when an immediate intervention is required to protect the resident, personnel, or others. The resident is released from seclusion when no longer deemed a risk to self or others. A written incident report is completed within 24-hours following each use of seclusion.

(A) Seclusion is only used with a health care professional's specific verbal authorization. Within 24-hours, the authorization is written and signed by the health care professional and maintained with the seclusion log.

(B) Personnel continuously monitor residents in seclusion, either by direct contact or with audiovisual equipment, and directly verify residents' well-being at least every 15 minutes. Residents receive appropriate medical and psychological services.

(C) Residents in seclusion have bathroom access , and all scheduled meals are provided.

(D) Residents are released from seclusion when sufficiently in control and no longer a serious and immediate danger.

(i) Residents 10 years of age and older do not remain in seclusion longer than two hours or a total of six non-consecutive hours within a 24-hour period.

(ii) Residents 9 years of age and younger do not remain in seclusion longer than one hour within a 24-hour period.

(2) **Seclusion room.** A room used for seclusion includes:

(A) at least 60 square feet and a seven foot, six inch ceiling height;

(B) a safety glass window, mirror, or camera allowing for seclusion room full-observation;

(C) no hardware or furnishings obstructing resident observation at all times;

(D) no hardware, equipment, or furnishings presenting a physical hazard or suicide risk;

- (E) natural or mechanical ventilation;
  - (F) a temperature between 65 and 85 degrees Fahrenheit;
  - (G) lighting ; and
  - (H) an automatic fire suppression system.
- (3) **Mechanical restraint.** Mechanical restraint is not used on residents 18 years of age and younger, per OAC 317:30-5-95.39.
- (4) **Chemical restraint.** Chemical restraint is only used when less restrictive interventions, per program policy, were attempted or when an immediate intervention is required to protect the resident, personnel, or others. A written incident report is completed within 24-hours following each chemical restraint use.
- (A) Chemical restraint is only used with a health care professional's verbal authorization prior to administration. Within 24-hours, the authorization is written and signed by the health care professional and maintained with the restraint log.
  - (B) Chemical restraint is administered in a humane manner.
  - (C) Personnel continuously monitor residents, either by direct contact or with audiovisual equipment, and directly verify residents' well-being at least every 15 minutes.
  - (D) The resident receives appropriate medical and psychological services.
- (5) **Seclusion and restraint log.** A seclusion and restraint log is maintained and includes the seclusion or restraint:
- (A) date and time ;
  - (B) authorizing health care professional's name;
  - (C) reason and other behavior management techniques attempted;
  - (D) observation times, including resident's activity description at each observation, and the signature of the observing personnel; and
  - (E) release time.

[Source: Added at 18 Ok Reg 3331, eff 10-1-01 (emergency); Added at 19 Ok Reg 1171, eff 5-13-02 ; Amended at 22 Ok Reg 1304, eff 6-1-05 ; Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 27 Ok Reg 48, eff 10-1-09 (emergency); Amended at 27 Ok Reg 1869, eff 7-1-10 ; Amended at 31 Ok Reg 154, eff 11-1-13 (emergency); Amended at 31 Ok Reg 1854, eff 9-15-14 ; Amended at 37 Ok Reg 1858, eff 11-1-20 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:110-3-169. Requirements for secure care facilities**

- (a) **Secure care facility.** A secure care facility is a facility that cares for and supervises adjudicated children in a building in which voluntary entering and exiting is prohibited through the use of internal or exterior locks or through secure fencing around the perimeter.
- (b) **Requirements.** Secure care facilities are required to meet the rules contained in OAC 340:110-3-145 through 340:110-3-165.1 except as otherwise provided in this Section.
- (c) **Supervision of residents.** Secure care facilities meet the requirements contained in OAC 340:110-3-153.2 regarding supervision of residents. In addition, staff members remain awake at all times.



(d) **Searches and contraband.** Secure care facilities meet the requirements contained in OAC 340:110-3-152(d) regarding required policies. In addition, secure care facilities have written policy and procedure governing searches and control of contraband.

(1) Facility policy and procedure includes, but is not limited to:

- (A) control of contraband;
- (B) searches for contraband;
- (C) property searches;
- (D) searches of the facility; and
- (E) visitor searches.

(2) Residents and visitors are notified that they are subject to search.

(3) No resident is searched beyond what is necessary to maintain proper security.

(4) Searches are conducted by a staff member of the same gender as the resident or visitor being searched.

(e) **Door security.** Secure care facilities meet the requirements for door security contained in (1) - (4) of this subsection.

(1) All doors are kept locked that are security perimeter entrances, exterior doors, and doors that the facility administrator determines should be locked. These doors are unlocked only for admission or exit of residents, employees, visitors, or in case of an emergency.

(2) Doors to vacant units, unoccupied areas, and storage rooms are locked when not in use.

(3) Staff members know what doors must be locked and under what circumstances the doors are opened.

(4) Once a door is locked, it is checked to ensure it is secured.

(f) **Key control.** A secure care facility has a key-control system that includes:

(1) a log, which is available to licensing staff for review, to record the number of keys given out, the location of the lock, the number of keys to that lock, and the names of the employees possessing keys;

(2) a central administrative area from where the keys are issued;

(3) a manner of storage that permits easy determination of either the absence or the presence of the keys;

(4) labeling of all keys and maintenance of at least one duplicate key for each lock; and

(5) fire and emergency keys that are readily accessible.

(g) **Weapons.** Weapons are not permitted beyond a designated area.

(h) **Behavior management.** Secure care facilities are exempt from the rules contained in OAC 340:110-3-154.2(b)(7) and (11) regarding seclusion and mechanical restraint. Facilities that use seclusion and mechanical restraint meet the requirements contained in (1) - (4) of this subsection.

(1) **Seclusion.** Seclusion may only be used when less restrictive interventions, according to facility policy, have been attempted or when an immediate intervention is required to protect the resident, staff member, or others, or prevent escape. Resident is released from seclusion when resident is no longer deemed a risk

to self or others. A written incident report is completed within 24-hours following each use of seclusion.

(A) Seclusion is used only with specific authorization of the executive director, the administrative person in charge, or a health professional.

(B) When a resident is placed in seclusion, an adult staff member continuously monitors the resident, either in person or through audiovisual equipment, and personally checks the resident's well-being every 15 minutes. The resident receives appropriate medical and psychological services.

(C) The resident has reasonable access to toilet facilities and to all scheduled meals while in seclusion.

(D) As soon as the resident sufficiently gains control and is no longer a serious and immediate danger, the resident is released from seclusion. Residents age ten and older do not remain in seclusion longer than three hours or a total of six non-consecutive hours within any 24-hour period. Residents age 9 and under do not remain in seclusion longer than one hour within any 24-hour period.

(2) **Seclusion room.** A room used for seclusion includes:

(A) at least 60 square feet and a ceiling height of seven feet, six inches;

(B) a safety glass window, mirror, or camera that allows for full observation of the seclusion room;

(C) no hardware or furnishings that obstruct observing the child at all times;

(D) no hardware, equipment, or furnishings that present a physical hazard or suicide risk;

(E) means for natural or mechanical ventilation;

(F) means for maintaining a temperature between 65 and 85 degrees Fahrenheit;

(G) lighting for all areas of the room;

(H) an automatic fire suppression system; and

(I) time resident is released from seclusion.

(3) **Mechanical restraint.** Mechanical restraint may only be used when less restrictive interventions, according to facility policy, have been attempted or when an immediate intervention is required to protect the resident, staff member, or others.

Mechanical restraint may be used when transporting a resident in order to prevent escape, to prevent self-injury, to prevent injury to others, to prevent destruction of property, or to prevent inciteful behavior that jeopardizes security.

(A) Mechanical restraint is used on the resident in a comfortable and humane manner.

(B) Resident's hands are not restrained to his or her feet.

(C) Resident is not restrained to an immovable object.

(D) Resident is released from mechanical restraint when resident is no longer deemed a risk to self, others, or at imminent risk of escape.

(E) A written incident report is completed within 24 hours following each use of mechanical restraint.

(4) **Seclusion and mechanical restraint log.** A seclusion and mechanical restraint log is kept, and a report containing all information in the log is part of the resident's record. The log includes:

(A) the date and time of placement in seclusion or the use of mechanical restraint;

(B) the name of the person authorizing the use of seclusion or mechanical restraint;

(C) the reason for the use of mechanical restraint or seclusion and other behavior management techniques attempted;

(D) observation times, including a description of the resident's activity at each observation, and the signature of the person observing the resident; and

(E) time resident is released from seclusion or mechanical restraint.

(i) **Emergency numbers.** A secure care facility is exempt from the rules contained in OAC 340:110-3-165(3)(C) regarding posting of emergency telephone numbers. Emergency telephone numbers are readily accessible to staff members.

[Source: Added at 18 Ok Reg 3331, eff 10-1-01 (emergency); Added at 19 Ok Reg 1171, eff 5-13-02 ; Amended at 26 Ok Reg 2239, eff 7-1-09]

### **340:110-3-170. Requirements for family-style living programs**

(a) **Family-style living program.** A family-style living program is a residential program providing sustained care and supervision to residents in a home like environment not located in a building used for commercial activity.

(b) **Requirements.** Family-style living programs are required to meet the common requirements in Oklahoma Administrative Code (OAC) 340:110-3-145 through 340:110-3-165.1, unless requirements in this Section state otherwise.

(c) **House parent.** In addition to personnel requirements per OAC 340:110-3-153.1, additional house parent qualifications include:

(1) residing in the home with residents;

(2) establishing and modeling a healthy, family environment;

(3) participating in outings, vacations, and trips away from the program with residents; and

(4) prohibition from employment outside the program.

(d) **Child-family relationship.** In addition to social services requirements per OAC 340:110-3-154, house parents attempt to strengthen relationships between the children and parents and his or her own family culture by:

(1) communicating regularly regarding the child's care, education, health, and medical needs;

(2) supporting and maintaining positive aspects of family members;

- (3) assisting in the development of parent-child relationships by providing resources to the family as requested by the parents; and
- (4) involving the family in program and community events and activities.

(e) **Sibling groups.** In addition to social services requirements per OAC 340:110-3-154, house parents assist residents in maintaining sibling relationships.

(f) **Program policies.** In addition to program requirements per OAC 340:110-3-154.1, program policies identify categories of children well-suited for care in the family-style living program setting.

(g) **Program.** In addition to program requirements per OAC 340:110-3-154.1, house parents, program personnel, or both ensure residents have an availability of opportunities, on a regular basis, both on- and off-site, as listed in (1) through (3) of this subsection.

(1) **Community involvement.** Residents participate in programs and organizations, as well as recreational, social, educational, and extracurricular community events and activities. Participation is based on individual resident's interests and ability.

(2) **Life-skills.** House parents assist residents in acquiring transitional skills necessary to succeed interdependently in adulthood, such as:

- (A) pursuit of a driver license;
- (B) employment education and preparedness;
- (C) money and household management;
- (D) opportunity to earn and manage income;
- (E) participation in family responsibilities and age-appropriate household chores;
- (F) meal planning with food preparation and serving;
- (G) social skills; and
- (H) internet safety.

(3) **Peer relations.** Residents are encouraged to participate in appropriate relationships both at school and in the community. Opportunities are expanded and supported, including dating and peer contact.

(h) **Meal time.** In addition to food and nutrition requirements per OAC 340:110-3-154.4, meals are routinely served in a family-style dining setting with residents and house parents eating together.

(i) **Physical facility and furnishings.** In addition to physical facility and equipment requirements per OAC 340:110-3-157, family-style living programs are designed to promote a family environment between residents and house parents. Common areas, including living, dining, kitchen, laundry, and outside play areas, are designed and furnished to encourage family-style interactions. Semi-private bedrooms and study areas are included with provisions made for supervision.

## **PART 11. REQUIREMENTS FOR THERAPEUTIC CAMPS [REVOKED]**

### **340:110-3-180. Purpose [REVOKED]**

[Source: Amended at 10 Ok Reg 2347, eff 6-11-93 ; Revoked at 24 Ok Reg 2203, eff 7-1-07]

### **340:110-3-181. Therapeutic camp [REVOKED]**

[Source: Amended at 10 Ok Reg 2347, eff 6-11-93 ; Revoked at 24 Ok Reg 2203, eff 7-1-07]

### **340:110-3-182. Necessity and issuance of license [REVOKED]**

[Source: Amended at 10 Ok Reg 2347, eff 6-11-93 ; Revoked at 24 Ok Reg 2203, eff 7-1-07]

### **340:110-3-183. Scope of requirements [REVOKED]**

[Source: Amended at 10 Ok Reg 2347, eff 6-11-93 ; Revoked at 24 Ok Reg 2203, eff 7-1-07]

### **340:110-3-184. Organization [REVOKED]**

[Source: Amended at 10 Ok Reg 2347, eff 6-11-93 ; Revoked at 24 Ok Reg 2203, eff 7-1-07]

### **340:110-3-185. Personnel [REVOKED]**

[Source: Amended at 10 Ok Reg 2347, eff 6-11-93 ; Revoked at 24 Ok Reg 2203, eff 7-1-07]

### **340:110-3-186. Programs; rights and responsibilities; discipline; grievances [REVOKED]**

[Source: Amended at 10 Ok Reg 2347, eff 6-11-93 ; Revoked at 24 Ok Reg 2203, eff 7-1-07]

### **340:110-3-187. Admission; intake study [REVOKED]**

[Source: Amended at 10 Ok Reg 2347, eff 6-11-93 ; Revoked at 24 Ok Reg 2203, eff 7-1-07]

### **340:110-3-188. Records [REVOKED]**

[Source: Amended at 10 Ok Reg 2347, eff 6-11-93 ; Revoked at 24 Ok Reg 2203, eff 7-1-07]

### **340:110-3-189. Health care [REVOKED]**

[Source: Amended at 10 Ok Reg 2347, eff 6-11-93 ; Revoked at 24 Ok Reg 2203, eff 7-1-07]

### **340:110-3-190. Security practices [REVOKED]**

[Source: Amended at 10 Ok Reg 2347, eff 6-11-93 ; Revoked at 24 Ok Reg 2203, eff 7-1-07]

#### **340:110-3-191. Food and nutrition [REVOKED]**

[Source: Amended at 10 Ok Reg 2347, eff 6-11-93 ; Revoked at 24 Ok Reg 2203, eff 7-1-07]

#### **340:110-3-192. Transportation [REVOKED]**

[Source: Amended at 10 Ok Reg 2347, eff 6-11-93 ; Revoked at 24 Ok Reg 2203, eff 7-1-07]

#### **340:110-3-193. Requirements for special activities [REVOKED]** **340:110-3-193.<sup>1</sup> Requirements for special activities [REVOKED]**

[Source: Amended at 10 Ok Reg 2347, eff 6-11-93 ; Revoked at 24 Ok Reg 2203, eff 7-1-07]

**Editor's Note:** <sup>1</sup>*In the initial codification of this agency's rules on 12-31-91, two Sections were numbered at this number (340:110-3-193), creating a duplication in numbering. Upon discovery of this error on 3-25-93, the number of the second Section was editorially changed to 340:110-3-193.1.*

#### **340:110-3-193.1. Physical facility [REVOKED]** **340:110-3-193.1.<sup>1</sup> Physical facility [REVOKED]**

[Source: Amended at 10 Ok Reg 2347, eff 6-11-93 ; Revoked at 24 Ok Reg 2203, eff 7-1-07]

**Editor's Note:** <sup>1</sup>*This Section (340:110-3-193.1) was initially codified on 12-31-91 at 340:110-3-193, creating a duplication in numbering. Upon discovery of the error on 3-25-93, its number was changed to 340:110-3-193.1.*

#### **340:110-3-194. Food service sanitation [REVOKED]**

[Source: Amended at 10 Ok Reg 2347, eff 6-11-93 ; Revoked at 24 Ok Reg 2203, eff 7-1-07]

#### **340:110-3-195. Building and fire safety [REVOKED]**

[Source: Amended at 10 Ok Reg 2347, eff 6-11-93 ; Revoked at 24 Ok Reg 2203, eff 7-1-07]

### **PART 14. REQUIREMENTS FOR SCHOOL-AGE PROGRAMS [REVOKED]**

#### **340:110-3-220. Purpose [REVOKED]**

[Source: Added at 20 Ok Reg 1866, eff 7-1-03 (emergency); Added at 21 Ok Reg 952, eff 4-26-04 ; Revoked at 32 Ok Reg 704, eff 1-1-16 (emergency); Revoked at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-221. Definitions [REVOKED]**

[Source: Added at 20 Ok Reg 1866, eff 7-1-03 (emergency); Added at 21 Ok Reg 952, eff 4-26-04 ; Amended at 27 Ok Reg 1869, eff 7-1-10 ; Amended at 27 Ok Reg 2646, eff 6-21-10 (emergency); Amended at 28 Ok Reg 1669, eff 7-1-11 ; Amended at 31 Ok Reg 154, eff 11-1-13 (emergency); Amended at 31 Ok Reg 1854, eff 9-15-14 ; Revoked at 32 Ok Reg 704, eff 1-1-16 (emergency); Revoked at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-222. Necessity and issuance of license [REVOKED]**

[Source: Added at 20 Ok Reg 1866, eff 7-1-03 (emergency); Added at 21 Ok Reg 952, eff 4-26-04 ; Amended at 26 Ok Reg 415, eff 11-20-08 (emergency); Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 27 Ok Reg 1869, eff 7-1-10 ; Amended at 28 Ok Reg 1669, eff 7-1-11 ; Amended at 31 Ok Reg 154, eff 11-1-13 (emergency); Amended at 31 Ok Reg 1854, eff 9-15-14 ; Revoked at 32 Ok Reg 704, eff 1-1-16 (emergency); Revoked at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-223. Organization [REVOKED]**

[Source: Added at 20 Ok Reg 1866, eff 7-1-03 (emergency); Added at 21 Ok Reg 952, eff 4-26-04 ; Amended at 25 Ok Reg 22, eff 10-1-07 (emergency); Amended at 25 Ok Reg 1962, eff 7-1-08 ; Amended at 26 Ok Reg 415, eff 11-20-08 (emergency); Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 27 Ok Reg 48, eff 10-1-09 (emergency); Amended at 27 Ok Reg 1869, eff 7-1-10 ; Amended at 31 Ok Reg 154, eff 11-1-13 (emergency); Amended at 31 Ok Reg 1854, eff 9-15-14 ; Revoked at 32 Ok Reg 704, eff 1-1-16 (emergency); Revoked at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-224. Policy and procedure [REVOKED]**

[Source: Added at 20 Ok Reg 1866, eff 7-1-03 (emergency); Added at 21 Ok Reg 952, eff 4-26-04 ; Amended at 25 Ok Reg 22, eff 10-1-07 (emergency); Amended at 25 Ok Reg 1962, eff 7-1-08 ; Amended at 26 Ok Reg 415, eff 11-20-08 (emergency); Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 27 Ok Reg 48, eff 10-1-09 (emergency); Amended at 27 Ok Reg 1869, eff 7-1-10 ; Revoked at 32 Ok Reg 704, eff 1-1-16 (emergency); Revoked at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-225. Records [REVOKED]**

[Source: Added at 20 Ok Reg 1866, eff 7-1-03 (emergency); Added at 21 Ok Reg 952, eff 4-26-04 ; Amended at 26 Ok Reg 415, eff 11-20-08 (emergency); Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 27 Ok Reg 48, eff 10-1-09 (emergency); Amended at 27 Ok Reg 1869, eff 7-1-10 ; Amended at 31 Ok Reg 154, eff 11-1-13 (emergency); Amended at 31 Ok Reg 1854, eff 9-15-14 ; Revoked at 32 Ok Reg 704, eff 1-1-16 (emergency); Revoked at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-226. Requirements for school-age program employees [REVOKED]**

[Source: Added at 20 Ok Reg 1866, eff 7-1-03 (emergency); Added at 21 Ok Reg 952, eff 4-26-04 ; Amended at 26 Ok Reg 415, eff 11-20-08 (emergency); Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 27 Ok Reg 48, eff 10-1-09 (emergency); Amended at 27 Ok Reg 1869, eff 7-1-10 ; Amended at 31 Ok Reg 154, eff 11-1-13 (emergency); Amended at 31 Ok Reg 1854, eff 9-15-14 ; Revoked at 32 Ok Reg 704, eff 1-1-16 (emergency); Revoked at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-227. Supervision of school-age children [REVOKED]**

[Source: Added at 20 Ok Reg 1866, eff 7-1-03 (emergency); Added at 21 Ok Reg 952, eff 4-26-04 ; Revoked at 32 Ok Reg 704, eff 1-1-16 (emergency); Revoked at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-228. Parent - staff communication [REVOKED]**

[Source: Added at 20 Ok Reg 1866, eff 7-1-03 (emergency); Added at 21 Ok Reg 952, eff 4-26-04 ; Amended at 31 Ok Reg 154, eff 11-1-13 (emergency); Amended at 31 Ok Reg 1854, eff 9-15-14 ; Revoked at 32 Ok Reg 704, eff 1-1-16 (emergency); Revoked at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-229. Physical facilities [REVOKED]**

[Source: Added at 20 Ok Reg 1866, eff 7-1-03 (emergency); Added at 21 Ok Reg 952, eff 4-26-04 ; Revoked at 32 Ok Reg 704, eff 1-1-16 (emergency); Revoked at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-230. Equipment [REVOKED]**

[Source: Added at 20 Ok Reg 1866, eff 7-1-03 (emergency); Added at 21 Ok Reg 952, eff 4-26-04 ; Revoked at 32 Ok Reg 704, eff 1-1-16 (emergency); Revoked at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-231. Outdoor safety and play equipment [REVOKED]**

[Source: Added at 20 Ok Reg 1866, eff 7-1-03 (emergency); Added at 21 Ok Reg 952, eff 4-26-04 ; Revoked at 32 Ok Reg 704, eff 1-1-16 (emergency); Revoked at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-232. Care of school-age children [REVOKED]**

[Source: Added at 20 Ok Reg 1866, eff 7-1-03 (emergency); Added at 21 Ok Reg 952, eff 4-26-04 ; Revoked at 32 Ok Reg 704, eff 1-1-16 (emergency); Revoked at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-233. Care of children with disabilities [REVOKED]**

[Source: Added at 20 Ok Reg 1866, eff 7-1-03 (emergency); Added at 21 Ok Reg 952, eff 4-26-04 ; Revoked at 32 Ok Reg 704, eff 1-1-16 (emergency); Revoked at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-234. Water activities [REVOKED]**

[Source: Added at 20 Ok Reg 1866, eff 7-1-03 (emergency); Added at 21 Ok Reg 952, eff 4-26-04 ; Revoked at 32 Ok Reg 704, eff 1-1-16 (emergency); Revoked at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-235. Night-time care [REVOKED]**

[Source: Added at 20 Ok Reg 1866, eff 7-1-03 (emergency); Added at 21 Ok Reg 952, eff 4-26-04 ; Revoked at 32 Ok Reg 704, eff 1-1-16 (emergency); Revoked at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-236. Behavior and guidance [REVOKED]**

[Source: Added at 20 Ok Reg 1866, eff 7-1-03 (emergency); Added at 21 Ok Reg 952, eff 4-26-04 ; Revoked at 32 Ok Reg 704, eff 1-1-16 (emergency); Revoked at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-237. Health [REVOKED]**

[Source: Added at 20 Ok Reg 1866, eff 7-1-03 (emergency); Added at 21 Ok Reg 952, eff 4-26-04 ; Amended at 25 Ok Reg 22, eff 10-1-07 (emergency); Amended at 25 Ok Reg 1962, eff 7-1-08 ; Revoked at 32 Ok Reg 704, eff 1-1-16 (emergency); Revoked at 33 Ok Reg 1678, eff 9-15-16]



### **340:110-3-238. Food and nutrition [REVOKED]**

[Source: Added at 20 Ok Reg 1866, eff 7-1-03 (emergency); Added at 21 Ok Reg 952, eff 4-26-04 ; Revoked at 32 Ok Reg 704, eff 1-1-16 (emergency); Revoked at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-239. Transportation [REVOKED]**

[Source: Added at 20 Ok Reg 1866, eff 7-1-03 (emergency); Added at 21 Ok Reg 952, eff 4-26-04 ; Amended at 22 Ok Reg 28, eff 10-1-04 (emergency); Amended at 22 Ok Reg 921, eff 5-12-05 ; Amended at 23 Ok Reg 1092, eff 6-1-06 ; Revoked at 32 Ok Reg 704, eff 1-1-16 (emergency); Revoked at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-240. Food service and sanitation requirements [REVOKED]**

[Source: Added at 20 Ok Reg 1866, eff 7-1-03 (emergency); Added at 21 Ok Reg 952, eff 4-26-04 ; Revoked at 32 Ok Reg 704, eff 1-1-16 (emergency); Revoked at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-241. Fire safety [REVOKED]**

[Source: Added at 20 Ok Reg 1866, eff 7-1-03 (emergency); Added at 21 Ok Reg 952, eff 4-26-04 ; Revoked at 32 Ok Reg 704, eff 1-1-16 (emergency); Revoked at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-242. Requirements for day camps [REVOKED]**

[Source: Added at 20 Ok Reg 1866, eff 7-1-03 (emergency); Added at 21 Ok Reg 952, eff 4-26-04 ; Revoked at 32 Ok Reg 704, eff 1-1-16 (emergency); Revoked at 33 Ok Reg 1678, eff 9-15-16]

## **PART 15. REQUIREMENTS FOR CHILD CARE CENTERS, DAY CAMPS, DROP-IN PROGRAMS, OUT-OF-SCHOOL TIME PROGRAMS, PART-DAY PROGRAMS, AND PROGRAMS FOR SICK CHILDREN**

### **340:110-3-275. Definitions**

The following words and terms when used in this Part shall have the following meaning unless the context clearly states otherwise:

**"Adult"** means an individual 18 years of age and older.

**"Child"** means an individual younger than 18 years of age.

**"Child care centers"** means programs that operate 30 or more hours per week.

**"Child passenger restraint system"** means an infant or child passenger restraint system, such as a car or booster seat, that meets federal standards for crash-tested restraint systems as set by the United States Department of Transportation.

**"Children with disabilities"** means children who have a chronic physical, developmental, behavioral, or emotional condition and also require health and related services of a type or amount beyond that generally required by children.

**"Classroom"** means an area designated for a group of children defined by permanent or temporary walls or barriers.

**"Communicable disease"** means an illness that spreads directly or indirectly from person-to-person with the potential to cause a serious infection.

**"Date"** means the month, day, and year.

**"Day camps"** means programs that operate during school breaks for 12 hours or less per day, serve children 5-year-olds and older who are attending, or have completed kindergarten or above, and use the outdoors as a major program component for at least 50 percent of the daily hours of operation.

**"Disposition"** means the final outcome or settlement of criminal charges, such as decisions or rulings by the court.

**"Drop-in programs"** means programs that operate 30 or more hours per week with individual children attending six hours or less per day and 24 hours or less per week, with an allowance for three extra six-hour days per 12 months per child.

**"Facility"** means the program premises and the buildings used for child care.

**"Fall height"** means the vertical distance between the highest designated play surface on a piece of equipment and the surface beneath it.

**"Full name"** means the first and last name when referring to a person.

**"General Education Development"** or **"GED"** means a high school diploma equivalent from the American Council on Education.

**"Hazard"** means anything that may inflict injury or cause harm.

**"High school diploma"** means a diploma recognized by the Oklahoma State Board of Education or an equivalent entity from another state.

**"Inaccessible"** means children are unable to access an item or area due to the use of a lock or child-proof barrier or the item is too high for children to easily reach.

**"Infant"** means a child from birth up to 12 months of age.

**"Infection control"** means the policies, procedures, and practices used to prevent and control the spread of infection, such as cleaning, sanitizing, and disinfecting, hand and personal hygiene, diapering procedures, handling and disposing of soiled and contaminated items, health separation and exclusion criteria, and immunization policies.

**"Licensing"** means the Oklahoma Department of Human Services staff responsible for monitoring and consulting with programs.

**"Locked"** means the use of a secure device that can only be opened by a key, combination, or code.

**"Out-of-school time programs"** means programs that operate when school is not in session, such as before- and after-school and school breaks, and serve 3-year-olds and older who are attending or have completed pre-kindergarten or above.

**"Owner"** means the business entity who owns the program.

**"Parent"** means an individual who is legally responsible for the child, such as a mother, father, legal custodian, or legal guardian.

**"Part-day programs"** means programs that operate for more than 15, but less than 30 hours per week.

**"Potentially hazardous foods"** means foods that contain milk or milk products, eggs, meat, poultry, fish, shellfish, crustaceans, cut tomatoes, cut melons, cut leafy greens, raw seed sprouts, or other ingredients in a form capable of supporting rapid and progressive growth of harmful microorganisms.

**"Program"** means the business entity that provides care, supervision, and learning opportunities for children.

**"Programs for sick children"** means programs that serve children with illnesses or symptoms preventing them from comfortable participation in activities in a program caring for children who are well. The children require more care than personnel in a program caring for children who are well can provide without compromising the health and safety of other children in care.

**"Requirements"** means licensing requirements the program is required to follow.

**"Responsible entity"** means an individual who is authorized to obligate the business.

**"Safe drinking water"** means potable water, free from pollution, harmful organisms, and impurities as determined by the Oklahoma Department of Environmental Quality.

**"Specialized service professional"** means an individual from an academic discipline or field of expertise who provides individualized services to a child, such as behavioral or physical therapists.

**"Supervision"** means the function of observing, overseeing, and guiding a child or group of children, including an awareness of and responsibility for, the ongoing activity of each child and being near enough to intervene when needed.

**"Teaching personnel"** means master teachers, teachers, assistant teachers, and substitutes who provide care, supervision, and learning opportunities for children.

**"Transportation"** means anytime a child in care is driven in a vehicle, whether provided, arranged, or contracted by the program.

**"Unsupervised access to children"** means an individual being present with children without personnel present who have a complete criminal history review.

**"Use zones"** means the clearance spaces and surfaces under and around a piece of equipment onto which a child falling or exiting from the equipment is expected to land.

**"Volunteer"** means an individual who provides services to the program without compensation.

[Source: Amended and renumbered from 340:110-3-2 at 32 Ok Reg 704, eff 1-1-16 (emergency); Amended and renumbered from 340:110-3-2 at 33 Ok Reg 1678, eff 9-15-16]

## **340:110-3-276. Necessity, issuance, and maintenance of a permit or license**

### **(a) General.**

#### **(1) Care of children.** The program:

- (A) does not accept children into care until authorization to operate is obtained from Licensing;
- (B) does not allow children to remain in care for 24 or more consecutive hours; and
- (C) provides care only at the location specified on the permit or license.

(2) **Access.** Oklahoma Department of Human Services (DHS) staff have access to the entire facility. Parents have access per Oklahoma Administrative Code (OAC) 340:110-3-293(c).

(3) **Cooperation.** Personnel cooperate with DHS staff.

(4) **Licensing process.** The owner, responsible entity, and director are aware of their rights and responsibilities per OAC 340:110-3-275 through 340:110-3-311 and DHS Publication No. 06-47, Understanding the Licensing Process - Rights and Responsibilities.

(b) **Permit or license necessity.**

(1) **Required.** A program does not operate after June 30, 1964, unless authorized by Licensing per Section 401 et seq. of Title 10 of the Oklahoma Statutes (10 O.S. § 401 et seq.), the Oklahoma Child Care Facilities Licensing Act.

(2) **Exemptions.** Authorization to operate is not required from Licensing when the program is exempt per 10 O.S. § 403, the Oklahoma Child Care Facilities Licensing Act.

(c) **Permit or license issuance.**

(1) **Fire approval.** An inspection from the local or state fire governmental authority having jurisdiction is required prior to authorization to operate from Licensing. Documentation is maintained per OAC 340:110-3-281.2(c).

(2) **Health approval.** An inspection from Oklahoma State Department of Health (OSDH) or Indian Health Services (IHS) is required prior to authorization to operate from Licensing, unless the program only provides limited food service per OAC 340:110-3-299(a). Documentation is maintained per OAC 340:110-3-281.2(c).

(3) **Licensing approval.** A request for a permit or license is made on DHS forms and authorization to operate is issued on the basis of the program complying with licensing requirements.

(d) **Permit or license maintenance.**

(1) **Fire inspections.** Inspections are conducted at least every two years by the local or state fire governmental authority having jurisdiction. Documentation is maintained per OAC 340:110-3-281.2(c).

(2) **Health inspections.** Inspections are conducted at least every two years by OSDH or IHS, unless the program only provides limited food service per OAC 340:110-3-299(a). Documentation is maintained per OAC 340:110-3-281.2(c).

(3) **Licensing monitoring.** Authorization to operate is maintained on the basis of the program complying with licensing requirements.

(4) **Change of business entity.** The permit or license is not transferable. Both the existing and new programs notify Licensing

of business entity changes per OAC 340:110-3-280(a). The new program is required to meet current requirements and does not care for children until authorization to operate is obtained from Licensing.

(5) **Change of location.** The program notifies Licensing of location changes per OAC 340:110-3-280(a) and does not care for children at the new location until authorization to operate is obtained from Licensing.

(6) **Inactive status.** When care is not provided, the program notifies Licensing per OAC 340:110-3-280(a). When care is not provided for 12 consecutive months, the program is no longer authorized to operate. The business entity must reapply and obtain authorization to operate from Licensing prior to resuming care.

(e) **Denial or revocation.**

(1) **General.** Licensing may deny a request for a license or revoke a license when the program does not meet the requirements or violates any provision of 10 O.S. §§ 401 et seq., the Oklahoma Child Care Facilities Licensing Act.

(2) **Notice.** No request for a license is denied or license is revoked unless the owner, business entity, or responsible entity is given a 30-calendar day notice in writing of the grounds for the proposed denial or revocation.

(3) **Hearing.** If the denial or revocation is appealed within 30-calendar days of the receipt of the written notice, a hearing is conducted.

(4) **Reapplication.** When a request for a license is denied or a license is revoked, the owner, business entity, or responsible entity cannot make application for a new child care program license within Oklahoma for five years following notification to the owner, business entity, or responsible entity of the denial or revocation and including during an appeal process.

[Source: Amended and renumbered from 340:110-3-3 at 32 Ok Reg 704, eff 1-1-16 (emergency); Amended and renumbered from 340:110-3-3 at 33 Ok Reg 1678, eff 9-15-16]

**340:110-3-277. Other business, shared facility, and collaborations**

(a) **Other business.** No other business or activity unrelated to child care is conducted at the facility during operation hours, unless shared facility requirements are met.

(b) **Shared facility.** The program may share the facility with other businesses provided the requirements in (1) through (3) of this subsection are met.

(1) **Limitations.** Other businesses sharing the facility:

(A) must not pose a health or safety risk to children in care;

(B) have their own entrances, excluding schools;

(C) have their own restrooms, excluding schools, or the program follows a Licensing-approved written plan, addressing prevention of unsupervised access to children by individuals from the other businesses; and

(D) do not use licensed space during operating hours, unless alternate play area requirements are met.

(2) **Licensed space.** Licensed space at the facility is clearly defined.

(3) **Alternate play areas.** When the program's licensed indoor or outdoor play areas are used by another business in the shared facility during operating hours, the program:

(A) has at least one designated alternate play area children may use when licensed play areas are unavailable. Alternate play areas:

- (i) are indoors, outdoors, or both depending on potential circumstances;
- (ii) are temporarily used only on an occasional basis when the licensed play areas are unavailable, unless the area is also a supplemental play area, such as a gymnasium;
- (iii) are not calculated in licensed capacity, per Oklahoma Administrative Code (OAC) 340:110-3-301(b) and (c); and
- (iv) meet requirements when used by children in care; and

(B) follows a Licensing-approved written agreement between the program and the other businesses, addressing terms for licensed space use and alternate play areas, including the:

- (i) designated alternate play areas for indoors, outdoors, or both; and
- (ii) circumstances, frequency, and duration of use.

(c) **Collaborations.** When the program collaborates with a school, the program submits a collaboration agreement as maintained, per OAC 340:110-3-281.2(c), and chooses whether the collaborative classrooms are included in the licensed capacity during the collaborative times.

(1) **Included in licensed capacity.** When the collaborative classrooms are included in the licensed capacity:

- (A) all the requirements are met in collaborative classrooms; and
- (B) the school teachers are required to meet teaching personnel requirements and may count as master teachers when meeting master teacher qualifications and responsibilities.

(2) **Not included in licensed capacity.** When the collaborative classrooms are not included in the licensed capacity, the:

- (A) licensed capacity is reduced by the room capacity during the collaborative time;
- (B) classrooms have a notice posted on or near the doors, at all times, identifying the collaborative classroom schedule;
- (C) classrooms, during the collaborative time, are only required to meet facility requirements, per OAC 340:110-3-300. However, the physical environment requirements, per OAC 340:110-3-300 through 340:110-3-304, apply to

licensed spaces, even when children participating in the collaboration are the only children present;  
(D) school teachers are not required to meet personnel requirements and do not count as master teachers;  
(E) school is responsible for children participating in the collaboration during the collaborative time; and  
(F) school teachers and teaching personnel know their assigned children when children participating in the collaboration are in licensed space.

[Source: Added at 32 Ok Reg 704, eff 1-1-16 (emergency); Added at 33 Ok Reg 1678, eff 9-15-16 ;  
Amended at 40 Ok Reg 1033, eff 9-15-23]

### **340:110-3-278. Policy**

(a) **General.** Policies are individualized to the program, followed, and maintained, per Oklahoma Administrative Code (OAC) 340:110-3-281.2(c).

(b) **Program liability insurance policy.** Program liability insurance is maintained, unless an exception, per the Oklahoma Child Care Facilities Licensing Act, Section 404.3 of Title 10 of the Oklahoma Statutes (10 O.S. § 404.3), is posted, per OAC 340:110-3-281.1.

(c) **Vehicle insurance policy.** Vehicle insurance is maintained, per OAC 340:110-3-281.2(c) and (d).

(d) **Program policy.** Program policies:

(1) are provided to:

(A) parents upon enrollment and when revisions are made;  
and

(B) personnel upon employment and when revisions are made; and

(2) at least, include items (A) through (L), unless a statement is included addressing non-applicable items:

(A) brief program description;

(B) ages of children accepted;

(C) days and hours of operation including days closed, such as holidays;

(D) compliance file location;

(E) relevant emergency plans and procedures information for parents;

(F) health inclusion, separation, and exclusion criteria, including head lice and other infestations;

(G) whether the program administers medication and under what conditions;

(H) behavior management and discipline methods;

(I) expulsion policy;

(J) mandatory reporting of suspected child abuse and neglect;

(K) infant safe sleep environment description; and

(L) procedures for:

(i) gaining building access when the entrance is secured;

- (ii) receiving and releasing children, including methods for caller identification authorizing child pick-up and of an individual who picks up a child. Verbal authorizations to pick-up a child, not previously indicated in the child's records, are documented, per OAC 340:110-3-281.4;
- (iii) notifying parents when a child does not arrive as required, per OAC 340:110-3-280(d);
- (iv) monitoring children's health as required, per OAC 340:110-3-294(c);
- (v) notifying parents of communicable disease exposure, while maintaining confidentiality of the ill child or personnel;
- (vi) notifying of infestation exposure, while maintaining confidentiality of the infected child or personnel;
- (vii) handling illnesses, injuries, and poison exposures, including when children are off-site;
- (viii) storing, administering, returning, and medication disposal;
- (ix) storing, using, returning, and medical waste disposal, such as syringes, needles, and lancets;
- (x) using sun safety methods, such as sunscreen and protecting children from over-exposure to the sun;
- (xi) using insect repellent;
- (xii) managing children's personal belongings;
- (xiii) transporting children;
- (xiv) notifying parents of field trips;
- (xv) receiving children arriving late for field trips when the group has left the facility; and
- (xvi) providing meals and snacks, including field trips.

(e) **Personnel policy.** When the program has two or more personnel, personnel policies:

- (1) are provided to personnel upon employment and when revisions are made; and
- (2) at least, include the:
  - (A) qualifications, responsibilities, and professional development requirements for each position, including initial and continuing professional development. Position descriptions may meet this requirement;
  - (B) chain of command;
  - (C) health and injury exclusion criteria, including head lice and other infestations; and
  - (D) procedures for the:
    - (i) close supervision of new personnel for at least 30-calendar days;
    - (ii) performance evaluations; and
    - (iii) discipline and termination of personnel.



(f) **Volunteer policy.** When the program uses volunteers, not filling another position, per OAC 340:110-3-284.1 through 340:110-3-284.4, volunteer policies:

- (1) are provided to volunteers upon starting service and when revisions are made; and
- (2) at least, includes:
  - (A) screening and selection criteria; and
  - (B) procedures ensuring volunteers:
    - (i) are familiar with emergency preparedness plans and procedures, per OAC 340:110-3-279; and
    - (ii) obtain training and comply with requirements.

[Source: Amended and renumbered from 340:110-3-5.1 at 32 Ok Reg 704, eff 1-1-16 (emergency); Amended and renumbered from 340:110-3-5.1 at 33 Ok Reg 1678, eff 9-15-16 ; Amended at 34 Ok Reg 200, eff 11-22-16 (emergency); Amended at 34 Ok Reg 1652, eff 9-15-17 ; Amended at 40 Ok Reg 1033, eff 9-15-23]

### **340:110-3-279. Emergency preparedness**

#### **(a) Emergency plans and procedures.**

- (1) **General.** The program is required to have emergency plans that are:
  - (A) individualized to the program and operating hours;
  - (B) followed, unless children's safety is at risk or emergency personnel provide alternative instructions during an emergency; and
  - (C) maintained, per Oklahoma Administrative Code (OAC) 340:110-3-281.2(c).
- (2) **Situations.** Emergency plans include procedures for:
  - (A) serious injuries;
  - (B) serious illnesses;
  - (C) poison exposure;
  - (D) communicable disease outbreaks, including pandemic influenza;
  - (E) weather conditions, including tornados, floods, blizzards, and ice storms;
  - (F) fires, including wildfires;
  - (G) man-made disasters, including chemical and industrial accidents;
  - (H) human threats, including individuals with threatening behaviors, bomb threats, and terrorist attacks;
  - (I) lost or abducted children;
  - (J) utility disruption; and
  - (K) other natural or man-made disasters that could create facility structural damage or pose health hazards.
- (3) **Child considerations.** Emergency plans include procedures for addressing each child's needs, with additional considerations for children:
  - (A) 2 years of age and younger; and
  - (B) with special needs or chronic medical conditions.
- (4) **Account for children.** Emergency plans include procedures to account for each child's location during an emergency.

(5) **Shelter-in-place.** Emergency plans include shelter-in-place procedures for short and extended stay situations requiring children stay in the building, such as tornados and other weather emergencies.

(6) **Lock-down.** Emergency plans include lock-down procedures for situations threatening children and personnel's safety. Lock-down procedures include:

- (A) notifying personnel;
- (B) keeping children in designated safe locations in the building;
- (C) encouraging children to remain calm and quiet;
- (D) securing building entrances;
- (E) preventing unauthorized individuals from entering the building. When the program is in a shared facility, program entrances are secured; and
- (F) responding when outdoors and on field trips.

(7) **Evacuation.** Emergency plans include evacuation procedures for situations requiring children leave the building, such as building fires. Evacuation procedures include:

- (A) evacuation routes posted, per OAC 340:110-3-281.1(c) and (i); and
- (B) pre-determined meeting locations.

(8) **Relocation.** Emergency plans include relocation procedures for situations requiring children move to an alternate location, such as bomb threats and wildfires. Relocation procedures include:

- (A) pre-determined primary and secondary alternate locations, with prior approval from the contact individual at alternate locations;
- (B) relocating children, including a pre-determined transportation plan; and
- (C) reuniting parents and children.

(9) **Reporting.** Emergency plans include procedures for notifying:

- (A) emergency authorities, including the poison control center, when necessary;
- (B) parents, including a method and backup method for how and when parents are notified; and
- (C) Licensing, per OAC 340:110-3-280(a).

(10) **Personnel.** Emergency plans include procedures ensuring personnel are familiar with:

- (A) current emergency plans and procedures, including roles and responsibilities in an emergency;
- (B) location of :
  - (i) emergency plans and procedures;
  - (ii) posted emergency information; and
  - (iii) first aid and emergency supply kits; and
- (C) location and use of the fire extinguishers.

(b) **Phones.**

(1) **On-site.** The program provides an operable phone , per OAC 340:110-3-300(x).

(2) **Off-site activities.** An operable phone is available , per OAC 340:110-3-287(g).

(3) **Vehicles.** An operable phone is available, per OAC 340:110-3-305(e).

(c) **Posted emergency information.**

(1) **Program information and emergency numbers.** Items are posted, per OAC 340:110-3-281.1(d) and (i).

(2) **First aid kit, emergency supply kit, and fire extinguisher locations.** Locations are posted, per OAC 340:110-3-281.1(i).

(3) **Evacuation routes.** Routes are posted, per OAC 340:110-3-281.1(c) and (i).

(d) **First aid kits.**

(1) **Location.** First aid kits are located in each building and in vehicles when transporting children.

(2) **Accessibility.** First aid kits are accessible to personnel at all times and inaccessible to children.

(3) **Replace.** First aid kit supplies are replaced as needed, including expired items.

(4) **Sanitary.** First aid kit supplies are maintained in a clean and sanitary manner, including sanitizing re-usable supplies.

(5) **Supplies.** First aid kit supplies are stored together in a portable container.

(A) Supplies at least include:

(i) non-medicated adhesive strips;

(ii) sterile gauze pads;

(iii) rolled flexible or stretch gauze;

(iv) bandage tape;

(v) disposable non-porous, latex-free gloves;

(vi) blunt-tipped scissors;

(vii) tweezers;

(viii) a non-glass and non-mercury thermometer.

The appropriate thermometer and method are used, per OAC 340:110-3-294(d);

(ix) a current first aid guide; and

(x) a copy of posted program information and emergency numbers, per (c) of this Section.

(B) In addition, the first aid kits in vehicles at least include:

(i) a cold pack;

(ii) liquid soap and water or individually packaged moist, disposable towelettes, for cleaning wounds;

(iii) hand sanitizer and moist, disposable towelettes, for hand hygiene;

(iv) plastic bags for disposal of items contaminated with blood or other body fluids; and

(v) a pen or pencil and note pad.

(e) **Emergency supply kit.**

(1) **Records.** Records available during an emergency at least include the:

(A) emergency plans and procedures, per OAC 340:110-3-281.2(c), and alternate location addresses, phone

numbers, and contacts;

(B) emergency contacts, per OAC 340:110-3-281.2(c); and

(C) full names of children and personnel currently in attendance.

(2) **Supplies.** Emergency supplies gathered at the time of an emergency or maintained in a portable container at all times at least include:

(A) a first aid kit; and

(B) children's prescribed medications, including life-threatening condition medications.

(f) **Testing and maintaining emergency equipment.**

(1) **Individual smoke and carbon monoxide alarms.** When the facility is equipped, per OAC 340:110-3-300(t) or (u), individual alarms are:

(A) operable; and

(B) tested at least monthly. Documentation is maintained, per OAC 340:110-3-281.2(c).

(2) **Central detection and alarm system for smoke and carbon monoxide.** When the facility is equipped, per OAC 340:110-3-300(v), the system is:

(A) fully functional;

(B) checked at least monthly by viewing the control panel and documented, per OAC 340:110-3-281.2(c). However, monthly checks are not required when a company monitors the system continuously for full-function as documented, per OAC 340:110-3-281.2(c); and

(C) inspected and tagged at least every 12 months by a state licensed authority.

(3) **Fire extinguishers and automatic sprinkler systems.** Fire extinguishers and automatic sprinkler systems are:

(A) fully functional; and

(B) inspected and tagged at least every 12 months by a state licensed authority.

(g) **Drills and reviews.**

(1) **General.** Drills and reviews are documented, per OAC 340:110-3-281.2(c), and drills are conducted:

(A) at various times throughout operation hours, such as morning, mid-day, afternoon, and evening, so children and personnel in attendance at various times are involved in each type of drill at least once every three months;

(B) by following pre-determined emergency plans and procedures; and

(C) per required scheduling.

(i) **Monthly.** Monthly drills include:

(I) fire drills conducted by evacuating and meeting at pre-determined locations; and

(II) tornado drills conducted by sheltering in pre-determined on-site locations.

(ii) **Annual.** Annual drills include:

(I) locking-down by sheltering in pre-determined on-site locations;

- (II) relocating according to preparation procedures, but physical relocation is not required;
- (III) sheltering-in-place, requiring children stay inside the facility, such as tornados and other weather emergencies; and
- (IV) evacuating and meeting at pre-determined locations.

(2) **Lock-down and relocation procedures reviews.** Personnel review the procedures at least once every 12 months.

(3) **Emergency plans and procedures reviews.** The director updates, when necessary, and reviews emergency plans and procedures:

- (A) at least once every 12 months;
- (B) when enrolling children with special needs or chronic medical conditions;
- (C) after a drill when procedure issues are identified; and
- (D) after an emergency, as identified in this Section.

[Source: Amended and renumbered from 340:110-3-33 at 32 Ok Reg 704, eff 1-1-16 (emergency); Amended and renumbered from 340:110-3-33 at 33 Ok Reg 1678, eff 9-15-16 ; Amended at 34 Ok Reg 200, eff 11-22-16 (emergency); Amended at 34 Ok Reg 1652, eff 9-15-17 ; Amended at 40 Ok Reg 1033, eff 9-15-23]

### **340:110-3-280. Reporting**

#### **(a) Licensing.**

(1) **Next business day.** The owner, responsible entity, or director notifies Licensing by the next Oklahoma Human Services (OKDHS) business day of:

- (A) a responsible entity change;
- (B) a director change;
- (C) a mailing address change, when different from the physical address;
- (D) a phone number change;
- (E) a program liability insurance coverage change;
- (F) an individual moving into the facility;
- (G) a known legal action, such as a Victim Protection Order, arrest, or criminal investigation or charge, involving the program, owner, responsible entity, personnel, or an individual living in the facility;
- (H) a known child abuse or neglect pending investigation or disposition involving the owner, responsible entity, personnel, or an individual living in the facility;
- (I) an unscheduled temporary or permanent program closure or relocation;
- (J) facility damage affecting the amount of usable square footage or compliance with requirements;
- (K) an incident exposing children to an imminent risk of harm, such as a child leaving the facility without personnel's knowledge or being left alone on-or off-site or in a vehicle;

(L) an animal bite to an individual occurring on-site at any time or when participating in off-site program activities;  
(M) an accident involving transportation, unless no injuries and only minor vehicle damage occurred;  
(N) a child injury requiring emergency medical attention;  
(O) a child death occurring while in care; or  
(P) any disease or illness requiring prompt local or Oklahoma State Department of Health (OSDH) notification, per (c)(1) of this subsection.

(2) **Thirty-calendar days prior.** The owner, responsible entity, or director notifies Licensing at least 30-calendar days prior to:

(A) an anticipated temporary or permanent program closing, other than a scheduled closing identified in program policy, such as a holiday;  
(B) an anticipated temporary or permanent location change;  
(C) an anticipated facility change or alteration impacting the amount of usable square footage or compliance with the requirements;  
(D) a business entity change;  
(E) a program name change; or  
(F) a proposed licensed capacity change.

(b) **Child abuse and neglect and human trafficking.**

(1) **Abuse and neglect.** Any person who has reason to believe a child was abused or neglected, per Section 1-1-105 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-1-105) is required to report the matter promptly to the OKDHS Child Abuse and Neglect Hotline at 1-800-522-3511, per 10A O.S. § 1-2-101. Failure to report is a misdemeanor offense and upon conviction is punishable by law. Failure to report with prolonged knowledge, six months or more, of ongoing abuse or neglect is a felony offense.

(2) **Human trafficking.** Per 21 O.S. § 870, every person having reason to believe that a person or child-placing agency is engaging in the crime of human trafficking in children, per 21 O.S. § 866, reports the matter promptly to the Oklahoma Bureau of Narcotics and Dangerous Drugs Control.

(c) **Health department.**

(1) **Promptly.** The program promptly notifies the local or OSDH of a known case in individuals associated with the program, of:

(A) Measles;  
(B) meningococcal invasive disease; or  
(C) an outbreak of two or more cases within a facility of:  
(i) COVID-19;  
(ii) influenza; or  
(iii) varicella (chicken pox).

(2) **Next business day.** The program notifies the local or OSDH by the next health department-business day of a known case in individuals associated with the program, of:

(A) Campylobacteriosis;

- (B) cryptosporidiosis;
- (C) E. coli O157:H7 or Shiga toxin-producing E. coli (STEC);
- (D) Haemophilus influenzae invasive disease;
- (E) hepatitis A;
- (F) mumps;
- (G) rubella;
- (H) salmonellosis;
- (I) shigellosis;
- (J) tuberculosis; or
- (K) whooping cough (pertussis).

(3) **Guidelines and recommendations.** Programs follow all guidelines and recommendations per local or OSDH authorities.

(d) **Parents.**

- (1) **Immediately.** The program notifies parents immediately of:
- (A) a child not arriving at the facility on his or her own as scheduled, such as when walking to the facility;
  - (B) a child not present at the pick-up location as scheduled;
  - (C) a child or individual at the pick-up location who contradicts previously established pick-up arrangements;
  - (D) a situation requiring immediate administration of a life-threatening condition medication;
  - (E) an injury that may need evaluation by a licensed physician;
  - (F) poison exposure; or
  - (G) an animal bite to a child when the skin is broken or when an evaluation by a licensed physician may be needed.

(2) **Promptly.** The program promptly notifies parents when a child :

- (A) is separated from the group due to an illness or infestation or when exclusion is required, per Oklahoma Administrative Code (OAC) 340 Appendix JJ - Exclusion Criteria for Children Who Are Ill; or
- (B) has a suspected allergic reaction, including ingestion of, or contact with, allergens, even when a reaction did not occur.

(3) **Upon child pick up.** The program notifies parents upon child pick up of:

- (A) daily happenings, including the infant and 1-year-old daily records as maintained, per OAC 340:110-3-281.4(b);
- (B) changes in the child's physical or emotional state;
- (C) known minor injuries;
- (D) illness or infestation symptoms that developed or changed;
- (E) a communicable disease or infestation exposure , per OAC 340:110-3-278(d);
- (F) an administration of a non-life-threatening condition medication when administered only as needed, such as diaper cream;

- (G) an animal bite to a child, when the skin is not broken;  
and
- (H) implemented emergency plans and procedures, except for drills.

(4) **Heinous and shocking abuse notification.** OKDHS notifies programs of a substantiated finding of heinous and shocking abuse by a person responsible for a child's health, safety, or welfare, as defined, per 10A O.S. § 1-1-105. Upon receiving the notice, the facility owner or operator provides notification to parents or legal guardians of children attending the facility using an OKDHS-provided form.

(A) Notification is:

- (i) immediately attempted but not later than 72 hours of notice receipt from OKDHS; and
- (ii) provided by certified mail.

(B) The program maintains the list of notified parents and legal guardians for at least 12 months.

(5) **Prior.** Prior to each field trip, the program notifies parents of the date, time, and location. The field trip permission, per OAC 340:110-3-281.4(b), meets this requirement when this specific information is included.

(6) **Upon enrollment and prior to changes.** The program notifies parents upon enrollment and prior to a change in the presence of:

- (A) animals;
- (B) tobacco or simulated tobacco use; and
- (C) weapons, including how safety requirements are met.

[Source: Added at 32 Ok Reg 704, eff 1-1-16 (emergency); Added at 33 Ok Reg 1678, eff 9-15-16 ; Amended at 34 Ok Reg 200, eff 11-22-16 (emergency); Amended at 34 Ok Reg 1652, eff 9-15-17 ; Amended at 40 Ok Reg 1033, eff 9-15-23]

### **340:110-3-281. General records and documentation**

(a) **General.** Records and documents may have additional information in other Sections. Items are provided promptly to Oklahoma Human Services (OKDHS) staff, on request, and are available to parents and personnel, unless requirements specifically state otherwise.

(b) **Confidentiality.** Confidentiality policies and procedures are maintained.

(1) Child records and other items specific to individual children are only available to personnel or authorized individuals as determined by the program when necessary, the individual child's parents, and OKDHS staff.

(2) Personnel records are maintained in a confidential manner , per program procedures.

(c) **Current.** Items, including certifications, are kept current.

(d) **Location.** Items are:

(1) maintained at the facility. However, personnel records may have an exception, per Oklahoma Administrative Code (OAC) 340:110-3-281.3(b);

(2) located , per requirements; and



- (3) in a location known by the director and personnel in charge.
- (e) **Electronic.** Items may be maintained electronically, unless requirements specifically state otherwise, provided:
- (1) procedures are in place ensuring prompt access, including an on- or off-site electronic back-up method ensuring access in the event of data loss. However, paper backup is required for posted items, per OAC 340:110-3-281.1, and accessible items, per OAC 340:110-3-281.2, in the event of a power outage or non-working equipment;
  - (2) signatures are hand written and initially obtained by electronic methods or on paper and electronically converted; and
  - (3) the items can be provided to OKDHS and parents by printing, emailing, or other methods.
- (f) **Paper only.** Items indicating paper only may also be in the form of magnets, decals, or other similar items.
- (g) **Combined documents.** Items may be combined into one document, unless the requirements specifically state otherwise.
- (h) **Original documents.** OKDHS documents, such as forms, appendices, and publications, are not modified in any manner or combined with other items, unless requirements specifically state otherwise.
- (i) **OKDHS form completion.** Forms are completed in the manner prescribed. Current OKDHS forms are used.

[Source: Added at 32 Ok Reg 704, eff 1-1-16 (emergency); Added at 33 Ok Reg 1678, eff 9-15-16 ; Amended at 40 Ok Reg 1033, eff 9-15-23]

### **340:110-3-281.1. Posted records and documentation**

- (a) **General.** General records and documentation requirements, per Oklahoma Administrative Code (OAC) 340:110-3-281, also apply to items in this Section. The items are posted at all times in a clear, unobstructed view.
- (b) **Post at main entrance.** Items are posted at the program's main entrance where parents and public enter and (2) through (3) of this subsection are also posted in a conspicuous location within clear view.
- (1) **Tobacco-free environment notice.** The notice is not combined with other posted items. When the program is in a family residence, the notice indicates a tobacco-free environment at all times or no tobacco use during operation hours. Item is paper only.
  - (2) **Notice to parents.** Oklahoma Human Services (OKDHS) Publication No. 14-01, Notice to Parents, is posted. Item is paper only.
  - (3) **Program liability insurance exception notification.** The OKDHS form is posted when program liability insurance is not maintained or program reports being self-insured. Item is paper only.
- (c) **Post in prominent location for parents and public.** Items are posted in a noticeable and frequently visited location for parents and public and may include multiple buildings depending on where parents and public typically visit.

- (1) **Permit or license.** The OKDHS permit or license is posted. Item is paper only.
- (2) **Notice of denial or revocation.** A denial or revocation notice is posted. Item is paper only.
- (3) **Star certificate.** OKDHS Star certificate is posted. Item is paper only.
- (4) **Personnel in charge.** The program posts the director's full name and at least one additional personnel responsible for the program in the director's absence. When the individuals listed are not present, the appointed personnel in charge is temporarily posted.
- (5) **Child abuse and neglect notification.** A notice of the Child Abuse and Neglect Hotline number and requirement to report suspected abuse or neglect is posted.
- (6) **Child welfare investigative summary - confirmed and substantiated findings.** OKDHS form is posted for 120-calendar days from the date the investigation is completed, as indicated on the form. Item is paper only.
- (7) **Evacuation routes.** A floor plan with primary and secondary evacuation routes from each area of the building is posted on each floor. Item is paper only and may only be combined , per (i) of this Section.
- (8) **Weekly menu.** The menu, including dates and substitutions, is posted. Additional posted menus are duplicates, including substitutions.

(d) **Post in prominent location for personnel.** Items are posted in a noticeable and frequently visited location for personnel and may include multiple buildings.

- (1) **Program information.** The program name and address, with main cross streets or directions to the facility, are posted. Item is paper only.
- (2) **Emergency numbers.** The program posts emergency numbers. Item is paper only. Numbers include:
  - (A) 9-1-1, where available, or local law enforcement, fire department, and ambulance service; and
  - (B) poison control, 1-800-222-1222.
- (3) **Restricted registry notice.** OKDHS Publication No. 14-07, Child Care Restricted Registry Notice is posted. Item is paper only.

(e) **Post in kitchen.** The requirements in (1) and (2) of this subsection are met.

- (1) **Weekly menu.** The menu, including dates and substitutions, is posted. Additional posted menus are duplicates, including substitutions.
- (2) **Food allergies.** Children's food allergies are posted near the menu, including the child's full name and classroom.

(f) **Post on all microwaves - warning.** OKDHS Publication No. 97-27, Microwave Warning, is posted. However, the program may modify the publication or develop a document, provided the information remains the same or is exceeded. When the program shares the facility, the posting is only required on microwaves used for children's food. Item is paper only.

(g) **Post near sinks - hand washing procedures.** The program posts OKDHS Publication No. 14-02 - Hand Washing Procedures Using Paper Towels or OKDHS Publication No. 14-03 - Hand Washing Procedures Using Mechanical Hand Dryers, where individuals can read the publication during hand washing. However, the program may modify the publication or develop a document, provided procedures remain the same or are exceeded.

(h) **Post in diaper changing areas - procedures.** The program posts OKDHS Publication No. 14-04 - Diaper Changing Procedures, where individuals can read the publication while changing diapers. However, the program may modify the publication or develop a document, provided procedures remain the same or are exceeded. Item is paper only.

(i) **Post in classrooms.** Items are posted where personnel and parents can read the items, unless the requirements specifically state otherwise. Two or more classrooms may share the posted items when the classrooms are next to each other and are divided by low height walls or barriers and the items can be read from each classroom.

(1) **Program information and emergency numbers.** The program posts duplicate items in a prominent location for personnel, per (d) of this Section. Items are paper only.

(2) **First aid kits, emergency supply kits, and fire extinguishers.** The location of kits and fire extinguishers are posted. Items are paper only.

(3) **Evacuation routes.** A floor plan with primary and secondary evacuation routes from the classroom(s) is posted. Routes are not combined with other posted items, except for program information, emergency numbers, and locations of first aid kits, emergency supply kits, and fire extinguishers, per (1) and (2) of this subsection. Items are paper only.

(4) **Ratios and group sizes.** The applicable program-type ratios and group sizes, per OAC 340 Appendix GG - Ratios and Group Sizes are posted.

(5) **Daily classroom schedule.** The program posts a schedule with the required content, per OAC 340:110-3-289(b). Classrooms may share this item when the schedule is applicable to each classroom.

(6) **Weekly lesson plans.** The program posts lesson plans with the dates and required content, per OAC 340:110-3-289(d). Classrooms may only share this item when the lesson plan is applicable to each classroom.

(7) **Allergies.** The program posts children's food and life-threatening allergies, including the child's full name, and location of any life-threatening condition medications. The item is posted in a location or manner protecting confidentiality, such as with a cover sheet, unless a waiver release is obtained by the parent. Item is paper only.

**340:110-3-281.2. Program records and documentation**

(a) **General.** General records and documentation requirements per Oklahoma Administrative Code (OAC) 340:110-3-281 also apply to the items in this Section.

(b) **Accessible in prominent location.** Items are located in a noticeable and frequently visited location for the parents and public to view and may include multiple buildings depending on where parents and the public typically visit, and can be accessed without asking personnel.

(1) **Requirements.** Oklahoma Department of Human Services (DHS) Publication No. 14-05, Licensing Requirements for Child Care Programs, is accessible.

(2) **Selecting quality child care.** DHS Publication 87-91, Selecting Quality Child Care - A Parent's Guide, is accessible.

(3) **Compliance file.** Items are originals or copies and are maintained together, with the most recent on top and all child identifying information removed. The compliance file includes items within the last 120 calendar days, at a minimum, from the date on the document or the investigation completion date on the form, unless requirements specifically state otherwise. The compliance file only contains:

(A) compliance monitoring from Licensing, Stars, and tribal agencies, such as:

(i) monitoring visit forms. Include most recent visit; and

(ii) case status information, such as forms and correspondence regarding:

(I) issuance of permits and licenses;

(II) non-compliances and Stars violations;

(III) notices to comply;

(IV) complaint findings;

(V) office conferences with Licensing, Stars, and tribal agencies;

(VI) Stars alternative settlements and reductions; and

(VII) consent agreements, denials of a request for a license, and revocations of a license;

(B) child welfare investigative summary, regardless of findings. However, confirmed or substantiated findings are maintained in the file for 12 months;

(C) granted criminal history restriction waiver notifications. However, notification is maintained in the file for as long as the individual is employed or is living in the facility; and

(D) other documents indicating placement in the compliance file.

(c) **Available in facility.** Items are available upon request.

(1) **Necessity, issuance, and maintenance of a permit or license.** The requirements listed in (A) and (B) of this subsection are met.

- (A) **Fire inspections.** Items are available upon request.
- (B) **Health inspections.** Items are available upon request.
- (2) **Other business, shared facility, and collaborations - collaboration agreement.** Item is available upon request.
- (3) **Policy.** The requirements listed in (A) through (D) of this paragraph are met.
  - (A) **Program liability insurance policy.** DHS form, completed every 12 months, and a certificate of liability insurance from the insurance agent is available, unless an exception is posted per OAC 340:110-3-278(b).
  - (B) **Program policy.** Policy includes content per OAC 340:110-3-278(d).
  - (C) **Personnel policy.** Policy includes content per OAC 340:110-3-278(e).
  - (D) **Volunteer policy.** Policy includes content per OAC 340:110-3-278(f).
- (4) **Emergency preparedness.** The requirements listed in (A) through (G) of this paragraph are met.
  - (A) **Emergency plans and procedures.** Item includes content per OAC 340:110-3-279(a) and is maintained in a readily available and portable manner for emergencies. Item is paper only.
  - (B) **Emergency contacts.** Emergency contact information for all personnel and enrolled children is maintained together in a readily available and portable manner for emergencies. Item is paper only.
  - (C) **Individual smoke and carbon monoxide alarm tests.** Item includes the dates the tests are conducted.
  - (D) **Central detection and alarm system checks for smoke and carbon monoxide.** Item includes the dates the system is checked or a contract from the company that continuously monitors the system for full-function.
  - (E) **Emergency preparedness drills.** Item includes dates and times the drills are conducted, with a signature of the director or personnel in charge during the drill.
  - (F) **Lock-down and relocation procedure reviews.** Item includes dates the reviews are completed by personnel.
  - (G) **Emergency plans and procedure reviews.** Item includes dates the reviews are completed by the director.
- (5) **Attendance.** The requirements listed in (A) through (C) of this paragraph are met.
  - (A) **Personnel's attendance.** Daily attendance is:
    - (i) promptly documented on paper, including personnel's full name and arrival and departure time; and
    - (ii) maintained, on paper or electronically, for at least 12 months.
  - (B) **Children's attendance.** Daily attendance is:
    - (i) promptly documented on paper, including the child's full name and arrival and departure time;

and

(ii) maintained, on paper or electronically, for at least 12 months.

(C) **Transportation attendance.** Attendance is maintained per (d) of this Section.

(6) **Animals.** The requirements listed in (A) and (B) of this paragraph are met.

(A) **Rabies vaccination.** A certificate from a licensed veterinarian for dogs and cats 4 months of age and older is available.

(B) **Psittacosis test results.** Negative results from a licensed veterinarian for each bird of the parrot family is available.

(7) **Parent communication and family engagement.**

Requirements listed in (A) through (B) of this subparagraph are met.

(A) **Parent conferences.** Documentation of conferences offered by general or individualized notification is available.

(B) **Parent notifications.** Parents are provided information regarding insurance liability and the compliance file.

(i) Parents complete DHS forms every 12 months regarding insurance liability and the compliance file. Forms are maintained at the facility.

(ii) When the child is enrolled, parents are provided copies of DHS Form 07LC093E, Insurance Exception Notification, and DHS Publication No. 14-01, Notice to Parents.

(8) **Health and hygiene.** The requirements listed in (A) and (B) of this paragraph are met.

(A) **Injury and poison exposure log.** Incidents requiring an injury or poison exposure report are documented and maintained in one location for at least 12 months, to determine patterns. The log includes, at least the:

(i) child's full name and age;

(ii) injury date, time, type, and location at facility or off-site; and

(iii) personnel present at the time of the injury.

(B) **Personnel administering medication.** Item includes full names of personnel designated to administer medication.

(9) **Physical environment.** The requirements listed in (A) through (E) of this paragraph are met.

(A) **Physical environment checklist.** DHS form, or other checklists regarding the same information as the form, is completed at least every 12 months.

(B) **Water supply - well water results.** Test results meeting requirements per OAC 340:110-3-300(k) are available.

(C) **Impact-absorbing materials.** Documentation of the American Society for Testing and Materials International (ASTM) tested impact-absorbing materials is maintained for the duration of the material's use.

(D) **Equipment inventory.** DHS form applicable to the program type and ages of children accepted into care is available.

(E) **Crib compliance.** Verification cribs meet Consumer Product Safety Commission standards is maintained for the duration of the cribs' use.

(10) **Transportation.** The requirements listed in (A) through (C) of this paragraph are met.

(A) **Transportation itinerary.** Item indicates approximate vehicle location at all times. Additional itineraries are duplicates.

(B) **Vehicle insurance.** Proof of insurance indicates the specific vehicles covered by the policy.

(C) **Vehicle maintenance.** Item includes the dates and full names of the individuals or commercial entities who conducted each inspection of:

- (i) tire wear and pressure;
- (ii) brakes;
- (iii) lights; and
- (iv) seat belts.

(d) **Available in vehicle.** The items listed in (1) through (6) of this subsection are maintained in the vehicle.

(1) **Program information.** Item includes program name, address, and phone number. Item is paper only.

(2) **Vehicle insurance.** Proof of insurance is available. Item is paper only.

(3) **Transportation itinerary.** Item indicates approximate vehicle location at all times. Additional itineraries are duplicates.

(4) **Emergency contacts and child information.** The full name and emergency contact information for each transported child is available. Item is paper only.

(5) **Transportation attendance.** Attendance is:

- (A) immediately documented each time each child enters and exits the vehicle; and
- (B) maintained in the vehicle or facility for at least 120 calendar days.

(6) **Child passenger check.** Before leaving the vehicle and in addition to the transportation attendance, the driver or last personnel in the vehicle documents completion of at least two methods of inspecting all areas of the vehicle for any remaining children to ensure no children are left on the vehicle.

### **340:110-3-281.3. Personnel and non-personnel records and documentation**

(a) **General.** General records and documentation requirements, per Oklahoma Administrative Code (OAC) 340:110-3-281 also apply to the items in this Section.

(b) **Personnel records.** Records are maintained for at least 12 months following the last date of employment, unless requirements specifically state otherwise. When the program is owned by a business entity with two or more programs and a general administrative office, personnel records are not required on-site, unless the requirements specifically state otherwise, provided current personnel records are made available to Licensing by the end of the next Licensing business day.

(1) **Personnel information.** The Oklahoma Department of Human Services (DHS) form is:

- (A) completed by each personnel; and
- (B) submitted to Licensing within two weeks of employment.

(2) **Criminal history review requests and results.** The DHS form is maintained for each required individual.

(3) **Treating medical personnel statement.** The report from treating medical personnel is maintained, when required, per OAC 340:110-3-283(f).

(4) **Professional development plan.** The program maintains a current plan, when required, per OAC 340:110-3-284(d) and:

- (A) is relevant to the roles and responsibilities for the assigned position(s);
- (B) includes training regarding requirements;
- (C) varies each year; and
- (D) builds upon previously obtained professional development.

(5) **Probationary Master teachers.** Probationary master teachers complete the DHS form identifying educational professional development plans.

(6) **Professional development verification.** All verification is submitted to the Oklahoma Professional Development Registry (OPDR), unless entered by an OPDR approved trainer. In addition, the program maintains, on-site:

- (A) all verification, until the individual is registered on OPDR; and
- (B) cardio-pulmonary resuscitation (CPR) and first aid certifications.

(7) **Orientation.** The DHS form or a program form containing the same information is maintained for each personnel.

(8) **Compliance review.** The DHS requirements compliance review form is available.

(9) **Higher risk qualifications.** Documentation of required certification, training, and experience is maintained for at least 12 months.

(10) **Lifeguard certification.** Personnel who perform lifeguard duties have:



- (A) CPR certification; and
- (B) lifeguard certification from American Red Cross, Young Men's Christian Association (YMCA), or equivalent.

(11) **Driver or commercial driver license.** A copy is maintained for each driver.

(12) **Seat belt exemption.** A written statement from a licensed physician is maintained, when required, per OAC 340:110-3-305(g).

(c) **Volunteer records.**

(1) **Driver or commercial driver license.** A copy is maintained for 120-calendar days from last use of volunteer unless the document must be maintained longer due to the personnel record requirement per (3) of this subsection.

(2) **CPR and first aid certifications.** Certification is maintained for 120-calendar days from last use of volunteer, unless the document must be maintained longer due to the personnel record requirement per (3) of this subsection.

(3) **Additional.** Personnel records per (b) of this Section are required when a volunteer fills another position, per OAC 340:110-3-284.1 through 340:110-3-284.4, and are maintained for 12 months from last use of the volunteer. However, personnel records are not required when a volunteer only fills the driver position and transports children on an irregular basis.

[Source: Added at 32 Ok Reg 704, eff 1-1-16 (emergency); Added at 33 Ok Reg 1678, eff 9-15-16 ; Amended at 36 Ok Reg 181, eff 12-17-18 (emergency); Amended at 36 Ok Reg 1892, eff 9-16-19]

**340:110-3-281.4. Child records and documentation**

(a) **General.** General records and documentation requirements, per Oklahoma Administrative Code (OAC) 340:110-3-281, also apply to items in this Section.

(b) **Child records.** The child record requirements in (1) through (16) of this subsection are met.

(1) **Child information.** Oklahoma Human Services (OKDHS) form, or a program form containing the same information, is:

- (A) completed by the parent prior to the child's first day of attendance; and
- (B) paper only.

(2) **Infant and 1-year-old daily record.** Daily records for 1-year-olds and younger are available in the child's classroom and include prompt documentation of eating, diapering, and sleeping activities.

(3) **Verbal pick-up authorizations.** When verbal authorization for pick-up of a child is obtained, personnel document the authorization, including the:

- (A) authorization date and time;
- (B) time period the authorization is valid; and
- (C) full name of the:
  - (i) individual providing authorization;
  - (ii) individual being given authorization; and
  - (iii) personnel receiving authorization.

(4) **Specialized service professional permission and release.**

Signed and dated parent permission is available. In addition, when the professional does not complete the background investigation requirements, per OAC 340:110-3-282(a), parent releases indicating understanding are signed and dated prior to unsupervised access to children for each professional.

(5) **Food reward exception plan.** A behavior modification plan is available and includes content, per OAC 340:110-3-288(d), director and parent signatures, and the date signed.

(6) **Immunization records.** An immunization record or exemption is obtained prior to the first day of attendance and is updated when the child receives additional vaccines.

(7) **Medication permission.** Signed parent permission for each medication is obtained, prior to administration, on an OKDHS or program form containing the same information.

(A) Parent instructions are the same as:

- (i) the container instructions; or
- (ii) a licensed physician's written statement regarding over-the-counter medication instructions differing from the container instructions.

(B) For chronic medical conditions, permission may be obtained for 12 months or less at a time, provided specific instructions include when administration is needed, such as diaper cream and inhalers.

(8) **Medication administration.** Each dose administered, excluding diaper cream is immediately documented on an OKDHS or program form containing the same information.

(9) **Injury or poison exposure report.** An OKDHS or program form containing similar information is completed for each injury or poison exposure occurring while in care.

(10) **Infant safe sleep environment.** Written statements from licensed physicians, signed parent permissions, or both are available when required, per OAC 340:110-3-296(b).

(11) **Transportation permission and driver release.** Signed parent permission:

(A) is obtained prior to transportation; and

(B) at least includes:

- (i) vehicle information, such as whether a program or personal vehicle is used;
- (ii) driver information, such as whether the driver is personnel or a volunteer. In addition, when a volunteer driver does not complete the background investigation requirements, per OAC 340:110-3-282(a), parent releases indicating this understanding are signed and dated prior to unsupervised access to children for each volunteer driver; and
- (iii) a plan identified by the program or parent specifying pick-up and drop-off times and locations.

(12) **Field trip permission.** Signed parent permission is obtained prior to the field trip, and documentation is maintained for at

least 12 months from the trip. Field trip permission may be:

- (A) specific with dates, times, and locations; or
- (B) general for all field trips occurring within a specified time period, not to exceed 120 calendar-days, provided parents are notified of specifics for each field trip, per OAC 340:110-3-280(d).

(13) **Higher risk activity permission and plan.** A plan is provided to parents, and signed parent permission is obtained prior to the activity. Documentation of both is maintained for at least 12 months from the activity. Permission may be for each time the child participates or a general permission for each activity type, such as swimming, may be given for 120-calendar days or less at a time. Field trip permission including the higher risk activity plan meets the requirement. The plan includes:

- (A) activity-related qualifications of the individual(s) leading the activity;
- (B) minimum ratios for the activity;
- (C) conditions for the child's participation, such as his or her age and skill levels;
- (D) special equipment necessary, such as safety helmets or specific clothing; and
- (E) safety practices followed.

(14) **Annual parent conferences.** Documentation is maintained, per OAC 340:110-3-281.2(c).

(15) **Swimming skills - children.** A signed and dated parent statement regarding the water depth the child may swim in is obtained prior to the water activity, and documentation is maintained for at least 12 months from the activity.

(16) **Special diet for infants.** Written statements from licensed physicians are maintained when required, per OAC 340:110-3-298(f).

[Source: Amended and renumbered from 340:110-3-25.3 at 32 Ok Reg 704, eff 1-1-16 (emergency); Amended and renumbered from 340:110-3-25.3 at 33 Ok Reg 1678, eff 9-15-16 ; Amended at 40 Ok Reg 1033, eff 9-15-23]

### **340:110-3-282. Background investigations**

(a) **General.** Background investigation requirements are met.

(1) **Required individuals.** Background investigations are required, per Section 401 et seq. of Title 10 of the Oklahoma Statutes (10 O.S. §§ 401 et seq.), Oklahoma Child Care Facilities Licensing Act (Licensing Act), unless an exception per (3) of this subsection applies for:

- (A) owners, prior to authorization to operate;
- (B) responsible entities, prior to authorization to operate and, when there is a change in responsible entity;
- (C) personnel applicants, prior to hire. However, the program may hire individuals, when:
  - (i) the program has submitted a criminal history review request to the Office of Background Investigations (OBI);

(ii) only awaiting the national criminal history records search, based on fingerprint submission;  
(iii) criminal history review results from OBI are received by the program. However, until complete results are received, the individual does not have unsupervised access to children; and  
(iv) coming from another licensed program owned by the same business entity. Individuals are not required to repeat the background investigation process, unless required per (2) of this subsection, with the exception of criminal history restriction waivers, provided there is no break in employment from the business entity;

(D) individuals with unsupervised access to children, prior to having access to children, unless an exception per (3) of the subsection applies;

(E) adults living in the facility, prior to authorization to operate or moving into the facility of an existing program. This includes children, who become 18 years of age while living in the facility; and

(F) individuals having access to, or review of, fingerprint results, prior to access to or review of results.

**(2) Resubmission of criminal history reviews as of November 2, 2017.** Effective November 2, 2017, programs request a criminal history review process, excluding fingerprinting, for required individuals every five years. However criminal history reviews requested prior to November 2, 2017, are resubmitted by November 1, 2022.

**(3) Non-required individuals.** Background investigations are not required for:

(A) specialized service professionals who are not program personnel, provided parent releases are obtained, per Oklahoma Administrative Code (OAC) 340:110-3-281.4(b);  
(B) volunteer drivers transporting children on an irregular basis and not filling another position, provided parent releases are obtained, per OAC 340:110-3-281.4(b);  
(C) contracted drivers not filling another position or having unsupervised access to children; and  
(D) contracted non-personnel not having unsupervised access to children, such as when the program contracts for special activities or facility repair.

**(b) Restricted Registry.** The program conducts an online search of the Restricted Registry, also named Joshua's List, when required, per (a) of this Section.

**(1) Non-registrants.** Non-registrants are individuals not recorded on the Restricted Registry.

**(2) Registrants.** Registrants are individuals recorded on the Restricted Registry, who are prohibited from licensure, ownership, employment, unsupervised access to children, or facility residence, and prohibited individuals per OAC 340:110-3-283(a) and (c).

(c) **Criminal history.** The program and required individuals complete the criminal history review process. The program receives the completed criminal history review results from OBI when required per (a) of this Section.

(1) **Criminal history prohibitions.** Individuals with criminal history prohibitions are prohibited, per OAC 340:110-3-283(a) through (c). Criminal history prohibitions include:

(A) required registration under the:

- (i) Sex Offenders Registration Act, including state and national repositories; or
- (ii) Mary Rippey Violent Crime Offenders Registration Act; or

(B) pleas of guilty or nolo contendere (no contest), or convictions of felonies involving:

- (i) murder, as defined in Section 1111 of Title 18 of United States Code;
- (ii) child abuse or neglect;
- (iii) crimes against children, including child pornography;
- (iv) spousal abuse;
- (v) crimes involving rape or sexual assault;
- (vi) kidnapping;
- (vii) arson;
- (viii) physical assault or battery; or
- (ix) a drug-related offense committed during the preceding five years, unless a criminal history restriction waiver per (2) of this subsection is granted; or

(C) pleas of guilty or nolo contendere (no contest), or convictions of violent misdemeanors committed as adults against a child involving:

- (i) child abuse or child endangerment; or
- (ii) sexual assault; or

(D) pleas of guilty or nolo contendere (no contest), or convictions of misdemeanors involving child pornography; or

(E) when an individual:

- (i) refuses to consent to background investigations per (a) of this Section; or
- (ii) knowingly makes a materially-false statement in connection with criminal background investigations.

(2) **Criminal history restrictions.** Individuals with criminal history restrictions are prohibited per OAC 340:110-3-283(a) and (c), unless a criminal history restriction waiver is granted. Criminal history restrictions include pending charges, pleas of guilty or nolo contendere (no contest), or convictions of criminal activity involving:

- (A) gross irresponsibility or disregard for the safety of others;
- (B) violence against an individual;

- (C) sexual misconduct;
- (D) child abuse or neglect;
- (E) animal cruelty;
- (F) illegal drug possession, sale, or distribution; or
- (G) a pattern of criminal activity.

(3) **Criminal history restriction waivers.** Restriction waivers are described in (A) through (D) of this paragraph.

(A) Restriction waivers may be requested for individuals having criminal history restrictions. The owner, responsible entity, or director completes requests on a DHS form.

(B) Restriction waivers are not requested or granted for:

- (i) Restricted Registry registrants;
- (ii) individuals with criminal history prohibitions; or
- (iii) individuals whose sentence has not expired for criminal history restrictions.

(C) Individuals identified in pending or denied restriction waiver requests are prohibited per OAC 340:110-3-283(a).

(D) Granted criminal history restriction waiver notifications are maintained per OAC 340:110-3-281.2(b).

(d) **References.** The program obtains at least three, non-relative references prior to hiring personnel applicants, with at least two references from the most recent employers, when applicable.

[Source: Added at 32 Ok Reg 704, eff 1-1-16 (emergency); Added at 33 Ok Reg 1678, eff 9-15-16 ; Amended at 35 Ok Reg 475, eff 1-31-18 (emergency); Amended at 35 Ok Reg 1705, eff 9-17-18]

### **340:110-3-283. Prohibited individuals**

(a) **Background investigation of required individuals.** The program does not allow a required individual to be the owner or responsible entity, to be employed, to live in the facility, or have:

(1) access to children, such as being present at the facility during the hours of operation, or present with the children in care while off-site, when the individual has:

- (A) criminal history prohibitions;
- (B) criminal history restrictions, unless a criminal history restriction waiver is granted. Individuals identified in a pending or denied restriction waiver request are prohibited; or
- (C) a substantiated heinous and shocking abuse finding; or

(2) unsupervised access to children, when the individual is a Restricted Registry registrant.

(b) **Background investigation of drivers.** In addition to (a) of this Section, the program does not allow an individual required to obtain a background investigation to transport children when the individual has entered a plea of guilty or nolo contendere (no contest), or been convicted of driving under the influence of alcohol or drugs or another impaired driving offense within the last five years.

(c) **Background of any individual.** The program does not allow any individual to have access to children, such as being present at the facility during the hours of operation or present with the children in care while

off-site, when the program is aware the individual has criminal history prohibitions, per Oklahoma Administrative Code (OAC) 340:110-3-282(c). However, individuals may drop-off and pick-up children in care.

(d) **Behavior or health of any individual.** The program does not allow any individual to have access to children or live in the facility when the individual's behavior or health could endanger children's health, safety, or well-being.

(e) **Health of food service personnel.** In addition to (a) and (d) of this Section, the program does not allow any individual to work in any capacity in any food service area whose health could endanger children's health, safety, or well-being, including communicable disease and infestation symptoms, other than head lice.

(f) **Treating medical personnel statement.** When it is reported or observed an individual has a physical, mental, or emotional condition that may negatively impact the children or impair the individual's ability to perform his or her assigned job responsibilities, the program may be required to submit to Licensing a treating medical personnel statement . Documentation is maintained, per OAC 340:110-3-281.3(b).

[Source: Added at 32 Ok Reg 704, eff 1-1-16 (emergency); Added at 33 Ok Reg 1678, eff 9-15-16 ; Amended at 40 Ok Reg 1033, eff 9-15-23]

#### **340:110-3-284. General qualifications, responsibilities, and professional development**

(a) **General.** Personnel are required to meet the general requirements in this Section and those specific to his or her assigned position(s), per Oklahoma Administrative Code (OAC) 340:110-3-284.1 through 340:110-3-284.4, with or without reasonable accommodations.

(b) **Qualifications.** Personnel meet the general qualification requirements in (1) through (3) of this subsection.

(1) **Skills.** Personnel possess the skills to perform his or her position responsibilities.

(2) **Background investigations.** Personnel meet the background investigation requirements, per OAC 340:110-3-282.

(3) **Oklahoma Professional Development Ladder.** Prior to or within 12 months of employment, teaching personnel obtain and maintain a current Oklahoma Professional Development Ladder (OPDL) certificate, per OAC 340 Appendix FF - Oklahoma Professional Development Ladder.

(c) **Responsibilities.** Personnel meet the general responsibility requirements in (1) through (3) of this subsection.

(1) **Complying with requirements.** Personnel comply with the requirements.

(2) **Caring for and educating children.** Personnel:

(A) individualize the care and learning opportunities meeting each child's needs based on the child's age and abilities, including reviewing the information provided by parents while respecting confidentiality;

(B) recognize and act to correct hazards to physical safety, both indoors and outdoors;

- (C) demonstrate prudent and responsible behavior reasonably ensuring children's health and safety;
- (D) demonstrate realistic expectations for behavior based on the children's age, abilities, and needs; and
- (E) work with children without physical, psychological, or emotional punishment, mistreatment, or abuse.

(3) **Reporting child abuse and neglect.** Personnel report suspected child abuse and neglect and human trafficking, per OAC 340:110-3-280(b).

(d) **Professional development.** Personnel meet the general professional development requirements in (1) through (8) of this subsection.

(1) **Professional development verification.** Verification of professional development is maintained, per OAC 340:110-3-281.3(b).

(2) **Professional development plan.** For the director and teaching personnel the program:

- (A) within six months of employment, develops an individualized education plan;
- (B) updates the plan annually; and
- (C) maintains documentation, per OAC 340:110-3-281.3(b).

(3) **Orientation.** Within one week of employment and prior to having sole responsibility for a group of children, personnel obtain orientation, as documented, per OAC 340:110-3-281.3(b), including, at least a review of:

- (A) Licensing requirements;
- (B) prevention and control of infectious disease;
- (C) immunizations;
- (D) injury prevention;
- (E) handling common childhood emergencies, including choking;
- (F) medication administration consistent with standards for parental consent;
- (G) prevention of and response to emergencies due to food and allergic reactions;
- (H) prevention and control of infectious disease and mandatory reporting;
- (I) child abuse and neglect definition, identification, and mandatory reporting;
- (J) appropriate use of discipline and prevention of child maltreatment;
- (K) car seat and transportation precautions and safety;
- (L) building and physical premise safety including identification of and protection from hazards that can cause bodily injury, such as electrical hazards, bodies of water, and vehicular traffic;
- (M) handling and storage of hazardous materials and appropriate bio-contaminant disposal;
- (N) diaper changing;
- (O) prevention of shaken baby syndrome and abusive head trauma;



- (P) reducing the risks of sudden infant death syndrome (SIDS);
- (Q) use of infant safe sleep practices;
- (R) child development; and
- (S) program specific information, including, at least:
  - (i) policies and procedures;
  - (ii) emergency preparedness and response planning for emergencies resulting from a natural disaster or a man-caused event addressing continuity of planning and all situations, per OAC 340:110-3-279;
  - (iii) confidentiality of information regarding children and families;
  - (iv) personnel's assigned duties and responsibilities, such as classroom schedules and lesson plans; and
  - (v) methods used to inform personnel of children's special health, nutritional, and developmental needs.

(4) **Safe sleep.** Prior to caring for infants, personnel obtain formal professional development in safe sleep practices.

(5) **Entry Level Child Care Training (ELCCT) or equivalent.** Prior to, or within 90-calendar days of employment, teaching personnel hired after August 1, 2003, complete an approved entry-level training listed on the Oklahoma Professional Development Registry (OPDR) website, such as ELCCT. However, this training is not required when previously received, unless the individual has not been employed at a licensed program within the last five years.

(6) **CPR and first aid.** Cardio-pulmonary resuscitation (CPR) and first aid certifications are age-appropriate for the children's ages accepted into care and are from approved sources listed on the OPDR website. In addition to CPR and first aid certification requirements for individuals in (A) through (B) of this subsection, other position specific CPR and first aid certification requirements are also met, per OAC 340:110-3-284.1 through 340:110-3-284.4.

(A) At all times, at least one personnel with current CPR and first aid certification is present with children:

- (i) on-site, including in each building where children are present;
- (ii) off-site; and
- (iii) in each vehicle during transportation.

However, a volunteer with certification from any source meets this requirement, provided the volunteer does not fill another position, excluding driver, per OAC 340:110-3-284.1 through 340:110-3-284.4.

(B) At least the director and master teachers obtain CPR and first aid certifications as required, per OAC 340:110-3-284.1(b) and 340:110-3-284.2(b).

(7) **Infection control.** Personnel obtain infection control training at least every 12 months.

(8) **Continuing professional development.** Ongoing professional development is required.

(A) The director obtains at least the required number of professional development clock-hours to maintain a current Oklahoma Director's Credential, per OAC 340 Appendix EE - Oklahoma Director's Credential. However, informal professional development clock-hours are limited.

(B) Teaching personnel obtain at least the required number of professional development clock-hours to maintain a current OPDL certificate, per OAC 340 Appendix FF - Oklahoma Professional Development Ladder. However, informal professional development clock-hours are limited.

(C) Formal professional development is:

(i) a course or training event of two or more clock-hours from an OPDR approved training organization; and

(ii) OPDR approved college credit hours.

(D) Informal professional development is:

(i) a course or training event of less than two clock-hours from an OPDR approved training organization;

(ii) any number of clock-hours from an OPDR non-approved training organization; and

(iii) any training from electronic media, such as videos or DVDs.

(E) Reading and television programs do not count toward required clock-hours.

(9) **Child passenger safety.** When the program provides transportation for children required to be in a car seat or booster seat, per Child Passenger Restraint System, Section 11-1112 of Title 47 of the Oklahoma Statutes (47 O.S. § 11-1112), the program has at least one personnel who obtained child passenger safety training from an approved source listed on the OPDR website, unless the vehicles used are exempt, per OAC 340:110-3-305(g). When the trained personnel's employment ends, the program has three months to meet this requirement.

[Source: Amended and renumbered from 340:110-3-7.1 at 32 Ok Reg 704, eff 1-1-16 (emergency); Amended and renumbered from 340:110-3-7.1 at 33 Ok Reg 1678, eff 9-15-16 ; Amended at 34 Ok Reg 200, eff 11-22-16 (emergency); Amended at 34 Ok Reg 1652, eff 9-15-17 ; Amended at 40 Ok Reg 1033, eff 9-15-23]

### **340:110-3-284.1. Director and personnel in charge**

(a) **General.** In addition to the position specific requirements in this Section, personnel meet the general requirements per Oklahoma Administrative Code (OAC) 340:110-3-284.

(b) **Director.** The program employs an individual who meets these position specific requirements.

- (1) **Position specific qualifications.** The director:
- (A) is at least 21 years of age;
  - (B) has satisfactory work experience;
  - (C) has a current bronze or higher level certificate per OAC 340 Appendix EE - Oklahoma Director's Credential;
  - (D) is not a director or master teacher at another program that operates concurrently at any given time; and
  - (E) has a good understanding of the requirements and program policies.
- (2) **Position specific responsibilities.** The director is:
- (A) accountable for the day-to-day operation of the program;
  - (B) responsible for:
    - (i) maintaining a program that meets or exceeds the requirements;
    - (ii) improving the quality of care;
    - (iii) implementing program development and evaluation;
    - (iv) ensuring personnel and volunteers comply with the requirements;
    - (v) supervising the conduct of personnel, volunteers, and other individuals providing services in the program;
    - (vi) appointing and informing the personnel in charge when the director is not present at the facility;
    - (vii) registering the program as a direct care organization and maintaining information on the Oklahoma Professional Development Registry (OPDR); and
    - (viii) overseeing parent communication and family engagement;
  - (C) present at the facility during the hours of operation at least 50 percent of the operating hours or 30 hours per week, whichever is less; and
  - (D) free from direct care responsibilities, when four or more teaching personnel are required to meet ratios, at least three hours per day during the hours of operation to provide program oversight and personnel supervision.
- (3) **Position specific professional development.** The director, upon assuming the position:
- (A) completes a DHS requirements compliance review form within one month;
  - (B) obtains and maintains cardio-pulmonary resuscitation (CPR) and first aid certifications prior to, or within three months, that meet requirements per OAC 340:110-3-284(d); and
  - (C) is exempt from the Entry Level Child Care Training (ELCCT) or equivalent requirement.

(c) **Personnel in charge.** The director appoints an individual who meets the position specific requirements listed in (1) through (3) of this

subsection.

- (1) **Position specific qualifications.** The personnel in charge:
  - (A) are at least 21 years of age; and
  - (B) have a good understanding of the requirements and program policies.
- (2) **Position specific responsibilities.** The personnel in charge takes responsibility for program operation when the director is not present at the facility.
- (3) **Position specific professional development.** The personnel in charge meets specific professional development for his or her regularly assigned position.

[Source: Added at 32 Ok Reg 704, eff 1-1-16 (emergency); Added at 33 Ok Reg 1678, eff 9-15-16 ; Amended at 34 Ok Reg 200, eff 11-22-16 (emergency); Amended at 34 Ok Reg 1652, eff 9-15-17]

### **340:110-3-284.2. Teaching personnel**

- (a) **General.** In addition to the position specific requirements in this Section, personnel meet the general requirements, per Oklahoma Administrative Code (OAC) 340:110-3-284.
- (b) **Master teachers.** The program employs or utilizes at least the minimum number of required individuals or volunteers meeting the position specific requirements in (1) through (6) of this subsection.
  - (1) **Required master teachers.** At least one master teacher is required for every 60 children of the licensed capacity. Only the required number of master teachers are required to meet all of the master teacher requirements. However, all master teachers meet cardio-pulmonary (CPR) and first aid certification requirements in (6) of this subsection.
  - (2) **Position specific qualifications.** Master teachers:
    - (A) are at least 18 years of age;
    - (B) have at least a high school diploma, General Education Development (GED), or Licensing approved equivalent; and
    - (C) have a current Oklahoma Professional Development Ladder (OPDL) certificate, per OAC 340 Appendix FF - Oklahoma Professional Development Ladder of Level 4 or higher.
  - (3) **Probationary master teachers.** Directors may request a one-year probationary period for personnel replacing master teachers not meeting educational criteria, per (2)(C) of this subsection.
    - (A) Probationary master teachers:
      - (i) complete the Oklahoma Human Services (OKDHS) form for the master teacher educational professional development plan, per OAC 340:110-3-281.3(b); and
      - (ii) are listed on the Oklahoma Professional Development Registry (OPDR). No specific level is required; however, OPDL timeframes and certificates are met, per OAC 340:110-3-284(b).
    - (B) Licensing may extend the probationary period for a second year, providing the probationary master teacher is

actively pursuing educational qualifications as identified on the OKDHS form.

(C) Master teacher educational qualifications are met for the initial permit, license issuance, and increases in licensed capacity.

(4) **Director as master teacher.** The director may count as a master teacher when meeting the master teacher qualifications, per (b) of this Section. Directors counting as master teachers are eligible for probationary periods, per (3) of this subsection.

(5) **Position specific responsibilities.** Master teachers:

(A) support other teaching personnel in meeting teacher and assistant teacher responsibilities;

(B) are responsible for:

(i) direct care of children;

(ii) planning and implementing the lesson plans;

(iii) classroom arrangement;

(iv) planning and implementing parent communication and family engagement; and

(v) providing input on program development and evaluation; and

(C) are present at the facility during the hours of operation at least 50 percent of operating hours or 30 hours per week, whichever is less.

(6) **Position specific professional development.** Master teachers obtain and maintain CPR and first aid certification requirements, per OAC 340:110-3-284(d). Master teachers obtain the certification within three months.

(c) **Teachers.** The program employs individuals or utilizes volunteers meeting the position specific requirements in (1) through (3) of this subsection.

(1) **Position specific qualifications.** Teachers:

(A) are at least 18 years of age; and

(B) have at least:

(i) a high school diploma, GED, or Licensing approved equivalent; or

(ii) completed 10th grade and are in the process of obtaining a GED for a period not to exceed 12 months from employment.

(2) **Position specific responsibilities.** Teachers:

(A) have the primary responsibility for direct care of children; and

(B) participate in:

(i) lesson plan development and implementation;

(ii) classroom arrangement;

(iii) parent communication and family engagement; and

(iv) program development and evaluation.

(3) **Position specific professional development.** Teachers obtain and maintain CPR and first aid certification requirements, per OAC 340:110-3-284(d). Teachers obtain the certification within three months.

(d) **Assistant teachers.** The program may employ individuals or utilize volunteers meeting the position specific requirements in (1) through (4) of this subsection.

(1) **Position specific qualifications.** Assistant teachers:

(A) are at least 16 years of age; and

(B) meet one of the criteria in (i) through (iii). Assistant teachers:

(i) are currently enrolled in high school or an equivalent;

(ii) have at least a high school diploma, GED, or approved equivalent; or

(iii) have completed 10th grade and are in the process of obtaining a GED for a period not to exceed 36 months from employment.

(2) **Position specific responsibilities.** Assistant teachers:

(A) are responsible for direct care of children; and

(B) carry out assigned tasks that may include participation in:

(i) lesson plan development and implementation;

(ii) classroom arrangement;

(iii) parent communication and family engagement; and

(iv) program development and evaluation.

(3) **Position specific professional development.** Assistant teachers obtain and maintain CPR and first aid certification requirements, per OAC 340:110-3-284(d). Assistant teachers obtain the certification within three months.

(4) **Position specific limitations.** Assistant teachers:

(A) are overseen by an on-site director, master teacher, or teacher:

(i) overseeing two or fewer assistant teachers at one time; and

(ii) providing intervention, when needed; and

(B) not having sole responsibility for a group of children:

(i) for more than three hours per day; and

(ii) during higher risk activities, per OAC 340:110-3-290.

(e) **Substitutes for teaching personnel.** The program may employ individuals or utilize volunteers or other personnel meeting the position specific requirements in (1) through (3) of this subsection.

(1) **Position specific qualifications.** Substitutes meet the teacher qualifications, per (c) of this Section. However, the OPDL certificate is not required until indicated in (3) of this subsection.

(2) **Position specific responsibilities.** Substitutes meet the responsibility requirements for the position(s) they are filling.

(3) **Position specific professional development.** Substitutes meet the general professional development requirements, per OAC 340:110-3-284(d). However, the timeframe for meeting professional development requirements begins when the substitute has worked for the program a total of 80 hours.

However:

- (A) orientation is required, prior to being left alone with children; and
- (B) CPR and first aid certification requirements are met per specific position requirements.

[Source: Added at 32 Ok Reg 704, eff 1-1-16 (emergency); Added at 33 Ok Reg 1678, eff 9-15-16 ; Amended at 34 Ok Reg 200, eff 11-22-16 (emergency); Amended at 34 Ok Reg 1652, eff 9-15-17 ; Amended at 35 Ok Reg 1732, eff 11-1-18 ; Amended at 36 Ok Reg 181, eff 12-17-18 (emergency); Amended at 36 Ok Reg 1892, eff 9-16-19 ; Amended at 40 Ok Reg 1033, eff 9-15-23]

### **340:110-3-284.3. Support personnel**

(a) **General.** In addition to the position specific requirements in this Section, personnel meet the general requirements per Oklahoma Administrative Code (OAC) 340:110-3-284.

(b) **All support personnel.** The program may employ individuals or use volunteers or other personnel who meet these position specific requirements.

(1) **Position specific responsibilities.** Support personnel provide support services to the program.

(2) **Position specific limitations.** Personnel performing support services do not count in ratios unless an exception applies per OAC 340:110-3-286(a).

(3) **Position specific additional requirement.** When support personnel fill another position in OAC 340:110-3-284.1 or 340:110-3-284.2, the individual also meets the requirements for the position(s) they are filling.

(c) **Food service personnel.** The program may employ individuals or use volunteers or other personnel who meet these position specific requirements.

(1) **Position specific responsibilities.** Food service personnel:

(A) prepare and serve food; and

(B) meet the food service requirements per OAC 340:110-3-299.

(2) **Position specific professional development.** Prior to or within three months of assuming primary responsibilities for food preparation, food service personnel obtain food service training from an approved source listed on the Oklahoma Professional Development Registry (OPDR) website. However, this is not required when only limited food service is provided per OAC 340:110-3-299(a).

(d) **Drivers.** The program may employ individuals or use volunteers or other personnel who meet these position specific requirements.

(1) **Position specific qualifications.** Drivers:

(A) are at least 21 years of age;

(B) have a valid driver or commercial driver license (CDL) in their state of residence, appropriate for the type of vehicle driven. Documentation is maintained per OAC 340:110-3-281.3(b) and (c);

(C) who are contracted personnel or volunteers, may not be required to obtain criminal history reviews per OAC 340:110-3-282(a); and

(D) are prohibited when required per OAC 340:110-3-283(b).

(2) **Position specific responsibilities.** Drivers:

(A) transport children; and

(B) meet the transportation requirements per OAC 340:110-3-305.

(3) **Position specific professional development.** Drivers, excluding volunteers who transport on an irregular basis and do not fill another position per OAC 340:110-3-284.1 through 340:110-3-284.4, obtain within three months of transporting children:

(A) child passenger safety training per OAC 340:110-3-284(d), from the program's trained personnel or an approved source listed on the OPDR website or a trained personnel is in the vehicle with the contracted driver, unless the vehicle used is exempt per OAC 340:110-3-305(g). In addition, personnel who assist with child passenger restraints obtain this training from the options indicated within three months of assisting; and

(B) vehicle safety training:

(i) for the safe operation of the type of vehicle driven, when driving a vehicle designed to transport 10 or more passengers; and

(ii) from any training source, excluding owner manuals.

[Source: Added at 32 Ok Reg 704, eff 1-1-16 (emergency); Added at 33 Ok Reg 1678, eff 9-15-16]

**340:110-3-284.4. Other personnel and non-personnel**

(a) **General.** In addition to position specific requirements in this Section, personnel meet the general requirements per Oklahoma Administrative Code (OAC) 340:110-3-284.

(b) **Contracted personnel.** When the program contracts for a service and the individual or agency personnel fills a position per OAC 340:110-3-284.1 through 340:110-3-284.3, the requirements for the position(s) are met.

(c) **Contracted non-personnel.** When the program contracts for a service, such as special activities or facility repair, and the individual or agency personnel does not fill a position per OAC 340:110-3-284.1 through 340:110-3-284.3, the personnel requirements are not required.

(1) **Position specific qualifications.** Contracted non-personnel who have unsupervised access to children meet the background investigation requirements per OAC 340:110-3-282.

(2) **Position specific limitations.** Contracted non-personnel are not responsible for supervision per OAC 340:110-3-287(i).

(d) **Specialized service professionals.** The program may employ individuals, contract non-personnel, use volunteers, and allow children to have access to specialized service professionals, who meet these requirements.



(1) **Position specific qualifications.** Specialized service professionals meet the background investigation requirements per OAC 340:110-3-282.

(2) **Position specific additional requirement.** Parent permission is required. Documentation is maintained per OAC 340:110-3-281.4(b).

(e) **Volunteers.** The program may use volunteers who meet these requirements. However, volunteers who fill another position per OAC 340:110-3-284.1 through 340:110-3-284.3 meet all personnel requirements and the requirements for the position(s) they are filling, unless the requirements specifically state otherwise.

(1) **Position specific qualifications.** Volunteers who have unsupervised access to children meet the background investigation requirements per OAC 340:110-3-282.

(2) **Position specific responsibilities.** Volunteers comply with the requirements.

(3) **Position specific professional development.** Volunteers within one week of providing services, are familiar with program policies and procedures that pertain to the services they are providing.

(4) **Position specific limitations.** Volunteers are supervised by the director or designated personnel.

[Source: Added at 32 Ok Reg 704, eff 1-1-16 (emergency); Added at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-285. Licensed capacity**

(a) **Licensed capacity.** The maximum number of children in care at one time, whether on-or off-site, does not exceed the licensed capacity specified on the current permit or license. This includes the personnel's children who are present and not filling a position listed in Oklahoma Administrative Code (OAC) 340:110-3-284.1 through 340:110-3-284.4.

(b) **Calculating licensed capacity.** The licensed capacity is the lowest capacity computed:

(1) for the indoor play area based on the number of sinks and toilets;

(2) for the indoor play area based on the square footage;

(3) for the outdoor play area based on the square footage; or

(4) on the fire inspection report, when applicable.

(c) **Equipment and master teachers.** The licensed capacity impacts the:

(1) amount of equipment; and

(2) number of required master teachers.

(d) **Collaborations.** The licensed capacity may be reduced during collaborative times per OAC 340:110-3-277(c).

[Source: Added at 32 Ok Reg 704, eff 1-1-16 (emergency); Added at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-286. Ratios and group sizes**

(a) **Ratios.** Ratios are the number of teaching personnel required to be physically present with a child or group of children, per Oklahoma

Administrative Code (OAC) 340 Appendix GG - Ratios and Group Sizes. Only teaching personnel count in ratios, unless requirements specifically state otherwise. The program is required to maintain ratios at all times.

(1) **Counted in ratios.** Personnel may count in ratios when these situations apply.

(A) **Transportation.** Drivers may count in ratios when only one or two children of any age or only children 4 years of age or older are transported.

(B) **Teaching personnel performing minimal cleaning and food service.** Teaching personnel may count in ratios while performing minimal cleaning and food service duties, provided supervision is maintained.

(C) **Adjacent restrooms.** Teaching personnel may count in ratios when present or children are present in a restroom opening directly into the classroom, provided children can be seen or heard and supervision is maintained.

(D) **Rest time - 3- through 5-year-olds.** When children are resting quietly or sleeping, the exceptions in (i) and (ii) of this subparagraph may apply.

(i) **One group.** At least one teaching personnel is present in the classroom. Other teaching personnel required for ratios remain in the building on the same floor.

(ii) **Combined groups.** When two or more groups are combined into one classroom for rest time, at least one teaching personnel is with each group and present in the classroom. Other teaching personnel required for ratios remain in the building on the same floor. When groups are combined the:

- (I) maximum group size requirements, per (b) of this Section, do not apply; and
- (II) classroom capacity requirements, per Oklahoma Administrative Code (OAC) 340:110-3-301(b) apply.

(E) **Overnight care.** When children are resting quietly or sleeping, at least one teaching personnel is with each group and present in the classroom. Other teaching personnel required for ratios remain in the building on the same floor. Teaching personnel are awake at all times, per OAC 340:110-3-287.

(2) **Not counted in ratios.** Personnel do not count in ratios when the situations in (A) through (C) of this paragraph apply.

(A) **Transportation.** Drivers do not count in ratios when 3-year-olds or younger are transported, unless the transportation exception applies, per (1) of this subsection.

(B) **Support services personnel.** Support services personnel do not count in ratios when performing support services, unless the minimal cleaning and food service exception applies, per (1) of this subsection.

- (C) **Lifeguard.** Personnel do not count in ratios when performing lifeguard duties.
- (3) **Children with special needs.** When children with special needs are in care, additional teaching personnel may be required, ensuring appropriate supervision and care of all children.
- (b) **Groups and group sizes.** Groups are determined by the number of children cared for by one or more teaching personnel. There is only one group of children per classroom or other area, and the maximum group size is not exceeded, per OAC 340 Appendix GG - Ratios and Group Sizes, unless an exception applies, per (2) of this subsection.
- (1) **Classrooms.** Rooms may be one classroom or divided into more than one classroom by permanent or temporary walls or barriers, including large areas, such as gymnasiums, provided the large area requirements, per OAC 340:110-3-301(b) are met.
- (A) **Classrooms - 4-year-olds or younger.** Walls or barriers are at least three feet in height.
- (B) **Classrooms - 5-year-olds or older.** Walls or barriers may be established through a variety of options, such as partitions or tables.
- (2) **Maximum group size exceptions.** The maximum group size requirements do not apply when groups are combined for special activities, outdoor play, meals, snacks, rest time, and field trips. However, the ratio requirements apply, including the combined group rest time exception, per (a) of this Section.
- (c) **Post ratios and group sizes.** Ratios and group sizes are posted, per OAC 340:110-3-281.1(i).

[Source: Amended and renumbered from 340:110-3-25.6 at 32 Ok Reg 704, eff 1-1-16 (emergency); Amended and renumbered from 340:110-3-25.6 at 33 Ok Reg 1678, eff 9-15-16 ; Amended at 40 Ok Reg 1033, eff 9-15-23]

### **340:110-3-287. Supervision**

- (a) **Supervision.** Supervision is the function of observing, overseeing, and guiding a child or group of children, including an awareness of, and responsibility for, the ongoing activity of each child, and being near enough to intervene when needed. The program is required to maintain supervision at all times.
- (b) **Know children.** Teaching personnel:
- (1) recognize children assigned to their group; and
  - (2) are responsible for learning assigned children's behaviors, interests, and individual needs.
- (c) **Non-job related activities.** While counting in ratios, personnel do not participate in non-job related activities that may interfere with supervision, such as visitors, phone calls, or electronic device use.
- (d) **Kitchen.** Children are restricted from the kitchen, unless part of a planned, supervised activity.
- (e) **Exception - children 5 years of age or older.** Five or fewer children having a good understanding of program rules may participate in a short-term, on-site activity not within sight and hearing of teaching personnel. However:

- (1) children count in ratios of his or her assigned group;
  - (2) this exception is not used when:
    - (A) children use stationary outdoor play equipment;
    - (B) children participate in higher risk activities, per Oklahoma Administrative Code (OAC) 340:110-3-290(a); or
    - (C) on-site services are being performed by contracted non-personnel without completed criminal history reviews, per OAC 340:110-3-282; and
  - (3) when this exception is used, assigned teaching personnel:
    - (A) make contact with these children at least every 10 minutes, while maintaining supervision of all children in his or her assigned group;
    - (B) provide immediate intervention, when needed; and
    - (C) know each child's location at all times and the nature of his or her activities.
- (f) **On-site play areas accessible to public.** The program has a method for easily identifying children and any play area boundaries.
- (g) **Off-site.** When the program provides or arranges for off-site activities:
- (1) a written supervision plan is maintained;
  - (2) an adult teaching personnel is with each group;
  - (3) boundaries are identified to the children; and
  - (4) the children are identifiable, such as using t-shirts, wrist bands, or badges.
- (h) **Transportation.** Transportation documentation is maintained, per OAC 340:110-3-281.2(d).
- (1) Children are never left unattended in vehicles.
  - (2) Supervision during transportation:
    - (A) begins when the child is picked up and the program has physical custody of the child. When the child is not present, or there is a contradiction about who is responsible for picking up the child, the program informs the parent, per OAC 340:110-3-280(d); and
    - (B) ends when the child is dropped off. The child is only dropped off at the pre-arranged location or with the individual designated by the parent, per OAC 340:110-3-281.4(b).
  - (3) When transporting children, communication device use is restricted, per OAC 340:110-3-305(e).
  - (4) Children's entire bodies remain in the vehicle.
- (i) **Contracted non-personnel.** When contracted non-personnel are present, program personnel provide the supervision.
- (j) **Overnight care.** Teaching personnel required for ratios are awake at all times.

[Source: Added at 32 Ok Reg 704, eff 1-1-16 (emergency); Added at 33 Ok Reg 1678, eff 9-15-16 ; Amended at 40 Ok Reg 1033, eff 9-15-23]

### **340:110-3-288. Discipline and behavior guidance**

- (a) **General.** Discipline and behavior guidance is developmentally appropriate, responsive to the circumstances, constructive, and provides

learning opportunities. Personnel do not seek or accept parental permission not complying with requirements, per Oklahoma Administrative Code (OAC) 340:110-3-293(a).

(b) **Appropriate discipline.**

- (1) **Assessment.** Personnel evaluate the environment, atmosphere, and activities before considering specific child interventions.
- (2) **Interaction.** Personnel interact with an attitude of understanding and firmness.
- (3) **Fairness and consistency.** Personnel use fair and consistent rules.
- (4) **Perspective.** Personnel maintain perspective and recognize every behavior not requiring teaching personnel's attention or intervention.
- (5) **Expressing acceptance and disapproval.** Personnel speak so children understand their feelings are acceptable, but the action or behavior may be unacceptable.
- (6) **Self-control.** Personnel encourage children to develop self-control.
- (7) **Relevant.** Personnel choose discipline relevant to the behavior.
- (8) **Redirect.** Personnel provide alternatives when the behavior is unacceptable.
- (9) **Consequences.** Personnel use safe, natural, and logical consequences helping children take responsibility for his or her actions.
- (10) **Individualize.** Personnel recognize every discipline method is not effective with every child or circumstance.
- (11) **Time-out or time-away.** Personnel may consider this option when other discipline methods are ineffective.
  - (A) Personnel use this method only with children 2 years of age and older when:
    - (i) necessary for the child to regain self-control;
    - (ii) the child has the ability to learn from it; and
    - (iii) appropriate supervision is maintained.
  - (B) The child may sit quietly or participate in an individual activity.
  - (C) Time-out is limited to one minute or less for each year of age. However, when self-control is regained in less time, the child may rejoin an ongoing activity.

(c) **Inappropriate discipline.** Personnel are prohibited from using or threatening to use inappropriate discipline.

- (1) **Physical.** Inappropriate physical discipline examples include:
  - (A) actions that could cause pain, such as shaking, hitting, striking with an object, spanking, swatting, thumping, pinching, popping, shoving, spatting, hair pulling, yanking, and slamming;
  - (B) biting a child;
  - (C) putting anything in or on a child's mouth;
  - (D) exposure to extreme temperatures;
  - (E) excessive or forced exercise; and

(F) restraining or tying to restrict a child's movement by any means other than holding . Holding is used only as long as necessary for the child to regain self-control.

(2) **Psychological and emotional.** Inappropriate psychological and emotional discipline examples, include:

- (A) humiliating, rejecting, or neglecting a child;
- (B) making derogatory or sarcastic remarks about a child's family, race, gender, religion, or cultural background;
- (C) yelling at a child out of anger or using harsh or profane language;
- (D) punishing or threatening a child in association with:
  - (i) education, such as writing repetitive sentences and homework; and
  - (ii) physical needs, such as:
    - (I) withdrawing, denying, or forcing food, rest, or toileting; and
    - (II) withdrawing or denying outdoor play or a weather alternate activity;
- (E) isolating a child without supervision;
- (F) placing a child in a dark area;
- (G) allowing a child to discipline other children; and
- (H) punishing an entire group due to the actions of one or a few children.

(d) **Inappropriate food reward.** Food is not used to obtain or reward desired behaviors.

(1) **Food reward exception.** When a child has a non-typical behavioral issue or learning style and other methods to modify the child's behavior do not work, food if necessary, may be used initially to obtain or reward a desired behavior.

(2) **Food reward exception plan.** A behavior modification plan, with timeframes, is developed by relevant professionals, when applicable, director, and parents to eliminate food as a reward and take steps to transition to another method for obtaining or rewarding desired behaviors. Documentation is maintained, per OAC 340:110-3-281.4(b).

[Source: Amended and renumbered from 340:110-3-26 at 32 Ok Reg 704, eff 1-1-16 (emergency); Amended and renumbered from 340:110-3-26 at 33 Ok Reg 1678, eff 9-15-16 ; Amended at 40 Ok Reg 1033, eff 9-15-23]

### **340:110-3-289. Learning program principles**

(a) **General.** Each child is:

- (1) provided an environment that:
  - (A) meets the needs and encourages full participation of all children;
  - (B) includes play equipment and activities fostering inclusivity of diverse cultures and families; and
  - (C) is equipped and prepared for learning based on each child's age, needs, and interests; and
- (2) provided multiple opportunities to play the majority of the day individually or in small, informal groups;

- (3) allowed to choose activities balanced between teaching personnel-directed and child-selected; and
- (4) encouraged, but not forced, to participate in program activities, with adaptations ensuring safety and participation.

(b) **Daily classroom schedules.** Classroom schedules provide consistent routines.

- (1) Classroom schedules are:
  - (A) a sequence of activities indicating times of day;
  - (B) developed for each classroom;
  - (C) followed with reasonable regularity;
  - (D) age-appropriate; and
  - (E) posted, per Oklahoma Administrative Code (OAC) 340:110-3-281.1(i).
- (2) Classroom schedules at least include:
  - (A) alternating periods of quiet and active play;
  - (B) indoor and outdoor play;
  - (C) meal and snack time;
  - (D) rest time, when applicable; and
  - (E) transportation, when applicable.

(c) **Transition times.** Teaching personnel have short-term activities, such as songs, stories, and exercises reducing waiting periods in between children's activities.

(d) **Weekly lesson plans.** Lesson plans provide varying daily activities by including diverse topics, projects, or ideas influenced by children's curiosity and interests.

- (1) Lesson plans are:
  - (A) developed weekly indicating plans for each day;
  - (B) developed for each classroom;
  - (C) followed with flexibility;
  - (D) different each week; and
  - (E) posted, per OAC 340:110-3-281.1(i).
- (2) Lesson plans at least include daily indoor and outdoor learning activities and experiences that:
  - (A) are developmentally appropriate;
  - (B) meet children's needs and stimulate learning in developmental areas, such as:
    - (i) social;
    - (ii) emotional;
    - (iii) cognitive;
    - (iv) language, including reading to children at least 15 minutes per day and providing writing opportunities;
    - (v) creative expression, such as art and music; and
    - (vi) physical, including at least one activity teaching personnel lead and participate in; and
  - (C) balance gross and fine motor activities; and
  - (D) use a variety of equipment and materials.

(e) **Interest areas.** Play equipment is arranged in interest areas in classrooms with children 2 years of age or older. However, children may move the play equipment between interest areas while playing. Required interest areas include:

- (1) art;
- (2) blocks;
- (3) books and language;
- (4) dramatic play; and
- (5) manipulatives.

(f) **Play equipment accessibility.** Required play equipment, per OAC 340 Appendix MM - Equipment, for the:

- (1) licensed capacity is maintained at the facility; and
- (2) classroom is proportionate in amount and variety to the number of children in attendance and within children's reach.

(g) **Play equipment rotation.** Play equipment may be rotated to maintain children's interest.

(h) **Outdoor play.** Daily outdoor play is ensured:

- (1) for each child regardless of age, unless the child's health or safety is at risk, based on parent-provided written information; and
- (2) provided weather and environmental conditions pose no significant health or safety risk, by:
  - (A) adjusting the time of day and amount of time outside;
  - (B) considering children's ages; and
  - (C) ensuring children wear weather-appropriate clothing.

(i) **Electronic and print media.** Children may use media, provided these requirements are met.

- (1) Electronic and print media are chosen with discretion and selectivity and are:
  - (A) non-violent;
  - (B) non-vulgar;
  - (C) non-sexually explicit;
  - (D) culturally sensitive; and
  - (E) age-appropriate, per widely accepted rating systems.
- (2) When the internet is accessible for children's use, the program ensures children do not have access to inappropriate websites, email, instant messaging, and similar technology.
- (3) Screen time is:
  - (A) viewing electronic media with a screen, such as television (TV), digital video display (DVD), videos, video games, phones, and computers. Screen time includes viewing screens while others use the media;
  - (B) not used during meal and snack times. However, snacks may be provided during occasional special activities;
  - (C) not used when all children in the group are 1-year-olds or younger; and
  - (D) limited for all other groups.

(i) Screen time is limited to:

- (I) thirty minutes or less during the day for each child or group. However, Saturday mornings may include an additional 30 minutes for each child or group; and
- (II) one hour or less during the evening for each child or group in evening or overnight



care.

- (ii) Exceptions to limited screen time include:
  - (I) electronic media involving physical activity participation;
  - (II) electronic media when used for children's school-related educational activities;
  - (III) e-readers when used for reading;
  - (IV) smart boards and tables when used for hands-on learning activities, such as drawing or puzzles;
  - (V) occasional special activities, such as watching movies; and
  - (VI) assistive or adaptive technology for children with special needs.

(4) During rest time, personnel may use electronic media for child and classroom-related activities, provided supervision is maintained.

**(j) Program for 1-year-olds and younger.** Awake children:

- (1) spend a majority of time playing freely on the floor, including infant "tummy-time";
- (2) are not permitted in infant car seats, except during emergency drills, transportation, and arrival and departure with parents; and
- (3) do not remain for more than 20 minute increments in equipment restricting freedom of movement, such as rest equipment, swings, high chairs, or stationary activity centers, except while eating in high chairs or similar stationary equipment. Children only sleep in appropriate rest equipment, per OAC 340:110-3-296.

[Source: Amended and renumbered from 340:110-3-25.1 at 32 Ok Reg 704, eff 1-1-16 (emergency); Amended and renumbered from 340:110-3-25.1 at 33 Ok Reg 1678, eff 9-15-16 ; Amended at 34 Ok Reg 200, eff 11-22-16 (emergency); Amended at 34 Ok Reg 1652, eff 9-15-17 ; Amended at 40 Ok Reg 1033, eff 9-15-23]

**340:110-3-290. Higher risk activities**

(a) **Higher risk activities.** Higher risk activities, such as swimming, shoreline activities, archery, ice or roller skating, gymnastics, enclosed inflatable bouncing equipment, or karate increase the risk for severe injuries.

(b) **Selection.** Higher risk activities are chosen with discretion and selectivity. Some activities are not appropriate for child care, such as trampoline use per Oklahoma Administrative Code (OAC) 340:110-3-302(e), or for every age.

(c) **Ratios and supervision.** Teaching personnel required for ratios are present with the children, including when the activity is conducted by contracted non-personnel. Additional personnel may be required, depending on the activity risk-level, to ensure proper supervision and care of all children.

(d) **Qualifications.** Personnel or contracted non-personnel leading the activity have appropriate certifications, when required, training in the

activity, or experience. Documentation is maintained per OAC 340:110-3-281.3(b).

(e) **Higher risk activity plan and parent permission.** Prior to the activity, the program provides the plan to parents and obtains their permission. Documentation is maintained per OAC 340:110-3-281.4(b).

[Source: Amended and renumbered from 340:110-3-25.2 at 32 Ok Reg 704, eff 1-1-16 (emergency); Amended and renumbered from 340:110-3-25.2 at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-291. Water activities**

(a) **Water activities.** Any activity that involves water play or is near a body of water is a water activity.

(1) **Supervision.** Personnel are required to supervise children constantly, including in the dressing areas, while maintaining the privacy of older children.

(2) **Safety rules.** Personnel review safety rules with children each time they participate.

(b) **Water features.** On-site water features, such as streams and fountains, are inaccessible, unless a Licensing approved written plan, addressing supervision and safety, is followed.

(c) **Sprayground activities.** Spraygrounds or splash pads spray water and allow children to get wet and splash; however, they do not accumulate water. Sprinklers are not considered spraygrounds.

(1) **Higher risk activity.** The higher risk activity requirements are met per Oklahoma Administrative Code (OAC) 340:110-3-290.

(2) **Supervision.** Teaching personnel supervise children constantly.

(d) **Swimming and wading activities.** Swimming may only occur in a swimming pool that meets the requirements per (6) of this subsection. Wading may only occur in swimming pools or narrow and shallow creeks and streams that have non-standing, non-swift flowing water. Personnel do not allow children to wade in water above their knees.

(1) **Higher risk activity.** The higher risk activity requirements are met per OAC 340:110-3-290.

(2) **Ratios.** Swimming and wading ratios are met per OAC 340 Appendix GG - Ratios and Group Sizes.

(3) **Supervision.** Teaching personnel are:

- (A) in or at the water and prepared to enter;
- (B) in direct physical contact with infants; and
- (C) not more than an arm's length from 1-year-olds.

(4) **Lifeguard.** These lifeguard requirements are met.

(A) When children use a swimming pool with a water depth of more than 18 inches, an on-duty certified lifeguard is present, in addition to the cardio-pulmonary resuscitation (CPR) and first aid certified personnel per OAC 340:110-3-284(d).

(B) When the on-duty lifeguard is also program personnel, the individual:

- (i) maintains lifeguard and CPR certification per OAC 340:110-3-281.3(b);

(ii) is not counted in ratios per OAC 340:110-3-286(a); and

(iii) is responsible for 36 or fewer children.

(5) **Swimming skills and safety.** Personnel follow:

(A) parent provided information regarding the child's swimming skills as documented per OAC 340:110-3-281.4(b); and

(B) a system that continually checks each child's safety in the water.

(6) **Swimming pools.** Swimming pools include permanent wading pools, in-ground and above-ground pools, water parks excluding sprayground parks, and other similar bodies of water.

(A) Before use, personnel ensure the swimming pool has:

(i) a current Oklahoma State Department of Health (OSDH), public bathing place license; and

(ii) life-saving equipment available at the pool side.

(B) On-site indoor and outdoor swimming pools are enclosed and secured to prevent unsupervised access.

Doors and gates leading to the pool are locked.

(i) Outdoor in-ground pools are fenced and fencing:

(I) is sturdy;

(II) cannot be easily climbed;

(III) is at least four feet high and starts at ground-level; and

(IV) may include a building wall, provided doors are kept locked and any windows are unable to be opened by children.

(ii) Outdoor above-ground pools have:

(I) a fence that meets the in-ground pool fencing requirements;

(II) at least four feet of non-climbable pool sidewalls; or

(III) a combination of pool sidewalls and fencing, with the fence attaching to and extending above the pool sidewalls, for a total height of at least four feet.

(iii) Outdoor above-ground pools with steps leading to the pool have the steps removed or otherwise protected to prevent unsupervised access.

(e) **Shoreline activities - 5-year-olds and older.** Children may participate in shoreline activities, such as fishing at lakes, ponds, creeks, or streams provided these requirements are met.

(1) **Higher risk activity.** The higher risk activity requirements are met per OAC 340:110-3-290.

(2) **Limitations.** During shoreline activities, children do not enter the water unless the wading requirements per (d)(1) through (4) and (5)(B) of this Section are met.

(3) **Ratios.** Swimming and wading ratios are met per OAC 340 Appendix GG - Ratios and Group Sizes.

(f) **Boating activities - 5-year-olds and older.** Children may participate in boating activities provided these requirements are met.

- (1) **Higher risk activity.** The higher risk activity requirements are met per OAC 340:110-3-290.
- (2) **Limitations.** During boating activities, children do not swim or wade.
- (3) **Ratios.** Swimming and wading ratios are met per OAC 340 Appendix GG - Ratios and Group Sizes.
- (4) **Life jackets.** Appropriately sized and approved life jackets are worn by children and personnel.
- (g) **Restrictions.** The water restrictions listed in (1) through (4) of this subsection apply.
  - (1) **Ponds and lakes.** Ponds, lakes, and other similar bodies of water are inaccessible, unless the shoreline activity requirements are met. Swimming and wading in these bodies of water is prohibited. However, children may wade in creeks and streams per (d) of this Section.
  - (2) **Saunas, spas, hot tubs, and stock tanks.** Saunas, spas, hot tubs, and stock tanks are inaccessible and use is prohibited.
  - (3) **Diving.** Diving is prohibited unless the swimming pool meets OSDH diving regulations.
  - (4) **Portable wading pools.** Portable wading pools with water are prohibited.

[Source: Amended and renumbered from 340:110-3-25.4 at 32 Ok Reg 704, eff 1-1-16 (emergency); Amended and renumbered from 340:110-3-25.4 at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-292. Animals**

#### **(a) General.**

- (1) When animals live on-site, visit the facility, or children have off-site animal contact, the requirements in this Section are met.
- (2) Local animal ordinances are followed.
- (3) Parents are notified of animals' presence, per Oklahoma Administrative Code (OAC) 340:110-3-280(d).
- (4) Animal bites are:
  - (A) reported, per OAC 340:110-3-280(a) and (d); and
  - (B) documented as an injury, per OAC 340:110-3-281.2(c) and 340:110-3-281.4(b).

#### **(b) Prohibited and inaccessible animals on-site.**

- (1) Prohibited animals on-site, unless the requirements specifically state otherwise, include:
  - (A) common hosts of rabies ineligible for United States Department of Agriculture (USDA)-approved rabies vaccinations; and
  - (B) wild or dangerous animals.
- (2) When stray animals are on-site, the program takes action to have them removed from the premises.
- (3) Birds of the parrot family, such as cockatoos, cockatiels, parakeets, and lovebirds meet Psittacosis testing requirements, per (e) of this Section. Birds testing:
  - (A) positive are prohibited on-site. When an antibody test result is positive, an antigen test may be conducted prior to prohibition; or

- (B) negative are inaccessible to children on-site.
- (4) Inaccessible animals on-site, unless the requirements specifically state otherwise, include:
  - (A) ferrets;
  - (B) spiders, such as tarantulas;
  - (C) fish;
  - (D) amphibians, such as frogs, tadpoles, newts, and salamanders;
  - (E) reptiles, such as non-venomous lizards and snakes, turtles, terrapins, and tortoises;
  - (F) hermit crabs; and
  - (G) baby poultry, such as chicks, ducklings, and goslings.

(c) **Child and animal contact on-site and off-site.**

- (1) Children may have on-site or off-site contact with animals that:
  - (A) are friendly and not aggressive; and
  - (B) do not pose a health or safety risk. The program does not allow children to have contact with prohibited or inaccessible animals, per (b) of this Section. However, children 6 years of age and older may have limited contact with a potential Salmonella bacteria-carrying animal identified, per (g) of this Section, provided children:
    - (i) only touch the animal with his or her hands; or
    - (ii) wear protective outer garments and remove prior to hand washing.
- (2) During animal contact, personnel:
  - (A) supervise contact and are close enough to remove the animal or children immediately if the animal shows distress signs or children show signs of treating the animal inappropriately; and
  - (B) discourage children from hand-to-mouth activities, including prohibiting eating, drinking, and using a pacifier.
- (3) After animal contact, personnel ensure hand washing requirements are met.

(d) **Hand washing and food.**

- (1) The hand washing requirements are met, per OAC 340:110-3-294(a). Personnel ensure adequate hand washing facilities are available for off-site animal activities or contact.
- (2) The food supply and potentially hazardous food requirements are met, per OAC 340:110-3-299(b) and (c). This includes farm field trips where children taste foods.

(e) **Animal health.**

- (1) Animals are clean and healthy, showing no evidence of disease or infestation.
- (2) Animals showing unusual behavior or disease symptoms are isolated until examined by a licensed veterinarian and approved to return to the facility.
- (3) Rabies vaccinations are specific to the species, and documentation is maintained, per OAC 340:110-3-281.2(c).
- (4) Birds of the parrot family have Psittacosis test results prior to entering the facility, and documentation is maintained, per OAC 340:110-3-281.2(c).

**(f) Cleanliness.**

- (1) Animals are restricted from:
  - (A) kitchen and food storage and preparation areas;
  - (B) food-contact items and surfaces; and
  - (C) children's resting surfaces.
- (2) Animal litter boxes are prohibited in the kitchen, food storage areas, or areas easily accessible to children.
- (3) Animal waste:
  - (A) is inaccessible;
  - (B) in animal habitats is disposed of daily; and
  - (C) in outdoor play areas is disposed , per OAC 340:110-3-304(a).
- (4) Sinks used for food preparation, obtaining drinking water, hand washing, or other hygiene activities are not used for:
  - (A) fish tank water disposal; or
  - (B) cleaning animal feeding and watering containers and habitats.

**(g) Salmonella cross-contamination prevention.**

- (1) Potential Salmonella bacteria-carrying animals are identified, per (b)(4)(C) through (G) of this Section.
- (2) When these animals are on-site, additional precautions in (A) and (B) of this subsection protect children from Salmonella bacteria contact.
  - (A) Animal contact with floors, tables, and other children's surfaces is prohibited.
  - (B) Personnel ensure children avoid contact with animal habitats, feeding and watering containers, supplies, and any item having animal contact.

**(h) Visiting animal exhibits.**

- (1) The program may allow visiting animal exhibits on-site for special activities, including prohibited and inaccessible animals identified, per (b) of this Section.
- (2) In these situations the:
  - (A) visiting animal handlers are present with the animals at all times;
  - (B) animals and habitats are restricted from classrooms , where children eat , drink, or rest, and from food preparation areas;
  - (C) prohibited animals remain confined in habitats for observation only;
  - (D) children do not have contact with prohibited and inaccessible animals, unless allowed, per (c) of this Section;
  - (E) other requirements in this Section are met; and
  - (F) higher risk activity requirements are met, per OAC 340:110-3-290.

[Source: Added at 32 Ok Reg 704, eff 1-1-16 (emergency); Added at 33 Ok Reg 1678, eff 9-15-16 ; Amended at 40 Ok Reg 1033, eff 9-15-23]

**340:110-3-293. Parent communication and family engagement**

(a) **Parent permission.** Parent permission requirements in (1) and (2) of this subsection are met.

- (1) **Required.** Parent permission is maintained, per Oklahoma Administrative Code (OAC) 340:110-3-281.4(b), and required for:
- (A) medication administration;
  - (B) services provided by a specialized service professional;
  - (C) transportation;
  - (D) field trips;
  - (E) higher risk activities; and
  - (F) swaddling.

(2) **Prohibited.** Personnel do not seek or accept parental permission that does not comply with requirements.

(b) **Parent reporting.** Parents and personnel communicate daily and when additionally required, per OAC 340:110-3-280(d).

(c) **Access.** Parents of enrolled children are allowed reasonable access to facility areas used by children.

(d) **Family engagement.** The program provides at least four of the options in (1) through (6) of this subsection.

(1) **Welcome.** Enrolled children's parents are welcome at all times, such as observing, eating lunch, or volunteering, provided parents follow program policies.

(2) **Parent resource area.** A parent resource area with books, pamphlets, or articles on parenting and community resources is accessible to parents. When provided electronically, resources are easily accessible.

(3) **Annual parent conferences.** Parent conferences are offered at least every 12 months discussing each child's progress, challenges, and accomplishments, and establishing goals together for each child. Documentation is maintained, per OAC 340:110-3-281.2(c).

(4) **Program information.** Parents are informed on an ongoing basis about program specific information through at least two methods, such as parent bulletin boards, newsletters, emails, parent portals, or websites.

(5) **Parent activities or special events.** At least two parent activities or special events are offered every 12 months, such as guest speakers, open houses, brown bag lunches, family pot-luck dinners, or children's programs.

(6) **Parent input.** Parents are included in ongoing program and policy development, such as board involvement, planning meetings, parent committees, written comments or suggestions, parent surveys, or formalized program evaluations.

[Source: Amended and renumbered from 340:110-3-10 at 32 Ok Reg 704, eff 1-1-16 (emergency); Amended and renumbered from 340:110-3-10 at 33 Ok Reg 1678, eff 9-15-16 ; Amended at 40 Ok Reg 1033, eff 9-15-23]

### **340:110-3-294. Health protection and disease control**

(a) **Hygiene.** The hygiene requirements listed in (1) through (5) of this subsection are met.

(1) **Meet needs.** Personnel attend promptly to children's personal hygiene needs.

(2) **Hand hygiene.** Personnel and children wash their hands with soap and warm, running water or use hand sanitizer as required per Oklahoma Administrative Code (OAC) 340 Appendix HH - Hand Hygiene.

(A) Hand washing:

(i) supplies are maintained as required per OAC 340:110-3-300(n);

(ii) procedures are posted as required per OAC 340:110-3-281.1(g). Personnel and children are encouraged to follow the procedures; and

(iii) is not required for infants provided a moist, disposable towelette is used.

(B) Hand sanitizer:

(i) is non-expired;

(ii) is at least 60 percent alcohol-based;

(iii) use by children is monitored by personnel; and

(iv) is not used on 1-year-olds and younger.

(3) **Hygiene articles.** Hygiene articles, such as wash cloths, towels, hair brushes, combs, and toothbrushes are individually assigned and stored and used by only one child.

(4) **Food service personnel.** Health and hygiene requirements are met per OAC 340:110-3-299(m).

(5) **Overnight care.** Personal hygiene arrangements are made, such as for bathing and tooth brushing. Privacy is ensured when bathing and changing clothes.

(b) **Immunizations.** Children have or are in the process of obtaining immunizations at the medically appropriate time or have an exemption per OAC 340 Appendix II - Immunizations. Records are maintained per OAC 340:110-3-281.4(b).

(c) **Health monitoring.** Each child is observed initially and throughout the hours of care for symptoms of an illness or poison exposure and obvious signs of infestation or physical injuries.

(d) **Temperature.** A child's temperature is taken when there is a concern.

(1) **Method.** A child's temperature is not taken:

(A) rectally at any age; or

(B) orally with 4-year-olds or younger.

(2) **Thermometer.** The appropriate thermometer is used depending on the method used.

(e) **Illness and infestations, other than head lice.** The program maintains health inclusion, separation, and exclusion criteria and reporting policy per OAC 340:110-3-278(d).

(1) **Children - separation.** Children showing symptoms of a communicable disease or infestation, other than head lice, are separated from well children.

(2) **Children - exclusion.** Children are excluded from the program when required per OAC 340 Appendix JJ - Exclusion Criteria for Children Who Are Ill.



(3) **Parent notification.** Parents are notified per OAC 340:110-3-280(d).

(4) **Personnel - exclusion.** Personnel are prohibited when required per OAC 340:110-3-283(d) and (e).

(f) **Head lice.** The program maintains head lice inclusion, separation, and exclusion criteria and reporting policy per OAC 340:110-3-278(d).

(1) **Separation and exclusion.** The program determines whether children and personnel with head lice remain:

(A) with the group or are separated from the group; and

(B) in the program or are sent home early.

(2) **Treatment.** Regardless of the separation and exclusion decisions, head lice treatment is required before the child or personnel returns to the program.

(3) **Exposure.** The program determines whether parents are notified of potential head lice exposure.

(g) **Health protection.** The health protection requirements listed in (1) through (5) of this subsection are met.

(1) **Allergies.** Known child allergies are posted per OAC 340:110-3-281.1(e) and (i).

(2) **First aid kits.** First aid kits are maintained per OAC 340:110-3-279(d).

(3) **Injuries and poison exposure.** Injuries, including animal bites, and poison exposures are:

(A) reported per OAC 340:110-3-280(a) and (d); and

(B) documented per OAC 340:110-3-281.2(c) and 340:110-3-281.4(b).

(4) **Sun safety and sunscreen.** Sun safety procedures, such as sunscreen procedures, are followed according to program policy per OAC 340:110-3-278(d).

(5) **Tobacco-free.** Tobacco use includes simulated tobacco use.

(A) Tobacco use is prohibited in:

(i) the presence and sight of children during the hours of operation, including off-site;

(ii) facility buildings and outdoor play areas, at all times, including when children are not in care.

However, tobacco use in family residences is only prohibited during the hours of operation;

(iii) program vehicles at all times, including when children are not in care; and

(iv) private vehicles when children are being transported in the vehicle.

(B) When allowed on the premises, tobacco use is limited to a designated outdoor area, located:

(i) out of children's sight;

(ii) at least 15 feet from the building entrances.

When the program is in a shared facility, the area is at least 15 feet from the program entrances; and

(iii) in a manner that prevents smoke from entering the building and outdoor play area.

(C) Tobacco use is:

(i) reported per OAC 340:110-3-280(d); and

(ii) posted per OAC 340:110-3-281.1(b).

[Source: Amended and renumbered from 340:110-3-27 at 32 Ok Reg 704, eff 1-1-16 (emergency); Amended and renumbered from 340:110-3-27 at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-295. Medication**

- (a) **Program policy.** The program maintains medication policy per Oklahoma Administrative Code (OAC) 340:110-3-278(d).
- (b) **Parent provides.** Prescription and over-the-counter medications are provided by the individual child's parent.
- (c) **Parent permission.** Parent permission is obtained prior to administering the medication. Documentation is maintained per OAC 340:110-3-281.4(b).
- (d) **Administration.** Medications are administered as required per the requirements listed in (1) through (6) of this subsection.
  - (1) Medications are only administered:
    - (A) by the designated personnel per OAC 340:110-3-281.2(c), with the exception of diaper cream; and
    - (B) to the child whose full name is on the container label.
  - (2) Expired medication is not administered.
  - (3) Prescription medications are administered according to the container instructions, including only administering when the medication is part of a prescribed therapeutic treatment.
  - (4) Over-the-counter medications are administered according to the:
    - (A) container instructions; or
    - (B) physician instructions maintained per OAC 340:110-3-281.4(b).
  - (5) Oral medications are administered with a measuring device designed to measure medication.
  - (6) Each dose administered is immediately documented per OAC 340:110-3-281.4(b).
- (e) **Inaccessible.** Medications are inaccessible to children per OAC 340:110-3-303(g).
- (f) **Labeling and storing.** Medications are:
  - (1) maintained in the original container;
  - (2) labeled with the child's full name;
  - (3) stored according to the container label, including temperature; and
  - (4) stored in locations, such as cabinets or drawers, clearly labeled "medication." However:
    - (A) refrigerated medications are stored in a container clearly labeled "medication";
    - (B) diaper creams may be stored in the diaper changing area or with the child's personal belongings when inaccessible; and
    - (C) life-threatening condition medications, such as epinephrine pens and rescue inhalers are in close proximity to the child for immediate administration when needed, such as being in the same classroom or supplemental play area as the child, outdoors when the

child is outside, or on field trips.

(g) **Return to parents.** Medications are returned to parents:

- (1) daily;
- (2) when the parent permission period ends as documented per OAC 340:110-3-281.4(b);
- (3) when the medication expires; or
- (4) when the child is withdrawn from the program.

(h) **Diaper creams.** Diaper creams are considered medications.

(i) **Insect repellents and sunscreens.** Insect repellents and sunscreens are not considered medications. The program maintains insect repellent and sun safety policy per OAC 340:110-3-278(d).

[Source: Added at 32 Ok Reg 704, eff 1-1-16 (emergency); Added at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-296. Rest time**

(a) **Rest equipment and bedding.**

- (1) **Appropriate.** Equipment and bedding meets the requirements in this Section and Oklahoma Administrative Code (OAC) 340:110-3-302.
- (2) **Size.** Equipment and bedding is of sufficient size to comfortably accommodate the child's size and weight.
- (3) **Resting surface.** A sheet covers the entire resting surface.
- (4) **Cover.** A cover is within reach of each child 1-year-old and older.
- (5) **Individually assigned.** Equipment is assigned to individual children.
- (6) **Individually used.** Equipment and bedding is in use by one child at a time, except during emergency plan procedures.
- (7) **Spacing.** Equipment is spaced to allow easy access to children by the teaching personnel and for the safe evacuation of children.
- (8) **Clean.** Equipment and bedding is cleaned and sanitized per OAC 340:110-3-304.

(b) **Rest time - infants.**

(1) **Schedule.** The sleep schedule corresponds to the infant's needs and as closely as possible to the schedule established by the parents. Documentation is maintained per OAC 340:110-3-281.4(b).

(2) **Infant safe sleep environment.** Infant safe sleep environments are maintained.

(A) **Appropriate sleep environment.** The infant safe sleep environment requirements listed in (i) through (v) of this subparagraph are met.

- (i) Infants sleep in cribs or play yards that meet the requirements per OAC 340:110-3-302(b), with the sides fully raised and secured.
- (ii) Infants sleep directly on a tight-fitting sheet covering the mattress.
- (iii) Only pacifiers without attachments to them are in rest equipment with infants, when used.

- (iv) Infants are protected from overheating by adjusting room temperature and clothing.
- (v) Infants birth through three months of age may be swaddled with an infant-sized, thin fabric, such as a receiving blanket, only when:
  - (I) requested by the parents and permission is maintained per OAC 340:110-3-281.4(b); and
  - (II) the infant is not mobile enough to move the fabric over his or her face.

**(B) Inappropriate sleep environment.** Infant safe sleep environment requirements listed in (i) through (viii) of this subparagraph are met.

- (i) When an infant arrives asleep, the infant is immediately moved to appropriate rest equipment.
- (ii) When an infant falls asleep in equipment other than appropriate rest equipment, the infant is immediately moved to appropriate rest equipment.
- (iii) Soft products, such as quilts, comforters, sheepskins, pillows, stuffed toys, and bumper pads are prohibited inside and on the side of infant rest equipment.

- (I) Covers, including blankets, are prohibited.

- (II) An exception is swaddling per (A) of this paragraph.

- (iv) Soft sleeping surfaces, such as soft mattresses, waterbeds, sofas, pillows, beanbag chairs, and inflatable mats are prohibited.

- (v) Sleep positioners and elevated mattresses are prohibited, unless there is a medical reason as documented per OAC 340:110-3-281.4(b).

- (vi) Play equipment, and other items, except for pacifiers, are not placed inside, above, or attached to the sides of the infant rest equipment, unless there is a medical reason for a monitor or other device as documented per OAC 340:110-3-281.4(b). However, mobiles may be securely attached or hung above the crib provided no part of the mobile is within reach of the child.

- (vii) Pacifiers are not attached to the infant or his or her clothing when in rest equipment.

- (viii) Bibs are not placed around the infant's neck when in rest equipment.

**(C) Sleep position.**

- (i) Infants are placed on their back for sleeping, unless there is a medical reason an infant should not sleep in this position as documented per OAC 340:110-3-281.4(b).

- (ii) Infants who are able to turn themselves over, are placed initially on their back for sleeping, but

may turn themselves over and sleep in a position they prefer.

(c) **Rest time - 1-year-olds through 4-year-olds.**

(1) **Schedule.** Children are provided a rest time.

(2) **Rest equipment.** Children rest on a mat, cot, or bed. However, 1-year-olds may also rest in cribs or play yards that meet requirements per OAC 340:110-3-302(b) with the sides fully raised and secured.

(3) **Overnight care.** The overnight requirements listed in (A) and (B) of this paragraph are met.

(A) **Rest equipment.** Mats are not used. Cots and beds have a waterproof pad or mattress.

(B) **Bedding.** In addition, cots and beds used overnight have a:

(i) top sheet and extra covers within reach of the child; and

(ii) pillow and pillow case.

(d) **Rest time - 5-year-olds and older.**

(1) **Schedule.** Children are not required to have a rest time.

(2) **Rest equipment.** When a child chooses to rest, a mat, cot, bed, sofa, futon, bean bag, or other similar rest equipment is provided.

(3) **Overnight care.** The same requirements as overnight care for 1-year-olds through 4-year-olds are met.

(e) **Restrictions.**

(1) **Floor.** Personnel do not allow children to sleep on the floor.

(2) **Covered heads and faces.** Children's heads and faces are not covered while resting. When a child continues to cover their head or face, the cover is removed once the child falls asleep.

(3) **Restraints.** Restraining children on rest equipment is prohibited.

(4) **After resting.** Once children have rested, they are not forced to remain on the rest equipment and are provided quiet activities until rest time is over.

(f) **Ratios and supervision.**

(1) **Ratios - 3- through 5-year-olds.** A rest time ratio exception may apply per OAC 340:110-3-286(a).

(2) **Light level.** Light levels are maintained for supervision per OAC 340:110-3-300(g).

[Source: Amended and renumbered from 340:110-3-25.5 at 32 Ok Reg 704, eff 1-1-16 (emergency); Amended and renumbered from 340:110-3-25.5 at 33 Ok Reg 1678, eff 9-15-16 ; Amended at 34 Ok Reg 200, eff 11-22-16 (emergency); Amended at 34 Ok Reg 1652, eff 9-15-17]

### **340:110-3-297. Diapering and toileting**

(a) **Diaper changing.**

(1) **Frequency.** Diapers are:

(A) checked hourly and when a child exhibits behavior suggesting a wet or soiled diaper; and

(B) changed promptly when wet or soiled.

(2) **Diaper changing procedures.** Diapers are changed:

(A) in the diaper changing area or, when applicable, an alternative diaper changing area; and  
(B) per Oklahoma Administrative Code (OAC) 340 Appendix KK - Diaper Changing Procedures. The procedures are posted, per OAC 340:110-3-281.1(h), and documentation is maintained, per OAC 340:110-3-281.4(b).

(3) **Diaper changing area.** Diaper changing areas:

(A) are required in the classroom or a restroom opening directly into the classroom when the classroom has children 2 years of age or younger in diapers;  
(B) are near the sink when a sink is required, per OAC 340:110-3-300(n);  
(C) have a non-porous diapering surface, such as a counter or pad, not used for other purposes, and at least 28 inches above the floor;  
(D) include a trash container with a tight-fitting lid; and  
(E) are kept free of all objects except for necessary items used when diapering.

(4) **Alternative diaper changing area.** A diaper changing area is used, when possible.

(A) Alternative diaper changing areas may be on the floor and are used when a:

- (i) child is too heavy to safely lift onto a diaper changing area; or
- (ii) diaper changing area is unavailable, such as in classrooms where one is not required, or on field trips.

(B) When an alternative area is used, sanitation and safety are maintained by:

- (i) using a non-porous pad not used for other purposes;
- (ii) ensuring the non-porous pad is appropriate to the child's size;
- (iii) storing the pad out of children's reach; and
- (iv) ensuring proper hygiene practices and supervision for all children in the classroom.

(5) **Diapering - children 3 years of age or older.** When 3-year-olds or older are in diapers, privacy when diapering is maintained.

(b) **Toilet learning.**

(1) **Parent involvement.** The toilet learning plan and progress are discussed with the parents.

(2) **Environment.** Toilet learning is relaxed and pressure free.

(A) Children are encouraged by regular use of a toilet or potty chair for short periods of time not exceeding 10 minutes.

(B) Personnel respond immediately when a child indicates toileting assistance.

(3) **Potty chairs.** Potty chairs are:

(A) located and used only in a restroom; and

(B) emptied and rinsed into a toilet, cleaned, and disinfected after each use in a sanitary manner.

(c) **Toileting accidents.**

(1) **Personnel.** Personnel do not embarrass , punish , or show disapproval for toileting accidents.

(2) **Clothing.** Both wet and soiled clothing is changed promptly while providing sanitation practices and privacy.

(d) **Diapers, training pants, and clothing.**

(1) **Appropriate fit.** Diapers and training pants fit the child appropriately.

(2) **Cloth diapers and outer coverings.** Cloth diapers have an outer covering, either attached or separate, made of a waterproof material. When the outer covering is separate from the cloth diaper, both are changed at the same time.

(3) **Training pants.** Cloth and disposable training pants are:

(A) checked and changed, per (a) of this Section;

(B) changed in a sanitary manner;

(C) changed in a private manner when required, per (a)(5) of this Section; and

(D) disposed of in a trash container with a tight-fitting lid, when applicable.

(4) **Rinsing prohibited.** Both wet and soiled items are not rinsed, including in the toilet. However, feces may be disposed of in a toilet, provided other surface contamination is prevented.

(5) **Send home or launder.** Both wet and soiled items are placed in a sealed, labeled, moisture-proof bag and sent home or laundered.

[Source: Added at 32 Ok Reg 704, eff 1-1-16 (emergency); Added at 33 Ok Reg 1678, eff 9-15-16 ; Amended at 40 Ok Reg 1033, eff 9-15-23]

**340:110-3-298. Nutrition**

(a) **Required meals and snacks.** The program ensures children are served meals and snacks according to program operating hours and children's attendance, regardless of the program or parents providing the food.

(1) **Full day care.** Morning meal or snack, mid-day meal, and afternoon snack are served.

(2) **Evening care.** Evening meal and evening snack are served.

(3) **Overnight care.** Evening meal, evening snack, and morning meal are served.

(4) **Child's attendance.** Children in care over a four-hour period are served a meal, unless the child is present during overnight sleeping hours only.

(b) **Nutritional quality and quantity.** The nutritional requirements in (1) through (8) of this subsection are met.

(1) **Meals and snacks.** Meals and snacks are required to meet the current Child and Adult Care Food Program (CACFP) guidelines, per Oklahoma State Department of Education (OSDE), with the exception of infants, per (f) of this Section.

(2) **Additional servings.** Additional servings:

- (A) are available when the child remains hungry;
- (B) meet the nutritional requirements, per this Section;
- and
- (C) are not required to be the same food as the first serving.

(3) **Water.** Safe drinking water is freely available to children at all times. Children are encouraged to drink water throughout the day, especially before, during, and after outdoor play.

(4) **Milk.** Milk is required to meet the current CACFP milk guidelines, per OSDE, with the exception of infants, per (f) of this Section.

(5) **Fruit juice.** Fruit juice is required to meet the current CACFP fruit juice guidelines, per OSDE.

(6) **Sweetened drinks.** The program does not provide drinks sweetened artificially or with sugar, including soda. However, flavored milk, such as chocolate milk, is required to meet the current CACFP milk guidelines, per OSDE.

(7) **Caffeinated drinks.** The program does not provide caffeinated drinks, including soda and energy drinks.

(8) **Special occasions.** On special occasions, such as parties, food and drink not meeting the nutritional requirements may be served in addition to required meals and snacks.

(c) **Program or parents provide.** Meals, snacks, or both may be provided by the program for all children, or program policy may require parents provide the meals, snacks, or both for their children or for a group of children. When parents provide for their children, the nutritional requirements, per this Section do not apply. When parents provide for a group of children, the nutritional requirements in this Section and the approved food source requirements, per OAC 340:110-3-299(b), are met.

(1) **Program provides.** When the program provides the meals, snacks, or both, the parents may be requested and allowed to provide for:

- (A) their own children:
  - (i) having special dietary needs, including health or religious restrictions;
  - (ii) 1 year of age and younger; or
  - (iii) participating in a field trip; and
- (B) a group of children on special occasions.

(2) **Parents provide.** When the program policy requires parents provide meals, snacks, or both, the program provides:

- (A) a meal or snack when the parents do not; and
- (B) additional servings, per (b) of this Section.

(d) **Weekly menus.** Menus of program provided meals and snacks are closely followed with reasonable substitutions permitted. Menus are posted, per OAC 340:110-3-281.1(c) and (e).

(e) **Eating environment.** The eating environment is pleasant, relaxed, socially engaging, and provides teaching opportunities.

(1) **Children.** Children are:

- (A) encouraged to try new foods;
- (B) not forced to eat; and



(C) not punished for refusing to eat.

(2) **Personnel.** When eating in front of children, personnel eat foods meeting nutritional requirements in this Section.

(f) **Nutrition and food service - children 1 year of age and younger.** Additional nutrition and food service requirements are met for 1-year-olds and younger.

(1) **Schedule.** Infants are fed when hungry. Documentation is maintained, per OAC 340:110-3-281.4(b).

(2) **Overfeeding.** Personnel do not continue feeding 1-year-olds and younger when children show evidence of being satisfied or full.

(3) **Nutritional quality and quantity.** CACFP meal and snack patterns, per (b) of this Section, are not required for infants. Infants are fed:

(A) breastmilk, formula, and introductory solid foods; or

(B) a special diet for a medical condition as documented, per OAC 340:110-3-281.4(b).

(4) **Breastfeeding.** Breastfeeding is allowed in the facility.

(5) **Bottle-feeding.** Bottles are labeled with the child's full name.

(A) Bottles are not propped by any means at any time.

(B) Infants 6 months of age and younger are held while being bottle-fed.

(C) Infants 7 months of age and older are held while being bottle-fed until able to hold bottles securely without assistance.

(6) **Spill-proof cups.** The program has a method ensuring children do not share spill-proof cups.

(7) **Self-feeding.** Children showing evidence of wanting to feed themselves are allowed to do so.

(8) **Eating and drinking location.** When children are not held for feeding, the program:

(A) has a designated eating and drinking location, excluding rest equipment and equipment with motion, such as swings; and

(B) ensures children eat and drink only in the designated location.

(9) **Chokeable, unsafe, and new foods.** For safety:

(A) the program works closely with parents to introduce new foods;

(B) infants are not fed honey or peanut butter;

(C) 1-year-olds are fed thinly spread peanut butter, if served; and

(D) 1-year-olds and younger are:

(i) not fed foods that may cause choking, such as candies, gum, marshmallows, raw carrots, raw peas, celery, whole grapes, nuts, seeds, popcorn, rice cakes, and chips; and

(ii) fed other foods cut into small pieces no larger than:

(I) 1/4 inch cubes for infants; and

(II) 1/2 inch cubes for 1-year-olds.

(10) **Food service.** The additional food service requirements in (A) through (C) of this paragraph are met.

(A) Breastmilk:

- (i) is labeled with the child's full name and the date expressed;
- (ii) is stored safely;
- (iii) is refrigerated or frozen until immediately before feeding;
- (iv) is not warmed in a microwave;
- (v) is gently mixed and not shaken;
- (vi) served to a child is not reused after two hours from serving; and
- (vii) bottles partially served are either sent home with parents or contents are discarded daily.

(B) Formula:

- (i) provided by the child's parents is labeled with the child's full name;
- (ii) is not warmed in a microwave;
- (iii) served to a child is not reused after one hour from serving; and
- (iv) bottles partially served are either sent home with parents or contents are discarded daily.

(C) Baby food:

- (i) provided by the child's parents is:
  - (I) labeled with the child's full name; and
  - (II) not previously opened, unless homemade or frozen; and
- (ii) is not warmed in a microwave;
- (iii) is served from a separate dish and spoon for each child;
- (iv) is discarded and not served again after contact with the feeding spoon; and
- (v) partially served is either sent home with parents or contents are discarded daily.

[Source: Amended and renumbered from 340:110-3-28 at 32 Ok Reg 704, eff 1-1-16 (emergency); Amended and renumbered from 340:110-3-28 at 33 Ok Reg 1678, eff 9-15-16 ; Amended at 40 Ok Reg 1033, eff 9-15-23]

### **340:110-3-299. Food service**

(a) **General.**

(1) **Food service.** When the program provides food service, including limited food service, the program is required to meet the requirements, per this Section, unless the requirements specifically state otherwise.

(2) **Limited food service.** Limited food service is when the program serves only foods having no required time and temperature control for safety (non-TCS) for immediate consumption and uses only single-service food-contact items, per (k) of this Section. However, milk and milk products may be served to children and used in occasional children's cooking

activities.

- (A) Limited food service also includes parent-provided meals, snacks, or both, when the program:
  - (i) only provides or supplements food , per limited food service requirements, including on field trips; and
  - (ii) sends reusable food-contact items home daily.
- (B) When the program only provides limited food service:
  - (i) the program is exempt from:
    - (I) Oklahoma State Department of Health (OSDH) inspections, per Oklahoma Administrative Code (OAC) 340:110-3-276(c) and (d);
    - (II) food service training, per OAC 340:110-3-284.3(c); and
    - (III) a separate hand washing sink, per OAC 340:110-3-300(n);
  - (ii) some requirements in this Section do not apply, such as the requirements regarding:
    - (I) foods having required time and temperature control for safety (TCS). However, when milk is served, the milk requirements, per (b) of this Section apply. When conducting children's cooking activities, the TCS food requirements apply depending on ingredients used;
    - (II) a minimum quantity of food-contact items;
    - (III) a refrigerator, unless foods require refrigeration, including parent provided foods. When applicable, program policy informs parents refrigeration is not provided;
    - (IV) a microwave, unless foods are microwaved, including parent provided foods; and
    - (V) cooking devices, unless used for occasional children's cooking activities.

**(b) Food supplies.**

- (1) **Food sources.** The food source requirements in (A) through (C) of this paragraph are met.
  - (A) Food is from OSDH-approved sources, such as commercially produced products, or raw fruits and vegetables from farmers' markets and gardens, including personal and program's gardens.
  - (B) Only commercially pre-packaged, non-TCS food items and raw fruits and vegetables may be provided from individual homes for a group.
  - (C) Food is free from spoilage , contamination, and safe for human consumption.

(2) **Home-canned and hermetically sealed food.** Individually home-canned food and food in hermetically sealed containers, not prepared in a food processing establishment, is not used by the program. However, parents may provide homemade baby foods.

(3) **Milk products.** Milk products meet the requirements in (A) through (C) of this paragraph.

(A) For drinking, only Grade A pasteurized fluid milk and fluid milk products are used.

(B) Pasteurized dry milk and evaporated milk are used for cooking purposes only.

(C) Milk may be transferred from the original container to other containers.

However, milk removed from the original container is not returned to the original container or stored for later use.

(4) **Meat, poultry, and fish.** Meat, poultry, and fish are obtained from approved sources and inspected by appropriate governmental authorities.

(5) **Ice.** Ice, used for any purpose, is made from an approved water source and manufactured, stored, transported, and handled in a sanitary manner.

(c) **Time and temperature control for safety foods.**

(1) **Cooking.** TCS foods requiring cooking are heated to at least 165 degrees Fahrenheit (F) for 15 seconds, except as specified in (2) through (4) of this subsection.

(2) **Ground Beef.** Ground beef is cooked to at least 155 degrees F and until the juice is clear and the meat is no longer pink.

(3) **Poultry, stuffed meats, and stuffings.** Poultry, poultry stuffings, stuffed meats and stuffings containing meat are heated to at least 165 degrees F with no cooking process interruption.

(4) **Pork.** Pork and any food containing pork are heated to at least 155 degrees F.

(5) **Egg products.** Only clean, whole-shell, non-cracked eggs meeting AA, A, or B grade standards are used. Eggs are stored at 41 degrees F or below.

(A) Raw, unpasteurized eggs are not used in uncooked food, such as ice cream and eggnog.

(B) Shelled raw eggs are not held more than four hours.

(6) **Reheating foods.** When TCS foods are cooked and then refrigerated, foods are reheated to 165 degrees F or higher before being served.

(d) **Protecting food.**

(1) **General.** Foods are covered and protected from contamination, including cross-contamination between raw and cooked foods, toxic substances, or insects or rodents while being stored, prepared, displayed, dispensed, packaged, or transported.

(2) **Bare-hand contact.** Personnel:

(A) minimize bare-hand contact while preparing food; and

(B) do not touch unpackaged, ready-to-eat food with bare hands. A barrier, such as gloves, utensils, or wax paper is used when preparing and serving these foods.

(3) **Temperature.** Perishable foods, including fruits and vegetables, are stored at proper temperatures.

(A) TCS foods are maintained at 41 degrees F or below or 135 degrees F or above, except during preparation and service.

(B) Frozen foods are maintained at 0 degrees F or below, except when being thawed:

(i) in a refrigerator at 41 degrees F or below;

(ii) under running drinking water at 70 degrees F or below;

(iii) using the defrost setting on a microwave, provided the food is immediately transferred to conventional cooking equipment without cooking process interruption; or

(iv) as part of cooking processes.

(4) **Ice chest.** When an ice chest is used on field trips for refrigeration:

(A) the food or milk is served within four hours and is not re-served or re-refrigerated;

(B) packaged food and drinks are not stored in contact with the water or undrained ice;

(C) self-wrapped sandwiches are not stored in direct contact with the ice; and

(D) ice used for refrigeration is not used for any other purpose.

(5) **Damaged and unlabeled cans.** Food from damaged or unlabeled cans is not used.

(6) **Poisonous and toxic materials.** Only materials required to maintain sanitary food service area conditions are used or stored in the food service areas. Materials are clearly identified and stored in a segregated area away from the food, such as under a sink or in a closed cabinet in the storage area.

(e) **Preparing food.**

(1) **Cross-contamination prevention.** Food is prepared on clean, sanitized, food-contact surfaces and with clean, sanitized, food-contact items. Each new preparation operation begins with clean, sanitized, food-contact surfaces and items, when changing between preparation of:

(A) raw beef, pork, poultry, or seafood; and

(B) raw to ready-to-eat foods, including raw fruits and vegetables.

(2) **Fruits and vegetables.** Raw fruits and vegetables are thoroughly washed with drinking water before being cooked or served.

(f) **Re-serving food.**

(1) **Portions.** Individual and family-style food portions are not re-served.

(2) **Wrapped food.** Wrapped food properly maintained and not unwrapped may be re-served.

(g) **Transporting food.**

- (1) **Temperature.** During transportation, TCS food is maintained at 41 degrees F or below or 140 degrees F or above.
- (2) **Storage.** During transportation, food is in covered containers, completely wrapped, or packaged.

(h) **Catering food.**

- (1) **Food source.** When catering services are used, food is obtained from an OSDH-licensed food service establishment.
- (2) **Approval.** Meal transportation procedures and equipment are OSDH-approved.

(i) **Food-contact items and surfaces.**

- (1) **Condition.** Food-contact surfaces and items, such as kitchenware, utensils, tableware, service items, and storage items are:
  - (A) constructed of safe, non-toxic materials; and
  - (B) smooth, non-absorbent, easily cleanable, durable, and in good repair.
- (2) **Quantity.** An adequate quantity of food-contact items is available for at least one meal for the licensed capacity. However, when the program does not serve meals or snacks to the entire licensed capacity, the program is only required to have an adequate quantity for the children eating.

(j) **Equipment.**

- (1) **Installation.** Equipment is installed to provide equipment and adjacent area cleaning.
- (2) **Refrigerators.** Refrigerators maintain food at 41 degrees F or below. Ice chests are not a replacement for storage.
- (3) **Thermometers.** The thermometer requirements in (A) and (B) of this paragraph are met.
  - (A) Thermometers are clearly visible in each refrigerator and freezer used for children's food , unless equipped with functioning built-in thermometers.
  - (B) A temperature measuring device is available to check cooking temperatures.
- (4) **Microwaves.** The microwave requirements in (A) and (B) of this paragraph are met.
  - (A) Personnel are instructed in assessing safe temperatures when warming children's food.
  - (B) A warning is posted, per OAC 340:110-3-281.1(f).

(k) **Cleaning and sanitizing.**

- (1) **Cooking devices and refrigerators.** Cooking devices and refrigerators do not have soil, food particle, encrusted grease deposit, or other debris accumulations.
- (2) **Food-contact items and surfaces.** Food-contact items and surfaces are washed, rinsed, and sanitized after each use by using one method in (A) through (D).
  - (A) Automatic dishwashers, commercial or domestic, may be used provided the heat or chemical sanitizing cycles are properly installed and the machine allows sanitizing cycle completion without opening the machine. Sanitizing cycle effectiveness is determined by generally accepted test methods and test kits.

(B) Manual dishwashing may be conducted provided the requirements in (i) and (ii) of this subparagraph are met.

(i) Three-compartments are used for washing, rinsing, and sanitizing with a:

(I) three-compartment sink; or

(II) one or two-compartment sink with added containers.

(ii) Items are washed, rinsed, sanitized, and dried in this order.

(I) Sinks and containers are cleaned prior to use.

(II) In the first compartment, items are thoroughly washed with a food grade detergent in a clean solution.

(III) In the second compartment, items are rinsed with clean water until free of detergent and abrasives.

(IV) In the third compartment, items are sanitized by immersion in a clean sanitizing solution, unless the equipment design prevents immersion. The solution is required to contain a food grade sanitizer, such as bleach, per OAC 340 Appendix NN - Cleaners, Sanitizers, and Disinfectants.

(V) Items are air-dried, in a self-draining position, before being stored.

(C) Single-service food-contact items, such as plastic utensils and paper plates, may be used when the program provides limited food service or does not have adequate and effective cleaning and sanitizing facilities. Single-service food-contact items are:

(i) stored in closed cartons or containers protecting from contamination;

(ii) used for preparation and service; and

(iii) used only once.

(D) Stationary food-contact surfaces, such as counters and appliances are cleaned and sanitized.

**(l) Storage area.**

(1) **Location.** Food and food-contact items are stored above the floor, in a clean, dry location.

(2) **Quantity.** Adequate space is provided for food and food-contact item storage.

**(m) Food service personnel.**

(1) **Health.** Food service personnel are prohibited when required, per OAC 340:110-3-283(e).

(2) **Hygiene.** Personnel:

(A) wear clean outer garments, maintain a high degree of personal cleanliness, and conform to hygienic practices while on duty;

(B) wash hands, per OAC 340:110-3-294(a); and

(C) do not wash hands in the food preparation or dishwashing sinks

(n) **Food service - children 1 year of age and younger.** Additional food service requirements are met, per OAC 340:110-3-298(f).

[Source: Amended and renumbered from 340:110-3-31 at 32 Ok Reg 704, eff 1-1-16 (emergency); Amended and renumbered from 340:110-3-31 at 33 Ok Reg 1678, eff 9-15-16 ; Amended at 40 Ok Reg 1033, eff 9-15-23]

### **340:110-3-300. Facility**

(a) **Location.** The facility is located in an area minimizing children's health and safety hazards.

(b) **Other business.** When the program shares the facility with another business, requirements are met, per Oklahoma Administrative Code (OAC) 340:110-3-277(b).

(c) **Construction.** The facility complies with the building and fire codes of the local or state governmental authority having jurisdiction applicable at permit or license issuance. Programs operating 24-hours per day comply with additional codes.

(1) New construction and reconstruction, such as building remodeling or area not previously licensed for child care, complies with current requirements and building and fire codes.

(A) Construction plans for a new building, an addition, or reconstruction of an existing building are submitted to the local or state fire governmental authority having jurisdiction for approval prior to construction.

(B) Construction, reconstruction, or alterations occurring during operating hours is conducted safely.

(C) When existing or new surfaces are painted, the lead paint content is not above 0.06 percent.

(2) Mobile or permanently situated manufactured and mobile homes are prohibited. However, a program licensed in a manufactured home before February 1, 1981, is exempt unless the program has an address change.

(d) **Floors.** Floor surfaces are:

(1) easily cleaned;

(2) sealed when made of absorbent material, such as concrete and wood; and

(3) smooth and non-carpeted within food service areas and restrooms.

(e) **Walls and ceilings.** Wall and ceiling surfaces are:

(1) easily cleaned; and

(2) smooth and washable up to the highest level reached by splash or spray in areas where:

(A) food is prepared;

(B) food-contact items are washed; and

(C) food service personnel wash his or her hands, such as walls behind sinks and counters.

(f) **Electrical.** The electrical system is installed, per the Oklahoma Electrical Licensing Act.



(1) Electrical systems installed and maintained after June 1, 1987, comply with current electrical codes of the local or state governmental authority having jurisdiction.

(2) Temporary wiring, used as permanent wiring is prohibited.

(3) Extension cords, used as permanent wiring are prohibited, unless equipped with built-in circuit breakers or fuses, such as surge protectors with a built-in fuse.

(4) Unused electrical outlets accessible to children 5 years of age and younger are equipped with safety devices, such as outlet covers.

(g) **Lighting.** The lighting:

(1) levels provide comfort and safety, including observing children's facial features; and

(2) fixtures in food preparation and service areas are shielded.

(h) **Heating and cooling.** The systems pose no risk and comply with building and fire codes of the local or state governmental authority having jurisdiction.

(1) The indoor temperature in children's areas is between 65 and 80 degrees Fahrenheit (F).

(2) Electric baseboard heaters may be used when wired directly into the electrical system and no objects have heating element contact.

(3) Prohibited use of heating equipment includes:

(A) portable fuel-burning space heaters;

(B) open flame heaters, such as gas-fed, wall mounted heaters, wood-burning fireplaces and stoves, fireplace inserts, pellet stoves, and other devices producing open flames;

(C) unvented and vent-free fuel-burning heaters; and

(D) equipment not specifically designed or installed as a typical heat source, such as cooking equipment.

(4) The prohibited equipment controls, such as the knobs, are removed or inaccessible during operating hours.

(5) Portable, electric space heaters, including electric, oil-filled heaters, may be used as supplemental heat provided the equipment:

(A) has Underwriters Laboratory (UL) approval;

(B) has an automatic shut off feature for tipping over and overheating;

(C) has an external protective covering protecting hands and objects from the electric heating elements;

(D) is used , per the manufacturer's instructions;

(E) is not used with an extension cord, including extension cords equipped with built-in circuit breakers or fuses;

(F) does not overload the electrical circuits, such as causing flickering lights or continuously shutting the electric power off;

(G) placement is:

(i) on a flat floor only;

(ii) at least three feet from flammable materials, such as paper, curtains, and furniture; and

(iii) inaccessible, including the electrical power cord; and

(H) is attended while in use, such as personnel present in the room or classroom.

(6) Guards protect children from hot heater surfaces, including floor furnaces.

(i) **Ventilation.** Rooms are properly ventilated, such as with a central heat and air system.

(1) Rooms, including the kitchen have sufficient ventilation keeping rooms free from heat, steam, vapors, smoke, and fumes.

(2) Ventilation systems comply with building and fire codes of the local or state governmental authority having jurisdiction.

(j) **Plumbing.** The plumbing is installed, per the Oklahoma Plumbing Licensing Act.

(1) Plumbing systems installed and maintained after June 1, 1987, are installed , per the current plumbing codes of the local or state governmental authority having jurisdiction.

(2) Cross-connections are prohibited between the safe drinking water supply and non-safe or questionable drinking water supply or pollution source contaminating the safe drinking water.

(k) **Water supply.** The water supply:

(1) is adequate, safe, sanitary, and from a:

(A) public water supply; or

(B) non-public water supply, such as well water ,meeting local and Oklahoma Department of Environmental Quality (DEQ) testing requirements. The program obtains at least total coliformbacteria, nitrate, and lead test results every 12 months from a DEQ accredited drinking water laboratory. Documentation is maintained, per OAC 340:110-3-281.2(c); and

(2) has hot and cold running water under pressure in food preparation areas or where food-contact items and surfaces are washed.

(l) **Sewage disposal.** Sewage, including mop water, is disposed in a public sewage system or, in its absence, a manner approved by DEQ.

(m) **Toileting facilities.** The toileting facilities requirements in (1) and (2) of this subsection are met.

(1) For every 15 children , the facility has at least one toilet, excluding urinals and potty chairs, easily accessible and in the same building where care is provided.

(2) The toileting facilities:

(A) have operable toilets;

(B) have toilet paper within easy reach of children;

(C) with doors meet the door requirements in (q) of this Section; and

(D) used by 6-year-olds or older provide privacy, such as being equipped with doors or having children take turns while supervision is maintained.

(n) **Hand washing facilities.** The hand washing facilities requirements in (1) through (3) of this subsection are met.

(1) Required sinks are plumbed, per (j) of this Section.

(A) For every 15 children , the facility has at least one sink, excluding food service areas and portable sinks, easily accessible and in the same building where care is provided.

(B) Diaper changing areas have at least one sink, excluding portable sinks in the same classroom or a restroom opening directly into the classroom when the classroom has 2-year-olds or younger in diapers. However, a sink is not required when the:

(i) classroom has 2-year-olds or older with disposable or cloth training pants, provided adequate supervision and sanitation provisions are made; or

(ii) licensed capacity is 15 or less and the facility was originally designed as a family residence provided:

(I) a centrally located restroom sink with a diaper changing area is nearby; and

(II) children in diapers play throughout the house rather than an assigned classroom.

(C) The food service areas have at least one hand washing sink, excluding portable sinks:

(i) with a mixed-valve faucet, in programs licensed after June 1, 1987; and

(ii) that is separate and in addition to food preparation and dishwashing sinks.

(2) Portable sinks do not replace required sinks, per (1) of this subsection. However, portable sinks may be used in addition to required sinks, provided sanitary conditions are maintained, including obtaining water from an appropriate water supply, per (k) of this Section.

(3) Hand washing facilities have:

(A) operable sinks with running water between 80 and 120 degrees Fahrenheit;

(B) soap, paper towels, or mechanical hand dryers, and trash containers within children's easy reach; and

(C) posted procedures, per OAC 340:110-3-281.1(g).

(o) **Kitchens.** Kitchens are in a separate area discouraging unsupervised children and unauthorized individuals.

(p) **Basements.** Basements used for children meet the requirements, per OAC 340:110-3-301(b).

(q) **Exits, doors, windows, and screens.** The requirements in (1) through (7) of this subsection are met.

(1) Exits and exit routes are not blocked by equipment, furniture, or other objects.

(2) Interior and exterior evacuation exit doors:

(A) open from the inside without a key; and

(B) unlock, unlatch, and open with a single motion.

(3) Restroom doors unlock from the outside in an emergency, with an opening device readily accessible to personnel.

(4) Closet doors can be opened from the inside by children.

- (5) Clear glass doors and windows beginning at ground level are plainly marked at children's eye level.
- (6) Exterior screen or storm doors have a self-closing apparatus.
- (7) Opened exterior doors and windows have properly fitted screens.
- (r) **Stairways.** Interior and exterior stairways with four or more steps have at least one handrail.
- (s) **Barriers.** Barriers:
  - (1) are provided on porches, elevated walkways, and elevated play areas of more than two feet in height; and
  - (2) have openings less than:
    - (A) two and 3/8 inches when accessible to 1-year-olds and younger; and
    - (B) four inches when accessible to 2-year-olds and older.
- (t) **Individual smoke alarms.** Individual smoke alarms are:
  - (1) required when the facility is not equipped with a central detection and alarm system for smoke, per (v) of this Section;
  - (2) mounted , per the manufacturer's instructions and fire governmental authority having jurisdiction; and
  - (3) tested and maintained, per OAC 340:110-3-279(f).
- (u) **Individual carbon monoxide alarms.** At least one individual carbon monoxide alarm is:
  - (1) required when a fuel burning appliance is in the building and the facility is not equipped with a central detection and alarm system for carbon monoxide, per (v) of this Section;
  - (2) mounted , per the manufacturer's instructions and fire governmental authority having jurisdiction; and
  - (3) tested and maintained, per OAC 340:110-3-279(f).
- (v) **Central detection and alarm system for smoke and carbon monoxide.** The facility may be equipped with hard-wired or wireless detectors connected to a central control panel. When equipped, the system is:
  - (1) installed , per the manufacturer's instructions and fire governmental authority having jurisdiction; and
  - (2) tested and maintained, per OAC 340:110-3-279(f).
- (w) **Fire extinguishers.** Fire extinguishers:
  - (1) are portable and Class ABC;
  - (2) are the quantity, size, type, and installation required by the fire governmental authority having jurisdiction;
  - (3) have locations posted, per OAC 340:110-3-281.1(i); and
  - (4) are tested and maintained, per OAC 340:110-3-279(f).
- (x) **Phone.** The program provides an operable landline or cellular phone in each building and on each floor.
- (y) **Utilities.** The facility has operable utilities.
- (z) **Maintenance of facility.** The facility is structurally sound, with interior and exterior in good repair, such as:
  - (1) floors without broken tile, torn carpet, and holes;
  - (2) walls and ceilings without holes and peeling paper and paint; and
  - (3) windows and doors without broken glass and other hazards.

[Source: Amended and renumbered from 340:110-3-11 at 32 Ok Reg 704, eff 1-1-16 (emergency); Amended and renumbered from 340:110-3-11 at 33 Ok Reg 1678, eff 9-15-16 ; Amended at 40 Ok Reg 1033, eff 9-15-23]

### **340:110-3-301. Indoor and outdoor play areas**

#### **(a) Indoor and outdoor play areas.**

- (1) **Facility.** Facility requirements are met, per Oklahoma Administrative Code (OAC) 340:110-3-300.
- (2) **Equipment.** Equipment requirements are met, per OAC 340:110-3-302.
- (3) **Hazards.** Hazard requirements are met, per OAC 340:110-3-303.
- (4) **Cleanliness and sanitation.** Cleanliness and sanitation requirements are met, per OAC 340:110-3-304.

#### **(b) Indoor play areas.**

- (1) **Square footage for licensed capacity.** A minimum amount of indoor play area is required.
  - (A) There is at least 35 square feet of floor space per child for routine use by children.
  - (B) However, new construction, existing space not previously licensed for child care, or programs licensed after November 1, 2016, are required to have 40 square feet of floor space per infant in rooms occupied only by infants.
- (2) **Areas not counted toward licensed capacity.**

Areas not counted toward the licensed capacity are:

  - (A) restrooms, kitchens, and hallways;
  - (B) storage closets and supply rooms;
  - (C) personnel offices, work rooms, and break rooms;
  - (D) areas occupied by furniture not for children's use;
  - (E) supplemental areas or rooms used exclusively for eating, rest time, gross motor play, or care of ill children; and
  - (F) alternate indoor play areas in shared facilities , per OAC 340:110-3-277(b).
- (3) **Areas limited for children's use.** Areas in (A) and (B) of this paragraph are only used under specified conditions.
  - (A) Basements, areas partially below ground level, and floors above ground level are only counted toward the licensed capacity when approved by the local or state fire governmental authority having jurisdiction. Fire approval is also required before children use the area for any reason, except as part of the emergency plans and procedures, such as tornados or lock-downs. Fire inspection reports indicate age restrictions. When used by children, basements are finished, dry, and ventilated.
  - (B) Large areas, such as gymnasiums are only counted toward licensed capacity when divided into classrooms for children 3 years of age or older. However, they may be used as a supplemental area for any age.

(4) **Classroom capacity.** Classrooms are not routinely occupied by more children than can be accommodated by the square footage per (1) of this subsection.

(5) **Use zones and impact-absorbing materials.** Use zone and impact-absorbing material requirements, per (c) of this Section, are met for indoor climbing equipment with a fall height over four feet.

(c) **Outdoor play areas.**

(1) **Square footage for licensed capacity.** A minimum amount of outdoor play area is required.

(A) When the licensed capacity is 23 or fewer children, there is at least 75 square feet of outdoor play area per child for the licensed capacity.

(B) When the licensed capacity is 24 or more children, there is at least 75 square feet of outdoor play area per child for at least one-third of the licensed capacity or 1800 square feet, whichever is greater.

(2) **Areas not counted toward licensed capacity.** Alternate outdoor play areas required in shared facilities, per OAC 340:110-3-277(b), are not counted toward the licensed capacity.

(3) **Outdoor play area capacity.** Outdoor play areas are not routinely occupied by more children than can be accommodated by the square footage per (1) of this subsection. When the program has less than 75 square feet of outdoor play area per child for the licensed capacity, the program follows a rotation schedule as indicated on the classroom schedules.

(4) **Location.** Outdoor play areas are situated allowing:

(A) children to reach them safely; and

(B) supervision of areas where children cannot be easily seen.

(5) **Fencing.** Outdoor play areas are enclosed by a building or fence.

(A) The fence:

(i) begins at ground level;

(ii) is at least 48 inches high;

(iii) poses no risk to children; and

(iv) is maintained in a good condition, such as stable, secure, and upright.

(B) However, 4-year-olds and older may play in an unfenced or partially fenced on-site outdoor play area as part of a scheduled occasional supervised activity when the area is properly protected from traffic and other hazards.

(6) **Exits and gates.** The outdoor play area(s):

(A) has at least one exit remaining unlocked during operation hours and is away from the building. However, the unlocked exit may have a child-proof latch or a latch out of children's reach; and

(B) gates are kept closed when children are playing outside.

(7) **Water protection.** Bodies of water and water features meet water activity requirements, per OAC 340:110-3-291.

(8) **Shade.** Outdoor play areas have shade accessible to children when outdoors.

(9) **Open area.** Play equipment is arranged to have an open, continuous, uninterrupted, and unobstructed area in at least 25 percent of the required outdoor play area. Programs in shared facilities sharing outdoor play areas are exempt from this requirement.

(10) **Use zones.** Use zones are defined, per OAC 340:110-3-275.

(A) Use zones:

(i) are free of obstacles, except for multi-axis, swing support structures;

(ii) around all play equipment are arranged to prevent hazards from conflicting activities;

(iii) around non-portable play equipment, with a fall height of:

(I) 30 inches or less, extend at least three feet from the equipment perimeter in all directions, unless an exception in (B) of this subsection applies; or

(II) more than 30 inches, extend at least six feet from the equipment perimeter in all directions, unless an exception in (B) of this subsection applies; and

(iv) do not overlap. However, use zones in programs licensed before January 1, 2016, may overlap for existing non-portable play equipment, unless the equipment is moved.

(B) However, use zones:

(i) on the sides of play equipment, where the fall potential in that direction is minimal, are not required, such as play equipment with guardrails or barriers or the sides of swings;

(ii) for single-axis swings that move forward and backward, extend two times the length of the swing chain to the front and rear of the swing midpoint. However, swings secured by a bar or strap and used by children 2 years of age or younger are not required to extend more than six feet; and

(iii) for multi-axis swings, such as tire swings with circular motion, extend six feet plus the length of the chain in every direction from the midpoint. At least a 30-inch clearance between a fully extended tire swing seat and the support structure is required.

(C) The swing fall height is where the chain attaches at the top of the support structure.

(11) **Impact-absorbing materials.** Impact-absorbing materials:

(A) are required in use zones for:

- (i) climbers;
- (ii) swings;
- (iii) slides; and
- (iv) revolving equipment; and

(B) meet these requirements when obtained after August 1, 2003, as documented, per OAC 340:110-3-281.2(c).

However, grass is acceptable when the fall height is four feet or less and for swings secured by a bar or strap used by children 2 years of age or younger.

- (i) Loose-fill materials, such as sand, pea gravel, wood playground mulch, shredded rubber mulch, and engineered wood fibers (EWF):

- (I) are maintained at a depth of at least six inches by replacing, leveling, or raking. In addition, rubber mulch, EWF, and any other loose-fill material tested by the American Society for Testing and Materials

- International (ASTM) complies with ASTM impact attenuation and EWF guidelines;

- (II) remain loose and are not compacted.

- Grass and weeds in use zones are

- minimized to prevent compaction; and

- (III) may be prevented from displacement by using impact mats meeting ASTM guidelines for impact attenuation.

- (ii) Unitary materials, such as rubber mats and poured in place rubber:

- (I) comply with ASTM guidelines for impact attenuation;

- (II) have an ASTM rating equal to or greater than the fall height; and

- (III) do not have rips, tears, and loose seams.

(12) **Surfaces.** At least two surface types are required. Programs licensed:

- (A) on or after January 1, 2016, only count surfaces outside of use zones, including impact-absorbing materials that extend beyond use zones; and

- (B) before January 1, 2016, may count surfaces inside of use zones, unless square footage is added to the outdoor play area.

[**Source:** Amended and renumbered from 340:110-3-22 at 32 Ok Reg 704, eff 1-1-16 (emergency); Amended and renumbered from 340:110-3-22 at 33 Ok Reg 1678, eff 9-15-16 ; Amended at 34 Ok Reg 200, eff 11-22-16 (emergency); Amended at 34 Ok Reg 1652, eff 9-15-17 ; Amended at 40 Ok Reg 1033, eff 9-15-23]

### **340:110-3-302. Equipment**

(a) **General.** When obtaining and maintaining basic and play equipment, requirements in this Section are met.

(1) **Type and quantity.** Equipment is:



(A) of appropriate type and size meeting the age group and individual children's needs for physical, cognitive, emotional and social development; and  
(B) provided in type and quantity, per Oklahoma Administrative Code (OAC) 340 Appendix MM - Equipment.

(2) **Condition.** Equipment is:

(A) safely constructed, including lead free;  
(B) installed, maintained, and used , per manufacturer's instructions;  
(C) maintained in a safe condition preventing hazards, such as tipping over, splinters, loose parts, protrusions, and sharp edges;  
(D) complete and in good working condition and repair, including no holes or tears; and  
(E) clean and sanitary, per OAC 340:110-3-304.

(3) **Evaluate.** The program:

(A) evaluates equipment for required quantity and safety on an ongoing basis; and  
(B) conducts an equipment inventory at least every 12 months. Documentation is maintained, per OAC 340:110-3-281.2(c).

(b) **Rest equipment.** Safe and appropriate use of rest equipment is met, per OAC 340:110-3-296.

(1) **Mats.** Each individual mat is at least one-inch thick and covered with a durable, washable, waterproof, form-fitting material. Inflatable mats are not used for rest time.

(2) **Cots.** Cots are able to be cleaned and sanitized.

(3) **Cribs.** Cribs, including portable cribs that can be folded or collapsed without being disassembled:

(A) meet the current Consumer Product Safety Commission (CPSC) full-size and non-full-size crib standards. Documentation is maintained, per OAC 340:110-3-281.2(c); and  
(B) have a mattress that is:

(i) firm;  
(ii) designed to fit the specific crib, with one inch or less between the mattress and crib; and  
(iii) covered with a durable, washable, waterproof, form-fitting material.

(4) **Play yards.** Play yards, such as playpens and pack-n-plays, are made of mesh, fabric, or other non-rigid construction.

(A) Play yards are prohibited in programs licensed on or after January 1, 2016.

(B) Existing play yards may be used in programs licensed before January 1, 2016, provided these requirements are met. However, additional or replacement play yards are not obtained after this date.

(i) The pad is manufactured for the specific play yard.  
(ii) The equipment has:

- (I) mesh less than 1/4 inch in size, smaller than baby clothing buttons;
- (II) securely attached material at the top rail and floor plate;
- (III) no tears, holes, or loose threads that could entangle a child; and
- (IV) no missing, loose, or exposed staples.

(c) **Indoor play equipment.** Safe and appropriate use of indoor play equipment, including access, rotation, use zones, and impact-absorbing materials, is met, per OAC 340:110-3-289(f) and (g) and 340:110-3-301(b).

(d) **Outdoor play equipment.** Safe and appropriate use of outdoor play equipment, including open area arrangement, use zones, and impact-absorbing materials, is met, per OAC 340:110-3-301(c).

(1) **Safe design.** Equipment does not have:

- (A) angles or openings between three and one-half inches and nine inches that could entrap any part of a child's body including his or her head, such as ladder rungs and steering wheels;
- (B) exposed moving parts with pinch, crush, or shear points, such as rotating devices with exposed gears or axle assemblies and teeter-totter hinges; and
- (C) swing seats made of hard or heavy materials. Swing seats are constructed of durable, lightweight, relatively pliable material, such as nylon webbing, rubber, or plastic.

(2) **Stability.** Equipment can withstand the maximum anticipated forces generated by active use preventing overturning, tipping, or sliding. Anchors, when used, pose no hazard to children.

(e) **Prohibited equipment.** Prohibited equipment is not on-site, unless the shared facility requirements, per (f) of this Section apply.

(1) **Diaper changing equipment.** Prohibited diaper changing equipment includes diaper changing attachments contained in pack-n-plays.

(2) **Rest equipment.** Prohibited rest equipment includes:

- (A) bassinets, including bassinet attachments in pack-n-plays;
- (B) stacked cribs; and
- (C) play yards, when applicable, per (b) of this Section, including when children are awake.

(3) **Play equipment.** Prohibited play equipment includes:

- (A) infant walkers;
- (B) heavy metal or molded plastic swings, such as animal figures;
- (C) swinging gates used as play equipment; and
- (D) trampolines except for mini-trampolines or mini-rebounders:
  - (i) having a diameter of three feet or less, padded handle, and safety pad cover; and
  - (ii) used only by children 3 years of age and older with adult supervision.

(f) **Prohibited and non-compliant equipment - shared facility.** When prohibited equipment, per (e) of this Section, or equipment not meeting the requirements, including inappropriate use zones and impact-absorbing materials, are on-site due to the program sharing the facility, the requirements in (1) and (2) of this subsection are met.

(1) **Inaccessible.** The equipment is made inaccessible when possible, or a Licensing-approved written plan addressing a method ensuring the equipment is not used by children is followed.

(2) **Capacity.** The area taken by the prohibited and non-compliant equipment does not count toward the licensed capacity, classroom capacity, or outdoor play area capacity.

[Source: Amended and renumbered from 340:110-3-14 at 32 Ok Reg 704, eff 1-1-16 (emergency); Amended and renumbered from 340:110-3-14 at 33 Ok Reg 1678, eff 9-15-16 ; Amended at 40 Ok Reg 1033, eff 9-15-23]

### **340:110-3-303. Hazards**

(a) **General.** Hazards are defined as anything that may inflict injury or cause harm, per Oklahoma Administrative Code (OAC) 340:110-3-275.

(1) The facility is free of hazards.

(2) Hazardous items are:

(A) inaccessible, as defined, per OAC 340:110-3-275; and

(B) including items in personal belongings, such as diaper bags, backpacks, and purses.

(3) Hazardous items used for a supervised, planned, learning activity may be accessible during the activity, such as water play, arts and crafts, gardening, and woodworking. Higher risk activity requirements may apply, per OAC340:110-3-290.

(4) Personnel recognize and act to correct indoor and outdoor physical safety hazards.

(b) **Manufacturer instructions.** Products, including toxic materials, are used , per the manufacturer's instructions.

(c) **Standing liquid.** Standing liquids are attended at all times and emptied immediately after use.

(d) **Toxic plants.** Toxic plants are inaccessible.

(e) **Toxic materials.** Toxic materials, such as health and beauty aids, cleaning materials, and pesticides are inaccessible.

(1) Toxic materials are stored in original containers. However, smaller containers may be used when labeled with the product's name, and the warning information is maintained at the facility.

(2) Toxic materials are not stored or used in a manner:

(A) constituting a hazard; or

(B) contaminating food and food-contact items and surfaces.

(f) **Pest control products.** Pest control products are not applied when children are present. After product application, children do not access the area until indicated by the manufacturer's instructions.

(g) **Medication.** Medication is inaccessible.

(h) **Illegal drugs.** The facility and transportation vehicles are free of illegal drugs and paraphernalia.

- (i) **Tobacco products.** Tobacco and simulated tobacco products and related items, such as ashtrays and cigarette butts, are inaccessible.
- (j) **Matches and lighters.** Matches and lighters are inaccessible.
- (k) **Open flames.** Items with open flames, such as candles, are not used during operating hours.
- (l) **Heater closets.** The central heating unit and gas-fed hot water heater enclosures, such as a closet, are inaccessible and not used for any type of storage.
- (m) **Weapons and ammunition.** Any weapons and ammunition, such as firearms, cap pistols, bows and arrows, and hunting knives, are kept in an inaccessible area. In addition:
  - (1) locked is defined, per OAC 340:110-3-275;
  - (2) weapons are kept unloaded in locked containers or cabinets;
  - (3) ammunition is kept in locked containers or cabinets, separate from weapons;
  - (4) keys, combinations, and locked storage codes are inaccessible; and
  - (5) parents are informed of weapons as required, per OAC 340:110-3-280(d).
- (n) **Vehicle items.** Children are protected from items that may become hazardous during vehicle operation or an accident.
- (o) **Miscellaneous.** The requirements in (1) and (2) of this subsection are met.
  - (1) Fireworks are inaccessible.
  - (2) Compressed gas cylinders are secured to prevent falling over.
- (p) **Hazards - children 3 years of age and younger.** The requirements in (1) through (3) of this subsection are met.
  - (1) For 3-year-olds and younger, electrical device charging cords are inaccessible.
  - (2) For 2-year-olds and younger, inaccessible items include:
    - (A) strangulation hazards, such as electrical and window blind cords, ropes, and play equipment with long strings;
    - (B) choking hazards, such as objects with removable parts having less than one and 1/4 inch diameter, plastic bags, Styrofoam, and rubber balloons; and
    - (C) play equipment with sharp points or edges.
  - (3) For 1-year-olds and younger, stairways are inaccessible.

[Source: Added at 32 Ok Reg 704, eff 1-1-16 (emergency); Added at 33 Ok Reg 1678, eff 9-15-16 ; Amended at 40 Ok Reg 1033, eff 9-15-23]

### **340:110-3-304. Cleanliness and sanitation**

- (a) **General.** The cleaning and sanitation requirements in (1) and (2) of this subsection are met.
  - (1) The facility and vehicles are clean, sanitary, and free of clutter and litter, including paper accumulation. The facility and equipment have no dust, dirt, soil, food particle, or other debris accumulation.
  - (2) The outdoor play areas are free of tall grass and weeds and standing water.

(3) Prior to children being outside, the outdoor area is free of animal waste and debris.

(b) **Procedures.** The procedure requirements in (1) and (2) of this subsection are met.

(1) Cleaning, sanitizing, and disinfecting are conducted in a manner preventing food and food-contact item and surface contamination.

(2) When cleaning up vomit, blood, and body fluids that may contain blood, disposable, non-porous gloves are used. Gloves are discarded immediately after use in an inaccessible, closed container, and hands are washed.

(c) **Cleaners, sanitizers, and disinfectants.** The appropriate cleaner, sanitizer, or disinfectant is used, per Oklahoma Administrative Code (OAC) 340 Appendix NN - Cleaners, Sanitizers, and Disinfectants. For sanitizing and disinfecting, only a sanitizer or disinfectant with an Environmental Protection Agency registration number or household bleach is used, per OAC 340 Appendix NN - Cleaners, Sanitizers, and Disinfectants.

(d) **Diaper changing areas.** The program cleans and disinfects, per OAC 340 Appendix KK - Diaper Changing Procedures.

(e) **Food service areas.** The program cleans and sanitizes, per OAC 340:110-3-299(k).

(f) **Equipment.** The program cleans and sanitizes, per requirements in (1) through (3) of this subsection.

(1) Indoor play equipment is:

(A) cleaned and sanitized, including laundered when applicable, before being reused after:

(i) contact with body fluids, including a child's mouth; and

(ii) use by an ill child; and

(B) stored in a sanitary manner.

(2) Rest equipment other than bedding is:

(A) cleaned and sanitized:

(i) at least weekly;

(ii) after contact with body fluids;

(iii) before use by another child; and

(iv) after use by an ill child; and

(B) stored in a sanitary manner.

(3) Bedding is:

(A) changed:

(i) at least weekly; however, crib and play yard sheets are changed daily;

(ii) when soiled;

(iii) before use by another child; and

(iv) after use by an ill child; and

(B) stored in a sanitary manner. A child's bedding does not touch another child's bedding between laundering.

(g) **Laundry.** Dirty laundry is kept in containers until laundered.

(h) **Trash and rubbish.** Trash and rubbish is promptly discarded into trash containers.

(1) Trash containers:

- (A) containing soiled diapers or disposable training pants or food waste have leak-proof disposable liners and are covered with tight-fitting lids when not in continuous use;
  - (B) within food service areas are cleaned each time they are emptied; and
  - (C) are clean and of adequate quantity and size, including exterior containers for storing facility trash prior to disposal from the premises.
- (2) Trash disposal from the premises occurs as needed for sanitation.
- (3) When used, sink garbage disposals are of suitable construction and comply with the building codes of the local or state governmental authority having jurisdiction.
- (i) **Pest control.** The facility is free of pests, such as rodents and insects. Safe, effective measures minimize the presence and protect against the entry of pests.

[Source: Added at 32 Ok Reg 704, eff 1-1-16 (emergency); Added at 33 Ok Reg 1678, eff 9-15-16 ; Amended at 40 Ok Reg 1033, eff 9-15-23]

### **340:110-3-305. Transportation**

#### **(a) General.**

- (1) When children in care are transported in a vehicle, whether provided, arranged, or contracted by the program, requirements in this Section are met.
- (2) When the program contracts for transportation, including use of public transportation, the program is responsible for ensuring the contracted entity meets transportation requirements, including child passenger safety training.
- (3) Children are not transported in vehicles or parts of vehicles not designed for transporting individuals, such as truck beds, campers, and trailers.
- (4) Drivers and vehicles used to transport children comply with all applicable state laws, including vehicle insurance. Documentation is maintained, per Oklahoma Administrative Code (OAC) 340:110-3-281.2(c) and (d).
- (5) Children do not ride more than 60 minutes one way. However, longer field trips may occur infrequently provided necessary rest and stretch stops are made.

#### **(b) Driver, child passenger safety, cardio-pulmonary resuscitation (CPR), and first aid.**

- (1) The driver requirements are met, per OAC 340:110-3-284.3(d).
- (2) The child passenger safety training requirements are met by the:
  - (A) program, per OAC 340:110-3-284(d); and
  - (B) drivers and personnel assisting with child passenger safety restraints, per OAC 340:110-3-284.3(d).
- (3) CPR and first aid certification requirements are met, per OAC 340:110-3-284(d).

#### **(c) Parent permission and attendance documentation.**

- (1) Transportation and field trip permission is maintained, per OAC 340:110-3-281.4(b).
- (2) Attendance documentation is maintained, per OAC 340:110-3-281.2(c) and (d).

**(d) Ratios and supervision.**

- (1) The driver may count in ratios, unless excluded, per OAC 340:110-3-286(a).
- (2) Supervision is maintained, per OAC 340:110-3-287(h).

**(e) Communication.**

- (1) An operable phone is in each vehicle transporting children.
- (2) While transporting children, drivers do not use a phone or wireless communication device, including hands-free technology:
  - (A) when the vehicle is in motion, with the exception of a navigational system or global positioning system device; and
  - (B) unless emergency communication is necessary and the vehicle is secured in park before devices are used.

**(f) Safety and tobacco-free.**

- (1) Vehicles have a first aid kit , per OAC 340:110-3-279(d).
- (2) Vehicles are free of hazards, per OAC 340:110-3-303.
- (3) Safe conduct to and from vehicles and safe off-street loading spaces are provided to protect children from:
  - (A) backing vehicles;
  - (B) being between vehicles; and
  - (C) traffic hazards.
- (4) Vehicle door locks are activated when the vehicle is moving.
- (5) Tobacco use is prohibited, per OAC 340:110-3-294(g).

**(g) Passenger restraints, seating, and airbags.**

- (1) Vehicle maximum capacity and seating space, per manufacturer's designations, is not exceeded.
- (2) Children sit in seats behind the front seat. However, when all these positions are occupied by other children, a child may sit in the front seat, provided requirements in (A) and (B) of this paragraph are met.
  - (A) When there is a front seat passenger airbag and children 12 years of age or younger are in the front seat, the airbag is deactivated by a weight sensitive seat, when equipped with such, or a manual switch.
  - (B) When the airbag cannot be deactivated, the front seat is pushed back as far as possible, and only a child whose age and weight requires a forward facing car seat with a harness, per manufacturer's instructions, may sit in the front seat.
- (3) Children remain properly secured in child passenger restraint system, such as a car or booster seat or an individual seat belt complying with applicable state laws, unless the vehicle is exempt, per (5) of this subsection. Children do not share a seat belt.
  - (A) Car and booster seats are:
    - (i) federally approved;
    - (ii) installed , per manufacturer's instructions;

- (iii) appropriate to the child's height, weight, and physical condition , per manufacturer's instructions; and
    - (iv) properly maintained, such as not expired or previously involved in a vehicle accident.
  - (B) Seat belts:
    - (i) are properly anchored to the vehicle; and
    - (ii) fit the child appropriately, per Child Passenger Safety training, per OAC 340:110-3-284(d).
  - (4) Adult passengers, including the driver, remain properly secured in an individual seat belt unless:
    - (A) unable due to documented medical reasons, per OAC 340:110-3- 281.3(b); or
    - (B) the vehicle is exempt, per (5) of this subsection.
  - (5) The vehicle exemption to passenger restraints is for buses, unless designed for or equipped with seat belts or the Lower Anchors and Tethers for Children (LATCH) system. However, passengers remain seated.
- (h) **Vehicles and vehicle maintenance.**
  - (1) Vehicle requirements apply to:
    - (A) program vehicles at all times; and
    - (B) personal vehicles when transporting children.
  - (2) Vehicle maintenance is:
    - (A) conducted at least quarterly for:
      - (i) program vehicles; and
      - (ii) personal vehicles used regularly; and
    - (B) documented, per OAC 340:110-3-281.2(c).
  - (3) The vehicles:
    - (A) are identified with the program or business entity name and phone number easily read by the public, unless using contracted transportation;
    - (B) are in a safe operating condition;
    - (C) have an operable heater maintaining an interior temperature of at least 65 degrees Fahrenheit;
    - (D) have a ventilation system, such as air conditioning or operable windows; and
    - (E) have stationary padded seats with a back properly anchored to the vehicle.

[Source: Amended and renumbered from 340:110-3-29 at 32 Ok Reg 704, eff 1-1-16 (emergency); Amended and renumbered from 340:110-3-29 at 33 Ok Reg 1678, eff 9-15-16 ; Amended at 40 Ok Reg 1033, eff 9-15-23]

### **340:110-3-306. Addendum requirements for child care centers**

- (a) **Child care centers.** Child care centers are programs that operate 30 or more hours per week.
- (b) **Common requirements.** Programs are required to meet the common requirements in Oklahoma Administrative Code (OAC) 340:110-3-275 through 340:110-3-305, unless the addendum requirements in this Section state otherwise.



(c) **Teacher qualifications.** Teachers hired on or before July 1, 1995, are exempt from the educational requirements per OAC 340:110-3-284.2(c).

(d) **Program or parent provided food.** Programs provide meals and snacks per OAC 340:110-3-298(c) for 2-year-olds through 5-year-olds who are not attending or have not completed kindergarten.

(e) **Toileting and hand washing facilities.** Programs licensed on or before July 2, 1970, are exempt from the toilet and sink quantity requirements per OAC 340:110-3-300(m) and (n), unless the licensed capacity increases or the program changes locations.

(f) **Food service area hand washing sink.** Programs licensed before June 1, 1987, in a facility originally designed as a family residence may meet the separate hand washing sink requirement for the food service area per OAC 340:110-3-300(n) with a sink in a restroom on the same floor as the food service area, unless the program changes locations.

(g) **Square footage for indoor play area.** Programs licensed or expanded on or before July 2, 1970, are exempt from the square footage requirements per OAC 340:110-3-301(b). However, at least 30 square feet of floor space per child is required.

[Source: Added at 32 Ok Reg 704, eff 1-1-16 (emergency); Added at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-307. Addendum requirements for day camps**

(a) **Day camps.** Day camps are programs that operate during school breaks for 12 hours or less per day, serve 5-year-olds and older who are attending or have completed kindergarten or above, and use the outdoors as a major program component for at least 50 percent of the daily hours of operation.

(b) **Common requirements.** Programs are required to meet the common requirements in Oklahoma Administrative Code (OAC) 340:110-3-275 through 340:110-3-305, unless the addendum requirements in this Section state otherwise.

(c) **Posted records and documentation.** Ratios and group sizes, daily classroom schedule, and weekly lesson plans per OAC 340:110-3-281.1(i) (4) through (6) may be maintained in a portable method with the teaching personnel. The remainder of the posted in classroom items in (i) may be posted in a prominent location.

(d) **General professional development.** Personnel obtain orientation per OAC 340:110-3-284(d) prior to working with children. Personnel are exempt from the Entry Level Child Care Training (ELCCT) or equivalent requirements per OAC 340:110-3-284(d).

(e) **Director qualifications.** Directors are exempt from the Oklahoma Director's Credential requirement per OAC 340:110-3-284.1(b). However, directors obtain at least an Oklahoma Professional Development Ladder (OPDL) certificate per OAC 340:110-3-284(b) and have:

- (1) a high school diploma, General Educational Development (GED), or Licensing approved equivalent and two years of full-time experience in an out-of-school time, educational, or child care setting;
- (2) a high school diploma, GED, or Licensing approved equivalent and 12 college credit hours in child development, elementary or

secondary education, or a closely related subject and one year of satisfactory experience in an out-of-school time, educational, or child care setting; or

(3) an associate or bachelor's degree with at least 12 college credit hours in child development, elementary or secondary education, or a closely related subject.

(f) **Director responsibilities.** Directors are free from direct care responsibilities at least one hour per day rather than three hours per day per OAC 340:110-3-284.1(b).

(g) **Director professional development.** Directors meet the continuing professional development requirements per OAC 340:110-3-284(d) to maintain at least 20 clock-hours every 12 months. The clock-hours meet the criteria identified in the footnotes per OAC 340 Appendix FF - Oklahoma Professional Development Ladder.

(h) **Master teacher qualifications.** Master teachers are exempt from position specific educational and OPDL requirements per OAC 340:110-3-284.2(b). However, master teachers have at least:

(1) a high school diploma, GED, or Licensing approved equivalent and one year of satisfactory full-time experience in an out-of-school time, educational, or child care setting;

(2) a high school diploma, GED, or Licensing approved equivalent and 12 college credit hours in child development, elementary or secondary education, or a closely related subject; or

(3) an associate degree with at least six college credit hours in child development, early childhood, elementary or secondary education, or a closely related subject.

(i) **Teacher qualifications.** Teachers hired on or before September 1, 1997, are exempt from position specific educational requirements per OAC 340:110-3-284.2(c).

(j) **Supervision.** The supervision exception for the 6-year-olds and older requirement per OAC 340:110-3-287(e) does not apply. Children are within sight and hearing of teaching personnel at all times, unless restrooms or locations where medications are administered are located in areas away from children. In this situation, the program follows a Licensing approved written plan, addressing how personnel will monitor children's whereabouts when the children are out of sight and hearing of personnel.

(k) **Daily classroom schedule.** Programs are exempt from the classroom schedule for each classroom and indoor play requirement per OAC 340:110-3-289(b). However, the program has at least one classroom schedule that applies to all children.

(l) **Weekly lesson plans.** Programs are exempt from the lesson plan for each classroom requirement per OAC 340:110-3-289(d). However, lesson plans are at least by activity type, such as art and science.

(m) **Annual parent conferences.** Programs are exempt from parent conferences per OAC 340:110-3-293(d).

(n) **Electrical outlets.** Programs are exempt from the unused electrical outlet requirement per OAC 340:110-3-300(f).

(o) **Indoor temperature.** The indoor temperature requirement per OAC 340:110-3-300(h) is only required when children are indoors.

(p) **Screens.** Programs are exempt from door and window screens per OAC 340:110-3-300(q). However, programs take measures to avoid insect infestation.

(q) **Toileting facilities.** The toileting facilities requirements listed in (1) and (2) of this subsection are met.

(1) Programs are exempt from the one toilet for every 15 children requirement per OAC 340:110-3-300(m). However, programs meet one of these options:

(A) one toilet for every 25 children; or

(B) one toilet for every 50 children, with a minimum of two toilets and at least one restroom for males and one for females.

(2) Commercial portable toilets that meet all state environmental inspection guidelines may be used in place of flushable toilets.

(r) **Hand washing facilities.** Programs are exempt from the one sink for every 15 children requirement per OAC 340:110-3-300(n) provided adequate running water is available for hand washing. Portable sinks per OAC 340:110-3-300(n) may meet this requirement. If adequate running water is not available, another hand washing method must be approved by the Oklahoma State Department of Health.

(s) **Food service area hand washing sink.** Programs licensed before September 1, 1997, in a facility originally designed as a family residence, may meet the separate hand washing sink requirement for the food service area per OAC 340:110-3-300(n) with a sink in a restroom on the same floor as the food service area, unless the program changes locations.

(t) **Indoor square footage.** Programs are exempt from the indoor square footage requirement per OAC 340:110-3-301(b). However, the program has accessible for children's use:

(1) at least 10 square feet of floor space per child; or

(2) a covered permanent structure, provided an alternate indoor site is designated for use during inclement weather.

(u) **Outdoor play area.** An outdoor play area is not required on-site, provided the program uses a city park or other off-site outdoor play area that meets the outdoor play area and equipment requirements per OAC 340:110-3-301(c) and 340:110-3-302(a) and (d), unless the area is shared with the public or another entity and a Licensing approved exception is made. If the outdoor play area is off-site, the program follows a Licensing approved written plan that addresses:

(1) use of the off-site outdoor play area(s); and

(2) methods to protect children when exceptions are made to the outdoor play area or equipment requirements. Examples include methods that:

(A) protect children from hazards when the area is not enclosed with fencing and hazards, such as water and traffic are present; and

(B) make prohibited and non-compliant equipment inaccessible, when possible, or a method that ensures the equipment is not used by the children.

(v) **Equipment.** Programs are exempt from the basic and play equipment type and quantity requirements per OAC 340:110-3-302(a). However,

play equipment is:

- (1) in a quantity that avoids excessive competition between children and long waits for use; and
- (2) from at least five categories including:
  - (A) gross motor play;
  - (B) fine motor play, such as manipulatives;
  - (C) blocks with accessories;
  - (D) carpentry;
  - (E) science;
  - (F) sand and water play;
  - (G) arts and crafts;
  - (H) music and rhythm;
  - (I) dramatic play; and
  - (J) language play including books or child-oriented magazines.

(w) **Equipment inventory.** Programs are exempt from the equipment inventory requirement per OAC 340:110-3-302(a).

[Source: Added at 32 Ok Reg 704, eff 1-1-16 (emergency); Added at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-308. Addendum requirements for drop-in programs**

(a) **Drop-in programs.** Drop-in programs operate 30 or more hours per week with individual children attending six hours or less per day and 24 hours or less per week, with an allowance for three extra six hour days per 12 months per child.

(b) **Common requirements.** Programs are required to meet the common requirements in Oklahoma Administrative Code (OAC) 340:110-3-275 through 340:110-3-305, unless the addendum requirements in this Section state otherwise.

(c) **Maximum hour notice.** In addition to posted records and documentation per OAC 340:110-3-281.1(c), an Oklahoma Department of Human Services (DHS) Publication No. 14-06, Drop-In Program Maximum Hour Notice, stating the maximum number of hours per day and week a child may be in care is posted in a prominent location for parent and public viewing. This statement is also included in all drop-in program literature, including program policy and advertisements.

(d) **Children's attendance records.** In addition to the children's attendance requirements per OAC 340:110-3-281.2(c), each child's attendance includes the total number of hours in care per day and week. Documentation is maintained for at least 24 months.

(e) **Teacher qualifications.** Teachers hired on or before July 1, 1995, are exempt from the educational requirements per OAC 340:110-3-284.2(c).

(f) **Weekly lesson plans.** In addition to the lesson plan requirements per OAC 340:110-3-289(d), modifications are made to reflect the flexibility of the programs, while maintaining the purpose of varied planned activities in addition to free-play. The lesson plans:

- (1) are designed for the children who are in attendance on a frequent basis, with activity considerations given for the children in attendance on an occasional or first time basis; and

(2) are designed for or able to be modified to each age group accepted into care, as the ages of the children in care at any given time may vary. Programs are exempt from the lesson plan for each classroom requirement per OAC 340:110-3-281.1(i), provided the needs of the children in care are addressed by the lesson plans.

(g) **Parent activities or special events.** Programs are exempt from the parent activities or special events requirements per OAC 340:110-3-293(d).

(h) **Medications.** Medications are returned to parents daily. Therefore the other methods for returning medication to parents do not apply per OAC 340:110-3-295(g).

(i) **Required meals and snacks.** Programs may serve a snack to children in care over a four-hour period rather than a meal per OAC 340:110-3-298(a).

(j) **Parent provided meals and snacks.** Programs are exempt from the additional serving requirement per OAC 340:110-3-298(c).

(k) **Toileting and hand washing facilities.** Programs licensed before January 1, 2016:

(1) are exempt from the one toilet and sink for every 15 children requirement per OAC 340:110-3-300(m) and (n), unless the program changes locations; and

(2) have at least one toilet and sink for every 25 children.

(l) **Outdoor play area.** Programs are exempt from the outdoor play area requirements per OAC 340:110-3-301(c). However, when the program has an outdoor play area the requirements are met.

[Source: Amended and renumbered from 340:110-3-33 at 32 Ok Reg 704, eff 1-1-16 (emergency); Amended and renumbered from 340:110-3-33 at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-309. Addendum requirements for out-of-school time programs**

(a) **Out-of-school time programs.** Out-of-school time programs operate when school is not in session, such as before-and after-school and school breaks and serve 3-year-olds and older who are attending or have completed pre-kindergarten or above.

(b) **Common requirements.** Programs are required to meet the common requirements in Oklahoma Administrative Code (OAC) 340:110-3-275 through 340:110-3-305, unless the addendum requirements in this Section state otherwise.

(c) **Posted records and documentation.** Programs are exempt from or may vary posted requirements according to requirements listed in (1) and (2) of this subsection. Posted:

(1) hand washing procedures per OAC 340:110-3-281.1(g) are not required when the program is in a school and different hand washing procedures are posted by the school; and

(2) ratios and group sizes, daily classroom schedule, and weekly lesson plans, per OAC 340:110-3-281.1(i)(4) through (6) may be maintained in a portable method with the teaching personnel. The remainder of the posted in classroom items in (i) may be posted in a prominent location when a large area, such as a gymnasium or

cafeteria, is used as classrooms.

(d) **Immunization records.** Programs operated by a school may use the school's immunization records to meet the requirement per OAC 340:110-3-281.4(b).

(e) **General professional development.** Personnel are exempt from the Entry Level Child Care Training (ELCCT) or equivalent requirement per OAC 340:110-3-284(d).

(f) **Director qualifications.** Directors are exempt from:

(1) the Oklahoma Director's Credential requirement per OAC 340:110-3-284.1(b). However, directors obtain at least an Oklahoma Professional Development Ladder (OPDL) certificate per OAC 340:110-3-284(b) and have:

(A) a high school diploma, General Educational Development (GED), or Licensing approved equivalent and two years of full-time experience in an out-of-school time, educational, or child care setting;

(B) a high school diploma, GED, or Licensing approved equivalent and 12 college credit hours in child development, elementary or secondary education, or a closely related subject and one year of satisfactory experience in an out-of-school time, educational, or child care setting; or

(C) an associate or bachelor's degree with at least 12 college credit hours in child development, elementary or secondary education, or a closely related subject; and

(2) licensed capacity requirements when counting as master teachers per OAC 340:110-3-284.2(b). Directors meeting master teacher qualifications may count as master teachers regardless of licensed capacity.

(g) **Director responsibilities.** Directors are free from direct care responsibilities one hour per day rather than three hours per day per OAC 340:110-3-284.1(b).

(h) **Director professional development.** Directors meet the continuing professional development requirements per OAC 340:110-3-284(d) to maintain at least 20 clock-hours every 12 months. The clock-hours meet the criteria identified in the footnotes per OAC 340 Appendix FF - Oklahoma Professional Development Ladder.

(i) **Master teacher qualifications.** Master teachers are exempt from position specific educational and OPDL requirements per OAC 340:110-3-284.2(b). However, master teachers have at least:

(1) a high school diploma, GED, or Licensing approved equivalent and one year of satisfactory full-time experience in an out-of-school time, educational, or child care setting;

(2) a high school diploma, GED, or Licensing approved equivalent and 12 college credit hours in child development, elementary or secondary education or a closely related subject; or

(3) an associate degree with at least six college credit hours in child development, early childhood, elementary or secondary education or a closely related subject.

(j) **Teacher qualifications.** Teachers hired on or before September 1, 1997, are exempt from the position specific educational requirements per

OAC 340:110-3-284.2(c).

(k) **Groups and classrooms.** Programs are exempt for kindergarten and older children from the:

- (1) one group per classroom requirement per OAC 340:110-3-286(b); and
- (2) classroom requirements per OAC 340:110-3-286(b) provided the area is divided into interest areas, including portable means such as tables and area rugs.

(l) **Weekly lesson plans.** Programs are exempt from the lesson plan for each classroom requirement per OAC 340:110-3-289(d) for children who are attending or have completed kindergarten or above. However, the lesson plans for these children are at least by the activity type, such as art and science.

(m) **Play equipment accessibility.** Play equipment may be stored on open storage or in cabinets, closets, or similar storage, provided children may easily access the equipment when desired.

(n) **Rest time.** Programs are exempt from the scheduled rest time requirement per OAC 340:110-3-296(c) for 4-year-olds and younger who had an afternoon rest time in a pre-kindergarten program.

(o) **Required meals and snacks.** In addition to the required meals and snacks requirement per OAC 340:110-3-298(a) programs that provide care:

- (1) before 7:00 a.m. serve a morning meal or snack; and
- (2) in the afternoon serve an afternoon snack.

(p) **Electrical outlets.** Programs are exempt from the unused electrical outlet requirement per OAC 340:110-3-300(f) for 5-year-olds.

(q) **Toileting and hand washing facilities.** Programs are exempt from the one toilet and sink quantity requirement per OAC 340:110-3-300(m) and (n) for children who are attending or have completed kindergarten provided one of these options is met:

- (1) one toilet and sink for every 25 children; or
- (2) one toilet and sink for every 50 children, with a minimum of two toilets and sinks and at least one restroom for males and one for females.

(r) **Food service area hand washing sink.** Programs licensed before September 1, 1997, in a facility originally designed as a family residence may meet the separate hand washing sink requirement for the food service area per OAC 340:110-3-300(n) with a sink in a restroom on the same floor as the food service area, unless the program changes locations.

(s) **Indoor square footage.** Programs are exempt from having to divide large areas into classrooms in order to count them toward the licensed capacity per OAC 340:110-3-301(b).

(t) **Fencing.** When the program is in a school, Licensing may grant an exception to the enclosed outdoor play area requirement per OAC 340:110-3-301(c) for 4-year-olds when the safety of children is ensured. The fencing exception per OAC 340:110-3-301(c) applies at all times, rather than only during a scheduled occasional supervised activity.

(u) **Equipment.** Programs are required to meet the indoor basic and play equipment type and quantity requirements per OAC 340 Appendix MM - Equipment, according to these requirements.

- (1) For 3-year-olds, the 3-year-old equipment chart is used.
- (2) For 4-year-olds, the 4- and 5-year-old equipment chart is used.
- (3) For 5-year-olds and older, the 6-year-old and older equipment chart is used.
- (4) Book quantity requirements do not apply provided programs at least have:
  - (A) five books for one to 10 children;
  - (B) 10 books for 11 to 20 children;
  - (C) 15 books for 21 to 30 children; and
  - (D) 20 books for 31 to 40 children.
- (5) The program may require parents provide, for their children, rest equipment and bedding that meets the requirements.

[Source: Added at 32 Ok Reg 704, eff 1-1-16 (emergency); Added at 33 Ok Reg 1678, eff 9-15-16 ; Amended at 34 Ok Reg 1640, eff 9-15-17]

### **340:110-3-310. Addendum requirements for part-day programs**

- (a) **Part-day programs.** Part-day programs operate for more than 15 but less than 30 hours per week.
- (b) **Common requirements.** Programs are required to meet the common requirements in Oklahoma Administrative Code (OAC) 340:110-3-275 through 340:110-3-305, unless the addendum requirements in this Section state otherwise.
- (c) **Posted weekly lesson plans.** Programs are exempt from posting lesson plans per OAC 340:110-3-281.1(i). However, lesson plans are available in the classroom.
- (d) **General qualifications and professional development.** Personnel:
  - (1) are exempt from:
    - (A) maintaining an Oklahoma Professional Development Ladder certificate per OAC 340:110-3-284(b);
    - (B) obtaining the Entry Level Child Care Training or equivalent per OAC 340:110-3-284(d); and
    - (C) maintaining a minimum number of clock-hours per OAC 340:110-3-284(d); and
  - (2) obtain job-related professional development and maintain documentation on-site, including the topic, training provider or source, and date the professional development was obtained.
- (e) **Director qualifications.** Directors are exempt from the Oklahoma Director's Credential per OAC 340:110-3-284.1(b). However, directors:
  - (1) have at least a high school diploma, General Education Development (GED), or Licensing approved equivalent; and
  - (2) hired on or after January 1, 2016, have one year of full-time administrative or direct care experience in a child care program or educational setting. However, an early education or equivalent degree or certification, such as a Child Development Associate (CDA), may substitute for six months of the required experience.
- (f) **Director responsibilities.** Directors are exempt from the requirement regarding a minimum amount of time free from direct care responsibilities per OAC 340:110-3-284.1(b).
- (g) **Master teachers.** Programs are not required to have master teachers per OAC 340:110-3-284.2(b).



(h) **Teacher and assistant teacher qualifications.** Teaching personnel hired before January 1, 2016, are exempt from the educational requirements per OAC 340:110-3-284.2(c) and (d).

(i) **Rest time.** Programs are exempt from providing rest time for 1-year-olds through 4-year-olds per OAC 340:110-3-296(c). However, when the program provides rest time or a child needs to rest, the rest time requirements apply.

(j) **Parent provided meals and snacks.** Programs are exempt from the additional serving requirements per OAC 340:110-3-298(c).

(k) **Food service area hand washing sink.** When the program is licensed in a facility that was originally designed as a family residence, the separate hand washing sink for the food service area per OAC 340:110-3-300(n) may be located in a restroom on the same floor as the food service area.

(l) **Square footage for infants.** Programs licensed before January 1, 2016, are exempt from the increased square footage for infants requirement per OAC 340:110-3-301(b).

(m) **Fencing.** Programs are exempt from the fencing requirements per OAC 340:110-3-301(c), when:

(1) care is only provided for 5-year-olds or older who are attending or have completed kindergarten; and

(2) the area is properly protected from traffic and other hazards.

(n) **Open outdoor play area.** Programs are exempt from the open area requirement in the outdoor play area per OAC 340:110-3-301(c).

(o) **Impact-absorbing materials.** Impact-absorbing materials obtained before January 1, 2016, are exempt from the requirements per OAC 340:110-3-301(c).

(p) **Rest equipment and bedding.** Programs are exempt from the two-inch mat requirements per OAC 340:110-3-302(b). However, the mats are at least one inch thick. Program policy may require parents provide for their 1-year-olds and older, rest equipment, and bedding that meets the requirements.

(q) **Play equipment.** Programs are exempt from the play equipment type and quantity requirements per OAC 340:110-3-302(a). However, programs have a variety of accessible, age-appropriate play equipment in quantities proportionate to the licensed capacity and number of children in each group per OAC 340:110-3-289(f) and (g). Programs are required to meet the basic equipment requirements per OAC 340 Appendix MM - Equipment.

[Source: Added at 32 Ok Reg 704, eff 1-1-16 (emergency); Added at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-3-311. Addendum requirements for programs for sick children**

(a) **Programs for sick children.** Programs for sick children serve children with illnesses or symptoms that:

(1) prevent them from comfortable participation in activities in a program caring for well children; and

(2) require more care than personnel in a program caring for well children can provide without compromising the health and safety

of other children in care.

(b) **Common requirements.** Programs are required to meet the common requirements in Oklahoma Administrative Code (OAC) 340:110-3-275 through 340:110-3-305, unless the addendum requirements in this Section state otherwise.

(c) **Definitions.** The following words and terms when used in this Part shall have the following meaning unless the context clearly states otherwise:

(1) **"Health professional"** means a registered nurse, pediatric nurse practitioner, physician's assistant, or physician with at least one year of pediatric or public health experience.

(2) **"Level I program"**:

(A) means a component of a regular child care center licensed to care for no more than eight sick children and serves only mildly ill children; and

(B) does not serve children with illnesses or symptoms that meet the criteria for exclusion in a Level I program as defined in OAC 340 Appendix JJ, Exclusion Criteria for Children Who Are Ill.

(3) **"Level II program"** means a:

(A) program licensed to care for nine or more sick children;

(B) program licensed to provide child care only for sick children; or

(C) component of a regular child care center and serves both mildly and moderately ill children.

(4) **"Mildly ill"** means children with mild symptoms of an episodic minor childhood illness who do not present a risk of serious infection to other children. Mildly ill children show interest and involvement in program activities and are able to participate.

(5) **"Moderately ill"** means children with symptoms of an episodic illness preventing them from being cared for in a program serving only well or mildly ill children due to the risk for contagion and the need for increased care. Moderately ill children display more severe symptoms than mildly ill children.

(d) **Inclusion and exclusion criteria.** A program for sick children may serve any child who exhibits symptoms or illnesses for which they are excluded from a program caring for well children unless prohibited by the exclusion criteria specified in OAC 340 Appendix JJ - Exclusion Criteria For Children Who Are Ill.

(e) **Admission criteria.** The guidelines for admission in a center for sick children are described in (1) and (2) of this subsection. A provider is not obligated to admit a child if the provider does not have adequate information about the child's condition or diagnosis to determine whether he or she can be safely included in the program.

(1) For Level I programs a written physical assessment of the child is conducted by the director or designated caregiver to determine the appropriateness of the child's attendance that day or the need for a medical evaluation prior to admission. The assessment includes:

- (A) any pertinent information from parents or authorized adults relevant to the child's condition and symptoms; and
- (B) an evaluation of the child's general appearance, including physical appearance, demeanor, mood and activity level.

(2) For Level II programs a written medical evaluation that includes a diagnosis from a licensed physician indicating a child is eligible for admission is required before a child can be admitted to a Level II program.

(f) **Policy and procedure.** The program has written policies and procedures approved in writing by a licensed physician or by a pediatric nurse practitioner.

(1) In addition to the program policy requirements in OAC 340:110-3-278(d), the program policy must also include:

- (A) the criteria for admission in the program;
- (B) intake and admission procedures;
- (C) plans for the daily care of children including methods used to monitor the condition of children;
- (D) plans for personnel training and communication with parents and health care providers; and
- (E) procedures for injury prevention and infection control.

(2) A health professional provides ongoing consultation to the program in its overall operation and the management of illness for individual children.

(g) **Personnel qualifications.** In addition to the general personnel requirements per OAC 340:110-3-284 personnel caring for sick children are required to have completed:

- (1) at least one year of satisfactory full-time experience in a child care setting; or
- (2) a minimum of 20 documented clock-hours of professional development in child development, early childhood education, or a closely related subject.

(h) **Personnel training.** The professional development requirements for personnel caring for sick children are contained in (1) through (4) of this subsection.

(1) Personnel caring for sick children have cardio-pulmonary resuscitation (CPR) and first aid certification per OAC 340:110-3-284(d).

(2) Prior to working with sick children, personnel must complete the Licensing approved training for the care of sick children conducted by a health professional. The training includes:

- (A) policy and procedures relating to the care of sick children;
- (B) recognizing signs and symptoms of illness;
- (C) administration of medication;
- (D) when and how to call for medical help;
- (E) taking children's temperatures;
- (F) infection control procedures including hand washing, handling contaminated items, use of disinfectants, and food handling;

(G) communicating with parents concerning a child's illness; and

(H) any other care that may be required for admissible illnesses and conditions.

(3) Personnel caring for sick children must obtain two hours of professional development annually related to the care of sick children and the prevention and control of communicable disease.

(4) All professional development required for personnel who care for sick children counts toward the annual training required for all personnel listed per OAC 340:110-3-284(d).

(i) **Indoors.** In addition programs meet the requirements listed in (1) through (7) of this subsection.

(1) Toilets are in a restroom that is adjacent to or opens directly into each room used to care for sick children.

(2) Sinks for hand washing are located in each room used for the care of sick children, or in a restroom that opens directly into the room.

(3) The use of potty chairs is prohibited.

(4) Rest equipment is available and accessible for use by children throughout the day and is placed three feet apart when in use.

(5) Mats may not be used as rest equipment.

(6) The use of carpet is prohibited; however, rugs may be used when they are washed daily.

(7) In Level I programs:

(A) rooms used for the care of sick children are separated from other components of the program by floor to ceiling walls; and

(B) rooms, fixtures, furniture, equipment, and supplies used by sick children are not used by personnel or children from any other component of the program when sick children are in care.

(j) **Outdoor play areas.** Programs are exempt from the outdoor play area requirements per OAC 340:110-3-301(c). However, when outdoor play areas are provided:

(1) all outdoor play area requirements are met; and

(2) when the same area is shared by well and sick children it is used at separate times.

(k) **Health.** In addition to the health requirements per OAC 340:110-3-294, programs:

(1) require personnel to monitor and record the condition of each child throughout the day. The monitoring includes:

(A) temperature taking;

(B) amount of fluid and food intake;

(C) output including urine, vomit, and stools, as appropriate;

(D) medication administered; and

(E) sleeping patterns and general behavior;

(2) notify parents immediately of any significant change in a child's condition; and

(3) take additional precautions to prevent the spread of disease, including:

- (A) cleaning and disinfecting floors, basic and play equipment and furniture daily or more often when necessary, or before use by another group of children;
- (B) providing liquid soap from mounted dispensers for hand washing;
- (C) using paper towels from a dispenser with waste containers provided for disposal;
- (D) providing play equipment that is non-porous and easily washable; and
- (E) prohibiting personnel and children who begin the day in the area serving sick children to transfer to any other part of the facility during that day.

(l) **Food and nutrition.** In addition to the nutrition and food service requirements per OAC 340:110-3-298 and 340:110-3-299, programs:

- (1) modify menus to meet the individual physical condition of each child in care;
- (2) prohibit personnel involved with food preparation or service from changing diapers or assisting children with toileting;
- (3) use only single-use and disposable eating and drinking utensils. Infant bottles and spill-proof cups may be used when they are sent home daily;
- (4) prohibit the use of drinking fountains; and
- (5) require personnel to frequently offer drinking water and other fluids to each child.

(m) **Additional requirements for Level II programs.** In addition to the requirements in this Section, Level II programs meet the requirements listed in (1) through (7) of this subsection.

- (1) A physical assessment of each child is conducted by a health professional as the child is admitted to the program.
- (2) A health professional or licensed practical nurse (LPN) with immediate, direct access to a health professional remains on-site at all times when sick children are in care.
- (3) The LPN may not make the determination whether to admit a child into the program. The LPN may provide care and collect clinical information, and must report to the health professional.
- (4) Children are cared for in separate rooms unless grouped with other children diagnosed with the same illness.
- (5) Separate outside ventilation is required when care is provided for children diagnosed with:
  - (A) measles;
  - (B) diphtheria, until five days of the appropriate antibiotic therapy, that is to be given a total of 14 days;
  - (C) rubella;
  - (D) tuberculosis; or
  - (E) chicken pox.

(6) In a Level II program that is a component of a program caring for well children:

- (A) rooms are separated from other components of the facility by floor to ceiling walls; and
- (B) rooms, furniture, equipment, and supplies used by sick children are not used by children or personnel from other

- components of the facility.
- (7) A separate entrance is required for sick children.

[Source: Amended and renumbered from 340:110-3-33.2 at 32 Ok Reg 704, eff 1-1-16 (emergency); Amended and renumbered from 340:110-3-33.2 at 33 Ok Reg 1678, eff 9-15-16]

## **PART 16. REQUIREMENTS FOR COMMUNITY HOPE CENTERS**

### **340:110-3-400. Community Hope Centers**

(a) **Program definition.** Community hope centers are programs operating more than 15 hours per week, serving children and youth 5 through 17 years of age. Programs provide access to mental health professionals and resources meeting children's and youths' social and emotional well-being, the science of hope, and connections to additional community resources for families.

(b) **Request for license.** Programs complete Form 07LC004E, Request for License-Child Care Program.

(c) **Inspections and approvals.** Programs meet inspection and approvals in (1) through (3) of this subsection.

(1) The program is inspected and approved by Oklahoma Human Services (OKDHS) Child Care Services (CCS), per Oklahoma Administrative Code (OAC) 340:110-3-400 (a) through (u).

(2) A fire inspection and approval is required.

(3) An Oklahoma State Department of Health (OSDH) inspection and approval is required when meals are prepared and served.

(d) **Personnel qualifications.** Personnel meet qualifications in (1) through (3) of this subsection.

(1) **Program or site director.** Program or site directors are at least 21 years of age and responsible for the day-to-day program operation. Program or site directors meet one of the educational and experience qualifications in (A) and (B) of this paragraph.

Program or site directors:

(A) have obtained a bachelor's degree from an accredited college or university with at least nine-college credit hours in family focus, child or youth development, sociology, social work, or a closely related subject, and six months children's and youth's services experience; or

(B) in lieu of a bachelor's degree have five years of experience in children's or youth's services; including care of children or youth with complex emotional needs and daily program operations.

(2) **Personnel meeting staff child and youth ratio.** Personnel possess adequate education, professional development, and experience to perform the position's essential functions. Personnel are at least 18 years of age and have a high school diploma or General Education Development (GED).

(3) **Personnel in charge.** Program personnel left alone with children or youth must meet personnel qualifications, be at least

21 years of age, and have a good understanding of licensing requirements and program policy.

(e) **Background investigations.** Background investigation requirements are met.

(1) **Required individuals.** Background investigations are required, per Section 401 et seq. of Title 10 of the Oklahoma Statutes (10 O.S. §§ 401 et seq.), Oklahoma Child Care Facilities Licensing Act (Licensing Act), unless an exception, per (3) of this subsection applies for:

- (A) owners, prior to authorization to operate;
- (B) responsible entities, prior to authorization to operate and, when there is a change in responsible entity;
- (C) personnel applicants, prior to hire. However, the program may hire individuals, when:
  - (i) the program has submitted a criminal history review request to the Office of Background Investigations (OBI);
  - (ii) only awaiting the national criminal history records search, based on fingerprint submission;
  - (iii) criminal history review results from OBI are received by the program. However, until complete results are received, the individual does not have unsupervised access to children or youth; and
  - (iv) coming from another licensed program owned by the same business entity. Individuals are not required to repeat the background investigation process, unless required, per (2) of this subsection, with the exception of criminal history restriction waivers, provided there is no break in employment from the business entity; and
- (D) individuals with unsupervised access to children and youth, prior to having access to children and youth, unless an exception per (3) of the subsection applies;
- (E) adults living in the facility, prior to authorization to operate or moving into the facility of an existing program. This includes children and youth, who become 18 years of age while living in the facility; and
- (F) individuals having access to, or review of, fingerprint results, prior to access to or review of results.

(2) **Resubmission of criminal history reviews as of November 2, 2017.** Effective November 2, 2017, programs request a criminal history review process, excluding fingerprinting, for required individuals every five years. However, criminal history reviews requested prior to November 2, 2017, are resubmitted by November 1, 2022.

(3) **Non-required individuals.** Background investigations are not required for:

- (A) specialized service professionals who are not program personnel, parent releases are signed and dated with an indication of understanding unsupervised access prior to children or youth seeing each professional.

- (B) volunteer drivers transporting children or youth on an irregular basis and not filling another position, parent releases are signed and dated with an indication of understanding unsupervised access prior to children or youth having access to each volunteer driver;
- (C) contracted drivers not filling another position or having unsupervised access to children or youth; and
- (D) contracted non-personnel not having unsupervised access to children or youth, such as when the program contracts for special activities or facility repair.

(4) **Restricted Registry.** The program conducts an online search of the Restricted Registry, also known as Joshua's List, when required, per (1) of this subsection.

(A) **Non-registrants.** Non-registrants are individuals not recorded on the Restricted Registry.

(B) **Registrants.** Registrants are individuals recorded on the Restricted Registry, who are prohibited from licensure, ownership, employment, unsupervised access to children or youth, or residence in a facility, or program licensed, certified, operated or contracted with by the Department or the Office of Juvenile Affairs, and prohibited individuals, per (8) of this subsection.

(5) **Criminal history.** The program and required individuals complete the criminal history review process. The program receives the completed criminal history review results from OBI when required, per (1) of this subsection.

(A) **Criminal history prohibitions.** Individuals with criminal history prohibitions are prohibited, per (8) of this subsection. Criminal history prohibitions include:

(i) required registration under the:

- (I) Sex Offenders Registration Act, including state and national repositories; or
- (II) Mary Rippe Violent Crime Offenders Registration Act; or

(ii) pleas of guilty or nolo contendere (no contest), or convictions of felonies involving:

- (I) murder, as defined in Section 1111 of Title 18 of United States Code;
- (II) child or youth neglect or abuse;
- (III) crimes against children and youth, including child and youth pornography;
- (IV) spousal abuse;
- (V) crimes involving rape or sexual assault;
- (VI) kidnapping;
- (VII) arson;
- (VIII) physical assault or battery; or
- (IX) a drug-related offense committed during the preceding five years, unless a criminal history restriction waiver, per (6) of this subsection is granted; or



(iii) pleas of guilty or nolo contendere (no contest), or convictions of violent misdemeanors committed as adults against a child or youth involving:

(I) child or youth abuse or child or youth endangerment; or

(II) sexual assault; or

(iv) pleas of guilty or nolo contendere (no contest), or convictions of misdemeanors involving child or youth pornography; or

(v) when an individual:

(I) refuses to consent to background investigations, per (1) of this subsection; or

(II) knowingly makes a materially-false statement in connection with criminal background investigations.

**(B) Criminal history restrictions.** Individuals with criminal history restrictions are prohibited, per (8) of this subsection, unless a criminal history restriction waiver is granted. Criminal history restrictions include pending charges, pleas of guilty or nolo contendere (no contest), or convictions of criminal activity involving:

(i) gross irresponsibility or disregard for the safety of others;

(ii) violence against an individual;

(iii) sexual misconduct;

(iv) child and youth abuse or neglect;

(v) animal cruelty;

(vi) illegal drug possession, sale, or distribution; or

(vii) a pattern of criminal activity.

**(6) Criminal history restriction waivers.** Restriction waivers are described in (A) through (D) of this paragraph.

(A) Restriction waivers may be requested for individuals having criminal history restrictions. The owner, responsible entity, or director completes requests on an OKDHS-provided form.

(B) Restriction waivers are not requested or granted for:

(i) Restricted Registry registrants;

(ii) individuals with criminal history prohibitions; or

(iii) individuals whose sentence has not expired for criminal history restrictions.

(C) Individuals identified in pending or denied restriction waiver requests are prohibited, per (8) of this subsection.

(D) Granted criminal history restriction waiver notifications are maintained at the facility.

**(7) References.** The program obtains at least three, non-relative references prior to hiring personnel applicants, with at least two references from the most recent employers, when applicable.

**(8) Prohibited individuals.** Prohibitions are described in (A) through (F) of this paragraph.

**(A) Background investigation of required individuals.**

The program does not allow a required individual to be the

owner or responsible entity, to be employed, to live in the facility, or have:

(i) access to children and youth, such as being present at the facility during the hours of operation or present with the children or youth in care while off-site, when the individual has:

(I) criminal history prohibitions;

(II) criminal history restrictions, unless a criminal history restriction waiver is granted. Individuals identified in a pending or denied restriction waiver request are prohibited; or

(III) a substantiated heinous and shocking abuse finding; or

(ii) unsupervised access to children or youth, when the individual is a Restricted Registry registrant.

(B) **Background investigation of drivers.** In addition to (A) of this paragraph, the program does not allow an individual who is required to obtain a background investigation to transport children or youth when the individual has entered a plea of guilty or nolo contendere (no contest), or been convicted of driving under the influence of alcohol or drugs or another impaired driving offense within the last five years.

(C) **Background of any individual.** The program does not allow any individual to have access to children and youth, such as being present at the facility during the hours of operation or present with the children and youth in care while off-site, when the program is aware the individual has criminal history prohibitions, per (5) of this subsection. However individuals may drop-off and pick-up children and youth in care.

(D) **Behavior or health of any individual.** The program does not allow any individual to have access to children and youth or live in the facility when the individual's behavior or health could endanger the health, safety, or well-being of children and youth.

(E) **Health of food service personnel.** In addition to (A) and (D) of this paragraph, the program does not allow any individual to work in any capacity in any area of food service whose health could endanger the health, safety, or well-being of children and youth, including communicable disease and infestation symptoms, other than head lice.

(F) **Treating medical personnel statement.** When it is reported or observed an individual has a physical, mental, or emotional condition that may negatively impact the children and youth or impair individual's ability to perform his or her assigned job responsibilities, the program may be required to submit a treating medical personnel statement to Licensing.

(f) **Personnel forms.** All program personnel, including program and site directors, complete an OKDHS-provided personnel form.

(g) **Responsibilities.** Personnel meet the general responsibility requirements in (1) through (2) of this subsection.

(1) **Complying with requirements.** Personnel comply with the requirements.

(2) **Caring for and educating children and youth.** Personnel:

(A) individualize the care and learning opportunities to meet each child's or youth's needs based upon the child's or youth's age and abilities, including reviewing the information provided by parents while respecting confidentiality;

(B) recognize and act to correct hazards to physical safety, both indoors and outdoors;

(C) demonstrate good judgment as evidenced by prudent and responsible behavior that reasonably ensures the health and safety of children and youth;

(D) demonstrate realistic expectations for behavior based on the age, abilities, and needs of children and youth; and

(E) work with children and youth without physical, psychological, or emotional punishment, mistreatment, or abuse.

(h) **Professional development.** Personnel meet professional development requirements in (1) through (5) of this subsection.

(1) All program personnel, including program and site directors, obtain an OKDHS- approved orientation, online video within one week of employment and prior to having sole responsibility of children or youth.

(2) At least one personnel is present in each building where children or youth are in care, off-site, or in vehicles during transportation; with current, age-appropriate cardio-pulmonary resuscitation and first aid (CPR/FA). When personnel do not currently have CPR/FA, obtaining at least online CPR/FA training is required.

(3) All program personnel, including program and site directors, receive Science of Hope training.

(4) At least one person per site is certified as a Hope Navigator.

(5) All program personnel, including program and site directors, obtain job-related professional development annually that includes health and safety topics as well as emergency preparedness. Documentation is maintained on-site and includes the topic, training source, length of training, and date received.

Topics include:

(A) prevention and control of infectious disease;

(B) administration of medication, consistent with standards for parental consent;

(C) prevention and response to emergencies due to food and allergic reactions;

(D) appropriate precautions in transporting children, when applicable;

- (E) building and physical premises safety; including identification of, and protection from, hazards, bodies of water, and vehicular traffic;
- (F) emergency preparedness and response planning for emergencies resulting from a natural disaster, or a man-caused event, such as violence at the facility, within the meaning of those terms, per Section 602(a)(1) of the Robert T. Stafford Disaster Relief And Emergency Assistance Act, per Section 5195a(a)(1) of Title 42 of the United States Code, that includes procedures for evacuation, relocation, shelter-in-place and lockdown, personnel and volunteer emergency continuity of operations and, accommodation of children and youth with disabilities and chronic medical conditions;
- (G) handling and storage of hazardous materials and appropriate disposal of bio contaminants;
- (H) age appropriate CPR/FA; and
- (I) recognition and reporting of child abuse and neglect, per (j) of this Section.

(i) **Child and youth records.** Programs maintain child and youth information on an OKDHS-provided form.

(j) **Reporting.** Programs meet reporting requirements in (1) through(3) of this subsection.

(1) **Licensing.** The owner, responsible entity, or program or site director notifies Licensing by the next OKDHS-business day of:

- (A) a known legal action, such as a Victim Protection Order, arrest, or criminal investigation or charge, involving the program, owner, responsible entity, personnel, or an individual living in the facility;
- (B) a known child or youth neglect or abuse investigation involving the owner, responsible entity, personnel, or an individual living in the facility that is pending or has a disposition;
- (C) an unscheduled, temporary or permanent program closure or relocation;
- (D) facility damage affecting the amount of usable square footage or compliance with requirements;
- (E) an incident that exposes children or youth to an imminent risk of harm, such as a child or youth leaving the facility without program knowledge, or being left alone on- or off-site or in a vehicle;
- (F) an animal bite to an individual that occurs on-site at any time or off-site when participating in program activities;
- (G) an accident involving transportation, unless there were no injuries and only minor damage to the vehicles;
- (H) a child or youth injury requiring emergency medical attention; and
- (I) a child or youth death or near death, occurring while in care.

(2) **Child or youth abuse and neglect and human trafficking.**

(A) Abuse and neglect. Any person who has reason to believe a child or youth has been abused or neglected, per 10A O.S. § 1-1-105, is required to report the matter promptly to the OKDHS Child Abuse and Neglect Hotline at 1-800-522-3511, per 10A O.S. § 1-2-101. Failure to report is a misdemeanor offense and, upon conviction, is punishable by law. Failure to report with prolonged knowledge, six months or more, of ongoing abuse or neglect is a felony offense.

(B) Human trafficking. Per 21 O.S. § 870, every person having reason to believe that a person or child-placing agency is engaging in the crime of trafficking in children or youth, as described in 21 O.S. § 866, reports the matter promptly to the Oklahoma Bureau of Narcotics and Dangerous Drugs Control.

(3) **Heinous and shocking abuse notification.** OKDHS notifies programs of a substantiated finding of heinous and shocking abuse by a person responsible for a child's health, safety, or welfare, as defined, per 10A O.S. § 1-1-105. Upon receiving the notice, the facility owner or primary caregiver provides notification to parents or legal guardians of children attending the facility using an OKDHS-provided form.

(A) Notification is:

- (i) immediately attempted but not later than 72 hours of notice receipt from OKDHS; and
- (ii) provided by certified mail.

(B) The program maintains the list of notified parents and legal guardians for at least 12 months.

(k) **Staff to child and youth ratio.** Children and youth are adequately supervised at all times whether on or off the facility premises. Ratios and age groups of children and youth are maintained, per (1) and (2) of this subsection.

(1) Children 5 through 12 years of age have one personnel to 20 children.

(2) Youth 13 through 17 years of age have one personnel to 25 youth.

(l) **Facility and premises.** Facility requirements are met, per (1) through (16) of this subsection.

(1) **Utilities.** Programs have operable utilities, including hot water.

(2) **Square footage and capacity.** Indoor square footage and areas are maintained, per (A) through (C) of this paragraph.

(A) **Indoor square footage for licensed capacity.** A minimum of 35 square feet of indoor floor space per child and or youth is required for routine use by children and youth.

(B) **Areas not counted toward licensed capacity or limited for children's and youth's use.** Some areas may not be suitable for children's and youth's use or only under the conditions listed in (i) through (iii) of this subparagraph.

(i) Areas not counted toward the licensed capacity are:

- (I) restrooms, kitchens, and hallways;
- (II) storage closets and supply rooms;
- (III) personnel offices, work rooms, and break rooms;
- (IV) areas occupied by furniture not for children's or youth's use; and
- (V) supplemental areas or rooms used exclusively for eating, rest time, gross motor activities, or care of ill children or youth.

(ii) Basements, areas partially below ground level, and floors above ground level are only counted toward the licensed capacity when approved by the local or state fire governmental authority having jurisdiction. Fire inspection approval is also required before children or youth use the area for any reason, except as part of the emergency plans and procedures, such as during tornados or lock-downs. Fire inspection reports indicate age restrictions. When used by children or youth, basements are finished, dry, and ventilated.

(iii) Large areas, such as gymnasiums are only counted toward the licensed capacity when divided into rooms for children 5 years of age and older; however, they may be used as a supplemental area for any age.

(C) **Room capacity.** Rooms are not routinely occupied by more children or youth than can be accommodated by the square footage, per (A) of this paragraph.

(3) **Hazards.** Hazards mean anything that may inflict injury or cause harm.

(A) The facility is free of hazards.

(B) Hazardous items are inaccessible, including those in personal belongings, such as backpacks and purses.

(C) Personnel recognize and act to correct hazards to physical safety, both indoors and outdoors.

(4) **Illegal drugs.** The facility and vehicles used to transport children or youth are free of illegal drugs and paraphernalia.

(5) **Tobacco products.** Tobacco and simulated tobacco products and related items, such as ashtrays and cigarette butts are inaccessible.

(6) **Matches and lighters.** Matches and lighters are inaccessible.

(7) **Open flames.** Items with open flames, such as candles are not used during the hours of operation.

(8) **Weapons and ammunition.** Any weapons and ammunition, such as firearms, cap pistols, bows and arrows, and hunting knives are kept in an inaccessible area. In addition:

(A) weapons are kept unloaded in locked containers or cabinets;

- (B) ammunition is kept in locked containers or cabinets, separate from weapons;
- (C) keys, combinations, and codes used for locked storage are inaccessible; and
- (D) parents are informed of weapons.

(9) **Vehicle items.** When transported, children or youth are protected from items in the vehicle that may become a hazard during vehicle operation or in the event of an accident.

(10) **Miscellaneous.** The requirements in (A) and (B) of this paragraph are met.

- (A) Fireworks are inaccessible.
- (B) Compressed gas cylinders are secured to prevent falling over.

(11) **Animals.** Animals on the premises do not pose a health or safety risk to children and youth. Current vaccination records are maintained at the facility.

(12) **Water safety.** Pools and other bodies of water are inaccessible.

- (A) On-site indoor and outdoor swimming pools are enclosed and secured to prevent unsupervised access. Doors and gates leading to the pool are locked.
- (B) Outdoor in-ground pools are fenced and fencing:
  - (i) is sturdy;
  - (ii) cannot be easily climbed;
  - (iii) is at least four feet high and starts at ground-level; and
  - (iv) may include a building wall, provided doors are kept locked and any windows are unable to be opened by children or youth.
- (C) Outdoor above-ground pools have:
  - (i) a fence that meets the in-ground pool fencing requirements;
  - (ii) at least four feet of non-climbable pool sidewalls; or
  - (iii) a combination of pool sidewalls and fencing, with the fence attaching to and extending above the pool sidewalls, for a total height of at least four feet.
- (D) Outdoor above-ground pools with steps leading to the pool have the steps removed or otherwise protected to prevent unsupervised access.

(13) **Bathrooms.** Bathrooms meet sink and toilet requirements. Programs may request an alternative compliance, when needed. OKDHS approvals are granted on a case-by-case basis. The facility has:

- (A) one toilet and one sink for every 25 children and youth; and
- (B) separate restrooms for male and female youth 13 through 17 years of age.

(14) **Toileting facilities.** The toileting facilities:

- (A) have operable toilets;

- (B) have toilet paper within easy reach of children and youth;
- (C) with doors, unlock from the outside in an emergency; and
- (D) used by children 6 years of age and older provide privacy, such as being equipped with doors or having children or youth take turns while supervision is maintained.

(15) **Hand washing facilities.** The hand washing facilities requirements in (A) and (B) of this paragraph are met.

(A) Required sinks are plumbed, per the Oklahoma Plumbing Licensing Act.

(B) Hand washing facilities have:

- (i) operable sinks with running water between 80 and 120 degrees Fahrenheit; and
- (ii) soap, paper towels or mechanical hand dryers, and trash containers within easy reach of children and youth.

(16) **Food storage.** Programs maintain adequate food storage.

(m) **Children and youth health.** Programs meet medication and health requirements, per (1) through (9) of this subsection.

(1) **Program policy.** The program maintains medication policy that includes procedures for:

- (A) storing, administering, returning, and disposing of medications;
- (B) storing, using, returning, and disposing of medical waste, such as syringes, needles, and lancets;
- (C) using sun safety methods, such as sunscreen; and
- (D) using insect repellent.

(2) **Parent provides.** Prescription and over-the-counter medications are provided by the individual child's or youth's parent.

(3) **Parental permission.** Parental permission is obtained prior to administering the medication. Documentation is maintained at the facility.

(4) **Administration.** Medications are administered, per the requirements in (A) through (F) of this paragraph.

(A) Medications are only administered:

- (i) by the designated personnel; and
- (ii) to the child or youth whose full name is on the container label.

(B) Expired medication is not administered.

(C) Prescription medications are administered according to the container instructions, including only administering when the medication is part of a prescribed therapeutic treatment.

(D) Over-the-counter medications are administered according to the:

- (i) container instructions; or
- (ii) physician instructions.



(E) Oral medications are administered with a measuring device designed to measure medication.

(F) Each dose administered is immediately documented.

(5) **Inaccessible.** Medications are inaccessible to children and youth.

(6) **Labeling and storing.** Medications are:

(A) maintained in the original container;

(B) labeled with the child's or youth's full name;

(C) stored according to the container label, including temperature; and

(D) stored in locations, such as cabinets or drawers, clearly labeled "medication." In addition:

(i) refrigerated medications are stored in a container clearly labeled "medication"; and

(ii) life-threatening condition medications, such as epinephrine pens and rescue inhalers, are in close proximity to the child or youth for immediate administration when needed, such as being in the same classroom or supplemental activity area as the child or youth, outdoors when the child or youth is outside, or on field trips.

(7) **Return to parents.** Medications are returned to parents:

(A) daily;

(B) when the parental permission period ends as documented;

(C) when the medication expires; or

(D) when the child or youth is withdrawn from the program.

(8) **Insect repellents and sunscreens.** Insect repellents and sunscreens are not considered medications. The program maintains insect repellent and sun safety policies.

(9) **COVID-19 virus guidelines.** Programs follow the Center for Disease Control (CDC) or Oklahoma State Department of Health COVID-19 virus guidelines for hand washing, group sizes, and use of personal protective equipment (PPE).

(n) **Food and nutrition.** Programs provide two meals and snacks per day and meet Child and Adult Care Food Program (CACFP) guidelines. Nutritional weekend food supplements are provided to children and youth.

(1) **Required meals and snacks.** The program ensures children and youth are served meals and snacks according to program hours of operation and children's and youth's attendance, regardless of the program or parents providing the food.

(A) **Full day care.** Morning meal or snack, mid-day meal, and afternoon snack are served.

(B) **Evening care.** Evening meal and evening snack are served.

(C) **Overnight care.** Evening meal, evening snack, and morning meal are served.

(D) **Children's and youth's attendance.** Children or youth in care over a four-hour period are served a meal.

(2) **Nutritional quality and quantity.** The nutritional requirements in (A) and (B) of this paragraph are met.

(A) **Meals and snacks.** Meals and snacks are required to meet the current CACFP guidelines, per OAC 340 Appendix LL - Meal and Snack Patterns.

(B) **Additional servings.** Additional servings:

- (i) are available when the child or youth remains hungry;
- (ii) meet the nutritional requirements, per this subsection; and
- (iii) are not required to be the same food as the first serving.

(3) **Water.** Safe drinking water is freely available to children and youth at all times. Children and youth are encouraged to drink water throughout the day, especially before, during, and after outdoor activities.

(4) **Program provided meals and snacks.** When the program provides the meals, snacks, or both, the parents may be requested and allowed to provide for:

(A) their own children or youth who:

- (i) have special dietary needs, including health or religious restrictions; or
- (ii) are participating in a field trip; and

(B) a group of children or youth on special occasions.

(5) **Allergies.** Programs request child and youth food allergy information from parents.

(o) **Discipline and personnel interaction.** Discipline is developmentally appropriate, responsive to the circumstances, constructive, and provides an opportunity to learn and meets requirements in (1) through (3) of this subsection.

(1) **General.** Personnel do not seek or accept parental permission that does not comply with requirements.

(2) **Appropriate discipline.** Personnel use appropriate discipline methods.

(A) **Assessment.** Personnel evaluate the environment, atmosphere, and activities before considering specific child or youth interventions.

(B) **Interaction.** Personnel interact with an attitude of understanding and firmness.

(C) **Fairness and consistency.** Personnel use fair and consistent rules.

(D) **Perspective.** Personnel maintain perspective and recognize every behavior does not require the teaching personnel's attention or intervention.

(E) **Expressing acceptance and disapproval.** Personnel speak so children and youth understand they and their feelings are acceptable, but their action or behavior may be unacceptable.

(F) **Self-control.** Personnel encourage children and youth to develop self-control.

(G) **Relevant.** Personnel choose discipline relevant to the behavior.

(H) **Redirect.** Personnel provide alternatives when the behavior is unacceptable.

(I) **Consequences.** Personnel use safe, natural, and logical consequences to help children and youth take responsibility for their actions.

(J) **Individualize.** Personnel recognize every discipline method is not effective with every child or youth, circumstance, or both.

(3) **Inappropriate discipline.** Personnel are prohibited from using or threatening to use inappropriate discipline.

(A) **Physical.** Examples of inappropriate physical discipline include:

- (i) actions that could cause pain, such as shaking, striking, spanking, swatting, thumping, pinching, popping, shoving, spitting, hair pulling, yanking, and slamming;
- (ii) biting a child or youth;
- (iii) putting anything in, or on, a child's or youth's mouth;
- (iv) exposure to extreme temperatures;
- (v) excessive or forced exercise; and
- (vi) restraining a child or youth by any means other than holding, and then for only as long as necessary for the child or youth to regain self-control.

(B) **Psychological and emotional.** Examples of inappropriate psychological and emotional discipline, include:

- (i) humiliating, rejecting, or neglecting a child or youth;
- (ii) making derogatory or sarcastic remarks about a child's or youth's family, race, gender, religion, or cultural background;
- (iii) yelling at a child or youth out of anger or using harsh or profane language;
- (iv) punishing or threatening a child or youth in association with:
  - (I) education, such as writing repetitive sentences and homework;
  - (II) withdrawing, denying or forcing food, rest, or toileting; and
  - (III) withdrawing or denying outdoor activity or a weather-alternate activity; or
- (v) isolating a child or youth without supervision;
- (vi) placing a child or youth in a dark area;
- (vii) allowing a child or youth to discipline other children or youth; or
- (viii) punishing an entire group due to the actions of one or a few children or youth.

(p) **Child and youth programming and equipment.** Program activities are age-appropriate and provide enrichment activities to address social and emotional well-being and the science of hope.

(1) Program personnel help facilitate children and youth's remote and virtual learning; including assistance with homework and class assignments.

(2) Activities for children 5 through 12 years of age meet requirements in (A) through (D) of this paragraph. Each child or youth is:

(A) provided an inclusive environment that:

(i) meets the child's and youth's needs and encourages full participation; and

(ii) is equipped and prepared for learning, based on each child's or youth's age, needs, and interests;

(B) provided multiple opportunities to engage individually or in small, informal groups for the majority of the day;

(C) allowed to choose an activity, whether teaching personnel-directed or child- or youth-selected; and

(D) encouraged, but not forced, to participate in program activities, with adaptations made to ensure safety and participation.

(3) **Electronic and print media.** Media may be used with children and youth, provided these restriction requirements are met.

(A) Electronic and print media are chosen with discretion and selectivity and are:

(i) non-violent;

(ii) non-vulgar;

(iii) non-sexually explicit;

(iv) culturally sensitive; and

(v) age-appropriate, according to widely accepted rating systems.

(B) When the Internet is accessible for children's or youth's use, the program ensures children and youth do not have access to inappropriate websites, email, instant messaging, and similar technology.

(C) Screen time is:

(i) viewing electronic media with a screen, such as television (TV), digital video display (DVD), videos, video games, phones, and computers. Screen time includes children and youth watching the screens while others use the media, such as game playing or watching videos;

(ii) not used during meal and snack times; however, snacks may be provided during occasional special activities; and

(iii) limited for all other groups whether a teaching personnel-directed or child-or youth-selected activity.

(D) Technology and media do not replace hands on learning activities. Instead technology aligns and is

integrated with other core lesson plan experiences and opportunities in the child or youth care program.

(E) Recommended daily screen time for limited screen time activities outside of virtual learning activities should not exceed:

- (i) one hour and 45 minutes a day for pre-kindergarten and kindergarten;
- (ii) two hours and 10 minutes a day for 1st and 2nd grades;
- (iii) two hours and 20 minutes a day for 3rd through 5th grades; or
- (iv) four hours a day for 6th grade and above.

(F) Personnel do not use electronic media for personal use in the presence of children or youth, with the exception of an e-reader when used during rest time for reading, provided supervision is maintained.

**(4) Equipment for children 5 through 12 years of age.**

Equipment meets developmental needs of children in care. When obtaining and maintaining basic activity equipment, the requirements in this paragraph are met.

(A) **Type and quantity.** The equipment is:

- (i) of appropriate type and size to meet the physical, cognitive, emotional, and social development needs of the age group, individual children, or youth in care; and
- (ii) provided in type and quantity, per OAC 340 Appendix MM - Equipment, utilizing the equipment chart for children 6 years of age and older. An exception to the book quantity requires only five books for every 20 children.

(B) **Condition.** The equipment is:

- (i) safely constructed, and lead free;
- (ii) installed, maintained, and used according to the manufacturers' instructions;
- (iii) maintained in a safe condition that prevents hazards, such as splinters, loose parts, protrusions, and sharp edges;
- (iv) complete and in good working condition and repair, without holes and tears; and
- (v) clean and sanitary.

**(5) Equipment for youth 13 through 17 years of age.**

Equipment is adequate for the number of youth in care and provides a variety of appropriate activities.

(q) **Transportation.** When children or youth in care are transported in a vehicle, whether provided, arranged, or contracted by the program, requirements in (1) through (8) of this subsection are met.

(1) **General.** Programs meet requirements in (A) through (C) of this paragraph.

(A) When the program contracts for transportation, including the use of public transportation, the program is responsible for ensuring the contracted entity meets the

transportation requirements, including child passenger safety training.

(B) Children and youth are not transported in vehicles or parts of vehicles not designed for transporting people, such as truck beds, campers, and trailers.

(C) Drivers and vehicles used to transport children and youth are in compliance with all applicable state laws, including vehicle insurance. Insurance documentation is maintained at the facility.

(2) **Driver, child passenger safety, and CPR/FA.** Driver and professional development requirements in (A) through (D) of this paragraph are met.

(A) **Drivers.** The program may employ individuals or use volunteers or other personnel who meet these position specific requirements. Drivers:

- (i) are at least 21 years of age;
- (ii) are not youth in care;
- (iii) have a valid driver or commercial driver license (CDL) in his or her state of residence, appropriate for the type of vehicle driven. License documentation is maintained at the facility;
- (iv) who are contracted personnel or volunteers, may not be required to obtain criminal history reviews, per (e)(3); and
- (v) are prohibited when required, per (e)(8).

(B) **Position specific responsibilities.** Drivers:

- (i) transport children and youth; and
- (ii) meet the transportation requirements, per this subsection.

(C) **Position specific professional development.**

Drivers, excluding volunteers who transport on an irregular basis and do not fill another position, obtain within three months of transporting children or youth:

- (i) child passenger safety training, from the program's trained personnel or an OKDHS-approved child passenger safety course or a trained personnel is in the vehicle with the contracted driver, unless the vehicle used is exempt, per (7)(E) of this subsection. In addition, personnel who assist with child passenger restraints obtain this training from the options indicated, within three months of assisting; and
- (ii) vehicle safety training:
  - (I) for the safe operation of the type of vehicle driven, when driving a vehicle designed to transport 10 or more passengers; and
  - (II) from any training source, excluding owner manuals.

(D) **CPR/FA.** The CPR/FA certification requirements are met.

(3) **Parental permission and attendance documentation.**

Permission and attendance requirements in (A) and (B) of this paragraph are met.

(A) Transportation and field trip permission is maintained at the facility.

(B) Attendance documentation is maintained at the facility.

(4) **Ratios and supervision.**

Ratios and supervision requirements in (A) through (D) of this paragraph are met.

(A) The driver may count in ratios.

(B) Children and youth are never left unattended in vehicles.

(C) Supervision during transportation:

(i) begins at the pre-arranged pick-up time or when the child or youth is actually picked up, whichever is earlier. When the child or youth is not present or there is a contradiction about who is responsible for picking up the child or youth, the program informs the parent; and

(ii) ends at the pre-arranged drop-off time or when the child or youth is actually dropped off, whichever is later. The child or youth is only left at the pre-arranged drop-off location or with the individual designated by the parent.

(D) Children's and youth's entire bodies remain in the vehicle.

(5) **Communication.** Communication device requirements in (A) and (B) of this paragraph are met.

(A) An operable phone is in each vehicle when children or youth are transported.

(B) Drivers do not use any communication device while driving.

(6) **Safety and tobacco-free.** Safety requirements in (A) through (E) of this paragraph are met.

(A) Vehicles have a first aid kit.

(B) Vehicles are free of hazards.

(C) Safe conduct to, and from the vehicles, and safe off-street loading spaces are provided to protect children and youth from:

(i) backing vehicles;

(ii) being between vehicles; and

(iii) traffic hazards.

(D) The vehicle door locks are activated when the vehicle is moving.

(E) Tobacco use is prohibited.

(7) **Passenger restraint, seating, and airbags.** Passenger restraint, seating, and airbag requirements in (A) through (E) of this paragraph are met.

(A) Vehicle maximum capacity and seating space, per manufacturers' designations is not exceeded.

(B) Children and youth sit in seats behind the front seat. However, when all these positions are taken by other

children or youth in care, children and youth may sit in the front seat, provided requirements in (i) and (ii) of this subparagraph are met.

(i) When there is a front seat passenger airbag and children 12 years of age and younger are in the front seat, the airbag is deactivated by a weight-sensitive seat when equipped with such, or a manual switch.

(ii) When the airbag cannot be deactivated, the front seat is pushed back as far as possible and only a child whose age and weight requires a forward facing car seat with a harness, per manufacturers' instructions may sit in the front seat.

(C) Child passengers remain properly secured in child passenger restraint system, such as a booster seat or an individual seat belt in compliance with applicable state laws, unless the vehicle is exempt, per (E) of this paragraph. Children or youth do not share a seat belt.

(i) Booster seats are:

(I) federally approved;

(II) installed according to the manufacturers' instructions;

(III) appropriate to the height, weight, and physical condition of the child, per manufacturers' instructions; and

(IV) properly maintained, such as not expired or previously involved in a vehicle accident.

(ii) Seat belts:

(I) are properly anchored to the vehicle; and

(II) fit the child appropriately, per child passenger safety training.

(D) Adult passengers, including the driver, remain properly secured in an individual seat belt unless:

(i) unable, due to medically documented reasons; or

(ii) the vehicle is exempt, per (E) of this paragraph.

(E) The vehicle exemption to passenger restraints is for buses, unless designed for, or equipped with seat belts, or the Lower Anchors and Tethers for Children (LATCH) system. Passengers remain seated in exempt vehicles.

**(8) Vehicles and vehicle maintenance.** Vehicle maintenance requirements in (A) through (C) of this paragraph are met.

(A) The vehicle requirements apply to:

(i) program vehicles at all times; and

(ii) personal vehicles when transporting children or youth.

(B) Vehicle maintenance is:

(i) conducted at least quarterly on:

(I) program vehicles; and



(II) personal vehicles used on a regular basis; and

(ii) documented and maintained at the facility.

(C) The vehicles:

(i) are identified with the program or business entity name and phone number that is easily read by the public, unless using contracted transportation;

(ii) are in a safe operating condition;

(iii) have an operable heater used during cold weather to maintain an interior temperature of at least 65 degrees Fahrenheit;

(iv) have a ventilation system used during hot weather, such as air conditioning or operable windows; and

(v) have stationary padded seats, with a back properly anchored to the vehicle.

(r) **Family communication and community resources.** Parents are informed of children's and youth's activities and health, per (1) through (4) of this subsection.

(1) **Immediately.** The program immediately notifies parents of:

(A) a child or youth who does not arrive on his or her own at the facility as scheduled, such as when walking to the facility;

(B) a child or youth not present at the pick-up location as scheduled;

(C) a child, youth, or individual at the pick-up location who believes the child or youth is to be transported by the program, when the program is not providing this transportation;

(D) administration of a life-threatening condition medication only administered as needed;

(E) an injury that may need a licensed physician's evaluation;

(F) poison exposure; and

(G) an animal bite to a child or youth, when the skin is broken or when a licensed physician's evaluation may be needed.

(2) **Promptly.** The program notifies parents promptly of a child or youth who is separated from the group due to an illness or infestation or when exclusion is required, per OAC 340 Appendix JJ - Exclusion Criteria for Children Who Are Ill.

(3) **Upon child and youth pick up.** The program notifies parents upon child or youth pick up of:

(A) changes in the child's or youth's physical or emotional state;

(B) known minor injuries;

(C) illness or infestation symptoms that developed or changed;

(D) a communicable disease or infestation exposure;

- (E) an animal bite to a child or youth, when the skin is not broken; and
- (F) implemented emergency plans and procedures, except for drills.

(4) **Prior.** Parental permission is required prior to:

- (A) medication administration;
- (B) transportation;
- (C) field trips including the date, time, and location; and
- (D) volunteer drivers transporting children or youth, per (e)(3) of this Section.

(s) **Emergency preparedness.** Programs meet (1) through (7) of this subsection.

(1) **Emergency plans and procedures.** Emergency plans and procedures requirements are met.

(A) **General.** The program is required to have emergency plans that are:

- (i) individualized to the program and hours of operation;
- (ii) followed, unless children's or youth's safety is at risk or emergency personnel provide alternative instructions during an emergency; and
- (iii) maintained in a readily available and portable manner for emergencies.

(B) **Situations.** Emergency plans include procedures for:

- (i) serious injuries;
- (ii) serious illnesses;
- (iii) poison exposure;
- (iv) outbreaks of communicable diseases, including pandemics, such as influenza and Covid-19 virus;
- (v) weather conditions, including tornados, floods, blizzards, and ice storms;
- (vi) fires, including wildfires;
- (vii) man-made disasters, including chemical and industrial accidents;
- (viii) human threats, including individuals with threatening behaviors, bomb threats, and terrorist attacks;
- (ix) lost or abducted children and youth;
- (x) utility disruption; and
- (xi) other natural or man-made disasters that could create structural damage to the facility or pose health hazards.

(C) **Children and youth needs.** Emergency plans include procedures for addressing each child's or youth's needs, with additional considerations for children and youth with disabilities or chronic medical conditions.

(D) **Account for children and youth.** The emergency plans include procedures to account for each child's and youth's location during an emergency.

(E) **Shelter-in-place.** Emergency plans include shelter-in-place procedures for short-and extended-stay situations

that require children and youth to stay in the building, such as during tornados and other weather emergencies.

(F) **Lock-down.** Emergency plans include lock-down procedures for situations threatening children's, youth's and personnel's safety. Lock-down procedures include:

- (i) notifying personnel;
- (ii) keeping children and youth in designated safe locations in the building;
- (iii) encouraging children and youth to remain calm and quiet;
- (iv) securing building entrances;
- (v) preventing unauthorized individuals from entering the building. When the program is in a shared facility, the program entrances are secured; and
- (vi) responding when outdoors and on field trips.

(G) **Evacuation.** Emergency plans include evacuation procedures for situations, such as building fires, requiring children, youth, and personnel to leave the building.

Evacuation procedures:

- (i) include at least two evacuation routes labeled on the floor plan of the program;
- (ii) are posted in each area of the program utilized by children, youth, and personnel; and
- (iii) identify pre-determined meeting locations.

(H) **Relocation.** Emergency plans include relocation procedures for situations requiring children and youth move to an alternate location, such as bomb threats and wildfires. Relocation procedures include:

- (i) pre-determined primary and secondary alternate locations, with prior approval from the contact individual at the alternate locations;
- (ii) relocating children and youth, including a pre-determined transportation plan; and
- (iii) reuniting parents with children and youth.

(I) **Reporting.** Emergency plans include procedures for notifying:

- (i) emergency authorities, including the poison control center, when necessary;
- (ii) parents, including a method and backup method for how and when parents are notified; and
- (iii) Licensing, per (j) of this Section.

(J) **Personnel.** Emergency plans include procedures for ensuring personnel are familiar with the:

- (i) current emergency plans and procedures, including roles and responsibilities in an emergency;
- (ii) location of the emergency plans and procedures;
- (iii) location of the posted emergency information;

- (iv) location of the first aid and emergency supply kits; and
  - (v) location and use of the fire extinguishers.
- (2) **Phones.** Phone requirements in (A) through (C) of this paragraph are met.
  - (A) **On-site.** The program provides an operable phone in each building and on each floor.
  - (B) **Off-site.** An operable phone is available at off-site activities.
  - (C) **Vehicles.** An operable phone is in each vehicle when children or youth are transported.
- (3) **Posted emergency information.** Emergency information is posted, per (A) through (C) of this paragraph.
  - (A) **Program information and emergency numbers.** Information and numbers are posted in a prominent location for personnel and all areas utilized for children, youth, and personnel. Items to post include:
    - (i) the program name and address, with main cross streets or directions to the facility;
    - (ii) 911, where available; or local law enforcement, fire department, and ambulance services and
    - (iii) poison control, 1-800-222-1222.
  - (B) **First aid kit, emergency supply kit, and fire extinguisher locations.** Locations of first aid and emergency supply kits and extinguishers are posted in all areas used by children and youth.
  - (C) **Evacuation routes.** Routes are posted, per (1)(G) of this subsection.
- (4) **First aid kits.** First aid kits meet requirements in (A) through (E) of this paragraph.
  - (A) **Location.** First aid kits are located in each building and in vehicles when transporting children and youth.
  - (B) **Accessibility.** First aid kits are accessible to personnel at all times and inaccessible to children and youth.
  - (C) **Replacement.** First aid kit supplies are replaced as needed, including expired items.
  - (D) **Sanitary.** First aid kit supplies are maintained in a clean and sanitary manner, including sanitizing re-usable supplies.
  - (E) **Supplies.** First aid kit supplies are stored together in a portable container.
    - (i) Supplies include, at least:
      - (I) non-medicated adhesive strips;
      - (II) sterile gauze pads;
      - (III) rolled flexible or stretch gauze;
      - (IV) bandage tape;
      - (V) disposable non-porous, latex-free gloves;
      - (VI) blunt-tipped scissors;
      - (VII) tweezers;
      - (VIII) a non-glass and non-mercury thermometer. The appropriate thermometer

and method are used to take a child's or youth's temperature when there is a concern;

(IX) a current first aid guide; and

(X) a copy of the posted program information and emergency numbers, per (3) of this subsection.

(ii) In addition, the first aid kits in vehicles include, at least:

(I) a cold pack;

(II) liquid soap and water or individually packaged moist, disposable towelettes, for cleaning wounds;

(III) hand sanitizer and moist, disposable towelettes, for hand hygiene;

(IV) plastic bags for disposal of items contaminated with blood or other body fluids; and

(V) a pen or pencil and note pad.

(5) **Emergency supply kit.** Emergency supply kits meet requirements in (A) and (B) of this paragraph.

(A) **Records.** Records available during an emergency include, at least the:

(i) emergency plans and procedures and alternate location addresses, phone numbers, and contacts;

(ii) emergency contacts; and

(iii) full names of children, youth, and personnel currently in attendance.

(B) **Supplies.** Emergency supplies gathered at the time of an emergency or maintained in a portable container at all times include, at least:

(i) a first aid kit; and

(ii) children's and youth's prescribed medications, including life-threatening condition medications.

(6) **Testing and maintaining emergency equipment.**

Equipment is tested and maintained, per (A) through (C) of this paragraph.

(A) **Individual smoke and carbon monoxide alarms.**

When the facility is equipped with individual alarms and not a central detection system the alarms are:

(i) operable; and

(ii) tested at least monthly. Documentation is maintained in writing at the facility and includes the testing date.

(B) **Central detection and alarm system for smoke and carbon monoxide.** When the facility is equipped with a hard-wired or wireless detectors connected to a central control panel, the system is:

(i) fully functional;

(ii) checked at least monthly by viewing the control panel and documentation is maintained in writing

at the facility and includes the date checked. This is not required when a company continuously monitors the system for full-function as documented per the contract; and  
(iii) inspected and tagged at least every 12 months by a state-licensed authority.

**(C) Fire extinguishers and automatic sprinkler systems.** Fire extinguishers and automatic sprinkler systems are:

- (i) fully functional; and
- (ii) inspected and tagged at least every 12 months by a state-licensed authority.

**(7) Drills and reviews.** Drills and reviews are conducted, per (A) through (E) of this paragraph.

**(A) General.** Drills and reviews are documented in writing and maintained at the facility, including the dates of the activity and the personnel in charge of conducting the drill. The drills are conducted:

- (i) at various times throughout the hours of operation, such as morning, mid-day, afternoon, and evening, so children, youth, and personnel in attendance at various times are involved in each type of drill at least one time every three months;
- (ii) by following the pre-determined emergency plans and procedures; and
- (iii) per required scheduling.

**(B) Monthly drills.** Monthly drills include:

- (i) fire drills conducted by evacuating and meeting at pre-determined locations; and
- (ii) tornado drills conducted by sheltering in pre-determined on-site locations.

**(C) Annual drills.** Annual drills include:

- (i) locking-down by sheltering in pre-determined on-site locations;
- (ii) relocating according to procedures of preparation to relocate, but do not require physical relocation;
- (iii) sheltering-in-place, requiring children, youth, and personnel stay inside the facility, such as during tornados and other weather emergencies; and
- (iv) evacuating and meeting at pre-determined locations.

**(D) Lock-down and relocation procedures review.**

Personnel review the procedures at least once every 12 months.

**(E) Emergency plans and procedures review.** The director updates as necessary, and reviews emergency plans and procedures:

- (i) at least once every 12 months;

- (ii) upon enrollment of children and youth with disabilities or chronic medical conditions;
- (iii) after a drill when procedure issues are identified; and
- (iv) after an emergency, as identified in this subsection.

(t) **Required postings and policy.** Items in (1) and (3) are posted at the program's main entrance where the parents and public enter and posted in a conspicuous location within clear view.

(1) **Notice to parents.** OKDHS Publication No. 14-01, Notice to Parents, is posted.

(2) **Program liability insurance policy.** Program liability insurance is maintained, unless an exception, per Section 404.3 of Title 10 of the Oklahoma Statutes, Oklahoma Child Care Facilities Licensing Act, is posted, per (3) of this subsection.

(3) **Program liability insurance exception notification.** The OKDHS-provided form is posted when program liability insurance is not maintained or program reports being self-insured.

(u) **Parental notifications.** Compliance file and insurance notification requirements are met, per (1) and (2) of this subsection.

(1) **Compliance file.** Items are originals or copies and are maintained together, with the most recent on top and all child and youth identifying information removed. The compliance file includes items within the last 120-calendar days, at a minimum, from the date on the document or the investigation completion date on the form, unless requirements specifically state otherwise. The compliance file only contains:

(A) compliance monitoring from Licensing, Stars, and tribal agencies, such as:

(i) monitoring visit forms, including most recent visit; and

(ii) case status information, such as forms and correspondence regarding:

(I) issuance of permits and licenses;

(II) non-compliances and Stars violations;

(III) notices to comply;

(IV) complaint findings;

(V) office conferences with Licensing, Stars, and tribal agencies;

(VI) Stars alternative settlements and reductions; and

(VII) consent agreements, denials of a request for a license, and revocations of a license;

(B) child welfare investigative summary, regardless of findings. However, confirmed or substantiated findings are maintained in the file for 12 months;

(C) granted criminal history restriction waiver notifications. However, notification is maintained in the file for as long as the individual is employed or is living in the facility; and

(D) other documents indicating placement in the compliance file.

**(2) Compliance file and insurance parental notifications.**

Parents are provided information regarding insurance liability and the compliance file.

(A) Parents complete OKDHS-provided forms every 12 months regarding insurance liability and the compliance file. Forms are maintained at the facility.

(B) When the child or youth is enrolled, parents are provided copies of OKDHS-provided Form 07LC093E, Insurance Exception Notification, and OKDHS Publication No. 14-01, Notice to Parents.

[Source: Added at 38 Ok Reg 2359, eff 9-15-21 ; Amended at 40 Ok Reg 1033, eff 9-15-23]

## **SUBCHAPTER 5. REQUIREMENTS FOR CHILD-PLACING AGENCIES**

### **PART 1. REQUIREMENTS FOR CHILD-PLACING AGENCIES**

#### **340:110-5-1. Purpose**

It is the declared purpose of the Oklahoma Child Care Facilities Licensing Act as expressed in this Subchapter to:

- (1) ensure maintenance of minimum requirements for the care and protection of children away from their own homes;
- (2) encourage and assist the child care facility toward attaining maximum standards; and
- (3) work for the development of sufficient and adequate services for children.

[Source: Amended at 10 Ok Reg 2273, eff 6-11-93 ; Amended at 23 Ok Reg 1092, eff 6-1-06]

#### **340:110-5-2. Legal base**

The legal base for licensing requirements in this Subchapter is Section 401 et seq. of Title 10 of the Oklahoma Statutes, the Oklahoma Child Care Facilities Licensing Act.

[Source: Amended at 23 Ok Reg 1092, eff 6-1-06]

#### **340:110-5-3. Definitions**

The following words and terms, when used in this Part, have the following meaning unless the context clearly states otherwise:

**"Adoption agency"** means an agency licensed as a child-placing agency for the purpose of placing children in adoptive families.

**"Advisory board"** means the entity offering advice and counsel on child-placing agency operation.



**"Age or developmentally appropriate"** means, per Section 1-1-105 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-1-105), suitable, developmentally appropriate activities for children of a certain age or maturity level based on the capacities typical for the age group and the individual child.

**"Agency"** means child-placing agency.

**"Auxiliary personnel"** means cooks, building custodians, or other personnel who provide agency support services.

**"Basement"** means a building or structure area having one-half or more of its clear height below grade level.

**"Behavior management"** means child guidance providing learning experiences for development of self-control, self-direction, and an understanding of behavioral consequences.

**"Child"** means an individual younger than 18 years of age.

**"Child care personnel"** means personnel providing children's direct care and supervision.

**"Child-placing agency"** means an agency arranging for or placing children in a foster family home, adoptive home, or independent living program.

**"Child with special needs"** means a child, because of age, ethnic origin, physical, mental, or behavioral problems, or sibling group, for whom placement for adoption may be difficult.

**"Children's services"** means an educational program, child welfare agency, child-serving institution, child-placing agency, foster family home, hospital, or mental health treatment program serving children.

**"Custodian"** means the adult or agency legally responsible for the child.

**"Department"** means Oklahoma Human Services (OKDHS).

**"Emergency foster care"** means providing foster home care when an emergency exists or initial placement does not exceed 30-calendar days.

**"Foster home"** means a home providing full-time substitute family care for a child for a planned period when the child's family cannot provide care.

**"Foster home agency"** means a child-placing agency certifying foster homes.

**"Foster parent(s)"** means the individual(s) providing foster home care for a child placed by the child-placing agency.

**"Governing board"** means the entity with ultimate responsibility and authority for the overall private agency operation.

**"Health professional"** or **"health care professional"** means a licensed physician, nurse practitioner, or physician's assistant, as defined by the appropriate state licensing board.

**"Independent living (IL) program"** means a residential program placing youth, at least 16 years of age, in a living situation supervised by a licensed child-placing agency with the goal of preparing the youth for living independently without supervision.

**"Indian child"** means an unmarried or unemancipated individual younger than 18 years of age and is a member of an Indian tribe or

eligible for membership and is the biological child of a member of an Indian tribe, per 10 O.S. § 40.2.

**"Infant foster care"** means a foster home providing infant care only.

**"Interstate Compact on the Placement of Children (ICPC)"** means the process of ensuring protection and services to children placed across state lines.

**"Legal risk placement"** means child placement when consent to adoption or permanent relinquishment of parental rights for adoption has not been obtained from both birth parents and parental rights have not been previously terminated.

**"Long-term foster care"** means foster home care when the initial placement plan exceeds 30-calendar days.

**"On-call" or "Substitute personnel"** means personnel available to work during the absence of regular part-time or full-time personnel.

**"Openness in adoption"** means the pre- or post-placement exchange of information, communication, or contact between birth and adoptive families.

**"Parent"** means an individual legally responsible for the child, such as a mother, father, legal custodian, or legal guardian.

**"Placement plan"** means a service plan or agreement component containing plans for child placement best meeting the child's needs.

**"Post-adoption services"** means direct or referral services available through the child-placing agency to birth and adoptive parents and the adopted child after adoption finalization.

**"Post-placement supervision"** means supervision and services provided after the child is placed with an adoptive family.

**"Proprietary facility"** means a program operating on a for-profit basis.

**"Reasonable and prudent parent standard"** means, per 10A § 1-1-105, the standard characterized by careful and sensible parental decisions maintaining the child's health, safety, and best interests while encouraging the child's emotional and developmental growth. This standard is used by the child's foster parent when determining a child's participation in extracurricular, enrichment, cultural, and social activities.

**"Serious incident"** means any non-routine occurrence having an impact on a child's care, supervision, or treatment.

**"Service plan or agreement"** means a comprehensive individualized program of action for the child and the child's family, when parental rights have not been terminated, developed by the child-placing agency in cooperation with the child and family or custodian. It establishes specific outcomes and time frames based on the:

- (A) child's age and level of functioning; and
- (B) family's ability and willingness to participate.

**"Social services personnel"** means child-placing agency personnel providing social services that at least, include:

- (A) casework services to children and the children's families;
- (B) adoptive child and family studies;
- (C) placement services;

- (D) agency facilities certification;
- (E) admission assessments; and
- (F) service planning.

**"Specialized service professional"** means an individual from an academic discipline or field of expertise providing individualized services to a child, such as behavioral or physical therapists.

**"Unsupervised access to children"** means an individual being present with children without personnel present having a complete criminal history review.

**"Volunteer"** means an individual providing services to the child-placing agency without compensation.

[Source: Amended at 10 Ok Reg 2273, eff 6-11-93 ; Amended at 13 Ok Reg 997, eff 3-16-96 (emergency); Amended at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 15 Ok Reg 764, eff 11-10-97 (emergency); Amended at 15 Ok Reg 1727, eff 5-11-98 ; Amended at 19 Ok Reg 2828, eff 10-1-02 (emergency); Amended at 20 Ok Reg 955, eff 5-12-03 ; Amended at 23 Ok Reg 1092, eff 6-1-06 ; Amended at 27 Ok Reg 1869, eff 7-1-10 ; Amended at 27 Ok Reg 2646, eff 6-21-10 (emergency); Amended at 28 Ok Reg 1669, eff 7-1-11 ; Amended at 31 Ok Reg 154, eff 11-1-13 (emergency); Amended at 31 Ok Reg 1854, eff 9-15-14 ; Amended at 33 Ok Reg 146, eff 11-2-15 (emergency); Amended at 33 Ok Reg 1678, eff 9-15-16 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

#### **340:110-5-4. License**

Request for license is submitted on Oklahoma Department of Human Services (DHS) provided forms. A license to operate a child-placing agency is granted when the agency meets minimum requirements for child-placing agencies. The license is not transferable and is posted prominently in the facility including the denial or revocation notice, when applicable. The agency does not operate until DHS permission is obtained. Per the Oklahoma Child Care Facilities Licensing Act, Section 405.3 of Title 10 of the Oklahoma Statutes (10 O.S. §405.3), persons identified as registrants on the Restricted Registry are prohibited from:

- (1) licensure as a child care program;
- (2) ownership of a child care program;
- (3) employment in a child care program;
- (4) having unsupervised access to children; and/or
- (5) residing in a child care facility.

[Source: Amended at 10 Ok Reg 2273, eff 6-11-93 ; Amended at 13 Ok Reg 997, eff 3-16-96 (emergency); Amended at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 23 Ok Reg 1092, eff 6-1-06 ; Amended at 26 Ok Reg 415, eff 11-20-08 (emergency); Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 27 Ok Reg 1869, eff 7-1-10 ; Amended at 31 Ok Reg 154, eff 11-1-13 (emergency); Amended at 31 Ok Reg 1854, eff 9-15-14 ; Amended at 37 Ok Reg 1858, eff 11-1-20]

#### **340:110-5-5. Construction and fire safety [REVOKED]**

[Source: Revoked at 10 Ok Reg 2273, eff 6-11-93]

#### **340:110-5-6. Organization and administration**

(a) **Purpose.** The child-placing agency (agency) purpose or function is clearly defined in a statement filed with Licensing. This includes the philosophy, goals and objectives, ages and children accepted for care characteristics, geographical service area, and services provided.

(b) **Organizational structure.** The agency's legal basis or ownership is fully documented and submitted to Licensing with the initial request for license.

(1) **Publicly-operated agency.** Documentation of a publicly-operated agency identifies the agency statutory basis and the governmental entity administrative framework operating the agency.

(2) **Privately-operated agency.** A privately-operated agency submits:

(A) as applicable, the charter, partnership agreement, constitution, and articles of incorporation resolution authorizing the agency operation;

(B) the names, titles, addresses, and phone numbers for:  
(i) nonprofit agencies' association members or corporate officers; or  
(ii) for-profit agencies' owners', partners', or corporate officers';

(C) the physical address in Oklahoma where child-placing business is conducted; and

(D) a notification informing Licensing prior to any change in the legal basis for operation or ownership.

(c) **Governing and advisory boards.** Private, nonprofit agencies establish a governing board and may also have an advisory board. Private, for-profit agencies without a governing board have an advisory board.

(1) The governing board:

(A) meets at least twice annually and maintains accurate meeting minutes;

(B) maintains ultimate responsibility for governing and delegates responsibility for agency administration to the executive director;

(C) specifies in the constitution and bylaws the relationship and responsibilities between the governing board and executive director, and submits them to Licensing;

(D) submits to Licensing a current list of names, titles, addresses, and phone numbers of the governing board members;

(E) members receive an orientation to board responsibilities on appointment; and

(F) is composed of a minimum of five members, the majority of whom:

(i) are not agency personnel; and

(ii) reside in Oklahoma. Multi-state operations may have a governing board outside Oklahoma when they establish local advisory boards meeting the requirements in this subsection.

(2) The advisory board:

(A) meets at least twice annually;

(B) the member majority:

(i) are not agency personnel; and

- (ii) reside in Oklahoma; and
  - (C) provides advice and counsel to the agency on the policies and agency operation, reflects local concerns, and represents the program to the community; and
  - (D) submits to Licensing a current list of advisory board members' names, addresses, and phone numbers.
- (d) **Policy.** Policy requirements in (1) and (2) of this subsection are met.
  - (1) Agency policy:
    - (A) is clearly written and kept current;
    - (B) includes, at a minimum, areas governing personnel, admission, program, behavior management, and care of children; and
    - (C) is available at the agency for Licensing review.
  - (2) The agency maintains current written policy and procedure regarding:
    - (A) a child's absence without permission. When a child is not located, the agency immediately notifies the child's custodian and the appropriate law enforcement agency. Efforts to locate the child and notify appropriate individuals are documented;
    - (B) grievance issues related to children. Grievance policy and procedure are explained, and a copy is provided to each child and the child's parents or custodian;
    - (C) religious training made known to the child and family prior to admission or placement. All children are provided an opportunity to participate in religious services;
    - (D) the care of children, including medical services and safe transportation by personnel, volunteers, and foster parents, that complies with all applicable state laws; and
    - (E) reporting child abuse and neglect, per Section 1-9-119.1 of Title 10A of Oklahoma Statutes (10A O.S. § 1-9-119.1).
- (e) **Notifications.** Notifications are required in (1) through (3) of this subsection.
  - (1) The agency notifies Licensing:
    - (A) prior to or within 30-calendar days of an address change;
    - (B) on the next agency business day when:
      - (i) the agency is temporarily or permanently closed;
      - (ii) the executive director changes;
      - (iii) damage to the premises caused by fire, accident, or the elements seriously affects services;
      - (iv) changes to liability insurance coverage are made; or
      - (v) a child death occurred while the child was in care; and
    - (C) prior to making any program change.
  - (2) The agency submits a detailed written report for a serious incident involving personnel or children including, but not limited to:

(A) suicide attempts;  
(B) injuries requiring medical treatment;  
(C) runaways;  
(D) a crime committed;  
(E) abuse, neglect, mistreatment, or human trafficking allegations; and  
(F) the incident date and time, personnel and children involved, the incident nature, and surrounding circumstances are included in the report.

(i) Any person who has reason to believe a child was abused or neglected, per 10A O.S. § 1-1-105 is required to report the matter promptly to the Oklahoma Human Services (OKDHS) Child Abuse and Neglect Hotline, 1-800-522-3511, per 10A O.S. § 1-2-101.

(ii) Failure to report abuse or neglect of a child is a misdemeanor offense and upon conviction is punishable by law. Failure to report with prolonged knowledge, six months or more, of ongoing abuse or neglect is a felony offense.

(iii) Per 21 O.S. § 870, every person having reason to believe that a person or child-placing agency is engaging in the crime of trafficking in children, per 21 O.S. § 866, reports the matter promptly to the Oklahoma Bureau of Narcotics and Dangerous Drugs Control.

(3) OKDHS notifies agencies of a substantiated finding of heinous and shocking abuse by a person responsible for a child's health, safety, or welfare, as defined, per 10A O.S. § 1-1-105. When applicable, the agency owner or operator provides parents or legal guardian notification using an OKDHS-provided form.

(A) Notification is:

(i) immediately attempted but not later than 72 hours of notice receipt from OKDHS; and  
(ii) provided by certified mail.

(B) The agency maintains the list of notified parents and legal guardians for at least 12 months.

(f) **Records.** Agency records pertaining to child-placing activity are maintained within the state of Oklahoma and are made immediately accessible to authorized DHS representatives.

(g) **Legal compliance.** The agency follows all applicable state and federal laws, including:

(1) The Oklahoma Adoption Code, 10 O.S. §§ 7501-1.1 through 7505-7.2 et seq.;

(2) The Interstate Compact on the Placement of Children, 10 O.S. §§ 571 et seq.; and

(3) Federal and state Indian Child Welfare Acts, Section 1901 et seq. of Title 25 of the United States Code and 10 O.S. §§ 40 through 40.9.

[Source: Amended at 10 Ok Reg 2273, eff 6-11-93 ; Amended at 13 Ok Reg 997, eff 1-24-96 (emergency); Amended at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 15 Ok Reg 764, eff 11-10-97 (emergency); Amended at 15 Ok Reg 1727, eff 5-11-98 ; Amended at 23 Ok Reg 1092, eff 6-1-06 ; Amended at 26 Ok Reg 415, eff 11-20-08 (emergency); Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 27 Ok Reg 1869, eff 7-1-10 ; Amended at 33 Ok Reg 146, eff 11-2-15 (emergency); Amended at 33 Ok Reg 1678, eff 9-15-16 ; Amended at 37 Ok Reg 1858, eff 11-1-20 ; Amended at 40 Ok Reg 1033, eff 9-15-23]

### **340:110-5-7. Finances**

(a) **Evidence of sufficient funds.** The child-placing agency (agency) has evidence of sufficient funds.

(1) New agencies submit a letter to Licensing from a licensed public accountant with the initial request for license documenting procedures are in place for operating the fiscal management system so the agency's financial statements can be audited at the first fiscal operational year end.

(2) New agencies also submit a budget for the first 12 months of operation with the initial request for license including a written plan documenting predictable funds for the first 12 months of operation as well as reserve funds or reserve funds documentation.

(3) Existing and new agencies have a written financial plan projecting sufficient funds to carry out the program's defined purposes and provide proper care for children.

(b) **Fiscal responsibility.** The agency executive director is responsible for:

(1) maintaining complete financial records of all income and disbursements; and

(2) ensuring the individual responsible for receiving cash funds is bonded.

(c) **Accountability.** The agency demonstrates financial accountability.

(1) The agency's' financial records are audited:

(A) by a certified public accountant who is not agency personnel or a board member; or

(B) per the governmental funding source.

(2) A When completed a copy of the auditor's letter:

(A) is submitted to Licensing; and

(B) includes a statement that the agency's financial records accurately reflect the financial operations, per generally accepted accounting principles.

(d) **Insurance.** The agency is covered by property casualty insurance and liability insurance unless operated by a government entity that is self-insured , per Section 404.3 of Title 10 of the Oklahoma Statutes (10 O.S. § 404.3). Coverage is at least \$200,000 for each occurrence of negligence. Form 07LC092E, Insurance Verification, that includes a certificate of insurance obtained from the insurance agent is completed annually, maintained at the child-placing agency, and made available to Licensing.

[Source: Amended at 10 Ok Reg 2273, eff 6-11-93 ; Amended at 13 Ok Reg 997, eff 1-24-96 (emergency); Amended at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 23 Ok Reg 1092, eff 6-1-06 ; Amended at 26 Ok Reg 415, eff 11-20-08 (emergency); Amended at 26 Ok Reg 2239, eff 7-1-09 ;

### **340:110-5-8. Personnel**

- (a) **Required personnel.** The child-placing agency (agency) employs:
- (1) an executive director or administrator. In the executive director or administrator absence, an individual is designated in charge being immediately accessible in person or by phone to Oklahoma Human Services (OKDHS) authorized representatives;
  - (2) a child placement supervisor responsible for out-of-home care placements and home studies final approval;
  - (3) social services personnel responsible for providing social services at least, includes:
    - (A) child and family casework services;
    - (B) adoptive child and family studies;
    - (C) placement services;
    - (D) agency facilities certification;
    - (E) admission assessments; and
    - (F) service planning;
  - (4) child care personnel, when applicable; and
  - (5) clerical personnel for maintaining agency records in good order.
- (b) **Volunteers.** When volunteers have contact with children in care, the agency maintains current written volunteer policy protecting the children's health, safety, and well-being including:
- (1) selection and screening criteria, including a criminal history records search, per the Oklahoma Child Care Facilities Act, Section 404.1 of Title 10 of the Oklahoma Statutes (10 O.S. § 404.1); and
  - (2) requirements for:
    - (A) orientation, prior to child contact; and
    - (B) supervision.
- (c) **Personnel policy.** Written personnel policy defining position responsibilities, qualifications, and authority lines is available to personnel.
- (1) The executive director or administrator is responsible for personnel employment and dismissal.
  - (2) Agency policy includes on-call and substitute personnel availability.
  - (3) The agency obtains at least three written references including the most recent employer, when applicable, prior to employment.
    - (A) When written references cannot be obtained prior to employment, phone interviews are conducted and documented including dates, questions, responses, and the interviewer's signature.
    - (B) Reference copies are maintained on file.
  - (4) Testing for tuberculosis is not required for employment. The agency requires personnel comply with the Oklahoma State Department of Health recommendations regarding tuberculin skin testing when there is a local identified tuberculin exposure.
- (d) **Background investigations - general.**



(1) **Required individuals.** Background investigations are required, per 10 O.S. §404.1, unless an exception per (3) of this subsection applies for:

- (A) owners, prior to authorization to operate;
- (B) responsible entities, prior to authorization to operate and, when there is a change in a responsible entity;
- (C) personnel applicants, prior to hire; however, the program may hire individuals when:
  - (i) the agency has submitted a criminal history review request to the Office of Background Investigations (OBI);
  - (ii) only awaiting the national criminal history records search, based on fingerprint submission;
  - (iii) criminal history review results from the OBI are received by the agency. However, until complete results are received, the individual does not have unsupervised access to children; and
  - (iv) coming from another licensed program owned by the same business entity. Individuals are not required to repeat the background investigation process, unless required per (2) of this subsection, with the exception of criminal history restriction waivers, provided there is no break in employment from the business entity;
- (D) individuals with unsupervised access to children, prior to having access to children, unless an exception per (3) of this subsection applies;
- (E) adults living in the facility, prior to authorization to operate or moving into the facility of an existing agency. This includes children, who become 18 years of age while living in the facility; and
- (F) individuals having access to, or review of, fingerprint results, prior to access to or review of results.

(2) **Resubmission of criminal history reviews as of November 2, 2017.** Effective November 2, 2017, programs request a criminal history review process, excluding fingerprinting, for required individuals every five years. However criminal history reviews requested prior to November 2, 2017, are resubmitted by November 1, 2022.

(3) **Non-required individuals.** Background investigations are not required for:

- (A) specialized service professionals who are not agency personnel, provided parent releases, legal custodian or legal guardian releases are obtained, per the Licensing Act;
- (B) volunteer drivers transporting children on an irregular basis and not filling another position, provided parent and legal custodian or legal guardian releases are obtained per the Licensing Act;
- (C) contracted drivers not filling another position or having unsupervised access to children; and

(D) contracted non-personnel not having unsupervised access to children, such as when the program contracts for special activities or facility repair.

(e) **Background investigations - Restricted Registry.** The agency conducts an online search of the Restricted Registry, also known as Joshua's List, when required, per (d) of this Section.

(1) **Non-registrants.** Non-registrants are individuals not recorded on the Restricted Registry.

(2) **Registrants.** Registrants are individuals recorded on the Restricted Registry, who are prohibited from licensure, ownership, employment, unsupervised access to children, or facility residence, and prohibited individuals per (f) of this Section.

(f) **Background investigations - criminal history.** The agency and required individuals complete the criminal history review process. The agency receives the completed criminal history review results from OBI, when required per (d) of this Section.

(1) **Criminal history prohibitions.** Individuals with criminal history prohibitions are prohibited per (g) of this Section.

Criminal history prohibitions include:

(A) required registration under the:

(i) Sex Offenders Registration Act, including state and national repositories; or

(ii) Mary Rippey Violent Crime Offenders Registration Act; or

(B) pleas of guilty or nolo contendere (no contest), or convictions of felonies involving:

(i) murder, as defined in Section 1111 of Title 18 of United States Code;

(ii) child abuse or neglect;

(iii) crimes against children, including child pornography;

(iv) spousal abuse;

(v) crime involving rape or sexual assault;

(vi) kidnapping;

(vii) arson;

(viii) physical assault or battery; or

(ix) a drug-related offense committed during the preceding five years, unless a criminal history restriction waiver per (2) of this subsection is granted; or

(C) pleas of guilty or nolo contendere (no contest), or convictions of violent misdemeanors committed as adults against a child involving:

(i) child abuse or child endangerment; or

(ii) sexual assault; or

(D) pleas of guilty or nolo contendere (no contest), or convictions of misdemeanors involving child pornography.

(2) **Criminal history restrictions.** Individuals with criminal history restrictions are prohibited per (g) of this Section, unless a criminal history restriction waiver is granted. Criminal history

restrictions include pending charges, pleas of guilty or nolo contendere (no contest), or convictions of criminal activity involving:

- (A) gross irresponsibility or disregard for the safety of others;
- (B) violence against an individual;
- (C) sexual misconduct;
- (D) child abuse or neglect;
- (E) animal cruelty;
- (F) illegal drug possession, sale, or distribution; or
- (G) a pattern of criminal activity.

(3) **Criminal history restriction waivers.** Restriction waivers are described in (A) through (C) of this paragraph.

(A) Restriction waivers may be requested for individuals having criminal history restrictions. The owner, responsible entity, or director completes requests on an OKDHS form.

(B) Restriction waivers are not requested or granted for:

- (i) Restricted Registry registrants;
- (ii) individuals with criminal history prohibitions; or
- (iii) individuals whose sentence has not expired for criminal history restrictions.

(C) Individuals identified in pending or denied restriction waiver requests are prohibited per (g) of this Section.

(g) **Prohibited individuals.**

(1) **Background investigation of required individuals.** The agency does not allow a required individual to be the owner or responsible entity, to be employed, to live in the facility, or have:

(A) access to children, such as being present at the facility during the hours of operation or present with the children in care while off-site, when the individual has:

- (i) criminal history prohibitions;
- (ii) criminal history restrictions, unless a criminal history restriction waiver is granted. Individuals identified in a pending or denied restriction waiver request are prohibited; or
- (iii) a substantiated heinous and shocking abuse finding; or

(B) unsupervised access to children, when the individual is a Restricted Registry registrant.

(2) **Background investigation statements and consents.**

Individuals are prohibited to be the owner or responsible entity, to be employed, or to live in the facility, when:

- (A) the individual refuses to consent to background investigations per (d) of this Section; or
- (B) knowingly makes a materially-false statement in connection with criminal background investigations.

(3) **Child endangerment.** The agency is prohibited from knowingly hiring or allowing an individual to provide children services when:

(A) there is documented evidence or reason to believe the individual would endanger children's or other individuals health, safety, or well-being; or

(B) the individual is identified by a court as a perpetrator of child abuse or neglect or made an admission of guilt to an individual authorized by state or federal laws or regulations to investigate child abuse and neglect.

(4) **Alcohol, drugs, and medication.** Individuals employed by the agency or providing agency services to children may not use or be under the influence of:

(A) alcohol or illegal drugs; or

(B) medication impairing his or her functioning.

(5) **Criminal allegations.** When personnel is alleged to have committed an act per (f) of this Section, a determination is made and documented as to whether the personnel member is removed from child contact until the allegation is resolved. However, when criminal charges are filed, the accused is removed from child contact until the charges are resolved.

(6) **Deferred sentences.** Individuals having received a deferred sentence for charge's in (f)(2) of this Section are removed from child contact for the deferment duration.

[Source: Amended at 10 Ok Reg 2273, eff 6-11-93 ; Amended at 13 Ok Reg 997, eff 1-24-96 (emergency); Amended at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 15 Ok Reg 764, eff 11-10-97 (emergency); Amended at 15 Ok Reg 1727, eff 5-11-98 ; Amended at 23 Ok Reg 1092, eff 6-1-06 ; Amended at 26 Ok Reg 415, eff 11-20-08 (emergency); Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 27 Ok Reg 48, eff 10-1-09 (emergency); Amended at 27 Ok Reg 1869, eff 7-1-10 ; Amended at 28 Ok Reg 1669, eff 7-1-11 ; Amended at 31 Ok Reg 154, eff 11-1-13 (emergency); Amended at 31 Ok Reg 1854, eff 9-15-14 ; Amended at 35 Ok Reg 475, eff 1-31-18 (emergency); Amended at 35 Ok Reg 1705, eff 9-17-18 ; Amended at 40 Ok Reg 1033, eff 9-15-23]

### **340:110-5-9. Executive director qualifications**

(a) The executive director or administrator has a:

(1) bachelor's degree, knowledge in personnel management, and 36 months children's services experience; or

(2) master's degree, knowledge in personnel management, and 24 months children's services experience; or

(3) doctorate degree, knowledge in personnel management, and 12 months children's services experience.

(b) When the executive director:

(1) operates primarily as an administrator and is not directly involved in child-placing activities, there is a child placement supervisor; or

(2) places children, he or she meets the child placement supervisor requirements.

[Source: Amended at 10 Ok Reg 2273, eff 6-11-93 ; Amended at 13 Ok Reg 997, eff 1-24-96 (emergency); Amended at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 23 Ok Reg 1092, eff 6-1-06 ; Amended at 37 Ok Reg 1858, eff 11-1-20]

### **340:110-5-10. Child placement supervisor qualifications**

(a) The child placement supervisor has at a minimum, a:

- (1) master's degree in social work and 12 months in children's services experience;
  - (2) master's degree in a behavioral or social science or a related field and 24 months in children's services experience;
  - (3) doctorate degree in a behavioral or social science or a related field and 12 months in children's services experience; or
  - (4) bachelor's degree with at least nine college credit hours in family focus, individual function and interaction, child development, sociology, social work, and/or a closely related subject and 48 months in children's services experience.
- (b) The child-placing agency (agency) has written policy and procedure for child placement supervisor duties and responsibilities.
- (1) When the position is contracted, the agency has a written contract with the child placement supervisor including duties, responsibilities, and service delivery frequency.
  - (2) Contracted services documentation is maintained by the agency.

[Source: Amended at 10 Ok Reg 2273, eff 6-11-93 ; Amended at 13 Ok Reg 997, eff 1-24-96 (emergency); Amended at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 23 Ok Reg 1092, eff 6-1-06 ; Amended at 37 Ok Reg 1858, eff 11-1-20]

### **340:110-5-11. Social services personnel qualifications**

Social services personnel providing casework services have at a minimum, a bachelor's degree:

- (1) in social work;
- (2) in a behavioral or social science or a related field and 12 months children's or family services experience; or
- (3) with at least nine-college credit hours in family focus, individual function and interaction, child development, sociology, social work, and/or a closely related subject and 24 months children's or family services experience.

[Source: Amended at 10 Ok Reg 2273, eff 6-11-93 ; Amended at 13 Ok Reg 997, eff 1-24-96 (emergency); Amended at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 23 Ok Reg 1092, eff 6-1-06 ; Amended at 37 Ok Reg 1858, eff 11-1-20]

#### **340:110-5-11.1. Contracted staff qualifications and requirements**

The child-placing agency (agency) may contract for services with another licensed child-placing agency or with a licensed mental health professional. The agency that initiates the contract:

- (1) maintains all applicable records for services provided; and
- (2) shares any applicable information with the contracted staff to guarantee quality of services provided.

[Source: Added at 23 Ok Reg 1092, eff 6-1-06]

### **340:110-5-12. Personnel records**

(a) The child-placing agency (agency) maintains on file a personnel record for each agency personnel. The personnel record includes:

- (1) an Oklahoma Human Services (OKDHS)-provided personnel information sheet, completed for each personnel upon employment and submitted to Licensing within two weeks of his or her employment;
  - (2) an application, resume, or personnel information sheet documenting position specific qualifications;
  - (3) three references, per Oklahoma Administrative Code 340:110-5-8(c);
  - (4) reports and notes relating to the individual's agency employment and performance evaluations;
  - (5) employment dates and reason for leaving employment; and
  - (6) agency required health records.
- (b) Personnel records are maintained for 12 months following the personnel member's separation.
- (c) Criminal history investigations records are maintained in a confidential manner, separate from the individual's personnel record, and include:
- (1) criminal history review requests and documentation; and
  - (2) other applicable criminal history records.
- (d) Licensing has access to personnel and other confidential records relevant to the program's personnel.

[Source: Amended at 10 Ok Reg 2273, eff 6-11-93 ; Amended at 13 Ok Reg 997, eff 1-24-96 (emergency); Amended at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 15 Ok Reg 764, eff 11-10-97 (emergency); Amended at 15 Ok Reg 1727, eff 5-11-98 ; Amended at 23 Ok Reg 1092, eff 6-1-06 ; Amended at 26 Ok Reg 415, eff 11-20-08 (emergency); Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 27 Ok Reg 48, eff 10-1-09 (emergency); Amended at 27 Ok Reg 1869, eff 7-1-10 ; Amended at 31 Ok Reg 154, eff 11-1-13 (emergency); Amended at 31 Ok Reg 1854, eff 9-15-14 ; Amended at 37 Ok Reg 1858, eff 11-1-20 ; Amended at 40 Ok Reg 1033, eff 9-15-23 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:110-5-13. Training for executive director or administrator and social services staff**

The executive director or administrator and social services staff obtain and document continuing education:

- (1) consisting of a minimum of 12 clock hours per employment year; and
- (2) relevant to the role and responsibility of the position.

[Source: Amended at 10 Ok Reg 2273, eff 6-11-93 ; Amended at 13 Ok Reg 997, eff 1-24-96 (emergency); Amended at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 23 Ok Reg 1092, eff 6-1-06]

### **340:110-5-14. Placement policy**

The child-placing agency (agency):

- (1) writes an individual service plan for every child placed out-of-home by the agency, in accordance with clearly defined intake and release policy;
- (2) assumes responsibility for the general care and planning for each child in the program;
- (3) clarifies the child's relationship to the agency;
- (4) makes known to the parents or custodian and the child the terms upon which the child is accepted for care;

- (5) works together with the parents, custodian, and child to set definite goals that serve the child's best interest for placement and permanency;
- (6) provides orientation to each child upon acceptance by the agency; and
- (7) maintains appropriate placement records.

[Source: Amended at 10 Ok Reg 2273, eff 6-11-93 ; Amended at 13 Ok Reg 997, eff 1-24-96 (emergency); Amended at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 23 Ok Reg 1092, eff 6-1-06]

## **PART 3. REQUIREMENTS FOR ADOPTION AGENCIES**

### **340:110-5-24. Policy**

The adoption agency (agency) has on file written policy and procedure that is current and available for parents, staff, and licensing staff to review. Policy includes areas governing:

- (1) confidentiality of records;
- (2) disposition of records;
- (3) services provided to birth parents;
- (4) services provided to adoptive parents;
- (5) services provided to adoptive children;
- (6) services provided to older children being relinquished to the agency;
- (7) openness in adoption;
- (8) search and reunion;
- (9) financial assistance to birth parents;
- (10) grievances;
- (11) adoptive home recruitment;
- (12) placement of children in adoptive homes;
- (13) fees for adoption;
- (14) international adoption;
- (15) interstate adoption;
- (16) legal risk placements;
- (17) post-adoption services; and
- (18) procedures for advising adoptive parents about the Adoption Assistance program.

[Source: Added at 19 Ok Reg 2828, eff 10-1-02 (emergency); Added at 20 Ok Reg 955, eff 5-12-03 ; Amended at 23 Ok Reg 1092, eff 6-1-06]

### **340:110-5-25. Services for birth parents**

(a) **Policy.** Written adoption agency (agency) policy and procedure regarding birth parents includes, but is not limited to:

- (1) the scope of services for birth parents;
- (2) prohibiting coercion of the birth parents;
- (3) birth parents who decide not to relinquish parental rights; and
- (4) provisions for avoiding conflict of interest between the birth parents, adopting parents, and agency.

(b) **Services.** Services for birth parents include, but are not limited to:

(1) helping the birth parents reach a decision regarding plans for the child. When such counseling is not possible or is contraindicated, the reasons are documented in the case record. The birth parents indicate they understand the meaning of relinquishment of parental rights by signing the agency's form;

(2) documenting, by the birth parents' signatures on the agency's form, that birth parents understand the agency's policy on open and closed adoptions;

(3) documenting that birth parents have been provided with search and reunion resources;

(4) documenting, by the birth parents' signatures, that the birth parents understand the financial assistance policy; and

(5) helping the birth parents meet their physical, emotional, and financial needs. As appropriate, the agency develops a service plan to assist birth parents in locating community resources to meet needs, such as:

- (A) living arrangements;
- (B) medical care, including prenatal, obstetrical, dental, and hospital care;
- (C) psychiatric and psychological services;
- (D) vocational planning;
- (E) legal aid;
- (F) financial assistance;
- (G) transportation; and
- (H) other services needed prior to and following relinquishment.

(c) **Documenting expenses.** The agency documents all expenses paid on behalf of the birth parents by the agency or by agency clients. The agency obtains prior court approval for living and transportation expenses that exceed statutory limits.

[Source: Amended at 10 Ok Reg 2273, eff 6-11-93 ; Amended at 19 Ok Reg 2828, eff 10-1-02 (emergency); Amended at 20 Ok Reg 955, eff 5-12-03 ; Amended at 23 Ok Reg 1092, eff 6-1-06]

### **340:110-5-26. Services for older children [REVOKED]**

[Source: Amended at 10 Ok Reg 2273, eff 6-11-93 ; Revoked at 19 Ok Reg 2828, eff 10-1-02 (emergency); Revoked at 20 Ok Reg 955, eff 5-12-03]

### **340:110-5-27. Adoptive child study background information**

(a) An adoptive child history is completed for each child. The adoptive child history is documented and available for licensing staff to review. The history includes:

- (1) all information as required by Section 7504-1.1 of Title 10 of the Oklahoma Statutes, the Medical and Social History Report;
- (2) legal documents that reflect the child's eligibility for adoption;
- (3) desires of the birth parents regarding the potential adoptive family, for example, religious preference and family composition;
- (4) documentation as to whether the child is an Indian child as defined by the Indian Child Welfare Act; [10 O.S. § 40.2]



- (5) a medical examination report completed by a health professional no more than three months prior to placement;
- (6) documentation of participation by the child in the adoption process, consistent with the child's ability to understand and according to state law;
- (7) photocopy of the child's original and any supplementary birth certificate; and
- (8) documentation of current legal custody.

(b) When any information in this Section is not available or does not apply, the agency documents attempts to obtain the information or the reasons it does not apply.

[Source: Amended at 10 Ok Reg 2273, eff 6-11-93 ; Amended at 19 Ok Reg 2828, eff 10-1-02 (emergency); Amended at 20 Ok Reg 955, eff 5-12-03 ; Amended at 23 Ok Reg 1092, eff 6-1-06]

### **340:110-5-28. Adoptive home recruitment [REVOKED]**

[Source: Amended at 10 Ok Reg 2273, eff 6-11-93 ; Revoked at 19 Ok Reg 2828, eff 10-1-02 (emergency); Revoked at 20 Ok Reg 955, eff 5-12-03]

### **340:110-5-29. Adoptive home orientation and screening**

(a) **Eligibility.** The adoption agency (agency) determines in the initial contact(s) if there is any reason the adoptive applicants do not meet agency eligibility requirements. If the family is ineligible, this is communicated to the family in a timely manner. The agency may offer assistance in helping applicants adjust to this decision and identify other alternatives available to them.

(b) **Orientation.** The agency provides orientation about agency services and the adoption process to prospective adoptive parents. Orientation includes the:

- (1) agency's eligibility requirements;
- (2) characteristics of children available;
- (3) agency's policy on openness in adoptions;
- (4) adoptive family assessment procedure;
- (5) approximate time for the approval process;
- (6) agency fees, refund policy, and other related fees;
- (7) availability of the Adoption Assistance Program administered through the Oklahoma Department of Human Services (OKDHS);
- (8) adoption risks;
- (9) confidentiality policy; and
- (10) overview of the legal process of adoption.

(c) **Education.** The agency provides information to adoptive families regarding:

- (1) coping with the particular behaviors of the child's developmental history;
- (2) the child's psychological needs that are related to the child's racial, ethnic, or cultural background;
- (3) how to help the child understand adoption;
- (4) the birth parents' perspective;
- (5) coping with loss; and
- (6) search and reunion issues.

[Source: Amended at 19 Ok Reg 2828, eff 10-1-02 (emergency); Amended at 20 Ok Reg 955, eff 5-12-03 ; Amended at 23 Ok Reg 1092, eff 6-1-06]

### **340:110-5-30. Adoptive family assessment**

(a) An adoptive family assessment is completed for each family prior to child placement. The assessment is documented and available for Licensing staff review, and includes:

- (1) an individual face-to-face interview with each parent, school-age child, and other adult household members;
- (2) a joint face-to-face interview with both parents;
- (3) contact with the adoptive applicants' adult child(ren) no longer living in the home;
- (4) home visit documentation assessing the home environment safety and adequacy; and
- (5) three written references.

(b) The adoptive family assessment written report includes information regarding the adoptive parents':

- (1) family of origin, significant family experiences, and how parented;
- (2) marital history and significant adult relationships;
- (3) ability to handle stress;
- (4) parenting experiences, parenting style, and discipline philosophy;
- (5) family's adjustment to previous adoptions;
- (6) adoption motivation;
- (7) extended family attitudes regarding adoption;
- (8) attitudes toward birth parents and expectations about openness in adoption and search issues;
- (9) helping children understand adoption plans;
- (10) adopted child expectations;
- (11) family lifestyle, including social, cultural, and religious orientation;
- (12) educational background;
- (13) health information summary, including health history, medical exam date, and licensed physician's name;
- (14) infertility adjustment and acceptance, when applicable;
- (15) financial information, including employment, income, financial obligations, and health care services access;
- (16) employment verification, income, adequate insurance, and other resources, such as subsidized adoption and Temporary Assistance for Needy Families (TANF);
- (17) child care plans;
- (18) family strengths and weaknesses summary;
- (19) preferences regarding the child's age, gender, health, and other characteristics they request to adopt; and
- (20) specific recommendations regarding the family's appropriateness, specific reasons for the recommendation, and the child's characteristics, whom the family is approved to adopt.

(c) In addition to the written family assessment, information placed in the adoptive family file includes:

- (1) medical exams documentation by a health professional, dated not more than 12 months prior to the completion of the adoptive family assessment, and health histories on all household members verifying family members are healthy and free of communicable diseases or physical conditions impairing their ability to care for the adopted child;
- (2) marriage verification, when applicable, income and expenses, employment, and medical insurance;
- (3) three references, including names and addresses, having knowledge of applicants as a family unit; and
- (4) documentation of a criminal and Child Welfare Services (CWS) background check, per the Oklahoma Adoption Code, Section 7501-1.1 et seq. of Title 10 of the Oklahoma Statutes, and all applicable statutes, along with the agency findings summary.

(d) The adoptive family assessment is current within 12 months prior to child placement date. Documentation related to the updated family assessment includes:

- (1) medical exams by a health professional, dated not more than 12 months prior to the completion of the updated adoptive family assessment, and health histories on all household members verifying family members are healthy and free of communicable diseases or physical conditions impairing their ability to care for the adopted child;
- (2) criminal and CWS background check;
- (3) at least three written references from persons who have knowledge of the applicants as a family unit;
- (4) financial information including employment, income, and financial obligations; and
- (5) health care services access.

(e) When a home assessment is completed by a licensed private agency in the receiving state, the sending state does not impose any additional requirement to complete the home assessment not required by the receiving state, unless the adoption is finalized in the sending state.

[Source: Amended at 10 Ok Reg 2273, eff 6-11-93 ; Amended at 19 Ok Reg 2828, eff 10-1-02 (emergency); Amended at 20 Ok Reg 955, eff 5-12-03 ; Amended at 23 Ok Reg 1092, eff 6-1-06 ; Amended at 26 Ok Reg 415, eff 11-20-08 (emergency); Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 36 Ok Reg 181, eff 12-17-18 (emergency); Amended at 36 Ok Reg 1892, eff 9-16-19]

### **340:110-5-31. Notification to adoptive parents**

The adoption agency provides written notification to applicants of the acceptance, delay, or denial of their application.

[Source: Amended at 19 Ok Reg 2828, eff 10-1-02 (emergency); Amended at 20 Ok Reg 955, eff 5-12-03 ; Amended at 23 Ok Reg 1092, eff 6-1-06]

### **340:110-5-32. Disposition of records and confidentiality**

The adoption agency (agency):

- (1) establishes policy and procedure ensuring permanent retention of all finalized adoption records meeting the Oklahoma Adoption Code, Section 7508-1.1 et seq. of Title 10 of Oklahoma Statutes (10 O.S. §§ 7508-1.1 et seq.). When the agency ceases operating in the state of Oklahoma, adoption records are transferred to the Oklahoma Department of Human Services (DHS) or, after giving notice to DHS, to a transferee agency assuming responsibility for records preservation;
- (2) maintains all records in locked storage facilities; and
- (3) provides adult adoptees and birth parents information concerning the adoptees' origins and adoption circumstances, per the Oklahoma Adoption Code, 10 O.S. §§ 7501-1.1 et seq..

[Source: Amended at 10 Ok Reg 2273, eff 6-11-93 ; Amended at 19 Ok Reg 2828, eff 10-1-02 (emergency); Amended at 20 Ok Reg 955, eff 5-12-03 ; Amended at 23 Ok Reg 1092, eff 6-1-06 ; Amended at 37 Ok Reg 1858, eff 11-1-20]

### **340:110-5-33. Placement**

The adoption agency (agency):

- (1) has on file written policy and procedure governing the placement of children in adoptive homes;

- (2) places children in foster homes under the supervision of a licensed child-placing agency, when temporary placement is necessary;
- (3) selects adoptive parents best able to meet the needs of the particular child;
- (4) studies and approves the prospective adoptive home in accordance with OAC 340:110-5-30;
- (5) discusses the selection of the child with the adoptive family and prepares the adoptive family for the placement of the child.
  - (A) The parents have the opportunity to decide whether they consider themselves suitable for that child.
  - (B) The agency provides information regarding the child's background, medical history, legal status, progress, and development to assist adoptive parents with their decision;
- (6) has a written agreement between the agency and the adoptive parents at the time of placement that includes verification of:
  - (A) a specified time frame for completing the adoption;
  - (B) participation and supervision of adoptive parents by the agency during the time prior to the completion of the adoption;
  - (C) adoptive parents' agreement not to remove the child from Oklahoma without the agency's permission prior to finalization of the adoption;
  - (D) agreement that the child may be removed and returned to the agency at the discretion of either the adoptive parents or the agency before the adoption is finalized;
  - (E) agreement regarding any adoption fees and schedule of payments; and
  - (F) notification by the agency to the adoptive parent about the Adoption Assistance Program administered by the Oklahoma Department of Human Services (OKDHS) and the procedure for making application for eligible children with special needs;
- (7) has written documentation verifying adoptive parents' acceptance of legal risk placement;
- (8) provides to the adoptive parents at the time of the child's placement in the home a consent form for medical care of the child signed by an authorized agency representative and files a copy of the signed medical consent form in the records; and
- (9) complies with the Interstate Compact on the Placement of Children, Section 571 of Title 10 of the Oklahoma Statutes, when interstate placements are planned.

[Source: Amended at 10 Ok Reg 2273, eff 6-11-93 ; Amended at 19 Ok Reg 2828, eff 10-1-02 (emergency); Amended at 20 Ok Reg 955, eff 5-12-03 ; Amended at 23 Ok Reg 1092, eff 6-1-06]

#### **340:110-5-34. Adoption of older children and children with special needs**

The adoption agency (agency) that places older children and children with special needs meets the additional requirements in this

Section and all other requirements in this Part. The agency:

- (1) has on file a written policy defining children with special needs, pre-placement and placement procedures, visitation requirements, and post-placement support;
- (2) makes every effort to place siblings with the same adoptive parents. When it is not in the best interest of the siblings to be placed together:
  - (A) the records document what efforts were made and the reasons supporting separate placement; and
  - (B) the agency prepares a written statement, signed by the adoptive parents and an agency representative, verifying that the family will encourage and allow ongoing contact with the siblings unless it is not in the best interest of the children; and
- (3) has casework services to help:
  - (A) children meet their physical and emotional needs; and
  - (B) older children resolve issues related to the loss of their parents and adjustment to their adoptive families.

[Source: Amended at 10 Ok Reg 2273, eff 6-11-93 ; Amended at 19 Ok Reg 2828, eff 10-1-02 (emergency); Amended at 20 Ok Reg 955, eff 5-12-03 ; Amended at 23 Ok Reg 1092, eff 6-1-06]

### **340:110-5-35. Placement of Indian children**

The adoption agency complies with the requirements of the federal [25 U.S.C. 1901 et seq.] and state [10 O.S. § 40 through 40.9] Indian Child Welfare Act for placement of Indian children.

[Source: Amended at 19 Ok Reg 2828, eff 10-1-02 (emergency); Amended at 20 Ok Reg 955, eff 5-12-03 ; Amended at 23 Ok Reg 1092, eff 6-1-06]

### **340:110-5-36. International adoptions**

The adoption agency (agency) that provides international adoptions meets the additional requirements in this Section and all other requirements in this Part. When the agency accepts children born outside the United States who are not United States citizens, the agency:

- (1) complies with all applicable adoption laws of the child's country of origin and United States immigration laws;
- (2) maintains on file at the agency a verified English language translation of the child's legal documents ;
- (3) has a contract or memorandum of agreement with an entity authorized by the foreign government to receive custody and to place the child;
- (4) documents in English the medical and social history of the child. When unavailable, the agency documents efforts to obtain the medical and social history;
- (5) conducts a minimum of three post-placement supervisory visits within six months; and
- (6) complies with applicable provisions of the Intercountry Adoption Act, Public Law 106-279.

[Source: Amended at 10 Ok Reg 2273, eff 6-11-93 ; Amended at 19 Ok Reg 2828, eff 10-1-02 (emergency); Amended at 20 Ok Reg 955, eff 5-12-03 ; Amended at 23 Ok Reg 1092, eff 6-1-06]

### **340:110-5-37. Post-placement supervision**

(a) The adoption agency (agency) having legal custody is responsible for the welfare of the child until a decree of adoption is granted. The agency:

- (1) provides the investigative report to the court as required by state law, including a recommendation for finalization of the adoption;
- (2) sends a copy of the final decree of adoption to the court in which relinquishment of parental rights took place, unless otherwise indicated; and
- (3) maintains a copy of the final decree of adoption on each child.

(b) Prior to the final decree of adoption, the agency:

- (1) provides a six-month period of post-placement services between the time of placement and completion of the legal adoption, unless otherwise ordered by the court;
- (2) conducts and documents a minimum of three face-to-face visits, including one visit in the home with the adoptive family and child. This documentation includes a narrative report indicating the health of the child and assimilation into the family;
- (3) assists the adoptive family and child in developing a parent-child relationship, resolving problems, and evaluating the placement;
- (4) maintains a record of changes in the adoptive family in matters regarding health, financial condition, family composition, or other relevant information that may affect the child; and
- (5) removes the child from the home if the placement is unsatisfactory.

(c) The agency has on file a written description of its plan for dealing with disrupted placements, including a provision for counseling with the child and family.

[Source: Amended at 10 Ok Reg 2273, eff 6-11-93 ; Amended at 19 Ok Reg 2828, eff 10-1-02 (emergency); Amended at 20 Ok Reg 955, eff 5-12-03 ; Amended at 23 Ok Reg 1092, eff 6-1-06]

### **340:110-5-37.1. Post-adoption services**

The adoption agency (agency) provides post-adoption services to birth parents, adoptees, and adoptive parents. The services may include referrals or direct services to community resources.

[Source: Added at 19 Ok Reg 2828, eff 10-1-02 (emergency); Added at 20 Ok Reg 955, eff 5-12-03 ; Amended at 23 Ok Reg 1092, eff 6-1-06]

### **340:110-5-38. Subsequent adoptive placements**

The adoption agency (agency) ensures that before a subsequent placement is made into the adoptive family, the adoptive family assessment is current within 12 months prior to the date of placement of the child. The adoptive family assessment for a subsequent placement meets all the requirements in this Part, and documents:

- (1) one family interview in the home with all household members present;
- (2) one face-to-face interview with each adoptive parent, school-age child, and other adult household members;
- (3) medical examination reports for all members of the household current within one year;
- (4) at least three references from persons who have known the family since the last child was adopted;
- (5) updated financial information, including employment, income, and financial obligations;
- (6) access to health care services; and
- (7) criminal and Child Welfare background checks.

[Source: Amended at 10 Ok Reg 2273, eff 6-11-93 ; Amended at 19 Ok Reg 2828, eff 10-1-02 (emergency); Amended at 20 Ok Reg 955, eff 5-12-03 ; Amended at 23 Ok Reg 1092, eff 6-1-06]

## **PART 5. REQUIREMENTS FOR FOSTER HOME AGENCIES**

### **340:110-5-55. Requirements**

This Part contains minimum requirements for the certification of foster homes and the care by foster home agencies of children who live in the foster home. The requirements apply to all categories of foster care unless otherwise noted.

[Source: Amended at 10 Ok Reg 2273, eff 6-11-93 ; Amended at 13 Ok Reg 997, eff 1-24-96 (emergency); Amended at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 23 Ok Reg 1092, eff 6-1-06]

### **340:110-5-56. Categories of foster care**

The categories of foster care are:

- (1) emergency foster care -- the initial placement plan does not exceed 30 calendar days;
- (2) long-term foster care -- the initial placement plan exceeds 30 calendar days; and
- (3) infant foster care - the foster home provides care to infants only.

[Source: Amended at 10 Ok Reg 2273, eff 6-11-93 ; Amended at 13 Ok Reg 997, eff 1-24-96 (emergency); Amended at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 23 Ok Reg 1092, eff 6-1-06]

### **340:110-5-57. Requirements for foster home agencies**

(a) **Licensed foster home agency (agency) responsibility.** The agency retains legal responsibility for supervision, decision-making, and ensuring continuity of care. The agency is responsible for foster home certification to Child Care Services Licensing, on Oklahoma Human Services (OKDHS) provided forms verifying the foster home meets minimum requirements.

- (1) **Criminal history records search.** The agency conducts a criminal history records search for each foster family member 18



years of age and older.

(A) **Authorized agencies.** A criminal history records search is obtained from:

- (i) the Oklahoma State Bureau of Investigation (OSBI);
- (ii) the authorized agency in an individual's previous state of residence when the individual has resided in Oklahoma for less than five years;
- (iii) a Federal Bureau of Investigation (FBI) national criminal history search, based on the individual's fingerprints; and
- (iv) any child abuse registry search maintained by a state where the prospective foster parent or any adult living in the home of the prospective foster parent resided in the past five years.

(B) **Sex Offenders Registry.** The OSBI report must include an Oklahoma Department of Corrections files search maintained by OSBI, per the Sex Offenders Registration Act.

(C) **Restricted Registry.** Prior to certification of a foster home, the agency conducts an online search of the Restricted Registry, also known as Joshua's List. A copy of the results is maintained in the foster home file.

(2) **Disqualifying crimes.** A prospective foster parent is not an approved placement when the prospective foster parent or any other individual residing in the prospective foster parent's home was convicted of any of the following felony offenses:

- (A) within the five-year period preceding the application date, physical assault, battery, or a drug-related offense;
- (B) child abuse or neglect;
- (C) domestic abuse;
- (D) a crime against a child including, but not limited to, child pornography; or
- (E) a crime involving violence including, but not limited to, rape, sexual assault, or homicide, but excluding those crimes included in (A) of this paragraph.

(3) **Certification.** A certification copy is maintained in the foster home case file.

(A) Foster home certification applies only to the residence location at the time the home study is made.

(B) When the family moves, the agency certifies the new location.

(4) **Agency policy.** Foster parents receive foster care agency policy.

(5) **Medical services.** The agency ensures the child in foster care receives appropriate medical services.

(6) **Case planning.** The agency is responsible for case planning.

(7) **Supervision.** The agency provides supervision to each child in foster care at least monthly, including visits with the child, and on-site home visits for assessing the continued foster home environment suitability.

(8) **Written agreement.** The agency completes a written foster family agreement, and provides foster parents a copy. The agreement includes statements regarding:

- (A) the financial agreement, when applicable, between the agency and the foster home;
- (B) the foster home will not:
  - (i) accept a non-relative child from any source other than the foster home agency without certifying agency approval; or
  - (ii) provide child care regularly unless approved for dual foster care and child care licensing; and
- (C) the agency may remove the child at its discretion;
- (D) the child in foster care is discharged only with agency consent;
- (E) agency-approved visitation by the child's parents or relatives;
- (F) the child's absences from the home, including respite care, per agency policy;
- (G) the foster parents agree to cooperate with agency personnel in foster home evaluation and ongoing foster home supervision; and
- (H) the foster parents agree to contact the agency when a household member allegedly commits an act described in (a)(2) of this Section.

(9) **Agency grievance policy and procedures.** The agency maintains written foster parent and children grievance policy and procedures.

(b) **Foster home certification.** Certification includes written documentation of:

- (1) application, including prior child care experience with other agencies;
- (2) foster parents' children's health information, including immunizations and health statements, from licensed health care professionals within twelve months prior to certification;
- (3) a health care professional's statement certifying adult household members had a physical examination within twelve months prior to certification, verifying adult household members:
  - (A) are in good health; and
  - (B) do not have a condition interfering with the ability to care for children; and
- (4) three non-relative written references having knowledge of family functioning;
- (5) a current, completed foster home study before home approval; and
- (6) a criminal history records search conducted for each household member 18 years of age and older, per Oklahoma Administrative Code (OAC) 340:110-5-57(a)(1) and (2).

(c) **Foster home study.** Prior to foster home approval and child placement, the agency provides a written home study containing at least the information included in (1) through (18) of this subsection. The information is:

- (1) **interviews and home visits.** Interviews and home visit documentation at least includes one:
- (A) separate face-to-face interview with each parent, school-age child, and any other household member;
  - (B) joint face-to-face interview; and
  - (C) home visit; and
- (2) **household composition.** Information regarding household composition includes each individual residing in the home for more than 30-calendar days;
- (3) **criminal history records search.** A criminal history records search is conducted on each household member 18 years of age and older, per OAC 340:110-1-57(a)(1) and (2), prior to initial home approval and when a household member, 18 years of age and older, moves into the home;
- (4) **foster child preferences.** The foster home study includes statements regarding the applicant's preference for child's age, gender, and special needs;
- (5) **motivation, attitudes, and expectations.** The foster home study includes motivation and attitudes toward foster care and expectations regarding children in foster care;
- (6) **health.** Each household member's health information includes:
- (A) present physical health;
  - (B) emotional stability;
  - (C) medical history; and
  - (D) drug or alcohol history; and
- (7) **family functioning.** Family functioning includes relationships and interactions within the family;
- (8) **foster parents' marital status.** The foster home study includes foster parents' marital status information, such as:
- (A) present marital status and marriage date;
  - (B) marriage or relationship description; and
  - (C) previous marriages or significant relationship history; and
- (9) **employment.** The foster home study includes family members' employment histories;
- (10) **financial information.** The foster home study includes annual income documentation;
- (11) **education.** The foster home study includes family members' education;
- (12) **religion.** Information includes the family's religious preference and practices;
- (13) **home description.** The home description includes the:
- (A) type of dwelling and physical description; and
  - (B) location and neighborhood description; and
- (14) **weapons and firearms.** The foster home study includes location of weapons and firearms, and safety precautions;
- (15) **transportation.** Information includes the family's mode of transportation and verification of:
- (A) a valid driver license for each family member transporting a child in foster care;

(B) current vehicle registration and insurance verification;  
and

(C) an agreement to transport all children and adults, per Child Passenger Restraint System, Section 11-1112 of Title 47 of the Oklahoma Statutes (47 O.S. § 11-1112); and

(16) **family history.** The foster home study includes family history information, including:

(A) parents' and siblings' names;

(B) birth dates and places;

(C) physical health and mental stability;

(D) relationship with family members;

(E) social, cultural, and religious orientation; and

(F) foster parent's childhood information, including discipline; and

(17) **written references.** The foster home study includes three written references from individuals with information including:

(A) name, address, and phone number;

(B) when and how the individual became acquainted with the applicants;

(C) how often the individual has family contact;

(D) family functioning; and

(E) opinions regarding personal qualities and ability to provide foster care; and

(18) **recommendation.** The foster home study includes home approval recommendation and:

(A) is signed and dated by the individual conducting the foster home study and the child placement supervisor; and

(B) when approved, includes the type of child preferred and approved number of children.

(d) **Annual home study updates.** The foster home study is updated annually to include:

(1) home visit documentation;

(2) face-to-face interview documentation with each parent, school-age child, and other household members;

(3) current vehicle insurance verification; and

(4) any significant changes from the initial home study.

(e) **Foster parent professional development.** The agency maintains documentation of foster parents' required professional development.

(1) Prior to foster home certification or child placement, the agency provides six hours of orientation or pre-service professional development, at least, including:

(A) agency organizational structure;

(B) agency policy;

(C) agency philosophy;

(D) confidentiality;

(E) mandatory child abuse reporting;

(F) grievance process;

(G) emergency medical procedures;

(H) fire and disaster plans; and

(I) application of reasonable and prudent parent standard.

(2) Within twelve months prior to certification or during the first certification year, foster parents receive professional development regarding:

- (A) child development;
- (B) behavior management;
- (C) separation and loss; and
- (D) infection control and injury prevention.

(3) Within the first certification year, foster parents receive six professional development hours relevant to the needs of children in foster care. Professional development topics, per (2) of this subsection, may meet this requirement if received during the first certification year.

(4) Each calendar year after the first certification year, foster parents receive 12 professional development hours relevant to roles and responsibilities.

[Source: Amended at 10 Ok Reg 2273, eff 6-11-93 ; Amended at 13 Ok Reg 997, eff 1-24-96 (emergency); Amended at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 22 Ok Reg 28, eff 10-1-04 (emergency); Amended at 22 Ok Reg 921, eff 5-12-05 ; Amended at 23 Ok Reg 1092, eff 6-1-06 ; Amended at 26 Ok Reg 415, eff 11-20-08 (emergency); Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 31 Ok Reg 154, eff 11-1-13 (emergency); Amended at 31 Ok Reg 1854, eff 9-15-14 ; Amended at 33 Ok Reg 146, eff 11-2-15 (emergency); Amended at 33 Ok Reg 1678, eff 9-15-16 ; Amended at 40 Ok Reg 1033, eff 9-15-23 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:110-5-58. Requirements for foster parents**

(a) **General.** Foster parents provide the foster home agency (agency) any information related to compliance with all requirements and allow representatives of the agency access to any member of the household and into all rooms within the home. Foster parents:

- (1) are responsible, mature, healthy adults capable of meeting the needs of the children in care;
- (2) apply the reasonable and prudent parent standard;
- (3) demonstrate a capacity for setting realistic expectations for behavior and performance based on the ages, abilities, and special needs of the children;
- (4) may be married, single, or family members with a stable living arrangement; and
- (5) ensure all members of the household are informed of and agree to accept the child into the home.

(b) **Age.** Foster parents are at least 21 years of age.

(c) **Income and employment.** Foster parents have sufficient income to meet their needs and ensure the security and stability of the household independent of foster care maintenance payments, when applicable.

- (1) Foster parents who both work outside the home obtain approval from the agency for their plan of care for the children during the parents' absences.
- (2) Foster parents obtain approval from the agency to conduct a business in the home and demonstrate that activities related to this business do not interfere with the children's care.

(d) **Notifications.** Foster parents comply with the requirements pertaining to notifications. Foster parents notify the agency:

- (1) in writing prior to allowing any individual to reside for more than 14-calendar days, in the foster home;
- (2) immediately of the occurrence of:
  - (A) the death of a child;
  - (B) a serious injury or illness involving medical treatment of the child;
  - (C) unauthorized absence of the child from the home as defined by agency policy;
  - (D) removal of the child from the home by any individual or agency other than the placing agency, or attempts at such removal;
  - (E) loss of income that affects the family's ability to meet the needs of the children in foster care;
  - (F) any involvement of a child with legal authorities;
  - (G) any known arrests, criminal investigations, criminal charges, or child abuse investigations involving persons living in the home;
  - (H) any fire or other emergency requiring evacuation of the home; and
  - (I) lack of heat, water, or electricity; and
- (3) as soon as possible of:
  - (A) any serious illness or death in the household;
  - (B) the departure or return of any member of the household;
  - (C) a move to another residence; and
  - (D) any other circumstance or incident seriously affecting the child or care of the child; and
  - (E) any allegations of child abuse.

(e) **Cooperation.** Foster parents work cooperatively with agency representatives as members of the treatment team responsible for planning, providing, and discussing the total care and services provided to each child. Foster parents:

- (1) fully disclose all information related to a child's problems or progress to agency representatives;
- (2) treat any personal information about a child or the child's family in a confidential manner; and
- (3) participate in an annual, mutual review with the agency to evaluate strengths and weaknesses of the foster home and of agency representatives' relationships with foster parents.

[Source: Amended at 10 Ok Reg 2273, eff 6-11-93 ; Amended at 13 Ok Reg 997, eff 1-24-96 (emergency); Amended at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 23 Ok Reg 1092, eff 6-1-06 ; Amended at 33 Ok Reg 146, eff 11-2-15 (emergency); Amended at 33 Ok Reg 1678, eff 9-15-16]

### **340:110-5-59. Number of children**

The foster home agency complies with requirements regarding child placement in the foster family home.

- (1) No more than five foster children are placed in the home. The total number of children does not exceed six, including biological, adoptive, foster, and other children not in Oklahoma Department of Human Services (DHS) custody.

(2) The number, ages, and needs of foster children placed in the home are in keeping with the foster parents' capacities, skills, and home accommodations.

(3) The foster home agency, with Child Welfare Services approval, may place more than five children in DHS custody in the home.

[Source: Amended at 10 Ok Reg 2273, eff 6-11-93 ; Amended at 13 Ok Reg 997, eff 1-24-96 (emergency); Amended at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 23 Ok Reg 1092, eff 6-1-06 ; Amended at 36 Ok Reg 181, eff 12-17-18 (emergency); Amended at 36 Ok Reg 1892, eff 9-16-19]

### **340:110-5-60. Foster home requirements**

**(a) General requirements.** The foster home:

- (1) is clean, safe, and in good repair;
- (2) and the exterior are hazard-free;
- (3) is accessible to, or arranges transportation to school, church, recreational and health facilities, and other community resources; and
- (4) complies with all applicable fire, health, and safety laws, ordinances, and regulations.

**(b) Safety requirements.**

(1) Clear glass doors are marked to avoid accidental impact, unless caring for infants only.

(2) Children are protected from hazardous materials, such as flammable liquids and poisonous materials.

(3) Weapon definition and storage meet (A) and (B) of this paragraph.

(A) A weapon includes, but is not limited to, a:

- (i) firearm, such as a pistol, revolver, shotgun, or rifle from which a projectile is fired by gunpowder, gas, or other means of rocket propulsion;
- (ii) cap pistol, air-powered BB or pellet gun;
- (iii) bow and arrow; or
- (iv) knife, including any dagger or blade automatically released from the handle by pressure applied to a button, latch, or other mechanism, excluding kitchen knives.

(B) Any weapons and ammunition are inaccessible. In addition:

- (i) weapons are kept unloaded in locked containers, cabinets, or closets;
- (ii) ammunition is kept in locked containers, cabinets, or closets, separate from weapons; and
- (iii) keys, combinations, and codes used for locked storage are inaccessible.

(4) The premises are free of illegal drugs and paraphernalia.

(5) When children are in care, smoking is prohibited inside the home and during transportation.

(6) Stairways over four steps, inside and outside, have railings. Safety gates at stairways are used when toddlers are in care.

(7) Any water play activity is supervised constantly. Ponds or pools are inaccessible to children. Wading pools are emptied

after each use.

**(c) Fire safety requirements.**

- (1) A Class ABC fire extinguisher is installed in the kitchen area.
- (2) The foster home is equipped with at least one operable smoke detector near sleeping areas, or more as the foster home agency (agency) requires.
- (3) Each floor used as living space has at least two means of escape, at least one being a door leading to an unobstructed path to the outside. The second may be an unobstructed, operable window 20 inches by 24 inches, minimum dimensions.
- (4) Heating and air conditioning equipment is installed, per state and local mechanical codes and manufacturer's instructions.

**(d) Health requirements.**

- (1) Water supply, sewage disposal, and solid waste disposal meet local city ordinances and Oklahoma Department of Environmental Quality regulations.
- (2) Rooms used by children are well lighted and ventilated.
- (3) Windows and doors used for ventilation are screened.
- (4) The foster parents keep the house and grounds free of rodents, insects, and stray animals.
- (5) One operable sink, toilet, and tub or shower are available in the home.
- (6) Each child has individual combs, toothbrushes, wash cloths, towels, and eating and drinking utensils.
- (7) Linens are changed when needed.
- (8) Animals or household pets are permitted, provided current rabies vaccinations are administered by a licensed veterinarian and maintained for each animal. Indoor or outdoor pets or animals, are in good health, show no evidence of carrying disease, friendly toward children, and present no threat to children's health, safety, and well-being.
- (9) Tuberculosis testing is not required routinely. The foster family complies with the Oklahoma State Department of Health recommendations regarding tuberculin skin testing when there is a local identified tuberculin exposure.

**(e) Sleeping arrangements.** A separate bed is provided for each child. Siblings younger than six years of age may share a bed when their history indicates this is appropriate after agency consultation.

- (1) Preferably no more than two children share a sleeping room. However, consideration is given to related children, per age and behavioral and emotional needs.
- (2) Children of different sexes older than seven years of age have separate sleeping rooms. However, consideration is given to related children, per age and behavioral and emotional needs.
- (3) Children in foster care older than one year of age do not share sleeping rooms with adults unless an emergency exists and the agency is informed.
- (4) Children in foster care do not share a sleeping surface with adults.

**(f) Infant rest arrangements.**



(1) **Bedding.** A crib, port-a-crib, or playpen with a firm waterproof mattress or pad is used for each child younger than one year of age.

(A) Cribs, including portable cribs that can be folded or collapsed without being disassembled, meet the current Consumer Product Safety Commission (CPSC) full-size and non-full size crib standards, per Sections 1219 and 1220 of Title 16 of the Code of Federal Regulations.

(B) Verification of compliance with CPSC standards is maintained for duration of crib use.

(C) Cribs, port-a-cribs, and playpens with more than 2 and 3/8 inches between slats or between the side and end panels are prohibited.

(D) Cribs with decorative cutout areas in crib end panels or tall decorative knobs on the corner posts, entrapping a child's head or catch clothing, are prohibited.

(E) Mattresses are tight-fitting with no more than one inch between the mattress and crib.

(F) Mattress and crib sheets fit snugly.

(G) Drop-side latches hold sides securely and are inaccessible to the child.

(H) Pillows, blankets, quilts, comforters, sheepskins, stuffed toys, bumper pads, and other soft products are prohibited in the crib or playpen.

(I) Sleep positioners and elevated mattresses are prohibited, unless there is a medical reason documented by a licensed physician.

(J) Only pacifiers without attachments are in rest equipment with infants. Bibs are not placed around the infants' necks when in rest equipment.

(K) Infants birth through three months of age may be swaddled with an infant-sized, thin fabric, such as a receiving blanket, only when the infant is not mobile enough to move the fabric over his or her face.

(L) Play equipment and other items are not placed inside, above, or attached to the sides of infant rest equipment, unless there is a medical reason for a monitor or other device documented by a licensed physician. However, mobiles may be securely attached or hung above the crib provided no part of the mobile is within an infant's reach.

(M) When an infant falls asleep in equipment other than appropriate rest equipment, he or she is immediately moved to appropriate rest equipment.

(2) **Sleep position.** To reduce the risk of Sudden Infant Death Syndrome (SIDS), the infant:

(A) younger than 12 months of age is placed on the back for sleeping, unless a medical reason the infant should not sleep in this position is documented by a licensed physician. Documentation is maintained by the foster parent and the agency; and

(B) when able to turn over is placed initially on the back for sleeping but allowed to sleep in the preferred position.

(g) **Emergency plans.** The foster home complies with the requirements pertaining to emergency plans including:

- (1) an available planned source of medical care, such as a hospital emergency room, clinic, or health care professional known to the foster family;
- (2) a phone with emergency numbers posted for the health care professional or clinic, fire department, police department, ambulance service, poison control, and substitute caregiver;
- (3) an emergency evacuation plan in the event of fires, tornadoes, floods, and other emergencies;
- (4) first aid procedures and supplies readily available; and
- (5) periodic evacuation drills, ensuring each child knows evacuation procedures.

(h) **Equipment.** Equipment and furniture are safe for children. The foster home has child care equipment, including bedding, high chairs, proper auto restraints, and age-appropriate toys.

(i) **Transportation.** Children in foster care are transported, per Child Passenger Restraint System, Section 11-1112 of Title 47 of the Oklahoma Statutes (47 O.S. § 11-1112). Emergency transportation is available.

(1) **Driver qualifications.** Drivers transporting children in foster care have an operator's license of the type appropriate for the vehicle and valid in the driver's state of residence.

(2) **Passenger restraints.** Transported children are properly secured in a child passenger restraint system (car seat) or individual seat belt.

(A) The car seat is:

- (i) federally approved;
- (ii) installed, per the manufacturer's instructions;
- (iii) appropriate to the child's height, weight, and physical condition, per the manufacturer's instructions; and
- (iv) properly maintained.

(B) Each seat belt is properly anchored to the vehicle and fits snugly across the child's hips or securely anchors the car seat.

(3) **Vehicle requirements.**

(A) The transporting vehicle is covered by liability insurance as required by Oklahoma laws.

(B) Each vehicle used for foster care children transportation has door locks. The driver keeps the doors locked when the vehicle is moving.

(j) **Nutrition.** Each child is provided a balanced, nutritious, and developmentally appropriate diet.

(1) The food is wholesome in quality, ample in quantity, and of sufficient variety.

(2) Instructions for feeding infants, including the use of formula, recommended by the licensed physician are followed.

[Source: Amended at 10 Ok Reg 2273, eff 6-11-93 ; Amended at 13 Ok Reg 997, eff 1-24-96 (emergency); Amended at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 22 Ok Reg 28, eff 10-1-04 (emergency); Amended at 22 Ok Reg 35, eff 10-1-04 (emergency); Amended at 22 Ok Reg 1304, eff 6-1-05 ; Amended at 23 Ok Reg 1092, eff 6-1-06 ; Amended at 40 Ok Reg 1033, eff 9-15-23 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

### **340:110-5-61. Children's rights**

The foster home agency (agency) ensures the child in foster care is:

- (1) not forced to participate in publicity or promotional activities;
- (2) not publicly identified as a ward of the agency;
- (3) provided an opportunity to participate in religious services;
- (4) supplied with facilities and supplies for personal care, hygiene, and grooming;
- (5) supplied with his or her own clothing and shoes appropriate to the season, age, activities, and individual needs and comparable to that of other children in the community;
- (6) provided individual space in the foster home for the child's personal possessions and a reasonable degree of privacy.
  - (A) The child has the right to bring, possess, and acquire personal belongings subject only to reasonable household rules and the child's service plan.
  - (B) Personal belongings are sent with the child when the child leaves the home;
- (7) expected to perform only household tasks that are within the child's abilities, reasonable for the child's age, and similar to those expected of other household members of comparable age and ability;
- (8) given guidance in managing money.
  - (A) Money earned by the child or received as a gift or allowance is the child's personal property.
  - (B) The child is not required to use earned money to pay for room and board, unless it is a part of the service plan and approved by the parent or custodian and the agency;
- (9) allowed privacy in writing, sending, or receiving correspondence, unless restricted by the service plan;
- (10) not denied meals as punishment;
- (11) not subjected to remarks that belittle or ridicule the child or the child's family;
- (12) allowed to visit with the child's family per the service plan;
- (13) not forced to acknowledge dependency on the agency or foster home or gratitude to them;
- (14) given the opportunity, at the child's or agency's request, for private conversation with the agency's staff members responsible for the child's supervision;
- (15) provided educational opportunities per the child's plan of care; and
- (16) provided regular opportunities to engage in age appropriate or developmentally appropriate activities.

[Source: Amended at 10 Ok Reg 2273, eff 6-11-93 ; Amended at 13 Ok Reg 997, eff 1-24-96 (emergency); Amended at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 23 Ok Reg 1092, eff 6-1-06 ;

**340:110-5-61.1. Alternative care arrangements**

(a) **Informal arrangements.** The foster parent may make informal care arrangements with friends, neighbors, or relatives for occasional child care for no more than seven-consecutive calendar days.

(1) The foster parent:

- (A) ensures informal care providers possess the maturity and skills to address the needs of the child in foster care;
- (B) secures prior authorization for informal care from the foster home agency. Prior authorization may apply to multiple events when the same informal provider is used;
- (C) does not utilize a child in foster care to babysit a younger child unless approved by the agency;
- (D) provides the informal provider information for contacting the foster parent and other emergency contacts; and
- (E) uses reasonable and prudent parent standards when selecting an informal caregiver.

(2) The informal provider who is living:

- (A) outside of the home must be at least 18 years of age; or
- (B) in the home must be at least 16 years of age and a foster parent's relative.

(3) An informal provider cannot be an individual excluded by Child Welfare Services.

(4) An individual providing care for more than seven-consecutive days must be approved as alternate care.

(b) **Alternate care.** The foster family is encouraged to develop a relationship with another family as an alternate provider who can provide care for the child in foster care in case of emergencies, vacations, or needed respite care. The agency must approve the alternate care and have documentation the alternate provider:

(1) is at least 21 years of age;

(2) obtained a criminal history records search within the last 12 months conducted by:

- (A) the Oklahoma State Bureau of Investigation (OSBI) that includes a search of Oklahoma Department of Corrections files maintained by OSBI, per the Sex Offenders Registration Act for each household member, 18 years of age or older; and
- (B) the authorized agency in the previous state of residence when the person resided in Oklahoma less than one year;

(3) meets the foster home requirements, per Oklahoma Administrative Code (OAC) 340:110-5-60;

(4) provides one reference; and

(5) complies with discipline and behavior management requirements, per OAC 340:110-5-62.

[Source: Added at 23 Ok Reg 1092, eff 6-1-06 ; Amended at 26 Ok Reg 415, eff 11-20-08 (emergency); Amended at 26 Ok Reg 2239, eff 7-1-09 ; Amended at 36 Ok Reg 181, eff 12-17-18 (emergency); Amended at 36 Ok Reg 1892, eff 9-16-19]

### **340:110-5-62. Discipline and behavior management**

(a) **Objective.** Discipline contributes to the development of a capacity within the child for self-control and self-direction. The objective of discipline and behavior management is to provide a positive learning experience for the child to grow and develop and to learn acceptable standards of social behavior.

(b) **Expectations of foster parents.** Foster parents:

- (1) recognize, encourage, and regard acceptable behavior;
- (2) teach by example and use fair and consistent rules with logical consequences;
- (3) use methods of discipline that are relevant to the behavior;
- (4) supervise with an attitude of understanding, firmness, and discipline;
- (5) give clear directions and provide guidance consistent with the child's level of understanding;
- (6) redirect the child by stating alternatives when behavior is unacceptable;
- (7) express themselves so the child understands that the child's feelings are acceptable but certain actions or behavior are not;
- (8) help the child learn what conduct is acceptable in various situations;
- (9) encourage the child to control the child's own behavior, cooperate with others and solve problems by talking things out;
- (10) communicate with the child by showing an attitude of affection and concern; and
- (11) encourage the child to consider others' feelings.

(c) **Discipline and behavior management policy.** The foster home agency (agency) complies with the requirements regarding discipline and behavior management contained in this subsection. The agency's discipline policy:

- (1) is maintained in writing and current;
- (2) is provided to foster parents;
- (3) is available to the child and the child's parent or custodian;
- (4) includes:
  - (A) the goal and purpose of the agency's discipline and behavior management program;
  - (B) approved methods of discipline and behavior management;
  - (C) a list of persons authorized to administer discipline and behavior management methods to children in foster care; and
  - (D) the agency's method of monitoring and documenting implementation of the policy; and
- (5) prohibits punishment:
  - (A) of a physical nature, such as shaking, striking, spanking, or physical abuse;

- (B) that constitutes emotional abuse, such as humiliation, name-calling, cursing, or degrading remarks regarding the child or the child's family;
- (C) administered by one child to another child;
- (D) that denies meals, sleep, or mail; and
- (E) that places a child in a locked room.

[Source: Amended at 10 Ok Reg 2273, eff 6-11-93 ; Amended at 13 Ok Reg 997, eff 1-24-96 (emergency); Amended at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 23 Ok Reg 1092, eff 6-1-06]

### **340:110-5-63. Records**

- (a) **Child's case record.** Foster home agency (agency) records maintained for children in placement include, but are not limited to:
- (1) an intake form including the child's name, any known nickname(s), birth date and place, race, gender, religion, and parents and other significant relatives' names, addresses, and phone numbers;
  - (2) history of previous placements and dates;
  - (3) reason for and circumstances leading to the present placement;
  - (4) child's relationship with other significant adults and children;
  - (5) admission assessment including the child's current functioning level and medical history, including:
    - (A) current medications;
    - (B) immunization records;
    - (C) known allergies; and
    - (D) childhood diseases; and
  - (6) current court order(s) documenting the child's legal custody and other applicable court orders;
  - (7) certified birth verification;
  - (8) the child's medical information, including:
    - (A) the child's medical authorization number, when applicable;
    - (B) a medical examination assessing the child's overall health completed by a health care professional within 30-calendar days following placement; however, when a child is transferred from another licensed program or an Oklahoma Human Services foster home, a documented medical exam assessing the child's overall health performed within the 12 months prior to admission is acceptable;
    - (C) written authorization to provide medical care;
    - (D) disabilities;
    - (E) psychosocial information;
    - (F) the child's prior licensed physician's name, when known; and
    - (G) medical services documentation; and
  - (9) the child's family of origin history;
  - (10) information regarding the child's family's physical health, including father, mother, and grandparents;
  - (11) information regarding family members' emotional stability;

- (12) reports from schools, specialists, and other agencies;
- (13) documentation the child's rights and agency grievance policy were explained to the child;
- (14) a service plan, per Oklahoma Administrative Code (OAC) 340:110-5-3, completed within 30-calendar days of placement . The plan is signed and dated by the child, staff, foster parents, and parent or guardian;
- (15) a service plan revision every six months;
- (16) signed and dated case notes;
- (17) a discharge plan including anticipated placement length and future placement;
- (18) a discharge summary including an assessment of the child's placement progress, continuing needs and plans, and recommendations for any follow-up services; and
- (19) documentation of efforts to obtain or inability to obtain any of the information in this Section.

(b) **Foster home record.** The agency maintains a current case file on each foster home. Entries, dated in chronological order and identifying the personnel member recording the information, include:

- (1) the certification form and documents verifying certification per, OAC 340:110-5-57(b);
- (2) a complete home study report, including evaluation and recommendations as required;
- (3) records of all children placed in the home with dates, names, ages, and payment rates for services, when applicable;
- (4) records of all children removed from the home with dates, names, ages, and removal reasons;
- (5) financial agreements, when applicable;
- (6) signed and dated case notes, visits or contacts, and conferences;
- (7) a copy of each child's placement agreement;
- (8) correspondence;
- (9) home study records, updated annually, per OAC 340:110-5-57(d);
- (10) professional development documentation; and
- (11) written agreements and contracts between the agency and the foster parents.

[Source: Amended at 10 Ok Reg 2273, eff 6-11-93 ; Amended at 13 Ok Reg 997, eff 1-24-96 (emergency); Amended at 13 Ok Reg 2663, eff 6-28-96 ; Amended at 23 Ok Reg 1092, eff 6-1-06 ; Amended at 37 Ok Reg 1858, eff 11-1-20 ; Amended at 41 Ok Reg, Number 23, effective 9-16-24]

#### **340:110-5-64. Foster family file [REVOKED]**

[Source: Amended at 10 Ok Reg 2273, eff 6-11-93 ; Revoked at 13 Ok Reg 997, eff 1-24-96 (emergency); Revoked at 13 Ok Reg 2663, eff 6-28-96]

## **PART 7. REQUIREMENTS FOR GROUP HOMES [REVOKED]**

### **340:110-5-80. Definition [REVOKED]**

[Source: Amended at 10 Ok Reg 2273, eff 6-25-93 ; Revoked at 24 Ok Reg 2203, eff 7-1-07]

### **340:110-5-81. Program description [REVOKED]**

[Source: Amended at 10 Ok Reg 2273, eff 6-25-93 ; Revoked at 24 Ok Reg 2203, eff 7-1-07]

### **340:110-5-82. Admission [REVOKED]**

[Source: Amended at 10 Ok Reg 2273, eff 6-25-93 ; Revoked at 24 Ok Reg 2203, eff 7-1-07]

### **340:110-5-83. Service planning [REVOKED]**

[Source: Amended at 10 Ok Reg 2963, eff 6-25-93 ; Revoked at 24 Ok Reg 2203, eff 7-1-07]

### **340:110-5-84. Staff-child ratio [REVOKED]**

[Source: Amended at 10 Ok Reg 2963, eff 6-25-93 ; Revoked at 24 Ok Reg 2203, eff 7-1-07]

### **340:110-5-85. Child care staff requirements [REVOKED]**

[Source: Amended at 10 Ok Reg 2963, eff 6-25-93 ; Revoked at 24 Ok Reg 2203, eff 7-1-07]

### **340:110-5-86. Child care staff training [REVOKED]**

[Source: Amended at 10 eff 6-25-93 ; Revoked at 24 Ok Reg 2203, eff 7-1-07]

### **340:110-5-87. Auxiliary personnel [REVOKED]**

[Source: Amended at 10 Ok Reg 2963, eff 6-25-93 ; Revoked at 24 Ok Reg 2203, eff 7-1-07]

### **340:110-5-88. Case records [REVOKED]**

[Source: Amended at 10 Ok Reg 2963, eff 6-25-93 ; Revoked at 24 Ok Reg 2203, eff 7-1-07]

### **340:110-5-89. Children's rights [REVOKED]**

[Source: Amended at 10 Ok Reg 2963, eff 6-25-93 ; Revoked at 24 Ok Reg 2203, eff 7-1-07]

### **340:110-5-90. Education [REVOKED]**

[Source: Amended at 10 Ok Reg 2963, eff 6-25-93 ; Revoked at 24 Ok Reg 2203, eff 7-1-07]

### **340:110-5-91. Behavior management [REVOKED]**

[Source: Amended at 10 Ok Reg 2963, eff 6-25-93 ; Revoked at 24 Ok Reg 2203, eff 7-1-07]



### **340:110-5-92. Personal health and medical services [REVOKED]**

[Source: Amended at 10 Ok Reg 2963, eff 6-25-93 ; Revoked at 24 Ok Reg 2203, eff 7-1-07]

### **340:110-5-93. Food and nutrition [REVOKED]**

[Source: Amended at 10 Ok Reg 2963, eff 6-25-93 ; Revoked at 24 Ok Reg 2203, eff 7-1-07]

### **340:110-5-94. Transportation [REVOKED]**

[Source: Amended at 10 Ok Reg 2963, eff 6-25-93 ; Revoked at 24 Ok Reg 2203, eff 7-1-07]

### **340:110-5-95. Physical facility, location and equipment [REVOKED]**

[Source: Amended at 10 Ok Reg 2963, eff 6-25-93 ; Revoked at 24 Ok Reg 2203, eff 7-1-07]

### **340:110-5-96. Sanitation and safety [REVOKED]**

[Source: Amended at 10 Ok Reg 2963, eff 6-25-93 ; Revoked at 24 Ok Reg 2203, eff 7-1-07]

### **340:110-5-97. Furnishings and décor [REVOKED]**

[Source: Amended at 10 Ok Reg 2963, eff 6-25-93 ; Revoked at 24 Ok Reg 2203, eff 7-1-07]

### **340:110-5-98. Construction and fire safety [REVOKED]**

[Source: Amended at 10 Ok Reg 2963, eff 6-25-93 ; Revoked at 24 Ok Reg 2203, eff 7-1-07]

### **340:110-5-99. Health regulations [REVOKED]**

[Source: Amended at 10 Ok Reg 2963, eff 6-25-93 ; Revoked at 24 Ok Reg 2203, eff 7-1-07]

## **PART 9. REQUIREMENTS FOR INDEPENDENT LIVING PROGRAMS**

### **340:110-5-115. Independent living**

An independent living program is a program in which youth, who are at least 16 years of age, are placed in living situations supervised by a licensed child-placing agency to prepare the youth to live independently without supervision.

[Source: Amended at 15 Ok Reg 764, eff 11-10-97 (emergency); Amended at 15 Ok Reg 1727, eff 5-11-98 ; Amended at 23 Ok Reg 1092, eff 6-1-06]

### **340:110-5-116. Transitional living [REVOKED]**

[Source: Amended at 10 Ok Reg 2963, eff 6-25-93 ; Revoked at 15 Ok Reg 764, eff 11-10-97 (emergency); Revoked at 15 Ok Reg 1727, eff 5-11-98]

### **340:110-5-117. Program description**

The child-placing agency (agency) has a written statement describing the agency's:

- (1) philosophy on independent living placements;
- (2) independent living placement selection criteria;
- (3) approach used to assess the appropriateness of independent living placement;
- (4) supervision provided to youth in the program;
- (5) available programs and services;
- (6) living environments provided;
- (7) crisis response system, ensuring youth have 24-hour access to agency personnel; and
- (8) supervision plan for youth and adults when utilizing any shared physical program space.

[Source: Amended at 10 Ok Reg 2963, eff 6-25-93 ; Amended at 15 Ok Reg 764, eff 11-10-97 (emergency); Amended at 15 Ok Reg 1727, eff 5-11-98 ; Amended at 23 Ok Reg 1092, eff 6-1-06 ; Amended at 37 Ok Reg 1858, eff 11-1-20]

### **340:110-5-118. Responsibilities of the agency**

Responsibilities of the child-placing agency (agency) are to:

- (1) evaluate each youth's ability to assume responsibility and work towards the goal of independence within a specified time frame;
- (2) obtain written approval from:
  - (A) the parents or custodian regarding the youth's participation in the program; or
  - (B) the court if the youth's placement is court-ordered;
- (3) release the youth who is discharged from the program prior to the age of 18 to the youth's custodian with notification to the court when appropriate;
- (4) review the service agreement every three months and revise and update as necessary;
- (5) develop a monthly budget with the youth and meet monthly with the youth to review the budget. Budget reviews may occur less frequently after the first six months if the youth demonstrates ability to maintain the budget; and
- (6) provide counseling and support to the youth at least twice a month through face-to-face contact, which includes at least one meeting per month at the youth's residence.

[Source: Amended at 10 Ok Reg 2963, eff 6-25-93 ; Amended at 15 Ok Reg 764, eff 11-10-97 (emergency); Amended at 15 Ok Reg 1727, eff 5-11-98 ; Amended at 23 Ok Reg 1092, eff 6-1-06]

### **340:110-5-119. Training and life-skills assessment**

(a) **General.** Prior to placement of the youth in an independent living program, appropriate training and a life-skills assessment are required

and documented.

(b) **Life-skills assessment.** The assessment identifies potential areas of risk associated with independent life in the community and includes:

- (1) money management and consumer awareness;
- (2) food management;
- (3) personal appearance and hygiene;
- (4) health services;
- (5) housekeeping and personal belongings;
- (6) housing search skills;
- (7) transportation skills and issues;
- (8) educational planning, if appropriate;
- (9) vocational training;
- (10) job seeking skills;
- (11) skills in emergency situations;
- (12) drug and alcohol use;
- (13) sexuality;
- (14) interpersonal skills;
- (15) community involvement and knowledge of resources; and
- (16) legal issues and knowledge of legal rights.

[Source: Amended at 10 Ok Reg 2963, eff 6-25-93 ; Amended at 15 Ok Reg 764, eff 11-10-97 (emergency); Amended at 15 Ok Reg 1727, eff 5-11-98 ; Amended at 23 Ok Reg 1092, eff 6-1-06]

#### **340:110-5-120. Service agreement**

Prior to placement of the youth in an independent living program, a written service agreement is completed that includes:

- (1) respective roles and responsibilities of the child-placing agency (agency), the youth, and other involved parties;
- (2) goals and all services to be provided or arranged by the agency, including the plan for contact between the youth and agency staff;
- (3) any financial arrangements related to the placement; and
- (4) signatures of the youth and a representative of the agency.

[Source: Amended at 10 Ok Reg 2963, eff 6-25-93 ; Amended at 15 Ok Reg 764, eff 11-10-97 (emergency); Amended at 15 Ok Reg 1727, eff 5-11-98 ; Amended at 23 Ok Reg 1092, eff 6-1-06]

#### **340:110-5-121. Physical facility**

The child-placing agency approves each living unit based upon written policy.

[Source: Amended at 23 Ok Reg 1092, eff 6-1-06]

#### **340:110-5-122. Supervision and support**

- (a) The ratio of staff to youth is based upon the needs and location of the youth under supervision.
- (b) The agency ensures regular contact between agency personnel and each youth as documented in the youth's service agreement or plan.
- (c) There is daily contact with youth participating in a transitional living program.

(d) The agency, through routine visits to the living situation, documents that:

- (1) there is no reasonable cause for believing that the youth's residence or life style presents any unacceptable risks to the youth's health or safety;
- (2) the youth is receiving necessary medical care; and
- (3) the current program plan provides appropriate and sufficient services to the youth.

[Source: Amended at 10 Ok Reg 2963, eff 6-25-93 ; Amended at 23 Ok Reg 1092, eff 6-1-06]

### **340:110-5-123. Emergency procedures**

The child-placing agency documents that training in emergency procedures was provided to each youth within one week of placement in the independent living program. Such training includes:

- (1) use of emergency equipment, such as fire extinguishers and smoke detectors, and a plan for evacuation from the living situation;
- (2) contacting police, fire, and other emergency services;
- (3) fire and accident prevention; and
- (4) response to tornados and natural disasters.

[Source: Amended at 10 Ok Reg 2963, eff 6-25-93 ; Amended at 15 Ok Reg 764, eff 11-10-97 (emergency); Amended at 15 Ok Reg 1727, eff 5-11-98 ; Amended at 23 Ok Reg 1092, eff 6-1-06]

### **340:110-5-124. Conclusion of participation**

Participation in the independent living program is concluded when the youth:

- (1) achieves independence to the extent that financial support and social services are no longer needed;
- (2) makes a voluntary decision to no longer participate in the program; or
- (3) demonstrates unwillingness or inability to meet the requirements of the program and terms of the agreement.

[Source: Amended at 15 Ok Reg 764, eff 11-10-97 (emergency); Amended at 15 Ok Reg 1727, eff 5-11-98 ; Amended at 23 Ok Reg 1092, eff 6-1-06]

**APPENDIX A. CHILD CARE STAFF HEALTH RECORD  
[REVOKED]**

## **APPENDIX B. APPLICATION FOR LICENSE CHILD CARE FACILITY [REVOKED]**

[**Source:** Revoked at 13 Ok Reg 325, eff 5-18-95 (emergency); Revoked at 13 Ok Reg 2663, eff 6-28-96 ;  
Revoked at 18 Ok Reg 2144, eff 6-11-01]

## **APPENDIX C. COMPLIANCE WITH CIVIL RIGHTS ACT - CHILD CARE FACILITY [REVOKED]**

[Source: Revoked at 18 Ok Reg 2144, eff 6-11-01]

**APPENDIX D. APPLICATION FOR LICENSE - CHILD  
PLACING AGENCY, INSTITUTION, EMERGENCY  
SHELTER, JUVENILE DETENTION CENTER OR  
THERAPEUTIC CAMP [REVOKED]**

[Source: Revoked and reenacted at 10 Ok Reg 2155, eff 4-30-93 (emergency); Revoked and reenacted at 11 Ok Reg 2803, eff 6-13-94 ; Revoked at 18 Ok Reg 2144, eff 6-11-01]



## **APPENDIX E. CHILD CARE STAFF INFORMATION [REVOKED]**

[**Source:** Revoked and reenacted at 12 Ok Reg 91, eff 10-7-94 (emergency); Revoked and reenacted at 12 Ok Reg 1447, eff 5-26-95 ; Revoked at 18 Ok Reg 2144, eff 6-11-01]

## **APPENDIX F. APPLICATION FOR LICENSE - FAMILY DAY CARE HOME [REVOKED]**

[**Source:** Revoked and reenacted at 10 Ok Reg 4363, eff 7-27-93 (emergency); Revoked and reenacted at 11 Ok Reg 2803, eff 6-13-94 ; Revoked and reenacted at 12 Ok Reg 91, eff 10-7-94 (emergency); Revoked and reenacted at 12 Ok Reg 1447, eff 5-26-95 ; Revoked and reenacted at 17 Ok Reg 3110, eff 7-1-00 (emergency); Revoked at 18 Ok Reg 2144, eff 6-11-01]

## **APPENDIX G. INDIVIDUAL PLAN OF CARE FOR CHILDREN WITH SPECIAL NEEDS [REVOKED]**

**[Source:** Added at 9 Ok Reg 3583, eff 7-20-92 (emergency); Added at 10 Ok Reg 2369, eff 6-11-93 ;  
Revoked at 13 Ok Reg 325, eff 5-18-95 (emergency); Revoked at 13 Ok Reg 2663, eff 6-28-96]

## **APPENDIX H. CHILD PLACING AGENCY COMPLIANCE REVIEW [REVOKED]**

[**Source:** Added at 9 Ok Reg 3679, eff 7-23-92 (emergency); Added at 10 Ok Reg 2911, eff 6-25-93 ;  
Revoked at 18 Ok Reg 2144, eff 6-11-01]

## **APPENDIX I. CHILD PLACING AGENCY FOSTER CARE FILE REVIEW [REVOKED]**

[**Source:** Added at 9 Ok Reg 3679, eff 7-23-92 (emergency); Added at 10 Ok Reg 2911, eff 6-25-93 ;  
Revoked at 13 Ok Reg 3125, eff 6-29-96 (emergency); Revoked at 14 Ok Reg 1408, eff 5-12-97]

## **APPENDIX J. CHILD PLACING AGENCY ADOPTION SERVICES FILE REVIEW [REVOKED]**

[**Source:** Added at 9 Ok Reg 3679, eff 7-23-92 (emergency); Added at 10 Ok Reg 2911, eff 6-25-93 ;  
Revoked at 18 Ok Reg 2144, eff 6-11-01]

## **APPENDIX K. CHILD PLACING AGENCY GROUP HOME RESIDENT FILE REVIEW [REVOKED]**

[**Source:** Added at 9 Ok Reg 3679, eff 7-23-92 (emergency); Added at 10 Ok Reg 2911, eff 6-25-93 ;  
Revoked at 18 Ok Reg 2144, eff 6-11-01]

## **APPENDIX L. REPORT OF LICENSING VISIT - CHILD PLACING AGENCY [REVOKED]**

[**Source:** Added at 9 Ok Reg 3679, eff 7-23-92 (emergency); Added at 10 Ok Reg 2911, eff 6-25-93 ;  
Revoked at 18 Ok Reg 2144, eff 6-11-01]



## **APPENDIX M. AGENCY CERTIFICATION REPORT [REVOKED]**

[**Source:** Added at 9 Ok Reg 3679, eff 7-23-92 (emergency); Added at 10 Ok Reg 2911, eff 6-25-93 ;  
Revoked at 18 Ok Reg 2144, eff 6-11-01]

## **APPENDIX N. CHILDREN'S SHELTER VISIT SHEET [REVOKED]**

**[Source:** Added at 9 Ok Reg 3679, eff 7-23-92 (emergency); Added at 10 Ok Reg 2155, eff 4-30-93 (emergency); Added at 10 Ok Reg 2911, eff 6-25-93 ; Added at 11 Ok Reg 189, eff 10-6-93 (emergency); Added at 11 Ok Reg 2773, eff 6-13-94 ; Revoked at 18 Ok Reg 2144, eff 6-11-01]

## **APPENDIX O. CHILDREN'S SHELTER REQUIREMENTS COMPLIANCE REVIEW [REVOKED]**

[**Source:** Added at 10 Ok Reg 2155, eff 4-30-93 (emergency); Added at 11 Ok Reg 2803, eff 6-13-94 ;  
Revoked at 18 Ok Reg 2144, eff 6-11-01]

## **APPENDIX P. JUVENILE DETENTION CENTER COMPLIANCE REVIEW [REVOKED]**

**[Source:** Added at 10 Ok Reg 2155, eff 4-30-93 (emergency); Added at 11 Ok Reg 2803, eff 6-13-94 ;  
Revoked at 21 Ok Reg 910, eff 6-1-04]

## **APPENDIX Q. JUVENILE DETENTION CENTER VISIT SHEET [REVOKED]**

[**Source:** Added at 10 Ok Reg 2155, eff 4-30-93 (emergency); Added at 11 Ok Reg 2803, eff 6-13-94 ;  
Revoked at 21 Ok Reg 910, eff 6-1-04]

## **APPENDIX R. JUVENILE DETENTION CENTER RESIDENT RECORD CHECK [REVOKED]**

[**Source:** Added at 10 Ok Reg 2155, eff 4-30-93 (emergency); Added at 11 Ok Reg 2803, eff 6-13-94 ;  
Revoked at 21 Ok Reg 910, eff 6-1-04]

## **APPENDIX S. PERSONNEL FILE REVIEW AGENCY AND RESIDENTIAL PROGRAMS [REVOKED]**

[**Source:** Added at 10 Ok Reg 2155, eff 4-30-93 (emergency); Added at 11 Ok Reg 2803, eff 6-13-94 ;  
Revoked at 18 Ok Reg 2144, eff 6-11-01]

## **APPENDIX T. CHILDREN'S SHELTER RESIDENT'S FILE REVIEW [REVOKED]**

[**Source:** Added at 10 Ok Reg 2155, eff 4-30-93 (emergency); Added at 11 Ok Reg 2803, eff 6-13-94 ;  
Revoked at 18 Ok Reg 2144, eff 6-11-01]



**APPENDIX U. SIX MONTH PERMIT TEMPORARY  
AUTHORIZATION TO OPERATE A CHILD CARE  
FACILITY [REVOKED]**

**[Source:** Added at 10 Ok Reg 4017, eff 6-22-93 (emergency); Added at 11 Ok Reg 2803, eff 6-13-94 ;  
Revoked at 13 Ok Reg 499, eff 11-14-95 (emergency); Revoked at 13 Ok Reg 2663, eff 6-28-96]

## **APPENDIX V. FAMILY CHILD CARE HOME MONITORING REPORT [REVOKED]**

**[Source:** Added at 10 Ok Reg 4363, eff 7-27-93 (emergency); Added at 11 Ok Reg 2803, eff 6-13-94 ; Revoked and reenacted at 12 Ok Reg 1447, eff 5-26-95 ; Revoked and reenacted at 17 Ok Reg 3113, eff 9-1-00 (emergency); Revoked at 18 Ok Reg 2144, eff 6-11-01]

**APPENDIX W. 90 DAY PERMIT TEMPORARY  
AUTHORIZATION TO OPERATE A CHILD CARE  
FACILITY [REVOKED]**

**[Source:** Added at 10 Ok Reg 4017, eff 6-22-93 (emergency); Added at 11 Ok Reg 2803, eff 6-13-94 ;  
Revoked at 13 Ok Reg 499, eff 11-14-95 (emergency); Revoked at 13 Ok Reg 2663, eff 6-28-96]

## **APPENDIX X. NOTICE OF ISSUANCE OF LICENSE FOR A CHILD CARE FACILITY [REVOKED]**

[**Source:** Added at 10 Ok Reg 4017, eff 6-22-93 (emergency); Added at 11 Ok Reg 2803, eff 6-13-94 ;  
Revoked at 13 Ok Reg 499, eff 11-14-95 (emergency); Amended at 13 Ok Reg 2663, eff 6-28-96]

## **APPENDIX Y. DECLARATION OF INTENT TO OPERATE A CHILD CARE FACILITY [REVOKED]**

[**Source:** Added at 11 Ok Reg 2773, eff 6-13-94 ; Revoked at 18 Ok Reg 2144, eff 6-11-01]

## **APPENDIX Z. COMPLAINT REPORT ON CHILD CARE [REVOKED]**

[**Source:** Added at 11 Ok Reg 2773, eff 6-13-94 ; Revoked at 13 Ok Reg 325, eff 5-18-95 (emergency);  
Revoked at 13 Ok Reg 2663, eff 6-28-96]

## **APPENDIX AA. NOTICE OF ISSUANCE OF LICENSE - CHILD CARE FACILITY [REVOKED]**

[**Source:** Added at 11 Ok Reg 3649, eff 6-14-94 (emergency); Added at 12 Ok Reg 1447, eff 5-26-95 ;  
Revoked and reenacted at 17 Ok Reg 2467, eff 6-26-00 ; Revoked at 18 Ok Reg 2144, eff 6-11-01]

## **APPENDIX BB. CHILD CARE CENTER STAFF-CHILD RATIO [REVOKED]**

[**Source:** Added at 13 Ok Reg 1151, eff 3-16-95 (emergency); Added at 13 Ok Reg 2663, eff 6-28-96 ;  
Revoked at 21 Ok Reg 910, eff 6-1-04]



## **APPENDIX CC. CHILD CARE CENTER MINIMUM EQUIPMENT REQUIREMENTS [REVOKED]**

[**Source:** Added at 13 Ok Reg 1151, eff 3-16-95 (emergency); Added at 13 Ok Reg 2663, eff 6-28-96 ;  
Revoked at 21 Ok Reg 910, eff 6-1-04]

## **APPENDIX DD. CHILD CARE CENTER EXCLUSION CRITERIA FOR CHILDREN WHO ARE ILL [REVOKED]**

[**Source:** Added at 16 Ok Reg 2528, eff 7-1-99 ; Revoked at 21 Ok Reg 910, eff 6-1-04]

## APPENDIX EE. OKLAHOMA DIRECTOR'S CREDENTIAL

Figure E1

| Level                           | General Education   | Early Childhood Education (ECE)<br>Child Development (CD)<br>School-Age (SA)<br>Knowledge and Skills                                   | Administration<br>(admin)<br>Management (mgt)<br>Knowledge and Skills   | Experience             | Annual<br>Renewal<br>Clock<br>Hours                 |
|---------------------------------|---|--|---|------------------------|---|
| <b>Platinum</b>                 | PhD, EdD <sup>1</sup><br>MS, MA <sup>2</sup><br>BS, BA <sup>3</sup> | 15 ECE/CD/SA credit hours <sup>4</sup>   | 9 admin/mgt credit hours <sup>4</sup>   | 3 months <sup>5</sup>  | 30 hours<br>job<br>related<br>training <sup>6</sup> |
| <b>Gold</b>                     | AA, AS, AAS <sup>7</sup>  | 12 ECE/CD/SA credit hours <sup>4</sup>   | 6 admin/mgt credit hours <sup>4</sup><br>-or-<br>Directors' Leadership Academy I & II <sup>8</sup>  | 6 months <sup>5</sup>  | 30 hours<br>job<br>related<br>training <sup>6</sup> |
| <b>Silver</b>                   | 3 credit hours <sup>4</sup><br>in English Composition I             | Certificate of Mastery <sup>9</sup><br>-or-<br>9 ECE/CD/SA credit hours <sup>4</sup><br>-or-<br>CDA/CCP <sup>10</sup>                  | 6 admin/mgt credit hours <sup>4</sup><br>-or-<br>Directors' Leadership Academy I & II <sup>8</sup><br>-or-<br>Director's Certificate of Completion <sup>11</sup><br>-or-<br>Pathway Director Training <sup>12</sup> | 9 months <sup>5</sup>  | 30 hours<br>job<br>related<br>training <sup>6</sup> |
| <b>Copper Effective 11/1/16</b> | BS, BA <sup>3</sup> , or any advanced degree beyond bachelors level | Not required   | Not required  | 12 months <sup>5</sup> | 30 hours<br>job<br>related<br>training <sup>6</sup> |
| <b>Bronze</b>                   | High School Diploma<br>-or-<br>GED                                  | 6 ECE/CD/SA credit hours <sup>4</sup><br>-or-<br>CDA/CCP <sup>10</sup><br>-or-<br>Oklahoma Competency Certificate in ECE <sup>13</sup> | 3 admin/mgt credit hours <sup>4</sup><br>-or-<br>approved admin/mgt credential <sup>14</sup><br>-or-<br>40 admin/mgt Clock-hours <sup>15</sup>  | 12 months <sup>5</sup> | 20 hours<br>job<br>related<br>training <sup>6</sup> |

### Footnotes

1. Doctoral Degree of Philosophy, Doctoral Degree of Education.
2. Master Degree of Science, Master Degree of Art.
3. Bachelor Degree of Science, Bachelor Degree of Art.
4. Approved college credit hours must be on the Recommended Approved

Figure E2

Coursework List ([www.cccpd.org](http://www.cccpd.org)) and articulate to a two- or four-year college or university.

5. Qualifying experience must be as a teacher, master teacher, family child care home primary caregiver, assistant director, or director in a licensed child care setting (30 hours per week).

6. **No more than 6 clock-hours of informal professional development is counted toward annual renewal hours.** Training in the core content areas identified in "Oklahoma Core Competencies for Early Childhood Practitioners": 1) child growth and development; 2) health, safety and nutrition; 3) child observation and assessment; 4) family and community partnerships; 5) learning environments and curriculum; 6) interactions with children; 7) program planning, development and evaluation; and/or 8) professionalism and leadership.

NOTE: Entry Level Child Care Training (ELCCT) cannot be used to meet level or renewal criteria.

7. Associate in Arts, Associate in Science, Associate in Applied Science.

8. Directors' Leadership Academy is available through the Center for Early Childhood Professional Development ([www.cccpd.org](http://www.cccpd.org)).

9. The Certificate of Mastery in child development or early childhood education is a minimum 18 credit hour certificate awarded by an Oklahoma community college.

10. Current Child Development Associate (CDA) or Certified Childcare Professional (CCP) credential

11. Certificate of Completion for directors and assistant directors is issued by the Scholars for Excellence in Child Care ([www.okhighered.org/scholars/](http://www.okhighered.org/scholars/)).

12. Early Care and Education: Director's Pathway to Program Administration is available through Oklahoma Career Technology Centers ([www.okhighered.org/scholars/career-tech.shtml](http://www.okhighered.org/scholars/career-tech.shtml)).

13. Master Teacher or Director Competency Certificate only awarded by Oklahoma Department of Career Technology.

14. Approved administration/management credential, such as the National Administrator Credential (NAC).

15. Training approved through the Oklahoma Professional Development Registry, with at least 10-clock hours in any three management core knowledge areas: Educational Programming & Family Support; Personnel & Professional Self-Awareness; Staff Management & Human Relations; Leadership & Advocacy; Program Operation & Facilities Management; Legal Management; or Fiscal Management.

NOTE: Completion of Director's Entry Level Training (DELT) course meets 20-clock hours of this requirement. Informal professional development is not counted toward meeting this requirement.

[Source: Added at 32 Ok Reg 704, eff 1-1-16 (emergency); Added at 33 Ok Reg 1678, eff 9-15-16 ; Revoked and reenacted at 34 Ok Reg 226, eff 11-22-16 (emergency); Revoked and reenacted at 34 Ok Reg 1652, eff 9-15-17 ; Revoked and reenacted at 40 Ok Reg 1033, eff 9-15-23]

## APPENDIX FF. OKLAHOMA PROFESSIONAL DEVELOPMENT LADDER

Figure F1

| Level | Level Requirements   | Annual<br>Renewal<br>Clock<br>Hours |
|-------|--|-------------------------------------|
| 11    | BA/BS <sup>1,2</sup> or above in Early Childhood Education (ECE)/<br>Child Development (CD)/School-Age (SA)<br>–or–<br>BA/BS in another field (BA/BS-non) with 24 ECE/CD/SA credit<br>hours <sup>2</sup> | 20 hours <sup>3</sup>               |
| 10    | 90 credit hours with 18 ECE/CD/SA credit hours <sup>2</sup><br>–or–<br>BA/BS-non with 18 ECE/CD/SA credit hours <sup>2</sup>   | 20 hours <sup>3</sup>               |
| 9     | AA/AS <sup>2,4</sup> in ECE/CD/SA<br>–or–<br>BA/BS-non with 15 ECE/CD/SA credit hours <sup>2</sup>   | 20 hours <sup>3</sup>               |
| 8     | AA/AS-non with 15 ECE/CD/SA credit hours <sup>2</sup><br>–or–<br>60 credit hours with 15 ECE/CD/SA credit hours <sup>2</sup><br>–or–<br>BA/BS-non with 6 ECE/CD/SA credit hours <sup>2</sup>             | 20 hours <sup>3</sup>               |
| 7     | 30 credit hours with 15 ECE/CD/SA credit hours <sup>2</sup>  | 20 hours <sup>3</sup>               |
| 6     | Oklahoma Certificate of Mastery (ECE/CD) <sup>5</sup><br>–or–<br>Tulsa Community College School-Age Certificate of Mastery   | 20 hours <sup>3</sup>               |
| 5     | Current Child Development Associate (CDA) or<br>Certified Childcare Professional (CCP) Credential<br>–or–<br>12 credit hours <sup>2</sup> in ECE/CD/SA   | 20 hours <sup>3</sup>               |
| 4     | Oklahoma Competency Certificate<br>(Career Tech Master Teacher or Career Tech Director ONLY) <sup>6</sup>  | 20 hours <sup>3</sup>               |
| 3     | 6 credit hours <sup>2</sup> in ECE/CD/SA   | 20 hours <sup>3</sup>               |
| 2     | 3 credit hours <sup>2</sup> in ECE/CD/SA<br>–or–<br>60 clock hours of Oklahoma Professional Development Registry<br>Approved <sup>7</sup> ECE/CD/SA training in the past 5 years                         | 20 hours <sup>3</sup>               |
| 1     | 12 clock hours of ECE/CD/SA training <sup>3</sup> in the past 12 months  | 12 hours <sup>3</sup>               |

Figure F2

### Footnotes

1. Bachelor Degree of Arts, Bachelor Degree of Science.
2. College credit hours must be on the Recommended Approved Coursework List ([www.cccpd.org](http://www.cccpd.org)) and articulate to a two- or four-year college or university.
3. **No more than 6 hours of informal professional development are counted toward both initial and renewal hours.** Training in the core content areas identified in "Oklahoma Core Competencies for Early Childhood Practitioners." 1) child growth and development; 2) health, safety and nutrition; 3) child observation and assessment; 4) family and community partnerships; 5) learning environments and curriculum; 6) interactions with children; 7) program planning, development and evaluation; and/or 8) professionalism and leadership.
4. Associate Degree of Arts, Associate Degree of Science.
5. The Certificate of Mastery in child development or early childhood education is a minimum 18 credit hour certificate awarded by an Oklahoma community college.
6. Master Teacher or Director Competency Certificate only awarded by Oklahoma Department of Career Technology.
7. Training approved through the Oklahoma Professional Development Registry (OPDR) ([www.cccpd.org](http://www.cccpd.org)). All OPDR approved training is tied to the "Oklahoma Core Competencies for Early Childhood Practitioners."

NOTE: Informal professional development is not counted toward meeting this requirement.

Entry Level Child Care Training (ELCCT), Family Child Care Home Entry Level Training (FHELT), Director's Entry Level Training (DELT), and Out-of-School Time Entry Level Training (OST-ELT) can only be counted one time toward renewal hours.

[Source: Added at 32 Ok Reg 704, eff 1-1-16 (emergency); Added at 33 Ok Reg 1678, eff 9-15-16 ; Revoked and reenacted at 40 Ok Reg 1033, eff 9-15-23]

## APPENDIX GG. RATIOS AND GROUP SIZES

Figure G1

Programs may have single-age groups, mixed-age groups, or both. Ratios and maximum group sizes are determined by the actual ages of the children in the group and the type of program license per Oklahoma Administrative Code 340:110-3-275.

### Day Camps

| Children in Group     | Ratios | Maximum Group Sizes   |
|-----------------------|--------|---|
| 5-year-olds and older | 1:15   | The number of children in an activity is limited to facilitate: <ul style="list-style-type: none"> <li>teaching personnel and child interactions; and</li> <li>safe, constructive participation by the children.</li> </ul> |

### Out-of-School Time Programs

The age of the youngest child in a mixed-age group determines the ratio and group size.

| Youngest Child In Group           | Ratios | Maximum Group Sizes   |
|-----------------------------------|--------|---|
| 3-year-olds                       | 1:12   | 24  |
| 4-year-olds                       | 1:15   | 30  |
| 5-year-olds<br>(and older groups) | 1:20   | The number of children in an activity is limited to facilitate: <ul style="list-style-type: none"> <li>teaching personnel and child interactions; and</li> <li>safe, constructive participation by the children.</li> </ul> |

### Programs for Sick Children

The age of the youngest child in a mixed-age group determines the ratio and group size.

| Youngest Child In Group | Ratios | Maximum Group Sizes |
|-------------------------|--------|---------------------|
| Infants                 | 1:3    | 6                   |
| 1-year-olds             | 1:3    | 6                   |
| 2-year-olds             | 1:4    | 8                   |
| 3-year-olds             | 1:4    | 8                   |
| 4-year-olds             | 1:4    | 8                   |
| 5-year-olds             | 1:4    | 8                   |

Figure G2

|                                   |     |    |
|-----------------------------------|-----|----|
| 6-year-olds<br>(and older groups) | 1:6 | 12 |
|-----------------------------------|-----|----|

Figure G3



**Child Care Centers, Drop-In Programs, and Part-Day Programs**

| <b>Single-Age Group Chart</b><br>Use when the: <ul style="list-style-type: none"> <li>group of children are the same ages</li> <li>or</li> <li>Mixed-Age Group Exception* applies.</li> </ul> |               |                           |
|---|---------------|---------------------------|
|   | <b>Ratios</b> | <b>Maximum Group Size</b> |
| Infants   | 1:4           | 8                         |
| 1-year-olds   | 1:6           | 12                        |
| 2-year-olds   | 1:8           | 16                        |
| 3-year-olds   | 1:12          | 24                        |
| 4-year-olds   | 1:15          | 30                        |
| 5-year-olds<br>(and older single-age groups)  | 1:20          | 40                        |

Figure G4

**Child Care Centers, Drop-In Programs, and Part-Day Programs (continued)**

| <b>Mixed-Age Group Chart</b><br>Use when the group of children are different ages, <b>unless</b> the Mixed-Age Group Exception* applies. | <b>Ratios</b> |  | <b>Maximum Group Size</b> |
|--|---------------|--|---------------------------|
| Infants, 1-year-olds, and 2-year-olds only   | 1:6           | No more than two infants per teaching personnel              | 12                        |
| Infants and older  | 1:8           | No more than two under 2 years of age per teaching personnel | 16                        |
| 1-year-olds and older  | 1:8           | No more than two 1-year-olds per teaching personnel          | 16                        |
| 2-year-olds and older  | 1:12          | No more than four 2-year-olds per teaching personnel         | 24                        |
| 3-year-olds and older  | 1:15          | No more than six 3-year-olds per teaching personnel          | 30                        |
| 4-year-olds and older  | 1:18          | No more than eight 4-year-olds per teaching personnel        | 36                        |
| 5-year-olds and older<br>(and older mixed-age groups)  | 1:20          |  | 40                        |

**\*Mixed-Age Group Exception.** If a mixed-age group of children is understaffed or over group size according to the Mixed-Age Group Chart, refer to the Single-Age Group Chart to determine if the mixed-age group may be in compliance. In this situation, the age of the youngest child in the mixed-age group determines the ratio and group size used in the Single-Age Group Chart. The children may remain in their mixed-age group even when following the Single-Age Group Chart.

Figure G5

### Swimming and Wading Ratios

These ratios are maintained when the children are swimming, wading, or both. However, these ratios do not apply when the children are participating in swimming lessons with a certified instructor. The age of the youngest child in a mixed-age group determines the ratio.

| Youngest Child In Group           | Ratio |
|-----------------------------------|-------|
| Infants                           | 1:1   |
| 1-year-olds                       | 1:1   |
| 2-year-olds                       | 1:2   |
| 3-year-olds                       | 1:6   |
| 4-year-olds                       | 1:7   |
| 5-year-olds                       | 1:7   |
| 6-year-olds<br>(and older groups) | 1:10  |

### Shoreline Ratios

5-year-olds and older may participate in shoreline activities provided the swimming and wading ratios are maintained.

[**Source:** Added at 32 Ok Reg 704, eff 1-1-16 (emergency); Added at 33 Ok Reg 1678, eff 9-15-16 ; Revoked and reenacted at 38 Ok Reg 2359, eff 9-15-21]

## APPENDIX HH. HAND HYGIENE

Figure H1

| Personnel  | Children |  | Hand Wash*<br>or Hand Sanitize |
|--|----------|--|--------------------------------|
| * When running water is not available off-site:<br>(1) remove soiling with moist towellete; and<br>(2) apply hand sanitizer. |          |  |                                |
| <b>Visibly Dirty Hands</b>   |          |  |                                |
| x  | x        | When hands are visibly dirty   | x                              |
| <b>Activities</b>  |          |  |                                |
| x  | x        | Before and after playing in water used by more than one person           | x                              |
| x  | x        | After participating in outdoor or sand activities                        | x                              |
| <b>Animals</b>   |          |  |                                |
| x  | x        | After handling or feeding animals  | x                              |
| x  | x        | After being present in animal areas, such as a field trip to a farm      | x                              |
| x  |          | After cleaning up animal waste or habitats                               | x                              |
| <b>Body Fluids</b>   |          |  |                                |
| x  | x        | After touching body fluids, including when gloves are worn, except when: | x                              |
| x  | x        | sneezing or coughing into own hand or facial tissue                      | x                              |
| x  | x        | blowing or wiping own nose or child's nose                               | x                              |
| x  |          | After cleaning up body fluids  | x                              |
| <b>Medication</b>  |          |  |                                |
| x  |          | Before administering medication, including topical medications           | x                              |
| <b>Diapering and Toileting</b>   |          |  |                                |
| x  | x        | After each diaper change   | x                              |
| x  |          | After assisting a child with using the toilet                            | x                              |
| x  | x        | After using the toilet   | x                              |
| <b>Food</b>  |          |  |                                |
| x  | x        | Before preparing, serving, or handling food                              | x                              |
| x  |          | Before feeding children, including bottle feeding                        | x                              |
| x  | x        | Before eating  | x                              |
| <b>Food Service</b>  |          |  |                                |
| x  |          | Before preparing or handling food and:                                   | x                              |
| x  |          | during the process as often as necessary to keep hands clean             | x                              |
| x  |          | when changing foods  | x                              |
| x  |          | after handling raw food products   | x                              |
| x  |          | after eating or drinking while preparing food                            | x                              |

Figure H2

| Cleanliness and Sanitation |  |   |   |
|----------------------------|--|---|---|
| x                          |  | After handling trash, cleaning, or sanitizing | x |

[Source: Added at 32 Ok Reg 704, eff 1-1-16 (emergency); Added at 33 Ok Reg 1678, eff 9-15-16]

## APPENDIX II. IMMUNIZATIONS

Figure I1

### **Law**

The Oklahoma Child Care Facilities Licensing Act, Section 411 of Title 10 of the Oklahoma Statutes (10 O.S. § 411), mandates children attending child care obtain, at the medically appropriate time, the Required Immunization Schedule vaccines.

### **Law Exemptions**

Exemptions from the law are allowed for medical, religious, and personal reasons. Summaries are below, including procedures for obtaining exemptions and exclusions.

**Medical.** For exemptions based on medical reasons, Oklahoma State Department of Health (OSDH) Form ODH 216A, Certificate of Exemption, must be signed by a licensed physician and state the child's physical condition is such that a particular immunization would endanger the child's life or health. The parent is responsible for obtaining the signature of the licensed physician.

**Religious.** For exemptions based on religious reasons, an ODH 216A must be signed by a parent or religious leader or a written statement signed by a parent or religious leader may be attached to the Certificate of Exemption.

**Personal.** For exemptions based on personal beliefs, an ODH 216A must be signed by a parent and include a brief written statement summarizing his or her objections to immunizations.

**Exemption Procedures.** Programs willing to enroll an unimmunized child based on an exemption obtain Form ODH 216A from the OSDH Immunization Service, at Vaccines for School ([oklahoma.gov](http://oklahoma.gov)). Parents complete the form, obtain the required signatures, and return it to the program. Programs review the form for proper completion and signatures, maintain a copy in place of an immunization record, and submit a copy to the OSDH Immunization Service for approval.

**Exclusion of exempt children during outbreaks.** If there is an outbreak of a vaccine-preventable disease, programs may be required to exclude unimmunized children based on exemptions or family emergencies. The exclusion may be a lengthy period of time. The Commissioner of Health makes this decision and the program would be contacted by a representative of OSDH. The program is responsible for informing the parent of this possibility at the time the Certificate of Exemption is accepted by the program.

**Thirty-day exemptions.** A program may allow a child to enter and remain for up to 30-calendar days, without an immunization record. In addition, the Federal Child Care and Development Fund requires a 30-calendar day exemption to provide immunization records for foster children and homeless families. The record must be provided at the earliest possible opportunity. If at the end of 30-calendar days an up-to-date record has not been provided, the program must exclude the child. No child may receive this waiver more than once.

### **Required Immunization Schedule**

Figure I2

**Due** Immunizations are due according to this Required Immunization Schedule, unless there are late dose revisions (see next page).

☐ Dose due that month.
 ☐ Dose due at the end of the age range, but may be given anytime during the age range.

E = Late Dose Exceptions (see next page)

**Past Due** Immunizations are past due the month following the age due.

|             | Birth                    | 2 Mos.                   | 4 Mos.                   | 6 Mos.                   | 12 Mos.                  | 15 Mos.                  | 18 Mos.                  | 23 Mos.                  | ***                      | 4 – 6 Years              |
|-------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| Hep B       | <input type="checkbox"/> | <input type="radio"/>    | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| DTaP        | <input type="checkbox"/> | <input type="radio"/>    | <input type="radio"/>    | <input type="radio"/>    | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Hib*        | <input type="checkbox"/> | <input type="radio"/>    | <input type="radio"/>    | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| IPV         | <input type="checkbox"/> | <input type="radio"/>    | <input type="radio"/>    | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| MMR         | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Varicella** | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| PCV         | <input type="checkbox"/> | <input type="radio"/>    | <input type="radio"/>    | <input type="radio"/>    | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Hep A***    | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

\* Hib may be complete with three or four doses depending on the vaccine brand used

\*\* Varicella vaccine is not required, if a parent or treating medical physician statement states the child had Chickenpox

\*\*\* Hep A dose 2 is due six to 18 months after dose one

Refer to the OSDH website for the immunization schedule for children seven years of age and older, who need to catch-up or start immunizations.

**Late Doses = Revised Due Dates**

When a dose is received late, the remaining doses may have a different due date than

Figure I3

shown on the Required Immunization Schedule.

All remaining doses are due one to two months after the previous dose, unless:

- the schedule allows more time; or
- if one of these exceptions (E) apply.

**DTaP dose 4** is due six to 12 months after dose three

**Hep A dose 2** is due six to 18 months after dose one

#### Late Doses = Revised Number of Doses

When a dose is received late, usually the same number of doses is required. However, fewer doses may be required once a child reaches a certain age if one of these exceptions (E) applies.

##### Hib

- If one dose is given at 15 months of age or older, regardless of the number of previous doses received, no more doses are required.
- If a child is 5 years of age or older, no doses are required.

##### PCV

- If two doses are given at 12 months of age or older, regardless of the number of previous doses received, no more doses are required.
- If one dose is given at 24 months of age or older, regardless of previous doses received, no more doses are required.
- If a child is 5 years of age or older, no doses are required.

#### Vaccine Names and Combination Vaccines

Use this chart to determine what vaccines have been received. Combination vaccines have two or more vaccines in one shot.

| Vaccine   | Disease   | Vaccine Brand Names and Abbreviations   |
|-----------|---|---|
| Hep B     | Hepatitis B                                       | Comvax, HBV, Hep B Pediatric, Engerix-B, Pediarix, Recombivax, Vaxelis  |
| DTaP      | Diphtheria, Tetanus, & Pertussis (Whooping Cough) | Daptacel, DT, DTP, Infanrix, Kinrix, Pediarix, Pentacel, TriHIBit, Vaxelis                                    |
| Hib       | Haemophilus Influenzae Type B                     | ActHIB (PRP-T), Comvax, HbCV, HbOC, Hib conjugate, Hiberix, Pedvax HIB (PRP-OMP), Pentacel, TriHIBit, Vaxelis |
| IPV       | Polio   | Kinrix, OPV, Pediarix, Pentacel, Vaxelis  |
| MMR       | Measles, Mumps, & Rubella                         | M-M-R II, MMRV, ProQuad   |
| Varicella | Chickenpox  | MMRV, ProQuad, VAR, Varivax   |
| PCV       | Pneumococcal                                      | PCV 7 or 13, Pneumococcal Conjugate, Prevnar  |
| Hep A     | Hepatitis A                                       | HAV, Havrix, Vagta  |

[Source: Added at 32 Ok Reg 704, eff 1-1-16 (emergency); Added at 33 Ok Reg 1678, eff 9-15-16 ; Revoked and reenacted at 40 Ok Reg 1033, eff 9-15-23]



## **APPENDIX JJ. EXCLUSION CRITERIA FOR CHILDREN WHO ARE ILL**

Figure J1

### **All programs**

Children diagnosed with these illnesses are excluded from all programs, including programs serving children who are ill.

1. Aseptic meningitis
2. Bacterial meningitis
3. E. coli 0157:H7, until diarrhea resolves and two stool cultures are negative
4. Untreated scabies
5. All reportable contagious diseases, until the period of communicability has elapsed as determined by a licensed physician or health department official

### **Programs serving only children who are well**

Children with these illness symptoms are excluded from a program caring for only well children.

1. Fever, defined as axillary (armpit) temperature of 100 degrees or higher, or oral temperature of 101 degrees or higher, with another sign or symptom of illness
2. Diarrhea, defined as runny or watery stools with increased frequency of loose stools
3. Vomiting two or more times in a 24-hour period
4. Undiagnosed body rash or pox, except diaper rash, with fever
5. Draining skin wounds that cannot be kept completely covered by a bandage
6. Sore throat with fever and swollen glands
7. Eye discharge, defined as thick mucus or pus draining from the eye or Conjunctivitis (pink eye) without evidence of allergic reaction
8. Yellowish skin or eyes
9. Severe and/or persistent coughing, where a child gets red or blue in the face, makes a high-pitched whooping sound after coughing, or coughs to the point of vomiting
10. Appears to be severely ill from an unexplained cause, such as extreme lethargy, irritability, persistent crying, difficulty breathing, or any other unusual signs

### **Programs serving children who are ill**

Children with these illness symptoms or illnesses are excluded from Level I programs. However, the children may be cared for in a Level II program when guidelines for separation and outside ventilation are followed.

1. Diarrhea and vomiting:
  - diarrhea, stools, or vomiting that:
    - contain blood or mucus; or
    - are accompanied by lethargy or signs of dehydration, such as no tears, dry mouth, fewer wet diapers, or decreased urination
  - diarrhea diagnosed as Giardia until asymptomatic (no diarrhea)
  - vomiting two or more times in the previous 24 hours
  - salmonella, until two negative stool cultures
  - shigella, until two negative stool cultures

Figure J2

2. Respiratory conditions:
  - asthmatic child with respiratory distress uncontrolled by current medication
  - difficult, rapid breathing or wheezing
  - respiratory conditions, when the primary symptom is coughing accompanied by repeated vomiting
  - diphtheria, until five days of the appropriate antibiotic therapy that is to be given a total of 14 days
  - pertussis, until five days after treatment with antibiotics
  - streptococcal pharyngitis, until child has been on treatment for 24 hours
  - tuberculosis, until the child's physician or the local health department states the child is not infectious
3. Rash illnesses:
  - undiagnosed rash, except diaper rash
  - varicella (chicken pox), until sixth day after onset of rash or sooner if all lesions have dried and crusted, unless cared for only with other children diagnosed with chicken pox
  - measles, until six days after onset of rash
  - rash accompanied by fever or behavioral change
  - rubella, until seven days after onset of rash
  - roseola
4. Skin conditions:
  - impetigo, until 24 hours after treatment started
  - ringworm, until treatment started
5. Miscellaneous:
  - conjunctivitis (pink eye), readmit with physician's statement or 24 hours after treatment initiated, unless cared for only with other children who have conjunctivitis
  - hepatitis A, until one week after onset of illness
  - mouth sores with drooling
  - mumps, until nine days after onset of parotid gland swelling
  - pinworms, until treatment started
  - post-operative convalescent care

[Source: Added at 32 Ok Reg 704, eff 1-1-16 (emergency); Added at 33 Ok Reg 1678, eff 9-15-16]

## APPENDIX KK. DIAPER CHANGING PROCEDURES

Figure K1

### **Never leave a child unattended**

#### **a. Organize supplies in diaper changing area**

1. In reach of personnel but out of reach of all children
2. When using disposable covers, place on non-porous surface
3. When using disposable non-latex gloves, put them on

#### **b. Place child on non-porous surface**

1. Remove any wet or soiled clothing and place them out of the reach of all children

#### **c. Clean the child**

1. Unfasten diaper but leave it under child
2. When using pins, remove and close each pin and place them out of reach of all children
3. Gently clean child's genitalia and buttocks from front to back using disposable diaper wipes
4. Clean off visible soiling on non-porous surface with disposable diaper wipes or fold disposable cover so clean cover is under the child's buttocks

#### **d. Remove wet or soiled items from non-porous surface**

1. Avoid contaminating additional items
2. Discard\* disposable items
3. Put wet or soiled cloth diapers and clothes in sealed, labeled, moisture-proof bag for parents, without rinsing
4. When using gloves, remove and discard\*

#### **e. Wipe your hands**

1. Use a disposable diaper wipe to clean personnel's hands and discard\*, except when gloves were used

#### **f. Put on clean diaper**

1. When using diaper cream, apply now
2. When using pins, place your hand between child and diaper when inserting pin

#### **g. Wash child's hands and return child to supervised area**

#### **h. Clean and disinfect diaper changing-area and supplies**

1. Clean off visible soiling using diaper wipes and discard\*
2. Disinfect using approved disinfectant according to manufacturer's instructions

#### **i. Wash your hands**

#### **j. Document diaper change**

\*Discard disposable items in trash container with tight fitting lid

## APPENDIX LL. MEAL AND SNACK PATTERNS

Figure L1

Adapted from August 8, 2013 Child and Adult Care Food Program (CACFP) Minimum Meal Requirements<sup>1</sup>

| Food Components   | 1 - 2<br>year-olds | 3 - 5<br>year-olds | 6 - 12<br>year-olds |
|---|--------------------|--------------------|---------------------|
| <b>Breakfast</b>  |                    |                    |                     |
| 1 Milk <sup>2</sup> , fluid                             | ½ cup              | ¾ cup              | 1 cup               |
| 1 Fruit and/or vegetable, whole or juice <sup>3</sup>   | ¼ cup              | ½ cup              | ½ cup               |
| 1 Grain, bread, or cereal                               | Choose One         |                    |                     |
| Bread, whole-grain, enriched or fortified               | ½ slice            | ½ slice            | 1 slice             |
| Cornbread, biscuit, roll, or muffin                     | ½ serving          | ½ serving          | 1 serving           |
| Cereal, cold, dry                                       | ¼ cup              | ⅓ cup              | ¾ cup               |
| Cereal, hot, cooked                                     | ¼ cup              | ¼ cup              | ½ cup               |
| Pasta, noodles, or grains                               | ¼ cup              | ¼ cup              | ½ cup               |
| <b>Lunch or Supper</b>                                  |                    |                    |                     |
| 1 Milk <sup>2</sup> , fluid                             | ½ cup              | ¾ cup              | 1 cup               |
| 2 Fruits and/or vegetables, whole or juice <sup>3</sup> | ¼ cup              | ½ cup              | ¾ cup               |
| 1 Grain, bread, and/or cereal                           | Choose One         |                    |                     |
| Bread, whole-grain, enriched or fortified               | ½ slice            | ½ slice            | 1 slice             |
| Cornbread, biscuit, roll, or muffin                     | ½ serving          | ½ serving          | 1 serving           |
| Cereal, cold, dry                                       | ¼ cup              | ⅓ cup              | ¾ cup               |
| Cereal, hot, cooked                                     | ¼ cup              | ¼ cup              | ½ cup               |
| Pasta, noodles, or grains                               | ¼ cup              | ¼ cup              | ½ cup               |
| 1 Protein, meat, and/or meat                            | Choose One         |                    |                     |
| Lean meat, poultry, fish, or meat alternate             | 1 ounce            | 1 ½ ounces         | 2 ounces            |
| Cheese  | 1 ounce            | 1 ½ ounces         | 2 ounces            |
| Egg, large  | ½ egg              | ¾ egg              | 1 egg               |
| Beans or peas, cooked dry                               | ¼ cup              | ⅓ cup              | ½ cup               |

Figure L2

| <b>Food Components</b>                                   | <b>1 - 2<br/>year-olds</b>              | <b>3 - 5<br/>year-olds</b> | <b>6 - 12<br/>year-olds</b> |
|--|---|----------------------------|-----------------------------|
| Peanut butter or other<br>nut/seed butters               | 2<br>tablespoons                        | 3<br>tablespoons           | 4<br>tablespoons            |
| Yogurt   | 4 ounces                                | 6 ounces                   | 8 ounces                    |
|  | Combine with ½ serving of other protein |                            |                             |
| Nuts and/or seeds  | ½ ounce                                 | ¾ ounce                    | 1 ounce                     |
| <b>Snack</b> (Choose 2 of the 4 Food Components)         |   |                            |                             |
| 1 Milk <sup>2</sup> , fluid                              | ½ cup                                   | ½ cup                      | 1 cup                       |
| 1 Fruit and/or vegetable, whole or<br>juice <sup>3</sup> | ½ cup                                   | ½ cup                      | ¾ cup                       |
| 1 Grain, bread, and/or cereal                            | Choose One                              |                            |                             |
| Bread, whole-grain, enriched<br>or fortified             | ½ slice                                 | ½ slice                    | 1 slice                     |
| Cornbread, biscuit, roll, or<br>muffin                   | ½ serving                               | ½ serving                  | 1 serving                   |
| Cereal, cold, dry  | ¼ cup                                   | ⅓ cup                      | ¾ cup                       |
| Cereal, hot, cooked                                      | ¼ cup                                   | ¼ cup                      | ½ cup                       |
| Pasta, noodles, or grains                                | ¼ cup                                   | ¼ cup                      | ½ cup                       |
| 1 Protein, meat, and/or meat<br>alternate                | Choose One                              |                            |                             |
| Lean meat, poultry, fish, or<br>meat alternate           | ½ ounce                                 | ½ ounce                    | 1 ounce                     |
| Cheese   | ½ ounce                                 | ½ ounce                    | 1 ounce                     |
| Egg, large   | ½ egg                                   | ½ egg                      | ½ egg                       |
| Beans or peas, cooked dry                                | ⅞ cup                                   | ⅞ cup                      | ¼ cup                       |
| Peanut butter or other<br>nut/seed butters               | 1<br>tablespoon                         | 1<br>tablespoon            | 2<br>tablespoons            |
| Yogurt   | 2 ounces                                | 2 ounces                   | 4 ounces                    |
|  | Combine with ½ serving of other protein |                            |                             |
| Nuts and/or seeds  | ½ ounce                                 | ½ ounce                    | 1 ounce                     |

#### Footnotes

- <sup>1</sup> The most current meal pattern can be found at <http://www.fns.usda.gov/cacfp/meals-and-snacks>.
- <sup>2</sup> Milk for 2-year-olds and older is fat-free or low-fat (1%) unflavored or fat-free flavored.
- <sup>3</sup> Juice is full strength (100% and undiluted).

[Source: Added at 32 Ok Reg 704, eff 1-1-16 (emergency); Added at 33 Ok Reg 1678, eff 9-15-16]

## APPENDIX MM. EQUIPMENT

Figure M1

Required play equipment is within reach of the children and is available for use. Homemade and non-commercial made equipment may be counted, provided the equipment meets the requirements and is not a risk to children.

### Outdoor Equipment

At least one item from five different categories is required, with no more than two of those items from (h) through (k).

- (a) Climbing apparatus;
- (b) Swinging apparatus;
- (c) Crawl-through apparatus;
- (d) Balance apparatus;
- (e) Wheeled or riding toys;
- (f) Balls, bean bags, Frisbees, flying discs;
- (g) Sand and water play with accessories;
- (h) Music equipment; (utilized for outdoor use only.)
- (i) Dramatic play and dress up; (utilized for outdoor use only.)
- (j) Blocks or other building materials; and (utilized for outdoor use only.)
- (k) Outdoor arts and crafts. (utilized for outdoor use only.)

### Indoor Equipment

The required number of items is based on the licensed capacity and is proportionate to the number of children in each single-age or mixed-age group classroom.

- Play equipment:
  - is counted only one time. For example:
    - items counted for one classroom are not counted for another, although play equipment may be rotated between classrooms to maintain interest; and
    - an item may meet several developmental needs and potentially be counted in several categories; however, the item only counts in one category;
  - is varied; and
  - included in this appendix are varying examples only. Play equipment that meets the developmental intent of the category may be counted, though not listed. The examples are designed to offer a range of options that are age appropriate, diverse, and may be made, purchased, or donated.
- Manipulatives are play equipment that allow children to practice fine motor and problem solving skills and learn number sense, such as sorting, patterning, and ordering. Manipulative items include lacing beads, peg boards, pattern blocks, and interlocking materials.

Figure M2

**Basic Equipment: Infants**

- (a) crib or play yard, one per child;
- (b) mattress sheet, one per child;
- (c) extra mattress sheets;
- (d) diaper changing area;
- (e) adequate supply of:
  - (1) facial tissues, wash cloths, and bath towels;
  - (2) diapers and disposable wipes;
  - (3) moisture-proof bags for wet or soiled cloth diapers or clothing; and
  - (4) clothing in various sizes in case of accidents; and
- (f) adequate size trash container with tight-fitting lid for wet or soiled disposable items;
- (g) separate, individual space for personal belongings;
- (h) adult-height shelf;
- (i) adult-size chair, one per teaching personnel; and
- (j) audio player.

**Play Equipment: Infants**

| Number of infants in the classroom  | 1 | 2 | 3 | 4  | 5  | 6  | 7  | 8  |
|---|---|---|---|----|----|----|----|----|
| <b>Motor Play</b>   |   |   |   |    |    |    |    |    |
| <b>Gross motor:</b> set of large, soft, modular blocks (four minimum); crawl through space; pull-up apparatus; Johnny Jump Up; swing; small rocking toy; support pillows for sitting up; Exersaucer; activity gym or mat                                | 2 | 2 | 2 | 2  | 4  | 4  | 4  | 4  |
| <b>Fine motor:</b> nesting and stacking toys; items to empty and fill, push and pull; small vehicles; knobbed puzzle; infant blocks; washable dolls; balls of various sizes; plastic or rubber animals; large infant crayons with large sheets of paper | 2 | 3 | 4 | 4  | 5  | 6  | 7  | 8  |
| <b>Exploratory Play</b>   |   |   |   |    |    |    |    |    |
| <b>Things to hear:</b> rattle; musical toy; squeaky toy; wind chimes; wrist or ankle bells; wooden spoon and pan  | 3 | 3 | 3 | 4  | 5  | 6  | 7  | 8  |
| <b>Things to see:</b> black and white pictures (newborns); mobiles; murals; colorful, single-object pictures; colorful fabric or banners; brightly colored sensory bottles  | 2 | 2 | 3 | 4  | 5  | 6  | 7  | 8  |
| <b>Shatterproof mirror</b>  | 1 | 1 | 1 | 1  | 1  | 1  | 1  | 1  |
| <b>Things to touch:</b> soft, washable toys and dolls; handkerchiefs; small dishpans or trays for water play; tactile toys and balls; textured items or fabric  | 2 | 2 | 3 | 4  | 5  | 6  | 7  | 8  |
| <b>Creative Play</b>  |   |   |   |    |    |    |    |    |
| <b>Music:</b> CDs, tapes, or equivalent   | 2 | 2 | 2 | 2  | 4  | 4  | 4  | 4  |
| <b>Language Play</b>  |   |   |   |    |    |    |    |    |
| <b>Child items:</b> washable fabric, cardboard and vinyl picture books; books that reflect the ethnicities of children and families   | 2 | 2 | 3 | 4  | 5  | 6  | 7  | 8  |
| <b>Teacher and child interaction items:</b> picture books with large, single object pictures, simple story lines and repetitive phrases to be read by the teacher; photos of the child and his or her family; puppets                                   | 3 | 6 | 9 | 12 | 15 | 18 | 21 | 24 |

Figure M3

#### Basic Equipment: 1-year-olds

- (a) crib, play yard, mat or cot, one per child;
- (b) sheet and cover, one of each per child;
- (c) extra sheets and covers;
- (d) diaper changing area;
- (e) adequate supply of:
  - (1) facial tissues, wash cloths, and bath towels;
  - (2) diapers and disposable wipes;
  - (3) moisture-proof bags for wet or soiled cloth diapers or clothing; and
  - (4) clothing in various sizes in case of accidents; and
- (f) adequate size trash container with tight-fitting lid for wet or soiled disposable items;
- (g) separate, individual space for personal belongings;
- (h) adult-height shelf;
- (i) highchair or table space with a chair, one per child;
- (j) baskets or low, open shelves for play equipment storage; and
- (k) audio player.

#### Play Equipment: 1-year-olds

| Number of 1-year-olds in the classroom  | 1-2 | 3-4 | 5 | 6 | 7 | 8-9 | 10-11 | 12 |
|---|-----|-----|---|---|---|-----|-------|----|
| <b>Motor Play</b>   |     |     |   |   |   |     |       |    |
| <b>Gross motor:</b> set of large plastic or cardboard building blocks (12 minimum); interlocking panels; two-step slide; indoor riding toy without pedals; rocking toy; Sit N Spin; scarves, ribbons, or fabric for dancing                 | 2   | 2   | 2 | 2 | 3 | 3   | 4     | 4  |
| Large push and pull items- shopping cart, lawn mower, vacuum cleaner, doll stroller, wagon  | 2   | 2   | 2 | 2 | 3 | 3   | 3     | 3  |
| <b>Fine motor:</b> nesting, stacking, and interlocking toys; cause and effect toys - tops, jack-in-the box; knobbed puzzles; toddler blocks; pounding toys; giant peg boards; waffle blocks; pop beads; large stringing beads; shape sorter | 2   | 4   | 5 | 6 | 7 | 9   | 11    | 12 |
| Small rubber or plastic animals   | 2   | 2   | 3 | 4 | 5 | 6   | 7     | 8  |
| Balls of various sizes  | 2   | 2   | 3 | 4 | 5 | 6   | 7     | 8  |
| Small cars, trucks, boats, trains, people   | 2   | 4   | 5 | 6 | 7 | 8   | 10    | 12 |
| <b>Exploratory Play</b>   |     |     |   |   |   |     |       |    |
| <b>Things to hear:</b> rhythm instruments - shakers, drums, xylophones; interactive toys with sound   | 2   | 2   | 3 | 4 | 5 | 6   | 7     | 8  |
| <b>Things to see:</b> mobiles; colorful, single-object pictures; banners; colorful pieces of fabric; brightly colored sensory bottles; windsock   | 2   | 2   | 3 | 4 | 5 | 6   | 7     | 8  |
| <b>Things to touch:</b> textured surfaces; dishpans or water table with accessories; tactile toys and boxes; play dough; nature items - pinecones, shells, rocks  | 2   | 2   | 3 | 4 | 5 | 6   | 7     | 8  |

Figure M4



| Number of 1-year-olds in the classroom  | 1-2 | 3-4 | 5  | 6  | 7  | 8-9 | 10-11 | 12 |
|---|-----|-----|----|----|----|-----|-------|----|
| <b>Creative Play</b>  |     |     |    |    |    |     |       |    |
| <b>Music:</b> CDs, tapes, or equivalent   | 2   | 2   | 2  | 2  | 4  | 4   | 4     | 4  |
| <b>Art:</b> toddler crayons, non-toxic paint and finger paint; large sheets of paper; glue sticks or flour and water mixture  | 2   | 3   | 4  | 4  | 5  | 5   | 6     | 6  |
| <b>Dramatic Play</b>  |     |     |    |    |    |     |       |    |
| <b>Animals and dolls:</b> (soft and washable)   | 2   | 2   | 3  | 4  | 5  | 6   | 7     | 8  |
| <b>Everyday items used by the child and his or her family:</b> pillows and blankets, dishes and utensils, pots and pans, purses, keys, pair of shoes, hats, tools, brief cases, phones                      | 3   | 6   | 9  | 12 | 15 | 18  | 21    | 24 |
| <b>Shatterproof mirror</b>  | 1   | 1   | 1  | 1  | 1  | 1   | 1     | 1  |
| <b>Language Play</b>  |     |     |    |    |    |     |       |    |
| <b>Child items:</b> washable fabric, cardboard, and vinyl picture books; books that reflect the ethnicities of children and their family  | 2   | 4   | 5  | 6  | 7  | 9   | 11    | 12 |
| <b>Teacher and child interaction items:</b> picture books with large, uncluttered pictures, simple story lines, and repetitive phrases to be read by the teacher; photos of the child and his or her family | 6   | 12  | 15 | 18 | 21 | 27  | 33    | 36 |
| <b>Puppets</b>  | 2   | 2   | 2  | 2  | 2  | 2   | 2     | 2  |

**Basic Equipment: 2-year-olds**

- (a) mat, cot, or bed, one per child;
- (b) sheet and cover, one of each per child;
- (c) extra sheets and covers;
- (d) adequate supply of:
  - (1) facial tissue, wash cloths, and bath towels;
  - (2) diapers and disposable wipes;
  - (3) moisture-proof bags for wet or soiled cloth diapers or clothing; and
  - (4) clothing in various sizes in case of accidents; and
- (e) adequate size trash container with tight-fitting lid for wet or soiled disposable items;
- (f) separate, individual space for personal belongings;
- (g) table space with a chair, one per child;
- (h) baskets or low, open shelves for play equipment storage;
- (i) a designated place to go for quiet time; and
- (j) audio player.

Figure M5

**Play Equipment: 2-year-olds**

| Number of 2-year-olds in the classroom  | 1-2 | 3-4 | 5-6 | 7-8 | 9-10 | 11-12 | 13-14 | 15-16 |
|---|-----|-----|-----|-----|------|-------|-------|-------|
| <b>Motor Play</b>   |     |     |     |     |      |       |       |       |
| <b>Gross motor:</b> set of large plastic or cardboard building blocks; interlocking panels; two-step slide; rocking toy; indoor climbing apparatus; large floor push toy; crawl through space - tunnel or cardboard box; wheel toys with and without pedals (no more than two of the same item) | 2   | 2   | 3   | 4   | 5    | 6     | 7     | 8     |
| Large push and pull items - shopping cart, lawn mower, vacuum cleaner, wheelbarrow, doll stroller, wagon  | 2   | 2   | 2   | 2   | 3    | 3     | 4     | 4     |
| <b>Fine motor:</b> nesting, stacking, and interlocking toys; cause and effect toys - tops, jack-in-the box; single object puzzles; toddler blocks; toddler pounding toys; giant peg boards; waffle block; pop beads; large stringing beads; Duplo blocks; shape sorter; simple matching games   | 2   | 4   | 6   | 8   | 10   | 12    | 14    | 16    |
| Balls of various sizes  | 2   | 2   | 3   | 3   | 4    | 4     | 5     | 5     |
| Small cars, trucks, trains, planes, boats, people   | 2   | 3   | 5   | 6   | 8    | 9     | 10    | 12    |
| Small plastic, rubber, or wooden animals  | 2   | 2   | 3   | 4   | 5    | 6     | 7     | 8     |
| <b>Exploratory Play</b>   |     |     |     |     |      |       |       |       |
| <b>Things to touch:</b> texture boards; sensory table with accessories; tactile toys and boxes; play dough  | 2   | 2   | 3   | 4   | 5    | 6     | 7     | 8     |
| <b>Creative Play</b>  |     |     |     |     |      |       |       |       |
| <b>Music:</b> CDs, tapes or equivalent  | 2   | 2   | 2   | 2   | 4    | 4     | 4     | 4     |
| Rhythm instruments - drums, rain sticks, zithers, shakers, maracas, xylophones, autoharps   | 2   | 2   | 3   | 4   | 5    | 6     | 7     | 8     |
| Interactive toys with sounds  | 2   | 2   | 2   | 3   | 3    | 3     | 4     | 5     |
| <b>Art:</b> large, blank paper; chubby stumps or toddler crayons; glue sticks, glue, or flour and water mixture; non-toxic paints and paint brushes; rounded scissors   | 2   | 3   | 4   | 5   | 6    | 7     | 8     | 9     |
| <b>Dramatic Play</b>  |     |     |     |     |      |       |       |       |
| Dolls   | 2   | 2   | 3   | 4   | 5    | 6     | 7     | 8     |
| <b>Dress-up items:</b> clothes such as capes, aprons, hats, shoes, purses, scarves, ties, suits, vests, brief cases, uniforms of familiar community helpers, clothing that reflects the ethnicities of children and their family  | 2   | 2   | 3   | 4   | 5    | 6     | 7     | 8     |

Figure M6

| Number of 2-year-olds in the classroom  | 1-2 | 3-4 | 5-6 | 7-8 | 9-10 | 11-12 | 13-14 | 15-16 |
|---|-----|-----|-----|-----|------|-------|-------|-------|
|   |     |     |     |     |      |       |       |       |
| <b>Everyday items used by the child and their family:</b> sets of pots, pans, dishes; plastic play foods; empty food containers; kitchen appliances - stoves, refrigerators, or sinks; ironing board and iron; set of clean-up toys - broom, dust pan, vacuum; tool kit; work bench; lawn and gardening items | 2   | 4   | 6   | 8   | 10   | 12    | 14    | 16    |
| <b>Shatterproof mirror</b>  | 1   | 1   | 1   | 1   | 1    | 1     | 1     | 1     |
| <b>Language Play</b>  |     |     |     |     |      |       |       |       |
| <b>Child items:</b> Washable cardboard, cloth, and vinyl books; teacher-made books; books that reflect the ethnicities of children and their family   | 2   | 4   | 6   | 8   | 10   | 12    | 14    | 16    |
| <b>Teacher and child interaction items:</b> picture books with large, uncluttered pictures, simple story lines, and repetitive phrases to be read by the teacher; photos of the child and his or her family   | 6   | 12  | 18  | 24  | 30   | 36    | 42    | 48    |
| Puppets; finger puppets   | 2   | 2   | 2   | 2   | 3    | 3     | 4     | 4     |

Figure M7

**Basic Equipment: 3-year-olds**

- (a) mat, cot, or bed, one per child;
- (b) sheet and cover, one of each per child;
- (c) extra sheets and covers;
- (d) adequate supply of:
  - (1) facial tissue, wash cloths, and bath towels;
  - (2) moisture-proof bags for wet or soiled cloth diapers or clothing; and
  - (3) clothing, in various sizes in case of accidents; and
- (e) separate, individual space for personal belongings;
- (f) table space with a chair, one per child;
- (g) two linear feet of low, open shelves for play equipment storage, per child;
- (h) a designated place to go for quiet time; and
- (i) audio player.

**Play Equipment: 3-year-olds**

| Number of 3-year-olds in the classroom   | 1-3 | 4-6 | 7-9 | 10-12 | 13-15 | 16-18 | 19-21 | 22-24 |
|--|-----|-----|-----|-------|-------|-------|-------|-------|
| <b>Motor Play</b>  |     |     |     |       |       |       |       |       |
| <b>Gross motor:</b> building blocks with accessories (20 minimum) - unit blocks, tabletop hardwood blocks, window pane blocks, hollow wooden blocks, or cardboard boxes with planks, crates, or ladders  | 1   | 1   | 1   | 2     | 2     | 2     | 2     | 2     |
| Rocking boat; interlocking panels; indoor climbing apparatus; balance beam; crawl-through space or tunnel; large floor push toy; wheel toys with or without pedals; creative movement materials - scarves, ribbons, fabric pieces; Lummi sticks; parachute (no more than two of the same item) | 2   | 2   | 2   | 2     | 3     | 3     | 4     | 4     |
| <b>Exploratory Play</b>  |     |     |     |       |       |       |       |       |
| <b>Manipulatives:</b> matching games; lottos; large stringing beads; pattern blocks; peg boards and pegs; lacing boards; self-help activities - lacing, buttoning, zipping, snapping; simple board games; sorting and counting items   | 3   | 3   | 6   | 6     | 9     | 9     | 12    | 12    |
| Inlay puzzles: (10-20 pieces)  | 3   | 3   | 6   | 6     | 9     | 9     | 12    | 12    |
| Interlocking manipulatives set - Legos, Tinker Toys, Lincoln Logs, bristle blocks, Connectos, magnet blocks, construction blocks   | 1   | 1   | 2   | 2     | 3     | 3     | 4     | 4     |
| Small cars, trucks, airplanes, boats, animals, people  | 3   | 3   | 6   | 6     | 9     | 9     | 12    | 12    |
| <b>Science items:</b> sensory table and accessories; magnifying glass; bug catcher; prisms; balance scale; nature items - plants, leaves, rocks; aquarium; light table and accessories   | 1   | 1   | 2   | 2     | 3     | 3     | 4     | 4     |

Figure M8

| Number of 3-year-olds in the classroom  | 1-3 | 4-6 | 7-9 | 10-12 | 13-15 | 16-18 | 19-21 | 22-24 |
|---|-----|-----|-----|-------|-------|-------|-------|-------|
| <b>Creative Play</b>  |     |     |     |       |       |       |       |       |
| <b>Music:</b> CDs, tapes, or equivalent   | 2   | 2   | 4   | 4     | 5     | 5     | 6     | 6     |
| Rhythm instruments – drums, rain sticks, maracas, xylophones, zithers, autoharps  | 2   | 2   | 3   | 4     | 5     | 6     | 7     | 8     |
| <b>Art:</b> large, blank paper; markers, crayons, chalk; glue or glue sticks; play dough or clay; non-toxic paints and brushes; textured collage materials - scraps of ribbon, yarn, buttons; rounded scissors  | 3   | 4   | 5   | 6     | 7     | 8     | 9     | 10    |
| Easel surface   | 1   | 1   | 2   | 2     | 2     | 2     | 2     | 2     |
| <b>Dramatic Play</b>  |     |     |     |       |       |       |       |       |
| <b>Dolls with accessories:</b> clothes, strollers, high chairs  | 2   | 2   | 4   | 4     | 6     | 6     | 8     | 8     |
| <b>Dress-up items:</b> clothes such as hats, neckties, capes, purses, vests, aprons, shoes, suits; uniforms of community helpers -firefighters, doctors, painters; clothing that reflects the ethnicities of children and their family  | 2   | 4   | 6   | 8     | 10    | 10    | 12    | 12    |
| Everyday items used by children and families: kitchen appliances - stove, sink, refrigerator, microwave; sets of dishes and utensils; sets of pots and pans; sets of clean-up toys - broom, dust pan, mop; doll bed or cradle; child-size rocking chair; lawn care equipment - lawn mower, wheelbarrow, gardening tools; prop boxes designed around themes reflecting a child's life experiences- doctor office, barber shop, veterinarian office, shoe store, donut shop; water play equipment | 2   | 4   | 6   | 8     | 10    | 10    | 12    | 12    |
| <b>Shatterproof mirror</b>  | 1   | 1   | 1   | 1     | 1     | 1     | 1     | 1     |
| <b>Creative play sets with accessories:</b> farm; playhouse; garage; airport; doll house  | 1   | 1   | 2   | 2     | 3     | 3     | 4     | 4     |
| <b>Language Play</b>  |     |     |     |       |       |       |       |       |
| <b>Child items:</b> Picture books from a variety of genres: alphabet, counting, informational, look and find, wordless, folk and fairy tales, nursery rhymes, fantasy fiction, rhyming stories, realistic fiction; books that reflect the ethnicities of children and their family  | 12  | 24  | 36  | 48    | 60    | 72    | 84    | 96    |
| Story telling and retelling items - flannel or magnetic board with accessories; listening tapes   | 2   | 2   | 2   | 2     | 2     | 2     | 2     | 2     |
| Puppets; finger puppets; puppet stage; marionettes  | 2   | 2   | 2   | 2     | 2     | 2     | 2     | 2     |

Figure M9

**Basic Equipment: 4-year-olds and 5-year-olds**

- (a) mat, cot, or bed, one for each child present during scheduled rest or quiet time or a child who is ill;
- (b) sheet and cover, one of each for each child present during scheduled rest or quiet time or a child who is ill;
- (c) extra sheets and covers;
- (d) adequate supply of:
  - (1) facial tissue, wash cloths, and bath towels;
  - (2) moisture-proof bags for wet or soiled clothing; and
  - (3) clothing, in various sizes in case of accidents; and
- (e) separate, individual space for personal belongings;
- (f) table space with a chair, stool, or bench that allows 18 inches per child;
- (g) two linear feet of low, open shelves for play equipment storage, per child;
- (h) a designated place to go for quiet time; and
- (i) audio player.

**Play Equipment: 4-year-olds and 5-year-olds**

| Number of 4-year-olds and 5-year-olds in the classroom   | 1-4 | 5-8 | 9-11 | 12-15 | 16-19 | 20-23 | 24-26 | 27-30 |
|--|-----|-----|------|-------|-------|-------|-------|-------|
| <b>Motor Play</b>  |     |     |      |       |       |       |       |       |
| <b>Gross motor:</b> set of building blocks with accessories (20 minimum) - unit blocks, tabletop hardwood blocks, window pane blocks, hollow wooden blocks, or card board boxes with planks, crates, or ladders  | 1   | 1   | 2    | 2     | 2     | 3     | 4     | 4     |
| Rocking boat; interlocking panels; indoor climbing apparatus; balance beam; crawl-through space or tunnel; large floor push toy; wheel toys with pedals; creative movement materials - scarves, ribbons, pieces of fabric; Lummi sticks; parachute (no more than two of the same item) | 2   | 2   | 2    | 2     | 3     | 3     | 4     | 4     |
| <b>Exploratory Play</b>  |     |     |      |       |       |       |       |       |
| <b>Manipulatives:</b> matching games; lottos; stringing beads; pattern blocks; peg boards and pegs; geoboards; lacing boards; self-help activities - lacing, buttoning, zipping, snapping; board games; sorting and counting items   | 6   | 6   | 9    | 9     | 12    | 12    | 15    | 15    |
| Inlay puzzles: (20-30 pieces)  | 3   | 3   | 6    | 6     | 9     | 9     | 12    | 12    |
| Interlocking manipulatives set - Legos, Tinker Toys, Lincoln Logs, bristle blocks, Connectos, magnet blocks, construction blocks   | 1   | 2   | 3    | 4     | 5     | 5     | 6     | 6     |
| Small cars, trucks, boats, planes, trains, animals, people   | 2   | 4   | 6    | 8     | 10    | 12    | 14    | 16    |
| <b>Science items:</b> sensory table and accessories; magnifying glass; bug catcher; prisms; balance scale; nature items - plants, leaves, rocks; aquarium;   | 2   | 2   | 3    | 3     | 4     | 4     | 5     | 5     |

Figure M10

| Number of 4-year-olds and 5-year-olds in the classroom   | 1-4 | 5-8 | 9-11 | 12-15 | 16-19 | 20-23 | 24-26 | 27-30 |
|--|-----|-----|------|-------|-------|-------|-------|-------|
| light table and accessories  |     |     |      |       |       |       |       |       |
| <b>Creative Play</b>   |     |     |      |       |       |       |       |       |
| <b>Music:</b> CDs, tapes, or equivalent  | 2   | 2   | 4    | 4     | 5     | 5     | 6     | 6     |
| Rhythm instruments - drums, rain sticks, maracas, xylophones, zithers, autoharps   | 2   | 2   | 3    | 4     | 5     | 6     | 7     | 8     |
| <b>Art:</b> Large, blank paper; markers, crayons, chalk; glue or glue sticks; play dough or clay; variety of non-toxic paints and brushes; textured collage materials - scraps of ribbon, yarn, buttons; rounded scissors  | 4   | 5   | 6    | 7     | 8     | 9     | 10    | 10    |
| <b>Easel surface</b>   | 1   | 1   | 2    | 2     | 2     | 2     | 2     | 2     |
| <b>Dramatic Play</b>   |     |     |      |       |       |       |       |       |
| <b>Dolls with accessories:</b> clothes, strollers, high chairs   | 2   | 2   | 3    | 3     | 4     | 4     | 5     | 5     |
| <b>Dress-up items:</b> such as hats, neckties, capes, purses, vests, aprons, shoes, suits; uniforms of community helpers - firefighter, doctor, painter; clothing that reflects the ethnic dress of children's families  | 8   | 8   | 10   | 10    | 12    | 12    | 14    | 14    |
| Accessories related to occupations - chef's hat, brief case, medical kit, gardening tools, tool kit, firefighter jacket, painter hat   | 2   | 2   | 4    | 4     | 5     | 5     | 6     | 6     |
| <b>Everyday items used by children and families:</b> kitchen appliances - stove, sink, refrigerator, microwave; sets of dishes and utensils; sets of pots and pans; sets of clean-up toys - broom, mop, dust pan; doll bed or cradle; child-size rocking chair; water play equipment; plastic play food; lawn care equipment - lawn mower, wheelbarrow; prop boxes designed around themes reflecting a child's life experiences - pizza shop, florist, dentist | 2   | 4   | 5    | 6     | 7     | 8     | 9     | 10    |
| <b>Shatterproof mirror</b>   | 1   | 1   | 1    | 1     | 1     | 1     | 1     | 1     |
| <b>Creative play sets with accessories:</b> farm, playhouse, garage, airport, doll house   | 1   | 1   | 2    | 2     | 3     | 3     | 4     | 4     |
| <b>Language Play</b>   |     |     |      |       |       |       |       |       |
| <b>Child items:</b> picture books from a variety of genres - alphabet, counting, informational, look and find, wordless, folk and fairy tales, nursery rhymes, fantasy fiction, rhyming stories, realistic fiction; books that reflect the ethnicities of children and their family  | 16  | 32  | 44   | 60    | 76    | 92    | 104   | 120   |
| Story telling and retelling items - flannel or magnetic board with accessories, listening tapes  | 1   | 1   | 2    | 2     | 3     | 3     | 4     | 4     |
| Puppets; finger puppets; puppet stage; paper dolls   | 1   | 1   | 2    | 2     | 3     | 3     | 4     | 4     |

Figure M11

**Basic Equipment: 6-year-olds and older**

- (a) mat, cot, or bed, for each child with a scheduled rest or quiet time or a child who is ill;
- (b) sheet and cover, for each child with a scheduled rest or quiet time or a child who is ill;
- (c) adequate supply of:
  - (1) facial tissue, wash cloths, and bath towels;
  - (2) moisture-proof bags for wet or soiled clothing;
  - (3) clothing, in various sizes in case of accidents; and
  - (4) feminine hygiene products; and
- (d) separate, individual space for personal belongings;
- (e) adequate table and chair space available at any given time;
- (f) two linear feet of shelf space for play equipment storage;
- (g) safe storage for projects and small items;
- (h) a designated place to go for quiet time; and
- (i) audio player.

**Play Equipment: 6-year-olds and older**

| Number of 6-year-olds and older in the classroom   | 1-5 | 6-10 | 11-15 | 16-20 | 21-25 | 26-30 | 31-35 | 36-40 |
|--|-----|------|-------|-------|-------|-------|-------|-------|
| <b>Motor Play</b>  |     |      |       |       |       |       |       |       |
| <b>Gross motor:</b> jump ropes; ping pong; Frisbee; hula hoop; hopscotch; horse shoes; croquet; bean bag toss; stilts; pool table; foosball; scooters; hippety hop balls; physically interactive electronic equipment; aerobic videos; creative movement materials, scarves, ribbons, fabric pieces, parachute | 5   | 5    | 10    | 10    | 12    | 12    | 15    | 15    |
| Sports equipment - soccer ball, football, softball, t-ball, volleyball, basketball, tether ball, badminton   | 2   | 2    | 4     | 4     | 5     | 5     | 6     | 6     |
| <b>Exploratory Play</b>  |     |      |       |       |       |       |       |       |
| <b>Manipulatives:</b> card games; board games that include games of chance, strategy, and skill; pick-up sticks; geoboards; pattern blocks; peg boards; tangrams; jig saw puzzles (100 pieces or more); workbench and woodworking tools; dominos   | 5   | 5    | 10    | 10    | 15    | 15    | 20    | 20    |
| Interlocking manipulative sets (20 pieces minimum per set) - Legos, Connectos, mini-loc blocks, bristle blocks, unifix cubes, Rig-A-Jig, Tower-ifics, Lincoln Logs, Tinker Toys, Constructs, K'nex, Magnatiles, Erector sets, Marbleworks, Pipeworks   | 2   | 2    | 4     | 4     | 6     | 6     | 8     | 8     |
| Blocks of various sizes, shapes, colors (20 minimum per set) unit blocks with accessories; large waffle blocks; large interlocking blocks  | 2   | 2    | 4     | 4     | 6     | 6     | 8     | 8     |

Figure M12



| <b>Number of 6-year-olds and older in the classroom</b>  | <b>1-5</b> | <b>6-10</b> | <b>11-15</b> | <b>16-20</b> | <b>21-25</b> | <b>26-30</b> | <b>31-35</b> | <b>36-40</b> |
|--|------------|-------------|--------------|--------------|--------------|--------------|--------------|--------------|
| Matchbox cars; trucks; trains; emergency vehicles; programmable robots; model airplanes; ships; rockets; pinewood racing cars  | 2          | 3           | 4            | 5            | 6            | 7            | 8            | 9            |
| <b>Science items:</b> magnifying glasses; tornado tubes; magnets; bug catchers; microscopes; nature items - ant farms, plants, animals, rocks, shells; aquariums; chemistry sets; science kits; marble runs; simple machines - pulleys, pendulums, gears and levers; computerized robots; motorized Lego creations   | 2          | 2           | 4            | 4            | 6            | 6            | 8            | 8            |
| <b>Creative Play</b>   |            |             |              |              |              |              |              |              |
| <b>Music:</b> CDs, tapes, or equivalent  | 2          | 2           | 4            | 4            | 6            | 6            | 8            | 8            |
| <b>Art:</b> assortment of paper; crayons, markers, pastels, charcoal; tempera paint, paint brushes, water colors, finger paints; collage and mosaic materials; glue, low-temp hot glue gun; clay; ceramics; computer graphics program  | 5          | 6           | 7            | 8            | 9            | 10           | 11           | 12           |
| <b>Crafts:</b> sewing machines and sewing equipment; needle crafts - crocheting, needle point, knitting, cross stitching, embroidery, latch hook; leather tooling; jewelry making; scrapbooking; paper mache; weaving looms; candle, soap, or perfume making materials; woodworking; nail art; craft kits  | 2          | 3           | 4            | 5            | 6            | 7            | 8            | 9            |
| <b>Dramatic Play</b>   |            |             |              |              |              |              |              |              |
| <b>Dolls with accessories:</b> action figures; fashion dolls; paper dolls; doll houses; miniature play scenes - airport, farm, space station   | 1          | 2           | 3            | 4            | 5            | 5            | 6            | 6            |
| <b>Dress-up items:</b> clothes such as costumes, and accessories related to occupations – chef hat, hard hat, straw hat; capes, neckties, purses, coats, vests, aprons, wigs, dresses, nurse uniform, tool aprons, farmer overalls, doctor instruments; costume making materials - fabric lengths, newspaper, duct tape, bath towels   | 5          | 5           | 10           | 10           | 12           | 12           | 15           | 15           |
| Prop boxes for various occupations - doctor, veterinarian, TV journalist, carpenter; prop boxes for places of business - restaurant, bakery, nail salon, auto shop; prop boxes of other familiar places or events - circus, camping trip; low platform for stage; lights and curtains; video production studio - digital video, flip cameras, video production software, microphones | 1          | 2           | 3            | 4            | 5            | 6            | 7            | 8            |
| <b>Shatterproof mirror</b>   | 1          | 1           | 1            | 1            | 2            | 2            | 2            | 2            |

Figure M13

| Number of 6-year-olds and older in the classroom  | 1-5 | 6-10 | 11-15 | 16-20 | 21-25 | 26-30 | 31-35 | 36-40 |
|---|-----|------|-------|-------|-------|-------|-------|-------|
| <b>Language Play</b>  |     |      |       |       |       |       |       |       |
| <b>Child items:</b> Picture books from a variety of genres - alphabet, counting, informational, fantasy fiction, folk tales and legends, fairy tales, rhyming stories, song story books; chapter books-mystery, biography, adventure, informational, fiction, folk and fairy tales, science fiction; how-to books; e-readers; books that reflect the ethnicities of children and their family | 15  | 30   | 45    | 60    | 75    | 90    | 105   | 120*  |
| Listening tapes; puppets or marionettes with theater; flannel boards with pieces; writing and book making materials - assortment of paper and writing utensils, binding materials, art materials for illustrations, binding machine; chalk or dry erase board; clip boards; computer with software for producing newsletters, stories, and plays  | 2   | 2    | 4     | 4     | 6     | 6     | 8     | 8     |
| <b>Children's magazines:</b> Highlights; Zoobooks; Click; National Geographic Kids; American Girl; Boys Life; Ranger Rick; Lady Bug; Humpty Dumpty  | 5   | 5    | 10    | 10    | 15    | 15    | 20    | 20    |

\*The maximum number of required books is 120 regardless of the number of 6-year-olds and older.

[Source: Added at 32 Ok Reg 704, eff 1-1-16 (emergency); Added at 33 Ok Reg 1678, eff 9-15-16]

## APPENDIX NN. CLEANERS, SANITIZERS, AND DISINFECTANTS

Figure N1

Clean; then, sanitize **or** disinfect.

|            |  | Cleaners  | Sanitizers   | Disinfectants   |                          |            |
|------------|--|---|--|---|--------------------------|------------|
| In general | Effective against  | <ul style="list-style-type: none"><li>• Dirt</li><li>• Debris</li></ul> | <ul style="list-style-type: none"><li>• Bacteria</li></ul>   | <ul style="list-style-type: none"><li>• Bacteria</li><li>• Fungi</li><li>• Certain viruses</li></ul>  |                          |            |
|            | Surfaces   | <ul style="list-style-type: none"><li>• All</li></ul>                   | <ul style="list-style-type: none"><li>• Food-contact items or surfaces*</li><li>• Mouth-contact items or surfaces* for example, play equipment</li></ul>   | <ul style="list-style-type: none"><li>• Diaper changing areas</li><li>• Restrooms</li><li>• Tables and countertops</li><li>• Door and cabinet handles</li><li>• <b>not</b> Mouth- or food-contact items or surfaces</li></ul> |                          |            |
|            | Time required for effectiveness                                  |   | 30 seconds to 5 minutes  | 10 minutes or less  |                          |            |
| Choose one | Household chlorine bleach<br>(without EPA** registration number) |   | Sanitizer  |   | Disinfectant             |            |
|            |  |   | Bleach   | Cool water  | Bleach                   | Cool water |
|            |  |   | 1 tablespoon (1/2 ounce)   | 1 gallon  | 1/4 cup (2 ounces)       | 1 gallon   |
|            |  |   | 2 teaspoons (1/4 ounce)  | 1/2 gallon  | 1/8 cup (1 ounce)        | 1/2 gallon |
|            |  |   | 1 teaspoon (1/8 ounce)   | 1 quart   | 1 tablespoon (1/2 ounce) | 1 quart    |
|            | Sanitizer or disinfectant<br>(with EPA** registration number)    |   | <ul style="list-style-type: none"><li>• Read label to determine:<ul style="list-style-type: none"><li>○ whether the product is a sanitizer or disinfectant</li><li>○ how the product can be used (for example, non-porous surfaces)</li><li>○ the length of time the object needs to remain wet with product</li><li>○ whether diluting is needed</li><li>○ whether rinsing is needed</li></ul></li><li>• Follow, "Directions for use," on the label</li></ul> |   |                          |            |

\*Not all sanitizers may be used on mouth- or food-contact items or surfaces. Read labels.

\*\*Environmental Protection Agency

Figure N2

**Bleach Guidelines**

- **Spray**
  - Mix fresh solution daily in opaque bottle
  - Use heavy spray and completely wet object
- **Submerge**
  - General
    - Mix fresh solution when visibly dirty or when concentrations drop below the required level
  - Food-contact items
    - Submerge dishes and utensils for at least one minute
    - Mix fresh solution with each dishwashing and when concentration falls below 150 parts per million (ppm)
- **Dry - remain wet**
  - Let object remain wet for at least two minutes or air dry

[Source: Added at 32 Ok Reg 704, eff 1-1-16 (emergency); Added at 33 Ok Reg 1678, eff 9-15-16]

## **CHAPTER 115. FIELD OPERATIONS DIVISION [REVOKED]**

[**Authority:** Federal Social Security Act; Oklahoma Social Security Act; Section 504 of the Rehabilitation Act of 1974; 56 O.S., § 162]  
[**Source:** Codified 12-31-91]

### **SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]**

#### **PART 1. GENERAL PROVISIONS [REVOKED]**

##### **340:115-1-1. Purpose [REVOKED]**

[**Source:** Amended at 17 Ok Reg 2471, eff 7-1-00 ; Amended at 25 Ok Reg 987, eff 6-1-08 ; Revoked at 30 Ok Reg 697, eff 6-1-13]

##### **340:115-1-2. Administrative oversight [REVOKED]**

[**Source:** Revoked at 17 Ok Reg 2471, eff 7-1-00]

##### **340:115-1-3. Structure of the Field Operations Division [REVOKED]**

[**Source:** Amended at 17 Ok Reg 2471, eff 7-1-00 ; Amended at 25 Ok Reg 987, eff 6-1-08 ; Revoked at 30 Ok Reg 697, eff 6-1-13]

##### **340:115-1-4. County office operations [REVOKED]**

[**Source:** Amended at 17 Ok Reg 2471, eff 7-1-00 ; Revoked at 25 Ok Reg 987, eff 6-1-08]

##### **340:115-1-5. Client advocacy [REVOKED]**

[**Source:** Amended at 17 Ok Reg 2471, eff 7-1-00 ; Revoked at 25 Ok Reg 987, eff 6-1-08]

##### **340:115-1-6. Non-discrimination [REVOKED]**

[**Source:** Amended at 17 Ok Reg 2471, eff 7-1-00 ; Revoked at 25 Ok Reg 987, eff 6-1-08]

#### **PART 3. VOTER REGISTRATION [REVOKED]**

##### **340:115-1-21. Purpose [REVOKED]**

[**Source:** Added at 12 Ok Reg 437, eff 1-1-95 (emergency); Added at 12 Ok Reg 1797, eff 6-12-95 ; Amended at 25 Ok Reg 987, eff 6-1-08 ; Revoked at 30 Ok Reg 697, eff 6-1-13]

##### **340:115-1-22. Legal authority [REVOKED]**

[Source: Added at 12 Ok Reg 437, eff 1-1-95 (emergency); Added at 12 Ok Reg 1797, eff 6-12-95 ; Amended at 17 Ok Reg 2471, eff 7-1-00 ; Amended at 25 Ok Reg 987, eff 6-1-08 ; Revoked at 30 Ok Reg 697, eff 6-1-13]

### **340:115-1-23. Voter registration services [REVOKED]**

[Source: Added at 12 Ok Reg 437, eff 1-1-95 (emergency); Added at 12 Ok Reg 1797, eff 6-12-95 ; Amended at 17 Ok Reg 2471, eff 7-1-00 ; Revoked at 25 Ok Reg 987, eff 6-1-08]

### **340:115-1-24. Forms used in providing voter registration services [REVOKED]**

[Source: Added at 12 Ok Reg 437, eff 1-1-95 (emergency); Added at 12 Ok Reg 1797, eff 6-12-95 ; Amended at 17 Ok Reg 2471, eff 7-1-00 ; Amended at 25 Ok Reg 987, eff 6-1-08 ; Revoked at 30 Ok Reg 697, eff 6-1-13]

### **340:115-1-25. Confidentiality of voter registration forms [REVOKED]**

[Source: Added at 12 Ok Reg 437, eff 1-1-95 (emergency); Added at 12 Ok Reg 1797, eff 6-12-95 ; Amended at 17 Ok Reg 2471, eff 7-1-00 ; Revoked at 25 Ok Reg 987, eff 6-1-08]

### **340:115-1-26. Transmittal deadlines for voter registration services [REVOKED]**

[Source: Added at 12 Ok Reg 437, eff 1-1-95 (emergency); Added at 12 Ok Reg 1797, eff 6-12-95 ; Amended at 17 Ok Reg 2471, eff 7-1-00 ; Revoked at 25 Ok Reg 987, eff 6-1-08]

### **340:115-1-27. Criminal penalties [REVOKED]**

[Source: Added at 12 Ok Reg 437, eff 1-1-95 (emergency); Added at 12 Ok Reg 1797, eff 6-12-95 ; Amended at 17 Ok Reg 2471, eff 7-1-00 ; Amended at 25 Ok Reg 987, eff 6-1-08 ; Revoked at 30 Ok Reg 697, eff 6-1-13]

## **SUBCHAPTER 3. ADMINISTRATIVE RESPONSIBILITIES [REVOKED]**

### **340:115-3-1. Office space [REVOKED]**

[Source: Revoked at 17 Ok Reg 2471, eff 7-1-00]

### **340:115-3-2. Personnel functions [REVOKED]**

[Source: Amended at 17 Ok Reg 2471, eff 7-1-00 ; Revoked at 25 Ok Reg 987, eff 6-1-08]

### **340:115-3-3. General office rules and procedures [REVOKED]**

[Source: Amended at 17 Ok Reg 2471, eff 7-1-00 ; Revoked at 25 Ok Reg 987, eff 6-1-08]

**340:115-3-4. Reduction of services due to hazardous weather conditions [REVOKED]**

[Source: Amended at 17 Ok Reg 2471, eff 7-1-00 ; Revoked at 18 Ok Reg 2614, eff 6-26-01]

**340:115-3-5. Safety and Risk Management [REVOKED]**

[Source: Revoked at 17 Ok Reg 2471, eff 7-1-00]

**SUBCHAPTER 5. ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS) COORDINATION AND INFORMATION SERVICES (ACIS) [REVOKED]**

**340:115-5-1. Acquired Immune Deficiency Syndrome (AIDS) Coordination and Information Services (ACIS) [REVOKED]**

[Source: Amended at 17 Ok Reg 2471, eff 7-1-00 ; Amended at 25 Ok Reg 987, eff 6-1-08 ; Revoked at 30 Ok Reg 697, eff 6-1-13]

**340:115-5-2. Acquired Immune Deficiency Syndrome (AIDS) coordination [REVOKED]**

[Source: Amended at 17 Ok Reg 2471, eff 7-1-00 ; Amended at 25 Ok Reg 987, eff 6-1-08]

**340:115-5-3. Acquired Immune Deficiency Syndrome (AIDS) information services [REVOKED]**

[Source: Amended at 17 Ok Reg 2471, eff 7-1-00 ; Amended at 25 Ok Reg 987, eff 6-1-08 ; Revoked at 30 Ok Reg 697, eff 6-1-13]

**SUBCHAPTER 7. INTEGRATED FAMILY SERVICES [REVOKED]**

**340:115-7-1. Integrated Family Services [REVOKED]**

[Source: Revoked at 17 Ok Reg 2471, eff 7-1-00]

**340:115-7-2. Definitions [REVOKED]**

[Source: Revoked at 17 Ok Reg 2471, eff 7-1-00]

**340:115-7-3. Components [REVOKED]**

[Source: Revoked at 17 Ok Reg 2471, eff 7-1-00]

#### **340:115-7-4. Referral process [REVOKED]**

[Source: Revoked at 17 Ok Reg 2471, eff 7-1-00]

#### **340:115-7-5. Eligibility for participation [REVOKED]**

[Source: Revoked at 17 Ok Reg 2471, eff 7-1-00]

#### **340:115-7-6. Termination of IFS involvement [REVOKED]**

[Source: Revoked at 17 Ok Reg 2471, eff 7-1-00]

#### **340:115-7-7. Confidentiality [REVOKED]**

[Source: Revoked at 17 Ok Reg 2471, eff 7-1-00]

#### **340:115-7-8. Innovations [REVOKED]**

[Source: Revoked at 17 Ok Reg 2471, eff 7-1-00]

#### **340:115-7-9. Staff training [REVOKED]**

[Source: Revoked at 17 Ok Reg 2471, eff 7-1-00]

### **SUBCHAPTER 9. VOLUNTEERS [REVOKED]**

#### **340:115-9-1. Volunteer services [REVOKED]**

[Source: Revoked at 17 Ok Reg 2471, eff 7-1-00]

#### **340:115-9-2. Volunteer job design [REVOKED]**

[Source: Revoked at 17 Ok Reg 2471, eff 7-1-00]

#### **340:115-9-3. Specialized volunteer placement [REVOKED]**

[Source: Revoked at 17 Ok Reg 2471, eff 7-1-00]

#### **340:115-9-4. Requirements for volunteers [REVOKED]**

[Source: Revoked at 17 Ok Reg 2471, eff 7-1-00]

#### **340:115-9-5. Administrative staff roles and responsibilities [REVOKED]**

[Source: Revoked at 17 Ok Reg 2471, eff 7-1-00]



### **340:115-9-6. Reimbursement for mileage and necessary expenses [REVOKED]**

[Source: Revoked at 17 Ok Reg 2471, eff 7-1-00]

### **340:115-9-7. Documentation of volunteer services [REVOKED]**

[Source: Revoked at 17 Ok Reg 2471, eff 7-1-00]

### **340:115-9-8. Recognition of volunteers [REVOKED]**

[Source: Revoked at 17 Ok Reg 2471, eff 7-1-00]

## **SUBCHAPTER 11. SOONERSTART EARLY INTERVENTION [REVOKED]**

### **340:115-11-1. Purpose [REVOKED]**

[Source: Added at 9 Ok Reg 93, eff 10-17-91 (emergency); Added at 9 Ok Reg 2053, eff 6-11-92 ; Revoked at 17 Ok Reg 2471, eff 7-1-00]

### **340:115-11-2. Background and authority [REVOKED]**

[Source: Added at 9 Ok Reg 93, eff 10-17-91 (emergency); Added at 9 Ok Reg 2053, eff 6-11-92 ; Revoked at 17 Ok Reg 2471, eff 7-1-00]

### **340:115-11-3. Eligibility [REVOKED]**

[Source: Added at 9 Ok Reg 93, eff 10-17-91 (emergency); Added at 9 Ok Reg 2053, eff 6-11-92 ; Revoked at 17 Ok Reg 2471, eff 7-1-00]

### **340:115-11-4. Structure [REVOKED]**

[Source: Added at 9 Ok Reg 93, eff 10-17-91 (emergency); Added at 9 Ok Reg 2053, eff 6-11-92 ; Revoked at 17 Ok Reg 2471, eff 7-1-00]

### **340:115-11-5. Direct services [REVOKED]**

[Source: Added at 9 Ok Reg 93, eff 10-17-91 (emergency); Added at 9 Ok Reg 2053, eff 6-11-92 ; Revoked at 17 Ok Reg 2471, eff 7-1-00]

### **340:115-11-6. Service provision [REVOKED]**

[Source: Added at 9 Ok Reg 93, eff 10-17-91 (emergency); Added at 9 Ok Reg 2053, eff 6-11-92 ; Revoked at 17 Ok Reg 2471, eff 7-1-00]

### **340:115-11-7. Transition [REVOKED]**

[**Source:** Added at 9 Ok Reg 93, eff 10-17-91 (emergency); Added at 9 Ok Reg 2053, eff 6-11-92 ;  
Revoked at 17 Ok Reg 2471, eff 7-1-00]

### **340:115-11-8. Funding [REVOKED]**

[**Source:** Added at 9 Ok Reg 93, eff 10-17-91 (emergency); Added at 9 Ok Reg 2053, eff 6-11-92 ;  
Revoked at 17 Ok Reg 2471, eff 7-1-00]

### **340:115-11-9. Referrals [REVOKED]**

[**Source:** Added at 9 Ok Reg 93, eff 10-17-91 (emergency); Added at 9 Ok Reg 2053, eff 6-11-92 ;  
Revoked at 17 Ok Reg 2471, eff 7-1-00]

## **APPENDIX A. APPLICATION FOR VOLUNTEER SERVICE [REVOKED]**

[Source: Revoked at 18 Ok Reg 2145, eff 6-11-01]

## **APPENDIX B. VOLUNTEER GROUP AGREEMENT [REVOKED]**

[Source: Revoked at 18 Ok Reg 2145, eff 6-11-01]

## **APPENDIX C. VOLUNTEER AGREEMENT [REVOKED]**

[Source: Revoked at 18 Ok Reg 2145, eff 6-11-01]

## **CHAPTER 120. DIVISION OF CHILDREN YOUTH AND FAMILY SERVICES ADMINISTRATION SUPPORT [REVOKED]**

[**Authority:** Federal and State Indian Child Welfare Acts; Terry D. Consent decree; SJR 13; OKLA. CONST. art XXV; 10 O.S.; 63 O.S.; § 1-502.1]  
[**Source:** Codified 12-31-91]

### **SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]**

#### **PART 1. PURPOSE [REVOKED]**

##### **340:120-1-1. Purpose [REVOKED]**

[**Source:** Amended at 10 Ok Reg 3681, eff 7-12-93 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

#### **PART 3. RULES REGARDING AIDS AND HIV POSITIVE [REVOKED]**

##### **340:120-1-15. Definitions [REVOKED]**

[**Source:** Amended at 10 Ok Reg 3681, eff 7-12-93 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

##### **340:120-1-16. Authority [REVOKED]**

[**Source:** Revoked at 14 Ok Reg 1410, eff 5-12-97]

##### **340:120-1-17. Purpose [REVOKED]**

[**Source:** Amended at 10 Ok Reg 3681, eff 7-12-93 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

##### **340:120-1-18. Applicability [REVOKED]**

[**Source:** Amended at 10 Ok Reg 3681, eff 7-12-93 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

##### **340:120-1-19. General policy [REVOKED]**

[**Source:** Amended at 10 Ok Reg 3681, eff 7-12-93 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

##### **340:120-1-20. Service unit responsibilities [REVOKED]**

[**Source:** Amended at 10 Ok Reg 3681, eff 7-12-93 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

##### **340:120-1-21. Procedure for obtaining consent and proceeding with case management and planning - HIV testing [REVOKED]**

[Source: Amended at 10 Ok Reg 3681, eff 7-12-93 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

**340:120-1-22. Failure to obtain informed written consent for HIV testing, children [youth] in the Department's emergency or temporary legal custody [REVOKED]**

[Source: Amended at 10 Ok Reg 3681, eff 7-12-93 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

**340:120-1-23. Obtaining informed written consent for HIV testing, children [youth] in the Department's permanent legal custody [REVOKED]**

[Source: Amended at 10 Ok Reg 3681, eff 7-12-93 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

**340:120-1-24. Procedure for obtaining consent and proceeding with case management and planning - release of HIV-related information [REVOKED]**

[Source: Amended at 10 Ok Reg 3681, eff 7-12-93 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

**340:120-1-25. Failure to obtain informed written consent for release of results of HIV testing and information disclosure, children [youth] and in the Department's emergency or temporary legal custody [REVOKED]**

[Source: Amended at 10 Ok Reg 3681, eff 7-12-93 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

**340:120-1-26. Obtaining informed written consent for release of results of HIV testing and information disclosure, children [youth] in the Department's permanent legal custody [REVOKED]**

[Source: Amended at 10 Ok Reg 3681, eff 7-12-93 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

**340:120-1-27. Release of HIV-related information to DCYFS/OJJ workers from a third party [REVOKED]**

[Source: Amended at 10 Ok Reg 3681, eff 7-12-93 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

**340:120-1-28. Staff intervention with HIV children [youth] who disclose their status and/or engage in risk exposure behaviors [REVOKED]**

[Source: Amended at 10 Ok Reg 3681, eff 7-12-93 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

**340:120-1-29. Institutional Services Unit - additional service procedures [REVOKED]**

[Source: Amended at 10 Ok Reg 3681, eff 7-12-93 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-1-30. Contractors of residential care [REVOKED]**

[Source: Amended at 10 Ok Reg 3681, eff 7-12-93 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

## **PART 5. DCYFS/OJJ CONFIDENTIALITY [REVOKED]**

### **340:120-1-45. Maintaining confidentiality of client information [REVOKED]**

[Source: Added at 9 Ok Reg 1409, eff 3-23-92 (emergency); Added at 10 Ok Reg 3681, eff 7-12-93 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-1-46. Scope and authority [REVOKED]**

[Source: Added at 9 Ok Reg 1409, eff 3-23-92 (emergency); Added at 10 Ok Reg 3681, eff 7-12-93 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-1-47. Disclosure of client information and records without a court order [REVOKED]**

[Source: Added at 9 Ok Reg 1409, eff 3-23-92 (emergency); Added at 10 Ok Reg 3681, eff 7-12-93 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-1-48. Records released pursuant to court order [REVOKED]**

[Source: Added at 9 Ok Reg 1409, eff 3-23-92 (emergency); Added at 10 Ok Reg 3681, eff 7-12-93 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-1-49. Special provisions and exceptions applicable to delinquents [REVOKED]**

[Source: Added at 9 Ok Reg 1409, eff 3-23-92 (emergency); Added at 10 Ok Reg 3681, eff 7-12-93 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

## **SUBCHAPTER 3. DCYFS PLACEMENT RULES [REVOKED]**

### **340:120-3-1. Composition/responsibility of the DCYS Placement Team [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-3-2. Placement of children adjudicated delinquent new or recommitment, or parole revocation [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]



### **340:120-3-3. Evaluations [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-3-4. Placement of children adjudicated In Need of Supervision (CHINS) [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-3-5. Placement of child In Need of Treatment category (INT) [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-3-6. Placement of children adjudicated deprived [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-3-7. Placement of Indian children pursuant to the Indian Child Welfare Act [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

## **SUBCHAPTER 5. INTERSTATE COMPACTS [REVOKED]**

### **PART 1. INTERSTATE COMPACT ON JUVENILES- LEGAL BASIS AND PURPOSE [REVOKED]**

#### **340:120-5-1. Scope and applicability [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

#### **340:120-5-2. Placement out of Oklahoma [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

#### **340:120-5-3. Placement in Oklahoma [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

#### **340:120-5-4. Return of delinquent juveniles who have escaped (from an institution) or absconded (from probation or parole), [10 OS1971, § 532, Article V and 10 OS1971, § 532, Article VI] [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

**340:120-5-5. Return of nondelinquent runaways [10 OS 1971, § 532, Article VI] [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

**340:120-5-6. Payment for transportation [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

**340:120-5-7. Other compact services [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

**PART 3. INTERSTATE COMPACT ON THE PLACEMENT  
OF CHILDREN [REVOKED]**

**340:120-5-25. Scope and applicability [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

**340:120-5-26. Interstate compact on the placement of children  
(ICPC), legal base, authority and purpose [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

**340:120-5-27. Placement regulated by ICPC [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

**340:120-5-28. Placement outside of Oklahoma [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

**340:120-5-29. Breakdown of placement [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

**340:120-5-30. Release from Departmental custody [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

**340:120-5-31. Placement not regulated by ICPC [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

**340:120-5-32. Children who cross state lines without permission  
[REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

**340:120-5-33. Visits into or out of Oklahoma [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

**SUBCHAPTER 7. SPEECH AND HEARING UNIT  
[REVOKED]**

**340:120-7-1. Organization and function of the Speech and Hearing  
Unit [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

**340:120-7-2. Request for services [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

**340:120-7-3. Referral Procedures [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

**340:120-7-4. Services [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

**340:120-7-5. Standards for Speech and Hearing programs  
[REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

**SUBCHAPTER 9. PSYCHOLOGICAL UNIT [REVOKED]**

**340:120-9-1. Organization and function [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

**340:120-9-2. Request for service [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-9-3. Referrals (agency and non-agency) [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-9-4. Scheduling and reporting of psychological examinations [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-9-5. Files and records [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-9-6. Release of psychological information [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

## **SUBCHAPTER 10. DCYFS RULES FOR SERVICE AGREEMENTS WITH ACUTE AND RESIDENTIAL PSYCHIATRIC CARE PROGRAM [REVOKED]**

### **340:120-10-1. Purpose [REVOKED]**

[Source: Added at 8 Ok Reg 3423, eff 7-30-91 (emergency); Added at 9 Ok Reg 2789, eff 7-13-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-10-2. Authority [REVOKED]**

[Source: Added at 8 Ok Reg 3423, eff 7-30-91 (emergency); Added at 9 Ok Reg 2789, eff 7-13-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-10-3. Appendices [REVOKED]**

[Source: Added at 8 Ok Reg 3423, eff 7-30-91 (emergency); Added at 9 Ok Reg 2789, eff 7-13-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-10-4. Types of care [REVOKED]**

[Source: Added at 8 Ok Reg 3423, eff 7-30-91 (emergency); Added at 9 Ok Reg 2789, eff 7-13-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-10-5. Residents and requirements [REVOKED]**

[Source: Added at 8 Ok Reg 3423, eff 7-30-91 (emergency); Added at 9 Ok Reg 2789, eff 7-13-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-10-6. Confidentiality [REVOKED]**

[Source: Added at 8 Ok Reg 3423, eff 7-30-91 (emergency); Added at 9 Ok Reg 2789, eff 7-13-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-10-7. Facility policies [REVOKED]**

[Source: Added at 8 Ok Reg 3423, eff 7-30-91 (emergency); Added at 9 Ok Reg 2789, eff 7-13-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-10-8. Service coordination between the Department and facilities [REVOKED]**

[Source: Added at 8 Ok Reg 3423, eff 7-30-91 (emergency); Added at 9 Ok Reg 2789, eff 7-13-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-10-9. Facility notification to worker of treatment team staffings [REVOKED]**

[Source: Added at 8 Ok Reg 3423, eff 7-30-91 (emergency); Added at 9 Ok Reg 2789, eff 7-13-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-10-10. Monthly reports to DCYFS - MRU [REVOKED]**

[Source: Added at 8 Ok Reg 3423, eff 7-30-91 (emergency); Added at 9 Ok Reg 2789, eff 7-13-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-10-11. DHS facility liaison [REVOKED]**

[Source: Added at 8 Ok Reg 3423, eff 7-30-91 (emergency); Added at 9 Ok Reg 2789, eff 7-13-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-10-12. Resident data [REVOKED]**

[Source: Added at 8 Ok Reg 3423, eff 7-30-91 (emergency); Added at 9 Ok Reg 2789, eff 7-13-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-10-13. Discharges from the facility [REVOKED]**

[Source: Added at 8 Ok Reg 3423, eff 7-30-91 (emergency); Added at 9 Ok Reg 2789, eff 7-13-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-10-14. Discharges from an acute care program facility [REVOKED]**

[Source: Added at 8 Ok Reg 3423, eff 7-30-91 (emergency); Added at 9 Ok Reg 2789, eff 7-13-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-10-15. Discharges from residential care program facilities [REVOKED]**

[Source: Added at 8 Ok Reg 3423, eff 7-30-91 (emergency); Added at 9 Ok Reg 2789, eff 7-13-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

**340:120-10-16. Discharge information from the facility  
[REVOKED]**

[Source: Added at 8 Ok Reg 3423, eff 7-30-91 (emergency); Added at 9 Ok Reg 2789, eff 7-13-92 ;  
Revoked at 14 Ok Reg 1410, eff 5-12-97]

**340:120-10-17. Primary care and treatment in acute care program  
facilities [REVOKED]**

[Source: Added at 8 Ok Reg 3423, eff 7-30-91 (emergency); Added at 9 Ok Reg 2789, eff 7-13-92 ;  
Revoked at 14 Ok Reg 1410, eff 5-12-97]

**340:120-10-18. Administration of medication - acute care program  
[REVOKED]**

[Source: Added at 8 Ok Reg 3423, eff 7-30-91 (emergency); Added at 9 Ok Reg 2789, eff 7-13-92 ;  
Revoked at 14 Ok Reg 1410, eff 5-12-97]

**340:120-10-19. Mechanical restraints - acute care program  
[REVOKED]**

[Source: Added at 8 Ok Reg 3423, eff 7-30-91 (emergency); Added at 9 Ok Reg 2789, eff 7-13-92 ;  
Revoked at 14 Ok Reg 1410, eff 5-12-97]

**340:120-10-20. Reporting requirements - acute care program  
[REVOKED]**

[Source: Added at 8 Ok Reg 3423, eff 7-30-91 (emergency); Added at 9 Ok Reg 2789, eff 7-13-92 ;  
Revoked at 14 Ok Reg 1410, eff 5-12-97]

**340:120-10-21. Primary care and treatment in residential care  
program facilities [REVOKED]**

[Source: Added at 8 Ok Reg 3423, eff 7-30-91 (emergency); Added at 9 Ok Reg 2789, eff 7-13-92 ;  
Revoked at 14 Ok Reg 1410, eff 5-12-97]

**340:120-10-22. Administration of medication - residential care  
program [REVOKED]**

[Source: Added at 8 Ok Reg 3423, eff 7-30-91 (emergency); Added at 9 Ok Reg 2789, eff 7-13-92 ;  
Revoked at 14 Ok Reg 1410, eff 5-12-97]

**340:120-10-23. Mechanical restraints - residential care program  
[REVOKED]**

[Source: Added at 8 Ok Reg 3423, eff 7-30-91 (emergency); Added at 9 Ok Reg 2789, eff 7-13-92 ;  
Revoked at 14 Ok Reg 1410, eff 5-12-97]

**340:120-10-24. Reporting requirements - residential care program  
[REVOKED]**

[Source: Added at 8 Ok Reg 3423, eff 7-30-91 (emergency); Added at 9 Ok Reg 2789, eff 7-13-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-10-25. Knowledge of patient's/resident's whereabouts [REVOKED]**

[Source: Added at 8 Ok Reg 3423, eff 7-30-91 (emergency); Added at 9 Ok Reg 2789, eff 7-13-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-10-26. Behavior management [REVOKED]**

[Source: Added at 8 Ok Reg 3423, eff 7-30-91 (emergency); Added at 9 Ok Reg 2789, eff 7-13-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-10-27. Prohibited methods of control - physical, verbal, group punishment, food, chemical agents, mind altering drugs [REVOKED]**

[Source: Added at 8 Ok Reg 3423, eff 7-30-91 (emergency); Added at 9 Ok Reg 2789, eff 7-13-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-10-28. Seclusion [REVOKED]**

[Source: Added at 8 Ok Reg 3423, eff 7-30-91 (emergency); Added at 9 Ok Reg 2789, eff 7-13-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-10-29. Approval and use of seclusion [REVOKED]**

[Source: Added at 8 Ok Reg 3423, eff 7-30-91 (emergency); Added at 9 Ok Reg 2789, eff 7-13-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-10-30. Limitation on length of seclusion [REVOKED]**

[Source: Added at 8 Ok Reg 3423, eff 7-30-91 (emergency); Added at 9 Ok Reg 2789, eff 7-13-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-10-31. Conditions and services applied to seclusion [REVOKED]**

[Source: Added at 8 Ok Reg 3423, eff 7-30-91 (emergency); Added at 9 Ok Reg 2789, eff 7-13-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-10-32. Reporting requirements [REVOKED]**

[Source: Added at 8 Ok Reg 3423, eff 7-30-91 (emergency); Added at 9 Ok Reg 2789, eff 7-13-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-10-33. Religious services and counseling [REVOKED]**

[Source: Added at 8 Ok Reg 3423, eff 7-30-91 (emergency); Added at 9 Ok Reg 2789, eff 7-13-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-10-34. Visitation and telephone use [REVOKED]**

[Source: Added at 8 Ok Reg 3423, eff 7-30-91 (emergency); Added at 9 Ok Reg 2789, eff 7-13-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-10-35. Mail [REVOKED]**

[Source: Added at 8 Ok Reg 3423, eff 7-30-91 (emergency); Added at 9 Ok Reg 2789, eff 7-13-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-10-36. Patient/resident grievance system [REVOKED]**

[Source: Added at 8 Ok Reg 3423, eff 7-30-91 (emergency); Added at 9 Ok Reg 2789, eff 7-13-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-10-37. Education and training [REVOKED]**

[Source: Added at 8 Ok Reg 3423, eff 7-30-91 (emergency); Added at 9 Ok Reg 2789, eff 7-13-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-10-38. Day passes or leaves [REVOKED]**

[Source: Added at 8 Ok Reg 3423, eff 7-30-91 (emergency); Added at 9 Ok Reg 2789, eff 7-13-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-10-39. Mistreatment [REVOKED]**

[Source: Added at 8 Ok Reg 3423, eff 7-30-91 (emergency); Added at 9 Ok Reg 2789, eff 7-13-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-10-40. Communicable disease [REVOKED]**

[Source: Added at 8 Ok Reg 3423, eff 7-30-91 (emergency); Added at 9 Ok Reg 2789, eff 7-13-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-10-41. Fire, safety, health and sanitation [REVOKED]**

[Source: Added at 8 Ok Reg 3423, eff 7-30-91 (emergency); Added at 9 Ok Reg 2789, eff 7-13-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-10-42. DHS oversight and review [REVOKED]**

[Source: Added at 8 Ok Reg 3423, eff 7-30-91 (emergency); Added at 9 Ok Reg 2789, eff 7-13-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-10-43. Standard compliance provisions for service agreements [REVOKED]**

[Source: Added at 8 Ok Reg 3423, eff 7-30-91 (emergency); Added at 9 Ok Reg 2789, eff 7-13-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]



## **SUBCHAPTER 11. SERVICES TO CHILDREN IN NEED OF TREATMENT [REVOKED]**

### **PART 1. SCOPE AND APPLICABILITY [REVOKED]**

#### **340:120-11-1. Requirements [REVOKED]**

[Source: Revoked at 9 Ok Reg 3653, eff 7-23-92 (emergency); Revoked at 10 Ok Reg 3695, eff 7-12-93]

### **PART 3. EMERGENCY SERVICES AND LEGAL PROCEEDINGS [REVOKED]**

#### **340:120-11-15. Responsibilities [REVOKED]**

[Source: Revoked at 9 Ok Reg 3653, eff 7-23-92 (emergency); Revoked at 10 Ok Reg 3695, eff 7-12-93]

#### **340:120-11-16. Eligibility criteria for emergency services [REVOKED]**

[Source: Revoked at 9 Ok Reg 3653, eff 7-23-92 (emergency); Revoked at 10 Ok Reg 3695, eff 7-12-93]

#### **340:120-11-17. Securing evaluation [REVOKED]**

[Source: Revoked at 9 Ok Reg 3653, eff 7-23-92 (emergency); Revoked at 10 Ok Reg 3695, eff 7-12-93]

#### **340:120-11-18. Out-patient evaluations [REVOKED]**

[Source: Revoked at 9 Ok Reg 3653, eff 7-23-92 (emergency); Revoked at 10 Ok Reg 3695, eff 7-12-93]

#### **340:120-11-19. Emergency in-patient care [REVOKED]**

[Source: Revoked at 9 Ok Reg 3653, eff 7-23-92 (emergency); Revoked at 10 Ok Reg 3695, eff 7-12-93]

#### **340:120-11-20. Legal proceedings [REVOKED]**

[Source: Revoked at 9 Ok Reg 3653, eff 7-23-92 (emergency); Revoked at 10 Ok Reg 3695, eff 7-12-93]

### **PART 5. SPECIFIC IN NEED OF TREATMENT INFORMATION AND SERVICES [REVOKED]**

#### **340:120-11-35. Services [REVOKED]**

[Source: Revoked at 9 Ok Reg 3653, eff 7-23-92 (emergency); Revoked at 10 Ok Reg 3695, eff 7-12-93]

**340:120-11-36. Post adjudicatory services [REVOKED]**

[Source: Revoked at 9 Ok Reg 3653, eff 7-23-92 (emergency); Revoked at 10 Ok Reg 3695, eff 7-12-93]

**340:120-11-37. Local DHS Staff Responsibilities [REVOKED]**

[Source: Revoked at 9 Ok Reg 3653, eff 7-23-92 (emergency); Revoked at 10 Ok Reg 3695, eff 7-12-93]

**340:120-11-38. INT custody services [REVOKED]**

[Source: Revoked at 9 Ok Reg 3653, eff 7-23-92 (emergency); Revoked at 10 Ok Reg 3695, eff 7-12-93]

**340:120-11-39. Dispute resolution [REVOKED]**

[Source: Revoked at 9 Ok Reg 3653, eff 7-23-92 (emergency); Revoked at 10 Ok Reg 3695, eff 7-12-93]

**340:120-11-40. Limitation on transfers [REVOKED]**

[Source: Revoked at 9 Ok Reg 3653, eff 7-23-92 (emergency); Revoked at 10 Ok Reg 3695, eff 7-12-93]

**340:120-11-41. Medical leave from COJTC or other inpatient psychiatric facility [REVOKED]**

[Source: Revoked at 9 Ok Reg 3653, eff 7-23-92 (emergency); Revoked at 10 Ok Reg 3695, eff 7-12-93]

**340:120-11-42. INT in-patient services [REVOKED]**

[Source: Revoked at 9 Ok Reg 3653, eff 7-23-92 (emergency); Revoked at 10 Ok Reg 3695, eff 7-12-93]

**340:120-11-43. Aftercare services [REVOKED]**

[Source: Revoked at 9 Ok Reg 3653, eff 7-23-92 (emergency); Revoked at 10 Ok Reg 3695, eff 7-12-93]

**PART 7. ROLE OF THE LIAISON FOR  
CHILDREN/YOUTH IN RESIDENTIAL PSYCHIATRIC  
CARE AND DEPARTMENT OF MENTAL HEALTH  
CONTRACT GROUP HOME [REVOKED]**

**340:120-11-60. Establishing a liaison [REVOKED]**

[Source: Revoked at 9 Ok Reg 3653, eff 7-23-92 (emergency); Revoked at 10 Ok Reg 3695, eff 7-12-93]

**340:120-11-61. Liaison case responsibility [REVOKED]**

[Source: Revoked at 9 Ok Reg 3653, eff 7-23-92 (emergency); Revoked at 10 Ok Reg 3695, eff 7-12-93]

**340:120-11-62. Education information [REVOKED]**

[Source: Revoked at 9 Ok Reg 3653, eff 7-23-92 (emergency); Revoked at 10 Ok Reg 3695, eff 7-12-93]

**340:120-11-63. Basic liaison responsibilities [REVOKED]**

[Source: Revoked at 9 Ok Reg 3653, eff 7-23-92 (emergency); Revoked at 10 Ok Reg 3695, eff 7-12-93]

**PART 9. MOVEMENT OF INT CUSTODY  
CHILDREN/YOUTH [REVOKED]**

**340:120-11-80. Court [REVOKED]**

[Source: Revoked at 9 Ok Reg 3653, eff 7-23-92 (emergency); Revoked at 10 Ok Reg 3695, eff 7-12-93]

**340:120-11-81. Change of placement [REVOKED]**

[Source: Revoked at 9 Ok Reg 3653, eff 7-23-92 (emergency); Revoked at 10 Ok Reg 3695, eff 7-12-93]

**340:120-11-82. Delinquent behavior [REVOKED]**

[Source: Revoked at 9 Ok Reg 3653, eff 7-23-92 (emergency); Revoked at 10 Ok Reg 3695, eff 7-12-93]

**340:120-11-83. Subsequent referrals on deprived children  
[REVOKED]**

[Source: Revoked at 9 Ok Reg 3653, eff 7-23-92 (emergency); Revoked at 10 Ok Reg 3695, eff 7-12-93]

**340:120-11-84. Information and services specific to INT/delinquent,  
INT/INS or INT/deprived (dual adjudications) [REVOKED]**

[Source: Revoked at 9 Ok Reg 3653, eff 7-23-92 (emergency); Revoked at 10 Ok Reg 3695, eff 7-12-93]

**340:120-11-85. Custody discharge-INT/delinquent, INT/In Need of  
Supervision, INT/deprived [REVOKED]**

[Source: Revoked at 9 Ok Reg 3653, eff 7-23-92 (emergency); Revoked at 10 Ok Reg 3695, eff 7-12-93]

**SUBCHAPTER 13. RESIDENTIAL SERVICES (DCYS-  
OPERATED GROUP HOMES) [REVOKED]**

**340:120-13-1. Abbreviations, definition, legal bases,  
administration and management of information and research  
[REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2067, eff 6-11-92]

#### **340:120-13-2. Personnel [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2067, eff 6-11-92]

#### **340:120-13-3. Physical plant [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2067, eff 6-11-92]

#### **340:120-13-4. Food service, sanitation and hygiene [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2067, eff 6-11-92]

#### **340:120-13-5. Medical and health care [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2067, eff 6-11-92]

#### **340:120-13-6. Safety and emergency procedures [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2067, eff 6-11-92]

#### **340:120-13-7. Supervision [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2067, eff 6-11-92]

#### **340:120-13-8. Admission [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2067, eff 6-11-92]

#### **340:120-13-9. Resident rights and treatment [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2067, eff 6-11-92]

#### **340:120-13-10. Discharge [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2067, eff 6-11-92]

### **SUBCHAPTER 15. RESIDENTIAL SERVICES (COMMUNITY BASED CONTRACT RESIDENTIAL PURCHASED CARE) [REVOKED]**

#### **340:120-15-1. Abbreviations, legal basis and definition [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2067, eff 6-11-92]

## **340:120-15-2. The Level of Care system [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2067, eff 6-11-92]

## **340:120-15-3. Contracting [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2067, eff 6-11-92]

## **340:120-15-4. Role of the liaison [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2067, eff 6-11-92]

## **340:120-15-5. Grievance procedure and mistreatment investigations in contract residential care [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2067, eff 6-11-92]

## **340:120-15-6. Community-based residential care contract program definitions [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2067, eff 6-11-92]

## **340:120-15-7. Level A - Basic congregate residential care [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2067, eff 6-11-92]

## **340:120-15-8. Level B - Enriched congregate residential care [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2067, eff 6-11-92]

## **340:120-15-9. Level C - Specialized residential care [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2067, eff 6-11-92]

## **340:120-15-10. Level D - Moderate intensity specialized residential care [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2067, eff 6-11-92]

## **340:120-15-11. Level E - Specialized residential high intensity treatment program [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2067, eff 6-11-92]

## **340:120-15-12. Therapeutic foster care [REVOKED]**

[Source: Revoked at 8 Ok Reg 3569, eff 9-20-91 (emergency); Revoked at 9 Ok Reg 2067, eff 6-11-92]

## **SUBCHAPTER 17. EMERGENCY SHELTER CARE [REVOKED]**

### **340:120-17-1. DCYS worker role/responsibilities [REVOKED]**

[Source: Revoked at 11 Ok Reg 1147, eff 1-25-94 (emergency); Revoked at 11 Ok Reg 2825, eff 6-13-94]

### **340:120-17-2. Family involvement [REVOKED]**

[Source: Revoked at 11 Ok Reg 1147, eff 1-25-94 (emergency); Revoked at 11 Ok Reg 2825, eff 6-13-94]

### **340:120-17-3. Movement of children from shelter care [REVOKED]**

[Source: Revoked at 11 Ok Reg 1147, eff 1-25-94 (emergency); Revoked at 11 Ok Reg 2825, eff 6-13-94]

### **340:120-17-4. Admissions/discharges [REVOKED]**

[Source: Revoked at 11 Ok Reg 1147, eff 1-25-94 (emergency); Revoked at 11 Ok Reg 2825, eff 6-13-94]

### **340:120-17-5. Leaves without permission/medical emergencies [REVOKED]**

[Source: Revoked at 11 Ok Reg 1147, eff 1-25-94 (emergency); Revoked at 11 Ok Reg 2825, eff 6-13-94]

### **340:120-17-6. Multiple shelter placements [REVOKED]**

[Source: Revoked at 11 Ok Reg 1147, eff 1-25-94 (emergency); Revoked at 11 Ok Reg 2825, eff 6-13-94]

## **SUBCHAPTER 18. COMMUNITY BASED SERVICES [REVOKED]**

### **PART 1. GENERAL PROVISIONS [REVOKED]**

#### **340:120-18-1. Purpose [REVOKED]**

[Source: Added at 9 Ok Reg 2227, eff 3-23-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

#### **340:120-18-2. Legal base [REVOKED]**

[Source: Added at 9 Ok Reg 2227, eff 3-23-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-18-3. Referral process [REVOKED]**

[Source: Added at 9 Ok Reg 2227, eff 3-23-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-18-4. Case management responsibilities for contracted services [REVOKED]**

[Source: Added at 9 Ok Reg 2227, eff 3-23-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

## **PART 3. DAY TREATMENT SERVICES [REVOKED]**

### **340:120-18-10. Description [REVOKED]**

[Source: Added at 9 Ok Reg 2227, eff 3-23-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-18-11. Program objectives [REVOKED]**

[Source: Added at 9 Ok Reg 2227, eff 3-23-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-18-12. Services [REVOKED]**

[Source: Added at 9 Ok Reg 2227, eff 3-23-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-18-13. Target population [REVOKED]**

[Source: Added at 9 Ok Reg 2227, eff 3-23-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

## **PART 5. NON-RESIDENTIAL SUBSTANCE ABUSE TREATMENT [REVOKED]**

### **340:120-18-23. Description [REVOKED]**

[Source: Added at 9 Ok Reg 2227, eff 3-23-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-18-24. Program objectives [REVOKED]**

[Source: Added at 9 Ok Reg 2227, eff 3-23-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-18-25. Services provided by substance abuse programs [REVOKED]**

[Source: Added at 9 Ok Reg 2227, eff 3-23-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-18-26. Target population [REVOKED]**

[Source: Added at 9 Ok Reg 2227, eff 3-23-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

## **PART 7. INDEPENDENT LIVING/TRANSITIONAL LIVING SERVICES [REVOKED]**

### **340:120-18-36. Description [REVOKED]**

[Source: Added at 9 Ok Reg 2227, eff 3-23-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-18-37. Program objectives [REVOKED]**

[Source: Added at 9 Ok Reg 2227, eff 3-23-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-18-38. Services [REVOKED]**

[Source: Added at 9 Ok Reg 2227, eff 3-23-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-18-39. Target population [REVOKED]**

[Source: Added at 9 Ok Reg 2227, eff 3-23-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

## **PART 9. FAMILY FOCUS [REVOKED]**

### **340:120-18-50. Scope [REVOKED]**

[Source: Added at 9 Ok Reg 2227, eff 3-23-92 ; Revoked at 12 Ok Reg 2531, eff 6-26-95]

### **340:120-18-51. Values and beliefs [REVOKED]**

[Source: Added at 9 Ok Reg 2227, eff 3-23-92 ; Revoked at 12 Ok Reg 2531, eff 6-26-95]

### **340:120-18-52. Goals [REVOKED]**

[Source: Added at 9 Ok Reg 2227, eff 3-23-92 ; Revoked at 12 Ok Reg 2531, eff 6-26-95]

### **340:120-18-53. Program overview [REVOKED]**

[Source: Added at 9 Ok Reg 2227, eff 3-23-92 ; Revoked at 12 Ok Reg 2531, eff 6-26-95]

### **340:120-18-54. Target population [REVOKED]**

[Source: Added at 9 Ok Reg 2227, eff 3-23-92 ; Revoked at 12 Ok Reg 2531, eff 6-26-95]



### **340:120-18-55. Service description [REVOKED]**

[Source: Added at 9 Ok Reg 2227, eff 3-23-92 ; Revoked at 12 Ok Reg 2531, eff 6-26-95]

### **340:120-18-56. Determining appropriate referrals to Family Focus Services [REVOKED]**

[Source: Added at 9 Ok Reg 2227, eff 3-23-92 ; Revoked at 12 Ok Reg 2531, eff 6-26-95]

### **340:120-18-57. Family eligibility requirements [REVOKED]**

[Source: Added at 9 Ok Reg 2227, eff 3-23-92 ; Revoked at 12 Ok Reg 2531, eff 6-26-95]

### **340:120-18-58. Guidelines for referral of child welfare protective service cases [REVOKED]**

[Source: Added at 9 Ok Reg 2227, eff 3-23-92 ; Revoked at 12 Ok Reg 2531, eff 6-26-95]

### **340:120-18-59. Physical abuse [REVOKED]**

[Source: Added at 9 Ok Reg 2227, eff 3-23-92 ; Revoked at 12 Ok Reg 2531, eff 6-26-95]

### **340:120-18-60. Sexual abuse [REVOKED]**

[Source: Added at 9 Ok Reg 2227, eff 3-23-92 ; Revoked at 12 Ok Reg 2531, eff 6-26-95]

### **340:120-18-61. Neglect [REVOKED]**

[Source: Added at 9 Ok Reg 2227, eff 3-23-92 ; Revoked at 12 Ok Reg 2531, eff 6-26-95]

#### **340:120-18-61.1. Substance abuse [EXPIRED]**

[Source: Added at 13 Ok Reg 1011, eff 4-10-95 through 7-14-96 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-96 (after the 7-14-96 expiration of the emergency action), Section 340:120-18-61.1 was no longer effective. For the official text of the emergency rule that was in effect from 4-10-95 through 7-14-96, see 13 Ok Reg 1011.*

#### **340:120-18-61.2. Mental health [EXPIRED]**

[Source: Added at 13 Ok Reg 1011, eff 4-10-95 through 7-14-96 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-96 (after the 7-14-96 expiration of the emergency action), Section 340:120-18-61.2 was no longer effective. For the official text of the emergency rule that was in effect from 4-10-95 through 7-14-96, see 13 Ok Reg 1011.*

### **340:120-18-61.3. Physical illness or limitation [EXPIRED]**

[Source: Added at 13 Ok Reg 1011, eff 4-10-95 through 7-14-96 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-96 (after the 7-14-96 expiration of the emergency action), Section 340:120-18-61.3 was no longer effective. For the official text of the emergency rule that was in effect from 4-10-95 through 7-14-96, see 13 Ok Reg 1011 .*

### **340:120-18-62. Referrals for family reunification services [REVOKED]**

[Source: Added at 9 Ok Reg 2227, eff 3-23-92 ; Revoked at 12 Ok Reg 2531, eff 6-26-95]

### **340:120-18-63. Referrals for JSU cases [REVOKED]**

[Source: Added at 9 Ok Reg 2227, eff 3-23-92 ; Revoked at 12 Ok Reg 2531, eff 6-26-95]

### **340:120-18-64. Referral procedure [REVOKED]**

[Source: Added at 9 Ok Reg 2235, eff 3-23-92 ; Revoked at 12 Ok Reg 2531, eff 6-26-95]

### **340:120-18-65. Contracting agency [REVOKED]**

[Source: Added at 9 Ok Reg 2235, eff 3-23-92 ; Revoked at 12 Ok Reg 2531, eff 6-26-95]

### **340:120-18-65.1. Guidelines for the early termination of Family Focus Services [EXPIRED]**

[Source: Added at 13 Ok Reg 1011, eff 4-10-95 through 7-14-96 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-96 (after the 7-14-96 expiration of the emergency*

*action), Section 340:120-18-65.1 was no longer effective. For the official text of the emergency rule that was in effect from 4-10-95 through 7-14-96, see 13 Ok Reg 1011.*

**340:120-18-66. Role of the DCYFS liaison worker [REVOKED]**

[Source: Added at 9 Ok Reg 2235, eff 3-23-92 ; Revoked at 12 Ok Reg 2531, eff 6-26-95]

**340:120-18-67. Role of the CW worker [REVOKED]**

[Source: Added at 9 Ok Reg 2235, eff 3-23-92 ; Revoked at 12 Ok Reg 2531, eff 6-26-95]

**340:120-18-68. Role of child protective services during Family Focus Services intervention [REVOKED]**

[Source: Added at 9 Ok Reg 2235, eff 3-23-92 ; Revoked at 12 Ok Reg 2531, eff 6-26-95]

**340:120-18-69. Role of the JSU worker [REVOKED]**

[Source: Added at 9 Ok Reg 2235, eff 3-23-92 ; Revoked at 12 Ok Reg 2531, eff 6-26-95]

**340:120-18-70. Role of the Family Focus Services worker [REVOKED]**

[Source: Added at 9 Ok Reg 2235, eff 3-23-92 ; Revoked at 12 Ok Reg 2531, eff 6-26-95]

**PART 11. RATES FOR COMMUNITY BASED SERVICES  
[REVOKED]**

**340:120-18-80. Overview [REVOKED]**

[Source: Added at 9 Ok Reg 2235, eff 3-23-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

**340:120-18-81. Case management services [REVOKED]**

[Source: Added at 9 Ok Reg 2235, eff 3-23-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

**340:120-18-82. Outpatient mental health services [REVOKED]**

[Source: Added at 9 Ok Reg 2235, eff 3-23-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

**340:120-18-83. Repite care [REVOKED]**

[Source: Added at 9 Ok Reg 2235, eff 3-23-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

**340:120-18-84. Homemaker services [REVOKED]**

[Source: Added at 9 Ok Reg 2235, eff 3-23-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-18-85. Semi-independent living services [REVOKED]**

[Source: Added at 9 Ok Reg 2235, eff 3-23-92 ; Revoked at 14 Ok Reg 1410, eff 5-12-97]

## **SUBCHAPTER 19. MONITORING AND REVIEW UNIT [REVOKED]**

### **340:120-19-1. Mission, legal basis, authority and scope [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-19-2. MRU's independent function [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-19-3. MRU's philosophy of oversight [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-19-4. Monitoring [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-19-5. Coordination with division program units [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-19-6. Coordination with other monitoring entities [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-19-7. Access to and use of information [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-19-8. MRU's criteria for monitoring discretionary decisions [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-19-9. Monitoring procedures [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

## **SUBCHAPTER 21. STANDARDS AND GUIDELINES [REVOKED]**

### **PART 1. SPECIALIZED COMMUNITY HOME/FOSTER HOME STANDARDS [REVOKED]**

#### **340:120-21-1. Specialized Community Home/Foster Home standards [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

#### **340:120-21-2. Relationship with the agency [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

#### **340:120-21-3. Family composition/contractor profile [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

#### **340:120-21-4. Physical facilities, sleeping arrangements and surroundings [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

#### **340:120-21-5. Relief care [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

#### **340:120-21-6. Fiscal accounts and reports [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

#### **340:120-21-7. Insurance [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

#### **340:120-21-8. Grievance procedure [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

## **PART 3. SPECIALIZED COMMUNITY HOME GUIDELINES [REVOKED]**

### **340:120-21-25. Scope and applicability [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-21-26. References [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-21-27. Teamwork and supervision [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-21-28. Recommendation and evaluation [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

### **340:120-21-29. Foster home study annual re-evaluation [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

## **APPENDIX A. USE OF MECHANICAL RESTRAINTS AND SECLUSION REPORTING FORM [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

## **APPENDIX B. MONTHLY MONITORING AND REVIEW SUMMARY [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]



## **APPENDIX C. PATIENT/RESIDENT DATA FORM [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

## **APPENDIX D. REFRRAL FORM [REVOKED]**

[Source: Revoked at 14 Ok Reg 1410, eff 5-12-97]

## **CHAPTER 125. MEDICAL PROVIDERS [REVOKED]**

[**Authority:** OKLA. CONST. art XXV; Federal Social Security Act, Titles XVIII and XIX; Child Health Act, Title V; Civil Rights Act of 1964; Rehabilitation Act of 1973 (Part 90); Age Discrimination Act of 1975; Education Amendments of 1972, Title IX; P.L. 88-352; P.L. 93-112; P.L. 99-457; 31 U.S.C.A. 6101; Presidential Executive Orders 11246, 11375, and 12549; 42 CFR §§ 405.2426, 431.54, 416.39 through 416.49, 440.130, 440.140, and 440.442 (Subparts E and G); 45 CFR, Part 93; 10 O.S., § 175.1; 56 O.S., §§ 162.3, 164(c), and 175; 59 O.S., § 567.3(4); 63 O.S.Supp. 1981, §§ 1-1901 et seq.; 68 O.S. 1981, § 1305]  
[**Source:** Codified 12-31-91]

### **SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]**

#### **340:125-1-1. Purpose; use of manuals [REVOKED]**

[**Source:** Revoked at 12 Ok Reg 2803, eff 7-13-95]

#### **340:125-1-2. Department responsibility; fiscal agent [REVOKED]**

[**Source:** Amended at 12 Ok Reg 241, eff 10-14-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

#### **340:125-1-3. Description of rules [REVOKED]**

[**Source:** Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **SUBCHAPTER 3. GENERAL PROVIDER POLICIES [REVOKED]**

#### **PART 1. GENERAL SCOPE AND ADMINISTRATION [REVOKED]**

#### **340:125-3-1. Creation and implementation of rules; applicability [REVOKED]**

[**Source:** Revoked at 12 Ok Reg 2803, eff 7-13-95]

#### **340:125-3-2. Provider agreements [REVOKED]**

[**Source:** Amended at 12 Ok Reg 251, eff 10-14-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

#### **340:125-3-3. Group billings [REVOKED]**

[**Source:** Revoked at 12 Ok Reg 2803, eff 7-13-95]

#### **340:125-3-3.1. Electronic fund transfer or direct deposit [EXPIRED]**

[Source: Added at 12 Ok Reg 251, eff 10-14-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:125-3-3.1 was no longer effective. For the official text of the emergency rule that was in effect from 10-14-94 through 7-14-95, see 12 Ok Reg 251.*

#### **340:125-3-4. Assignment and cost sharing [REVOKED]**

[Source: Amended at 10 Ok Reg 1083, eff 2-16-93 (emergency); Amended at 10 Ok Reg 2975, eff 6-25-93 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

#### **340:125-3-5. Utilization review for physician/hospital services [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

#### **340:125-3-6. Care assurance validation support review for long term care [REVOKED]**

[Source: Amended at 9 Ok Reg 1417, eff 3-23-92 (emergency); Amended at 10 Ok Reg 2447, eff 6-11-93 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

#### **340:125-3-7. Pre-billing [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

#### **340:125-3-8. Medical services provided to relatives [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

#### **340:125-3-9. Sales tax [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

#### **340:125-3-10. Timely filing limitation [REVOKED]**

[Source: Amended at 10 Ok Reg 247, eff 10-26-92 (emergency); Amended at 10 Ok Reg 2985, eff 6-25-93 ; Amended at 12 Ok Reg 251, eff 10-14-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

#### **340:125-3-11. Credits and adjustments [REVOKED]**

[Source: Amended at 12 Ok Reg 251, eff 10-14-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-3-12. Advance directives [REVOKED]**

[Source: Amended at 9 Ok Reg 1631, eff 1-27-92 ; Amended at 9 Ok Reg 1165, eff 1-27-92 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-3-13. Freedom of choice [REVOKED]**

[Source: Amended at 10 Ok Reg 247, eff 10-26-92 (emergency); Amended at 10 Ok Reg 2985, eff 6-25-93 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-3-14. Record retention [REVOKED]**

[Source: Amended at 12 Ok Reg 241, eff 10-14-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-3-15. Release of medical records [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-3-16. Discrimination laws [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-3-17. Criminal penalties [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-3-18. Administrative sanctions [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-3-19. Appeals procedures (excluding nursing homes and hospitals) [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-3-20. Appeals procedures for nursing homes [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-3-21. Hospital reimbursement rate appeals [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-3-22. Request for final agency review [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-3-23. Third party resources [REVOKED]**

[Source: Amended at 9 Ok Reg 3809, eff 8-7-92 (emergency); Amended at 10 Ok Reg 3005, eff 6-25-93 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-3-24. Crossovers (coinsurance and deductible) [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-3-25. Medicare Physician Payment Reform methodology [REVOKED]**

[Source: Added at 10 Ok Reg 475, eff 11-30-92 (emergency); Added at 10 Ok Reg 2447, eff 6-11-93 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

## **PART 3. GENERAL MEDICAL PROGRAM INFORMATION [REVOKED]**

### **340:125-3-40. Home and Community Based Waiver Services [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

#### **340:125-3-40.1. Advantage program waiver services [REVOKED]**

[Source: Added at 10 Ok Reg 3487, eff 7-1-93 (emergency); Added at 11 Ok Reg 1753, eff 5-12-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

#### **340:125-3-41. Services in a Nursing Facility (NF) [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

#### **340:125-3-42. Services in an Intermediate Care Facility for the Mentally Retarded [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

#### **340:125-3-43. Non-Technical Medical Care in own home [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

#### **340:125-3-44. Services for persons age 65 or older in mental health hospitals [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-3-45. Vocational Rehabilitation services [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-3-46. Crippled Children's Program [REVOKED]**

[Source: Amended at 10 Ok Reg 247, eff 10-26-92 (emergency); Amended at 10 Ok Reg 2985, eff 6-25-93 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-3-47. Custody children and children receiving services under the Division of Children, Youth and Family Services (DCYFS) [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

#### **340:125-3-47.1. Services for persons infected with tuberculosis [EXPIRED]**

[Source: Added at 11 Ok Reg 4507, eff 8-1-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:125-3-47.1 was no longer effective. For the official text of the emergency rule that was in effect from 8-1-94 through 7-14-95, see 11 Ok Reg 4507.*

#### **340:125-3-47.10. Periodic and interperiodic screening examinations [EXPIRED]**

[Source: Added at 12 Ok Reg 103, eff 10-3-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:125-3-47.10 was no longer effective. For the official text of the emergency rule that was in effect from 10-3-94 through 7-14-95, see 12 Ok Reg 103.*

#### **340:125-3-47.11. Partial screening examination [EXPIRED]**

[Source: Added at 12 Ok Reg 103, eff 10-3-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency*

*action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:125-3-47.11 was no longer effective. For the official text of the emergency rule that was in effect from 10-3-94 through 7-14-95, see 12 Ok Reg 103.*

### **340:125-3-47.2. Early and Periodic Screening, Diagnosis and Treatment (EPSDT) program [EXPIRED]**

[Source: Added at 12 Ok Reg 103, eff 10-3-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:125-3-47.2 was no longer effective. For the official text of the emergency rule that was in effect from 10-13-94 through 7-14-95, see 12 Ok Reg 103.*

### **340:125-3-47.3. Periodicity schedule [EXPIRED]**

[Source: Added at 12 Ok Reg 103, eff 10-3-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:125-3-47.3 was no longer effective. For the official text of the emergency rule that was in effect from 10-3-94 through 7-14-95, see 12 Ok Reg 103.*

### **340:125-3-47.4. Initial screening examination [EXPIRED]**

[Source: Added at 12 Ok Reg 103, eff 10-3-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:125-3-47.4 was no longer effective. For the official text of the emergency rule that was in effect from 10-3-94 through 7-14-95, see 12 Ok Reg 103.*

### **340:125-3-47.5. Screening components [EXPIRED]**

[Source: Added at 12 Ok Reg 103, eff 10-3-94 through 7-14-95 (emergency)<sup>1</sup>]



**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:125-3-47.5 was no longer effective. For the official text of the emergency rule that was in effect from 10-3-94 through 7-14-95, see 12 Ok Reg 103.*

#### **340:125-3-47.6. Diagnosis and treatment [EXPIRED]**

[Source: Added at 12 Ok Reg 103, eff 10-3-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:125-3-47.6 was no longer effective. For the official text of the emergency rule that was in effect from 10-3-94 through 7-14-95, see 12 Ok Reg 103.*

#### **340:125-3-47.7. Vision services [EXPIRED]**

[Source: Added at 12 Ok Reg 103, eff 10-3-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:125-3-47.7 was no longer effective. For the official text of the emergency rule that was in effect from 10-3-94 through 7-14-95, see 12 Ok Reg 103.*

#### **340:125-3-47.8. Dental services [EXPIRED]**

[Source: Added at 12 Ok Reg 103, eff 10-3-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:125-3-47.8 was no longer effective. For the official text of the emergency rule that was in effect from 10-3-94 through 7-14-95, see 12 Ok Reg 103.*

#### **340:125-3-47.9. Hearing services [EXPIRED]**

[Source: Added at 12 Ok Reg 103, eff 10-3-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:125-3-47.9 was no longer effective. For the official text of the emergency rule that was in effect from 10-3-94 through 7-14-95, see 12 Ok Reg 103.*

#### **340:125-3-48. General Medicaid coverages - categorically needy [REVOKED]**

[Source: Amended at 9 Ok Reg 1631, eff 1-27-92 ; Amended at 9 Ok Reg 3809, eff 8-7-92 (emergency); Amended at 9 Ok Reg 3765, eff 8-8-92 (emergency); Amended at 10 Ok Reg 247, eff 10-26-92 (emergency); Amended at 10 Ok Reg 1093, eff 3-1-93 (emergency); Amended at 10 Ok Reg 4021, eff 7-1-93 (emergency); Amended at 10 Ok Reg 3487, eff 7-1-93 (emergency); Amended at 11 Ok Reg 1753, eff 5-12-94 ; Amended at 11 Ok Reg 4391, eff 7-8-94 (emergency); Amended at 11 Ok Reg 4509, eff 8-1-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

#### **340:125-3-49. General Medicaid coverages - medically needy [REVOKED]**

[Source: Amended at 9 Ok Reg 2203, eff 5-18-92 (emergency); Amended at 9 Ok Reg 3809, eff 8-7-92 (emergency); Amended at 9 Ok Reg 3765, eff 8-8-92 (emergency); Amended at 10 Ok Reg 3487, eff 7-1-93 (emergency); Amended at 11 Ok Reg 1753, eff 5-12-94 ; Amended at 11 Ok Reg 4391, eff 7-8-94 (emergency); Amended at 11 Ok Reg 4509, eff 8-1-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

#### **340:125-3-50. General program exclusions - adults [REVOKED]**

[Source: Amended at 9 Ok Reg 3809, eff 8-7-92 (emergency); Amended at 10 Ok Reg 477, eff 11-30-92 (emergency); Amended at 10 Ok Reg 2985, eff 6-25-93 ; Amended at 10 Ok Reg 3487, eff 7-1-93 (emergency); Amended at 11 Ok Reg 1753, eff 5-12-94 ; Amended at 11 Ok Reg 3099, eff 5-12-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

#### **340:125-3-51. General program exclusions - children [REVOKED]**

[Source: Amended at 9 Ok Reg 3809, eff 8-7-92 (emergency); Amended at 10 Ok Reg 3005, eff 6-25-93 ; Amended at 11 Ok Reg 3099, eff 5-12-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **PART 5. ELIGIBILITY [REVOKED]**

#### **340:125-3-67. Categorical relationship [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

#### **340:125-3-68. Financial need [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

**340:125-3-69. Spenddown [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

**340:125-3-70. Persons eligible for medical assistance [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

**340:125-3-71. Persons not eligible for medical assistance [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

**340:125-3-72. Person codes [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

**340:125-3-73. Retroactive eligibility [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

**340:125-3-74. Notification of Needed Medical Services [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

**340:125-3-75. Request for prior authorization for dental services [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

**340:125-3-76. Hearing appliance prescription and supplier request for prior authorization [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

**340:125-3-77. Physician's Prescription for Appliances, Prostheses, and/or medical equipment and medical Suppliers Request for prior authorization [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

**340:125-3-78. Notification of eligibility status for assistance (adults) [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-3-79. Prior authorization for services to individuals under 21 years of age [REVOKED]**

[Source: Amended at 9 Ok Reg 3809, eff 8-7-92 (emergency); Amended at 10 Ok Reg 3005, eff 6-25-93 ; Amended at 10 Ok Reg 4021, eff 7-1-93 (emergency); Amended at 11 Ok Reg 1753, eff 5-12-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-3-80. Prior authorization for services to adults [REVOKED]**

[Source: Amended at 10 Ok Reg 477, eff 11-30-92 (emergency); Amended at 10 Ok Reg 2985, eff 6-25-93 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-3-81. Catastrophic illness [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-3-82. Citizenship and alienage [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-3-83. Residency [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-3-84. Presumptive eligibility [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-3-85. Medical identification card [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

## **SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES [REVOKED]**

### **PART 1. PHYSICIANS [REVOKED]**

#### **340:125-5-1. Eligible providers [REVOKED]**

[Source: Amended at 9 Ok Reg 3809, eff 8-7-92 (emergency); Amended at 10 Ok Reg 3005, eff 6-25-93 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

#### **340:125-5-2. General coverage by category [REVOKED]**

[Source: Amended at 9 Ok Reg 2203, eff 5-18-92 (emergency); Amended at 9 Ok Reg 2827, eff 7-13-92 ; Amended at 9 Ok Reg 3809, eff 8-7-92 (emergency); Amended at 9 Ok Reg 3765, eff 8-8-92 (emergency); Amended at 10 Ok Reg 247, eff 10-26-92 (emergency); Amended at 10 Ok Reg 477, eff 12-1-92 (emergency); Amended at 10 Ok Reg 1093, eff 3-1-93 (emergency); Amended at 10 Ok Reg 3487, eff 7-1-

93 (emergency); Amended at 10 Ok Reg 4021, eff 7-1-93 (emergency); Amended at 10 Ok Reg 4763, eff 9-28-93 (emergency); Amended at 11 Ok Reg 1765, eff 5-12-94 ; Amended at 11 Ok Reg 3099, eff 5-12-94 (emergency); Amended at 11 Ok Reg 4391, eff 7-8-94 (emergency); Amended at 11 Ok Reg 4509, eff 8-1-94 (emergency); Amended at 12 Ok Reg 103, eff 10-3-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-3. Documentation of services [REVOKED]**

[**Source:** Amended at 10 Ok Reg 247, eff 10-26-92 (emergency); Amended at 10 Ok Reg 2985, eff 6-25-93 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-4. Procedure coding [REVOKED]**

[**Source:** Amended at 9 Ok Reg 3809, eff 8-7-92 (emergency); Amended at 11 Ok Reg 523, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1793, eff 5-12-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-5. Diagnosis Codes [REVOKED]**

[**Source:** Amended at 11 Ok Reg 523, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1793, eff 5-12-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-6. Abortions [REVOKED]**

[**Source:** Amended at 11 Ok Reg 523, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1793, eff 5-12-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-7. Anesthesia [REVOKED]**

[**Source:** Amended at 10 Ok Reg 3505, eff 7-1-93 (emergency); Amended at 11 Ok Reg 523, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1793, eff 5-12-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-8. Surgery [REVOKED]**

[**Source:** Amended at 9 Ok Reg 3809, eff 8-7-92 (emergency); Amended at 10 Ok Reg 3005, eff 6-25-93 ; Amended at 11 Ok Reg 837, eff 12-14-93 (emergency); Amended at 11 Ok Reg 1793, eff 5-12-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-9. Medical services [REVOKED]**

[**Source:** Amended at 9 Ok Reg 2827, eff 7-13-92 ; Amended at 9 Ok Reg 3809, eff 8-7-92 (emergency); Amended at 9 Ok Reg 3765, eff 8-8-92 (emergency); Amended at 10 Ok Reg 247, eff 10-26-92 (emergency); Amended at 10 Ok Reg 477, eff 11-30-92 (emergency); Amended at 10 Ok Reg 2985, eff 6-25-93 ; Amended at 10 Ok Reg 3487, eff 7-1-93 (emergency); Amended at 11 Ok Reg 523, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1793, eff 5-12-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-10. Psychiatric services [REVOKED]**

[**Source:** Amended at 9 Ok Reg 3809, eff 8-7-92 (emergency); Amended at 10 Ok Reg 247, eff 10-26-92 (emergency); Amended at 10 Ok Reg 477, eff 11-30-92 (emergency); Amended at 10 Ok Reg 2985, eff 6-25-93 ; Amended at 11 Ok Reg 523, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1793, eff 5-12-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-11. Family planning [REVOKED]**

[Source: Amended at 9 Ok Reg 2827, eff 7-13-92 ; Amended at 9 Ok Reg 3809, eff 8-7-92 (emergency); Amended at 10 Ok Reg 2179, eff 4-29-93 (emergency); Amended at 11 Ok Reg 1807, eff 5-12-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-12. Rape and abuse exams [REVOKED]**

[Source: Amended at 9 Ok Reg 2827, eff 7-13-92 ; Amended at 11 Ok Reg 523, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1793, eff 5-12-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-13. Injections [REVOKED]**

[Source: Amended at 9 Ok Reg 2827, eff 7-13-92 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-14. Chemotherapy injections [REVOKED]**

[Source: Amended at 9 Ok Reg 2827, eff 7-13-92 ; Amended at 10 Ok Reg 477, eff 11-30-92 (emergency); Amended at 10 Ok Reg 2985, eff 6-25-93 ; Amended at 11 Ok Reg 523, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1793, eff 5-12-94 ; Amended at 11 Ok Reg 4131, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-15. Miscellaneous injections [REVOKED]**

[Source: Amended at 9 Ok Reg 2827, eff 7-13-92 ; Amended at 9 Ok Reg 3809, eff 8-7-92 (emergency); Amended at 10 Ok Reg 3005, eff 6-25-93 ; Amended at 11 Ok Reg 523, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1793, eff 5-12-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-16. Authorized examinations - eligibility determinations [REVOKED]**

[Source: Amended at 11 Ok Reg 523, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1793, eff 5-12-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-17. Elective sterilizations [REVOKED]**

[Source: Amended at 9 Ok Reg 2827, eff 7-13-92 ; Amended at 9 Ok Reg 3809, eff 8-7-92 (emergency); Amended at 10 Ok Reg 3005, eff 6-25-93 ; Amended at 11 Ok Reg 523, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1793, eff 5-12-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-18. Hysterectomies [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-19. Laboratory services [REVOKED]**

[Source: Amended at 9 Ok Reg 2827, eff 7-13-92 ; Amended at 9 Ok Reg 3809, eff 8-7-92 (emergency); Amended at 10 Ok Reg 247, eff 10-26-92 (emergency); Amended at 10 Ok Reg 2985, eff 6-25-93 ; Amended at 10 Ok Reg 3505, eff 7-1-93 (emergency); Amended at 11 Ok Reg 523, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1793, eff 5-12-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-20. Unusual procedures [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-21. Obstetrical care [REVOKED]**

[Source: Amended at 9 Ok Reg 2827, eff 7-13-92 ; Amended at 9 Ok Reg 3809, eff 8-7-92 (emergency); Amended at 10 Ok Reg 2149, eff 4-30-93 (emergency); Amended at 11 Ok Reg 193, eff 10-11-93 (emergency); Amended at 11 Ok Reg 1765, eff 5-12-94 ; Amended at 11 Ok Reg 4131, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-22. Newborn care [REVOKED]**

[Source: Amended at 9 Ok Reg 2827, eff 7-13-92 ; Amended at 9 Ok Reg 3809, eff 8-7-92 (emergency); Amended at 10 Ok Reg 247, eff 10-26-92 (emergency); Amended at 10 Ok Reg 2985, eff 6-25-93 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-23. Radiology [REVOKED]**

[Source: Amended at 9 Ok Reg 2827, eff 7-13-92 ; Amended at 10 Ok Reg 247, eff 10-26-92 (emergency); Amended at 11 Ok Reg 523, eff 11-15-93 (emergency); Amended at 11 Ok Reg 1793, eff 5-12-94 ; Amended at 11 Ok Reg 4391, eff 7-8-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-24. Oklahoma Foundation for Peer Review, Inc [REVOKED]**

[Source: Amended at 9 Ok Reg 3765, eff 8-8-92 (emergency); Amended at 10 Ok Reg 2431, eff 6-11-93 ; Amended at 10 Ok Reg 4763, eff 9-28-93 (emergency); Amended at 11 Ok Reg 1765, eff 5-12-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

## **PART 3. HOSPITALS [REVOKED]**

### **340:125-5-40. Eligible providers [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-41. Coverage for adults [REVOKED]**

[Source: Amended at 9 Ok Reg 2827, eff 7-13-92 ; Amended at 9 Ok Reg 3809, eff 8-7-92 (emergency); Amended at 10 Ok Reg 247, eff 10-26-92 (emergency); Amended at 10 Ok Reg 477, eff 12-1-92 (emergency); Amended at 10 Ok Reg 2149, eff 4-30-93 (emergency); Amended at 10 Ok Reg 3487, eff 7-1-93 (emergency); Amended at 10 Ok Reg 4763, eff 9-28-93 (emergency); Amended at 11 Ok Reg 1765, eff 5-12-94 ; Amended at 11 Ok Reg 4391, eff 7-8-94 (emergency); Amended at 11 Ok Reg 4509, eff 8-1-94 (emergency); Amended at 12 Ok Reg 253, eff 10-14-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-42. Coverage for children [REVOKED]**

[Source: Amended at 9 Ok Reg 2827, eff 7-13-92 ; Amended at 9 Ok Reg 3809, eff 8-7-92 (emergency); Amended at 9 Ok Reg 3765, eff 8-8-92 (emergency); Amended at 10 Ok Reg 247, eff 10-26-92 (emergency); Amended at 10 Ok Reg 1093, eff 3-1-93 (emergency); Amended at 10 Ok Reg 3009, eff 6-25-93 ; Amended at 10 Ok Reg 4031, eff 6-26-93 (emergency); Amended at 10 Ok Reg 4763, eff 9-28-93 (emergency); Amended at 11 Ok Reg 1765, eff 5-12-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-43. Vocational Rehabilitation coverage [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-44. Medicare eligible individuals [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-45. Psychiatric hospitals - inpatient services for persons age 65 and over [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-46. Psychiatric hospitals and residential psychiatric treatment facilities - inpatient services for persons under age 21 [REVOKED]**

[Source: Amended at 9 Ok Reg 3765, eff 8-8-92 (emergency); Amended at 10 Ok Reg 2431, eff 6-11-93 ; Amended at 10 Ok Reg 3527, eff 7-1-93 (emergency); Amended at 10 Ok Reg 4763, eff 9-28-93 (emergency); Amended at 11 Ok Reg 1765, eff 5-12-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-47. Reimbursement for inpatient services [REVOKED]**

[Source: Amended at 9 Ok Reg 2827, eff 7-13-92 ; Amended at 10 Ok Reg 823, eff 1-1-93 ; Amended at 10 Ok Reg 911, eff 1-28-93 (emergency); Amended at 10 Ok Reg 2975, eff 6-25-93 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-48. Cost reports [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-49. Child abuse [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-50. Abortions [REVOKED]**

[Source: Amended at 11 Ok Reg 3099, eff 5-12-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-51. Elective sterilizations [REVOKED]**

[Source: Amended at 9 Ok Reg 2827, eff 7-13-92 ; Amended at 9 Ok Reg 3809, eff 8-7-92 (emergency); Amended at 10 Ok Reg 3005, eff 6-25-93 ; Amended at 11 Ok Reg 3099, eff 5-12-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-52. Hysterectomies [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-53. Newborn care [REVOKED]**

[Source: Amended at 9 Ok Reg 2827, eff 7-13-92 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]



### **340:125-5-54. Hospital rate appeals [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-55. Residential psychiatric treatment facility rate appeals [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

## **PART 5. PHARMACIES [REVOKED]**

### **340:125-5-70. Eligible providers [REVOKED]**

[Source: Amended at 10 Ok Reg 3533, eff 6-14-93 (emergency); Amended at 11 Ok Reg 2829, eff 6-13-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

#### **340:125-5-70.1. Drug Utilization Review [REVOKED]**

[Source: Added at 10 Ok Reg 3533, eff 6-14-93 (emergency); Added at 11 Ok Reg 2829, eff 6-13-94 ; Amended at 11 Ok Reg 4127, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-71. Coverage for adults [REVOKED]**

[Source: Amended at 9 Ok Reg 2811, eff 7-13-92 ; Amended at 10 Ok Reg 3533, eff 6-14-93 (emergency); Amended at 11 Ok Reg 1151, eff 1-25-94 (emergency); Amended at 11 Ok Reg 2831, eff 6-13-94 ; Amended at 11 Ok Reg 4127, eff 6-21-94 (emergency); Amended at 11 Ok Reg 4507, eff 8-1-94 (emergency); Amended at 12 Ok Reg 253, eff 10-14-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-72. Coverage for children (categorically and mentally needy) [REVOKED]**

[Source: Amended at 9 Ok Reg 2811, eff 7-13-92 ; Amended at 9 Ok Reg 3625, eff 7-23-92 (emergency); Amended at 10 Ok Reg 3533, eff 6-14-93 (emergency); Amended at 10 Ok Reg 3019, eff 6-25-93 ; Amended at 11 Ok Reg 2829, eff 6-13-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-73. Vocational rehabilitation [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-74. Individuals eligible for Part B of Medicare [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-75. Generic drugs [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-76. Brand necessary certification [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-77. Reimbursement [REVOKED]**

[Source: Amended at 9 Ok Reg 2811, eff 7-13-92 ; Amended at 9 Ok Reg 3625, eff 7-23-92 (emergency); Amended at 10 Ok Reg 3533, eff 6-14-93 (emergency); Amended at 10 Ok Reg 3019, eff 6-25-93 ; Amended at 11 Ok Reg 2829, eff 6-13-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-78. Quantity dispensed [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-79. National drug code [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-80. Medical identification card [REVOKED]**

[Source: Amended at 9 Ok Reg 2811, eff 7-13-92 ; Amended at 11 Ok Reg 4127, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-81. Prescriber numbers [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-82. Pharmacist's responsibility [REVOKED]**

[Source: Amended at 9 Ok Reg 3625, eff 7-23-92 (emergency); Amended at 10 Ok Reg 3019, eff 6-25-93 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-83. Record retention [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-84. Special billing procedures [REVOKED]**

[Source: Amended at 9 Ok Reg 2811, eff 7-13-92 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

## **PART 7. CERTIFIED LABORATORIES [REVOKED]**

### **340:125-5-100. Eligible providers [REVOKED]**

[Source: Amended at 10 Ok Reg 3505, eff 7-1-93 (emergency); Amended at 11 Ok Reg 2833, eff 6-13-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-101. Coverage for children [REVOKED]**

[Source: Amended at 10 Ok Reg 3505, eff 7-1-93 (emergency); Amended at 11 Ok Reg 2833, eff 6-13-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-102. Coverage for adults [REVOKED]**

[Source: Amended at 10 Ok Reg 3505, eff 7-1-93 (emergency); Amended at 11 Ok Reg 2833, eff 6-13-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-103. Vocational rehabilitation [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-104. Individuals eligible for Part B of Medicare [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-105. Non-covered procedures [REVOKED]**

[Source: Amended at 10 Ok Reg 3505, eff 7-1-93 (emergency); Amended at 11 Ok Reg 2833, eff 6-13-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-106. Payment rates [REVOKED]**

[Source: Amended at 10 Ok Reg 3505, eff 7-1-93 (emergency); Amended at 11 Ok Reg 2833, eff 6-13-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-107. Claim form [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

## **PART 9. LONG TERM CARE FACILITIES [REVOKED]**

### **340:125-5-120. Eligible providers [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-121. Coverage by category [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-122. Levels of care [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

**340:125-5-123. Patient certification for long term care  
[REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

**340:125-5-124. Facility licensure [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

**340:125-5-125. Trust funds [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

**340:125-5-126. Therapeutic leave [REVOKED]**

[Source: Amended at 10 Ok Reg 921, eff 1-28-93 (emergency); Amended at 10 Ok Reg 2975, eff 6-25-93 ; Amended at 11 Ok Reg 4135, eff 6-21-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

**340:125-5-127. Notification of nursing home changes [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

**340:125-5-128. Private rooms [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

**340:125-5-129. Monthly facility data [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

**340:125-5-130. Patient On-Site and Utilization Reviews  
[REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

**340:125-5-131. Continued stay reviews [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

**340:125-5-132. Rates of payments [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

**340:125-5-133. Cost reports [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-134. Payment methodologies [REVOKED]**

[Source: Amended at 9 Ok Reg 547, eff 12-13-91 (emergency); Amended at 9 Ok Reg 2773, eff 7-13-92 ; Amended at 11 Ok Reg 4135, eff 6-21-94 (emergency); Amended at 11 Ok Reg 4141, eff 7-1-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-134.1. Nurse Aide Training Reimbursement [REVOKED]**

[Source: Added at 9 Ok Reg 547, eff 12-13-91 (emergency); Added at 9 Ok Reg 2773, eff 7-13-92 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-135. Intermediate care facility for the mentally retarded (ICF/MR) service fee [EXPIRED]**

[Source: Added at 11 Ok Reg 4141, eff 7-1-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:125-5-135 was no longer effective. For the official text of the emergency rule that was in effect from 7-1-94 through 7-14-95, see 11 Ok Reg 4141.*

## **PART 11. EPSDT [REVOKED]**

### **340:125-5-150. General EPSDT program requirements [REVOKED]**

[Source: Revoked at 12 Ok Reg 103, eff 10-3-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-151. Periodicity schedule [REVOKED]**

[Source: Revoked at 12 Ok Reg 103, eff 10-3-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-152. Initial screening examination [REVOKED]**

[Source: Revoked at 12 Ok Reg 103, eff 10-3-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-153. Screening components [REVOKED]**

[Source: Revoked at 12 Ok Reg 103, eff 10-3-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-154. Diagnosis and treatment [REVOKED]**

[Source: Revoked at 12 Ok Reg 103, eff 10-3-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-155. Vision services [REVOKED]**

[Source: Revoked at 12 Ok Reg 103, eff 10-3-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-156. Dental services [REVOKED]**

[Source: Revoked at 12 Ok Reg 103, eff 10-3-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-157. Hearing services [REVOKED]**

[Source: Revoked at 12 Ok Reg 103, eff 10-3-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-158. Periodic and interperiodic screening examinations [REVOKED]**

[Source: Revoked at 12 Ok Reg 103, eff 10-3-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-159. Partial screening examination [REVOKED]**

[Source: Revoked at 12 Ok Reg 103, eff 10-3-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-160. Suspected child abuse/neglect [REVOKED]**

[Source: Revoked at 12 Ok Reg 103, eff 10-3-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

## **PART 13. MATERNITY CLINIC SERVICES [REVOKED]**

### **340:125-5-175. Eligible providers [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-176. Coverage by category [REVOKED]**

[Source: Amended at 9 Ok Reg 1123, eff 1-31-92 (emergency); Amended at 9 Ok Reg 2785, eff 7-13-92 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-177. Payment rates [REVOKED]**

[Source: Amended at 9 Ok Reg 3273, eff 6-15-92 (emergency); Amended at 10 Ok Reg 3021, eff 6-25-93 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-178. Covered services [REVOKED]**

[Source: Amended at 9 Ok Reg 1123, eff 1-31-92 (emergency); Amended at 9 Ok Reg 2785, eff 7-13-92 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-179. Billing [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

## **PART 14. HIGH RISK PREGNANT WOMEN CASE MANAGEMENT SERVICES [REVOKED]**

### **340:125-5-183. Eligible providers and services [REVOKED]**

[Source: Added at 9 Ok Reg 1123, eff 1-31-92 (emergency); Added at 9 Ok Reg 2785, eff 7-13-92 ;  
Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-184. Coverage [REVOKED]**

[Source: Added at 9 Ok Reg 1123, eff 1-31-92 (emergency); Added at 9 Ok Reg 2785, eff 7-13-92 ;  
Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-185. Payment rates [REVOKED]**

[Source: Added at 9 Ok Reg 1123, eff 1-31-92 (emergency); Added at 9 Ok Reg 2785, eff 7-13-92 ;  
Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-186. Documentation of records [REVOKED]**

[Source: Added at 9 Ok Reg 1123, eff 1-31-92 (emergency); Added at 9 Ok Reg 2785, eff 7-13-92 ;  
Revoked at 12 Ok Reg 2803, eff 7-13-95]

## **PART 15. CHILD HEALTH CENTERS [REVOKED]**

### **340:125-5-189. General provisions [REVOKED]**

[Source: Added at 9 Ok Reg 1137, eff 1-24-92 (emergency); Added at 9 Ok Reg 2449, eff 6-25-92 ;  
Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-190. Eligible providers [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

#### **340:125-5-190.1. Periodicity schedule [REVOKED]**

[Source: Added at 9 Ok Reg 1137, eff 1-24-92 (emergency); Added at 9 Ok Reg 2449, eff 6-25-92 ;  
Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-191. Coverage by category [REVOKED]**

[Source: Amended at 9 Ok Reg 1137, eff 1-24-92 (emergency); Amended at 9 Ok Reg 2449, eff 6-25-92 ;  
Amended at 11 Ok Reg 1549, eff 4-12-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-191.1. Periodic screening examination [REVOKED]**

[Source: Added at 9 Ok Reg 1137, eff 1-24-92 (emergency); Added at 9 Ok Reg 2449, eff 6-25-92 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-191.2. Interperiodic screening examination [REVOKED]**

[Source: Added at 9 Ok Reg 1137, eff 1-24-92 (emergency); Added at 9 Ok Reg 2449, eff 6-25-92 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-191.3. Reporting of suspected child abuse/neglect [REVOKED]**

[Source: Added at 9 Ok Reg 1137, eff 1-24-92 (emergency); Added at 9 Ok Reg 2449, eff 6-25-92 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-192. Payment rates and billing [REVOKED]**

[Source: Amended at 9 Ok Reg 1137, eff 1-24-92 (emergency); Amended at 9 Ok Reg 2449, eff 6-25-92 ; Amended at 11 Ok Reg 1549, eff 4-12-94 (emergency); Amended at 11 Ok Reg 3653, eff 6-6-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-193. Coverage limitations [REVOKED]**

[Source: Revoked at 9 Ok Reg 1137, eff 1-24-92 (emergency); Revoked at 9 Ok Reg 2449, eff 6-25-92]

### **340:125-5-194. Billing [REVOKED]**

[Source: Amended at 9 Ok Reg 1137, eff 1-24-92 (emergency); Amended at 9 Ok Reg 2449, eff 6-25-92 ; Amended at 11 Ok Reg 1549, eff 4-12-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

## **PART 17. MEDICAL SUPPLIERS [REVOKED]**

### **340:125-5-205. Eligible providers [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-206. Coverage for adults [REVOKED]**

[Source: Amended at 10 Ok Reg 477, eff 11-30-92 (emergency); Amended at 10 Ok Reg 3537, eff 6-4-93 (emergency); Amended at 10 Ok Reg 2985, eff 6-25-93 ; Amended at 11 Ok Reg 1807, eff 5-12-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-207. Coverage for children [REVOKED]**

[Source: Amended at 10 Ok Reg 477, eff 11-30-92 (emergency); Amended at 10 Ok Reg 2985, eff 6-25-93 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]



### **340:125-5-208. Coverage for vocational rehabilitation [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-209. Coverage for individuals eligible for Part B of Medicare [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-210. Procedure codes [REVOKED]**

[Source: Amended at 10 Ok Reg 3537, eff 6-4-93 (emergency); Amended at 11 Ok Reg 1807, eff 5-12-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-211. Prior authorization [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-212. Date of service and units [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-213. Reimbursement [REVOKED]**

[Source: Added at 10 Ok Reg 3537, eff 6-4-93 (emergency); Added at 11 Ok Reg 1807, eff 5-12-94 ; Amended at 11 Ok Reg 3655, eff 6-14-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

## **PART 19. NURSE MIDWIVES [REVOKED]**

### **340:125-5-225. Eligible providers [REVOKED]**

[Source: Amended at 12 Ok Reg 269, eff 10-14-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-226. Coverage by category [REVOKED]**

[Source: Amended at 9 Ok Reg 2827, eff 7-13-92 ; Amended at 10 Ok Reg 247, eff 10-26-92 (emergency); Amended at 10 Ok Reg 2985, eff 6-25-93 ; Amended at 12 Ok Reg 269, eff 10-14-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-227. Procedure codes [REVOKED]**

[Source: Amended at 10 Ok Reg 247, eff 10-26-92 (emergency); Amended at 10 Ok Reg 2985, eff 6-25-93 ; Amended at 12 Ok Reg 269, eff 10-14-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-228. Billing [EXPIRED]**

[Source: Added at 12 Ok Reg 269, eff 10-14-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:125-5-228 was no longer effective. For the official text of the emergency rule that was in effect from 10-14-94 through 7-14-95, see 12 Ok Reg 269.*

## **PART 21. OUTPATIENT MENTAL HEALTH SERVICES [REVOKED]**

### **340:125-5-240. Eligible providers [REVOKED]**

[Source: Amended at 10 Ok Reg 271, eff 10-26-92 (emergency); Amended at 10 Ok Reg 2039, eff 5-27-93 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-241. Coverage for adults [REVOKED]**

[Source: Amended at 10 Ok Reg 271, eff 10-26-92 (emergency); Amended at 10 Ok Reg 2039, eff 5-27-93 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-242. Coverage for children [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-243. Vocational rehabilitation coverage [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-244. Individuals eligible for Part B of Medicare [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-245. Reimbursement [REVOKED]**

[Source: Amended at 10 Ok Reg 271, eff 10-26-92 (emergency); Amended at 10 Ok Reg 2039, eff 5-27-93 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-246. Covered services [REVOKED]**

[Source: Amended at 10 Ok Reg 271, eff 10-26-92 (emergency); Amended at 10 Ok Reg 2039, eff 5-27-93 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-247. Billing [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-248. Documentation of records [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

## **PART 23. PODIATRISTS [REVOKED]**

### **340:125-5-260. Services [REVOKED]**

[Source: Amended at 9 Ok Reg 2827, eff 7-13-92 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-261. Coverage by category [REVOKED]**

[Source: Amended at 9 Ok Reg 2827, eff 7-13-92 ; Amended at 10 Ok Reg 477, eff 11-30-92 (emergency); Amended at 10 Ok Reg 2985, eff 6-25-93 ; Amended at 11 Ok Reg 3657, eff 6-6-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-262. Claim form [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

## **PART 25. PSYCHOLOGISTS [REVOKED]**

### **340:125-5-275. Eligible providers [REVOKED]**

[Source: Amended at 11 Ok Reg 1555, eff 4-12-94 (emergency); Amended at 11 Ok Reg 4643, eff 6-14-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-276. Coverage by category [REVOKED]**

[Source: Amended at 9 Ok Reg 3809, eff 8-7-92 (emergency); Amended at 10 Ok Reg 247, eff 10-26-92 (emergency); Amended at 10 Ok Reg 1093, eff 3-1-93 (emergency); Amended at 10 Ok Reg 3009, eff 6-25-93 ; Amended at 10 Ok Reg 4021, eff 7-1-93 (emergency); Amended at 11 Ok Reg 1753, eff 5-12-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-277. Procedure codes [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-278. Non-covered procedures [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

**340:125-5-279. Claim form [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

**PART 27. REGISTERED PHYSICAL THERAPISTS  
[REVOKED]**

**340:125-5-290. Payment for outpatient services [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

**340:125-5-291. Coverage by category [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

**340:125-5-292. Claim form [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

**PART 29. RENAL DIALYSIS FACILITIES [REVOKED]**

**340:125-5-305. Eligible providers [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

**340:125-5-306. Coverage by category [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

**340:125-5-307. Payment methodology [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

**PART 31. ROOM AND BOARD PROVIDERS [REVOKED]**

**340:125-5-320. Eligible providers [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

**340:125-5-321. Coverage by category [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

**340:125-5-322. Procedure codes and allowable amounts  
[REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

**340:125-5-323. Claim form [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

**PART 33. TRANSPORTATION BY AMBULANCE  
[REVOKED]**

**340:125-5-335. Eligible providers [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

**340:125-5-336. Coverage for adults [REVOKED]**

[Source: Amended at 9 Ok Reg 1627, eff 4-13-92 (emergency); Amended at 10 Ok Reg 3537, eff 6-4-93 (emergency); Amended at 10 Ok Reg 3021, eff 6-25-93 ; Amended at 11 Ok Reg 1953, eff 4-12-94 (emergency); Amended at 12 Ok Reg 271, eff 10-14-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

**340:125-5-337. Coverage for children [REVOKED]**

[Source: Amended at 9 Ok Reg 1627, eff 4-13-92 (emergency); Amended at 10 Ok Reg 3021, eff 6-25-93 ; Amended at 12 Ok Reg 271, eff 10-14-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

**340:125-5-338. Vocational rehabilitation coverage [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

**340:125-5-339. Individuals eligible for Part B of Medicare  
[REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

**340:125-5-340. Procedure codes [REVOKED]**

[Source: Amended at 9 Ok Reg 1627, eff 4-13-92 (emergency); Amended at 10 Ok Reg 3537, eff 6-4-93 (emergency); Amended at 10 Ok Reg 3021, eff 6-25-93 ; Amended at 11 Ok Reg 1807, eff 5-12-94 ; Amended at 12 Ok Reg 271, eff 10-14-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

**340:125-5-341. Claim form [REVOKED]**

[Source: Amended at 12 Ok Reg 271, eff 10-14-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-342. Public transportation [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-343. Reimbursement [EXPIRED]**

[Source: Added at 12 Ok Reg 273, eff 10-14-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:125-5-343 was no longer effective. For the official text of the emergency rule that was in effect from 10-14-94 through 7-14-95, see 12 Ok Reg 273.*

## **PART 35. RURAL HEALTH CLINICS [REVOKED]**

### **340:125-5-355. Eligible providers [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-356. Coverage for adults [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-357. Coverage for children [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-358. Vocational rehabilitation [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-359. Claims for Medicare eligible recipients [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-360. Payment rates [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-361. Billing [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-362. Documentation of records [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

## **PART 37. CERTIFIED NURSE PRACTITIONERS [REVOKED]**

### **340:125-5-375. Eligible providers [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-376. Coverage by category [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-377. Billing instructions [REVOKED]**

[Source: Amended at 10 Ok Reg 247, eff 10-26-92 (emergency); Amended at 10 Ok Reg 2985, eff 6-25-93 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

## **PART 39. SKILLED NURSING SERVICES [REVOKED]**

### **340:125-5-390. Introduction to waiver services and eligible providers [REVOKED]**

[Source: Amended at 8 Ok Reg 3447, eff 7-30-91 (emergency); Amended at 9 Ok Reg 2461, eff 6-25-92 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-391. Coverage [REVOKED]**

[Source: Amended at 8 Ok Reg 3447, eff 7-30-91 (emergency); Amended at 9 Ok Reg 2461, eff 6-25-92 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-392. Description of services [REVOKED]**

[Source: Amended at 8 Ok Reg 3447, eff 7-30-91 (emergency); Amended at 9 Ok Reg 2461, eff 6-25-92 ; Amended at 10 Ok Reg 277, eff 10-26-92 (emergency); Amended at 10 Ok Reg 2443, eff 6-11-93 ; Revoked at 12 Ok Reg 2803, eff 7-13-96]

### **340:125-5-393. Coverage limitations [REVOKED]**

[Source: Amended at 10 Ok Reg 277, eff 10-26-92 (emergency); Amended Ok Reg 2443, eff 6-11-93 ; Amended at 10 Ok Reg 3505, eff 7-1-93 (emergency); Amended at 11 Ok Reg 2833, eff 6-13-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-394. Diagnosis codes [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

## **PART 41. FAMILY SUPPORT SERVICES [REVOKED]**

### **340:125-5-410. Introduction to waiver services and eligible providers [REVOKED]**

[Source: Amended at 8 Ok Reg 3447, eff 7-30-91 (emergency); Amended at 9 Ok Reg 2461, eff 6-25-92 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-411. Coverage [REVOKED]**

[Source: Amended at 8 Ok Reg 3447, eff 7-30-91 (emergency); Amended at 9 Ok Reg 2461, eff 6-25-92 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-412. Description of services [REVOKED]**

[Source: Amended at 8 Ok Reg 3447, eff 7-30-91 (emergency); Amended at 9 Ok Reg 2461, eff 6-25-92 ; Amended at 10 Ok Reg 277, eff 10-26-92 (emergency); Amended at 10 Ok Reg 1093, eff 3-1-93 (emergency); Amended at 10 Ok Reg 3009, eff 6-25-93 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-413. Diagnosis codes [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

## **PART 42. ADULT COMPANION SERVICES [REVOKED]**

### **340:125-5-415. Introduction to waiver services and eligible providers [REVOKED]**

[Source: Added at 8 Ok Reg 3447, eff 7-30-91 (emergency); Added at 9 Ok Reg 2461, eff 6-25-92 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-416. Coverage [REVOKED]**

[Source: Added at 8 Ok Reg 3447, eff 7-30-91 (emergency); Added at 9 Ok Reg 2461, eff 6-25-92 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-417. Description of services [REVOKED]**

[Source: Added at 8 Ok Reg 3447, eff 7-30-91 (emergency); Added at 9 Ok Reg 2461, eff 6-25-92 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-418. Coverage limitations [REVOKED]**

[Source: Added at 8 Ok Reg 3447, eff 7-30-91 (emergency); Added at 9 Ok Reg 2461, eff 6-25-92 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]



### **340:125-5-419. Diagnosis codes [REVOKED]**

[Source: Added at 8 Ok Reg 3447, eff 7-30-91 (emergency); Added at 9 Ok Reg 2461, eff 6-25-92 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

## **PART 43. OPTOMETRISTS [REVOKED]**

### **340:125-5-425. Eligible providers [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-426. Coverage by category [REVOKED]**

[Source: Amended at 9 Ok Reg 1723, eff 4-20-92 (emergency); Amended at 10 Ok Reg 3021, eff 6-25-93 ; Amended at 11 Ok Reg 837, eff 12-14-93 (emergency); Amended at 11 Ok Reg 1793, eff 5-12-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-427. Procedure codes [REVOKED]**

[Source: Amended at 9 Ok Reg 1723, eff 4-20-92 (emergency); Amended at 10 Ok Reg 3021, eff 6-25-93 ; Amended at 11 Ok Reg 837, eff 12-14-93 (emergency); Amended at 11 Ok Reg 1793, eff 5-12-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-428. Diagnosis codes [REVOKED]**

[Source: Amended at 9 Ok Reg 1723, eff 4-20-92 (emergency); Amended at 10 Ok Reg 3021, eff 6-25-93 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

## **PART 45. OPTICAL COMPANIES [REVOKED]**

### **340:125-5-450. Eligible providers [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-451. Coverage by category [REVOKED]**

[Source: Amended at 9 Ok Reg 1723, eff 4-20-92 (emergency); Amended at 10 Ok Reg 3021, eff 6-25-93 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-452. Procedure codes [REVOKED]**

[Source: Amended at 9 Ok Reg 1723, eff 4-20-92 (emergency); Amended at 10 Ok Reg 3021, eff 6-25-93 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

## **PART 47. FAMILY PLANNING CENTERS [REVOKED]**

### **340:125-5-465. Eligible providers [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-466. Coverage by category [REVOKED]**

[Source: Amended at 9 Ok Reg 259, eff 1-24-92 (emergency); Amended at 9 Ok Reg 2471, eff 6-25-92 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-467. Coverage limitations [REVOKED]**

[Source: Amended at 9 Ok Reg 259, eff 1-24-92 (emergency); Amended at 9 Ok Reg 2471, eff 6-25-92 ; Amended at 12 Ok Reg 275, eff 10-14-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

## **PART 49. HABILITATION SERVICES [REVOKED]**

### **340:125-5-480. Introduction to waiver services and eligible providers [REVOKED]**

[Source: Amended at 10 Ok Reg 277, eff 10-26-92 (emergency); Amended at 10 Ok Reg 2443, eff 6-11-93 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-481. Coverage [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-482. Description of services [REVOKED]**

[Source: Amended at 10 Ok Reg 277, eff 10-26-92 (emergency); Amended at 10 Ok Reg 1093, eff 3-1-93 (emergency); Amended at 10 Ok Reg 3009, eff 6-25-93 ; Amended at 10 Ok Reg 3505, eff 7-1-93 (emergency); Amended at 11 Ok Reg 2833, eff 6-13-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-483. Diagnosis codes [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

## **PART 51. SPECIALIZED FOSTER CARE [REVOKED]**

### **340:125-5-495. Introduction to waiver services and eligible providers [REVOKED]**

[Source: Revoked and reenacted at 8 Ok Reg 3447, eff 7-30-91 (emergency); Revoked and reenacted at 9 Ok Reg 2461, eff 6-25-92 ; Amended at 10 Ok Reg 277, eff 10-26-92 (emergency); Amended at 10 Ok Reg 2443, eff 6-11-93 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-496. Coverage [REVOKED]**

[Source: Revoked and reenacted at 8 Ok Reg 3447, eff 7-30-91 (emergency); Revoked and reenacted at 9 Ok Reg 2459, eff 6-25-92 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-497. Description of services [REVOKED]**

[Source: Revoked and reenacted at 8 Ok Reg 3447, eff 7-30-91 (emergency); Revoked and reenacted at 9 Ok Reg 2459, eff 6-25-92 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-498. Coverage limitations [REVOKED]**

[Source: Revoked and reenacted at 8 Ok Reg 3447, eff 7-30-91 (emergency); Revoked and reenacted at 9 Ok Reg 2459, eff 6-25-92 ; Amended at 10 Ok Reg 1093, eff 3-1-93 (emergency); Amended at 10 Ok Reg 3009, eff 6-25-93 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-499. Diagnosis code [REVOKED]**

[Source: Revoked and reenacted at 8 Ok Reg 3447, eff 7-30-91 (emergency); Revoked and reenacted at 9 Ok Reg 2459, eff 6-25-92 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

## **PART 53. RESPITE CARE [REVOKED]**

### **340:125-5-515. Introduction to waiver services and eligible providers [REVOKED]**

[Source: Amended at 8 Ok Reg 3447, eff 7-30-91 (emergency); Amended at 9 Ok Reg 2461, eff 6-25-92 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-516. Coverage [REVOKED]**

[Source: Amended at 8 Ok Reg 3447, eff 7-30-91 (emergency); Amended at 9 Ok Reg 2461, eff 6-25-92 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-517. Description of services [REVOKED]**

[Source: Amended at 8 Ok Reg 3447, eff 7-30-91 (emergency); Amended at 9 Ok Reg 2461, eff 6-25-92 ; Amended at 10 Ok Reg 277, eff 10-26-92 (emergency); Amended at 10 Ok Reg 2443, eff 6-11-93 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-518. Coverage limitations [REVOKED]**

[Source: Amended at 8 Ok Reg 3447, eff 7-30-91 (emergency); Amended at 9 Ok Reg 2461, eff 6-25-92 ; Amended at 10 Ok Reg 277, eff 10-26-92 (emergency); Amended at 10 Ok Reg 2443, eff 6-11-93 ; Amended at 10 Ok Reg 3505, eff 7-1-93 (emergency); Amended at 11 Ok Reg 2833, eff 6-13-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-519. Diagnosis code [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

## **PART 54. HOSPICE CARE [REVOKED]**

### **340:125-5-520. Eligible providers [REVOKED]**

[Source: Added at 9 Ok Reg 229, eff 10-17-91 (emergency); Added at 9 Ok Reg 2825, eff 7-13-92 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-521. Coverage by category [REVOKED]**

[Source: Added at 9 Ok Reg 229, eff 10-17-91 (emergency); Added at 9 Ok Reg 2825, eff 7-13-92 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-522. Hospice reimbursement [REVOKED]**

[Source: Added at 9 Ok Reg 229, eff 10-17-91 (emergency); Added at 9 Ok Reg 2825, eff 7-13-92 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-523. Billing [REVOKED]**

[Source: Added at 9 Ok Reg 229, eff 10-17-91 (emergency); Added at 9 Ok Reg 2825, eff 7-13-92 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

## **PART 55. HOMEMAKER SERVICES [REVOKED]**

### **340:125-5-530. Introduction to waiver services and eligible providers [REVOKED]**

[Source: Amended at 8 Ok Reg 3447, eff 7-30-91 (emergency); Amended at 9 Ok Reg 2461, eff 6-25-92 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-531. Coverage [REVOKED]**

[Source: Amended at 8 Ok Reg 3447, eff 7-30-91 (emergency); Amended at 9 Ok Reg 2461, eff 6-25-92 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-532. Description of services [REVOKED]**

[Source: Amended at 8 Ok Reg 3447, eff 7-30-91 (emergency); Amended at 9 Ok Reg 2461, eff 6-25-92 ; Amended at 10 Ok Reg 277, eff 10-26-92 (emergency); Amended at 10 Ok Reg 1093, eff 3-1-93 (emergency); Amended at 10 Ok Reg 3009, eff 6-25-93 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-533. Diagnosis codes [REVOKED]**

[Source: Amended at 8 Ok Reg 3447, eff 7-30-91 (emergency); Amended at 9 Ok Reg 2461, eff 6-25-92 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

## **PART 57. HOME HEALTH AGENCIES [REVOKED]**

### **340:125-5-545. Eligible providers [REVOKED]**

[Source: Amended at 9 Ok Reg 543, eff 12-13-91 (emergency); Amended at 9 Ok Reg 2479, eff 6-25-92 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-546. Coverage by category [REVOKED]**

[Source: Amended at 9 Ok Reg 543, eff 12-13-91 (emergency); Amended at 9 Ok Reg 2479, eff 6-25-92 ; Amended at 10 Ok Reg 3537, eff 6-4-93 (emergency); Amended at 11 Ok Reg 1807, eff 5-12-94 ; Amended at 12 Ok Reg 241, eff 10-14-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-547. Reimbursement [REVOKED]**

[Source: Amended at 9 Ok Reg 543, eff 12-13-91 (emergency); Amended at 9 Ok Reg 2479, eff 6-25-92 ; Amended at 10 Ok Reg 1093, eff 3-1-93 (emergency); Amended at 10 Ok Reg 3537, eff 6-4-93 (emergency); Amended at 10 Ok Reg 3009, eff 6-25-93 ; Amended at 11 Ok Reg 1477, eff 3-21-94 (emergency); Amended at 11 Ok Reg 1807, eff 5-12-94 ; Amended at 12 Ok Reg 261, eff 10-14-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-548. Procedure codes [REVOKED]**

[Source: Amended at 10 Ok Reg 3537, eff 6-4-93 (emergency); Amended at 11 Ok Reg 1807, eff 5-12-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-549. Prosthetic devices [REVOKED]**

[Source: Amended at 9 Ok Reg 543, eff 12-13-91 (emergency); Amended at 9 Ok Reg 2479, eff 6-25-92 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

## **PART 59. AMBULATORY SURGICAL CENTERS [REVOKED]**

### **340:125-5-565. Eligible providers [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-566. Outpatient surgery services [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-567. Coverage by category [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-568. Elective sterilizations [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

## **PART 61. CASE MANAGEMENT SERVICES FOR OVER 21 [REVOKED]**

### **340:125-5-585. Eligible providers [REVOKED]**

[Source: Amended at 10 Ok Reg 4763, eff 9-28-93 (emergency); Amended at 11 Ok Reg 1765, eff 5-12-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-586. Coverage by category [REVOKED]**

[Source: Amended at 10 Ok Reg 4763, eff 9-28-93 (emergency); Amended at 11 Ok Reg 1765, eff 5-12-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-587. Reimbursement [REVOKED]**

[Source: Amended at 10 Ok Reg 3543, eff 6-4-93 (emergency); Amended at 11 Ok Reg 1807, eff 5-12-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-588. Billing [REVOKED]**

[Source: Amended at 10 Ok Reg 4763, eff 9-28-93 (emergency); Amended at 11 Ok Reg 1765, eff 5-12-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-589. Documentation of records [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

## **PART 62. CASE MANAGEMENT SERVICES FOR UNDER 21 [REVOKED]**

### **340:125-5-590. Eligible providers [REVOKED]**

[Source: Added at 10 Ok Reg 4763, eff 9-28-93 (emergency); Added at 11 Ok Reg 1765, eff 5-12-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-591. Coverage by category [REVOKED]**

[Source: Added at 10 Ok Reg 4763, eff 9-28-93 (emergency); Added at 11 Ok Reg 1765, eff 5-12-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-592. Reimbursement [REVOKED]**

[Source: Added at 10 Ok Reg 4763, eff 9-28-93 (emergency); Added at 11 Ok Reg 1765, eff 5-12-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-593. Billing [REVOKED]**

[Source: Added at 10 Ok Reg 4763, eff 9-28-93 (emergency); Added at 11 Ok Reg 1765, eff 5-12-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-594. Documentation of records [REVOKED]**

[Source: Added at 10 Ok Reg 4763, eff 9-28-93 (emergency); Added at 11 Ok Reg 1765, eff 5-12-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

## **PART 63. CERTIFIED REGISTERED NURSE ANESTHETISTS [REVOKED]**

### **340:125-5-600. Eligible providers [REVOKED]**

[Source: Amended at 11 Ok Reg 197, eff 10-11-93 (emergency); Amended at 11 Ok Reg 1765, eff 5-12-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-601. Coverage by category [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-602. Billing instructions [REVOKED]**

[Source: Amended at 10 Ok Reg 3505, eff 7-1-93 (emergency); Amended at 11 Ok Reg 197, eff 10-11-93 (emergency); Amended at 11 Ok Reg 1765, eff 5-12-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-603. Elective sterilizations [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-604. Hysterectomies [REVOKED]**

[Source: Amended at 11 Ok Reg 197, eff 10-11-93 (emergency); Amended at 11 Ok Reg 1765, eff 5-12-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-605. Abortions [REVOKED]**

[Source: Amended at 11 Ok Reg 197, eff 10-11-93 (emergency); Amended at 11 Ok Reg 1765, eff 5-12-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-606. Payment methodology [REVOKED]**

[Source: Amended at 11 Ok Reg 197, eff 10-11-93 (emergency); Amended at 11 Ok Reg 1765, eff 5-12-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

## **PART 65. EARLY INTERVENTION CASE MANAGEMENT SERVICES [REVOKED]**

### **340:125-5-620. Eligible providers [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

**340:125-5-621. Coverage by category [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

**340:125-5-622. Payment rates [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

**340:125-5-623. Billing [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

**340:125-5-624. Documentation of records [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

**PART 67. EARLY INTERVENTION SERVICES  
[REVOKED]**

**340:125-5-640. Eligible providers [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

**340:125-5-641. Coverage by category [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

**340:125-5-642. Covered services [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

**340:125-5-643. Billing [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

**340:125-5-644. Documentation of records [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

**PART 69. FEDERALLY QUALIFIED HEALTH SERVICES  
[REVOKED]**

**340:125-5-660. Eligible providers [REVOKED]**



[Source: Amended at 9 Ok Reg 1941, eff 5-7-92 (emergency); Amended at 9 Ok Reg 2827, eff 7-13-92 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-661. Coverage by category [REVOKED]**

[Source: Amended at 9 Ok Reg 1075, eff 1-30-92 (emergency); Amended at 9 Ok Reg 2827, eff 7-13-92 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-662. Reimbursement [REVOKED]**

[Source: Added at 9 Ok Reg 1941, eff 5-7-92 (emergency); Added at 9 Ok Reg 2827, eff 7-13-92 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-663. Billing [REVOKED]**

[Source: Added at 9 Ok Reg 1941, eff 5-7-92 (emergency); Added at 9 Ok Reg 2827, eff 7-13-92 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-664. Timely filing [REVOKED]**

[Source: Added at 9 Ok Reg 1941, eff 5-7-92 (emergency); Added at 9 Ok Reg 2827, eff 7-13-92 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

## **PART 71. SPEECH AND HEARING SERVICES [REVOKED]**

### **340:125-5-675. Eligible providers [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-676. Coverage by category [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-677. Payment rates [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-678. Procedure codes and descriptions [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-679. Claim form [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

## **PART 73. DENTISTS [REVOKED]**

### **340:125-5-695. Eligible providers [REVOKED]**

[Source: Amended at 10 Ok Reg 3505, eff 7-1-93 (emergency); Amended at 11 Ok Reg 2833, eff 6-13-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-696. Coverage by category [REVOKED]**

[Source: Amended at 10 Ok Reg 477, eff 11-30-92 (emergency); Amended at 10 Ok Reg 2985, eff 6-25-93 ; Amended at 10 Ok Reg 3505, eff 7-1-93 (emergency); Amended at 11 Ok Reg 2833, eff 6-13-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-697. Oral surgery procedures [REVOKED]**

[Source: Amended at 10 Ok Reg 3505, eff 7-1-93 (emergency); Amended at 11 Ok Reg 2833, eff 6-13-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-698. Services requiring prior authorization [REVOKED]**

[Source: Amended at 10 Ok Reg 477, eff 11-30-92 (emergency); Amended at 10 Ok Reg 2985, eff 6-25-93 ; Amended at 10 Ok Reg 3505, eff 7-1-93 (emergency); Amended at 11 Ok Reg 2833, eff 6-13-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-699. Restorations [REVOKED]**

[Source: Amended at 10 Ok Reg 3505, eff 7-1-93 (emergency); Amended at 11 Ok Reg 2833, eff 6-13-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-700. Orthodontic services [REVOKED]**

[Source: Amended at 10 Ok Reg 477, eff 11-30-92 (emergency); Amended at 10 Ok Reg 2985, eff 6-25-93 ; Amended at 10 Ok Reg 3505, eff 7-1-93 (emergency); Amended at 10 Ok Reg 4041, eff 7-1-93 (emergency); Amended at 11 Ok Reg 1753, eff 5-12-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-701. Surface identification [REVOKED]**

[Source: Amended at 10 Ok Reg 3505, eff 7-1-93 (emergency); Amended at 11 Ok Reg 2833, eff 6-13-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-702. Dental diagnosis codes [REVOKED]**

[Source: Amended at 10 Ok Reg 3505, eff 7-1-93 (emergency); Amended at 11 Ok Reg 2833, eff 6-13-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-703. Tooth numbering system [REVOKED]**

[Source: Amended at 10 Ok Reg 3505, eff 7-1-93 (emergency); Amended at 11 Ok Reg 2833, eff 6-13-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-704. Instructions for use of dental codes [REVOKED]**

[Source: Amended at 10 Ok Reg 477, eff 11-30-92 (emergency); Amended at 10 Ok Reg 2985, eff 6-25-93 ; Amended at 10 Ok Reg 3505, eff 7-1-93 (emergency); Amended at 11 Ok Reg 2833, eff 6-13-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

## **PART 75. CHIROPRACTORS [REVOKED]**

### **340:125-5-720. Eligible providers [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-721. Coverage by category [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

## **PART 77. RESIDENTIAL BEHAVIOR MANAGEMENT SERVICES [REVOKED]**

### **340:125-5-740. Eligible providers [REVOKED]**

[Source: Added at 10 Ok Reg 3545, eff 6-4-93 (emergency); Added at 11 Ok Reg 1807, eff 5-12-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-741. Coverage by category [REVOKED]**

[Source: Added at 10 Ok Reg 3545, eff 6-4-93 (emergency); Added at 11 Ok Reg 1807, eff 5-12-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-742. Description of services [REVOKED]**

[Source: Added at 10 Ok Reg 3545, eff 6-4-93 (emergency); Added at 11 Ok Reg 1807, eff 5-12-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-743. Payment rates [REVOKED]**

[Source: Added at 10 Ok Reg 3545, eff 6-4-93 (emergency); Added at 11 Ok Reg 1807, eff 5-12-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-744. Billing [REVOKED]**

[Source: Added at 10 Ok Reg 3545, eff 6-4-93 (emergency); Added at 11 Ok Reg 1807, eff 5-12-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-745. Documentation of records [REVOKED]**

[Source: Added at 10 Ok Reg 3545, eff 6-4-93 (emergency); Added at 11 Ok Reg 1807, eff 5-12-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

## **PART 79. ADVANTAGE PROGRAM WAIVER SERVICES [REVOKED]**

### **340:125-5-760. Advantage program [REVOKED]**

[Source: Added at 10 Ok Reg 3487, eff 7-1-93 (emergency); Added at 11 Ok Reg 1753, eff 5-12-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-761. Eligible providers [REVOKED]**

[Source: Added at 10 Ok Reg 3487, eff 7-1-93 (emergency); Added at 11 Ok Reg 1753, eff 5-12-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-762. Coverage [REVOKED]**

[Source: Added at 10 Ok Reg 3487, eff 7-1-93 (emergency); Added at 11 Ok Reg 1753, eff 5-12-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-763. Description of services [REVOKED]**

[Source: Added at 10 Ok Reg 3487, eff 7-1-93 (emergency); Added at 11 Ok Reg 1753, eff 5-12-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-764. Reimbursement [REVOKED]**

[Source: Added at 10 Ok Reg 3487, eff 7-1-93 (emergency); Added at 11 Ok Reg 1753, eff 5-12-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

## **PART 81. BIRTHING CENTERS [REVOKED]**

### **340:125-5-890. Birthing center services [REVOKED]**

[Source: Added at 11 Ok Reg 199, eff 10-11-93 (emergency); Added at 11 Ok Reg 1753, eff 5-12-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-891. Coverage by category [REVOKED]**

[Source: Added at 11 Ok Reg 199, eff 10-11-93 (emergency); Added at 11 Ok Reg 1753, eff 5-12-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-892. Reimbursement [REVOKED]**

[Source: Added at 11 Ok Reg 199, eff 10-11-93 (emergency); Added at 11 Ok Reg 1753, eff 5-12-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-5-893. Billing [REVOKED]**

[Source: Added at 11 Ok Reg 199, eff 10-11-93 (emergency); Added at 11 Ok Reg 1753, eff 5-12-94 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

## **PART 83. RADIOLOGICAL MAMMOGRAPHER [EXPIRED]**

### **340:125-5-900. Eligible providers [EXPIRED]**

[Source: Added at 11 Ok Reg 4391, eff 7-8-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:125-5-900 was no longer effective. For the official text of the emergency rule that was in effect from 7-8-94 through 7-14-95, see 11 Ok Reg 4391.*

### **340:125-5-901. Coverage by category [EXPIRED]**

[Source: Added at 11 Ok Reg 4391, eff 7-8-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:125-5-901 was no longer effective. For the official text of the emergency rule that was in effect from 7-8-94 through 7-14-95, see 11 Ok Reg 4391.*

### **340:125-5-902. Vocational rehabilitation [EXPIRED]**

[Source: Added at 11 Ok Reg 4391, eff 7-8-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:125-5-902 was no longer effective. For the official text of the emergency rule that was in effect from 7-8-94 through 7-14-95, see 11 Ok Reg 4391.*

### **340:125-5-903. Individuals eligible for Part B of Medicare [EXPIRED]**

[Source: Added at 11 Ok Reg 4391, eff 7-8-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:125-5-903 was no longer effective. For the official*

*text of the emergency rule that was in effect from 7-8-94 through 7-14-95, see 11 Ok Reg 4391.*

#### **340:125-5-904. Covered procedures [EXPIRED]**

[Source: Added at 11 Ok Reg 4391, eff 7-8-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:125-5-904 was no longer effective. For the official text of the emergency rule that was in effect from 7-8-94 through 7-14-95, see 11 Ok Reg 4391.*

#### **340:125-5-905. Reimbursement [EXPIRED]**

[Source: Added at 11 Ok Reg 4391, eff 7-8-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:125-5-905 was no longer effective. For the official text of the emergency rule that was in effect from 7-8-94 through 7-14-95, see 11 Ok Reg 4391.*

### **PART 85. TUBERCULOSIS CLINIC SERVICES [EXPIRED]**

#### **340:125-5-910. Eligible providers [EXPIRED]**

[Source: Added at 11 Ok Reg 4509, eff 8-1-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:125-5-910 was no longer effective. For the official text of the emergency rule that was in effect from 8-1-94 through 7-14-95, see 11 Ok Reg 4509.*

### **340:125-5-911. Coverage by category [EXPIRED]**

[Source: Added at 11 Ok Reg 4509, eff 8-1-94 (emergency); Added at 12 Ok Reg 253, eff 10-14-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:125-5-911 was no longer effective. For the official text of the emergency rule that was in effect from 10-14-94 through 7-14-95, see 12 Ok Reg 253.*

### **340:125-5-912. Covered services [EXPIRED]**

[Source: Added at 11 Ok Reg 4509, eff 8-1-94 (emergency); Added at 12 Ok Reg 253, eff 10-14-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:125-5-912 was no longer effective. For the official text of the emergency rule that was in effect from 10-14-94 through 7-14-95, see 12 Ok Reg 253.*

### **340:125-5-913. Billing [EXPIRED]**

[Source: Added at 11 Ok Reg 4509, eff 8-1-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:125-5-913 was no longer effective. For the official text of the emergency rule that was in effect from 8-1-94 through 7-14-95, see 11 Ok Reg 4509.*

## **PART 87. CASE MANAGEMENT SERVICES FOR PERSONS INFECTED WITH TUBERCULOSIS [EXPIRED]**

### **340:125-5-920. Eligible providers [EXPIRED]**

[Source: Added at 11 Ok Reg 4509, eff 8-1-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:125-5-920 was no longer effective. For the official text of the emergency rule that was in effect from 8-1-94 through 7-14-95, see 11 Ok Reg 4509.*

### **340:125-5-921. Coverage by category [EXPIRED]**

[Source: Added at 11 Ok Reg 4509, eff 8-1-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:125-5-921 was no longer effective. For the official text of the emergency rule that was in effect from 8-1-94 through 7-14-95, see 11 Ok Reg 4509.*

### **340:125-5-922. Billing [EXPIRED]**

[Source: Added at 11 Ok Reg 4509, eff 8-1-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:125-5-922 was no longer effective. For the official text of the emergency rule that was in effect from 8-1-94 through 7-14-95, see 11 Ok Reg 4509.*

### **340:125-5-923. Reimbursement [EXPIRED]**

[Source: Added at 11 Ok Reg 4509, eff 8-1-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:125-5-923 was no longer effective. For the official text of the emergency rule that was in effect from 8-1-94 through 7-14-95, see 11 Ok Reg 4509.*

### **340:125-5-924. Documentation of records [EXPIRED]**



[Source: Added at 11 Ok Reg 4509, eff 8-1-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:125-5-924 was no longer effective. For the official text of the emergency rule that was in effect from 8-1-94 through 7-14-95, see 11 Ok Reg 4509.*

## **PART 91. AGENCY PERSONAL CARE SERVICES [EXPIRED]**

### **340:125-5-950. Eligible providers [EXPIRED]**

[Source: Added at 12 Ok Reg 277, eff 10-14-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:125-5-950 was no longer effective. For the official text of the emergency rule that was in effect from 10-14-94 through 7-14-95, see 12 Ok Reg 277.*

### **340:125-5-951. Coverage by category [EXPIRED]**

[Source: Added at 12 Ok Reg 277, eff 10-14-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:125-5-951 was no longer effective. For the official text of the emergency rule that was in effect from 10-14-94 through 7-14-95, see 12 Ok Reg 277.*

### **340:125-5-952. Prior authorization [EXPIRED]**

[Source: Added at 12 Ok Reg 277, eff 10-14-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective.*

*Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:125-5-952 was no longer effective. For the official text of the emergency rule that was in effect from 10-14-94 through 7-14-95, see 12 Ok Reg 277.*

### **340:125-5-953. Billing [EXPIRED]**

[Source: Added at 12 Ok Reg 277, eff 10-14-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:125-5-953 was no longer effective. For the official text of the emergency rule that was in effect from 10-14-94 through 7-14-95, see 12 Ok Reg 277.*

## **SUBCHAPTER 7. BILLING AND INQUIRIES [REVOKED]**

### **340:125-7-1. Preparation of claims forms [REVOKED]**

[Source: Amended at 11 Ok Reg 2537, eff 5-4-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-7-2. Remittance statement [REVOKED]**

[Source: Amended at 11 Ok Reg 2537, eff 5-4-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-7-3. Electronic billing [REVOKED]**

[Source: Amended at 11 Ok Reg 2537, eff 5-4-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-7-4. Medicare crossover claims [REVOKED]**

[Source: Amended at 11 Ok Reg 2537, eff 5-4-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-7-5. Claim status inquiries [REVOKED]**

[Source: Amended at 11 Ok Reg 2537, eff 5-4-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-7-6. Policy questions [REVOKED]**

[Source: Amended at 11 Ok Reg 2537, eff 5-4-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-7-7. Medicaid provider file changes [REVOKED]**

[Source: Amended at 11 Ok Reg 2537, eff 5-4-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

### **340:125-7-8. Claim adjustments [REVOKED]**

[**Source:** Amended at 11 Ok Reg 2537, eff 5-4-94 (emergency); Amended at 12 Ok Reg 241, eff 10-14-94 (emergency); Revoked at 12 Ok Reg 2803, eff 7-13-95]

## **APPENDIX A. UNIVERSAL BILLING FORM [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

## **APPENDIX B. HEALTH INSURANCE CLAIM FORM [REVOKED]**

[**Source:** Revoked and reenacted at 9 Ok Reg 3765, eff 8-8-92 (emergency); Revoked and reenacted at 10 Ok Reg 2431, eff 6-11-93 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

## **APPENDIX C. INQUIRY INSTRUCTIONS [REVOKED]**

[Source: Revoked at 12 Ok Reg 2803, eff 7-13-95]

## **APPENDIX D. REGISTRATION AND CERTIFICATION OF ELIGIBILITY [REVOKED]**

[**Source:** Added at 9 Ok Reg 2811, eff 7-13-92 ; Revoked at 12 Ok Reg 2803, eff 7-13-95]

## **APPENDIX I. PATIENT CERTIFICATION FOR MEDICAID FUNDED ABORTION [EXPIRED]**

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:125 Appendix I was no longer effective. For the official text of the emergency rule that was in effect from 5-12-94 through 7-14-95, see 11 Ok Reg 4438.*

[Source: Added at 11 Ok Reg 3099, eff 5-12-94 through 7-14-95 (emergency); Added at 11 Ok Reg 4438, eff 5-12-94 through 7-14-95 (emergency)<sup>1</sup>]

**Editor's Note:** <sup>1</sup>*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-95 (after the 7-14-95 expiration of the emergency action), Section 340:125 Appendix I was no longer effective. For the official text of the emergency rule that was in effect from 5-12-94 through 7-14-95, see 11 Ok Reg 4438.*



## **CHAPTER 130. OKLAHOMA MEDICAL CENTER [REVOKED]**

**Editor's Note:** *Effective 7-1-93, the University Hospitals (formerly known as the Oklahoma Medical Center) was transferred to the newly-created University Hospitals Authority [63 O.S., Section 3204(B)]. For additional information on the transfer, see Laws 1993, c. 330. For the rules of the University Hospitals Authority, see OAC 752.*

[**Authority:** OKLA. CONST. art XXV; 42 CFR 290 ddd-3, 29033-3 and Part 2]  
[**Source:** Codified 4-26-93]

### **SUBCHAPTER 5. CONFIDENTIALITY AND PRIVACY REQUIREMENTS [REVOKED]**

#### **340:130-5-1. Purpose [REVOKED]**

[**Source:** Added at 9 Ok Reg 2669, eff 5-25-92 (emergency); Added at 10 Ok Reg 1407, eff 4-26-93 ;  
Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

#### **340:130-5-2. Maintenance of records; employee responsibilities [REVOKED]**

[**Source:** Added at 9 Ok Reg 2669, eff 5-25-92 (emergency); Added at 10 Ok Reg 1407, eff 4-26-93 ;  
Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

#### **340:130-5-3. Responsibility to employees regarding confidentiality [REVOKED]**

[**Source:** Added at 9 Ok Reg 2669, eff 5-25-92 (emergency); Added at 10 Ok Reg 1407, eff 4-26-93 ;  
Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

### **SUBCHAPTER 7. CONFIDENTIALITY AND MEDICAL RECORDS [REVOKED]**

#### **PART 1. RELEASE OF MEDICAL RECORD INFORMATION [REVOKED]**

#### **340:130-7-1. Purpose [REVOKED]**

[**Source:** Added at 9 Ok Reg 2669, eff 5-25-92 (emergency); Added at 10 Ok Reg 1407, eff 4-26-93 ;  
Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

#### **340:130-7-2. Definitions [REVOKED]**

[**Source:** Added at 9 Ok Reg 2669, eff 5-25-92 (emergency); Added at 10 Ok Reg 1407, eff 4-26-93 ;  
Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

### **340:130-7-3. Determining legitimate need [REVOKED]**

[Source: Added at 9 Ok Reg 2669, eff 5-25-92 (emergency); Added at 10 Ok Reg 1407, eff 4-26-93 ; Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

### **340:130-7-4. Review of medical records by non employees [REVOKED]**

[Source: Added at 9 Ok Reg 2669, eff 5-25-92 (emergency); Added at 10 Ok Reg 1407, eff 4-26-93 ; Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

### **340:130-7-5. Review by medical records requestors [REVOKED]**

[Source: Added at 10 Ok Reg 811, eff 1-6-93 (emergency); Added at 10 Ok Reg 2057, eff 5-27-93 ; Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

### **340:130-7-6. Requests for specific reports [REVOKED]**

[Source: Added at 10 Ok Reg 811, eff 1-6-93 (emergency); Added at 10 Ok Reg 2057, eff 5-27-93 ; Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

## **PART 3. RELEASE OF INFORMATION FOR NEWS MEDIA, PUBLICATIONS AND SPECIAL EVENTS [REVOKED]**

### **340:130-7-15. Purpose [REVOKED]**

[Source: Added at 9 Ok Reg 2669, eff 5-25-92 (emergency); Added at 10 Ok Reg 1407, eff 4-26-93 ; Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

### **340:130-7-16. Coordination of news/news media [REVOKED]**

[Source: Added at 9 Ok Reg 2669, eff 5-25-92 (emergency); Added at 10 Ok Reg 1407, eff 4-26-93 ; Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

### **340:130-7-17. Facilitation of media access [REVOKED]**

[Source: Added at 9 Ok Reg 2669, eff 5-25-92 (emergency); Added at 10 Ok Reg 1407, eff 4-26-93 ; Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

### **340:130-7-18. Release of information [REVOKED]**

[Source: Added at 9 Ok Reg 2669, eff 5-25-92 (emergency); Added at 10 Ok Reg 1407, eff 4-26-93 ; Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

## **PART 5. RELEASE OF CONFIDENTIAL COMPUTERIZED PATIENT INFORMATION [REVOKED]**

### **340:130-7-25. Purpose [REVOKED]**

[Source: Added at 9 Ok Reg 2669, eff 5-25-92 (emergency); Added at 10 Ok Reg 1407, eff 4-26-93 ; Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

### **340:130-7-26. Computer access [REVOKED]**

[Source: Added at 9 Ok Reg 2669, eff 5-25-92 (emergency); Added at 10 Ok Reg 1407, eff 4-26-93 ; Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

### **340:130-7-27. Information available [REVOKED]**

[Source: Added at 9 Ok Reg 2669, eff 5-25-92 (emergency); Added at 10 Ok Reg 1407, eff 4-26-93 ; Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

### **340:130-7-28. Persons authorized to receive specific information [REVOKED]**

[Source: Added at 9 Ok Reg 2669, eff 5-25-92 (emergency); Added at 10 Ok Reg 1407, eff 4-26-93 ; Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

### **340:130-7-29. Methods for receiving information [REVOKED]**

[Source: Added at 9 Ok Reg 2669, eff 5-25-92 (emergency); Added at 10 Ok Reg 1407, eff 4-26-93 ; Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

## **PART 7. CONFIDENTIALITY - PHAMIS SYSTEM REGISTRATION FOR SUPERVISORS AND MANAGERS [REVOKED]**

### **340:130-7-35. Purpose [REVOKED]**

[Source: Added at 9 Ok Reg 2669, eff 5-25-92 (emergency); Added at 10 Ok Reg 1407, eff 4-26-93 ; Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

### **340:130-7-36. Registration of personnel [REVOKED]**

[Source: Added at 9 Ok Reg 2669, eff 5-25-92 (emergency); Added at 10 Ok Reg 1407, eff 4-26-93 ; Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

## **PART 9. CONFIDENTIALITY AND TRAINING BEFORE COMPUTER ACCESS [REVOKED]**

### **340:130-7-40. Purpose [REVOKED]**

[Source: Added at 9 Ok Reg 2669, eff 5-25-92 (emergency); Added at 10 Ok Reg 1407, eff 4-26-93 ; Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

### **340:130-7-41. PHAMIS system [REVOKED]**

[Source: Added at 9 Ok Reg 2669, eff 5-25-92 (emergency); Added at 10 Ok Reg 1407, eff 4-26-93 ; Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

## **PART 11. CONFIDENTIALITY - PHAMIS SECURITY [REVOKED]**

### **340:130-7-45. Purpose [REVOKED]**

[Source: Added at 9 Ok Reg 2669, eff 5-25-92 (emergency); Added at 10 Ok Reg 1407, eff 4-26-93 ; Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

### **340:130-7-46. PHAMIS system security [REVOKED]**

[Source: Added at 9 Ok Reg 2669, eff 5-25-92 (emergency); Added at 10 Ok Reg 1407, eff 4-26-93 ; Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

## **PART 13. CONFIDENTIALITY - PASSWORD GUIDELINES [REVOKED]**

### **340:130-7-50. Purpose [REVOKED]**

[Source: Added at 9 Ok Reg 2669, eff 5-25-92 (emergency); Added at 10 Ok Reg 1407, eff 4-26-93 ; Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

### **340:130-7-51. PHAMIS password assignment [REVOKED]**

[Source: Added at 9 Ok Reg 2669, eff 5-25-92 (emergency); Added at 10 Ok Reg 1407, eff 4-26-93 ; Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

## **PART 15. CONFIDENTIALITY - UNAUTHORIZED COMPUTER ACCESS [REVOKED]**

### **340:130-7-55. Purpose [REVOKED]**

[Source: Added at 9 Ok Reg 2669, eff 5-25-92 (emergency); Added at 10 Ok Reg 1407, eff 4-26-93 ; Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

### **340:130-7-56. Security access [REVOKED]**

[Source: Added at 9 Ok Reg 2669, eff 5-25-92 (emergency); Added at 10 Ok Reg 1407, eff 4-26-93 ; Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

## **PART 17. CONFIDENTIALITY - PATIENT ACCOUNTING [REVOKED]**

### **340:130-7-60. Purpose [REVOKED]**

[Source: Added at 9 Ok Reg 2669, eff 5-25-92 (emergency); Added at 10 Ok Reg 1407, eff 4-26-93 ; Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

### **340:130-7-61. Authorization for release of billing and/or medical information [REVOKED]**

[Source: Added at 9 Ok Reg 2669, eff 5-25-92 (emergency); Added at 10 Ok Reg 1407, eff 4-26-93 ; Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

### **340:130-7-62. Requests for billing and/or medical information [REVOKED]**

[Source: Added at 9 Ok Reg 2669, eff 5-25-92 (emergency); Added at 10 Ok Reg 1407, eff 4-26-93 ; Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

## **PART 19. CONFIDENTIALITY - NURSING DEPARTMENTS [REVOKED]**

### **340:130-7-70. Purpose [REVOKED]**

[Source: Added at 9 Ok Reg 2669, eff 5-25-92 (emergency); Added at 10 Ok Reg 1407, eff 4-26-93 ; Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

### **340:130-7-71. Medical records, media inquiries and other issues concerning patient confidentiality [REVOKED]**

[Source: Added at 9 Ok Reg 2669, eff 5-25-92 (emergency); Added at 10 Ok Reg 1407, eff 4-26-93 ; Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

### **340:130-7-72. Specific requirements for confidentiality by nursing personnel [REVOKED]**

[Source: Added at 9 Ok Reg 2669, eff 5-25-92 (emergency); Added at 10 Ok Reg 1407, eff 4-26-93 ; Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

### **340:130-7-73. Other issues concerning patient confidentiality [REVOKED]**

[Source: Added at 9 Ok Reg 2669, eff 5-25-92 (emergency); Added at 10 Ok Reg 1407, eff 4-26-93 ; Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

## **PART 21. CONFIDENTIALITY - ALL PATIENT CARE, ANCILLARY AND SUPPORT DEPARTMENTS [REVOKED]**

### **340:130-7-80. Purpose [REVOKED]**

[Source: Added at 9 Ok Reg 2669, eff 5-25-92 (emergency); Added at 10 Ok Reg 1407, eff 4-26-93 ;  
Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

### **340:130-7-81. Confidentiality of patient and client information by ancillary and support departments [REVOKED]**

[Source: Added at 9 Ok Reg 2669, eff 5-25-92 (emergency); Added at 10 Ok Reg 1407, eff 4-26-93 ;  
Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

### **340:130-7-82. Responsibility for confidentiality by ancillary and support departments [REVOKED]**

[Source: Added at 9 Ok Reg 2669, eff 5-25-92 (emergency); Added at 10 Ok Reg 1407, eff 4-26-93 ;  
Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

## **PART 23. CONFIDENTIALITY - ADMITTING & REGISTRATION [REVOKED]**

### **340:130-7-85. Purpose [REVOKED]**

[Source: Added at 9 Ok Reg 2669, eff 5-25-92 (emergency); Added at 10 Ok Reg 1407, eff 4-26-93 ;  
Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

### **340:130-7-86. Confidentiality of hospital information [REVOKED]**

[Source: Added at 9 Ok Reg 2669, eff 5-25-92 (emergency); Added at 10 Ok Reg 1407, eff 4-26-93 ;  
Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

### **340:130-7-87. Responsibility for confidentiality by admitting and registration [REVOKED]**

[Source: Added at 9 Ok Reg 2669, eff 5-25-92 (emergency); Added at 10 Ok Reg 1407, eff 4-26-93 ;  
Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

## **PART 25. CONFIDENTIALITY - USE OF DNA, ALIAS AND "NO INFORMATION" DESIGNATIONS [REVOKED]**

### **340:130-7-95. Purpose [REVOKED]**

[Source: Added at 9 Ok Reg 2669, eff 5-25-92 (emergency); Added at 10 Ok Reg 1407, eff 4-26-93 ; Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

### **340:130-7-96. Definitions [REVOKED]**

[Source: Added at 9 Ok Reg 2669, eff 5-25-92 (emergency); Added at 10 Ok Reg 1407, eff 4-26-93 ; Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

### **340:130-7-97. Confidentiality of patient identification [REVOKED]**

[Source: Added at 9 Ok Reg 2669, eff 5-25-92 (emergency); Added at 10 Ok Reg 1407, eff 4-26-93 ; Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

### **340:130-7-98. Specific requirements for use of DNA, alias and "no information" patients [REVOKED]**

[Source: Added at 9 Ok Reg 2669, eff 5-25-92 (emergency); Added at 10 Ok Reg 1407, eff 4-26-93 ; Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

## **SUBCHAPTER 9. PATIENTS' RIGHTS AND RESPONSIBILITIES [REVOKED]**

### **340:130-9-1. Purpose [REVOKED]**

[Source: Added at 9 Ok Reg 2669, eff 5-25-92 (emergency); Added at 10 Ok Reg 1407, eff 4-26-93 ; Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

### **340:130-9-2. Rights and responsibilities notification [REVOKED]**

[Source: Added at 9 Ok Reg 2669, eff 5-25-92 (emergency); Added at 10 Ok Reg 1407, eff 4-26-93 ; Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

### **340:130-9-3. Patient rights [REVOKED]**

[Source: Added at 9 Ok Reg 2669, eff 5-25-92 (emergency); Added at 10 Ok Reg 1407, eff 4-26-93 ; Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

## **SUBCHAPTER 11. PURCHASING SERVICES DEPARTMENT AND PURCHASING REQUIREMENTS [REVOKED]**

### **340:130-11-1. Purpose [REVOKED]**

[Source: Added at 10 Ok Reg 1341, eff 3-22-93 (emergency); Added at 10 Ok Reg 3027, eff 6-25-93 ; Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

## **340:130-11-2. Definitions [REVOKED]**

[Source: Added at 10 Ok Reg 1341, eff 3-22-93 (emergency); Added at 10 Ok Reg 3027, eff 6-25-93 ; Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

## **340:130-11-3. General purchasing provisions; compliance with applicable laws and policies [REVOKED]**

[Source: Added at 10 Ok Reg 1341, eff 3-22-93 (emergency); Added at 10 Ok Reg 3027, eff 6-25-93 ; Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

## **340:130-11-4. Vendor registration [REVOKED]**

[Source: Added at 10 Ok Reg 1341, eff 3-22-93 (emergency); Added at 10 Ok Reg 3027, eff 6-25-93 ; Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

## **340:130-11-5. Vendor retention [REVOKED]**

[Source: Added at 10 Ok Reg 1341, eff 3-22-93 (emergency); Added at 10 Ok Reg 3027, eff 6-25-93 ; Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

## **340:130-11-6. Vendor samples [REVOKED]**

[Source: Added at 10 Ok Reg 1341, eff 3-22-93 (emergency); Added at 10 Ok Reg 3027, eff 6-25-93 ; Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

## **340:130-11-7. Submission of bids [REVOKED]**

[Source: Added at 10 Ok Reg 1341, eff 3-22-93 (emergency); Added at 10 Ok Reg 3027, eff 6-25-93 ; Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

## **340:130-11-8. Bid openings [REVOKED]**

[Source: Added at 10 Ok Reg 1341, eff 3-22-93 (emergency); Added at 10 Ok Reg 3027, eff 6-25-93 ; Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

## **340:130-11-9. Bid tabulations [REVOKED]**

[Source: Added at 10 Ok Reg 1341, eff 3-22-93 (emergency); Added at 10 Ok Reg 3027, eff 6-25-93 ; Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

## **340:130-11-10. Award of bid [REVOKED]**

[Source: Added at 10 Ok Reg 1341, eff 3-22-93 (emergency); Added at 10 Ok Reg 3027, eff 6-25-93 ; Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

## **340:130-11-11. Terms and conditions for acceptable bids [REVOKED]**

[Source: Added at 10 Ok Reg 1341, eff 3-22-93 (emergency); Added at 10 Ok Reg 3027, eff 6-25-93 ; Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]



### **340:130-11-12. Challenge of award [REVOKED]**

[**Source:** Added at 10 Ok Reg 1341, eff 3-22-93 (emergency); Added at 10 Ok Reg 3027, eff 6-25-93 ; Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]

### **340:130-11-13. Administrative review [REVOKED]**

[**Source:** Added at 10 Ok Reg 1341, eff 3-22-93 (emergency); Added at 10 Ok Reg 3027, eff 6-25-93 ; Revoked at 11 Ok Reg 203, eff 10-6-93 (emergency); Revoked at 11 Ok Reg 1813, eff 5-12-94]