
POLICY TRANSMITTAL NO. 04-10	DATE: APRIL 22, 2004
DEVELOPMENTAL DISABILITIES SERVICES DIVISION	DEPARTMENT OF HUMAN SERVICES OFFICE OF PLANNING, POLICY & RESEARCH

TO: ALL OFFICES

SUBJECT: MANUAL MATERIAL

OAC 340:100-3, Table of Contents; 100-3-5.2; 100-3-27; 100-3-29; 100-3-38.12; 100-5-22.5; and 100-5-26.

EXPLANATION: **Policy revisions were approved by the Commission and the Governor as required by the Administrative Procedures Act.**

OAC 340:100-3-5.2 is revised to clarify that guardianship vouchers expire after one year if unused.

OAC 340:100-3-27 is revised to add a procedure for correction of situations recognized by Developmental Disabilities Services Division (DDSD) quality assurance staff that are the responsibility of a DDSD staff member.

OAC 340:100-3-29 is revised to update and make the rule correspond with federal regulations and statutes.

OAC 340:100-3-38.12 is established to provide training guidelines for contract provider staff.

OAC 340:100-5-22.5 is revised to correct a citation error.

OAC 340:100-5-26 is revised to clarify the responsibilities of DDSD staff and contract providers regarding advance directives and Do Not Resuscitate orders.

Original signed on 3-3-04

James M. Nicholson, Director
Developmental Disabilities Services Division

Marilynn Knott, Administrator
Office of Planning, Policy & Research

WF # 03-28 (NAP)

INSTRUCTIONS FOR FILING MANUAL MATERIAL

OAC is the acronym for Oklahoma Administrative Code. If OAC appears before a number on an Appendix or before a Section in text, it means the Appendix or text contains rules or administrative law. Lengthy internal policies and procedures have the same Chapter number as the OAC Chapter to which they pertain following a “DHS” number, such as personnel policy at DHS:2-1 and personnel rules at OAC 340:2-1. The “340” is the Title number that designates DHS as the rulemaking agency; the “2” specifies the Chapter number; and the “1” specifies the Subchapter number.

The chronological order for filing manual material is: (1) OAC 340 by designated Chapter and Subchapter number; (2) if applicable, DHS numbered text for the designated Chapter and Subchapter; and (3) all OAC Appendices with the designated Chapter number. For example, the order for filing personnel policy is OAC 340:2-1, DHS:2-1, and OAC 340:2 Appendices behind all Chapter 2 manual material. Any questions or assistance with filing manual material will be addressed by contacting Policy Management Unit staff at (405) 521-3611.

REMOVE

INSERT

Table of Contents 340:100-3

Table of Contents 340:100-3, pages 1-2, revised 4-26-04

340:100-3-5.2

340:100-3-5.2, pages 1-3, revised 4-26-04

340:100-3-27

340:100-3-27, pages 1-6, revised 4-26-04

340:100-3-29

340:100-3-29, 1 page only, revised 4-26-04

340:100-3-38.12, pages 1-2, issued 4-26-04

340:100-5-22.5

340:100-5-22.5, pages 1-5, revised 4-26-04

340:100-5-26

340:100-5-26, pages 1-10, revised 4-26-04

SUBCHAPTER 3. ADMINISTRATION**PART 1. GENERAL ADMINISTRATION**

- 340:100-3-1. Eligibility determination for DDS state-funded services
- 340:100-3-1.1. Competency
- 340:100-3-1.2. Rights
- 340:100-3-2. Client records, confidentiality and security
- 340:100-3-3. Communicable diseases
- 340:100-3-4. Client transactions: business, gifts, and tips
- 340:100-3-4.1. Consumers' personal funds managed by contract residential providers
- 340:100-3-5. Advocacy and guardianship
- 340:100-3-5.1. Volunteer guardianship program
- 340:100-3-5.2. Guardianship voucher program
- 340:100-3-6. Human Rights Committee (HRC)
- 340:100-3-7. Behavior management **[REVOKED]**
- 340:100-3-8. Client work
- 340:100-3-9. Unscheduled client absence
- 340:100-3-10. Research initiatives
- 340:100-3-11. Right to refuse services
- 340:100-3-12. Prohibition of client abuse
- 340:100-3-13. Fair hearings
- 340:100-3-14. Statewide Behavior Review Committee (SBRC)

PART 3. OPERATIONS

- 340:100-3-25. Advisory Committee on Services to Persons with Developmental Disabilities
- 340:100-3-26. Contracting and purchasing
- 340:100-3-27. Quality assurance
- 340:100-3-27.1. Contract performance surveys and administrative inquiries
- 340:100-3-27.2. Performance Review Committee (PRC), sanctions, and emergency determinations
- 340:100-3-27.3. Person-centered evaluations (PCE)
- 340:100-3-27.4. Developmental Disabilities Services Division (DDS) Quality Assurance
- 340:100-3-27.5. Provider agency quality assurance and fiscal controls
- 340:100-3-28. Volunteer services
- 340:100-3-29. Foster Grandparent Program
- 340:100-3-30. News media relations
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- 340:100-3-33. Service authorization
- 340:100-3-33.1. Criteria to establish service necessity
- 340:100-3-34. Incident Reporting
- 340:100-3-35. Death of a person receiving DDS services
- 340:100-3-36. Emergency first aid (employees and visitors)
- 340:100-3-37. Employee and provider rights and responsibilities
- 340:100-3-38. Community staff training
- 340:100-3-38.1. Training requirements for staff providing residential supports
- 340:100-3-38.2. Training requirements for staff providing employment or vocational services
- 340:100-3-38.3. Training for direct support staff providing supports in the person's home through the Community Waiver, other than residential supports
- 340:100-3-38.4. Training for persons providing specialized foster care
- 340:100-3-38.5. Staff providing supports through the In-home Supports Waiver
- 340:100-3-38.6. Training for Developmental Disabilities Services Division (DDS) case managers
- 340:100-3-38.7. Program coordinator training
- 340:100-3-38.8. Employment services program manager
- 340:100-3-38.9. Training requirements for all Developmental Disabilities Services Division (DDS) and provider agency supervisory staff
- 340:100-3-38.10. Medication administration training
- 340:100-3-38.11. Training tracking system
- 340:100-3-38.12. Training for direct support staff providing respite, homemaker, and respite homemaker services
- 340:100-3-39. Pre-employment screening for community service workers
- 340:100-3-40. Community records system
- 340:100-3-40.1. Continuous medical record

340:100-3-5.2. Guardianship voucher program

(a) **Scope and applicability.** Section 1415E of Title 10 and Section 228 of Title 56 of the Oklahoma Statutes provide the legal basis for the Oklahoma Department of Human Services (OKDHS) to pay for legal fees to initiate guardianship proceedings for persons who receive Home and Community-Based Waiver Services, or who are residents of institutions named in Section 1406 of Title 10 of the Oklahoma Statutes.

(b) **Payment.** Payment for legal services is contingent upon availability of resources and does not exceed \$700 per service recipient.

(c) **Participation.** Participation in the guardianship voucher program extends only to those service recipients who have been determined by a Developmental Disabilities Services Division (DDSD) Guardianship Assessment Team to need a service listed in subsection (d) of this Section.

(d) **Services.** Payment may be made for legal services necessary to:

- (1) establish guardianship;
- (2) replace, change, or add a guardian;
- (3) appoint a successor guardian;
- (4) alter the terms or level of an established guardianship;
- (5) establish less restrictive alternatives such as conservatorship; or
- (6) restore the ward's capacity.

(e) **Subsequent services.** Requests for payment for subsequent legal services related to the guardianship of the same service recipient may be approved by the DDSD director or designee.

(f) **Eligibility.** The eligibility requirements of the guardian or potential guardian for participation in the guardianship voucher program are explained in this subsection.

- (1) The guardian(s) or potential guardian(s) applying for a voucher must be a relative of the service recipient or a volunteer guardian certified in accordance with OAC 340:100-3-5.1.
- (2) The guardian(s) or potential guardian(s) must be recommended by the DDSD

Guardianship Assessment Team.

(g) **Financial eligibility.** Financial eligibility for participation in the guardianship voucher program is explained in this subsection.

(1) Certified volunteer guardians are exempt from financial eligibility requirements.

(2) Immediate family members are subject to financial eligibility requirements.

(A) For the purposes of this Section, the term "immediate family member" includes spouse, mother, or father. Other relatives who desire to become the service recipient's guardian are not required to meet the financial eligibility criteria.

(B) To be financially eligible to participate in the guardianship voucher program, the annual adjusted gross income (AGI) of the immediate family member applicant or co-applicants must be \$60,000 or less. Immediate family member applicants whose AGI exceeds \$60,000 are not eligible for the guardianship voucher program.

(h) **Application.** The application process for the guardianship voucher program is explained in this subsection.

(1) Applications are available from the DDSD case manager assigned to the service recipient.

(2) The guardian(s) or potential guardian(s) making application for the guardianship voucher program must return the required income verification according to subsection (j) of this Section.

(3) Any incomplete application is returned to the applicant identifying the missing information.

(4) The completed application is date stamped upon receipt in the DDSD State Office. The date the application is received establishes the chronological placement of the completed application after the effective date of the statutes establishing the guardianship voucher program.

(5) Applications for the guardianship voucher program are considered in chronological order of receipt in the DDSD State Office.

(6) The number of applications approved is determined by available funding.

Applications not approved during a fiscal year due to insufficient funding are placed on a waiting list in the chronological order received and are processed as funds become available.

(i) **Verification of income.** The applicant must provide verification of annual income. Acceptable forms of verification include a signed copy of the applicant's most recent federal income tax return or documentation of all sources of income from Supplemental Security Income, Temporary Assistance for Needy Families, child support, alimony, other state or federal subsidy, or other types of income.

(j) **Notification of application status.** The applicant is provided written notice of approval or denial of the application for the guardianship voucher program within 30 days of receipt of a completed application in the DDSD State Office.

(k) **Issuance and expiration of guardianship voucher.** When an application for the guardianship voucher program is approved, a dated voucher is issued to the applicant who then seeks and retains legal counsel of his or her choice. Each voucher is approved for use from the date of issuance and is valid for 365 days from the date of issuance. On the 366th day from the date of issuance, the voucher expires, and voucher funding is no longer encumbered for the expired voucher.

(l) **Submitting voucher for payment.** Upon completion of the guardianship proceedings, the attorney who provides the service submits the voucher to DDSD State Office for payment. A copy of all pleadings filed, the letters of guardianship, and an itemized bill for legal services must be attached to the voucher. The voucher and required documentation must be received by the supervisor of the DDSD guardianship voucher program within 365 days from the date of issuance, or the voucher expires and becomes null and void.

(m) **Fair hearing.** An individual who has been denied a voucher may request a hearing in accordance with OKDHS fair hearing policy OAC 340:2-5.

(n) **Annual report.** Any guardian receiving financial assistance under this Section is responsible for sending a copy of the Annual Report to the court and to the DDSD State Office within 30 days of submission to the court.

340:100-3-27. Quality assurance

(a) Quality assurance activities assess and encourage the delivery of supports consistent with the preferences and needs of individuals receiving services, Oklahoma Department of Human Services (OKDHS) rules, applicable Oklahoma Health Care Authority (OHCA) rules, requirements of contracts for services let through OHCA for Home and Community-Based Services (HCBS), regulatory standards applicable to services, and state and federal law.

(b) Case managers assess services rendered to each person receiving services at least monthly.

(1) If at any time the case manager believes that the person is at risk of harm, the case manager takes immediate steps necessary to protect the person and notifies the case management supervisor and any other appropriate authorities.

(2) If the case manager determines that the needs or preferences of the individual have not been effectively addressed by a provider or that contractual responsibilities or policies are not met by the provider, the steps in this subsection are followed.

(A) The case manager consults with the relevant provider to secure a commitment for necessary service changes within an agreed upon time frame.

(B) If necessary changes are not accomplished within the specified time frame, the case management supervisor intervenes to secure commitments from the provider for necessary change.

(C) If the service deficiency is still not resolved as a result of the intervention of the case management supervisor, a referral for administrative inquiry is initiated pursuant to OAC 340:100-3-27.1.

(3) If, during a contract survey, administrative inquiry, or person-centered evaluation, quality assurance staff recognize a situation that requires correction by Developmental Disabilities Services Division (DDSD) staff, a System Administrative Inquiry is initiated.

(A) The quality assurance staff member sends notification by e-mail to the DDSD staff member responsible to correct the situation, establishing a reasonable time frame for correction.

(B) If the identified staff member is unable to correct the situation within the established time frame, the quality assurance staff member sends notification of

the situation by e-mail to the DDSD staff member's supervisor, establishing a reasonable time frame for correction.

(C) If the staff member's supervisor is unable to correct the situation within the established time frame, the quality assurance staff member notifies his or her supervisor, who notifies the DDSD area manager, establishing a reasonable time frame for correction.

(D) If the area manager is unable to correct the situation within the established time frame, the quality assurance supervisor notifies the programs administrator of quality assurance, who resolves the situation with the programs administrator for community services.

(c) At least annually, individuals and families receiving supports are provided the opportunity to complete an evaluation of services, Consumer Service Evaluation, OKDHS Publication No. 89-10.

(1) Confidentiality is maintained unless the respondent authorizes OKDHS to reveal his or her name to those responsible for service delivery. Service evaluations may be completed anonymously if desired.

(2) Quality assurance staff distribute service evaluations to individuals served or their guardians at least annually.

(3) Completed evaluations are returned to the programs administrator of Quality Assurance.

(4) Results are forwarded to the respective DDSD area office when authorized by the individual or guardian for resolution of concerns or recognition of staff as appropriate.

(5) An analysis of responses is completed and distributed for action by DDSD area offices, DDSD State Office, or OKDHS, as appropriate. Data is available to interested citizens upon request.

(d) Individuals and families receiving supports participate in formal assessments of service-providing agencies in order to promote service enhancement consistent with the expectations of persons receiving services.

(1) Oklahoma - Advocates Involved in Monitoring (OK-AIM) operates under the direction of the Oklahomans for Quality Services Committee (OQSC).

(A) The OQSC is composed of 15 individuals who receive services themselves or who have a family member who receives services. All areas of the state are represented.

(i) OQSC members may be nominated by the public at large, current members of the committee, or by representatives of DDSD.

(ii) Appointment of members occurs as a result of joint consensus by the chair of OQSC and the DDSD director or designee following a determination of the nominee's commitment to promote the interests of persons with developmental disabilities and the nominee's capacity to dedicate the time necessary to fulfill his or her responsibilities.

(iii) The members of the committee have the authority to elect officers based upon a simple majority vote and to establish by-laws governing the conduct of business.

(B) The OQSC:

(i) develops and refines procedures and the survey instrument used, based upon feedback received from individuals receiving supports and their families, providers, and other key constituents;

(ii) participates in the selection of agencies submitting proposals to conduct OK-AIM activities; and

(iii) serves as a resource for education and coordination of agencies conducting OK-AIM monitoring activities.

(2) DDSD issues invitations to bid (ITBs) in accordance with state law and OKDHS policy, soliciting proposals from qualified organizations to participate in the OK-AIM initiative. Qualified organizations include agencies that:

(A) are incorporated non-profit agencies dedicated to the representation of individuals with developmental disabilities and their family members;

(B) are not involved in service delivery funded through DDSD or the HCBS Waiver or the Alternative Disposition Plan (ADP) Waiver; and

(C) meet additional requirements set forth by federal and state statute and as indicated in the conditions of the ITB.

(3) Representatives of the OQSC are consulted regarding bids submitted in response to ITBs. Selection of a qualified organization(s) to conduct OK-AIM monitoring and reporting activities occurs as stipulated by policy and law.

(4) Agencies selected to conduct OK-AIM monitoring and reporting activities are responsible for:

(A) soliciting, screening, and training volunteers to conduct OK-AIM site visits;

(B) scheduling site visits with all providers of services referenced in the ITB within counties for which the agency has assumed responsibility;

(C) ensuring the consistency of volunteer and staff activities with:

(i) procedures and protocols approved by the OQSC; and

(ii) OKDHS and OHCA policy and state and federal law;

(D) accurately recording findings of OK-AIM monitoring activities;

(E) ensuring the provision of findings to provider agencies, when appropriate, and representatives of DDSD; and

(F) notifying the DDSD area office of any issue presenting risk to the health and welfare of individuals served identified during OK-AIM monitoring activities.

(5) DDSD area managers identify OKDHS staff responsible for resolving concerns identified during OK-AIM monitoring activities and notifying agencies responsible for OK-AIM monitoring activities of how to contact these individuals during work, evening, and weekend hours.

(6) The OQSC, with the participation of DDSD State Office, area offices, and agencies conducting OK-AIM activities, identifies conditions which are determined to present significant risks to individuals served.

(A) Conditions determined to present imminent risk to individuals are reported immediately to the:

(i) statutory investigatory authority;

(ii) DDSD area office; and

- (iii) provider agency chief executive officer (CEO) or designee.
- (B) Issues which are determined to pose potential risk to individuals are reported to area office staff, who notify the provider agency CEO or designee, by no later than the conclusion of the first working day following observation.
- (C) OK-AIM monitors report any other issues thought to be significant to designated area office staff within time frames determined appropriate by the OK-AIM agency.
- (7) DDSD staff immediately identify staff within the area office to assume responsibility for the verification and correction of problems posing imminent or potential risk. Time frames for the resolution of validated concerns are approved by the area manager based on the degree of risk involved. All identified concerns are resolved within 30 days from the date of initial notification of the DDSD area office unless an extension is authorized by the area manager in circumstances which pose no jeopardy to any individual. Concerns presenting immediate and significant risk to individuals are corrected immediately.
- (8) Each DDSD area manager designates staff to:
- (A) track the resolution of each identified concern; and
- (B) advise agencies conducting OK-AIM monitoring activities of the steps taken to resolve each concern.
- (9) OK-AIM staff summarize the findings of each home visit conducted by volunteers, noting performance in the context of expectations established by the OQSC and published in the OK-AIM training manual.
- (A) Recommendations for service enhancement are presented to the relevant area office for review within 30 days of a home visit.
- (B) Area office staff, in turn, share this information with the provider and collaborate on recommendations as well as other alternatives for achieving targeted service enhancement. The plans developed as a result are shared with OK-AIM staff during the next meeting. Provider comments or action plans are maintained with the OK-AIM report in area office files.
- (10) The OK-AIM survey process is re-assessed at least annually by the OQSC based upon feedback solicited from persons receiving services, area office staff, providers, and other constituencies affected by, or involved in, the process.

(e) An independent authority annually assesses service outcomes for each person receiving residential services funded or administered through OKDHS, or HCBS. Assessments employ standardized measures, facilitating individual, as well as congregate, data analysis over time. Assessment protocols provide for the identification and resolution of circumstances posing immediate risk(s) to individuals served.

(f) Provider agencies failing to cooperate with provisions of the rules in this Section or providing falsified information in response to any inquiry undertaken pursuant to the rules of this Section are subject to the range of sanctions identified, including contract termination.

(g) Findings of significant non-compliance with human rights, rules, or law are immediately reported to the DDSD director and other relevant authorities for appropriate action, including disciplinary action of state employees as provided by OKDHS policy, or the imposition of sanctions, including suspension or termination of contract agreements with provider agencies, as provided by OAC 340:100-3-27.2.

(h) Provider agencies and OKDHS employees are prohibited from any form of retaliation against any individual served, employee, or agency for reporting or discussing possible performance deficiencies with any authorized agent of OKDHS. Authorized agents for this purpose are OKDHS staff whose responsibilities include administration, supervision, or oversight of DDSD services, including case managers, case management supervisors, area managers, State Office administrators, Office of Client Advocacy personnel, and quality assurance staff.

(i) Additional components of the DDSD quality assurance program are found in OAC 340:100-3-27.1 through 340:100-3-27.5.

340:100-3-29. Foster Grandparent Program

All Foster Grandparent volunteer activities and requests for senior volunteers are recorded and monitored through the Oklahoma Department of Human Services (OKDHS) Foster Grandparent Program Office, in accordance with the Domestic Volunteer Service Act (DVSA) of 1973, P.L. 93-113, as stated in the Foster Grandparent Program Operations Handbook, April 2000.

- (1) Foster Grandparent Program volunteers work with children, chronologically 21 years of age or less.
- (2) Volunteers receive an hourly stipend if total household income is within the National Senior Service Corps (NSSC) guideline.
- (3) Volunteers work no more than 2,088 hours per year.
- (4) Volunteers receive all benefits as stipulated in the Corporation for National Service, NSSC Foster Grandparent Program Operations Handbook.
- (5) A background check is completed prior to a potential foster grandparent serving as a volunteer and every three years thereafter. The background check includes checks of:
 - (A) the child abuse registry;
 - (B) the sex offender registry;
 - (C) the community services worker registry;
 - (D) criminal background; and
 - (E) traffic history.
- (6) Prior to volunteering and annually thereafter, the foster grandparent must have an OKDHS vendor contract in force for the reimbursement of travel, meals, or stipends if applicable.
- (7) Foster Grandparent staff submit monthly expenditure reports to the OKDHS Finance Division federal programs accountant.

340:100-3-38.12. Training for direct support staff providing respite, homemaker, and respite homemaker services

(a) Applicability. Direct support staff or provider agency volunteers and their direct supervisors providing only respite, homemaker, and respite homemaker services through the Community Waiver, In-Home Supports Waiver (IHSW), or Homeward Bound Waiver in the family's home or in the individual's home complete training in accordance with this Section.

(1) If Form DDS-37, In-Home Supports Waiver Certificate of Competency, is in place for IHSW participants as specified in OAC 340:100-3-38.5, staff do not have to meet the requirements of this Section.

(2) Direct support staff providing services beyond respite, homemaker, or homemaker respite services complete the training appropriate to their jobs as defined in OAC 340:100-3-38.

(b) New employee training. No later than 30 days following the date of hire, provider agency staff providing direct supports or supervising at any level the delivery of direct supports must complete the first available foundation training course approved by Developmental Disabilities Services Division (DDSD), and the approved effective teaching course. The first available class is the first unfilled class held within 60 miles of the staff person's work location following the person's date of hire.

(c) First Aid and Cardio-Pulmonary Resuscitation (CPR). All direct support staff must be currently certified in an approved course of First Aid and CPR before providing services alone or with other untrained staff.

(1) Even if working with trained staff, First Aid and CPR certification of each staff member must occur within 90 days following employment.

(2) The Personal Support Team (Team) may determine, based on the needs of the individual, that staff must receive First Aid and CPR certification in less than 90 days.

(d) Medication administration training. Staff members must be certified in a medication administration course in accordance with OAC 340:100-3-38.10 before administering medication(s) to a person receiving services or assisting with a person's medication support plan.

(e) Individual-specific in-service training. Individual-specific in-service training is identified for direct support staff in the Individual Plan (Plan) based on the Physical Status Review (PSR) as explained in OAC 340:100-5-26, or for implementation and consistency

of supports and programs and to assure health, safety, and well-being of the individual served.

(1) A person's Team specifies in the Plan:

(A) individual-specific in-service training that must be completed prior to working with the person;

(B) additional in-service training that is necessary; and

(C) required time frames for completion of individual-specific in-service training. If time frames are not identified in the Plan, required individual-specific in-service training must be completed prior to working with the individual.

(2) As the individual's needs require changes in supports or programs, the Team documents in the Plan, or in addenda to the Plan, any new or additional in-service training that is required, with required time frames for completion.

(3) Individual-specific training is provided by the appropriate Team member.

(4) The responsible Team member certifies that staff have the knowledge and skills necessary to provide the identified services.

(f) **Ongoing training requirements.** All direct support staff employed by provider agencies complete eight hours of approved annual training. The required annual training may come from:

(1) required re-certification classes, such as First Aid, CPR, and medication administration training;

(2) courses as outlined in OAC 340:100-3-38(d)(1);

(3) courses, conferences, or workshops approved by the DDSD human resource development director; or

(4) individual-specific training.

(g) **Exceptions.** Exceptions to the training requirements given in this Section may be made by the DDSD director or designee.

340:100-5-22.5. Supported living services

(a) **Eligibility.** To assure that the daily living requirements of the class members are met, the Oklahoma Department of Human Services (OKDHS) provides a payment to the contract residential provider agency serving each person who:

(1) is a member of the class certified in Case Number 85-C-437-E, United States District Court for the Northern District of Oklahoma; and

(2) receives Daily Living Supports services as described in OAC 317:40-5-150.

(b) **Service expectations.** The provider agency ensures that:

(1) all applicable rules of OKDHS and the Oklahoma Health Care Authority (OHCA) are met including:

(A) Community Residential Supports, OAC 340:100-5-22.1;

(B) Daily Living Supports, OAC 317:40-5-153;

(C) the Developmental Disabilities Services Division (DDSD) mission statement and guiding principles, OAC 340:100-1-3.1;

(D) community records rules, OAC 340:100-3-40;

(E) Individual Plan rules, OAC 340:100-5-50 through 100-5-58; and

(F) health services rules, OAC 340:100-5-26; and

(2) the class member's expenses for housing, food, clothing, recreation, utilities, medical services, property replacement, and transportation are met in accordance with subsection (c) of this Section.

(c) **Room and board payment.** The room and board payments support the class member's housing, food, clothing, recreation, and utility costs in accordance with this subsection.

(1) Each class member contributes an amount determined annually by DDSD, not to exceed 90% of his or her income, up to a maximum of 90% of the current Supplemental Security Income (SSI) payment for a single individual.

(A) The maximum may be exceeded by prior written agreement between the

individual served or his or her guardian and the provider agency with the written approval of the director of DDSD or designee.

(B) OKDHS pays a supplement, equal to 90% of the SSI monthly payment for a single individual minus 90% of the class member's income, on behalf of each class member whose income and resources are insufficient for the person to contribute the maximum room and board payment explained in this paragraph.

(2) To supplement the individual's funds for meeting daily living requirements, OKDHS provides:

(A) a room and board payment at \$14 per day; and

(B) a residence size supplement payment to support the cost of a home, based on the number of individuals living in the home.

(i) For an individual with no roommate, the residence size supplement is \$10 per day.

(ii) For an individual who has one roommate, the residence size supplement is \$6 per day.

(iii) There is no residence size supplement for an individual living with more than one roommate.

(iv) For the purposes of this subparagraph, an individual not listed in Case Number 85-C-437-E is not considered a roommate.

(3) The provider agency completes a written financial agreement with the class member and chosen advocate(s) or the legal guardian in accordance with OAC 340:100-5-22.1.

(4) Room and board revenues must be accounted for separately from other provider agency funds.

(A) Room and board revenues from OKDHS are managed by the provider to meet the needs of all individuals living in supported living arrangements.

(B) Room and board payments from individuals served are used only to meet the needs of that individual.

(5) Room and board revenues must be used, unless written approval is secured in

advance from the DDSD programs administrator for community services, solely for:

- (A) housing costs and utilities;
- (B) groceries;
- (C) household maintenance;
- (D) recreation;
- (E) personal items and clothing;
- (F) household property insurance;
- (G) yard care; and
- (H) furnishings and appliances.

(6) Room and board payments are authorized as long as the provider agency supports the individual to maintain a household.

(7) Payments from OKDHS mentioned in paragraph (2) of this subsection are not income to the class member and must not be deposited in the class member's bank account.

(d) **Medical supplement.** OKDHS reimburses the provider agency for the cost of necessary medical services that are not covered through Medicaid or for persons who are not Medicaid eligible for any individual listed in Case Number 85-C-437-E. The medical supplement is not paid at a rate higher than allowed through the Oklahoma Medicaid Fee-for-Service Program unless approved by the DDSD area manager in writing.

(e) **Property replacement supplement.** A maximum of \$850 per class member per fiscal year is reimbursed for replacement of unusable furnishings or necessary furnishings or appliances.

(1) Expenditures for property purchased with the property replacement supplement must not be reported as expenses against the room and board payment.

(2) No reimbursement for replacement of worn out furnishings may occur during the first year of service.

(3) The disposal of any furnishings purchased for class members under this supplement meets the requirements of this paragraph.

(A) Any furnishings purchased through this supplement become the property of the class member.

(B) Any funds received from the disposal of property belong to the class member.

(C) The provider must document the disposal of furnishings in detail.

(D) When the provider believes that the disposal of property is not in the best interest of the class member, the issue is referred to the Personal Support Team for resolution.

(f) **Transportation supplement.** OKDHS pays a transportation supplement only when the provider agency supplies a vehicle for the exclusive use of each household and the combined mileage for all persons residing in the household totals less than 30 miles per day.

(1) To calculate the authorization for the transportation supplement:

(A) for a class member who does not require adapted transportation, subtract from 30 the number of authorized miles per day supplied to the individual, and multiply by \$0.25; or

(B) for an individual who requires adapted transportation, subtract from 30 the number of authorized miles per day supplied to the individual, and multiply by \$0.70.

(2) Waiver transportation continues to be authorized in accordance with OAC 317:40-5-103.

(g) **Fiscal accountability.** The provider agency follows fiscal accountability standards established in this subsection.

(1) The provider agency expends all payment supplied in accordance with this Section on the specific activities for which the payment was provided.

(A) Any funds expended for purposes other than the authorized activities are repaid to OKDHS.

(B) The room and board fund balance at the end of the fiscal year cannot exceed five percent of the total supported living revenues. Any fund balance in excess of five percent is repaid to OKDHS.

(2) The provider agency maintains copies of all claims, substantiating documents, and records regarding provider agency fiscal status within corporate offices in Oklahoma.

(3) Supported living expenditures must:

(A) be documented;

(B) not include administrative costs of the provider agency; and

(C) be audited annually in accordance with OAC 340:100-3-27.5.

340:100-5-26. Health services

(a) **Purpose.** Persons receiving Developmental Disabilities Services Division (DDSD) services receive equal access to the quality and the range of health care services that are available to all people. Services are provided according to applicable state and federal statutes, Oklahoma Department of Human Services (OKDHS) rules, and recommendations made by the person's Personal Support Team (Team).

(b) **Scope and applicability.** This Section applies to all persons who receive residential services funded or licensed by DDSD or Home and Community-Based Waiver (HCBW) services, and to all providers of services funded or licensed by DDSD or HCBW.

(1) DDSD health services are secured based on the individual's need and on service requests by the person, his or her parents, spouse, or guardian, or Team, as specified by the Individual Plan (Plan).

(2) Services outside the scope of programs funded by OKDHS or the Oklahoma Health Care Authority (OHCA) are provided contingent upon available resources.

(3) Oklahoma State Department of Health recommendations for immunizations, communicable disease testing, universal precautions, and infection control practices are used to prevent the transmission of communicable diseases.

(4) DDSD staff and contract agents implement procedures to maintain and improve the health of each service recipient, including procedures related to:

(A) providing emergency medical intervention including initiation of first aid, cardio-pulmonary resuscitation (CPR), and accessing emergency service systems;

(B) preventing disease;

(C) aging; and

(D) following physician orders.

(5) When health needs exceed the scope of DDSD services, the person is referred to an appropriate licensed community health care setting.

(6) DDSD staff and contract agents acknowledge the right of the individual, next of kin, legal guardian, or physician to execute an Advance Directive made in accordance with Section 3101.1 of Title 63 of the Oklahoma Statutes, or a Do-Not-

Resuscitate Order (DNR) made in accordance with, Section 3131.1 of Title 63, of the Oklahoma Statutes.

(c) **Assessment.** Requirements for health related assessments and related record keeping are contained in this subsection.

(1) A primary care physician or provider is identified for each person, by the person or the legal guardian, from available resources. Specialty consultation and services are obtained when needed.

(2) Each person receiving residential services has an annual physical examination. The physician's report of the annual physical examination, documentation of medical visits, and reports of all other health-related assessments are maintained in the home record.

(d) **Physical Status Review (PSR).** Requirements for the PSR are contained in this subsection.

(1) The person's primary care physician, nursing, and health care assessments identify the need for health care services.

(2) The case manager ensures Form DDS-7, Physical Status Review, is initially completed for each service recipient.

(3) The person's health care needs are addressed by the Team, using Form DDS-7.

(A) Form DDS-7 is a review tool that objectively identifies a person's functional ability to attend to activities of daily living based on past and present health history and current treatment modalities.

(B) The PSR assesses the person's needs in the areas of:

(i) functional abilities, such as:

(I) eating;

(II) ambulation;

(III) transferring;

(IV) toileting; and

(V) days missed at day program due to illness;

(ii) behaviors, including:

(I) self-abuse;

(II) aggression toward others and property;

(III) use of mechanical restraints;

(IV) use of emergency chemical restraints; and

(V) use of psychotropic medication(s);

(iii) physiological needs, such as:

(I) gastrointestinal conditions;

(II) seizures;

(III) anticonvulsant medication use;

(IV) skin breakdown;

(V) bowel function;

(VI) nutrition; and

(VII) treatments;

(iv) safety considerations, such as:

(I) injuries; and

(II) falls;

(v) frequency of service, including:

(I) physician visits and nursing service;

(II) emergency room visits; and

(III) hospital admissions.

(C) The interviewer who completes Form DDS-7 is trained to complete the form.

(D) To complete Form DDS-7, the interviewer communicates with the service recipient or someone who knows the service recipient's medical history, current trends in overall health and behavior, daily care needs, medical or nursing treatments, the past year's medical incidents, emergency room visits, hospitalizations, and medication regimen.

(4) Form DDS-7 is completed annually, no more than 60 days prior to the annual Team meeting.

(5) Immediate action is taken to provide any emergency interventions required in a situation of acute health deterioration.

(6) When a significant change in function or health treatment occurs, which requires additional staff training or health care services, the Team completes a new Form DDS-7 and revises the Plan as necessary.

(7) The PSR is the Team's mechanism to identify a health care level based on the person's health status.

(A) A registered nurse (RN) employed by DDSD assesses the responses documented by the interviewer, formulates a raw score, and computes the health care level, based on specific criteria.

(i) At Level I, the person ordinarily has no body system compromised. The person is assisted or has the ability to access the health care system.

(ii) At Level II, the person ordinarily has a chronic condition, but the health status is stable.

(iii) At Level III, the person ordinarily has two or more chronic co-existing conditions with no occurrences within the past year.

(iv) At Level IV, the person ordinarily has two or more existing health conditions which require close observation for symptoms and require specialized health training.

(v) At Level V, the person ordinarily meets all the criteria for Level IV and has health needs that require licensed nursing treatment one or more times daily.

- (vi) At Level VI, the person ordinarily has several existing health issues that are unstable and require treatment by a licensed nurse more frequently than every two hours over a 24-hour period.
- (B) Based on the health care level, the DDSR RN develops recommendations for staff health training, level of nursing supports, and the level of nursing monitoring to be delivered.
- (i) At Level I, the annual PSR is ordinarily the only nursing service needed.
- (ii) At Level II, the nurse is involved as a consultant to the Team.
- (iii) At Level III, the nurse is involved as a consultant to the Team, to promote good communication, staff training, and preventive planning.
- (iv) At Level IV, nursing services are provided according to the person's needs and ordinarily do not exceed four hours of licensed nursing time in a 24-hour period.
- (v) At Level V, nursing services are provided according to the person's needs and do not ordinarily exceed eight hours of licensed nursing time in a 24-hour period.
- (vi) At Level VI, nursing services are provided according to the person's needs and ordinarily do not exceed 24 hours of licensed nursing time in a day.
- (8) After a health care level is identified, the Team establishes health care service needs and staff health training needs.
- (9) If the Team has questions or requires more information regarding a health care level, an informal resolution process is initiated.
- (A) The area manager or designee reviews all requests and consults with members of the Team to reach consensus on the level of licensed nursing training or service provision required. If consensus is not reached, the Team moves to the step described in (c)(9)(B) of this Section.
- (B) The area manager, RN supervisor, and medical director meet to review cases for nursing in excess of 12 hours in a 14 day period, or for need of conflict resolution.

(C) If consensus is still not reached, the case manager notifies the person of OKDHS fair hearing procedures. [OAC 340:2-5]

(e) **Planning.** Requirements for planning to meet the service recipient's health care needs are contained in this subsection.

(1) The Team identifies desired health care outcomes during the Team process.

(2) Health issues identified through health care evaluations and assessments which have an impact on the person's life are incorporated and integrated by the Team into the Plan through goals and objectives.

(3) Plans for health care needs are developed in terms of individual outcomes, not units of clinically specific service.

(4) When plans for health care needs or implementation strategies are developed involving discipline-specific services, a representative from that discipline participates in at least a consulting role.

(f) **Planning for invasive or intrusive procedures.** Team review requirements for proposed invasive or intrusive procedures are contained in this subsection.

(1) Any invasive, intrusive, or intensive professional service or procedure is subject to a review by the Team, including participation from any other service provider as appropriate.

(2) The Team's review of an invasive, intrusive, or intensive service or procedure includes discussion, prior to implementation, of the proposed service or procedure, and of possible alternatives.

(3) Invasive or intrusive procedures subject to a review by the Team comprise both scheduled and emergency procedures including major surgery which:

(A) will produce a significant change in daily function or health;

(B) might require additional staff training or health care services; and

(C) include, but are not limited to:

(i) tracheotomy;

(ii) orthopedics;

- (iii) gastrostomy;
- (iv) jejunostomy;
- (v) multiple dental extractions;
- (vi) amputation; or
- (vii) consideration of permanent sterilization.

(4) An invasive, intrusive, or intensive professional service or procedure which is implemented on an emergency basis is subject to review by the Team as soon as possible, but within five working days. Emergency procedures subject to review include, but are not limited to:

- (A) emergency surgery; or
- (B) emergency behavioral intervention including:
 - (i) mechanical restraint; or
 - (ii) chemical restraint.

(g) **Health care coordination.** Requirements governing coordination of health care are contained in this subsection.

(1) The Team identifies a health care coordinator (HCC) for the person to ensure the implementation and coordination of health care services. The HCC:

- (A) is an individual who has an overview of the person's health care needs and lifestyle;
- (B) may be the service recipient, a member of the person's family, a foster parent, companion, member of the residential provider staff, or other person who is familiar with the person's needs;
- (C) is trained by DDSD staff;
- (D) serves as a health care facilitator and follows all rules in this Section;
- (E) documents that health concerns are acted upon, monitored, communicated, and that staff are trained;

(F) accompanies the person to the physician and communicates to the physician the reason the person is being seen;

(G) keeps the physician advised of medical status and data regarding any target symptoms;

(H) communicates to the core Team members and other service providers as appropriate any physician's order obtained during such visit; and

(I) presents Form DDS-5, Referral Form for Examination or Treatment, to the physician at the time of the visit.

(i) Form DDS-5 is completed by the HCC prior to the visit including:

(I) the person's name, case number, appointment date and time, date of birth, address, phone number, name of physician or medical facility referred to, name of case manager, and legal representative;

(II) the person's current medication and treatment;

(III) allergies specifying medication, food, and environmental allergies; and

(IV) the specific reason(s) the person is being seen for the medical visit.

(ii) The HCC requests the physician to complete a short written summary of the findings.

(I) Form DDS-5 or documentation completed by the physician includes a diagnosis or findings, recommendations, and treatments.

(II) The physician signs and dates the documentation.

(iii) The original of Form DDS-5 is maintained by the physician, one copy is kept in the home record, and one is sent to the case manager.

(2) If the HCC is employed by an agency or contract provider, the employer develops and implements a procedure to ensure appropriate backup if the HCC is unable, for whatever reason, to perform these duties.

(h) **Implementation.** Implementation procedures for health care strategies are provided in this subsection.

(1) When a service recipient receives physician-prescribed nursing services, written nursing implementation strategies are developed and monitored by the contract nurse.

(2) Staff are trained and carry out implementation strategies addressing health care outcomes.

(3) Adequate current medical and program information is maintained in the home record by the residential provider and is available for review by authorized staff of OKDHS.

(i) **Evaluation and monitoring.** Requirements for evaluation and monitoring are contained in this subsection.

(1) **Medication reviews.** Medication reviews are completed by the HCC each month utilizing Form DDS-6, Medication Review, and include:

(A) the person's name, provider, phone number, date of review, case number, and case manager;

(B) any changes in medication during the month, such as increases, decreases, additions, or discontinuations;

(C) any p.r.n. (as needed) medication usage;

(D) non-prescription medication use.

(i) Non-prescription medications taken by mouth or taken in suppository form are included in this monthly review.

(ii) Non-prescription medications administered via sprays, creams, ointments, drops, transdermal patches, or lozenges are not included in the HCC's monthly Form DDS-6, but use of these medications is monitored through routine health care visits;

(E) description of any changes, possible side effects, or physical signs or symptoms experienced during the month;

(F) a summary of medication incidents occurring during the month; and

(G) a recommendation, if any, for referral to an independent pharmacological review.

(2) The original Form DDS-6 is kept in the home record, one copy is sent to the case manager, and one copy remains available for the independent referral process.

(3) The DDSD case manager makes a referral for a pharmacological review by an independent clinical pharmacist or physician: ■ 1

(A) upon the request of a Team member or a clinician participating with the Team;

(B) when the review performed by the case manager and the assigned nurse determines that the person:

(i) receives five or more medications, prescription or non-prescription; or

(ii) has unusual physical sign(s) or symptom(s) during the month in review which are not resolved through other medical interventions; or

(C) if the person:

(i) uses a p.r.n. medication routinely for more than three months;

(ii) takes two or more psychotropic medications; or

(iii) takes more than two anticonvulsant medications used for seizure disorder.

(4) If the person continues to meet the criteria listed in (3)(A)-(C) of this subsection after an initial review is completed, the case manager requests a pharmacological review annually in conjunction with the annual Plan, or more frequently, if necessary.

(5) For the purpose of monitoring and evaluation, designated DDSD personnel have access at all times to the person's medical and programmatic information.

(6) If the person receives DDSD services but has no case manager, the provider contacts the DDSD area manager or designee for assistance in requesting an independent pharmacological review.

INSTRUCTIONS TO STAFF

1. Developmental Disabilities Services Division (DDSD) currently has a contract through which pharmacological reviews are provided.