
POLICY TRANSMITTAL NO. 09-42	DATE: SEPTEMBER 16, 2009
CHILDREN AND FAMILY SERVICES DIVISION	DEPARTMENT OF HUMAN SERVICES OFFICE OF LEGISLATIVE RELATIONS AND POLICY

TO: ALL OFFICES

SUBJECT: MANUAL MATERIAL

OAC 340:75-15-128.1.

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

OAC 340:75-15-128.1 is amended to provide for child care services to be paid by OKDHS under certain circumstances as a part of adoption assistance.

Original signed on 9-3-09

Gary Miller, Director
Children and Family Services Division

Sandra Harrison, Coordinator
Office of Legislative Relations and Policy

WF # 09-10 (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 an "OKDHS" number, such as personnel policy at OKDHS:2-1 and personnel rules at OAC 340:2-1. The "340" is the Title number that designates OKDHS 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, OKDHS 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, OKDHS: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 405-521-4326.

REMOVE

340:75-15-128.1

INSERT

340:75-15-128.1, pages 1-7, revised
10-1-09

340:75-15-128.1. Adoption assistance benefitsRevised 10-1-09

(a) Adoption assistance benefits may include Medicaid coverage, a monthly assistance payment, special services, reimbursement of non-recurring adoption expenses, or any combination of these. Children eligible for Title IV-E (IV-E) assistance are also eligible for available Title XX services.

(1) **Medicaid.** The child is eligible for the Oklahoma Medicaid program or the Medicaid program in the state of residence, if IV-E eligible. All necessary medical and dental care under the scope of that program is compensable at usual and customary charges, per OAC 340:75-15-129.

(2) **Monthly assistance payments.** A child may be eligible for a monthly assistance payment to provide financial support to families who adopt children considered difficult to place. Payments are made to eligible families as long as Oklahoma Department of Human Services (OKDHS) has sufficient funds available and is authorized to make payments under Form 04AN002E, Adoption Assistance Agreement, as allowable within the OKDHS budget.

(A) **Payments.** The standard monthly adoption assistance payments correspond to the child's age set out in OKDHS Appendix C-20, Children and Family Services Division Rates Schedule.

(B) **Difficulty of care (DOC) rate descriptions.** The DOC descriptions are guidelines from which the most appropriate DOC rate is determined for the eligible child. Not every situation will clearly fit into one DOC rate category. DOC descriptions are set out in OKDHS Appendix C-20.

(i) Consideration of the child's age is part of determining the appropriate rate category.

(ii) Documentation that the child's needs, conditions, or behaviors fit the rate category is required from the adoptive family and professional sources outside the adoptive family.

(iii) OKDHS may require updated documentation from time to time to establish a child's ongoing eligibility for a particular DOC rate.

(3) **Special services.** Special services are used to meet the child's needs that cannot be met by the adoptive parent(s) and that are not covered under any other program for which the child would qualify.

(A) These services include corrective appliances such as leg braces, prostheses, and walkers.

(B) Tutoring and private school tuition are not covered as special services, as public school systems are mandated to provide all children with special needs an appropriate public education.

(C) The child's needs are reviewed at least annually and special services may be approved for a limited time.

(D) The amount paid does not exceed the reasonable fee for the service rendered.

(E) The special service is negotiated with the adoptive parent(s), approved by Children and Family Services Division (CFSD) Post-Adoption Services Section, and included in Form 04AN002E, Adoption Assistance Agreement.

(F) Child care services may be paid by OKDHS as a part of adoption assistance for children who are in foster care, as defined in Section 1355.20 of Title 45 Chapter XIII of The Code of Federal Regulations, at the time of approval for adoption assistance; provided, a child determined eligible, will retain eligibility in any subsequent adoption. The child is eligible when:

(i) the child is five years of age or younger;

(ii) the child is adopted through OKDHS or a federally recognized Indian tribe as defined by the Federal and Oklahoma Indian Child Welfare Acts;

(iii) the child has been adopted by the parent who is applying for benefits;

(iv) the adoptive parent applying for benefits has fully executed Form 04AN002E, Adoption Assistance Agreement, that lists child care as an adoption assistance benefit for the child and includes Form 04AN033E, Post-Adoption Child Care Referral, when the child resides in Oklahoma; and

(v) employment has been verified and child care has been approved for only the days and hours the parent works; however, in a two-parent family, care may be approved for sleep time when one parent works days and the other parent works during normal night time sleep hours.

(G) The special service for child care is:

(i) negotiated with the adoptive parent(s), but cannot exceed the one star

child care center rate as listed on OKDHS Appendix C-4-B, Child Care Provider Rate Schedule, for a child residing outside Oklahoma;

(ii) approved by CFSD Post-Adoption Services Section;

(iii) included in Form 04AN002E, Adoption Assistance Agreement; and

(iv) paid from CFSD funds when the child resides outside Oklahoma.

(4) **Reimbursement of non-recurring adoption expenses.** Certain non-recurring expenses incurred by or on behalf of the adoptive parent(s) in connection with the adoption of a child with special needs may be reimbursed.

(A) **Reimbursable expenses.** Non-recurring adoption expenses:

(i) are the reasonable and necessary adoption fees, court costs, attorney fees, and other expenses that are directly related to the legal adoption of a child with special needs;

(ii) are not incurred in violation of state or federal law; and

(iii) have not been reimbursed from other sources or funds. Financial reimbursement is available to the adoptive parent(s) of an eligible child for:

(I) adoption fees;

(II) court costs;

(III) attorney fees;

(IV) adoptive home study fee;

(V) costs incurred to obtain health and psychological reports on family members;

(VI) supervision of the adoptive placement by another agency;

(VII) transportation, food, and lodging for the adoptive parent(s) and child during the placement process; and

(VIII) cost of fingerprinting paid by the adoptive parent(s).

(B) **Eligibility.** The child must meet all eligibility criteria for a child with special needs, per OAC 340:75-15-128.4, and have been placed for adoption in

accordance with applicable state and local laws. It is not required that the child:

- (i) be in the custody of OKDHS or a federally recognized tribe at the time of finalization of the adoption; or
- (ii) meet the IV-E categorical eligibility requirements for adoption assistance, per OAC 340:75-15-128.2.

(C) **Amount of reimbursement.** Reimbursement of non-recurring adoption expenses, as defined in OAC 340:75-15-128.1(a)(4)(A), may be approved on behalf of the eligible child as described in (i) and (ii).

(i) **Finalized adoption.** Assistance is limited to documented actual expenses incurred up to a maximum of \$1,200 per child if the adoption is finalized. If an Order Terminating Parental Rights or Order Determining the Child Eligible for Adoption Without the Consent of a Biological Parent had to be obtained in the adoption case, a request for reimbursement up to a maximum of \$2,000 per child is considered by OKDHS on a case-by-case basis. In cases where siblings are placed together with the same adoptive family, each child is treated as an individual with separate reimbursement for non-recurring expenses.

(ii) **Non-finalized adoption.** A potential adoptive parent(s) whose trial adoption disrupts prior to finalization may be eligible for up to a maximum reimbursement of \$500 per child.

(D) **Approval and payment.** The request for reimbursement of non-recurring adoption expenses must be approved and Form 04AN002E signed by the adoptive parent(s) and OKDHS designee prior to finalization of the adoption. Payment is made directly to the adoptive parent(s) for approved amounts shown on the itemized statement as paid in full. Payment is made directly to a vendor, such as an attorney and private adoption agency, for the fee that the itemized statement indicates has not been paid in full by the adoptive parent(s). ■ 1

(E) **Interstate placement.** The provisions of OAC 340:75-15-128.5(b) apply to reimbursement of non-recurring adoption expenses in interstate adoptions.

(b) **Overpayments.** CFSD Post-Adoption Services Section staff immediately verbally notifies the adoptive parent(s) when it is discovered that an overpayment has occurred. OKDHS researches, analyzes, and verifies the overpayment amount within 60 days of the verbal notification to the adoptive parent(s). The adoptive parent(s) is responsible for repayment, even if he or she is not responsible for causing the overpayment.

- (1) Post-Adoption Services Section staff contacts the adoptive parent(s) regarding

an adoption assistance overpayment and discusses the amount to be automatically deducted, when possible, from the monthly adoption assistance payment.

(A) The adoptive parent(s) is notified in writing by certified mail of the overpayment agreement plan. Upon receipt of the overpayment agreement plan, the adoptive parent(s) signs and returns the plan with original signatures to OKDHS.

(B) The overpayment agreement plan must not exceed 36 months from the date of receipt of written notification of the plan.

(C) The minimum monthly payment toward the overpayment must not be less than \$150, with the exception of the final payment.

(2) Post-Adoption Services Section staff notifies OKDHS Legal Division when the adoptive parent(s) does not respond to the written notification of or fails to comply with the overpayment agreement plan.

(3) A referral is made to Office of Inspector General if fraud is suspected.

(c) **Modification.** Form 04AN002E may be modified and the adoption assistance payment amount may be readjusted periodically when warranted by a change in circumstances and with the concurrence of the adoptive parent(s). A change in the child's eligibility for the DOC rate paid constitutes a change in circumstance.

(1) The adoption assistance payment amount may not be automatically adjusted without agreement of the adoptive parent(s) except for an across-the-board reduction or increase in OKDHS foster care reimbursement rates or DOC rates.

(2) Modification of Form 04AN002E is prospective only and is not retroactive.

(3) If the parties cannot come to an agreement, OKDHS establishes the payment amount.

(4) The adoptive parent(s) must inform OKDHS of circumstances that would make the child ineligible for adoption assistance payments or eligible for payments of a different amount. OKDHS may require:

(A) the adoptive parent(s) to provide updated documentation of a child's ongoing eligibility for the payment amount received; and

(B) evaluation of a child by a suitably licensed or certified examiner selected by OKDHS if the child's eligibility is in question.

(d) **Termination.** When Form 04AN002E is signed and in effect, it is only terminated if one of the conditions described in (1) through (5) is met.

(1) The child has attained the age of 18 years, except the child may continue to receive assistance until the day of the child's 19th birthday if the child:

(A) continues to attend high school or pursues General Educational Development (GED); or

(B) meets the criteria for an adoption assistance DOC rate, as determined by OKDHS.

(2) The adoptive parent(s) fails to submit, no later than 60 days prior to the child reaching age 18, a request for adoption assistance to continue beyond age 18.

(A) The request for adoption assistance to continue beyond age 18 includes:

(i) a statement from school personnel providing documentation of the child's high school attendance and anticipated date of graduation;

(ii) a statement from school personnel providing documentation that the child is pursuing GED; or

(iii) medical or psychological assessments conducted and dated within six months preceding the child's 18th birthday, signed by a licensed physician, psychiatrist, or clinician, describing the child's conditions, including diagnosis, treatment, and prognosis.

(B) If the adoptive parent(s) does not timely submit the required documentation, or if OKDHS determines the child does not meet the criteria that warrant continuation of assistance beyond age 18, adoption assistance for the child turning 18 terminates effective the day of the child's 18th birthday.

(3) OKDHS determines that the adoptive parent(s) is no longer legally responsible for support of the child.

(4) OKDHS determines that the adoptive parent(s) is no longer providing financial support to the child. If a child is placed in out-of-home care, including psychiatric, residential, therapeutic, or foster family care, and the adoptive parent(s) continues to provide financial support to the child, adoption assistance may continue. The rate of payment may be renegotiated, as appropriate.

(5) All of the child's adoptive parents are deceased.

(e) **Death of adoptive parents or dissolution of the adoption.** A child who was receiving IV-E adoption assistance at the time of the death of all of the child's adoptive parents or at the time the adoption dissolves may be eligible for adoption assistance if the child is adopted again after October 1, 1997. A child receiving state funded adoption assistance is eligible if adopted after May 29, 1998. To be eligible, the child must continue to meet the special needs criteria and all of the requirements in (1) through (4).

(1) The prospective adoptive parent(s) must make application on Form 04AN001E, Adoption Assistance Application.

(2) The prospective adoptive parent(s) must provide from a district or tribal court a copy of a file-stamped Petition for Adoption if requesting prefinalization adoption assistance or a Final Decree of Adoption if requesting adoption assistance to begin after adoption.

(3) OKDHS must be able to document the child was receiving IV-E or state funded assistance at the time of the death of the adoptive parent(s) or at the time the adoption dissolved.

(4) OKDHS must be provided documentation that the new adoptive parent(s) is not the biological parent(s).

(f) **Relocation by adoptive family to another state.** An Adoption Assistance Agreement with OKDHS signed on or after October 1, 1983 remains in effect regardless of the state in which the adoptive parent(s) is a resident at any given time.

INSTRUCTIONS TO STAFF 340:75-15-128.1

Revised 10-1-09

1. Approval and payment for non-recurring adoption expenses.

(1) **Designated Children and Family Services Division Post-Adoption Services Section staff completes Adoption Fees Authorization to Purchase screen in the Finance system and mails the authorization form to the vendor.**

(2) **The authorization is signed by both the vendor and an adoptive parent and is returned to Oklahoma Department of Human Services (OKDHS) Finance Division as shown on the form.**

(3) **OKDHS Finance Division issues payment to the vendor within ten business days of receipt of the authorization form.**