
POLICY TRANSMITTAL NO. 07-04	DATE: MAY 7, 2007
OFFICE OF LEGISLATIVE RELATIONS AND POLICY	DEPARTMENT OF HUMAN SERVICES OFFICE OF LEGISLATIVE RELATIONS AND POLICY

TO: ALL OFFICES

SUBJECT: MANUAL MATERIAL

OAC 340:2-31, Table of Contents; 2-31-10; 2-31-31 through 2-31-33; 340:2-33, Table of Contents; and 2-33-1 through 2-33-5.

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

OAC 340:2-31-10 is revised to: (1) remove language regarding planning and research due to organizational restructuring; (2) reflect the new name of Office of Legislative Relations and Policy (OLRP); and (3) include responsibilities of OLRP.

OAC 340:2-31-31 through 2-31-33 revisions: (1) update rules regarding petitions for rulemaking; and (2) include OLRP responsibilities.

OAC 340:2-33-1 through 2-33-3 revisions reflect the current title of Oklahoma Department of Human Services (OKDHS) and the Committee on Rates and Standards.

OAC 340:2-33-4 through 2-33-5 are revoked as the material is internal OKDHS procedures.

Original signed on 3-28-07

Sharon Neuwald, Coordinator
Office of Legislative Relations and Policy

WF # 06-21 (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

340:2-31, Table of Contents

340:2-31-10

340:2-31-31

340:2-31-32

340:2-31-33

340:2-33, Table of Contents

340:2-33-1

340:2-33-2

340:2-33-3

340:2-33-4

340:2-33-5

INSERT

340:2-31, Table of Contents, 1 page only, revised 5-11-07

340:2-31-10, 1 page only, revised 5-11-07

340:2-31-31, pages 1-2, revised 5-11-07

340:2-31-32, pages 1-2, revised 5-11-07

340:2-31-33, 1 page only, revised 5-11-07

340:2-33, Table of Contents, 1 page only, revised 5-11-07

340:2-33-1, 1 page only, revised 5-11-07

340:2-33-2, 1 page only, revised 5-11-07

340:2-33-3, pages 1-3, revised 5-11-07

SUBCHAPTER 31. LEGISLATIVE RELATIONS AND POLICY**PART 1. GENERAL PROVISIONS [REVOKED]**

Section

- 340:2-31-1. Purpose [REVOKED]
340:2-31-2. Legal basis [REVOKED]

PART 3. RESEARCH, EVALUATION AND STATISTICS UNIT [REVOKED]

- 340:2-31-3. Research, Evaluation and Statistics Unit [REVOKED]
340:2-31-3.1. Relationship between the Research, Evaluation and Statistics Unit and other divisions and units of the Department [REVOKED]
340:2-31-4. Scheduled reports submitted to or by the Research, Evaluation and Statistics Unit [REVOKED]
340:2-31-5. Uses of statistical data [REVOKED]
340:2-31-6. Policy Development Unit [REVOKED]

PART 4. OFFICE OF LEGISLATIVE RELATIONS AND POLICY

- 340:2-31-10. Legislative relations and policy

PART 5. PETITIONING FOR RULEMAKING

- 340:2-31-31. Petitions for rulemaking
340:2-31-32. Consideration and disposition of petition for rulemaking
340:2-31-33. Notification to petitioner

PART 7. ACCESS TO DHS RECORDS [REVOKED]

- 340:2-31-50. Purpose and authority [REVOKED]
340:2-31-51. Definitions [REVOKED]
340:2-31-52. Release of information [REVOKED]
340:2-31-53. Designated Public Records Officer (PRO) [REVOKED]
340:2-31-54. Requests for records [REVOKED]
340:2-31-55. Fees and fee exclusions [REVOKED]

PART 4. OFFICE OF LEGISLATIVE RELATIONS AND POLICY**340:2-31-10. Legislative relations and policy**

(a) **Purpose.** The Office of Legislative Relations and Policy (OLRP):

(1) serves as the liaison between the Oklahoma Department of Human Services (OKDHS) and the state legislature;

(2) serves as the liaison to the Oklahoma Health Care Authority (OHCA);

(3) chairs and staffs the OKDHS Committee on Rates and Standards;

(4) provides staff for the Human Services Cabinet;

(5) manages OKDHS rules, policy, and procedures; and

(6) ensures policy and other forms of communications comply with federal and state statutes.

(b) **Legal authority.** OKDHS rules are promulgated per the Administrative Procedures Act, Sections 250.1 through 323 of Title 75 of the Oklahoma Statutes.

PART 5. PETITIONING FOR RULEMAKING

340:2-31-31. Petitions for rulemaking

(a) **Submission.** Any person may petition the Oklahoma Department of Human Services (OKDHS) in writing to request the promulgation, amendment, or repeal of a rule.

(1) The petition for rulemaking is submitted to the OKDHS Office of Legislative Relations and Policy (OLRP) Policy Management Unit (PMU) by:

(A) mail to P.O. Box 25352, Oklahoma City, OK 73125, Attention, Policy Management Unit; or

(B) delivery to the Sequoyah Memorial Office Building, 2400 N. Lincoln Blvd., Oklahoma City, OK.

(2) The petition is considered submitted upon receipt in OLRP.

(A) OLRP date stamps the petition for rulemaking to document date of receipt.

(B) A petition for rulemaking submitted to the OKDHS Director is forwarded to, and considered submitted when received in OLRP.

(b) **Form and content.** The petition for rulemaking must contain:

(1) a clear statement of the action requested and the relief or solution desired as a result of the requested new rule or rule revision;

(2) the Title, Chapter, Subchapter, and Section, if known, of the existing rule that is proposed to be revised or a copy of the rule;

(3) a statement of the facts supporting the requested new rule or rule revision, including any legal grounds, and other relevant information or views on which the petitioner relies.

(A) A copy of any reference or source cited in the statement is submitted with the petition unless the reference or source is readily available to OKDHS.

(B) When a petition requests more than one rule revision, a single statement that supports and justifies each proposed revision meets the requirements of this subsection;

- (4) a description of the class or classes of persons, if known, who most likely will be affected by the proposed revision; and
- (5) the signature and printed name, address, and day time telephone number of the petitioner or authorized representative.

(c) Incomplete or revised petition.

- (1) When the petition for rulemaking does not contain minimally required information, the petitioner is sent a request for additional information in writing that specifies the manner in which the petition is deficient.
- (2) The petitioner may supplement or revise the petition for rulemaking at any time prior to approval by the OKDHS Director or submission of the proposed change to the Oklahoma Commission for Human Services. Significant changes may result in re-initiation of the rulemaking process.

340:2-31-32. Consideration and disposition of petition for rulemaking

(a) **Review of petition.** Within 15 calendar days after receipt of a petition to promulgate, amend, or repeal a rule, the Office of Legislative Relations and Policy (OLRP) reviews the petition and after consultation with the Oklahoma Department of Human Services (OKDHS) Director denies, requests additional information, or initiates rulemaking proceedings.

(b) **Denial of petition.** The petition for rulemaking is denied, in whole or in part when the petition:

(1) requests promulgation of a rule that OKDHS is clearly without authority to promulgate;

(2) requests a new rule or rule revision inconsistent with or that violates any applicable statutory or constitutional authority;

(3) requests promulgation, amendment, or repeal of an OKDHS policy that does not constitute a rule as defined in the Oklahoma Administrative Procedures Act at Section 250.3(2) of Title 75 of the Oklahoma Statutes;

(4) is frivolous and not proposed in good faith; or

(5) proposes a new or revised rule that is not feasible based on available and anticipated OKDHS resources.

(A) When denial is based on feasibility, the OLRP coordinator or designee notifies the petitioner of the denial in accordance with OAC 340:2-31-33. The petitioner may make a written request to the OLRP coordinator to present the petition to the Oklahoma Commission for Human Services (Commission).

(i) Within five working days of receipt of the request, the OLRP coordinator submits the petition, written recommendations, and all other relevant information to the Chair of the Commission with a copy to the affected division.

(ii) The Chair of the Commission approves or denies the petitioner's request.

(l) If the Chair denies the petitioner's request, the OLRP coordinator or designee notifies the petitioner in accordance with OAC 340:2-31-33 and the affected division.

(ii) If the Chair approves the petitioner's request, the petition is placed on the Commission agenda and OLRP notifies the affected division.

(iii) At the Commission meeting, the petitioner may present arguments in favor of the new rule or rule revision. The OLRP coordinator has the opportunity to present the OKDHS reasons for denial of the petition.

(iv) The Commission either directs the initiation of rulemaking procedures as requested, in full or in part, or denies the petition. The OLRP coordinator or designee notifies the petitioner in writing of the final Commission decision.

(c) Approval of petition. OKDHS rulemaking proceedings are initiated when OLRP submits the approved petition for rulemaking to the appropriate division director for action.

(1) Within 60 calendar days after receipt of the petition by the affected division, the division director places the proposed new rule or rule revision into the proper format for proposed rulemaking action, and submits the proposal to OLRP for intra-agency circulation and review. ■ 1

(2) Intra-agency review is completed and the proposed new rule or rule revision is submitted to the OKDHS Director within 45 calendar days after initial intra-agency circulation.

(3) Within 30 calendar days of receipt of the proposed new rule or rule revision by the OKDHS Director, the OKDHS Director recommends approval, disapproval, or amendment of the proposed rule change. When the Director recommends approval, the OLRP coordinator or designee submits the proposal to the Commission for action at the next regularly scheduled Commission meeting for which there has been sufficient time to place the proposal on the Commission agenda.

INSTRUCTIONS TO STAFF 340:2-31-32

1. The Oklahoma Department of Human Services (OKDHS) liaison for the division refers to DHS:2-31-27 for procedures for submitting rule revisions to the Office of Legislative Relations and Policy (OLRP).

340:2-31-33. Notification to petitioner

Within five working days of receipt of the petition for rulemaking, the Office of Legislative Relations and Policy (OLRP) coordinator or designee provides written notification to the petitioner of receipt of the petition. Within five working days after any action taken related to the petition, OLRP provides written notification to the petitioner of:

- (1) denial of the petition, in whole or in part, including the reasons for the denial;
- (2) initiation of Oklahoma Department of Human Services (OKDHS) rulemaking proceedings, including the date of submission of the proposed rule revision to the OKDHS Director for approval;
- (3) the substance of comments received and any revisions made during the intra-agency review period, including a copy of the revised rule proposed by the division;
- (4) any action by the OKDHS Director and the Commission for Human Services (Commission) on the proposed rule revision; and
- (5) the date, time, and place of the Commission meeting when the proposed rule revision will be considered.

SUBCHAPTER 33. RATES AND STANDARDS

Section

- 340:2-33-1. Purpose
- 340:2-33-2. Legal basis and role of the Department of Central Services
- 340:2-33-3. Committee on Rates and Standards
- 340:2-33-4. Responsibilities of the rate requesting division **[REVOKED]**
- 340:2-33-5. Policy Management and Analysis' responsibilities in the rate setting process **[REVOKED]**

340:2-33-1. Purpose

(a) The purpose of this Subchapter is to describe the process that the Oklahoma Department of Human Services (OKDHS) uses for establishing and modifying fixed rates and service levels for service provider contracts.

(b) The Oklahoma Commission for Human Services (Commission) is the official rate setting body for the programs administered by OKDHS.

(c) The policies and procedures in this Subchapter describe how information and recommendations are collected and provided to the Commission members for their use in establishing service rates and standards for services.

340:2-33-2. Legal basis and role of the Department of Central Services

(a) The legal basis for establishing fixed and uniform rates is the Oklahoma Central Purchasing Act found at Section 85.1 et. seq. of Title 74 of the Oklahoma Statutes.

(b) The statute requires that any agency desiring to have a service qualified for a fixed and uniform rate, or an established rate modified, submit a written request and all supporting documentation to the Department of Central Services (DCS). If DCS qualifies such service for a fixed and uniform rate, the rate must then be approved in a public hearing before a contract can be legally entered into by the agency.

(1) The agency notifies the Director of DCS at least 30 days in advance of the scheduled hearing. Along with the notice the agency delivers a copy of the agenda items relating to the proposed rate with all supporting documentation.

(2) The Director of DCS communicates a recommendation to the agency either in advance of the hearing or at the time of the hearing. Whether made in person or in writing, any comment made by the Director of DCS is, by law, included in the minutes of the hearing.

(c) Within two weeks after the convening of the Legislature, the administrative officer of each state agency furnishes to the Speaker of the House of Representatives and the President Pro Tempore of the Senate a complete list of all the types of services paid for by uniform fixed rates and the number of contracts in existence for each type of service.

340:2-33-3. Committee on Rates and Standards

(a) The Committee on Rates and Standards (Committee) is comprised of Oklahoma Department of Human Services (OKDHS) administrative and executive level staff designated by the OKDHS Director.

(b) The Oklahoma Commission for Human Services (Commission) is the official rate setting body for OKDHS.

(c) The Committee serves the rate setting process by conducting public hearings at which the public, vendors, and OKDHS staff are afforded the opportunity to provide testimony and documented evidence in support of rate recommendations. ■ 1

(1) The Committee, by majority vote, records a recommendation to the Commission setting forth specific rates of payment for specific services. If the Committee determines additional information is needed, the chair may recess the meeting until a later date to allow interested parties or staff additional time to secure the information.

(2) Once the Committee reaches a recommendation, the chair schedules the rate issue to be heard at the next scheduled Commission meeting.

(3) At the Commission meeting, the Committee chair presents the rate issue and relays the Committee's recommendation to the Commission.

(4) After the presentation and after hearing further public testimony, if appropriate or requested, the Commission votes to approve, deny, or modify the recommendation of the Committee.

INSTRUCTIONS TO STAFF 340:2-33-3**1. (a) Policy Management Unit (PMU) responsibilities. In the rate setting process, the Office of Legislative Relations and Policy (OLRP) PMU:**

(1) maintains official record of rate setting activities;

(2) corresponds with the Department of Central Services (DCS) by:

(A) securing required information from the rate requesting division and submitting written requests to DCS requesting specified services be qualified for fixed rates or an established rate be modified;

(B) writing and submitting notifications of rate hearings including the agenda and supporting documentation for the recommended rate at least 30 days in advance of the hearing as required by law; and

(C) responding to questions or requests from DCS;

(3) routes a copy of the public notice and the agenda to the Secretary of State for each public meeting;

(4) schedules a pre-meeting of the Committee on Rates and Standards (Committee) members and the rate requesting division to review documentation and prepare for the formal public hearing; and

(5) performs coordinating functions pertaining to the rate setting process by:

(A) preparing, circulating, and posting meeting agendas;

(B) reserving and preparing hearing and meeting rooms;

(C) documenting events and votes in writing; and

(D) organizing information from the rate requesting division in the form of an issue paper to be mailed to Oklahoma Commission for Human Services (Commission) members in advance of the meeting scheduled for the Commission to hear the rate request.

(b) Responsibilities of the rate requesting division. In the rate setting process, the rate requesting division:

(1) researches and gathers documentation supporting a request for qualifying a service for fixed rates and establishing the initial rate or for modifying an established rate;

(2) submits the written request for rate action, together with supporting documentation and any policy revisions, to the chair of the Committee and to the PMU programs manager;

(3) provides any additional information requested by the Committee or PMU;

(4) invites stakeholders and other interested parties to attend, participate, or both, in the public hearing;

(5) presents the proposed rate and supporting documentation at:

(A) any meetings requested by the Committee prior to the public hearing; and

(B) the public hearing; and

(6) assures staff is available at the Commission meeting to answer any questions Commission members may pose concerning the rate proposal.